



Police, Crime, Sentencing and Courts Act 2022

2022 CHAPTER 32

PART 7

SENTENCING AND RELEASE

CHAPTER 1

CUSTODIAL SENTENCES

Release on licence

132 Power to refer high-risk offenders to Parole Board in place of automatic release

(1) The Criminal Justice Act 2003 is amended in accordance with subsections (2) to (10).

(2) In section 243A (release of prisoners serving sentences of less than 12 months), after subsection (2) insert—

“(2A) Subsection (2) does not apply if—

- (a) the prisoner’s case has been referred to the Board under section 244ZB, or
- (b) a notice given to the prisoner under subsection (4) of that section is in force.”

(3) In section 244 (general duty to release prisoners), after subsection (1) insert—

“(1ZA) Subsection (1) does not apply if—

- (a) the prisoner’s case has been referred to the Board under section 244ZB, or
- (b) a notice given to the prisoner under subsection (4) of that section is in force.”

Changes to legislation: There are currently no known outstanding effects for the Police, Crime, Sentencing and Courts Act 2022, Section 132. (See end of Document for details)

(4) After section 244 insert—

“244ZB Referral of high-risk offenders to Parole Board in place of automatic release

- (1) This section applies to a prisoner who—
 - (a) would (but for anything done under this section and ignoring any possibility of release under section 246 or 248) be, or become, entitled to be released on licence under section 243A(2), 244(1) or 244ZA(1), and
 - (b) is (or will be) aged 18 or over on the first day on which the prisoner would be so entitled.
- (2) For the purposes of this section, the Secretary of State is of the requisite opinion if the Secretary of State believes on reasonable grounds that the prisoner would, if released, pose a significant risk to members of the public of serious harm occasioned by the commission of any of the following offences—
 - (a) murder;
 - (b) specified offences, within the meaning of section 306 of the Sentencing Code.
- (3) If the Secretary of State is of the requisite opinion, the Secretary of State may refer the prisoner’s case to the Board.
- (4) Before referring the prisoner’s case to the Board, the Secretary of State must notify the prisoner in writing of the Secretary of State’s intention to do so (and the reference may be made only if the notice is in force).
- (5) A notice given under subsection (4) must take effect before the prisoner becomes entitled as mentioned in subsection (1)(a).
- (6) A notice given under subsection (4) must explain—
 - (a) the effect of the notice (including its effect under section 243A(2A), 244(1ZA) or 244ZA(3)),
 - (b) why the Secretary of State is of the requisite opinion, and
 - (c) the prisoner’s right to make representations (see subsection (12)).
- (7) A notice given under subsection (4)—
 - (a) takes effect at whichever is the earlier of—
 - (i) the time when it is received by the prisoner, and
 - (ii) the time when it would ordinarily be received by the prisoner, and
 - (b) remains in force until—
 - (i) the Secretary of State refers the prisoner’s case to the Board under this section, or
 - (ii) the notice is revoked.
- (8) The Secretary of State—
 - (a) may revoke a notice given under subsection (4), and
 - (b) must do so if the Secretary of State is no longer of the requisite opinion.

Changes to legislation: There are currently no known outstanding effects for the Police, Crime, Sentencing and Courts Act 2022, Section 132. (See end of Document for details)

- (9) If a notice given under subsection (4) is in force and the prisoner would but for the notice have become entitled as mentioned in subsection (1)(a)—
- (a) the prisoner may apply to the High Court on the ground that the prisoner's release has been delayed by the notice for longer than is reasonably necessary in order for the Secretary of State to complete the referral of the prisoner's case to the Board, and
 - (b) the High Court, if satisfied that that ground is made out, must by order revoke the notice.
- (10) At any time before the Board disposes of a reference under this section, the Secretary of State—
- (a) may rescind the reference, and
 - (b) must do so if the Secretary of State is no longer of the requisite opinion.
- (11) If the reference is rescinded, the prisoner is no longer to be treated as one whose case has been referred to the Board under this section (but this does not have the effect of reviving the notice under subsection (4)).
- (12) The prisoner may make representations to the Secretary of State about the referral, or proposed referral, of the prisoner's case at any time after being notified under subsection (4) and before the Board disposes of any ensuing reference under this section.

But the Secretary of State is not required to delay the referral of the prisoner's case in order to give an opportunity for such representations to be made.

244ZC Proceedings following reference under section 244ZB

- (1) This section applies to a prisoner whose case has been referred to the Parole Board under section 244ZB.
- (2) If, in disposing of that reference or any subsequent reference of the prisoner's case to the Board under this subsection, the Board does not direct the prisoner's release, it is the duty of the Secretary of State to refer the prisoner's case to the Board again no later than the first anniversary of the disposal.
- (3) It is the duty of the Secretary of State to release the prisoner on licence as soon as—
 - (a) the prisoner has served the requisite custodial period, and
 - (b) the Board has directed the release of the prisoner under this section.
- (4) The Board must not give a direction under subsection (3) in disposing of the reference under section 244ZB unless the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined.
- (5) The Board must not subsequently give a direction under subsection (3) unless—
 - (a) the Secretary of State has referred the prisoner's case to the Board under subsection (2), and
 - (b) the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined.

Changes to legislation: There are currently no known outstanding effects for the Police, Crime, Sentencing and Courts Act 2022, Section 132. (See end of Document for details)

- (6) For the purposes of this section, the “requisite custodial period” means the period ending with the day on which the prisoner would have become entitled as mentioned in section 244ZB(1)(a).”
- (5) In section 246(4) (exceptions from power to release early subject to curfew), after paragraph (f) insert—
- “(fa) the prisoner’s case has been referred to the Board under section 244ZB,
 - (fb) a notice given to the prisoner under subsection (4) of that section is in force,”.
- (6) In section 255A(2) (duty to consider suitability for automatic release following recall of certain prisoners) (as amended by the Counter-Terrorism and Sentencing Act 2021), for “or a serious terrorism prisoner” substitute “, a serious terrorism prisoner or a prisoner whose case was referred to the Board under section 244ZB”.
- (7) In section 255C(1) (prisoners whose release after recall is not automatic), for the words from “who” to the end substitute “—
- (a) whose suitability for automatic release does not have to be considered under section 255A(2), or
 - (b) who is not considered suitable for automatic release.”
- (8) In section 260(5) (powers and duties of Secretary of State that continue to apply to prisoner removed from prison pending deportation), after “244,” insert “244ZB,”.
- (9) In section 261(5)(b) (application of release provisions to returning deported prisoner), after “244,” insert “244ZC,”.
- (10) In section 268(1A) (meaning of “requisite custodial period” in Chapter 6 of Part 12), after paragraph (c) insert—
- “(ca) in relation to a prisoner whose case has been referred to the Parole Board under section 244ZB, the requisite custodial period for the purposes of section 244ZC,”.
- (11) In Schedule 1 to the Crime (Sentences) Act 1997—
- (a) in paragraph 8(2)(a) (provisions relating to release continuing to apply to prisoner transferred from England and Wales to Scotland), for “, 244,” substitute “to”;
 - (b) in paragraph 9(2)(a) (provisions relating to release continuing to apply to prisoner transferred from England and Wales to Northern Ireland), for “, 244,” substitute “to”.
- (12) In section 128 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (power to alter test for release on licence at direction of Parole Board)—
- (a) in subsection (2), after paragraph (b) insert—
 - “(bza) a prisoner whose case has been referred to the Parole Board under section 244ZB of the Criminal Justice Act 2003 (power to refer to Parole Board in place of automatic release),”;
 - (b) in subsection (3), before paragraph (ab) insert—
 - “(aaa) amend section 244ZC of the Criminal Justice Act 2003 (proceedings following reference under section 244ZB of that Act),”.

Changes to legislation: There are currently no known outstanding effects for the Police, Crime, Sentencing and Courts Act 2022, Section 132. (See end of Document for details)

Commencement Information

II S. 132 in force at Royal Assent, see [s. 208\(4\)\(p\)](#)

Changes to legislation:

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