



Nationality and Borders Act 2022

2022 CHAPTER 36

PART 3

IMMIGRATION CONTROL

Removals

47 Prisoners liable to removal from the United Kingdom

- (1) The Criminal Justice Act 2003 is amended as follows.
- (2) Section 260 (early removal of prisoners liable to removal from the United Kingdom) is amended as set out in subsections (3) to (8).
- (3) For subsections (1) to (2B) substitute—
 - “(1) Where a fixed-term prisoner is liable to removal from the United Kingdom, the Secretary of State may remove the prisoner from prison under this section at any time after the prisoner has served the minimum pre-removal custodial period (whether or not the Board has directed the prisoner’s release under this Chapter).
 - (2) The minimum pre-removal custodial period is the longer of—
 - (a) one half of the requisite custodial period, and
 - (b) the requisite custodial period less one year.”
- (4) In subsection (2C), for “Subsections (1) and (2A) do” substitute “Subsection (1) does”.
- (5) In subsection (4), for paragraph (b) substitute—
 - “(b) so long as remaining in the United Kingdom, and in the event of a return to the United Kingdom after removal, is liable to be detained in pursuance of his sentence.”
- (6) After subsection (4) insert—

Changes to legislation: Nationality and Borders Act 2022, Section 47 is up to date with all changes known to be in force on or before 12 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

“(4A) Where a person has been removed from prison under this section, a day on which the person has not spent any part of the day in prison or otherwise detained in pursuance of their sentence is not, unless the Secretary of State otherwise directs, to be included—

- (a) when determining for the purposes of any provision of this Chapter how much of their sentence they have (or would have) served, or
- (b) when determining for the purposes of section 244ZC(2), 244A(2)(b) or 246A(4)(b) the date of an anniversary of a disposal of a reference of the person’s case to the Board (so that the anniversary is treated as falling x days after the actual anniversary, where x is the number of days on which the person has not spent any part of the day in prison or otherwise detained in pursuance of their sentence).

(4B) Where—

- (a) before a prisoner’s removal from prison under this section their case had been referred to the Board under section 244ZB(3), 244ZC(2), 244A(2) or 246A(4), and
- (b) the person is removed from the United Kingdom before the Board has disposed of the reference,

the reference lapses upon the person’s removal from the United Kingdom (and paragraph 8 of Schedule 19B applies in the event of their return).”

(7) Omit subsection (5).

(8) In subsection (6), for paragraphs (a) to (c) substitute—

- “(a) amend the fraction for the time being specified in subsection (2)(a);
- (b) amend the time period for the time being specified in subsection (2)(b).”

(9) For section 261 substitute—

“261 Removal under section 260 and subsequent return to UK: effect on sentence

Where a person—

- (a) has been removed from prison under section 260 on or after the day on which section 47 of the Nationality and Borders Act 2022 came into force,
- (b) has been removed from the United Kingdom following that removal from prison, and
- (c) returns to the United Kingdom,

this Chapter applies to the person with the modifications set out in Schedule 19B.”

(10) In section 263 (concurrent terms), after subsection (2), insert—

“(2A) Where this section applies, nothing in section 260 authorises the Secretary of State to remove the offender from prison in respect of any of the terms unless and until that section authorises the Secretary of State to do so in respect of each of the others.”

(11) After Schedule 19A, insert the Schedule 19B set out in Schedule 8.

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Commencement Information

- I1** S. 47 not in force at Royal Assent, see [s. 87\(1\)](#)
- I2** [S. 47](#) in force at 28.6.2022 for E.W. by [S.I. 2022/590](#), regs. 1(2), 2, [Sch. 1 para. 24](#) (with [Sch. 2 para. 9](#))

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 54(6)(c) and word inserted by [2023 c. 37 s. 57\(11\)\(b\)](#)
- s. 63(2A) inserted by [2023 c. 37 s. 29\(3\)](#)
- s. 63(3)(fa)(fb) inserted by [2023 c. 37 s. 29\(4\)\(b\)](#)
- s. 63(5A)(5B) inserted by [2023 c. 37 s. 29\(5\)](#)
- s. 63(8) inserted by [2023 c. 37 s. 28\(9\)](#)
- s. 65(8A) inserted by [2023 c. 37 s. 28\(12\)](#)