



# Criminal Justice Act 2003

## 2003 CHAPTER 44

### PART 12

#### SENTENCING

### CHAPTER 6

#### [<sup>F1</sup> RELEASE, LICENCES<sup>F2</sup>, SUPERVISION] AND RECALL ]

##### Textual Amendments

- F1** Pt. 12 Ch. 6 heading substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 14 para. 16](#); S.I. 2012/2906, art. 2(l)
- F2** Word in Pt. 12 Ch. 6 heading inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 3 para. 15](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)

##### Modifications etc. (not altering text)

- C1** Pt. 12 Ch. 6 applied to any person serving a sentence for an offence committed before 4 April 2005 (whenever that sentence was or is imposed) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 121\(1\)](#), 151(1); S.I. 2012/2906, art. 2(d)
- C2** Pt. 12 Ch. 6 applied (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 7 para. 2\(a\)](#); S.I. 2015/40, art. 2(x)
- C3** Pt. 12 Ch. 6 modified (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), [s. 245\(1\)\(2\)\(c\)](#), 416(1) (with [ss. 2](#), 245(3), 398(1), 406, [Sch. 27](#)); S.I. 2020/1236, reg. 2
- C4** Pt. 12 Ch. 6 modified (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), [s. 244\(1\)\(2\)\(c\)](#), 416(1) (with [ss. 2](#), 244(3), 398(1), 406, [Sch. 27](#)); S.I. 2020/1236, reg. 2
- C5** Pt. 12 Ch. 6 applied (29.6.2021) by 1984 c. 47, [Sch. para. 2\(3B\)](#) (as inserted by [Counter Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(2)(f), [Sch. 11 para. 2](#))

*Status: This version of this chapter contains provisions that are prospective.*

*Changes to legislation: Criminal Justice Act 2003, Chapter 6 is up to date with all changes known to be in force on or before 11 May 2024. 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*

### Preliminary

#### 237 Meaning of “fixed-term prisoner” <sup>F3</sup> etc]

(1) In this Chapter “fixed-term prisoner” means—

- (a) a person serving a sentence of imprisonment for a determinate term, or
- (b) a person serving a determinate sentence of detention under section 91 <sup>F4</sup> or 96] of <sup>F5</sup>the PCC(S)A 2000, under] section <sup>F6</sup>226A, 226B, <sup>F7</sup>227 <sup>F8</sup> 228 or 236A] of this Act <sup>F9</sup> or under section 250 <sup>F10</sup>, 252A], 254, 262, 265, <sup>F11</sup>266 or 268A] of the Sentencing Code].

<sup>F12</sup>and “fixed-term sentence” means a sentence falling within paragraph (a) or (b).]

<sup>F13</sup>(1B) In this Chapter—

- (a) references to a sentence of imprisonment include such a sentence passed by a service court;
- <sup>F14</sup>(aa) [ references to a sentence of detention under section 262 of the Sentencing Code include a sentence of detention in a young offender institution under section 210B of the Armed Forces Act 2006;]
- (b) references to a sentence of detention under <sup>F15</sup>section 91 of the PCC(S)A 2000 or section 250 of the Sentencing Code] include a sentence of detention under section 209 of the Armed Forces Act 2006;
- <sup>F16</sup>(ba) [ references to a sentence under section 226A of this Act <sup>F17</sup> or section 266 or 279 of the Sentencing Code] include a sentence under that section passed as a result of section 219A of the Armed Forces Act 2006;
- (bb) references to a sentence under section 226B of this Act <sup>F18</sup> or section 254 of the Sentencing Code] include a sentence under that section passed as a result of section 221A of the Armed Forces Act 2006;]
- (c) references to a sentence under section 227 of this Act include a sentence under that section passed as a result of section 220 of the Armed Forces Act 2006 <sup>F19</sup> or section 240A]; <sup>F20</sup> ...
- (d) references to a sentence under section 228 of this Act include a sentence under that section passed as a result of section 222 of that Act<sup>F21</sup>, and
- (e) references to a sentence under section 236A of this Act <sup>F22</sup> or section 265 or 278 of the Sentencing Code] include a sentence under that section passed as a result of section 224A of that Act.]

(1C) Nothing in subsection (1B) has the effect that <sup>F23</sup>section 240ZA] or 265 <sup>F24</sup> of this Act or section 225 of the Sentencing Code] (provision equivalent to which is made by the Armed Forces Act 2006) <sup>F25</sup> or section 240A] applies to a service court.]

(2) In this Chapter, unless the context otherwise requires, “prisoner” includes a person serving a sentence falling within subsection (1)(b); and “prison” includes any place where a person serving such a sentence is liable to be detained.

<sup>F26</sup>(3) In this Chapter, references to a sentence of detention under section 96 of <sup>F27</sup>the PCC(S)A 2000, under] section <sup>F28</sup>226A]<sup>F29</sup>, 227 or 236A] of this Act <sup>F30</sup> or under section 262, 265 <sup>F31</sup>, 266 or 268A] of the Sentencing Code] are references to a sentence of detention in a young offender institution.]

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## Textual Amendments

- F3** Word in s. 237 heading inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by **Armed Forces Act 2006 (c. 52), ss. 378(1), 383, Sch. 16 para. 219; S.I. 2009/812, art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F4** Words in s. 237(1)(b) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. 117(2)(a), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F5** Words in s. 237(1)(b) substituted (1.12.2020) by **Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 218(2)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F6** Words in s. 237(1)(b) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 20 para. 2(2); S.I. 2012/2906, art. 2(r)**
- F7** Words in s. 237(1)(b) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. 117(2)(b), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F8** Words in s. 237(1)(b) substituted (13.4.2015) by **Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), Sch. 1 para. 15(2); S.I. 2015/778, art. 3, Sch. 1 para. 72**
- F9** Words in s. 237(1)(b) inserted (1.12.2020) by **Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 218(2)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F10** Word in s. 237(1)(b) inserted (30.4.2021) by **Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), Sch. 13 para. 21(2)**
- F11** Words in s. 237(1)(b) substituted (29.6.2021) by **Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), Sch. 13 para. 9(2)(a)**
- F12** Words in s. 237(1) inserted (1.2.2015) by **Offender Rehabilitation Act 2014 (c. 11), ss. 2(3), 22(1)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(b)
- F13** S. 237(1B)(1C) inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by **Armed Forces Act 2006 (c. 52), ss. 378(1), 383, Sch. 16 para. 219; S.I. 2009/812, art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F14** S. 237(1B)(aa) inserted (28.6.2022) by **Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(aa), Sch. 21 para. 12**
- F15** Words in s. 237(1B)(b) substituted (1.12.2020) by **Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 218(3)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F16** S. 237(1B)(ba)(bb) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 22 para. 21; S.I. 2012/2906, art. 2(t)**
- F17** Words in s. 237(1B)(ba) inserted (1.12.2020) by **Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 218(3)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F18** Words in s. 237(1B)(bb) inserted (1.12.2020) by **Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 218(3)(c)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F19** Words in s. 237(1B) inserted (31.10.2009) by **Criminal Justice and Immigration Act 2008 (c. 4), ss. 21(2), 153; S.I. 2009/2606, art. 3(a)**
- F20** Word in s. 237(1B)(c) omitted (13.4.2015) by virtue of **Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), Sch. 1 para. 15(3)(a); S.I. 2015/778, art. 3, Sch. 1 para. 72**
- F21** S. 237(1B)(e) and word inserted (13.4.2015) by **Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), Sch. 1 para. 15(3)(b); S.I. 2015/778, art. 3, Sch. 1 para. 72**
- F22** Words in s. 237(1B)(e) inserted (1.12.2020) by **Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 218(3)(d)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F23** Words in s. 237(1C) substituted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. 110(2)(a), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F24** Words in s. 237(1C) inserted (1.12.2020) by **Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 218(4)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F25** Words in s. 237(1C) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. 110(2)(b), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F26** S. 237(3) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. 117(3), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)

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- F27** Words in s. 237(3) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 218(5)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F28** Words in s. 237(3) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 20 para. 2(3)**; S.I. 2012/2906, art. 2(r)
- F29** Words in s. 237(3) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 1 para. 15(4)**; S.I. 2015/778, art. 3, Sch. 1 para. 72
- F30** Words in s. 237(3) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 218(5)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F31** Words in s. 237(3) substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 9(2)(b)**

**Modifications etc. (not altering text)**

- C6** S. 237(1B) modified (24.4.2009 for certain purposes, otherwise 31.10.2009) by The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), arts. 1(3), 205, **Sch. 1 para. 53(8)**

**Commencement Information**

- II** S. 237 wholly in force at 4.4.2005; s. 237 not in force at Royal Assent, see s. 336(3); s. 237 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 237 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 19** (subject to **art. 2(2), Sch. 2**)

*Power of court to recommend licence conditions*

**F32 238 Power of court to recommend licence conditions for certain prisoners**

.....

**Textual Amendments**

- F32** S. 238 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**239 The Parole Board**

- (1) The Parole Board is to continue to be, by that name, a body corporate and as such is—
  - (a) to be constituted in accordance with this Chapter, and
  - (b) to have the functions conferred on it by this Chapter in respect of fixed-term prisoners and by Chapter 2 of Part 2 of the Crime (Sentences) Act 1997 (c. 43) (in this Chapter referred to as “the 1997 Act”) in respect of life prisoners within the meaning of that Chapter.
- (2) It is the duty of the Board to advise the Secretary of State with respect to any matter referred to it by him which is to do with the early release or recall of prisoners.
- (3) The Board must, in dealing with cases as respects which it makes recommendations under this Chapter or under Chapter 2 of Part 2 of the 1997 Act, consider—
  - (a) any documents given to it by the Secretary of State, and
  - (b) any other oral or written information obtained by it;
 and if in any particular case the Board thinks it necessary to interview the person to whom the case relates before reaching a decision, the Board may authorise one of its

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members to interview him and must consider the report of the interview made by that member.

(4) The Board must deal with cases as respects which it gives directions under this Chapter or under Chapter 2 of Part 2 of the 1997 Act on consideration of all such evidence as may be adduced before it.

(5) Without prejudice to subsections (3) and (4), the Secretary of State may make rules with respect to the proceedings of the Board, including proceedings authorising cases to be dealt with by a prescribed number of its members or requiring cases to be dealt with at prescribed times.

[<sup>F33</sup>(5A) Rules under subsection (5) may, in particular, make provision—

- (a) requiring or permitting the Board to make provisional decisions;
- (b) about the circumstances—
  - (i) in which the Board must or may reconsider such decisions;
  - (ii) in which such decisions become final;
- (c) conferring power on the Board to set aside a decision or direction that is within subsection (5B),

and any such provision may relate to cases referred to the Board under this Chapter or under Chapter 2 of Part 2 of the 1997 Act.

(5B) The following are within this subsection—

- (a) a direction given by the Board for, or a decision made by it not to direct, the release of a prisoner which the Board determines it would not have given or made but for an error of law or fact, or
- (b) a direction given by the Board for the release of a prisoner which the Board determines it would not have given if—
  - (i) information that was not available to the Board when the direction was given had been so available, or
  - (ii) a change in circumstances relating to the prisoner that occurred after the direction was given had occurred before it was given.

(5C) Provision made by virtue of subsection (5A)(c)—

- (a) may not confer power on the Board to set aside a direction for the release of a prisoner at any time when the prisoner has already been released pursuant to that direction, but
- (b) may make provision for the suspension of any requirement under this Chapter or under Chapter 2 of Part 2 of the 1997 Act for the Secretary of State to give effect to a direction of the Board to release a prisoner, pending consideration by the Board as to whether to set it aside.]

(6) The Secretary of State may also give to the Board directions as to the matters to be taken into account by it in discharging any functions under this Chapter or under Chapter 2 of Part 2 of the 1997 Act; and in giving any such directions the Secretary of State must have regard to—

- (a) the need to protect the public from serious harm from offenders, and
- (b) the desirability of preventing the commission by them of further offences and of securing their rehabilitation.

(7) Schedule 19 shall have effect with respect to the Board.

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#### Textual Amendments

**F33** S. 239(5A)-(5C) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 133**, 208(1); S.I. 2022/520, **reg. 5(o)**

#### Commencement Information

**I2** S. 239 wholly in force at 4.4.2005; s. 239 not in force at Royal Assent, see s. 336(3); s. 239 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), **art. 2**, **Sch.**; s. 239(5)(6) in force at 7.3.2005 by [S.I. 2005/373](#), **art. 2**; s. 239 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), **art. 2(1)**, **Sch. 1 para. 19** (subject to [art. 2\(2\)](#), **Sch. 2**)

*Effect of remand in custody [<sup>F34</sup>or on bail subject to certain types of condition]*

#### Textual Amendments

**F34** Words in s. 240 cross-heading inserted (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 21(3)**, 153; S.I. 2008/2712, **art. 2**, **Sch. para. 1** (subject to **arts. 3, 4**)

### <sup>F35</sup>**240 Crediting of periods of remand in custody: terms of imprisonment and detention**

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#### Textual Amendments

**F35** S. 240 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 108(1)**, 151(1) (with **Sch. 15**); S.I. 2012/2906, **art. 2(d)**

### <sup>F36</sup>**240ZA** **Time remanded in custody to count as time served: terms of imprisonment [<sup>F37</sup>or detention and detention and training orders]**

(1) This section applies where—

- (a) an offender is serving a term of imprisonment in respect of an offence, and
- (b) the offender has been remanded in custody (within the meaning given by section 242) in connection with the offence or a related offence.

[ This section also applies where—

- <sup>F38</sup>(1A)
  - (a) a court, on or after the day on which Schedule 16 to the [Police, Crime, Sentencing and Courts Act 2022](#) came into force, makes a detention and training order in respect of an offender for an offence, and
  - (b) the offender concerned has been remanded in custody in connection with the offence or a related offence.

(1B) In this section any reference to a “sentence”, in relation to an offender, is to—

- (a) a term of imprisonment being served by the offender as mentioned in subsection (1)(a), or
- (b) a detention and training order made in respect of the offender as mentioned in subsection (1A)(a).]

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(2) It is immaterial for <sup>F39</sup>the purposes of subsection (1)(b) or (1A)(b)] whether, for all or part of the period during which the offender was remanded in custody, the offender was also remanded in custody in connection with other offences (but see subsection (5)).

(3) The number of days for which the offender was remanded in custody in connection with the offence or a related offence is to count as time served by the offender as part of the sentence.

But this is subject to subsections (4) to (6).

(4) If, on any day on which the offender was remanded in custody, the offender was also detained in connection with any other matter, that day is not to count as time served.

(5) A day counts as time served—

- (a) in relation to only one sentence, and
- (b) only once in relation to that sentence.

(6) A day is not to count as time served as part of any <sup>F40</sup>automatic release period served by the offender] (see section 255B(1)).

<sup>F41</sup>[ Where a court has made a declaration under section 327 of the Sentencing Code in (6A) relation to the offender in respect of the offence, this section applies to days specified under subsection (3) of that section as if they were days for which the offender was remanded in custody in connection with the offence or a related offence.]

(7) For the purposes of this section a suspended sentence—

- (a) is to be treated as a sentence of imprisonment when it takes effect under <sup>F42</sup>paragraph 13(1)(a) or (b) of Schedule 16 to the Sentencing Code], and
- (b) is to be treated as being imposed by the order under which it takes effect.

(8) In this section “related offence” means an offence, other than the offence for which the sentence is imposed (“offence A”), with which the offender was charged and the charge for which was founded on the same facts or evidence as offence A.

<sup>F43</sup>(8A) Subsection (9) applies in relation to an offender who is sentenced to two or more consecutive sentences or sentences which are wholly or partly concurrent if—

- (a) the sentences were imposed on the same occasion, or
- (b) where they were imposed on different occasions, the offender has not been released during the period beginning with the first and ending with the last of those occasions.

(9) For the purposes of subsections (3) and (5), the sentences are to be treated as a single sentence.]

(10) The reference in subsection (4) to detention in connection with any other matter does not include remand in custody in connection with another offence but includes—

- (a) detention pursuant to any custodial sentence;
- (b) committal in default of payment of any sum of money;
- (c) committal for want of sufficient distress to satisfy any sum of money;
- (d) committal for failure to do or abstain from doing anything required to be done or left undone.

(11) This section applies to a determinate sentence of detention under section 91 or 96 <sup>F44</sup>of the PCC(S)A 2000, under section 250, <sup>F45</sup>252A,] 254, 262, 265 <sup>F46</sup>, 266 or 268A] of



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the Sentencing Code or under] section [F47]226A, 226B,] 227[F48], 228 or 236A] of this Act as it applies to an equivalent sentence of imprisonment.]

#### Textual Amendments

- F36 S. 240ZA inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 108(2)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F37 Words in s. 240ZA heading substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(s), **Sch. 16 para. 2(2)**
- F38 S. 240ZA(1A)(1B) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(s), **Sch. 16 para. 2(3)**
- F39 Words in s. 240ZA(2) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(s), **Sch. 16 para. 2(4)**
- F40 Words in s. 240ZA(6) substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 9(6)**, 22(1) (with Sch. 7 para. 5); S.I. 2015/40, art. 2(i)
- F41 S. 240ZA(6A) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 219(2)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F42 Words in s. 240ZA(7)(a) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 219(3)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F43 S. 240ZA(8A)(9) substituted for s. 240ZA(9) (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(s), **Sch. 16 para. 2(5)**
- F44 Words in s. 240ZA(11) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 219(4)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F45 Word in s. 240ZA(11) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 21(3)**
- F46 Words in s. 240ZA(11) substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 9(3)**
- F47 Words in s. 240ZA(11) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 20 para. 4**; S.I. 2012/2906, art. 2(r)
- F48 Words in s. 240ZA(11) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 1 para. 16**; S.I. 2015/778, art. 3, Sch. 1 para. 72

#### [F49]240A[F50]Time remanded on bail to count towards time served]: terms of imprisonment [F51]or detention and detention and training orders]

- (1) [F52]Subsection (2) applies] where—
- (a) a court sentences an offender to imprisonment for a term in respect of an offence [F53]of which the offender was convicted before 1 December 2020[F54] ... ,
  - (b) the offender was remanded on bail by a court in course of or in connection with proceedings for the offence, or any related offence, after the coming into force of section 21 of the Criminal Justice and Immigration Act 2008, and
  - (c) the offender's bail was subject to a qualifying curfew condition and an electronic monitoring condition (“the relevant conditions”).
- (2) Subject to [F55]subsections (3A) and (3B)], the court must direct that the credit period is to count as time served by the offender as part of the sentence.

[F56][F57](3) .....

#### [F58](3ZA) Subsection (3ZB) applies where—

- (a) an offender is serving a term of imprisonment in respect of an offence, and



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- (b) the court has made a declaration under section 325 of the Sentencing Code specifying a credit period in relation to the sentence.

[ Subsection (3ZB) also applies where—

- <sup>F59</sup>(3ZAA) (a) a court, on or after the day on which Schedule 16 to the Police, Crime, Sentencing and Courts Act 2022 came into force, makes a detention and training order in respect of an offender for an offence, and
- (b) the court has made a declaration under section 325 of the Sentencing Code specifying a credit period in relation to the order.

(3ZAB) In this section any reference to a “sentence”, in relation to an offender, is to—

- (a) a term of imprisonment being served by the offender as mentioned in subsection (3ZA)(a), or
- (b) a detention and training order made in respect of the offender as mentioned in subsection (3ZAA)(a).]

(3ZB) Subject to subsections (3A) and (3B), the credit period is to count as time served by the offender as part of the sentence.]

(3A) A day of the credit period counts as time served—

- (a) in relation to only one sentence, and
- (b) only once in relation to that sentence.

(3B) A day of the credit period is not to count as time served as part of any [<sup>F60</sup>automatic release period served by the offender] (see section 255B(1)).]

<sup>F61</sup>(8) .....

<sup>F62</sup>(9) .....

<sup>F62</sup>(10) .....

(11) [<sup>F63</sup>Subsections (7) to (9) and (11) of section 240ZA] apply for the purposes of this section as they apply for the purposes of that section but as if—

- (a) in subsection (7)—
  - (i) the reference to a suspended sentence is to be read as including a reference to a sentence to which an order under section 118(1) of [<sup>F64</sup>the PCC(S)A 2000] relates;
  - (ii) in paragraph (a) after “Schedule 12” there were inserted or section 119(1)(a) or (b) of [<sup>F65</sup>the PCC(S)A 2000]; and
- (b) [<sup>F66</sup>in subsection (9) the references to subsections (3) and (5) of section 240ZA are] to be read as a reference to [<sup>F67</sup>subsections (2) and (3ZB)] of this section and, in paragraph (b), after “Chapter” there were inserted or Part 2 of the Criminal Justice Act 1991.

(12) In this section—

[<sup>F68</sup>“curfew requirement” means a requirement (however described) to remain at one or more specified places for a specified number of hours in any given day, provided that the requirement is imposed by a court or the Secretary of State and arises as a result of a conviction;]

“electronic monitoring condition” means any electronic monitoring requirements imposed under section 3(6ZAA) of the Bail Act 1976 for the purpose of securing the electronic monitoring of a person's compliance with a qualifying curfew condition;

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“qualifying curfew condition” means a condition of bail which requires the person granted bail to remain at one or more specified places for a total of not less than 9 hours in any given day; <sup>F69</sup>...

F69 ..... ]

### Textual Amendments

- F49** S. 240A inserted (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 21\(4\)](#), 153; S.I. 2008/2712, [art. 2](#), [Sch. para. 1](#) (subject to arts. 3, 4)
- F50** Words in s. 240A heading substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 109\(8\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)
- F51** Words in s. 240A heading substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [s. 208\(5\)\(s\)](#), [Sch. 16 para. 3\(2\)](#)
- F52** Words in s. 240A(1) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), [s. 416\(1\)](#), [Sch. 24 para. 220\(2\)\(a\)](#) (with [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#)
- F53** Words in s. 240A(1)(a) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), [s. 416\(1\)](#), [Sch. 24 para. 220\(2\)\(b\)](#) (with [Sch. 27](#)) (as amended by S.I. 2020/1236, [regs. 1, 4\(7\)\(b\)](#)); S.I. 2020/1236, [reg. 2](#)
- F54** Words in s. 240A(1)(a) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 16 para. 14](#); S.I. 2012/2906, [art. 2\(n\)](#)
- F55** Words in s. 240A(2) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 109\(2\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)
- F56** S. 240A(3) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), [s. 416\(1\)](#), [Sch. 28](#) (with [ss. 413\(4\)\(5\)](#), 416(7), [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#)
- F57** S. 240A(3)-(3B) substituted for s. 240A(3)-(8) (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 109\(3\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)
- F58** S. 240A(3ZA)(3ZB) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), [s. 416\(1\)](#), [Sch. 24 para. 220\(3\)](#) (with [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#)
- F59** S. 240A(3ZAA)(3ZAB) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [s. 208\(5\)\(s\)](#), [Sch. 16 para. 3\(3\)](#)
- F60** Words in s. 240A(3B) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [ss. 9\(7\)](#), 22(1) (with [Sch. 7 para. 5](#)); S.I. 2015/40, [art. 2\(i\)](#)
- F61** S. 240A(8) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), [s. 416\(1\)](#), [Sch. 28](#) (with [ss. 413\(4\)\(5\)](#), 416(7), [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#)
- F62** S. 240A(9)(10) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 109\(5\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)
- F63** Words in s. 240A(11) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 109\(6\)\(a\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)
- F64** Words in s. 240A(11)(a)(i) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), [s. 416\(1\)](#), [Sch. 24 para. 220\(4\)](#) (with [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#)
- F65** Words in s. 240A(11)(a)(ii) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), [s. 416\(1\)](#), [Sch. 24 para. 220\(4\)](#) (with [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#)
- F66** Words in s. 240A(11)(b) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 109\(6\)\(b\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)
- F67** Words in s. 240A(11)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), [s. 416\(1\)](#), [Sch. 24 para. 220\(5\)](#) (with [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#)
- F68** Words in s. 240A(12) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 109\(7\)\(a\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)
- F69** Words in s. 240A(12) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 109\(7\)\(b\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)

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#### Modifications etc. (not altering text)

- C7** S. 240A modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by Sentencing (Pre-consolidation Amendments) Act 2020 (c. 9), **ss. 1, 5(2)(3)**; S.I. 2012/1236, reg. 2
- C8** S. 240A applied (1.12.2020) by Sentencing Act 2020 (c. 17), **ss. 325(2), 416(1)** (with ss. 2, 398(1), 406, Sch. 27); S.I. 2020/1236, reg. 2
- C9** S. 240A(2) excluded (3.11.2008) by The Remand on Bail (Disapplication of Credit Period) Rules 2008 (S.I. 2008/2793), **art. 2**
- C10** S. 240A(2) excluded (3.11.2008) by The Remand on Bail (Disapplication of Credit Period) Rules 2008 (S.I. 2008/2793), **art. 3**
- C11** S. 240A(2) excluded (3.11.2008) by The Remand on Bail (Disapplication of Credit Period) Rules 2008 (S.I. 2008/2793), **art. 4**

#### 241 Effect of [<sup>F70</sup>section 240ZA or direction under section 240A][<sup>F71</sup>or under section 325 of the Sentencing Code] on release on licence

(1) In determining for the purposes of this Chapter <sup>F72</sup>... whether a person [<sup>F73</sup>to whom section 240ZA applies or a direction under section 240A ][<sup>F74</sup>or under section 325 of the Sentencing Code] relates —

(a) has served, or would (but for his release) have served, a particular proportion of his sentence, or

(b) has served a particular period,

the number of days [<sup>F75</sup>specified in section 240ZA or in the direction under section 240A][<sup>F76</sup>or under section 325 of the Sentencing Code] are to be treated as having been served by him as part of that sentence or period.

[<sup>F77</sup>(1A) In subsection (1) the reference to [<sup>F78</sup>section 240ZA includes] section 246 of the Armed Forces Act 2006.]

<sup>F79</sup>(2) .....

#### Textual Amendments

- F70** Words in s. 241 heading substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(6), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F71** Words in s. 241 heading inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 221(2)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F72** Words in s. 241(1) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 20(a)**; S.I. 2012/2906, art. 2(h)
- F73** Words in s. 241(1) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(4)(a), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F74** Words in s. 241(1) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 221(3)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F75** Words in s. 241(1) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(4)(b), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F76** Words in s. 241(1) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 221(3)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F77** S. 241(1A) inserted (28.3.2009 for certain purposes, otherwise 31.10.2009) by Armed Forces Act 2006 (c.52), ss. 378(1), 383, **Sch. 16 para. 220**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

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**F78** Words in s. 241(1A) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 110\(5\), 151\(1\)](#) (with Sch. 15); S.I. 2012/2906, art. 2(d)

**F79** S. 241(2) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 10 para. 20\(b\)](#); S.I. 2012/2906, art. 2(h)

#### Modifications etc. (not altering text)

**C12** S. 241 modified (26.1.2004) by [The Intermittent Custody \(Transitory Provisions\) Order 2003 \(S.I. 2003/3283\), art. 3](#)

#### Commencement Information

**I3** S. 241 wholly in force 4.4.2005; s. 241 not in force at Royal Assent, see s. 336(3); s. 241 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282, art. 2, Sch.](#); s. 241 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 19](#) (subject to [art. 2\(2\), Sch. 2](#))

## 242 Interpretation of [<sup>F80</sup>sections 240ZA][<sup>F81</sup>, 240A] and 241

- (1) For the purposes of [<sup>F80</sup>sections 240ZA][<sup>F81</sup>, 240A] and 241, the definition of “sentence of imprisonment” in section 305 applies as if for the words from the beginning of the definition to the end of paragraph (a) there were substituted—

““sentence of imprisonment” does not include a committal—

- (a) in default of payment of any sum of money, other than one adjudged to be paid on a conviction,”;

and references in those sections to sentencing an offender to imprisonment, and to an offender’s sentence, are to be read accordingly.

- (2) References in [<sup>F80</sup>sections 240ZA] and 241 to an offender’s being remanded in custody are references to his being—
- (a) remanded in or committed to custody by order of a court,
  - (b) remanded [<sup>F82</sup>to youth detention accommodation under section 91(4) of the [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#)], or
  - (c) remanded, admitted or removed to hospital under section 35, 36, 38 or 48 of the [Mental Health Act 1983 \(c. 20\)](#).

[<sup>F83</sup>(3) In sections 240ZA and 240A, “detention and training order” has the meaning given by section 233 of the [Sentencing Code](#).]

<sup>F84</sup>(3) .....

#### Textual Amendments

**F80** Words in s. 242 substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 110\(7\), 151\(1\)](#) (with Sch. 15); S.I. 2012/2906, art. 2(d)

**F81** Words in s. 242 inserted (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 21\(6\), 153](#); S.I. 2008/2712, [art. 2, Sch. para. 1](#) (subject to arts. 3, 4)

**F82** Words in s. 242(2)(b) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 12 para. 51\(a\)](#); S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

**F83** S. 242(3) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\), s. 208\(5\)\(s\), Sch. 16 para. 4](#)

**F84** S. 242(3) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 12 para. 51\(b\)](#); S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

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#### Modifications etc. (not altering text)

- C13** S. 242(2) applied (1.12.2008) by [The Criminal Justice Act 1988 \(c. 33\), s. 133B\(8\)](#) (as inserted by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 61\(7\), 153](#); S.I. 2008/2993, [art. 2](#) (subject to [art. 3](#)))
- C14** S. 242(2)(b) modification to saving for effects of 2012 c. 10, Sch. 12 para. 51(a) by S.I. 2012/2906, art. 7(2)(3) (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\), s. 5\(2\)\(3\), Sch. 2 para. 138](#); S.I. 2012/1236, reg. 2
- C15** S. 242(3) modification to saving for effects of 2012 c. 10, Sch. 12 para. 51(b) by S.I. 2012/2906, art. 7(2)(3) (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\), s. 5\(2\)\(3\), Sch. 2 para. 138](#); S.I. 2012/1236, reg. 2

#### Commencement Information

- I4** S. 242 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 19](#) (subject to [art. 2\(2\), Sch. 2](#))

### 243 Persons extradited to the United Kingdom

- (1) A fixed-term prisoner is an extradited prisoner for the purposes of this section if—
- (a) he was tried for the offence in respect of which his sentence was imposed [<sup>F85</sup>or he received that sentence]—
    - (i) after having been extradited to the United Kingdom, and
    - (ii) without having first been restored or had an opportunity of leaving the United Kingdom, and
  - (b) he was for any period kept in custody while awaiting his extradition to the United Kingdom as mentioned in paragraph (a) [<sup>F86</sup>, and
  - (c) the court has specified under section 327(3) of the Sentencing Code the number of days for which the prisoner was so kept in custody.]

<sup>F87</sup> [<sup>F88</sup>(2) . . . . .

(2A) Section 240ZA applies to days specified under [<sup>F89</sup>section 327(3) of the Sentencing Code] as if they were days for which the prisoner was remanded in custody in connection with the offence or a related offence.]

<sup>F90</sup>(3) . . . . .

#### Textual Amendments

- F85** Words in s. 243(1) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\), ss. 42, 53, Sch. 13 para. 31](#); S.I. 2006/3364, [art. 2](#)
- F86** S. 243(1)(c) and word inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 222\(2\)](#) (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F87** S. 243(2) omitted (1.12.2020) by virtue of [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 222\(3\)](#) (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F88** S. 243(2)(A) substituted for s. 243(2) (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 110\(8\), 151\(1\)](#) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)
- F89** Words in s. 243(2A) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 222\(4\)](#) (with [Sch. 27](#)); S.I. 2020/1236, reg. 2

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**F90** S. 243(3) repealed (27.7.2004) by [The Extradition Act 2003 \(Repeals\) Order 2004 \(S.I. 2004/1897\)](#), [art. 3](#)

**Modifications etc. (not altering text)**

**C16** S. 243 applied (15.1.2007) by [Powers of Criminal Courts \(Sentencing\) Act 2000 \(c. 6\)](#), s. 101(12A) (as inserted by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, [Sch. 13 para. 32](#); S.I. 2006/3364, [art. 2](#))

**Commencement Information**

**I5** S. 243 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

*[<sup>F91</sup>Unconditional release*

**Textual Amendments**

**F91** S. 243A and cross-heading inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), ss. [111\(1\)](#), [151\(1\)](#) (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)

**243A Duty to release [<sup>F92</sup>certain] prisoners serving less than 12 months**

<sup>F93</sup>(1) This section applies to a fixed-term prisoner if—

- (a) the prisoner is serving a sentence which is for a term of 1 day, or
- (b) the prisoner—
  - (i) is serving a sentence which is for a term of less than 12 months, and
  - (ii) is aged under 18 on the last day of the requisite custodial period.

(1A) This section also applies to a fixed-term prisoner if—

- (a) the prisoner is serving a sentence which is for a term of less than 12 months, and
- (b) the sentence was imposed in respect of an offence committed before the day on which section 1 of the Offender Rehabilitation Act 2014 came into force.]

<sup>F94</sup>(1B) [ But this section does not apply to a prisoner to whom section 247A applies.]

(2) As soon as a prisoner to whom this section applies has served the requisite custodial period for the purposes of this section, it is the duty of the Secretary of State to release that person unconditionally.

[ Subsection (2) does not apply if—

<sup>F95</sup>(2A) (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) For the purposes of this section “the requisite custodial period” is—

- (a) [<sup>F96</sup>in relation to a person serving one sentence], one-half of the sentence, and
- (b) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and [<sup>F97</sup>264(2B) or (2E)].

(4) This section is subject to—

- (a) section 256B (supervision of young offenders after release), and



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(b) paragraph 8 of Schedule 20B (transitional cases).]

#### Textual Amendments

- F92** Word in s. 243A heading inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 3 para. 16](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)
- F93** S. 243A(1)(1A) substituted for s. 243A(1) (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [ss. 1, 22\(1\)](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(a)
- F94** S. 243A(1B) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), [ss. 2\(2\), 10\(4\)](#)
- F95** S. 243A(2A) inserted (28.4.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 132\(2\), 208\(4\)\(p\)](#)
- F96** Words in s. 243A(3)(a) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 3 para. 17](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)
- F97** Words in s. 243A(3) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 144\(3\), 208\(5\)\(p\)](#)

#### Modifications etc. (not altering text)

- C17** S. 243A applied by [Crime \(Sentences\) Act 1997 \(c. 43\)](#), Sch. 1 paras. 8(2)(a), 9(2)(a) (as amended (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 14 para. 2](#); S.I. 2012/2906, art. 2(1))
- C18** S. 243A excluded by [International Criminal Court Act 2001 \(c. 17\)](#), Sch. 7 para. 3(1) (as amended (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 14 para. 4](#); S.I. 2012/2906, art. 2(1))

### Release on licence

#### 244 Duty to release prisoners <sup>F98</sup>not subject to special provision for release]

- (1) As soon as a fixed-term prisoner, other than a prisoner to whom section <sup>F99</sup>243A<sup>F100</sup>, <sup>F101</sup>244ZA,] 244A<sup>F102</sup>, 246A<sup>F103</sup>, 247 or 247A] applies, has served the requisite custodial period <sup>F104</sup>for the purposes of this section], it is the duty of the Secretary of State to release him on licence under this section.

<sup>F105</sup>(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.]

<sup>F106</sup>(1A) Subsection (1) does not apply if the prisoner has been released on licence under section 246 <sup>F107</sup>or 248] and recalled under section 254 (provision for the release of such persons being made by sections 255B and 255C).]

<sup>F108</sup>(2) . . . . .

(3) <sup>F109</sup>For the purposes of this section] “the requisite custodial period” means—

- (a) <sup>F110</sup>in relation to a prisoner serving one sentence], one-half of his sentence,  
<sup>F111</sup>(b) . . . . .  
<sup>F111</sup>(c) . . . . .  
(d) in relation to a person serving two or more concurrent or consecutive sentences <sup>F112</sup>... , the period determined under sections 263(2) and <sup>F113</sup>264(2B) or (2E)].



*Status: This version of this chapter contains provisions that are prospective.*

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[<sup>F114</sup>(4) This section is subject to paragraphs 5, 6, 8, 25 and 28 of Schedule 20B (transitional cases).]

### Textual Amendments

- F98** Words in s. 244 heading inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022](#) (c. 32), [ss. 130\(2\)\(a\)](#), [208\(5\)\(m\)](#)
- F99** Words in s. 244(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 14 para. 6\(2\)\(a\)](#); S.I. 2012/2906, art. 2(l)
- F100** Word in s. 244(1) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015](#) (c. 2), s. 95(1), [Sch. 1 para. 5](#); S.I. 2015/778, art. 3, [Sch. 1 para. 72](#)
- F101** Word in s. 244(1) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022](#) (c. 32), [ss. 130\(2\)\(b\)](#), [208\(5\)\(m\)](#)
- F102** Word in s. 244(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), [ss. 125\(2\)](#), [151\(1\)](#); S.I. 2012/2906, art. 2(e)
- F103** Words in s. 244(1) substituted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020](#) (c. 3), [ss. 2\(3\)](#), [10\(4\)](#)
- F104** Words in s. 244(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 14 para. 6\(2\)\(b\)](#); S.I. 2012/2906, art. 2(l)
- F105** S. 244(1ZA) inserted (28.4.2022) by [Police, Crime, Sentencing and Courts Act 2022](#) (c. 32), [ss. 132\(3\)](#), [208\(4\)\(p\)](#)
- F106** S. 244(1A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), [ss. 114\(2\)](#), [151\(1\)](#) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)
- F107** Words in s. 244(1A) inserted (1.2.2015) by [Offender Rehabilitation Act 2014](#) (c. 11), [ss. 9\(2\)](#), [22\(1\)](#) (with [Sch. 7 para. 5](#)); S.I. 2015/40, art. 2(i)
- F108** S. 244(2) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 10 para. 21\(2\)](#); S.I. 2012/2906, art. 2(h)
- F109** Words in s. 244(3) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 14 para. 6\(3\)\(a\)](#); S.I. 2012/2906, art. 2(l)
- F110** Words in s. 244(3)(a) substituted (1.2.2015) by [Offender Rehabilitation Act 2014](#) (c. 11), s. 22(1), [Sch. 3 para. 18](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)
- F111** S. 244(3)(b)(c) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 10 para. 21\(3\)\(a\)](#); S.I. 2012/2906, art. 2(h); S.I. 2012/2906, art. 2(h)
- F112** Words in s. 244(3)(d) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 10 para. 21\(3\)\(b\)](#); S.I. 2012/2906, art. 2(h)
- F113** Words in s. 244(3)(d) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022](#) (c. 32), [ss. 144\(4\)](#), [208\(5\)\(p\)](#)
- F114** S. 244(4) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 17 para. 2](#); S.I. 2012/2906, art. 2(o)

### Modifications etc. (not altering text)

- C19** S. 244(3)(a) modified (1.4.2020) by [The Release of Prisoners \(Alteration of Relevant Proportion of Sentence\) Order 2020](#) (S.I. 2020/158), arts. 1, [3](#) (with art. 5)

### Commencement Information

- I6** S. 244 partly in force; s. 244 not in force at Royal Assent, see s. 336(3); s. 244(1)(2)(3)(c)(d) in force for certain purposes at 26.1.2004 by S.I. 2003/3282, [art. 2](#), [Sch.](#); s. 244(1)(2)(3)(a)(d) in force at 4.4.2005 by S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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## **[<sup>F115</sup>244ZB] Release on licence of certain violent or sexual offenders**

- (1) As soon as a fixed-term prisoner to whom this section applies has served the requisite custodial period for the purposes of this section, it is the duty of the Secretary of State to release the prisoner on licence under this section.
- (2) This section applies to a prisoner who—
  - (a) is serving a fixed-term sentence within subsection (4), (5) or (6),
  - (b) is not a prisoner to whom section 244A, 246A or 247A applies, and
  - (c) has not been released on licence (provision for the release of persons recalled under section 254 being made by sections 255B and 255C).
- (3) 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.
- (4) A fixed-term sentence is within this subsection if it—
  - (a) is a sentence of—
    - (i) imprisonment, or
    - (ii) detention under section 96 of the PCC(S)A 2000 or section 262 of the Sentencing Code,
  - (b) is for a term of 7 years or more,
  - (c) was imposed on or after 1 April 2020, and
  - (d) was imposed in respect of an offence—
    - (i) that is specified in Part 1 or 2 of Schedule 15, and
    - (ii) for which a sentence of life imprisonment could have been imposed (in the case of an offender aged 21 or over) at the time when the actual sentence was imposed.
- (5) A fixed-term sentence is within this subsection if it—
  - (a) is a sentence of imprisonment or a sentence of detention under section 262 of the Sentencing Code,
  - (b) is for a term of at least 4 years but less than 7 years,
  - (c) was imposed on or after the day on which section 130 of the Police, Crime, Sentencing and Courts Act 2022 came into force, and
  - (d) was imposed in respect of an offence within subsection (7).
- (6) A fixed-term sentence is within this subsection if it—
  - (a) is a sentence of detention under section 250 of the Sentencing Code,
  - (b) is for a term of 7 years or more,
  - (c) was imposed on or after the day on which section 130 of the Police, Crime, Sentencing and Courts Act 2022 came into force, and
  - (d) was imposed in respect of an offence within subsection (7).
- (7) An offence is within this subsection if—
  - (a) it is specified in any of the following paragraphs of Part 1 of Schedule 15—
    - (i) paragraph 1 (manslaughter);
    - (ii) paragraph 4 (soliciting murder);
    - (iii) paragraph 6 (wounding with intent to cause grievous bodily harm);
    - (iv) paragraph 64 (ancillary offences), so far as it relates to an offence listed in paragraph 1, 4 or 6;

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- (v) paragraph 65 (inchoate offences in relation to murder), or
- (b) it is an offence—
  - (i) that is specified in Part 2 of that Schedule (sexual offences), and
  - (ii) for which a sentence of life imprisonment could have been imposed (in the case of an offender aged 21 or over) at the time when the actual sentence was imposed.
- (8) For the purposes of this section “the requisite custodial period” means—
  - (a) in relation to a prisoner serving one sentence, two-thirds of the prisoner’s sentence, and
  - (b) in relation to a prisoner serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and 264(2B) or (2E).]

#### Textual Amendments

**F115** S. 244ZA inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 130(3), 208(5)(m)**

#### [<sup>F116</sup>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—

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- (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.
- (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.

**Textual Amendments**

**F116** Ss. 244ZB, 244ZC inserted (28.4.2022) by *Police, Crime, Sentencing and Courts Act 2022 (c. 32)*, ss. 132(4), 208(4)(p)

**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—

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- (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.
- (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).]

#### Textual Amendments

**F116** Ss. 244ZB, 244ZC inserted (28.4.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. 132(4), 208(4)(p)

#### [<sup>F117</sup>244A] **Release on licence of prisoners serving sentence under [<sup>F118</sup>section 278 of the Sentencing Code etc]**

- (1) This section applies to a prisoner (“P”) who is serving a sentence imposed under section 236A [<sup>F119</sup>or under section 265 or 278 of the Sentencing Code][<sup>F120</sup>, other than a prisoner to whom section 247A applies].
- (2) The Secretary of State must refer P’s case to the Board—
- (a) as soon as P has served the requisite custodial period, and
  - (b) where there has been a previous reference of P’s case to the Board under this subsection and the Board did not direct P’s release, not later than the second anniversary of the disposal of that reference.
- (3) It is the duty of the Secretary of State to release P on licence under this section as soon as—
- (a) P has served the requisite custodial period, and
  - (b) the Board has directed P’s release under this section.
- (4) The Board must not give a direction under subsection (3) unless—
- (a) the Secretary of State has referred P’s case to the Board, and
  - (b) the Board is satisfied that it is not necessary for the protection of the public that P should be confined.
- (5) It is the duty of the Secretary of State to release P on licence under this section as soon as P has served the appropriate custodial term, unless P has previously been released on licence under this section and recalled under section 254 (provision for the release of such persons being made by sections 255A to 255C).
- (6) For the purposes of this section—

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“the appropriate custodial term” means the term determined as such by the court under section 236A [F121] or under section 265 or 278 of the Sentencing Code];

“the requisite custodial period” means—

- (a) in relation to a person serving one sentence [F122: imposed before the day on which section 131 of the Police, Crime, Sentencing and Courts Act 2022 came into force], one-half of the appropriate custodial term,
- (aa) [F123: in relation to a person serving one sentence imposed on or after that day, two-thirds of the appropriate custodial term,] and
- (b) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and [F124: 264(2D)].]

**Textual Amendments**

- F117 S. 244A inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), Sch. 1 para. 6; S.I. 2015/778, art. 3, Sch. 1 para. 72
- F118 Words in s. 244A heading substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 223(2) (with Sch. 27); S.I. 2020/1236, reg. 2
- F119 Words in s. 244A(1) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 223(3) (with Sch. 27); S.I. 2020/1236, reg. 2
- F120 Words in s. 244A(1) inserted (26.2.2020) by Terrorist Offenders (Restriction of Early Release) Act 2020 (c. 3), ss. 2(4), 10(4)
- F121 Words in s. 244A(6) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 223(4) (with Sch. 27); S.I. 2020/1236, reg. 2
- F122 Words in s. 244A(6) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 131(2)(a), 208(5)(m)
- F123 Words in s. 244A(6) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 131(2)(b), 208(5)(m)
- F124 Word in s. 244A(6) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 144(5), 208(5)(p)

**F125 245 Restrictions on operation of section 244(1) in relation to intermittent custody prisoners**

.....

**Textual Amendments**

- F125 S. 245 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 10 para. 22; S.I. 2012/2906, art. 2(h)

**246 Power to release prisoners on licence before required to do so**

- (1) Subject to subsections (2) to (4), the Secretary of State may—
  - (a) release on licence under this section a fixed-term prisoner F126 ... at any time during the period of [F127: 180] days ending with the day on which the prisoner will have served the requisite custodial period, F128 ...
  - F128(b) .....

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- (2) Subsection (1)(a) does not apply in relation to a prisoner unless—
- (a) the length of the requisite custodial period is at least 6 weeks, <sup>F129</sup>and
  - (b) he has served—
    - (i) at least 4 weeks of that period, and
    - (ii) at least one-half of that period.]
- <sup>F130</sup>(3) .....
- (4) Subsection (1) does not apply where—
- (a) the sentence is imposed under section <sup>F131</sup>226A,] 227 <sup>F132</sup>, 228 or 236A]<sup>F133</sup> or under section 265, 266, 278 or 279 of the Sentencing Code],
  - <sup>F134</sup>(aa) the sentence is for a term of 4 years or more,]
  - <sup>F135</sup>(ab) the prisoner is one to whom section 247A applies,]
  - (b) the sentence is for an offence under section 1 of the Prisoners (Return to Custody) Act 1995 (c. 16),
  - (c) the prisoner is subject to a hospital order, hospital direction or transfer direction under section 37, 45A or 47 of the Mental Health Act 1983 (c. 20),
  - (d) the sentence was imposed by virtue of paragraph 9(1)(b) or (c) or 10(1)(b) or (c) of Schedule 8 <sup>F136</sup>, or paragraph 10(5)(c) or (d) or 11(2)(c) or (d) of Schedule 10 to the Sentencing Code,] in a case where the prisoner has failed to comply with a curfew requirement of a community order,
  - (e) the prisoner is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 (c. 42),
  - (f) the prisoner is liable to removal from the United Kingdom,
  - <sup>F137</sup>(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,]
  - (g) the prisoner has been released on licence under this section <sup>F138</sup>at any time], and has been recalled to prison under section 255(1)(a) <sup>F139</sup>(and the revocation has not been cancelled under section 255(3))],
  - <sup>F140</sup>(ga) the prisoner has at any time been released on licence under section 34A of the Criminal Justice Act 1991 and has been recalled to prison under section 38A(1)(a) of that Act (and the revocation of the licence has not been cancelled under section 38A(3) of that Act);]
  - (h) the prisoner has been released on licence under section 248 during the currency of the sentence, and has been recalled to prison under section 254, <sup>F141</sup>...
  - <sup>F142</sup>(ha) the prisoner has at any time been returned to prison under section 40 of the Criminal Justice Act 1991 or section 116 of <sup>F143</sup>the PCC(S)A 2000], or]
    - (i) in the case of a prisoner <sup>F144</sup>to whom section 240ZA applies or a direction under section 240A <sup>F145</sup>or under section 325 of the Sentencing Code] relates], the interval between the date on which the sentence was passed and the date on which the prisoner will have served the requisite custodial period is less than 14 days <sup>F146</sup>... .
- <sup>F147</sup>(4ZA) Where subsection (4)(aa) applies to a prisoner who is serving two or more terms of imprisonment, the reference to the term of the sentence is—
- (a) if the terms are partly concurrent, a reference to the period which begins when the first term begins and ends when the last term ends;
  - (b) if the terms are to be served consecutively, a reference to the aggregate of the terms.]



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[<sup>F148</sup>(4A) In subsection (4)—

- (a) the reference in paragraph (d) to a community order includes a service community order or overseas community order under the Armed Forces Act 2006; and
- (b) the reference in paragraph (i) to [<sup>F149</sup>section 240ZA includes] section 246 of that Act.]

(5) The Secretary of State may by order—

- (a) amend the number of days for the time being specified in subsection (1)(a) <sup>F150</sup>... or (4)(i),
- (b) amend the number of weeks for the time being specified in subsection (2)(a) or (b)(i), and
- (c) amend the fraction for the time being specified in subsection (2)(b)(ii) <sup>F151</sup>... .

(6) In this section—

<sup>F152</sup> .....  
“the requisite custodial period” in relation to a person serving any sentence <sup>F153</sup>... , has the meaning given by [<sup>F154</sup>paragraph (a) or (b) of section 243A(3) or (as the case may be)] paragraph (a) <sup>F153</sup>... or (d) of section 244(3);

<sup>F155</sup> .....  
[<sup>F156</sup>“term of imprisonment” includes a determinate sentence of detention under section 91 or 96 of [<sup>F157</sup>the PCC(S)A 2000, under section 250, 254, 262, 265, 266, 278 or 279 of the Sentencing Code] or under section [<sup>F158</sup>226A, 226B,] 227 [<sup>F159</sup>, 228 or 236A] of this Act.]

### Textual Amendments

- F126** Words in s. 246(1)(a) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 10 para. 23(2)(a)**; S.I. 2012/2906, art. 2(h)
- F127** Word in s. 246(1)(a) substituted (6.6.2023) by [The Criminal Justice Act 2003 \(Home Detention Curfew\) Order 2023 \(S.I. 2023/390\)](#), arts. 1(2), **2**
- F128** S. 246(1)(b) and preceding word omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 10 para. 23(2)(b)**; S.I. 2012/2906, art. 2(h)
- F129** S. 246(2)(b) and word substituted (14.7.2008) for s. 246(2)(b) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 24**, 153; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 11
- F130** S. 246(3) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 10 para. 23(3)**; S.I. 2012/2906, art. 2(h)
- F131** Words in s. 246(4)(a) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 20 para. 5(2)**; S.I. 2012/2906, art. 2(r)
- F132** Words in s. 246(4)(a) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), **Sch. 1 para. 7(2)**; S.I. 2015/778, art. 3, Sch. 1 para. 72
- F133** Words in s. 246(4)(a) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 224(2)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F134** S. 246(4)(aa) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 112(2)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F135** S. 246(4)(ab) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), **ss. 2(5)**, 10(4)
- F136** Words in s. 246(4)(d) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 224(2)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F137** S. 246(4)(fa)(fb) inserted (28.4.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 132(5)**, 208(4)(p)

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- F138** Words in s. 246(4)(g) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 112(3)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F139** Words in s. 246(4)(g) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 112(3)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F140** S. 246(4)(ga) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 15(4)**, 95(1) (with s. 15(10)); S.I. 2015/778, art. 3, Sch. 1 para. 11
- F141** Word in s. 246(4)(h) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 112(4)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F142** S. 246(4)(ha) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 112(4)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F143** Words in s. 246(4)(ha) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 224(2)(c)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F144** Words in s. 246(4)(i) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(9)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F145** Words in s. 246(4)(i) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 224(2)(d)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F146** Words in s. 246(4)(i) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 23(4)**; S.I. 2012/2906, art. 2(h)
- F147** S. 246(4ZA) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 112(5)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F148** S. 246(4A) inserted (28.3.2009 for certain purposes, otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), **ss. 378(1)**, 383, **Sch. 16 para. 221**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F149** Words in s. 246(4A)(b) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(9)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F150** Words in s. 246(5)(a) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 23(5)(a)**; S.I. 2012/2906, art. 2(h)
- F151** Words in s. 246(5)(c) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 23(5)(b)**; S.I. 2012/2906, art. 2(h)
- F152** Words in s. 246(6) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 23(6)(a)**; S.I. 2012/2906, art. 2(h)
- F153** Words in s. 246(6) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 23(6)(b)**; S.I. 2012/2906, art. 2(h)
- F154** Words in s. 246(6) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 7**; S.I. 2012/2906, art. 2(l)
- F155** Words in s. 246(6) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 23(6)(c)**; S.I. 2012/2906, art. 2(h)
- F156** Words in s. 246(6) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 112(6)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F157** Words in s. 246(6) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 224(3)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F158** Words in s. 246(6) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 20 para. 5(3)**; S.I. 2012/2906, art. 2(r)
- F159** Words in s. 246(6) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 1 para. 7(3)**; S.I. 2015/778, art. 3, Sch. 1 para. 72

#### Modifications etc. (not altering text)

- C20** S. 246 excluded (1.12.2020) by Sentencing Act 2020 (c. 17), **ss. 237(5)**, 416(1) (with ss. 2, 398(1), 406, Sch. 27); S.I. 2020/1236, reg. 2

#### Commencement Information

- I7** S. 246 wholly in force at 4.4.2005; s. 246 not in force at Royal Assent, see s. 336(3); s. 246(1)(b)(3) (4)(b)-(i)(5)(6) in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2**, Sch.; s. 246(5) in

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force at 7.3.2005 by S.I. 2005/373, art. 2; s. 246 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, art. 2(1), Sch. 1 para. 19 (subject to art. 2(2), Sch. 2)

[<sup>F160</sup>246A Release on licence of prisoners serving extended sentence under [<sup>F161</sup>section 254, 266 or 279 of the Sentencing Code etc]

- (1) This section applies to a prisoner (“P”) who is serving an extended sentence imposed under section 226A or 226B [<sup>F162</sup>or under section 254, 266 or 279 of the Sentencing Code][<sup>F163</sup>, other than a prisoner to whom section 247A applies].
- (2) It is the duty of the Secretary of State to release P on licence under this section as soon as P has served the requisite custodial period for the purposes of this section [<sup>F164</sup>if—
  - (a) the sentence was imposed before the coming into force of section 4 of the Criminal Justice and Courts Act 2015,
  - (b) the appropriate custodial term is less than 10 years, and
  - (c) the sentence was not imposed in respect of an offence listed in Parts 1 to 3 of Schedule 15B or in respect of offences that include one or more offences listed in those Parts of that Schedule.]
- (3) [<sup>F165</sup>In any other case], it is the duty of the Secretary of State to release P on licence in accordance with subsections (4) to (7).
- (4) The Secretary of State must refer P's case to the Board—
  - (a) as soon as P has served the requisite custodial period, and
  - (b) where there has been a previous reference of P's case to the Board under this subsection and the Board did not direct P's release, not later than the second anniversary of the disposal of that reference.
- (5) It is the duty of the Secretary of State to release P on licence under this section as soon as—
  - (a) P has served the requisite custodial period, and
  - (b) the Board has directed P's release under this section.
- (6) The Board must not give a direction under subsection (5) unless—
  - (a) the Secretary of State has referred P's case to the Board, and
  - (b) the Board is satisfied that it is no longer necessary for the protection of the public that P should be confined.

[ Sections 246B and 246C contain provision that relates to the Board's function of giving  
<sup>F166</sup>(6A) directions under subsection (5) for the release of P.]

- (7) It is the duty of the Secretary of State to release P on licence under this section as soon as P has served the appropriate custodial term, unless P has previously been released on licence under this section and recalled under section 254 (provision for the release of such persons being made by section 255C).
- (8) For the purposes of this section—

“appropriate custodial term” means the term determined as such by the court under section 226A or 226B [<sup>F167</sup>or under section 254, 266 or 279 of the Sentencing Code] (as appropriate);

“the requisite custodial period” means—

  - (a) in relation to a person serving one sentence, two-thirds of the appropriate custodial term, and

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- (b) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and [F168 264(2B), (2D) or (2E)].]

#### Textual Amendments

- F160** S. 246A inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 125\(3\), 151\(1\); S.I. 2012/2906, art. 2\(e\)](#)
- F161** Words in s. 246A heading substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 225\(2\)](#) (with [Sch. 27](#)); [S.I. 2020/1236, reg. 2](#)
- F162** Words in s. 246A(1) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 225\(3\)](#) (with [Sch. 27](#)); [S.I. 2020/1236, reg. 2](#)
- F163** Words in s. 246A(1) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\), ss. 2\(6\), 10\(4\)](#)
- F164** Words in s. 246A(2) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), ss. 4\(2\), 95\(1\); S.I. 2015/778, art. 3, Sch. 1 para. 4](#)
- F165** Words in s. 246A(3) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), ss. 4\(3\), 95\(1\); S.I. 2015/778, art. 3, Sch. 1 para. 4](#)
- F166** S. 246A(6A) inserted (4.1.2021) by [Prisoners \(Disclosure of Information About Victims\) Act 2020 \(c. 19\), ss. 2\(3\), 3\(2\); S.I. 2020/1537, reg. 2](#)
- F167** Words in s. 246A(8) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 225\(4\)](#) (with [Sch. 27](#)); [S.I. 2020/1236, reg. 2](#)
- F168** Words in s. 246A(8) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\), ss. 144\(6\), 208\(5\)\(p\)](#)

#### [F169] **246B Manslaughter: prisoner's non-disclosure of information**

- (1) The Board must comply with this section when making a public protection decision about a prisoner if—
  - (a) the prisoner's sentence was passed for manslaughter;
  - (b) the Board does not know where and how the victim's remains were disposed of; and
  - (c) the Board believes that the prisoner has information about where, or how, the victim's remains were disposed of (whether the information relates to the actions of the prisoner or any other individual) which the prisoner has not disclosed to the Board (“the prisoner's non-disclosure”).
- (2) When making the public protection decision about the prisoner, the Board must take into account—
  - (a) the prisoner's non-disclosure; and
  - (b) the reasons, in the Board's view, for the prisoner's non-disclosure.
- (3) This section does not limit the matters which the Board must or may take into account when making a public protection decision.
- (4) In subsection (1)(a) the reference to a sentence includes a sentence passed before the coming into force of section 2 of the Prisoners (Disclosure of Information About Victims) Act 2020.
- (5) In this section, in relation to a prisoner—
 

“public protection decision” means the decision, made under section 246A(6)(b) for the purposes of section 246A(5), as to whether the

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Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined;

“victim” means the victim of the offence for which the prisoner's sentence was passed;

and a reference to the victim's remains being disposed of includes the remains being left at the location where the victim died.]

#### Textual Amendments

**F169** Ss. 246B, 246C inserted (4.1.2021) by [Prisoners \(Disclosure of Information About Victims\) Act 2020](#) (c. 19), [ss. 2\(2\), 3\(2\)](#); [S.I. 2020/1537](#), reg. 2

### [<sup>F169</sup>246] **Indecent images: prisoner's non-disclosure of information**

- (1) The Board must comply with this section when making a public protection decision about a prisoner if—
  - (a) the prisoner's sentence was passed for—
    - (i) an offence of taking an indecent photograph of a child, or
    - (ii) a relevant offence of making an indecent pseudo-photograph of a child;
  - (b) the Board does not know the identity of the child who is the subject of the relevant indecent image; and
  - (c) the Board believes that the prisoner has information about the identity of the child who is the subject of the relevant indecent image which the prisoner has not disclosed to the Board (“the prisoner's non-disclosure”).
- (2) When making the public protection decision about the prisoner, the Board must take into account—
  - (a) the prisoner's non-disclosure; and
  - (b) the reasons, in the Board's view, for the prisoner's non-disclosure.
- (3) This section does not limit the matters which the Board must or may take into account when making a public protection decision.
- (4) In subsection (1)(a), the reference to a sentence includes a sentence passed before the coming into force of section 2 of the Prisoners (Disclosure of Information About Victims) Act 2020.
- (5) For the purposes of this section, an offence is—
  - (a) an “offence of taking an indecent photograph of a child” if it is an offence under section 1(1)(a) of the Protection of Children Act 1978 of taking an indecent photograph of a child;
  - (b) a “relevant offence of making an indecent pseudo-photograph of a child” if—
    - (i) it is an offence under section 1(1)(a) of the Protection of Children Act 1978 of making an indecent pseudo-photograph of a child, and
    - (ii) the Board believes that an image of a real child was or may have been used in the making of the pseudo-photograph;and, in the application of this section to a relevant offence of making an indecent pseudo-photograph of a child, the references in subsection (1)(b) and (c) to the child who is the subject of the relevant indecent image are references to the real child.

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(6) In this section—

“public protection decision”, in relation to a prisoner, means the decision, made under section 246A(6)(b) for the purposes of section 246A(5), as to whether the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined;

“relevant indecent image” means—

- (a) the photograph to which an offence of taking an indecent photograph of a child relates, or
- (b) the pseudo-photograph to which a relevant offence of making an indecent pseudo-photograph of a child relates.]

**Textual Amendments**

**F169** Ss. 246B, 246C inserted (4.1.2021) by Prisoners (Disclosure of Information About Victims) Act 2020 (c. 19), ss. 2(2), 3(2); S.I. 2020/1537, reg. 2

**247 Release on licence of prisoner serving extended sentence under section 227 or 228**

(1) This section applies to a prisoner who is serving an extended sentence imposed under section 227 or 228<sup>F170</sup>, other than a prisoner to whom section 247A applies].

(2) As soon as—

(a) a prisoner to whom this section applies has served <sup>F171</sup>the requisite custodial period], <sup>F172</sup> . . .

(b) <sup>F173</sup> . . . . .  
it is the duty of the Secretary of State to release him on licence.

(3) <sup>F174</sup> . . . . .

(4) <sup>F175</sup> . . . . .

(5) <sup>F176</sup> . . . . .

(6) <sup>F177</sup> . . . . .

<sup>F178</sup>(7) In this section—

“the appropriate custodial term” means the period determined by the court as the appropriate custodial term under section 227 or 228;

“the requisite custodial period” means—

- (a) in relation to a person serving one sentence, one-half of the appropriate custodial term, and
- (b) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and <sup>F179</sup>264(2B) or (2E)].]

<sup>F180</sup>(8) In its application to a person serving a sentence imposed before 14 July 2008, this section is subject to the modifications set out in paragraph 15 of Schedule 20B (transitional cases).]



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### Textual Amendments

- F170** Words in s. 247(1) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\), ss. 2\(7\), 10\(4\)](#)
- F171** Words in s. 247(2)(a) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), ss. 14\(3\)\(a\), 95\(1\)](#) (with s. 14(7)); S.I. 2015/778, art. 3, Sch. 1 para. 10
- F172** Word at the end of s. 247(2)(a) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 25\(2\)\(a\), 149, 153, Sch. 28 Pt. 2](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)
- F173** S. 247(2)(b) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 25\(2\)\(b\), 149, 153, Sch. 28 Pt. 2](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)
- F174** S. 247(3) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 25\(3\), 149, 153, Sch. 28 Pt. 2](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)
- F175** S. 247(4) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 25\(3\), 149, 153, Sch. 28 Pt. 2](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)
- F176** S. 247(5) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 25\(3\), 149, 153, Sch. 28 Pt. 2](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)
- F177** S. 247(6) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 25\(3\), 149, 153, Sch. 28 Pt. 2](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)
- F178** S. 247(7) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), ss. 14\(3\)\(b\), 95\(1\)](#) (with s. 14(7)); S.I. 2015/778, art. 3, Sch. 1 para. 10
- F179** Words in s. 247(7) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\), ss. 144\(7\), 208\(5\)\(p\)](#)
- F180** S. 247(8) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 17 para. 3](#); S.I. 2012/2906, art. 2(o)

### Commencement Information

- I8** S. 247 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 19 (subject to art. 2(2), Sch. 2)

## [<sup>F181</sup>247A] Restricted eligibility for release on licence of terrorist prisoners

- (1) This section applies to a prisoner (a “terrorist prisoner”) who—
- is serving a fixed-term sentence imposed (whether before or after this section comes into force) in respect of an offence within subsection (2), and
  - has not been released on licence.
- (2) An offence is within this subsection ([<sup>F182</sup>whenever it was committed]) if—
- [<sup>F183</sup>it is specified in Part 1 or 2 of Schedule 19ZA (terrorism offences punishable with imprisonment for life or for more than two years),]
  - [<sup>F184</sup>it is a service offence as respects which the corresponding civil offence is so specified, or
  - it was determined to have a terrorist connection.]
- [ Subsections (3) to (5) apply unless the terrorist prisoner's sentence was imposed—
- <sup>F185</sup>(2A) (a) under section 226A or 226B or under section 254, 266, 268A, 279 or 282A of the Sentencing Code (extended sentence or serious terrorism sentence for dangerous offenders),
- on or after the day on which section 27 of the Counter-Terrorism and Sentencing Act 2021 comes into force, and
  - in respect of an offence that—



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- (i) is specified in Part 1 of Schedule 19ZA (terrorism offences punishable with imprisonment for life),
  - (ii) is a service offence as respects which the corresponding civil offence is so specified,
  - (iii) is specified in Part 3 of that Schedule (other offences punishable with imprisonment for life) and was determined to have a terrorist connection, or
  - (iv) is a service offence as respects which the corresponding civil offence is so specified, and was determined to have a terrorist connection.]
- (3) It is the duty of the Secretary of State to refer the case of a terrorist prisoner to the Board—
- (a) as soon as the prisoner has served the requisite custodial period, and
  - (b) where there has been a previous reference of the prisoner's case to the Board under this subsection and the Board did not direct the prisoner's release, no later than the second anniversary of the disposal of that reference.
- (4) It is the duty of the Secretary of State to release a terrorist 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.
- (5) The Board must not give a direction under subsection (4) unless—
- (a) the Secretary of State has referred the terrorist prisoner's case to the Board, and
  - (b) the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined.
- (6) Subsection (7) applies where the terrorist prisoner is serving a sentence imposed under section 226A, 226B, 227, 228 or 236A [<sup>F186</sup>or under section [<sup>F187</sup>252A,] 254, 265, 266, [<sup>F188</sup>268A, 278, 279 or 282A] of the Sentencing Code].
- (7) It is the duty of the Secretary of State to release the terrorist prisoner on licence under this section as soon as the prisoner has served the appropriate custodial term (see sections 255B and 255C for provision about the re-release of a person who has been recalled under section 254).
- [ For the purposes of this section, an offence was determined to have a terrorist <sup>F189</sup>(7A) connection if it was—
- (a) determined to have a terrorist connection under—
    - (i) section 69 of the Sentencing Code (including as applied by section 238(6) of the Armed Forces Act 2006),
    - (ii) section 30 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in England and Wales before the Sentencing Code applied, or an offender sentenced in Northern Ireland but now subject to the provisions of this Chapter), or
    - (iii) section 32 of that Act (in the case of a person sentenced for a service offence before the Sentencing Code applied), or
  - (b) proved to have been aggravated by reason of having a terrorist connection under section 31 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in Scotland but now subject to the provisions of this Chapter).]
- (8) For the purposes of this section—

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“the appropriate custodial term”, in relation to a sentence imposed under section 226A, 226B, 227, 228 or 236A, [<sup>F190</sup>or under section [<sup>F191</sup>252A,] 254, 265, 266, [<sup>F192</sup>268A, 278, 279 or 282A] of the Sentencing Code,] means the term determined as such by the court under that provision;

“the requisite custodial period” means—

- (a) in relation to a person serving one sentence imposed under section 226A, 226B, 227, 228, or 236A, [<sup>F190</sup>or under section [<sup>F191</sup>252A,] 254, 265, 266, 278 or 279 of the Sentencing Code,] two-thirds of the appropriate custodial term,
- (b) in relation to a person serving one sentence of any other kind, two-thirds of the sentence, and
- (c) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and [<sup>F193</sup>264(2B), (2D) or (2E)];

“service offence”, [<sup>F194</sup>and “corresponding civil offence”] have the same meanings as in the Counter-Terrorism Act 2008 (see section 95 of that Act).

(9) For the purposes of this section, a reference of a terrorist prisoner's case to the Board disposed of before the day on which this section comes into force is to be treated as if it was made (and disposed of) under subsection (3) if—

- (a) it was made under section 244A(2)(b) and disposed of at a time when the prisoner had served the requisite custodial [<sup>F195</sup>period] (within the meaning of this section, not section 244A), or
- (b) it was made under section 246A(4).

(10) Nothing in this section affects the duty of the Secretary of State to release a person whose release has been directed by the Board before this section comes into force.

[ In the case of a prisoner to whom this section applies as a result of the amendments <sup>F196</sup>(10A) made by sub-paragraph (2) of paragraph 45 of Schedule 13 to the Counter-Terrorism and Sentencing Act 2021, the references in subsections (9) and (10) to the date on which this section comes into force are to be read as references to the date on which that sub-paragraph comes into force.]

(11) This section is subject to paragraphs 5, 17 and 19 of Schedule 20B (transitional cases).]

#### Textual Amendments

- F181** S. 247A inserted (E.W.) (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020](#) (c. 3), **ss. 1(2)**, 10(4)
- F182** Words in s. 247A(2) substituted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021](#) (c. 11), s. 50(1)(i), **Sch. 13 para. 45(2)(a)(i)**
- F183** S. 247A(2)(a) substituted (29.6.2021) by [Counter-Terrorism and Sentencing Act 2021](#) (c. 11), **ss. 27(2)(a)**, 50(2)(n)
- F184** S. 247A(2)(b)(c) substituted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021](#) (c. 11), s. 50(1)(i), **Sch. 13 para. 45(2)(a)(ii)**
- F185** S. 247A(2A) inserted (29.6.2021) by [Counter-Terrorism and Sentencing Act 2021](#) (c. 11), **ss. 27(2)(b)**, 50(2)(n)
- F186** Words in s. 247A(6) inserted (1.12.2020) by [Sentencing Act 2020](#) (c. 17), s. 416(1), **Sch. 24 para. 226(3)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F187** Word in s. 247A(6) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021](#) (c. 11), s. 50(1)(i), **Sch. 13 para. 21(4)(a)**

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- F188** Words in s. 247A(6) substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 9(4)(a)**
- F189** S. 247A(7A) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 45(2)(b)**
- F190** Words in s. 247A(8) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 226(4)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F191** Word in s. 247A(8) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 21(4)(b)**
- F192** Words in s. 247A(8) substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 9(4)(b)**
- F193** Words in s. 247A(8) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 144(8), 208(5)(p)**
- F194** Words in s. 247A(8) substituted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 45(2)(c)**
- F195** Word in s. 247A(9)(a) substituted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 45(2)(d)**
- F196** S. 247A(10A) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 45(2)(e)**

**248 Power to release prisoners on compassionate grounds**

(1) The Secretary of State may at any time release a fixed-term prisoner on licence if he is satisfied that exceptional circumstances exist which justify the prisoner’s release on compassionate grounds.

<sup>F197</sup>(2) . . . . .

**Textual Amendments**

**F197** S. 248(2) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 116(2), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)

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**Commencement Information**

**I9** S. 248 wholly in force at 4.4.2005; s. 248 not in force at Royal Assent, see s. 336(3); s. 248(1) in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), **art. 2, Sch.**; s. 248 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), **art. 2(1), Sch. 1 para. 19** (subject to [art. 2\(2\), Sch. 2](#))

**249 Duration of licence**

(1) Subject to [<sup>F198</sup>subsection (3)], where a fixed-term prisoner[<sup>F199</sup>, other than one to whom section 243A applies,] is released on licence, the licence shall, subject to any revocation under section 254 or 255, remain in force for the remainder of his sentence.

[<sup>F200</sup>(1A) Where a prisoner to whom section 243A applies is released on licence, the licence shall, subject to any revocation under section 254 or 255, remain in force until the date on which, but for the release, the prisoner would have served one-half of the sentence.

This is subject to subsection (3).]

<sup>F201</sup>(2) . . . . .

(3) [<sup>F202</sup>Subsections (1) and (1A) have] effect subject to [<sup>F203</sup>section] 263(2) (concurrent terms) [<sup>F204</sup>and sections 264(3C)(a) and 264B]<sup>F205</sup> ... (consecutive terms)<sup>F206</sup> ... .

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<sup>F207</sup>(4) .....

[<sup>F208</sup>(5) This section is subject to paragraphs 17, 19 and 26 of Schedule 20B (transitional cases).]

### Textual Amendments

- F198** Words in s. 249(1) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 24(a)**; S.I. 2012/2906, art. 2(h)
- F199** Words in s. 249(1) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 8(2)**; S.I. 2012/2906, art. 2(l)
- F200** S. 249(1A) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 8(3)**; S.I. 2012/2906, art. 2(l)
- F201** S. 249(2) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 24(b)**; S.I. 2012/2906, art. 2(h)
- F202** Words in s. 249(3) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 8(4)(a)**; S.I. 2012/2906, art. 2(l)
- F203** Word in s. 249(3) substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 5(4)(a)**, 22(1) (with **Sch. 7 para. 2**); S.I. 2015/40, art. 2(e)
- F204** Words in s. 249(3) substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 5(4)(b)**, 22(1) (with **Sch. 7 para. 2**); S.I. 2015/40, art. 2(e)
- F205** Words in s. 249(3) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 8(4)(b)**; S.I. 2012/2906, art. 2(l)
- F206** Words in s. 249(3) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 24(c)**; S.I. 2012/2906, art. 2(h)
- F207** S. 249(4) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 24(d)**; S.I. 2012/2906, art. 2(h)
- F208** S. 249(5) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 17 para. 4**; S.I. 2012/2906, art. 2(o)

### Commencement Information

- I10** S. 249 wholly in force at 4.4.2005; s. 249 not in force at Royal Assent, see s. 336(3); s. 249 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 249 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)** Sch. 1 para. 19 (subject to art. 2(2), Sch. 2)

## 250 Licence conditions

(1) In this section—

- (a) “the standard conditions” means such conditions as may be prescribed for the purposes of this section as standard conditions, and
- (b) “prescribed” means prescribed by the Secretary of State by order.

<sup>F209</sup>(2) .....

<sup>F210</sup>(2A) .....

<sup>F211</sup>(3) .....

(4) Any licence under this Chapter in respect of a prisoner serving a sentence of imprisonment <sup>F212</sup>... (including <sup>F212</sup>... a sentence imposed under section [<sup>F213</sup>226A][<sup>F214</sup>, 227 or 236A][<sup>F215</sup> or under section 278 [<sup>F216</sup>, 279 or 282A] of the Sentencing Code]) or any sentence of detention under section 91 [<sup>F217</sup> or 96] of [<sup>F218</sup> the PCC(S)A 2000, under

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section 250, [F219 252A,] 254, 262, 265 [F220, 266 or 268A] of the Sentencing Code or under] section [F221 226A, 226B,][F222 227 ][F223, 228 or 236A] of this Act—

(a) must include the standard conditions,

[F224 (aa) must include any electronic monitoring conditions required by an order under section 62A of the Criminal Justice and Court Services Act 2000,] and

(b) may include—

(i) any [F225 other] condition authorised by section 62[F226, 64 or 64A] of the Criminal Justice and Court Services Act 2000 [F227 or section 28 of the Offender Management Act 2007], and

(ii) such other conditions of a kind prescribed by the Secretary of State for the purposes of this paragraph as the Secretary of State may for the time being specify in the licence.

[F228 (4A) In exercising any power under subsection (4)(b) in respect of an offender, the Secretary of State must have regard to any recommendation under section 328 of the Sentencing Code (power of court to recommend licence conditions where adult is sentenced to term of 12 months or more).]

(5) A licence under section 246 must also include a curfew condition complying with section 253.

[F229 (5A) The Secretary of State must not—

(a) include a condition referred to in subsection (4)(b)(ii) in a licence within subsection (5B), either on release or subsequently, or

(b) vary or cancel any such condition included in such a licence,

unless the Board directs the Secretary of State to do so (and must, if the Board so directs, include, vary or cancel such a condition).

(5B) A licence is within this subsection if it is granted to a relevant prisoner—

(a) on their initial release in a case where that release is at the direction of the Board, or

(b) on their release after recall to prison in a case where that release is at the direction of the Board (see sections 255B(5), 255C(5) and 256A(5)).

(5C) In subsection (5B), “relevant prisoner” means a prisoner to whom section 244ZC, 244A, 246A, 247 or 247A applies (or applied) for the purposes of their initial release.]

F230 (5BA) .....

F231 (6) .....

F232 (7) .....

(8) In exercising his powers to prescribe standard conditions or the other conditions referred to in subsection (4)(b)(ii), the Secretary of State must have regard to the following purposes of the supervision of offenders while on licence under this Chapter—

(a) the protection of the public,

(b) the prevention of re-offending, and

(c) securing the successful re-integration of the prisoner into the community.

F233 (9) .....

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## Textual Amendments

- F209** S. 250(2) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 25(a)**; S.I. 2012/2906, art. 2(h)
- F210** S. 250(2A) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 25(a)**; S.I. 2012/2906, art. 2(h)
- F211** S. 250(3) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 25(a)**; S.I. 2012/2906, art. 2(h)
- F212** Words in s. 250(4) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 9**; S.I. 2012/2906, art. 2(l)
- F213** Words in s. 250(4) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 20 para. 6(2)(a)**; S.I. 2012/2906, art. 2(r)
- F214** Words in s. 250(4) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 1 para. 17(2)(a)**; S.I. 2015/778, art. 3, Sch. 1 para. 72
- F215** Words in s. 250(4) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 227(2)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F216** Words in s. 250(4) substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 9(5)(a)**
- F217** Words in s. 250(4) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 117(5)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F218** Words in s. 250(4) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 227(2)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F219** Word in s. 250(4) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 21(5)(a)**
- F220** Words in s. 250(4) substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 9(5)(b)**
- F221** Words in s. 250(4) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 20 para. 6(2)(b)**; S.I. 2012/2906, art. 2(r)
- F222** Words in s. 250(4) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 117(5)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F223** Words in s. 250(4) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 1 para. 17(2)(b)**; S.I. 2015/778, art. 3, Sch. 1 para. 72
- F224** S. 250(4)(aa) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 2 para. 4(2)** (with s. 7(5)); S.I. 2015/778, art. 3, Sch. 1 para. 73
- F225** Word in s. 250(4)(b)(i) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 2 para. 4(3)** (with s. 7(5)); S.I. 2015/778, art. 3, Sch. 1 para. 73
- F226** Words in s. 250(4)(b)(i) substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 12(2)**, 22(1) (with Sch. 7 para. 6); S.I. 2015/40, art. 2(k)
- F227** Words in s. 250(4)(b)(i) inserted (for specified purposes and with effect in accordance with art. 5 of the commencing S.I., 6.1.2014 in so far as not already in force) by Offender Management Act 2007 (c. 21), **ss. 28(5)**, 41(1); S.I. 2009/32, arts. 3(a), 4; S.I. 2013/1963, art. 2(1)
- F228** S. 250(4A) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 227(3)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F229** S. 250(5A)-(5C) substituted for s. 250(5A)-(5B) (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 134(2)**, 208(1) (with s. 134(4)-(7)); S.I. 2022/520, **reg. 5(o)**
- F230** S. 250(5BA) omitted (30.4.2021) by virtue of Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 45(3)(c)**
- F231** S. 250(6) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 25(a)**; S.I. 2012/2906, art. 2(h)
- F232** S. 250(7) omitted (1.2.2015) by virtue of Offender Rehabilitation Act 2014 (c. 11), **ss. 5(5)**, 22(1) (with Sch. 7 para. 2); S.I. 2015/40, art. 2(e)



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**F233** S. 250(9) omitted (28.6.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 134\(3\)](#), [208\(1\)](#) (with [s. 134\(4\)-\(7\)](#)); [S.I. 2022/520](#), [reg. 5\(o\)](#)

#### Commencement Information

**I11** S. 250 partly in force; s. 250 not in force at Royal Assent, see [s. 336\(3\)](#); [s. 250\(1\)-\(3\)\(5\)-\(8\)](#) in force for certain purposes at [26.1.2004](#) by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); [s. 250\(1\)\(2\)\(b\)\(ii\)\(4\)\(b\)\(ii\)\(8\)](#) in force at [7.3.2005](#) by [S.I. 2005/373](#), [art. 2](#); [s. 250\(1\)\(4\)-\(7\)](#) in force at [4.4.2005](#) by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

## <sup>F234</sup>251 Licence conditions on re-release of prisoner serving sentence of less than 12 months

#### Textual Amendments

**F234** S. 251 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 10 para. 26](#); [S.I. 2012/2906](#), [art. 2\(h\)](#)

#### Commencement Information

**I12** S. 251 partly in force; s. 251 not in force at Royal Assent, see [s. 336\(3\)](#); s. 251 in force for certain purposes at [26.1.2004](#) by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#)

## 252 Duty to comply with licence conditions

[<sup>F235</sup>(1)] A person subject to a licence under this Chapter must comply with such conditions as may for the time being be specified in the licence.

[<sup>F236</sup>(2) But where—

- (a) the licence relates to a sentence of imprisonment passed by a service court, [<sup>F237</sup>and]
- <sup>F238</sup>(b) .....
- (c) the person is residing outside the British Islands,  
the conditions specified in the licence apply to him only so far as it is practicable for him to comply with them where he is residing.]

#### Textual Amendments

**F235** S. 252 renumbered (28.3.2009 for certain purposes, otherwise 31.10.2009) as [s. 252\(1\)](#) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 378\(1\)](#), [383](#), [Sch. 16 para. 224\(1\)](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

**F236** S. 252(2) inserted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 378\(1\)](#), [383](#), [Sch. 16 para. 224\(2\)](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

**F237** Word in [s. 252\(2\)\(a\)](#) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 10 para. 27\(a\)](#); [S.I. 2012/2906](#), [art. 2\(h\)](#)

**F238** S. 252(2)(b) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 10 para. 27\(b\)](#); [S.I. 2012/2906](#), [art. 2\(h\)](#)

*Status:* This version of this chapter contains provisions that are prospective.

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### Commencement Information

- I13** S. 252 wholly in force at 4.4.2005; s. 252 not in force at Royal Assent, see s. 336(3); s. 252 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 252 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, {art. 2(1)}, Sch. 1 para. 19 (subject to art. 2(2), Sch. 2)

### 253 Curfew condition to be included in licence under section 246<sup>F239</sup>, 255B or 255C]

- (1) For the purposes of this Chapter, a curfew condition is a condition which—
- (a) requires the released person to remain, for periods for the time being specified in the condition, at a place for the time being so specified (which may be premises approved by the Secretary of State under [<sup>F240</sup>section 13 of the Offender Management Act 2007 (c.21)]), and
  - (b) includes [<sup>F241</sup>a requirement, imposed under section 62 of the Criminal Justice and Court Services Act 2000, to submit to] electronic monitoring of his whereabouts during the periods for the time being so specified.
- (2) The curfew condition may specify different places or different periods for different days, but may not specify periods which amount to less than 9 hours in any one day (excluding for this purpose the first and last days of the period for which the condition is in force).
- (3) The curfew condition is to remain in force until the date when the released person would (but for his release) fall to be released [<sup>F242</sup>unconditionally under section 243A or] on licence under section 244.

<sup>F243</sup>(4) .....

<sup>F244</sup>(5) .....

- (6) Nothing in this section is to be taken to require the Secretary of State to ensure that arrangements are made for the electronic monitoring of released persons' whereabouts in any particular part of England and Wales.

### Textual Amendments

**F239** Words in s. 253 heading inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 114(3), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)

**F240** Words in s. 253(1)(a) substituted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 3, **Sch. 1 para. 19(14)**

**F241** Words in s. 253(1) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), **Sch. 2 para. 5(2)** (with s. 7(5)); S.I. 2015/778, art. 3, Sch. 1 para. 73

**F242** Words in s. 253(3) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 14 para. 10**; S.I. 2012/2906, art. 2(l)

**F243** S. 253(4) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 10 para. 28**; S.I. 2012/2906, art. 2(h)

**F244** S. 253(5) omitted (13.4.2015) by virtue of [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), **Sch. 2 para. 5(3)** (with s. 7(5)); S.I. 2015/778, art. 3, Sch. 1 para. 73

### Commencement Information

- I14** S. 253 wholly in force at 4.4.2005; s. 253 not in force at Royal Assent, see s. 336(3); s. 253 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 253(5) in force at 7.3.2005 by S.I.

*Status: This version of this chapter contains provisions that are prospective.*

*Changes to legislation: Criminal Justice Act 2003, Chapter 6 is up to date with all changes known to be in force on or before 11 May 2024. 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*

2005/373, **art. 2**; s. 253 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 19 (subject to **art. 2(2)**, Sch. 2)

### *Recall after release*

#### **254 Recall of prisoners while on licence**

- (1) The Secretary of State may, in the case of any prisoner who has been released on licence under this Chapter, revoke his licence and recall him to prison.
- (2) A person recalled to prison under subsection (1)—
- (a) may make representations in writing with respect to his recall, and
  - (b) on his return to prison, must be informed of the reasons for his recall and of his right to make representations.
- [<sup>F245</sup>(2A) The Secretary of State, after considering any representations under subsection (2)(a) or any other matters, may cancel a revocation under this section.
- (2B) The Secretary of State may cancel a revocation under subsection (2A) only if satisfied that the person recalled has complied with all the conditions specified in the licence.
- (2C) Where the revocation of a person's licence is cancelled under subsection (2A), the person is to be treated as if the recall under subsection (1) had not happened.]
- <sup>F246</sup>(3) . . . . .
- <sup>F246</sup>(4) . . . . .
- <sup>F246</sup>(5) . . . . .
- (6) On the revocation of the licence of any person under this section, he shall be liable to be detained in pursuance of his sentence and, if at large, is to be treated as being unlawfully at large.
- (7) Nothing in [<sup>F247</sup>this section] applies in relation to a person recalled under section 255.

#### **Textual Amendments**

- F245** S. 254(2A)-(2C) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 113(1)**, 151(1) (with Sch. 15); S.I. 2012/2906, **art. 2(d)**
- F246** S. 254(3)-(5) repealed (14.7.2008 for certain purposes, otherwise 31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 29(1)(a)**, 149, 153, **Sch. 28 Pt. 2**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 paras. 15, 50(2)(c) (subject to Sch. 2 para. 3); S.I. 2009/2606, **art. 3(c)**
- F247** Words in s. 254(7) substituted (14.7.2008 for certain purposes, otherwise 31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 29(1)(b)**, 153; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 15 (subject to Sch. 2 para. 3); S.I. 2009/2606 {art. 3(c)}

#### **Commencement Information**

- I15** S. 254 wholly in force at 4.4.2005; s. 254 not in force at Royal Assent, see s. 336(3); s. 254 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2**, Sch.; s. 254 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 19 (subject to **art. 2(2)**, Sch. 2 (as amended by S.I. 2005/2122, **art. 2**))

*Status:* This version of this chapter contains provisions that are prospective.

*Changes to legislation:* Criminal Justice Act 2003, Chapter 6 is up to date with all changes known to be in force on or before 11 May 2024. 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

## 255 Recall of prisoners released early under section 246

- (1) If it appears to the Secretary of State, as regards a person released on licence under section 246—
  - (a) that he has failed to comply with [<sup>F248</sup>the curfew condition included in the licence], or
  - (b) that his whereabouts can no longer be electronically monitored at the place for the time being specified in the curfew condition included in his licence, the Secretary of State may, if the curfew condition is still in force, revoke the licence and recall the person to prison under this section.
- (2) A person whose licence under section 246 is revoked under this section—
  - (a) may make representations in writing with respect to the revocation, and
  - (b) on his return to prison, must be informed of the reasons for the revocation and of his right to make representations.
- (3) The Secretary of State, after considering any representations under [<sup>F249</sup>subsection (2)(a)] or any other matters, may cancel a revocation under this section.
- (4) Where the revocation of a person's licence is cancelled under subsection (3), the person is to be treated for the purposes of section 246 as if he had not been recalled to prison under this section.
- (5) On the revocation of a person's licence under section 246, he is liable to be detained in pursuance of his sentence and, if at large, is to be treated as being unlawfully at large.

### Textual Amendments

**F248** Words in s. 255(1)(a) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\), ss. 9\(3\), 22\(1\)](#) (with [Sch. 7 para. 5](#)); [S.I. 2015/40, art. 2\(i\)](#)

**F249** Words in s. 255(3) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 113\(2\), 151\(1\)](#) (with [Sch. 15](#)); [S.I. 2012/2906, art. 2\(d\)](#)

### Commencement Information

**I16** S. 255 wholly in force at 4.4.2005; s. 255 not in force at Royal Assent, see s. 336(3); s. 255 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282, art. 2, Sch.](#); s. 255 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 19](#) (subject to [art. 2\(2\), Sch. 2](#))

## [<sup>F250</sup>255ZA] Offence of remaining unlawfully at large after recall

- (1) A person recalled to prison under section 254 or 255 commits an offence if the person—
  - (a) has been notified of the recall orally or in writing, and
  - (b) while unlawfully at large fails, without reasonable excuse, to take all necessary steps to return to prison as soon as possible.
- (2) A person is to be treated for the purposes of subsection (1)(a) as having been notified of the recall if—
  - (a) written notice of the recall has been delivered to an appropriate address, and
  - (b) a period specified in the notice has elapsed.
- (3) In subsection (2) “an appropriate address” means—

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- (a) an address at which, under the person's licence, the person is permitted to reside or stay, or
  - (b) an address nominated, in accordance with the person's licence, for the purposes of this section.
- (4) A person is also to be treated for the purposes of subsection (1)(a) as having been notified of the recall if—
- (a) the person's licence requires the person to keep in touch in accordance with any instructions given by an officer of a provider of probation services,
  - (b) the person has failed to comply with such an instruction, and
  - (c) the person has not complied with such an instruction for at least 6 months.
- (5) A person who is guilty of an offence under this section is liable—
- (a) on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine (or both);
  - (b) on summary conviction to imprisonment for a term not exceeding [<sup>F251</sup>the general limit in a magistrates' court] or a fine (or both).
- (6) In relation to an offence committed before [<sup>F252</sup>2 May 2022], the reference in subsection (5)(b) to [<sup>F253</sup>the general limit in a magistrates' court] is to be read as a reference to 6 months.
- (7) In relation to an offence committed before section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the reference in subsection (5) (b) to a fine is to be read as a reference to a fine not exceeding the statutory maximum.]

#### Textual Amendments

- F250** S. 255ZA inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 12(2)**, 95(1) (with s. 12(3)); S.I. 2015/778, art. 3, Sch. 1 para. 8
- F251** Words in s. 255ZA(5)(b) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates' Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), 2(1), **Sch. Pt. 1**
- F252** Words in s. 255ZA(6) substituted (28.4.2022) by [The Criminal Justice Act 2003 \(Commencement No. 33\) and Sentencing Act 2020 \(Commencement No. 2\) Regulations 2022 \(S.I. 2022/500\)](#), regs. 1(2), 5(1), **Sch. Pt. 1**
- F253** Words in s. 255ZA(6) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates' Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), 2(1), **Sch. Pt. 1**

*[<sup>F254</sup>Further release after recall]*

#### Textual Amendments

- F254** S. 255A-255C and crossheading substituted for s. 255A-255D (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 114(1)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

*Status: This version of this chapter contains provisions that are prospective.*

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## <sup>F254</sup>**255 Further release after recall: introductory**

- (1) This section applies for the purpose of identifying which of sections 255B and 255C governs the further release of a person who has been recalled under section 254.
- (2) The Secretary of State must, on recalling a person other than an extended sentence prisoner <sup>F255</sup>, a serious terrorism prisoner or a prisoner whose case was referred to the Board under section 244ZB], consider whether the person is suitable for automatic release.
- <sup>F256</sup>(3) .....
- <sup>F257</sup>(4) A person is suitable for automatic release only if—
  - (a) the person—
    - (i) is aged 18 or over,
    - (ii) is serving a sentence of less than 12 months,
    - (iii) has not been recalled on account of being charged with a serious offence, and
    - (iv) is not being managed at level 2 or 3, as specified in guidance for the time being issued under section 325(8), by a responsible authority under arrangements made under that section (arrangements for assessing etc risks posed by certain offenders), or
  - (b) where paragraph (a) does not apply, the Secretary of State is satisfied that the person will not present a risk of serious harm to members of the public if released at the end of the automatic release period.
- (4A) For the purposes of subsection (4) “serious offence” means—
  - (a) murder, or
  - (b) an offence listed in Schedule 18 to the Sentencing Code.]
- (5) The person must be dealt with—
  - (a) in accordance with section 255B if suitable for automatic release;
  - (b) in accordance with section 255C otherwise.<sup>F258</sup>but that is subject, where applicable, to section 243A(2) (unconditional release).]
- (6) For the purposes of this section, a person returns to custody when that person, having been recalled, is detained (whether or not in prison) in pursuance of the sentence.
- (7) An “extended sentence prisoner” is a prisoner serving an extended sentence imposed under—
  - (a) section <sup>F259</sup>226A, 226B,] 227 or 228 of this Act, <sup>F260</sup>...
  - <sup>F261</sup>(aa) section 254, 266 or 279 of the Sentencing Code, or]
  - (b) section 85 of <sup>F262</sup>the PCC(S)A 2000];and paragraph (b) includes (in accordance with paragraph 1(3) of Schedule 11 to <sup>F262</sup>the PCC(S)A 2000]) a reference to section 58 of the Crime and Disorder Act 1998.]
- <sup>F263</sup>(7A) A “serious terrorism prisoner” is a prisoner serving a serious terrorism sentence imposed under section 268A or 282A of the Sentencing Code.]
- <sup>F264</sup>(8) Automatic release” means release at the end of the automatic release period.
- (9) In the case of a person recalled under section 254 while on licence under a provision of this Chapter other than section 246, “the automatic release period” means—



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- (a) where the person is serving a sentence of less than 12 months, the period of 14 days beginning with the day on which the person returns to custody;
  - (b) where the person is serving a sentence of 12 months or more, the period of 28 days beginning with that day.
- (10) In the case of a person recalled under section 254 while on licence under section 246, “the automatic release period” means whichever of the following ends later—
- (a) the period described in subsection (9)(a) or (b) (as appropriate);
  - (b) the requisite custodial period which the person would have served under section 243A or 244 but for the earlier release.]

#### Textual Amendments

- F255** Words in s. 255A(2) substituted (28.4.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 132(6), 208(4)(p)
- F256** S. 255A(3) omitted (1.2.2015) by virtue of Offender Rehabilitation Act 2014 (c. 11), ss. 9(4)(a), 22(1) (with Sch. 7 para. 5); S.I. 2015/40, art. 2(i)
- F257** S. 255A(4)(4A) substituted for s. 255A(4) (2.4.2024) by The Criminal Justice Act 2003 (Suitability for Fixed Term Recall) Order 2024 (S.I. 2024/408), arts. 1(2), 2(2) (with art. 3)
- F258** Words in s. 255A(5) inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), ss. 9(4)(c), 22(1) (with Sch. 7 para. 5); S.I. 2015/40, art. 2(i)
- F259** Words in s. 255A(7)(a) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 20 para. 7; S.I. 2012/2906, art. 2(r)
- F260** Word in s. 255A(7)(a) omitted (1.12.2020) by virtue of Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 228(a) (with Sch. 27); S.I. 2020/1236, reg. 2
- F261** S. 255A(7)(aa) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 228(b) (with Sch. 27); S.I. 2020/1236, reg. 2
- F262** Words in s. 255A(7) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 228(c) (with Sch. 27); S.I. 2020/1236, reg. 2
- F263** S. 255A(7A) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), Sch. 13 para. 9(6)(b)
- F264** Ss. 255A(8)-(10) inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), ss. 9(4)(d), 22(1) (with Sch. 7 para. 5); S.I. 2015/40, art. 2(i)

#### Modifications etc. (not altering text)

- C21** S. 255A(7) modified (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2) (3) and 2020 c. 17, ss. 2, 416)) by Sentencing (Pre-consolidation Amendments) Act 2020 (c. 9), ss. 1, 5(2)(3); S.I. 2012/1236, reg. 2

#### <sup>F254</sup> ~~255A~~ Automatic release

- (1) A prisoner who is suitable for automatic release (“P”) must—
- (a) on return to prison, be informed that he or she will be released under this section (subject to subsections (8) and (9)), and
  - (b) at the end of [<sup>F265</sup>the automatic release period (as defined in section 255A(9) and (10))], be released by the Secretary of State on licence under this Chapter (unless P is released before that date under subsection (2) or (5)).
- (2) The Secretary of State may, at any time after P is returned to prison, release P again on licence under this Chapter.

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- (3) The Secretary of State must not release P under subsection (2) unless the Secretary of State is satisfied that it is not necessary for the protection of the public that P should remain in prison until the end of the period mentioned in subsection (1)(b).
- (4) If P makes representations under section 254(2) before the end of that period, the Secretary of State must refer P's case to the Board on the making of those representations.
- [<sup>F266</sup>(4A) The Board must not give a direction for P's release on a reference under subsection (4) unless the Board is satisfied that it is not necessary for the protection of the public that P should remain in prison until the end of the period mentioned in subsection (1)(b).]
- (5) Where on a reference under subsection (4) the Board directs P's <sup>F267</sup>... release on licence under this Chapter, the Secretary of State must give effect to the direction.
- (6) Subsection (7) applies if P is recalled before the date on which P would (but for the earlier release) have served the requisite custodial period for the purposes of section 243A or (as the case may be) section 244.
- (7) Where this subsection applies—
- (a) if P is released under this section before that date, P's licence must include a curfew condition complying with section 253, and
  - (b) P is not to be so released (despite subsections (1)(b) and (5)) unless the Secretary of State is satisfied that arrangements are in place to enable that condition to be complied with.
- (8) Subsection (9) applies if, after P has been informed that he or she will be released under this section, the Secretary of State receives further information about P (whether or not relating to any time before P was recalled).
- (9) If the Secretary of State determines, having regard to that and any other relevant information, that P is not suitable for automatic release—
- (a) the Secretary of State must inform P that he or she will not be released under this section, and
  - (b) section 255C applies to P as if the Secretary of State had determined, on P's recall, that P was not suitable for automatic release.
- [<sup>F268</sup>(10) Subsections (8) and (9) do not apply where P falls within section 255A(4)(a), unless the Secretary of State receives information that, after being recalled, P has been charged with a serious offence (within the meaning of section 255A(4A)).]]

#### Textual Amendments

**F265** Words in s. 255B(1)(b) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 9(5)**, 22(1) (with [Sch. 7 para. 5](#)); [S.I. 2015/40](#), art. 2(i)

**F266** [S. 255B\(4A\)](#) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 136(2)**, 208(1); [S.I. 2022/520](#), reg. 5(o)

**F267** Word in [s. 255B\(5\)](#) omitted (28.6.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 139(2)(a)**, 208(1); [S.I. 2022/520](#), reg. 5(o)

**F268** [S. 255B\(10\)](#) inserted (2.4.2024) by [The Criminal Justice Act 2003 \(Suitability for Fixed Term Recall\) Order 2024 \(S.I. 2024/408\)](#), arts. 1(2), **2(3)** (with art. 3)

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**[<sup>F254</sup>255C<sup>F269</sup> Prisoners not suitable for automatic release]**

- (1) This section applies to a prisoner (“P”) [<sup>F270</sup>—
  - (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.]
- (2) The Secretary of State may, at any time after P is returned to prison, release P again on licence under this Chapter.
- (3) The Secretary of State must not release P under subsection (2) unless the Secretary of State is satisfied that it is not necessary for the protection of the public that P should remain in prison.
- (4) The Secretary of State must refer P's case to the Board—
  - (a) if P makes representations under section 254(2) before the end of the period of 28 days beginning with the date on which P returns to custody, on the making of those representations, or
  - (b) if, at the end of that period, P has not been released under subsection (2) and has not made such representations, at that time.
- [<sup>F271</sup>(4A) The Board must not give a direction for P’s release on a reference under subsection (4) unless the Board is satisfied that it is not necessary for the protection of the public that P should remain in prison.]
- (5) Where on a reference under subsection (4) the Board directs P's <sup>F272</sup>... release on licence under this Chapter, the Secretary of State must give effect to the direction.
- (6) Subsection (7) applies if P is recalled before the date on which P would (but for the earlier release) have served the requisite custodial period for the purposes of section 243A or (as the case may be) section 244.
- (7) Where this subsection applies—
  - (a) if P is released under this section before that date, P's licence must include a curfew condition complying with section 253, and
  - (b) P is not to be so released (despite subsection (5)) unless the Secretary of State is satisfied that arrangements are in place to enable that condition to be complied with.
- (8) For the purposes of this section, P returns to custody when P, having been recalled, is detained (whether or not in prison) in pursuance of the sentence.]

**Textual Amendments**

**F269** S. 255C heading substituted (29.6.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(2)(v), [Sch. 13 para. 9\(7\)\(a\)](#)

**F270** S. 255C(1)(a)(b) and word substituted (28.4.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 132\(7\)](#), 208(4)(p)

**F271** S. 255C(4A) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 136\(3\)](#), 208(1); S.I. 2022/520, reg. 5(o)

**F272** Word in s. 255C(5) omitted (28.6.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 139\(2\)\(b\)](#), 208(1); S.I. 2022/520, reg. 5(o)

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## <sup>F273</sup>256 Review by the Board

### Textual Amendments

**F273** S. 256 omitted (28.6.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. [136\(4\)](#), [208\(1\)](#); S.I. 2022/520, reg. 5(o)

## <sup>F274</sup>256A Further review

- <sup>F275</sup>(1) This section applies to a person if—
- (a) there has been a previous reference of the person’s case to the Board under section 255C(4) or this section, and
  - (b) the person has not been released.
- (1A) The Secretary of State must refer the person’s case back to the Board not later than the first anniversary of the most recent determination by the Board not to release the person (the “review date”).
- (1B) Subsection (1A) does not apply where the review date is 13 months or less before the date on which the person is required to be released by the Secretary of State.]
- (2) The Secretary of State may, at any time before <sup>F276</sup>the review date], refer the person's case to the Board.
- (3) The Board may at any time recommend to the Secretary of State that <sup>F277</sup>the person’s] case be referred under subsection (2).
- <sup>F278</sup>(4) The Board must not give a direction for a person’s release on a reference under subsection (1A) or (2) unless the Board is satisfied that it is not necessary for the protection of the public that the person should remain in prison.
- (5) Where on a reference under subsection (1A) or (2) the Board directs a person’s release on licence under this Chapter, the Secretary of State must give effect to the direction.]]

### Textual Amendments

- F274** S. 256A inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. [30\(6\)](#), 153; S.I. 2008/1586, [art. 2\(1\)](#), [Sch. 1 para. 16](#) (subject to [Sch. 2 para. 3](#))
- F275** S. 256A(1)-(1B) substituted for s. 256A(1) (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. [136\(5\)\(a\)](#), [208\(1\)](#); S.I. 2022/520, reg. 5(o)
- F276** Words in s. 256A(2) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. [136\(5\)\(b\)](#), [208\(1\)](#); S.I. 2022/520, reg. 5(o)
- F277** Words in s. 256A(3) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. [136\(5\)\(c\)](#), [208\(1\)](#); S.I. 2022/520, reg. 5(o)
- F278** S. 256A(4)(5) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. [136\(5\)\(d\)](#), [208\(1\)](#); S.I. 2022/520, reg. 5(o)

## <sup>F279</sup>256AZ Release after recall where further sentence being served

- (1) This section applies where a person (“the offender”) is serving two or more terms of imprisonment.

*Status: This version of this chapter contains provisions that are prospective.*

*Changes to legislation: Criminal Justice Act 2003, Chapter 6 is up to date with all changes known to be in force on or before 11 May 2024. 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*

- (2) Nothing in sections 255A to 256A requires the Secretary of State to release the offender in respect of any of the terms unless and until the Secretary of State is required to release the offender in respect of each of the others.
- (3) Nothing in sections 255A to 256A requires the Secretary of State to refer the offender's case to the Board in respect of any of the terms unless and until the Secretary of State is required either—
  - (a) to refer the offender's case to the Board, or
  - (b) to release the offender,
 in respect of each of the others.
- (4) If the offender is released on licence under section 255B, 255C or 256A, the offender is to be on licence—
  - (a) until the last date on which the offender is required to be on licence in respect of any of the terms, and
  - (b) subject to such conditions as are required by this Chapter in respect of any of the sentences.
- (5) This section applies to a determinate sentence of detention under any of the following provisions as it applies to a term of imprisonment—
  - (a) section 91 or 96 of the PCC(S)A 2000;
  - (b) section 250, 252A, 254, 262, 265, 266 or 268A of the Sentencing Code;
  - (c) section 226A, 226B, 227, 228 or 236A of this Act.]

#### Textual Amendments

**F279** S. 256AZA inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 136\(6\)](#), [208\(1\)](#); [S.I. 2022/520](#), [reg. 5\(o\)](#)

#### [<sup>F280</sup> ~~256AZB~~ **Order to change test for release following recall**

- (1) The Secretary of State may by order change—
  - (a) the test to be applied by the Secretary of State in deciding under section 255A whether a person is suitable for automatic release;
  - (b) the test to be applied by the Secretary of State in deciding whether to release a person under section 255B(2) or 255C(2);
  - (c) the test to be applied by the Board in deciding whether to give a direction for a person's release when determining a reference under section 255B(4), 255C(4) or 256A(1A) or (2).
- (2) An order under subsection (1) may in particular—
  - (a) apply to a person recalled before the day on which the order comes into force (as well as to a person recalled on or after that day);
  - (b) amend this Chapter.]

#### Textual Amendments

**F280** S. 256AZB inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 137\(2\)](#), [208\(1\)](#); [S.I. 2022/520](#), [reg. 5\(o\)](#)

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### *[<sup>F281</sup>Release at the direction of the Board*

#### **Textual Amendments**

**F281** S. 256AZC and cross-heading inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022](#) (c. 32), [ss. 139\(2\)\(c\), 208\(1\)](#); S.I. 2022/520, reg. 5(o)

#### **256AZC Release at direction of Parole Board: timing**

- (1) This section applies where the Board directs the release of a person on licence under this Chapter.
- (2) The Secretary of State must give effect to the direction of the Parole Board as soon as is reasonably practicable in all the circumstances including, in particular, the need to make arrangements in connection with any conditions that are to be included in the person’s licence under this Chapter.
- (3) The duty under subsection (2) is subject to provision made pursuant to section 239(5C)(b).]

### *[<sup>F282</sup>Supervision of offenders*

#### **Textual Amendments**

**F282** S. 256AA and cross-heading inserted (1.2.2015) by [Offender Rehabilitation Act 2014](#) (c. 11), [ss. 2\(2\), 22\(1\)](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(b)

#### **256AA Supervision after end of sentence of prisoners serving less than 2 years**

- (1) This section applies where a person (“the offender”) has served a fixed-term sentence which was for a term of more than 1 day but less than 2 years, except where—
  - (a) the offender was aged under 18 on the last day of the requisite custodial period (as defined in section 243A(3)),
  - (b) the sentence was an extended sentence imposed under [<sup>F283</sup>section 254, 266 or 279 of the Sentencing Code],
  - <sup>F284</sup>(ba) [ the sentence was imposed under [<sup>F285</sup>section 265 or 278 of that Code],]
  - <sup>F286</sup>(bb) [ section 247A applied to the offender in respect of the sentence,] or
  - (c) the sentence was imposed in respect of an offence committed before the day on which section 2(2) of the Offender Rehabilitation Act 2014 came into force.
- (2) The offender must comply with the supervision requirements during the supervision period, except at any time when the offender is—
  - (a) in legal custody,
  - (b) subject to a licence under this Chapter or Chapter 2 of Part 2 of the 1997 Act, or
  - (c) subject to DTO supervision.



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- (3) The supervision requirements are the requirements for the time being specified in a notice given to the offender by the Secretary of State (but see the restrictions in section 256AB).
- (4) “The supervision period” is the period which—
  - (a) begins on the expiry of the sentence, and
  - (b) ends on the expiry of the period of 12 months beginning immediately after the offender has served the requisite custodial period (as defined in section 244(3)).
- (5) The purpose of the supervision period is the rehabilitation of the offender.
- (6) The Secretary of State must have regard to that purpose when specifying requirements under this section.
- (7) The supervisor must have regard to that purpose when carrying out functions in relation to the requirements.
- (8) In this Chapter, “the supervisor”, in relation to a person subject to supervision requirements under this section, means a person who is for the time being responsible for discharging the functions conferred by this Chapter on the supervisor in accordance with arrangements made by the Secretary of State.
- (9) In relation to a person subject to supervision requirements under this section following a sentence of detention under [<sup>F287</sup>section 250 of the Sentencing Code], the supervisor must be—
  - (a) an officer of a provider of probation services, or
  - (b) a member of the youth offending team established by the local authority in whose area the offender resides for the time being.
- (10) In relation to any other person, the supervisor must be an officer of a provider of probation services.
- (11) In this section “DTO supervision” means supervision under—
  - (a) a detention and training order (including an order under section 211 of the Armed Forces Act 2006), or
  - (b) an order under [<sup>F288</sup>paragraph 3(2)(b) of Schedule 12 to the Sentencing Code] (breach of supervision requirements of detention and training order).
- (12) This section has effect subject to section 264(3C)(b) and (3D).]

#### Textual Amendments

- F283** Words in s. 256AA(1)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 229\(2\)\(a\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F284** S. 256AA(1)(ba) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 1 para. 18](#); S.I. 2015/778, art. 3, [Sch. 1 para. 72](#)
- F285** Words in s. 256AA(1)(ba) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 229\(2\)\(b\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F286** S. 256AA(1)(bb) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), [ss. 7\(3\)](#), 10(4)
- F287** Words in s. 256AA(9) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 229\(3\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2

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**F288** Words in s. 256AA(11)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 229\(4\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**Modifications etc. (not altering text)**

**C22** Ss. 256AA-256E applied (with modifications) by 1997 c. 43, Sch. 1 para. 8(2)(4)(8)-(12) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), para. 3(3), (5), s. 22(1), [Sch. 3 para. 3\(2\)](#) (with [Sch. 7 para. 2](#))); S.I. 2015/40, art. 2(u))

**C23** Ss. 256AA-256AC applied (with modifications) by 1997 c. 43, Sch. 1 para. 9(2)(4)(9)-(12) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 3 para. 5\(5\)](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u))

**C24** S. 256AA(2)-(11) applied (with modifications) by 2000 c. 6, s. 106B(2)-(7) (as inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), ss. 6(4), 22(1) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(f))

**C25** Ss. 256AA(2)-(11) applied (with modifications) (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 247(2)(a)(3)(4)(7), 416(1) (with ss. 2, 398(1), 406, [Sch. 27](#)); S.I. 2020/1236, reg. 2

**[<sup>F289</sup>256AA] Supervision requirements under section 256AA**

- (1) The only requirements that the Secretary of State may specify in a notice under section 256AA are—
  - (a) a requirement to be of good behaviour and not to behave in a way which undermines the purpose of the supervision period;
  - (b) a requirement not to commit any offence;
  - (c) a requirement to keep in touch with the supervisor in accordance with instructions given by the supervisor;
  - (d) a requirement to receive visits from the supervisor in accordance with instructions given by the supervisor;
  - (e) a requirement to reside permanently at an address approved by the supervisor and to obtain the prior permission of the supervisor for any stay of one or more nights at a different address;
  - (f) a requirement not to undertake work, or a particular type of work, unless it is approved by the supervisor and to notify the supervisor in advance of any proposal to undertake work or a particular type of work;
  - (g) a requirement not to travel outside the British Islands, except with the prior permission of the supervisor or in order to comply with a legal obligation (whether or not arising under the law of any part of the British Islands);
  - (h) a requirement to participate in activities in accordance with any instructions given by the supervisor;
  - (i) a drug testing requirement (see section 256D);
  - (j) a drug appointment requirement (see section 256E).
- (2) Where a requirement is imposed under subsection (1)(h), [<sup>F290</sup>paragraph 5(4) to (9) of Schedule 9 to the Sentencing Code applies] in relation to the requirement (reading references to the responsible officer as references to the supervisor).
- (3) Paragraphs (i) and (j) of subsection (1) have effect subject to the restrictions in sections 256D(2) and 256E(2).
- (4) The Secretary of State may by order—
  - (a) add requirements that may be specified in a notice under section 256AA,
  - (b) remove or amend such requirements,

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- (c) make provision about such requirements, including about the circumstances in which they may be imposed, and
  - (d) make provision about instructions given for the purposes of such requirements.
- (5) An order under subsection (4) may amend this Act.
- (6) In this section “work” includes paid and unpaid work.]

#### Textual Amendments

- F289** S. 256AB inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 1 para. 1** (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(s)
- F290** Words in s. 256AB(2) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 230** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2

#### Modifications etc. (not altering text)

- C22** Ss. 256AA-256E applied (with modifications) by 1997 c. 43, Sch. 1 para. 8(2)(4)(8)-(12) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), para. 3(3), (5), s. 22(1), **Sch. 3 para. 3(2)** (with [Sch. 7 para. 2](#))); S.I. 2015/40, art. 2(u))
- C23** Ss. 256AA-256AC applied (with modifications) by 1997 c. 43, Sch. 1 para. 9(2)(4)(9)-(12) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 3 para. 5(5)** (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u))
- C26** S. 256AB applied (with modifications) by 2000 c. 6, s. 106B(2)-(7) (as inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 6(4)**, 22(1) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(f))
- C27** S. 256AB applied (with modifications) (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), **s. 247(2)(a)(3)(4)**, 416(1) (with **ss. 2**, 398(1), 406, [Sch. 27](#)); S.I. 2020/1236, reg. 2
- C28** S. 256AB(4) extended (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), **ss. 247(5)**, 416(1) (with **ss. 2**, 398(1), 406, [Sch. 27](#)); S.I. 2020/1236, reg. 2

#### <sup>F291</sup> **256AB Breach of supervision requirements imposed under section 256AA**

- (1) Where it appears on information to a justice of the peace that a person has failed to comply with a supervision requirement imposed under section 256AA, the justice may—
- (a) issue a summons requiring the offender to appear at the place and time specified in the summons, or
  - (b) if the information is in writing and on oath, issue a warrant for the offender's arrest.
- (2) Any summons or warrant issued under this section must direct the person to appear or be brought—
- (a) before a magistrates' court acting for the local justice area in which the offender resides, or
  - (b) if it is not known where the person resides, before a magistrates' court acting for the same local justice area as the justice who issued the summons or warrant.
- (3) Where the person does not appear in answer to a summons issued under subsection (1) (a), the court may issue a warrant for the person's arrest.

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- (4) If it is proved to the satisfaction of the court that the person has failed without reasonable excuse to comply with a supervision requirement imposed under section 256AA, the court may—
- (a) order the person to be committed to prison for a period not exceeding 14 days (subject to subsection (7)),
  - (b) order the person to pay a fine not exceeding level 3 on the standard scale, or
  - (c) make an order (a “supervision default order”) imposing on the person—
    - (i) an unpaid work requirement (as defined by [F292]paragraph 1 of Schedule 9 to the Sentencing Code), or
    - (ii) a curfew requirement (as defined by [F293]paragraph 9 of that Schedule).
- (5) [F294]Paragraph 10(3) of Schedule 9 to the Sentencing Code] (obligation to impose electronic monitoring requirement) applies in relation to a supervision default order that imposes a curfew requirement as it applies in relation to a community order that imposes such a requirement.
- (6) If the court deals with the person under subsection (4), it must revoke any supervision default order which is in force at that time in respect of that person.
- (7) Where the person is under the age of 21—
- (a) an order under subsection (4)(a) in respect of the person must be for committal to a young offender institution instead of to prison, but
  - (b) the Secretary of State may from time to time direct that a person committed to a young offender institution by such an order is to be detained in a prison or remand centre instead.
- (8) A person committed to prison or a young offender institution by an order under subsection (4)(a) is to be regarded as being in legal custody.
- (9) A fine imposed under subsection (4)(b) is to be treated, for the purposes of any enactment, as being a sum adjudged to be paid by a conviction.
- (10) In Schedule 19A (supervision default orders)—
- (a) Part 1 makes provision about requirements of supervision default orders, and
  - (b) Part 2 makes provision about the breach, revocation and amendment of supervision default orders.

[ Where a court deals with a person under this section, the criminal courts charge duty F295(10A) (see section 46 of the Sentencing Code) applies to the court.]

- (11) A person dealt with under this section may appeal to the Crown Court against[F296—
- (a)] the order made by the court [F297]under this section, and
  - (b) an order made by the court under [F298]section 46 of the Sentencing Code] (criminal courts charge) when dealing with the person under this section.]]

#### Textual Amendments

**F291** S. 256AC inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\), ss. 3\(1\), 22\(1\)](#) (with [Sch. 7 para. 2](#)); [S.I. 2015/40, art. 2\(c\)](#)

**F292** Words in s. 256AC(4)(c)(i) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 231\(2\)\(a\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); [S.I. 2020/1236, reg. 2](#)

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- F293** Words in s. 256AC(4)(c)(ii) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 231(2)(b)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F294** Words in s. 256AC(5) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 231(3)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F295** S. 256AC(10A) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 231(4)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F296** Words in s. 256AC(11) renumbered as s. 256AC(11)(a) (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 12 para. 14(a)**; S.I. 2015/778, art. 3, Sch. 1 para. 78
- F297** S. 256AC(11)(b) and words inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 12 para. 14(b)**; S.I. 2015/778, art. 3, Sch. 1 para. 78
- F298** Words in s. 256AC(11)(b) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 231(5)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

#### Modifications etc. (not altering text)

- C22** Ss. 256AA-256E applied (with modifications) by 1997 c. 43, Sch. 1 para. 8(2)(4)(8)-(12) (as amended (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), para. 3(3), (5), s. 22(1), **Sch. 3 para. 3(2)** (with Sch. 7 para. 2)); S.I. 2015/40, art. 2(u)
- C23** Ss. 256AA-256AC applied (with modifications) by 1997 c. 43, Sch. 1 para. 9(2)(4)(9)-(12) (as amended (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 5(5)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u))
- C29** S. 256AC applied (with modifications) by 2000 c. 6, s. 106B(2)-(7) (as inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 6(4), 22(1)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(f))
- C30** S. 256AC applied (with modifications) (1.12.2020) by Sentencing Act 2020 (c. 17), **s. 247(2)(a)(3)(4), 416(1)** (with **ss. 2, 398(1), 406, Sch. 27**); S.I. 2020/1236, reg. 2

*F299* **F300** ...

#### Textual Amendments

- F299** S. 256B cross-heading omitted (1.2.2015) by virtue of Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 19** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F300** Ss. 256B, 256C and cross-heading inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 115, 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)

### 256B <sup>F301</sup>Supervision after release of certain young offenders serving less than 12 months]

- <sup>F302</sup>(1) This section applies where a person (“the offender”) is released under this Chapter if—
- (a) the person is, at the time of the release, serving a sentence of detention under <sup>F303</sup>section 250 of the Sentencing Code] which is for a term of less than 12 months, and
  - (b) the person is aged under 18 on the last day of the requisite custodial period (as defined in section 243A(3)).
- (1A) This section also applies where a person (“the offender”) is released under this Chapter if—
- (a) the person is, at the time of the release, serving a sentence of detention under <sup>F304</sup>section 250 or 262 of the Sentencing Code] which is for a term of less than 12 months, and

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- (b) the sentence was imposed in respect of an offence committed before the day on which section 1 of the Offender Rehabilitation Act 2014 came into force.]

[ But this section does not apply where a person (“the offender”) is released from a <sup>F305</sup>(1B) sentence in respect of which section 247A applied to the offender.]

- (2) The offender is to be under the supervision of—
  - (a) an officer of a provider of probation services,
  - (b) a social worker of a local authority, or
  - (c) <sup>F306</sup> ... a member of the youth offending team.
- (3) Where the supervision is to be provided by an officer of a provider of probation services, the officer must be an officer acting in the local justice area in which the offender resides for the time being.
- (4) Where the supervision is to be provided by—
  - (a) a social worker of a local authority, or
  - (b) a member of a youth offending team,the social worker or member must be a social worker of, or a member of a youth offending team established by, the local authority within whose area the offender resides for the time being.
- (5) The supervision period begins on the offender's release and ends three months later (whether or not the offender is detained under section 256C or otherwise during that period).
- (6) During the supervision period, the offender must comply with such requirements, if any, as may for the time being be specified in a notice from the Secretary of State.
- (7) The requirements that may be specified in a notice under subsection (6) include—
  - (a) requirements [<sup>F307</sup>to submit to] electronic monitoring of the offender's compliance with any other requirements specified in the notice;
  - (b) requirements [<sup>F308</sup>to submit to] electronic monitoring of the offender's whereabouts (otherwise than for the purpose of securing compliance with requirements specified in the notice);
  - <sup>F309</sup>(c) where the offender is aged 18 or over—
    - (i) drug testing requirements (see section 256D);
    - (ii) drug appointment requirements (see section 256E).]

[ Paragraph (c)(i) and (ii) of subsection (7) have effect subject to the restrictions in <sup>F310</sup>(7A) sections 256D(2) and 256E(2).]

<sup>F311</sup>(8) .....

[<sup>F312</sup>(9) The Secretary of State may make rules about the requirements that may be imposed by virtue of subsection (7)(a) or (b).]

<sup>F313</sup>(10) .....

**Textual Amendments**

**F301** S. 256B heading substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\), s. 22\(1\), Sch. 3 para. 20](#) (with [Sch. 7 para. 2](#)); [S.I. 2015/40, art. 2\(u\)](#)



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- F302** S. 256B(1)(1A) substituted for s. 256B(1) (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 4(2), 22(1)** (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(d)
- F303** Words in s. 256B(1)(a) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 232(2)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F304** Words in s. 256B(1A)(a) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 232(3)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F305** S. 256B(1B) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), **ss. 7(4), 10(4)**
- F306** Words in s. 256B(2)(c) omitted (1.2.2015) by virtue of [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 4(3), 22(1)** (with [Sch. 7 para. 3](#)); S.I. 2015/40, art. 2(d)
- F307** Words in s. 256B(7)(a) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), **Sch. 2 para. 6** (with s. 7(5)); S.I. 2015/778, art. 3, [Sch. 1 para. 73](#)
- F308** Words in s. 256B(7)(b) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), **Sch. 2 para. 6** (with s. 7(5)); S.I. 2015/778, art. 3, [Sch. 1 para. 73](#)
- F309** S. 256B(7)(c) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 4(4)(a), 22(1)** (with [Sch. 7 para. 3](#)); S.I. 2015/40, art. 2(d)
- F310** S. 256B(7A) inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 4(5), 22(1)** (with [Sch. 7 para. 3](#)); S.I. 2015/40, art. 2(d)
- F311** S. 256B(8) omitted (1.2.2015) by virtue of [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 4(6), 22(1)** (with [Sch. 7 para. 3](#)); S.I. 2015/40, art. 2(d)
- F312** S. 256B(9) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 4(7), 22(1)** (with [Sch. 7 para. 3](#)); S.I. 2015/40, art. 2(d)
- F313** S. 256B(10) omitted (1.2.2015) by virtue of [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 4(8), 22(1)** (with [Sch. 7 para. 3](#)); S.I. 2015/40, art. 2(d)

#### **Modifications etc. (not altering text)**

- C22** Ss. 256AA-256E applied (with modifications) by 1997 c. 43, [Sch. 1 para. 8\(2\)\(4\)\(8\)-\(12\)](#) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [para. 3\(3\), \(5\)](#), s. 22(1), **Sch. 3 para. 3(2)** (with [Sch. 7 para. 2](#))); S.I. 2015/40, art. 2(u))

### **256C Breach of supervision requirements [F314] imposed under section 256B]**

- (1) Where an offender is under supervision under section 256B and it appears on information to a justice of the peace that the offender has failed to comply with requirements under section 256B(6), the justice may—
  - (a) issue a summons requiring the offender to appear at the place and time specified in the summons, or
  - (b) if the information is in writing and on oath, issue a warrant for the offender's arrest.
- (2) Any summons or warrant issued under this section must direct the offender to appear or be brought—
  - (a) before a court acting for the local justice area in which the offender resides, or
  - (b) if it is not known where the offender resides, before a court acting for same local justice area as the justice who issued the summons or warrant.
- (3) Where the offender does not appear in answer to a summons issued under subsection (1)(a), the court may issue a warrant for the offender's arrest.
- (4) If it is proved to the satisfaction of the court that the offender has failed to comply with requirements under section 256B(6), the court may—

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- (a) order the offender to be detained, in prison or such youth detention accommodation as the Secretary of State may determine, for such period, not exceeding 30 days, as the court may specify, or
  - (b) [<sup>F315</sup>order the offender to pay] a fine not exceeding level 3 on the standard scale.
- (5) An offender detained in pursuance of an order under subsection (4)(a) is to be regarded as being in legal custody.
- (6) A fine imposed under subsection (4)(b) is to be treated, for the purposes of any enactment, as being a sum adjudged to be paid by a conviction.
- (7) An offender may appeal to the Crown Court against any order made under subsection (4)(a) or (b).
- (8) In this section “court” means—
- (a) if the offender has attained the age of 18 years at the date of release, a magistrates' court other than a youth court;
  - (b) if the offender is under the age of 18 years at the date of release, a youth court.]

#### Textual Amendments

**F314** Words in s. 256C heading inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 3 para. 22](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)

**F315** Words in s. 256C(4)(b) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 3 para. 21](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)

#### Modifications etc. (not altering text)

**C22** Ss. 256AA-256E applied (with modifications) by 1997 c. 43, Sch. 1 para. 8(2)(4)(8)-(12) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), para. 3(3), (5), s. 22(1), [Sch. 3 para. 3\(2\)](#) (with [Sch. 7 para. 2](#))); S.I. 2015/40, art. 2(u))

#### [<sup>F316</sup>256D] Drug testing requirements

- (1) “Drug testing requirement”, in relation to an offender subject to supervision under this Chapter, means a requirement that, when instructed to do so by the supervisor, the offender provide a sample mentioned in the instruction for the purpose of ascertaining whether the offender has a specified Class A drug or a specified Class B drug in his or her body.
- (2) A drug testing requirement may be imposed on an offender subject to supervision under this Chapter only if—
  - (a) the Secretary of State is satisfied of the matters in subsection (3), and
  - (b) the requirement is being imposed for the purpose of determining whether the offender is complying with any other supervision requirement.
- (3) Those matters are—
  - (a) that the misuse by the offender of a specified class A drug or a specified class B drug caused or contributed to an offence of which the offender has been convicted or is likely to cause or contribute to the commission of further offences by the offender, and

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- (b) that the offender is dependent on, or has a propensity to misuse, a specified class A drug or a specified class B drug.
- (4) An instruction given for the purpose of a drug testing requirement must be given in accordance with guidance given from time to time by the Secretary of State.
- (5) The Secretary of State may make rules regulating the provision of samples in accordance with such an instruction.
- (6) In this section, “specified Class A drug” and “specified Class B drug” have the same meaning as in Part 3 of the Criminal Justice and Court Services Act 2000.

#### Textual Amendments

**F316** Ss. 256D, 256E inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 1 para. 2** (with [Sch. 7 para. 3](#)); S.I. 2015/40, art. 2(s)

#### Modifications etc. (not altering text)

**C22** Ss. 256AA-256E applied (with modifications) by 1997 c. 43, Sch. 1 para. 8(2)(4)(8)-(12) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), para. 3(3), (5), s. 22(1), **Sch. 3 para. 3(2)** (with [Sch. 7 para. 2](#))); S.I. 2015/40, art. 2(u))

**C31** S. 256D applied (with modifications) by 2000 c. 6, s. 106B(2)-(7) (as inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 6(4)**, 22(1) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(f))

**C32** S. 256D applied (with modifications) by 1997 c. 43, Sch. 1 para. 9(2)(4)(9)-(12) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 3 para. 5(5)** (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u))

**C33** S. 256D applied (with modifications) (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), **s. 247(2)(b)(3)(4)**, 416(1) (with **ss. 2**, 398(1), 406, **Sch. 27**); S.I. 2020/1236, reg. 2

### 256E Drug appointment requirements

- (1) “Drug appointment requirement”, in relation to an offender subject to supervision under this Chapter, means a requirement that the offender, in accordance with instructions given by the supervisor, attend appointments with a view to addressing the offender’s dependency on, or propensity to misuse, a controlled drug.
- (2) A drug appointment requirement may be imposed on an offender subject to supervision under this Chapter only if—
  - (a) the supervisor has recommended to the Secretary of State that such a requirement be imposed on the offender, and
  - (b) the Secretary of State is satisfied of the matters in subsection (3).
- (3) Those matters are—
  - (a) that the misuse by the offender of a controlled drug caused or contributed to an offence of which the offender has been convicted or is likely to cause or contribute to the commission of further offences by the offender,
  - (b) that the offender is dependent on, or has a propensity to misuse, a controlled drug,
  - (c) that the dependency or propensity requires, and may be susceptible to, treatment, and
  - (d) that arrangements have been made, or can be made, for the offender to have treatment.

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- (4) The requirement must specify—
  - (a) the person with whom the offender is to meet or under whose direction the appointments are to take place, and
  - (b) where the appointments are to take place.
- (5) The person specified under subsection (4)(a) must be a person who has the necessary qualifications or experience.
- (6) The only instructions that the supervisor may give for the purposes of the requirement are instructions as to—
  - (a) the duration of each appointment, and
  - (b) when each appointment is to take place.
- (7) For the purposes of this section, references to a requirement to attend an appointment do not include a requirement to submit to treatment.
- (8) In this section, “controlled drug” has the same meaning as in the Misuse of Drugs Act 1971.]

#### Textual Amendments

**F316** Ss. 256D, 256E inserted (1.2.2015) by *Offender Rehabilitation Act 2014 (c. 11)*, s. 22(1), **Sch. 1 para. 2** (with *Sch. 7 para. 3*); S.I. 2015/40, art. 2(s)

#### Modifications etc. (not altering text)

**C22** Ss. 256AA-256E applied (with modifications) by 1997 c. 43, Sch. 1 para. 8(2)(4)(8)-(12) (as amended (1.2.2015) by *Offender Rehabilitation Act 2014 (c. 11)*, para. 3(3), (5), s. 22(1), **Sch. 3 para. 3(2)** (with *Sch. 7 para. 2*)); S.I. 2015/40, art. 2(u))

**C34** S. 256E applied (with modifications) by 2000 c. 6, s. 106B(2)-(7) (as inserted (1.2.2015) by *Offender Rehabilitation Act 2014 (c. 11)*, **ss. 6(4)**, 22(1) (with *Sch. 7 para. 2*); S.I. 2015/40, art. 2(f))

**C35** S. 256E applied (with modifications) by 1997 c. 43, Sch. 1 para. 9(2)(4)(9)-(12) (as amended (1.2.2015) by *Offender Rehabilitation Act 2014 (c. 11)*, s. 22(1), **Sch. 3 para. 5(5)** (with *Sch. 7 para. 2*); S.I. 2015/40, art. 2(u))

**C36** S. 256E applied (with modifications) (1.12.2020) by *Sentencing Act 2020 (c. 17)*, **s. 247(2)(b)(3)(4)**, 416(1) (with **ss. 2**, 398(1), 406, *Sch. 27*); S.I. 2020/1236, reg. 2

### *Additional days*

#### **257 Additional days for disciplinary offences**

- (1) Prison rules, that is to say, rules made under section 47 of the Prison Act 1952 (c. 52), may include provision for the award of additional days—
  - (a) to fixed-term prisoners, or
  - (b) conditionally on their subsequently becoming such prisoners, to persons on remand,who (in either case) are guilty of disciplinary offences.
- (2) Where additional days are awarded to a fixed-term prisoner, or to a person on remand who subsequently becomes such a prisoner, and are not remitted in accordance with prison rules—

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- (a) any period which he must serve before becoming entitled to or eligible for release under this Chapter,
  - (b) any period which he must serve before he can be removed from prison under section 260, and
  - (c) any period for which a licence granted to him under this Chapter remains in force,
- is extended by the aggregate of those additional days.

#### **Commencement Information**

- I17** S. 257 partly in force; s. 257 not in force at Royal Assent, see s. 336(3); s. 257 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 257(1) in force at 7.3.2005 by [S.I. 2005/373](#), [art. 2](#); s. 257(1)(2)(a)(b) in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))
- I18** S. 257(2)(c) in force at 3.12.2012 for specified purposes by [S.I. 2012/2905](#), [art. 2](#)

### *Fine defaulters and contemnors*

#### **258 Early release of fine defaulters and contemnors**

- (1) This section applies in relation to a person committed to prison—
    - (a) in default of payment of a sum adjudged to be paid by a conviction, or
    - (b) for contempt of court or any kindred offence.
  - (2) As soon as a person to whom this section applies has served one-half of the term for which he was committed, it is the duty of the Secretary of State to release him unconditionally.
- [<sup>F317</sup>(2A) Subsection (2) is subject to paragraph 35 of Schedule 20B (transitional cases).]
- [<sup>F318</sup>(2B) Subsection (2) does not apply to a person within subsection (1)(a) if the sum in question is a sum of more than £10 million ordered to be paid under a confiscation order made under Part 2 of the Proceeds of Crime Act 2002.
- (2C) The Secretary of State may by order amend the amount for the time being specified in subsection (2B).]
- (3) Where a person to whom this section applies is also serving one or more sentences of imprisonment, nothing in this section [<sup>F319</sup>or in paragraph 35 of Schedule 20B] requires the Secretary of State to release him until he is also required to release him in respect of that sentence or each of those sentences.
- [<sup>F320</sup>(3A) The reference in subsection (3) to sentences of imprisonment includes sentences of detention under section 91 or 96 of [<sup>F321</sup>the PCC(S)A 2000, under section 250 [<sup>F322</sup>, 252A], 254, 262, 265 [<sup>F323</sup>, 266 or 268A] of the Sentencing Code] or under section [<sup>F324</sup>226A, 226B,] 227 [<sup>F325</sup>, 228 or 236A] of this Act.]
- (4) The Secretary of State may at any time release unconditionally a person to whom this section applies if he is satisfied that exceptional circumstances exist which justify the person's release on compassionate grounds.

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### Textual Amendments

- F317** S. 258(2A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 17 para. 5\(2\)](#); S.I. 2012/2906, art. 2(o)
- F318** S. 258(2B)(2C) inserted (1.6.2015) by [Serious Crime Act 2015 \(c. 9\)](#), [ss. 10\(3\)](#), 88(1) (with s. 86(2)); S.I. 2015/820, reg. 3(g)
- F319** Words in s. 258(3) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 17 para. 5\(3\)](#); S.I. 2012/2906, art. 2(o)
- F320** S. 258(3A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 117\(6\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)
- F321** Words in s. 258(3A) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 233](#) (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F322** Word in s. 258(3A) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), [Sch. 13 para. 21\(6\)](#)
- F323** Words in s. 258(3A) substituted (29.6.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(2)(v), [Sch. 13 para. 9\(8\)](#)
- F324** Words in s. 258(3A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 20 para. 8](#); S.I. 2012/2906, art. 2(r)
- F325** Words in s. 258(3A) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 1 para. 19](#); S.I. 2015/778, art. 3, [Sch. 1 para. 72](#)

### Modifications etc. (not altering text)

- C37** S. 258 extended (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 121\(2\)](#), 151(1); S.I. 2012/2906, art. 2(d)

### Commencement Information

- I19** S. 258 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

## *Persons liable to removal from the United Kingdom*

### 259 Persons liable to removal from the United Kingdom

For the purposes of this Chapter a person is liable to removal from the United Kingdom if—

- (a) he is liable to deportation under section 3(5) of the Immigration Act 1971 (c. 77) and has been notified of a decision to make a deportation order against him,
- (b) he is liable to deportation under section 3(6) of that Act,
- (c) he has been notified of a decision to refuse him leave to enter the United Kingdom,
- (d) he is an illegal entrant within the meaning of section 33(1) of that Act, or
- (e) he is liable to removal under section 10 of the Immigration and Asylum Act 1999 (c. 33).



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### Commencement Information

**I20** S. 259 wholly in force at 4.4.2005; s. 259 not in force at Royal Assent, see s. 336(3); s. 259 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, art. 2, Sch.; s. 259 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, art. 2(1), Sch. 1 para. 19 (subject to art. 2(2), Sch. 2)

PROSPECTIVE

### [<sup>F326</sup>259] Persons eligible for removal from the United Kingdom

- (1) For the purposes of this Chapter, to be “eligible for removal from the United Kingdom” a person must show, to the satisfaction of the Secretary of State, that the condition in subsection (2) is met.
- (2) The condition is that the person has the settled intention of residing permanently outside the United Kingdom if removed from prison under section 260.
- (3) The person must not be one who is liable to removal from the United Kingdom.]

### Textual Amendments

**F326** S. 259A inserted (prosp.) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 34(2), 153

### 260 Early removal of prisoners liable to removal from United Kingdom

- [<sup>F327</sup>(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 [<sup>F328</sup>545 days].]
- [<sup>F329</sup>(2C) [<sup>F330</sup>Subsection (1) does] do not apply in relation to a prisoner to whom section 247A applies.]
- <sup>F331</sup>(3) .....
- <sup>F332</sup>(3A) .....
- (4) A prisoner removed from prison under this section—
- (a) is so removed only for the purpose of enabling the Secretary of State to remove him from the United Kingdom under powers conferred by—
    - (i) Schedule 2 or 3 to the Immigration Act 1971, or
    - (ii) section 10 of the Immigration and Asylum Act 1999 (c. 33), and
  - [<sup>F333</sup>(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.]

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[<sup>F334</sup>(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).]

<sup>F335</sup>(5) .....

(6) The Secretary of State may by order—

- [<sup>F336</sup>(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).]

<sup>F337</sup>(7) .....

[<sup>F338</sup>(8) Paragraphs 36 and 37 of Schedule 20B (transitional cases) make further provision about early removal of certain prisoners.]

[<sup>F339</sup>(9) Subsection (2C) does not affect the continued liability to detention under subsection (4)(b) of a prisoner removed from prison under this section before subsection (2C) came into force and in such a case—

- (a) the “requisite custodial period” in subsection (4)(b) has the meaning given by section 247A(8), and
- (b) subsection (5) is to be read as including reference to section 247A.]

#### Textual Amendments

**F327** S. 260(1)(2) substituted for s. 260(1)-(2B) (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), [ss. 47\(3\)](#), [87\(1\)](#); [S.I. 2022/590](#), [regs. 1\(2\)](#), [2](#), [Sch. 1 para. 24](#) (with [Sch. 2 para. 9](#))

**F328** Words in s. 260(2)(b) substituted (16.1.2024) by [The Criminal Justice Act 2003 \(Removal of Prisoners for Deportation\) Order 2023 \(S.I. 2023/1368\)](#), [arts. 1\(2\)](#), [2](#)

**F329** S. 260(2C) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), [ss. 7\(5\)\(c\)](#), [10\(4\)](#)

**F330** Words in s. 260(2C) substituted (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\)](#), [ss. 47\(4\)](#), [87\(1\)](#); [S.I. 2022/590](#), [regs. 1\(2\)](#), [2](#), [Sch. 1 para. 24](#) (with [Sch. 2 para. 9](#))

**F331** S. 260(3) repealed (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 34\(6\)](#), [149](#), [153](#), [Sch. 28 Pt. 2](#); [S.I. 2008/2712](#), [art. 2](#), [Sch. paras. 5](#), [19\(2\)\(b\)](#) (subject to [arts. 3](#), [4](#))

*Status: This version of this chapter contains provisions that are prospective.*

*Changes to legislation: Criminal Justice Act 2003, Chapter 6 is up to date with all changes known to be in force on or before 11 May 2024. 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*

- F332** S. 260(3A) repealed (31.10.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 34(6), 149, 153(7), **Sch. 28 Pt. 2**; S.I. 2009/2606, **art. 3(j)(i)**
- F333** S. 260(4)(b) substituted (28.6.2022) by Nationality and Borders Act 2022 (c. 36), **ss. 47(5)**, 87(1); S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 24** (with **Sch. 2 para. 9**)
- F334** S. 260(4A)(4B) inserted (28.6.2022) by Nationality and Borders Act 2022 (c. 36), **ss. 47(6)**, 87(1); S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 24** (with **Sch. 2 para. 9**)
- F335** S. 260(5) omitted (28.6.2022) by virtue of Nationality and Borders Act 2022 (c. 36), **ss. 47(7)**, 87(1); S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 24** (with **Sch. 2 para. 9**)
- F336** S. 260(6)(a)(b) substituted for s. 260(6)(a)-(c) (28.6.2022) by Nationality and Borders Act 2022 (c. 36), **ss. 47(8)**, 87(1); S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 24** (with **Sch. 2 para. 9**)
- F337** S. 260(7) omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), **ss. 14(4)**, 95(1) (with s. 14(7)); S.I. 2015/778, **art. 3**, **Sch. 1 para. 10**
- F338** S. 260(8) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 17 para. 6**; S.I. 2012/2906, **art. 2(o)**
- F339** S. 260(9) inserted (26.2.2020) by Terrorist Offenders (Restriction of Early Release) Act 2020 (c. 3), **ss. 7(5)(d)**, 10(4)

#### Commencement Information

- I21** S. 260 wholly in force at 4.4.2005; s. 260 not in force at Royal Assent, see s. 336(3); s. 260(6) in force at 7.3.2005 by S.I. 2005/373, **art. 2**; s. 260 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, **Sch. 1 para. 19** (subject to **art. 2(2)**, **Sch. 2**)

### <sup>F340</sup>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.]

#### Textual Amendments

- F340** S. 261 substituted (28.6.2022) by Nationality and Borders Act 2022 (c. 36), **ss. 47(9)**, 87(1); S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 24** (with **Sch. 2 para. 9**)

### <sup>F341</sup>262 Prisoners liable to removal from United Kingdom: modifications of Criminal Justice Act 1991

#### Textual Amendments

- F341** S. 262 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 16 para. 16**; S.I. 2012/2906, **art. 2(n)**

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*Consecutive or concurrent terms*

**263 Concurrent terms**

- (1) This section applies where—
- (a) a person (“the offender”) has been sentenced <sup>F342</sup> . . . to two or more terms of imprisonment which are wholly or partly concurrent, and
  - (b) the sentences were passed on the same occasion or, where they were passed on different occasions, the person has not been released under this Chapter at any time during the period beginning with the first and ending with the last of those occasions.
- (2) Where this section applies—
- (a) nothing in this Chapter requires the Secretary of State to release the offender in respect of any of the terms unless and until he is required to release him in respect of each of the others,
  - <sup>F343</sup>(aza) nothing in this Chapter requires the Secretary of State to refer the offender’s case to the Board in respect of any of the terms unless and until the Secretary of State is required either—
    - (i) to refer the offender’s case to the Board, or
    - (ii) to release the offender,in respect of each of the others,]
  - <sup>F344</sup>(aa) the offender's release is to be unconditional if section 243A so requires in respect of each of the sentences (and in any other case is to be on licence),]
  - (b) [<sup>F345</sup>section 246] does not authorise the Secretary of State to release him on licence under that section 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 [<sup>F346</sup>to which that section applies],
  - (c) on and after his release under this Chapter [<sup>F347</sup>(unless that release is unconditional)] the offender is to be on licence<sup>F348</sup>—
    - (i) until the last date on which the offender is required to be on licence in respect of any of the terms, and
    - (ii) subject to such conditions as are] required by this Chapter in respect of any of the sentences.
- <sup>F349</sup>(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.]
- <sup>F350</sup>(3) . . . . .
- (4) In this section “term of imprisonment” includes a determinate sentence of detention under section 91 [<sup>F351</sup>or 96] of [<sup>F352</sup>the PCC(S)A 2000, under section 250, [<sup>F353</sup>252A,] 254, 262, 265 [<sup>F354</sup>, 266 or 268A] of the Sentencing Code] or under section [<sup>F355</sup>226A, 226B,]<sup>F356</sup>227 ]<sup>F357</sup>, 228 or 236A] of this Act.
- <sup>F358</sup>(5) This section is subject to paragraphs 21, 31 and 32 of Schedule 20B (transitional cases).]

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### Textual Amendments

- F342** Words in s. 263(1)(a) repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by **Armed Forces Act 2006 (c. 52)**, ss. 378, 383, **Sch. 16 para. 226, Sch. 17**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F343** S. 263(2)(aza) inserted (28.6.2022) by **Police, Crime, Sentencing and Courts Act 2022 (c. 32)**, **ss. 144(9), 208(5)(p)**
- F344** S. 263(2)(aa) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, s. 151(1), **Sch. 14 para. 13(a)**; S.I. 2012/2906, art. 2(l)
- F345** Words in s. 263(2)(b) substituted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, **ss. 116(8), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F346** Words in s. 263(2)(b) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, s. 151(1), **Sch. 14 para. 13(b)**; S.I. 2012/2906, art. 2(l)
- F347** Words in s. 263(2)(c) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, s. 151(1), **Sch. 14 para. 13(c)**; S.I. 2012/2906, art. 2(l)
- F348** Words in s. 263(2)(c) substituted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, **ss. 116(9), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F349** S. 263(2A) inserted (28.6.2022 for E.W.) by **Nationality and Borders Act 2022 (c. 36)**, **ss. 47(10), 87(1)**; S.I. 2022/590, regs. 1(2), 2, **Sch. 1 para. 24** (with Sch. 2 para. 9)
- F350** S. 263(3) omitted (3.12.2012) by virtue of **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, s. 151(1), **Sch. 10 para. 31**; S.I. 2012/2906, art. 2(h)
- F351** Words in s. 263(4) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, **ss. 117(7)(a), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F352** Words in s. 263(4) substituted (1.12.2020) by **Sentencing Act 2020 (c. 17)**, s. 416(1), **Sch. 24 para. 235** (with Sch. 27); S.I. 2020/1236, reg. 2
- F353** Word in s. 263(4) inserted (30.4.2021) by **Counter-Terrorism and Sentencing Act 2021 (c. 11)**, s. 50(1)(i), **Sch. 13 para. 21(7)**
- F354** Words in s. 263(4) substituted (29.6.2021) by **Counter-Terrorism and Sentencing Act 2021 (c. 11)**, s. 50(2)(v), **Sch. 13 para. 9(9)**
- F355** Words in s. 263(4) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, s. 151(1), **Sch. 20 para. 11**; S.I. 2012/2906, art. 2(r)
- F356** Words in s. 263(4) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, **ss. 117(7)(b), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F357** Words in s. 263(4) substituted (13.4.2015) by **Criminal Justice and Courts Act 2015 (c. 2)**, s. 95(1), **Sch. 1 para. 22**; S.I. 2015/778, art. 3, **Sch. 1 para. 72**
- F358** S. 263(5) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, s. 151(1), **Sch. 17 para. 7**; S.I. 2012/2906, art. 2(o)

### Commencement Information

- I22** S. 263 wholly in force at 4.4.2005; s. 263 not in force at Royal Assent, see s. 336(3); s. 263 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 263 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 19** (subject to **art. 2(2), Sch. 2**)

## 264 Consecutive terms

- (1) This section applies where—
- (a) a person (“the offender”) has been sentenced to two or more terms of imprisonment which are to be served consecutively on each other, and
  - (b) the sentences were passed on the same occasion or, where they were passed on different occasions, the person has not been released under this Chapter at

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any time during the period beginning with the first and ending with the last of those occasions,<sup>F359</sup> ...

<sup>F359</sup>(c) .....

[<sup>F360</sup>(2A) Subsection (2B) applies if each of the terms of imprisonment is subject to initial automatic release.

(2B) Nothing in this Chapter requires the Secretary of State to release the offender until the offender has served a period equal to the aggregate of the length of the minimum custodial periods in each of the terms.

(2C) Subsections (2D) and (2E) apply if at least one of the terms of imprisonment is subject to initial Parole Board referral.

(2D) Nothing in this Chapter requires the Secretary of State to refer the offender's case to the Board until the offender has served a period equal to the aggregate length of the minimum custodial periods in each of the terms.

(2E) Nothing in this Chapter requires the Secretary of State to release the offender until—

- (a) the Board has directed the release of the offender, or
- (b) the offender has served a period equal to the aggregate length of—
  - (i) the minimum custodial periods in each of the terms (if any) that is subject to initial automatic release, and
  - (ii) the maximum custodial periods in each of the terms that is subject to initial Parole Board referral.

(2F) For the purposes of subsections (2A) to (2E)—

- (a) a term of imprisonment is “subject to initial automatic release” if it is a sentence in respect of which—
  - (i) section 243A(1), 244(1), 244ZA(1), 246A(2) or 247 applies to the offender, or
  - (ii) section 247A applies, but subsections (3) to (5) of that section do not apply, to the offender;
- (b) a term of imprisonment is “subject to initial Parole Board referral” if it is a sentence in respect of which—
  - (i) section 244ZC, 244A, 246A(3) to (7) or 247A(3) to (5) applies to the offender, or
  - (ii) a notice under section 244ZB(4) is in force.]

[<sup>F361</sup>(3B) The offender's release under this Chapter is to be unconditional if—

- (a) the aggregate length of the terms of imprisonment is less than 12 months, and
  - (b) section 243A so requires in respect of each of the sentences,
- but in any other case is to be on licence.

(3C) If the offender is released on licence under this Chapter—

- (a) the offender is to be on licence, on and after the release, until the offender would, but for the release, have served a term equal in length to the aggregate length of the terms of imprisonment (but see section 264B);
- (b) the offender is to be subject to supervision requirements under section 256AA if (and only if)—
  - (i) section 256AA so requires in respect of one or more of the sentences,and



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- (ii) the aggregate length of the terms of imprisonment is less than 2 years.
- (3D) If the offender is subject to supervision requirements under section 256AA, the supervision period for the purposes of that section begins on the expiry of the period during which the offender is on licence by virtue of subsection (3C)(a).
- (3E) When the offender is released under this Chapter (whether unconditionally or on licence), the offender is to be subject to supervision requirements under section 256B if that section so requires in respect of one or more of the sentences.]
- <sup>F362</sup>(4) .....
- <sup>F362</sup>(5) .....
- [<sup>F363</sup>(6) In this section “[<sup>F364</sup>minimum] custodial period”[<sup>F365</sup>, except if subsection (6A) applies,] means—
- (a) in relation to an extended sentence imposed under section 226A or 226B [<sup>F366</sup>or under section 254, 266 or 279 of the Sentencing Code], two-thirds of the appropriate custodial term determined by the court under that section,
  - (b) in relation to an extended sentence imposed under section 227 or 228, one-half of the appropriate custodial term determined by the court under that section,
  - (c) in relation to a sentence imposed under section 236A [<sup>F367</sup>or under section 265 or 278 of the Sentencing Code][<sup>F368</sup>before the day on which section 131 of the Police, Crime, Sentencing and Courts Act 2022 came into force], one-half of the appropriate custodial term determined by the court under that section, and
- [<sup>F369</sup>(ca) in relation to a sentence imposed under section 265 or 278 of the Sentencing Code on or after the day on which section 131 of the Police, Crime, Sentencing and Courts Act 2022 came into force, two-thirds of the appropriate custodial term determined by the court under that section,]
- [<sup>F370</sup>(cb) in relation to a sentence in respect of which section 244ZA applies to the offender, two-thirds of the sentence,]
- (d) in relation to any other sentence, one-half of the sentence.]
- [<sup>F371</sup>(6A) In this section “[<sup>F372</sup>minimum] custodial period”, in the case of a sentence imposed on a person to whom section 247A applies, means—
- [ in relation to a sentence within subsection (2A) of that section, the whole
- <sup>F373</sup>(za) of the “appropriate custodial term” within the meaning of that section (see subsection (8) of that section),]
- (a) in relation to an extended sentence [<sup>F374</sup>(not being one to which paragraph (za) applies)] imposed under section 226A, 226B, 227 or [<sup>F375</sup>228 of this Act or section 254, 266 or 279 of the Sentencing Code,] or a sentence imposed under section [<sup>F376</sup>236A of this Act or section [<sup>F377</sup>252A, 265] or 278 of that Code,] two-thirds of the appropriate custodial term determined by the court under that section;
  - (b) in relation to any other sentence, two-thirds of the sentence.]
- [<sup>F378</sup>(6B) In this section “maximum custodial period” means—
- (a) in relation to a sentence imposed under section 226A, 226B, 227, 228 or 236A of this Act or section 252A, 254, 265, 266, 278 or 279 of the Sentencing Code, the “appropriate custodial term” determined by the court under that section;
  - (b) in relation to any other sentence, the term of the sentence.]

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- (7) This section applies to a determinate sentence of detention under section 91 [F379 or 96] of [F380 the PCC(S)A 2000, under section 250, [F381 252A,] 254, 262, 265 [F382 266 or 268A] of the Sentencing Code] or under section [F383 226A, 226B,] [F384 227 ] [F385 228 or 236A] of this Act as it applies to a term of imprisonment [F386 ... .
- [F387 (8) This section is subject to paragraphs 21, 22, 31, 32 and 33 of Schedule 20B (transitional cases).]

### Textual Amendments

- F359** S. 264(1)(c) and preceding word omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 32(2)**; S.I. 2012/2906, art. 2(h)
- F360** S. 264(2A)-(2F) substituted for s. 264(2) (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 144(10)(a), 208(5)(p)**
- F361** S. 264(3B)-(3E) substituted for s. 264(3)(3A) (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 5(2), 22(1)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(e)
- F362** S. 264(4)(5) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 14(d)**; S.I. 2012/2906, art. 2(l)
- F363** S. 264(6) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 1 para. 23(2)**; S.I. 2015/778, art. 3, Sch. 1 para. 72
- F364** Word in s. 264(6) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 144(10)(b), 208(5)(p)**
- F365** Words in s. 264(6) inserted (26.2.2020) by Terrorist Offenders (Restriction of Early Release) Act 2020 (c. 3), **ss. 7(7)(a), 10(4)**
- F366** Words in s. 264(6)(a) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 236(2)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F367** Words in s. 264(6)(c) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 236(2)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F368** Words in s. 264(6)(c) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 131(3)(a), 208(5)(m)**
- F369** S. 264(6)(ca) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 131(3)(b), 208(5)(m)**
- F370** S. 264(6)(cb) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 130(6), 208(5)(m)**
- F371** S. 264(6A) inserted (26.2.2020) by Terrorist Offenders (Restriction of Early Release) Act 2020 (c. 3), **ss. 7(7)(b), 10(4)**
- F372** Word in s. 264(6A) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 144(10)(b), 208(5)(p)**
- F373** S. 264(6A)(za) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 45(4)(a)**
- F374** Words in s. 264(6A)(a) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 45(4)(b)**
- F375** Words in s. 264(6A)(a) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 236(3)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F376** Words in s. 264(6A)(a) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 236(3)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F377** Words in s. 264(6A)(a) substituted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 21(8)(a)**
- F378** S. 264(6B) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 144(10)(e), 208(5)(p)**
- F379** Words in s. 264(7) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 117(8)(a), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)

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- F380** Words in s. 264(7) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 236(4)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F381** Word in s. 264(7) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1) (i), **Sch. 13 para. 21(8)(b)**
- F382** Words in s. 264(7) substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 9(10)**
- F383** Words in s. 264(7) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 20 para. 12(3)**; S.I. 2012/2906, art. 2(r)
- F384** Words in s. 264(7) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 117(8)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F385** Words in s. 264(7) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 1 para. 23(3)**; S.I. 2015/778, art. 3, Sch. 1 para. 72
- F386** Words in s. 264(7) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 14(f)**; S.I. 2012/2906, art. 2(l)
- F387** S. 264(8) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 17 para. 8**; S.I. 2012/2906, art. 2(o)

**Modifications etc. (not altering text)**

- C38** S. 264(6)(d) modified (1.4.2020) by The Release of Prisoners (Alteration of Relevant Proportion of Sentence) Order 2020 (S.I. 2020/158), arts. 1, 4 (with art. 5)

**Commencement Information**

- I23** S. 264 partly in force; s. 264 not in force at Royal Assent, see s. 336(3); s. 264 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 264(1)-(3)(6)(7) in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 19** (subject to art. 2(2), Sch. 2)

**F388 264A Consecutive terms: intermittent custody**

.....

**Textual Amendments**

- F388** S. 264A omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 33**; S.I. 2012/2906, art. 2(h)

**[F389 264A Consecutive terms: detention and training orders**

(1) This section applies where, by virtue of section 237(4) of the Sentencing Code or section 106A(3)(b) of the Powers of Criminal Courts (Sentencing) Act 2000, a detention and training order made in the case of a person (“the offender”) who is subject to a relevant sentence of detention is to take effect at the time when the offender would otherwise be released under this Chapter.

[ In a case where the detention and training order was made on or after the day on **F390**(1A) which section 159 of the Police, Crime, Sentencing and Courts Act 2022 came into force, section 246(1)(a) is to be read as if, instead of conferring a power to release the offender, it conferred a power to determine that the Secretary of State would, but for the detention and training order, have directed the offender’s release under that section.]

(2) Any direction in respect of the offender by the Parole Board under—

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- (a) subsection (5)(b) of section 246A,
- (b) subsection (4)(b) of section 247A, or
- (c) sub-paragraph (3) of paragraph 15 of Schedule 20B,

is to be expressed as a direction that the Board would, but for the detention and training order, have directed the offender's release under that section [<sup>F391</sup>or paragraph].

(3) In this section—

- (a) references to a detention and training order include an order made under section 211 of the Armed Forces Act 2006, and
- (b) “relevant sentence of detention” has the meaning given by section 248(4) of the Sentencing Code.]

#### Textual Amendments

**F389** S. 264AA inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 237** (with Sch. 27); S.I. 2020/1236, reg. 2

**F390** S. 264AA(1A) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 159(3), 208(5)(t)**

**F391** Words in s. 264AA(2) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 45(5)**

#### [<sup>F392</sup>264B] Consecutive terms: supplementary

(1) This section applies in a case in which section 264 applies where—

- (a) the offender is released on licence under this Chapter,
- (b) the aggregate length of the terms of imprisonment mentioned in section 264(1) (a) is less than 12 months, and
- (c) those terms include one or more terms of imprisonment (“short transitional terms”) which were imposed in respect of an offence committed before the day on which section 1 of the Offender Rehabilitation Act 2014 came into force, as well as one or more terms imposed in respect of an offence committed on or after that day.

(2) The offender is to be on licence until the offender would, but for the release, have served a term equal in length to the aggregate of—

- (a) the custodial period in relation to each of the short transitional terms, and
- (b) the full length of each of the other terms.

(3) In this section “custodial period” has the same meaning as in section 264.]

#### Textual Amendments

**F392** S. 264B inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 5(3), 22(1)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(e)

#### Modifications etc. (not altering text)

**C39** S. 264B applied by 1997 c. 43, Sch. 1 para. 8(2)(a) (as amended (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 3(2)(a)**) (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u))

**C40** S. 264B applied by 1997 c. 43, Sch. 1 para. 9(4)(a) (as amended (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 3(3)(a)**) (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u))

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**C41** S. 264B applied by 1997 c. 43, Sch. 1 para. 9(2)(a)(4)(a) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), Sch. 3 para. 5(2)(3) (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u))

*Restriction on consecutive sentences for released prisoners*

**<sup>F393</sup>265 Restriction on consecutive sentences for released prisoners**

.....

**Textual Amendments**

**F393** S. 265 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

PROSPECTIVE

*Drug testing requirements*

**<sup>F394</sup>266 Release on licence etc: drug testing requirements**

.....

**Textual Amendments**

**F394** S. 266 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 118(2)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

*Supplemental*

**267 Alteration by order of relevant proportion of sentence**

The Secretary of State may by order provide that any reference in [<sup>F395</sup>section 243A(3) (a),] section 244(3)(a), section 247(2) or [<sup>F396</sup>section 264(6)(d)] to a particular proportion of a prisoner's sentence is to be read as a reference to such other proportion of a prisoner's sentence as may be specified in the order.

**Textual Amendments**

**F395** Words in s. 267 inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 14 para. 15**; S.I. 2012/2906, art. 2(l)

**F396** Words in s. 267 substituted (7.2.2020) by [The Criminal Justice and Courts Act 2015 \(Consequential Amendment\) Regulations 2020 \(S.I. 2020/157\)](#), regs. 1, 3

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### [<sup>F397</sup>267A] Application of Chapter 6 to pre-4 April 2005 cases

Schedule 20A (which modifies certain provisions of this Chapter as they apply to persons serving a sentence for an offence committed before 4 April 2005) has effect.]

#### Textual Amendments

**F397** S. 267A inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 16 para. 2](#); S.I. 2012/2906, art. 2(n)

#### Modifications etc. (not altering text)

**C42** S. 267A applied by Crime (Sentences) Act 1997 (c. 43), Sch. 1 paras. 8(2)(a)(4)(a), 9(2)(a)(4)(a) (as amended (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 16 paras. 7, 8](#); S.I. 2012/2906, art. 2(n))

### [<sup>F398</sup>267B] Modification of Chapter 6 in certain transitional cases

Schedule 20B (which modifies this Chapter so as to restate, with minor amendments, the effect of transitional provisions relating to the coming into force of this Chapter) has effect.]

#### Textual Amendments

**F398** S. 267B inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 17 para. 9](#); S.I. 2012/2906, art. 2(o)

#### Modifications etc. (not altering text)

**C43** S. 267B applied by Crime (Sentences) Act 1997 (c. 43), Sch. 1 paras. 8(2)(a)(4)(a), 9(2)(a)(4)(a) (as amended (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 16 paras. 7, 8](#); S.I. 2012/2906, art. 2(n))

### [<sup>F399</sup>267C] Fixed-term prisoners also serving life sentence

- (1) This section applies where a fixed-term prisoner is also serving one or more sentences by virtue of which the life sentence provisions apply to the offender.
- (2) Nothing in this Chapter requires the Secretary of State to release the prisoner unless the Secretary of State is also required by the life sentence provisions to release the prisoner.
- (3) Nothing in this Chapter requires the Secretary of State to refer the prisoner's case to the Board unless the Secretary of State is also required by the life sentence provisions to—
  - (a) refer the prisoner's case to the Board, or
  - (b) release the prisoner.
- (4) The reference in subsection (3)(a) to a requirement of the Secretary of State to refer a prisoner's case to the Board does not include a requirement to do so under section 31A(3) of the 1997 Act.
- (5) The fact that the prisoner is also serving a fixed-term sentence is to be ignored in determining, for the purposes of subsections (2) and (3), what the life sentence provisions require.



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(6) In this section “the life sentence provisions” means Chapter 2 of Part 2 of the 1997 Act.]

#### Textual Amendments

**F399** S. 267C inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. [144\(11\)](#), [208\(5\)\(p\)](#)

## 268 Interpretation of Chapter 6

[<sup>F400</sup>(1)] In this Chapter —

“the 1997 Act” means the Crime (Sentences) Act 1997 (c. 43);

“the Board” means the Parole Board;

[<sup>F401</sup>“fixed-term prisoner” and “fixed-term sentence”] have the meaning given by section 237(1) [<sup>F402</sup>(as extended by section 237(1B));]

<sup>F403</sup>

[<sup>F404</sup>“offender subject to supervision under this Chapter” means a person who is subject to supervision requirements under section 256AA or 256B;]

“prison” and “prisoner” are to be read in accordance with section 237(2);

[<sup>F404</sup>“supervision default order” means an order described in section 256AC(4)(c), whether made under that provision or under paragraph 9 of Schedule 19A;]

[<sup>F404</sup>“the supervision period”, in relation to an offender subject to supervision under this Chapter, has the meaning given in section 256AA or 256B (as appropriate);]

[<sup>F404</sup>“the supervisor”—

(a) in relation to an offender subject to supervision requirements under section 256AA, has the meaning given in that section, and

(b) in relation to an offender subject to supervision requirements under section 256B, means the person who provides supervision under that section;]

<sup>F403</sup>

<sup>F403</sup>

[<sup>F405</sup>(1A) In this Chapter, “the requisite custodial period” means [<sup>F406</sup>(except where it has the meaning given by section 247A(8)))] —

(a) in relation to a person serving an extended sentence imposed under section 226A or 226B [<sup>F407</sup>or under section 254, 266 or 279 of the Sentencing Code], the requisite custodial period for the purposes of section 246A;

(b) in relation to a person serving an extended sentence imposed under section 227 or 228, the requisite custodial period for the purposes of section 247;

(c) in relation to a person serving a sentence imposed under section 236A [<sup>F408</sup>or under section 265 or 278 of the Sentencing Code], the requisite custodial period for the purposes of section 244A;

[<sup>F409</sup>(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;]

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(d) in relation to any other fixed-term prisoner, the requisite custodial period for the purposes of section 243A [<sup>F410</sup>, 244 or 244ZA] (as appropriate).]

[<sup>F411</sup>(2) For the purposes of sections 243A(1A), 256AA(1), 256B(1A) and 264B(1), where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken to have been committed on the last of those days.]

#### Textual Amendments

- F400** S. 268 renumbered as s. 268(1) (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 23(2)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F401** Words in s. 268(1) substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 23(3)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F402** S. 268: words in definition of "fixed-term prisoner" inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383, **Sch. 16 para. 227**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F403** Definitions in s. 268 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 35**; S.I. 2012/2906, art. 2(h)
- F404** Words in s. 268(1) inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 23(4)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F405** S. 268(1A) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 14(2)**, 95(1) (with s. 14(7)); S.I. 2015/778, art. 3, Sch. 1 para. 10
- F406** Words in s. 268(1A) inserted (26.2.2020) by Terrorist Offenders (Restriction of Early Release) Act 2020 (c. 3), **ss. 7(8)**, 10(4)
- F407** Words in s. 268(1A)(a) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 238(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F408** Words in s. 268(1A)(c) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 238(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F409** S. 268(1A)(ca) inserted (28.4.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 132(10)**, 208(4)(p)
- F410** Words in s. 268(1A)(d) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 130(7)**, 208(5)(m)
- F411** S. 268(2) inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 23(5)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)

#### Commencement Information

- I24** S. 268 wholly in force at 4.4.2005; s. 268 not in force at Royal Assent, see s. 336(3); s. 268 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2**, Sch.; s. 268 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 19 (subject to art. 2(2), Sch. 2)

**Status:**

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**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 259 cross-heading substituted by [2008 c. 4 s. 34\(10\)\(a\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 34(2)(4)(b)(7)(10) omitted (3.12.2012) by virtue of 2012 c. 10, s. 118(4)(b); S.I. 2012/2906, art. 2(d))
- s. 260 heading substituted by [2008 c. 4 s. 34\(10\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 34(2)(4)(b)(7)(10) omitted (3.12.2012) by virtue of 2012 c. 10, s. 118(4)(b); S.I. 2012/2906, art. 2(d))
- specified provision(s) amendment to earlier commencing SI 2012/2574, Sch. by [S.I. 2012/2761 art. 2](#)

**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. 150(aa) inserted by [2012 c. 10 Sch. 26 para. 19\(2\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 26 para. 19 omitted (11.12.2013) by virtue of 2013 c. 22, Sch. 16 para. 23(2); S.I. 2013/2981, art. 2(d))
- s. 150(ba) inserted by [2012 c. 10 Sch. 26 para. 19\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 26 para. 19 omitted (11.12.2013) by virtue of 2013 c. 22, Sch. 16 para. 23(2); S.I. 2013/2981, art. 2(d))
- s. 151(A1) inserted by [2008 c. 4 s. 11\(3\)](#)
- s. 151(1A) inserted by [2008 c. 4 s. 11\(5\)](#)
- s. 151(1A)(b) word substituted by [2008 c. 4 Sch. 4 para. 76\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 151(1A) is still only prospectively inserted by 2008 c. 4, s. 11(5))
- s. 151(1A)(c) substituted by [2009 c. 25 Sch. 17 para. 8\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 151(1A) is still only prospectively inserted by 2008 c. 4, s. 11(5))
- s. 151(2A)(b) substituted by [2009 c. 25 Sch. 17 para. 8\(4\)](#)
- s. 151(4A) inserted by [2009 c. 25 Sch. 17 para. 8\(5\)](#)
- s. 151(8)(a) words substituted by [2009 c. 25 Sch. 17 para. 8\(6\)\(a\)](#)
- s. 151(8)(b) words inserted by [2009 c. 25 Sch. 17 para. 8\(6\)\(b\)\(i\)](#)
- s. 151(8)(b) words substituted by [2009 c. 25 Sch. 17 para. 8\(6\)\(b\)\(ii\)](#)
- s. 151(8)(c)-(f) inserted by [2009 c. 25 Sch. 17 para. 8\(6\)\(c\)](#)
- s. 165(5) inserted by [2014 c. 12 s. 179\(3\)](#)
- s. 237(1A) inserted by [2006 c. 48 s. 34\(3\)](#)
- s. 237(1B)(f)(g) inserted by [2021 c. 11 Sch. 13 para. 40\(b\)](#)
- s. 239A inserted by [2015 c. 2 s. 8\(1\)](#)
- s. 239A cross-heading inserted by [2015 c. 2 Sch. 3 para. 5](#)
- s. 250(5C) inserted by [2015 c. 2 Sch. 3 para. 7\(4\)](#)
- s. 255A(4A) inserted by [2015 c. 2 s. 9\(2\)](#)
- s. 255B(3A) inserted by [2015 c. 2 s. 9\(3\)\(b\)](#)
- s. 255B(4A)-(4C) inserted by [2015 c. 2 s. 9\(3\)\(d\)](#)
- s. 255C(3A) inserted by [2015 c. 2 s. 9\(4\)\(b\)](#)
- s. 255C(4A)-(4C) inserted by [2015 c. 2 s. 9\(4\)\(d\)](#)
- s. 256A(1)-(1B) substituted for s. 256A(1) by [2015 c. 2 s. 9\(6\)\(a\)](#)

- s. 256A(4A)(4B) inserted by [2015 c. 2 s. 9\(6\)\(f\)](#)
- s. 256A(5)(6) substituted for s. 256A(5) by [2015 c. 2 s. 9\(6\)\(g\)](#)
- s. 256AZA inserted by [2015 c. 2 s. 10\(1\)](#)
- s. 257(3) inserted by [2006 c. 48 s. 34\(4\)](#)
- s. 258(1A) inserted by [2006 c. 48 s. 34\(5\)](#)
- s. 260(4)(aa) substituted for word by [2008 c. 4 s. 34\(7\)\(b\)](#) (This amendment not applied to legislation.gov.uk. S. 34(2)(4)(b)(7)(10) omitted (3.12.2012) by virtue of 2012 c. 10, s. 118(4)(b); S.I. 2012/2906, art. 2(d))
- Sch. 15B para. 49A omitted by [S.I. 2019/780 reg. 26\(4\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Regs. 21, 25, 26, 27, 30 revoked (1.12.2020) by 2020 c. 17, Sch. 28; S.I. 2020/1236, reg. 2)
- Sch. 15B para. 49B omitted by [S.I. 2019/780 reg. 26\(4\)\(d\)](#) (This amendment not applied to legislation.gov.uk. Regs. 21, 25, 26, 27, 30 revoked (1.12.2020) by 2020 c. 17, Sch. 28; S.I. 2020/1236, reg. 2)
- Sch. 20B para. 34(6)(7) substituted for Sch. 20B para. 34(6) by [2015 c. 2 Sch. 3 para. 10](#)