



# Terrorist Offenders (Restriction of Early Release) Act 2020

## 2020 CHAPTER 3

An Act to make provision about the release on licence of offenders convicted of terrorist offences or offences with a terrorist connection; and for connected purposes. [26th February 2020]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Restriction of early release in England and Wales*

#### **1 Eligibility for release on licence of terrorist prisoners: England and Wales**

(1) The Criminal Justice Act 2003 is amended as follows.

(2) After section 247 insert—

##### **“247A Restricted eligibility for release on licence of terrorist prisoners**

(1) This section applies to a prisoner (a “terrorist prisoner”) who—

- (a) 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
- (b) has not been released on licence.

(2) An offence is within this subsection (whether it was committed before or after this section comes into force) if—

- (a) it is specified in Part 1 of Schedule 19ZA (offences under counter-terrorism legislation),

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- (b) it is specified in Part 2 of that Schedule and was determined by the court to have had a terrorist connection under section 30 or (in the case of a person sentenced in Scotland but now subject to the provisions of this Chapter) section 31 of the Counter-Terrorism Act 2008 (sentences for certain offences with a terrorist connection), or
  - (c) it is a service offence as respects which the corresponding civil offence is an offence specified in Part 2 of that Schedule and was determined by the service court to have had a terrorist connection under section 32 of that Act (sentences for certain offences with a terrorist connection: armed forces).
- (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.
- (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).
- (8) For the purposes of this section—
  - “the appropriate custodial term”, in relation to a sentence imposed under section 226A, 226B, 227, 228 or 236A, 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, 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 264(2);

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“service offence”, “corresponding civil offence” and “service court” 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 sentence (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.

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

(3) After Schedule 19 insert, as Schedule 19ZA, the Schedule set out in Schedule 1 to this Act.

## **2 Disapplication of existing release provisions: England and Wales**

(1) The Criminal Justice Act 2003 is amended as follows.

(2) In section 243A (duty to release certain prisoners serving less than 12 months) after subsection (1A) insert—

“(1B) But this section does not apply to a prisoner to whom section 247A applies.”

(3) In section 244 (duty to release prisoners) in subsection (1), for “or 247” substitute “, 247 or 247A ”.

(4) In section 244A (release on licence of prisoners serving sentence under section 236A) in subsection (1), at the end insert “, other than a prisoner to whom section 247A applies ”.

(5) In section 246(4) (exceptions from power to release prisoners earlier than required) after paragraph (aa) insert—

“(ab) the prisoner is one to whom section 247A applies,”.

(6) In section 246A (release on licence of prisoners serving extended sentence under section 226A or 226B) in subsection (1), at the end insert “, other than a prisoner to whom section 247A applies ”.

(7) In section 247 (release on licence of prisoner serving extended sentence under section 227 or 228) in subsection (1), at the end insert “, other than a prisoner to whom section 247A applies ”.

### *Restriction of early release in Scotland*

## **3 Eligibility for release on licence of terrorist prisoners: Scotland**

(1) The Prisoners and Criminal Proceedings (Scotland) Act 1993 is amended as follows.

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(2) After section 1AA insert—

**“1AB Restricted eligibility for release on licence of terrorist prisoners**

- (1) This section applies to a person other than a life prisoner (a “terrorist prisoner”) who—
  - (a) is serving a sentence of imprisonment imposed (whether before or after this section comes into force) in respect of an offence within subsection (2), and
  - (b) has not been released on licence.
- (2) An offence is within this subsection (whether it was committed before or after this section comes into force) if—
  - (a) it is specified in Part 1 of Schedule 1A (offences under counter-terrorism legislation),
  - (b) it is specified in Part 2 of that Schedule and was determined by the court to have had a terrorist connection under section 31 or (in the case of a person sentenced in England and Wales or Northern Ireland and now subject to the provisions of this Part relating to early release) section 30 of the Counter-Terrorism Act 2008 (sentences for certain offences with a terrorist connection), or
  - (c) it is a service offence as respects which the corresponding civil offence is an offence specified in Part 2 of that Schedule and was determined by the service court to have had a terrorist connection under section 32 of that Act (sentences for certain offences with a terrorist connection: armed forces).
- (3) The Scottish Ministers must refer the case of a terrorist prisoner to the Parole Board—
  - (a) as soon as the prisoner has served two-thirds of the prisoner's sentence, and
  - (b) where there has been a previous reference of the prisoner's case to the Parole Board under this subsection and the Parole Board did not recommend the prisoner's release, no later than the second anniversary of the disposal of that reference.
- (4) As soon as the Parole Board has recommended the release of a terrorist prisoner under this section in pursuance of a referral under subsection (3), the Scottish Ministers must release the prisoner on licence.
- (5) The Parole Board must not make a recommendation under subsection (4) unless it is satisfied that it is no longer necessary for the protection of the public that the terrorist prisoner should be confined.
- (6) For the purposes of this section, “service offence”, “corresponding civil offence” and “service court” have the same meanings as in the Counter-Terrorism Act 2008 (see section 95 of that Act).
- (7) This section is subject to section 8 of the Terrorist Offenders (Restriction of Early Release) Act 2020 (transitional provision for terrorist prisoners subject to supervised release orders).”

(3) After Schedule 1 insert, as Schedule 1A, the Schedule set out in Schedule 2 to this Act.

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#### 4 Disapplication of existing release provisions: Scotland

(1) The Prisoners and Criminal Proceedings (Scotland) Act 1993 is amended as follows.

(2) In section 1 (early release of short-term, long-term and life prisoners) after subsection (8) insert—

“(9) This section does not apply in relation to a person to whom section 1AB applies.”

(3) In section 1AA (short-term prisoners: early release of certain sexual offenders) after subsection (8) insert—

“(9) This section does not apply in relation to a person to whom section 1AB applies.”

(4) In section 3AA (further powers to release prisoners) after subsection (7) insert—

“(8) This section does not apply in relation to a person to whom section 1AB applies.”

<sup>F1</sup>(5) .....

(6) In section 7 (children detained in solemn proceedings)—

(a) in subsection (5)(a) after “sections” insert “ 1AB, ”, and

(b) after subsection (7) insert—

“(8) This section (other than subsection (5)) does not apply in relation to a person to whom section 1AB applies.”

<sup>F2</sup>(7) .....

##### Textual Amendments

**F1** S. 4(5) omitted (30.4.2021) by virtue of Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), Sch. 13 para. 60

**F2** S. 4(7) omitted (30.4.2021) by virtue of Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), Sch. 13 para. 60

##### Licence conditions

#### 5 Setting of licence conditions for terrorist prisoners: England and Wales

In section 250 of the Criminal Justice Act 2003 (licence conditions) after subsection (5B) (Secretary of State not to include, vary or cancel licence conditions unless directed by the Parole Board) insert—

“(5BA) But in the case of a licence granted to a prisoner to whom section 247A applies, or would apply but for the prisoner's release under the licence, subsection (5B) applies only if the licence was granted following a direction of the Board for the prisoner's release.”