

2008 No. 1466 (C. 66)

PRISONS, ENGLAND AND WALES

**The Criminal Justice and Immigration Act 2008
(Commencement No.1 and Transitional Provisions) Order 2008**

Made - - - -

7th June 2008

The Secretary of State makes the following Order in exercise of the powers conferred by section 153(7) and (8)(b) of the Criminal Justice and Immigration Act 2008(a):

Citation and interpretation

1.—(1) This Order may be cited as the Criminal Justice and Immigration Act 2008 (Commencement No.1 and Transitional Provisions) Order 2008.

(2) In this Order “the Act” means the Criminal Justice and Immigration Act 2008.

Commencement

2. Subject to articles 3 and 4, the day appointed for the coming into force of the following provisions of the Act is 9th June 2008—

- (a) section 26 (release of certain long-term prisoners under Criminal Justice Act 1991) save insofar as subsection (2) inserts subsections (1C) and (1D) in section 33 of the Criminal Justice Act 1991(b);
- (b) section 148(1) and (2) (consequential etc. amendments and transitional and saving provision) insofar as they relate to the provisions specified in paragraphs (c) and (d) of this article;
- (c) the following paragraphs of Schedule 26 (minor and consequential amendments)—
 - (i) 9, 12(1) and (3)(b) and 19(1) and (4) (Repatriation of Prisoners Act 1984(c));
 - (ii) 29(1), (2) and (5) (Criminal Justice Act 1991);
 - (iii) 31 and 33(1) to (3) (Crime (Sentences) Act 1997(d)); and
 - (iv) 40 and 45(a) (Powers of Criminal Courts (Sentencing) Act 2000(e)); and
- (d) paragraphs 8 and 9 of Schedule 27 (transitory, transitional and saving provisions).

Transitional provisions

3. The coming into force of section 26 of the Act is of no effect in relation to—

(a) 2008 c.4.
(b) 1991 c.53.
(c) 1984 c.47.
(d) 1997 c.43.
(e) 2000 c.6.

- (a) existing prisoners within the meaning of paragraph 8 of Schedule 12 to the Criminal Justice Act 1991;
- (b) long-term prisoners serving sentences of imprisonment for an offence under any of sections 11, 12, 15 to 18, 54 and 56 to 63 of the Terrorism Act 2000(a);
- (c) long-term prisoners serving sentences of imprisonment for an offence under any of sections 47, 50 and 113 of the Anti-terrorism, Crime and Security Act 2001(b);
- (d) long-term prisoners serving sentences of imprisonment for an offence under section 12 of the Sexual Offences Act 1956(c);
- (e) long-term prisoners serving sentences of imprisonment for an offence of aiding, abetting counselling, procuring or inciting the commission of an offence listed in any of paragraphs (b) to (d) of this article; and
- (f) long-term prisoners serving sentences of imprisonment for an offence of conspiring or attempting to commit an offence listed in any of paragraphs (b) to (d) of this article.

4. The coming into force of paragraph 19(4) of Schedule 26 to the Act is no effect in relation to long-term prisoners serving a sentence for one or more offences committed before 4th April 2005 by virtue of having been transferred to the United Kingdom pursuant to a warrant under section 1 of the Repatriation of Prisoners Act 1984 where the warrant was issued prior to the commencement of section 26 of the Act.

Signed by the authority of the Secretary of State

7th June 2008

Michael Wills
Minister of State
Ministry of Justice

(a) 2000 c.11.
(b) 2001 c.24.
(c) 1956 c.69; section 12 was repealed by the Sexual Offences Act 2003 (c.42), sections 139 and 140, Schedule 6, paragraph 11(a) and Schedule 7.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force section 26 and related provisions of the Criminal Justice and Immigration Act 2008 on 9th June 2008, subject to the transitional provisions in articles 3 and 4. Section 26 imposes a duty on the Secretary of State to release certain long-term prisoners (prisoners serving sentences of imprisonment of at least four years) subject to the release arrangements in the Criminal Justice Act 1991 ('the 1991 Act') at the half-way point of their sentence on licence until sentence expiry.

The transitional provision in article 3 provides that the duty to release prisoners at the half-way point does not apply to prisoners who were serving their sentence at the time the 1991 Act was commenced and whose release arrangements are governed by paragraph 8 of Schedule 12 to the 1991 Act. Article 3 also provides that the duty to release does not apply to long-term prisoners who have committed certain offences under the Terrorism Act 2000, the Anti-terrorism, Crime and Security Act 2001 and the Sexual Offences Act 1956. Article 4 concerns the requirement in paragraph 19(4) of Schedule 26 to calculate the section 26 release date for a repatriated prisoner from the date on which the provisions of the warrant specified in paragraph 1 of the Schedule to the Repatriation of Prisoners Act 1984 take effect. By virtue of the transitional provision in article 4, that requirement will not apply to repatriated prisoners whose warrants were issued prior to 9th June 2008.

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