

EXPLANATORY NOTES

Sentencing Act 2026

Chapter 2

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SENTENCING ACT 2026

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Sentencing Act 2026 which received Royal Assent on 22 January 2026 (c. 2).

- These Explanatory Notes have been prepared by the Ministry of Justice in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act means in practice; provide background information on the development of policy; and provide additional information on how the Act affects existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

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Overview of the Act

1. This Act makes sentencing reforms in line with the recommendations made by the Independent Sentencing Review (ISR) in May 2025. The ISR's recommendations are publicly available at: Independent Sentencing Review: Final report - GOV.UK

Part 1: Sentencing

Suspended sentences

2. Section 1 introduces a presumption to suspend short custodial sentences of 12 months or less, unless an offender has breached an order of the court, or where there is a significant risk of harm to an individual, or in exceptional circumstances which would not justify passing a suspended sentence.

3. Schedule 1 makes amendments consequential on the new provision for the presumption to suspend short custodial sentences of 12 months or less.

4. Section 2 extends the availability of suspended sentences so that a court can suspend a custodial sentence of up to 3 years and prevents Extended Determinate Sentences and Sentences for Offenders of Particular Concern from being suspended.

Income reduction orders

5. Section 3 introduces a new ancillary order to be issued alongside suspended sentence orders. When this order is imposed it will require an offender to pay a monthly amount which corresponds to a particular percentage of their monthly income above a threshold for up to the duration of their suspended sentence.

Purposes of sentencing

6. Section 4 amends the statutory purposes of sentencing to specifically reference victims.

Deferment of sentence

7. Section 5 provides for the extension of the date to which the passing of a sentence may be deferred from 6 months to 12 months.

Finding of domestic abuse

8. Section 6 introduces a formal judicial finding of domestic abuse at the point of sentencing in criminal cases in order to better identify domestic abuse offenders throughout the justice system.

Offenders of particular concern

9. Section 7 adds certain offences involving or connected with a threat to national security to the Sentence for Offenders of Particular Concern (SOPC) Schedule so that going forward these offenders receive a SOPC as a minimum.

10. Sections 8 and 9 extends the measures in section 7 to equivalent sentences in Scotland and Northern Ireland respectively.

11. Section 10 introduces a corresponding provision under service law to mirror the reforms made by Section 7 of this Act.

12. Schedule 3 makes consequential amendments to corresponding provision under service law to mirror the new provisions on SOPC made by Section 7 of this Act.

Whole life order: murder of police, prison or probation officer

13. Section 11 extends the whole life order starting point for murder to include murders of probation officers in the course of duty and murders of current and former prison, police and probation officers, where the murder is motivated by something done in the course of their duties. The murder of a police or prison officer in the course of their duty already falls within the whole life order starting point.

Rehabilitation activity requirement

14. Sections 12 and 13 introduce a new 'Probation Requirement' which replaces the Rehabilitation Activity Requirement (RAR) and introduce changes to provide probation practitioners with more flexibility to align engagement with an individual's risks and needs.

New community order requirements and community requirements

15. Section 14 introduces a driving prohibition community requirement to the Sentencing Code.

16. Section 15 introduces a public event attendance prohibition community requirement to the Sentencing Code.

17. Section 16 introduces a drinking establishment entry prohibition community requirement to the Sentencing Code.

18. Section 17 introduces a restriction zone community requirement to the Sentencing Code.

19. Section 18 creates a power to amend relevant parts of the Sentencing Code by regulations. This allows the Lord Chancellor to add new types of community requirements to the Sentencing Code and amend existing ones.

Sentencing Council for England and Wales

20. Section 19 introduces a statutory requirement for the Sentencing Council to publish an annual business plan each financial year, which must be approved by the Lord Chancellor before publication.

21. Section 20 introduces a statutory requirement for the Sentencing Council to obtain approval from both the Lord Chancellor and Lady Chief Justice for all sentencing guidelines before final, definitive guidelines are issued.

Prison capacity report

22. Section 21 places a statutory duty on the Secretary of State to publish, and lay before parliament, an annual report on prison capacity and repeals a duplicative duty in section 5 of the Prison Act 1952.

Provision of transcripts of sentencing remarks to victims

23. Section 22 creates a legal duty for the Secretary of State to provide victims with a transcript of relevant Crown Court sentencing remarks, free of charge, upon request. The section provides a power for the Secretary of State to set out the practical details of how the system will work via regulations including the timeframes within which a transcript of sentencing remarks must be provided, any limited exceptions to the provision and any necessary safeguards.

Part 2: Management of offenders after sentencing

Release

24. Section 23 sets standard determinate sentence (SDS) release points to enhance sentencing transparency and simplify sentence administration and sits alongside secondary legislation to strengthen the adjudication system for managing bad behaviour.

25. Section 24 amends the Road Traffic Offenders Act 1988 and Armed Forces Act 2006 to reflect the new release points for the purpose of setting extension periods for driving bans.

26. Section 25 applies the release point for certain serious violent and sexual offenders to those sentenced by service courts.

27. Section 26 amends Home Detention Curfew (HDC) to allow release for only those serving youth sentences under section 91 or section 250 of the sentencing code. Offenders serving adult SDSs will no longer be able to be released early on home detention curfew.

Licences

28. Section 27 sets out provisions to introduce a new set of restrictive licence conditions for offenders released on licence from a sentence of imprisonment.

29. Section 28 allows for offenders sentenced under the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957 to have certain licence conditions imposed following their release from custody.

Recall and further release

30. Sections 29 to 33 amend the recall provisions for standard determinate sentence (SDS) offenders to lengthen the fixed term recall period to 56 days, after which time they will be automatically released, except in exceptional circumstances indicating a significant level of risk or due to meeting specific conditions.

31. Schedule 4 lists offences which are excluded from the 56 days automatic release (fixed term recall), such offenders will be liable to be detained until end of sentence unless released under section 255C (standard recall).

Removal of requirement for supervision after sentence

32. Section 34 sets out the repeal of Post Sentence Supervision.

33. Schedule 5 makes amendments consequential on the repeal of provisions relating to the supervision of offenders after the end of sentence.

Early removal of prisoners liable to removal from the United Kingdom

34. Section 35 removes any bars to removing an eligible determinate sentenced prisoner from the prison after sentence for the purpose of immediate deportation.

Community order requirements and community requirements

35. Section 36 removes the requirement for offenders to perform the work imposed under an unpaid work requirement during a period of 12 months.

36. Section 37 provides an automatic reduction in sentenced Unpaid Work (UPW) hours when an offender demonstrates compliance with their UPW requirement.

37. Sections 38 and 39 establish a community sentence progression scheme in the Probation Service to incentivise offenders to engage with probation and court-ordered requirements. The sections provide for early termination of a Community Order (CO) and the supervision period of a Suspended Sentence Order (SSO) if an offender has completed i) all court-ordered requirements and ii) all other objectives in their sentence plan. For SSOs, the suspended sentence can be activated throughout the full period of the originally sentenced order length.

Parole Board rules

38. Section 40 repeals a power for the Secretary of State to appoint law enforcement members to the Parole Board.

Sentences of imprisonment about release etc to certain repatriated prisoners

39. Section 41 provides that repatriated offenders serving fixed term sentences for murder have a statutory release point of 2/3.

Sentences of imprisonment or detention for public protection

40. Section 42 reduces the qualifying period for referring a prisoner serving an Imprisonment for Public Protection (IPP) sentence to the Parole Board for consideration of licence termination. It also allows a prisoner serving an IPP or Detention for Public Protection (DPP) sentence to ask the Secretary of State to refer their case to the Parole Board for consideration of licence termination one year after the end of the qualifying period, in cases where the Parole Board has not terminated the licence already and they have remained in the community for a year.

41. Section 43 provides that the Secretary of State can direct the Parole Board to refer release decisions to the High Court where the Parole Board has directed the unconditional release of the offender.

Part 3: Bail

42. Section 44 provides for amendments to the Bail Act 1976. It amends the "no real prospect" test so that fewer exceptions to bail apply in cases where a there is no real prospect of an immediate custodial sentence. Section 1 introduces a presumption to suspend short custodial sentences of 12 months or less. With a presumption in place, immediate imprisonment is expected to become less likely in these cases, and the court should be able to better anticipate whether a defendant will go on to receive a sentence of immediate custody when considering the exemptions to bail within the Act.

43. It also amends the Act to permit the court to impose an electronic monitoring requirement on those defendants who would now be bailed due to this change.

44. In addition, it amends the list of factors that the court should take into account, where relevant, when deciding whether certain exceptions to the right to bail apply.

Part 4: Foreign Criminals

45. Section 45 extends the current automatic deportation provisions in the UK Borders Act 2007 so that the duty to make a deportation order in respect of a person sentenced to a period of imprisonment of at least 12 months for an offence committed in the UK, includes where that sentence was suspended.

46. It also amends the meaning of "period of imprisonment" in Part 5A of the Nationality, Immigration and Asylum Act 2002 so that a person given a suspended sentence of 12 months or more meets the definition of a foreign criminal for the purpose of a court or tribunal considering an appeal against the refusal of an ECHR Article 8 claim.

Policy background

Part 1: Sentencing

Suspended sentences

Presumption of suspended sentence order for sentences of 12 months or less

47. The courts have a range of robust powers for when a sentence is suspended. A suspended sentence can include one or more of the fourteen 'requirements' available for community orders, such as electronic monitoring and community payback. The courts have the flexibility to choose and balance requirements in line with the statutory purposes of sentencing.

48. The ISR recommended that the Government legislate to ensure short custodial sentences (sentences of 12 months or less) are used only in exceptional circumstances. While short custodial sentences may be useful in some circumstances, they often do not provide meaningful rehabilitation to offenders, have limited deterrent effect, and have high financial costs. Ministry of Justice analysis has found that suspended sentence orders and community orders can more effectively reduce reoffending when compared to short sentences of immediate custody.

49. This Act introduces a statutory presumption that courts suspend custodial sentences of 12 months or less unless an exception within the section applies. The presumption to suspend applies to offences which pass the custody threshold and where the court considers it appropriate to impose a custodial sentence of 12 months or less.

50. The ISR did not recommend a complete abolition of short custodial sentences and noted that they will continue to be appropriate in some circumstances.

51. The Act includes an exemption for offences committed by, or closely connected to, breaching a court order. This means that when an offender breaches a court order (including any protective order related to violence against women and girls, such as restraining orders and stalking protection orders), the presumption does not apply, and the court has full discretion to impose an immediate custodial sentence. This exemption applies both where the breach of a court order itself constitutes a criminal offence (such as breach of a restraining order), and where the offence has been committed in circumstances closely connected to the breach of a court order (even if breach of the order is not itself a criminal offence).

52. The Act also includes express exemptions for offences committed while an offender is subject to a supervision order (such as a suspended sentence order) and where the court is re-sentencing an offender following breach of a supervision order.

53. The court is also not under the presumption to pass a suspended sentence order, where passing such an order would put a particular individual at a significant risk of harm. This is intended to enable the court to pass immediate custodial sentences where there are victims or other at-risk individuals who would be at significant risk of harm if the court suspended the sentence. It is expected to be particularly relevant in the context of domestic abuse and violence against women and girls. Harm includes both physical and psychological harm.

54. In these cases, the court should continue to consider whether to suspend a custodial sentence in line with the current practice.

55. The court can also depart from the presumption to suspend a short sentence where there are exceptional circumstances relating to the offence or the offender, which would justify not passing a suspended sentence order.

Custodial sentences that may be suspended

56. This Act increases the maximum term of custodial sentence which the courts can suspend from 2 to 3 years and delivers on the recommendation from the ISR to do so.

57. For custodial sentences of between 2 to 3 years, the Act enables courts to set an operational period (which is the length of the suspension period) of up to 3 years. This Act does not amend the existing maximum of 2 years for the supervision period (the period during which the offender is supervised by probation).

58. The aim of this approach is to incentivise more offenders to behave well and in compliance with their order, and any requirements imposed, to avoid serving their sentence in prison.

59. The decision on whether to suspend a custodial sentence of up to 3 years continues to sit with the independent judiciary. Courts retain the ability to impose immediate custodial sentences where necessary to ensure the most dangerous offenders are imprisoned.

60. Whilst it is important to give the courts greater flexibility to suspend sentences where appropriate, there are some sentences which it is not appropriate to suspend. This Act includes measures which prevent the courts from suspending Extended Determinate Sentences and Sentences for Offenders of Particular Concern in any circumstances as these sentences are aimed at the most serious and dangerous offenders. While case law and sentencing guidelines mean that it is highly unlikely that either of these sentences would be suspended, this Act ensures that will never be the case.

Income reduction orders

61. This Act adds a new ancillary order to further strengthen the requirements offenders face in the community, helping to make sure that they are sufficiently punitive.

62. Income Reduction Orders (IROs) are a new type of ancillary order which judges may impose alongside a suspended sentence order for offenders who earn above a minimum income threshold (or where it appears to the court that they will do so during the operational period of their suspended sentence). IROs require those offenders to pay a percentage of their excess monthly income above a threshold, for up to the duration of their sentence.

63. As a result of other measures in the Act, some offenders will spend all or a greater proportion of their sentence in the community. These orders are seen as an additional punitive element that the court can choose to impose as part of an offender's sentence, to ensure that the sentence is proportionate to the offence or offences in question.

Purposes of sentencing

64. The ISR recommended that the Government amend the statutory purposes of sentencing to emphasise the importance of protecting victims.

65. This Act amends the statutory purposes of sentencing to explicitly reference victim protection as a purpose of sentencing, alongside public protection more generally, in line with this recommendation. This amendment ensures that the protection of victims is specifically considered when courts determine the appropriate sentence.

Deferment of sentence

66. A deferment order enables the court to delay passing a sentence. The court may impose requirements about the offender's conduct during the period of deferment, such as attendance at rehabilitative programmes. Deferment orders enable sentencers to consider the offender's conduct after conviction and any change in their circumstances when making sentencing decisions.

67. The ISR recommended that the maximum period of a deferment order be extended from 6 months to 12 months, to enable greater flexibility for sentencers to use their discretion to assess 'transitional life circumstances' that go beyond six months. This may be particularly useful for offenders experiencing serious illness or pregnancy.

68. This Act includes a measure to extend the maximum deferment order period to 12 months, in line with the ISR recommendation. This Act does not make any other changes to deferment orders.

Finding of domestic abuse

69. The lack of a consistent mechanism to identify domestic abuse (DA) offenders in the criminal justice system has created challenges for effective policy design and data analysis.

70. The ISR recommended improving the identification of DA perpetrators at sentencing to ensure appropriate interventions.

71. This measure responds to this recommendation by requiring judges to formally state in open court when, in their view, the offence involved DA carried out by the offender. The criminal procedure rules will be amended so as to require that finding to be recorded in the court record. These measures will enable better tracking, analysis, and management of DA offenders without affecting judicial discretion.

Offenders of particular concern

72. This Act makes provision to ensure that certain offences involving or connected with a threat to national security become eligible for a Sentence for Offenders of Particular Concern (SOPC). Bringing these offences into the SOPC regime removes the possibility of them being eligible for a Standard Determinate Sentence (SDS). This applies to both adults and children.

73. For the purposes of this policy, the relevant offences are those under the National Security Act 2023 and Official Secrets Acts that carry a maximum penalty of more than two years' imprisonment, as well as those which are determined by the court to have a foreign power connection under section 69A of the Sentencing Code, and inchoate offences. Previously these offences were generally only eligible for an SDS, barring a few specific offences which carry a maximum penalty of life.

74. A SOPC is mandatory for offenders convicted of certain terrorism offences (those with a maximum penalty of more than two years' imprisonment), terrorism connected offences and certain sexual offences against children, where the court decided that the dangerousness / seriousness threshold has not been met for an Extended Determinate Sentence (EDS) or life sentence. SOPCs comprise a custodial term and licence period of one year following release. The offender becomes eligible for release, at the discretion of the Parole Board, once they have served two thirds of their custodial term.

75. Certain states are becoming increasingly assertive in how they advance their own objectives and undermine the safety and interests of the UK, including operating covertly in an attempt to interfere with the UK's national security, economy and democracy. The Act seeks to better reflect the significant risk that can be presented by those who commit the offences in scope of this change, due to their potential adverse impact on national security and scale of resource, by making them eligible for the SOPC regime. This also aligns the approach more closely with sentencing and release arrangements for equivalent terrorist offenders.

76. As national security is a reserved matter in Scotland and excepted matter in Northern Ireland, the Act also makes corresponding provision to ensure its effect applies UK-wide.

Whole life order: murder of police, prison or probation officer

77. All offenders convicted of murder receive a mandatory life sentence. The sentencing court then sets a minimum term (or tariff). The minimum term is the time that an offender must stay in custody before being considered for release by the Parole Board, to serve the remainder of their sentence in the community.

78. The sentencing court is required to set the minimum term in accordance with the statutory framework in sections 321 and 322 of, and Schedule 21 to, the Sentencing Code. Schedule 21 contains starting points based on seriousness and examples of cases which would normally fall within each starting point. The highest starting point is the whole life order (WLO) starting point which applies in cases of exceptionally high seriousness.

79. WLOs are the most severe form of punishment that the courts can impose. Such sentences have no tariffs and no possibility of Parole Board release, and as such they are reserved for the most heinous cases of murder. The murder of a police officer or prison officer in the course of their duty is already, pursuant to paragraph 2(2)(c) of Schedule 21, a case that would normally be considered to be of exceptionally high seriousness and so attract a WLO starting point.

80. This measure also makes a WLO the starting point in cases of murder of a police or prison office where the murder was motivated by something done in the course of their duties, even if the murder did not itself occur while on duty (as in R v Elias Morgan). It also adds the murder of probation officers in the course of duty, or where motivated by something done in the course of their duties, to the WLO starting point.

81. This policy is designed to ensure that those who commit the very worst murders face the most severe punishment available. It recognises the unique and dangerous job that police, prison and probation officers do. They perform a distinctive role with routine contact with dangerous offenders in difficult situations. By making this amendment, it ensures that the exceptional seriousness of these murders is expressly recognised in the sentencing framework for murder.

Rehabilitation activity requirement

82. This Act enacts measures recommended by the ISR to make changes to legislation relating to rehabilitative activity requirements ("RAR").

83. The RAR is currently the most used community requirement that can be attached to a Community Order ("CO") or to a Suspended Sentence Order ("SSO"). In 2023, 75% of all COs and SSOs commenced included a RAR. It is one of the main mechanisms that can be used to supervise and influence behavioural change of offenders.

84. When handing down a RAR, the court is currently required to set the maximum number of days of rehabilitation at the point of sentence. Whilst the probation service is not required to deliver all the days up to the maximum set by the court, they are required to deliver a "rehabilitative activity". These activities are distinct from a normal supervision probation appointment, even though supervision appointments are often used to address the thinking and attitudes of offenders.

85. This provision in the Act replaces the RAR with a new simplified 'probation requirement' and provide probation practitioners (as opposed to the sentencing court) with the power to decide the volume of rehabilitation activity that an individual sentenced to a probation requirement should complete. This is in place of the court sentencing a set maximum number of "RAR days" on which an offender should complete rehabilitative activity.

86. The replacement of RAR with a Probation Requirement signifies a move to a model which ensures that any distinction between supervision appointments and rehabilitation activity can be more effectively and pervasively removed, thereby allowing probation greater freedom and flexibility to take a more proportionate approach to supervision and intervention. This will enable supervision and intervention decisions to be better led by the evidence linked to the offender themselves.

New community order requirements and community requirements

87. The courts have a range of robust powers when imposing a community or suspended sentence order. These sentences can include the fourteen 'requirements' available, such as electronic monitoring and community payback. The courts have the flexibility to choose and balance requirements in line with the statutory purposes of sentencing.

88. The ISR recommended that the Government revise the sentencing framework to ensure sentencers can take full advantage of the flexibility of community sentencing, including financial penalties and ancillary orders. In particular the review recommended that restrictions on the use of some ancillary orders should be removed to allow them to be used as a primary disposal.

89. This Act introduces four new requirements to the "menu" of options available to the court when imposing a community or suspended sentence order. These requirements are based on existing ancillary orders but are being added to the existing sentencing framework to ensure they are suitable as sentencing options. The aim of these measures is to provide the court with further flexibility to tailor sentences to individual offenders. The measures are intended to offer courts a wider range of options to impose tough community punishment on offenders and to be available regardless of whether the requirement used is directly linked to the offence committed.

90. The four new requirements which this Act includes are: banning offenders from attending sports and public events; banning offenders from entering drinking establishments including pubs, clubs and bars; prohibiting offenders from driving; and requiring an offender to stay within a specified geographic location (a "restriction zone").

91. The court will be able to use any of the new requirements where the court considers it appropriate and the court's powers on breach will be the same as for breach of any other requirement of a community or suspended sentence order.

92. The measure also includes a power for the Lord Chancellor to add to, or amend, any requirement available as part of a suspended or community sentence order via secondary legislation to provide future flexibility to respond to changing needs of the criminal justice system.

Sentencing Council for England and Wales

93. The Sentencing Council ("the Council") is an independent, non-departmental public body established by the Coroners and Justice Act 2009 ("CJA 2009") to promote greater transparency and consistency in sentencing, whilst maintaining the independence of the judiciary. Its primary role is to issue guidelines on sentencing, which the courts must follow unless it is in the interests of justice not to do so.

94. In an Oral Statement to Parliament on 1 April 2025, the then Lord Chancellor committed to reviewing the role and powers of the Council. This followed the publication of the Council's *Imposition* guideline, which contained guidance on the ordering of pre-sentence reports that would have had implications for the principle of equality before the law, and subsequent passage of the Sentencing Guidelines (Pre-sentence Reports) Act 2025.

95. After careful consideration of the current set up, the Government concluded that reform was needed to correct the democratic deficit in the process for developing sentencing guidelines. These measures ensure that there is a stronger democratic and judicial oversight of sentencing guidelines that the Council produces. Specifically, the provisions introduce statutory requirements for the Council to:

- A) publish an annual business plan each financial year, which must be approved by the Lord Chancellor before publication; and
- B) obtain approval from both the Lord Chancellor and the Lady Chief Justice for all sentencing guidelines before final, definitive guidelines are issued.

96. These measures ensure that no sentencing guidelines can be issued without both the Lord Chancellor and the Lady Chief Justice expressly approving them. However, the Lord Chancellor and the Lady Chief Justice may only withhold consent if they consider that it is necessary to do so in order to maintain public confidence in the criminal justice system. This measure does not interfere with the independence of judges in making individual sentencing decisions (including the application of any relevant sentencing guidelines).

Prison capacity report

97. In December 2024, the Government published its first annual statement on prison capacity and committed to legislating to place the publication of such a statement on a statutory footing.

98. Section 21 gives effect to that commitment by placing a statutory duty on the Secretary of State to publish and lay before Parliament an annual report on prison capacity.

99. Section 21 also repeals section 5 of the Prison Act 1952 which requires the Secretary of State to publish an annual report on prisons, in order to avoid duplication with the new statutory reporting duty.

100. The repeal of section 5 of the 1952 Act also reflects the fact that much of the information previously required to be included in the annual prison report is now published through other established channels, including the Prison Performance and Offender Management Statistics.

Court transcripts

101. Previously, the only victims who were eligible for free transcripts of sentencing remarks were victims of rape or serious sexual offences (RASSO), or families of homicide, manslaughter and fatal road accident victims. Most victims whose cases were heard in the Crown Court were therefore unable to request free provision of sentencing remarks and were instead required to pay a fee, with costs being higher for longer or more complex sentencing remarks. This meant that many victims, particularly those who could not face attending the sentencing hearing, were left without a clear explanation of how the judge reached the sentence.

102. Following a review of the operational and procedural requirements necessary for implementation, this measure expands free provision of sentencing remarks to all victims whose case was heard in the Crown Court, with details including the timeframes within which a transcript of sentencing remarks must be provided, any limited exceptions to the provision and any necessary safeguards, intended to be set out in regulations.

103. Removing this financial barrier makes the justice process more accessible and empowers victims to receive important information in a way that feels right for them. It also provides an alternative for those who may find attending the sentencing hearing distressing or retraumatising.

Part 2: Management of offenders after sentencing

Release

104. The change to the release point for prisoners serving Standard Determinate Sentences (SDS) forms part of the Government's response to pressures on the custodial estate. This measure aligns with broader commitments to manage the prison population effectively.

105. SDS are fixed-term sentences with automatic release at a specified point, typically at 40%, 50%, or 66% of the total sentence, depending on offence type and sentence length. This measure applies only to SDS with automatic release, not those subject to Parole Board decisions. These measures address the previous uncertainty around about release points which had created confusion for victims, offenders and the public in general.

106. The policy delivers on a recommendation of the ISR to reduce reliance on custody and enhance community supervision to support rehabilitation and reduce reoffending. The report noted that a concept of earned release, with appropriate oversight, could help manage prison capacity without compromising public safety. The progression model sets a minimum release point of one third for those serving Standard Determinate Sentences (SDS) which currently have automatic release of 40 or 50%, while more serious SDS offences have a 50% minimum.

107. On 12 July 2024, the Secretary of State announced that eligible prisoners would be released at the 40% point of their sentence, rather than the 50% point. This emergency measure, referred to as SDS40, was introduced to manage capacity within the prison system and has been operational since 10 September 2024.

108. The Criminal Justice Act 2003 (Requisite and Minimum Custodial Periods) Order 2024 (supplemented by the Home Detention Curfew and Requisite and Minimum Custodial Periods (Amendment) Order 2024) provides the statutory basis for SDS40. The House of Commons Justice Committee's Tenth Report (2022–23)[1] also highlighted the need for greater clarity in sentencing and release arrangements, which this measure supports.

109. These changes will not apply to those sentenced under section 250 of the Sentencing Code (or serving historic sentences under section 91 of the Power of Criminal Courts (Sentencing) Act 2000). S250 sentences are distinct from adult SDS - they are a youth sentence available for use in more narrow circumstances i.e., if the offence is punishable with 14 years or more imprisonment for an adult, for sexual offences and offences related to firearms. Youth sentencing has an entirely different framework and must have the primary purpose of preventing future offending and must consider the welfare of the child.

110. Youth sentences were not considered by the Independent Review of Sentencing and so the recommended changes to release dates were designed for the adult system. Instead, the department will consider what changes may be relevant and appropriate for the youth sentencing framework separately.

[1] Justice Committee - Tenth Report - Public opinion and understanding of sentencing (2022-23).pdf

111. SDS40 - the standard determinate sentences early release scheme—was an emergency, temporary measure needed to alleviate pressures on the adult prison system. The Act revokes SDS40, so will return offenders subject to section 250 (and legacy section 91 sentences) to their permanent position, with release points of 50% or 66% depending on the offence type and sentence length.

112. A discretionary early release scheme (Home Detention Curfew) for individuals serving s250 orders will be retained. There are several groups of offenders who are excluded from HDC, either by statute or because they are presumed unsuitable as a matter of policy, and these exclusions will continue to apply. This includes those subject to parole board release or serving a sentence for offences such as homicide, possession of bladed article, and those with a history of sexual offending.

113. This exclusion from the changes to release points will continue to apply where an individual turns 18 while serving a youth sentence.

Licences

114. The Secretary of State sets licence conditions for determinate sentence offenders and the Probation Service manages offenders outside of custody whilst they are on licence in the community. Offenders on licence are subject to standard licence conditions set out in secondary legislation, which are applied to all individuals released on licence from a sentence of imprisonment. Standard licence conditions require individuals, among other things, to: be of good behaviour; not to commit any further offences; maintain contact with their supervising officer in accordance with their instructions; and reside at an approved address; and update their supervising officer with any change to their address, name or contact details.

115. Individuals can also be subject to further conditions according to their offence type and level of risk, to ensure they are managed appropriately in the community. These can include electronic monitoring requirements, drug testing, and polygraph tests as well as non-contact conditions, which can be set as additional conditions under the policy framework.

116. These measures enable new restrictive conditions to be placed on determinate sentence offenders on licence, including the prohibition of driving, expansion of drug testing requirements, a public events ban, the imposition of a restriction zone and a prohibition on entering drinking establishments (namely public houses, bars and nightclubs). By bolstering the robustness of management of offenders in the community, the Probation Service can provide assurance these offenders are being managed appropriately and maintain public confidence in the Probation Service.

117. These new restrictive measures include:

- **Expansion of Drug Testing Requirements:** The Probation Service has the power to drug test offenders while on licence in the community. The Probation Service already has the power to include a drug testing licence condition where the offender has a dependency or propensity to misuse, or where drugs either contributed to their prior offending, or are likely to contribute to further offending. This section broadens the application of the current power to allow testing of any offender on licence.

- **Prohibition of Driving:** The Probation Service has the power to ensure that offenders on licence can be prohibited from driving. The Probation Service currently has the power to set driving related licence conditions such as requiring an offender to notify their supervising officer before making a car journey or submit to car searches where relevant to an individual's offence. However, this section allows for prohibition of driving to be set wider.

- **Restriction Zones:** The Probation Service has a power to impose a condition specifying a "restriction zone". This is a restriction on an offender's movements to a specific area. Currently, "exclusion zones" can be imposed as licence conditions, these are areas which an offender cannot enter (usually where victims live/work). This new power would also allow restriction zones to be imposed. This would be introduced as a licence condition and it will be targeted to specific individuals defined in policy.

- **Public Events Ban:** The Probation Service has a wider power to impose a condition on specifying that offenders on licence cannot attend public events (which includes sporting events). This does not extend to private events and supervising officers will have guidance to set out the threshold for attendance in circumstances where it would be necessary.

- **Prohibition of Entering Drinking Establishments:** The Probation Service has the power to set wider licence condition prohibiting offenders on licence from entering a drinking establishment which includes a pub, bar or nightclub. Where there are rehabilitative or other essential activities which take place in one of these venues, such as a training course, probation practitioners can grant exemptions.

Recall and further release

118. Under the current framework, SDS offenders can be recalled to prison on either a "fixed term" (FTR) or "standard" basis (these are the terms used operationally). Offenders subject to a FTR are automatically released at the end of the recall period. The length of this recall is set in primary legislation (currently 28 days or 14 days for those sentenced to less than 12 months). Offenders subject to a standard recall can be detained until the end of their sentence unless released earlier by either the Secretary of State or the Parole Board in accordance with the statutory release test. Pressure on the Parole Board has meant that some offenders experience lengthy delays waiting for review of their recall.

119. The ISR's review of the sentencing framework included looking at the recall population which has more than doubled over the seven-year period from March 2018 to 2025 from c.6,000 to c.13,600. Recall operates within a wider probation and prison system and is an important response to non-compliance and escalating risk. The ISR and this Act maintain recall as a public protection measure.

120. The Act removes existing short-term recalls and replace them with a longer 56-day recall. This change aims to give probation more time to implement risk management plans and set appropriate licence conditions to ensure their safe re-release into the community. The Act also removes standard recall for most SDS offenders but introduces important public protection measures to allow some offenders to be placed on a longer recall in specific circumstances.

121. To protect the public, the Act excludes the following offenders from receiving a 56-day recall and instead they will receive a mandatory standard recall should they reach the recall threshold:

    - Offenders under the highest risk management levels (Multi Agency Public Protection Arrangement "MAPPA" levels 2 or 3).

    - Offenders who have been convicted of terrorism or terrorism connected offences, as well as those who pose a terrorist risk.

- Offenders who have been convicted of certain offences involving or connected with a threat to national security as well as those who may be at risk of involvement in foreign power threat activity.
- Offenders who have been recalled on account of being charged with an offence.
- Certain sentences such as extended sentences and sentences for orders of particular concern and repatriated murders serving a determinate sentence.

122. Additionally, the Act introduces an accompanying measure that gives the Secretary of State a discretion to determine that an offender is not suitable for automatic release where further information is received following the start of a fixed term recall that the offender now meets one or more of the above exclusions.

123. The ISR suggested there could be a mechanism that allows detention beyond the 56 days where further risk management is deemed necessary to prevent dangerous offenders from being automatically released after the 56-day period. The ISR recommended that this should be used exceptionally. The Act introduces a new power to keep SDS offenders in custody beyond 56 days where they meet the threshold set out in the Act. This test is that 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 murder or certain specified violent, sexual or terrorist offences.

124. The ISR further suggested that in cases where SDS offenders can be safely re-released into community supervision before the full FTR period, there could be a mechanism to review and re-release these individuals earlier than 56 days to be used exceptionally. There is currently a power for the Secretary of State to release offenders at any time following recall (whether fixed term or standard) provided they meet the statutory release test. This power remains.

125. These changes do not apply to youth standard determinate sentences – namely those sentenced under section 250 of the Sentencing Code or serving historic sentences under section 91 of the Power of Criminal Courts (Sentencing) Act 2000. Youth sentences were not considered by the Independent Review of Sentencing and the operational challenges mentioned above, namely a significant increase in recall numbers and Parole Board backlogs, are not experienced by the youth justice system.

126. The Act preserves the existing recall regime for youth sentences, so individuals sentenced as children to a section 250 or section 91 will continue to be eligible for either a fixed term recall of 14 or 28 days, if the requisite test is met, or a standard recall.

127. This exclusion from the new recall model continues to apply where an individual turns 18 while serving a youth sentence, as long as they are not also subject to a standard determinate sentence received as an adult.

Removal of requirement for supervision after sentence

128. Post Sentence Supervision (PSS) applies to any offender convicted for an offence who is released from a custodial sentence of more than one day but less than two years. This PSS period begins following the expiry of the standard licence period and ends on the one-year anniversary of the end of the custodial period - so that the licence period and the additional supervision period will always add up to one year.

129. The ISR recommended a new progression model for custodial cases with the cessation of PSS arrangements for offenders released from a sentence of less than two years' imprisonment. The Review's report notes that "many people have criticised PSS on grounds of its ineffectiveness. A 2019 report by His Majesty's Inspectorate of Probation (HMIP) identified "no tangible reduction in reoffending" following PSS – albeit under the previous structure before the privatised probation services (the Community Rehabilitation Companies) were returned to public control, and absorbed into the newly named "Probation Service" in June 2021".

130. Probation Reset has meant that probation practitioners prioritise engagement and supervision at the points in the sentence where the evidence shows it has the most impact on offenders. Consequently, all contact under PSS ceased, apart from offenders within exemption criteria. However, most offenders remain on the probation practitioner's caseloads, leading to increased workloads and ambiguity for probation staff. By removing the requirement for PSS in legislation, the Government is seeking to align legislation better with current probation practice to reduce probation caseloads and facilitate effective supervision and risk management.

Early Removal of prisoners liable to removal from the United Kingdom

131. The Early Removal Scheme (ERS) allows for determinate sentenced prisoners liable to removal from the UK to be removed from prison before the end of the custodial part of the sentence for the purpose of immediate deportation. Terrorist offenders are excluded from removal under ERS. Once removed, they are not subject to further imprisonment, but they cannot legally return to the UK. If they do, they will be liable to serve the rest of their sentence from the point they were deported.

132. This Act removes the requirement that an offender serve a minimum pre-removal custodial period, and provides that there be no maximum removal period before an eligible offender can be removed. This means that a foreign national offender to whom this section applies can be removed for the purposes of immediate deportation any time after sentence.

Community Order requirements and community requirements

Removal of maximum period for unpaid work requirement

133. An unpaid work requirement is imposed as part of a community order (CO), or suspended sentence order (SSO). An unpaid work requirement is one of the menu of community order or suspended sentence order requirements that can be imposed by the court as part of such an order on a person aged 18 or over who is convicted of an offence. Under the Sentencing Code, when an unpaid work requirement is imposed, the court has to specify the number of hours in the order an offender can be required to undertake – this can be no less than 40 hours and no more than 300 hours of unpaid work which must be completed within a period of 12 months.

134. Currently, if the hours of unpaid work are not completed within 12 months of the order, probation practitioners are required to apply to the court to extend the period within which the hours can be completed.

135. Extension applications are then subject to delays due to court-listing capacity constraints. These delays can lead to community orders expiring with outstanding hours, necessitating further court appearances and significant outstanding unpaid work hours due to court delays, causing significant backlogs. Presently, no unpaid work can be undertaken after the 12-month period expires until the court grants an extension.

136. The aim of the legislative change is to eliminate inefficient processes and reduce the administrative burden of returning cases to court for extension after the 12-month period. This is achieved by aligning the period an offender is required to complete the hours specified under an unpaid work requirement with the length of the community order.

Number of hours of work required by unpaid work requirement

137. The Government is introducing measures to incentivise offenders on community sentences to engage with their orders and complete their requirements.

138. In current practice, probation practitioners cannot return a case to court to revoke a UPW requirement based on an offender's good behaviour – all sentenced hours must be completed in full unless revoked due to a change in circumstance. This measure would allow for a reduction in an offender's UPW total sentenced hours if they comply with the requirements of their order.

139. UPW is the main punitive disposal for community-based sentences. It allows individuals to 'payback' to their local community and make reparations for their crimes. The delivery of an UPW requirement is known as 'Community Payback'. It can be imposed on a person aged 18 or over who is convicted of an offence. The court must specify the number of hours the offender must undertake, which must be between 40 hours and 300 hours. Hours are typically completed through group placements supervised by an UPW supervisor, but some individual placements are available.

140. UPW can be included as part of a Community Order (CO) or a Suspended Sentence Order (SSO). Offenders can also be sentenced to a standalone UPW requirement (only for COs), where UPW is the sole requirement attached to their order.

141. The scheme established under this measure would operate as follows:

- Offenders must complete 25% of their sentenced UPW hours without incurring an unacceptable absence or being sent home for unacceptable behaviour before they can start earning a reduction.
- Once eligible, offenders will get a 50% discount on all eligible UPW hours worked. In practice, this means a 30-minute reduction is applied for every UPW hour worked.
- The maximum reduction that an offender could get under the scheme would be 25% of the total sentenced hours.
- Any unacceptable absences or instances of an offender being sent home from the UPW placement for unacceptable behaviour will be treated as non-compliance and will not earn a reduction for that day or after. Offenders can keep the reduction they have earned from UPW sessions prior to the unacceptable absence or instance of non-compliance.
- UPW hours added to COs or SSOs following breach (i.e. penalty hours) are out of scope for the UPW reduction measure.
- The Secretary of State would have the power in secondary legislation to set and amend the scheme criteria, including eligibility and exclusions, as well as reduction rate.

Termination of Community Order (CO) and Termination of Supervision Period of Suspended Sentence Order (SSO)

142. The Government has developed a community sentence progression scheme to act as an incentive for offenders on community sentences to engage early with probation, their court-ordered requirements and their sentence plans.

143. This scheme provides for termination of a community order or the supervision period of a suspended sentence order if an offender completes both their court-ordered requirements and all other objectives as set out in their sentence plan. This is intended to encourage early engagement and compliance with the order and to focus practitioner time and interventions on more serious and complex offenders.

144. The Community Order (CO) was introduced by the Criminal Justice Act 2003. A CO is a non-custodial sentence served in the community and can include one or more specific requirements imposed by the court. Suspended sentences were first introduced by the Criminal Justice Act 1967 and later restructured into Suspended Sentence Orders (SSOs). An SSO is a custodial sentence, that is suspended for a specific period, on the basis that the offender does not commit further offences and complies with order conditions and requirements.

145. Order requirements are conditions imposed by courts as part of a CO or SSO; for example, a requirement to carry out unpaid work. These are intended to provide punishment in the community, rehabilitation for the offender and/or ensuring that offenders engage with reparative activities and are tailored to the nature of the offence and offender's circumstance. The Probation Service is responsible for the management and enforcement of COs and SSOs, and the delivery of these requirements.

146. At the beginning of a sentence, and following Probation Service guidance, practitioners must prepare a Sentence Plan. This sets out how the sentence will be managed, including how sentence requirements will be completed and any other objectives necessary to deliver the sentence of the court. This can be updated during the sentence to reflect progress and other changes as necessary.

147. Orders have a maximum length – three years for COs and currently two years for SSOs, although other measures in this Act extend this to three years. In current practice, a probation practitioner can submit an application to the court for early revocation of a CO or the supervision period of an SSO, if sufficient progress has been made towards sentence requirement(s) by the offender. This application can also be made independently by the offender.

148. This process is infrequently used, with usage falling over the last decade, which is primarily due to court delays and an overly burdensome administrative process.

149. This measure simplifies this process by aligning the length of a CO and the supervision period of an SSO to the time necessary to complete both the court-ordered requirements contained in the order and other objectives set out in the sentence plan. If these are not completed then the CO or the supervision period of the SSO will continue for the full length set by the court during sentencing.

150. The scheme will operate as follows:

- COs will terminate if an offender has i) completed all court-ordered requirements and ii) the practitioner considers that the offender has met the objectives set out in the plan and no further objectives are needed.

- The supervision period of SSO will end if an offender has completed i) all court-ordered requirements and ii) the practitioner considers that the offender has met the objectives set out in the plan and no further objectives are needed. The SSO itself would not end but would continue for the full length set by the court at sentencing, with any further offending risking activation of the custodial sentence.

- For both COs and SSO, if an offender does not meet both elements then the CO or supervision period of an SSO will not end.

- There are no offence or risk-based exclusions from the scheme - it is available to all offenders sentenced to a CO or SSO. Orders subject to oversight from Intensive Supervision Courts are excluded from the scheme.

- The scheme will not affect any other court-imposed orders, such as ancillary orders.

Parole Board rules

151. The previous Government published a Root and Branch Review of the Parole System in 2022, the conclusion of which was that a more precautionary approach was required to ensure that public protection is at the heart of the parole system. The then Government legislated for this precautionary approach in the Victims and Prisoners Act 2024. A key part of this approach was the creation of a 'top-tier' of offences, consisting of murder, rape, specified terrorism offences, terrorism-connected offences and causing/allowing the death of a child.

152. Part of the precautionary approach centred on the Board recruiting more members with a law enforcement background. The Review concluded that the categories of statutory membership of the Parole Board should be expanded to include law enforcement members and to enable the Secretary of State to prescribe that members with particular expertise must sit on certain Parole Board panels. This was intended to be used to prescribe that law enforcement members should sit on top-tier cases.

153. The provision to make law enforcement a statutory category of membership of the Board was commenced in February 2025. The Government has decided, however, that the power for the Secretary of State to require certain members to sit on certain Parole Board panels is unnecessary and is, therefore, repealing this provision.

Repatriated prisoners

154. Prisoners can be repatriated to and from any other country where there is an international arrangement in place to do so. The Act makes provision for offenders repatriated to England and Wales pursuant to a warrant issued under Section 1 of the Repatriation of Prisoners Act 1984 (the 1984 Act), who have received a fixed term sentence for murder, to be released automatically at the two thirds point of their sentence. They will remain on licence until the end of their sentence. When they are on licence, they are liable to recall if they breach any of their licence conditions. Repatriated offenders serving fixed term sentences for murder will not be eligible for fixed term recall, only a standard recall where they must be released by the Parole Board or Secretary of State in accordance with the statutory release test.

155. In the UK, murder carries a mandatory sentence of life imprisonment under section 1(1) of the Murder (Abolition of Death Penalty) Act 1965. This means that all offenders convicted of murder in the UK can only be released when the Parole Board is satisfied that the statutory release test is met and are released on a life licence. There are some jurisdictions who may not impose a life sentence for the offence of murder, and instead impose a fixed-term sentence, e.g. twenty years. Whilst the enforcement provisions of the State to which the prisoner is

transferred apply, even if they are different from those in the sentencing State, the sentence cannot be aggravated on transfer so a fixed term sentence cannot be changed to a life sentence.

156. This Act brings repatriated offenders serving a fixed term sentence for murder into line with the calculation of the minimum term for those offenders who receive a discretionary life sentence, which is based on two thirds of a determinate sentence. This provision does not apply to any repatriated offenders serving a life sentence for murder where an indeterminate sentence has been imposed and who are subject to the release and recall arrangements set out in Part 2 of the Crime (Sentences) Act 1997.

Sentences of imprisonment or detention for public protection

Imprisonment or detention for public protection: termination of licences

157. The Victims and Prisoners Act 2024 reduced the qualifying period for referring an offender serving an IPP sentence to the Parole Board to consider licence termination from 10 years after first release to three years, and to two years for an offender serving a DPP sentence. It also introduced a provision for automatic licence termination where the Parole Board has not terminated the licence at the end of the qualifying period and the individual then spends a further two years on licence in the community without their licence being revoked.

158. The measures in this Act reduce the qualifying period for an offender serving an IPP sentence from three years to two years. This provides an earlier opportunity for licence termination and align the IPP sentence with the DPP sentence. If an IPP or DPP licence is not terminated at this point, an offender serving either sentence will be able to apply for an additional licence review one year after the end of the qualifying period, provided the licence has remained in force during that time. This provides offenders with an optional, additional review before the end of the two-year automatic period.

Powers of High Court on referral

159. The precautionary approach recommended by the Root and Branch Review of the Parole System in 2022 included a power now known as the parole referral power (although it was described in the Review as a "ministerial check"). The Secretary of State has the power to direct the Parole Board to refer certain release decisions to the High Court. This power only applies to offenders serving indeterminate or determinate sentences in relation to top-tier offences, which are murder, rape, terrorism and terrorism-connected offences and causing/allowing the death of a child. When referred, the High Court will apply the statutory release test for itself and determine whether to direct the Secretary of State to release the prisoner or to quash the Parole Board's decision.

160. Currently, there is no clear power for the High Court to make either of those orders in respect of a prisoner who has been released unconditionally (i.e. without a licence). This measure ensures that the referral power applies to cases where the Parole Board has directed unconditional release, which aligns with the policy intention that this power can be used in relation to all release decisions by the Parole Board of top-tier offenders.

161. The policy is that where the Parole Board makes the decision to unconditionally release an offender, and the Secretary of State requires the Parole Board to refer that case to the High Court, if the High Court makes an order requiring the Secretary of State to give effect to the Parole Board's direction to the release of the offender (thereby upholding the Parole Board's release decision) then the decision made by the Parole Board to release the offender unconditionally will automatically stand. Alternatively, if the High Court makes an order quashing the Parole Board's direction to release the prisoner, then the licence termination decision will also be quashed because of the High Court's decision not to release the offender.

Part 3: Bail

"No real prospect" test

162. In the context of the presumption to suspend short custodial sentences of 12 months or less, this Act amends the "no real prospect" test in the Bail Act 1976 so that fewer exceptions to bail apply in cases where immediate imprisonment is unlikely.

163. The "no real prospect" test currently provides that, for unconvicted adult defendants, fewer exceptions to the right to bail apply where the court considers that there is no real prospect that the defendant will be sentenced to a custodial sentence. It therefore limits the availability of remand into custody where a custodial sentence, whether immediate or suspended, is unlikely to be imposed at sentence.

164. The Act amends the "no real prospect" test so that it applies:

- where the court considers that there is no real prospect that the defendant will be sentenced to an immediate custodial sentence; and
- to defendants who have been convicted but are awaiting sentence.

165. This means that, for all adult defendants, a more limited set of exceptions to bail will apply where the court considers there is no real prospect of an immediate custodial sentence so that the defendant is likely to receive a suspended or non-custodial sentence.

166. These changes to the "no real prospect" test complement the presumption to suspend short custodial sentences of 12 months or less that is also being brought forward by the Act. This measure means that when passing a custodial sentence of 12 months or less, there will be a presumption that the court suspends a sentence of immediate custody and instead pass a suspended sentence order (SSO) unless: an offender has breached an order of the court, an individual would be at significant risk of harm, either physical or psychological, or there are exceptional circumstances which would not justify passing a suspended sentence.

167. With a presumption in place to suspend short sentences, immediate imprisonment is expected to become less likely in these cases and the court should be better able to anticipate whether a defendant will go on to receive a sentence of immediate custody when deciding whether to grant or refuse bail. It follows that the justification for remanding a defendant into custody is reduced where an immediate custodial sentence appears unlikely. This change should also help to mitigate the growth in the prison remand population.

168. It will be for the court to conclude whether there is a real prospect that the defendant would receive an immediate custodial sentence, taking into account the exemptions to the presumption to suspend short sentences. Where an exemption applies, the court is likely to conclude there would be a real prospect that the defendant could receive an immediate custodial sentence. In these cases, bail could be refused under any of the relevant exceptions to bail set out in the Bail Act 1976.

Conditions for imposing electronic monitoring requirements

169. Additionally, the Act amends the Bail Act 1976 to permit the court to impose an electronic monitoring requirement on defendants who would now be bailed under the amended "no real prospect" test.

170. Currently, the Bail Act 1976 provides that electronic monitoring can only be imposed on an adult defendant where the court is satisfied that without the requirement the person would not be granted bail. This means that without a change to the Bail Act 1976, those defendants

that would now be bailed under the amended "no real prospect" test could only be subject to electronic monitoring where it was necessary to prevent a remand into custody on one of the more limited exceptions to bail that would apply by virtue of the "no real prospect" test.

171. To support the management of any risks posed by these defendants, the Act amends the test for eligibility for electronic monitoring in the Bail Act 1976 for defendants so that it is no longer necessary for electronic monitoring to be an alternative to a remand in custody). If the statutory conditions are met, an electronic monitoring requirement will be available where the court concludes that there is a real prospect of a suspended sentence and no real prospect of an immediate custodial sentence.

Statutory factors that may be relevant to bail

172. The Act also adds to the list of factors currently included in the Bail Act 1976 which the court should take into account, where relevant, when deciding whether certain exceptions to the right to bail apply.

173. The Bail Act 1976 currently provides that when considering whether certain exceptions to bail apply, the court should have regard to certain factors such as the character of the defendant, and the seriousness of their offence, "as well as to any others which appear to be relevant". Reflecting the Government's ambitions to reduce the number of women going to prison, the Act adds the following factors as potentially relevant factors to this list: the defendant is pregnant; the defendant is a primary caregiver; and the defendant has been a victim of domestic abuse. While these factors can already be taken into account where relevant, including them in legislation will help ensure that the court takes them into consideration.

Part 4: Foreign Criminals

Deportation of foreign criminals

174. The UK Borders Act 2007 currently requires the Secretary of State to make a deportation order in respect of a non-British, non-Irish citizen convicted in the UK of an offence for which they were sentenced to a period of imprisonment of at least 12 months, unless an exception applies (for example where deportation would breach the person's ECHR rights or the UK's obligations under the Refugee Convention).

175. The Act extends that duty to make a deportation order to include foreign criminals given suspended sentences of at least 12 months for an offence committed in the UK. This strengthens the enforcement approach to foreign nationals who commit offences which do not result in an immediate custodial sentence reflecting the Government's commitment to delivering justice for victims and safer streets for our communities. It also ensures that those who would have been given an immediate custodial sentence of 12 months but who are in future given a suspended sentence, will continue to be subject to the automatic deportation regime.

176. The Act also amends the meaning of "period of imprisonment" in Part 5A of the Nationality, Immigration and Asylum Act 2002 so that a person given a suspended sentence of 12 months or more is a "foreign criminal" for the purpose of a court or tribunal, considering an appeal against the refusal of an ECHR Article 8 claim.

Legal background

Part 1: Sentencing

Suspended sentences

Presumption of suspended sentence order for sentences of 12 months or less

177. In accordance with section 277 of the Sentencing Code, when considering imposing a sentence of imprisonment of at least 14 days but no more than 2 years on an offender aged 21 or over, the courts may suspend that sentence by way of a suspended sentence order (note that this Act also includes a measure to increase this maximum period from 2 years to 3 years). The same power applies to adult offenders under 21 by virtue of section 264 of the Sentencing Code.

178. A suspended sentence is a custodial sentence that can only be imposed on an adult if the court is satisfied that the seriousness of the offence merits a custodial term but that other factors relating to the offence, or the offender mean that the sentence can be suspended. Currently, whether to suspend any qualifying custodial sentence is a matter of judicial discretion, taking into account the factors set out in the overarching sentencing guideline, Imposition of Community and Custodial Sentences. The court is obliged to expressly consider these factors when it is about to impose a custodial sentence which is within the range of sentences which can be suspended. The factors listed in the guideline are not an exhaustive list.

179. When imposing a suspended sentence order, the court may impose community requirements on the offender. If the offender breaches the order by failing to comply with any of the conditions or requirements, the offender will be given a warning in respect of the first breach and, if there is a second breach within the next 12 months, they will be returned to court. Equally, if the offender commits a new offence during the suspension period, they will be returned to court. If the breach is proven to the court's satisfaction, there is a presumption that the court will activate the suspended custodial sentence.

180. This Act introduces a statutory presumption for courts to suspend custodial sentences of 12 months or less unless an exception within the section applies. The presumption to suspend applies to offences which pass the custody threshold and where the court considers it appropriate to impose a custodial sentence of 12 months or less.

Custodial sentences that may be suspended

181. Section 177(2) of the Sentencing Code makes provision for suspending custodial sentences of up to 2 years. Section 288(2) of the Sentencing Code enables courts to suspend custodial sentences for between 6 months and 2 years. Courts can impose one or more community order requirements as part of a suspended sentence, which the offender must comply with.

182. Where requirements are imposed, courts must specify the supervision period, which is the period during which the offender is supervised by probation. The supervision period must be between 6 months and 2 years, not exceeding the operational period. Where the court imposes an unpaid work requirement, in accordance with section 288(5) of the Sentencing Code, the supervision period must continue until the offender has worked the number of hours specified in the order, not exceeding the operational period.

183. This Act makes amendments to section 177(2) of the Sentencing Code to increase the maximum length of a custodial sentence that can be suspended from 2 years to 3 years. For custodial sentences of between 2 to 3 years, the Act amends section 288(2) to enable courts to set an operational period of up to 3 years. This Act does not amend the existing maximum of 2 years for the supervision period.

184. This measure applies to all offenders aged 18 and over, across all offences. However, this policy does not apply to Extended Determinate Sentences and Sentences for Offenders of Particular Concern.

Income reduction orders

185. Part 7 of the Sentencing Code sets out the existing financial orders and orders relating to property, which are available to the court upon sentencing. This includes fines, compensation orders, restitution orders, and deprivation orders. Furthermore, unlawful profit orders can be made under section 4 of the Prevention of Social Housing Fraud Act 2013, and slavery and trafficking reparation orders can be made under section 8 of the Modern Slavery Act 2015. This Act adds a new Chapter (Chapter 5) into Part 7 of the Sentencing Code which empowers the Court to impose an IRO alongside a suspended sentence order.

Purposes of sentencing

186. The five purposes of sentencing are set out in section 57 of the Sentencing Code. They are: the punishment of offenders; the reduction of crime (including its reduction by deterrence); the reform and rehabilitation of offenders; the protection of the public; and the making of reparation by offenders to persons affected by their offences. Courts are required to consider these statutory purposes when sentencing offenders aged 18 years and over.

187. Amendments are made to section 57(2)(d) of the Sentencing Code to expressly refer to the need to protect victims of crime alongside the public.

Deferment of sentence

188. Section 5 of the Sentencing Code currently enables the courts to make a deferment order. Whether to make a deferment order is a matter for judicial discretion, considering the factors set out in the overarching sentencing guideline, Imposition of Community and Custodial Sentences. This Act extends the maximum deferment order period from 6 months to 12 months.

Finding of domestic abuse

189. This measure draws on procedural precedents such as section 66 of the Sentencing Code (hate crime aggravation), though it does not create a statutory aggravating factor. It aligns with the definition of domestic abuse in the Domestic Abuse Act 2021. Additionally, judges already engage with the Sentencing Council's Domestic Abuse Guideline when they identify that an offence has occurred in a domestic setting and consider this as a relevant factor in sentencing. The judicial finding will be recorded as a formal court result and applies only in the criminal jurisdiction, post-sentencing.

Offenders of particular concern

190. The SOPC was introduced in the Criminal Justice and Courts Act 2015 in England and Wales, and the offences to which a SOPC may apply are set out in Schedule 13 to the Sentencing Code.

191. The Counter Terrorism and Sentencing Act (CTSA) 2021 amended Schedule 13 to make a number of terrorism offences (carrying a maximum penalty of more than two years' imprisonment) eligible for a SOPC as a minimum sentence (or in the case of Scotland and Northern Ireland an equivalent terrorism sentence with a fixed licence period).

192. A SOPC must be imposed in circumstances where the court finds that neither the seriousness threshold for applying a life sentence, nor the dangerousness threshold for applying an EDS, have been met.

193. In relation to adult offenders, SOPCs are governed by section 265 (offenders aged 18 and over but under 21) and section 278 (offenders aged 21 and over) of the Sentencing Code. Section 252A of the Sentencing Code provides for offenders aged under 18 when convicted of an offence listed in Part 1 of Schedule 13 to the Sentencing Act (offences involving or connected with terrorism).

194. Offenders serving a SOPC cannot be considered for release before the two-thirds point of their custodial sentence. Unless released sooner at the discretion of the Parole Board, all offenders serving a SOPC must be released at the end of their custodial term and are then subject to a further 12-month licence period to manage the assessed risk the offender poses.

Whole life order: murder of police, prison or probation officer

195. The relevant legal background is explained in the policy background section of these Notes.

Rehabilitation activity requirement

196. A community order is a variety of disposal that can be given by way of sentence in the magistrates' courts and in the Crown Court. In the Sentencing Code, it is provided that a "community order" is an order that imposes one or more community order requirements. The RAR is one of those requirements.

197. Community orders are governed by Chapter 2 of Part 9 (sections 200 to 220) of, and Schedules 9, 10 and 11 to, the Code. Schedule 9 contains detailed provision about the requirements that can be made under the various requirements imposed as part of a community order. Schedule 10 contains provisions about breach, revocation and amendment of community orders. Schedule 11 concerns the transfer of community orders to Scotland or Northern Ireland.

198. By virtue of section 200(1) of the Code, a "community order" means an order imposing one or more community order requirements. By section 200(2), those community order requirements are listed in column 1 of the community requirements table. The community requirements table is found in section 201 of the Code. The RAR is listed in the table in section 201 of the Code. That table indicates that Part 2 of Schedule 9 is where to find further detailed provision about the RAR. The table notes no special restrictions on availability as regards the RAR.

199. By section 202(1) of the Code, a community order is available to a court by or before which an offender is convicted of an offence if (a) the offender is aged 18 or over when convicted and (b) the offence is punishable with imprisonment by that court. Section 202(2) makes section 202(1) subject to general restrictions which are signposted by sections 202(2)(b) and (c) and section 202(3). It is not necessary to set those out for the purposes of this Act. But note section 202(2)(b) which signposts to section 203 where there is a restriction on making both a community order and a suspended sentence order.

200. A suspended sentence is a sentence which can be imposed on an offender where the seriousness of the offence passes the custody threshold but there are factors concerning the offender which justify suspending his custodial sentence. A suspended sentence is treated as a sentence of imprisonment.[2]

201. A suspended sentence order may specify one or more available community requirements[3]. Section 286(4) provides that these community requirements are listed in column 1 of the community requirements table in section 287, and section 286(5) that further provision about each requirement is made by the provisions of Schedule 9. The requirements listed in the table in section 287 are the same requirements that may be imposed by a community order as listed in section 201. Like the table in section 201, the table in section 287 also contains the RAR. Where a community requirement is imposed under a suspended sentence, the order must specify the supervision period[4]; and where a suspended sentence specifies one or more community requirements, those must be completed within the supervision period.

202. The provision in Schedule 9 relating to the RAR does not make any distinction between a RAR imposed as part of a community order and a RAR imposed as part of a suspended sentence order. Section 290 in relation to suspended sentences prohibits the court from imposing a community order requirement in circumstances where the table in section 287 provides that such a requirement is not available, and section 291 gives more detail about those circumstances. Sections 290 and 291, which are in the same terms as sections 206 and 207 in relation to community orders, likewise do not mention the RAR. Section 292 in relation to suspended sentence orders that impose community requirements states that Schedule 9 applies. Section 292 also has provision about compatibility of multiple community requirements imposed with suspended sentence orders and the need for the court to avoid conflict with the offender's religious beliefs, any other court order to which the offender is subject and the offender's work or education.

203. The RAR was introduced in the Offender Rehabilitation Act 2014 as part of the Transforming Rehabilitation reforms intended to allow providers of probation services (Community Rehabilitation Companies, CRCs) greater flexibility to decide on the best ways to rehabilitate low and medium risk individuals. CRCs were set up on a system of 'payment by results' and therefore rehabilitative interventions had to be measurable. The RAR legislation therefore set out that the court could specify the maximum number of 'days' on which an individual should engage in activity.

204. Later, the Sentencing Act 2020 introduced the Sentencing Code which consolidated existing sentencing procedure law. The relevant RAR legislation is set out in the Code.

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[2] Sentencing Code, section 289.

[3] Sentencing Code, section 286(2).

[4] Sentencing Code, section 288(3).

Sentencing Council for England and Wales

205. The process for making guidelines is set out in sections 120 to 124 of the CJA 2009. Prior to the passage of this Act, the Lord Chancellor was a statutory consultee on guidelines, but the Council were not required to seek formal approval from the Lord Chancellor (or the Lady Chief Justice) before issuing final, definitive guidelines.

206. The Council already published an annual business plan prior to the passage of this Act, but were not required by law to do so, nor was there any requirement to consult with the Lord Chancellor on its contents.

Prison capacity report

207. Section 5 of the Prison Act 1952 imposed a duty on the Secretary of State to issue and lay before Parliament an annual report on every prison, to include a statement of the accommodation and number of prisoners, the particulars of the work done by prisoners and a statement of the punishments in each prison.

208. Section 21 of this Act repeals section 5 of the Prison Act 1952.

Part 2: Management of offenders after sentencing

Release

209. The existing framework is provided by the Criminal Justice Act 2003 ("the 2003 Act"). Chapter 6 of Part 12 applies to all determinate sentences (regardless of the release regime applicable at the time of sentence). The Act amends the relevant provisions of the 2003 Act to revise statutory release points. The Act sets a minimum release point of one third for those serving Standard Determinate Sentences (SDS) which currently have automatic release of 40 or 50%, subject to any added days awarded for breach of the Prison Rules. Those formerly released at the two-thirds point of their sentence instead become eligible at the halfway stage but again could be released later if days are added. This Act repeals the HDC provisions for those serving SDSs.

210. Those whose behaviour in custody has resulted in the sanction of added days by an Independent Adjudicator (a District Judge) (under Rule 55A(3) of the Prison Rules 1999), will stay in custody past the one third point until those additional custodial days have been served.

211. The Act preserves release arrangements for offenders sentenced under section 250 of the Sentencing Code (or its predecessor, section 91 of the Powers of Criminal Courts (Sentencing) Act 2000. These offenders will not be subject to the new release arrangements for adult standard determinate sentences. The Act repeals the Criminal Justice Act 2003 (Requisite and Minimum Custodial Periods) Order 2024 and offenders sentenced under section 250 or 91 will be subject to automatic release at 50% of their sentence. Those released at the two-thirds point of their sentence under section 244ZA will continue to be subject to this release arrangement.

212. Whilst the Act removes eligibility for offenders serving SDSs for discretionary early release under Home Detention Curfew provided for by section 246, offenders sentenced under section 250 will continue to be eligible and could therefore be discretionarily released at any time during the period of 365 days ending with the day on which they will have served half of their sentence. The existing HDC exclusions will continue to apply.

Licences

213. Section 250 of the 2003 Act governs the imposition of licence conditions for determinate sentence offenders. The Secretary of State sets licence conditions for determinate sentence offenders, and where automatically released for extended sentence offenders and those serving sentence for offenders of particular concern. Where release is effected by discretion of the Parole Board then the Board sets the conditions.

214. All licences must include standard licence conditions, which are prescribed by the Secretary of State through secondary legislation, currently the Criminal Justice (Sentencing) (Licence Conditions) Order 2015. The Secretary of State also has specific powers in section 250 to set conditions for electronic monitoring, drug testing and polygraph testing. A drug testing condition may only be imposed if the conditions in section 64 of the Criminal Justice and Courts Services Act 2000 are met (where the Secretary of State is satisfied that the offender's misuse of a class A or B drug caused or contributed to their offence (or is likely to cause further offences) and the offender is dependent on or has a propensity to misuse these drugs).

215. The Act amends section 250 to include specific powers to set new restrictive licence conditions. These include a prohibition on driving, a ban on attendance at public events, restriction zones (where an offender's movements are restricted to a specific area) and a prohibition on entering drinking establishments. The Act also amends the power to set a drug testing condition such that it can be applied to all offenders.

Recall and further release

216. The Secretary of State has the power to revoke a determinate sentence offender's licence and recall them to prison under section 254 of the 2003 Act. Although there is no statutory test for recall, in practice the power is exercised for breach of licence condition(s) or where the offender's risk can no longer be managed in the community.

217. For SDS offenders, there are two types of recall following licence revocation, depending on whether the offender is suitable for automatic release (known as "fixed term recall") or whether they should be liable to serve the remainder of their sentence in prison, unless re-released by the Secretary of State or Parole Board (known as "standard recall").

218. The Criminal Justice Act 2003 (Suitability for Fixed Term Recall) Order 2025 ("the Order") was made on 8 July 2025, and came into force from 2 September 2025. The Order amends the test for suitability for fixed term recall in section 255A of the 2003 Act such that an offender is suitable for automatic release where they are 18 or over and serving a sentence of less than four years and none of the exclusions apply, or they will not pose a risk of serious harm if released at the end of the fixed term period. The exceptions from mandated fixed term recall are that the offender is managed under multi-agency public protection arrangements (MAPPA) level 2 or 3, is a terrorist or terrorist-connected offender or poses a terrorist risk, has committed certain national security offences, or is recalled on account of being charged with a further offence.

219. A fixed term recall means the offender will be released automatically after 28 days (14 days for sentences of under 12 months) under section 255B. A standard recall means the offender is liable to serve the remainder of their sentence in prison, unless re-released by the Secretary of State or Parole Board under section 255C.

220. The Act amends the recall provisions in the 2003 Act to provide that all offenders serving SDS sentences will serve 56 days in custody following recall, unless excluded. At the end of this period, except in exceptional circumstances, they will be automatically re-released on licence. The Act also provides that an offender may be detained after the end of the automatic

release period on a standard recall in certain limited circumstances. They may be detained where 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; or (b) specified offences, within the meaning of section 306 of the Sentencing Code (this includes specified violent, sexual or terrorist offences). They may also be detained where the Secretary of State receives information following the recall that means the offender falls into one of the exceptions from fixed term recall set out above, which mirror those in the Order, as well as adding persons who may be at risk of involvement in foreign power threat activity to the list of exclusions.

221. The Act preserves the recall model (prior to commencement of the 2025 Order) for those sentenced as children to a standard determinate sentence under section 250 of the Sentencing Code or historically under section 91 of the Power of Criminal Courts (Sentencing) Act 2000, where they are not also serving an adult standard determinate sentence.

222. Consequently, the position for offenders serving these youth standard determinate sentences under sections 255A (as amended by the Criminal Justice Act 2003 (Suitability for Fixed Term Recall) Order 2024) is preserved.

223. For those aged under 18 when returned to custody, a fixed term recall will be available under section 255A where the Secretary of State is content that they would not be a risk of harm to the public if released at the end of the automatic release period. Those serving youth standard determinate sentences who are over 18 years old when recalled will automatically receive a fixed term recall of 14 days under section 255A if they are serving a sentence of under 12 months, providing they have not been recalled on account of being charged with a serious offence and are not being managed at MAPPA level 2 or 3 under section 325. The period for fixed-term recalls as provided for in section 255A will continue to be 14 days for sentences of less than 12 months and 28 days for sentences of 12 months of more.

Removal of requirement for supervision after sentence

224. Post-sentence supervision (PSS) was introduced following the Ministry of Justice publication of a consultation paper entitled "Transforming Rehabilitation: A revolution in the way we manage offenders", in January 2013. That document set out the then Government's plans to reduce re-offending, which included extending statutory supervision to offenders released from short custodial sentences. This was subsequently formalised by the Offender Rehabilitation Act 2014, which inserted PSS provisions to the Criminal Justice Act 2003.

225. Section 2 of the Offender Rehabilitation Act 2014 amended the 2003 Act inserting sections 256AA to 256AC to introduce provisions for the supervision of prisoners serving less than 2 years. It applies to offenders serving a sentence of more than one day but less than 2 years, with some exclusions. This requires up to 12 months of supervision, bringing the total licence and supervision period to 12 months following release from prison. Probation has a statutory requirement to deliver up to 12 months of PSS for every offender released from a sentence of under two years.

226. The Act removes PSS and makes consequential amendments to the Offender Rehabilitation Act 2014 and the Criminal Justice Act 2003 to that effect.

Early Removal of prisoners liable to removal from the United Kingdom

227. Sections 260 and 261 of the Criminal Justice Act 2003 allow for the removal of determinate sentence foreign national prisoners for the purposes of immediate deportation. Section 260(1) provides that where a fixed-term prisoner is liable to removal from the United Kingdom, the Secretary of State may remove the prisoner from prison under that section at any time after the prisoner has served the minimum pre-removal custodial period. The minimum pre-

removal custodial period is currently the longer of one third of the requisite custodial period and the requisite custodial period less 4 years (section 260(2)). The Secretary of State has a power under secondary legislation (under the affirmative procedure) to amend the time periods which determine the minimum pre-removal custodial period and the percentage of the sentence that has to be served before removal, but not to remove the requirement that an offender serve a minimum pre-removal custodial period (section 260(6)).

228. The Criminal Justice Act 2003 (Removal of Prisoners for Deportation) Order 2025 was laid in Parliament on 25 June 2025, and came into force on 23 September 2025. The Order increased the maximum removal period so that eligible offenders can be removed from prison for the purpose of deportation earlier in their sentence.

229. This Act removes the requirement that that an offender serve a minimum pre-removal custodial period and provides that there be no maximum removal period before an eligible offender can be removed, so an offender can be removed any time after sentencing.

230. Subsection 2C of section 260 confirms that the section does not apply to a prisoner to whom section 247A applies. Section 247A deals with restricted eligibility for release on licence of terrorist prisoners and requires terrorist offenders to serve two thirds of their sentence before being considered for release.

Community order requirements and community requirements

Removal of maximum period for unpaid work requirement

231. Unpaid work requirements were introduced by the 2003 Act as part of the requirements sentencers can impose as part of a community order – those provisions were replaced by the Sentencing Code. Under the Code, a community order imposed by the court may include one or more of the fifteen community order requirements outlined in section 201 of the Code, which should include at least one requirement imposed for the purpose of punishment, and an unpaid work requirement is one such community order requirement a court can impose. Paragraphs 1 and 2 of Schedule 9 to the Sentencing Code defines an unpaid work requirement as a requirement that the offender must perform unpaid work to be completed within a period of 12 months.

Number of hours work required by unpaid work requirement

232. An unpaid work requirement is principally imposed as part of a community sentence under the Sentencing Code. Paragraph 1 and 2 of Schedule 9 to the Code, defines an unpaid work requirement as a requirement that the offender must perform unpaid work in accordance with the instructions by the responsible officer as to the work to be performed, and the times, during a 12-month period within which the work must be performed by the offender. By section 220 of the Code a community order ceases to be in force at the end date of the order, or if later, when an unpaid work requirement imposed by the order has been completed. Under section 288 of the Code, where a suspended sentence order includes an unpaid work requirement the supervision period specified in the order continues beyond the end of the operational period of the order.

233. This measure introduces an automatic reduction to the total number of unpaid work hours specified in a community order or suspended sentence order that an offender is required to perform where it imposes an unpaid work requirement, when an offender demonstrates compliance with their UPW requirement. To be eligible for this reduction, offenders will need to successfully complete a qualifying period, and demonstrate sustained compliance with the unpaid work requirement.

Community Order Reform

234. The framework for imposing community orders is set out in Chapter 2 of Part 9 of the Sentencing Code. In summary, a community order may only include 'available requirements' (section 206), which are listed in section 201 of, and Schedule 9 to, the Code. There is a general requirement that restrictions imposed by a community order are commensurate with the seriousness of the offence (section 208(6)) and that at least one community order requirement must be imposed for the purposes of punishment, unless the court also imposes a fine or there are exceptional circumstances (section 208(10) and (11)). Community orders must have a specified end date and cannot last more than three years (section 209).

235. The framework for suspended sentence orders is set out in Chapter 5 of Part 10 of the Sentencing Code. A suspended sentence may, but is not required to, include community requirements with which the offender must comply during a specified 'supervision period' (section 286(2), 288(3)-(4)), which must not exceed two years (section 288(4)). The community requirements are set out in section 287 of, and Schedule 9, to the Code. They are identical to the available requirements for community orders. The supervision period for a suspended sentence order cannot exceed two years.

Termination of Community Order (CO) and Termination of Supervision Period of Suspended Sentence Order (SSO)

236. Sections 200 – 220 and 286 – 305 and Schedules 9 and 16 of the Sentencing Code govern the imposition of COs and SSOs by the courts.

237. COs are orders that impose one or more community order requirements outlined in section 201 of the Sentencing Code. The operating provisions for the fifteen requirements that can form part of an individual CO are found at Schedule 9 of the Code, and in most cases, the CO order must also include at least one requirement imposed for the purpose of punishment (see section 208(10) and (11) of the Code). By section 202 a CO is available to a court where the offender is the age of 18 or over and where a criminal offence is imprisonable. Section 204(2) provides that a court must not make a CO unless it is of the opinion that the offence, or a combination of associated offences, were "serious enough to warrant the making of such an order". Although the offence for which the offender is convicted must carry a potential sentence of imprisonment, there is no need for the "custody threshold" to be met in the particular case (i.e. the judge does not to consider that that offence itself warrants a prison sentence) in order for the court to make a CO. This contrasts with a SSO, which can only be made where the custody threshold is met.

238. Section 209 provides that the CO must specify an "end date" by which all the requirements in it must have been complied with. The end date must not be more than 3 years after the date of the order. Section 220 provides that a CO ceases to be in force at the end date, or, if later, when any unpaid work requirement imposed by the order has been completed. Section 220(2) provides that a CO ceases to be in force when it is revoked. Paragraphs 14 and 15 of Schedule 10 to the Code which relates to COs in force enables a court, on the application of the offender or an officer of a provider of probation services, to revoke a community order in circumstances where the offender is making good progress or is responding satisfactorily to supervision or treatment as the case requires, if to do so would be in the interest of justice having regards to circumstances that have arisen since the order was made.

239. In relation to SSOs, section 277 of the Code provides for people aged 21 or over that an SSO is available where a court passes a prison sentence of at least 14 days but no more than 2 years. For people under age 21, the relevant provision is section 264, and this is available where the term of sentence is not more than 2 years. A SSO is an order providing that a sentence of imprisonment or detention in a YOI is not to take effect unless an "activation event" occurs

and a court order under paragraph 13 of Schedule 16 that the sentence is to take effect. An "activation event" occurs if the offender commits another offence during the operational period or contravenes any community requirement during the supervision period.

240. An SSO may have community requirements attached to it such as an unpaid work requirement. The community requirements for SSOs listed in section 287 are the same as those for CO in section 201 of the Code.

241. Section 288 provides that a SSO must specify the operational period, which must be a period, beginning with the day on which the order is made, of at least 6 months and not more than 2 years. If the SSO imposes community requirements, the order must also specify the supervision period, which again must be at least 6 months and no more than 2 years, or the operational period, whichever is the least. The supervision period is the period in which any community requirements imposed under the SSO is supervised, except for a SSO imposing an unpaid work requirement which the supervision period continues until the work requirement is complete but does not continue beyond the end of the operational period. The maximum length of an operational period is amended to three years by other measures in this Act.

242. Section 303 and Schedule 16 make provision about breaches of requirements of SSOs, and revocation and amendment of SSOs. Paragraph 22 of Schedule 16 which relates to community requirements imposed as part of a SSO, enables a court, on the application of the offender or an officer of a provider of probation services, to cancel community requirements in circumstances where the offender is making good progress or responding satisfactorily to supervision, if to do so would be in the interest of justice having regards to circumstances that have arisen since the SSO was made.

243. The Act enables an offender's community order or supervision period of a suspended sentence order to terminate early if they engage with probation and court-ordered requirements and have completed all court-ordered requirements and all other objectives in their sentence plan. This means COs would end entirely, and the supervision period of a SSO will end, but the suspended sentence will continue to the end of the operational period of the sentence as set out by the court

Parole Board rules

244. Section 239 of the 2003 Act makes provision for the Parole Board of England and Wales ('the Board'), which is responsible for deciding if particular prisoners are safe to be released into the community. Section 239(5) contains a rule-making power in relation to proceedings of the Board. Section 73(2) of the Victims and Prisoners Act 2024 amends this power to allow the Secretary of State to prescribe that certain classes of parole cases must be decided by certain types of members.

Repatriated prisoners

245. Repatriation is governed by the Repatriation of Prisoners Act 1984 (the 1984 Act). This allows for the repatriation of a prisoner to or from any country or territory outside of the British Islands, so long as there is an international arrangement in place with that country or territory. The 1984 Act provides the means to give effect to a transfer and treat a prisoner transferred to the UK as if their sentence had been imposed in the UK, or to give the authority for the removal of the prisoner and their sentence from the UK. Section 3(4) provides that once transferred into the UK, the sentence is treated as if it is a sentence that was imposed by a UK criminal court.

246. The release provisions are applied to the balance of the sentence after transfer, i.e. the period left to be served on transfer, which is set out in the warrant. The Schedule to the 1984 Act's main function is to apply Chapter 6 of Part 12 of the Criminal Justice Act 2003 (the 2003 Act) and Part 2 of the Crime (Sentences) Act 1997 (the 1997 Act) so that the England and Wales release provisions apply in the same way as for domestic sentences.

247. The statutory release provisions setting out the release and recall arrangements for all prisoners subject to fixed-term sentences are contained in Chapter 6 of Part 12 of, and Schedule 20B to, the 2003 Act. The Secretary of State is required to release prisoners serving fixed-term sentences once they have served the requisite custodial period. The Criminal Justice Act 2003 (Requisite and Minimum Custodial Periods) Order 2024 modified the release point for standard determinate sentences imposed for certain offences from 50% to 40%. Murder was not one of the offences excluded in this Order so an offender repatriated from overseas serving a standard determinate sentence could have been released at 40% (no repatriated offenders serving sentences for murder were released at 40%). Murder was later excluded from the release point modification in the Home Detention Curfew and Requisite Minimum Custodial Periods (Amendment) Order 2024, which moved the release point back to 50%.

Sentences of imprisonment or detention for public protection

248. Section 61 of the Victims and Prisoners Act 2024 inserted sections 32ZAA to 32ZAC to the Crime (Sentences) Act 1997 (the '1997 Act'). Section 32ZAA provides that the Secretary of State can direct the Parole Board to refer eligible life prisoners' cases to the High Court if the release of the prisoner would be likely to undermine public confidence in the parole system and if the case were referred, the High Court might not be satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined. A life prisoner must be serving a sentence in respect of an offence specified or described in section 32ZAB (murder, rape, terrorism and terrorism-connected offences and causing/allowing the death of a child). Section 32ZAC sets out the powers of the High Court when dealing with a referral of a life prisoner's case. The High Court must either order the Secretary of State to give effect to the Parole Board's release direction if the Court is satisfied that the statutory release test is met, or must make an order quashing the Parole Board's direction to release the prisoner on licence.

249. The statutory provisions setting out the release and recall arrangements of all life sentence prisoners, are set out in Part 2 of the 1997 Act.

250. Section 31A deals with termination of IPP licences. Section 31A(5) defines the qualifying period in relation to a prisoner who has been released on licence as three years for IPP offenders and two years for those convicted when under the age of 18. Section 31A(3)(b) provides that the Secretary of State must refer the prisoner's case to the Parole Board if the qualifying period has expired. Where a reference is made, the Parole Board can either make an order that the licence will cease to have effect where it is satisfied it is no longer necessary for the protection of the public for the licence to remain in force, or dismiss the reference (section 31A(4)). The licence will automatically terminate after a further two years from the qualifying period as long as the prisoner has remained in the community without recall.

251. Pursuant to section 32 of the 1997 Act, the Secretary of State can revoke a life prisoner's licence and recall them to prison. The Secretary of State will refer the case of a life prisoner recalled under this section to the Parole Board (section 32(4)). The Parole Board must not give a direction for release for the Secretary of State to give effect to unless satisfied that it is no longer for the protection of the public that the life prisoner should remain in prison (section 32(5A)). If the Parole Board is considering the release after recall of an IPP offender

who has already met the requisite qualifying period defined in section 31A(5), the Parole Board can direct that their release be unconditional, i.e. without a licence, which means that on release, their sentence ends (section 31A(4F)(a)).

Part 3: Bail

"No real prospect" test

252. The Bail Act 1976 provides the statutory framework that applies when a criminal court is deciding whether to grant a defendant bail or instead remand them in custody.

253. Section 4 of the Bail Act 1976 provides that the court must grant bail to most unconvicted defendants and convicted defendants where the court is adjourning in order to obtain reports, unless one of the applicable exceptions to bail in Schedule 1 applies. Part 1 of Schedule 1 to the Act lists the exceptions to bail that apply to a defendant charged with an either-way or indictable only offence; part 1A lists the exceptions that apply to a defendant charged with summary-only offences punishable with imprisonment; and part 2 lists the exceptions that apply where a defendant is charged with a non-imprisonable offence.

254. The Legal Aid, Sentencing and Punishment of Offenders Act 2012 amended the Bail Act 1976 to introduce the "no real prospect" test. This provides that, for unconvicted adult defendants, fewer exceptions to the right to bail in Schedule 1 to the Act apply where it appears to the court that there is no real prospect that the defendant will be sentenced to a custodial sentence.

255. This Act amends the "no real prospect" test so that it now only applies where it appears to the court that there is no real prospect that the defendant will receive a sentence of immediate custody. The test is also amended so that it applies to convicted unsentenced defendants.

Conditions for imposing electronic monitoring requirements

256. Section 6ZAB of the Bail Act 1976 defines an electronic monitoring requirement as a requirement imposed for the purpose of securing the electronic monitoring of a person's compliance with any other requirement imposed on him as a condition of bail.

257. Under section 3AB of the Bail Act 1976, there are currently two conditions that must be met before an electronic monitoring requirement will be available for an adult defendant:

- the first condition is that the court is satisfied that without the electronic monitoring requirements the person would not be granted bail; and
- the second condition is that the court is satisfied that the necessary provision for dealing with the person concerned can be made under arrangements for the electronic monitoring of persons released on bail that are currently available in each local justice area which is a relevant area.

258. This Act amends the first condition that must be met for defendants where there is a real prospect that they will receive a suspended sentence, but there is no real prospect that they will receive an immediate custodial sentence.

Statutory factors that may be relevant to bail

259. Paragraph 9 of part 1 of schedule 1 to the Bail Act provides a list of factors that the court shall have regard to the extent that they "appear to [the court] to be relevant" for the purposes of deciding whether some of the exceptions to the right to bail apply. The paragraph makes clear that the court is not limited to considering the factors set out in the paragraph when considering whether to grant bail.

260. The Act adds the following factors as potentially relevant factors to this list: the defendant is pregnant; the defendant is a primary caregiver; and the defendant has been a victim of domestic abuse.

Part 4: Foreign Criminals

Deportation of foreign criminals

261. Section 32 of the UK Borders Act 2007 requires the Secretary of State to make a deportation order in respect of a non-British, non-Irish citizen convicted in the UK of an offence for which they were sentenced to a period of imprisonment of at least 12 months, unless an exception under section 33 of that Act applies. Section 38(1) defines a period of imprisonment for the purpose of section 32(2). The Act amends the definition of a period of imprisonment in section 38(1) of the 2007 Act removing section 38(1)(a) thereby extending the duty to deport to foreign criminals who receive suspended sentences.

262. The Act amends the definition of a period of imprisonment in section 38(1) of the 2007 Act removing section 38(1)(a) thereby extending the duty to make a deportation to foreign criminals who receive a suspended sentence of at least 12 months.

263. Part 5A of the Nationality, Immigration and Asylum Act 2002 (Article 8: additional considerations in cases involving foreign) requires a court or tribunal to have regard to, in cases concerning the deportation of a foreign criminal, the considerations set out in section 117C of the 2002 Act when determining whether a decision made under the Immigration Acts would breach Article 8 of the European Convention on Human Rights (ECHR) and as a result would be unlawful under section 6 of the Human Rights Act 1998. Section 117D(4) provides a definition of a period of imprisonment for the purpose of Part 5A.

264. The Act amends the definition of a period of imprisonment in section 117D(4), which has the effect of including a person who has been subjected to a suspended sentence of at least 12 months as meeting the definition of a "foreign criminal" for the purpose of the Article 8 ECHR public interest considerations in section 117C, and all references to periods of imprisonment of a certain length of time in Part 5A include suspended sentences.

Territorial extent and application

265. Section 48 sets out the territorial extent of the Act, that is the jurisdictions for which the Act forms part of the law. The extent of an Act can be different from its application. Application is about where an Act produces a practical effect.

266. The Act extends and applies to England and Wales only, with the following exceptions:

- Section 8 (sentence with fixed licence period: Scotland) extends and applies to Scotland;
- Section 9 (sentence with fixed licence period: Northern Ireland) extends and applies to Northern Ireland;
- Section 13(6) and (7) (rehabilitation activity requirement renamed probation requirement – transfer of community orders and suspended sentence orders to Scotland or Northern Ireland) extend and apply to England and Wales, Scotland and Northern Ireland.
- Section 18 (power to add to or alter requirements) extends and applies to England and Wales, Scotland and Northern Ireland;
- Sections 34(4) and (5) (repeal of provisions relating to supervision after end of sentence) extend and apply to England and Wales, Scotland and Northern Ireland;
- Section 39(7) (termination of supervision period of suspended sentence order) extends and applies to England and Wales, Scotland and Northern Ireland;
- Section 45 (deportation of foreign criminals) extends and applies to England and Wales, Scotland and Northern Ireland;
- Part 5 extends and applies to England and Wales, Scotland and Northern Ireland.

267. The Act makes a number of amendments to the Armed Forces Act 2006 or provisions applied by that Act ("armed forces provisions"). The provisions in the Act which are relevant to the armed forces extend directly to the Isle of Man and the British overseas territories except Gibraltar (subject to a power to modify them as they extend there). They apply to armed forces personnel and civilians subject to service discipline wherever they are in the world.

268. Subsections (1) and (2) of section 384 of the Armed Forces Act 2006 apply to the armed forces provisions in this Act, which means that His Majesty may by Order in Council provide for those provisions to extend to the Channel Islands, with such modifications as may be specified in the Order.

Commentary on provisions of Act

Part 1: Sentencing

Section 1: Presumption of suspended sentence order for sentences of 12 months or less

269. Subsection (2) amends the Sentencing Code to insert a new section 264A after section 264 of the Sentencing Code. This subsection sets out the presumption to impose a suspended sentence order in respect of adults aged 18 or over, but under 21.

270. Section 264A(1) sets out the criteria that must be met for this measure to apply. The offender must be aged 18 or over, but under 21, at the date of conviction for the offence. The offender must be convicted of the offence on or after the day that section 1 of this Act came into force; a court must have determined that a custodial sentence of twelve months or less is the appropriate sentence to impose; and a suspended sentence order must be available to the court for that sentence. Section 264 of the Sentencing Code provides the sentences that can be suspended for an offender aged 18 or over but under 21.

271. Section 264A(2) provides that the court must suspend the sentence unless there are exceptional circumstances relating to the offence or offender which justify not making a suspended sentence order. The intention is to preserve judicial discretion, where due to the circumstances of the case, the court does not consider that a sentence should be suspended. In proceedings before the service courts, exceptional circumstances might include, for example, where it is in the interests of maintaining service discipline. Section 264A(3) provides circumstances in which the presumption to suspend short custodial sentences of 12 months of less will not apply. Where an exception applies under section 264A(3), the court should consider, in the usual way, whether the custodial sentence should nevertheless be suspended by reference to the sentencing guidelines.

272. Sections 264A(3)(a), 264A(3)(b), and 264A(3)(c) are similar in intent, relating respectively to offenders, those in or associated with the armed forces, and those in hospital under the Mental Health Act 1983. Where an offender is already in custody or under detention at the time of sentencing, it may not be appropriate to impose a suspended sentence order and accordingly, it would be inappropriate for the presumption to suspend a short sentence to apply.

273. Section 264A(3)(a) provides that the presumption will not apply where the offender, on the date of the sentencing hearing, is in custody in accordance with a custodial sentence, is remanded in custody in different criminal proceedings, or has been committed to custody by court order.

274. Section 264A(3)(b) provides that the presumption will not apply where the offender, in or associated with the armed forces, is in custody in accordance with a sentence of service detention or custodial sentence, in detention pursuant to offences during the currency of a detention and training order, detained in service custody in different proceedings, remanded or admitted to hospital, or committed to custody by service court order.

275. Section 264A(3)(c) provides that the presumption will not apply where the offender is detained in hospital pursuant to a hospital order, including for those in or associated with the armed forces, or by direction of the Mental Health Act 1983.

276. Section 264A(3)(d) provides that the presumption does not apply where the sentence of detention in a young offender institution is one of two or more sentences that are imposed on the same occasion, and any of those sentences is more than 12 months, or the sentences are to be served consecutively and total more than 12 months. In these instances, the sentence would be more than 12 months, so the presumption to suspend a short sentence cannot apply.

277. Section 264A(3)(e) provides that the presumption does not apply where the offender is or was subject to a supervision order and is being resentenced for that offence or an associated offence. In such circumstances the presumption to suspend a short sentence does not apply because the offender has breached the supervision order.

278. Section 264A(3)(f) provides that the presumption does not apply where an offender commits a further offence while subject to a supervision order.

279. Section 264A(3)(g) provides that the presumption does not apply where, by committing an offence, an offender has breached a court order or an order or award in respect of a service offence within the meaning of the Armed Forces Act 2006. It also provides that the presumption does not apply where the offence occurred in circumstances closely connected with the breach of a court order or an order or award in respect of a service offence within the meaning of the Armed Forces Act 2006. This includes where the breach of a court order itself constituted the offence (for example, breach of a restraining order) and where the offence occurred in circumstances closely connected with the breach of an order, even if the breach itself is not a criminal offence. The relevant order could be any court order (criminal or civil), including those related to violence against women and girls.

280. Section 264A(3)(h) provides that the presumption to suspend a sentence does not apply where the court considers that making the order would put a particular individual at a significant risk of physical or psychological harm.

281. Section 264A(4) gives the definition of remand for the purposes of subsection 264A (3)(a)(ii).

282. Section 264A(5) provides that a court must comply with pre-sentence report requirements in section 30 of the Sentencing Code, when forming opinions about whether there are exceptional circumstances (subsection 2) or a significant risk of harm (subsection (3)(h)). The court must obtain and consider a pre-sentence report when deciding whether to impose a suspended sentence order under section 264A unless in the circumstances of the case, the court considers that it is unnecessary to obtain a pre-sentence report.

283. Section 264A(6) provides that nothing in section 264A affects the court's power to impose a suspended sentence order in a case where section 264A does not apply. This refers both to a situation where a court is considering imposing a suspended sentence order in respect of a sentence of custody of more than one year or where a sentence of one year or less falls outside of the scope of section 264A.

284. Section 264A(7) provides definitions.

285. Subsection (3) inserts new section 277A into the Sentencing Code. This subsection sets out the presumption to impose a suspended sentence in respect of offenders aged 21 or over.

286. Section 277A(1) outlines circumstances which must be met for this measure to apply. The offender must be aged 21 or over when convicted of the offence; must be convicted on or after the date on which section 1 of the Sentencing Act 2024 came into force; the offence must be one for which the custodial sentence being imposed is not more than 12 months; and a suspended sentence order must be available to the court for that sentence.

287. Section 277A(2) to (4) mirrors section 264A(2) to (4) for offenders aged 21 or over, with two exceptions: firstly, the addition of subsection 277A(3)(b)(vi) which provides that the presumption to suspend short sentences does not apply to people in custody pursuant to a pre-Armed Forces Act 2006 custodial sentence. Secondly, subsection 277A(3)(d) does not reference young offender institutions.

288. Section 277A(5) provides the definition of pre-Armed Forces Act 2006 custodial sentence.

289. Section 277A(6) to (8) mirrors section 264A(5) to (7).

290. Subsection (4) provides that Schedule 1 makes consequential amendments.

Schedule 1: Presumption of suspended sentence order: consequential provision

291. Schedule 1 makes amendments consequential on the new provision for the presumption to suspend short custodial sentences of 12 months or less.

292. Paragraphs 1 and 2 amend references to the power to suspend a custodial sentence in the Firearms Act 1968 and Proceeds of Crime Act 2002 so that they explicitly include reference to new sections 264A and 277A of the Sentencing Code, which set out the presumption to suspend short custodial sentences of 12 months or less.

293. Paragraph 3 amends the Armed Forces Act 2006 to provide that the presumption to suspend short custodial sentences applies similarly in the service justice system. The presumption applies only to sentences of imprisonment, which are served in the civilian prison system. It does not apply to sentences of service detention.

294. Paragraph 4 inserts a new paragraph 54A into Schedule 22 to the Sentencing Code which contains amendments to be made to the Sentencing Code. This is so that, in the event that the decision is taken to commence relevant aspects of Schedule 22 to abolish 'young offender institutions', section 277A will apply to all offenders aged 18 or over.

Section 2: Custodial sentences that may be suspended

295. Section 2 amends section 264 and section 277 of the Sentencing Code to provide that, where an offender is convicted of an offence following this section coming into force, the maximum term of custodial sentence which the court can suspend shall be 3 years unless the court is imposing an extended determinate sentence or a sentence for offenders of particular concern.

296. Section 2 also amends section 288 to provide that, where the custodial sentence being suspended is longer than 2 years, the maximum operational period for the sentence shall be up to 3 years. Otherwise the maximum operational period shall be 2 years.

297. Subsections (2) and (3) of Section 2 act to prevent Extended Determinate Sentences and Sentences for Offenders of Particular Concern from being suspended.

298. Subsection (8) amends the Armed Forces Act 2006 by inserting a new section 200ZA of the Armed Forces Act 2006. This ensures all equivalent custodial sentences available to the service courts may be suspended where the sentence imposed is up to 3 years in length.

Section 3: Income reduction orders

299. Section 3 introduces a new ancillary order which will be available to be issued alongside suspended sentence orders. The order will require an offender to pay a monthly amount which corresponds to a particular percentage of their excess monthly income above a threshold for up to the duration of their suspended sentence.

300. It does this by inserting a new Chapter 5 into Part 7 of the Sentencing Code, containing new sections 161A to 161G.

301. Section 161A defines what an income reduction order is. The section also contains a power to set a threshold of monthly income (which must be at least 170 times the hourly amount of the national minimum wage) above which constitutes "excess monthly income", and sets out that regulations may make further provision about how monthly income is determined, including whether the amounts to be deducted from income before the threshold is applied.

302. Section 161B sets out that the Secretary of State must by regulations make provision about how the court is to determine the percentage of the offender's monthly income which will be payable, but that such provision must specify a maximum percentage which may be payable, which itself must not exceed twenty per cent. It further lists factors which such regulations may provide that the percentage set by the court is to depend on.

303. Section 161C sets out that the Secretary of State may by regulations make such further provision about income reduction orders as the Secretary of State considers appropriate, including provision about collection, monitoring compliance, enforcement, recovery and appeals.

304. Section 161D sets out the circumstances in which an IRO is available to the court. It also gives the Secretary of State a power to make provision by regulations as to the circumstances in which a court may not make an income reduction order, and an offender is therefore exempt. It sets out that where an income reduction order is available, the court may make such an order whether or not it also deals with the offender for the offence in any other way,

305. Section 161E sets what an income reduction order must specify, the limit on the period for which the order can have effect, what the court must have regard to in determining whether to make an order or what percentage to make payable under the order, and how the power to make income reduction orders is to interact with powers to make other orders.

306. Section 161F makes provision for the variation or discharge of an income reduction order. It sets out when an income reduction order may be varied or discharged, who may apply for variation or discharge, and how the order may be varied.

307. Section 161G contains supplementary provisions regarding income reduction orders. This includes definitions, a power for the Secretary of State to amend the definition of "income" by regulations, detail on the nature and the parliamentary procedure that applies when exercising powers in the new Chapter, and a consequential amendment.

Section 4: Purposes of sentencing

308. Section 4 amends section 57(2)(d) of the Sentencing Code (purposes of sentencing: adults) to explicitly refer to protection of victims of crime alongside the wider public. Equivalent provision is made by amending section 237(1)(e) of the Armed Forces Act 2006.

Section 5: Date to which passing of sentence may be deferred

309. Section 5 amends section 5 of the Sentencing Code (making a deferment order), to substitute new wording in subsection (2) and introduce a new subsection (2A). The combined effect of section 5 is to amend the maximum period in which courts can delay passing a sentence, after a deferment order has been made.

310. Subsection (2)(a) sets out that, for offenders convicted of one (or more) offences before the relevant date, a maximum deferment order period of 6 months will continue to apply.

311. Subsection (2)(b) sets out that, for offenders convicted of one (or more) offences on or after the relevant date, a maximum deferment order period of 12 months will apply.

312. Subsection (3) provides a definition of 'relevant date,' being the date that section 5 comes into force.

Section 6: Finding of domestic abuse

313. Subsection (1) inserts a new Chapter 6 into Part 3 of the Sentencing Code, introducing a statutory requirement for courts to make a formal finding of domestic abuse where relevant during sentencing. The new Chapter comprises one new section – section 56A. In this new section:

- Subsection (1) establishes the scope of the duty. It applies where a court is sentencing an offender and determines that the offence involved domestic abuse carried out by the offender.
- Subsection (2) requires the court to state in open court that in its view the offence involved domestic abuse carried out by the offender, where they believe this to be the case. This ensures transparency and creates a formal record of the judicial finding.
- Subsection (3) clarifies that the requirement to make a judicial finding of domestic abuse does not override the court's existing duties under sections 59 and 60 of the Sentencing Code to follow sentencing guidelines. This preserves judicial discretion and ensures consistency with existing sentencing practice.
- Subsection (4) defines "domestic abuse" by reference to the Domestic Abuse Act 2021, ensuring consistency with the statutory definition already in use across the criminal justice system.

314. Section 6(2) makes equivalent provision for the service justice system.

315. The purpose of this section is to improve the identification and recording of domestic abuse in criminal cases. It enables better data collection, supports targeted offender management and victim services, and enhances the visibility of domestic abuse within the justice system.

316. The provision does not create a new offence or aggravating factor, nor does it affect sentence length.

317. The criminal procedure rules will be amended so as to require that finding to be recorded in the court record. The judicial finding establishes a single, consistent way to record when domestic abuse was a factor in a criminal offence, creating a defined category that can be used to identify and manage domestic abuse offenders, enable improved support for victims, and improved data on domestic abuse including analysis of reoffending.

318. The judiciary already engage with the domestic abuse sentencing guideline, which provides a framework for identifying when domestic abuse is relevant to an offence. The judicial finding builds on this existing practice by formalising how that identification is recorded. It requires no change to judicial discretion or sentencing approach, but ensures that where domestic abuse has been identified, it is captured consistently in court records.

319. This aligns with existing practice, where relevant background factors are routinely referenced in sentencing remarks without necessarily aggravating the sentence. The judicial finding formalises the current practice of considering domestic abuse at sentencing.

Section 7: Special custodial sentence for certain offenders of particular concern: England and Wales

320. Section 7 amends the Sentencing Act 2020 to add certain offences involving or connected with a threat to national security into Schedule 13. Schedule 13 lists offences for which a special sentence for offenders of particular concern (SOPC) is required as a minimum where the

court imposes a sentence of imprisonment but does not impose either a life sentence or an extended sentence. This means that for these offences, a SOPC must be imposed instead of a standard determinate sentence.

321. Subsection (1) provides that amendments are being made to the Sentencing Code.

322. Subsections (2) and (3) amend section 252A of the Sentencing Code (required special sentence of detention for terrorist offenders of particular concern). The amendments extend the application of SOPCs to offenders aged under 18 who are convicted of an offence listed in new Part 3 of Schedule 13 (offences involving or connected with a threat to national security). Where the court would otherwise impose a standard determinate sentence, and does not impose either a life sentence or an extended sentence, a SOPC must be imposed. This applies to offences committed on or after the commencement date of this provision.

323. Subsection (4) amends section 265 of the Sentencing Code (required special sentence for certain offenders of particular concern) to apply the SOPC requirements to offenders aged 18 to 20 who are sentenced to detention in a young offender institution. The requirement applies where the offence is listed in new Part 3 of Schedule 13 and the offender is convicted on or after the commencement date. The provision also clarifies the application of SOPCs to offences listed in Part 1 or Part 3 of Schedule 13, depending on the date of commission of the offence.

324. Subsection (5) makes equivalent provision for offenders aged 21 or over by amending section 278 of the Sentencing Code. Where such an offender is convicted of an offence listed in new Part 3 of Schedule 13 on or after the commencement date, and the court would otherwise impose a standard determinate sentence, a SOPC must be imposed. As with section 265, the provision also clarifies the treatment of offences listed in Part 1 or Part 3 of Schedule 13 depending on the date of commission of the offence.

325. Subsection (6) inserts a new Part 3 into Schedule 13 to the Sentencing Act 2020, setting out the offences for which a SOPC must be imposed. These offences are defined as involving or connected with a threat to national security.

326. Part 3 includes:

- Espionage offences under the Official Secrets Acts 1911 and 1920, including preparatory and inchoate conduct.
- National Security Act 2023 offences, such as sabotage, foreign interference, assisting foreign intelligence services, and failure to comply with registration or information requirements under the foreign activity regime.
- Electoral offences where the "foreign power condition" is met, excluding certain offences under section 89A of the Political Parties, Elections and Referendums Act 2000.
- Other serious offences (punishable by more than two years' imprisonment) where the foreign power condition is determined to apply, unless the offence carries a mandatory life sentence.

327. The inclusion of these offences reflects the heightened risk posed by conduct that undermines national security, particularly where foreign state involvement is established. The SOPC framework ensures that such offenders are subject to extended licence conditions and post-release supervision, even where a life sentence or extended sentence is not imposed.

328. Subsection (7) makes a consequential amendment to section 51A(3)(ba) of the Crime and Disorder Act 1998, which governs the circumstances in which children and young persons may be sent to the Crown Court for sentencing. The amendment ensures that the provision applies not only to offences listed in section 252A(1)(a) of the Sentencing Code (terrorism offences), but also to those listed in section 252A(1A)(a) (national security offences).

329. Subsection (8) makes a series of amendments to the Criminal Justice Act 2003 to ensure that the SOPC framework applies consistently to offenders sentenced under section 252A of the Sentencing Code, included those convicted of the relevant national security offences:

- Paragraph (a) amends section 244A so that the release provisions that currently govern SOPC offenders also apply to those sentenced under section 252A following these amendments.
- Paragraph (b) amends section 256AA to extend the supervision requirements after end of sentence to offenders aged 18 and under who receive SOPCs under section 252A.
- Paragraph (c) amends section 264(6) to clarify that offenders sentenced under s252A must serve at least two-thirds of the appropriate custodial term before becoming eligible for release.
- Paragraph(d) amends section 268 to ensure that the definition of the "requisite custodial period" includes sentences imposed under section 252A.

330. Subsection (9) makes consequential amendments to the Sentencing Code to reflect the expanded scope of section 252A and the introduction of national security offences. These include updates to committal provisions, sentencing powers, transitional arrangements, and references to the relevant categories of SOPC offences. In particular, references to "terrorist" offenders are replaced with "certain" offenders to reflect the broader cohort now covered by the SOPC regime.

331. Subsection (10) ensures consistency between section 7 and section 31. Section 7(8)(b) amends section 256AA of the Criminal Justice Act 2003, which concerns supervision at the end of a sentence. However, section 31 repeals those supervision provisions. Subsection (10) therefore provides that if section 31 is commenced before or simultaneously with section 7(8), paragraph (b) of that subsection is to be disregarded, as it would otherwise amend provisions that are no longer in force.

Section 8: Sentence with fixed licence period: Scotland

332. Section 8 makes changes to section 205ZC of the Criminal Procedure (Scotland) Act 1995 which provides for a custodial sentence with a fixed licence period for certain serious offences. The section extends the scope of this sentencing framework beyond terrorism offences to include offences involving or connected with a threat to national security. These changes align the Scottish framework with the sentences for offenders of particular concern (SOPC) regime in England and Wales, ensuring that offenders who pose a comparable level of risk are subject to similar post-release supervision.

333. Subsection (1) provides that amendments are being made to section 205ZC.

334. Subsection (2) updates the heading of section 205ZC by removing the word "Terrorism", so that it better reflects the broader category of offences now covered. The revised heading reads "Sentence with fixed licence period".

335. Subsection (3) inserts new subsections (1A) and (1B) into section 205ZC.

- Subsection (1A) extends the application of section 205ZC to offenders convicted on indictment of an offence listed in new Part 2 of Schedule 5ZB, provided the conviction takes place on or after the date of commencement of section 8 of this Act.
- The provision applies only where the court does not impose a life sentence, detention for life, an order for lifelong restriction, serious terrorism sentence, or an extended sentence for the offence or any associated offence.
- Subsection (1B) defines what constitutes an associated offence for the purposes of subsection (1A), including offences sentenced together or taken into consideration during sentencing.

336. Subsection (4) updates subsection (2) of section 205ZC to clarify when the provision does not apply to offenders under 18, based on the date the offence was committed. It introduces two distinct cut off dates:

- For terrorism offences: before the commencement of section 23 of the Counter-Terrorism and Sentencing Act 2021.
- For national security offences listed in Part 2 of Schedule 5ZB: before the commencement of section 8 of this Act.

337. Subsection (5) amends the subsection (8)(a) of section 205ZC to clarify that the definition of "terrorism offences" applies specifically to offences listed in the new Part 1 of Schedule 5ZB.

338. Subsection (6) provides that amendments are being made to Schedule 5ZB to the Criminal Procedure (Scotland) Act 1995, which sets out the offences eligible for a sentence with fixed licence period.

339. Subsection (7) updates the heading of Schedule 5ZB to reflect its expanded scope. The new heading reads: "Offences specified for the purpose of section 205ZC (sentence with fixed licence period)".

340. Subsection (8) amends Schedule 5ZB to divide it into two distinct parts. The existing offences in the Schedule are designated as "Part 1: terrorism Offences", providing a clearer structural distinction between terrorism-related offences and the new category of national security offences introduced in Part 2.

341. Subsection (9) makes a technical amendment to paragraph 7(1) of Schedule 5ZB (ancillary offences) to clarify that the reference to "Part" now means "part of this Schedule". This ensures consistency following division of the Schedule into two parts.

342. Subsection (10) makes corresponding technical amendments to paragraph 8 of Schedule 5ZB (abolished offences), to clarify the references to offences which would have constituted listed offences now relate specifically to "Part of this Schedule". This avoids ambiguity about which offences are being referred to in the context of historical abolition.

343. Subsection (11) inserts a new Part 2 to Schedule 5ZB listing offences involving or connected with a threat to national security. These offences are now eligible for a sentence with a fixed licence period under section 205ZC, where the court does not impose a life sentence, extended sentence, or other specified custodial sentence.

344. Part 2 includes:

- Espionage offences under the Official Secrets Acts 1911 and 1920, including preparatory and inchoate conduct.
- National Security Act 2023 offences, such as obtaining or disclosing protected information or trade secrets; assisting foreign intelligence services; sabotage, foreign interference, and preparatory conduct; failure to comply with registration or information requirements under the foreign activity regime; provision of false information and conduct tainted by false information.
- Electoral offences where the "foreign power condition" is met, as defined in section 31 of the National Security Act 2023. This condition applies where conduct is carried out for or on behalf of a foreign power, and the person knew or ought reasonably to have known that to be the case. Certain offences under section 89A of the Political Parties, Elections and Referendums Act 2000 are excluded.
- Ancillary offences, including attempts, conspiracies, incitement, and aiding or abetting the commission of listed offences in Part 2.
- Other serious offences (punishable by more than two years' imprisonment) where the foreign power condition is met, unless the offence carries a mandatory life sentence. These are captured under paragraph 14 and reflect the aggravating factor set out in section 21 of the National Security Act 2023.

345. The inclusion of these offences reflects the heightened risk posed by conduct that undermines national security, particularly where foreign state involvement is established. The SOPC framework ensures that such offenders are subject to extended licence conditions and post-release supervision, even where a life sentence or extended sentence is not imposed.

346. Subsection (12) introduces Part 1 of Schedule 2, which makes consequential amendments to legislation in Scotland. These amendments are required to ensure that sentences with a fixed licence period imposed under section 205ZC for national security-related offences are appropriately reflected across relevant statutory frameworks.

Section 9: Sentence with fixed licence period: Northern Ireland

347. Section 9 makes amendments to Article 15A of the Criminal Justice (Northern Ireland) Order 2008, which provides for a custodial sentence with a fixed licence period for certain serious offences. The section extends the scope of this sentencing framework beyond terrorism offences to include offences involving or connected with a threat to national security. These changes mirror the sentences for offenders of particular concern (SOPC) regime in England and Wales and the equivalent provisions in Scotland, ensuring consistency in sentencing and post-release supervision for comparable offending.

348. Subsection (1) provides that amendments are being made to Article 15A of the Order.

349. Subsection (2) updates the heading of Article 15A by removing the word "Terrorism", so that it reflects the broader category of offences now covered. The revised heading reads "Sentence with fixed licence period".

350. Subsection (3) makes a technical amendment to paragraph (2) of Article 15A, clarifying that the paragraph applies specifically by virtue of paragraph (1). This helps distinguish the original terrorism-based application of the provision from the new category introduced in paragraph (2A).

351. Subsection (4) inserts new paragraphs (2A) and (2B) into Article 15A:

- Paragraph (2A) extends the scope of Article 15A to offenders convicted after commencement of section 9 of an offence listed in new Schedule 2B (offences involving or connected with a threat to national security). The provision applies only where the court does not impose a life sentence, indeterminate custodial sentence, serious terrorism sentence, or extended custodial sentence for the offence or any associated offence, and decides to impose a custodial sentence.

- Paragraph (2B) sets out an exception to this extended application. Article 15A does not apply under paragraph (2A) where the offender is under 21 at the time of conviction and the offence was committed before the commencement of section 9. This safeguard ensures compliance with Article 7 of the ECHR by avoiding retrospective application of a heavier penalty to younger offenders.

352. Subsection (5) inserts a new Schedule 2B into the Criminal Justice (Northern Ireland) Order 2008. This Schedule lists the relevant national security offences that, following conviction after the commencement of section 9 of this Act, may attract a custodial sentence with fixed license period under new paragraph (2A) of Article 15A. The Schedule reflects the types of conduct considered to pose a heightened risk to national security, particularly where foreign state involvement is established.

353. Schedule 2B includes:

- Espionage offences under the Official Secrets Acts 1911 and 1920, including preparatory and inchoate conduct linked to spying and incitement to spy.

- National Security Act 2023 offences, including obtaining or disclosing protected information or trade secrets; assisting foreign intelligence services; sabotage, foreign interference, and preparatory conduct; failure to comply with registration or information requirements under the foreign activity regime; provision of false information and conduct tainted by false information.

- Electoral offences where the "foreign power condition" is met, as defined in section 31 of the National Security Act 2023. This condition applies where conduct is carried out for or on behalf of a foreign power, and the person knew or ought reasonably to have known that to be the case. Certain offences under section 89A of the Political Parties, Elections and Referendums Act 2000 are excluded.

- Ancillary offences, including aiding, abetting counselling, procuring, attempting, conspiring, and encouraging or assisting the commission of listed offences. These are captured explicitly to ensure preparatory or facilitative conduct is treated consistently.

- Other serious offences (punishable by more than two years' imprisonment) where the foreign power condition is met, unless the offence carries a mandatory life sentence. These are captured under paragraph 6 and reflect the aggravating factor set out in section 20 of the National Security Act 2023.

354. Subsection (6) introduces Part 2 of Schedule 2, which makes consequential amendments to legislation in Northern Ireland. These amendments are required to ensure that sentences with a fixed licence period imposed under Article 15A of the Criminal Justice (Northern Ireland) Order 2008 for national security-related offences are appropriately reflected across the relevant statutory provisions.

Schedule 2: Sentence with fixed licence period in Scotland or Northern Ireland Consequential Provision

355. Part 1 of Schedule 2 - Scotland – makes amendments to various enactments to ensure that sentences imposed under section 205ZC for national security-related offences are treated consistently with existing sentencing regimes for the purposes of related statutory provisions:

- Paragraph 1 amends section 5(1)(da) of the Rehabilitation of Offenders Act 1974 (as it applies in Scotland) to update the reference to include sentences imposed under section 205ZC for national security-related offences, ensuring that the correct disclosure periods apply to young offenders or children sentenced under section 205ZCParagraph 2 amends section 39(7B)(a) of the Prisons (Scotland) Act 1989 to ensure that prisoner rules relating to national security-related sentences apply to the new sentence.

- Paragraphs 3(1) to (10) make a series of technical amendments to the Prisoners and Criminal Proceedings (Scotland) Act 1993, including to sections 1, 1AB, 2, 3A, 3C, 267A and 27. These amendments ensure that offenders sentenced under section 205ZC of the 1995 Act for a national security-related offence are subject to the same release provisions as those sentenced under that section for other offences. In particular, they ensure that such offenders cannot be considered for release until two-thirds of their sentence has been served, and that they are subject to a mandatory licence period of at least one year.

- Paragraph 4 amends the Schedule to the Repatriation of Prisoners Act 1984 as it applies to prisoners transferred to Scotland to serve their sentence. The amendment ensures that where a repatriated prisoner has been sentenced for an offence which corresponds to one of the national security-related offences listed in Part 2 of Schedule 5ZB to the Criminal Procedure (Scotland) Act 1995, the prisoner is treated, for the purposes of early release, as if they had been sentenced under section 205ZC of that Act. This means that the same release provisions apply- including the requirement to serve two-thirds of the custodial term before being eligible for release, and a mandatory licence period of at least one year – even though the sentence was imposed outside Scotland. The amendment allows Scottish Ministers to amend a warrant to specify that these provisions apply, including in cases where transfer has already taken place.

356. Part 2 of Schedule 2 - Northern Ireland – makes amendments to the Criminal Justice (Northern Ireland) Order 2008 to ensure that Article 15A sentences imposed in respect of national security-related offences are treated consistently with existing sentencing regimes for the purposes of interpretation, release provisions, and related procedural rules:

- Paragraphs 5(1) to (7) make amendments which include changes to terminology (such as removing the word "terrorism" from references to "Article 15A terrorism sentence") to reflect the broader application of Article 15A to national security-related offences. They also ensure that the release provisions in Article 20A apply to prisoners serving Article 15A sentences for national security-related offences listed in Schedule 2B to the 2008 Order – including the requirement to serve two-thirds of the custodial term before being eligible for release, and a mandatory licence period of at least one year. These changes ensure that the extended application of Article 15A to national security-related offences is fully integrated into the existing legislative framework governing sentencing and release in Northern Ireland.

- Paragraph 6 amends the Schedule to the Repatriation of Prisoners Act 1984 as it applies to prisoners transferred to Northern Ireland to serve their sentence. The amendment ensures that where a repatriated prisoner has been sentenced for an offence which

corresponds to one of the national security-related offences listed in Schedule 2B to the 2008 Order, the prisoner is treated, for the purposes of early release, as if they had been sentenced under Article 15A of that Order. This means that the same release provisions apply- including the requirement to serve two-thirds of the custodial term before being eligible for release, and a mandatory licence period of at least one year – even though the sentence was imposed outside Northern Ireland. The amendment allows the Department of Justice to amend a warrant to specify that these provisions apply, including in cases where transfer has already taken place.

Section 10: Corresponding provision under service law

357. Section 10 introduces corresponding provision under service law to mirror the reforms made by section 7 of this Act. These measures are set out in Schedule 3 and apply to sentences for offenders of particular concern within the service justice system.

Schedule 3: Corresponding provision about sentencing under service law: sentences for offenders of particular concern

358. Paragraph 1 of Schedule 3 confirms that section 224A of the Armed Forces Act 2006, which governs special custodial sentences for offenders of particular concern (SOPC), is amended in line with paragraphs 2 to 9 of Schedule 3.

359. Paragraphs 2 and 3 make technical amendments which update references in subsection (1)(b) of section 224A (both pre- and post-substitution by the Counter-Terrorism and Sentencing Act 2021). They expand the scope of listed offences to include those in both Part 1 and Part 2 of Schedule 13 to the Sentencing Code.

360. Paragraph 4 revises the introductory wording of subsection (1A), clarifying that the SOPC regime does not apply in certain circumstances.

361. Paragraph 5 inserts a new subsection (1B) into section 224A to extend the SOPC regime to additional cases under service law. It applies where an adult is convicted by the Court Martial of a qualifying offence on or after the commencement of paragraph 5. Qualifying offences include those linked to national security (as defined in Part 3 of Schedule 13 to the Sentencing Code) and offences involving foreign power influence, provided the specified sentencing thresholds are not met. The provision also ensures that the regime applies to offences committed by offenders under the age of 18, where the offence was committed on or after the relevant commencement date.

362. Paragraph 6 updates subsection (1B)(c) of section 224A to reflect the introduction of serious terrorism sentences under the Sentencing Code. Specifically, it adds a new sub-paragraph (iii), ensuring that where such a sentence is imposed under section 268A or 282A (as applied in service law), the SOPC regime does not apply. This mirrors the approach in civilian law and ensures that the most serious terrorism cases are dealt with under the appropriate sentencing framework.

363. Paragraphs 7 and 8 make consequential amendments to subsections (3) and (3A) of section 224A. They ensure that references to subsection (1B) are properly integrated into the existing statutory structure.

364. Paragraph 9 introduces a transitional provision designed to manage potential sequencing issues between the commencement of related legislation. If paragraph 6(a)(ii) of Schedule 8 to the Counter-Terrorism and Sentencing Act 2021 comes into force before paragraph 2 of this Schedule, paragraph 2 is to be disregarded.

365. Paragraph 10 signals amendments to section 224B of the Armed Forces Act 2006, which was originally inserted by the Counter-Terrorism and Sentencing Act 2021. The details of those amendments are set out in the following paragraphs (11 to 13).

366. Paragraph 11 introduces a new subsection (1A) into section 224B of the Armed Forces Act 2006, extending the SOPC regime to certain offenders under the age of 18 convicted by the Court Martial. It applies where the offence is either:

- a criminal conduct offence corresponding to a national security-related offence in Part 3 of Schedule 13 to the Sentencing Code (excluding paragraph 18), or
- an indictable offence (not carrying a mandatory life sentence) where the foreign power condition is met under section 69A.

367. This provision ensures that, where neither a life sentence nor an extended sentence is imposed, but a custodial sentence would otherwise be appropriate, the SOPC framework applies. This aligns service law with the evolving approach to serious youth offending in the civilian system, particularly in terrorism or foreign power-related case

368. Paragraphs 12 and 13 make consequential amendments to subsections (2) and (5) of section 224B, ensuring that references to the new subsection (1A) are properly integrated.

369. Paragraph 14 updates Schedule 26 to the Sentencing Act 2020, which deals with the future abolition of detention in a young offender institution. It makes three targeted amendments to subsection (1B)(c) of section 224A (as inserted by this Act), refining the terminology to reflect the shift away from "custody" and "detention" in favour of "imprisonment" alone. These changes ensure that the statutory language remains accurate and future-proofed as sentencing practice evolves.

Section 11: Whole life order: murder of police, prison or probation officer

370. Section 11 amends paragraph 2(2) of Schedule 21 to the Sentencing Code (mandatory life sentences: starting point of whole life order) to provide that a whole life order will normally be the appropriate starting point in cases of murder of a probation officer acting in the course of their duty and in cases of murder of a serving or former police, prison or probation officer motivated by something done by the officer in the course of their duty. This applies to murders committed on or after the day on this section comes into force.

371. New paragraph (ca) adds cases of murder of an officer of a provider of probation services in the course of his or her duty to the whole life order starting point.

372. New paragraph (cb) adds cases of murders motivated wholly or partly by something done by the victim in the course of their duty as a police officer, a prison officer or an officer of a provider of probation services, to the whole life order starting point.

Section 12: Removal of requirement to specify maximum number of days

373. Section 11 removes paragraph 4(2) of Schedule 9 to the Sentencing Code. The intention of this is to remove the requirement for the court to specify a maximum number of days on which an offender should complete rehabilitation activity. This also applies to such a requirement imposed as part of a suspended custodial sentence, service community order or overseas community order in the Service Justice System by virtue of sections 200, 178 and 182 of the Armed Forces Act 2006.

374. The policy intention for section 11 is neither to alter the type or ambit or instructions that the "responsible officer" may issue to an offender under the new "probation requirement", nor to alter any of the mechanisms for breaches, revocations and amendments of the new requirement.

Section 13: Rehabilitation activity requirement renamed probation requirement

375. Section 13 amends the wording "rehabilitation activity requirement" throughout the Sentencing Code to "probation requirement". This change occurs for the following sections in the Code: section 201, 287, 394, in the heading of Part 2 in Schedule 9, and in paragraph 4(1) and 5(1) (Part 2) of Schedule 9.

376. It also amends Schedule 11 on transfer of community orders to Scotland and Northen Ireland, specifically paragraphs 5(2)(b) and 12(2)(b) and Schedule 17 on transfer of suspended sentence orders to Scotland and Northen Ireland.

377. These amendments also apply to such a requirement imposed as part of a suspended custodial sentence, service community order or overseas community order in the service justice system by virtue of sections 200, 178 and 182 of the Armed Forces Act 2006.

Section 14: Driving prohibition requirement

378. Subsection (2) confirms that the court can disqualify an offender from driving alongside imposing a driving prohibition requirement as part of a community or suspended sentence order.

379. Subsection (3) inserts the driving prohibition requirement into the list of community requirements available as part of a community order.

380. Subsection (4) sets out that the requirement is only available for offences committed after section 14(4)(a) of this Act comes into force.

381. Subsection (5) achieves the same effect as subsection (3) but for suspended sentences.

382. Subsection (6) achieves the same effect as subsection (4) but for suspended sentences.

383. Within Subsection (7), new paragraph 8A(4) is intended to make to clear to courts that they may impose a driving prohibition requirement for punitive purposes, irrespective of whether the offence has any connection with driving. It has been included in light of Sentencing Guidelines on Driving disqualification (effective from 1 April 2025) which indicate that the use of the power to disqualify under section 163 of the Sentencing Code "should generally be reserved for cases which have involved the offender driving a vehicle or otherwise using a vehicle to commit the offence for which he or she is being sentenced". It is not intended that similar restrictions should apply here.

384. Paragraph 8A(4) is included only in light of particular concerns around the use of driving restrictions and not intended to suggest that, in the absence of such a provision, a requirement is expected to have a connection with the underlying offending. For example, there is no intention that a drinking establishment attendance prohibition requirement should only be imposed where the offending had some connection with a drinking establishment, or alcohol.

385. Subsection (8) amends section 177H of the Armed Forces Act 2006 to make it clear that a service court may still impose a driving disqualification order in cases where it has made a driving prohibition requirement as part of a suspended custodial sentence, service community order or overseas community order under sections 200, 178 and 182 of that Act.

Section 15: Public event attendance prohibition requirement

386. Subsection (2) inserts this requirement into the list of community requirements available as part of a community order.

387. Subsection (3) sets out that the requirement is only available for offences committed after section 15(3) of this Act comes into force.

388. Subsection (4) achieves the same effect as subsection (2) but for suspended sentences.

389. Subsection (5) achieves the same effect as subsection (3) but for suspended sentences.

390. Subsection (6) inserts content into Schedule 9 of the Sentencing Code setting out the detail of the requirement and the powers of the court.

391. These provisions also apply to such a requirement imposed by the service courts as part of a suspended custodial sentence, service community order or overseas community order in the service justice system by virtue of sections 200, 178 and 182 of the Armed Forces Act 2006.

Section 16: Drinking establishment entry prohibition requirement

392. Subsection (2) inserts the drinking prohibition requirement into the list of community requirements available as part of a community order.

393. Subsection (3) sets out that the requirement is only available for offences committed after section 16(3) of this Act comes into force.

394. Subsection (4) achieves the same effect as subsection (2) but for suspended sentences.

395. Subsection (5) achieves the same effect as subsection (3) but for suspended sentences.

396. Subsection (6) inserts content into Schedule 9 of the Sentencing Code setting out the detail of the requirement and the powers of the court.

397. These provisions also apply to such a requirement imposed by the Service Courts as part of a suspended custodial sentence, service community order or overseas community order in the service justice system by virtue of sections 200, 178 and 182 of the Armed Forces Act 2006.

Section 17: Restriction zone requirement

398. Subsection (2) inserts the requirement into the list of community requirements available as part of a community order.

399. Subsection (3) sets out that the requirement is only available for offences committed after section 17(3) of this Act comes into force.

400. Subsection (4) sets out that a partial copy of a community order is to be provided to any person intended to be protected by a restriction zone

401. Subsection (5) achieves the same effect as subsection (2) but for suspended sentences.

402. Subsection (6) achieves the same effect as subsection (3) but for suspended sentences.

403. Subsection (7) achieves the same effect as subsection (4) but for suspended sentences.

404. Subsection (8) inserts content into Schedule 9 of the Sentencing Code setting out the detail of the requirement and the powers of the court. In particular this section allows the requirement to be imposed for a maximum of 2 years which is intended to mirror similar requirements such as exclusion zones. The requirement must also include an electronic monitoring requirement for securing compliance unless a specified exception applies. This again intends to mirror similar requirements such as exclusion zones.

405. These provisions also apply to such a requirement imposed by the service courts as part of a suspended custodial sentence, service community order or overseas community order in the service justice system by virtue of sections 200, 178 and 182 of the Armed Forces Act 2006.

406. Subsections (13), (14) and (15) amends section 182 of the Armed Forces Act 2006 so that a service court is not required to impose an electronic monitoring requirement when it imposes a restriction zone requirement as part of an overseas community order.

Section 18: Power to add or alter requirements

407. Subsection (2) confirms that section 407 of the Sentencing Code applies to this power.

408. Subsection (3) sets out the powers of the Lord Chancellor to add or alter community requirements by regulations by adding paragraph 13A to schedule 23 of the Sentencing Code:

- i) Sub-paragraph (1) of paragraph 13A allows the Lord Chancellor to add a requirement, make provision about an added requirement or alter provision about an existing requirement.
- ii) Sub-paragraph (2) allows the Lord Chancellor to make changes to other legislation in consequence of or in connection with any of the changes made under sub-paragraph (1).
- iii) Sub-paragraph (4) sets out that changes made using this power only apply to offences committed after the regulations come into force
- iv) Sub-paragraph (6) confirms that regulations are subject to the affirmative procedure.

Section 19: Sentencing Council business plan

409. Section 19 inserts new section 118A into the Coroners and Justice Act 2009 which introduces a statutory requirement for the Council to publish an annual business plan, which must first be approved by the Lord Chancellor.

410. New section 118A(1) provides that the Council must submit a business plan for the year to the Lord Chancellor for approval as soon as practicable after the start of each financial year.

411. New section 118A(2) requires the Council to set out within the plan the sentencing guidelines that it proposes to prepare in the year, as well as other activities it proposes to undertake.

412. New section 118A(3) requires the Lord Chancellor, as soon as practicable after receiving a business plan for approval, to consider it and decide whether to approve it.

413. New section 118A(4) sets out that if the Lord Chancellor approves the plan, they must notify the Council, and, once notified, the Council must publish it.

414. New section 118A(5) sets out that if the Lord Chancellor decides not to approve the plan, they must notify the Council, and, as soon as practicable after doing so, lay before Parliament a document stating the reason for the decision.

Section 20: Sentencing guidelines

415. Section 20 amends sections 120 and 122 of the 2009 Act to introduce a statutory requirement for the Council to obtain approval from both the Lord Chancellor and the Lady Chief Justice for all sentencing guidelines prior to issuing them as final, definitive guidelines.

416. Section 120(7) and (8) provide that the Council must, after consulting on draft guidelines and considering any post-consultation revisions, issue them as definitive guidelines. Section 122(5) makes similar provision with specific regard to allocation guidelines. This section amends section 120(7), (8) and (10), and section 122(5) and (7), to provide that consent from both the Lord Chancellor and Lady Chief Justice must first be sought and given before any definitive guidelines are issued.

417. This section also inserts new sections 120(8A) – (8C) and 122 (5A) – (5C) which:

- require the Lady Chief Justice and Lord Chancellor, as soon as practicable after receiving a guideline for approval, to consider it;
- provide that the Lady Chief Justice and/or the Lord Chancellor may only withhold consent for a guideline if they consider it is necessary to do so in order to maintain public confidence in the criminal justice system; and
- set out that if the Lady Chief Justice and/or the Lord Chancellor, as the case may be, withholds consent, they must, as soon as practicable after making the decision, lay before Parliament a document stating the reason for the decision.

Section 21: Annual report relating to prison capacity

418. Section 21 places a statutory duty on the Secretary of State to publish, and lay before Parliament, an annual report on prison capacity and repeals section 5 of the Prison Act 1952.

419. Subsection (1) imposes a duty on the Secretary of State to prepare and lay before Parliament an annual report on prison capacity.

420. Subsection (2) specifies that the report must include:

- the number of people in prison and the number of prison places on a specified date or dates in that year; and
- projected changes in the number of people in prison and the number of prison places.

421. It also allows the Secretary of State to include any other information considered appropriate.

422. Subsection (3) requires the Secretary of State to publish the report after it has been laid before Parliament.

423. Subsection (4) clarifies that "prison" does not include naval, military or air force prisons.

424. Subsection (5) repeals section 5 of the Prison Act 1952 (annual report on prisons) and removes related references in section 43 of that Act. This avoids duplication with the new statutory duty and reflects that other content required in the annual report by section 5 of the Prison Act 1952 is now published through other means.

Section 22: Provision of transcripts of sentencing remarks to victims

425. Section 22 creates a statutory requirement for the Secretary of State to supply a victim with a transcript of relevant sentencing remarks, free of charge, on request. Subsections (1) and (2) contain this statutory requirement.

426. Subsection (3) creates a power for the Secretary of State to make regulations which make provision about the procedure for requesting transcripts including how requests should be made, exceptions to the requirement and the omission of information from transcripts.

427. Subsections (10) and (11) empower the Secretary of State to define the term "victim" for these purposes in regulations, as well as to make provision about the circumstances in which sentencing remarks are relevant to the victim.

428. Regulations under this section must be made by statutory instrument and are subject to the affirmative parliamentary procedure. As a result of subsection (8), the Secretary of State is required to consult the Lady Chief Justice before making regulations under this section.

429. Subsection (5) provides that the Criminal Procedure Rules may make provision about the supply of a transcript as a result of this duty.

Part 2: Management of offenders after sentencing

Section 23: Release

430. Section 23 makes changes to the release points for prisoners serving adult standard determinate sentences by way of amendment to the 2003 Act.

431. Subsection (2) amends section 243A of the 2003 Act which provides for unconditional release (release not on licence) for certain sentences of less than 12 months.

432. Subsection (2)(a) amends section 243A(1)(b) so that unconditional release no longer applies to prisoners serving adult standard determinate sentences of more than one day and less than 12 months and only applies to prisoners serving a sentence under section 250 of the Sentencing Code (those sentenced as youths) for a term of less than 12 months but more than 1 day who are still under 18 on the last day of their requisite custodial period. The amendments make clear that unconditional release only applies to adult standard determinate sentences if they are for a term of one day.

433. Subsection (2)(b) amends a previous transitional provision in section 243A(1A) which preserves unconditional release for sentences of less than 12 months for those sentenced before the coming into force of the Offender Rehabilitation of Offenders Act 2014 so that it applies only to offenders serving a sentence under section 250 of the Code.

434. Subsections (2)(c) replaces sections 243A(3)(a) with new (3)(a) and (aa) to provide two different release points, preserving one half release for sentences imposed under section 250 of the Sentencing Code but changing all adult sentences released under this provision to one-third of the sentence.

435. Subsection (2)(d) amends subsection 243A(4) so that section 243A is no longer subject to modification contained in paragraph 8 Schedule 20B (transitional cases), as it considered there are no such cases remaining in the system.

436. Subsection (3) amends section 244(3) to preserve the position that prisoners serving one sentence under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 or section 250 of the Sentencing Code will be released on licence once they have served one-half of the sentence, and to alter the position for prisoners serving one sentence of any other kind released under this section for them to be released on licence once they have served one-third of the sentence.

437. Subsection (4) amends section 244Z A(8) (requisite custodial period for certain violent or sexual offenders – which are standard determinate sentences known as SDS+) to change the release point for prisoners who are currently released at the two-thirds point of their sentence to now be released after serving one-half of that sentence, except for offenders subject to 244ZA(6) (offenders serving a sentence under section 250 of the Sentencing Code of more than seven years for relevant serious offences) who will continue to be released after serving two-thirds of their sentence.

438. Subsection (5) amends section 246 (power to release prisoners on licence before being required to do so: interpretation) as a consequence of changes to section 243A.

439. Subsection (6) amends section 256B(1A) so that the section, which provides 6 months supervision period for certain youth offenders, no longer applies to offenders serving a sentence under 262 of the Sentencing Code (sentences of Detention in a Young Offenders Institution).

440. Subsection (7) amends section 264 (consecutive terms). Section 264 sets out how sentences imposed consecutively to each other are to be calculated and served, in light of the changes to the one third release point change for adults.

441. Subsection (8) amends section 264B. Section 264B provides for calculation of consecutive sentences where there is a sentence subject to the transitional release provisions of the Offender Rehabilitation Act 2014 in the mix. As a consequence of the removal of the transitional provision for adults in section 243A (see section 23(2)(d) of the Act), section 264B now only applies to youths, and subsection (8) makes amendments to that effect.

442. Subsection (9) amends section 267 (power to modify the release points) by adding sections 243A(3)(aa) and 244(3)(aa) to reflect the changes in subsection (2)(c) and (3) and by extending the power to allow for the modification of release points to SDS+ cases by adding section 244ZA and updating the reference to section 264. This brings SDS+ cases in line with SDS cases.

443. Subsection (10) revokes a statutory instrument from 2024 which previously made modifications to SDS release points.

444. Subsection (11) makes consequential amendments to various Acts which made amendments to the provisions that are being repealed or altered in the above changes. The changes in subsection (d) to SI 2024/1331 only repeals the modifications in that Order to the S.I 2024/844 Order modifying release points.

445. Subsections (12 to 15) is an application provision which provides for the changes in this section to apply to all new sentences, but also to alter the release point of those already sentenced where they have not yet reached their automatic release point. This applies to those in custody at the point of commencement and those in the community having been released on HDC. It does not apply to those unlawfully at large. The changes also do not apply to an adult prisoner who:

- (a) is serving a national security offence which, after commencement, becomes an offence which would fall into SOPC (Special Custodial Sentence for Certain Offenders of Particular Concern) release provisions (section 244A of the 2003 Act) (subsection 13). As this only applies for those sentenced before commencement the exclusion is for an exhaustive number of prisoners.

- (b) the prisoner is serving a sentence which after commencement would have attracted the release provisions of section 244ZA of the 2003 Act for sexual and violent offenders. This only applies to those sentenced before commencement so for an exhaustive number of prisoners and regardless of when they were sentenced or when the maximum for their sentence became a life sentence (subsection 14).

446. Subsection (16) removes subsection (5) where the repeal of HDC is brought into force at the same time as the release changes. As in those circumstances changes which relate to adult sentences release point will not be relevant.

Section 24: Release: consequential amendments relating to driving disqualification

447. Section 24, subsections (1) to (3) make amendments to section 35A of the Road Traffic Offenders Act 1988 (extension of disqualification where custodial sentence also imposed) and corresponding amendments to section 177 of the Armed Forces Act 2006 to reflect the new release points in Section 23 in relation to the extension of driving disqualification periods. This is because disqualification periods are extended by the relevant release point so the disqualification is served on release from custody.

448. Subsection (3)(b) also updates the order making power under section 35A so where release points are modified by section 267 of the 2003 Act, corresponding amendments can be made to the driving extension periods.

449. Subsection (5) amends section 166 of the Sentencing Code in line with the changes to section 35A of the Road Traffic Offenders Act 1998 to ensure consistency in the extension of driving disqualification periods and to enable future changes by regulation.

Section 25: Release on licence of certain violent or sexual offenders: service offences

450. Section 25(2) amends section 244ZA of the 2003 Act (release on license of certain sexual and violent offences) to insert new subsections (9) to (11) to apply the provisions of that section to corresponding service offences.

451. Section 25(3) is an application provision which has the effect of applying the changes to the release provisions effected by section 22(2) to section 244ZA of the 2003 Act to prisoners currently serving qualifying sentences in prison as well as to those sentenced after commencement.

Section 26: Limitation of provisions about home detention curfew

452. Section 26 makes amendments to limit the provisions regarding home detention curfew (HDC) in section 246 of the 2003 Act, which contains the power for the Secretary of State to release an offender on licence before required to do so on HDC.

453. Subsection (2) amends section 246 to provide that the power can only be used to release an offender serving one or more sentences under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 or section 250 of the Sentencing Code i.e. offenders sentenced as youths (except for those falling into section 244ZA (SDS+) or section 247A (terrorist prisoners)). Offenders serving adult SDS will no longer be able to be released early on home detention curfew.

454. Section 246(4)(gb) was introduced to change the policy whereby offenders released under the Criminal Justice Act 1991 and then recalled could never be released on HDC in relation to any future sentence. It provides that HDC release is only prohibited where the requisite custodial period for the previous sentence ended less than 2 years before the beginning of the current sentence. Subsection (2)(i) deems a definition of "requisite custodial period" to apply to make it clear that this period is the same as that mentioned in section 244(3)(a) (i.e., one half of the sentence) as the term "requisite custodial period" is not one used in the 1991 Act. For all other offenders, the period will be as set out in section 243A(3)(a), (aa) or (b) or 244(3)(a), (aa) or (d) (i.e., one half or one third, as the case may be).

455. Subsection (3) amends section 255BA to remove references to recall following release on HDC for adult SDS.

456. Subsections (4) to (6) are consequential amendments required as a result of the removal of HDC release from adult SDS.

457. Subsection (7) is an application provision providing that the section does not apply to those offenders (including adult SDS) who are released on HDC at the time of commencement.

Section 27: Licence conditions

458. Subsection (1) amends section 64 of the Criminal Justice and Court Services Act 2000 to remove the restriction on drug testing to those who misuse drugs or have a dependency, so all offenders on licence can be tested.

459. Subsection (3) amends section 250 of the 2003 Act to include the new standard conditions which the Secretary of State may include in a licence under section 250(4)(b), namely a driving prohibition, a public event attendance prohibition, a drinking establishment entry prohibition and a restriction zone condition. Subsections (4) to (7) insert new sections 250A, 250B, 250C and 250D into the 2003 Act to provide for each of these conditions.

460. Subsection (8) makes consequential amendment to the Offender Rehabilitation Act 2014 in light of the repeals to the drug testing provision in section 64 of the Criminal Justice and Court Services Act 2000.

461. Subsection (9) is an application provision, which provides that the changes apply to all offenders released after commencement, as well as to those on licence at commencement.

Section 28: Licence conditions: offenders sentenced under repealed armed forces legislation

462. Section 25 amends the Criminal Justice and Court Services Act 2000 to enable the imposition of licence conditions under sections 62, 64 and 64A of that Act in respect of those sentenced to detention or a custodial order under the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957.

Section 29: Power to make provision about recall to prison

463. Section 29 inserts a power for the Lord Chancellor to make provision about when and under what circumstances an offender can be recalled to prison.

464. Subsection (2) inserts new sub-sections (6A) and (6B) into section 254 of the 2003 Act, which provide an order making power, subject to affirmative resolution (subsection (3)), for the Secretary of State to change by order the threshold for revocation of an offender's licence.

Section 30: Further release after recall: introductory

465. Section 30 amends the provisions of the 2003 Act which relate to further release after recall.

466. Subsection (2) replaces existing section 255A to set out how the Secretary of State is to deal with an offender following revocation of their licence and recall to prison to determine whether they can be re-released automatically.

467. New sections 255A(3) to (6) apply to relevant young offenders (those serving one or more sentences imposed under section 250 of the Sentencing Code or section 91 of the PCC(S)A 2000). The provisions of existing section 255A are retained, meaning that a relevant young offender must be re-released automatically if they are 18 or over, serving a sentence of less than 12 months, not recalled on account of being charged with a serious offence (murder or an offence under Schedule 18 Sentencing Code), and not managed under level 2 or 3 MAPPA. A relevant young offender may also be re-released automatically if they will not pose a risk of serious harm to the public. If suitable for automatic release, they must be dealt with under section 255B, and if not suitable, under section 255C.

468. New sections 255A(7) to (9) apply to offenders who are not relevant young offenders. These offenders will be eligible for automatic release unless they fall into one of the exceptions in section 255A(8), or the Secretary of State has determined they should not be automatically released pursuant to section 255BA(5). If eligible for automatic release, they must be dealt with under section 255BA, and if not eligible, under section 255C.

469. New sections 255A(10) and (11) insert a power for the Secretary of State to amend the list of exceptions to automatic release in section 255A(8).

470. Subsection (3) amends section 330(5)(a) of the 2003 Act to provide that the order to amend section 255A(8) must be made by affirmative procedure.

471. Subsection (4) inserts Schedule 19ZB into the 2003 Act, which contains a schedule of lower-level terrorism and national security offences where the offender is not eligible for automatic release (pursuant to section 255A(8)(d)).

472. Subsection (5) is a consequential amendment to remove Schedule 19AA.

Section 31: Further release after recall: relevant young offenders suitable for automatic release

473. Section 31 amends section 255B of the 2003 Act to provide for it to apply only to relevant young offenders who are suitable for automatic release, including those recalled from HDC licence. The Secretary of State's power to release a relevant young offender at any time under section 255B(3) is retained.

474. Subsection (3) replaces existing section 255B(1) with new sections 255B(1), (1A) and (1B). Section 255A(1A) preserves the existing automatic release periods for relevant young offenders, who must be re-released after 14 days for a sentence of less than 12 months, and 28 days for a sentence of 12 months or more. Subsection (1B) provides that where a relevant young offender is recalled from HDC licence under section 254, the automatic release period is the later of the relevant period in (1A) (i.e., 14 or 28 days) and the requisite custodial period they would have served had they not been released early on HDC.

475. Subsection (4) is a consequential amendment on the substitution of section 255A and amendments to section 255B.

476. Subsection (5) puts the scenarios as to when a fixed term recall can be changed into a standard recall back to the position it was in before the 2025 Order.

477. Subsection (6) inserts new sections 255B(11) and (12) to provide that an offender returns to custody for the purposes of section 255A(1A) and (1B) when they are detained in pursuance of the sentence (in prison or otherwise), and to point to the definition of relevant young offender in section 255A.

Section 32: Further release after recall: other offenders suitable for automatic release

478. Section 32 deals with the automatic release of offenders who are not relevant young offenders.

479. Subsection (2) inserts new section 255BA into the 2003 Act.

480. Sections 255BA(1) and (2) provide for recalled offenders who are eligible for automatic release, but who are not relevant young offenders, to be re-released automatically after 56 days. Where an offender is recalled from HDC licence under section 254, the automatic release period is the later of 56 days and the requisite custodial period which they would have served had they not been released early under HDC.

481. Sections 255BA(3) and (4) preserve the Secretary of State's power to re-release an offender at any time if they meet the statutory release test.

482. Sections 255BA(5) to (9) allow the Secretary of State to determine that an offender should not be released automatically where either (i) they reasonably believe the offender would pose a significant risk of serious harm by committing murder or an offence under Schedule 18 of the Code, or (ii) following recall they receive information that the offender is at risk of involvement in terrorism or state threat activity, would be managed under level 2 or 3 MAPPA, or has been charged with a further offence. If either of these conditions are met, the offender is dealt with under section 255C.

483. Section 255BA(10) inserts a power for the Secretary of State to amend by order the period the offender must spend in custody following recall (in section 255BA(2)).

484. Subsection (3) amends section 330(5)(a) of the 2003 Act to provide that the order to amend section 255BA(2) must be made by affirmative procedure.

485. Subsection (4) inserts new section 255BA(4A) to include the amended statutory release test as set out in the Victims and Prisoners Act 2024 (relevant provision not yet commenced for the purposes of further release following recall).

Section 33: Further release after recall: supplementary

486. Section 33 contains amendments to section 255C of the 2003 Act, along with further supplementary and consequential amendments to the amended recall provisions within the 2003 Act.

487. Subsections (2) to (7), (9) and (10) to (13) contain consequential amendments resulting from the amendment to sections 255A, 255B and 255C, and the insertion of section 255BA.

488. Subsection (8) amends section 255C to reflect the changes to section 255B and the insertion of new section 255BA. Section 255C(1) is substituted to provide that section 255C applies to relevant young offenders referred under the power to detain (section 244ZB) and not considered suitable for automatic release, and other offenders not eligible for automatic release or whom the Secretary of State has determined should not be released at the end of the automatic release period (under section 255BA(5)).

489. Subsection (10) amends section 256AZB(1), which contains the power to change the test for release following recall. It inserts (i) the power to change the test to decide whether a relevant young offender is suitable for automatic release, (ii) the power to change the test for the Secretary of State to re-release an offender eligible for automatic release under section 255BA and (iii) the power to change the test to determine that an offender (who is not a relevant young offender) should not be released at the end of the automatic release period (under section 255BA(5)).

490. Subsection (14) is an application provision, providing that the changes to recall provisions apply to offenders recalled on or after commencement, as well as those recalled before that day unless they are in custody serving a fixed term recall.

Section 34: Repeal of provisions relating to supervision after end of sentence

491. Section 34 amends sections 256AA to 256AC and Schedule 19A of the Act 2003.

492. Subsection (1) removes post sentence supervision for adult sentences preserving it only for certain young offenders.

493. Subsection (2) removes section 247 of the Sentencing Code in relation to supervision after end of a term of detention and training order.

494. Subsection (3) introduces Schedule 5 which makes consequential amendments and repeals to other enactments in relation to the above-mentioned provisions.

495. Subsection (4) is an application provision and provides that the repeal of post sentence supervision in this section applies to offenders who are already serving such an order.

496. Subsection (5) preserves the repeal for cases where there has been a breach or alleged breach of the order before commencement. In such cases proceedings can still be brought in the court for breach.

Schedule 5: Repeal of provisions relating to supervision after end of sentence: consequential provision

Part 1 – Amendments consequential on repeals made by section 31.

497. Part 1 of Schedule 5 makes amendments to several Acts in Part 1 consequential upon the repeals made by section 31.

Part 2 – Repeal of provision which inserts or amends provision repealed by section 31 or Part 1 of this Schedule.

498. Part 2 of Schedule 5 makes consequential repeals and amendments to several Acts to reflect the amendments made by section 31 or Part 1 of the Schedule.

Section 35: Early removal of prisoners liable to removal from the United Kingdom

499. Section 35 amends the Criminal Justice Act 2003 (the 2003 Act) to allow for the removal of an eligible offender from prison for the purpose of immediate deportation from the UK so that such removal can happen any time after sentence.

500. Subsection 1 amends section 260 of the 2003 Act which provides that the Secretary of State may remove a fixed-term prisoner liable to removal from the UK from prison.

501. Subsection 1(a) removes the requirement that an offender must serve a minimum pre-removal custodial period before the Secretary of State may remove them from prison and subsection 1(b) removes the definition of this period.

502. Subsection 1(c) removes the Secretary of State's power to amend the minimum pre-removal custodial period.

503. Subsection 1(d) removes references to 'requisite custodial period' in subsection 260(9) in light of the changes to the section and a reference which was made obsolete by section 47(5) of the Nationality and Borders Act 2022.

504. Subsection 2 makes consequential changes to the 2003 Act and Nationality and Borders Act 2022.

505. Subsection 2(a)removes the requirement that any additional days for disciplinary offences are added to any period which must be served before a prisoner can be removed from prison under section 260 following the amendments by subsection (1).

506. Subsection 2(b) removes the requirement that a prisoner had to serve the pre removal custodial period for all custodial terms before removal under section 260.

507. Subsection 2(c) is consequential on removing the order making power.

508. Subsection 2(d) makes consequential amendment to paragraph 37 of Schedule 20B to the 2003 Act, which applies to saved release provisions for sentences imposed for offences committed before 2003. Paragraph 37 allowed for removal to take place for recalled offenders. With the removal of any restriction, this is now not required.

509. Subsection 2(e) removes subsections 47(8) and 47(10) of the Nationality and Borders Act 2022 which previously amended sections repealed by this section.

Section 36: Removal of maximum period for unpaid work requirement

510. Section 36 subsection (1) removes the period to undertake an unpaid work requirement for community and suspended sentences orders in paragraph 1 of Schedule 9 to the Sentencing Code by removing the reference to "during a period of 12 months". This removes requirement to complete an unpaid work requirement in the first 12 months of a Community Sentence. Subsection (2) makes corresponding amendments to Schedule A1 to the Children Act 1989.

511. Subsection (3) is an application provision which applies the changes to orders going forward but also to those already being served.

512. Subsection (4) makes consequential amendments in paragraph 3(4) of Schedule 19A to the Criminal Justice Act 2003 and subsection (5) provides for prospective consequential amendments to this provision should the provision come into force before the coming into force subsection (4).

513. Section (6) makes consequential amendments to paragraph 112 of Schedule 24 to the Sentencing Act 2020 to remove references to the 12-month period.

514. These amendments also apply to such a requirement imposed as part of a suspended custodial sentence, service community order or overseas community order in the service justice system by virtue of sections 200, 178 and 182 of the Armed Forces Act 2006.

Section 37: Number of hours of work required by unpaid work requirement

515. Section 37 introduces a measure which provides for reduction in the number of unpaid work hours sentenced as part of a Community Order or Suspended Sentence Order, subject to qualifying criteria and conditions.

516. Subsection (1) introduces amendments made to Part 1 of Schedule 9 to the Sentencing Code, set out in subsections (2) and (3). This relates to Community Orders and Suspended Sentence Orders with unpaid work requirements that will be in scope for unpaid work reductions.

517. Subsection (2) amends paragraph 2 of Schedule 9 to the Sentencing Code by substituting the existing sub-paragraph (1) with a new sub-paragraph (1) and (1A) to provide that an unpaid work requirement specifying the number of hours an offender is required to work is subject to any reduction earned through the reduction scheme under paragraph 3A. It makes consequential amendment to that effect to in sub-paragraph (2), and sub-paragraph (4).

518. Subsection (3), inserts new Paragraph 3(A) into Part 1 of Schedule 9 to the Sentencing Code to enable the reduction in unpaid work hours and covers how the reduction will operate, as follows.

519. Paragraph 3A (1) sets the five conditions which need to be met in order for the reduction in number of hours of work required under the requirement.

520. Sub-paragraph (2) defines the term "the qualifying amount of work" which is 25% of the number of hours specified in the relevant order offenders must complete without absence.

521. Sub-paragraph (3) sets out that where an unpaid work credit is applied, the number of hours an offender works is reduced by 30 minutes for every credit earning hour worked.

522. Sub-paragraph (4) sets out that to begin earning the credit for the purposes specified in sub-paragraph (3), offenders must first complete the qualifying period, and only hours worked after the qualifying period can accrue the credit.

523. Sub-paragraph (5) sets out where any hours will not count as part of a credit earning hour.

524. Sub-paragraph (6) makes clear that additional hours of unpaid work added to community orders and suspended sentence hours under Paragraph 10(5)(b) and 11(2)(b) of Schedule 10 or under paragraph 13(1)(b) of Schedule 16 of the Sentencing Act will not be eligible for the reduction, and the requirement to perform those unpaid work hours are treated as separate from the original community order or suspended sentence order prior to the amendment.

525. Sub-paragraph 7(a) to (e) provides the Secretary of State with a power to make regulations to amend: the percentage of the qualifying periods in sub-paragraph (2); the amount of time credited to the offender for every eligible hour worked in sub-paragraph (3); remove sub-paragraph (1)(d) or (e) or (5) which provide for offenders who fail to comply to be prevented from earning any further credits; provide restrictions, conditions, or exclusions to the scheme; and vary or remove any such restrictions, conditions, or exclusions provided for under sub-paragraph (7)(d).

526. Sub-paragraph (8) provides that the regulations the Secretary of State may make consequential amendments under sub- paragraph (7) and that any order is subject to the affirmative resolution procedure.

527. Subsection (4) makes consequential amendments to the Sentencing Code as a result of the changes made by subsections (1) to (3).

528. Subsection (5) makes consequential amendments to Schedule 19A of the Criminal Justice Act 2003 to exclude the unpaid work reduction measure from applying to Supervision Default Orders imposed following the breach of Post Sentence Supervision being proven at court.

529. Subsection (6) provides for prospective consequential amendments to these provisions, should the provision relating to supervision after the end of sentence be repealed before the coming into force of subsection (5).

530. Subsection (7) makes consequential amendments to Schedule 31 to the Criminal Justice Act 2003.

531. Subsection (8) is an application provision and proscribes that the changes in this section apply to new orders imposed after commencement as well as to orders already imposed prior to commencement.

532. These amendments also apply to such a requirement imposed as part of a suspended custodial sentence, service community order or overseas community order in the service justice system by virtue of sections 200, 178 and 182 of the Armed Forces Act 2006.

Section 38: Termination of a community order

533. This section provides for a new process for ending community orders on completion of all court-ordered requirements and where the responsible officer considers that all other objectives set out in the offender's sentence plan have been completed and does not consider it necessary to add to these objectives.

534. It incorporates this process for community orders into the Sentencing Code by amending Part 3 of Schedule 10 of the Code to insert a new Paragraph 3A.

535. Sections (2) to (4) amend Sections 218, 220(2) and Part 3 of Schedule 10 of the Code to refer to this new Paragraph 3A.

536. Sections (5) inserts a new paragraph 15A.Sub paragraph (1) sets out the circumstances in which the new process will apply and when community orders using this process will end. It will apply to all community orders in force that are not subject to review using special

procedures under Section 217 of the Code. This means that, where the Secretary of State has made regulations under Section 217 enabling or requiring a court making a community order to provide for periodic review of that order by a court (for example, orders within the Intensive Supervision Court process), community orders captured by such regulations and that contain such a provision will not be ended using this new process.

537. This paragraph sets out that community orders subject to this process that impose a probation requirement will only end when the responsible officer considers that no further instructions are required in respect of that requirement.

538. Community orders that are subject to this process and that impose one or more other requirements listed in Section 201 of the Sentencing Code will only end when an offender has complied with all of these other requirements.

539. Where a sentence plan has been prepared, the responsible officer considers that all objectives have been met and that no further objectives are required.

540. Subparagraph (2) sets out that the community order will end on the date that the responsible officer specifies that these requirements are met.

541. Subparagraph (3) defines the sentence plan in relation to community orders.

542. Subparagraph (4) is a transitional provision which applies if this section comes into force prior to section 13 of this Act.

543. Subsection (6) sets out that this section will apply to all orders going forward but also retrospectively to all community orders already imposed.

Section 39: Termination of supervision period of a suspended sentence order

544. This section provides a new process for ending the supervision period of suspended sentence orders on completion of all court-ordered requirements and where the responsible officer considers that all other objectives set out in the offender's sentence plan have been completed and does not consider it necessary to add to these objectives.

545. It incorporates this new process for ending the supervision period of suspended sentence orders into the Sentencing Code by amending Section Part 3 of Schedule 16 of the Code to insert a new Paragraph 22A.

546. Sections (2) to (4) amends Section 288, 303, 305 and Part 3 of Schedule 16 to refer to this new Paragraph 22A.

547. Section (5) inserts a new paragraph 22A. Subparagraph (1) sets out the circumstances in which the new process applies and when the supervision period of suspended sentence orders using it will end. It applies to all suspended orders in force that are not subject to review using special procedures under Section 217. This means that, where the Secretary of State has made regulations under Section 217 enabling or requiring a court making a suspended sentence order to provide for periodic review of that order by a court (for example, orders within the Intensive Supervision Court process), the supervision period of suspended sentence orders captured by such regulations and that contain such a provision will not be ended using this new process.

548. This section also sets out that the supervision period of a suspended sentence order subject to this process will only end when an offender has complied with all court-ordered requirements and, where a sentence plan has been prepared, the responsible officer considers that all objectives have been met and that no further objectives are required.

549. The section also sets that, in respect of suspended sentence orders imposing a probation requirement, they will only end when the responsible officer considers that no further instructions are required in respect of that requirement.

550. Subparagraph(2) sets out that the supervision period of a suspended sentence order will end on the date that the responsible officer specifies that these requirements are met.

551. Subparagraph (3) defines the sentence plan in relation to suspended sentence orders.

552. Subparagraph (4) is a transitional provision which applies if this section comes into force prior to section 13 of this Act.

553. Subsection (6) prevents the termination provisions from applying to orders transferred outside England and Wales.

554. Subsection (7) sets out that these clauses will apply to all orders going forward but also retrospectively to all suspended sentence orders already imposed.

Section 40: Rules about the proceedings of the Parole Board

555. Section 40 repeals the power in section 73(2) of the Victims and Prisoners Act 2024 that would allow the Secretary of State to appoint certain Parole Board members to certain cases.

Section 41: Application of provisions about release etc to certain repatriated prisoners

556. Section 41 changes the release point for offenders who receive a fixed-term sentence for murder overseas and are repatriated to serve that sentence in England and Wales. Subsection (1) makes clear that this is done by inserting new paragraph (2B) (Application of release provisions to prisoner serving fixed-term sentence for murder) in the Schedule to the Repatriation of Prisoners Act 1984 (warrants under section 1 for the transfer of prisoners into the United Kingdom). All references to sections, chapters and parts in the below commentary are references to the Criminal Justice Act 2003.

557. Subparagraph 2B(1) defines the cohort of prisoners to whom paragraph 2B applies.

558. Subparagraphs 2B(2) and (3) modify the application of Chapter 6 of Part 12 and changes the release point for prisoners in this cohort to two thirds.

559. Subparagraph 2B(4) excludes prisoners in this cohort from release under section 246, which is operationally referred to as release on Home Detention Curfew.

560. Subparagraph 2B(5) provides that these prisoners will only be eligible for a standard recall under section 255C and can only be released by the Secretary of State or the Parole Board.

561. Subparagraph 2B(6) provides that if one of these prisoners is subject to release by the Parole Board, the Secretary of State can require the Parole Board to refer that decision to the High Court.

562. Subparagraph 2B(7) provides that the automatic release point for the fixed term sentence for murder is two thirds when serving that sentence consecutively with another sentence.

563. Subparagraph 2B(8) disapplies section 264B which provides for the calculation of consecutive sentences where there is a sentence subject to the transitional release provisions of the Offender Rehabilitation Act 2014 in the mix. This section has been disapplied for this cohort of offenders to ensure that any prisoners to whom this section applies remain on licence for the whole term of their sentence.

564. Subsection (2) amends paragraph 4(5) of Schedule 20B so that prisoners in this cohort will be released at two thirds.

565. Subsections (3) and (4) provides that new paragraph 2B only applies to prisoners who were transferred into England and Wales both before and after this section comes into force, except where any prisoner has been released from their sentence before commencement. However, paragraph 2B applies to any prisoner in this cohort who is recalled to prison after commencement of these provisions, even if they were transferred and released before it came into force.

Section 42: Imprisonment or detention for public protection: termination of licences

566. Section 42 amends the Crime (Sentences) Act 1997.

567. Subsection (2)(a) Inserts new subsections (3A) and (3B) into section 31A of the 1997Act. This allows an offender serving an IPP or DPP sentence to request that the Secretary of State refer their case to the Parole Board to consider licence termination one year after the end of the qualifying period where they have successfully remained in the community for a year. The Secretary of State has no discretion on referral and must refer; however, the offender is limited to one request per year.

568. Subsection 2(b) to (d) are consequential on paragraph (a).

569. Subsection 2(e) reduces the IPP qualifying period to two years.

570. Subsection 2(d) restates the power to amend the qualifying periods for IPP's and DPP's in light of the changes to subsection (5).

571. Subsection (3) makes necessary consequential amendments to section 32 of the Crime (Sentences) Act 1997.

572. Subsection (4) makes necessary consequential amendments to section 32ZZA of the Crime (Sentences) Act 1997.

Section 43: Powers of High Court on referral

573. Sections 32ZAA to 32ZAC of the Crime (Sentences) Act 1997 (the 1997 Act) provide that the Secretary of State can direct the Parole Board to refer a case concerning top-tier life-sentenced offenders to the High Court to determine release, following a release decision from the Parole Board. This section amends section 32ZAC of the 1997 Act to provide for referrals to the High Court where the Parole Board has directed that a prisoner be released unconditionally by virtue of section 31A(4F)(a).

574. Subsection (2) modifies subsection (1) of section 32ZAC so that it only applies to referred prisoners who have been released on licence.

575. Subsection (3) inserts new subsections (2A) and (2B) into section 32ZAC which enable the High Court to either make an order requiring the Secretary of State to give effect to the Parole Board's direction to release the prisoner unconditionally or make an order quashing that direction. Subsection 2B replicates the High Court's powers in section 32ZAC(1) with regard to dealing with referrals for Parole Board directions to release prisoners on licence.

576. Subsection (4) provides that the date of an order quashing the High Court's direction is to be treated as the date on which the Board disposed of the case, for the purposes of calculating the prisoner's next parole referral.

577. Subsections (5) to (7) make necessary consequential amendments to section 32ZB of the 1997 Act.

578. Subsections (6) and (7) provide that section 32ZB applies to orders that the High Court makes either under section 32ZAC for release on licence or for unconditional release and means the Secretary of State must give effect to that order as soon as practicable.

579. Subsection (8) clarifies that this section applies to all relevant prisoners, including those currently serving sentences, but not those who have already had a release decision from the Parole Board before this section comes into force.

Part 3: Bail

Section 44: Amendments to Bail Act 1976

580. Subsection (1) sets out that the Bail Act 1976 is amended.

581. Subsection (2) amends subsection (2) of section 2 of the Bail Act 1976 to define "suspended sentence" in accordance with the meaning given by section 286 of the Sentencing Code.

582. Subsection (3) makes a consequential amendment to section 3 of the Bail Act 1976. It updates subsection (6ZAA) to reflect that electronic monitoring requirements may also be imposed in accordance with new section 3AAB, which applies to certain adults granted bail where there is a real prospect of a suspended sentence

583. Subsection (4) insert a new section 3AAB into the Bail Act 1976. This new section sets out the conditions that must be met before electronic monitoring requirements are available for adult defendants, if it appears to the court that there is no real prospect that the defendant will receive an immediate custodial sentence, but there is a real prospect that they will receive a suspended sentence.

584. Subsection (5) make consequential amendments to section 3AB of the Bail Act 1976 to reflect the insertion of new section 3AAB.

585. Subsection (6) make consequential amendments to section 3AC of the Bail Act 1976 to reflect the insertion of new section 3AAB.

586. Subsection (8)(a) amends paragraph 1A(1)(c) of Part 1 of Schedule 1 to the Bail Act 1976 to amend the "no real prospect of custody" test for defendants.

587. Subsection (8)(b) amends paragraph 9 of Part 1 of Schedule 1 to the Bail Act 1976 to include in the list of factors that may be relevant to exceptions to bail in Schedule 1 the fact that that the defendant is pregnant, is a primary carer for another person, or has been the victim of an offence involving behaviour amounting to domestic abuse within the meaning given by section 1 of the Domestic Abuse Act 2021. These factors should be taken into account when considering whether bail should be refused under paragraphs 2(1), 2ZA(1), 6ZA and 6A of Part 1 of Schedule 1 to the Bail Act if relevant to that decision.

588. Subsection (9) amends paragraph 1A(1) of Part 1A of Schedule 1 to the Bail Act 1976 to amend the "no real prospect of custody" test in cases in which the person is accused or convicted of a summary offence.

Part 4: Foreign Criminals

Section 45: Deportation etc of foreign criminals

589. Subsection (1) amends section 38(1) of the UK Borders Act 2007 so that a period of imprisonment for the purpose of the automatic duty to make a deportation order in respect of a foreign criminal sentenced to a period of imprisonment of at least 12 months includes suspended sentences.

590. Subsection (2) amends section 117D(4) of the Nationality, Immigration and Asylum Act 2002 so that a person who has been given a suspended sentence of at least 12 months is a "foreign criminal" for the purpose of the Article 8 public interest considerations in section 117C, and all references to periods of imprisonment of a certain length of time in Part 5A include suspended sentences.

Part 5: General

Section 46: Power to make consequential provision

591. Section 46 creates a power for the Secretary of State to make any consequential amendments that may be required to existing law to ensure consistency in the statute book and operability of the provisions of this Act by way of regulations. Subsection (4) provides that these regulations can make supplementary, incidental, transitional or saving provision, and different provision for different purposes or areas. Regulations made under section 46 are subject to the negative procedure unless they amend, repeal or revoke primary legislation in which case they are subject to the draft affirmative procedure.

Section 47: Power to state effect in Sentencing Act 2020 of commencement of amendments made by this Act

592. Section 47 of the Act applies the power in section 419(1) of the Sentencing Act 2020 to any amendment or repeal made by or under this Act. Section 419(1) of the 2020 Act sets out that the Secretary of State may by regulations amend the Sentencing Act 2020 so as to specify the purposes for which an amendment or repeal made by Schedule 22 or Schedule 23 of that Act has effect, and so as to ensure that as far as practicable any provision of the 2020 Act which as a result of such amendment or repeal has effect for particular purposes or in particular cases only, remains in place instead of having effect by virtue of a transitional, transitory or saving effect. This section gives the Secretary of State the same powers in respect of amendments being made to the Sentencing Act 2020 by or under this Act.

Section 48: Extent

593. Section 48(1) provides that any amendment or repeal made by this Act (other than those made by section 18) has the same extent within the United Kingdom as the provision amended, repealed or revoked.

594. Subsection (2) sets out the provisions of the Act which extend to England and Wales, Scotland and Northern Ireland (Sections 18, 34(4) and (5), 39(7) and Part 5). Subsection (3) confirms that the remainder of the provisions in the Act extend to England and Wales only.

595. Subsections (4) to (6) set out the extent of the armed forces provisions within the Act.

596. The armed forces provisions of the Act extend to England and Wales, Scotland, Northern Ireland, the Isle of Man and the British Overseas Territories except Gibraltar, and may be extended to the Channel Islands by Order in Council. They apply to armed forces personnel and civilians subject to service discipline wherever they are in the world. The armed forces provisions are provisions made or inserted by this Act so far as they are applied by or under the Armed Forces Act 2006; and any amendment, modification or repeal made by or under this Act of (a) a provision made by the Armed Forces Act 2006, (b) a provision that amends, modifies or repeals a provision of that Act, or (c) any other provision so far as that provision is applied by or under that Act.

Section 49: Commencement

597. Section 49(3) provides for certain provision to come into force on the day on which this Act was passed - sections 25 and 28, Part 5 and any other provision (including provision modifying other legislation)_so far as it confers power to make regulations, rules or an order or is otherwise necessary for enabling the exercise of such a power on or after the day on which the Act is passed.

598. Section 49(4) provides for certain provisions to come into force two months after Royal Assent – sections 1, 2, 4, 5, 7 to 9, 11, 19, 20, 40, 41 and 43 and Schedules 1 and 2.

599. The remainder of the provisions in the Act will come into force on such day as the Secretary of State appoints via regulations.

Section 50: Short title

600. This provision is self-explanatory.

Commencement

601. Sections 25, 28 and Part 5 (General) came into force on the day that this Act was passed, along with any other provision of this Act so far as it confers power to make regulations, rules or an order or is otherwise necessary for enabling the exercise of such a power on or after the day on which this Act was passed..

The remaining provisions of this Act come into force on such day as the Secretary of State may by regulations appoint, with the exception of sections 1, 2, 4, 5, 7 to 9, 11, 19, 20, 40, 41 and 43 and Schedules 1 and 2 which will come into force two months after royal assent.

Related documents

The following documents are relevant to the Act and can be read at the stated locations:

- Independent Sentencing Review Final Report (May 2025)

Annex A – Hansard References

602. The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

Stage	Date	Hansard Reference(s)
House of Commons		
Introduction	02 September 2025	
Second Reading	16 September 2025	Vol. 772 Col. 1399
Committee of the Whole House	21 October 2025	Vol. 773 Col. 812
Report	29 October 2025	Vol. 774 Col. 359
Third Reading	29 October 2025	Vol. 774 Col. 435
House of Lords		
Introduction	30 October 2025	Vol. 849 Col. 1499
Second Reading	12 November 2025	Vol. 850 Col. 276
Committee	26 November 2025	Vol. 850 Col. 1339
		Vol. 850 Col. 1396
	01 December 2025	Vol. 850 Col. 1580
		Vol. 850 Col. 1658
	03 December 2025	Vol. 850 Col. 1788
		Vol. 850 Col. 1863
Report	06 January 2026	Vol. 851 Col. 1064
		Vol. 851 Col. 1144
Third Reading	12 January 2026	Vol. 851 Col. 1551
Consideration of Amendments		
Commons Consideration of Lords Amendments	20 January 2026	Vol. 779 Col. 197
Lords Consideration of Commons amendments	21 January 2026	Vol. 852 Col. 285
Royal Assent	22 January 2026	Vol. 852 Col. 473

Annex B – Progress of Bill Table

603. This Annex shows how each section of this Act was numbered during the passage of the Bill through Parliament.

Section of the Act	Bill as introduced in the Commons	Bill as amended at Report in the Lords
Section 1	Clause 1	Clause 1
Section 2	Clause 2	Clause 2
Section 3	Clause 3	Clause 3
Section 4	Clause 4	Clause 4
Section 5	Clause 5	Clause 5
Section 6	Clause 6	Clause 6
Section 7	Clause 7	Clause 7
Section 8	Clause 8	Clause 8
Section 9	Clause 9	Clause 9
Section 10	Clause 10	Clause 10
Section 11	n/a	Clause 11
Section 12	Clause 11	Clause 12
Section 13	Clause 12	Clause 13
Section 14	Clause 13	Clause 14
Section 15	Clause 14	Clause 15
Section 16	Clause 15	Clause 16
Section 17	Clause 16	Clause 17
Section 18	Clause 17	Clause 18
Section 19	Clause 18	Clause 19
Section 20	Clause 19	Clause 20
Section 21	n/a	Clause 21
Section 22	n/a	Clause 22
Section 23	Clause 20	Clause 23
Section 24	Clause 21	Clause 24
Section 25	Clause 22	Clause 25
Section 26	Clause 23	Clause 26
Section 27	Clause 24	Clause 27
Section 28	Clause 25	Clause 28
Section 29	Clause 26	Clause 29
Section 30	Clause 27	Clause 30

Section of the Act	Bill as introduced in the Commons	Bill as amended at Report in the Lords
Section 31	Clause 28	Clause 31
Section 32	Clause 29	Clause 32
Section 33	Clause 30	Clause 33
Section 34	Clause 31	Clause 34
Section 35	Clause 32	Clause 35
Section 36	Clause 33	Clause 36
Section 37	Clause 35	Clause 37
Section 38	Clause 36	Clause 38
Section 39	Clause 37	Clause 39
Section 40	Clause 38	Clause 40
Section 41	Clause 39	Clause 39
Section 42	n/a	Clause 42
Section 43	Clause 40	Clause 43
Section 44	Clause 41	Clause 44
Section 45	Clause 42	Clause 45
Section 46	Clause 43	Clause 46
Section 47	Clause 44	Clause 47
Section 48	Clause 45	Clause 48
Section 49	Clause 46	Clause 49
Section 50	Clause 47	Clause 50

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