
STATUTORY INSTRUMENTS

1997 No. 2200 (C. 87)

**CRIMINAL LAW, ENGLAND AND WALES
CRIMINAL LAW, NORTHERN IRELAND
CRIMINAL LAW, SCOTLAND**

**The Crime (Sentences) Act 1997 (Commencement
No. 2 and Transitional Provisions) Order 1997**

Made - - - - 8th September 1997

The Secretary of State, in exercise of the powers conferred on him by section 57(2) and (3) of the Crime (Sentences) Act 1997⁽¹⁾, hereby makes the following Order:

1.—(1) This Order may be cited as the Crime (Sentences) Act 1997 (Commencement No. 2 and Transitional Provisions) Order 1997.

(2) In this Order “the 1997 Act” means the Crime (Sentences) Act 1997.

2.—(1) Subject to the transitional provisions and savings made by article 5 below, the following provisions of the 1997 Act shall come into force on 1st October 1997, namely—

- (a) in section 1, subsections (1) and (2) and, so far as relating to section 3, subsection (3);
- (b) section 2;
- (c) in section 3, subsections (1) to (5) and, so far as relating to that section, subsection (6);
- (d) section 5 so far as relating to sentences imposed under section 2(2) or 3(2);
- (e) section 6 so far as relating to serious offences within the meaning of section 2 or class A drug trafficking offences within the meaning of section 3;
- (f) sections 7, 28 to 34, 36 and 38;
- (g) section 41 and Schedule 1 so far as not already in force;
- (h) section 42 and, in Schedule 2, paragraphs 1 to 3, 5 to 7 and 9 to 11;
- (i) sections 44 to 47;
- (j) section 48 and Schedule 3;
- (k) sections 49 and 51 to 54;
- (l) section 55(1) and the provisions of Schedule 4 mentioned in paragraph (2) below;

- (m) in section 55(2), paragraph (a) so far as relating to sentences falling to be imposed under section 2(2) or 3(2), and paragraph (b);
 - (n) section 56(1) and paragraphs 5 and 7 to 13 of Schedule 5;
 - (o) section 56(2) and Schedule 6 so far as relating to the repeals in the Criminal Justice Act 1961(2), the 1973 Act, the 1983 Act and sections 4(1) and 12 of, and paragraph 14 of Schedule 2 to, the 1991 Act;
 - (p) section 56(2) and Schedule 6 so far as they repeal the provisions of the 1991 Act mentioned in paragraph (3) below; and
 - (q) section 57.
- (2) The provisions of Schedule 4 to the 1997 Act referred to in paragraph (1)(1) above are—
- (a) in each of paragraphs 1 to 3, sub-paragraph (1) so far as relating to offences whose corresponding civil offences are offences to which section 2 would apply, and sub-paragraphs (2) and (4);
 - (b) paragraphs 4 and 5;
 - (c) in paragraph 6, sub-paragraph (1)(a);
 - (d) in paragraph 8, sub-paragraphs (1) to (3) so far as relating to offences the sentences for which fall to be imposed under section 2(2) or 3(2), and sub-paragraph (4);
 - (e) in paragraph 10, sub-paragraph (1);
 - (f) in paragraph 12, sub-paragraph (1), sub-paragraph (2) so far as relating to offences the sentences for which would otherwise fall to be imposed under section 3(2), and sub-paragraphs (3) and (5) to (19);
 - (g) paragraph 13 so far as relating to sentences required by section 2(2) or 3(2);
 - (h) in paragraph 15, sub-paragraphs (1), (8) and (9) so far as relating to offences the sentences for which fall to be imposed under section 2(2) or 3(2), sub-paragraph (4) so far as relating to section 3(2), sub-paragraph (5) so far as relating to sentences falling to be imposed under section 3(2), and sub-paragraphs (2), (3), (6), (7) and (10) to (13);
 - (i) paragraph 16; and
 - (j) paragraph 17 so far as relating to offences the sentences for which fall to be imposed under section 3(2).
- (3) The provisions of the 1991 Act referred to in paragraph (1)(p) above are—
- (a) section 34;
 - (b) in section 35, subsections (2) and (3);
 - (c) in section 36, subsection (1) so far as relating to life prisoners and, in subsection (2), the words “or life”;
 - (d) in section 37, subsection (3) and, so far as relating to life prisoners, subsections (4) and (5);
 - (e) in section 39, in subsection (1), the words “or life” and, in subsection (5), paragraph (a), the word “other” in paragraph (b) and the words “direction or”;
 - (f) in section 43, subsection (2) and, in subsection (3), the words “(whether short-term, long-term or life prisoners)” and the words “or (2)”;
 - (g) section 48; and
 - (h) in section 51, in subsection (1), the definitions of “discretionary life prisoner” and “life prisoner”, and subsection (3).
- (4) In paragraph (3) above “life prisoner” has the same meaning as in Part II of the 1991 Act.

3. Subject to the transitional provisions and savings made by article 5 below, the following provisions of the 1997 Act shall come into force on 1st January 1998, namely—

- (a) sections 35 and 37;
- (b) in section 39, subsections (1) and (3) to (6) and, so far as relating to offences the sentences for which are fixed by law or fall to be imposed under section 2(2) or 3(2), subsection (2);
- (c) sections 40 and 43; and
- (d) paragraph 10(2) of Schedule 4.

4. Section 50 of the 1997 Act shall come into force on 1st March 1998.

5.—(1) The following provisions of the 1997 Act shall not apply where the offence in question was committed before 1st October 1997, namely—

- (a) sections 38, 44, 46 and 52;
- (b) paragraph 15(2) and (11) to (13) of Schedule 4; and
- (c) Schedule 6 so far as relating to the repeals in sections 2(3) and 14(2) of the 1973 Act and sections 4(1) and 12 of, and paragraph 14 of Schedule 2 to, the 1991 Act.

(2) Sections 39 and 43 of the 1997 Act shall not apply where the offence in question was committed before 1st January 1998.

(3) In relation to any time before the commencement of Chapter I of Part II of the 1997 Act—

- (a) section 31(6) of that Act shall have effect as if for the words “section 24(2) above” there were substituted the words “section 46(3) of the 1991 Act”;
- (b) section 56(2) of the Criminal Justice Act 1967⁽³⁾ (as amended by paragraph 5(1)(b) of Schedule 4 to the 1997 Act) shall have effect as if for the words “section 17(3) of the Crime (Sentences) Act 1997 (committal for breach of conditions of release supervision order)” there were substituted the words “section 40(3)(b) of the Criminal Justice Act 1991 (committal for sentence for offence committed during currency of original sentence)”;
- (c) section 32 of the 1991 Act (as amended by paragraph 15(10) of Schedule 4 to the 1997 Act) shall have effect as if—

- (i) in subsection (1), for the words “the functions conferred by Part II of the Crime (Sentences) Act 1997 (“Part II”)” there were substituted the words “the functions conferred by this Part in respect of long-term and short-term prisoners and by Chapter II of Part II of the Crime (Sentences) Act 1997 (“Chapter II”) in respect of life prisoners within the meaning of that Chapter”; and
- (ii) in subsections (3), (4) and (6), for the words “Part II” there were substituted the words “this Part or Chapter II”.

(4) Without prejudice to the operation of section 17 of the Interpretation Act 1978⁽⁴⁾, in relation to prisoners repatriated to England and Wales for offences committed before the commencement of Chapter I of Part II of the 1997 Act, any reference in the Repatriation of Prisoners Act 1984⁽⁵⁾ (whether or not as modified by Schedule 2 to the 1997 Act) to a provision of Part II of the 1991 Act applicable to life prisoners (within the meaning of that Part) shall be construed as including a reference to the equivalent provision of Chapter II of Part II of the 1997 Act.

(5) A certificate issued under subsection (1) of section 48 of the 1991 Act in respect of a person who is a transferred life prisoner within the meaning of that section shall, after 30th September 1997, have effect as if—

(3) 1967 c. 80.
(4) 1978 c. 30.
(5) 1984 c. 47.

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- (a) it had been issued under subsection (1) of section 33 of the 1997 Act; and
- (b) the person were a transferred life prisoner within the meaning of that section.

(6) Schedule 1 to the 1997 Act and, so far as relating to the repeal of Part III of the Criminal Justice Act 1961, Schedule 6 to that Act shall not apply in respect of any person who on 1st October 1997 is in any part of the United Kingdom or any of the Channel Islands or the Isle of Man by virtue of an order made under that Part, for so long as that order has effect under that Part.

Home Office
8th September 1997

Jack Straw
One of Her Majesty's Principal Secretaries of
State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force sections 1 to 3, 5 to 7 and 28 to 57 of, and specified provisions of Schedules 1 to 6 to, the Crime (Sentences) Act 1997 to the extent and for the purposes set out in this Order. All the provisions commenced by this Order come into force on 1st October 1997, with the exception of sections 35, 37, 39, 40, 43 and 50 and paragraph 10(2) of Schedule 4, which come into force on 1st January 1998. or, in the case of section 50, 1st March 1998 Transitional provisions and savings are set out in article 5 of the Order.

Provisions in the 1997 Act for a minimum custodial sentence of three years for a third domestic burglary (section 4) and on the effect of determinate custodial sentences (Chapter I of Part II) are not brought into force by this Order.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

Paragraphs 14 and 19 of Schedule 1 to the Crime (Sentences) Act 1997 were brought into force on 25th June 1997 by S.I.[1997/1581](#).