

# **Operational Guidance**

## **For Sentence Calculation Policy Framework**

### **Determinate Sentenced Prisoners**

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## CONTENTS:

### GLOSSARY of Abbreviations Page 7

#### CHAPTER 1 – INTRODUCTION

- 1.5 Legislative changes made by the Police, Crime, Sentencing and Courts Act 2022

#### CHAPTER 2 **Determinate Sentence Types Tables** Page 10

- 2.1 Current Sentences available for the court to impose  
2.2 Historical Sentence Types Page 14

#### CHAPTER 3 **General Calculation Principles** Page 16

- 3.4 Converting the sentence into days Page 17  
3.11 Rounding up or down Page 18

- 3.13 Calculating from the date the sentence is imposed  
3.14 Sentenced in absence Page 19

- 3.19 Concurrent sentences  
3.23 Consecutive sentences Page 20

- 3.26 Restriction on consecutive sentences  
3.30 Application of relevant remand time  
3.31 Immediate releases from court Page 21

- 3.34 Prospective Added Days (PADAs)  
3.36 Unlawfully at large time (UAL)  
3.39 TUSED – Post Sentence Supervision – ORA  
3.43 HDCED – Home Detention Curfew Eligibility Date Page 22

- 3.44 ERSED – Early Removal Scheme Eligibility Date  
3.47 EMED – Electronic Monitoring Expiry Date – Acquisitive Crime Project Page 23

- 3.49 Release dates falling on a Bank Holiday or weekend

- 3.51 Single-termed cases

#### CHAPTER 4 **Applying Calculation Principles to Current Sentences** Page 24

- 4.6 Standard Determinate Sentences (SDS) – includes DYOI and section 250 (not TORERA and not SDS+) Page 25

- 4.16 Section 244ZB – Power to refer and SDS case to the Parole Board Page 26

- 4.17 Standard Determinate Sentence Plus (SDS+) includes DYOI+ and s250+

- 4.29 Special Custodial Sentence for Certain Offenders of Particular Concern (SOPC) Page 29

- 4.36 Special Sentence of Detention for Terrorist Offenders of Particular Concern (SDOPC) Page 30

- 4.41 Extended Determinate Sentences (EDS)  
4.49 EDS100 Page 31

- 4.56 Serious Terrorism Sentences (STS) Page 32

- 4.63 Breach of Post Sentence Supervision (BOTUS) Page 33

- 4.68 NoS breach – Section 256C Page 34

- 4.72 Court Martial (CM)/Service Civilian Court Sentences (SCC) Page 35

- 4.74 Detention and Training Orders (DTOs)

<b>CHAPTER 5</b>	<b>Applying Calculation Principles to Historical Sentences</b>	<b>Page 39</b>
5.2	SOPCs imposed before 28 June 2022	
5.4	TORERA2020 SDS- Schedule19ZA (terrorism/terrorism-Connected) O/C on or after 04/04/05 but before 29/04/2021	
5.9	SDS under 12 months – O/C before 01/02/2014 (NORA)	<b>Page 40</b>
5.13	SDS imposed before 03/12/2012 for O/C before 04/04/05 (non-TORERA)	
5.29	Section 226A/226B Extended Determinate Sentence (EDS) Imposed before 13/04/2015	<b>Page 43</b>
5.39	Section 227/228 Extended Sentence for Public Protection (EPP)	<b>Page 44</b>
5.47	Section 85 Extended Sentences	<b>Page 45</b>
5.52	Section 86 Extended Licence	<b>Page 46</b>
5.53	Section 116/40 Return imposed before 03/12/2012	
5.57	Existing Prisoners (EPs) sentenced before 01/10/1992	
<b>CHAPTER 6</b>	<b>Multiple Concurrent and Consecutive Scenarios</b>	<b>Page 48</b>
6.2	Main principles	
6.3	Meaning of ‘sentence’	<b>Page 49</b>
6.5	Meaning of ‘release’	
6.7	‘Sentence envelope’	
6.8	Concurrent sentences	<b>Page 50</b>
6.16	Consecutive sentences	<b>Page 53</b>
6.19	Consecutive sentences subject to the same release provisions	<b>Page 54</b>
6.23	Consecutive sentences subject to different release provisions	<b>Page 56</b>
6.30	Consecutive parole sentences where PED is at different points	<b>Page 57</b>
6.32	Lilac calculation sheets for under 12 month aggregates NORA/ORAs	<b>Page 58</b>
	Mixtures	
6.38	Detention and Training Orders (DTOs)	<b>Page 59</b>
<b>CHAPTER 7</b>	<b>Application of Remand/Tagged Bail/Time Spent in Custody Abroad Pending Extradition/Police Custody</b>	<b>Page 62</b>
7.1	Main principles	
7.2	Prison Service responsible for crediting remand to custody time	<b>Page 63</b>
7.5	Remand and DTOs	<b>Page 64</b>
7.7	Courts are responsible for directing tagged bail	
7.13	Time spent in custody abroad pending extradition	
7.22	Relevant remand	<b>Page 65</b>
7.26	Remand served at the same time as Immigration Detention	
7.27	Remand served at the same time as a sentence/term	<b>Page 67</b>
7.28	Police custody as part of the investigation into the offence	
7.32	How remand is applied	
7.35	Remand/tagged bail application in multiple sentence scenarios	<b>Page 69</b>
7.38	Remand/tagged bail application in DTO/sentence scenarios	<b>Page 70</b>
7.41	1 day sentences during a period of remand	<b>Page 71</b>
7.43	Remand and immediate releases	
7.46	Unused remand alert	<b>Page 72</b>
7.49	Unused remand and recalls	<b>Page 73</b>

<b>CHAPTER 8</b>	<b>Re-release Following Recall from Licence and any New Sentence</b>	<b>Page 74</b>
8.2	Main principles	
8.3	Unused remand alert appears on reception	<b>Page 75</b>
8.4	Obtain the back record	
8.8	Post Recall Release Date (PRRD)	
8.10	UAL following recall	
8.13	Uncredited remand/tagged bail	<b>Page 76</b>
8.14	Section 255 recall	
8.15	Section 254 recalls (standard and FTR)	
8.24	Recalls and new sentences	<b>Page 78</b>
8.25	Recalled but arrested and detained in another jurisdiction	
<b>CHAPTER 10</b>	<b>Unlawfully at Large Time (UAL)</b>	<b>Page 80</b>
9.2	Main principles	
9.3	Calculating the number of UAL days	<b>Page 81</b>
9.8	How UAL affects release dates of sentences/terms	<b>Page 82</b>
9.10	UAL and consecutive sentences	
9.12	UAL and concurrent sentences	<b>Page 83</b>
9.13	UAL and single term scenarios	
9.16	UAL during a period of remand	<b>Page 84</b>
9.17	Counting UAL as time served towards the sentence/term	
9.18	Time spent in custody abroad pending extradition	
9.22	UAL following a release in error	<b>Page 85</b>
9.27	UAL following a recall from licence	
9.28	Process for considering counting UAL under section 49(2) of Prisons Act 1952	
9.31	Prisoners escaped/absconded from other jurisdictions	<b>Page 86</b>
<b>CHAPTER 11</b>	<b>Appeals</b>	<b>Page 87</b>
10.1	Main principles	
10.2	Appeal courts and hearings	
10.6	Calculation impact of appeals	<b>Page 88</b>
10.9	Multiple sentences not all quashed on appeal	<b>Page 89</b>
10.10	Appeal dismissed	
10.11	Court order that time served is not to count	
10.13	Time spent on bail pending appeal	<b>Page 90</b>
10.14	Quashing a sentence does not turn sentence time into remand	
10.15	Court Martial (CM)/Service Civilian Court (SCC) appeals	
<b>CHAPTER 12</b>	<b>Added Days Awarded on Adjudication (ADAs)</b>	<b>Page 92</b>
11.2	Main principles	
11.3	Evidence to enable ADAs to be applied	<b>Page 93</b>
11.4	Effect on release dates	
11.6	ADAs and ROTLEDs	
11.7	Multiple sentences	
11.8	Consecutive sentences	
11.9	Concurrent sentences	<b>Page 94</b>
11.12	DTOs, terms in default and civil terms	

11.13	Concurrent 'sentences' and 'terms' with ADAs	<b>Page 95</b>
11.14	Consecutive 'sentences' and 'terms' with ADAs	
11.16	Prospective Added Days (PADAs)	
11.17	PADAs and immediate release	<b>Page 96</b>
11.18	ADAs and recalls	
11.19	ADAs and FTRs	
11.20	ADAs and standard recalls	
11.21	ADAs and section 255 recalls	
11.22	ADAs and recalls with further matters	
11.26	Remission of Added Days (RADAs)/Quashing an award	<b>Page 97</b>
<b>CHAPTER 13 Special Remission/Royal Prerogative of Mercy (RPM)</b>		<b>Page 98</b>
12.1	Main principles	
12.2	Meritorious conduct	
12.3	Release date calculated too early	
12.4	Release in error	
	Reporting a release in error	
12.6	Decision to exercise the RPM/special remission	<b>Page 99</b>
12.8	Effect of successful decision	
12.11	Formula for calculating required RPM/special remission	<b>Page 100</b>
<b>CHAPTER 14 Transfers from Foreign Jurisdictions</b>		<b>Page 101</b>
13.1	Main principles	
13.2	Transfers under the Crime (Sentences) Act 1997 from other UK jurisdictions	
13.4	Unrestricted transfers	<b>Page 103</b>
13.5	Restricted transfers	
	Guide to release provisions of other UK jurisdictions	
13.9	Scotland	
13.10	N Ireland	<b>Page 103</b>
13.11	Jersey	<b>Page 104</b>
13.12	Guernsey	
13.13	Isle of Man	
13.14	Transfers under the Repatriation of Prisons Act 1984	<b>Page 105</b>
13.18	Transfers under the Crime (International Co-operation) Act 2003	
13.19	Transfers under the Colonial Prisoners Removal Act 1984	
13.21	Transfers from the International Criminal Courts	
13.23	Queries about transfers from other jurisdictions	<b>Page 106</b>
<b>CHAPTER 15 Terms of Imprisonment in Default of Payment</b>		<b>Page 107</b>
14.1	Calculation of release dates for 'terms' of imprisonment	<b>Page 108</b>
14.7	Concurrent scenarios	<b>Page 109</b>
14.8	Consecutive scenarios	
14.10	Multiple 'terms' enforced before 04/04/2005	<b>Page 110</b>
14.11	'Terms' consecutive to a 'sentence' scenarios	
14.12	Wording on the warrants	
14.15	'Terms' and remand	<b>Page 111</b>
14.19	Confiscation orders	<b>Page 113</b>
14.25	Lodged warrants	

14.31	Pay-outs	Page 114
14.39	Pay-out formula	Page 115
14.42	Pay-outs on concurrent 'terms'	Page 116
14.43	Pay-outs on consecutive 'terms'	
14.44	Effect of ADAs on pay-outs	Page 117
14.46	Appropriations	
14.52	Appropriations and multiple consecutive 'terms'	Page 119
14.53	Appropriations and multiple concurrent 'terms'	
14.54	Costs of a warrant	Page 120
14.55	Paperwork to be forwarded to the court	
14.58	Remaining liabilities	

**CHAPTER 16 Civil 'Terms' of Imprisonment** **Page 121**

15.1	Main principles	
15.2	Not convicted of an offence	
15.3	No remand/tagged bail to be applied	
15.4	Impact of ADAs	Page 122
15.7	'Terms' imposed for contempt	
15.11	Civil 'terms' for non-payment of Orders made	
15.12	Civil debt	
15.15	Recognizances to keep the peace or be of good behaviour	Page 123
15.18	Pay-outs	
15.22	Appropriations	Page 124
15.23	Remaining liabilities	
15.26	Breach of Gang Injunctions	

**APPENDIX 1**

	<b>Draft letter to challenge consecutive sentences</b>	<b>Page 125</b>
<b>APPENDIX 2</b>	<b>List of SDS+ offences</b>	<b>Page 126</b>
<b>APPENDIX 3</b>	<b>Breach table</b>	<b>Page 140</b>
<b>APPENDIX 4</b>	<b>Police custody application forms</b>	<b>Page 143</b>
<b>APPENDIX 5</b>	<b>UAL - Factors to consider - Exceptional circumstances</b>	<b>Page 139</b>
<b>APPENDIX 6</b>	<b>RPM/Special remission – factors to be considered</b>	<b>Page 147</b>
<b>APPENDIX 7</b>	<b>RPM/special remission calculation table</b>	<b>Page 148</b>
<b>APPENDIX 8</b>	<b>Pay-out proforma</b>	<b>Page 149</b>
<b>APPENDIX 9</b>	<b>Summary of release and pay-out options for Civil prisoners</b>	<b>Page 150</b>
<b>APPENDIX 10</b>	<b>Power to Detain (s244ZB) multiple sentence examples</b>	<b>Page 151</b>

## GLOSSARY OF ABBREVIATIONS USED IN THIS GUIDANCE

ABH	Actual Bodily Harm
ADAs	Added Days Awarded
APD	Approved Parole Date
ARD	Automatic Release Date
ARR	Arrested
B	Bailed
BOTUS	Breach of Top Up Supervision (sentence type code on NOMIS)
C/C	Concurrent
CJA1991	Criminal Justice Act 1991
CJA2003	Criminal Justice Act 2003
CJCA2015	Criminal Justice and Courts Act 2015
CM	Court Martial
CMAC	Court Martial Appeal Court
COACD	Court of Appeal Criminal Division
CPS	Crown Prosecution Service
CRD	Conditional Release Date
CTSA2021	Counter Terrorism and Sentencing Act 2021
DMR	Daily Monetary Rate
DPRRD	DYOI Post Recall Release Date
DTO	Detention and Training Order
DYOI	Detention in a Young Offender Institution
EDR	Earliest Date of Release
EDS	Extended Determinate Sentence
EDS100	Extended Determinate Sentence imposed for certain Terrorism Offences
EMED	Electronic Monitoring Eligibility Date
EP	Existing Prisoner
ERS	Early Removal Scheme
ERSED	Early Removal Scheme Eligibility Date
ESPP	Extended Sentence for Public Protection
ETD	Earliest Transfer Date for DTOs
FNP	Foreign National Prisoner
FTR	Fixed Term Recall
GBH	Grievous Bodily Harm
HDC	Home Detention Curfew
HDCAD	Home Detention Curfew Actual Date
HDCED	Home Detention Curfew Eligibility Date
HMPPS	Her Majesty's Prison and Probation Service
HQ	Headquarters
IA	Independent Adjudicator
LASPOA2012	Legal Aid, Sentencing and Punishment of Offenders Act 2012
LED	Licence Expiry Date
LR	Licence Revoke
LTD	Late Transfer Date for DTOs
MHA1983	Mental Health Act 1983
MOJ	Ministry of Justice
MTD	Mid Transfer Date for DTOs
NFR	Not For Release
NOMIS	

NORA	National Offender Management Information System – HMPPS IT system
NoS	Non-ORA Sentence (under 12 months for o/c before 01/02/2015)
	Notice of Supervision
NPD	Non-Parole Date
NSP	No Separate Penalty
O/C	Offence Committed
OMPPG	Offender Management Public Protection Group
OMU	Offender Management Unit
ORA2014	Offender Rehabilitation Act 2014
PACE1984	Police and Criminal Evidence Act 1984
PADAs	Prospective Added Days Awarded
PCC(S)A2000	Powers of Criminal Courts (Sentencing) Act 2000
PCSCA2022	Police, Crime, Sentencing and Courts Act 2022
PDG	Prison Directors Group
PED	Parole Eligibility Date
PF	Policy Framework
PPCS	Public Protection Casework Section
PRRD	Post Recall Release Date
PSS	Post Sentence Supervision
RADAs	Remission of Added Days Awarded
ROPARPS2020	The Release of Prisoners (Alteration of Relevant Proportion of Sentence) Order 2020
ROTL	Release on Temporary Licence
RPM	Royal Prerogative of Mercy
Rx	Remand to Custody
S	Sentenced
SA2020	Sentencing Act 2020
SC2020	Sentencing Code 2020 (from the Sentencing Act 2020)
SCA2007	Serious Crime Act 2007
SCC	Service Civilian Court
Sch	Schedule
SDOPC	Special Sentence of Detention for Terrorist Offenders of Particular Concern
SDS	Standard Determinate Sentence
SDS+	Standard Determinate Sentence Plus (2/3rds release)
SED	Sentence Expiry Date
SLED	Sentence and Licence Expiry Date
SOPC	Special Custodial Sentence for Certain Offenders of Particular Concern
STS	Serious Terrorism Sentence
TORERA2020	Terrorist Offenders (Restriction of Early Release) Act 2020
TUSED	Top Up Supervision Expiry Date
UAL	Unlawfully At Large Time
YO	Young Offender

## CHAPTER 1 – INTRODUCTION

- 1.1 The following guidance will provide instruction on how to complete the mandatory actions set out in the Sentence Calculation Policy Framework – Determinate Sentenced Prisoners. It will enable prison staff to accurately calculate release dates for determinate sentences of imprisonment, terms of imprisonment in default of paying monies owed and civil terms of imprisonment.
- 1.2 The guidance explains how to calculate release dates according to the legislative requirements when a sentence/term is imposed. There is no discretion in the process.
- 1.3 Where it is found that a scenario is not covered by the guidance or there is any doubt as to how the guidance should be applied, advice must be sought from the sentence calculation helpline in the Ministry of Justice. ([ReleasePolicyTeam@justice.gov.uk](mailto:ReleasePolicyTeam@justice.gov.uk)).
- 1.4 Any references to Governors must also be taken as reference to Directors of contracted out establishments.
- 1.5 The guidance incorporates the changes that were made by the Police, Crime, Sentencing and Courts Act 2022:
  - SDS+ provisions to be applied to sentences of 4 years – under 7 years, imposed on or after 28 June 2022 for certain offences.
  - SDS+ provisions to be applied to section 250 terms of detention of 7 years or more imposed on or after 28 June 2022 for certain offences.
  - SDS+ provisions are disapplied to s250s/s91s of 7 years or more imposed before 28 June 2022
  - Eligibility for release on parole for all SOPCs imposed on or after 28 June 2022 will be at the  $\frac{2}{3}$  point of the custodial term.
  - The Prison Service will be responsible for applying any relevant remand to DTOs imposed on or after 28 June 2022 and any court directed tagged bail. The court can impose DTOs of any length from 4 months to 24 months.
  - Introduction of a Power to Detain those serving an SDS. The provision will apply to those with a CRD on or after 28 June 2022 who are assessed as being a significant risk to the public of serious harm by the commission of murder or specified serious sexual, violent or terrorism offences. They must be at least 18 years of age at the CRD. Where the criteria are met, the CRD becomes a PED. If parole is not authorised, automatic release will be at the end of the sentence.

## CHAPTER 2 –DETERMINATE SENTENCE TYPES – Current and Historical

### Currently available for the court to impose:

2.1 The following table contains the determinate sentence types currently available for the courts to impose.

Sentence Type	Acronym	SA2020 code	Previous code	Relevant Offences	Release Points	Calc Sheet
Standard Determinate Sentence	<b>SDS</b>	N/A	N/A	Any offence	CRD: ½ way point	<b>GREEN</b>
Detention in a Young Offender Institution	<b>DYOI</b>	s262 (18 – 20 on conviction)	s96 PCC(S)A 2000	<b>Except:</b> <ul style="list-style-type: none"> <li>Schedule 15 CJA 2003 (Max life) and SDS+ criteria are met</li> <li>Schedule 19ZA CJA 2003 – see historical (TORERA)( although it is possible for an SDS to still be imposed for a schedule 19ZA offence if a SOPC/EDS or life is imposed for another offence on the same occasion or the offender was under 18 when offences were committed).</li> </ul>	SLED: End of sentence	
s250	<b>s250</b>	s250 (under 18 on conviction and not suitable for DTO)	s91		TUSED: 12m after CRD <b>(Where applicable and -must be 18+ at ½ way point)</b>	
	<b>SDS+ DYOI+ s250+</b>	See above	See above	SDS/DYOI of 4years but less than 7 years <b>and</b> s250s of 7 years or more (offender any age) <b>imposed on or after 28 June 2022</b> for all sexual offences on schedule 15 CJA 2003 (max life penalty) <b>and</b> <ul style="list-style-type: none"> <li>Manslaughter</li> <li>Soliciting murder</li> <li>Wound with intent to cause GBH</li> <li>Aid/Abet/Counsel or procure/attempt/incite/conspire/ancillary above offence under Part 2 SCA 2007</li> <li>Attempt/incite/conspire to commit murder</li> </ul>	CRD: ⅓ point	<b>PEACH</b>
				SDS/DYOI of 7 years or more <b>imposed on or after 28/06/2022</b> for any Schedule 15 CJA 2003 (max life)	SLED: End of sentence	

**NB High-risk offenders referred to the Parole Board under Section 244ZB will have a PED at the ½ way point and a SLED at the end. There will be no CRD**

Sentence Type	Acronym	SA2020 code	Previous code	Relevant Offences	Release Points	Calc Sheet
				<p>SDS/DYOI of 7 years or more <b>imposed on or after 01/04/2020 but before 28/06/2022</b> all offences on Schedule 15 CJA 2003 (max life) <b>EXCEPT:</b></p> <ul style="list-style-type: none"> <li>▪ cause death by dangerous driving</li> <li>▪ cause death by careless driving under influence of drink/drugs</li> <li>▪ s47 anti-terrorism crime and sentencing act 2001 (nuclear weapons)</li> <li>▪ s50 “ “</li> <li>▪ Cause/allow child/vulnerable adult to die</li> </ul>	<p>CRD: ½ point</p> <p>SLED: End of sentence</p> <p><b>NB High-risk offenders referred to the Parole Board under Section 244ZB will have a PED at the ½ point and a SLED at the end. There will be no CRD</b></p>	<b>PEACH</b>
Special Sentence for Certain Offenders of Particular Concern	<b>SOPC</b>	S278 (21+ on conviction)	S236A	<p>All offences for which a SOPC is imposed</p> <p><b>EXCEPT:</b></p>	<p>PED: ¾ custodial term</p> <p>CRD: End of custodial term</p> <p>SLED: End of whole sentence</p>	<b>WHITE</b> (EDS sheet)
		S265 (18 – 20 on conviction and <b>18+ when offence committed</b> )		<p>SOPCs Imposed on or after 13/04/2015 but before 28/06/2022 for Schedule 13 sex offences (rape/assault by penetration child &lt;13/inchoate offences related/equivalent abolished offences under repealed legislation)</p>	<p>PED: ½ custodial term</p> <p>CRD: End custodial term</p> <p>SLED: End of whole sentence</p>	<b>YELLOW</b>
Special Sentence of Detention for Terrorist Offenders of Particular Concern	<b>SDOPC</b>	s252A	N/A	<p>Part 1 Schedule 13 SA 2020 <b>(Offence Committed on or after 30/04/2021)</b></p>	<p>PED: ¾ custodial term</p> <p>CRD: End custodial term</p> <p>SLED: End of whole sentence</p>	<b>WHITE</b> (EDS sheet)
		s279 (21+ on conviction)	s226A			

Sentence Type	Acronym	SA2020 code	Previous code	Relevant Offences	Release Points	Calc Sheet
Extended Determinate Sentence	<b>EDS</b> (Imposed on or after 13/04/2015)	s266 (18 – 20 on conviction)  s254 (under 18 on conviction)	s226A  s226B	Schedule 18 SA 2020	PED: ⅔ custodial term  CRD: End custodial term  SLED: End of whole sentence	<b>WHITE</b> (EDS sheet)
	<b>EDS100</b> (imposed on or after 29/06/2021)	See above	N/A	Schedule 17A SA 2020 (Serious Terrorism Offences) <b>N.B. Part 2 offences are EDS100 only if terrorist connection under section 69 is made)</b>  (Sch 17A corresponds with Sch19ZA Parts 1 & 3)	CRD: End custodial term  SLED: End of whole sentence	<b>TURQUOISE</b>
Serious Terrorism Sentence	<b>STS</b>	s282A (21+ on conviction)  s268A (18-20 on conviction and <b>18+ when offence committed</b> )	N/A	Schedule 17A SA 2020 (Serious Terrorism Offences)  <b>(Offence committed on or after 29/06/2021)</b>  (Sch 17A corresponds with Sch19ZA Parts 1 & 3)	CRD: End custodial term  SLED: End of whole sentence	<b>TURQUOISE</b>
Term for breach of Post Sentence Supervision	<b>BOTUS</b>	N/A	s256AC	N/A	Served in full	<b>GREEN</b>
Detention and Training Order	<b>DTO</b>	s233	s100 PCC(S)A 2000	Any (non-terrorism)	ETD: up to 1 or 2m before MTD MTD: ½ way point LTD: up to 1 or 2m after MTD SLED: End of DTO	<b>WHITE</b> (DTO sheet)

<b>Sentence Type</b>	<b>Acronym</b>	<b>SA2020 code</b>	<b>Previous code</b>	<b>Relevant Offences</b>	<b>Release Points</b>	<b>Calc Sheet</b>
Breaching Conditions of DTO Supervision	<b>Breach of supervision requirements</b>	Schedule 12 Para 2 & 3	s104 PCC(S)A 2000	N/A	Served in full	<b>WHITE</b> (DTO sheet)
Committing an Offence During DTO Supervision	<b>Breach due to imprisonable offence</b>	Schedule 12, Para 7	s105 PCC(S)A 2000	N/A	Served in full	<b>WHITE</b> (DTO sheet)

## Historical Release Provisions and Sentences:

2.2 The following table details historical release provisions and sentences still seen in the system.

Type of Sentence	Date Sentence Imposed	Date Offence Committed	Release Points	Calc Sheet
<b>SDS (TORERA)</b>	Prior to 29/06/2021 (But can still be imposed if a SOPC/EDS/Life is imposed for another offence on same occasion or offender was under 18 when offence committed)	Any date  for schedule 19ZA terrorism / terrorism-connected offences	PED: 2/3 point SLED: End of sentence	<b>PEACH</b>
<b>SDS and Section 116/ 40</b> Under 12 months	Any date	Prior to 01/02/2015	ARD: 1/2 way point SED: End of sentence	<b>GREEN</b> (previously a white sheet)
<b>SDS and Section 116/ 40</b> 12 months but under 4 years	Prior to 03/12/12	Prior to 04/04/05	CRD: 1/2 way point LED: 3/4 point SED: End of sentence	<b>PINK</b>
<b>SDS</b> 4 years or more	Prior to 03/12/12	Prior to 04/04/05 <b>(Not schedule 15 offence) – and all s116/ 40</b>	CRD: 1/2 way point SLED: End of sentence	<b>GREEN</b>
		Prior to 04/04/05 <b>(Schedule 15 offence)</b>	PED: 1/2 way point NPD: 2/3 point LED: 3/4 point SED: End of sentence	<b>BLUE</b>
<b>EDS (s226A/226B)</b> Custodial term less than 10 years	Convicted on or after 03/12/12 and sentenced before 13/04/2015	Any date of offence <b>(Not a schedule 15B offence)</b>	CRD: 2/3 of custodial term SLED: End of whole sentence	<b>WHITE</b> EDS sheet
		Any date of Schedule 15B offence	PED: 2/3 of custodial term CRD: End of custodial term SLED: End of whole sentence	
<b>ESPP (s227/228)</b> Extended Sentence for Public Protection	Sentenced on or after 14/07/08 Convicted before 03/12/12	On or after 04/04/05	CRD: 1/2 of custodial term SLED: End of whole sentence	<b>GREY</b>
	Sentenced before 14/07/08		PED: 1/2 of custodial term CRD: End of custodial term SLED: End of whole sentence	<b>YELLOW</b>

Type of Sentence	Date Sentence Imposed	Date Offence Committed	Release Points	Calc Sheet
<b>Section 85 Extended Sentence</b> Custodial term 4 years+	Convicted before 03/12/12	Prior to 04/04/05	PED: ½ custodial term NPD: ⅔ custodial term LED: ¾ custodial term + extension period SED: End of whole sentence	<b>BLUE</b>
Custodial term 12 months to under 4 years			CRD: ½ custodial term LED: ¾ custodial term + extension period SED: End of whole sentence	<b>PINK</b>
Custodial term under 12 months			CRD: ½ custodial term LED: End of custodial term + extension period SED: End of whole sentence	<b>WHITE</b>
<b>Section 86 (previously Section 44)</b>  Sentence of 4 years+	Convicted before 03/12/12	Prior to 30/09/98	PED: ½ way point NPD: ⅔ point SLED: End of sentence	<b>BLUE</b>
Sentence 12m to under 4 years			CRD: ½ way point SLED: End of sentence	<b>PINK</b>
<b>EPs (Existing Prisoners)</b>	Before 01/10/92	Any date of offence	PED: later of ⅓ of sentence or 6 months from date of sentence EDR: ⅔ point SED: End of sentence	<b>BLUE</b> (PED calc adjusted ÷3)

## CHAPTER 3 – GENERAL CALCULATION PRINCIPLES

- 3.1 This Chapter will set out the underlying principles for calculating release dates for ‘sentences of imprisonment’ and provide the paragraph references for where the principles are explained in detail.
- 3.2 ‘Sentence of Imprisonment’ does not include terms in default of paying a fine/confiscation order, terms for contempt or civil terms. The calculation principles for such ‘terms of imprisonment’ are covered in Chapters 14 and 15.

### 3.3 General Calculation Principles

- Convert the sentence(s) into days Para 3.4
  - Round up when dividing **except when deducting the divided figure from something else** Para 3.11
  - Calculate from the date the sentence is imposed Para 3.13
  - Sentenced in absence - start calc from original sentence date and defer release dates by the UAL Para 3.14
  - Concurrent sentences run parallel Para 3.19
  - Consecutive sentences: Para 3.23
    - Are aggregated
    - Follow the order in which the sentences were imposed by the court to find the number of days in the aggregate
  - Restriction on consecutive ‘sentences’ does not apply to ‘terms of imprisonment’ being consecutive to a recall Para 3.26
  - Apply relevant remand/tagged bail Para 3.30 and [Chapter 7](#)
  - Immediate releases from court– Remand application = number of days in the custodial period of the sentence including PADAs - adjust CRD on NOMIS to date of sentence. Para 3.31 and Para 7.43
  - PADAs are hitched to the remand period – apply the remand, apply the PADAs Para 11.16
  - Apply any UAL Para 3.36
  - TUSED (where applicable) is CRD + one year Para 3.38
  - Consider if an HDCED is required Para 3.43  
(see PF [Home detention curfew - GOV.UK \(www.gov.uk\)](#))
  - Consider if an ERSED is required Para 3.44  
(FNPs – See PSI 04/2013)
  - Consider if an EMED is required Para 3.47  
(Acquisitive Crime Project)
  - Release falling on a weekend/Bank Holiday is generally brought forward to the preceding Thursday as per the Discretionary Friday/ pre Bank Holiday Release Scheme Policy Framework (except if release is on a HDCED). Para 3.49
- Single termed cases**
- Sentences imposed before 03/12/12 for O/C prior to 04/04/05 Para 3.51
  - DTOs Para 3.52

### **Converting the sentence into days**

- 3.4 If not expressed as a number of days, sentences must be converted into days before the release dates can be calculated.

### **Weeks**

- 3.5 If the sentence is expressed in weeks, the number of weeks imposed multiplied by 7 = number of days in the sentence. Half a week is 4 days.

### **Months**

- 3.6 If the sentence is expressed in months, it means calendar months. For example:

One month imposed on 1 January will run to 31 January	=	31 days
One month imposed on 17 February will run to 16 March	=	28 days or 29 days if a leap year
One month imposed on 5 June will run to 4 July	=	30 days
Four months imposed on 10 May will run to 9 September	=	123 days
Four months imposed on 28 June will run to 27 October	=	122 days

- 3.7 Care must be taken when the calendar months involve the end of February as there is often no corresponding 'day before' in February. For example:

Three months imposed on 30 November will run to 28 February = 91 days  
And in a leap year to 29 February = 92 days

Three months imposed on 29 November will run to 28 February = 92 days

Two months imposed on 31 December will run to 28 February = 60 days  
And in a leap year to 29 February = 61 days

Two months imposed on 30 December will run to 28 February = 61 days  
And in a leap year to 29 February = 62 days

### **Half months**

- 3.8 When a half month is involved, the number of days (rounded up) is determined by the length of the month in which the beginning of the half month falls. For example:

- $\frac{1}{2}$  month imposed in February will be 14 days (15 days if February is a leap year)
- $\frac{1}{2}$  month imposed in May will be 16 days
- $\frac{1}{2}$  month imposed in June will be 15 days

4 $\frac{1}{2}$  months imposed on 20 March will run to 4 August because

- The 4 months ends on 19 July so the  $\frac{1}{2}$  month starts in July
- July has 31 days
- $\frac{1}{2}$  of 31 days is 15.5 days
- Sentences are calculated in whole days and the 15.5 must be rounded up to 16 days

- Therefore 4½ months from 20 March is 4 months + 16 days (20 March to 19 July + 16 days = 4 August)

### Years

3.9 If the sentence is expressed in years, it means calendar years. For example:

- 3 years imposed on 17 December 2024 will end on 16 December 2027 = 1095 days
- 3 years imposed on 17 December 2023 will end on 16 December 2026 = 1096 days (because this 3 year span includes February 2024 which is a leap year)

### Days in aggregates for consecutive sentences

3.10 To find the number of days in an aggregate of consecutive sentences, the sentences must be placed in the order they were imposed to ensure the correct number of days in the aggregate is calculated. For example, a sentence of 4 weeks and 2 months consecutive could result in different numbers of days in the aggregate depending on when the sentence was imposed:

- Sentenced on 22/02/2023  
The 4 weeks (28 days) would end on 21/03/2023. The 2 months would start on 22/03/2023 and end on 21/05/2023. The aggregate is therefore 22/02/2023 – 21/05/2023 = 89 days
- Sentenced on 22/06/2023  
The 4 weeks (28 days) would end on 19/07/2023. The 2 months would start on 20/07/2023 and end on 19/09/2023. The aggregate is therefore 22/06/2023 – 19/09/2023 = 90 days

### Rounding up or down when dividing

3.11 Read the calculation sheets carefully. They will advise when to round up or round down. If the CRD is at the ½ way point, divide the days in the sentence by 2, **round up** and use the resulting figure to calculate the CRD.

3.12 However, where there is an additional step in the process when the figure from the dividing is then deducted from the number of days in the sentence to find the number of days to the release point, we **round down** when doing the division.

### **For example:**

On a peach sheet the number of days in sentence is divided by 3 (**round down**) and deduct the resulting figure from the days in sentence to find the number of days to the CRD.

### Calculating from the date the sentence is imposed

3.13 A sentence will run from the date it is imposed unless it is ordered to be consecutive to any other sentence. If a new sentence/variation is imposed at a Crown court Appeal the new sentence/variation will be calculated from the Crown Court appeal date. The time already served between date of original sentence in the magistrates' court and the Crown Court appeal date will count as time served towards the new/varied sentence. Appeals are covered in more detail in Chapter 10.

### Sentenced in absence

- 3.14 Where a person is sentenced in absence, the calculation is still done from the date they were originally sentenced. They are unlawfully at large (UAL) until they are arrested/returned to custody. The first day of UAL will be the date of sentence and the last day of UAL will be the day before arrest/return to custody.
- 3.15 Once arrested the person may be put before a court for further offences committed whilst UAL or for the offence of failing to surrender. The court may impose a consecutive or concurrent sentence for the new offence and may confirm the original sentence.
- 3.16 Where the new sentence is concurrent to the original sentence, the original sentence will be calculated from the original sentence in absence date with the dates deferred by the UAL and the new concurrent sentence will start from the new sentence date and run parallel to the original sentence. The UAL occurred before the imposition of the new sentence which means the UAL will only defer the release dates of the original sentence.
- 3.17 Where the new sentence is consecutive to the original sentence, the sentences are aggregated (added together) in the usual way and the aggregate calculated from the original sentence in absence date. The release dates produced are deferred by the UAL.
- 3.18 Where a person is sentenced in absence by a magistrate's court, when they are subsequently arrested, they must appear before the court again for the sentence to be confirmed before it can be actioned by the Prison Service. The sentence is still calculated from the original, sentenced in absence date and UAL applied.

**Concurrent sentences (covered in more detail in Chapter 6)**

- 3.19 Concurrent sentences run parallel to one another, each sentence having its own release dates. The effective release dates are the latest dates from all of the sentences. This may mean, for example, that a PED and CRD are from one sentence with a SLED from another sentence.
- 3.20 Where concurrent sentences are imposed on the same date and are all subject to the same release provisions, only the longest sentence needs to be calculated. All other sentences must be noted on the calculation sheet as existing, but there is no requirement to calculate the release dates for them all.
- 3.21 Where concurrent sentences imposed on the same date are subject to different release provisions from one another, all sentences must be fully calculated and the dates compared to find the effective release dates.
- 3.22 Concurrent sentences imposed on different dates must be fully calculated and the release dates compared to find the latest effective release dates.

**Consecutive Sentences (covered in more detail in Chapter 6)**

- 3.23 Consecutive sentences are aggregated. If they are all subject to the same release provisions the aggregate is treated as one sentence on the calculation sheet. If the sentences are subject to different release provisions, they are aggregated (running in the order that they

were imposed by the Court) to find the SLED, but are then calculated independently of one another to find the effective release dates.

- 3.24 When separating out the sentences with different release provisions:
- The calculations should be done in the order that the court imposed them as far as possible.
  - Aggregate the sentences subject to the same release provisions with one another.
  - Calculate a 'notional' CRD for the sentence(s) treated as being served first.
  - Start the consecutive sentences from the day after the 'notional' CRD of the first.
  - Calculate sentences with a PED last, so that if parole is granted the prisoner can physically be released.
- 3.25 Calculating this way does not alter the order in which the court imposed the sentences, it is purely for ease of calculating the effective release dates and earliest entitlement to be considered for release on parole.

#### **Restriction on Consecutive Sentences**

- 3.26 The courts are prevented by s225 of the SA2020 (previously s265 of the CJA2003) from making a sentence consecutive to an earlier sentence from which initial release has taken place. This means that where someone is back in custody serving their sentence after having been recalled from licence on that sentence, any new sentence imposed cannot be made consecutive to that earlier sentence. It should simply run parallel and have its own release dates.
- 3.27 If the court do make a new sentence consecutive to an earlier sentence on which a person has been recalled, the Prison Service must approach the court and advise them that initial release had taken place from the previous sentence, point out the restriction of s225 and ask that consideration be given to issuing an amended warrant (Order of Imprisonment) with the consecutive reference removed. A draft letter to complete can be found at [APPENDIX 1](#).
- 3.28 Until/unless the court issue an amended warrant removing the consecutive reference, the Prison Service must honour the reference and calculate the new sentence from the day after the re-release date of the recall. If the court do not issue an amended warrant, the prisoner should be advised of the s225 restriction and may wish to seek legal advice with a view to appealing the consecutive order.
- 3.29 The restriction does not apply to 'terms of imprisonment'. Therefore, terms imposed for contempt, in default of a fine/confiscation order and civil terms can be made consecutive to recalls.

#### **Application of relevant remand/tagged bail**

- 3.30 Any remand to custody relevant to any of the offences for which the custodial sentences have been imposed will be applied to the overall key release dates produced by the sentences. Tagged bail directions made by the court are applied in exactly the same way as remand to custody time. This is explained in further detail in [Chapter 7](#).

### **Immediate releases from court**

- 3.31 Where enough time has been served on remand/tagged bail to clear the custodial part of the sentence, (custodial part of the sentence must include any relevant Prospective Added Days Awarded (PADAs)) an immediate release from court will occur. The calculation must be done as soon as the court notify the prison of the sentence. The prison must send confirmation to the court that the immediate release can take place, along with a copy of the licence/supervision notice on which the person must be released. The CRD on NOMIS will need adjusting to show the date of sentence and not the day before and as a consequence the TUSED on NOMIS would need adjusting to be the anniversary of the CRD. Further detail about remand application and immediate release can be found in [Chapter 7](#).
- 3.32 Where the sentence is subject to post sentence supervision the TUSED will be on the anniversary of the date of sentence irrespective of how much remand/tagged bail is applied to the sentence.
- 3.33 Where the immediate release leaves an unused balance of remand/tagged bail, the balance of remand alert must be created on NOMIS. Should the offender be recalled, the alert will flag to reception that the case needs to be checked immediately to establish if a further immediate release is required. Further information on calculating re-release dates following recall, including the effect unused remand/tagged bail time has on TUSEDs, can be found in [Chapter 8](#).

### **Prospective Added Days Awarded on Adjudication (PADAs)**

- 3.34 PADAs can only be applied to the release dates of the sentence if the period of remand during which they were awarded is applied to the sentence.
- 3.35 Relevant PADAs must be added to the number of days in the custodial period to determine how much remand is required to clear the custodial period and give effect to an immediate release from court. This is covered in more detail in [Chapter 11](#).

### **Unlawfully at Large (UAL) Time**

- 3.36 UAL will defer all the relevant release dates of a sentence. Where there are consecutive sentences the UAL will defer the key release dates of the aggregate. Where there are concurrent sentences, the UAL will defer the dates of the sentences from which the UAL occurred.
- 3.37 If a person escapes from a period of remand, it is not classed as UAL from the sentence. The days will not defer the release dates of any subsequent sentence and will not be credited as remand days either. UAL is covered in more detail in [Chapter 9](#).

### **Top Up Supervision Expiry Date (TUSED) – Post Sentence Supervision**

- 3.38 Post Sentence Supervision was introduced by the Offender Rehabilitation Act 2014 (ORA2014) to ensure that every offender is supervised for at least 12 months from release. It only applies to under 2 year sentences because offenders sentenced to 2 years or more are already released on a licence/supervision lasting at least 12 months.

- 3.39 The Top Up Supervision Expiry Date (TUSED) must be calculated for SDS, DYOI, s250 and DTOs of at least 2 days but under 2 years for offences committed on or after 1 February 2015. The offender must be aged 18 at the half-way point of the sentence (CRD/MTD) for the TUSED to apply. TUSED is the acronym used by the Prison Service. External departments refer to this as the Post Sentence Supervision Expiry Date.
- 3.40 To calculate the TUSED, the CRD/MTD must be calculated first and adjusted by any remand/tagged bail and UAL. The TUSED is then calculated as being at the end of 12 months from that CRD/MTD. It ends on the anniversary of the CRD/MTD, not the day before the anniversary. For example, if the CRD/MTD is 23 October 2025, the TUSED would be 23 October 2026. Any ADAs or RADAs can then adjust the CRD but will not affect the TUSED.
- 3.41 A person released from a SDS/DYOI/s250 with a TUSED will be subject to licence until the SLED of the sentence and then post sentence supervision between the SLED and the TUSED. Any breach of the licence occurring before the SLED must be dealt with by the Public Protection Casework Section (PPCS) and any breach between SLED and TUSED of the requirements of the post sentence supervision must be dealt with by the Courts.
- 3.42 Any person released from a DTO with a TUSED will be subject to DTO supervision to the SLED and post sentence supervision between the SLED and the TUSED. Any breaches in either period of supervision must be dealt with through the Courts.

**HDCED – Home Detention Curfew Eligibility Date**

- 3.43 Prisoners serving sentences of at least 12 weeks to under 4 years may be eligible for release on Home Detention Curfew (HDC) and require the eligibility date (HDCED) calculating. Full details of HDC eligibility and the HDCED are contained in the HDC Framework [Home detention curfew - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/442221/home-detention-curfew-framework.pdf).

**ERSED – Early Removal Scheme Eligibility Date**

- 3.44 Foreign National Prisoners (FNPs) who have been confirmed by the Home Office as liable to removal from the UK can be removed from prison, before the earliest release point of their sentence, for the purposes of being removed from the UK. The length of the ERS window depends on the length of the sentence (custodial term for SOPCs and EDS). Offenders must have served at least ½ of the requisite custodial period in prison in the UK before they can be removed under the ERS and removal must not take place before the maximum period allowed under ERS,
- 3.45 The requisite custodial period is the period between date of sentence and CRD (or PED where the sentence is subject to parole eligibility).
- 3.46 Full details of the ERS and how to calculate the eligibility date are contained in [PSI 04/2013](#).

**EMED – Electronic Monitoring Expiry Date – Acquisitive Crime Project**

- 3.47 Offenders serving an SDS may need an EMED calculating if they meet the criteria for the Acquisitive Crime Project. Offenders serving a DYOI or Section 250/91 are excluded from the project.
- 3.48 Full details of the eligibility criteria for the Acquisitive Crime Project can be found in the guidance on EQuIP at [Acquisitive Crime – Pre-release Desktop Guidance \(Master\) \(rocstac.com\)](http://rocstac.com).

#### **Release dates falling on a Bank Holiday or Weekend**

- 3.49 A person is liable to be detained until midnight at the end of the day on which the release date falls, but for practical reasons they should be discharged as early as possible in the morning to allow for travelling time. Where a release date falls on a weekend or Bank Holiday (**except when the sentence is only 5 days or less when release must take place on the Saturday**), the release date is generally brought forward to the Thursday subject to any variation as per the Discretionary Friday/Pre-Bank Holiday Release Scheme Policy Framework.
- 3.50 However, if the release is authorised to take place on an actual HDCED and that date falls on a weekend or Bank Holiday, the release must be deferred until the first working day **after** the weekend/Bank Holiday).

#### **Single termed cases**

Sentences imposed before 03/12/12 for offences committed (o/c) before 04/04/2005. (Schedule 20B sentences)

- 3.51 Sentences imposed before 03/12/12 for offences committed before 04/04/05 that are concurrent and/or consecutive to one another, providing release has not taken place from one before the next is imposed:
- are single termed with one another rather than calculated separately/aggregated.
  - The single term is created by the period between the date of first sentence and the latest end date (inclusive) and is treated as ‘the sentence’.
  - The release dates are calculated on that single term.
  - [Chapter 5](#) provides more detail on calculating the release dates for these sentences.

#### **Detention and Training Orders (DTOs)**

- 3.52 Concurrent and consecutive DTOs are also single termed with one another. However, the maximum length of a DTO single term cannot exceed 24 months. Where concurrent and overlapping and/or consecutive DTOs result in a single term of more than 24 months, the excess is automatically remitted and the release dates based on the 24 month maximum.
- 3.53 For remand application on DTOs – see information in [Chapter 7](#).

## CHAPTER 4 – APPLYING CALCULATION PRINCIPLES TO CURRENT SENTENCES

4.1 This Chapter will look at how the general principles set out in Chapter 3 apply to the sentence types the court can currently impose (i.e. sentences still available for the court to impose). It will cover:

• SDS	(includes s262 DYOI & s250)	Green calc sheet	Para 4.6
• SDS	S244ZB referral to Parole Board	Green calc sheet	Para 4.16
• SDS+	(includes s262 DYOI & s250)	Peach calc sheet	Para 4.17
• SOPC	(s278, s265)	Yellow calc (white if terror)	Para 4.29
• SDOPC	(s252A)	White calc sheet	Para 4.36
• EDS	(s279, s266, s254)	White calc sheet	Para 4.41
• EDS100	(s279, s266, s254) Sch 17A	Turquoise calc sheet	Para 4.49
• STS	(s282A, s268A)	Turquoise calc sheet	Para 4.56
• BOTUS	(s256AC or Sch19A para 9)	Green calc sheet	Para 4.63
• NOS breach	(s256C)	Green calc sheet	Para 4.68
• Court Martial	Treat exactly the same as the Sentences listed above		Para 4.72
• <b><u>DTOs</u></b>	(s233)	White DTO calc sheet	Para 4.74
▪ DTO release points			Para 4.75
▪ ETD			Para 4.77
▪ LTD			Para 4.78
▪ DTO and TUSED			Para 4.80
▪ DTO & Remand/tagged bail			Para 4.82
▪ DTO & ADAs			Para 4.84
▪ Breach of DTO licence			Para 4.85
▪ Further offence before SLED			Para 4.89

4.2 Historical sentences that are no longer available for the court to impose are covered in [Chapter 5](#). This includes those SDS/DYOIs that were imposed for terrorism and/or terrorism-connected offences (although they can still be imposed in certain circumstances). Such sentences were known as TORERA sentences – see para 5.2.

4.3 Adjustments (such as UAL, Appeals and ADAs) are covered in [Chapters 9](#) to 11.

4.4 Terms of imprisonment for default of a fine/confiscation order, contempt and civil terms are covered in [Chapters 14](#) and 15.

4.5 Blank templates of the calculation sheets are found in Annex B and can also be obtained in PDF format from the PSPI store. Any queries about ordering calculation sheet templates should be made to [pspi@mojprint.com](mailto:pspi@mojprint.com).

**Further information about current sentences available for the courts to impose:**

**Standard Determinate Sentence (SDS) - includes DYOI and s250 (not TORERA and not SDS+)**

- 4.6 SDSs, Detention in a Young Offender Institution (DYOI) and Custodial sentences for those under 18 (s250s) are calculated exactly the same as each other.
- SDS are imposed for offenders aged 21+
  - DYOI is imposed under s262 of the SA2020 for offenders aged 18 – 20 (minimum term of DYOI is 21 days but can be less for a bail offence)
  - s250s of the SA2020 are imposed for offenders aged under 18 on the date of conviction where a DTO is not considered by the court to be appropriate.
- 4.7 They can be expressed in days, months, years or, combinations of those. For example: 9 years 10 months and 15 days. The sentence must be converted to days to enable the release dates to be calculated.
- 4.8 They are calculated on a green sheet (unless they were imposed for CJA2003 schedule 19ZA offence or are SDS+) and will have:
- A conditional release date at the ½ way point of the sentence (CRD)
  - A Sentence & Licence Expiry Date at the end of the sentence (SLED)
- 4.9 If they were imposed for a schedule 19ZA offence (terrorism and/or terrorism connected), they were known as TORERA sentences and were calculated on a peach sheet – see para 5.4 in the historical sentences chapter. SDS+ are also calculated on a peach sheet – see para 4.17 below.
- 4.10 A Top Up Supervision Expiry Date (TUSED) will be required if:
- the sentence is one of at least 2 days but less than 2 years (we call these **ORA sentences**),
  - the offence was committed on or after 01/02/2015 and
  - the offender will be at least 18 years of age at the ½ way point of the sentence (see para 3.38)
- 4.11 If the sentence is one of less than 4 years a Home Detention Curfew Eligibility Date (HDCED) may need to be calculated – see para 3.43.
- 4.12 If the prisoner is a Foreign National Prisoner an Early Removal Scheme Eligibility Date (ERSED) may need to be calculated – see para 3.44.
- 4.13 If the person is serving a s250 term of less than 12 months and is under 18 at the ½ way point of the term, they will require a Young Offender (YO) Notice of Supervision (NoS) on release which will expire 3 months from date of release. Para 4.68 covers the term that the court may impose as a result of breaching the 3 months YO NoS.

#### **Example 1**

- 4.14 A person is sentenced on 23 October 2023 to 18½ months. The offence was committed after 01/02/2015 and the person is eligible for HDC:
- The sentence runs from 23/10/2023 to **07/05/2025** .
  - There are 563 days in the sentence.
  - 563 days divided by 2 (rounded up) = 282 days to the CRD

- 282 days starting on 23/10/2023 (put 22/10/2023 into the date calculator) gives a CRD of **30/07/2024**.
- The sentence is less than 2 years for an offence committed after 01/02/2015 which means a TUSED on the anniversary of the CRD will also be required. TUSED = **30/07/2025**
- HDC is the later of ¼ of the sentence or 135 days before the CRD.
- For sentences of 18 months or more, the later date will be 135 days before CRD.
- 135 days before 30/07/2024 (on a date calculator put in the CRD and minus 134 days) gives a HDCED of **18/03/2024**.

The effective release dates (key dates on NOMIS) for this person would be:

HDCED: 18/03/2024  
 CRD: 30/07/2024  
 SLED: 07/05/2025  
 TUSED: 30/07/2025

This person would be eligible to be considered for release on HDC from 18/03/2024, with automatic release on 30/07/2024 on a licence expiring on 07/05/2025. Any breach of HDC and the licence would be dealt with as a recall by PPCS. From 07/05/2025 the person would be subject to post sentence supervision (PSS) until 30/07/2025. Any breach of the PSS would be dealt with by the courts.

- 4.15 A copy of the completed green calculation sheet for this example can be found at **ANNEX C Example 1** attached to the sentence calculation framework.

**Section 244ZB - Power to detain (refer an SDS case to the Parole Board)**

- 4.16 The Police, Crime, Sentencing and Courts Act 2022 introduced a power for the Secretary of State to refer the case, of certain high-risk offenders serving SDSs (including SDS+), to the Parole Board rather than release automatically at the ½ way (⅔ for SDS+) point CRD. The power can be used where evidence comes to light, after the sentence has been imposed, that the offender poses a significant risk to the public of serious harm by the commission of murder or specified serious sexual, violent or terrorism offences. APPENDIX 10 provides guidance on how to apply the power to detain to offenders serving multiple sentences, and at what point the referral can occur.

**Standard Determinate Sentence Plus (SDS+) - includes DYOI+ and s250+ (section 244ZA release provisions apply)**

- 4.17 SDS+, includes DYOI+ and s250+ and they are all calculated exactly the same as each other subject to the criteria in para 4.22 below.
- 4.18 The court warrant will not specify that the sentence is an SDS+. The sentence on the warrant will look like a normal SDS/DYOI/s250. It is for the Prison Service to determine whether or not the SDS+ release provisions apply, based on the offence, length of sentence and date of sentence.
- 4.19 The offence must be one that is included on Schedule 15 CJA 2003 where the maximum penalty is life. For ease of reference, a list of the relevant Schedule 15 (max life) offences and sentence length key can be found at APPENDIX 2.
- 4.20 They are not eligible for HDC because they are all sentences of at least 4 years or more and therefore will not need a TUSED either.

4.21 If the prisoner is a Foreign National Prisoner an Early Removal Scheme Eligibility Date (ERSED) may need to be calculated.

4.22 There are 3 SDS+ scenarios depending on sentence length and particular offences:

Scenario 1

**SDS/DYOI of 4 years but less than 7 years and s250s of 7 years or more imposed on or after 28 June 2022 for**

- all the sexual offences listed on Appendix 2 **and**
- Manslaughter
- Soliciting murder
- Wounding with intent to cause GBH.
- Aid/Abet/Counsel or procure/attempt/incite/conspire/ancillary above offence under Part 2 SCA 2007
- Attempt/incite/conspire to commit murder.

Scenario 2

**SDS/DYOI of 7 years or more**

- imposed on or after 28 June 2022 for
- **any** offence listed on Appendix 2

Scenario 3

**SDS/DYOI of 7 years or more**

- imposed on or after 01/04/2020 but before 28 June 2022
- offender must have been at least 18 years of age at date of sentence for
- all offences listed on Appendix 2 EXCEPT
  - Causing death by dangerous driving
  - Causing death by careless driving under influence of drink/drugs
  - s47 anti-terrorism crime and sentencing act 2007 (nuclear weapons)
  - s50 anti-terrorism crime and sentencing act 2007 (nuclear weapons)
  - Causing/allowing child/vulnerable adult to die

4.23 All of the above SDS+ scenarios are calculated on a peach sheet and will have:

- A conditional release date at the  $\frac{2}{3}$  point of the sentence (CRD). Find this by dividing the number of days in the sentence by 3 and **round down**. Deduct the resulting figure from the days in the sentence to find the number of days to the CRD.
- A Sentence & Licence Expiry Date at the end of the sentence (SLED).

**Example 2**

4.24 A person is sentenced on 10 May 2024 to 10 years 4 months for an offence of Wounding with Intent to Cause GBH under Section 18 of the Offences Against the Persons Act 1861.

- The sentence will appear on the warrant as a normal SDS.

- The offence is included on APPENDIX 2 and the sentence for the one offence is over 7 years and meets the criteria (scenario 2 above) for the SDS+ release provisions.
- The sentence runs from 10/05/2024 to **09/09/2034**.
- There are 3775 days in the sentence.
- 3775 days divided by 3 (rounded down) = 1258
- 3775 – 1258 gives 2517 days to the CRD
- 2517 days starting on 10/05/2024 (put 09/05/2024 into the date calculator) gives a CRD of **31/03/2031**.
- No TUSED required as the sentence is more than 2 years.
- No HDCED required as sentence is over 4 years.

The effective release dates (key dates on NOMIS) for this person would be:

CRD: 31/03/2031  
SLED: 09/09/2034

This person would be entitled to automatic release on 31/03/2031 on a licence expiring on 09/09/2034. Any breach of the licence would be dealt with as a recall by PPCS.

- 4.25 A copy of the completed peach calculation sheet for this SDS+ example can be found at **ANNEX C Example 2** attached to the sentence calculation framework.
- 4.26 The SDS+ provisions apply to **individual sentences for individual offences**. Therefore, if there are several sentences imposed consecutive to one another and all the individual sentences are less than the required length of sentence to meet the above criteria, the overall aggregate will not meet the SDS+ criteria.
- 4.27 For example, a person is sentenced to 3 years for an offence under section 2 of the Modern Slavery Act 2015 (human trafficking) committed with a view to exploitation that consists of or includes behaviour within section 3(3) of that Act (sexual exploitation) and 3 years consecutive for wounding with intent to commit grievous bodily harm. Although both offences are included on Appendix 2 relevant to the sentence bracket for 4 years – under 7 years (scenario 1 above) and the overall aggregate is 6 years, the 6 years does NOT fall under the SDS+ provisions because the individual sentences are each less than 4 years in their own right.
- 4.28 If the sentence breakdown comprises consecutive sentences where some sentences meet the SDS+ criteria and some sentences do not, the calculation will be done as follows:
- Find the SLED of the overall aggregate of all the consecutive sentences and then separate the sentences out.
  - The sentences that do NOT meet the SDS+ criteria will be aggregated together and this aggregate calculated on a green sheet to find the notional CRD.
  - The sentences that do meet the SDS+ criteria will be aggregated with one another and calculated on a peach sheet.

- The peach sheet calculation will start on the day after the notional CRD of the green sheet (or vice versa depending on which sentence the Court made all the others consecutive to).
- This principle is covered further in [Chapter 6](#)

### **Special Custodial Sentence for Certain Offenders of Particular Concern (SOPC)**

4.29 SOPCs are imposed under:

- s278 for those aged 21 or over on conviction
- s265 for those aged 18 – 20 on conviction
- for offences on SA2020 schedule 13 (if the court do not impose an EDS)
- For offenders aged 18 on date of offence

4.30 They comprise a custodial term and an additional licence period of 12 months. The warrant will show the overall sentence and then the two separate components. For example, a SOPC is imposed under Section 265 of 5 years comprising a custodial term of 4 years and additional licence period of 1 year.

4.31 SOPCs imposed on or after 28 June 2022 are calculated on a WHITE EDS calculation sheet. They will have:

- A PED at the  $\frac{2}{3}$  point of the custodial term.
- A CRD at the end of the custodial term.
- A SLED at the end of the whole sentence (custodial term+ the additional 1 year licence period).

4.32 They are not eligible for HDC and do not require a TUSED.

4.33 If the person is a Foreign National Prisoner, an ERSED may need to be calculated.

#### **Example 3**

4.34 A person is sentenced on 17/11/2026 under S278 to a SOPC of 6 years 7 months comprising a custodial term of 5 years 7 months and an additional 1 year licence period. The offence was assault of a child under s6 of the Sexual Offences Act 2003

- The sentence is for an offence on SA2020 schedule 13 (non-terrorism) and is calculated on a white sheet.
- The whole sentence of 6 years 7 months runs from 17/11/2026 to **16/06/2033**.
- There are 2404 days in the sentence.
- The 5 year 7 month custodial term runs from 17/11/2026 to **16/06/2032**.
- There are 2039 days in the custodial term.
- 2039 days - (2039 divided by 3 rounded down) = 1360 days to the PED
- 1360 days starting on 17/11/2026 (put 16/11/2026 into the date calculator) gives a PED of **07/08/2030**.
- No TUSED or HDCED required.

The effective release dates (key dates on NOMIS) for this person would be:

PED: 07/08/2030

CRD: 16/06/2032

SLED: 16/06/2033

This person would be entitled to consideration for release on parole on 07/08/2030 with automatic release on 16/06/2032, on a licence expiring on 16/06/2033. Any breach of the licence would be dealt with as a recall by PPCS.

- 4.35 A copy of the completed white calculation sheet for the above example can be found at **ANNEX C, Example 3** attached to the sentence calculation framework.

**Special Sentence of Detention for Terrorist Offenders of Particular Concern (SDOPC)**

- 4.36 SDOPCs are imposed under s252A of the SA2020 for:

- Persons under 18 at the point of conviction
- Who have committed an offence on or after 30/04/2021
- That is on Part 1 of schedule 13 to the SA2020 (involving/connected to terrorism)

- 4.37 They comprise a custodial term and an additional licence period of 12 months. The warrant will show the overall sentence and then the two separate components in the same way a SOPC sentence is shown.

- 4.38 SDOPCs are calculated on a white EDS sheet exactly like a SOPC See Para 4.33 above.

- 4.39 SDOPCs are not eligible for HDC or ERS.

- 4.40 A completed white calculation sheet for a SDOPC can be found at **ANNEX C Example 4** attached to the sentence calculation framework.

**Extended Determinate Sentence (EDS)**

- 4.41 EDSs are imposed under:

- s279 for those aged 21 or over on conviction
- s266 for those aged 18 – 20 on conviction
- s254 for those under 18 on conviction
- for offences on SA2020 schedule 18 and CJA2003 schedule19ZA

- 4.42 They comprise a custodial term and an extended licence period. The licence period must be:

- At least 1 year but not exceed
- 5 years where the offence is a violent offence.
- 8 years where the offence is a sexual or terrorism offence.

- 4.43 The warrant will show the overall sentence and then the two separate components. For example: an EDS is imposed under section 279 of 9 years comprising a custodial term of 5 years and extended licence period of 4 years.

- 4.44 EDSs are calculated on a white EDS sheet (unless they are an EDS100 - when they will be calculated on a turquoise sheet – see para 4.49 below). They will have:

- A PED at the  $\frac{2}{3}$  point of the custodial term.

- A CRD at the end of the custodial term.
- A SLED at the end of the whole sentence (custodial term + the extended licence period).

4.45 They are not eligible for HDC and do not require a TUSED.

4.46 If the person is a Foreign National Prisoner, an ERSED may need to be calculated (Schedule 19ZA offenders are not eligible for ERS).

#### **Example 5**

4.47 A person is sentenced on 16/04/2025 under S266 to an EDS of 12 years comprising a custodial term of 7 years and an extended licence period of 5 years. The offence was false imprisonment.

- The whole sentence of 12 years runs from 16/04/2025 to **15/04/2037**.
- There are 4383 days in the sentence.
- The 7 year custodial term runs from 16/04/2025 to **15/04/2032**.
- There are 2557 days in the custodial term.
- 2557 days divided by 3 (rounded down) = 852 days
- 2557 days minus 852 days = 1705 days to PED
- 1705 days starting on 16/04/2025 (put 15/04/2025 into the date calculator) gives a PED of **15/12/2029**.

The effective release dates (key dates on NOMIS) for this person would be:

PED:	15/12/2029
CRD:	15/04/2032
SLED:	15/04/2037

This person would be entitled to consideration for release on parole on 15/12/2029 with automatic release on 15/04/2032, on a licence expiring on 15/04/2037. Any breach of the licence would be dealt with as a recall by PPCS.

4.48 A copy of the completed white EDS sheet for the above example can be found in **ANNEX C Example 5** attached to the sentence calculation framework.

#### **EDS100**

4.49 The court warrant will not specify that the sentence is an EDS100. The sentence on the warrant will look like a normal EDS imposed under s279/266/254. It is for the Prison Service to determine whether the EDS100 release provisions apply or not.

4.50 The EDS100 release provisions will apply where:

- The EDS is imposed on or after 29/06/2021.
- The offence is on SA2020 schedule 17A (Serious terrorism offences) Note that sentences for offences on Part 2 of schedule 17A only qualify as an EDS100 if the court declare a terrorist connection under section 69.

- 4.51 They will have a custodial term and an extended licence period, but the extended licence period can be up to 10 years (rather than the 5 or 8 years for 'normal' EDSs)
- 4.52 EDS100s are calculated on a turquoise sheet. They will have:
- A CRD at the end of the custodial term
  - A SLED at the end of the whole sentence (custodial term + the extended licence period).
- 4.53 They are not eligible for parole, HDC, are not suitable for the ERS and do not require a TUSED.

#### **Example 6**

- 4.54 A person is sentenced on 02/12/2024 under S279 to an EDS of 19 years comprising a custodial term of 9 years and an extended licence period of 10 years. The offence was weapons training committed under s54 of the Terrorism Act 2000.
- The whole sentence of 19 years runs from 02/12/2024 to 01/12/2043.
  - There are 6939 days in the sentence.
  - The 9 year custodial term runs from 02/12/2024 to 01/12/2033.
  - There are 3287 days in the custodial term.
  - The custodial term is served in full with no eligibility for parole

The effective release dates (key dates on NOMIS) for this person would be:

CRD: 01/12/2033  
SLED: 01/12/2043

This person would be entitled to automatic release on 01/12/2033, on a licence expiring on 01/12/2043. Any breach of the licence would be dealt with as a recall by PPCS.

- 4.55 A completed turquoise calculation sheet for the above example can be found at **ANNEX C Example 6** attached to the sentence calculation framework.

#### **Serious Terrorism Sentences (STs)**

- 4.56 STs are imposed under:
- S282A for those aged 21 or over on conviction
  - s268A for those aged 18 – 20 on conviction
  - for offences on SA2020 schedule 17A (serious terrorism offences)
  - the offence must have been committed on or after 29/06/2021.
  - The offender must have been 18 or over on date of offence.
- 4.57 STs look a bit like an EDS in that they comprise a custodial term and an extended licence period, but:
- The custodial term must be at least 14 years (but can be less if the court take into account early guilty pleas etc)
  - The licence period must be between 7 and 25 years.

4.58 The warrant will show the overall sentence and then the two separate components. For example:

'an STS is imposed under section 268A of 27 years comprising a custodial term of 17 years and extended licence period of 10 years'.

4.59 STSs are calculated on a turquoise sheet. They will have:

- A CRD at the end of the custodial term
- A SLED at the end of the whole sentence (custodial term + the extended licence period).

### **Example 7**

4.60 A person is sentenced on 25/07/2023 under S268A to an STS of 29 years comprising a custodial term of 17 years and an extended licence period of 12 years. The offence was training for terrorism committed under s6 of the Terrorism Act 2006.

- The whole sentence of 29 years runs from 25/07/2023 to 24/07/2052.
- There are 10593 days in the sentence.
- The 17 year custodial term runs from 25/07/2023 to 24/07/2040.
- There are 6210 days in the custodial term.
- The custodial period is served in full with no eligibility for parole.

The effective release dates (key dates on NOMIS) for this person would be:

CRD: 24/07/2040  
SLED: 24/07/2052

This person would be entitled to automatic release on 24/07/2040, on a licence expiring on 24/07/2052. Any breach of the licence would be dealt with as a recall by PPCS.

4.61 They are not eligible for parole, HDC, are not suitable for the ERS and do not require a TUSED.

4.62 A completed turquoise calculation sheet for the above STS example can be found at **ANNEX C Example 7** attached to the sentence calculation framework.

### **Breach of Post Sentence Supervision (BOTUS)**

4.63 Paras 3.37 to 3.41 explain post sentence supervision and when it applies.

4.64 If a person breaches their post sentence supervision, (the period between the SLED and the TUSED):

- The matter must be dealt with through the courts.
- The maximum period that can be imposed for a breach is 14 days.
- This can be imposed at any time before or after the TUSED has expired, providing the breach occurred between SLED and TUSED.
- The Prison Service refer to the period imposed as 'BOTUS' (Breach of Top Up Supervision).

- The reference on the warrant will be s256AC or Schedule 19A para 9.
- 4.65 The Schedule 19A para 9 reference will be seen when:
- A person breached the post sentence supervision.
  - Additional supervision was imposed for that breach rather than a term of BOTUS.
  - The person breached that additional supervision.
  - The BOTUS term is imposed.
- 4.66 The BOTUS term:
- Is calculated on a green sheet.
  - Must be served in full. The ARD and SED will be shown as same date.
  - Does not attract remand time.
  - Has no TUSED of its own
  - Can be imposed concurrent or consecutive to any new sentence for further offences.
  - Where the new sentence is concurrent, the BOTUS and the new sentence will run parallel to one another, release being on the latest release date produced by the two sentences/terms.
  - Where the new sentence is consecutive to the BOTUS, the new sentence will start on the day after the release date of the BOTUS.
  - Where the BOTUS is consecutive to the new sentence, the BOTUS will start on the day after the release date of the new sentence.
  - Release from a BOTUS is on any outstanding balance of the original supervision notice – to the TUSED of the original sentence.
  - If release takes place after the original TUSED, the release from the BOTUS will be completely unconditional (no licence/supervision notice).
- 4.67 For an example of a BOTUS calculation and how they appear on the green sheets, please see **ANNEX C Example 8** attached to the sentence calculation framework.

**NoS Breach – s256C**

- 4.68 Persons serving a term of less than 12 months imposed under s250 of the SA2020 who were under 18 at the ½ way point of the term are required to be released on a Yong Offender Notice of Supervision (YO NoS) that expires 3 months from the date of release.
- 4.69 Any breach of the YO NoS must be dealt with through the courts. For the breach, the court can:
- Impose a fine or;
  - A period of detention up to a maximum of 30 days under s256C of CJA2003.
- 4.70 The period of detention imposed for the breach:
- must be served in full.
  - Will have a SED and ARD on the same date at the end of the period.
  - Does not attract remand/tagged bail.
  - Release from the breach term will be on anything remaining of the original 3 month YO Notice of Supervision.

- 4.71 Any new sentence imposed concurrently to the breach term will run parallel with release on the latest date. A new sentence made consecutive to the breach term will be calculated from the day after the end of the breach term.

**Court Martials/Service Civilian Court sentences**

- 4.72 Any sentence imposed by a Court Martial (CM) or Service Civilian Court (SCC) will be treated as though it has been imposed in a Magistrates/Crown Court if the person is transferred into the prison estate. It will be calculated from the date the sentence was imposed by the CM or SSC.

- 4.73 For sentences imposed by a CM/SCC on or after 31 October 2009, the relevant remand time will be directed by the CM/SCC and the direction will appear on the 'Trial Result Notification' and the 'Committal Order'. The directed remand will be applied to the sentence by the Prison Service. If the sentence was imposed before 31 October 2009, there will be no remand direction because the CM/SCC took the remand into account when setting the length of the sentence they imposed.

**Detention and Training Orders (DTOs)**

- 4.74 DTOs are imposed under s233 of the SA2020 (previously s100-107 of the Powers of Criminal Courts (Sentencing) Act 2000) for offenders aged under 18 at the point of conviction. They must be a minimum of 4 months and a maximum of 24 months. Where the offence is so serious to warrant a longer custodial sentence than 24 months, the court can impose:

- detention under s250 (previously s91)
- an EDS under s254 (previously s226B)
- detention at Her Majesty's Pleasure (indeterminate for the offence of murder)
- a SDOPCu18 under s252A

- 4.75 Providing there has been no release from one DTO before the next is imposed, concurrent and consecutive DTOs form a single term with one another. The single term runs from the date the first DTO was imposed to the latest end date and the release dates are calculated, using the length of the single term, on a white DTO calculation sheet (See ANNEX B for blank DTO calculation sheet template). Where concurrent/consecutive DTOs create an overall single term that is more than 24 months, the release dates are calculated on the 24 month maximum and the rest of the DTO is remitted.

- 4.76 The release dates of a DTO/single term are:

- Mid Term Date (MTD) – ½ way point of the DTO/single term (automatic release date)
- Sentence & Licence Expiry Date (SLED) – at the end of the DTO/single term
- Early Transfer Date (ETD):
  - 1 months before the MTD for DTO/single terms of 8 months but less than 18 months
  - 2 months before MTD for DTO/single terms of 18 months to 2 years
- Latest Transfer Date (LTD):
  - 1 months after the MTD for DTO/single terms of 8 months but less than 18 months
  - 2 months after the MTD for DTO/single terms of 18 months to 2 years

- TUSED – where applicable
- Release is on a DTO notice of supervision that expires at the SLED and any Post Sentence Supervision notice expiring at the TUSED where applicable.

### Example 9

A person is sentenced on 01/05/2025 to 6 months DTO with 8 months DTO concurrent and on 11/07/2025 receives a further 18 months DTO ordered to be consecutive.

- The DTOs are single termed:  
6 months runs from 01/05/2025 to 31/10/2025.  
8 months runs from 01/05/2025 to 31/12/2025.  
18 months runs from 01/01/2025 to 30/06/2027.
- The single term is 01/05/2025 to 30/06/2027 = 26 months
- Release dates are calculated on the 24 month maximum meaning 2 months of the single term is remitted.
- The single term is at least 18 months in length and will have an ETD and LTD 2 months either side of the ½ way point MTD.
- There is no TUSED required.

24 months from 01/05/2025 runs to 30/04/2027 = 730 days = 30/04/2027 (SLED)  
 Days to MTD 730 / 2 = 365 days = 30/04/2026 (MTD)  
 ETD 2 months before 30/04/2026 = 28/02/2026 (ETD)  
 LTD 2 months after 30/04/2026 = 30/06/2026 (LTD)

A copy of the completed DTO calculation sheet for the above example can be found at **ANNEX C Example 9** attached to the sentence calculation framework.

### Early release (ETD)

- 4.77 The Secretary of State may allow release by up to 1 month earlier than the MTD for DTO/single terms of at least 8 months but less than 18 months and up to 2 months earlier than the MTD for DTOs/single terms of 18 months to 24 months. The early release reflects progress made by the person whilst in custody.

### Late release (LTD)

- 4.78 Where the Secretary of State considers that the progress/behaviour of the person merits consideration for continued detention beyond the MTD, an application must be made to the Youth Court. If the Youth Court agree they can order that the person be detained beyond the MTD by:
- up to 1 month for DTO/single terms of at least 8 months but less than 18 months and
  - up to 2 months for DTO/single terms of 18 months to 24 months.

The Governor cannot detain beyond the MTD without an order from the Youth Court.

- 4.79 Where the early or late release date falls on a weekend or Bank Holiday it is brought forward by up to 2 working days – please see the Discretionary Friday/Pre-Bank Holiday Release Scheme Policy Framework for further information.

#### Post Sentence Supervision for DTOs - TUSED

- 4.80 For a DTO/single term to require a TUSED:
- The person must be at least 18 years of age on the MTD.
  - The DTOs/single term must be less than 24 months.
  - At least one offence within the DTO/single term must have been committed on or after 01/02/2015.
- 4.81 The TUSED is linked to the MTD. (I.E. the TUSED is on the anniversary of the MTD). Allowing early or late release does not affect a TUSED. The TUSED will always fall on the anniversary of the MTD.

#### Remand/tagged bail and DTOs (further information is in Chapter 7)

- 4.82 For DTOs imposed on or after 28/06/2022 the Prison Service is responsible for applying any remand relevant to any of the offences for which the DTO/single term has been imposed and any tagged bail that has been directed to count by the Court. The remand will bring forward the MTD and SLED and consequently the ETD/ LTD and any TUSED.
- 4.83 For DTOs imposed before 28/06/2022, the court were required to take account of any remand and tagged bail when setting the length of the DTO. The Prison Service must not apply any further remand/tagged bail to these terms.

#### Added Days Awarded (ADAs)

- 4.84 ADAs cannot be applied to the release dates of DTOs.

#### Breach of supervision requirements – Detention under Schedule 12 (paras 2&3)

- 4.85 If a person breaches the supervision requirements of the DTO (between date of release and SLED) the court can impose a fine, a further period of supervision or return the person to custody for a period of detention under Schedule 12 paragraph 3 of the SA2020. (Previously known as s104 of the Powers of Criminal Courts (Sentencing) Act 2000).
- 4.86 The term of further supervision or detention that the Court can impose is the number of days between the date of the breach and the SLED subject to the maximum term being 3 months. Providing the breach took place before the SLED, the penalty for the breach (further supervision or detention) can be imposed at any point. It does not have to be imposed before the SLED.
- 4.87 The further supervision or detention starts on the day it is imposed. The period of detention must be served in full. Release will be on anything remaining from the original DTO licence and Post Sentence Supervision where applicable.
- 4.88 If release from a period of detention is on an outstanding balance of DTO licence and the person breaches again, a fine, or a further period of supervision or detention can be imposed. Again, the period of detention would be served in full, with re-release on anything remaining of the original DTO licence/post sentence supervision.

#### Further offence committed before SLED – Detention under Schedule 12 (para 7)

- 4.89 If a person commits a further imprisonable offence before the SLED of the DTO, the Court may order a period of detention under Schedule 12, paragraph 7 of the SA2020. (Previously known as s105 of the Powers of Criminal Courts (Sentencing) Act 2000).
- 4.90 The length of the period of detention that can be imposed is a maximum of the number of days between the date of the new offence and the SLED of the DTO. It can be ordered to be concurrent or consecutive to any new term/sentence imposed for the new offence.
- 4.91 The detention imposed must be served in full. Any concurrent sentence imposed for the new offence will run parallel to the Schedule 12, para 7 period with release taking place on the latest release date produced. If the sentence for the new offence is imposed consecutively to the Schedule 12 para 7 period, the new sentence will be calculated separately from the day after the release date of the Schedule 12, para 7 period. If the Schedule 12, para 7 period is ordered to be consecutive to the sentence for the new offence, it will commence the day after the release date of the sentence imposed for the new offence and run parallel to the licence period of that new sentence.

## CHAPTER 5 - APPLYING CALCULATION PRINCIPLES TO HISTORIC SENTENCES

- 5.1 This Chapter will look at how the general principles listed at the start of Chapter 3 apply to historical sentence types (i.e. sentences the court can no longer impose or are unlikely to impose due to the time frames). It will cover:

• SOPC sentenced before 28/06/2022	Yellow sheet	Para 5.2
• SOPC TORERA sentenced before 28/06/2022	White sheet	Para 5.3
• TORERA2020 SDS, O/C before 29/04/2021	Peach sheet	Para 5.4
• SDS under 12 months, O/C before 01/02/2015	Green sheet	Para 5.9
<b>(We call these NORA sentences)</b>		
• SDS before 03/12/2012, O/C before 04/04/2005	Blue/Pink sheet	Para 5.13
• s226A/B EDS sentenced before 13/04/2015	White sheet	Para 5.29
• s227/228 ESPP sentenced on or after 14/07/2008	Grey sheet	Para 5.43
• s227/228 ESPP sentenced before 14/07/2008	Yellow sheet	Para 5.45
• s85 extended sentence, O/C before 04/04/2005	Blue/Pink sheet	Para 5.47
• s86 extended licence, O/C before 30/09/1998	Blue/Pink sheet	Para 5.52
• s116/s40 return imposed before 03/12/2012	Blue/Pink sheet	Para 5.55
• EPs sentenced before 01/10/1992	Blue sheet (adapt)	Para 5.59

### **SOPCs imposed before 28/06/2022**

- 5.2 SOPCs imposed before 28/06/2022 are calculated on a yellow sheet (unless they are imposed for a terrorism offence appearing on the CJA2003 Schedule 19ZA – see para 5.3). They will have:

- A PED at the ½ way point of the custodial term.
- A CRD at the end of the custodial term.

- A SLED at the end of the whole sentence (custodial term+ the additional 1 year licence period).
- 5.3 If they are imposed for a terrorism offence appearing on CJA2003 Schedule 19ZA part 1 or 2 or where the court make a terrorism connection declaration for an offence committed on or after 18/06/2009 on part 3 of that schedule, they will be calculated on a white EDS sheet and will have a PED at the  $\frac{2}{3}$  point of the custodial term rather than at the  $\frac{1}{2}$  way point.

**TORERA2020 SDS – Schedule 19ZA (terrorism/terrorism-connected) offence committed**

- 5.4 SDSs imposed for offences included on CJA2003 Schedule 19ZA (terrorism and terrorism/connected) are known as TORERA sentences and are calculated on a peach calculation sheet.
- 5.5 For such offences committed on or after 29/04/2021, the court are required to impose a SOPC, SDOPC, EDS or STS, which are covered in the previous Chapter. However, it is still possible for a Court to impose an SDS for a Schedule 19ZA offence committed after 29/04/2021 but only where a SOPC/EDS or life sentence has been imposed on the same occasion for other offences or the offender was under 18 when the offence was committed.
- 5.6 TORERA SDSs must be served in full unless the Parole Board direct release at an earlier point. Key facts:
- A PED at the  $\frac{2}{3}$  point of the sentence.
  - A SLED at the end of the sentence.
  - Release on parole will be on a licence expiring at the SLED.
  - Release at the SLED will be unconditional.
  - If NOMIS populates the CRD field, the CRD field must be the same date as the SLED.
- 5.7 TORERA SDSs have no TUSED and are not eligible for HDC. TORERA FNPs are not eligible for removal under the ERS and do not have an ERSED.
- 5.8 An example of a completed calculation sheet can be found at **ANNEX C Example 10** attached to the sentence calculation framework.

**SDS under 12 months – Offence committed before 01/02/2015 (NORA)**

- 5.9 SDSs of less than 12 months imposed for offences committed before 01/02/2015 are calculated on a green sheet like a current SDS.
- Key facts:
- Instead of a CRD and SLED, they have automatic release at the  $\frac{1}{2}$  way point of the sentence (ARD)
  - A SED at the end of the sentence.
  - They are not released on any licence unless the sentence is a DYOI/s262 or s250 in which case the person will be released on a 3 month Young Offender (YO) Notice of Supervision (NoS).
  - They are known as **NORA** (non-ORA) sentences.

- 5.10 They have no TUSED but may need a HDCED and if they are a FNP may need an ERSED. The ERSED would be at the  $\frac{1}{4}$  point of the sentence.
- 5.11 If they were released on a 3 month YO Notice of Supervision, any breach of supervision would be dealt with through the courts. Para 4.68 covers how to calculate the period imposed for a breach.
- 5.12 An example of a completed calculation sheet can be found at **ANNEX C Example 11** attached to the sentence calculation framework.

**SDS imposed before 03/12/12 for an offence committed before 04/04/05 (non-TORERA)**

- 5.13 SDSs imposed before 03/12/12 for offences committed before 04/04/05 are referred to as CJA2003 schedule 20B sentences (previously known as CJA1991 sentences).
- 5.14 Concurrent and consecutive schedule 20B sentences form a single term with one another. The single term is created between the date of the first sentence and the latest sentence end date – providing there has been no release from one sentence before the next sentence was imposed. The length of the single term and type of offence determined under which release scheme the single term fell.
- 5.15 Any remand/tagged bail relevant to any of the sentences within the single term will be applied to the single term (this includes police custody).
- 5.16 **Sentences/single terms of 4 years or more (non-TORERA)**  
Key facts:
- Automatic release at the  $\frac{1}{2}$  way point of the single term (CRD)
  - Release is on licence to the end of the single term (SLED)
  - They used to be on a blue calculation sheet but can be calculated on a green sheet and look like current SDSs.
  - They can be referred to in the Prison Service as 20B (or 91 Act) **conversion** cases.

**UNLESS:**

- 5.17 The sentence was imposed for a schedule 15 to the CJA2003 offence) or the  $\frac{1}{2}$  way point fell before 09/06/2008. If either of these criteria were met, the key facts will be:
- Eligibility for parole at the  $\frac{1}{2}$  way point of the single term (PED)
  - Automatic release at the  $\frac{2}{3}$  point non-parole date of the single term (NPD)
  - A licence expiry date at the  $\frac{3}{4}$  point of the single term (LED) and
  - A sentence expiry date at the end of the single term (SED)
  - They are calculated on a blue calculation sheet.
- 5.18 They do not have a TUSED and are not eligible for HDC.
- 5.19 If the person is a Foreign National Prisoner, an ERSED may need to be calculated.

**Example 12**

- 5.20 A person was sentenced:

- On 20 June 2007 to 3 years. The offence was committed before 04/04/05 and was on schedule 15 to the CJA 2003. There was no remand attached to this sentence.
- On 12 September a 2008, a further sentence of 3½ years was imposed concurrent to the earlier 3 years for an offence committed before 04/04/05. There were 92 days remand relevant to this sentence.

There was no release from the 3 years before the further 3½ years was imposed. Therefore, the sentences form a single term which runs from the first date of sentence to the latest end date. The length of the single term and the schedule 15 offence determine which sheet should be used.

The 3 years runs from **20/06/2007** - 19/06/2010.

The 3½ years runs from 12/09/2008 – **11/03/2012**.

Therefore, the single term is 20/06/2007 – 11/03/2012. This is more than 4 years in length and contains at least one sentence for a schedule 15 offence which means it is a blue sheet calculation.

20/06/2007 – 11/03/2012	=	1727 days	
Remand relevant to the single term	=	92 days	
Days to SED 1727 – 92	=	1635 days	= 10/12/2011
Days to PED 1635 – (1727 / 2 round down)	=	772 days	= 30/07/2009
Days to NPD 1635 – (1727 / 3 round down)	=	1060 days	= 14/05/2010
Days to LED 1635 – (1727 / 4 round down)	=	1204 days	= 05/10/2010

Remand is already accounted for in the calculation which means the effective release dates would be:

PED: 30/07/2009  
 NPD: 14/05/2010  
 LED: 05/10/2010  
 SED: 10/12/2011

Release would be on approval by the Parole Board from 30/07/2009 with automatic release on 14/05/2010. Any release would be on a licence expiring on 05/10/2010. Added Days on adjudication could be given to take the NPD all the way to the SED. If that occurred, release on the SED would be unconditional.

5.21 An example of the completed calculation sheet can be found at **ANNEX C Example 12** attached to the sentence calculation framework.

**Sentences/single terms of 4 years or more (TORERA)**

5.22 If any sentence within the single term was for a schedule 19ZA offence (terrorism and terrorism connected) the single term is calculated on a manually adjusted blue sheet to take account of the following:

- PED at the two-thirds point of the sentence/single term (Use the NPD box)
- Where parole is not granted, release will be at the end of the sentence/single term (use the SED box)
- Notional LED will be at the three-quarter point of the sentence/single term.

- Release on parole between two-thirds and three-quarter point will be on a licence to the three-quarter point of the sentence (LED)
  - Release on parole between three-quarter point and SED will be unconditional.
  - Release at the SED will be unconditional.
- 5.23 They do not have a TUSED, HDCED and are not eligible for ERS.
- 5.24 An example of a completed calculation sheet can be found at **ANNEX C Example 13** attached to the sentence calculation framework.
- 5.25 Sentences of 12 months to under 4 years (non-TORERA)
- Key facts:
- Automatic release at the ½ way point of the single term (CRD)
  - A licence expiry date at the ¾ point of the single term (LED and
  - A sentence expiry date at the end of the single term (SED)
  - They are calculated on a pink calculation sheet.
- 5.26 They do not have a TUSED but may need an HDCED and if they are an FNP may need an ERSED.
- 5.27 An example of a completed calculation sheet can be found at **ANNEX C Example 14** attached to the sentence calculation framework.
- 5.28 If any of the sentences within the single term were for a schedule 19ZA (terrorism/terrorism connected) offence, the **TORERA** under 4 year single term would be calculated on an adapted blue sheet using the same rules set out in para 5.22 above.
- Section 226A/226B Extended Determinate Sentence (EDS) imposed before 13/04/2015**
- 5.29 EDSs imposed before 13/04/2015 for those convicted on or after 03/12/12 comprised a custodial period and an extended licence period.
- 5.30 Section 226A was the EDS for those who were aged 18 or over and section 226B was the EDS for those aged under 18. They were calculated the same as one another.
- 5.31 There is no TUSED and they are not eligible for HDC.
- 5.32 There were 2 different release provisions depending on offence and length of custodial period:
- 5.33 The first release provision was for s226A/B EDSs:
- Imposed for an offence on schedule 15B to the CJA2003) or
  - An offence appearing on schedule 19ZA (terrorism and terrorism connected offences) or
  - The custodial period was one of 10 years or more (any offence)
- 5.34 These sentences were calculated on the white EDS sheet.

- They look exactly like the current EDSs imposed under s279, s266 and s254.
  - They had eligibility for parole at the  $\frac{2}{3}$  point of the custodial term (PED)
  - Automatic conditional release at the end of the custodial term (CRD)
  - A SLED at the end of the whole EDS (i.e. at the end of the aggregate of the custodial term and extended licence period).
  - If the person is a FNP, an ERSED may need to be calculated (Schedule 19ZA offenders are not eligible for ERS).
- 5.35 An example of a completed calculation sheet can be found at **ANNEX C Example 15** attached to the sentence calculation framework.
- 5.36 The second release provision was for s226A/B EDSs:
- Imposed for an offence that was not a schedule 15B to the CJA 2003 offence or a schedule 19ZA CJA 2003 offence and
  - Had a custodial term of less than 10 years.
- 5.37 These sentences were calculated on the white EDS sheet but had:
- Automatic release at the  $\frac{2}{3}$  point of the custodial term.
  - A SLED at the end of the whole EDS (i.e. at the end of the aggregate of the custodial term and extended licence period)
  - If the person is a FNP, an ERSED may need to be calculated.
- 5.38 An example of a completed calculation sheet can be found at **ANNEX C Example 16** attached to the sentence calculation framework.

**Section 227/228 Extended Sentence for Public Protection (EPP)**

- 5.39 EPPs were imposed under Section 227/228 for those convicted before 03/12/12 for offences committed on or after 04/04/2005. They comprised a custodial period and an extension period.
- 5.40 Section 227 was the EPP for those who were aged 18 or over and section 228 was the EPP for those aged under 18. They were calculated the same as one another.
- 5.41 There is no TUSED and they are not eligible for HDC.
- 5.42 There were 2 different release regimes:
- 5.43 The first regime was for s227/228 EPPs imposed on or after 14/07/2008
- They were calculated on a grey calculation sheet.
  - They had an automatic conditional release date at the  $\frac{1}{2}$  way point of the custodial period (CRD)
  - They had a SLED at the end of the whole EPP (i.e. at the end of the aggregate of the custodial period and extension period)
  - If the person is a FNP, an ERSED may need to be calculated. (Schedule 19ZA offenders are not eligible for ERS).

**UNLESS**

- The offence was a schedule 19ZA offence (terrorism and terrorism connected). In which case the sentence is calculated on a white EDS sheet under the regime set out in para 5.34

5.44 An example of a completed grey calculation sheet can be found at **ANNEX C Example 17** attached to the sentence calculation framework.

5.45 The second regime was for S227/228 EPPs imposed before 14/07/2008

- They were calculated on a yellow calculation sheet.
- They had eligibility for parole at the ½ way point of the custodial period (PED)
- They had an automatic conditional release at the end of the custodial period (CRD)
- They had a SLED at the end of the whole EPP (i.e. at the end of the aggregate of the custodial period and extension period).
- If the person is a FNP, an ERSED may need to be calculated. (Schedule 19ZA offenders are not eligible for ERS).

**UNLESS**

- The offence was a schedule 19ZA offence (terrorism and terrorism connected). In which case the sentence is calculated on a white EDS sheet under the regime set out in para 5.34

5.46 An example of a completed yellow calculation sheet for a section 227/228 can be found at **ANNEX C Example 18** attached to the sentence calculation framework.

**Section 85 extended sentence**

5.47 Section 85 sentences were imposed for offenders convicted before 03/12/12 for sexual and violent offences committed before 04/04/05. They had a custodial term and an extended licence period.

5.48 The length of the custodial term determined which calculation sheet was used.

- Custodial terms of 12 months to under 4 years were on a pink calculation sheet and calculated as per para 5.25 except that the LED and SED were extended by the extension period.
- Custodial terms of 4 years or more were calculated on a blue calculation sheet and calculated as per para 5.16 above except that the LED and SED were extended by the extension period.

5.49 S85 extended sentences have no TUSED and no HDCED but may require an ERSED.

5.50 An example of the completed section 85 pink sheet and blue sheet calculations can be found at **ANNEX C Examples 19 and 20** attached to the sentence calculation framework.

5.51 If the offence was a schedule 19ZA offence (terrorism and terrorism connected) the sentence is calculated on a manually adjusted blue sheet because the release dates will be:

- PED at the two-thirds point of the custodial term. (Use the NPD box)
- Where parole is not granted, the CRD will be at the end of the custodial term (use the SED box).
- The LED will move depending on the point of release from the custodial term.
- The SED will be at the end of the custodial term plus the extension period. (CRD + the extension period)

The LED will be either:

- $\frac{3}{4}$  point of the custodial term + the extension period (if parole is granted before the  $\frac{3}{4}$  point of the custodial term)
- Date of release + extension period (where parole is granted after the  $\frac{3}{4}$  point of the custodial term or takes place at the CRD).

### **Section 86 extended licence**

- 5.52 For standard determinate sentences imposed before 03/12/12 for sexual offences committed before 30/09/1998, the court could apply the provisions of section 86 to the sentence. The effect of section 86 was to extend the licence expiry date from the  $\frac{3}{4}$  point to the end of the sentence.
- 5.53 The length of the sentence determined which calculation sheet was used – see para 5.22 or 5.16 (pink or blue calculation sheets) above. In both cases the LED does not require calculating because it defers to the end of the sentence. Therefore, the SED at the end of the sentence becomes a SLED.
- 5.54 They do not require a TUSED but may require a HDCED (providing they are not subject to sex offender registration requirements an ERSED,).

### **Section 116/s40 return imposed before 03/12/2012**

- 5.55 This was a power for the court to impose a sentence of imprisonment because a further imprisonable offence had been committed before the SED of an earlier sentence.
- 5.56 It is treated exactly the same as SDSs imposed before 03/12/12 for offences committed before 04/04/05) in that the length of the sentence determines whether the calculation is done on a pink or a blue sheet. If it is a sentence of 4 years or more and its PED falls on or after 09/06/08, it will be subject to 'conversion' (see para 5.16 above).
- 5.57 It will form a single term with any other sentence imposed before 03/12/12 for offences committed before 04/04/05. If it forms part of a single term of 4 years or more on a blue sheet where the PED falls on or after 09/06/2008, the s116/s40 will NOT prevent the single term from being subject to conversion – see para 5.16 above.
- 5.58 They do not have a TUSED. HDCEDs may be required for sentences/single terms of less than 4 years and if the person is an FNP an ERSED may be required.

### **Existing Prisoners (EPs) sentenced before 01/10/1992**

- 5.59 EPs are SDSs that were imposed before 01/10/1992. They are:
- Single termed with one another
  - Eligible for parole at the  $\frac{1}{3}$  point of the sentence/single term (PED)
  - Entitled to unconditional automatic release at the  $\frac{2}{3}$  point of the sentence/single term (EDR – shown as NPD on NOMIS) and
  - Have a LDR at the end of the sentence/single term (shown as SED on NOMIS).
- 5.60 Release on parole is on a licence expiring at the  $\frac{2}{3}$  point (EDR/NPD).
- 5.61 They can be calculated on a manually adjusted blue calculation sheet. The PED will be adjusted to be  $\frac{1}{3}$  of the sentence and not  $\frac{1}{2}$ . The LED is not required.
- 5.62 Added days awarded on adjudication can defer the EDR/NPD to the LDR/SED. If that occurred, release at the LDR/SED would be unconditional.
- 5.63 They do not have a TUSED. HDCEDs may be required for sentences/single terms of less than 4 years and if the person is a FNP an ERSED may be required.
- 5.64 An example of a completed calculation sheet can be found at ANNEX C Example 21 attached to the sentence calculation framework.

## CHAPTER 6 – MULTIPLE CONCURRENT AND CONSECUTIVE SCENARIOS

6.1 This chapter provides more detailed explanation of how to apply the general calculation principles for concurrent and consecutive sentences that are subject to the various release regimes providing there has been no release from one sentence before the next is imposed. It will also explain how DTOs interact with sentences.

### 6.2 **Main principles:**

• 'Sentence' includes an historical schedule 20B sentence/single term, but not a 'term of imprisonment' or a DTO/single term	Para 6.3
• Release includes a break in sentence time due to further remand	Para 6.5
• Multiple sentences create a sentence envelope – what is it?	Para 6.7
• <b><u>Concurrent sentences</u></b>	
▪ Run parallel to one another.	Para 6.8
▪ Each sentence starts on the day it was imposed.	
▪ Each sentence has its own release dates.	
▪ Release is on the latest release dates produced.	
▪ Apply ANY remand relevant to ANY of the sentences to the overall key release dates.	Para 7.35
▪ <u>Unserved</u> ADAs defer the overall Key release dates	Para 11.11
▪ UAL only applies to the sentence(s) from which the person was UAL.	Para 9.12
• <b><u>Consecutive sentences</u></b>	
▪ Are aggregated (added together).	Para 6.16
▪ The aggregate follows the order the sentences were imposed	Para 6.17
▪ Consecutive to any 'other periods' or to the 'current' sentence being served - check what the warrant says	Para 6.19
▪ Release dates calculated on the aggregate, <b>UNLESS:</b>	
▪ Sentences are subject to different regimes, in which case –	Para 6.23
○ aggregate for the SLED	
○ then separate out for effective PED/CRD/NPD	
○ Calculate in order they were imposed except:	
○ if one has a PED and one does not –	
○ always calculate the sentence with the PED last.	
○ Consecutive PED sentences where the PEDs fall at different points	Para 6.30
○ Calculate the consecutive sentence from the day after the notional CRD and the notional PED of the first sentence	
▪ Lilac sheet needed for aggregates of less than 12 months comprising consecutive NORA/ORAs sentences	Para 6.32
▪ Apply ANY remand relevant to ANY of the sentences	Para 7.35
▪ ADAs defer the overall Key release dates	Para 11.8
▪ UAL defers the overall Key release dates	Para 9.10

### DTOs

- Single termed with one another – max 24 months Para 6.38
- Concurrent to a sentence/DYOI/s250 Para 6.39
  - Run parallel each with their own release dates
- Consecutive to a sentence/DYOI/s250 Para 6.40
  - Calculated separately. One runs parallel to the licence period of the other

## Further information about calculating multiple concurrent and consecutive sentences

### Meaning of 'sentence'

- 6.3 For the purposes of this chapter, references to a 'sentence' includes a reference to a 'single term' created by those historical sentences that are subject to the provisions of CJA2003 schedule 20B. The length of the single term is treated as being the 'sentence' when considering how concurrent and consecutive 'sentences' interact. Single term creation is explained in para 5.13
- 6.4 'Sentence' does not include Detention and Training Orders (DTOs), 'terms' of imprisonment that are imposed in default of paying a fine/confiscation order/civil terms and terms for contempt of court. Concurrent/Consecutive 'sentence' and DTO mixtures are covered in para 6.38 below. 'Terms' in default are covered in Chapter 14 and civil 'terms' in Chapter 15.

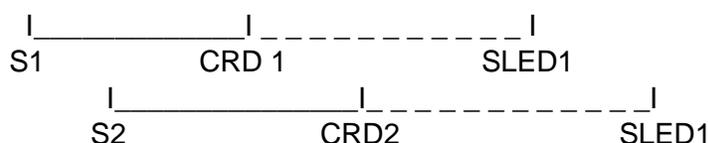
### Meaning of release

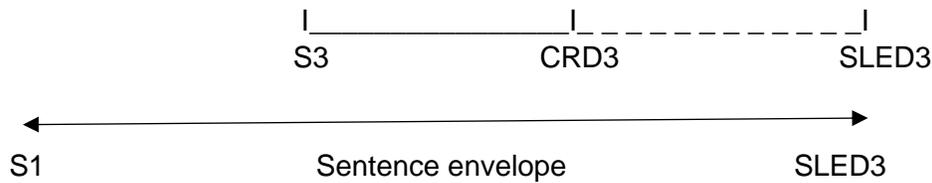
- 6.5 Release means that the person has finished serving the custodial part of the sentence (a period of ROTL is not classed as a release). Release occurs at the automatic release date (CRD/NPD/ARD), on the Home Detention Curfew Actual Date (HDCAD) or on the Approved Parole Date (APD). Release also includes release from a DTO on the ETD (earliest transfer date)
- 6.6 If a person was to be released on the CRD/NPD/APD, HDCAD, ETD or APD, but remains in prison after that date because of remand for further matters or, because they are subject to immigration detention under an IS91, release from the sentence is still considered to have occurred.

### Sentence envelope

- 6.7 The sentence envelope is a reference to the period created between the date of first sentence to the latest end date of all the sentences to which the person is subject providing release has not taken place from one sentence before the next is imposed.

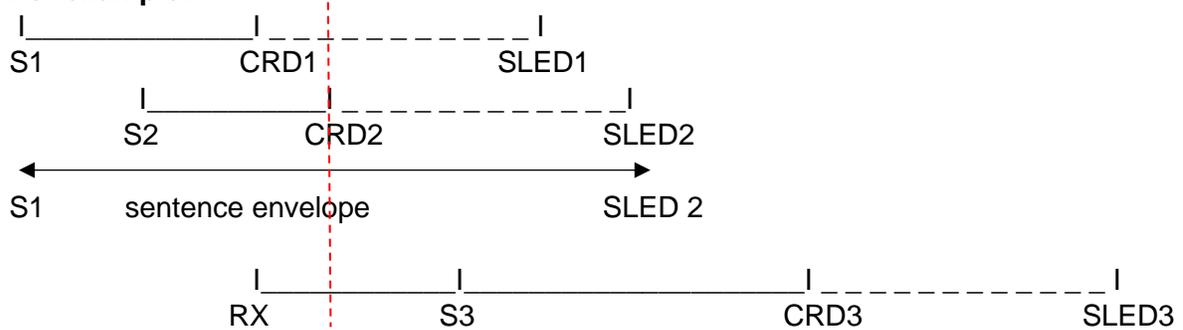
### For example:





There is no release from S1 before S2 is imposed and no release from S2 before S3 is imposed. Therefore, a sentence envelope is created that runs from the first date of sentence (S1) to the latest end date (SLED3)

**For example:**



A sentence envelope is created by S1 and S2 because S2 is imposed before release from S1 takes place. But the release from S2 occurs before S3 is imposed. The sentence time is broken by a period of remand which means S3 is not part of that original sentence envelope. It becomes a stand-alone sentence.

**Concurrent Sentences**

6.8 Concurrent sentences run parallel to one another. Each sentence is calculated from the day it is imposed and has its own release dates. Release cannot take place until the latest date produced by all the sentences.

**Concurrent sentences subject to same release provisions imposed on the same date:**

6.9 Where concurrent sentences are imposed on the same date as each other and they are all subject to the same release provision:

- only the longest of the sentences needs to be calculated out fully on the calculation sheet as this will provide the latest release dates.
- all the other sentences must be noted on the calculation sheet that they exist, but do not need to be calculated out fully.

**Example 22**

A person is sentenced on 11/10/2022 to an SDS for offences committed on or after 01/02/2015 (none of the offences were on schedule 19ZA) as follows:

- 6 months
- 18 months concurrent
- 12 months concurrent

The sentences were all imposed on the same occasion and are all subject to the same release provisions in that they have a CRD, SLED, TUSED and HDC. This means that only the 18 months needs to be calculated out in full on the green calculation sheet. For the 12 months and the 6 months it would simply need to be noted that they exist.

- 6.10 An example of a completed calculation sheet demonstrating this scenario can be found at **ANNEX C Example 22** attached to the sentence calculation framework.

Concurrent sentences subject to same release provisions but imposed on different dates:

- 6.11 Where the sentences are imposed on different occasions:
- Each sentence must be calculated out fully.
  - The release dates produced by each sentence carefully compared.
  - The latest dates between the sentences must be taken as being the overall key release dates.
  - Any remand /tagged bail relevant to any of the sentences must be applied to the overall key release dates.

**Example 23**

A person is sentenced on 8/12/2023 to 5 years and receives a further sentence of 2 years on 28/09/2025 concurrent. Neither sentence is TORERA. Therefore, they both have the same release provisions in that they have a CRD and SLED on a green sheet.

The 5 years would be calculated from 08/12/2023 and would give the following release dates:

SLED: 07/12/2028

CRD: 08/06/2026

The 2 years would be calculated from 28/09/2025 and would have its own release dates of:

SLED: 27/09/2027

CRD: 27/09/2026

Comparing the release dates and selecting the latest dates would give overall key release dates of:

SLED: 07/12/2028 (from the 5 years)

CRD: 27/09/2026 (from the 2 years)

- 6.12 An example of a completed calculation sheet demonstrating this scenario can be found at **ANNEX C Example 23** attached to the sentence calculation framework.

Concurrent sentences subject to different release provisions:

- 6.13 Where the sentences are subject to different release provisions, imposed on the same date or different dates:
- Select the relevant colour calculation sheets for each sentence.
  - Calculate each sentence in full.
  - Compare the release dates of the sheets.
  - The key release dates will be the latest dates produced by all the sentences.
  - Apply any remand relevant to any of the sentences to the key release dates.

- 6.14 Where one sentence is subject to parole and one is not but the CRD of the non-parole sentence falls between the PED and the CRD of the parole sentence, the key PED will default to the CRD of the non-parole sentence. This is because the person cannot be released any earlier than the CRD of the non-parole sentence. Therefore, the parole review will be brought in line with that earliest possible release date.

#### **Example 24**

A person is sentenced on 19/02/2024 to an EDS of 13 years comprising a custodial period of 8 years and extension period of 5 years concurrent to an SDS of 15 years. Neither sentence is for a terrorism or terrorism-connected offence and the SDS is not an SDS+. The EDS is calculated on a white EDS sheet and the 15 years SDS is calculated on a green sheet with the latest dates being taken as the key dates.

The EDS would give the following release dates:

SLED: 18/02/2037

CRD: 18/02/2032

PED: 19/06/2029

The 15 year SDS would give release dates of:

SLED: 18/02/2039

CRD: 20/08/2031

The key dates would become:

SLED: 18/02/2039 (SLED of the 15 years is later than the SLED of the EDS)

CRD: 18/02/2032 (CRD from the EDS is later than the CRD of the 15 years)

PED: 20/08/2031 (15 years' CRD is between the PED and CRD of the EDS)

Eligibility for parole would default to the CRD of the 15 years (20/08/2031) because that is the earliest point the person could be released. If parole was not granted, automatic conditional release would be on the CRD of the EDS (18/02/2032), that being the latest CRD. Release would be on a licence expiring at the latest SLED – 18/02/2039 – from the 15 year sentence.

- 6.15 An example of a completed calculation sheet demonstrating this scenario can be found at **ANNEX C Example 24** attached to the sentence calculation framework.

#### **Consecutive Sentences**

##### Aggregating consecutive sentences

- 6.16 Sentences that are consecutive to one another are aggregated (added together). Schedule 20B sentences (imposed before 03/12/12 for offences committed before 04/04/05) are single termed with one another and the single term is then aggregated with any consecutive sentence imposed for offences committed on or after 04/04/05). The SLED is at the end of the aggregate.

- 6.17 To calculate the number of days in the aggregate the sentences must be taken in the order that the court imposed them. The aggregate runs from the first sentence date to the latest end date of all the sentences.

**Example 25**

On 06/05/2022 the court impose a sentence of 2 years 4 months

On 13/07/2022 a further 28 day sentence is imposed consecutive to the sentence already being served

On 25/04/2023 a further sentence of 10 months consecutive to any other periods of imprisonment is imposed.

2 years 4 months runs from 06/05/2022 – 05/09/2024

28 days runs from 06/09/2024 – 03/10/2024

10 months runs from 04/10/2024 – 03/08/2025

The aggregate created is from 06/05/2022 – 03/08/2025 = 1186 days

- 6.18 Where a warrant states that a sentence is ‘consecutive to the current sentence being served’ rather than ‘consecutive to any other periods of imprisonment’ the sentence is consecutive to the sentence to which the current custodial period being served belongs.

**Example 26**

On 06/05/2022 the court impose a sentence of 2 years 4 months

On 13/07/2022 a further 28 day sentence is imposed consecutive to any other periods of imprisonment

On 25/10/2022 a further sentence of 10 months consecutive to the current sentence is imposed.

When the 10 months is imposed, the person is still serving the custodial period of the original 2 years 4 months. Therefore, the 2 years 4 months is the current sentence and is the sentence to which the 10 months is consecutive.

This means that the 10 months becomes concurrent to the 28 day sentence. The 28 day sentence cannot be consecutive to the 10 months as the 10 months did not exist at the time the 28 days was imposed.

2 years 4 months runs from 06/05/2022 – 05/09/2024

28 days runs from 06/09/2024 – 03/10/2024

10 months runs from 06/09/2024 – 05/07/2025

The aggregate created is from 06/05/2022 – 05/07/2025 = 1157 days

**Example 27**

On 21/05/2024 the court impose a sentence of 2 years

On 12/07/2024 a further 26 month sentence is imposed concurrent to any other periods of imprisonment

On 07/11/2024 a further sentence of 7 months is imposed consecutive to the current sentence being served

When the 7 months is imposed the person is serving the custodial periods of both of the first 2 sentences. Technically the 7 months is consecutive to both the 2 years and the 26 months.

2 years runs from 21/05/2024 – 20/05/2026 (CRD would be 20/05/2025)  
26 months runs from 12/07/2024 – 11/09/2026 (CRD would be 11/08/2025)

The 26 months gives the latest SLED and so is the sentence to which the 7 months is aggregated. The aggregate from 12/07/2024- 11/04/2027 (1004 days) runs parallel to the original 2 years.

### **Consecutive sentences subject to the same release provisions**

- 6.19 If all the sentences are subject to the same release provisions all the release dates are calculated using the relevant colour calculation sheet and the length of the aggregate.
- 6.20 For same release provision EDSs, the white calculation sheet is selected. The whole sentences are aggregated with one another to find the SLED and the custodial terms are aggregated together on which the CRD and PED can be calculated. The same principle applies to non-TORERA SOPCs imposed before 28/06/2022 that are consecutive to one another (but the yellow calculation sheet is selected).
- 6.21 SOPCs imposed on or after 28/06/2022 and TORERA SOPCs, consecutive to an EDS can be fully aggregated with the EDS on a white sheet because they have the same release points as each other with a CRD at the end of the custodial term and PED at the  $\frac{2}{3}$  point of the custodial term.

### **Example 28:**

#### **Consecutive SDSs on a green sheet:**

For consecutive SDSs, using the aggregate of 1186 days created in para 6.17 above, all sentences are subject to automatic release at the  $\frac{1}{2}$  way point, the green sheet calculation would be:

- Sentenced on 06/05/2022
- 1186 days to the SLED = 03/08/2025
- Days to CRD  $1186 / 2 = 593$  Days = 19/12/2023
- Day to HDCED 19/12/2023 less 134 days = 07/08/2023

### **Example 29**

#### **Consecutive SOPCs imposed before 28/06/2022 on a yellow sheet:**

Person sentenced on

- 12/03/2021 to a SOPC of 8 years comprising a custodial term of 7 years and an additional 12 month licence period.
- 26/07/2021 a further SOPC was imposed of 5 years comprising a custodial term of 4 years and a 12 month additional licence period consecutive.

- Neither sentence was imposed for a terrorism or terrorism-related offence.

Therefore, both sentences have:

- Eligibility for parole at the ½ way point of their custodial terms.
- Automatic release at the end of the custodial terms.
- A licence expiring at the end of the whole SOPC.
- Which means they can be fully aggregated on a yellow sheet.

The calculation will become an aggregate of 13 years comprising an aggregate custodial term of 11 years and an aggregate additional licence period of 2 years.

- 13 year aggregate on the yellow sheet  
runs from 12/03/2021 – 11/03/2034 = 4748 days = 11/03/2034 (SLED)
- 11 year aggregate custodial term  
Runs from 12/03/2021 – 11/03/2032 = 4018 days = 11/03/2032 (CRD)
- Days to PED is 4108 / 2 = 2009 days = 10/09/2026 (PED)

### **Example 30**

#### EDS100 consecutive to an STS on a turquoise sheet:

Person sentenced on 12/06/2023 to:

- a STS of 24 years comprising a custodial term of 16 years and a licence period of 8 years and
- a consecutive EDS100 of 12 years comprising a custodial term of 8 years and an extended licence period of 4 years consecutive.

The release points for both sentences are the same in that the custodial term must be served in full before release on licence to the end of the total sentence. Therefore, they can be aggregated in full on the turquoise calculation sheet.

The calculation will become an aggregate of 36 years comprising a custodial term of 24 years and licence period of 12 years.

- 36 year aggregate on the turquoise sheet  
Runs from 12/06/2023 – 11/06/2059 = 13149 days = 11/06/2059 (SLED)
- 24 year aggregate custodial term  
Runs from 12/06/2023 – 11/06/2047 = 8766 days = 11/06/2047 (CRD)

6.22 An example of a completed calculation sheet demonstrating these scenarios can be found at **ANNEX C Examples 28, 29 and 30** attached to the sentence calculation framework.

#### Consecutive sentences subject to different release provisions from one another

6.23 Sentences that are consecutive to one another but are subject to different release provisions (i.e. are on different coloured calculation sheets) are still aggregated with one another to find the SLED but are then separated out and calculated independently from one another to find the overall key dates.

6.24 The overall key dates are found by calculating 'notional' release dates of the custodial periods of the sentences in the order that the court imposed them. Calculating the second

sentence from the day after the 'notional' release date of the first and so on. Unless some sentences have a PED and some do not; in which case, the custodial periods may be calculated in a different order to the way the court imposed them – see para 6.27 below.

- 6.25 Where one sentence is subject to parole and one is not, once the sentences are separated out, the sentence with the PED is always calculated last to give the overall key release dates. This does not mean the sentences are being served in a different order to the way the court imposed them, but simply makes it easier to calculate the overall key release dates.
- 6.26 Calculate the SLED on the calculation sheet that is relevant to the sentence to be calculated last. That will mean that all the key dates are on one sheet, to which the relevant remand/tagged bail and PADAs, etc, can be applied.

### **Example 31**

White EDS sheet calculation consecutive to a green SDS sheet calculation (or vice versa)

A person is sentenced on:

- 14/11/2024 to a non-TORERA SDS of 5 years (green sheet) and
  - a consecutive EDS of 9 years comprising a custodial term of 6 years and extended licence period of 3 years (White sheet)
- 
- The sentences are aggregated to find the 14 year SLED on a white sheet.
  - The SLED would be 13/11/2038.
  - The 5 years is calculated on the green sheet starting from 14/11/2024 but only the CRD is required – this is a 'notional' CRD. The SLED date on the green sheet is not required as the overall SLED has been calculated on the top of the white sheet.
  - 5 years (1826 days) from 14/11/2024 would give a notional CRD of 15/05/2027.
  - The 6 year custodial term of the EDS is then calculated on the white sheet starting from the day after the 'notional' CRD from the green sheet.
  - 6 years (2192 days) from 16/05/2027 gives a CRD of 15/05/2033.
  - The PED is at the  $\frac{2}{3}$  point of the 6 year custodial term.
  - 2192 days –  $(2192 / 3) = 1462$  days calculated from 16/05/2027 gives a PED of 16/05/2031
  - Key release dates are all on the white sheet to which remand, etc, can be applied.
- 6.27 The above calculation would be the same if the EDS had been imposed on 14/11/2024 with the SDS imposed on 10/03/2025. For sentence calculation purposes only, once the SLED has been found, the sentences would be 'turned round' so that the sentence with the PED is calculated last.
- 6.28 An example of completed calculation sheets demonstrating the above scenario can be found at ANNEX C Example 31 attached to the sentence calculation framework.
- 6.29 Examples of the following sheet combinations can also be found in ANNEX C

**Example 32** - Turquoise STS calculation sheet consecutive to a green sheet SDS

**Example 33** - Green sheet SDS consecutive to a peach sheet SDS+

**Example 34** - Peach sheet SDS+ consecutive to a yellow sheet SOPC

**Example 35** - Green sheet SDS consecutive to a peach sheet TORERA SDS

**Example 36** - Green sheet SDS consecutive to a schedule 20B blue sheet with PED

**Consecutive parole sentences where the PED is at different points**

6.30 Where there are two sentences subject to parole that are consecutive to one another, but one sentence has a PED at the  $\frac{1}{2}$  way point and one has a PED at the  $\frac{2}{3}$  point, the calculation will be done as follows:

- Aggregate the sentences for the SLED.
- Calculate the notional CRD/NPD and PED of the sentence to be served first.
- Calculate the custodial term of the consecutive sentence from the day after the notional CRD of the first sentence to find the overall key CRD.
- Recalculate the custodial term of the consecutive sentence from the day after the PED of the first sentence to find the overall key PED.

**Example 37**

White sheet EDS consecutive to a yellow sheet SOPC

A person is sentenced on 17/04/2020 to:

- A yellow sheet SOPC of 8 years comprising a custodial term of 7 years and an additional 12 month licence period (PED at  $\frac{1}{2}$  way point of the custodial term) and
- A consecutive white sheet EDS of 12 years comprising a custodial term of 8 years and an extended licence period of 4 years (PED at  $\frac{2}{3}$  point of the custodial term)

The overall sentences are aggregated for the SLED. The sentences will then be separated out and follow the order they were imposed by the court which means the SLED will be done on the white EDS sheet as that is the sentence that is consecutive.

- The 20 year aggregate on the white sheet  
Runs from 17/04/2020 – 16/04/2040 = 7305 days = 16/04/2040 (SLED)
- The 7 year custodial term of the SOPC on the yellow sheet  
Runs from 17/04/2020 – 16/04/2027 = 2556 days = 16/04/2027 (notional CRD)
- PED is 2556 / 2 (rounded up) = 1278 days = 16/10/2023 (notional PED)
- The 8 year custodial term of the EDS on the white sheet  
Runs from 17/04/2027 – 16/04/2035 = 2922 days = 16/04/2035
- Days to the PED 2922 – (2922 / 3) = 1948 days  
calculated from 17/10/2023 (day after notional PED) = 14/02/2029

**Example 38**

White sheet EDS consecutive to a blue sheet schedule 20B single term

A person was sentenced on:

- 11/10/2012 to 12 years on a blue calc sheet - non conversion. (PED at  $\frac{1}{2}$  way point and NPD at  $\frac{2}{3}$  point)
- 09/03/2017 to a consecutive white sheet EDS of 13 years comprising a custodial term of 8 years and extension period of 5 years (PED at  $\frac{2}{3}$  point of the custodial term)

The overall sentences are aggregated for the SLED. The sentences will then be separated out and follow the order they were imposed by the court which means the SLED will be done on the white EDS sheet as that is the sentence that is consecutive.

- The 25 year aggregate on the white sheet  
Runs from 11/10/2012 – 10/10/2037 = 9131 days = 10/10/2037 (SLED)
- The 12 years on the blue sheet  
Runs from 11/10/2012 – 10/10/2024 = 4383 days = SLED and LED not needed
- NPD is 4383 – (4383 / 3 round down) = 2922 days = 10/10/2020 (notional NPD)
- PED is 4383 – (4383 / 2 round down) = 2192 days = 11/10/2018 (notional PED)
- The 8 year custodial term of the EDS on the white sheet  
Runs from 11/10/2020 – 10/10/2028 = 2922 days = 10/10/2028
- Days to the PED 2922 – (2922 / 3) = 1948 days  
calculated from 12/10/2018 (day after notional PED) = 10/02/2024

6.31 An example of completed calculation sheets demonstrating these scenarios can be found at ANNEX C Examples 37 and 38 attached to the sentence calculation framework.

**Lilac calculation sheets for under 12 month aggregates of NORA/ORAs mixtures**

6.32 Lilac calculation sheets will now be a rarity. They were used to calculate the LED for under 12 month aggregates that comprised sentences for o/c before 01/02/2015 (Prison Service call these NORA sentences) and sentences for offences committed on or after that date (Prison Service call these ORA sentences) consecutive to one another. The lilac sheet worked in tandem with the green sheet.

6.33 The NORA sentences (under 12 months for o/c before 01/02/2015) do not attract a licence. They have an ARD at the ½ way point of the sentence and an SED. The ORA under 12 month sentences have a CRD at the ½ way point of the sentence and a SLED at the end with a TUSED on the anniversary of the CRD.

6.34 When consecutive ORAs and NORAs form an under 12-month aggregate:

- Release is on licence at the ½ way point of the aggregate (CRD),
- Release is on licence but it only lasts as long as the licence period of the ORA sentence(s). The lilac sheet calculates the length of that licence and adds it to the CRD to create the LED.
- There is an SED at the end of the aggregate.
- There is a TUSED on the anniversary of the CRD of the aggregate.

**Example 39**

A person is sentenced on 15/05/2015 to:

- An ORA 4 months
- A NORA 4 months consecutive

An aggregate of 8 months is created and calculated on a green sheet but it will have:

- A CRD at the ½ way point of the aggregate = 14/09/2015
- An SED at the end of the 8 month aggregate = 14/01/2016

- A TUSED on the anniversary of the CRD. = 14/09/2016

The lilac sheet is then used to calculate the ORA sentence licence period as follows:

- Calculate the ORA 4 months from the date of sentence  
Running from 15/05/2015 – 14/09/2015 = 123 days
- 123 days / 2 **round down** gives the licence period = 61 days
- 61 days added on to the CRD of 14/09/2015  
(Put 14/09/2015 in the calculator) = 14/11/2014 (LED)

- 6.35 The dates in red would become the overall key dates to which remand/tagged bail and adjustments would be applied.
- 6.36 As soon as an aggregate is 12 months or more release is on a licence expiring at the end of the aggregate irrespective of the O/C dates.
- 6.37 An example of this completed green/lilac sheet calculation scenario can be found at ANNEX C Example 39 attached to the sentence calculation framework.

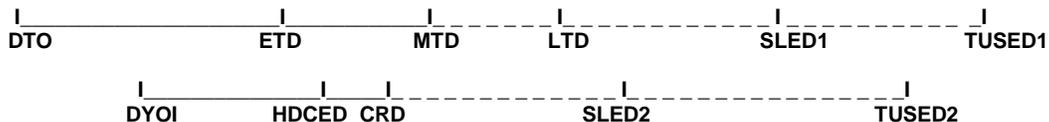
#### **Detention and Training Orders (DTOs)**

- 6.38 Concurrent and consecutive DTOs are single termed with one another – Chapter 4 paras 4.74 and 4.75 provide more detail.

#### **DTOs concurrent to sentences/DYOI/s250/EDS/SOPC**

- 6.39 DTOs run parallel to any sentence/DYOI/s250 to which they are concurrent. The DTO is calculated from the day that it is imposed and has its own release dates. Release cannot take place until the latest release point between the DTO and the sentence/DYOI/s250 has been reached.

#### **Example 40**



- The earliest possible release point would be the HDCED of the DYOI. At that point providing early release was granted on the DTO (from the ETD onwards) and HDC was granted on the DYOI, release could take place.
- If early release on the DTO was not granted, the automatic release date would be the MTD of the DTO (or the LTD if a Youth Court had ordered the person to be detained beyond the MTD).
- Release would be on an AP licence expiring on SLED2 along with a DTO notice of supervision expiring at SLED1 and subject to Post Sentence Supervision until TUSED1.

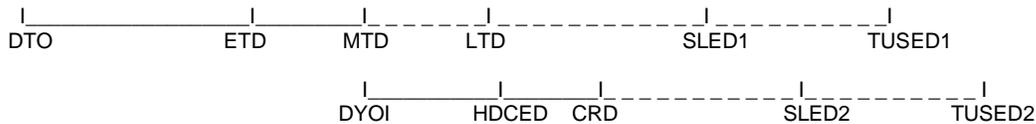
#### **DTO with sentence/DYOI/s250/EDS/SOPC consecutive scenarios**

- 6.40 DTOs cannot be aggregated or single termed with sentences/DYOI/s250 etc. This means that a sentence ordered to be consecutive to a DTO will start on the day after the release

date of the DTO and run parallel to the supervision period of the DTO (or vice versa). Release will be on any outstanding supervision/licence periods from the DTO/sentence.

#### Example 41

A person is sentenced to 20 months DTO with a consecutive 16 month DYOI



- The consecutive DYOI is calculated from the day after the MTD of the DTO and runs parallel to the supervision period of the DTO
- Automatic release would be on the CRD of the DYOI on an AP licence to SLED2 and post Sentence Supervision until TUSED2 and a DTO notice of supervision expiring at SLED1.
- If early release was granted on the DTO, the DYOI would be recalculated from the day after what would have been the earlier release date of the DTO. This may change the overall key TUSED.
- If the Youth Court direct detention beyond the MTD of the DTO, the DYOI would be recalculated from the day after the adjusted release date of the DTO.
- Release on HDC could still occur from the DYOI if the HDC criteria were met in relation to the DYOI.

6.41 It would be unusual, but not impossible, for a DTO to be imposed consecutively to a sentence/DYOI/s250/EDS/SOPC. If that were to happen, the DTO would be calculated from the day after the release date of the sentence and run parallel to the licence period of the sentence. Release would be on a DTO notice of supervision and anything remaining of the All Purpose (AP) licence from the sentence with Post Sentence Supervision to the latest TUSED where applicable. See HDC Framework [Home detention curfew - GOV.UK \(www.gov.uk\)](https://www.gov.uk) for further information on early release and HDC eligibility where there are DTO/sentence concurrent and consecutive combinations.

#### DTO consecutive to an indeterminate sentence

6.42 This would be an unusual scenario, but if a DTO was made consecutive to an indeterminate sentence, the DTO does not defer the reviews of the indeterminate sentence in the same way that a consecutive determinate sentence does. The DTO is treated more like a consecutive default term in that it starts being served the day after the Parole Board direct release from the indeterminate sentence.

## CHAPTER 7 APPLICATION OF REMAND/TAGGED BAIL/TIME SPENT ABROAD PENDING EXTRADITION AND POLICE CUSTODY

7.1 This chapter will explain what remand and tagged bail is, who has the responsibility for crediting such time to a sentence and the principles to be followed in concurrent/consecutive sentence scenarios.

### **Main principles**

- Prison Service is responsible for crediting remand to custody. Para 7.2
- Prison Service will credit remand to DTOs imposed on or after 28/06/2022. Para 7.5
- Courts are responsible for directing tagged bail (Prison Service has no input). Para 7.7
- Time spent in custody abroad pending extradition counts if directed by the court or PPCS. Para 7.13
- Remand to hospital under sections 35, 36, 38 or 48 of the Mental Health Act 1983 is treated as remand time. Para 7.4
- Relevant remand is any remand for the offences (or a related offence) for which a custodial sentence has been imposed. Be careful of breaches, where the breach is the 'offence'. Para 7.24
- Remand served at the same time as immigration detention under the Immigration Act 1971 (an IS91) can be credited as time served towards a subsequent sentence. Para 7.26
- Remand served at the same time as a sentence is not relevant remand. Para 7.27
- Police custody as part of the investigation is relevant remand but only for sentences imposed before 03/12/12 for o/c before 04/04/05. Para 7.28

### **How remand is applied:**

- Effect of remand – reduces time served in custody Para 7.32
- Apply remand at the end of the calculation (except on blue, pink and grey sheets)
- A period of remand/tagged bail counts only once towards the overall key release dates of the sentence envelope Para 7.34
- Calculating the number of days spent on remand Para 7.33
  - Date of remand to date of bail (inclusive)
  - Date of remand to day before sentence (inclusive)
  - Date of remand to date of non-custodial order e.g. suspended sentence (inclusive)
- Concurrent/consecutive sentences – any relevant remand/tagged bail is applied to the key release dates of the sentence envelope Para 7.35
- 'Sentences' concurrent/consecutive with DTOs imposed on or after 28/06/2022 – is applied the same as concurrent/consecutive scenarios Para 7.38
- 'Sentences' concurrent /consecutive with DTOs imposed before 28/06/2022  
Prison Service applies remand only to the 'sentence' Para 7.39

### **Continued overleaf**

- DTO single term where at least one was imposed before 28/06/2022 and one was imposed on or after that date. Para 7.40
- 1 day sentence during a period of remand = sentence day if sentence warrant was produced. Counts as a remand day if no warrant produced. Para 7.41
- Time spent in custody after date of bail. Para 7.43
- **To effect an immediate release**
  - Apply Rx = to number of days in the custodial period (as adjusted by PADAs) Para 7.47
  - Override the CRD on NOMIS to = date of sentence.
  - Create unused remand alert on NOMIS Para 7.46
- **Unused remand/tagged bail and recalls** Para 7.49
  - Apply to the SLED only. Unused remand does not affect the TUSED.
- **Custodial sentence amended under slip rule to a suspended sentence (SS)** Para 7.59
  - Time in between is not counted towards subsequently activated SS

**Further information about the above principles if required:**

**Prison Service is responsible for crediting remand to custody time.**

- 7.2 The Prison Service is responsible for calculating how many days remand to custody should be allowed to count as time served towards the sentence in accordance with Section 240ZA of the CJA2003.
- 7.3 Prior to 3 December 2012 the courts had the authority for directing how many days were to count. As that responsibility now lies with the Prison Service, if it comes to light that the amount of days the court directed on the sentencing warrant was incorrect, this is the action that must be taken:
- The court must NOT be contacted. They have no power to amend directions now. To ask them to amend a remand to custody direction would be asking them to act unlawfully.
  - If the directed number of days was for more than the offender is entitled to, the direction on the warrant stands and the number of days directed must be applied to the sentence as time served.
  - If the number of days directed was not enough (even if the court specifically said that no remand was to be credited), the Prison Service must correct the calculation by applying the number of remand days that are relevant to the offence for which the sentence has been imposed.
- 7.4 Remand to custody is when a person is held in custody on a remand warrant issued by a court. Custody, in this context, includes time spent on remand:
- in prison

- in police custody (following a lock out/over a weekend for example)
- in hospital under Sections 35,36,38 and 48 of the MHA 1983
- in youth detention accommodation under Section 91(4) of LASPOA 2012

### **Remand and DTOs**

- 7.5 Prior to 28/06/2022 the court took remand and tagged bail into account when setting the length of the DTO.
- 7.6 Where the DTO has been imposed on or after 28/06/2022, crediting remand to DTOs will be an administrative function of the Prison Service. Any remand relevant to the offence(s) for which the DTO was imposed will be applied by the Prison Service as remand.

### **Courts are responsible for directing tagged bail**

- 7.7 Tagged bail is time spent in the community remanded on bail by a court. The bail must be subject to an electronically monitored curfew for at least 9 hours per day.
- 7.8 The sentencing court is responsible for working out how many tagged bail days should be counted as time served towards the sentence they are imposing. They will:
- Determine how many successful days there have been on tagged bail
  - Halve that figure (rounding up) and
  - Make a direction under section 325 of the SA2020 (previously section 240A of CJA2003).
- 7.9 The number of days directed must appear on the sentencing warrant.
- 7.10 The Prison Service has no input to the calculation and must accept what is directed on the sentencing warrant. The number of tagged bail days directed by the court must be applied as time served towards the sentence in exactly the same way as remand to custody is applied.
- 7.11 If a prisoner disagrees with the tagged bail direction, they must be advised to pursue the matter with the courts, through the usual appeal channels if necessary. Until/unless an amended warrant is forwarded to the Prison Service, the tagged bail is applied according to the direction on the warrant currently in the possession of the Prison Service.
- 7.12 Prior to 28/06/2022 the court took the tagged bail along with any remand to custody into account when setting the length of a DTO. For DTOs imposed on or after 28/06/2022, the court will no longer do that, but will make a direction in respect of any tagged bail. The Prison Service will apply the tagged bail to the DTO in exactly the same way that tagged bail is applied to a 'sentence'.

### **Time spent in custody abroad pending extradition**

- 7.13 Time spent in custody abroad pending extradition can occur in two scenarios:
- Prior to being sentenced in England and Wales
  - After being sentenced in England and Wales

### **PRIOR to being sentenced in England and Wales:**

- 7.14 If a person has spent time in custody abroad before being extradited to the UK and is then sentenced for the offences on which they were extradited, the court must consider whether the time the person spent in custody abroad should count as time served towards the

sentence they are imposing. The court must direct how many days are to be counted as time served towards the sentence under section 327 of the SA2020 (previously section 243 of the CJA2003).

- 7.15 The direction must appear on the warrant and the time is applied to the sentence by the Prison Service in exactly the same way as remand to custody and tagged bail time is applied.
- 7.16 If the prisoner claims such time and no direction was made, the prisoner must be advised to pursue the matter with the courts through the usual appeal channels if necessary.
- 7.17 Unless/until there is a direction on a sentencing warrant, the Prison Service cannot credit time in custody abroad that occurred before the sentence was imposed.

AFTER being sentenced in England and Wales

- 7.18 Where a person is either sentenced in absence, or escapes from a sentence and flees abroad, any time they subsequently spend in custody abroad pending extradition back to the UK in respect of the sentence, is taking place during the period they are being treated as UAL from the sentence.
- 7.19 Because it is taking place during the period that is being treated as UAL time, consideration of allowing it to count as time served towards the sentence is the responsibility of the Secretary of State under Section 49(2) of the Prisons Act 1952, rather than the court.
- 7.20 In practice, the prisoner must make an application to PPCS asking for the time spent in custody abroad to be credited as time served rather than counting as UAL. The application must be sent to [pre-releaseteama@justice.gov.uk](mailto:pre-releaseteama@justice.gov.uk) and must include the following details:
  - Where the person was held in custody
  - The dates they were held between.
  - Whether or not they were held on any other matters in the foreign jurisdiction and if so, what those matters were.
- 7.21 Until/unless PPCS provide confirmation of how many days should be allowed to count as time served towards the sentence, the Prison Service must continue to treat the prisoner as though they were UAL until they returned to custody in the UK.

'Relevant remand'

- 7.22 'Relevant remand' is:
  - Remand for the same offence for which the custodial sentence has been imposed.
  - Remand for an offence but the sentence is imposed for an alternative/reduced charge. **For example:** charged and remanded for GBH but on indictment the charge is reduced to ABH for which the sentence is imposed. The remand for the GBH counts as time served towards the sentence imposed for the ABH.
  - Where the sentenced offence arose out of the same proceedings of the remanded offence. **For example:**

- remanded for burglary but sentenced for handling the stolen goods taken from the burglary. The remand for the burglary would count as time served for the sentence imposed for the handling the stolen goods.
- Remanded for assault but sentenced for the affray during which the alleged assault occurred. The remand for the assault counts as time served towards the sentence imposed for the affray.
- No Separate Penalty (NSP), lie on file etc outcomes for an offence are not classed as a custodial sentence. Therefore, remand for an offence receiving a NSP/Lie on file outcome will not count as time served towards a custodial sentence imposed for different offences **UNLESS** the scenario of the last two bullet points is met.

7.23 If there is any doubt whether offences are connected or not, clarification must be sought from the Crown Prosecution Service (CPS). The CPS will not be able to advise if the remand can be credited. That decision is purely for the Prison Service. The CPS will be able to advise if the offences are connected. Therefore, the specific question to ask the CPS is:

‘Was the offence(s) [insert the offence(s)] committed on [insert the date of offence] for which the [insert the sentence] sentence was imposed on [insert the date of sentence] based on the same facts and evidence as the offence(s) [insert the offence(s)]’ that were committed on [insert dates of offence].

If the answer is no, the remand will not apply to the sentence.

7.24 If the custodial sentence has been imposed as a result of a person breaching an earlier non-custodial order, there are 2 approaches to remand:

- Where the breach is an offence, in its own right, only the remand occurring after the breach would be relevant to the subsequent custodial sentence imposed for the breach.
- Where the custodial sentence following the breach is imposed for the original offence, any remand for that offence occurring before and after the breach would be credited as relevant remand time.

7.25 A table of types of breach is at [Appendix 3](#). The table provides information as to whether the term imposed following the breach is treated as a civil or criminal term, the release point of the term, whether a licence is required on release and the position in relation to remand application.

**Remand served at the same time as immigration detention**

7.26 Where a person has been remanded to custody by a court in respect of an offence and is also subject to immigration detention under an IS91, the IS91 detention has no effect on whether or not the remand time can be counted as time served towards a subsequent sentence. All remand time served at the same time as detention under an IS91 can be credited as time served towards the subsequent sentence providing it is relevant to the offence for which the custodial sentence was imposed.

### **Remand served at the same time as a sentence/term**

- 7.27 Sentenced time takes precedence over remand time. Therefore, remand served at the same time as a person is serving the custodial part of a sentence (including following recall from licence on that sentence) or the custodial part of a 'term' of imprisonment, cannot be counted as relevant remand time to any subsequent sentence imposed.

### **Police custody as part of the investigation into the offence**

- 7.28 In the case of a blue or pink sheet calculation, (i.e. sentences imposed before 03/12/12 for offences committed before 04/04/05), confirmed police detention incurred as part of the investigation process can be applied as relevant remand. The prisoner must apply for the time stating when and where the police detention occurred. The Prison Service must confirm the dates of detention with the relevant police station, and that it was in respect of the offence/related offence for which the custodial sentence has been imposed, before it can be applied as relevant remand to the sentence calculation.
- 7.29 The forms for establishing police detention are at [Appendix 4](#). The first form is for the prisoner to make an application to the OMU. The second form is for the OMU to send to the relevant police station for confirmation of the time.
- 7.30 If the police stations are unable to provide the necessary confirmation (particularly due to the passage of time since it occurred), enquiries may be made to the court to ask if copies of the custody records were attached to the magistrates' court warrant either on first remand or sentence. The CPS may also be contacted to ask if the information is available from their records.
- 7.31 Police custody incurred as part of the investigation into the offence **does not** apply to any sentence that has been imposed for an offence committed on or after 04/04/05.

### **How remand/tagged bail is applied**

#### **Effect of relevant remand/tagged bail**

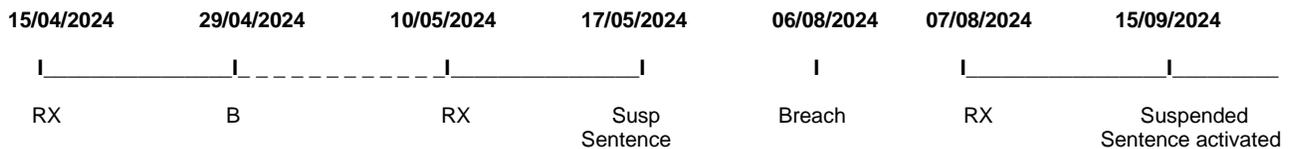
- 7.32 Relevant remand/tagged bail is treated as time served towards the sentence. Its effect is to reduce the total number of days served in custody, following the date of sentence, before initial release takes place. It will not reduce the licence period of the sentence unless the offender is recalled following an immediate release where there was a balance of uncredited remand time. Remand and immediate release are covered further in para 7.43 and recalls and uncredited remand are covered in para 8.13.

#### **Calculating the number of days of remand to custody**

- 7.33 There are 5 remand scenarios:
- Remand before being bailed -  
The date of first remand to the date of bail will count as remand days (inclusive)
  - Remand before a non-custodial sentence is imposed (e.g. Suspended Sentence, Conditional Discharge, Combination Order) –  
The date of first remand to the date the Order was imposed will count as remand days (inclusive)

- Remand before release in error –  
The date of first remand to the date of release will count as remand days (inclusive)
- Remand before an escape – and re-remand following arrest  
The date of first remand to the day of escape (inclusive) will count as remand days. If returned to remand following arrest, remand would be counted from the day of arrest. The day of escape and arrest are remand days
- Remand before a custodial sentence is imposed -  
The date of first remand to the day before the date of sentence will count as remand days (inclusive)

#### Example 42



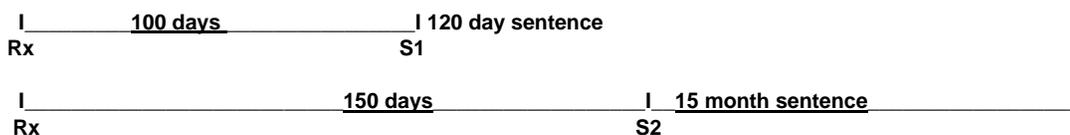
Remand days to credit towards the activated suspended sentence:

15/04/2024 to 29/04/2024 (inclusive) = 15 days  
 10/05/2024 to 17/05/2024 (inclusive) = 8 days  
 07/08/2024 to 14/09/2024 (inclusive) = 38 days  
 TOTAL applied to the activated sentence = 61 days

#### Counts once towards the sentence

7.34 A period of relevant remand/tagged bail can only be applied once to the overall key dates of the sentence and once it has been applied to a sentence from which initial release has taken place, it cannot count as time served again towards any subsequent sentence.

#### Example 43



- The remand time for S1 is shared with the remand time for S2 (i.e. the 100 days are part of the 150 days)
- 60 days remand is required to clear the custodial period of S1
- Release takes place from S1 before S2 is imposed (sentence time is broken by the continued remand period)
- 150 – 60 days applied to S1 from which initial release has taken place leaves a balance of 90 days remand to be credited towards S2

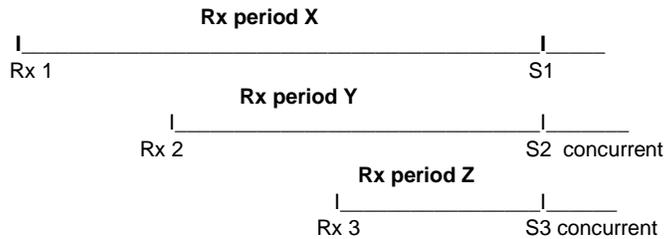
**Remand/tagged bail application in multiple sentence scenarios**

7.35 The basic principles for applying remand in multiple concurrent/consecutive sentence scenarios providing there has been no release from one sentence before the next is imposed are:

- Any directed tagged bail and remand relevant to any of the sentences will be applied to the key dates of the sentence envelope;
- A period of remand/tagged bail must be applied only once to the overall sentence envelope.

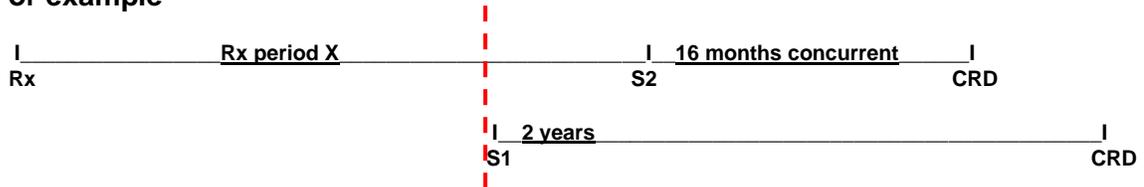
7.36 Concurrent scenarios

**Example 44**



- The three concurrent sentences form a 'sentence envelope' (see para 6.7).
- The key dates for the sentence envelope are calculated.
- Rx periods Y and Z are part of period X and to credit them in addition to period X is counting the same period of remand more than once.
- Therefore, only period X is applied to the key dates of the sentence envelope.

**For example**

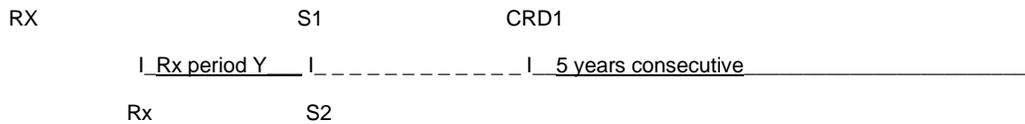


- When S1 is imposed there is no remand or tagged bail relevant to the offence imposed for that sentence. The calculation of the 2 years is done with no remand applied.
- However, when S2 is imposed the 16 months is calculated separately to the 2 years (but has created a sentence envelope with S1).
- The release dates of S1 and S2 are compared and the latest dates taken as the key dates of the sentence envelope.
- Any remand relevant to any of the sentences is applied to the key dates of the sentence envelope (this happens to be the release dates of the 2 years in this case).
- Period X is a relevant remand period – but only the number of days between date of first remand to the day before S1 because any remand served at the same time as a sentence day is not classed as relevant remand.

7.37 Consecutive scenarios

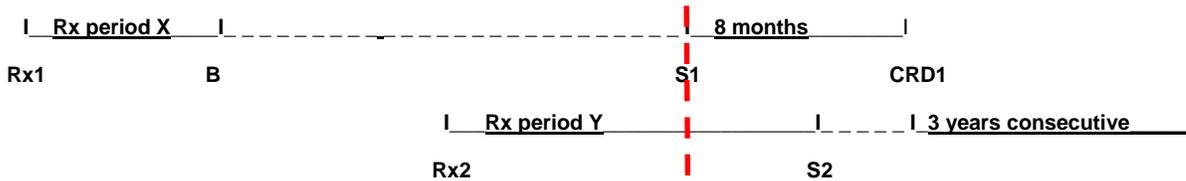
**Example 45**





- The sentences create a 6 year aggregate (6 year sentence envelope).
- The key dates for the aggregate are calculated.
- Rx period Y is part of period X and to credit Y in addition to period X is counting the same period of remand more than once.
- Therefore, only period X is applied to the key dates of aggregate.

**Example 46**



- When S1 is imposed remand period X would be applied to the 8 month sentence.
- S2 is imposed before release from S1 take place. Therefore, the consecutive sentences form an 8 month 3 year aggregate (sentence envelope).
- Key dates of the aggregate are calculated.
- Any remand relevant to any sentence in the envelope is applied to the key dates of the aggregate.
- Therefore, all of period X is applied and period Y up to the date before S1 is imposed.
- Time after S1 is sentenced time and any remand served at the same time as sentenced time cannot be applied as relevant remand to the sentence.

**Remand/tagged bail application in DTO/sentence scenarios**

7.38 Where the DTO is imposed on or after 28/06/2022 the Prison Service is responsible for crediting remand to the DTO. Remand application with such DTOs that are concurrent or consecutive to 'sentences' of imprisonment will work the same as it does for multiple concurrent and/or consecutive sentences in that ANY remand relevant to ANY sentence/DTO will be applied to the overall effective release date produced by the sentence/DTO and to both SLEDs to ensure the licence period of the sentence and supervision period of the DTO end on the correct dates.

7.39 If the DTO was imposed before 28/06/2022, the court will have taken any remand relevant to the DTO into account when setting the length of the DTO. This means that the Prison Service must credit any, but only, remand relevant to the offence for which the 'sentence' has been imposed even if the remand was shared with the offence for which the DTO was imposed.

**DTO single term comprising DTOs imposed before and after 28/06/2022**

7.40 The court will have taken remand (including shared remand) and tagged bail into account when setting the length of the DTOs imposed before 28/06/2022 which means the Prison Service must only apply any additional remand/tagged bail to the single term that is solely

relevant to the DTOs imposed on or after 28/06/2022 (ie remand that is NOT shared with the offences for the DTOs imposed before 28/06/2022).

### **1 day sentences during a period of remand**

- 7.41 If the court impose a 1 day sentence deemed served on remand, the person would be an immediate release from that sentence. No remand time would be used to give effect to the release. The date of sentence is the sentenced day.
- 7.42 If the 1 day sentence was imposed during a period of remand that is relevant to a subsequent sentence, that day would not count as remand towards the subsequent sentence, unless the 1 day sentence could be deemed served on an earlier period of remand relevant to the offence for which it was imposed.

### **Time spent in custody after the date of bail**

- 7.43 Where an offender has been held on remand in custody and is then bailed on that case by the Court, **providing there are no pre-release conditions to be met (and no other matters on which the offender is being detained)** release on bail should take place on the date the bail is granted.
- 7.44 If release does not take place on that date, then the time between the date the bail was granted and the actual day of release is unlawful detention. There is no lawful authority for those days to be credited as remand time towards a subsequent sentence. The only recourse the offender would have in relation to those days is to claim compensation for unlawful detention, from the day after the date of the bail order to the date of actual release (inclusive).
- 7.45 Where there are pre-release conditions to be met which take a few days to achieve (such as a place in specified accommodation becoming available, surrender of passport, securing a surety etc), the time between the date the bail was granted and the date the pre-release conditions are met IS counted as remand time towards a subsequent sentence. The offender would be lawfully detained on remand until the day the pre-release conditions are met when actual release can take place.
- 7.46 In either of the above scenarios, the reason for detention beyond the date of the Court bail order must be clearly documented on NOMIS to assist in the correct remand application should a custodial sentence be subsequently imposed for the charges to which the bail relates.

### **Remand/tagged bail and immediate releases**

- 7.47 An immediate release from court on date of sentence will occur if the offender has more remand/tagged bail time than the number of days in the custodial part of the sentence. Only enough remand/tagged bail must be applied to clear the custodial part of the sentence. The custodial part must include the number of any PADAs that were awarded during the remand period in respect of the offence for which the custodial sentence has been imposed

- 7.48 For remand application purposes the tagged bail and remand to custody days are added together and viewed as one total figure
- 7.49 To calculate the release dates of an immediate release:
- A. Calculate the SLED
  - B. Calculate the number of days to what would be the CRD
  - C. Add on the number of any PADAs to the figure at B above
  - D. Apply the **exact** number of tagged bail/remand days to the sentence as the figure at C – this will give you the correct SLED and clear the custodial part of the sentence. **Do not apply one day less.**
  - E. Default the CRD on NOMIS to the date of sentence (**not the day before**)
  - F. If TUSED is applicable, TUSED is on the anniversary of the CRD/date of sentence
  - G. If there is still some remand/tagged bail that has not been used, the unused remand alert on NOMIS must be created

**Example 47**

A person is subject to the following:

16/09/2024 Remanded to custody  
 23/10/2024 10 PADAs awarded on adjudication.  
 05/12/2024 Sentenced to 6 months with 35 tagged bail days directed to count.

The total remand/tagged bail is 16/09/2024 – 04/12/2024 = 80 days + the 35 = 115

- Days to SLED 05/12/2024 – 04/06/2025 = 182
- Days in custodial part of sentence = 91 + the 10 PADAs = 101 days
- 101 days of the 115 days remand/tagged bail is applied to the sentence
- SLED of 04/06/2025 – 101 = 23/02/2025 (SLED)
- CRD is 101 – 101 = 05/12/2024 (CRD)
- TUSED on the anniversary of the CRD = 05/12/2025 (TUSED)

There are 14 tagged bail/remand days unused, therefore the unused remand alert must be created on NOMIS.

**Unused remand alert**

- 7.50 The unused remand alert must be created on NOMIS when an immediate release takes place and there is a balance of unused remand/tagged bail that would be applicable if the person was recalled from licence. This purpose of the alert is to minimise the risk of unlawful detention following recall from licence.
- 7.51 The alert is created as follows:
- In Prison-NOMIS, select Offender Management > Offender Personal Details > Alerts
  - If required, search for the relevant offender

- In the alerts section, insert a line with an Alert Type of “Other” and an Alert of “Unused Rx-Immediate calc req’d on recall”
- 7.52 The alert will flag to Reception staff, subsequently booking in a recalled offender that the file must be brought to the immediate attention of the sentence calculation staff. Sentence calculation staff must:
- treat the case as a priority (on the first working day opportunity);
  - give effect to an immediate release where required and avoid unlawful detention of the person;
  - de-activate the alert, once the balance of remand/tagged bail time has been applied to the sentence calculation.

### **Unused remand/tagged bail and recalls**

- 7.53 Where a person was an immediate release on the date of sentence and there remains a balance of unused remand/tagged bail time, the remand/tagged bail can be applied to the sentence if the person is recalled either as a standard recall of a Fixed Term Recall (FTR). The unused remand/tagged bail is only applied to the SLED. It does NOT affect the TUSED.
- 7.54 If the recall is a standard recall all the balance of unused remand/tagged bail can be applied to the SLED, or where the balance of remand/tagged bail is greater than the number of days between date of arrest and the effective SLED, enough of the unused remand/tagged bail will be applied to give effect to a further immediate release.
- 7.55 If the recall is a FTR, the maximum number of days of unused remand/tagged bail that can be applied to the SLED is the same number of days that are in the FTR (i.e. 14 or 28 days depending on the length of the FTR).
- 7.56 If the Secretary of State authorises re-release from the FTR before the 14<sup>th</sup> or 28<sup>th</sup> day, the SLED must be recalculated to ensure that only the number of days remand/tagged bail equalling the number of days that have actually been served of the FTR has been applied to the SLED.

### **Example 48**

- A person has a 12 month sentence with a SLED of 30 September
  - There are 61 remand/tagged bail days that were unused on release.
  - A 28 day FTR is issued on 10 May.
  - 28 of the 61 unused remand/tagged bail days are applied to the SLED and adjust the SLED to 2 September
  - On the 10<sup>th</sup> day of the FTR the Secretary of State authorises re-release
  - The SLED is recalculated to 20 September.
- 7.57 Where there are less than 28 days for a 14 day FTR and 56 days for a 28 day FTR between date of arrest and UAL adjusted SLED, the maximum number of unused remand/tagged bail days that can be applied is calculated as follows:

- A. Calculate the number of days between date of arrest and effective SLED as adjusted by UAL (inclusive)
- B. Divide the figure by 2 and round down to find the number of days remand that can be applied
- C. Deduct the resulting figure in B from the UAL adjusted SLED to give the new SLED and effective re- release date

**Example 49**

- Balance of 35 unused remand/tagged bail days
- 28 day recall issued on 15 July
- Person arrested on 21 July (5 days UAL incurred)
- SLED adjusted by the 5 days UAL is 30 August

Using the above formula:

- A. Days between date of arrest on 21 July and UAL adjusted SLED 30 August = 41 days
- B. 41 divided by 2 (rounded down) = 20 days
- C. 20 of the 35 unused days remand/tagged bail are applied to the SLED to give a new SLED of 10 August. Cannot detain beyond the SLED, so 10 August becomes the new re-release date.

7.58 Further information on recalls and the calculation of re-release dates is in [Chapter 8](#)

**Custodial sentence amended under the slip rule to non-custodial sentence**

7.59 If a Court amend a custodial sentence to a suspended sentence under the slip rule, the time served between the date the custodial sentence was imposed and the date of the slip rule hearing is not classed as remand time. Neither is it time spent as an appellant.

7.60 This means that there is no legislative provision under which the Prison Service can credit that time should the offender breach the suspended sentence and it is activated. It would be for the Court at either the slip rule hearing, or at the point the suspended sentence is activated, to take that time into account when setting the length of the suspended sentence.

## CHAPTER 8 RE-RELEASE FOLLOWING RECALL FROM LICENCE AND ANY NEW SENTENCE

8.1 The purpose of this chapter is to explain how to calculate the re-release point following recall from licence under Section 254 or Section 255 of the CJA 2003.

### 8.2 Main principles:

• Priority given to cases where unused remand alert is flagged on reception of a recall	Para 8.3
• Obtain the back record – contains current warrant/calc sheet, etc.	Para 8.4
• Re-release date is the Post Recall Release Date (PRRD)	Para 8.8
• Cannot detain beyond the SED/SLED	
• Time between date of recall and date of arrest/return to custody is UAL	Para 8.10
▪ Date of recall and date of arrest/return to custody are NOT UAL days	
▪ UAL defers all release dates	
• Uncredited remand/tagged bail time is applied to SED/SLED but NOT the TUSED	Para 8.13
<u>Section 255 recall</u>	Para 8.14
• Is a recall from HDC	
• Automatic re-release is at the UAL adjusted ARD/CRD	
<u>Section 254 recall</u> (two types – standard and FTR)	Para 8.15
• STANDARD (can occur during the HDC period)	
▪ Automatic re-release at the UAL adjusted SED/SLED, unless the Parole Board direct re-release at an earlier point	
• FTRs (can occur in the HDC period) are	Para 8.22
▪ 14 days for under 12 month sentences	
▪ 28 days for sentences of 12 months or more	
▪ If in HDC period and 14/28 <sup>th</sup> day falls before the CRD re-release is deferred to the CRD	Para 8.23
<u>New sentence imposed in addition to the recall</u>	Para 8.24
• New sentence should not be consecutive to a recall	
• New sentence calculated separately to the recall – dates compared	
<u>Recalled but arrested and detained in another UK jurisdiction</u>	
• The last discharging establishment in England & Wales must Calculate the re-release dates for the recall and provide them to the Prison where the person is being held.	Para 8.25
• NOMIS must be updated with the recall details and where prisoner is Being detained	Para 8.26
• The record and warrant folder must not be sent to the holding prison	Para 8.27

### **Further information if required:**

#### **Unused remand alert appears on reception**

- 8.3 Where the reception results in the unused remand alert flag appearing, reception staff must bring the persons case to the immediate attention of the sentence calculation staff. Sentence calculation staff must process the case as a priority to establish if the unused remand/tagged bail will result in a further immediate release from custody from a standard recall. The remand/tagged bail application for recalls is explained in Para 7.49

**Obtain the back record**

- 8.4 For all recalls the original calculation must be checked in order to establish the correct re-release date. This means that the original Orders of imprisonment and calculation sheet(s) must be requested immediately from the establishment who last released the prisoner.
- 8.5 As soon as a back record request is received, the sentencing warrants(s), (pre common platform- trial record sheet and indictments) and calculation sheet(s) must be faxed/scanned to the current establishment and the hard copies of the records and warrants then forwarded in the post.
- 8.6 The records and warrants are the current documents for the sentence on which the prisoner is being held following the revocation of the licence, hence they must be sent to the holding establishment without delay.
- 8.7 Until the original sentencing warrant and calculation sheets are obtained, prisons cannot confirm that the offender is being held lawfully to the correct re-release date.

**Post Recall Release Date (PRRD)**

- 8.8 The re-release date following a section 254 recall (both standard and FTR) is recorded as the PRRD on the file and on the key dates screen of NOMIS. The re-release date from a section 255 recall remains the ARD/CRD.
- 8.9 No person recalled from a sentence can be detained on that sentence beyond the SLED. The SLED will be adjusted by any UAL time incurred between date of recall and date of arrest/return to custody and by any unused remand/tagged bail time if applicable. Re-release from a standard or FTR must not take place any later than that adjusted SLED.

**UAL following recall**

- 8.10 Where a person is recalled but not returned to custody on the day of recall, or the day after recall, they will incur UAL.
- 8.11 The first day of UAL will be the day after the date of recall and the last day of UAL will be the day before arrest/return to custody.
- 8.12 UAL defers all release dates except the 14/28th day of a Fixed Term Recall (FTR). The calculation of the 14/28 day period starts from the date of arrest (i.e. after the UAL has occurred. Therefore, the UAL is not applied to the 14/28 day period)

**Uncredited remand/tagged bail**

- 8.13 Any balance of remand/tagged bail is applied to the SED/SLED. It does not bring forward the TUSED and does not reduce the FTR period to be served (unless the remand brings

forward the SLED into the FTR period). Para 7.49 in [Chapter 7](#) provides more detail on remand application to recalls.

**Section 255 recall**

- 8.14 A recall under Section 255 is a recall from HDC.
- Any UAL incurred between date of recall and date of arrest/return to custody will defer ALL release dates (ARD/CRD/SED/SLED and TUSED)
  - Re-release is at the ARD/CRD (unless the person is entitled to be re-released under HDC before that point – see [Home detention curfew - GOV.UK \(www.gov.uk\)](http://www.gov.uk) for further information about re-release on HDC).

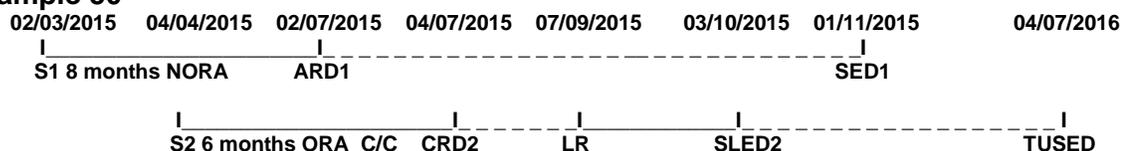
**Section 254 recalls (standard and FTR)**

- 8.15 Standard recalls and FTRs are both issued under Section 254 of the CJA2003. The recall will apply to all sentences with a licence period in force and running at the point of the recall.
- 8.16 On release, all outstanding licence periods are ‘rolled into one’ licence. Therefore, a recall will be applicable to each sentence that has a licence period in force at the point the recall is issued. If the recall is a standard recall, this means that the offender will be liable to be detained until the latest SLED of all the sentences.

**Standard recalls**

- 8.17 Standard recalls can be issued between the day of release and the SLED/LED of the sentence, including during a period of HDC.
- 8.18 Any UAL incurred between date of recall and date of arrest will defer all the release dates (SLED/SED/LED/TUSED).
- 8.19 It is irrelevant at what point in the sentence a standard recall is issued. Re-release from a standard recall is:
- at the SED/SLED unless the Parole Board direct re-release at an earlier point.
  - If the Parole Board direct re-release earlier than the SED/SLED, re-release is on licence to the SED/SLED (and any PSS if applicable).
  - If release is at the SED/SLED it will be unconditional or on PSS to the TUSED if applicable.
  - If re-release at the SED/SLED falls on a weekend, the release date is brought forward to the first preceding working day and release is on a licence expiring on the weekend SED/SLED date followed by any PSS if applicable.
- 8.20 The exceptions to the above are:
- Where the recall is from an under 12 month aggregate where the lilac sheet was used to create a LED, or concurrent scenarios where the SLED of an ORA sentence is earlier than the SED of a NORA sentence (meaning the SLED becomes an LED). Re-release would be at the LED.

**Example 50**



When the person is released on CRD2 the licence would only run to SLED2 as there is no licence period attached to the NORA 8 month sentence. Because the SLED of the 6 months is earlier than the SED of the 8 months the key dates would be shown as:

SED: 01/11/2015  
LED: 03/10/2015  
CRD: 04/07/2015  
TUSED: 04/07/2016

Therefore, when the recall is issued, the only licence period in force is that of the 6 months ORA sentence which means the latest the person can be detained is to the SLED of that sentence - that is the LED of 03/10/2015. Re-release at that point would be on PSS to 04/07/2016.

- if the recall occurred before 14/07/2008 from a schedule 20B sentence (blue/pink sheet)
  - re-release in those particular cases would be at the  $\frac{3}{4}$  point LED **unless**
  - the person remained UAL until after 03/12/12. In that case, the person loses the right to re-release at the  $\frac{3}{4}$  point LED and is liable to be detained until the SED if the Parole Board do not direct re-release at an earlier point.
- If the recall is from a sentence imposed before 01/10/1992,
  - re-release is at the  $\frac{2}{3}$  point of the sentence **unless**
  - the person remained UAL until after 03/12/12, in which case they become liable to be detained until the SED.

8.21 Similarly, recalls from blue/pink sheets and those sentenced before 01/10/1992 who were:

- recalled from licence before 14/07/2008
- arrested and returned to custody before 03/12/2012 but then
- absconded or escaped before 03/12/2012 whilst they were serving the recall period and
- who are not arrested and returned to custody until on or after 03/12/2012
- will also be liable to be detained until the SED
- The CRD/NPD and  $\frac{3}{4}$  point will no longer apply and fall away.

#### Fixed Term Recalls (FTRs)

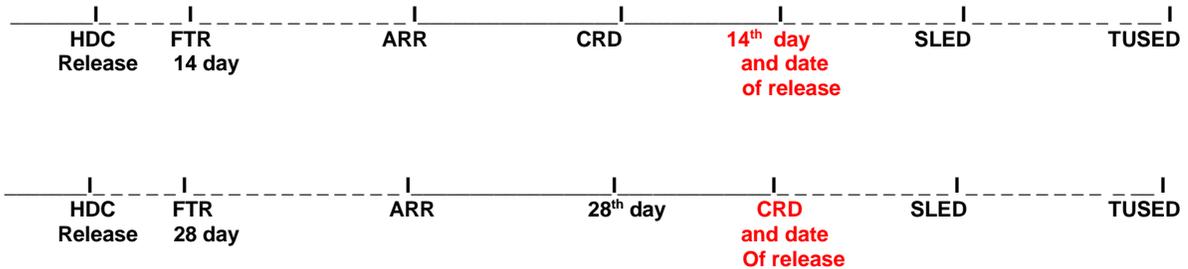
8.22 Key facts:

- They are 14 days in length for sentences/aggregates of less than 12 months
- They are 28 days in length for sentences/aggregates of 12 months or more
- The 14/28 days to serve is calculated from:
  - the date of revocation if the prisoner is already in custody on that date
  - the date of arrest by the police/return to custody following the date of revocation if not in custody on date of revocation
- The 14/28 day calculation **cannot** start on a date occurring before the date that the recall was issued
- Any UAL time defers the SLED (and TUSED where applicable). UAL does not defer the 14/28th day
- Re-release is on the 14/28<sup>th</sup> day or the SLED if that comes first

8.23 If the FTR occurs during an HDC period, re-release is **on the later** of the 14/28<sup>th</sup> day or the ARD/CRD **unless, exceptionally, re-release before CRD is directed by the Secretary of State or the Parole Board. Where this occurs release before CRD can only take**

place once satisfactory curfew arrangements can be made to allow for re-release on HDC.

### Example 51



### Recalls and new sentences

8.24 Where a person is subject to both a recall from an earlier sentence and a new sentence, the court must not make the new sentence consecutive to the recall (see para 3.26). The new sentence(s) must run parallel to the recall. The new sentence(s) will be calculated on a fresh calculation sheet(s) and:

- Release will take place on the latest release date produced between the recall and the new sentence(s)
- The review for release on the recall cannot be earlier than the earliest release date of the new sentence
- Release will be on a licence to the latest SLED produced between the date of recall and the new sentence(s).

### Example 52



On review, the earliest re-release could take place on S1, following recall, would be at the point of CRD2. If the Parole Board did not direct re-release from the recall on S1, re-release would occur at SLED1. Release would be on a licence expiring at SLED2.

### Recalled but arrested and detained in another UK jurisdiction

8.25 If a person is released on licence from a sentence imposed in England & Wales, is recalled by PPCS, but is arrested and detained in another UK jurisdiction (I.E. N Ireland/Scotland), it is the responsibility of the last releasing establishment in England & Wales to calculate the re-release dates of the recall and provide those dates to the current holding establishment. The other jurisdiction is detaining the person on behalf of the Prison Service of England & Wales.

8.26 Once the re-release dates have been calculated, the persons record and NOMIS must be updated with the details of the recall, new release dates and a comment to explain where the person is being detained. NOMIS must be updated by a member of staff with the access [UPDATE\\_INACTIVE\\_INST](#) role on their NOMIS account which allows updating of the record of someone not in custody. Staff in the England/Wales establishment must create any licence

that would be required on release and ensure it is provided to the holding prison in time for the person's release.

- 8.27 The warrant folder and record must NOT be sent to the holding establishment. All files must be retained in the last releasing establishment in England & Wales.
- 8.28 Similarly, if a person is brought in to a prison in England & Wales in respect of a recall issued by another UK jurisdiction, it will be the responsibility of the last holding establishment in the other jurisdiction to calculate the re-release dates and provide them to the establishment in England & Wales, along with any relevant release licence where required.

## CHAPTER 9 - RELEASE FOLLOWING ERS RETURN AND ANY NEW SENTENCE

9.1 The purpose of this Chapter is to explain how to calculate the release point when a person has returned to custody in the UK after being removed under the Early Removal Scheme (ERS) and has received a new sentence in addition to the period to be served of the original ERS sentence.

### 9.2 Main principles:

#### **ERS occurred on or after 28/06/2022**

- Subject to stop the clock provision Para 9.3
- On return to the UK resumes serving the ERS sentence Para 9.3
- Time between removal and arrest in UK defers all release dates Para 9.4
- Any new sentence can be concurrent or consecutive to the ERS sentence Para 9.5

#### **ERS occurred before 28/06/2022**

- Sentence ticked along whilst out of the UK Para 9.9
- UAL between date of return to UK and return to custody defers the SLED Para 9.10
- Serves a term = to balance of custodial period, or to SLED if that is earlier Para 9.11
- Any new sentence runs parallel to the period of return Para 9.12

### Removal under the ERS occurred on or after 28 June 2022

9.3 Where a person is removed from prison under the ERS on or after 28 June 2022, for the purposes of removal from the UK, they are subject to the 'stop the clock' provision. This means that their sentence is frozen at the point they are removed. If they ever return to the UK in the future, they are required to return to custody to pick up serving the sentence where they left it.

9.4 On return to custody, all the release dates of the sentence will be deferred by the number of days between the day after the date of removal from prison and the day before the date of return to custody in the UK (inclusive).

9.5 If a new sentence is imposed whilst the original sentence has been resumed, the Court can make the new sentence concurrent or consecutive to the original sentence.

9.6 If the new sentence is concurrent to the original sentence, it will run parallel with its own release dates including its own ERSED. Any remand relevant to the original ERS sentence will apply to the release dates of the new parallel sentence. This is because removal is not classed as a 'release'. Therefore, the usual remand principles for concurrent sentences, set out in Chapter 7 apply.

- 9.7 Further removal under the ERS cannot take place until the ERSED of the new parallel sentence.
- 9.8 If the new sentence is consecutive to the original sentence, the sentences will be aggregated. The release dates of the aggregate will be deferred by the time between the day after removal under the ERS from the first sentence to the day before return to custody in the UK (inclusive). A new ERSED will be calculated on the aggregate.

#### **Removal under the ERS occurred before 28 June 2022**

- 9.9 Where a person was removed from prison under the ERS before 28 June 2022, the sentence continued to run. This meant that the person was only required to return to custody if they came back to the UK before the SLED.
- 9.10 Where the return occurred before the SLED, the time between the day after removal from prison and the day before arrest in the UK (inclusive) defers the SLED.
- 9.11 The person is required to serve a period of imprisonment that is equal to the outstanding balance of the custodial period of the sentence (ie the ERS period they benefitted from), or to the SLED if that provides an earlier date.
- 9.12 Any new sentence is calculated from the day it is imposed and runs parallel to the period being served in relation to the earlier ERS sentence.
- 9.13 If the Court make the new sentence consecutive, it cannot be aggregated with the earlier ERS sentence. The new sentence is calculated from the day after the release date of the period to be served from the earlier ERS sentence. Remand from the earlier ERS sentence cannot be transferred to the new sentence.
- 9.14 Further information on ERS returns can be found in the ERS PSI 04/2013.

## CHAPTER 10 – UNLAWFULLY AT LARGE TIME (UAL)

10.1 In accordance with Section 49 of the Prisons Act 1952 a person is UAL when they are not in custody when they are required to be. This chapter will explain how to calculate unlawfully at large time (UAL), how it affects release dates and the circumstances when it can be allowed to count as time served.

### 10.2 Main principles:

<b><u>Calculating the number of days</u></b>	
• Recalls – 1 <sup>st</sup> day UAL is day after recall, last day is day before arrest	Para 9.3
• Escapes/absconds/ROTL failures	
▪ On or after 21/07/2008	Para 9.5
1 <sup>st</sup> day of UAL is date of escape and last day is date of arrest (inclusive)	
▪ Before 21/07/2008	
1 <sup>st</sup> day of UAL is day after escape and last day is day before Arrest (inclusive)	
• Sentenced in absence – 1 <sup>st</sup> day UAL is date of sentence last day is day before date of arrest	Para 9.6
• Release in error – 1 <sup>st</sup> day UAL is day after date of release, last day is day before date of arrest	Para 9.7
<b><u>How UAL affects release dates</u></b>	
• UAL applies to all sentences and terms (default terms/civil terms/contempt terms/DTOs etc)	Para 9.8
• UAL defers ALL release dates of the sentences from which UAL occurs	
▪ UAL and consecutive sentences	Para 9.10
▪ UAL and concurrent sentences (Net single terms DTOs and schedule 20Bs)	Para 9.12 Para 9.13
• UAL from a period of remand does NOT defer the release dates of a subsequent sentence	Para 9.16
<b><u>Counting UAL as time served</u></b>	
• Time spent in custody abroad can be counted as time served:	Para 9.18
▪ By PPCS agreement if it occurred after sentence in the UK	
▪ By court direction if it occurred before sentence in the UK	
• Following release in error - PDG to make the decision	Para 9.22
• Following recall and person submits exceptional circumstances	Para 9.27
• Process for PPCS considering UAL time to count	Para 9.28
<b><u>Absconders/escapees UAL from other UK jurisdictions</u></b>	
• Must be accepted to the prison in England and Wales if arrested by the police in England and Wales and the prison from where the abscond/escape contacted for further advice	Para 9.31

### **Calculating the number of UAL days**

10.3 There are 4 ways a person can be UAL from a sentence and the first and last days of UAL are different depending on the UAL scenario.

#### UAL following recall from licence

- 10.4 Where a person is recalled from licence under Section 255 or section 254 of the CJA 2003 and does not return to custody on the day of recall or the day after UAL will be incurred. The first day of UAL will be the day after the date of recall and the last day of UAL will be the day before the person is subsequently arrested/returned to custody. Custody includes time spent in police custody before being transferred to prison custody.

#### **Example 53**

- 23 May a person is recalled under Section 255
- 5 June arrest takes place and detained in police custody
- 7 June the police transfer the person to prison custody

There are 12 UAL days incurred. The first day UAL is 24 May and the last day is 4 June. The 12 UAL days will defer all release dates of the sentence (CRD, SLED and TUSED)

#### Escapes/absconds/ROTL failures

- 10.5 Where a person escapes or absconds from a sentence or fails to return from a period of Release on Temporary Licence (ROTL) there are 2 ways of calculating UAL depending on the date the person escaped/absconded or failed to return from ROTL:

- Escape/abscond/ROTL failure occurs on or after 21/07/2008
  - 1<sup>st</sup> day of UAL is the date of the escape/abscond/date the ROTL failure occurred.
  - Last day of UAL is the date of arrest/return to custody
- Escape/abscond/ROTL failure occurred before 21/07/2008
  - 1<sup>st</sup> day of UAL is the day after the escape/abscond/date the ROTL failure occurred
  - Last day of UAL is the day before the date of arrest/return to custody.

#### Sentenced in absence

- 10.6 There are two scenarios and the UAL calculations are slightly different:
- If the person has jumped the dock and escaped on the day of sentence then the UAL will be calculated as per an escape/abscond in para 9.5 above.
  - If the person was never in court on the day of sentence, the 1<sup>st</sup> day UAL will be the date of sentence and the last day of UAL will be the day before arrest/return to custody (inclusive).

#### Release in error

- 10.7 Where a person is released in error (earlier than he should have been), the 1<sup>st</sup> day of UAL will be the day after the date of release and the last day of UAL will be the day before arrest/return to custody.

#### How UAL affects release dates of sentences and terms

- 10.8 UAL from a sentence/term does not count as time served towards the sentence. At the point that the person becomes UAL, the passing of the sentence is frozen and only resumes once the person is arrested/returned to custody.
- 10.9 All the release dates of the sentence/term are deferred by a day for every day the person is UAL. When the person returns to custody, they are not required to serve the number of days

they have been UAL but are required to serve the number of days in the balance of the sentence that stood at the point they went UAL. If the person had 150 days to the CRD to serve at the point they went UAL and spent 600 days UAL, by deferring the CRD by the 600 days UAL, the person would still only serve 150 days from the date of arrest/return to custody to the new adjusted CRD.

**UAL and consecutive sentences**

- 10.10 Where a person is UAL from an aggregate, the number of days UAL will defer all the release dates of the aggregate. With the TUSED, rather than defer by the UAL, recalculate from the new, UAL adjusted, CRD (this avoids the TUSED being 1 day short when the UAL tips the year between CRD and TUSED into a leap year).
- 10.11 Where the person is UAL from a sentence, returns to custody and then receives a consecutive sentence before release takes place from the original sentence, the sentences are aggregated in the usual way, the aggregate is calculated from the original sentence date and the UAL then defers the release dates of the new aggregate. Always calculate the TUSED as the anniversary of the new CRD.

**Example 54**

19/04/2022 Sentenced to 18 months  
 23/12/2022 Absconded  
 11/02/2023 Arrested and returned to custody  
 20/02/2023 Sentenced to 6 months consecutive for escaping with a further 3 months consecutive for a new offence committed whilst UAL

Number of days UAL is 23/12/2022 – 11/02/2023 (inclusive) = 51 days

<b>18 months original dates</b>		<b>as adjusted by the 51 days UAL</b>
SLED	18/10/2023	08/12/2023
CRD	17/01/2023	09/03/2023
TUSED	17/01/2024	09/03/2024 (one year from new CRD)
HDCED	05/09/2022	26/10/2022

When the new 9 months sentence is imposed on 20/02/2023, an aggregate of 27 months is created, calculated from the original sentence date of 19/04/2022 and the resulting release dates adjusted by the 51 days UAL.

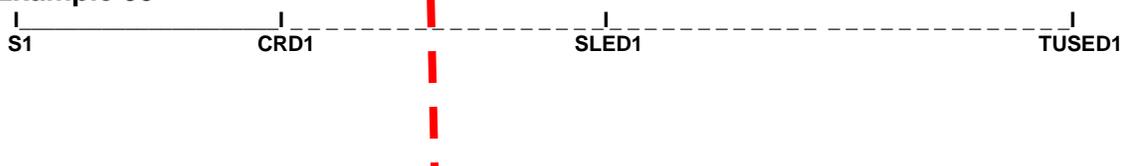
<b>27 months dates</b>		<b>as adjusted by the 51 days UAL</b>
SLED	18/07/2024	07/09/2024
CRD	03/06/2023	24/07/2023
HDCED	20/01/2023	12/03/2023

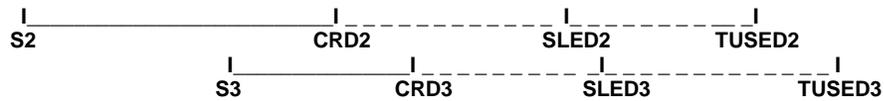
No TUSED required as the aggregate is over 2 years

**UAL and concurrent sentences**

- 10.12 Concurrent sentences run parallel to one another and UAL will defer the release dates of all the sentences that were being served at the point the UAL occurred.

**Example 55**



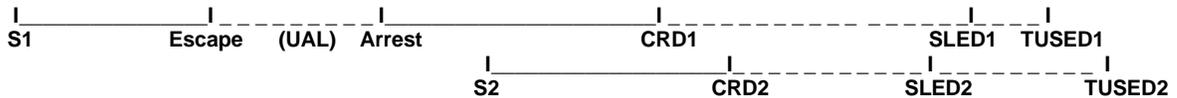


Escape

At the point of the escape only the custodial periods of S2 and S3 are being served. Therefore, any UAL will only affect the release dates of those two sentences. The key dates would become:

- CRD3 and SLED3 as adjusted by any UAL.
- TUSED3 would be one year on from the adjusted CRD3 and would then need to be compared to TUSED1 to determine whether the effect of the UAL has pushed TUSED3 to a date beyond TUSED1 and changed the dominant TUSED

**Example 56**



At the point of escape only the custodial period of S1 was being served. Therefore,

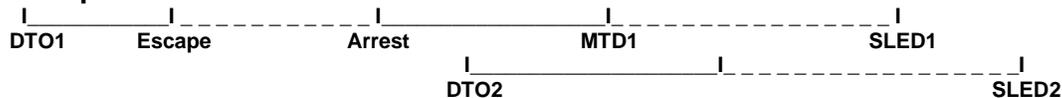
- the UAL period will only be applied to CRD1 and SLED1
- TUSED1 will be recalculated to 12 months after the adjusted CRD1.
- The adjusted dates of S1 would need comparing to the release dates of S2 and the latest dates between the two sentences would become the key dates.
- The diagram reflects the position once the UAL has been applied which means the key dates would be CRD2, SLED1 and TUSED2

**UAL and single term scenarios**

10.13 DTOs and Schedule 20B sentences form a single term with one another. UAL from the single term will defer all the release dates of the single term in the same way as the aggregate example in para 9.11 above.

10.14 The exception to the above is where a concurrent and overlapping DTO is imposed **AFTER** a period of UAL from an earlier DTO), the calculation is different to the scenarios in para 9.12. A net single term must be created on which the release dates are reworked and then the UAL defers the release dates of the new single term.

**Example 57**



DTO2 is concurrent but overlapping DTO1 and so creates a single term with DTO1



To calculate the correct release dates

- Find the number of days in the single term (DTO1 point to SLED2)
- Deduct the number of days UAL from the figure in A to find the 'net' single term

- C. Use the length of the 'net' single term to calculate the release dates from date of DTO1 point
- D. Defer all the release dates of the 'net' single term by the UAL days to give the effective key dates

10.15 If the sentences in the diagram above were both historical schedule 20B sentences, the release dates would have to be calculated on the 'net' single term using the same method described in A-D above.

#### **UAL during a period of remand**

10.16 Where a person is UAL from a period of remand, the UAL does NOT defer the release dates of the subsequent sentence. This is because the period of UAL would not be credited as remand time to the sentence. As it has not been credited, there is no need to defer the release dates of any subsequent sentence.

#### **Counting UAL as time served towards the sentence**

10.17 In exceptional circumstances it is possible for a period of UAL to be counted as time served towards the sentence. This is done either by a court under Section 327 of the Sentencing Act 2020 (pending extradition before sentence cases) or by PPCS under Section 49(2) of the Prisons Act 1952. The different circumstances are set out in paragraphs 10.18 to 10.31 below.

#### **Time spent in custody abroad pending extradition to the UK**

10.18 If a person escapes/absconds from a sentence and flees abroad, is then arrested on an extradition warrant and detained in custody abroad pending extradition to the UK, they can apply to the Secretary of State for the time spent in custody abroad to be counted as time served towards the sentence under Section 49(2) of the Prisons Act 1952.

10.19 The application should be submitted to PPCS at [pre-releaseteama@justice.gov.uk](mailto:pre-releaseteama@justice.gov.uk) and contain details of the dates the person was held solely on the extradition warrant and where the detention occurred. The Prison Service cannot credit any such time until/unless PPCS confirm in writing the time can count and how many days can be credited.

10.20 Any days confirmed by PPCS are credited to all the release dates of the sentences from which the UAL occurred.

10.21 If the time abroad has occurred before the sentence was imposed in England and Wales, the matter must be dealt with by the sentencing court. No credit for the time can be given by the Prison Service unless the Order of Imprisonment details the direction made by the court under Section 327 of the Sentencing Act 2020 (previously section 243 of the CJA 2003). The time directed is applied to the sentence in exactly the same way as remand to custody/tagged bail. If the prisoner disputes a section 327 direction, they must pursue the matter with the court, through the usual appeal channels if necessary.

#### **UAL following a release in error**

10.22 If a person is released from a sentence before they are entitled to be released in law (released in error), the person is still classed as being UAL from the sentence.

10.23 In most cases the person should be arrested and returned to custody to continue serving the balance of the sentence.

- 10.24 The authority for the police arresting and returning the person to custody is the original sentencing warrant on which the person should be held, as it would for an arrest if the person had escaped or absconded.
- 10.25 Once returned to custody, the person can make an application to PPCS asking for the time to be allowed to count as time served towards the sentence. Until/unless PPCS confirm whether or not time can be counted, the Prison Service must treat the time between date of release and date of arrest/return to custody as UAL. Applications should be forwarded to [pre-releaseteama@justice.gov.uk](mailto:pre-releaseteama@justice.gov.uk)
- 10.26 There are cases where a decision can be taken not to return the person to custody at all, but this would require a different process under the Royal Prerogative of Mercy consideration which is set out in Chapter 12.

#### UAL following a recall from licence

- 10.27 If the person has exceptional circumstances of why they were UAL following recall, once returned to custody they can apply to PPCS, setting out the exceptional circumstances, asking for the UAL time to be allowed to count as time served towards their sentence. Until/unless PPCS confirm whether or not time can be counted, the Prison Service must treat the time between date of recall and date of arrest/return to custody as UAL. Applications should be submitted to [recall1@justice.gov.uk](mailto:recall1@justice.gov.uk) and [recall2@justice.gov.uk](mailto:recall2@justice.gov.uk)

#### **Process for considering counting UAL under Section 49(2) of the Prisons Act 1952**

- 10.28 PPCS is responsible for handling applications for allowing UAL time to count under Section 49(2) of the Prisons Act 1952. Examples of what is considered by PPCS when looking at exceptional circumstances can be found at [APPENDIX 5](#). This is not an exhaustive list and individual cases will be considered on their own merit.
- 10.29 Only in the most exceptional circumstances would PPCS, on behalf of the Justice Secretary, consider allowing more than 50% of the UAL time to be counted as time served towards the sentence.
- 10.30 PPCS will notify the prison of the outcome of the application. The notification must be filed securely in the warrant folder and release dates amended accordingly, where the application was successful.

#### **Absconders/escapees UAL from other UK jurisdictions**

- 10.31 If the police in England and Wales arrest anyone, who absconded or escaped from any other UK jurisdiction, and bring them to a prison in England and Wales, the offender must be accepted to custody and detained on behalf of the other jurisdiction
- 10.32 Contact must be made with the prison from where the abscond/escape took place to and arrangements made to return the prisoner to the other jurisdiction.

## CHAPTER 11 – APPEALS

### 11.1 Main principles:

#### Appeal hearings

- Magistrate’s court sentence – Appeal to Crown Court Para 10.2
- Crown Court sentence – Appeal to COACD Para 10.3
- COACD also hear Judicial Reviews Para 10.4
- COACD decision - challenged in the Supreme Court Para 10.5

#### Calculation impact

- Varied sentence always calculated from the Crown Court date including when custodial sentence imposed on appeal of a non-custodial sentence Para 10.6
- Retrial –new sentence starts from original Crown Court date Para 10.7
- Time served before the Crown Court appeal date counts towards the new sentence Para 10.8
- Multiple sentences but not all are quashed on appeal, recalculate as though the quashed sentence(s) never existed Para 10.9
- Appeal dismissed – no recalculation required unless there is: Para 10.10
  - Time ordered not to count as time served, defers all release dates Para 10.11
  - Time on bail pending appeal defers all release dates Para 10.13
- Quashing the sentence/conviction does not retrospectively turn sentenced time into remand time Para 10.14

#### Court Martial (CM)/Service Civilian Court (SCC) Appeals

- SCC sentence – appeal to CM Para 10.15
- CM sentences – Appeal to Court Martial Appeal Court (CMAC) Para 10.16
- New sentence imposed on appeal always starts from the original date of sentence unless the appeal court direct otherwise Para 10.17

### Further information if required:

#### Appeal courts and hearings

##### Crown Courts

- 11.2 Crown Courts hear all appeals in respect of sentences that were imposed in the magistrates’ or Youth Courts. The Crown Court hearing represents a completely new hearing.

##### COACD

- 11.3 Court of Appeal (Civil and Criminal Division) – COACD – hears appeals in respect of convictions and sentences imposed at a Crown Court.

- 11.4 COACD also hear judicial reviews. Judicial reviews are challenges made to decisions taken about a person. For example, a challenge to the calculation of release dates based on how the legislative release provisions have been interpreted by the MOJ.

Supreme Court

- 11.5 An appeal to the Supreme Court must involve a fundamental point of law. The Supreme Court judgment will have the same effect on the calculation of release dates as any decision made in the COACD would have.

**Calculation impact of appeals**

Sentence is varied on appeal

- 11.6 When a new sentence/sentence length is imposed on appeal (i.e. the sentence is varied on appeal), the new sentence is always calculated from the Crown Court date (unless the court direct otherwise). New sentences imposed in the Crown Court will be calculated from the Crown Court appeal date and new sentences imposed in COACD will be calculated from the original Crown Court sentence date. This includes appeals against a non-custodial sentence resulting in a custodial sentence being imposed.
- 11.7 Where the COACD order a re-trial, the re-trial is part of the COACD appeal process. This means that any new sentence imposed as a result of the re-trial is still calculated from the original Crown Court sentence date.
- 11.8 Where the appeal was heard in the Crown Court, any time served in custody between the date that the original sentence was imposed in the magistrates' court to the day before the Crown Court appeal date will be treated as time served towards the new sentence. It is not remand time, but is sentenced time, which means that where more days were served of the original sentence than there are days in the custodial period of the new sentence imposed on appeal, the full allowance of time served is credited against the new sentence.

**Example 58**

17/10/2022 Magistrates impose 10 months  
15/02/2023 Sentence varied to 6 months on appeal to Crown Court

Time served between date of original sentence and date of appeal is 121 days

The 6 months is calculated from the Crown Court date of appeal – 15/02/2023. There are 181 days in the sentence and 91 days to the CRD. Unlike remand application the full 121 sentenced days already served will be applied to the new 6 months calculation to give release dates of:

CRD: 15/01/2023 (resulting in immediate release on date of appeal)  
SLED: 15/04/2023  
TUSED: 15/01/2024

**Note that the TUSED is linked to the CRD rather than the date of immediate release.**

Multiple sentences not all quashed on appeal

- 11.9 Where there are multiple concurrent and consecutive sentences but only one of the sentences is appealed and subsequently quashed on appeal, that release dates must be recalculated based on the remaining sentences as though the quashed sentence had never been imposed.

Appeal dismissed

- 11.10 Where an appeal is dismissed, there is no requirement to recalculate the sentence. The release dates remain the same unless the court have directed some of the time served towards the sentence is not to count – see para 10.11 below, or the person was bailed pending appeal – see para 10.13 below, in which case the release dates would need to be deferred accordingly.

Court direct that time served is not to count

- 11.11 This is usually something seen on the appeal decision from COACD where appeals have been dismissed. The decision will state:

*'the court directed that xx days of the time spent in custody as an appellant shall not count towards the sentence'*

COACD usually make such a direction when the person has submitted a spurious appeal that has wasted the court's time and the resources of the Criminal Justice system.

- 11.12 For sentence calculation purposes, the number of days that have been directed not to count towards the sentence must be added to and defer **all** the release dates of the sentence, in the same way that release dates are deferred by time on bail pending appeal or UAL.

**Example 59**

Release dates of the sentence are:

CRD 07/01/2026

SLED 08/07/2028

The person appeals to the COACD and the appeal is dismissed but a direction is made that 28 days should not be counted as time served towards the sentence. The 28 days adjusts the release dates to:

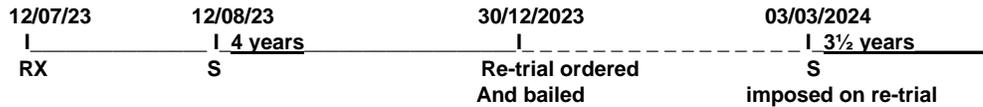
CRD 04/02/2026

SLED 05/08/2028

Time spent on bail pending appeal

- 11.13 Where a person is bailed from the sentence pending appeal, any time they have spent on bail cannot be credited to any subsequent sentence imposed on appeal or to the original sentence if the appeal is dismissed.

**Example 60**

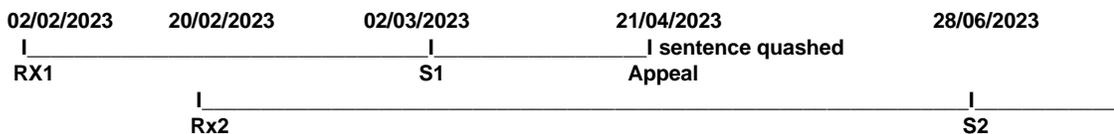


The 3½ years will be calculated from the original sentence date of 12/08/23. The remand period from 12/07/2023 to 11/08/2023 will be applied in the usual way to the release dates. However, the release dates must then be deferred by the 63 days spent out on bail

Quashing a sentence does not turn sentence time into remand time

- 11.14 Where a person was serving a sentence at the same time as being remanded on further matters and the sentence is subsequently quashed on appeal, the time served as a sentenced prisoner up to the date of appeal is not retrospectively changed into remand time. Until the date the sentence is quashed the person has been a serving a sentence. Remand served at the same time as sentenced time cannot be treated as relevant remand time towards any subsequent sentence.

**Example 61**



Although S1 is quashed on appeal, the fact remains that during 02/03/2023 and 21/04/2023 the person was serving a sentence. The quashing of the sentence on 21/04/2023 does not retrospectively turn that time into remand time. Therefore, when S2 is imposed, the relevant remand periods that can be counted as time served are:

- 20/02/2023 – 01/03/2023 and
- 22/04/2023 – 27/06/2023

**Court Martial (CM)/Service Civilian Court (SCC) Appeals**

Court Martial Appeal hearing

- 11.15 The CM will hear appeals about sentences imposed in the SCC. If the CM impose a new sentence or vary the sentence, the new sentence is calculated from the original SCC date of sentence unless the CM directs otherwise.

Court Martial Appeal Court (CMAC) hearing

- 11.16 The CMAC will hear appeals about sentences imposed in the CM. If the CMAC impose a new sentence or vary the sentence, the new/varied sentence is calculated from the original CM sentence date, unless the appeal court direct otherwise.
- 11.17 If a CMAC dismisses an appeal from the CM and considers that the appeal was frivolous and has wasted the courts time and resources, the CMAC can direct that the sentence is to start again from the date of the CMAC hearing at which the appeal is dismissed.



## CHAPTER 12 – ADDITIONAL DAYS AWARDED ON ADJUDICATION (ADAs)

12.1 If a person is found guilty of a breach of Prison Rule 51 or Young Offender Institution Rule 55, an Independent Adjudicator (IA) may order the person to serve additional days in custody on top of the custodial period of the sentence imposed by the court. A Governor has not been able to impose ADAs since 2 October 2000.

### 12.2 Main principles:

• Must be evidence other than NOMIS entry to support ADAs	Para 11.3
• ADAs can never cause detention beyond the end of the sentence	Para 11.4
• ROTLEDs are recalculated using the new custodial period created when ADAs defer the ARD/CRD/NPD	Para 11.6
<b><u>Multiple sentences</u></b>	
• ADAs defer overall key dates created by concurrent and consecutive Sentences	Para 11.7
• Do not defer a LED if a SLED in its own right	Para 11.10
• Only unserved ADAs apply to a concurrent and overlapping sentence	Para 11.11
• ADAs do not apply to DTOs, terms in default or civil terms	Para 11.12
▪ Apply ADAs to the sentence and recalculate any Consecutive default/civil term	
<b><u>Prospective ADAs (PADAs)</u></b>	
• ADAs awarded during a period of remand are PADAs (Prospective Added Days Awarded)	Para 11.16
• Cannot apply PADAs if the remand period is not applied	
• Add PADAs to days in custodial period before applying remand to establish if release is immediate or not	Para 11.17
<b><u>ADAs and recalls</u></b>	
• Will defer the 14/28 <sup>th</sup> day of a fixed term recall	Para 11.18
• Cannot defer the SLED/SED of a standard recall	Para 11.19
• May defer the Parole Board re-release date if before the SLED	
• Section 255 HDC recall, ADAs defer all release dates of the sentence except the SED/SLED/TUSED	Para 11.21
• Recall with a further matter	
▪ Awarded during recall and remand for further matters – only applies to recall sentence	Para 11.22
▪ Awarded during recall before new sentence is imposed – will not affect the further sentence	Para 11.23
▪ Awarded during recall and new sentence – will affect new sentence	Para 11.25
<b><u>Remission of added days (RADAs)</u></b>	
• Only unserved ADAs can be remitted	para 11.26

### **Evidence to enable ADAs to be applied**

12.3 A NOMIS entry alone is not sufficient evidence to be able to apply ADAs. There must be additional evidence to support the NOMIS entry before ADAs can be applied to a sentence and defer release dates. Such evidence includes the adjudication paperwork, (which must be retained in line with date retention requirements outlined in PSI 25/2014) or an entry on a prisoner's core record or on the calculation sheet where the entry has been initialled and counter initialled along with the existence of a release date notification slip.

#### **Effect on release dates**

12.4 ADAs can eat into the licence period of a sentence but can never extend a sentence beyond a SED/SLED. A person cannot be detained beyond an SED/SLED.

12.5 ADAs will defer all release dates of a sentence except the SED/SLED and TUSED. This means ADAs affect the HDCED, ERSED, CRD, ARD, NPD and PED. ADAs will also defer a LED except where the LED has been created by a SLED of one sentence falling before a SED of a concurrent sentence – see para 11.10 below.

#### **ADAs and ROTLEDs**

12.6 ADAs will defer a ROTLED, but the ADAs cannot simply be added on to the existing ROTLED. ADAs first defer the CRD/NPD/ARD and a new ROTLED must be calculated using the new custodial length that has been created by deferring the CRD/NPD/ARD by the ADAs. Further guidance can be found in [Release on temporary licence - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

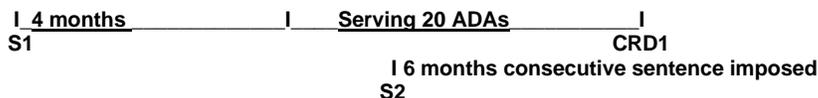
#### **Multiple sentences**

12.7 Providing no release has taken place from one sentence before the next is imposed, any ADAs awarded during the currency of any of the sentences will defer the overall key dates produced by those sentences – apart from the concurrent scenario described in para 11.11 below

#### **Consecutive sentences**

12.8 Consecutive sentences are aggregated and any ADAs awarded during the currency of any of the sentences will defer the key dates of the aggregate. This principle applies even if the consecutive sentence is imposed once a person has started serving ADAs awarded during the currency of the first sentence.

#### **Example 62**

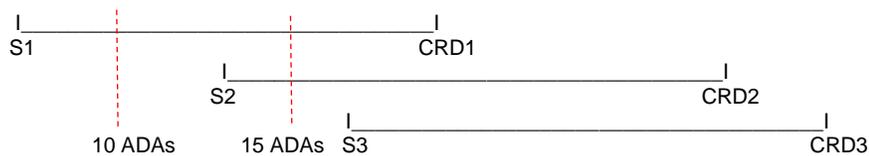


When the 6 months is imposed the 20 ADAs had started to be served. However, due to the ADAs extending the release date, release hasn't taken place from the 4 months before the 6 months is imposed. Therefore, the 6 months is still aggregated with the earlier 4 months and the whole 20 ADAs will defer the key dates of the 10 month aggregate.

#### **Concurrent sentences**

12.9 Providing there has been no release from one sentence before another is imposed, any ADAs awarded during the currency of any of the sentences will defer the latest release dates produced between the sentences

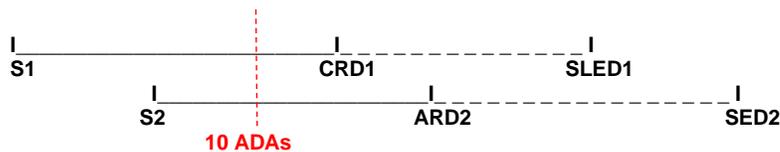
### Example 63



No release has taken place from any of the sentences before the next has been imposed. Therefore, the whole 25 ADAs will defer the CRD3, that being the latest release date of the sentence envelope.

- 12.10 Where a SLED of one sentence falls before a SED of a concurrent sentence, the SLED creates an LED in the overall key dates. Because the LED is a SLED in its right, ADAs do not defer the LED.

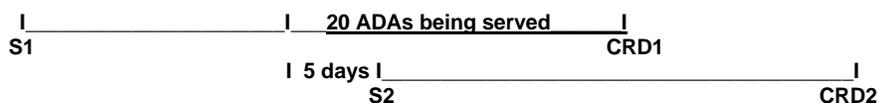
### Example 64



SLED1 would become a LED but the 10 ADAs could not defer that date because it is a SLED in its own right. The 10 ADAs awarded in this scenario would only defer the key CRD (from ARD2).

- 12.11 Where the ADAs have started to be served before a concurrent and overlapping sentence is imposed, only the unserved ADAs will defer the release date produced by the new concurrent sentence.

### Example 65



In the above scenario S2 is imposed after 5 of the ADAs have already been served. S2 is concurrent and overlaps the CRD of S1. Only the 15 unserved ADAs can be applied to CRD2.

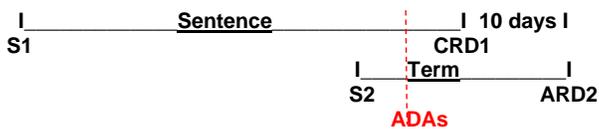
#### DTOs, terms in default and civil terms

- 12.12 ADAs cannot be awarded against 'terms of imprisonment (DTOs, terms in default - Including confiscation orders - or civil terms). They can only be awarded on 'sentences of imprisonment'.

#### Concurrent 'sentences' and 'terms' with ADAs

- 12.13 Where a 'term' is concurrent to a 'sentence', ADAs can be awarded to the 'sentence' but will only affect the release dates of the 'sentence'. Care needs to be taken if the release date of the 'term' was later than the release date of the 'sentence'. The ADAs will be applied to the 'sentence' and the release dates between the 'sentence' and the 'term' re-compared to confirm the latest release date.

### Example 66



There are 10 days between the CRD of the 'sentence' and the ARD of the 'term'. If 5 ADAs were imposed at the point indicated on the diagram above, 5 days would be added to CRD1. CRD1 as adjusted by the 5 ADAs would still be earlier than ARD2. Therefore, there would be no change to the overall key release date of ARD2.

However, if 15 ADAs were imposed at the point indicated on the diagram, CRD1 would be 5 days later than ARD2. Therefore, the ADAs would impact on the overall key release date of the sentence envelope and CRD1 as adjusted by the ADAs would become the key release date.

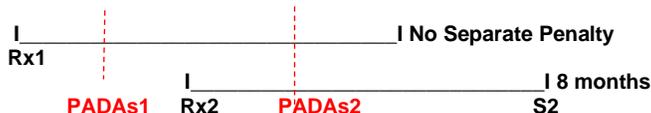
#### Consecutive 'sentences' and 'terms' with ADAs

- 12.14 Where a 'term' is consecutive to a 'sentence', the 'term' is not aggregated with the 'sentence' but is calculated separately, starting from the day after the release date of the 'sentence' and runs parallel to the licence period of the 'sentence'.
- 12.15 ADAs can be awarded during the currency of the sentence, cannot simply defer the overall key release date. The release dates of the 'sentence' must be adjusted by the ADAs and the consecutive 'term' recalculated starting from the day after the ADA adjusted release date of the 'sentence'.

#### **Prospective Added Days (PADAs)**

- 12.16 Where a person is held on remand, an IA can still impose ADAs prospectively. PADAs can be applied to a subsequent sentence only if the period of remand during which the PADAs were awarded is applied as time served to that sentence.

### Example 67



- When S2 is imposed the only remand relevant to the 8 months is from the point of Rx2.
- PADAs1 were awarded before that point when only Rx1 was being served.
- The period of remand when PADAs1 were awarded is not relevant to S2 and will not be applied as time served to S2.
- Therefore, PADAs1 cannot be applied to S2 either.
- PADAs2 were awarded during the period of remand that is applied to S2. Therefore, PADAs2 will be applied to S2 along with the period of remand from Rx2.

#### PADAs and immediate release

- 12.17 Where a person has PADAs and has spent more days on remand than there are in the custodial part of the sentence, PADAs must be added to the number of days in the custodial

period before applying enough remand to clear the total custodial period. Para 7.43 in Chapter 7 explains how to calculate immediate releases with PADAs.

### **ADAs and recalls**

- 12.18 IAs can award ADAs to someone serving a recall, but if the post recall release date (PRRD) is the same as the SLED, the ADAs cannot be actioned.

### ADAs and FTRs

- 12.19 ADAs awarded during the period of a FTR will defer the 14<sup>th</sup>/28<sup>th</sup> day of the FTR but will not extend the SLED.

### ADAs and standard recalls

- 12.20 There are 3 possible scenarios at the point that the ADAs are imposed:
- PRRD is the SLED – ADAs cannot be actioned
  - ADAs imposed before the Parole Board direct re-release at an earlier point than the SLED – Confirm the Parole Board were aware of the ADAs when making the decision to re-release.
    - If yes, no further action required in respect of the ADAs
    - If no, the ADAs will start to be served from the day after the Parole Board made the decision to release. The date agreed for re-release must be on or after the end of the ADAs. ADAs cannot extend detention beyond the SLED.
  - ADAs imposed between the date the Parole Board made their decision to re-release and the agreed re-release date will start to be served from the date the ADAs were imposed. If this takes the end of the ADAs to a date beyond the agreed release date, a new re-release date will have to be agreed that is on or after the end of the ADAs. ADAs cannot extend detention beyond the SLED.

### ADAs and Section 255 recall

- 12.21 Where a person is recalled under Section 255 from HDC they resume serving their sentence to the CRD. Any ADAs awarded once they are returned to custody will defer all the release dates of the sentence apart from the SLED/SED/TUSED.

### ADAs and Recalls with Further matters

- 12.22 Where a person is serving a recall and also on remand at the same time for further matters at the point ADAs are awarded, the ADAs apply to the recall only and must be applied in accordance with paras 11.18 – 11.21 above. They cannot also be applied to any subsequent sentence imposed for the further matters. This is because the remand period during which they were imposed will not be applied as time served towards the subsequent sentence, because it is remand served at the same time as a sentence.
- 12.23 If the ADAs are imposed during a recall before a new sentence is imposed and the person was never on remand for the new matters, the ADAs will apply to the recall only. They cannot be transferred to the new sentence when it is subsequently imposed.
- 12.24 If a person is serving a FTR and a new sentence at the point the ADAs are imposed, the ADAs defer the 14/28<sup>th</sup> day of the recall and will defer the relevant release dates of the new sentence.
- 12.25 If a person is serving a standard recall and a new sentence at the point the ADAs are imposed, the ADAs will defer the relevant release dates of the new sentence and apply to the recall.

**Remission of Added Days (RADAs)/Quashing of an award**

- 12.26 If there has been no further finding of guilt at an adjudication for 6 months (4 months for a young offender) since the date of the breach of Prison Rule 51 (YOI Rule 55) for which the last ADAs were awarded, an application may be made to the Governor for some of the ADAs to be restored/remitted. Any such days are referred to as RADAs (Restored Added Days).
- 12.27 The Governor can restore up to 50% of the total ADAs that have been imposed. In very exceptional circumstances Governors may remit up to 100% .
- 12.28 For sentence calculation purposes, all the release dates that were deferred by the ADAs will be brought forward by the number of RADAs.
- 12.29 Similarly, where ADAs are quashed. The number of days quashed will bring forward all the release dates that were deferred by the ADAs.

**Further information:**

- 12.30 Further information on adjudication procedures, eligibility for awards of added days and timescales in relation to applications for remission of added days can be found in PSI 05/2018, Prisoner Discipline Procedures (Adjudications).

## CHAPTER 13 – SPECIAL REMISSION/ROYAL PREROGATIVE OF MERCY (RPM)

### 13.1 Main principles:

- |                                                                                                                       |            |
|-----------------------------------------------------------------------------------------------------------------------|------------|
| • Special remission also referred to as RPM, may be used for:                                                         | Para 12.2  |
| ▪ Meritorious conduct - Governor initiates                                                                            |            |
| ▪ Release date calculated too early – error found whilst person still in custody – Governor initiates                 | Para 12.3  |
| ▪ Release in error – Governor initiates                                                                               | Para 12.4  |
| • No change to dates made until PPCS provide confirmation To the Governor                                             | Para 12.5  |
| • Application/Decision process                                                                                        | Para 12.6  |
| <b>Effect on the calculation</b>                                                                                      |            |
| • RPM/special remission reduces the length of the sentence. Release Dates recalculated on the reduced sentence length | Para 12.8  |
| • Formula to calculate how much special remission/RPM is required                                                     | Para 12.11 |

### Further information if required

#### Meritorious conduct

- 13.2 If a Governor wish to reward a person for meritorious conduct with automatic release or eligibility for consideration for release on parole at an earlier date than the law requires for the sentence the court imposed, the Governor must make an application to PPCS for consideration to be given to allowing special remission/RPM. Applications can also be considered, to bring forward the SLED, for those who have been released on licence from their sentence. Applications should be sent to [pre-releaseteama@justice.gov.uk](mailto:pre-releaseteama@justice.gov.uk).

#### Release date calculated too early

- 13.3 If the release date is found to have been calculated to a date earlier than the law requires, consideration must be given as to whether RPM/special remission should be awarded. RPM/special remission would cancel out the balance of the sentence to be served and allow release to take place on the earlier date. A decision is required as to whether public faith has been pledged to such an extent that justifies the validation of an incorrect release date.

#### Released in error

- 13.4 If it is found that a person was released in error from the sentence (earlier than the law requires) consideration must be given as to whether or not the police should be instructed to arrest the person and return them to custody to serve the outstanding part of the sentence. If it is decided not to return the person to custody, the exercise of the RPM/special remission must be sought to validate the release in error.

#### Reporting a release in error

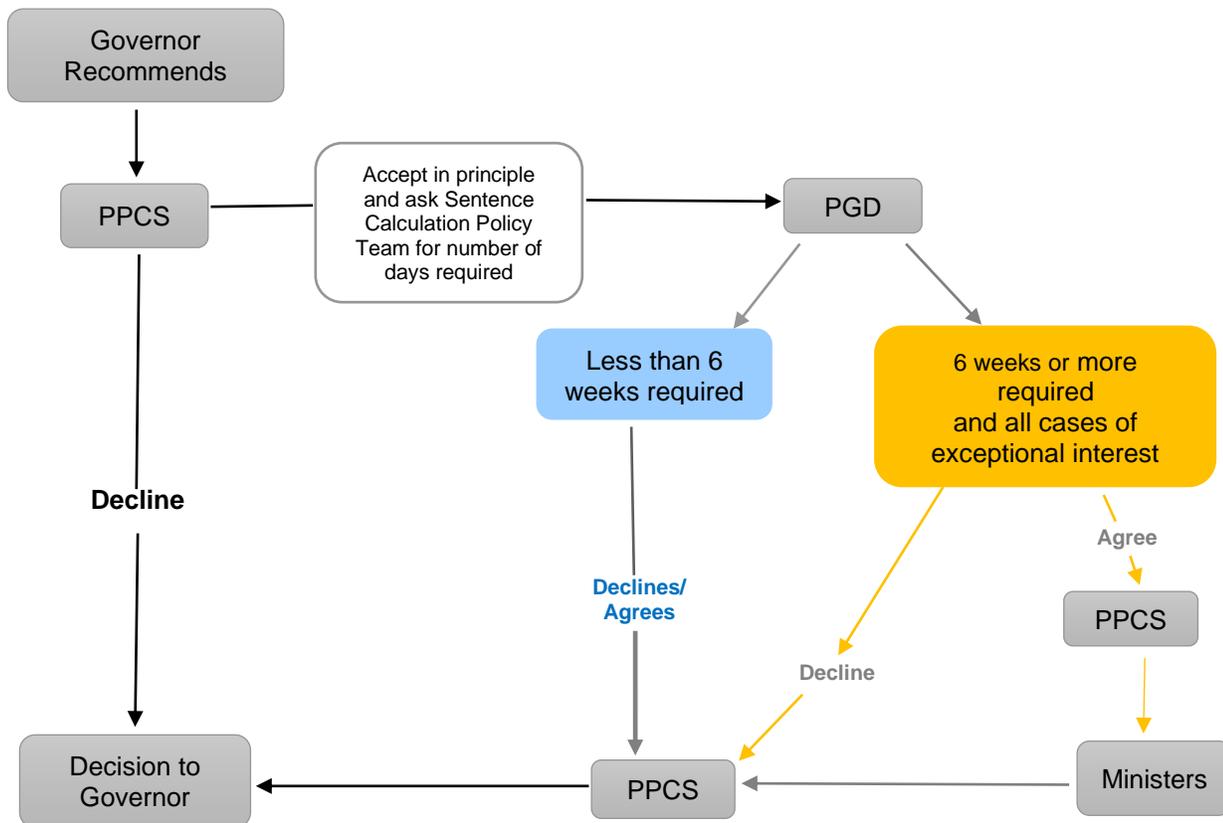
- 13.5 When found, all releases in error must be reported immediately by phone on 0207 147 4021 the National Incident Management Unit (NIMU) and followed up with a report on the Incident Reporting System (IRS) within 24 hours. Once it has been reported to NIMU by phone and updated on IRS, a [Report of Abscond / TRF / Release in Error proforma](#) must be completed

and sent to the DD for Prisons' Office via [ddprisons@justice.gov.uk](mailto:ddprisons@justice.gov.uk). Further information about Incident Management can be found in [PSI 2014-09 – Incident Management](#).

**What the decision for exercising the RPM/Special Remission involves**

13.6 The decision as to whether or not RPM/Special remission should be granted, must take account of the relevant circumstances, balancing the expectations of the prisoner and family against the obligation of the Prison Service to administer the sentence imposed by the court. It is not something that can be exercised lightly and each case must be carefully considered on its own merits. The Prison Service must not amend release dates unless/until PPCS has confirmed how many days have been granted. Examples of factors that may need to be considered in RPM/Special Remission cases can be found at [APPENDIX 6](#).

13.7 In each of the above scenarios, the process for consideration of special remission/RPM is:



**Effect of a successful decision**

13.8 The decision must be securely filed on the prisoner's warrant folder. The number of days special remission/RPM granted is deducted from the number of days in the length of the sentence to give a new, shorter sentence length. For STS, EDS and SOPC the overall sentence and the length of the custodial term are reduced by the special remission/RPM.

13.9 The release dates are calculated based on the new shorter sentence length and the person informed of the amended key dates once any relevant adjustments have been made. The effect of special remission/RPM, therefore, is to bring forward all dates for the sentence.

- 13.10 If the special remission/RPM is being applied to a schedule 20B sentence (historic blue sheet calculation) and reduces a single term of 4 years or more to one of less than 4 years, advice must be sought from the sentence calculation helpline.

**Formula for calculating required special remission/RPM**

- 13.11 The amount of special remission to be applied must be the minimum required to produce the earlier release date required using the following formula:

- A. Number of days in the length of the sentence imposed by the court (the custodial period for EDS/SOPCs)
- B. Number of days to current ARD/CRD/NPD/PED  
(or number of days to what should have been the correct date)
- C. Number of days earlier release required  
(or number of days between incorrectly calculated release date/release in error date and the date that should have been the correct release date)
- D. B – C to give a new total
- E. Number of days remand/tagged bail (PCT if applicable) + D
- F. 100% of E for ½ way ARD/CRD/PED  
50% of E for ⅔ PED/NPD/peach sheet CRD
- G. E + F which gives the new sentence length
- H. A – G gives the number of days special remission/RPM required

A proforma for the above formula can be found at [APPENDIX 7](#)

## CHAPTER 14 – TRANSFERS FROM OTHER JURISDICTIONS

### 14.1 **Main principles:**

• <u>Transfers under the Crime (Sentences) Act 1997</u>	
▪ Unrestricted - sentence recalculated as though imposed in England/Wales	Para 13.4
▪ Restricted - keep the dates of the other jurisdiction	Para 13.5
▪ <u>Guide to release provisions of other UK jurisdictions</u>	
▪ Scotland	Para 13.9
▪ N Ireland	Para 13.10
▪ Jersey	Para 13.11
▪ Guernsey	Para 13.12
▪ Isle of Man	Para 13.13
• <u>Transfers under the Repatriation of Prisoners Act 1984</u>	
▪ Dates provided by Cross Border Transfer Team	Para 13.14
• <u>Transfers under the Crime (International Co-operation) Act 2003</u>	
▪ Temporary transfer arrangement – no action required for release dates unless escape and UAL occurs	Para 13.18
• <u>Transfers under the Colonial Prisoners Removal Act 1884</u>	
▪ Sentence recalculated as though imposed in England/Wales	Para 13.19
• <u>Transfers from the International Criminal Courts</u>	
▪ Dates provided by the Cross Border Transfer Team	Para 13.21

### **Further information:**

#### **Transfers under the Crime (Sentences) Act 1997 from other UK jurisdictions**

14.2 Under the Crime (Sentences) Act 1997, transfers to England and Wales can be from:

- Scotland
- Northern Ireland
- Jersey
- Guernsey
- Isle of Man

14.3 The transfer can allow completion of the sentence in England/Wales or be on a temporary basis to facilitate accumulated visits or court appearances. Transfers can be on a restricted or unrestricted basis.

#### Unrestricted Transfer

14.4 Transfers to England/Wales on an unrestricted basis require the sentence to be calculated as though it had been imposed at a court in England and Wales. The Prison Service must

only allow remand/tagged bail time that was applied to the sentence in the sending jurisdiction. If the sending jurisdiction allowed police custody time in their calculation, the Prison Service in England and Wales must also credit the police custody time as time served.

#### Restricted Transfer

- 14.5 Where the transfer has occurred on a restricted basis, the Prison Service in England/Wales are simply 'holding' the person on behalf of the sending jurisdiction. Therefore, the release dates and administration of the sentence/release remain a matter for the sending jurisdiction. This means that any release licence must be prepared by the sending jurisdiction.
- 14.6 If the person is subject to a parole process, the sending jurisdiction will be responsible for considering the person for parole but may request reports from the staff in the 'holding' prison in England/Wales. There will be no involvement from the Parole Board of England/Wales.
- 14.7 Whilst in custody in England/Wales, the person will be subject to the Prison/DYOI rules, but if ADAs are awarded or remitted, no change must be made to the release dates without consultation with the Cross Border Transfer Team.
- 14.8 Should a person escape from custody in England/Wales, any UAL will be applied to the release dates in the usual way.

#### Guide to release provisions of other UK jurisdictions

##### 14.9 **Scotland:**

- Sentences of less than 4 years:
  - Unconditional release at the ½ way point.
  
- Sentences of 4 years or more imposed on or after 01/02/2016:
  - Eligibility for parole at the ½ way point.
  - Automatic release 6 months before the end of the sentence.
  - If the sentence is an extended sentence, automatic release is at the end of the custodial term imposed.
  - Any release is on licence to the end of the sentence.
  
- Sentences of 4 years imposed before 01/02/2016:
  - Eligibility for parole at the ½ way point.
  - Automatic release at the ⅔ point.
  - Any release is on licence to the end of the sentence.
  
- TORERA sentences:-
  - Eligibility for parole at the 2/3 point of the sentence
  - Automatic release at the end of the sentence
  - Any release is on licence to the end of the sentence
  
- Terrorism sentence with fixed licence period:
  - Eligibility for parole at the ⅔ point of the custodial period,
  - Automatic release at the end of the custodial period.
  - Any release is on licence to the end of the custodial period + the licence period.
  
- Serious Terrorism Sentence:

- Serve the custodial period in full.
- Release is on licence to the end of the additional licence period.
- Extended Sentence where the maximum for the offence is less than life:
  - Eligibility for parole at the at the  $\frac{2}{3}$  point of the custodial period.
  - Automatic release at the end of the custodial period.
  - Release is on licence to the end of the whole extended sentence.
- Extended sentence where the maximum for the offence is life and serious terrorism offences:
  - Serve the custodial period in full.
  - Release in on licence to the end of the whole extended sentence.

#### 14.10 Northern Ireland

- Under 12 month sentences:
  - Automatic release at the  $\frac{1}{2}$  way point of the sentence.
  - Release is unconditional.
- Sentences of 12 months or more for offences committed on or after 01/04/2009:
  - Court specify how much of the sentence is to be served in custody.
  - Custodial Term cannot exceed more than half of the sentence.
  - Release is at the end of that specified period.
  - Release is on licence to the end of the sentence.
- Sentences of 12 months or more for offences committed before 01/04/2009:
  - Automatic release is at the  $\frac{1}{2}$  way point of the sentence.
  - Release is unconditional.
- Extended sentences for offences committed on or after 01/04/2009:
  - Eligibility for parole at the  $\frac{1}{2}$  way point of the custodial term.
  - Automatic release at the end of the custodial term.
  - Release is on licence expiring at the end of the sentence.
- TORERA sentences:-
  - Eligibility for parole at the  $\frac{2}{3}$  point of the sentence
  - Automatic release at the end of the sentence
  - Any release is on licence to the end of the sentence
- Extended Sentence:-
  - Eligibility for parole at the at the  $\frac{2}{3}$  point of the custodial period with
  - Automatic release at the end of the custodial period
  - Release is on licence to the end of the whole extended sentence
- Extended sentence for serious terrorism offence where the maximum for the offence is life:-
  - Serve the custodial period in full
  - Release in on licence to the end of the whole extended sentence
- Article 15A Terrorism sentence with fixed licence period:-
  - Eligibility for parole at the  $\frac{2}{3}$  point of the custodial period with

- Automatic release at the end of the custodial period
- Any release is on licence to the end of the custodial period + the licence period
- Serious Terrorism Sentence:-
  - Serve the custodial period in full
  - Release is on licence to the end of the additional licence period

#### 14.11 Jersey

All determinate sentences have automatic release at the  $\frac{2}{3}$  point of the sentence and release is unconditional.

#### 14.12 Guernsey

- Under 15 month sentences:
  - Automatic release is at the  $\frac{2}{3}$  point of the sentence.
  - Adults will be released on a period of Supervision that will last for up to  $\frac{1}{4}$  of the sentence.
- Sentences of 15 months or more:
  - Eligibility for parole is at the  $\frac{1}{3}$  point of the sentence with
  - Automatic release at the  $\frac{2}{3}$  point of the sentence
  - Release on parole will be on a licence expiring at the  $\frac{2}{3}$  point.
  - Release is subject to a period of supervision lasting for up to  $\frac{1}{4}$  of the sentence and running from the automatic release date -  $\frac{2}{3}$  point of the sentence.

#### 14.13 Isle of Man

- Under 12 month sentences:
  - Automatic release at the  $\frac{1}{2}$  way point of the sentence and release is unconditional.
- 12 months to under 4 year sentences:
  - Automatic release at the  $\frac{1}{2}$  way point of the sentence.
  - Release in on licence expiring at the  $\frac{3}{4}$  point of the sentence.
- Sentences of 4 years or more:
  - Eligibility for parole at the  $\frac{1}{2}$  way point of the sentence.
  - Automatic release at the  $\frac{2}{3}$  point of the sentence.
  - Release is on licence expiring at the  $\frac{3}{4}$  point of the sentence.

If a person commits a new offence during the period between release and the end of the sentence, they are 'at risk' of being returned to prison for a period imposed by the court in addition to being given a new sentence for the new offence committed.

#### **Transfers under the Repatriation of Prisoners Act 1984**

14.14 Transfers under the Repatriation of Prisoners Act 1984 allow a person to be transferred to England/Wales to complete their sentence. The balance of the sentence that is to be served in England/Wales is treated as though it was a sentence imposed in England/Wales.

14.15 The Cross Border Transfer Team will apply the release provisions of England and Wales relevant to the length of the part of the sentence that is to be served in England/Wales according to type and date of offence and date the sentence was imposed, etc. The date of

transfer to England/Wales will be treated as the date of sentence for release date calculation purposes.

- 14.16 Where the sentence is subject to parole eligibility, the PED will be at the point of a sentence required by the legislation of England/Wales, but will be calculated based on the sentence length imposed by the sending jurisdiction and calculated from the date of sentence in the sending jurisdiction taking into account any remand that the sending jurisdiction would have allowed.
- 14.17 Any ADAs awarded once in custody in England/Wales will defer the release dates in the usual way.

**Transfers under the Crime (International Co-operation) Act 2003**

- 14.18 Transfer under the Crime (international Co-operation) Act 2003 is a temporary type of transfer to England/Wales to facilitate appearances as a witness in criminal trials. There is no action required by establishments in respect of release dates.

**Transfers under the Colonial Prisoners Removal Act 1884**

- 14.19 Transfers under the Colonial Prisoners Removal Act 1884 are permanent transfers to England/Wales from British dependent territories where there are no prison facilities or the available facilities cannot meet the individual needs of the person.
- 14.20 The sentence must be treated as though it was a sentence imposed in England/Wales from the date it was imposed in the sending jurisdiction. Credit for remand and police custody can only be given if had been allowed in the sending jurisdiction.

**Transfers from the International Criminal Courts**

- 14.21 The International Criminal Court Act 2001 and the International Tribunals (Sierra Leone) Act 2007 allow the UK to enforce the sentences of those sentenced by the International Criminal Court and the International Criminal Tribunal for the former Yugoslavia and the Special Court for Sierra Leone.
- 14.22 The Cross Border Transfer Team will provide the release dates to the holding prison in England/Wales. No release or transfer can take place unless it has been directed by the President of the sentencing international court. There are no circumstances that a prisoner can be released by any authority in the UK (including parole and early release on compassionate grounds).

**Queries about transfers from other jurisdictions**

- 14.23 Any queries relating to transfers from other jurisdictions and calculations of the release dates must be directed to the Cross Border Transfer Team at:

Cross Border Transfer Team  
Her Majesty's Prison & Probation Service  
1<sup>st</sup> Floor, Post Point 1.22,  
Southern House,  
Wellesley Grove, Croydon CR0 1XG  
[Crossbordertransfers@justice.gov.uk](mailto:Crossbordertransfers@justice.gov.uk)

## CHAPTER 15 – ‘TERMS’ OF IMPRISONMENT IN DEFAULT OF PAYMENT

### **Main principles:**

#### **Calculation**

- ‘Terms’ can’t be aggregated/single termed with ‘sentences’ Para 14.3
- Calculated on a green calculation sheet Para 14.4
- Unconditional release at the ½ way point (ARD) and SED at the end Para 14.5  
Except if imposed before 04/04/05 – 12 months or more terms have ⅔ ARD
- Concurrent ‘terms’ run parallel to each other and to ‘sentences’ Para 14.7
- Consecutive terms:
  - are aggregated with each other (careful of the wording) Para 14.8
  - Start on the day after a ‘sentence’ and run parallel to the licence period of the ‘sentence’ Para 14.12
- Remand relevant to the offence for which the person was convicted and fined counts as time served towards the ‘term’ and any concurrent ‘sentence’. Para 14.15

#### **Confiscation orders**

- Calculated like any other ‘term’ in default **except:** Para 14.19  
Confiscation orders imposed by Crown Court on or after 01/06/2015 Para 14.20  
where original amount was £10 million or more – period enforced served in full

#### **Lodged warrants**

- Actioned during remand or ‘sentence’ Para 14.25
- Calculate from latest of date warrant is signed or date of reception Para 14.28

#### **Pay-outs**

- Monies can be from prisoner, family, friends or any person able to pay Para 14.31
- Can be paid to any prison, police station or Court in England/Wales Para 14.34
- Pay outs on day 1 are always the full amount of money owed Para 14.37
- Pay outs on Fridays include weekend/Bank Holiday days as days served Para 14.38  
**Except** terms of 5 days or less when Saturday is a day to pay for, not a day served
- Pay out Formula:  
Days to pay for X Original Fine divided by (original term – 1) Para 14.39
- Concurrent ‘terms’ – separate calculation for each fine. Add the amount required to secure release in respect of each ‘term’ to give total to be paid Para 14.42
- Consecutive ‘terms’ – Calculate days served and clear custodial periods of earliest served ‘terms’ first to find the ‘term’ for part payment. Subsequent ‘terms’ will be paid in full. Para 14.43

#### **Effect of ADAs**

- ADAs cannot be awarded on terms imposed on or after 04/04/05 Para 14.44
- Terms imposed before 04/04/05 could have ADAs applied – contact sentence calculation helpline for advice on the pay-out calculation Para 14.45

#### **Appropriations**

- Immediately on reception if sufficient cash unless undue hardship caused Para 14.47
- Find the DMR. Divide amount of original fine by (days in original term – 1) Para 14.49

Divide cash available by DMR to find days paid for	
Deduct days paid for from term enforced,	
Recalculate release dates of reduced term	
• Multiple consecutive 'terms' – Clear the 'term' with the lowest DMR first	Para 14.52
• Multiple concurrent 'terms' – Clear the 'term' giving the latest release date first	Para 14.53
<b>Costs of a warrant</b>	
• Costs of <u>issue</u> of a warrant must be paid in full	Para 14.54
• Costs of <u>imposition</u> of a warrant are treated as part of the fine to part pay	
<b>Paperwork to be forwarded to the Court</b>	
• F986 Part A - on receipt of a warrant for a 'term'	Para 14.55
• F986 Part B - on release from the 'term'	Para 14.56
• F412 - to accompany monies paid by appropriation or pay-out	Para 14.57
<b>Remaining liabilities</b>	
• Once the 'term' for criminal matters has been served the debt is cleared	Para 14.58

**Further information:**

**Calculation of release dates for 'terms' of imprisonment**

- 15.1 'Terms' of imprisonment are imposed in default of payment of monies that were ordered to be paid by a court. They can be imposed in default of payment of:
- Fines
  - Costs
  - Compensation
  - Forfeiture of recognizance
  - Civil and Judgment debt
  - Confiscation orders
- 15.2 'Terms' of imprisonment in default of payment of monies owed are different to 'sentences' of imprisonment because the person has the opportunity to secure their release from the 'term' imposed by paying the balance of the money owed and they have no licence period attached to them. Because they are different, 'terms' cannot be aggregated or single-termed with 'sentences'.
- 15.3 Like any other calculation, the length of the 'term' must be converted to days before the release dates can be calculated. Para 3.4 explains in more detail how to convert into days. They are calculated on a green calculation sheet/
- 15.4 'Terms' enforced by the magistrates' court on or after 04/04/05 have:
- Automatic release at the ½ way point of the sentence (subject to the exception in para 14.6 below)
  - An SED at the end of the 'term'
  - No licence - release is unconditional
  - No TUSED – 'Terms' are not subject to post sentence supervision
  - They are calculated on a green calculation sheet

- 15.5 'Terms' enforced by the magistrates' court before 04/04/05 have:
- Automatic release at the  $\frac{1}{2}$  way point for 'terms' of less than 12 months
  - Automatic release at the  $\frac{2}{3}$  point for 'terms' of 12 months or more
  - An SED at the end of the 'term'
  - No licence - release is unconditional
  - No TUSED – 'Terms' are not subject to post sentence supervision
  - They can be calculated on a green sheet but the days to the ARD will be the number of days in C minus (C divided by 3 rounded down)

15.6 Where a Crown Court impose a confiscation order on or after 01/06/2015 and the amount of the confiscation order is £10 million or more, any 'term' subsequently enforced by the magistrates' court in default of payment of the confiscation order must be served in full.

#### Concurrent scenarios

15.7 'Terms' enforced on or after 04/04/05 that are concurrent to one another or concurrent to 'sentences' run parallel, each with their own release dates calculated. The latest release date produced by the 'terms'/'sentences' is taken as the overall key release date.

#### Consecutive scenarios

15.8 'Terms' enforced on or after 04/04/05 that are consecutive to one another are aggregated. Providing the 'terms' all have a  $\frac{1}{2}$  way release point, the ARD will be at the  $\frac{1}{2}$  way point of the aggregate.

15.9 Where the release points of the 'terms' are different to one another, once they have been aggregated for the SED, the 'term' ordered to be consecutive will start on the day after what would be the release point of the 'term' to be served first.

#### **Example 68:**

On 26/09/2024 a 'term' of 30 days is enforced with a consecutive 'term' of 42 days.

- Both 'terms' have a release point at the  $\frac{1}{2}$  way point.
- They form a 72 day aggregate
- The ARD is at the  $\frac{1}{2}$  way point of the aggregate.

72 days from 26/09/2024 runs to 06/12/2024 (SED)

Days to ARD is 72 divided by 2 = 36 days

36 days calculated from 26/09/2024 = 31/10/2024 (ARD)

#### **Example 69:**

On 14/05/2025 a 'term' of 730 days is enforced in respect of a confiscation order where the original amount imposed by the Crown Court was £12 million.

On 31/03/2026 a 'term' of 70 days is enforced and ordered to be consecutive to the 730 days

- The 730 days must be served in full (because the confiscation order was set at over £10 million)
- The 70 days has release at the  $\frac{1}{2}$  way point
- The 'terms' form an aggregate of 800 days to the SED calculated from 14/05/2025
- 730 days calculated first from 14/05/2025
- 70 days calculated from the day after the end of the 730 days to find the key ARD

800 days from 14/05/2025 runs to 22/07/2027 (SED)  
730 days served in full, from 14/05/2025 runs to 13/05/2027 (notional release date)  
70 days runs from 14/05/2027 to 22/07/2027  
Days to ARD is 70 divided by 2 = 35 days  
35 days calculated from 14/05/2027 = 17/06/2027 (key ARD)

Multiple 'terms' enforced before 04/04/05

- 15.10 'Terms enforced before 04/04/05 that are concurrent and/or consecutive to one another form a single term. The single term is treated as the 'term' and the release points set out in para 14.5 are applied to the length of the single term.

'Term' consecutive to a 'sentence' scenario

- 15.11 'Sentences' and 'terms' cannot be aggregated or single termed with one another. Where a 'term' is imposed consecutive to a 'sentence', the 'term' will be calculated from the day after the release date of the 'sentence'

Wording on the warrants

- 15.12 Where there are multiple consecutive 'terms' the wording of the magistrates' courts warrant must be interpreted correctly to ensure the correct aggregate is obtained. The wording can be:
- Consecutive to the total period being served, or
  - Consecutive to the current/present term being served
- 15.13 If the warrant states consecutive to the total period being served, the new consecutive 'term' can be added on to the end of the existing 'envelope'.
- 15.14 If the warrant states consecutive to the current/present term being served, the new consecutive 'term' can only be added to the 'term' of which the custodial part is being served at the point that the new consecutive 'term' has been imposed. This could mean that the new consecutive 'term' becomes concurrent to another 'term'.

**Example 70**

On 4/03/2025 the following 'terms' are imposed

'Term' 1        30 days  
'Term' 2        14 days consecutive  
'Term'3        45 days consecutive to any other periods being served

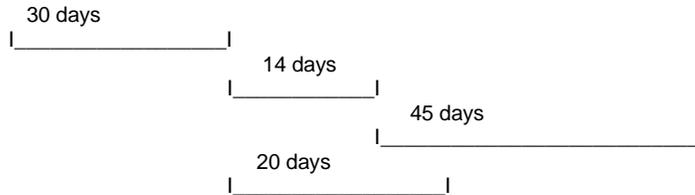
The above 'terms' would create an aggregate of 89 days with release on the 45<sup>th</sup> day.

On 11/03/2025 a further 'term' is imposed of 20 days and is ordered to be consecutive to the current 'term' being served. The current 'term' being served on 11/03/2025 is the 30 days. This is because the custodial periods of the first 3 'terms' would run as follows:

30 days – 15 days in the custodial period run from    04/03/2025 to 18/03/2025  
14 days – 7 days in the custodial period run from    19/03/2025 to 25/03/2025  
45 days – 23 days in the custodial period run from    26/03/2025 to 17/04/2025

Therefore on 11/03/2025 the current 'term' being served is the 30 days which means that the new 20 days can only be consecutive to the 30 days and becomes concurrent to the 14 days.

Therefore, the new consecutive 20 day 'term' would have no effect on the release date of the original 89 day aggregate (unless remand was attached to it – see para 14.15 on remand application).



### 'Terms' and remand

15.15 Where a person:

- Has been **convicted** of an offence; and
- Is fined for that offence or a related offence; or
- Has a confiscation order imposed in connection with the proceeds of the convicted offence; and
- Subsequently serves a 'term' in default of paying the fine/confiscation order

the 'term' is treated like a 'sentence' of imprisonment **for the purposes of remand application only**, in that any remand and/or court directed tagged bail that is relevant to the offence for which the fine was imposed will be treated as time served towards the 'term' that is enforced in default of payment providing it hasn't been counted towards any previous sentence/term.

15.16 If there are 'terms' that are concurrent to one another, any remand relevant to any of the offences for which the 'terms' have been enforced will be applied to the latest release dates produced by all the 'terms'.

15.17 If there are 'terms' that are consecutive to one another, any remand relevant to any of the offences for which the 'terms' have been imposed will be applied to the key release dates produced by the aggregate of the 'terms'.

15.18 Where a 'term' meeting the criteria in Para 14.14 above is being served, concurrently or consecutively to a 'sentence', remand application will work the same as it does for 'sentences' that are concurrent and/or consecutive to one another in that ANY remand relevant to ANY of the 'terms'/'sentences' will be applied to the overall key dates, providing a period of remand is counted only once towards the overall sentence envelope.

### **Example 71**

On 19 January 2022, a person receives:

A 60 day 'sentence' for theft with 30 relevant remand days; and

A concurrent 80 day 'term' in default of payment of a fine imposed after conviction for an offence of driving whilst disqualified.

- The 'sentence' and the 'term' are treated as a single term for the purposes of remand application.

- This means that the 30 days remand applies to both the ‘sentence’ and the concurrent ‘term’.
- The 60 day ‘sentence’ allowing for the 30 remand days would give release dates of:
 

CRD	19/01/2022
SLED	17/02/2022
TUSED	19/01/2023
- The 80-day ‘term’ allowing for the 30 remand days would give release dates of:
 

ARD	28/01/2022
SED	09/03/2022 (not subject to licence on this ‘term’)

Release would take place on 28/01/2022 on a licence expiring at the SLED of the 60 day sentence with post sentence supervision until 19/01/2023.

### Example 72

On 12/04/2024 a person receives:

A 100 day ‘sentence’ for an offence of burglary. 60 days relevant remand for the burglary  
A consecutive 30 day ‘term’ for non-payment of a confiscation order (less than £10 million)

- The ‘sentence’ and the ‘term’ are treated as a single term for the purposes of remand application only.
- The 100 day ‘sentence’ would be calculated first.
- The 30 day ‘term’ would be calculated from the day after the release date of the 100 day ‘sentence’.
- 100 days from 12/04/2024 would give the following release dates – using 50 of the remand days to clear the custodial period:

CRD	Immediate release
SLED	31/05/2024
TUSED	12/04/2025

- The consecutive 30 day ‘term’ would be calculated from 12/04/2024 and the remaining 10 remand days would be applied to give release dates of:
 

ARD	16/04/2024
SED	01/05/2024

Release would take place on 16/04/2024 on a licence expiring on 31/05/2024 and post sentence supervision until 12/04/2025

### Confiscation Orders

- 15.19 Release dates for ‘terms’ imposed in default of paying confiscation orders are calculated exactly the same as described above in that release is unconditional at the ½ way point of the term (⅓ point if the ‘term’ was enforced before 04/04/05 and was for 12 months or more) **except:**
- where the Crown Court impose a confiscation order on or after 01/06/2015 and;
  - The amount they originally impose is £10 million or more.
- 15.20 In these particular cases, the ‘term’ that is subsequently enforced by the magistrates’ court must be served in full even if the amount owed at the point of enforcement is less than £10

million. It is the original amount set by the Crown Court on or after 01/06/2015 that determines whether the subsequent 'term' to be served in default is served in full or not.

15.21 The Crown Court impose confiscation orders under the:

- Proceeds of Crime Act 2002 (for criminal conduct on or after 24/03/2003)
- Drug Trafficking Act 1994 (for conduct occurring before 24/03/2004); and
- Criminal Justice Act 1988 (as amended) (for conduct occurring before 24/03/2003)

15.22 Although the orders are imposed in the Crown Court, the case must be remitted to the magistrates' court that committed the person to the Crown Court for the 'term' to be served in default of payment to be enforced. Therefore, no action must be taken to calculate release dates for a 'term' imposed for a confiscation order until the enforcement warrant has been received from the magistrates' court.

15.23 Under section 152(d) of the Customs and Excise Management Act 1979, HM Revenue and Customs have the power (rarely exercised) to order the release of the person from the 'term' being served at any point before the unconditional release date.

15.24 Further information about confiscation orders can be found in PSI 16/2010

### **Lodged Warrants**

15.25 Lodged warrants are 'terms', imposed in default of payment of monies owed, for offences committed before the person came into custody for other matters. The person can apply to the magistrates' court to have the outstanding warrants lodged (to clear them) whilst they are in prison.

15.26 It is the responsibility of the receiving prison to ask prisoners and establish whether or not they have outstanding fines. If they have, the prisoner must be allowed the facility to contact the court(s) and apply for outstanding warrants to be lodged.

15.27 Warrants can be lodged whilst a person is on remand or sentenced for further matters. Lodged warrants actioned during a period of remand will change the status of the person to sentenced. Therefore, the period of remand running at the same time as the custodial period of a lodged warrant cannot be counted as relevant remand time towards any subsequent sentence.

15.28 It does not matter what date the warrant is received in the prison. The 'term' enforced will be calculated from the date of the warrant or on the first day the person was received into custody if that date is later than the date of the warrant.

15.29 If the person is not in custody when the warrant is received, the warrant must be returned to the court with a covering note. If the person has any dispute with the warrant, they must raise the matter with the relevant court.

15.30 The lodged warrant is treated like any other 'term' of imprisonment:

- It is recorded on the F2050 and NOMIS as a new case – sentence type A/FINE.
- Release dates for it are calculated on a green calculation sheet.

- A copy of the warrant – clearly marked ‘COPY’ – must be provided to the prisoner
- A release date notification slip must be produced, even if the lodged warrant does not change the key release date.
- The relevant section of the F986 should be forwarded to the court when the ‘term’ is calculated and once the ‘term’ has been served.

### **Pay-outs**

- 15.31 Any money available to the prisoner (including private cash/earnings) will be accepted towards the fine. Money will also be accepted from any other person offering to pay the monies owed even if the person is not known to the prisoner. The prisoner cannot refuse to allow another person to make a payment. Payment of the monies owed can be paid in full or in part. Any monies must be accepted and release must take place if enough money has been paid to secure the release.
- 15.32 Establishments must ensure that staff are available during normal office hours to receive payments towards the monies owed. Payments can be accepted out of those hours, providing there is a sentence calculation ‘licenced to operate’ member of staff available to calculate the amount required and amend the release dates once the monies have been paid.
- 15.33 If there is no ‘licenced to operate’ member of staff available, release can still take place from the ‘term’ being served providing the full amount owed that is stated on the warrant is paid (and there are no further matters on which the prisoner is being held). As soon as a ‘licenced to operate’ member of staff becomes available, the calculation of the correct amount of money that should have been taken must be done and the excess refunded to the person who made the payment. This process **does not** apply to pay-outs in respect of council tax and other civil debts (see [Chapter 15](#)). In those cases, the exact amount to secure release must always be calculated.
- 15.34 Where a prisoner’s family, friends or any other person are able to make payment, but unable to reach the holding prison, the Governor may allow payment to be made at any other prison, police station, or court in England/Wales providing the other location is willing to offer the facility.
- 15.35 All payments must be in either UK currency or bankers draft (see HMPPS Finance Manual Policy framework for further information)
- 15.36 If the Governor is concerned that release following acceptance of monies may constitute a possible physical or moral danger to the prisoner’s welfare, advice must be sought from the security department at HMPPS HQ.

### **Calculation for day 1**

- 15.37 There must be no advantage to a prisoner making payment at the prison rather than the court. Therefore, if the prisoner chooses to pay the fine on day 1 (the date they are received into prison custody), the fine must be paid in full. It does not matter what day of the week the reception/payment occurs. The full amount owed on the warrant must be taken.

### **Calculation for day 2 onwards**

15.38 If part payment is made to secure a release on a Friday, the weekend (and any Bank Holiday days around the weekend) must be counted as days served in the calculation **except** where the 'term' is for 5 days or less. In these cases, the Saturday would be a day to pay for and not treated as a day served.

Pay out formula

15.39 The formula uses the following information:

- **Original 'Term' imposed** – length of sentence originally imposed by the court before any deductions were applied
- **Original Fine** – The original amount of money the court declared was owed before any reductions were made between date of imposition of the fine and enforcement
- **Days to pay for:**
  - 'Terms' where release is at the ½ way point this is:
    - The number of days in the 'term' enforced by the magistrates' court **MINUS**
    - the number of days that have actually been served in custody (including weekend and Bank Holiday and relevant remand days where appropriate) **X 2**

'Terms' that are served in full

- The number of days in the 'term' enforced by the magistrates' court **MINUS**
- the number of days that have actually been served in custody (including weekend and Bank Holiday and relevant remand days where appropriate)

'Terms' enforced before 04/04/05 that were 12 months or more

- The number of days in the 'term' enforced by the magistrates' court **MINUS**
- the number of days that have actually been served in custody (including weekend and Bank Holiday and relevant remand days where appropriate) **X 1.5**

15.40 The formula to calculate the amount required to secure release is:

$$\frac{\text{Days to Pay For} \times \text{Original Fine}}{(\text{Original 'Term' Imposed} - 1)}$$

The resulting figure is rounded up to the nearest whole penny.

15.41 A proforma to assist in the calculations for pay outs is at APPENDIX 8

Pay-outs on concurrent 'terms'

15.42 A separate calculation must be carried out for each 'term' whose custodial period is running on the desired release date. Once the amount required to secure release on the desired date has been calculated for each 'term', the amounts are added together to give the overall total required to secure release on that date.

**Example 73**

On 28/08/2025 prisoner commences serving the following concurrent 'terms':

'Term' 1        £4,500 / 40 days

'Term' 2        £2,100 / 30 days

'Term' 3        £1,500 / 16 days

There were no reductions in respect of any of the 'terms'.

A request is received to pay out on 10/09/2025 (Wednesday)

On 10/09/2025 Days served =  $14 \times 2 = 28$  days

This means that there are 12 days to pay for on 'term' 1 ( $40 - 28$ ) and 2 days to pay for on 'term' 2 ( $30 - 28$ ). 'Term' 3 has been served, so no calculation for this 'term' is required.

Using the formula in Para 14.40 the calculations are:

'Term' 1	12 X £4,500 divided by 39 =	£1,384.62
'Term' 2	2 X £2,100 divided by 29 =	£ 144.83
'Term' 3	Served	
	Total to secure release	<u>£1,529.45</u>

#### Pay-outs on consecutive terms

15.43 Once the days served have been calculated, they are applied to the 'terms' in the order they were imposed.

#### **Example 74**

On 15/11/2024 the following 'terms' are imposed

'Term' 1        £1,000 / 7 days

'Term' 2        £2,100 / 14 days consecutive

'Term' 3        £1,500 / 16 days consecutive

There were no reductions in respect of any of the 'terms'.

A request to pay out is received on 22/11/2024 (Friday)

On 22/11/2024 8 days have been served + 2 for Saturday and Sunday =  $10 \times 2 = 20$  days

'Term' 1 has been served. 20 days – 7 of 'term' 1 = 13 days

This means 13 days carry forward to 'term' 2. 14 days – 13 = 1 day to pay for on 'term' 2

No further days to carry forward to 'term' 3 which means 'term' 3 must be paid for in full.

'Term' 1	Served	
'Term' 2	1 X £2,100 divided by 13 =	£ 161.54
'Term' 3	in full	= £ 1,500.00

Total to secure release        £1,661.54

#### **Effect of ADAs**

15.44 ADAs cannot be awarded or applied to 'terms' enforced on or after 04/04/05. Therefore, there will be no need to consider them in a pay-out.

- 15.45 For 'terms' enforced before 04/04/05 ADAs could be awarded and applied to the 'term' being served. If a pay-out should occur in respect of a 'term' enforced before 04/04/05 where ADAs have been applied, please contact the sentence calculation helpline for advice about the pay-out calculation.

### **Appropriations**

- 15.46 If the prisoner is brought to the prison by the police and has enough money in possession to pay the money owed in full, the police escorting the prisoner must be asked if they have contacted the relevant court for instructions on whether or not to confiscate the money. If no such enquiry has been made by the police, the Governor has the discretion to refuse to accept the prisoner until the police have made the appropriate enquiries.
- 15.47 Any monies the prisoner has in their possession on arrival in prison custody must be appropriated immediately to pay towards the monies owed **providing** the appropriation will bring forward the release date of the 'term'. If there is not enough money to bring forward the release date, the monies must not be taken.
- 15.48 If representations are received from the prisoner, and the Governor is satisfied that the money does not belong to the prisoner or taking the money would cause undue hardship to the prisoner and/or family, the Governor has the discretion to decide that the appropriation should not be done.

### **Calculating the Appropriation**

- 15.49 The first thing is to find how much a day of the 'term' imposed is worth. This is known as the Daily Monetary Rate (DMR). It is found by using the original amount and default term imposed by the court before any reductions have been made. In the case of confiscation orders this is the amount and term that was set originally by the Crown Court. The formula to be used to find the DMR is:

$$\frac{\text{Amount of Original Fine}}{\text{Days in Original 'Term' - 1}}$$

The resulting figure is rounded up to the nearest penny

- 15.50 Once the DMR is established the amount of money in the prisoner's possession must be divided by the DMR and the resulting figure rounded down. This is the number of days of the 'term' that the money can pay for.
- 15.51 The number of days must be deducted from the length of the 'term' that was enforced by the magistrates' court to find the new length of the 'term' on which the release dates must be re-calculated.

### **Example 75**

- A confiscation order was imposed by the Crown Court for £250,000 with 365 days to serve in default and 6 months to pay the monies. Only £1,750 was paid within the 6 months. The magistrates' court enforced £248,250 and 363 days on 1 January.
- The 363 days would give an ARD of 1 July

- When the prisoner arrived in prison custody on 1 January there was £5,000 in his/her possession. To appropriate the £5,000 must be divided by the DMR.
- The DMR is calculated using the original Crown Court figures (£250,000 and 365 days). Using the formula in para 14.49. £250,000 divided by 364 gives a DMR of £686.82
- £5,000 divided by the DMR of £686.82 = 7 whole days that can be paid for.
- 7 days deducted from the 363 day 'term' enforced by the magistrates' court will give a new 'term' length of 356 days which would give an ARD of 27 June
- Care must be taken to only take monies that would advance the release date. A check should be done on what the release date would be if only enough money for 6 days was taken. 363 – 6 days would give a new 'term' length of 357 days which would produce an ARD of 28 June. Therefore, taking the money for the extra day is valid.
- The new release dates based on the new 'term' length of 356 days would be calculated and provided to the prisoner.

#### Appropriations and multiple consecutive 'terms'

- 15.52 If there are multiple 'terms' the one with the lowest DMR must be used to calculate an appropriation first and then 'term' with the next lowest DMR. The principle is that there must be maximum benefit to the prisoner for the minimum outlay.

#### Appropriations and multiple concurrent 'terms'

- 15.53 The 'term' providing the latest ARD must be used to calculate the DMR first. Should there be enough money to reduce the ARD of that sentence to a point where the ARD of a concurrent 'term' comes into place, the DMR will need to be the total of the 2 'terms'.

#### **Example 76**

- A prisoner is received into custody on 3 February with the following warrants:
 

'Term' 1	£1250 / 30 days	DMR £43.11
'Term' 2	£800 / 28 days concurrent	DMR £29.63
- The prisoner has £320 in his/her possession on reception to custody.
- There is enough to pay for at least 2 days of the 30 day 'term' which would be the one giving the latest release date. Once 2 days have been paid for the 28 day 'term' comes into play. From that point onwards the total DMR to be used would be £72.74 (£43.11 + £29.63) in order to reduce both 'terms' at the same time.
- 2 days paid for from 'term' 1 would cost £86.22. £320 less the £86.22 would leave a balance of £233.78
- 233.78 divided by the combined DMR of £72.74 = 3 further days that can be paid for. This would mean that the 30 day 'term' would be reduced to 25 days.

- However, a 25 day 'term' would give 13 days to the ARD which is the same as if the 'term' was 26 days. Therefore, the prisoner receives no benefit for paying for an extra day and only enough money should be taken to reduce the 30 day 'term' to 26 days. This means that only 2 days are paid for on 'term' 2.
- The total amount of monies to be appropriated is:
 

2 days at £43.11	=	£86.22
2 days at £72.74	=	£145.48
TOTAL	=	£231.70
- The release dates would be re-calculated on the new length of 'term' 1 being 26 days

### **Costs of a warrant**

15.54 There are 2 types of costs that can appear on a warrant:

- Costs of issue of a warrant must be paid in full. They are usually a small amount but must be separated from the part payment calculation and added on in full at the end. They are most commonly seen on civil 'term' warrants such as council tax and maintenance.
- Costs of imposition of a warrant can be part paid. They are added to the amount of the original fine and the resulting total used as the figure in the pay-out formula.

### **Paperwork to be forwarded to the Court**

15.55 Once a warrant (including lodged warrants and confiscation order magistrates' court enforcement warrants) is received the prison must complete a F986 Part A and forward to the court to acknowledge receipt of the warrant.

15.56 Once the 'term' has been served and the prisoner has reached the ARD, part B of the F986 must be completed and forwarded to the court to advise them that the 'term' has been served.

15.57 If monies are appropriated or received for a pay-out, the payment must be recorded by the cashier in the establishment and forwarded to the court with the F412 that has been completed by the OMU (and F986B if the taking the monies result in an immediate release).

### **Remaining liabilities**

15.58 Prisoners must be advised that once the 'term' imposed for criminal matters has been served or, release has been secured by paying monies in part or in full, that the debt will be cleared. This is different to the position in respect of civil 'terms'. (See para 15.23).

## CHAPTER 16 – CIVIL ‘TERMS’ OF IMPRISONMENT

### 16.1 Main principles

- Not convicted of an offence Para 15.2
- No remand/tagged bail applicable Para 15.3
- ADAs not applicable Para 15.4
- Calculate on a green sheet Para 15.5
- Concurrent and consecutive to each other and to ‘sentences’ are calculated the same as terms in default. Para 15.6

#### Contempt ‘terms’

- Contempt of court (aged 17 +) - ARD ½ way point – SED at end Criminal or civil calculation the same. No licence and no TUSED Para 15.7

#### Civil ‘terms’ for non-payment

- Civil debt – serve in full Para 15.12
- Recognizances – serve in full Para 15.15

#### Pay-outs

- Same formula as for fine defaulters but no doubling of days served Para 15.18

#### Appropriations

- Cannot appropriate on reception only take money if prisoner offers it Para 15.22

#### Remaining liabilities

- Serving the ‘term’ imposed does not clear the debt Para 15.23

#### Breach of Gang Injunctions

- Imposed for Para 15.25
  - Aged 18 years or more - contempt term - ½ way release
  - Aged Under 18 years - served in full

### Further information:

#### Not convicted of an offence

- 16.2 Prisoners serving civil ‘terms’ have not been convicted of an offence and the warrant should not make any reference to a conviction, ‘Terms’ imposed in respect of convicted offences are covered in [Chapter 14](#).

#### No remand/tagged bail to be applied

- 16.3 Because there is no conviction of an offence, there is no legislative authority for the Prison Service to credit any remand/tagged bail time to a ‘term’ imposed for a civil matter/contempt. Therefore, if the court wish to reflect any remand/tagged bail, they must take such time into account when setting the length of the ‘term’ they impose.

#### Impact of ADAs

- 16.4 ADAs cannot be awarded against a civil ‘term’. If the civil ‘term’ is consecutive to a ‘sentence’ and ADAs are awarded before the prisoner begins serving the ‘term’, the release dates of the

'sentence' must be adjusted by the ADAs and the civil 'term' recalculated from the day after the new release date of the 'sentence'.

- 16.5 'Terms' imposed for civil matters are calculated/recorded on a green sheet whether they are entitled to release at the ½ way point or are required to serve the term in full.
- 16.6 Civil 'terms' that are concurrent and consecutive to one another and to 'sentences' of imprisonment are calculated in the same way as 'terms' of imprisonment in default of payment, the explanation of which is set out in paras 14.6 to 14.12.

#### **'Terms' imposed for contempt**

- 16.7 'Terms' for contempt can be imposed by any type of court:
- Contempt only applies to those aged 17 or over. There is no power to commit a person under the age of 17 to a 'term' for contempt.
  - Contempt can be civil or criminal, but BOTH are subject to the release provisions of Section 258 of the CJA 2003.
  - They have an ARD at the ½ way point of the 'term' (except those in para 15.8) and an SED at the end.
  - There is no licence period attached to a contempt 'term'.
  - There is no post sentence supervision attached to the 'term'.
- 16.8 If the warrant for the 'term' for contempt is dated on or before 04/04/05 and the 'term' is for 12 months or more, the ARD is at the ⅔ point rather than the ½ way point, in accordance with Schedule 20B of the CJA 2003.
- 16.9 Criminal contempt is where a person interferes with the ability of the court to function properly – for example, by yelling at the Judge – and it can also be referred to as direct contempt as it occurs directly in front of the Judge.
- 16.10 Civil contempt is where a person wilfully disobeys an order of the court.

#### **Civil 'terms' for non-payment of Orders made**

- 16.11 The release provisions of section 258 of the CJA 2003 does not apply to civil 'terms' for non-payment which means that the 'terms' must be served in full. The ARD and SED will be the same at the end of the 'term'.

#### **Civil debt**

- 16.12 Under Section 11 of the Administration of Justice Act 1970, courts can commit to prison for civil debt in the following cases:
- By the High Court in respect of a maintenance order made by the High Court
  - By the Family Court in respect of a maintenance order made by the High Court or Family Court
  - By a County Court in respect of failure to pay;
    - Income tax, capital gains tax or corporation tax
    - National insurance contributions
    - Redundancy fund contributions

- 16.13 The maximum 'term' that can be imposed in the magistrates' court in respect of a civil debt is 42 days. A prisoner committed to custody can part-pay the amount owed to secure release – see para 15.20 for the calculation.
- 16.14 If the 'term' was imposed/enforced by a County Court and a prisoner wishes to pay monies to secure release, the amount that was owed at the point of enforcement is payable in full at any time after that point, irrespective of how long the prisoner has served of the 'term'.

Recognizances to keep the peace or be of good behaviour

- 16.15 Under section 115 of the Magistrates' Court Act 1980, a magistrates' court may order someone, of at least 21 years of age, to enter into a recognizance (with or without sureties) to keep the peace and/or to be of good behaviour.
- 16.16 If the person:
- Fails to consent to the recognizance when ordered
  - Fails to provide any surety that is ordered
  - Fails to comply with the order

They can be committed to prison by the magistrates' court for up to 6 months or until the person complies with the order. The 'term' is served in full unless the person complies with the order.

- 16.17 Under section 120 of the 1980 Act, anyone who forfeits a recognizance to keep the peace/be of good behaviour can be required to pay the sum of the recognizance. The sum required is treated as a fine. Subsequent failure to pay the sum could result in the imposition of a 'term' of imprisonment in default. Such a 'term' is treated the same as a criminal 'term' in default with an ARD at the ½ way point of the 'term' imposed.

Pay-outs

- 16.18 The formula is the same as that for terms in default, but there is no doubling up for the days served
- 16.19 Days to pay for in the formula is:
- The number of days in the 'term' enforced by the magistrates' court **MINUS**
  - the number of days that have actually been served in custody (including weekend and Bank holiday and relevant remand days where appropriate).

- 16.20 The formula to calculate the amount required to secure release is:

$$\frac{\text{Days to Pay For} \times \text{Original Fine}}{(\text{Original 'Term' Imposed} - 1)}$$

The resulting figure is rounded up to the nearest whole penny.

A proforma to assist in the calculations for pay outs is at APPENDIX 8

- 16.21 The calculation must always be carried out by a 'licenced to operate' member of staff as the exact amount to pay-out must always be calculated. This is because serving the default 'term'

does not clear the debt (see para 15.24) and any monies received would ALL be forwarded to the court as monies owed.

### **Appropriations**

16.22 The legislation providing for monies found on the prisoner on reception to be appropriated applies only in cases where the person has been convicted of an offence. Prisoners received in custody in respect of civil debts have not been convicted. Therefore, the appropriation of monies on reception cannot be carried out unless the prisoner offers to pay monies towards the debt owed.

### **Remaining liabilities**

16.23 Prisoners subject to 'terms' imposed in respect of civil debts must be advised that the monies owed are not cleared by serving the 'term' imposed. However, once the 'term' has been served, they cannot be imprisoned for the same debt owed.

16.24 Any monies paid to secure release will go towards reducing the debt owed.

### **Breach of gang injunctions**

16.25 A 'term' imposed for breaching a Gang Injunction is a civil term but the release point of the 'term' depends on the age of the prisoner:

- Prisoners aged 18 years or more will be committed under the contempt legislation which means they are entitled to be released unconditionally at the ½ way point of the 'term' imposed.
- Prisoners under 18 may be ordered to serve a 'term' of detention of up to 3 months. The 'term' imposed must be served in full.

15.27 A summary of the release points and pay-out options for civil prisoners can be found in the table at **APPENDIX 9**.

**Draft letter for completion if challenging a sentence made consecutive to a licence recall.**

To: The Court Manager

Re:

M ..... appeared in your court on ..... and a sentence of..... was imposed which was ordered to be consecutive to any other periods of imprisonment to which the defendant was subject.

M ..... was originally sentenced to ..... on ..... and initial release took place from that sentence on licence on .....

On ..... the licence was revoked by the Secretary of State and M..... was recalled to prison to continue to serve that earlier sentence in custody. This sentence is not due to expire until.....

The new sentence imposed at your court would appear to fall under the restriction of consecutive sentences set out in section 225 of the Sentencing Code 2020 which ensures that a sentence cannot be imposed consecutively to any term of imprisonment from which release has already taken place, even where the earlier sentence has not yet expired.

In view of the above legislation, I should be grateful if you would consider the consecutive direction in respect of the sentence imposed at your court and let me have your comments or an amended Order of Imprisonment.

**APPENDIX 2**

**Schedule 15 offences which attract a life sentence as maximum penalty**

**Key:**

Sentence imposed on or after	Sentence type & length	Appendix 2 offences	Calc sheet to use
01/04/2020 but before 28/06/2022	SDS/DYOI 7 years or more	<u>All</u> offences <u>EXCEPT</u> : Green highlighted offences	<b>PEACH</b> <b>GREEN</b>
28/06/2022	SDS/DYOI 7 years or more	<u>All</u> offences	<b>PEACH</b>
	SDS/DYOI 4 years < 7 years	Only peach highlighted offences	<b>PEACH</b>
	S250 7 years or more		

**Part 1: Violent Offences**

No. on sch. 15	Offence	Max Penalty
1	<b>Manslaughter</b>	Life
2	<b>Kidnapping</b>	Life
3	<b>False imprisonment</b>	Life
4	<b>Soliciting murder</b> (An offence under section 4 of the Offences against the Person Act 1861)	Life
6	<b>Wounding with intent to cause grievous bodily harm</b> (An offence under section 18 of the Offences against the Person Act 1861)	Life
8	<b>Attempting to choke, suffocate or strangle in order to commit or assist in committing an indictable offence.</b> (An offence under section 21 of the Offences against the Person Act 1861)	Life
9	<b>Using chloroform etc. to commit or assist in the committing of any indictable offence.</b> (An offence under section 22 of the Offences against the Person Act 1861)	Life
12	<b>Causing bodily injury by explosives</b> (An offence under section 28 of the Offences against the Person Act 1861)	Life
13	<b>Using explosives etc. with intent to do GBH</b> (An offence under section 29 of the Offences against the Person Act 1861)	Life
16	<b>Endangering the safety of railway passengers</b>	Life

	(An offence under section 32 of the Offences against the Person Act 1861)	
21	<b>Causing explosion likely to endanger life or property</b> (An offence under section 2 of the Explosive Substances Act 1883)	Life
22	<b>Attempt to cause explosion or making or keeping explosive with intent to endanger life or property</b> (An offence under section 3 of the Explosive Substances Act 1883)	Life
22A	<b>Making or possession of explosive under suspicious circumstances.</b> (An offence under section 4 of the Explosive Substances Act 1883)	Life
23	<b>Child destruction</b> (An offence under section 1 of the Infant Life (Preservation) Act 1929)	Life
25	<b>Infanticide</b> (An offence under section 1 of the Infanticide Act 1938)	Life
26	<b>Possession of firearm with intent to endanger life</b> (An offence under section 16 of the Firearms Act 1968)	Life
28	<b>Use of firearm to resist arrest</b> (An offence under section 17(1) of the Firearms Act 1968)	Life
29	<b>Possession of firearm at time of committing or being arrested for offence specified in Schedule 1 to that Act.</b> (An offence under section 17(2) of the Firearms Act 1968)	Life
30	<b>Carry a firearm with criminal intent</b> (An offence under section 18 of the Firearms Act 1968)	Life
31	<b>Robbery/assault with intent to rob</b> (An offence under section 8 of the Theft Act 1968)	Life
33	<b>Aggravated burglary</b> (An offence under section 10 of the Theft Act 1968)	Life
35	<b>Arson</b> (An offence of arson under section 1 of the Criminal Damage Act 1971)	Life
36	<b>Destroying or damaging property other than arson</b> (An offence of arson under section 1(2) of the Criminal Damage Act 1971)	Life
37	<b>Hostage taking</b> (An offence under section 1 of the Taking of Hostages Act 1982)	Life
38	<b>Hijacking</b> (An offence under section 1 of the Aviation Security Act 1982)	Life
39	<b>Destroying, damaging or endangering safety of aircraft</b> (An offence under section 2 of the Aviation Security Act 1982)	Life
40	<b>Other acts endangering or likely to endanger safety of aircraft</b> (An offence under section 3 of the Aviation Security Act 1982)	Life
47	<b>Torture</b> (An offence under section 134 of the Criminal Justice Act 1988)	Life
48	<b>Causing death by dangerous driving</b>	Life

	(An offence under section 1 of the Road Traffic Act 1988)	(max penalty increased with PCSC Act 2022 – 28/06/22)
49	<b>Causing death by careless driving when under influence of drink or drugs</b> (An offence under section 3A of the Road Traffic Act 1988)	Life (max penalty increased with PCSC Act 2022 – 28/06/22)
50	<b>Endangering safety at aerodromes</b> (An offence under section 1 of the Aviation and Maritime Security Act 1990)	Life
51	<b>Hijacking of ships</b> (An offence under section 9 of the Aviation and Maritime Security Act 1990)	Life
52	<b>Seizing or exercising control of fixed platforms</b> (An offence under section 10 of the Aviation and Maritime Security Act 1990)	Life
53	<b>Destroying ships or fixed platforms endangering their safety</b> (An offence under section 11 of the Aviation and Maritime Security Act 1990)	Life
54	<b>Other acts endangering or likely to endanger safe navigation</b> (An offence under section 12 of the Aviation and Maritime Security Act 1990)	Life
55	<b>Offences involving threats</b> (An offence under section 13 of the Aviation and Maritime Security Act 1990)	Life
56	<b>Offences relating to Channel Tunnel trains and the tunnel system</b> (An offence under Part II of the Channel Tunnel (Security) Order 1994 (S.I. 1994/570))	Life
60A	An offence against <b>section 47 of the Anti-terrorism, crime and security act 2001</b> (use etc of nuclear weapons)	Life (added by the PCSC Act 2022 – 28/06/22)
60B	An offence against <b>section 50</b> of that Act (assisting or inducing certain weapons related acts overseas)	Life (added by the PCSC Act 2022 – 28/06/22)
63A	<b>Causing or allowing a child or vulnerable adult to die</b> An offence under section 5(7) of the Domestic Violence, Crime and Victims Act 2004	Life (max penalty increased with PCSC Act 2022 – 28/06/22)

63G	<b>Slavery, servitude and forced or compulsory labour</b> (An offence under section 1 of the Modern Slavery Act 2015)	Life
63H	<b>Human Trafficking</b> (An offence under section 2 of the Modern Slavery Act 2015) <b>(if for sexual exploitation - see line 152A)</b>	Life
63I	An offence under paragraph 1 of <a href="#">Schedule 4</a> to the Space Industry Act 2018 (hijacking of spacecraft)	Life
63J	An offence under paragraph 2 of that Schedule (destroying, damaging or endangering the safety of spacecraft).	Life
63K	An offence under paragraph 3 of that Schedule (other acts endangering or likely to endanger safety of spacecraft).	Life
63L	An offence under paragraph 4 of that Schedule (endangering safety at spaceports).	Life
64	<b>(1) Aiding, abetting, counselling or procuring the commission of an offence specified in the preceding paragraphs of this Part of this Schedule.</b>  <b>(2) An attempt to commit such an offence.</b>  <b>(3) Conspiracy to commit such an offence.</b>  <b>(4) Incitement to commit such an offence.</b>  <b>(5) An offence under Part 2 of the Serious Crime Act 2007 in relation to which an offence specified in the preceding paragraphs of this Part of this Schedule is the anticipated or reference offence (or one of the offences)</b>	Same as substantive offence
65	<b>(1) An attempt to commit murder.</b>  <b>(2) Conspiracy to commit murder.</b>  <b>(3) Incitement to commit murder.</b>  <b>(4) An offence under Part 2 of the Serious Crime Act 2007 in relation to which murder is the offence (or one of the offences) which the person intended or believed would be committed</b>	Life

## Part 2: Specified sexual offences

66	<b>Rape</b> (An offence under section 1 of the Sexual Offences Act 1956)	Life
70	<b>Intercourse with girl under 13</b> (An offence under section 5 of the Sexual Offences Act 1956)	Life
74	<b>Incest by a man with a girl under 13</b> (An offence under section 10 of the Sexual Offences Act 1956)	Life
86	<b>Permitting girl under 13 to use premises for intercourse</b>	Life

	(An offence under section 25 of the Sexual Offences Act 1956)	
102	<b>Rape</b> (An offence under section 1 of the Sexual Offences Act 2003)	Life
103	<b>Assault by Penetration</b> (An offence under section 2 of the Sexual Offences Act 2003)	Life
105	<b>Causing a person to engage in sexual activity without consent</b> (An offence under section 4 of the Sexual Offences Act 2003 where it is alleged that the activity caused <b>involved penetration</b> within subsection (4)(a) to (d) of that section)	Life
106	<b>Rape of a child and other offences against children under 13</b> (An offence under section 5 of the Sexual Offences Act 2003)	Life
107	<b>Assault of a child under 13 by penetration</b> (An offence under section 6 of the Sexual Offences Act 2003)	Life
109	<b>Causing a child under 13 to engage in sexual activity</b> (An offence under section 8 of the Sexual Offences Act 2003 where it is alleged that an activity <b>involving penetration</b> within subsection (2)(a) to (d) of that section was caused)	Life
123	<b>Sexual activity with a person with a mental disorder impeding choice</b> (An offence under section 30 of the Sexual Offences Act 2003 where it is alleged that the activity caused <b>involved penetration</b> within subsection (3)(a) to (d) of that section).	Life
124	<b>Causing or inciting a person with a mental disorder impeding choice to engage in sexual activity</b> (An offence under section 31 of the Sexual Offences Act 2003 where it is alleged that the activity caused <b>involved penetration</b> within subsection (3)(a) to (d) of that section).	Life
127	<b>Inducement, threat or deception to procure sexual activity with a person with a mental disorder</b> (An offence under section 34 of the Sexual Offences Act 2003 where it is alleged that the activity caused <b>involved penetration</b> within subsection (2)(a) to (d) of that section).	Life
128	<b>Causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception</b> (An offence under section 35 of the Sexual Offences Act 2003 where it is alleged that the activity caused <b>involved penetration</b> within subsection (2)(a) to (d) of that section).	Life
135	<b>Paying for sexual services of a child (where victim is under 13, penetrative)</b> (An offence under section 47 of the Sexual Offences Act 2003 where it is alleged that the activity caused <b>involved penetration</b> within subsection (2)(a) to (d) of that section).	Life
145	<b>Kidnapping or false imprisonment committed with the intention of committing a relevant sexual offence</b> (An offence under section 62(3) of the Sexual Offences Act 2003 where the offender commits a kidnap or false imprisonment with the intention of committing an offence under Part 3 of that Act.	Life

152A	An offence under section 2 of the Modern Slavery Act 2015 (human trafficking) <b>committed with a view to exploitation that consists of or includes behaviour within section 3(3) of that Act (sexual exploitation)</b>	Life
153	<p><b>(1) Aiding, abetting, counselling or procuring the commission of an offence specified in the preceding paragraphs of this Part of this Schedule.</b></p> <p><b>(2) An attempt to commit such an offence.</b></p> <p><b>(3) Conspiracy to commit such an offence.</b></p> <p><b>(4) Incitement to commit such an offence.</b></p> <p><b>(5) An offence under Part 2 of the Serious Crime Act 2007 in relation to which an offence specified in the preceding paragraphs of this Part of this Schedule is the offence (or one of the offences) which the person intended or believed would be committed</b></p>	<p>Same as substantive offence <b>except</b> for attempt of section 5 of the Sexual Offences Act 1956. (Intercourse with a girl under 13)</p>

**BREACH TYPE TABLE**

**APPENDIX 3**

Type of breach	Criminal or Civil?	Term/sentence served in full or release at the half-way point?	Does the date of breach <u>or</u> original offence determine if the provisions of ORA apply?	Does the sentence attract a licence?	What remand time will apply?
Breach of Anti-Social Behaviour Injunction (ASBI) (18 years or older)	Civil (Contempt)	Half	N/A	No	N/A - term of contempt
Breach of Anti-Social Behaviour Injunction (ASBI) (under 18 years)	Criminal	In Full	N/A	No	N/A - term of detention
Breach of Anti-Social Behaviour Order (ASBO)	Criminal	Half	Breach	Yes (except if sentence is less than 12 months and the <b>breach</b> was committed before 01/02/2015)	Remand relating to breach matter
Breach of Bail Section 6 (Fail to Surrender)	Criminal	Half	Breach	Yes (except if sentence is less than 12 months and the <b>breach</b> was committed before 01/02/2015)	Remand relating to breach matter
Breach of Bail Section 7	Dependent on original offence	Half	Original Offence	Yes (except if sentence is less than 12 months and the <b>original offence</b> was committed before 01/02/2015)	Remand relating to original offence and remand following the breach
Breach of Community Order	Criminal	Half	Original Offence	Yes (except if sentence is less than 12 months and the <b>original offence</b> was committed before 01/02/2015)	Remand relating to original offence and remand following the breach
Breach of Conditional Discharge	Criminal	Half	Original Offence	Yes (except if sentence is less than 12 months and the <b>original offence</b> was committed before 01/02/2015)	Remand relating to original offence and remand following the breach

Type of breach	Criminal or Civil?	Term/sentence served in full or release at the half-way point?	Does the date of breach <u>or</u> original offence determine if the provisions of ORA apply?	Does the sentence attract a licence?	What remand time will apply?
Breach of Criminal Behaviour Order (CRIMBO)	Criminal	Half	Breach	Yes (except if sentence is less than 12 months and the <b>breach</b> was committed before 01/02/2015)	Remand relating to breach matter
Breach of Domestic Violence Protection Order (DVPO)	Civil (Contempt)	Half	N/A	No	N/A - term of contempt
Breach of Forced Marriage Protection Order	Criminal	Half	Breach	Yes (except if sentence is less than 12 months and the <b>breach</b> was committed before 01/02/2015)	Remand relating to breach matter
Breach of Gang Injunction (18 years or over)	Civil (Contempt)	Half	N/A	No	N/A - term of contempt
Breach of Gang Injunction (under 18 years)	Criminal	In Full	Breach	No	N/A - term of detention
Breach of Intensive Supervision Court Order (BISCO) (Schedule 10 of SA 2020: Section 10(5)(ba) – Magistrates Section 11(2)(ba) – Crown)	Criminal	In Full	N/A	No	N/A -term of imprisonment
Breach of Non-Molestation Order	Criminal	Half	Breach	Yes (except if sentence is less than 12 months and the <b>breach</b> was committed before 01/02/2015)	Remand relating to breach matter
Breach of Post Sentence Supervision (BOTUS) (Section 256AC)	Criminal	In Full	N/A	Anything remaining from the original PSS period	N/A - term of imprisonment

Type of breach	Criminal or Civil?	Term/sentence served in full or release at the half-way point?	Does the date of breach <u>or</u> original offence determine if the provisions of ORA apply?	Does the sentence attract a licence?	What remand time will apply?
Breach of Referral Order	Criminal	Half	Original Offence	Yes (except if sentence is less than 12 months and the <b>original offence</b> was committed before 01/02/2015)	Remand relating to original offence and remand following the breach
Breach of Restraining Order	Criminal	Half	Breach	Yes (except if sentence is less than 12 months and the <b>breach</b> was committed before 01/02/2015)	Remand relating to breach matter
Breach of Risk of Sexual Harm Orders and Sexual Risk Orders (previously known as Breach of Sex Offender Prevention Order (SOPO))	Criminal	Half	Breach	Yes (except if sentence is less than 12 months and the <b>breach</b> was committed before 01/02/2015)	Remand relating to breach matter
Breach of Serious Violence Reduction Orders (SVRO)	Criminal	Half	Breach	Yes	Remand relating to breach matter
Breach of Stalking Protection Order	Criminal	Half	Breach	Yes	Remand relating to breach matter
Breach of Suspended Sentence Order (SSO)	Criminal	Half	Original Offence	Yes (except if sentence is less than 12 months and the <b>original offence</b> was committed before 01/02/2015)	Remand relating to original offence and remand following the breach
Breach of Young Offender Supervision Notice (Section 256C)	Criminal	In Full	N/A	Anything remaining from the original notice of supervision	N/A - term of imprisonment
Breach of Youth Rehabilitation Order (YRO)	Criminal	Half	Original Offence	Yes (except if sentence is less than 12 months and the <b>original offence</b> was committed before 01/02/2015)	Remand relating to original offence and remand following the breach



**FORMS FOR POLICE CUSTODY TIME**

**First form: for issue to all prisoners prior to interview on first reception into prison custody.** *The prisoner must be asked to supply the information required and sign the form. Should the prisoner decline to do so the possible effect on his or her release date must be explained.*

For any relevant time to be credited towards your release date this form should be completed and forwarded to the OMU/Custody office

Surname .....		Forenames.....	
Aliases.....		Prison No: .....	
Date of Birth.....			
FROM	TO	LOCATION	OFFENCE

Signed .....

-----  
**This section for completion by OMU/Custody Office**

To: ..... (name of prisoner)

The following dates have been confirmed as relevant police detention/remand time.

Signed: ..... Date: .....

**Second form: to be sent to the relevant police station(s).**

To: The Custody Sergeant

From: HM Prison

Date: .....

**TIME SPENT IN POLICE DETENTION**

Surname .....

Forenames.....

Aliases.....

Prison No: .....

Date of Birth.....

The above named prisoner claims that he was held in custody at your station on the following dates:

Please check your records, complete the table below and return to the above address.

I confirm that the periods indicated below were spent in custody at this station			
Signed:.....		Date: .....	
Date of arrest	Date of release	Offence	Date of offence

If the prisoner was held on Breach of Bail please specify whether section 6 or section 7 of the Bail Act 1976 applied

**APPENDIX 5**

**Exceptional circumstances for UAL time**

When a sentenced prisoner (including a fine defaulter, a contemnor or a civil prisoner) has been unlawfully at large (UAL) from prison and is then returned to custody, the period of absence will

not be treated as part of the sentence served unless PPCS on behalf of the Justice Secretary directs that it should. In exceptional circumstances, it may be appropriate to allow a period spent UAL to count towards completion of the sentence. Each case will be considered on its individual merits.

NOMS have advised that the following are examples of features that could be considered under exceptional circumstances, this list is by no means exhaustive.

**The length of time before the prisoner is informed that they are/have been UAL**

In cases of erroneous release, if a prisoner is identified as a release in error and is returned to custody relatively quickly, then their case may be less deserving than those who are identified after a lengthy period of release.

**The extent to which the prisoner has been disadvantaged by their return to custody**

For example, if the prisoner will lose employment and accommodation links.

**Whether the prisoner has deliberately withheld knowledge of the error**

If it can be established that the prisoner was well aware that they were released too soon then this would render the exercise of the Secretary of State's discretion inappropriate

**Public protection issues**

*Consideration must be given to the circumstances of a prisoner's release, in particular the security conditions under which they were held immediately prior to release, and any outstanding and existing risk factors.*

**Family issues**

*Where the prisoner is a primary carer, regard must be paid to the care and wellbeing of the child or other person for whom they have been caring.*

Only in very exceptional circumstances would the Justice Secretary consider allowing UAL time that equated to more than 25% of the sentence term to count against sentence.

**In cases of releases in error**

Where a prisoner has been released in error, so they are unknowingly UAL through no fault of their own, and in addition they were released subject to conditions which placed significant restriction on their liberty, consideration should be given that a percentage of this time should count towards their sentence.

## **Special Remission – Examples of factors that may need to be considered**

Where an error has been made in the calculation of a prisoner's sentence and depending on the circumstances, the following factors may need to be taken into consideration:

### **1. The length of time the prisoner has been under a misapprehension**

If the error is discovered and rectified soon after it was made, then the prisoner is unlikely to have suffered any substantial disappointment and special remission would not normally be granted. If, however, the mistake is not discovered until shortly before the date on which he or she expects to be released or the prisoner was given the date some time before being released then there may be a case for granting remission. *There are no hard and fast rules; individual cases must be considered on their merits and in the light of precedents.*

### **2. The extent to which the prisoner has made plans for release on the incorrect date**

If the prisoner has no family or job to go to and the mistake results only in a measure of personal disappointment, without affecting his or her future plans, the case for remission is weakened. If, on the other hand, the prisoner has made domestic plans or has secured an offer of employment which may be lost if he or she is not released to take it up, the grounds for remission are stronger.

### **3. Whether the prisoner has deliberately withheld knowledge of the error**

Occasionally, a prisoner who is well aware of the true extent of his or her sentence may deliberately remain silent in the hope of benefiting from an undiscovered error. This would weigh against the granting of remission.

### **4. The length of time or proportion of the sentence that would not be served**

Only in very exceptional circumstances would a liability to serve more than 25% of the term imposed by the court or a period of more than 2 months be cancelled by exercise of the Royal Prerogative. *Where, exceptionally, this is considered appropriate, the views of the sentencing court must be obtained.*

**SPECIAL REMISSION CALCULATION PROFORMA**

- Always use the figures from page 2 of the calculation sheet.
- If you use figures from page 1 of the calculation sheet an allowance has to be made for any ADAs or UAL.

<b>A</b>		Number of days in the length of sentence imposed by the court (custodial period for EDS/SOPC/SDOPC/STS)
<b>B</b>		Number of days to ARD/CRD/NPD/PED (or what should have been the correct release date)
<b>C</b>		Number of days earlier release approved (or number of days between incorrect and correct release date)
<b>D</b>		B - C to give a new total
<b>E</b>		Number of days remand/tagged bail (PCT if applicable) + D
<b>F</b>		100% of E for ARD, CRD, PED 50% of E (rounded down) for $\frac{2}{3}$ PED/NPD/Peach sheet CRD
<b>G</b>		E + F = new sentence length
<b>H</b>		A - G = number of days RPM/special remission

***A new calculation must now be carried out using the new sentence length (as at G above)***

<b>Number:</b>		<b>Name:</b>			
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	
Default term					
Start date					
Release on					

		<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
<b>A</b>	<b>Days in term</b> (as reduced if applicable)				
<b>B</b>	<b>Days served</b> All days served to date Includes remand and/or tagged bail days applied to the term Credit days for weekend/bank holiday (pay-out on Friday)				
<b>C</b>	<b>Days entitlement</b> 100% of B where ARD is at the ½ way point 50% of B where the ARD is at the ¾ point* 0% of B if term is served in full				
<b>D</b>	B + C = days deemed to have been served				
<b>E</b>	A – D = days to pay for				

\* This only applies for terms in default of 12 months or more enforced before 04.04.05

**Formula for Calculations**

$$\frac{\text{Number of days to pay for} \times \text{£ amount of original fine}}{(\text{Number of days in original term} - 1)} = \text{Amount required (£)}$$

**Each fine must be calculated separately**

1  $\frac{\text{days} \times \text{£}}{(\text{ } - 1 \text{ day})} = \text{£}$

2  $\frac{\text{days} \times \text{£}}{(\text{ } - 1 \text{ day})} = \text{£}$

3  $\frac{\text{days} \times \text{£}}{(\text{ } - 1 \text{ day})} = \text{£}$

4  $\frac{\text{days} \times \text{£}}{(\text{ } - 1 \text{ day})} = \text{£}$

<b>Sub Total</b>	<b>£</b>
Minus any appropriations plus distress warrants	<b>£</b>
<b>Total required to secure release</b>	<b>£</b>

Calculation completed by: \_\_\_\_\_ Date: \_\_\_\_\_

Checked by: \_\_\_\_\_ Date: \_\_\_\_\_

**APPENDIX 9**

**SUMMARY OF RELEASE AND PAY-OUT OPTIONS FOR CIVIL PRISONERS**

Occasion	Court	Remand or police custody time applies?	Early release?	Full payment required or part admissible?
<b>Civil and judgment debts</b>				
Council Tax	Mag County	no	no	part full
Income Tax	Mag County	no	no	part full
Maintenance arrears and costs	Mag	no	no	part
<b>Contempt of court (civil &amp; criminal)</b>				
Contempt of court, i.e. of some order of the court in connection with the case in hand	Crown Mag High County	no no no no	yes yes yes yes	
Disobey non-monetary order	Mag	no	yes	
Failure to enter recognizances(i.e. to be bound over)	Mag	no	no	
Various acts of mischief in the Court	Crown Mag High County	no no no no	yes yes yes yes	

**Power to Detain (section 244ZB) multiple sentence examples**

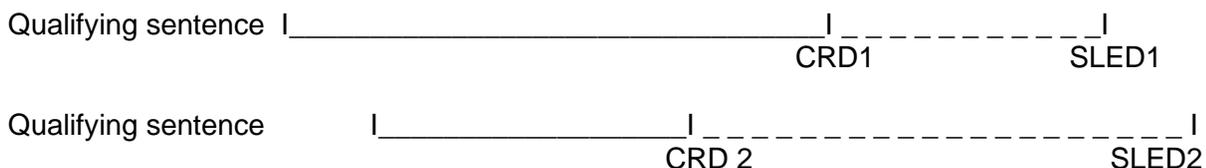
This Appendix describes how to apply the power to detain to offenders serving multiple sentences, and at what point the referral can be applied.

**Once the referral points referenced below have passed, the prisoner is no longer eligible for the regime to be applied to them. Once the prisoner is released on licence, they are no longer eligible for the regime to be applied to them – the below examples assume the prisoner continues to be detained up until the relevant CRD.**

*Concurrent sentences*

- 1) For prisoners who meet the legal threshold who are serving concurrent sentences where all the sentences are qualifying sentences, the referral cut-off is the latest CRD and conclusion of the regime will apply to the latest SLED, in line with concurrent sentencing principles. See example 1.
- 2) Prisoners who meet the legal threshold who are serving concurrent qualifying and non-qualifying sentences, where the CRD of the non-qualifying sentence falls before the CRD of the qualifying sentence, will be considered under this policy, and the referral requirement will attach to the CRD of the qualifying sentence – this is because the prisoner will not have been considered by the Board owing to the later CRD on the qualifying sentence, and will not be eligible at any point to be considered by the Board on the custodial term of their non-qualifying sentence. See example 2.
- 3) In example 2, where the SLED from the qualifying sentence falls before the SLED of the non-qualifying sentence, prisoners must not be detained past the SLED of the qualifying sentence. In these circumstances, if the Parole Board has not decided to release prior to SLED, release on the qualifying SLED will take place and the prisoner will be on licence to the SLED of the non-qualifying sentence. Where the SLED for the non-qualifying sentence falls before the SLED for the qualifying sentence, the prisoner must be detained until the later SLED unless the Board release them on licence before this - see example 3.
- 4) Where a prisoner’s CRD for their qualifying sentence falls before the CRD for the non-qualifying sentence, the first CRD will be converted to a PED and the prisoner will be referred to the Parole Board if they meet the criteria for use of this policy. See example 4.

**Example 1**



- If evidence to apply this policy, CRD1 becomes the PED.

- If no parole granted, prisoner not entitled to be released before SLED2

### **Example 2**

Qualifying sentence |-----|-----|  
| |  
CRD1 SLED1

EDS/SOPC sentence |-----|-----|-----|  
| | | |  
PED 2 CRD 2 SLED2

- Because the CRD of the qualifying sentence is later than the PED2 and CRD2 of the concurrent EDS/SOPC, there will be no parole consideration on the EDS/SOPC as the prisoner cannot be physically released until CRD1.
- If evidence to apply this policy, CRD1 becomes a PED. If parole is not granted, then conditional release would take place at SLED1.
- Release would be on the extant licence in respect of the EDS/SOPC to SLED 2

### **Example 3**

Qualifying sentence |-----|-----|  
| |  
CRD1 SLED1

EDS/SOPC sentence |-----|-----|-----|  
| | | |  
PED 2 CRD 2 SLED2

- Because the CRD of the qualifying sentence is later than the PED2 and CRD2 of the concurrent EDS/SOPC, there will be no parole consideration on the EDS/SOPC as the prisoner cannot be physically released until CRD1.
- If evidence to apply this policy, CRD1 becomes a PED. If parole is not granted, then conditional release would take place at SLED1.
- Release would be unconditional as there is no extant licence period at that point.

### **Example 4**

Qualifying sentence |-----|-----|  
| |  
CRD1 SLED1

EDS/SOPC sentence |-----|-----|-----|  
| | | |  
PED2 CRD2 SLED2

- CRD1 would default to a PED as that is the earliest point parole could be granted on the EDS/SOPC.
- If no evidence to apply this policy, CRD1 would be a normal parole review and, if not granted parole, conditional release would be at CRD2.
- If evidence to apply this policy, CRD1 would be a parole review under the new scheme.



