

The Counter-Terrorism and Sentencing Bill – Release

Factsheet

What are we doing

1. The Bill makes changes to release arrangements for the most serious terrorist offenders serving an Extended Determinate Sentence (EDS) and introduces the changes made in the TORER Act 2020 to Northern Ireland.
2. The most serious terror offences already attract what are known as Extended Determinate Sentences (EDS), which require an offender to be referred to the Parole Board at the two-thirds stage of their custodial term where they can be considered for release. At the end of the custodial term, the offender will be released on an extended licence. For terrorist offenders where the maximum penalty for their offence is life, this Bill removes the opportunity of Parole Board directed release before the end of the custodial term, ensuring they serve the whole term in custody. For this cohort of offenders, this Bill extends the maximum available licence period from 8 to 10 years. This applies UK-wide and to both young and adult offenders
3. Provisions made in the TORER Act 2020 applied to Great Britain, but did not extend to Northern Ireland at that time. Northern Ireland sets their Determinate Custodial Sentences (DCS) differently from the E&W Standard Determinate Sentence (SDS) and the Scottish equivalent, which required further analysis before we could act. This Bill includes provision to rectify this inconsistency.
4. This will align the release arrangements for terrorist offenders in Northern Ireland to the changes made in Great Britain by the TORER Act, meaning they will only be considered for release before the end of their custodial term through referral to the Parole Commissioners, which is the Northern Irish equivalent of the Parole Board. Further, terrorist offenders will only be eligible for Parole Commissioner consideration from the two-thirds point of their custodial term.

Sentences in UK jurisdictions

Extended Sentences

1. The equivalent to an EDS in England and Wales is called an Extended Sentence (ES) in Scotland and an Extended Custodial Sentence (ECS) in Northern Ireland. The changes to extended sentences apply UK-wide, making changes to EDS, ES and ECS respectively, and to both youth and adult offenders.

Specific Provision for Scotland

2. Single terming: In Scotland multiple sentences (carried out either concurrently or consecutively) are amalgamated into one sentence with one release date at the point of sentencing, referred to as 'single terming'. This is a unique feature of Scottish sentencing, and does not occur in the rest of the UK. Due to the provisions of the TORER Act 2020 and those set out in this Bill, release provisions for terrorism sentences should be different than those for other sentences. To ensure clarity of release arrangements at the point of sentencing, this Bill disapplies the process of single terming for individuals with multiple offences where one or more of these offences is a terrorism offence defined in this Bill.

How does this compare to current practice?

Extended sentence - removal of discretionary release example:

Offence and sentence: weapons training (section 54 of the Terrorist Act 2000; maximum penalty of life imprisonment); offender sentenced to an EDS of 12 years in custody and 5 additional years on licence.

What happens now: the offender would be considered for release by the Parole Board at the two-thirds point of their custodial sentence (after serving 8 years in custody). If the Parole Board finds them safe to be released, they will spend the rest of their custodial term (4 years) on licence in the community, plus the extension period of 5 years set by the sentencing judge. If the Parole Board does not find the offender is safe to release then the offender would remain in custody and be eligible for another review by the Parole Board after two years (after serving a total of 10 years). If the offender is not found suitable for early release by the Parole Board at any point during their custodial term, they must be released once the entire custodial term has been served, in this case after 12 years. After this final release date, they will spend 5 years on licence in the community.

What would happen if this provision becomes law: the offender would spend the entirety of their custodial term (12 years) in custody, with no opportunity for Parole Board directed release. At the end of the 12 years, they would be automatically released to serve their extension period of 5 years (as set by the sentencing judge).

Applying TORER provisions to NI example:

Offence and sentence: membership of a proscribed organisation (section 11 of the Terrorism Act 2000; maximum penalty 10 years imprisonment); where the offender is currently serving a determinate custodial sentence of 6 years.

What happens now: The offender would spend half of their sentence in custody and be automatically released into the community on licence after 3 years.

What would happen if this provision becomes law: If the offender has not been released by the day this Bill becomes law, they would be considered for early release by the Parole Board after serving two-thirds of their sentence (4 years). If they are deemed safe to release, they will spend the rest of their sentence (2 years) on licence in the community. If they are found not to be safe for release by the Parole Commissioner, they will remain in custody until the next Parole Commissioner review finds them safe to be released (reviews occur every 2 years after the initial review), or until they have served their entire sentence in custody. In this example, if early release was denied by the initial Parole Commissioner review, the offender would be released automatically after serving all 6 years of their sentence in custody.

Future offenders would receive the new terrorist sentence, rather than a DCS, for any terrorist or terror-related offending that has a maximum penalty of over two years and that doesn't attract a serious terrorist sentence or extended sentence.