



National Offender Management Service

The Early Removal Scheme and Release of Foreign National Prisoners

This instruction applies to		Reference
Prisons		PSI 04/2013
Issue Date	Effective Date	Expiry Date
March 2026 (8th Revision)	11 February 2013	n/a
Issued on the authority of	HMPPS Agency Board	
For action by	<p>All staff responsible for the development and publication of policy and instructions</p> <p><input type="checkbox"/> HMPPS HQ</p> <p><input checked="" type="checkbox"/> Public Sector Prisons</p> <p><input checked="" type="checkbox"/> Contracted Prisons*</p> <p><input checked="" type="checkbox"/> Governors</p> <p><input type="checkbox"/> Heads of Groups</p> <p><i>* If this box is marked, then in this document the term Governor also applies to Directors of Contracted Prisons</i></p>	
Instruction type	service specification support/service improvement/legal compliance	
For information	All staff responsible for the management of Foreign National Prisoners, Governors/Directors of Contracted Prisons.	
Provide a summary of the policy aim and the reason for its development/ revision	<p>The PSI provides guidance in relation to the Early Removal Scheme for determinate sentenced foreign national prisoners. The guidance has been updated to reflect changes following implementation of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.</p> <p>Update 27 March 2026 – Update of ERS processes and introduction of Decision Record Sheet requirement.</p> <p>Update 23 September 2025 – This revision is made to incorporate the changes to the ERS that will be made by The Criminal Justice Act 2003 (Removal of Prisoners for Deportation) Order 2025, which comes into force on the 23 September 2025. The Order increases the maximum ERS removal period by reducing the minimum period to be served to 30% of the requisite custodial period and increasing the maximum removal period to 4 years. Guidance for transitional cases is covered in Annex A. This revision of the PSI also provides updated authorisation and refusal forms, removing the need for a separate form to be used for those within their parole period.</p> <p>Update 16 January 2024 – This revision is made to incorporate the changes to the ERS that will be made by The Criminal Justice Act 2003 (Removal of Prisoners for Deportation) Order 2023 SI (2023/1368) which will come into force on the 16 January 2024. The SI increases the maximum ERS window from 12 months to</p>	

	<p>545 days (18 months). The minimum to serve of one half of the requisite custodial period remains unchanged.</p> <p>Update 15 June 2022 – This revision is made to incorporate the changes to the ERS that will be made by the Nationality and Borders Act 2022 (NABA 2022) which will be implemented on 28 June 2022. The NABA 2022 increases the ERS window from 9 months to 12 months and introduces a new ‘stop the clock’ provision for those who are removed under the ERS on or after 28 June 2022 and allows ERS for those recalled to custody from licence.</p> <p>Update 21 May 2021 – This revision is made to incorporate the information sent out in a letter on 17 February 2020 following the commencement of the Terrorist Offenders (Restriction of Early Release) Act (TORERA) 2020. The TORERA 2020 inserted Section 247A into the Criminal Justice Act (CJA) 2003 and made those prisoners subject to the release provisions of Section 247A ineligible for early removal under the ERS. The Act was retrospective. This update also includes examples of how the ERSED is calculated for prisoners serving sentences subject to the Release of Prisoners (Alteration of Relevant Proportion of Sentence) Order 2020 which was implemented on 1 April 2020.</p> <p>Update 15 October 2015 - This revision makes it a requirement to populate the Early Removal Scheme Eligibility Date (ERSED) field on NOMIS by 9 November 2015 – Paragraphs 1.17, 1.18, 1.22, 3.5, 3.20 and 3.29 refer. Amendments also reflect the current electronic referral process to refer sentenced FNP’s within 10 working days to Criminal Casework only.</p> <p>Update 20 December 2013 – This version has amended phone numbers in Annex F.</p>
Contact	<p>Release Policy Team: ReleasePolicyTeam@justice.gov.uk Calc queries: OMU.SpecialistSupportTeam@justice.gov.uk</p>
Associated documents	<p><i>This guidance must be read in conjunction with PSI 52/2011 - Immigration, Repatriation and Removal Services</i></p> <p>Generic Parole Process Policy Framework PSI 72/2011 - Discharge Sentence Calculation Policy Framework Prisoner Complaints Policy Framework Licence Conditions Policy Framework Home Detention Curfew Policy Framework</p>
<p>Replaces the following documents which are hereby cancelled: Chapter 9 PSO 6000; PSI 19/2008; PSI 45/2008; PSI 14/2009; PSI 59/2011. Updates paragraphs 2.26 & 4.18 and contact details in PSI 38/2012 which is also cancelled.</p>	
<p>Audit/monitoring: Mandatory elements of instructions must be subject to management checks (and may be subject to self or peer audit by operational line management) as judged to be appropriate by the managers with responsibility for delivery. In addition, HMPPS will have a corporate audit programme that will audit against mandatory requirements to an extent and at a frequency determined from time to time through the appropriate governance.</p>	
<p>Introduces amendments to the following documents: None</p>	
<p>Notes: <i>All Mandatory Actions throughout this instruction are in italics and must be strictly adhered to.</i></p>	

CONTENTS

For reference by all staff responsible for the management of foreign national prisoners

Section	Title	Page
1	Executive Summary	4 - 8
	• Mandatory Actions and Requirements	7 - 8
2	Guidance	8 - 28
	• Eligibility for removal under the ERS	8 - 10
	• Authorisation and reasons to refuse early removal	10 - 13
	• The early removal period	13
	• Calculating the ERS Eligibility Date (ERSED)	13 - 17
	• Referral to FNO Returns Command	17 - 18
	• Foreign National prisoners (FNPs) confirmed as not liable to removal	18
	• FNPs confirmed as liable to removal	18 - 20
	• Removal from prison custody	21
	• Failed removal	21
	• Return to UK and calculation of outstanding period to be served	22 - 26
	• Unlawfully at large time in the UK (including time spent in IRC)	27 - 28

Annexes

<u>Annex A</u>	Transitional Calculation guidance for 23 September 2025
<u>Annex B</u>	ERS Decision Record Sheet
<u>Annex C</u>	Early Removal Authorisation Form
<u>Annex D</u>	Early Removal Refusal Form
<u>Annex E</u>	Glossary of terms
<u>Annex F</u>	Glossary of HO terms
<u>Annex G</u>	ERS legislation
<u>Annex H</u>	Template letter - explanation for FNPs ineligible for ERS

1. Executive Summary

Background

- 1.1 The Criminal Justice Act 2003 introduced the Early Removal Scheme (ERS) for foreign national prisoners. The scheme allows fixed-term foreign national prisoners (FNPs), who are confirmed by the Home Office Immigration Enforcement (HOIE) to be liable to removal from the UK, to be removed from prison and the country before the earliest point in the sentence when release could otherwise take place. The Criminal Justice Act 2003 (Removal of Prisoners for Deportation) Order 2025 amends sections 260 and 261 of the Criminal Justice Act 2003 to increase the ERS window from 545 days before the earliest release point to 4 years before the earliest release point.
- 1.2 All *determinate sentenced FNPs who are liable to removal must be considered under the scheme, subject to eligibility checks outlined in section 2*. The provisions apply to determinate sentence prisoners only; those prisoners serving an indeterminate sentence for public protection or a life sentence cannot be removed under the scheme and will instead be considered for removal on or after tariff expiry under the Tariff Expired Removal Scheme (TERS) in line with the [Generic Parole Process Policy Framework](#). By definition, prisoners can only be removed early under the Early Removal Scheme if HOIE is able to effect their removal during the ERS period. The ERS period is any period of custody between the ERS eligibility date (ERSED) and the end of the sentence. This includes time spent in custody before initial release from the sentence and time spent in custody serving the sentence as a result of being recalled from licence.
- 1.3 This guidance replaces that contained in Chapter 9 of PSO 6000 and PSIs 19/2008, 45/2008, 14/2009 and 59/2011. The ERS process and paperwork has been revised and updated to reflect changes to the legislation since the original guidance was issued in 2005. The new process has been integrated with PSI 52/2011 - Immigration, Repatriation and Removal Services

Summary of changes made since the initial introduction of the Scheme

Changes to the ERS period

- 1.4 Initially, the maximum period before the half-way point of sentence that prisoners could be removed under ERS was 135 days. In April 2008 this was initially increased to a maximum of 270 days (9 months) by Statutory Instrument and was further increased by the Nationality and Borders Act 2022 (NABA 2022) in June 2022 to 12 months. A further Statutory Instrument increased the maximum window to 545 days (18 months). The Criminal Justice Act 2003 (Removal of Prisoners for Deportation) Order 2025 further increases the maximum period to 4 years, whilst reducing the minimum period to serve to 30% of the requisite custodial period. The calculation of the eligibility date for early removal is set out in section 2.

The NABA 2022 also made clear that removal under the ERS applies to those who have been released on licence into the community in the UK but who are back in custody as a result of the revocation of the licence. If the HOIE can facilitate removal and there are no barriers to the removal, ERS can be authorised to take place from the sentence during the custodial period being served as a result of the recall.

Exclusions

- 1.5 When ERS was first introduced there were a number of categories of prisoner who were statutorily ineligible for the scheme, including, for example, those subject to the notification requirement of the Sexual Offences Act 2003 and those serving an extended sentence. *These exclusions were removed on 3 November 2008 following commencement of provisions in the Criminal Justice and Immigration Act 2008 (CJ&IA 2008) and so all determinate sentence foreign national prisoners who are liable to removal from the UK must be considered for ERS.*
- 1.6 In addition, prior to 3 November 2008, prisoners who had less than 14 days between their ERS eligibility date (ERSED) and the half-way point of sentence could not be removed under ERS. The CJ&IA 2008 also removed this exclusion.
- 1.7 FNPs where at least one of the sentences in the sentence envelope has been imposed for a terrorism offence appearing on Part 1 or 2 of Schedule 19ZA to the Criminal Justice Act 2003, or where the court has found the offence to have a terrorist connection under section 69 of the Sentencing Act 2020 (or previously section 30 of the Counter Terrorism Act 2008) are excluded from the ERS.

Process and forms

- 1.8 The ERS process has been integrated with the Immigration, Repatriation and Removal Services PSI 52/2011. All FNPs who receive a custodial sentence must be referred to FNO Returns Command (FNO RC) in HOIE. For most prisoners this will be done centrally by HMPPS HQ who will lift the relevant information from NOMIS. Certain cases will still require manual referral by the holding prison, including FNPs time served at court, where release is within 10 days of sentencing or where a further sentence is imposed which does not affect the key dates.
- 1.9 The Governor retains responsibility for authorising early removal. Checks for barriers to removal and the decision to authorise early removal are to be completed 3 months prior to the ERSED (where feasible). Upon request from the HOIE, the Governor will then check for any barriers or any reasons for refusal of ERS (as set out in this PSI). HOIE are unable to set removal directions until they receive confirmation from the Governor that the prisoner can be removed using the ERS Authorisation Form (Annex C). See section 2 for Eligibility and Reasons for Refusal guidance.
- 1.11 In addition to long-term Schedule 20B prisoners no longer requiring an ERA before they may be removed during the ERS period, following the commencement of provisions in the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 on 3 December 2012, their release for removal by HOIE between PED and NPD can be authorised by the Governor, on behalf of the Secretary of State, in line with guidance contained within this PSI. From 3 December 2012, therefore, it is no longer necessary for there to be a Parole Board release decision before such prisoners may be released for removal. *The parole process must continue as normal, however, in case HOIE are unable to effect the removal for whatever reason and the prisoner is entitled to be considered by the Board for release in the UK in the normal way.* The LASPO Act 2012 also introduced a new type of Extended Determinate Sentence (EDS) which replaced the IPP sentence and is available for courts to impose in

respect of offenders convicted on or after 3 December 2012. The earliest date of release from an EDS is the two-thirds point in the custodial term and ERS will apply to such sentences – with the earliest date of removal being 4 years before the two-thirds point, in the majority of cases this will be a PED with a CRD at the end of the custodial term. During that period, as with long-term Schedule 20B prisoners, EDS prisoners may also be removed from prison for the purposes of removal from the UK without the need for a Parole Board release decision. This PSI contains instructions on how ERS applies in EDS cases and how the ERS eligibility date is to be calculated.

- 1.12 The Police, Crime, Sentencing and Courts Act 2022 changed the release provisions for Special Custodial Sentences for Certain Offenders of Particular Concern (SOPCs). Eligibility for consideration 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 rather than the $\frac{1}{2}$ way point. This means that the ERSED for SOPCs imposed on or after 28 June 2022 will be up to 4 years before the $\frac{2}{3}$ point of the custodial term providing $\frac{1}{3}$ of the term has been served.

Desired outcomes

- 1.13 *Early identification of those FNPs who must be considered for ERS.*
- 1.14 Transparent process for prisoners and staff in HMPS and HOIE, with effective ongoing communication between prisons and HOIE regarding ERS cases.
- 1.15 Increased number of removals within the ERS period.

Application

- 1.16 *All staff working with foreign national prisoners must be aware of and understand this scheme and its requirements and benefits.*

Mandatory actions and Requirements

- 1.17 Governors must ensure that all staff responsible for the management of FNPs, including Offender Management Unit (OMU) staff, are familiar with this PSI.
- 1.18 The process set out in Section 2 of this PSI must be followed for all eligible FNPs who are confirmed as liable to removal by HOIE.
- 1.19 The new ERS Decision Record Sheet ‘record sheet’ in Annex B must be completed by the prison as the case is progressed and retained within the Warrant Folder. The record sheet allows for the reasons for authorisation or refusal to be accurately recorded, any reason the initial decision needed to be re-taken and the outcomes. The record sheet provides guidance for the process of removal from prison custody under the scheme.
- 1.20 The governor has authority to take the decision regarding early removal on behalf of the Secretary of State. The governor has authority to delegate this task to a competent manager within their establishment.
- 1.21 Paragraph 1.20 does not apply to cases where it is thought that early removal may undermine public confidence in the Criminal Justice System (CJS). In these scenarios, the case should be referred to the Chief Executive of HMPPS, who will make the decision regarding early

removal. Referral guidance for these cases is set out on pages 17 - 18 of this PSI. Any uncertainty should be raised with the Release Policy team.

- 1.23 Staff must correctly calculate the ERSED in line with this PSI and ensure that this is recorded in the ERSED field on NOMIS and CRDS. In cases requiring a referral form to be sent to FNO RC, this must include the ERSED. FNO RC should also be updated if the ERSED changes (e.g. a further sentence is received).
- 1.24 The ERSED should be removed from the field if FNO RC subsequently confirm the prisoner is not liable to deportation. The reason given should also be recorded on the prisoner's file/NOMIS e.g. the prisoner is confirmed as a British Citizen.
- 1.25 Governors must ensure that, upon confirmation that a Deportation Order has been issued, the Security ALERT: **Deportation Order Issued** is added to DPS. The individual's eligibility status for ERS must also be recorded in the comments field.
- 1.26 Governors must ensure that eligible FNPs subject to the parole process are considered for early removal in accordance with this PSI alongside the continuation of the parole process. This is to ensure that if the FNP is confirmed as not liable to removal or removal fails for any reason, that the FNP is reviewed for parole in line with the parole process timetable.

Children/Young people

- 1.27 Children/young people sentenced to detention under section 250 of the Sentencing Act 2020 will require an ERSED to be calculated in line with this PSI. The ERS provisions do not apply to Detention and Training Orders (DTOs).

Resource Impact

- 1.28 With this update there is no further resource impact. The update looks to clarify the current process and update the referral process for FNPs to the HO. There are no changes to the ERS window with this further revision.

(Signed)

Matthew Gould, Deputy Director, Prison Demand and Release Policy, Policy Group

2. Operational instructions

Eligibility for removal under the Early Removal Scheme

- 2.1 Early removal under ERS is applicable for eligible FNPs serving determinate sentences of imprisonment including:
- Standard Determinate Sentence (SDS)
 - Detention in Young Offenders Institute (DYOI)
 - Sentences under Section 250 of the Sentencing Act 2020 (S250) (formerly sentences under section 91 of the PCC(S) Act 2000)
 - Extended Determinate Sentence (EDS)
 - Special Custodial Sentences for Certain Offenders of Particular Concern (SOPC)
 - Historic sentence types: Extended Sentences for Public Protection (ESPP), Discretionary Conditional Release (DCR) and extended sentence under section 85 of the PCC(S) Act 2000 (inclusive of cases where section 86 or 116 is applicable)
- 2.2 The FNP **must be confirmed as liable to removal** from the UK by Home Office Immigration Enforcement (HOIE) to be considered for early removal under the scheme.
- 2.3 Early removal under ERS does not require the FNP to agree to removal or to make an application to be considered.
- 2.4 **FNPs subject to the release provisions of section 247A of the CJA 2003**
 FNPs serving sentences subject to release provisions in section 274A – those sentenced for a specified terrorism or a terrorism connected offence – are **NOT eligible** for early removal under ERS. Where the FNP is serving multiple sentences, they will be ineligible for early removal on all sentences within a sentence envelope where at least one sentence falls under the release provisions of section 247A.
 The relevant terrorism offences and terrorism-connected offences, along with the definition of a ‘sentence envelope’ are set out in the Glossary in Annex E to this PSI. There is a template letter explaining the exclusion for prisoners set out in Annex H.
- 2.5 **FNPs serving sentences passed by a court martial**
 FNPs in prison custody serving sentences of imprisonment imposed by court martial are subject to the same release framework of Chapter 6 of the CJA 2003 as prisoners who have been sentenced by non-military courts. They should be assessed for early removal in accordance with this PSI, other than those who would fall under paragraph 2.4 and therefore are excluded from early removal.
- 2.6 **FNPs recalled from licence in the UK**
 FNPs released on licence in the UK who are recalled to custody, may be removed under the ERS whilst serving the recall period, unless there are any reasons to refuse early removal, e.g. new criminal charges, or they are ineligible for early removal under paragraph 2.4. Where the FNP receives a further determinate sentence to be served in parallel to the recall, the FNP would be considered for early removal based on the eligibility date for removal for the new sentence.

2.7 Indeterminate sentenced FNPs

Indeterminate sentenced FNPs (i.e. FNPs serving a life sentence or a sentence of Imprisonment for Public Protection or Detention at His Majesty's Pleasure) **cannot** be considered for removal under the ERS. There is a separate scheme, the Tariff Expired Removal Scheme (TERS), which allows indeterminate sentenced FNPs to be considered for removal once the minimum term has been served. TERS is considered by the Public Protection Casework Section (PPCS). Guidance on this scheme can be found in the [Generic Parole Process Policy Framework - GOV.UK](#)

2.8 Where an otherwise eligible FNP is serving a determinate sentence either consecutively or concurrently to an indeterminate sentence, removal may take place under TERS, at either the later of the TERS eligibility date for the indeterminate sentence or the ERS eligibility date of the determinate sentence. The FNP can **only** be removed under both schemes if authorisation by Senior Officials in Public Protection Casework Section (PPCS) has been given and the Governor has authorised removal on the determinate sentence under ERS.

2.9 Irish Nationals

Irish Nationals will only be considered for deportation by HOIE in exceptional circumstances. The provisions of ERS only apply to FNPs confirmed as liable to deportation. Therefore, unless the HOIE make an exception and confirm the Irish National is liable to deportation, Irish Nationals will not be eligible for early removal under the scheme.

2.10 FNPs subject to the Power to Detain

FNPs who have their case referred to the Parole Board under the power in Section 244ZB (referral of high-risk offenders to the Parole Board in place of automatic release) remain eligible for early removal under the scheme.

2.11 FNPs subject to extradition proceedings

It is possible for an FNP to be extradited and in parallel be removed from the country early under ERS. Whilst the extradition proceedings are ongoing, the prison should review the case for any reasons to refuse ERS in line with this PSI. This ensures that should extradition be authorised and liability to removal confirmed, there is no delay in the extradition and removal processes. Such cases should be notified to the Release Policy Team who will initiate discussions with the Extradition Section in the Home Office and CPS to determine whether removal under ERS can go ahead once the extradition proceedings have concluded.

2.12 FNPs subject to 'Terms of Imprisonment'

There is a distinction between those in custody who are serving a 'sentence of imprisonment' and those who are serving a 'term of imprisonment'. The CJA 2003 provides that a term in default/civil term is not a 'sentence of imprisonment' and as such, there is no provision in statute to remove FNPs early under the scheme if they are serving such terms.

2.13 Terms of imprisonment include (but are not limited to):

- Detention and Training Order (DTOs)
- Terms in contempt (civil and criminal)
- Default terms for non-payment (confiscation orders and fines)

- Terms for Breach of Post Sentence Supervision (BOTUS)
- Terms imposed by Intensive Supervision Courts

- 2.14 Where an FNP, who is serving a sentence of imprisonment, and would otherwise be eligible for early removal, receives a term of imprisonment **concurrent**, the FNP would need to serve the required period in custody for the concurrent term before they may be removed under ERS on the sentence.
- 2.15 For example: FNP is serving an SDS with a CRD of 06/02/2031 and an ERSED of 06/02/2027 alongside a concurrent term for contempt of court which provides an Automatic Release Date (ARD) of 01/07/2027. The earliest the FNP could be removed from the SDS under ERS is the 01/07/2027; this being once the required period of the contempt term has been served in custody.
- 2.16 Where a term of imprisonment is imposed consecutively to the sentence early removal must be refused. Further guidance on this is set out in paragraph 2.20 b. and c. to this PSI.
- 2.17 **FNPs previously deported**
FNPs who have been deported from the UK previously, including those deported early during a previous sentence under ERS, are not excluded from early removal again on a subsequent sentence. They can be considered in the normal way, subject to the eligibility criteria and guidance set out this section of the PSI.

Authorisation and reasons to refuse early removal

- 2.18 The governor (or delegated manager) is responsible for authorising the early removal of FNPs from prison custody under ERS, for the purpose of their removal from the UK. Cases which are considered as having the potential to undermine public confidence in the Criminal Justice System, however, must be referred to the Chief Executive of HMPPS for the decision regarding early removal – see paragraph 2.20(f) for further details.
- 2.19 Where ERS is authorised, the ERS Authorisation Form in Annex C must be completed and issued to the prisoner.
- 2.20 There are a limited number of reasons, listed below, where the governor may refuse early removal from prison under the scheme unless there are exceptional circumstances or where a referral to the Chief Executive is relevant.
- a. **The FNP has outstanding criminal matters in the UK**
Where early removal from the country would result in the avoidance of liability for other criminal matters or where there are outstanding matters in respect of their sentence. The relevant checks must be made in relation to the following matters:
- Criminal charges.
 - Police investigations.
 - Proceedings for further criminal matters, including in respect of a confiscation order (prior to imposition of a default term for non-payment).
 - Appeal in respect of the substantive sentence and/or conviction.

- Referral of sentence made by the Attorney General to the Court of Appeal under the Unduly Lenient Sentence (ULS) scheme – the prison may be advised of a referral via letter from the Court of Appeal or the Home Office should be aware.

b. **The FNP is subject to a consecutive default term for non-payment of a confiscation order or fine.**

Where an FNP has a consecutive order for a default term or a confiscation order default term to be served while they are still serving the custodial sentence for the substantive offence, early removal must be refused by the governor.

Where an FNP is serving a long sentence and the amount of money owed is relatively small (and therefore carries a very short default term), it may not make sense to prevent the FNP being removed 4 years early for the sake of serving a very short default term of say only a matter of days. In such circumstances, advice should be sought from the Release Policy Team, and for Confiscation Orders, a view obtained from the enforcing agency.

Early removal should be re-considered by the governor if the prisoner were to pay towards the order whilst still serving the sentence, meaning that the offender will not be required to serve the consecutive term or may only have a few days to serve once the appropriation calculation has been carried out.

Once the FNP starts serving the default term however, there is **no power to allow early removal** as ERS provisions do not apply to the default term of imprisonment.

c. **The FNP is serving a sentence with consecutive term**

If a FNP is serving a sentence of imprisonment with a consecutive term of imprisonment e.g. term for contempt or term for breach of Post Sentence Supervision (BOTUS).

Early removal must be re-considered by the governor, where the prisoner successfully purges their contempt whilst still serving the sentence. Once the FNP starts serving the term however, there is **no power to allow early removal** as ERS provisions do not apply to terms of imprisonment.

d. **The FNP is serving a sentence for a terrorism offence not described in section 247A(2) of the CJA 2003**

FNPs serving sentences for terrorism offences not described in section 247A remain eligible for removal under ERS. Governors should consider refusing early removal due to the nature of the offence(s) committed and any significant threat the prisoner may present both in the UK and abroad. Where the FNP is serving multiple sentences any decision to refuse early removal will apply to the sentence envelope.

If, after considering the circumstances of the case, a governor is inclined to allow early removal, the case must be referred to the Joint Extremism Unit (JEXU) before a final decision is made. Governors are required to provide reasons for why authorisation for early removal is being considered and on what basis an exception should be made to allow early removal. All cases must be emailed to noat.assurance@justice.gov.uk. Where there is any uncertainty, establishments must contact their Security Department and Counter Terrorism Team.

e. **Exceptional Cases**

Exceptional cases, particularly where there are serious concerns about public safety, including:

- Clear evidence that the prisoner is planning further crime, including plans to evade immigration control and return to the UK unlawfully.
- Evidence of violence or threats of violence, in prison, on several occasions.
- Dealing in class A drugs whilst in custody.
- Other public safety matters.

f. **Cases which undermine public confidence in the Criminal Justice System (CJS)**

Any case which undermines public confidence in the CJS must be referred to the Chief Executive of HMPPS for a decision regarding early removal. The Chief Executive will consider all relevant factors and the specific details of the case before deciding whether early removal is appropriate.

Cases requiring referral are expected to be rare and exceptional. They may involve high-profile or notorious crimes or offences that are particularly sensitive to the public where early removal could undermine the scheme and/or CJS. However, a case being high-profile on its own is unlikely to be enough. There must be a specific reason why early removal would be seen as undermining public confidence.

To provide an example of the types of case which may require referral:

- FNP convicted of a human trafficking offence* where removal will be to the same location as victims or witnesses.
- FNPs where there are national security concerns.

Where there is any doubt about the suitability of early removal, governors should initially consult the Release Policy Team.

*When considering cases for referral involving modern slavery offences – including human trafficking and exploitation – governors should contact the Modern Slavery Policy Team at **HMPPSModernSlavery@justice.gov.uk** as they may be able to assist in obtaining information on the specific case.

Where it is agreed that referral to the Chief Executive for a decision is required, an email must be sent to ReleasePolicyTeam@justice.gov.uk including the following information:

- A copy of the FNO RC Referral Form (if applicable).
- A covering note outlining any relevant information that may indicate how early removal could undermine public confidence in the scheme/Criminal Justice System.
- Any supporting information obtained e.g. information provided by the police or JEXU.

2.21 The above list of reasons to refuse must be referred to when considering any case for early removal and the **ERS Decision Record Sheet in Annex B** completed as the case progresses. The record sheet should be retained in the prisoner's Warrant Folder, along with the authorisation or refusal form once completed.

2.22 If early removal is refused the FNP must be notified using the ERS refusal form Annex D and a copy sent to FNO RC.

2.23 The refusal of early removal from prison custody does not impact the FNPs liability for removal from the country. The FNP may be removed by HOIE once the required custodial elements of the sentence and/or term have been served or detained beyond the release date under Immigration powers. For information regarding the detention of FNPs in prison custody refer to PSI 52/2011 and Home Office guidance.

The early removal period

- 2.24 The early removal period is up to a maximum of 4 years before the initial release point of sentence – whether release is automatic or subject to Parole Board discretion – provided that a minimum of 30% of the requisite custodial period has been served in custody.
- 2.25 The point in the sentence when an FNP becomes eligible for removal is known as the ERS Eligibility Date ‘ERSED’. The FNP can be removed at any point between the ERSED and the effective CRD/ARD/NPD, and whilst serving a recall should the FNP be initially released in the UK but recalled to custody.
- 2.26 The ERSED is the earliest date the FNP can be removed from **prison** custody under the scheme. An FNP cannot be removed from prison before this date, even if removal is initially to an Immigration Removal Centre (IRC) in readiness for the flight.
- 2.27 An FNP should only be transferred to an IRC where travel arrangements are in place and removal has a realistic prospect of taking place within the early removal period.
- 2.28 Removal from prison custody should, in most cases, be as close to flight date as possible. Ideally, FNPs should not be removed from prison custody more than 48 hours before the travel arrangements. See paragraphs 2.71 to 2.76 under *Removal from prison custody under ERS* for further guidance.
- 2.29 In all eligible cases the ERSED must be entered into the ERSED field on CRDS/NOMIS and recorded on the calculation sheet within 5 working days of sentencing (including a provisional date if awaiting further information from the court as required by the Sentence Calculation Policy Framework). The ERSED will be affected by any Additional Days Awarded (ADAs) and time spent unlawfully at large (UAL) during the sentence.

Calculating the ERS Eligibility Date (ERSED)

- 2.30 The ERSED will be the **later date of**:
- 4 years before the initial release point of the sentence or aggregate *or*;
 - 30% point of the requisite custodial period
- The initial release point for non-parole sentences or aggregates will be a CRD (or for a few cases an ARD). For a parole sentence the initial release point will be the PED. Where there is a mixture of sentences, the parole sentence is calculated last, so the PED will remain the initial release date for the aggregate.

- 2.31 The table below provides the calculation of the maximum and minimum periods and a guide to when they apply. When using the table please note:
- The **Requisite Custodial Period (RCP)** is:
 - Non-parole sentences: Days between date of sentence and CRD or ARD
 - Parole sentence: Days between date of sentence and PED
 - The reference to '**Actual** date of sentence' is to indicate the use of the date of sentence in the calculator rather than the day before (as would be used when calculating a CRD or SLED for example).

Early Removal Scheme Eligibility Date (ERSED) Calculation	
Days in RCP of the sentence or aggregate	Early Removal Period and Calculation Steps
Less than 2089 days	<p>Minimum period applies (30% of RCP)</p> <ol style="list-style-type: none"> 1. Days RCP x 0.30 (rounded up). 2. Figure obtained in step 1 – remand/tagged bail 3. Actual date of sentence + figure obtained in step 2 = ERSED. 4. Apply any relevant ADAs and UAL to calculated date.
2089 days or more	<p>Maximum period applies (4 years before the initial release date)</p> <ol style="list-style-type: none"> 1. CRD/ARD or PED* – 4 years = ERSED 2. Apply any relevant ADAs/UAL to calculated date. <p>*Use CRD/ARD/PED with all adjustments applied <u>other than</u> ADAs and UAL.</p>

- 2.32 When calculating the ERSED, should this provide a date **before the date of sentence** due to the amount of remand/tagged bail days, the date of sentence should be recorded as the ERSED. In this scenario, the minimum requisite period has already been served on remand/tagged bail making the FNP immediately eligible for removal on date of sentence. There is no minimum period to be served post sentence before removal can take place.
- 2.33 If the ERSED falls on a weekend/bank holiday, it must **not** be brought forward. Removal may take place on the next working day.
- 2.34 When calculating the ERSED, a direction by the court for time spent in custody pending extradition under section 327 of the Sentencing Act 2020 is applied in the same way as remand and tagged bail are.

Single sentences

2.35 Examples 1 and 2 set out the ERSED calculation for single sentences

Example 1	
Sentence details	ERSED Calculation
<ul style="list-style-type: none"> • 7 year SDS (half-way release) • DoS: 11/10/2025 • 149 tagged bail days • CRD: 13/11/2028 • RCP: 1279 days • ADAs: 14 	<p>RCP less than 2089 days, so ERSED based on minimum period to serve.</p> <ol style="list-style-type: none"> 1. Days RCP x 0.30 (rounded up) 1279 x 0.30 = 384 days 2. Figure obtained in step 1 – tagged bail days 384 – 149 = 235 days 3. Actual date of sentence + figure obtained in step 2 11/10/2025 + 235 = ERSED 03/06/2026 4. Adjust for ADAs. 03/06/2026 + 14 = ERSED 17/06/2026

Example 2	
Sentence Details	ERSED Calculation
<ul style="list-style-type: none"> • 18 year EDS with custodial term of 12 years • DoS: 28/11/2025 • 35 remand days • PED: 23/10/2033 • RCP: 2922 days 	<p>RCP is more than 2089 days, so ERSED is based on maximum removal period</p> <ol style="list-style-type: none"> 1. PED – 4 years PED 23/10/2033 – 4 years = ERSED 23/10/2029

Multiple sentences

2.36 Concurrent sentences

Concurrent sentences (excluding those subject to Schedule 20B of the CJA03) run in parallel to one another and each sentence will have its own ERSED. The latest ERSED produced will be the effective ERSED. See example 3 below.

Example 3	
Sentence details	ERSED Calculation
<p>Sentence 1</p> <ul style="list-style-type: none"> • 5 year SDS (half-way release) • DoS: 12/12/2025 • 199 remand days • CRD: 25/11/2027 • RCP: 913 days 	<p>RCP less than 2089 days so ERSED based on minimum period to serve.</p> <ol style="list-style-type: none"> 1. Days RCP x 0.30 (rounded up) 913 x 0.30 = 274 days 2. Figure obtained in step 1 – remand days 274 – 199 = 75 days 3. Actual date of sentence + figure obtained in step 2 12/12/2025 + 75 = ERSED 25/02/2026

<p>Sentence 2</p> <ul style="list-style-type: none"> • 4 year SDS (half-way release) • DoS: 13/01/2026 • Remand from Sent 1 • CRD: 28/06/2027 • RCP: 731 	<p>RCP less than 2089 days so ERSED based on minimum period to serve.</p> <ol style="list-style-type: none"> 1. Days RCP x 0.30 (rounded up) 731 x 0.30 = 220 days 2. Figure obtained in step 1 – remand days 220 – 199 = 21 days 3. Actual date of sentence + figure obtained in step 2 13/01/2026 + 21 days = 03/02/2026
<p>The later ERSED is provided by the 5 year sentence therefore, the ERSED remains 25/02/2026.</p>	

2.37 Consecutive sentences

Consecutive sentences (excluding those subject to Schedule 20B of the CJA03) are aggregated and the ERSED will be based on the aggregate sentence.

Example 4	
Sentence details	ERSED Calculation
<ul style="list-style-type: none"> • 9 year SOPC with custodial term of 8 years • 4 year SDS (half-way release) consecutive • DoS: 08/01/2026 • 95 remand days • PED: 03/02/2033 (prior to UAL) • <u>Aggregate</u> RCP: 2679 days (RCP for SOPC 1948 days + RCP for SDS 731 days) • UAL: 59 days (escape) 	<p>Total RCP more than 2089 days so ERSED based on maximum removal period.</p> <ol style="list-style-type: none"> 1. PED – 4 years PED 03/02/2033 – 4 years = ERSED 03/02/2029 2. Adjust for UAL 03/02/2029 + 59 = ERSED 03/04/2029

N.B. UAL time does not change the RCP. The ERSED is calculated using the RCP, and any UAL time will defer that ERSED.

2.38 For eligible FNPs serving sentences which remain subject to the release provisions set out in **Schedule 20B to the CJA 2003** (formerly the CJA 1991 provisions) the ERSED is based on the single term created by the individual, concurrent or consecutive sentences.

Example 5	
Sentence details	ERSED Calculation
<ul style="list-style-type: none"> • 18 year sentence with 5 year sentence consecutive • Both sentences for sexual offences committed in 2001 • DoS: 29/11/2012 • 159 remand days • PED: 22/12/2023 (prior to UAL) • RCP of single term: 4200 • UAL: 2360 days (abscond) 	<p>Single term RCP more than 2089 days so ERSED based on maximum removal period.</p> <ol style="list-style-type: none"> 1. PED – 4 years PED 22/12/2023 – 4 years = ERSED 22/12/2019 2. Adjust for UAL 22/12/2019 + 2360 = ERSED 08/06/2026

- 2.39 Where the offender is subject to **mixed provisions** (i.e. single term under schedule 20B and sentences falling under CJA 2003 Chapter 6 '03 Act' release arrangements):
- **Concurrent sentences** – The single term and concurrent 03 Act sentence will have their own release dates. The latest ERSED produced by the single term or concurrent '03 Act' sentence will be the effective ERSED.
 - **Consecutive sentences** – The single term and consecutive 03 Act sentence will form an aggregate. The ERSED will be calculated based on the length of the aggregate.
- 2.40 **FNPs serving a recall**
FNPs recalled to custody will not require a new ERSED to be calculated. By virtue of being a recall, the prisoner will be beyond their initial release date for that sentence and already be within the early removal period irrespective of any UAL.
- 2.41 Should the prisoner receive a further eligible determinate sentence this will have its own ERSED calculated. The new ERSED should be recorded as the effective eligibility date; this will be the earliest date removal may take place from the new sentence and recall sentence.
- 2.42 **Power to Detain**
FNPs who have their case referred to the Parole Board under the power in Section 244ZB of the CJA 2003 (referral of high-risk offenders to the Parole Board in place of automatic release) will retain their ERSED as calculated prior to referral as the CRD simply becomes a PED under the Power to Detain provisions.

ERS PROCESS AND PAPERWORK

Referral to FNO Returns Command

- 2.43 All FNPs who receive a custodial sentence must be referred to FNO Returns Command (FNO RC) in HOIE. For most prisoners this will be done centrally by HMPPS HQ who will lift the relevant information from Nomis. Certain cases still require manual referral by the holding prison, including FNPs time served at court, where release is within 10 days of sentencing or where a further sentence is imposed which does not affect the key dates. For full guidance on the referral procedure please refer to Prison Service Instruction (PSI) 52/2011
- 2.44 The ERSED field on Nomis / CRDS must be filled out. Where the FNP is **not eligible** for ERS e.g. the FNP is serving a sentence which falls under the release provisions of section 247A, a note should be entered to say the FNP is not eligible and an ERSED is not required.
- 2.45 The referral form must be populated with the correct ERSED where the FNP is eligible for early removal under the scheme and a referral form is required. If the FNP is not eligible for early removal e.g. the FNP is serving a sentence which falls under the release provisions of section 247A, 'Unknown' should be entered in the ERSED box.

- 2.46 FNO RC will issue a copy of the ERS Authorisation Form to the Prison to confirm that the FNP is removable during the early removal period.
- 2.47 The governor may assess an FNP for early removal at any point during the sentence, including proactively before liability to removal has been formally confirmed. This may be particularly advantageous where the prisoner enters the early removal period immediately or shortly after sentencing, or where the circumstances clearly justify referral to the Chief Executive. Where the ERSED is much later into the sentence, early removal should be considered no later than 3 months prior to the ERSED to avoid delaying removal.

FNPs confirmed as not liable to removal

- 2.48 If FNO RC confirm that the FNP is not liable to removal from the UK, the prisoner should be treated as a domestic prisoner and considered for HDC (if relevant) or continue to progress through the parole process where appropriate. Please refer to the HDC Policy Framework and the Generic Parole Process Policy Framework for the relevant guidance.
- 2.49 The ERSED should be removed from the key dates screen on Nomis/CRDS and a comment made in the comments box to explain confirmation has been received that the prisoner is in fact a British citizen or that the FNP is not subject to removal e.g. the prisoner has leave to stay. This information must also be recorded on the prisoner's warrant folder.

FNPs confirmed as liable to removal

- 2.50 If FNO RC confirm that the FNP is liable to removal from the UK and can be removed within the early removal period, the prison must review the case to ensure there are no reasons to refuse. Reason to refuse are set out in detail on pages 10 to 13.
- 2.51 The **ERS Decision Record Sheet in Annex B** 'record sheet' should be started or, updated if already started, and relevant sections completed as the case progresses. The decision record sheet must always be stored in the FNP's warrant folder.

Completing the ERS Authorisation Form

- 2.52 If there are no reasons to refuse early removal, and the case does not require referral to the Chief Executive, the governor should sign the **authorisation form (Annex C)** and update the record sheet, completing the relevant sections. The signed authorisation form should be issued to the prisoner, explained clearly, and signed by them.
- 2.53 If the FNP **refuses to sign the authorisation form** this will not prevent removal under ERS. The staff member issuing the form should explain the content of the form, annotate it to say that has been done, including the date and their initials, and record that the prisoner has refused to sign.
- 2.54 A copy of the completed authorisation form **must** be sent to FNO RC in sufficient time to allow for removal instructions to be set, and a note should be entered on NOMIS to confirm early removal has been authorised.

- 2.55 If anything changes in the circumstances of the FNP which would require early removal to be refused, for example an altercation in the prison which is forwarded to the police for investigation, FNO RC must be informed as soon as possible. The record sheet should be updated and the refusal form in Annex D completed in line with the guidance with the below two paragraphs. NOMIS must be updated accordingly.

Completing the ERS Refusal Form

- 2.56 If there are reasons to refuse or FNO RC confirm that they cannot remove the FNP during the early removal period, the prison governor, or a colleague to whom the power has been delegated, should update the decision record sheet and complete the **refusal form (Annex D)**. The relevant reason(s) for refusal should be indicated on the refusal form and a copy issued to the FNP.
- 2.57 There is no formal right of appeal where early removal has been refused due to further criminal charges, an outstanding confiscation order, ongoing appeal or because the HOIE cannot affect removal within the early removal period. If refusal of early removal is for a different reason to the above and the FNP wishes to challenge the decision to refuse they must do so through the Requests and Complaints Procedure – refer to PSI 02/2012 Prisoner Complaints for guidance.
- 2.58 Where possible the appeal should be dealt with by a manager of a higher grade than the manager involved in the original decision. The FNP must be given the reason(s), in writing, where the outcome of the appeal is to uphold the original decision to refuse early removal. If the appeal is successful, the process for authorising early removal should be followed.
- 2.59 A copy of the completed refusal form must be sent to FNO RC to confirm that the FNP is not able to be removed under ERS.
- 2.60 If early removal is refused, but the circumstances of the case subsequently change e.g. the further criminal matters are concluded with no additional sentence or the FNP pays the outstanding confiscation order, the decision to refuse should be re-visited and early removal authorised if appropriate.
- 2.61 **Transfer between prisons after a decision has been made**
There is no requirement to issue a new authorisation or refusal form if this has been completed at a previous establishment unless the circumstances have changed that prompt the case to be re-considered e.g. the offender has been charged with further offences since authorisation or the offender has paid the money owed meaning there is no longer a consecutive default term and early removal can go ahead.
- 2.62 **FNPs solely serving a recall**
Where removal is being progressed for a prisoner solely serving a licence recall, the case will need to be reviewed in line with this PSI to ensure nothing has altered since the original decision was made (or newly reviewed if no decision was made).
- 2.63 A record sheet should be started (or the original one continued if in place prior to release in the UK).

2.64 A new authorisation or refusal form is not required, unless anything has altered since the original decision was made, or where no decision was taken prior to initial release from the sentence.

2.65 **FNPs subject to the parole process**

FNPs cannot opt out of the parole process and must continue to progress through it, even if confirmed as liable to removal. Establishments should liaise closely with FNO RC in order to judge the likelihood of removal before the point in the sentence that the parole process must start (26 weeks prior to PED). If removal cannot be confirmed by this point, the parole process must proceed as normal. The FNP may still be removed before the NPD/CRD at the governor's discretion (or HMPPS Chief Executive if required) but following the parole timetable ensures statutory reviews are not missed. If a dossier has been submitted and the FNP is later removed, the prison must notify PPCS promptly to cancel the review.

Cases referred to the Chief Executive of HMPPS

2.66 Where the case has been referred to the Chief Executive of HMPPS for consideration, the prison will receive written notification from the Chief Executive's Office (CEO) confirming the outcome of the decision. A copy of the letter must be provided to the prisoner and to FNO RC for their awareness. The record sheet must be updated and letter filed alongside it within the Warrant folder.

2.67 Any changes to the FNPs circumstances following the Chief Executive's decision **must be reported to the CEO as soon as possible**, as they may require reconsideration of a refusal decision or if authorised, may now require the prison to refuse removal for example, the prisoner is charged with a further offence following a serious incident within the prison.

2.68 Where the prisoner seeks to challenge the decision made by the Chief Executive, any representations must be submitted to the CEO. The Chief Executive will review the representations and provide the outcome, including any amended decision. This outcome must be communicated with the prisoner and FNO RC and recorded in the same process as set out in paragraph 2.66.

Informing the Prison and Community Offender Managers (POM/COM)

2.69 The Prison and Community Offender Managers (POM/COM) should be informed of the decision in all cases, irrespective of whether early removal is authorised or refused. The POM/COM should be notified of any changes to the decision e.g. the barrier to removal is no longer relevant and early removal is being re-considered. The COM must check whether there is active victim engagement with the Victim Contact Scheme. Where there is, the COM must keep the Victim Liaison Officer (VLO) informed of the decision regarding early removal. Please refer to the Victim Contact Scheme Policy Framework.

2.70 The victim or their family will not generally be able to provide their views/representations as part of the ERS process. Where a victim has a genuine concern regarding the removal of the FNP, that may fall under the reasons to refuse early removal e.g. the victim has returned to the country to which the prisoner will be deported and they pose a risk to the victim and their family, they should inform the VLO who should contact the OMU at the prison. If necessary, the Release Policy Team should be contacted for guidance.

Removal from prison custody under ERS

- 2.71 Where HOIE have indicated that imminent removal can take place Governors have the lawful authority to hand over an FNP to the HOIE for the purpose of their removal from the UK under ERS provided it is within the early removal period.
- 2.72 An **IS.91 must be issued** by HOIE before removal. **FNPs must be issued with the signed ERS Authorisation Form** (Annex C) and prisons should explain the implications of early removal to the FNP, including the consequences of returning to the UK.
- 2.73 FNPs being removed early under ERS do not receive a discharge grant. Where accepted for the Facilitated Returns Scheme (FRS) the discharge grant is incorporated in the total financial incentive – see paragraph 2.82.
- 2.74 Where possible, the removal of the FNP from prison will be directly to the port of departure. In some circumstances this may not be feasible, e.g. Sunday morning flight, and transfer may initially be to an Immigration Removal Centre (IRC).
- 2.75 Governors should review and assess whether the detention in the IRC is reasonable and consistent with the removal process. Governors should refuse collection if this is for a date prior to the ERSED and may refuse collection for a transfer to an IRC if there is an indication that:
- the proposed transfer date is significantly in advance of the scheduled flight/removal.
 - the transfer date falls within the early removal period but deportation from the UK is scheduled for a date after the CRD/ARD or NPD.
 - there are no flight or travel arrangements in place.
- 2.76 Whilst held in the IRC, the FNP will not be deemed as serving the sentence. If the FNP were to return to prison in relation to the sentence, the time spent in the IRC will defer the release dates. See UAL guidance on pages 27 – 28.
- 2.77 **Failed removal**
Where a removal attempt fails and HOIE determines that the individual remains liable for removal and that there is a realistic prospect of re-arranging removal promptly, the prisoner may continue to be held in an IRC under HOIE's powers. However, if removal cannot be achieved within a reasonable timescale, or if there is no longer a realistic prospect of removal, the prisoner **must be returned to the custody of a prison establishment without delay**. This transfer should occur as soon as operationally practicable and ordinarily within 48 hours.
- 2.78 Within 48 of removal from prison custody the Home Office will notify the discharging prison by email of:
- Whether removal was successful; or
 - If unsuccessful,
 - Whether the offender will be returned to prison: or
 - Whether new travel arrangements can be made imminently.
- The Offender Manager must be kept informed throughout and the record sheet updated.

2.79 File retention

- For FNPs removed on or after 28 June 2022 the prison files should be stored as per the requirements of a life sentenced prisoner in case of return to the UK.
- For FNPs removed prior to the 28 June 2022 the prison files should be stored in line with the SLED, unless found to have returned to the UK but not to custody, and are therefore unlawfully at large from the sentence. The file in these circumstances remain the current file and should **NOT be destroyed**. For further guidance refer to PSI 04/2018 Records, Information Management and Retention Policy.

2.80 Licence / Supervision

An FNP being removed early from the sentence under ERS **will NOT require a licence**. The FNP is not being 'released' and has not reached the point in the sentence where a licence is required.

2.81 Where an FNP remains in custody and the 14-day sentence calculation check point is reached, establishments should start to prepare the relevant release licence in line with the Licence Policy Framework in the event the FNP reaches the release date before removal under ERS can take place. If a licence is prepared and the FNP is then removed under ERS close to their release date the licence **should NOT be issued to the prisoner**. Refer to the Licence Conditions Policy Framework for guidance on preparing a licence.

2.82 The Facilitated Returns Scheme

The Facilitated Returns Scheme (FRS) is operated by Immigration Enforcement and is a separate scheme to ERS, although they can and do work in conjunction with one another. FRS is an incentive scheme designed to encourage FNPs to comply with deportation action and return to their home country by offering them financial assistance and support to help them reintegrate. For further information on this scheme please refer to the FRS guidance: [Facilitated return scheme: caseworker guidance - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

RETURN PROCESS AND NOTIFICATION

- 2.83 Where a prisoner who has been removed early under ERS returns to the UK (*before the SLED/SED for those removed before the 28 June 2022*), they are deemed UAL and must be returned to custody immediately. A notification confirming the return of an FNP to the UK will be issued by Public Protection Casework Section (PPCS) in HMPPS. The notification is not authority to hold the prisoner – the prisoner is held on the original Sentencing Warrant (and revocation notice if removed during the recall period).
- 2.84 The notification will not include details of the period to be served or confirm the release dates. It is the responsibility of the receiving prison, or in cases where the FNP is arrested in another jurisdiction in the UK, the prison from which the FNP was removed, to calculate the period of the sentence that must be served and provide the release dates.
- 2.85 The receiving prison will obtain the FNPs file from the prison from which they were removed and process the return in accordance with the guidance set out in this part of the PSI.
- 2.86 If the FNP is **arrested in another jurisdiction** (e.g. Scotland or Northern Ireland) the prison from which the FNP was removed will be contacted and should process the return in

accordance with the guidance set out in this part of the PSI. The prison should provide the relevant information and release dates to the OMU Specialist Support Team. The file should **not** be forwarded to the other jurisdiction.

- 2.87 **Probation must be informed of the FNPs return to custody** via the Hub mailbox PSFNOCoordinationHub@justice.gov.uk. The email must include the following details:
- FNPs full name
 - NOMIS number
 - PNC number
 - Date of return to UK and custody
 - HOIE information (HO reference and details of caseworker)
 - Any further offence details
 - Up to date contact details for the FNP
- 2.88 There are two sets of provisions regarding the return of FNPs to the UK, who were removed early under ERS, as set out below.
1. **FNPs removed from prison custody under ERS on or after the 28 June 2022**
On removal from prison the sentence is paused, meaning that if the FNP returns to the UK at any point in the future, they are required to be returned to custody and resume serving the sentence from the point at which it was paused.
 2. **FNPs removed from prison custody under ERS before the 28 June 2022**
On removal from prison the sentence is not paused but continues to run. This means that:
 - If they return to the UK after the SLED/SED of the sentence there is no further action to take in respect of the sentence from which they were removed early.
 - If the FNP returns to the UK before the SLED/SED, then they will be required to be returned to prison to serve either the outstanding custodial period at point of removal or to the SLED/SED whichever is the shorter.
 - If the FNP was removed before the 26 February 2020 from a sentence (or sentence envelope) for an offence described in section 247A(2) of the CJA 2003 and returns to the UK before the SLED/SED, they must have their sentence(s) recalculated under the section 247A release provisions.
- 2.89 Any time spent in prison or police custody in the UK will count as time served towards the sentence irrespective of when removal took place. Time spent in an Immigration Removal Centre (IRC) will not automatically count as time served. For guidance on UAL time and the option for the prisoner to apply for time not to count as UAL see pages 27 - 28.
- 2.90 An FNP may be re-removed by the HOIE whilst serving the outstanding custodial period, under the original early removal authorisation, providing that there are no reasons to now refuse early removal e.g. new criminal matters or sentences. This is **excluding cases** where the sentence is re-calculated under the provisions of section 247A – refer to paragraphs 2.101 to 2.102.
- 2.91 If HOIE confirm they have no interest in re-removing the FNP, they must be treated as a domestic prisoner. The prisoner should be considered for HDC (if applicable) or referred to

the Parole Board at the appropriate point if relevant and released on any relevant licence and/or supervision.

Calculation of the custodial period to be served if the FNP returns to the UK

FNPs removed early on or after the 28 June 2022

2.92 All release dates of the sentence from which the FNP was removed early will be deferred by the number days between the date of **removal from prison custody** and the date the FNP is returned to custody (police or prison) in the UK.

2.93 Example return calculation – removal on or after 28/06/2022

Example 6		
SDS of 9 years imposed 19/03/2019 (50% release) with 59 remand days (N.B. previous ERSED calculation applicable)		
CRD: 20/07/2023	SLED: 19/01/2028	ERSED:20/07/2022
Date of removal from prison:	12/08/2022	
Date of arrest in the UK:	15/04/2024	
Time out of custody:	13/08/2022 to 14/04/2024 (inclusive) = 611 days	
Adjusted CRD:	20/07/2023 + 611 days = CRD 22/03/2025	
Adjusted SLED:	19/01/2028 + 611 days = SLED 21/09/2029	

2.94 **Non parole sentences**

If removal under ERS took place from a sentence not subject to the parole process and the HOIE do not re-remove the FNP, release will take place unconditionally at the ARD or at the CRD on a licence expiring at the SLED/LED, with supervision until the TUSED if applicable.

2.95 **Parole eligible sentences**

If removal under ERS took place from a sentence that was subject to the parole process, the following will apply if the FNP returns to custody in the UK and is not re-removed by the HOIE:

- If early removal occurred up to 28 days before the date on which the FNP's case was to be referred to the Parole Board, or the case had been referred to the Parole Board, but no decision had been made, a referral to the Parole Board must be made with 28 days of reception to custody.
- If early removal occurred between the date the Parole Board authorised parole but before the FNP was physically released on licence, they will be treated as a standard recall under section 254 of the CJA 2003 in respect of the sentence. The FNP will be liable to be detained until the SLED, unless the Parole Board authorise re-release at an earlier point.

2.96 **Further sentence**

A further sentence imposed whilst the FNP is serving the sentence from which they were removed early (on or after 28 June 2022) and returned, will be treated in the same manner as any other concurrent or consecutive sentence:

- If the further sentence is imposed concurrently, the two sentences will be calculated from their respective date of sentence, with any remand/tagged bail from either sentence applying to the later dates produced by the two sentences. Time spent out of custody ('UAL') will continue to apply only to the ERS sentence.
- If the further sentence is imposed consecutively, the sentences will be aggregated, and release dates based on the aggregate term. Refer to Annex A to the Sentence Calculation Policy Framework for further guidance.

2.97 Recall sentences

If removal under ERS occurred whilst the FNP is serving the sentence due to being recalled from licence, they will be treated as a fresh standard recall under section 254 of the CJA 2003 in respect of the sentence if they ever return to custody in the UK (and cannot be converted to FTR). They will be liable to be detained until the SLED, unless the Parole Board authorise re-release at an earlier point, or they are re-removed. This is subject to any further sentences imposed in parallel to the recall, which would have its own ERSED if eligible (or TERSED for a life sentence).

FNPs removed early before the 28 June 2022

- 2.98 The outstanding custodial period which the FNP will serve is calculated as the number of days from the day after removal from prison custody took place to CRD/ARD/NPD (inclusive). The days to serve are applied from the date of arrest to provide the adjusted CRD/ARD/NPD. If this date falls after the SLED/SED, the prisoner will serve until the SLED (they cannot serve beyond this date).
- 2.99 For sentences which also require a PED, the number of days between the day of removal from custody to the original PED should be calculated and applied from the date the FNP returns to custody in the UK. This will provide the adjusted PED for the sentence.
- 2.100 Example return calculation – removal before 28/06/2022

Example 7		
SDS of 2 years 3 months imposed 25/03/2021 with 56 remand days (N.B. previous ERSED calculation applicable)		
CRD: 14/03/2022	SLED: 29/04/2023	ERSED: 22/08/2021
Date of removal from prison:	24/08/2021	
Date of arrest in the UK:	15/04/2022	
Time to be served on return to custody:	Number of days removed early before CRD 25/08/2021 to 14/03/2022 (inclusive) = 202 days	
Adjusted CRD:	15/04/2022 + 202 days = CRD 02/11/2022	
SLED:	29/04/2023 (remains unchanged)	

FNPs removed early before 26 February 2020 from a sentence imposed for an offence described in section 247A(2) of the CJA 2003 (including within a sentence envelope)

- 2.101 The FNP must have their release dates re-calculated under the provisions of section 247A of the CJA 2003. Guidance can be found in Annex A to the Sentence Calculation Policy Framework (and separate guidance issued in November 2025 via the OMU Specialist Support Team).
- 2.102 The period that must be served on return to the UK is the period equal in length to the number of days between the date removal took place and the re-calculated CRD (in some cases this will be later than the original CRD) or, until the SLED if this comes first. If the FNP returned to the UK before the PED produced by the re-calculation, they will become subject to the parole process in line with the new PED.
- 2.103 **Further sentence**
Any further sentence imposed whilst the offender is serving a sentence from which they were removed early (prior to the 28 June 2022) will be calculated separately. Any remand/tagged bail/adjustments relevant to the original sentence will not apply to any further sentence.
- 2.104 FNPs removed prior to the 26 February 2020 who have their sentence re-calculated under the provisions of section 247A are excluded from re-removal under ERS whilst serving the outstanding custodial period of the sentence or aggregate where at least one sentence is subject to section 247A. If the FNP receives a new sentence whilst serving the custodial period of the section 247A sentence, ERS cannot apply to the further sentence. A sentence imposed during the licence period of the sentence/aggregate should be considered for ERS under this PSI.

UNLAWFULLY AT LARGE TIME IN THE UK (INCLUDING TIME SPENT IN IRC)**2.105 Return to the UK of an FNP following early removal prior to the 28 June 2022**

If a prisoner removed early under the scheme before the 28 June 2022 returns to the UK before the SLED/SED they are liable to be returned to custody immediately to continue serving their sentence. If there is clear evidence that the FNP had returned to the UK prior to the arrest/return to prison custody, then they must be treated as being unlawfully at large (UAL) from the sentence and this will impact both the adjusted re-release date and SLED.

2.106 Example of UAL – removal before 28 June 2022

Example 8		
SDS of 10 years imposed 02/08/2017 with 107 remand days (N.B. ERSED calculation applicable as per 2021)		
CRD: 16/04/2022	SLED: 16/04/2027	ERSED: 21/07/2021
Date of removal from prison:	30/07/2021	
Date of arrest in the UK:	10/03/2023	
Release in error:	Police do not identify the FNP as an ERS return. He is bailed on the police matters and released on 12/03/2023.	
Date of further arrest:	15/09/2023	
Time to be served on return to custody:	Number of days removed early before CRD 31/07/2021 to 16/04/2022 (inclusive) = 260 days	
Initial adjustment to CRD:	10/03/2023 + 260 days = CRD 24/11/2023	
SLED:	16/04/2027	
UAL following RiE:	13/03/2023 to 14/09/2023 (inclusive) = 186 UAL days	
Adjusted CRD:	24/11/2023 + 186 UAL days = 28/05/2024	
Adjusted SLED:	16/04/2027 + 186 UAL days = 19/10/2027	

2.107 Time spent in an Immigration Removal Centre (IRC)

When an FNP is held in an IRC, they are not considered to be in custody serving their custodial sentence. Therefore, if an FNP is removed from prison custody under ERS and placed in an IRC in readiness for their removal, any time spent there will not count towards their sentence. For sentence calculation purposes, this period should be treated as if the person were UAL.

2.108 Failed removals

Where, following removal to the IRC, deportation does not take place through no fault of the FNP (for example, where a flight is cancelled at short notice) and the Home Office return the FNP to prison at the earliest opportunity the Release Policy Team should be consulted. If the FNP is out of prison for only a short time (4 days or less) the Release Policy Team can advise on crediting the UAL time.

2.109 Other than the scenario outlined above, time spent in the IRC will not count as time served. If an FNP believes there are exceptional circumstances explaining why they remained UAL, they may submit an application to Public Protection Casework Section in HMPPS to have their case considered. This may include cases where an FNP has been detained in an IRC in error e.g. transferred outside the early removal period, or where the person has transferred to the IRC under ERS, was subsequently granted immigration bail and released

in error directly from the IRC. Where a release in error occurs, it may be appropriate for the prison to assist in initiating the application to PPCS on the prisoner's behalf.

- 2.110 In any case the application should be sent to **pre-releaseteama@justice.gov.uk** and must include the following details:
- Where the person was held
 - The dates they were held between at the IRC
 - If the FNP was subsequently released on immigration bail, confirmation as to whether this including a tagged curfew as part of the conditions.
 - The reason why the offender was not returned to prison custody when they should have been.
 - Any other relevant information.
- 2.111 Until/unless PPCS provide confirmation of how many days are not to be counted as UAL, the Prison Service must continue to treat the period as UAL and defer the release dates accordingly.

The Criminal Justice Act 2003 (Removal of Prisoners for Deportation) Order 2025 came into force on the 23/09/2025 expanding the ERS window to a maximum period of **4 years** whilst reducing the minimum period to serve to **30%** of the requisite custodial period (RCP). This Annex provides an overview of ERSED calculation for those serving at the time of implementation.

Calculation and defaulting rules for transitional cases

For this Annex the '**Current ERSED**' is the ERSED based on the previous maximum 545 day period and minimum of half of the requisite custodial period served with all adjustments applied **excluding ADAs**.

Where the current ERSED falls on or before the 23/09/2025 a new calculation is **not** required. The current ERSED remains as the ERSED (with any ADAs applied accordingly). E.g. current ERSED (without ADAs) is 28/08/25 – falls before the 23/09/2025 so is retained. The person has 42 ADAs, so these are applied to provide an effective ERSED of 09/10/2025.

Where the current ERSED falls **after the 23/09/2025** a new ERSED calculation will be required. The calculation will be carried out as per below:

1. Calculate the initial ERSED under the new ERS window:
 - **Sentence/aggregate with RCP less than 2089 days (minimum period applies).** To calculate; number of days in the RCP multiplied by 0.30 (rounded up). The figure obtained, less remand time, is applied from the actual date of sentence. E.g. RCP is 146 days, $146 \times 0.30 = 44$ (rounded up). 44 days – 5 days remand = 39 days. 39 days applied to the actual date of sentence to give the initial ERSED.
 - **Sentence/aggregate with RCP of 2089 days or more (maximum period applies).** To calculate; the ERSED is calculated as the initial release date (be this a CRD or PED), with remand/tagged bail applied but prior to ADAs or UAL, less 4 years. E.g. PED is 31/08/2030 less 4 years = 31/08/2026.

N.B. If the calculation in step 1 produces a date before DoS, use DoS as initial ERSED.

2. Apply any relevant UAL to the date obtained in step 1 (do **NOT** apply ADAs at this point).
3. Consider where the date obtained in step 2 falls:
 - If the date falls **on or before 23/09/2025** the ERSED **defaults to 23/09/2025**.
 - If the date falls **after 23/09/2025**, the date will not require defaulting and will be the 'new' ERSED.
4. Apply any ADAs to the new ERSED or default ERSED where applicable.

Example – Current ERSED falls after 23/09/2025

6 years SDS+ imposed 06/12/2023 with 10 days remand, providing a CRD 26/11/2027, SLED 25/11/2029 and ERSED 31/05/2026 (based on 545 day maximum).

Days in RCP are 1462 so 'new' minimum 30% calculation applies. $1462 \times 0.30 = 439$. $439 - 10$ remand days = 429 days. $06/12/2023 + 429 = 07/02/2025$. The 'new' ERSED of 07/02/2025 falls before implementation so ERSED defaults to **23/09/2025**.

If the person had ADAs – the dates are compared **without** ADAs applied. In this case a new calculation would still be required as the current ERSED falls after 23/09/2025 irrespective of ADAs. As the new ERSED defaults to date of implementation, ADAs are applied to the 23/09/2025.

ERS Decision Record Sheet

ANNEX B

Please use this record sheet in conjunction with paragraph 2.20(a-f) of the ERS PSI which sets out the reasons to refuse in more detail.

Name:		Nomis No:	
Sentence:			
CRD/NPD:		PED:	
		SLED:	
		LED:	
TUSED:		ERSED:	
		Country to be removed to:	
<p>FNPs who fall under the release provisions of s.247A (those serving for certain terrorism and/or terrorism connected offences) are INELIGIBLE for early removal under the ERS. FNPs serving for these offences should not be considered for early removal and this checklist does not need to be completed. Annex H to the PSI provides a pre-written letter for an FNP querying their eligibility if subject to the above.</p>			

REASONS TO REFUSE EARLY REMOVAL – Mark ‘Y’ against those that apply (if any).	Guidance
FNO RC has confirmed that it is NOT possible to remove the FNP during the early removal period.	
FNP is subject to:	
Outstanding criminal charges or police investigations	If the answer is yes to any of these points and early removal is refused, the decision may be re-taken: <ul style="list-style-type: none"> ▪ If/when there is an outcome to the outstanding/ongoing matters and they are no longer the reason to refuse early removal, or; ▪ If the FNP were to pay the fine or purge their contempt.
Outstanding proceedings for further criminal matters e.g. confiscation order	
Ongoing appeal in respect of substantive sentence and/or conviction	
Ongoing unduly lenient appeal made by the Attorney General	
A default term for non-payment of confiscation order enforced to be served consecutively	
A consecutive term of imprisonment (contempt/fine/BOTUS)	
Sentence	
FNP is serving for <u>non</u> -schedule 19ZA terrorism offence	If the answer is yes but you are still minded to allow early removal JEXU must be contacted before any decision is made (see paragraph 2.20 d of the PSI for details).
Exceptional circumstances / public safety concerns	
Clear evidence that the prisoner is planning further crime	If there are grounds which may undermine the ERS and/or public confidence in the Criminal Justice System, the final decision regarding early removal must be taken by the Chief Executive of HMPPS – refer to page 3 of the decision record sheet.
Evidence of violence or threats of violence in prison, on a number of occasions	
Dealing class A drugs whilst in custody	
Other public safety matters	
Case may undermine the ERS or public confidence in the CJS	

DECISION		Guidance
There are no reasons to refuse as noted overleaf and early removal can be authorised.		The ERS Authorisation form should be completed and sent to the FNP for signature. A copy of the signed document should be provided to FNO RC.
There are reasons to refuse early removal, but after consideration and/or discussion with the relevant teams (e.g. JEXU) an exception has been made to allow early removal.		Please set out the reasons for allowing early removal in space provided below. The ERS Authorisation form should be completed and sent to the FNP for signature. A copy of the signed document should be provided to FNO RC.
There are reasons to refuse early removal, and early removal has been refused.		Please set out the reasons for refusing early removal in space provided below. The ERS Refusal form should be completed accordingly. A copy of the completed form should be sent to the FNP and FNO RC informed of the decision.
Reasons for decisions and signature of decision maker		
Please attach any relevant supporting information/documents to this record sheet.		
Grade & Name: Signature Date:		

CHANGE OF CIRCUMSTANCES FOLLOWING INITIAL DECISION		Guidance
The original reason/s which required early removal to be refused have changed (e.g. the CACD have dismissed the appeal)		If early removal can now be authorised The ERS Authorisation form should be completed and sent to the FNP for signature. FNO RC should be informed and a copy of the signed authorisation form provided.
Early removal was authorised, but further matters have arisen which would now mean the decision has been retaken (e.g. police are investigating a matter in which the prisoner was suspected of being involved).		FNO RC should be informed as soon as possible if there are now reasons early removal is to be refused. The prison should also be informed that authorisation has been rescinded due to the further matters.
Outcome of re-taken decision and signature of decision maker		
Grade & Name: Signature Date:		

This below section is **only** required if the grounds for refusal are that early removal may undermine public confidence

Cases considered as having the potential to undermine the ERS or public confidence in the criminal justice system	
<p>Where the prison considers the case may have the potential to undermine the scheme or public confidence in the CJS, the case must be submitted to the Chief Executives Office, via the Release Policy Team, for the Chief Executive of HMPPS to make the decision regarding early removal. The below information should be sent to ReleasePolicyTeam@justice.gov.uk with the email subject heading 'ERS Chief Executive Case' and the prisoner's surname.</p> <p>Required information:</p> <ul style="list-style-type: none"> ▪ A copy of FNO RC Referral Form (if applicable) ▪ A covering note outlining the details of the case and any relevant information that may indicate how early removal could undermine ERS or public confidence in the criminal justice system ▪ Any supporting information e.g. evidence supplied by the police or JEXU ▪ Representations from the solicitor regarding suitability for early removal (if submitted) 	
Date email sent to the Release Policy Team:	
Notes:	
Outcome	Date / Comments
Early removal has been refused by Chief Executive of HMPPS	
Early removal has been authorised by Chief Executive of HMPPS	
Chief Executive decision letter sent to FNO RC	
Chief Executive decision letter sent to FNP	
Chief Executive decision letter attached to this checklist	Copy to be kept with this record sheet in the Warrant Folder.

POST REMOVAL FROM PRISON CUSTODY	Guidance
To be completed within 48 hours of FNPs scheduled removal date from the country	
Successful removal confirmed by Home Office	File can be filed away and kept in line with a life sentenced prisoner in case of return to the UK. Confirm successful removal with COM/VLO as applicable.
Removal has not been successful however, FNP has been detained at the IRC as removal can take place within a short time of original date (e.g. re-booked on flight within 48 hours of original)	Governor to agree detention in IRC for further period and to confirm successful removal within 48 hours of newly proposed date . If removal is successful above guidance can be followed, if removal is unsuccessful the FNP must be returned to custody as soon as practically possible.
Removal has not been successful, and no further arrangements can be made at this time.	The FNP must be returned to custody as soon as practically possible to continue serving the sentence. The FNP is not serving the sentence whilst detained in the IRC.

EARLY REMOVAL SCHEME AUTHORISATION FORM

HMP/YOI:			
Contact Name:		Email:	

Prisoner Details			
Name:		Nomis No.:	
Country to be removed to:		HO Ref No.:	

Sentence/Release Dates on Removal (complete relevant fields)			
Sentence type and length:			
CRD: Conditional Release Date		PED: Parole Eligibility Date	
ARD: Automatic Release Date		SLED: Sentence & Licence Expiry Date	
NPD: Non-Parole Release Date		TUSED: Post Sentence Supervision End Date	
ERSED: Early Removal Scheme Eligibility Date		LED: Licence Expiry Date (if separate from sentence expiry)	

The governor has **authorised your early removal** from prison custody under the Early Removal Scheme in line with section 260 of the Criminal Justice Act (CJA) 2003.

The authorisation of your early removal under the scheme allows for you to be removed from prison custody on or after your ERS Eligibility Date as soon as Home Office Immigration Enforcement can effect your removal to the country stated on this form. Whilst you remain in prison custody you will continue to serve your sentence until either your removal from custody takes place, or you reach your automatic release date as stated above. If you are subject to parole, you will be reviewed in accordance with the parole process.

Upon your removal from prison custody, your sentence will be paused. Should you ever return to the UK in the future, you will be liable to arrest and return to custody to resume serving your sentence in accordance with section 260 of the CJA 2003. **If the circumstances of your case change before your removal takes place the governor will re-review the decision accordingly. You will be notified of any change to the decision.**

Authorised by (name & title)

Signature **Date**.....

I understand my removal under the Early Removal Scheme has been authorised and the contents of this form has been explained to me.

Prisoner's signature **Date**

Prisoner refused to sign **Refusal to sign this form does NOT impact early removal.**

Date issued Name & initials of issuing Officer

EARLY REMOVAL SCHEME REFUSAL FORM

HMP/YOI:			
Contact Name:		Email:	

Prisoner Details			
Name:		Nomis No.:	
Country to be removed to:		HO Ref No.:	

Sentence/Release Dates (complete as applicable)			
Sentence type and length:			
CRD: Conditional Release Date		PED: Parole Eligibility Date	
ARD: Automatic Release Date		SLED: Sentence & Licence Expiry Date	
NPD: Non-Parole Release Date		TUSED: Post Sentence Supervision End Date	
ERSED: Early Removal Scheme Eligibility Date		LED: Licence Expiry Date (if separate from sentence expiry)	

The governor has **refused your early removal** from prison custody under the Early Removal Scheme. The grounds for the decision are set out below (*please circle relevant reason*):

- A. You have outstanding criminal charges/police investigations/further criminal matters.
- B. You have an ongoing appeal against your sentence/conviction or unduly lenient appeal.
- C. You are liable to serve a consecutive term following your current sentence.
- D. Home Office Immigration Enforcement (HOIE) cannot effect your removal at this stage.
- E. Other (*please give details using a separate sheet as necessary*):

.....

There is no right to appeal a decision to refuse early removal made on grounds A to D. If the circumstances of your case change however, the governor may re-review the decision accordingly. If you wish to appeal against the decision to refuse for the reason(s) given in E, you should submit a request/compliant to the governor, setting out your grounds of appeal.

You will continue to serve your sentence in custody, with release in accordance with the release dates set out at the top of this form. If subject to parole, you will be considered for release by the Parole Board in line with your Parole Eligibility Date. You may still be removed by HOIE on your release or may be liable to be further detained under the powers of the Immigration Act 1971 pending removal.

Decision taken by (name & title)

Signature **Date**

Date issued Name & initials of issuing Officer

GLOSSARY OF TERMS

ADA	Additional Days Awarded
ARD	Automatic Release Date
BOTUS	Breach of Post Sentence Supervision ('top up supervision')
CJA 1991	Criminal Justice Act 1991 (now Schedule 20B of the CJA 2003)
CJA 2003	Criminal Justice Act 2003
CJ&IA 2008	Criminal Justice and Immigration Act 2008
CRD	Conditional Release Date
DCR	Discretionary Conditional Release
DOS	Date of Sentence
DTO	Detention and Training Order
DYOI	Detention in Young Offenders Institution
EDS	Extended Determinate Sentence
ERA	Enhanced Risk Assessment
ERS	Early Removal Scheme
ERSED	Early Removal Scheme Eligibility Date
FNP	Foreign National Prisoner
FNO RC	FNO Return Command
FRS	Facilitated Returns Scheme
HDC	Home Detention Curfew
HOIE	Home Office Immigration Enforcement
IRC	Immigration Removal Centre
LASPOA 2012	Legal Aid, Sentencing and Punishment of Offenders Act 2012
NABA 2022	Nationality and Borders Act 2022
HMPPS	His Majesty Prison and Probation Service
NPD	Non-Parole Date
PCSCA 2022	Police Crime, Sentencing and Courts Act 2022
PED	Parole Eligibility Date
PPCS	Public Protection Casework Section
PSI	Prison Service Instruction
PSO	Prison Service Order
RCP	Requisite custodial period
SDS	Standard Determinate Sentence
SDS+	SDS with two-thirds release point
SED	Sentence Expiry Date
SLED	Sentence and Licence Expiry Date
TORERA 2020	Terrorist Offenders (restriction of Early Release) Act 2020
UAL	Unlawfully at large
HOIE	Home Office Immigration Enforcement
YCS	Youth Custody Service Team

'Sentence envelope'

Sentence envelope is a reference to a period created when serving multiple sentences. A sentence envelope is the period 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.

Definition of '**release**' in relation to the sentence envelope

Release in this context refers to a prisoner who has finished serving the custodial period for the sentence. This may be the person has reached the automatic release point e.g. their CRD, or someone who has been directed release by the Parole Board. Release in this context is irrespective of whether the prisoner physically leaves custody. For example, they may continue to be detained on remand beyond the CRD but are considered as released from the sentence and any further sentence imposed will not form a sentence envelope.

Release for the purposes of this PSI does **NOT** include release on temporary licence (ROTL), where removal under ERS took place on or after the 28/06/2022 or if the release was found to be in error.

Offences in relation to section 247A release provisions

1. Specified offence in Part 1 (*terrorism offences punishable with life imprisonment*) of Schedule 19ZA to the CJA 2003
2. Specified offence in Part 2 (*terrorism offences punishable with imprisonment of more than two years*) of Schedule 19ZA to the CJA 2003.
3. Any offence with a declared terrorism connection under section 69 of the Sentencing Act 2020 or section 30 of the Counter Terrorism Act 2008.
4. A service offence with corresponding 'civil offence' which falls under the specified offences above.

GLOSSARY OF HOIE PAPERWORK**General**

ICD.2967 Confirmation of conveyance (though often now attached to the relevant notice)

Deportation (1971 Act and 2007 Act)

ICD.4932 –
 ICD.4939 Various deportation decision notices
 ICD.3237 Appeal pro-forma (PF1)
 ICD.3066 Deportation disclaimer
 ICD.3811;)
 ICD.3510 –) Various DO submissions
 ICD.3512)
 ICD.0348 Deportation order (Court-recommended)
 ICD.3813 Deportation order (Automatic)

Removal

RED.0001 Removal decision notices (non-EEA)
 IS.151A(EEA) Removal decision notice (EEA)
 ICD.2599 Immigration factual summary, included in removals pack

Detention

IS.94 Bilateral agreement
 ICD.1913 Reasons for detention Letter
 ICD.3079 Minute of decision to detain
 IS.91 Authority for prison to detain beyond custodial sentence
 IS.91RA Risk assessment (for DEPMU)

Detention Review

ICD.3078 Detention review
 IS.151F(CCD) Monthly progress report to detainees (every 28 days)

Immigration Bail

ICD.3221 Bail summary – for Immigration and Asylum Chamber (IAC) bail applications
 IS.98A Application for bail – in CIO/SoS applications
 IS.99A Recognizance of surety

Documents required if bail granted

IS.106 Release order. Faxed to prison/IRC to authorise release of detainee.
 ICD.0343 Restriction order with conditions imposed. Faxed to prison/IRC for service on detainee and to reporting centre/police station
 ICD.0847 Release notification letter. Faxed to prison
 ICD.0377 Reporting notification. Faxed to reporting centre/police station.
 ISE.301 Notification to police to open book

LEGISLATION GOVERNING THE EARLY REMOVAL SCHEME**Persons liable to removal from the United Kingdom****Section 259 of the Criminal Justice Act 2003: Persons liable to removal from the United Kingdom**

For the purposes of this Chapter a person is liable to removal from the United Kingdom if —

- (a) he is liable to deportation under section 3(5) of the Immigration Act 1971 (c 77) and has been notified of a decision to make a deportation order against him,
- (b) he is liable to deportation under section 3(6) of that Act,
- (c) he has been notified of a decision to refuse him leave to enter the United Kingdom,
- (d) he is an illegal entrant within the meaning of section 33(1) of that Act, or
- (e) he is liable to removal under section 10 of the Immigration and Asylum Act 1999 (c 33).

260 Early removal of prisoners liable to removal from United Kingdom 260

(1) Where a fixed-term prisoner is liable to removal from the United Kingdom, the Secretary of State may remove the prisoner from prison under this section at any time after the prisoner has served the minimum pre-removal custodial period (whether or not the Board has directed the prisoner's release under this Chapter).

(2) The minimum pre-removal custodial period is the longer of—

- (a) 30% of the requisite custodial period, and
- (b) the requisite custodial period less 4 years.”

(2C) Subsection (1) does not apply in relation to a prisoner to whom section 247A applies.

(3) . . .

(3A) In subsection (3)(e) the reference to a direction under section 240 includes a direction under section 246 of the Armed Forces Act 2006.

(4) A prisoner removed from prison under this section—

- (a) is so removed only for the purpose of enabling the Secretary of State to remove him from the United Kingdom under powers conferred by—
 - (i) Schedule 2 or 3 to the Immigration Act 1971, or
 - (ii) section 10 of the Immigration and Asylum Act 1999 (c 33), and
- (a) so long as remaining in the United Kingdom, and in the event of a return to the United Kingdom after removal, is liable to be detained in pursuance of his sentence.

(4A) Where a person has been removed from prison under this section, a day on which the person has not spent any part of the day in prison or otherwise detained in pursuance of their sentence is not, unless the Secretary of State otherwise directs, to be included—

- (a) when determining for the purposes of any provision of this Chapter how much of their sentence they have (or would have) served, or
- (b) when determining for the purposes of section 244ZC(2), 244A(2)(b) or 246A(4)(b) the date of an anniversary of a disposal of a reference of the person's case to the Board (so that the anniversary is treated as falling x days after the actual anniversary, where x is the number

of days on which the person has not spent any part of the day in prison or otherwise detained in pursuance of their sentence).

(4B) Where—

- (a) before a prisoner's removal from prison under this section their case had been referred to the Board under section 244ZB(3), 244ZC(2), 244A(2) or 246A(4), and
- (b) the person is removed from the United Kingdom before the Board has disposed of the reference, the reference lapses upon the person's removal from the United Kingdom (and paragraph 8 of Schedule 19B applies in the event of their return)

(5)

(6) The Secretary of State may by order—

- (a) amend the fraction for the time being specified in subsection (2)(a);
- (b) amend the time period for the time being specified in subsection (2)(b).

(7) ...

(8) Paragraphs 36 and 37 of Schedule 20B (transitional cases) make further provision about early removal of certain prisoners.

(9) Subsection (2C) does not affect the continued liability to detention under subsection (4)(b) of a prisoner removed from prison under this section before subsection (2C) came into force and in such a case—

- (a) the "requisite custodial period" in subsection (4)(b) has the meaning given by section 247A(8), and
- (b) subsection (5) is to be read as including reference to section 247A.

261 Removal under section 260 and subsequent return to UK: effect on sentence

Where a person—

- (a) has been removed from prison under section 260 on or after the day on which section [46](#) of the Nationality and Borders Act 2021 came into force,
- (b) has been removed from the United Kingdom following that removal from prison, and
- (c) returns to the United Kingdom,

this Chapter applies to the person with the modifications set out in Schedule 19B.

[261 Re-entry into United Kingdom of offender removed from prison early As saved for removals before the commencement of the Nationality and Borders Act 2022

- (1) This section applies in relation to a person who, after being removed from prison under section 260, has been removed from the United Kingdom before he has served the requisite custodial period.
- (2) If a person to whom this section applies enters the United Kingdom at any time before his sentence expiry date, he is liable to be detained in pursuance of his sentence from the time of his entry into the United Kingdom until whichever is the earlier of the following—
 - (a) the end of a period ("the further custodial period") beginning with that time and equal in length to the outstanding custodial period, and

- (b) his sentence expiry date.
- (3) A person who is liable to be detained by virtue of subsection (2) is, if at large, to be taken for the purposes of section 49 of the Prison Act 1952 (c 52) (persons unlawfully at large) to be unlawfully at large.
- (4) Subsection (2) does not prevent the further removal from the United Kingdom of a person falling within that subsection.
- (5) Where, in the case of a person returned to prison by virtue of subsection (2), the further custodial period ends before the sentence expiry date,—
- (a) . . .
- (b) . . . section 243A , 244, 244ZA, 244ZC, 244A, 246A , 247 or 247A (as the case may be) has effect in relation to him as if the reference to the requisite custodial period were a reference to the further custodial period.
- (6) In this section—
- “further custodial period” has the meaning given by subsection (2)(a);
- “outstanding custodial period”, in relation to a person to whom this section applies, means the period beginning with the date of his removal from the United Kingdom and ending with the date on which he would, but for his removal, have served the requisite custodial period;
- . . .
- “requisite custodial period”, in relation to a person to whom section 247A applies, has the meaning given by section 247A(8) (see section 268(1A) for its meaning in other cases);
- “sentence expiry date”, in relation to a person to whom this section applies, means the date on which, but for his release from prison and removal from the United Kingdom, he would have served the whole of the sentence.]

SCHEDULE 19B

PRISONERS RETURNING TO THE UK: MODIFICATIONS OF CHAPTER 6 OF PART 12

Modification of dates for referral to the Board

- 1 Paragraph 2 applies where section 244ZC(2), 244A(2) or 246A(4) (when read with section 260(4A)) would require the Secretary of State to refer a person’s case to the Board on a day falling before the end of the period of 28 days beginning with the day on which the person is returned to custody.
- 2 The applicable provision is to be read as requiring the Secretary of State to refer the person’s case to the Board at any time up to the end of the period of 28 days beginning with the day on which the person is returned to custody.
- 3 For the purposes of paragraphs 1 and 2, a person returns to custody when the person, having returned to the United Kingdom, is detained (whether or not in prison) in pursuance of their sentence.

Person removed after Board had directed release but before being released

- 4 Paragraphs 5 and 6 apply where, before a person’s removal from the United Kingdom—
 - (a) the Board had directed their release under section 244ZC, 244A or 246A, but
 - (b) they had not been released on licence.
- 5 The direction of the Board is to be treated as having no effect.
- 6 The person is to be treated as if—
 - (a) they had been recalled under section 254 on the day on which they returned to the United Kingdom, and
 - (b) they were not suitable for automatic release (see section 255A).

Person removed after referral to the Board but before disposal of the reference

- 7 Paragraph 8 applies where—
- (a) before a person's removal from prison their case had been referred to the Board under section 244ZB(3), 244ZC(2), 244A(2) or 246A(4), and
 - (b) the reference lapsed under section 260(4B) because the person was removed from the United Kingdom before the Board had disposed of the reference.
- 8 Section 244ZC(2), 244A(2) or 246A(4) (as applicable) is to be read as requiring the Secretary of State to refer the person's case to the Board before the end of the period of 28 days beginning with the day on which the person is returned to custody.
- 9 For the purposes of paragraph 8, a person returns to custody when the person, having returned to the United Kingdom, is detained (whether or not in prison) in pursuance of their sentence.

Person removed after having been recalled to prison

- 10 Paragraphs 11 and 12 apply where, at the time of a person's removal from prison under section 260, the person was in prison following recall under section 254.
- 11 Any direction of the Board made in relation to the person under section 255C or 256A before their return to the United Kingdom is to be treated as having no effect.
- 12 The person is to be treated as if—
- (a) they had been recalled under section 254 on the day on which they returned to the United Kingdom, and
 - (b) they were not suitable for automatic release (see section 255A).

Schedule 20B of the Criminal Justice Act 2003 (as inserted by Schedule 17 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012): Early removal of prisoners liable to removal from UK

- 36 (1) This paragraph applies to any person who—
- (a) has served one-half of a sentence of imprisonment, and
 - (b) has not been released on licence under this Chapter.
- (2) The reference in sub-paragraph (1)(a) to one-half of a sentence is—
- (a) in the case of a section 85 extended sentence, a reference to one-half of the custodial term;
 - (b) in the case of an extended sentence imposed under section 227 or 228, a reference to one-half of the appropriate custodial term.
- 37(1) If a person to whom paragraph 36 applies—
- (a) is liable to removal from the United Kingdom, and
 - (b) has not been removed from prison under section 260 during the period mentioned in subsection (1) of that section, the Secretary of State may remove the person from prison under that section at any time after the end of that period.
- (2) Sub-paragraph (1) applies whether or not the Board has directed the person's release under paragraph 6, 15, 25 or 28."

Explanation wording for FNPs ineligible for early removal under ERS (as required)

Dear,

Thank you for your query regarding the Early Removal Scheme (ERS).

ERS is a scheme which allows some foreign national prisoners (FNPs) to leave prison early so they can be removed from the UK by the Home Office.

The legal basis for early removal is section 260 of the Criminal Justice Act (CJA) 2003. Under section 260(2C) prisoners who are subject to the release provisions of section 247A of the CJA 2003 cannot be considered for early removal.

Section 247A applies for those serving sentences for certain terrorism offences and offences with a declared terrorism connection.

At least one of the sentences which you are serving was imposed for a terrorism or terrorism connected offence and this means that you are not eligible for early removal under ERS whilst you are serving the current sentence / sentence aggregate.

Ineligibility for early removal under ERS does not impact your liability for removal from the country, and the Home Office may continue to pursue removal in line with your release from your sentence.

Yours sincerely,

(office/prison)