

**Briefing on Police, Crime, Sentencing and Courts Bill
Amendments 208G on the termination of IPP licences and 208H on additional
discretionary power of executive release**

29 October 2021

Key points

- These amendments will incentivise people serving an IPP sentence to build constructive, law-abiding futures in the community
- They will remove an administrative burden on the Parole Board
- Amendment 208G will address the hopelessness which is built into the IPP licence. It establishes an automatic expiry date alongside safeguards for the protection of the public
- Amendment 208H will resolve an anomaly which traps people in prison for months after a recall

Amendment 208G: Imprisonment or Detention for Public Protection: termination of licences

Amendment 208G will end the revolving door of recalls for people serving the IPP sentence who have successfully reintegrated into their communities.

This amendment deals with people that the Parole Board has already decided are safe to release but who are often recalled to prison for long periods of time.

At the moment people may apply for the life licence to be cancelled after ten years. This amendment means it will expire automatically after two years, unless the Secretary of State wishes to seek to extend it.

The amendment includes clear, robust safeguards for the protection of the public. The Secretary of State can apply to the Parole Board to extend the licence period for a further 12 months if he or she has concerns about risk. The Secretary of State may make a further extension application to the Parole Board without any further information to justify it. If the Parole Board refuses to do that, then a further application can be made prior to licence expiry if there is new information to justify it.

The indefinite IPP licence contradicts all the evidence about what helps people to move away from offending. People need to feel hopeful about their futures. They need a sense of connection and belonging, as well as a secure job and home. They need an opportunity for redemption.

The IPP licence prevents this from happening. It stops people from looking forward to a better future, disrupts relationships and discourages positive change.

An automatic expiry date will reduce the administrative burden on probation and prison services. It will provide a powerful incentive for both probation services and the person on licence to focus on successfully reintegrating within the two year period.

Amendment 208H: Imprisonment or detention for public protection: release on licence

Amendment 208H creates an **additional** power for the Secretary of State to re-release IPPs who are recalled to prison.

The amendment removes an anomaly in the current process for re-release. When people are recalled on determinate and extended determinate sentences and it becomes clear that they do not pose a risk of harm, the Secretary of State can executively release them. This option does not exist for IPPs, who can only presently be released by the Parole Board.

The new power will run alongside the mandatory parole process and provide an additional avenue of release where it is not necessary to wait for the parole review.

By their nature, recall decisions are made quickly and are often based on limited evidence. It is not unusual for probation officers to consider that someone can be safely released following an initial investigation into what happened. There is currently no quick route to re-release after an IPP recall, even if it has become clear that the issues that triggered the recall do not mean that the person poses a risk of serious harm. Instead, IPP prisoners can end up in a situation where every professional is recommending release, and yet they are trapped in prison for months waiting for a Parole Board hearing. In the meantime, they may lose their jobs, homes and community ties.

For example, it is not uncommon for a person serving an IPP who is released to an Approved Premises, where residents are likely to present with challenging behaviour, to be caught up in a disturbance. Understandably, the police may be called. That may result in a recall. Yet, a simple investigation may show the person who has been recalled has done nothing of concern. They may have been a victim rather than a perpetrator. Yet at present, the only route to release is to go through the convoluted parole process.

Amendment 208G

**BARONESS BURT
LORD BLUNKETT**

Insert the following new Clause—

“Imprisonment or Detention for Public Protection: termination of licences

- (1) *In Chapter 6 of Part 12 of the Criminal Justice Act 2003 (release on licence), in section 239 (the Parole Board), after subsection (2) insert—*

“(2A) It is the duty of the Board to determine any matter referred to it by the Secretary of State which is to do with the extension of qualifying periods for the termination of licences under section 31A of the Crime (Sentences) Act 1997.”

- (2) *In Part 2 of the Crime (Sentences) Act 1997 (life sentences: release on licence)—*

(a) In section 31 (duration and conditions of licences), omit subsection (1A).

(b) In section 31A (termination of licences), omit subsections (2), (3) and (4) and insert—

“(2) Where—

- (a) the prisoner has been released on licence under this Chapter;*
- and*
- (b) the qualifying period has expired; and*
- (c) the prisoner has not been recalled during the qualifying period*

the licence is to cease to have effect.

(3) Where—

- (a) the prisoner has been released on licence under this Chapter;*
- and*
- (b) has been recalled during the qualifying period; and*
- (c) has been re-released on licence under this Chapter*

the qualifying period shall recommence beginning on the date of the prisoner’s release, unless the Parole Board considers that, having regard to all the circumstances, a shorter licence period is appropriate.

(4) Where—

- (a) the prisoner has been released on licence under this Chapter;*
- (b) the qualifying period or extended qualifying period has not expired; and*
- (c) the Secretary of State considers, having regard to all the circumstances, it necessary for the protection of the public that the qualifying period be extended*

the Secretary of State may refer the prisoner to the Parole Board.

(c) In section 31A (termination of licences) insert—

“(4A) Where a referral is made under subsection (4) above, the Parole Board—

(a) shall, if it is satisfied that it is necessary for the protection of the public, direct that the Secretary of State extend a qualifying period or extended qualifying period by up to twelve months;

(b) shall otherwise decide that a qualifying period or extended qualifying period is not extended.”

(4B) Where—

(a) a referral made under subsection (4) above; and

(b) the Parole Board decide that a qualifying period or extended qualifying period is not extended; and

(c) a qualifying period has not expired; and

(d) the Secretary of State considers, having regard to all the circumstances, it necessary for the protection of the public that a qualifying period or extended qualifying period be extended

the Secretary of State may refer the prisoner to the Parole Board for a reconsideration of its decision.

(4C) Where a referral is made under subsection (4) above, the Parole Board shall not reconsider its decision unless the referral is based on information which was not available at the time that its decision was taken.

(4D) Where subsection (4C) is fulfilled, the Parole Board—

(a) shall, if it is satisfied that it is necessary for the protection of the public, direct that the Secretary of State extend the qualifying period or extended qualifying period by up to twelve months;

(b) shall otherwise decide that the qualifying period or extended qualifying period is not extended.”

(d) In section 31A (termination of licences), subsection (5) for “ten years” substitute “two years”.

(e) In section 31A (termination of licences) subsection (5) insert—

“the extended qualifying period” means any qualifying period extended following a referral by the Secretary of State pursuant to subsection (4A) or subsection (4D) above.”

Amendment 208H

BARONESS BURT

Insert the following new Clause—

“Imprisonment or detention for public protection: release on licence

(1) Part 2 of the Crime (Sentences) Act 1997 is amended as follows.

(2) In section 32 (Recall of life prisoners while on licence), insert—

“(4A) Where a prisoner (“P”) serving an indeterminate sentence of detention or imprisonment for public protection is recalled under subsection (1), the Secretary of State may, at any time after P is returned to prison, release P again under this section.

(4B) The Secretary of State must not release P under subsection (4A) unless the Secretary of State is satisfied that it is not necessary for the protection of the public that P should remain in prison.””

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