



Ministry of
JUSTICE

Explanatory Notes on sections of the LASPO act that are being commenced on Royal Assent

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Section 77: Piloting of alcohol abstinence and monitoring requirements

1. Section 77 requires the provisions creating the new alcohol abstinence and monitoring requirement to be commenced initially for the purposes of a pilot. Subsection (1) allows the Secretary of State (after having made a piloting order or orders) to make a general commencement order. Under subsection (5)(a) an order made by the Secretary of State may amend the alcohol abstinence and monitoring requirement provisions under section 76 to enable the provisions to be brought into force generally with amendments, and subsection (5)(b) would allow the Secretary of State to amend other provisions of the Act in consequence of these changes. Subsection (6)(a) makes it clear that subsection (5)(a) includes a power to confer order or rule making powers on the Secretary of State.
2. Subsection (7) contains a power exercisable by the Secretary of State, after having made a piloting order or orders, to make an order to repeal section 76, to amend the 2003 Act to reverse the effect of that section on that Act or to make other consequential amendments or repeals.
3. Subsection (9) provides for an order under the new section to be made by statutory instrument. Subsection (10) provides that a general commencement order, or an order to amend or to repeal section 76, may not be made unless the order has been laid before and approved by each House of Parliament.

Section 119: Removal of prisoners from the United Kingdom

4. Section 119 inserts two new sections into the Crime (Sentences) Act 1997 to provide a power for the Secretary of State to remove from the UK foreign national prisoners who are serving indeterminate sentences once they have served the minimum term ("tariff") set by the court. The Secretary of State may remove such a prisoner whether or not the Parole Board has directed the prisoner's release. Provision is also made for prisoners who are removed under this power and subsequently return to the UK to be detained in pursuance of their sentence.
5. New section 32A sets out the criteria for removal and the powers of the Secretary of State to remove a prisoner. This provision applies to those who are removed from prison (whether before initial release or after recall at any time). Subsection (4) allows for release by the Parole Board or compassionate release to apply to the prisoner up until the actual removal from the UK. Subsection (5) imports the definition for a person liable to

removal from section 259 of the 2003 Act as it applies for determinate sentence prisoners.

6. New section 32B applies where, after removal, the offender returns. If not initially released by the Parole Board before removal then the offender will be treated as if he had not previously been released. If the Parole Board directed release prior to the removal then the offender will be treated as if recalled for breach of licence. Where the sentence is a life sentence, this will apply at any time until death. Where the sentence is an indeterminate sentence for public protection, then it will apply at any time until the licence ceases to have effect under section 31A.