

Update on IPP amendments tabled for the Victims and Prisoners Bill – May 2024

What has happened?

Peers in the House of Lords proposed several amendments to the Victims and Prisoners Bill, which were debated on 12th March 2024. These amendments are in addition to Clause 48—the amendment on IPP licence reform which was proposed by the Government. The additional amendments are intended to strengthen Clause 48; and make changes for unreleased people serving IPP.

Since the debate, a revised set of amendments have been put forward for vote at the next stage of the Bill. This is likely to be in mid May. The Government has put forward two new amendments, and the others have been proposed by members of the House of Lords. Some of the previously proposed amendments have been dropped.

What is Clause 48?

Clause 48 would drop the period people must wait for a review of their licence from 10 years after first release to 3 years. The 3 year point is known as the “qualifying period”. It would also introduce automatic ending of an IPP sentence for people who avoid recall for 2 years after the start of the qualifying period. This is known as the “sunset clause”.

What are the new and revised amendments?

Amendments proposed by the Government

Amendment	Tabled by
Power for the Secretary of State to release recalled IPP prisoners without reference to the Parole Board, if they believe it is safe to do so. This power used to be known as executive release. It is now called Risk Assessed Recall Review. Under current law, it only applies to people serving determinate sentences.	Lord Bellamy (Government representative in the House of Lords)
Power for the Secretary of State to dismiss an IPP recall for purposes of termination of an IPP licence. This power would allow the SoS to disregard a recall which would otherwise affect the sunset clause, in cases where the person has been executively re-released <u>OR</u> re-released by the Parole Board. It is not yet clear under what circumstances this power would be invoked.	Lord Bellamy (Government representative in the House of Lords)
A legal requirement for the Secretary of State to lay an annual report before parliament stating what has been done to progress IPP prisoners towards release or licence termination. The report must have particular regard to DPP prisoners, and to women IPPs.	Lord Bellamy (Government representative in the House of Lords)

Revised amendments relating to licence termination and the sunset clause

Amendment	Tabled by	Government's response during the debate
134, 135, 136: Provision for a prisoner to apply to the Parole Board for a licence termination review following expiry of the qualifying period on an annual basis (rather than just once).	Lord Thomas Lord Garnier Lord Blunkett Baroness Burt	The Government was not convinced on these amendments but they were open to hearing further evidence on them.

137, 138: Provision to ensure the sunset clause will still apply where the recall has been rescinded by the Secretary of State and where there has been an inappropriate recall and the person has been released.	Lord Carter Lord Garnier Lord Blunkett Baroness Burt Lord Thomas	The Government feels these amendments might be addressed by the amendments they have tabled giving the SoS additional discretionary powers in the case of recalls.
139: Amendments to stop the Government being able to extend the length of the qualifying period without the consent of parliament.	Lord Thomas Lord Garnier Lord Blunkett Baroness Burt	The Government stated that they would come back with a position on this at the next stage of the Bill, once they have heard further evidence.

Revised amendments relating to recall and executive release

Amendment	Tabled by	Government's response during the debate
146: Additional power of executive release of recalled IPP prisoners. Executive release (now known as Risk Assessed Recall Review) is when the Secretary of State gives permission for a recalled prisoner to be released without a parole hearing. It currently only applies to people serving a determinate sentence.	Lord Carter Lord Garnier Lord Blunkett Baroness Burt	The Government has proposed their own amendment, broadly similar to this one, indicating that they are supportive.
New amendment added at report stage 148: New mandatory requirement for the Secretary of State to refer recalled IPP prisoners to the Parole Board within 28 days of recall. This currently only applies to people serving a determinate sentence.	Lord Carter Lord Moylan Baroness Burt Baroness Fox	This amendment has been added since the last debate. The Government has not yet commented.

Revised amendments relating to progression

Amendment	Tabled by	Government's response during the debate
141: Place the IPP action plan on statutory basis with stated purposes and an annual progress report to parliament. This means HMPPS would be legally obliged to carry out the plan.	Lord Blunkett Baroness Burt Lord Garnier Lord Hope	The Government said they can see the benefit of this amendment. So far, they have proposed their own amendment requiring an annual progress report.
142: Establish an independent scrutiny panel on IPP, with oversight of the IPP action plan.	Lord Blunkett Baroness Burt Lord Garnier Lord Hope	The Government said they can see the benefit of this amendment.
140: An additional aftercare duty to IPP prisoners who have become stuck in the system for three or more years after their tariff has expired. The aftercare package would be modelled on the care offered to people leaving secure hospital, which includes practical and health-related support.	Baroness Burt Lord Moylan Lord Bishop of Gloucester Baroness Fox	The Government was not convinced on this amendment, but they are open to hearing further evidence.
147: Appointment of persons to represent IPP prisoners' interests.	Lord Garnier Baroness Burt Baroness Fox	The Government is not convinced on this amendment.

Revised amendments relating to the release test and resentencing

Amendment	Tabled by	Government's response during the debate
145: Amending the release test for IPP prisoners 10 or more years beyond tariff, or who have served the maximum equivalent determinate sentence for their offence. This means placing an increased burden of proof on the State that the person serving IPP would present a serious risk of harm if released.	Lord Moylan Lord Blunkett Lord Hope Baroness Burt	The Government is not convinced on this amendment.

Revised amendments relating to Detention for Public Protection

Amendment	Tabled by	Government's response during the debate
138a: Amendment to shorten the qualifying period for people serving a DPP sentence from 3 years to 18 months.	Lord Blunkett Baroness Chakrabarti Lord Bishop of Gloucester Lord Hodgson	The Government does not support this amendment.
144: Amendment on annual referrals to the Parole Board for people on DPPs.	Lord Blunkett Baroness Chakrabarti Lord Bishop of Gloucester Lord Hodgson	The Government stated that the new Parole Board policy giving priority to those serving DPP was sufficient, and annual Parole reviews were not needed.
143: Amendment on twice-yearly sentence planning reviews for those serving DPP, who have not been released.	Lord Blunkett Baroness Chakrabarti Lord Bishop of Gloucester Lord Hodgson	The Government agreed with the general spirit of the amendment (enhanced support of DPP prisoners), but did not agree that increasing sentence planning reviews was the answer. They indicated that they were open to a revised amendment mandating priority of DPP prisoners.

Which amendments are not being taken forward?

The main amendment that has not been taken forward at this stage is resentencing.

What does this mean for resentencing?

We knew from the last debate that resentencing was unlikely to happen as the Government is not open to it. Many parliamentarians recognise the need to keep the resentencing debate alive, as support for it has grown in recent years and debate may contribute to future opportunities. We have seen increased media activity and advocacy for resentencing in the last few months. We want people to prepare themselves for the almost certain scenario that this Bill will not contain provision for a resentencing exercise. **However,** UNGRIPP and our growing number of political and media allies will continue to advocate for resentencing, and take advantage of opportunities for it to return to parliament under a future bill. We will always campaign for resentencing, and we will fight to ensure that people serving IPP in prison and the community are not forgotten.

What happens now?

The next House of Lords debate on these amendments is likely to happen in early to mid May. There will then be a vote on which ones to include in the Bill. The Bill will then have to clear another passage through the House of Commons before it becomes law.

What are UNGRIPP doing next?

We will always push for resentencing as the only way to truly fix IPP, but we will also support other amendments that may make some difference to people's lives. If Clause 48 is passed, it will give a much strengthened route off the IPP sentence for the first time. This is the first Bill since IPP's abolition, and we will push this opportunity as far as we can. But we will not stop once the Bill has passed.