



Armed Forces Act 2006

2006 CHAPTER 52

PART 8

SENTENCING POWERS AND MANDATORY ETC SENTENCES

CHAPTER 6

MANDATORY ETC CUSTODIAL SENTENCES FOR CERTAIN OFFENCES

[^{F1}Required or discretionary sentences for particular offences]

Textual Amendments

- F1** S. 219 cross-heading substituted (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 25 para. 13\(4\)](#); S.I. 2009/1028, art. 2(b)

[^{F2}218A Life sentence for second listed offence

- (1) This section applies where—
- a person aged 18 or over is convicted by the Court Martial of an offence under section 42 (criminal conduct);
 - the corresponding offence under the law of England and Wales is an offence listed in [^{F3}Part 1 of Schedule 15 to the Sentencing Code];
 - the offence was committed [^{F4}on or after the relevant date]; and
 - the sentence condition and the previous offence condition are met.

[In subsection (1)(c), “relevant date”, in relation to an offence, means the date specified ^{F5}(1A) for the corresponding offence (as mentioned in subsection (1)(b)) in Part 1 of Schedule 15 to the Sentencing Code.

Changes to legislation: Armed Forces Act 2006, Cross Heading: Required or discretionary sentences for particular offences is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (1B) Where the offender is under 21 when convicted of the offence under section 42, section 273(3) of the Sentencing Code (duty of court to impose custody for life except in exceptional circumstances) applies in relation to the offender.]
- (2) [^{F6}Where the offender is 21 or over when convicted of the offence under section 42, section 283(3) of the Sentencing Code (duty of court to impose imprisonment for life except in exceptional circumstances)] applies in relation to the offender.
- (3) In [^{F7}sections 273(3)(a) and 283(3)(a) of that Code] as applied by [^{F8}subsections (1B) and (2)]—
- (a) the reference to [^{F9}“the index offence”] is to be read as a reference to the offence under section 42; and
 - (b) the reference to “the previous offence referred to in [^{F10}subsection (5)]” is to be read as a reference to the previous offence referred to in subsection (5) of this section.
- (4) The sentence condition is that, but for this section, the Court Martial would, in compliance with sections 260(2) and 261(2), impose a sentence of imprisonment for 10 years or more, [^{F11}or, in the case of an offender aged under 21 on conviction, a sentence of detention in a young offender institution for 10 years or more.] disregarding any extension period imposed under [^{F12}section 266 or 279 of the Sentencing Code] as applied by section 219A of this Act.
- (5) The previous offence condition is that—
- (a) at the time the offence under section 42 was committed, the offender had been convicted of an offence listed in [^{F13}Schedule 15 to the Sentencing Code] (“the previous offence”); and
 - (b) a relevant life sentence or a relevant sentence of imprisonment or detention for a determinate period was imposed on the offender for the previous offence.
- [For the purposes of subsection (5), Schedule 15 is to be read as if Part 1 did not include ^{F14}(5A) any offence for which the date specified in that Part is after the date on which the offence under section 42 was committed.]
- (6) A sentence is relevant for the purposes of subsection (5)(b) if it would be relevant for the purposes of [^{F15}section 273(5)(b) of the Sentencing Code (see subsections (7) to (12) of that section) or section 283(5)(b) of that Code (see subsections (7) to (12) of that section)].
- (7) A sentence required to be imposed by [^{F16}section 273(3) or 283(3) of the Sentencing Code] as a result of this section is not to be regarded as a sentence fixed by law.
- [Where an offence is found to have been committed over a period of two or more days, ^{F17}(8) or at some time during a period of two or more days, it must be taken for the purposes of subsections (1)(c) [^{F18}, (5)(a) and (5A)] to have been committed on the last of those days.]]

Textual Amendments

- F2** S. 218A inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 22 para. 2](#); S.I. 2012/2906, art. 2(t)
- F3** Words in s. 218A(1)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 38\(2\)\(a\)](#) (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

Changes to legislation: Armed Forces Act 2006, Cross Heading: Required or discretionary sentences for particular offences is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F4** Words in s. 218A(1)(c) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 38(2)(b)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F5** S. 218A(1A)(1B) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 38(3)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F6** Words in s. 218A(2) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 38(4)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F7** Words in s. 218A(3) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 38(5)(a)(i)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F8** Words in s. 218A(3) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 38(5)(a)(ii)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F9** Words in s. 218A(3)(a) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 38(5)(b)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F10** Words in s. 218A(3)(b) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 38(5)(c)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F11** Words in s. 218A(4) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 38(6)(a)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F12** Words in s. 218A(4) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 38(6)(b)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F13** Words in s. 218A(5)(a) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 38(7)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F14** S. 218A(5A) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 38(8)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F15** Words in s. 218A(6) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 38(9)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F16** Words in s. 218A(7) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 38(10)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F17** S. 218A(8) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 5(3)**, 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 5
- F18** Words in s. 218A(8) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 38(11)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2

Modifications etc. (not altering text)

- C1** S. 218A modified by S.I. 2009/1059, Sch. 2 para. 9A(2) (as inserted (E.W.) (3.12.2012) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Consequential and Saving Provisions) Regulations 2012 (S.I. 2012/2824), regs. 1, **5(2)**)
- C2** S. 218A modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by Sentencing (Pre-consolidation Amendments) Act 2020 (c. 9), **ss. 1, 5(2)(3)** (with s. 5(9)); S.I. 2012/1236, reg. 2

219 [^{F19}Life sentence for certain dangerous] offenders aged 18 or over

- (1) This section applies where [^{F20}—
- (a) a person aged 18 or over is convicted by the Court Martial of an offence under section 42 (criminal conduct),
 - (b) the corresponding offence under the law of England and Wales is a [^{F21}Schedule 19 offence within the meaning of Part 10 of the Sentencing Code (see section 307 of that Code)], and
 - (c) the court is of the required opinion (defined by section 223).]

[^{F22}(1A) Where the offender is under 21 when convicted of the offence under section 42, section 274(3) of the Sentencing Code (duty to impose custody for life) applies in relation to the offender.]

Changes to legislation: Armed Forces Act 2006, Cross Heading: Required or discretionary sentences for particular offences is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- [^{F23}(2) [^{F24}Where the offender is 21 or over when convicted of the offence under section 42, section 285(3) of the Sentencing Code (duty to impose imprisonment for life)] applies in relation to the offender.]
- (3) In [^{F25}sections 274(3) and 285(3) of the Sentencing Code (as applied by subsections (1A) and (2))], references to “the offence” are to be read as references to the offence under section 42 of this Act.
- ^{F26}(4)
- (5) A sentence under [^{F27}section 274 or 285 of the Sentencing Code] passed as a result of this section is not to be regarded as a sentence fixed by law.

Textual Amendments

- F19** Words in s. 219 heading substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 22 para. 4**; S.I. 2012/2906, art. 2(t) (with art. 6)
- F20** Words in s. 219(1) substituted (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), **Sch. 25 para. 13(2)**; S.I. 2009/1028, art. 2(b)
- F21** Words in s. 219(1)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 39(2)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F22** S. 219(1A) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 39(3)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F23** S. 219(2) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 22 para. 3(2)**; S.I. 2012/2906, art. 2(t) (with art. 6)
- F24** Words in s. 219(2) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 39(4)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F25** Words in s. 219(3) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 39(5)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F26** S. 219(4) omitted (1.12.2020) by virtue of [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 39(6)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F27** Words in s. 219(5) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 39(7)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2

Modifications etc. (not altering text)

- C3** S. 219 modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2) (3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), **ss. 1, 5(2)(3)** (with s. 5(9), Sch. 1 para. 26); S.I. 2012/1236, reg. 2

Commencement Information

- I1** S. 219 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(a)(b)** (with transitional provisions in [S.I. 2009/1059](#))
- I2** S. 219 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

[^{F28}219A Extended sentence for certain violent [^{F29}, sexual or terrorism] offenders aged 18 or over

- (1) This section applies where—
- (a) a person aged 18 or over is convicted by the Court Martial of an offence under section 42 (criminal conduct) (whether the offence was committed before or after the commencement of this section);

Changes to legislation: Armed Forces Act 2006, Cross Heading: Required or discretionary sentences for particular offences is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) the corresponding offence under the law of England and Wales is a specified offence [^{F30}within the meaning of the Sentencing Code (see section 306 of that Code)];
 - (c) the court is of the required opinion (defined by section 223);
 - [^{F31}(d) the court is not required—
 - (i) by section 273(3) of the Sentencing Code (as applied by section 218A(1B) of this Act) to impose a sentence of custody for life;
 - (ii) by section 283(3) of the Sentencing Code (as applied by section 218A(2) of this Act) to impose a sentence of imprisonment for life;
 - (iii) by section 274(3) of the Sentencing Code (as applied by section 219(1A) of this Act) to impose a sentence of custody for life;
 - (iv) by section 285(3) of the Sentencing Code (as applied by section 219(2) of this Act) to impose a sentence of imprisonment for life;] and
 - (e) condition A or B is met.
- (2) Condition A is that, at the time the offence under section 42 was committed, the offender had been convicted of an offence listed in [^{F32}Schedule 14 to the Sentencing Code].
- (3) Condition B is that, if the court were to impose an [^{F33}extended sentence of detention in a young offender institution or an extended sentence of imprisonment] as a result of this section, the term that it would specify as the appropriate custodial term would be at least 4 years.
- [^{F34}(4) Where the offender is under 21 when convicted of the offence under section 42, an extended sentence of detention in a young offender institution under section 266 of the Sentencing Code is available in respect of the offence.
- (5) Subsections (2) to (5) of section 268 of the Sentencing Code apply where a court dealing with an offender for an offence imposes, or is considering whether to impose, an extended sentence of detention in a young offender institution under section 266 of the Sentencing Code by virtue of this section.
- (6) In their application to an offender by virtue of subsection (5), subsections (2) to (5) of section 268 of the Sentencing Code are modified as follows—
- (a) subsection (2) has effect as if, for “section 231(2)” there were substituted “section 261(2) of the Armed Forces Act 2006 ”;
 - (b) subsection (3) has effect as if, after “offences” there were inserted “ or further acts or omissions that would be specified offences if committed in England and Wales ”;
 - (c) in subsection (4)(b), sub-paragraphs (i) and (ii) both have effect as if for “in the case of” there were substituted “ if the offence under section 42 was one for which the corresponding offence under the law of England and Wales was ”.
- (7) Where the offender is 21 or over when convicted of the offence under section 42, an extended sentence of imprisonment under section 279 of the Sentencing Code is available in respect of the offence.
- (8) Subsections (2) to (5) of section 281 of the Sentencing Code apply where a court dealing with an offender for an offence imposes, or is considering whether to impose,

Changes to legislation: Armed Forces Act 2006, Cross Heading: Required or discretionary sentences for particular offences is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

an extended sentence of imprisonment under section 279 of the Sentencing Code by virtue of this section.

- (9) In their application to an offender by virtue of subsection (8), subsections (2) to (5) of section 281 of the Sentencing Code are modified as follows—
- (a) subsection (2) has effect as if, for “section 231(2)” there were substituted “section 261(2) of the Armed Forces Act 2006”;
 - (b) subsection (3) has effect as if, after “offences” there were inserted “or further acts or omissions that would be specified offences if committed in England and Wales”;
 - (c) in subsection (4)(b), sub-paragraphs (i) and (ii) both have effect as if for “in the case of” there were substituted “if the offence under section 42 was one for which the corresponding offence under the law of England and Wales was”.]]

Textual Amendments

- F28** S. 219A inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 22 para. 5](#); S.I. 2012/2906, art. 2(t)
- F29** Words in s. 219A heading substituted (12.4.2019) by [Counter-Terrorism and Border Security Act 2019 \(c. 3\)](#), s. 27(3), [Sch. 4 para. 11\(2\)\(a\)](#) (with s. 25(3)(4))
- F30** Words in s. 219A(1)(b) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 40\(2\)\(a\)](#) (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F31** S. 219A(1)(d) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 40\(2\)\(b\)](#) (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F32** Words in s. 219A(2) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 40\(3\)](#) (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F33** Words in s. 219A(3) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 40\(4\)](#) (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F34** S. 219A(4)-(9) substituted (1.12.2020) for s. 219A(4)-(6) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 40\(5\)](#) (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

Modifications etc. (not altering text)

- C4** S. 219A modified by S.I. 2009/1059, Sch. 2 para. 9A(3) (as inserted (E.W.) (3.12.2012) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Consequential and Saving Provisions\) Regulations 2012 \(S.I. 2012/2824\)](#), regs. 1, [5\(2\)](#))
- C5** S. 219A modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), [ss. 1, 5\(2\)\(3\)](#) (with s. 5(9)); S.I. 2012/1236, reg. 2

^{F35}**220 Certain violent or sexual offences: offenders aged 18 or over**

Textual Amendments

- F35** S. 220 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 22 para. 6](#); S.I. 2012/2906, art. 2(t) (with art. 6)

221 [^{F36}Life sentence for certain dangerous] offenders aged under 18

- (1) This section applies where [^{F37}—

Changes to legislation: Armed Forces Act 2006, Cross Heading: Required or discretionary sentences for particular offences is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) a person aged under 18 is convicted by the Court Martial of an offence under section 42 (criminal conduct) [^{F38}which was committed on or after 4 April 2005],
 - (b) the corresponding offence under the law of England and Wales is a [^{F39}Schedule 19 offence within the meaning of Part 10 of the Sentencing Code (see section 307 of that Code)],
 - [^{F40}(ba) the court considers that the seriousness of—
 - (i) the offence under section 42, or
 - (ii) that offence and one or more offences associated with it,is such as to justify the imposition of a sentence of detention for life,] and
 - (c) the court is of the required opinion (defined by section 223).]
- [^{F41}(2) [^{F42}Section 258(2) of the Sentencing Code (duty to impose detention for life)] applies in relation to the offender.]
- [^{F43}(3) In section 258(2) of the Sentencing Code (as applied by subsection (2)), the reference to section 250 of that Code is to be read as a reference to section 209 of this Act.]
- ^{F44}(4)
- ^{F45}(5)
- (6) A sentence under [^{F46}section 258(2) of the Sentencing Code] passed as a result of this section is not to be regarded as a sentence fixed by law.

Textual Amendments

- F36** Words in s. 221 heading substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 22 para. 8**; S.I. 2012/2906, art. 2(t) (with art. 6)
- F37** Words in s. 221(1) substituted (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), **Sch. 25 para. 15(2)**; S.I. 2009/1028, art. 2(b)
- F38** Words in s. 221(1)(a) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 41(2)(a)** (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F39** Words in s. 221(1)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 41(2)(b)** (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F40** S. 221(1)(ba) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 41(2)(c)** (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F41** S. 221(2) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 22 para. 7**; S.I. 2012/2906, art. 2(t) (with art. 6)
- F42** Words in s. 221(2) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 41(3)** (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F43** S. 221(3) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 41(4)** (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F44** S. 221(4) repealed (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 25 para. 15\(5\)](#), **Sch. 28 Pt. 2**; S.I. 2009/1028, art. 2(b)
- F45** S. 221(5) omitted (1.12.2020) by virtue of [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 41(5)** (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F46** Words in s. 221(6) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 41(6)** (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

Commencement Information

- I3** S. 221 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(a)(b)** (with transitional provisions in [S.I. 2009/1059](#))

Changes to legislation: Armed Forces Act 2006, Cross Heading: Required or discretionary sentences for particular offences is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

I4 S. 221 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

[^{F47}221A Extended sentence for certain violent [^{F48}, sexual or terrorism] offenders aged under 18

(1) This section applies where—

- (a) a person aged under 18 is convicted by the Court Martial of an offence under section 42 (criminal conduct) (whether the offence was committed before or after the commencement of this section);
- (b) the corresponding offence under the law of England and Wales is a specified offence [^{F49}within the meaning of the Sentencing Code (see section 306 of that Code)];
- (c) the court is of the required opinion (defined by section 223);
- (d) the court is not required by [^{F50}section 258(2) of the Sentencing Code] (as applied by section 221 of this Act) to impose a sentence of detention for life under section 209 of this Act; and
- (e) if the court were to impose an extended sentence of detention ^{F51}... as a result of this section, the term that it would specify as the appropriate custodial term would be at least 4 years.

[^{F52}(2) An extended sentence of detention under section 254 of the Sentencing Code is available in respect of the offence.

(3) Subsections (2) to (5) of section 256 of the Sentencing Code apply where a court is determining—

- (a) the appropriate custodial term, and
- (b) the extension period,

of an extended sentence of detention to be imposed on an offender under section 254 of the Sentencing Code by virtue of this section.

(4) In their application to an offender by virtue of subsection (3), subsections (2) to (5) of section 256 of the Sentencing Code are modified as follows—

- (a) subsection (2) has effect as if, for “section 231(2)” there were substituted “section 261(2) of the Armed Forces Act 2006 ”;
- (b) subsection (3) has effect as if, after “offences” there were inserted “ or further acts or omissions that would be specified offences if committed in England and Wales ”;
- (c) in subsection (4)(b), sub-paragraphs (i) and (ii) both have effect as if for “in the case of” there were substituted “ if the offence under section 42 was one for which the corresponding offence under the law of England and Wales was ”.]]

Textual Amendments

- F47** S. 221A inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 22 para. 9](#); [S.I. 2012/2906](#), art. 2(t)
- F48** Words in s. 221A heading substituted (12.4.2019) by [Counter-Terrorism and Border Security Act 2019 \(c. 3\)](#), s. 27(3), [Sch. 4 para. 11\(3\)\(a\)](#) (with s. 25(3)(4))
- F49** Words in s. 221A(1)(b) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 42\(2\)\(a\)](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F50** Words in s. 221A(1)(d) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 42\(2\)\(b\)](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

Changes to legislation: Armed Forces Act 2006, Cross Heading: Required or discretionary sentences for particular offences is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

F51 Words in s. 221A(1)(e) omitted (1.12.2020) by virtue of Sentencing Act 2020 (c. 17), s. 416(1), Sch. 25 para. 42(2)(c) (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2

F52 S. 221A(2)-(4) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 25 para. 42(3) (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2

Modifications etc. (not altering text)

C6 S. 221A(1)(e) modified (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2) (3) and 2020 c. 17, ss. 2, 416)) by Sentencing (Pre-consolidation Amendments) Act 2020 (c. 9), ss. 1, 5(2)(3) (with s. 5(9)); S.I. 2012/1236, reg. 2

F53 **222 Offenders aged under 18: certain violent or sexual offences**

.....

Textual Amendments

F53 S. 222 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 22 para. 10; S.I. 2012/2906, art. 2(t) (with art. 6)

223 “The required opinion” for purposes of sections 219 to [F54 221A]

- (1) “The required opinion” for the purposes of sections [F55 219(1), [F56 219A(1)], 221(1)] and [F57 221A(1)] is the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of—
- (a) further specified offences; or
 - (b) further acts or omissions that would be specified offences if committed in England or Wales.

- (2) For the purposes of the court's decision whether it is of that opinion, [F58 subsections (2) and (3) of section 308 of the Sentencing Code] apply as they apply for the purposes of the assessment referred to in [F59 subsection (1) of that section].

[F60 (3) In section 308(2)(a) of the Sentencing Code as applied by this section, the reference to the offence is to be read as a reference to the offence under section 42 of this Act.]

- (4) In this section—
- “serious harm” has the meaning given by [F61 section 306 of the Sentencing Code];
 - “specified offence” has the meaning given by that section.

Textual Amendments

F54 Word in s. 223 heading substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 22 para. 28; S.I. 2012/2906, art. 2(t)

F55 Words in s. 223(1) substituted (31.10.2009) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), Sch. 25 para. 17(2); S.I. 2009/1028, art. 2(b)

F56 Word in s. 223(1) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 22 para. 27(a); S.I. 2012/2906, art. 2(t)

F57 Word in s. 223(1) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 22 para. 27(b); S.I. 2012/2906, art. 2(t)

Changes to legislation: Armed Forces Act 2006, Cross Heading: Required or discretionary sentences for particular offences is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F58** Words in s. 223(2) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 43\(2\)\(a\)](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F59** Words in s. 223(2) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 43\(2\)\(b\)](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F60** S. 223(3) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 43\(3\)](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F61** Words in s. 223(4) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 43\(4\)](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

Commencement Information

- I5** S. 223 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))
- I6** S. 223 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

[^{F62}224 Place of detention for extended sentences for offenders aged under 18

Section 261 of the Sentencing Code (detention in pursuance of extended sentence) applies to detention imposed by virtue of section 221A of this Act as it applies to detention under section 254 of that Code.]

Textual Amendments

- F62** S. 224 substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 44](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

[^{F63}224A Special custodial sentence for certain offenders of particular concern

- (1) This section applies where—
- (a) a person is convicted by the Court Martial of an offence under section 42 (criminal conduct) (whether the offence was committed before or after this section comes into force),
 - (b) the corresponding offence under the law of England and Wales is an offence listed in [^{F64}Schedule 13 to the Sentencing Code],
 - (c) the person was aged 18 or over when the offence was committed, and
 - (d) the court does not impose one of the following for the offence—
 - (i) a sentence of imprisonment [^{F65}or custody] for life, or
 - (ii) an extended sentence of [^{F66}detention or imprisonment under section 266 or 279 of the Sentencing Code] (as applied by section 219A of this Act).

[^{F67}(2) If—

- (a) the court imposes a sentence of detention in a young offender institution for the offence, and
 - (b) the offender is aged under 21 when convicted of the offence,
- subsections (2) and (3) of section 265 of the Sentencing Code (term of special sentence) apply in relation to the term of the sentence.

(2A) If—

- (a) the court imposes a sentence of imprisonment for the offence, and
- (b) the offender is aged 21 or over when convicted of the offence,

Changes to legislation: Armed Forces Act 2006, Cross Heading: Required or discretionary sentences for particular offences is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

subsections (2) and (3) of section 278 of the Sentencing Code (term of special sentence) apply in relation to the term of the sentence.]

- (3) The references in subsections (1)(d) [^{F68}, (2) and (2A)] to a sentence imposed for the offence include a sentence imposed for the offence and one or more offences associated with it.

- [^{F69}(4) In Schedule 13 to the Sentencing Code, as applied by subsection (1)(b), the reference in paragraph 10 to section 69 of that Code is to be read as a reference to that section as applied by section 238(6) of this Act.]]

Textual Amendments

- F63** S. 224A inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 1 para. 8](#); [S.I. 2015/778](#), art. 3, [Sch. 1 para. 72](#)
- F64** Words in s. 224A(1)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 45\(2\)\(a\)](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F65** Words in s. 224A(1)(d)(i) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 45\(2\)\(b\)\(i\)](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F66** Words in s. 224A(1)(d)(ii) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 45\(2\)\(b\)\(ii\)](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F67** S. 224A(2)(2A) substituted for s. 224A(2) (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 45\(3\)](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F68** Words in s. 224A(3) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 45\(4\)](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F69** S. 224A(4) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 45\(5\)](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

Modifications etc. (not altering text)

- C7** S. 224A modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), [ss. 1, 5\(2\)\(3\)](#) (with s. 5(9)); [S.I. 2012/1236](#), reg. 2
- C8** S. 224A(1)(d)(ii) modified (E.W.) (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 27 para. 16\(2\)\(3\)](#); [S.I. 2020/1236](#), reg. 2

225 Third drug trafficking offence

- (1) This section applies where —
- a person aged 18 or over is convicted by the Court Martial of an offence under section 42 (criminal conduct); and
 - if his conviction had been by a civilian court in England and Wales of the corresponding offence under the law of England and Wales, [^{F70}section 313 of the Sentencing Code] (third class A drug trafficking offence) would apply.
- (2) The Court Martial must impose the sentence required by [^{F71}[^{F72}section 313(2A)] of that Code], unless it is of the opinion that there are [^{F73}exceptional circumstances] which—
- relate to any of the offences or to the offender; and
 - [^{F74}(b) justify not doing so.]

Changes to legislation: Armed Forces Act 2006, Cross Heading: Required or discretionary sentences for particular offences is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Textual Amendments

- F70** Words in s. 225(1)(b) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 46(a)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F71** Words in s. 225(2) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 46(b)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F72** Words in s. 225(2) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(k), **Sch. 12 para. 3(a)** (with s. 124(11)(12))
- F73** Words in s. 225(2) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(k), **Sch. 12 para. 3(b)** (with s. 124(11)(12))
- F74** S. 225(2)(b) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(k), **Sch. 12 para. 3(c)** (with s. 124(11)(12))

Commencement Information

- I7** S. 225 in force at 28.3.2009 for specified purposes by S.I. 2009/812, **art. 3(a)(b)** (with transitional provisions in S.I. 2009/1059)
- I8** S. 225 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, **art. 4**

226 Third domestic burglary

- (1) This section applies where—
- (a) a person aged over 18 is convicted by the Court Martial of an offence under section 42 (criminal conduct); and
 - (b) if his conviction had been by a civilian court in England and Wales of the corresponding offence under the law of England and Wales, [^{F75}section 314 of the Sentencing Code] (third domestic burglary) would apply.
- (2) The Court Martial must impose the sentence required by [^{F76}[^{F77}section 314(2A)]] of that Code], unless it is of the opinion that there are [^{F78}exceptional circumstances] which—
- (a) relate to any of the offences or to the offender; and
 - [^{F79}(b) justify not doing so.]

Textual Amendments

- F75** Words in s. 226(1)(b) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 47(a)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F76** Words in s. 226(2) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 47(b)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F77** Words in s. 226(2) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(k), **Sch. 12 para. 4(a)** (with s. 124(11)(12))
- F78** Words in s. 226(2) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(k), **Sch. 12 para. 4(b)** (with s. 124(11)(12))
- F79** S. 226(2)(b) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(k), **Sch. 12 para. 4(c)** (with s. 124(11)(12))

Commencement Information

- I9** S. 226 in force at 28.3.2009 for specified purposes by S.I. 2009/812, **art. 3(a)(b)** (with transitional provisions in S.I. 2009/1059)
- I10** S. 226 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, **art. 4**

Changes to legislation: Armed Forces Act 2006, Cross Heading: Required or discretionary sentences for particular offences is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

227 Firearms offences

- (1) This section applies if—
- (a) a person is convicted by the Court Martial of an offence under section 42 (criminal conduct);
 - ^{F80}(aa) the corresponding offence under the law of England and Wales is an offence listed in any of paragraphs 1 to 4 of Schedule 20 to the Sentencing Code;] and
 - (b) if his conviction had been by a civilian court in England and Wales of ^{F81}that corresponding offence, section 311 of the Sentencing Code] (minimum sentences for certain firearms offences) would apply.
- (2) The Court Martial must impose the sentence required by ^{F82}section 311(2) of the Sentencing Code] (as that provision has effect in relation to England and Wales), unless it is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so.
- (3) In ^{F83}section 311(3)(a) of that Code], as applied by this section, the reference to a sentence of detention under ^{F84}section 250 ^{F85}[^{F85} or 252A] of that Code] is to be read as a reference to a sentence of detention under section 209 of this Act.

Textual Amendments

- F80** S. 227(1)(aa) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 48(2)(a)** (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F81** Words in s. 227(1)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 48(2)(b)** (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F82** Words in s. 227(2) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 48(3)** (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F83** Words in s. 227(3) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 48(4)(a)** (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F84** Words in s. 227(3) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 48(4)(b)** (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F85** Words in s. 227(3) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), **Sch. 13 para. 23(4)**

Commencement Information

- I11** S. 227 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(a)(b)** (with transitional provisions in [S.I. 2009/1059](#))
- I12** S. 227 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

^{F86}227A Offences of threatening with a weapon in public or on school premises

- (1) This section applies if—
- (a) a person aged 18 or over is convicted by a court of an offence under section 42 (criminal conduct); and
 - (b) the corresponding offence under the law of England and Wales is an offence under section 1A of the Prevention of Crime Act 1953 or section 139AA of the Criminal Justice Act 1988 (threatening with article with blade or point or offensive weapon in public or on school premises).

Changes to legislation: Armed Forces Act 2006, Cross Heading: Required or discretionary sentences for particular offences is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- [Where the offender is aged under 21 at the time of conviction, the court must impose
- ^{F87}(1A) a sentence of detention in a young offender institution for a term of at least 6 months unless the court is of the opinion that there are [^{F88}exceptional circumstances] which—
- (a) relate to the offence or to the offender, and
- [^{F89}(b) justify not doing so.]
- (2) [^{F90}Where the offender is aged 21 or over at the time of conviction,] the court must impose a sentence of imprisonment for a term of at least 6 months unless the court is of the opinion that there are [^{F91}exceptional circumstances] which—
- (a) relate to the offence or to the offender, and
- [^{F92}(b) justify not doing so.]
- ^{F93}(3)]

Textual Amendments

- F86** S. 227A inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 26 para. 24](#); S.I. 2012/2770, art. 2(f)
- F87** S. 227A(1A) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 49\(2\)](#) (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F88** Words in s. 227A(1A) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(k), [Sch. 12 para. 5\(2\)\(a\)\(3\)](#) (with s. 124(11)(12))
- F89** S. 227A(1A)(b) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(k), [Sch. 12 para. 5\(2\)\(b\)\(3\)](#) (with s. 124(11)(12))
- F90** Words in s. 227A(2) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 49\(3\)](#) (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F91** Words in s. 227A(2) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(k), [Sch. 12 para. 5\(4\)\(a\)](#) (with s. 124(11)(12))
- F92** S. 227A(2)(b) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(k), [Sch. 12 para. 5\(4\)\(b\)](#) (with s. 124(11)(12))
- F93** S. 227A(3) omitted (1.12.2020) by virtue of [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 49\(4\)](#) (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

Modifications etc. (not altering text)

- C9** S. 227A modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), [ss. 1, 5\(2\)\(3\)](#) (with s. 5(9)); S.I. 2012/1236, reg. 2

228 Appeals where previous convictions set aside

[^{F94}(1A) Subsection (3) applies in the cases described in subsections (1B) to (2).

(1B) The first case is where—

- (a) a sentence has been imposed on any person under [^{F95}section 273(3) or 283(3) of the Sentencing Code (life sentence for second listed offence) as applied by section 218A of this Act];
- (b) a previous conviction of that person has been subsequently set aside on appeal; and
- (c) without that conviction, the previous offence condition mentioned in section 218A(1)(d) would not have been met.

Changes to legislation: Armed Forces Act 2006, Cross Heading: Required or discretionary sentences for particular offences is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (1C) The second case is where—
- (a) a sentence has been imposed on any person under section 225(3) of the 2003 Act (as applied by section 219(2) of this Act);
 - (b) the condition in section 225(3A) of the 2003 Act was met but the condition in section 225(3B) of that Act was not; and
 - (c) any previous conviction of the person without which the condition in section 225(3A) would not have been met is subsequently set aside on appeal.
- (1D) The third case is where—
- (a) a sentence has been imposed on any person under [F96]section 266 or 279 of the Sentencing Code (extended sentence for certain violent, sexual or terrorism offenders aged 18 or over) as applied by section 219A of this Act];
 - (b) the condition in section 219A(2) was met, but the condition in section 219A(3) was not; and
 - (c) any previous conviction of the person without which the condition in section 219A(2) would not have been met is subsequently set aside on appeal.
- (1E) The fourth case is where—
- (a) a sentence has been imposed on any person under section 227(2) of the 2003 Act (as applied by section 220(2) of this Act);
 - (b) the condition in section 227(2A) of the 2003 Act was met but the condition in section 227(2B) of that Act was not; and
 - (c) any previous conviction of the person without which the condition in section 227(2A) would not have been met is subsequently set aside on appeal.]
- (2) [F97]The fifth case is] where—
- (a) a sentence has been imposed on any person by virtue of section 225 or 226 [F98]of this Act]; and
 - (b) any previous conviction of his without which that section would not have applied has subsequently been set aside on appeal.
- (3) Where this subsection applies, an application for leave to appeal against the sentence may be lodged at any time within 29 days beginning with the day on which the previous conviction was set aside.
- [F99](3A) Subsection (3B) applies where—
- (a) a sentence has been imposed on a person under [F100]section 273(3) or 283(3) of the Sentencing Code (life sentence for second listed offence) as applied by section 218A of this Act];
 - (b) a previous sentence imposed on that person has been subsequently modified on appeal; and
 - (c) taking account of that modification, the previous offence condition mentioned in section 218A(1)(d) would not have been met.
- (3B) An application for leave to appeal against the sentence mentioned in subsection (3A)
- (a) may be lodged at any time within 29 days beginning with the day on which the previous sentence was modified.]
- (4) [F101]Subsections (3) and (3B) have] effect notwithstanding anything in section 9(1) of the Court Martial Appeals Act 1968 (c. 20).

Changes to legislation: Armed Forces Act 2006, Cross Heading: Required or discretionary sentences for particular offences is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Textual Amendments

- F94** S. 228(1A)-(1E) substituted for s. 228(1) (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 22 para. 30\(2\)](#); S.I. 2012/2906, art. 2(t)
- F95** Words in s. 228(1B)(a) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 50\(2\)](#) (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F96** Words in s. 228(1D)(a) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 50\(3\)](#) (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F97** Words in s. 228(2) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 22 para. 30\(3\)\(a\)](#); S.I. 2012/2906, art. 2(t)
- F98** Words in s. 228(2)(a) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 22 para. 30\(3\)\(b\)](#); S.I. 2012/2906, art. 2(t)
- F99** S. 228(3A)(3B) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 22 para. 30\(4\)](#); S.I. 2012/2906, art. 2(t)
- F100** Words in s. 228(3A)(a) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 50\(4\)](#) (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F101** Words in s. 228(4) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 22 para. 30\(5\)](#); S.I. 2012/2906, art. 2(t)

Commencement Information

- I13** S. 228 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))
- I14** S. 228 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

Changes to legislation:

Armed Forces Act 2006, Cross Heading: Required or discretionary sentences for particular offences is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- s. 224A heading words inserted by [2021 c. 11 Sch. 8 para. 8\(2\)](#)
- specified provision(s) transitional provisions for effects of commencing SI 2009/812 by [S.I. 2009/1059 Order](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 12A applied (with modifications) by S.I. 2009/1059, art. 106A (as inserted) by [S.I. 2024/619 reg. 44\(2\)](#)
- Pt. 12A inserted by [2016 c. 21 s. 7](#)
- Pt. 16B inserted by [2023 c. 48 s. 1](#)
- s. 50(2)(ca) inserted by [2011 c. 18 Sch. 4 para. 3\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 4 para. 3(3) repealed (8.3.2015) without ever being in force by 2014 c. 12, Sch. 11 para. 82(2); S.I. 2015/373, art. 2(g)(ii))
- s. 209(8) inserted by [2021 c. 11 Sch. 13 para. 41\(3\)](#)
- s. 213(3A) words inserted by [2021 c. 11 Sch. 13 para. 41\(6\)](#)
- s. 218A(6A) inserted by Sch. 26 para. 12(1)(db) (as inserted) by [S.I. 2020/1520 reg. 6\(2\)\(b\)](#)
- s. 218A(6A) words omitted by virtue of 2020 c. 17, Sch. 26 para. 12(1)(dc) (as inserted) by [S.I. 2020/1520 reg. 6\(2\)\(b\)](#)
- s. 219A(1)(d)(i) omitted by virtue of 2020 c. 17, Sch. 26 para. 14(a)(i) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(b\)](#)
- s. 219A(1)(d)(iii) omitted by virtue of 2020 c. 17, Sch. 26 para. 14(a)(i) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(b\)](#)
- s. 219A(1)(da) inserted by [2021 c. 11 Sch. 13 para. 41\(7\)](#)
- s. 219A(1)(da)(i) omitted by virtue of 2020 c. 17, Sch. 26 para. 14(a)(ii) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(b\)](#)
- s. 219A(2A) inserted by 2020 c. 17, Sch. 26 para. 14(bb) (as inserted) by [S.I. 2020/1520 reg. 6\(3\)](#)
- s. 219ZA inserted by [2021 c. 11 Sch. 8 para. 2](#)
- s. 219ZA(1)(e) words omitted by virtue of 2020 c. 17, Sch. 26 para. 13A(a) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(a\)](#)
- s. 219ZA(4)-(6) omitted by virtue of 2020 c. 17, Sch. 26 para. 13A(b) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(a\)](#)
- s. 219ZA(7) words omitted by virtue of 2020 c. 17, Sch. 26 para. 13A(c) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(a\)](#)
- s. 223(1A) inserted by [2021 c. 11 Sch. 13 para. 41\(8\)\(a\)](#)
- s. 224A(1)(d)(iii) and word inserted by [2021 c. 11 Sch. 13 para. 41\(9\)\(a\)\(ii\)](#)
- s. 224A(1)(d)(iii) words substituted by 2020 c. 17, Sch. 26 para. 15(a)(iii) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(c\)](#)
- s. 224A(1A) inserted by [2021 c. 11 Sch. 8 para. 8\(4\)](#)
- s. 224A(3A) inserted by [2021 c. 11 Sch. 13 para. 41\(9\)\(b\)](#)
- s. 224B inserted by [2021 c. 11 Sch. 8 para. 9](#)
- s. 225(1A) inserted by 2020 c. 17, Sch. 26 para. 15A (as inserted) by [S.I. 2020/1520 reg. 6\(4\)](#)
- s. 226(1A) inserted by 2020 c. 17, Sch. 26 para. 15B (as inserted) by [S.I. 2020/1520 reg. 6\(4\)](#)

- s. 227(3)(a)(b) substituted for words by [2021 c. 11 Sch. 13 para. 41\(10\)](#)
- s. 238(6)(a) word omitted by [2021 c. 11 Sch. 13 para. 41\(11\)\(a\)](#)
- s. 238(6)(b) word substituted by [2021 c. 11 Sch. 13 para. 41\(11\)\(c\)](#)
- s. 238(6)(aa) inserted by [2021 c. 11 Sch. 13 para. 41\(11\)\(b\)](#)
- s. 239(3A)(3B) inserted by [2021 c. 11 Sch. 8 para. 3](#)
- s. 239(3A) words omitted by virtue of 2020 c. 17, Sch 26 para. 18(a)(i) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(d\)](#)
- s. 239(3A) words omitted by virtue of 2020 c. 17, Sch 26 para. 18(a)(ii) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(d\)](#)
- s. 239(3B) words omitted by virtue of 2020 c. 17, Sch 26 para. 18(b) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(d\)](#)
- s. 260(1)(ca) inserted by [2021 c. 11 Sch. 13 para. 41\(14\)\(a\)\(ii\)](#)
- s. 260(1)(ca) words omitted by virtue of 2020 c. 17, Sch. 26 para. 19(a)(iia) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(e\)\(i\)](#)
- s. 260(4B)(a) words omitted by virtue of 2020 c. 17, Sch. 26 para. 19(b)(ii) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(e\)\(ii\)](#)
- s. 260(4B)(za) inserted by [2021 c. 11 Sch. 13 para. 41\(14\)\(b\)](#)
- s. 260(4B)(za) words omitted by virtue of 2020 c. 17, Sch. 26 para. 19(b)(i) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(e\)\(ii\)](#)
- s. 261(1)(ba) inserted by [2021 c. 11 Sch. 13 para. 41\(15\)](#)
- s. 261(1)(ba) words omitted by virtue of 2020 c. 17, Sch. 26 para. 20(c) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(f\)](#)
- s. 261A(3)(a) words in s. 261A(3) renumbered as s. 261A(3)(a) by [2021 c. 11 Sch. 8 para. 4\(a\)](#)
- s. 261A(3)(b)(c) inserted by [2021 c. 11 Sch. 8 para. 4\(b\)](#)
- s. 261A(3)(b) words omitted by virtue of 2020 c. 17, Sch. 26 para. 20A(a) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(g\)](#)
- s. 261A(3)(c)(i) words omitted by virtue of 2020 c. 17, Sch. 26 para. 20A(b) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(g\)](#)
- s. 262A(2A) inserted by [2021 c. 11 Sch. 13 para. 41\(16\)\(a\)](#)
- s. 262A(2A)(b) omitted by virtue of 2020 c. 17, Sch. 26 para. 21(a) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(h\)](#)
- s. 262A(3A) inserted by [2021 c. 11 Sch. 13 para. 41\(16\)\(b\)](#)
- s. 262A(3A) omitted by virtue of 2020 c. 17, Sch. 26 para. 21(b) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(h\)](#)
- s. 262A(4) words inserted by [2021 c. 11 Sch. 13 para. 41\(16\)\(c\)\(i\)](#)
- s. 262A(4) words inserted by [2021 c. 11 Sch. 13 para. 41\(16\)\(c\)\(ii\)](#)
- s. 262A(4) words omitted by virtue of 2020 c. 17, Sch. 26 para. 21(c) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(h\)](#)
- s. 270A270B inserted by [2008 c. 4 Sch. 25 para. 27](#) (This amendment not applied to legislation.gov.uk. Sch. 25 para. 26(3)(4) repealed (2.4.2012) by 2011 c. 18, Sch. 3 para. 20(3), Sch. 5; S.I. 2012/669, art. 4(d)(f) (with art. 13))
- s. 270B(6)(aa) inserted by [2009 c. 25 Sch. 17 para. 9\(2\)](#) (This amendment not applied to legislation.gov.uk. Sch. 17 para. 9 repealed (2.4.2012) without ever being in force by 2011 c. 18, Sch. 5; S.I. 2012/669, art. 4(f))
- s. 270B(10) word repealed by [2009 c. 25 Sch. 23 Pt. 5](#)
- s. 270B(10)(a) words inserted by [2009 c. 25 Sch. 17 para. 9\(3\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Sch. 17 para. 9 repealed (2.4.2012) without ever being in force by 2011 c. 18, Sch. 5; S.I. 2012/669, art. 4(f))
- s. 270B(10)(b) words substituted by [2009 c. 25 Sch. 17 para. 9\(3\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Sch. 17 para. 9 repealed (2.4.2012) without ever being in force by 2011 c. 18, Sch. 5; S.I. 2012/669, art. 4(f))
- s. 270B(10)(c)-(e) inserted by [2009 c. 25 Sch. 17 para. 9\(3\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Sch. 17 para. 9 repealed (2.4.2012) without ever being in force by 2011 c. 18, Sch. 5; S.I. 2012/669, art. 4(f))
- s. 304B inserted by [2016 c. 21 s. 8](#)
- s. 304C inserted by [2016 c. 21 s. 9](#)
- s. 304C(5A) inserted by [2021 c. 11 Sch. 8 para. 5](#)

- s. 304C(5A) words omitted by virtue of 2020 c. 17, Sch. 26 para. 24A(a) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(i\)](#)
- s. 304C(5A) words substituted by 2020 c. 17, Sch. 26 para. 24A(b) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(i\)](#)
- s. 304F-304H inserted by [2016 c. 21 s. 12](#)
- s. 377(8) inserted by 2020 c. 17, Sch. 26 para. 26 (as inserted) by [S.I. 2020/1520 reg. 6\(5\)](#)
- Sch. 7 para. 9(A1) inserted by [2020 c. 9 Sch. 2 para. 123\(8\)\(a\)](#) (This pre-consolidation amendment comes into force immediately before the consolidation date on 1.12.2020 (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416) to facilitate the sentencing consolidation and then is repealed immediately afterwards on 1.12.2020 by the Sentencing Act 2020 (c. 17), Sch. 28; S.I. 2020/1236, reg. 2)