

SCHEDULES

SCHEDULE 25

AMENDMENTS TO THE ARMED FORCES ACT 2006

PART 4

AMENDMENTS TO CHAPTER 5 OF PART 8: CUSTODIAL SENTENCES FOR YOUNG OFFENDERS

- 27 Chapter 5 of Part 8 of the Armed Forces Act 2006 is amended as follows.
- 28 In section 208 (prohibition on imposing imprisonment on people under a certain age)—
- (a) for “18” substitute “21”;
 - (b) in the heading, for “18” substitute “21”.
- 29 (1) Section 209 (offenders under 18 convicted of certain serious offences: power to detain for specified period) is amended as follows.
- (2) In subsection (2)(a), for “18” substitute “21”.
 - (3) In subsection (6), for “18” substitute “21”.
- 30 After section 210 insert—

“210A Offenders under 21: offences other than murder; discretionary custody for life

- (1) This section applies where a person aged at least 18 but under 21 is convicted by the Court Martial of an offence—
 - (a) for which the sentence is not fixed by law, but
 - (b) which is punishable in the case of a person aged 21 or over with imprisonment for life.
- (2) If the court considers that a sentence for life would be appropriate, it is to sentence the offender to custody for life under section 272(2)(a) of the Sentencing Code.
- (3) Sections 260 (threshold for imposing discretionary custodial sentence) and 261 (length of discretionary custodial sentence: general provision), in particular, apply for the purposes of subsection (2).

210B Offenders under 21: power to impose detention in a young offender institution

- (1) A sentence of detention in a young offender institution is available to the Court Martial or the Service Civilian Court dealing with an offender for an offence where—

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- (a) the offender is aged at least 18 but under 21 when convicted,
 - (b) the offence is punishable with imprisonment in the case of a person aged 21 or over, and
 - (c) the court is not required to pass a sentence of—
 - (i) detention at Her Majesty’s pleasure, or
 - (ii) custody for life.
- (2) The maximum term of detention in a young offender institution that a court may impose for an offence is the same as the maximum term of imprisonment that it may impose for the offence in the case of a person aged 21 or over.
- (3) The minimum term of a sentence of detention in a young offender institution is 21 days.”
- 31 In section 211 (offenders under 18: detention and training orders)—
- (a) in subsection (1)(a), for “18 or over” substitute “21 or over”;
 - (b) in subsection (3)(c), for the words from “on” to the end substitute “after paragraph (aa) of section 234(1) of the Sentencing Code comes into force (see paragraph 27(1)(b) of Schedule 22 to the Sentencing Act 2020).”
- 32 (1) Section 212 (term of detention and training order: general) is amended as follows.
- (2) In subsections (1)(b) and (2)(c), for “18” substitute “21”.
 - (3) In subsection (3), for “provides otherwise under section 101(3) of the Sentencing Act” substitute “orders otherwise under section 237 of the Sentencing Code”.
- 33 (1) Section 213 (application of provisions relating to civilian detention and training orders) is amended as follows.
- (2) For subsections (1) to (3) substitute—
- “(1) In the following provisions of the Sentencing Code, references to a detention and training order include an order under section 211 of this Act—
 - (a) sections 237 to 248;
 - (b) Schedule 12.
 - (2) In the following provisions of the Sentencing Code, “court” includes a relevant service court—
 - (a) sections 237 to 240;
 - (b) section 246;
 - (c) sections 253 and 257;
 - (d) section 270.
 - (3) In its application to an order under section 211, section 239 of the Sentencing Code has effect as if—
 - (a) references to an offender’s being remanded in custody were references to an offender’s being kept in service custody, and
 - (b) subsection (5) were omitted.
- (3A) In its application to a relevant service court, section 253 of the Sentencing Code has effect as if the references to a sentence of detention under section 250 were references to a sentence of detention under 209 of this Act.

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- (3B) In its application to a relevant service court, section 257 of the Sentencing Code has effect as if the references to an extended sentence of detention under section 254 were references to an extended sentence of detention under that section imposed as a result of section 221A of this Act.”
- (3) In subsection (4), for “section 104(3) (further period of detention or supervision) of the Sentencing Act” substitute “paragraph 3(2)(a) of Schedule 12 to the Sentencing Code (further period of detention)”.
- (4) For subsection (5) substitute—
- “(5) Paragraph 5(2) of Schedule 12 to the Sentencing Code has effect as if, in the closing words, after “Schedule” there were inserted “and section 214 of the Armed Forces Act 2006”.”
- (5) In subsection (6)—
- (a) in the definition of “further period of supervision” for “section 104(3)(aa) of the Sentencing Act” substitute “paragraph 3(2)(b) of Schedule 12 to the Sentencing Code”;
- (b) for the definition of “supervision requirements” substitute—
- ““supervision requirement” has the meaning given in paragraph 1 of Schedule 12 to the Sentencing Code”.
- (6) Omit subsection (7).
- (7) At the end insert—
- “(8) In this section, “relevant service court” has the same meaning as in Chapter 4 of Part 8 (see section 207).”
- 34 (1) Section 214 (offences during currency of detention and training order) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) This section also applies to a person in respect of whom a service FSO has been made if—
- (a) before the date on which the period of further supervision under the service FSO ends, he commits an offence within subsection (2) (“the new offence”); and
- (b) whether before or after that date, he is convicted of the new offence.
- (1B) A service FSO is an order under paragraph 3(2)(b) of Schedule 12 to the Sentencing Code subjecting the offender to a further period of supervision as a result of breach of supervision requirements—
- (a) during a period of supervision under an order under section 211 of this Act,
- (b) during a further period of supervision imposed for breach of supervision requirements during a period within paragraph (a), or
- (c) during one of a series of further periods of supervision—
- (i) each of which apart from the first was imposed for breach of supervision requirements during the previous further period of supervision, and

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(ii) the first of which was imposed for breach of supervision requirements during a period within paragraph (a).

Terms used in this subsection have the same meaning as in section 213(4) (see section 213(6)).”

- (3) In subsection (3)(b), at the end insert “or (1A) (as the case may be)”.
- (4) In subsection (7)(c), for “section 105 of the Sentencing Act” substitute “paragraph 7 of Schedule 12 to the Sentencing Code”.
- 35 In section 215 (section 214: definitions etc)—
- (a) in subsection (1), for “Section 101(13) of the Sentencing Act” substitute “Section 238(3) of the Sentencing Code”;
 - (b) in subsection (3), for “section 107 of the Sentencing Act” substitute “section 248 of the Sentencing Code”.