

## SCHEDULES

### SCHEDULE 2

#### SENTENCING CONSOLIDATION: PRE-CONSOLIDATION AMENDMENTS

#### PART 4

##### AMENDMENTS OF OTHER ACTS

##### *Armed Forces Act 2006*

- 123 (1) The Armed Forces Act 2006 is amended as follows.
- (2) In section 178 (service community orders), in subsection (1)(b), for the words after “Wales” substitute “or the locality in Scotland where the offender resides or will reside, or that the offender resides or will reside in Northern Ireland”.
- (3) In section 209 (offenders under 18 convicted of certain serious offences)—
- (a) in the heading, for “power to detain” substitute “detention”;
- (b) in subsection (2), after paragraph (b) insert—
- “and the case does not fall within section 221 or 227 (see subsections (4), (5B) and (5C)).”;
- (c) in subsection (3), after paragraph (d) insert—
- “and the case does not fall within section 221 (see subsection (5B)).”;
- (d) in subsection (4), for “it falls within section 227(1) (certain firearms offences)” substitute “—
- (a) it falls within section 227(1) (certain firearms offences), and
- (b) the court is of the opinion mentioned in section 227(2) (exceptional circumstances justifying not imposing the required sentence).”;
- (e) after subsection (5) insert—
- “(5A) Subsection (5D) (duty to pass sentence of detention) applies where—
- (a) a person aged under 18 is convicted by the Court Martial of an offence under section 42 (criminal conduct); and
- (b) the case is within subsection (5B) or (5C).
- (5B) The case is within this subsection if it falls within section 221 (life sentence for certain dangerous offenders aged under 18).
- (5C) The case is within this subsection if—
- (a) it falls within section 227(1) (certain firearms offences), and

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*Status: This is the original version (as it was originally enacted).*

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- (b) the Court Martial is not of the opinion mentioned in section 227(2) (exceptional circumstances justifying not imposing the required sentence).

(5D) Where this subsection applies, the court must pass a sentence of detention under this section.”;

- (f) in subsection (7)—
  - (i) after “(5)” insert “, (5D)”;
  - (ii) omit from “sections 224A” to “offences); and”.

(4) In section 211, in subsection (4), omit “218A.”.

(5) In section 212 (term of detention and training order: general), at the end insert—

“(3) An order under section 211 takes effect at the beginning of the day on which it is made, unless the court provides otherwise under section 101(3) of the Sentencing Act (as applied by section 213 of this Act).”

(6) In section 213 (application of provisions relating to civilian detention and training orders)—

- (a) in subsection (1), after “(10)” insert “, (12A)”;
- (b) in subsection (2), after “(10)” insert “, (12A)”.

(7) In section 270A (exception to restrictions on community punishments), in subsection (6)—

- (a) before paragraph (a) insert—
  - “(za) a criminal courts charge order (or an order under section 21A of the Prosecution of Offences Act 1985 (criminal courts charge));”
- (b) after paragraph (d) insert—
  - “(e) a slavery and trafficking reparation order under section 8 of the Modern Slavery Act 2015.”.

(8) In Schedule 7 (suspended prison sentences: further conviction or breach of requirement), in paragraph 9 (activation of suspended sentences: appeals etc)—

- (a) at the beginning insert—
  - “(A1) Paragraph 9 of that Schedule has effect in relation to a suspended sentence order passed by a relevant service court as if, after sub-paragraph (1), there were inserted—

“(1A) In this paragraph, “custodial sentence” includes a custodial sentence within the meaning of the Armed Forces Act 2006 (see section 374 of that Act).”

- (b) in sub-paragraph (1)(b), in the sub-paragraph (2) treated as substituted for sub-paragraph (2) of paragraph 9 of Schedule 12 to the Criminal Justice Act 2003, for “term of imprisonment” substitute “custodial sentence”.