

SCHEDULES

SCHEDULE 13

CONSEQUENTIAL AND RELATED AMENDMENTS

PART 5

AMENDMENTS IN RELATION TO SENTENCING UNDER SERVICE LAW

Rehabilitation of Offenders Act 1974 (c. 53)

- 33 In section 5 of the Rehabilitation of Offenders Act 1974 as it forms part of the law of England and Wales (rehabilitation periods for particular sentences)—
- (a) in subsection (1)(d), after “or section 209” insert “or 224B”;
 - (b) in subsection (8), in paragraph (f) of the definition of “custodial sentence”, after “209” insert “or 224B”.
- 34 (1) The Rehabilitation of Offenders Act 1974 as it forms part of the law of Scotland is amended as follows.
- (2) In section 5 (rehabilitation periods for particular sentences)—
- (a) in subsection (1)(d), after “or section 209” insert “or 224B”;
 - (b) in subsection (2F)(a)(ii), after “209” insert “or 224B”.
- (3) In section 5B (Table B – disclosure periods: service disciplinary cases), in the sixth entry of Table B, after “209” insert “or 224B”.

Rehabilitation of Offenders (Northern Ireland) Order 1978 (S.I. 1978/1908 (N.I. 27))

- 35 In Article 6 of the Rehabilitation of Offenders (Northern Ireland) Order 1978 (rehabilitation periods for particular sentences), in each of the following places, after “209” insert “or 224B”—
- (a) paragraph (1)(e);
 - (b) in paragraph (2), in Table B, in the first column, the fourth and fifth entries;
 - (c) paragraph (9)(c).

Criminal Justice Act 1982 (c. 48)

- 36 In section 32(1A) of the Criminal Justice Act 1982 (sentences excluded from early release of prisoners to make the best use of the places available for detention), in paragraph (ca) (inserted by Part 2 of this Schedule), at the end insert “, including a sentence passed as a result of section 219ZA of the Armed Forces Act 2006”.

Crime and Disorder Act 1998 (c. 37)

- 37 (1) The Crime and Disorder Act 1998 is amended as follows.

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- (2) In section 38(4) (youth justice services to be provided by local authorities), in paragraph (i), for “or 222” substitute “, 222 or 224B”.
- (3) In section 41(5)(i) (accommodation that may be provided under agreement with the Youth Justice Board), in sub-paragraph (ii), for “or 222” substitute “, 222 or 224B”.

Criminal Justice and Court Services Act 2000 (c. 43)

- 38 (1) The Criminal Justice and Court Services Act 2000 is amended as follows.
- (2) In section 62(5) (sentences in relation to which electronic monitoring conditions may be imposed on release), in paragraph (g), for “or 218” substitute “, 218 or 224B”.
 - (3) In section 62A(4) (exceptions from power to require imposition of electronic monitoring condition), in paragraph (c), after “209” insert “or 224B”.
 - (4) In section 64(5) (sentences in relation to which drug testing requirement may be imposed on release), in paragraph (g), for “or 218” substitute “, 218 or 224B”.
 - (5) In section 64A(8) (power to require attendance at drug testing appointment: interpretation), in paragraph (f) of the definition of “sentence of imprisonment”, after “209” insert “or 224B”.

Sexual Offences Act 2003 (c. 42)

- 39 In section 131 of the Sexual Offences Act 2003 (application of notification requirements and orders to young offenders), in paragraph (h), for “or 218” substitute “, 218 or 224B”.

Criminal Justice Act 2003 (c. 44)

- 40 In section 237(1B) of the Criminal Justice Act 2003 (service sentences to be treated as equivalent sentences in England and Wales) —
- (a) omit the “and” before paragraph (e);
 - (b) at the end of that paragraph insert—
 - “(f) references to a sentence of detention under section 252A of the Sentencing Code include a sentence of detention under section 224B of that Act;
 - (g) references to a sentence under section 268A or 282A of the Sentencing Code include such a sentence passed as a result of section 219ZA of that Act.”

Armed Forces Act 2006 (c. 52)

- 41 (1) The Armed Forces Act 2006 is amended as follows.
- (2) In section 188 (power to pass consecutive custodial sentences), in subsections (2)(b) and (4)(b), after “209” insert “or 224B”.
 - (3) In section 209 (sentence of detention for offender aged under 18), after subsection (7) insert—
 - “(8) This section does not apply if the Court Martial is required to impose a sentence of detention under section 224B.”

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- (4) In section 210 (place and conditions of youth detention), after “209”, in each place it occurs (including in the heading), insert “or 224B”.
- (5) In section 211(4) (cases in which detention and training order not required), after “221A” insert “, 224B”.
- (6) In section 213(3A) (as amended by Part 4 of this Schedule) (application of section 253 of the Sentencing Code), after “209” insert “or 224B”.
- (7) In section 219A(1) (availability of extended sentence for certain violent, sexual or terrorism offences), after paragraph (d) (but before the final “and”) insert—
- “*(da)* the court is not required—
- (i) by section 268B(2) of the Sentencing Code (as applied by section 219ZA(4) of this Act) to impose a serious terrorism sentence of detention in a young offender institution for the offence or for an offence associated with it;
- (ii) by section 282B(2) of the Sentencing Code (as applied by section 219ZA(7) of this Act) to impose a serious terrorism sentence of imprisonment for the offence or for an offence associated with it.”
- (8) In section 223 (meaning of “the required opinion”)—
- (a) after subsection (1) insert—
- “*(1A)* “The required opinion” for the purposes of section 219ZA 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 serious terrorism offences or other specified offences; or
- (b) further acts or omissions that would be serious terrorism offences or other specified offences if committed in England or Wales.”;
- (b) in subsection (4), after the definition of “serious harm” insert—
- ““serious terrorism offence” has the meaning given by that section.”.
- (9) In section 224A (special custodial sentence for offenders of particular concern)—
- (a) in subsection (1), in paragraph (d)—
- (i) omit the “or” at the end of sub-paragraph (i);
- (ii) after sub-paragraph (ii) insert “, or
- (iii) a serious terrorism sentence of detention or imprisonment under section 268A or 282A of the Sentencing Code (as applied by section 219ZA of this Act).”;
- (b) after subsection (3) insert—
- “*(3A)* Where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken for the purposes of subsection (1A) to have been committed on the last of those days.”
- (10) In section 227(3) (minimum sentence for certain firearms offences), for the words from “, the reference” to the end substitute “—

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- (a) the reference to a sentence of detention under section 250 of that Code is to be read as a reference to a sentence of detention under section 209 of this Act, and
 - (b) the reference to a sentence of detention under section 252A of that Code is to be read as a reference to a sentence of detention under section 224B of this Act.”
- (11) In section 238(6) (offences aggravated by terrorist connection)—
- (a) omit the “and” at the end of paragraph (a);
 - (b) after paragraph (a) insert—
 - “(aa) the reference in subsection (4)(c) to an offence not specified in Schedule A1 includes a reference to an offence under section 42 as respects which the corresponding offence under the law of England and Wales is not specified in Schedule A1, and”;
 - (c) in paragraph (b), for “(1)” substitute “(5)(b)”.
- (12) In section 246 (crediting of time in custody), in subsection (6)(a), after “209” insert “or 224B”.
- (13) In section 256(1)(c) (cases where pre-sentence report to be considered), after “219(1),” insert “219ZA(1)(d),”.
- (14) In section 260 (discretionary custodial sentences: general restrictions) —
- (a) in subsection (1)—
 - (i) for “This section applies” substitute “Subsection (2) applies”;
 - (ii) after paragraph (c) insert—
 - “(ca) falls to be imposed under section 268A or 282A of the Sentencing Code as a result of section 219ZA (serious terrorism sentences);”;
 - (b) in subsection (4B), before paragraph (a) insert—
 - “(za) section 268C(2) or 282C(2) of the Sentencing Code, as applied by section 219ZA of this Act (serious terrorism sentences for offenders aged 18 or over),”.
- (15) In section 261 (length of discretionary custodial sentences: general), in subsection (1), after paragraph (b)—
- “(ba) section 268A or 282A of the Sentencing Code as a result of section 219ZA (serious terrorism sentences),”.
- (16) In section 262A (application of section 329 of the Sentencing Code)—
- (a) after subsection (2) insert—
 - “(2A) In subsection (4A)—
 - (a) paragraph (a) has effect as if, for “252A”, there were substituted “224B of the Armed Forces Act 2006”;
 - (b) paragraph (b) has effect as if, after “265”, there were inserted “passed as a result of section 224A of the Armed Forces Act 2006”;
 - (c) the words after paragraph (b) have effect as if, after “278”, there were inserted “passed as a result of section 224A of the Armed Forces Act 2006”.

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- (b) after subsection (3) insert—
 - “(3A) Subsection (5A) has effect as if, at the end, there were inserted “passed as a result of section 219ZA(7) of the Armed Forces Act 2006.”;
 - (c) in subsection (4)—
 - (i) after the paragraph (a) treated as substituted in subsection (7) of section 329 of the Sentencing Code insert—
 - “(aa) a sentence of detention under section 224B of that Act;”;
 - (ii) after the paragraph (d) treated as substituted in subsection (7) of section 329 of the Sentencing Code insert—
 - “(da) a serious terrorism sentence of detention in a young offender institution (see section 219ZA(4) of the Armed Forces Act 2006);”.
- (17) In section 374 (interpretation of Act), in the definition of “custodial sentence”, in paragraph (b), for “or 221A” substitute “, 221A or 224B”.

Counter-Terrorism Act 2008 (c. 28)

- 42 In paragraph 5(1)(a)(iv) of Schedule 6 to the Counter-Terrorism Act 2008 (service sentences of youth detention attracting notification requirements for terrorist offenders), after “209” insert “or 224B”.

Sentencing Act 2020 (c. 17)

- 43 (1) The Sentencing Act 2020 is amended as follows.
- (2) In section 225 (restriction on consecutive sentences for released prisoners), in subsection (3)(c)(vi), after “209” insert “or 224B”.
 - (3) In section 241 (period of detention and training under detention and training order), in subsections (6)(b)(ii) and (7)(c), after “209” insert “or 224B”.
 - (4) In section 248(4) (meaning of “relevant sentence of detention”), in paragraph (c), after “209” insert “or 224B”.
 - (5) In section 418 (commencement of provisions of Schedule 26 in relation to prospective abolition of sentences of detention in a young offender institution), after subsection (2) insert—
 - “(2A) Paragraphs 13A, 20A and 24A (and paragraph 1 so far as it relates to them) also come into force at that time.”
 - (6) In Schedule 25 (amendments of Armed Forces Act 2006), omit paragraph 45(5).
 - (7) In Schedule 26 (further amendments of the Armed Forces Act 2006 in relation to prospective abolition of sentences of detention in a young offender institution)—
 - (a) after paragraph 13 insert—
 - “13A In section 219ZA (serious terrorism sentence for offenders aged 18 or over)—
 - (a) in subsection (1)(e), omit “a sentence of custody for life or (as the case may be)”;

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

- (b) omit subsections (4) to (6);
- (c) in subsection (7), omit “Where the offender is aged 21 or over when convicted of the serious terrorism offence.”;
- (b) in paragraph 14 (amendments of section 219A of the 2006 Act), for sub-paragraph (a) substitute—
 - “(a) in subsection (1)—
 - (i) in paragraph (d), omit sub-paragraphs (i) and (iii);
 - (ii) in paragraph (da), omit sub-paragraph (i);”;
- (c) in paragraph 15(a) (amendments of section 224A of the 2006 Act), after paragraph (ii) insert—
 - “(iii) in sub-paragraph (iii), for “detention or imprisonment under section 268A or 282A” substitute “imprisonment under section 282A”;”;
- (d) in paragraph 18 (amendment of section 239 of the 2006 Act), after “pleas” insert “—
 - (a) in subsection (3A), omit—
 - (i) “(4) or”;
 - (ii) “268A or”;
 - (b) in subsection (3B), omit “268C(2) or, as the case may be,”;
 - (c);
- (e) in paragraph 19 (amendments of section 260 of the 2006 Act)—
 - (i) in sub-paragraph (a), after paragraph (ii) insert—
 - “(iia) in paragraph (ca), omit “268A or”;”;
 - (ii) for sub-paragraph (b) substitute—
 - “(b) in subsection (4B)—
 - (i) in paragraph (za), omit “268C(2) or”;
 - (ii) in paragraph (a), omit “268(2) or”. ”;
- (f) in paragraph 20 (amendments of section 261 of the 2006 Act), at the end insert—
 - “(c) in paragraph (ba), omit “268A or”. ”;
- (g) after paragraph 20 insert—
 - “20A In section 261A(3) (life sentences: further provision)—
 - (a) in paragraph (b), omit “268B(2) or”;
 - (b) in paragraph (c)(i), omit “268B(2) or”. ”;
- (h) in paragraph 21 (amendments of section 262A of the 2006 Act), for the words from “, in subsection (4)” to the end substitute—
 - “(a) in subsection (2A), omit paragraph (b);
 - (b) omit subsection (3A);
 - (c) in subsection (4), omit paragraphs (d), (da), (e) and (f) treated as substituted in subsection (7) of section 329 of the Sentencing Code.”;
- (i) after paragraph 24 insert—
 - “24A In section 304C (to be inserted by the Armed Forces Act 2016: reduction in sentence), in subsection (5A)—
 - (a) omit “268C(2) or”;

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(b) for “section 219ZA(5) to (8)” substitute “section 219ZA(8).”

(8) In Schedule 27 (transitional provision and savings), in paragraph 16(2), for the words from “, the reference” to the end substitute “—

- (a) the reference in section 224A(1)(d)(ii) of the Armed Forces Act 2006 to an extended sentence under section 266 or 279 of the Sentencing Code includes a reference to an extended sentence under section 226A of the Criminal Justice Act 2003;
- (b) the reference in section 224B(1)(c)(ii) to an extended sentence of detention under section 254 of the Sentencing Code includes a reference to an extended sentence of detention under section 226B of the Criminal Justice Act 2003.”