

## SCHEDULES

### SCHEDULE 22

#### DANGEROUS OFFENDERS SUBJECT TO SERVICE LAW ETC

##### PART 1

#### SENTENCES FOR DANGEROUS OFFENDERS SUBJECT TO SERVICE LAW ETC

##### *Armed Forces Act 2006 (c. 52)*

- 1 The Armed Forces Act 2006 is amended as follows.
- 2 After section 218 and the italic heading “Required or discretionary sentences for particular offences” insert—

##### **“218A Life sentence for second listed offence**

- (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);
  - (b) the corresponding offence under the law of England and Wales is an offence listed in Part 1 of Schedule 15B to the 2003 Act;
  - (c) the offence was committed after this section comes into force; and
  - (d) the sentence condition and the previous offence condition are met.
- (2) Section 224A(2) of the 2003 Act applies in relation to the offender.
- (3) In section 224A(2)(a) of that Act as applied by subsection (2)—
  - (a) the reference to “the 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 subsection (4)” 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, disregarding any extension period imposed under section 226A of the 2003 Act 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 Schedule 15B to the 2003 Act (“the previous offence”); and

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- (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.
- (6) A sentence is relevant for the purposes of subsection (5)(b) if it would be relevant for the purposes of section 224A(4)(b) of the 2003 Act (see subsections (5) to (10) of that section).
- (7) A sentence required to be imposed by section 224A(2) of that Act as a result of this section is not to be regarded as a sentence fixed by law.”
- 3 (1) Section 219 (dangerous offenders aged 18 or over) is amended as follows.
  - (2) For subsection (2) substitute—
    - “(2) Section 225(2) of the 2003 Act applies in relation to the offender.”
  - (3) In subsection (3), omit “and (3A)”.
- 4 In the heading of that section for “Dangerous” substitute “Life sentence for certain dangerous”.
- 5 After that section insert—

**“219A Extended sentence for certain violent or sexual 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);
  - (b) the corresponding offence under the law of England and Wales is a specified offence;
  - (c) the court is of the required opinion (defined by section 223);
  - (d) the court is not required to impose a sentence of imprisonment for life by section 224A(2) of the 2003 Act (as applied by section 218A of this Act) or section 225(2) of that Act (as applied by section 219 of this Act); 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 Schedule 15B to the 2003 Act.
- (3) Condition B is that, if the court were to impose an extended sentence of imprisonment under section 226A of the 2003 Act as a result of this section, the term that it would specify as the appropriate custodial term would be at least 4 years.
- (4) Subsections (4) to (9) of section 226A of the 2003 Act apply in relation to the offender.
- (5) In section 226A(4) to (9) of the 2003 Act as applied by this section—
  - (a) the reference in subsection (6) to section 153(2) of the 2003 Act is to be read as a reference to section 261(2) of this Act;

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- (b) the reference in subsection (7) to further specified offences includes a reference to further acts or omissions that would be specified offences if committed in England and Wales;
- (c) the reference in subsection (8)(a) to a specified violent offence is to be read as a reference to an offence under section 42 as respects which the corresponding offence under the law of England and Wales is a specified violent offence; and
- (d) the reference in subsection (8)(b) to a specified sexual offence is to be read as a reference to an offence under section 42 as respects which the corresponding offence under the law of England and Wales is a specified sexual offence.

(6) In this section “specified offence”, “specified sexual offence” and “specified violent offence” have the meanings given by section 224 of the 2003 Act.”

6 Omit section 220 (certain violent or sexual offenders aged 18 or over).

7 In section 221 (dangerous offenders aged under 18) for subsection (2) substitute—  
“(2) Section 226(2) of the 2003 Act applies in relation to the offender.”

8 In the heading of that section for “Dangerous” substitute “Life sentence for certain dangerous”.

9 After that section insert—

#### **“221A Extended sentence for certain violent or sexual 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;
- (c) the court is of the required opinion (defined by section 223);
- (d) the court is not required by section 226(2) of the 2003 Act (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 under section 226B of the 2003 Act as a result of this section, the term that it would specify as the appropriate custodial term would be at least 4 years.

(2) Subsections (2) to (7) of section 226B of the 2003 Act apply in relation to the offender.

(3) In section 226B(2) to (7) of the 2003 Act as applied by this section—

- (a) the reference in subsection (4) to section 153(2) of the 2003 Act is to be read as a reference to section 261(2) of this Act;
- (b) the reference in subsection (5) to further specified offences includes a reference to further acts or omissions that would be specified offences if committed in England and Wales;
- (c) the reference in subsection (6)(a) to a specified violent offence is to be read as a reference to an offence under section 42 as respects

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which the corresponding offence under the law of England and Wales is a specified violent offence; and

- (d) the reference in subsection (6)(b) to a specified sexual offence is to be read as a reference to an offence under section 42 as respects which the corresponding offence under the law of England and Wales is a specified sexual offence.

- (4) In this section “specified offence”, “specified sexual offence” and “specified violent offence” have the meanings given by section 224 of the 2003 Act.”

10 Omit section 222 (offenders aged under 18: certain violent or sexual offences).