



Counter-Terrorism and Sentencing Act 2021

2021 CHAPTER 11

PART 1

SENTENCING OF TERRORIST AND CERTAIN OTHER OFFENDERS

Offences to be sentenced as terrorist offences

1 Offences aggravated by terrorist connection

- (1) The Sentencing Code is amended as set out in subsections (2) and (3).
- (2) In section 69 (offences aggravated by terrorist connection)—
 - (a) in subsection (1), for the words from “specified” to the end substitute “ within subsection (4) or (5) ”;
 - (b) after subsection (3) insert—
 - “(4) An offence is within this subsection if it—
 - (a) was committed on or after the day on which section 1 of the Counter-Terrorism and Sentencing Act 2021 came into force,
 - (b) is punishable on indictment with imprisonment for more than 2 years, and
 - (c) is not specified in Schedule A1.
 - (5) An offence is within this subsection if it—
 - (a) was committed before the day on which section 1 of the Counter-Terrorism and Sentencing Act 2021 came into force, and
 - (b) is specified in Schedule 1.
- (6) 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,

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, PART 1. (See end of Document for details)

it must be taken for the purposes of subsections (4) and (5) to have been committed on the last of those days.”

- (3) Before Schedule 1 insert, as Schedule A1, the Schedule set out in Part 1 of Schedule 1 to this Act.
- (4) The Counter-Terrorism Act 2008 is amended as follows.
- (5) In section 30 (offences aggravated by terrorist connection: Northern Ireland)—
- (a) in subsection (1), for the words from “specified” to the end substitute “ within subsection (5A) or (5B) ”;
 - (b) after subsection (5) insert—

“(5A) An offence is within this subsection if it—

 - (a) was committed on or after the day on which section 1 of the Counter-Terrorism and Sentencing Act 2021 came into force,
 - (b) is punishable on indictment with imprisonment for more than 2 years (or would be so punishable in the case of an offender aged at least 21), and
 - (c) is not specified in Schedule 1A.

(5B) An offence is within this subsection if it—

 - (a) was committed—
 - (i) on or after 12 April 2019 (being the date on which section 8 of the Counter-Terrorism and Border Security Act 2019, which extended this section to Northern Ireland, came into force), but
 - (ii) before the day on which section 1 of the Counter-Terrorism and Sentencing Act 2021 came into force, and
 - (b) is specified in Schedule 2.

(5C) 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 subsections (5A) and (5B) to have been committed on the last of those days.”;
- (c) omit subsection (6).
- (6) In section 31 (offences aggravated by terrorist connection: Scotland)—
- (a) in subsection (1), for the words from “specified” to “considered)” substitute “ within subsection (4A) or (4B) ”;
 - (b) after subsection (4) insert—

“(4A) An offence is within this subsection if it—

 - (a) was committed on or after the day on which section 1 of the Counter-Terrorism and Sentencing Act 2021 came into force,
 - (b) is punishable on indictment with imprisonment for more than 2 years (or would be so punishable in the case of an offender aged at least 21), and
 - (c) is not specified in Schedule 1A.

(4B) An offence is within this subsection if it—

 - (a) was committed—

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, PART 1. (See end of Document for details)

- (i) on or after the relevant date, but
 - (ii) before the day on which section 1 of the Counter-Terrorism and Sentencing Act 2021 came into force, and
 - (b) is specified in Schedule 2.
 - (4C) The relevant date for the purposes of subsection (4B)(a)(i) is—
 - (a) 18 June 2009 (being the date on which this section came into force), in relation to any offence that is not mentioned in paragraph (b);
 - (b) 12 April 2019 (being the date on which section 8 of the Counter-Terrorism and Border Security Act 2019, which amended Schedule 2, came into force) in relation to any of the following offences under the law of Scotland—
 - (i) assault by explosive device;
 - (ii) assault to severe injury;
 - (iii) assault and poisoning;
 - (iv) poisoning.
 - (4D) 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 subsections (4A) to (4C) to have been committed on the last of those days.”;
 - (c) omit subsection (5).
- (7) After Schedule 1 insert, as Schedule 1A, the Schedule set out in Part 2 of Schedule 1 to this Act.

Commencement Information

II [S. 1](#) in force at 29.6.2021 for specified purposes and otherwise prosp. see [s. 50\(2\)\(a\)\(3\)\(a\)](#)

2 Meaning of “serious terrorism offence”: England and Wales

In the Sentencing Code—

- (a) in section 306 (extended sentences: meaning of “specified offence” etc), in subsection (2), after the definition of “serious harm” insert—
 - ““serious terrorism offence” means an offence that—
 - (a) is specified in Part 1 of Schedule 17A, or
 - (b) is specified in Part 2 of that Schedule and has been determined to have a terrorist connection under section 69;”;
- (b) after Schedule 17 insert, as Schedule 17A, the Schedule set out in Schedule 2 to this Act.

3 Offences relevant for provisions of this Act relating to Northern Ireland

- (1) The Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)) is amended as follows.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, PART 1. (See end of Document for details)

- (2) In Article 12 (interpretation of Chapter 3 of Part 2 (dangerous offenders and other terrorist offenders))—
- (a) in paragraph (3), before the definition of “life sentence” insert—
- ““determination of terrorist connection”, in relation to an offence, means a determination by the court that the offence has a terrorist connection under section 30 of the Counter-Terrorism Act 2008;”;
- (b) after paragraph (5) insert—
- “(6) Schedule 2A specifies certain terrorism offences, and other offences which may be determined to have a terrorist connection, for the purposes of various provisions of this Chapter and Chapter 4, and makes related provision.
- (7) In this Chapter “serious terrorism offence” means—
- (a) an offence within Part 2 of Schedule 2A (terrorism offences punishable with life imprisonment); or
- (b) an offence within Part 3 of that Schedule (offences with possible terrorist connection punishable with life imprisonment) in respect of which a determination of terrorist connection is made.”
- (3) After Schedule 2 insert, as Schedule 2A, the Schedule set out in Schedule 3 to this Act.

Serious terrorism sentences

4 Serious terrorism sentence for adults aged under 21: England and Wales

After section 268 of the Sentencing Code insert—

“Serious terrorism sentence

268A Serious terrorism sentence of detention in a young offender institution

A serious terrorism sentence of detention in a young offender institution is a sentence of detention in a young offender institution the term of which is equal to the aggregate of—

- (a) the appropriate custodial term (see section 268C), and
- (b) a further period (the “extension period”) for which the offender is to be subject to a licence.

268B Serious terrorism sentence of detention in a young offender institution: circumstances in which required

- (1) Subsection (2) applies where a court is dealing with an offender for a serious terrorism offence (see section 306(2)) where—
- (a) the offence was committed on or after the day on which section 4 of the Counter-Terrorism and Sentencing Act 2021 came into force,
- (b) the offender was aged 18 or over when the offence was committed,

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, PART 1. (See end of Document for details)

- (c) the offender is aged under 21 when convicted of the offence,
 - (d) the court is of the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further serious terrorism offences or other specified offences (see section 308),
 - (e) the court does not impose a sentence of custody for life, and
 - (f) the risk of multiple deaths condition is met.
- (2) The court must impose a serious terrorism sentence of detention in a young offender institution under section 268A unless the court is of the opinion that there are exceptional circumstances which—
- (a) relate to the offence or to the offender, and
 - (b) justify not doing so.
- (3) The risk of multiple deaths condition is that the court is of the opinion that—
- (a) either—
 - (i) the serious terrorism offence, or
 - (ii) the combination of the offence and one or more offences associated with it,was very likely to result in or contribute to (whether directly or indirectly) the deaths of at least two people as a result of an act of terrorism (within the meaning of section 1 of the Terrorism Act 2000), and
 - (b) the offender was, or ought to have been, aware of that likelihood.
- (4) It is irrelevant for the purposes of determining whether the risk of multiple deaths condition is met whether or not any death actually occurred.
- (5) 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 (1) to have been committed on the last of those days.
- (6) The pre-sentence report requirements (see section 30) apply to the court in relation to forming the opinion mentioned in subsection (1)(d).

268C Term of serious terrorism sentence of detention in a young offender institution

- (1) This section applies where the court dealing with an offender is required by section 268B to impose a serious terrorism sentence of detention in a young offender institution under section 268A.
- (2) The appropriate custodial term is—
- (a) 14 years, or
 - (b) if longer, the term of detention in a young offender institution that would be imposed in respect of the offence in compliance with section 231(2) (length of discretionary custodial sentences) if the court did not impose a serious terrorism sentence (or an extended sentence or a sentence under section 265).
- (3) The extension period must be a period of such length as the court considers necessary for the purpose of protecting members of the public from serious

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, PART 1. (See end of Document for details)

harm occasioned by the commission by the offender of further serious terrorism offences or other specified offences.

This is subject to subsection (4).

- (4) The extension period must—
- (a) be at least 7 years, and
 - (b) not exceed 25 years.”

5 **Serious terrorism sentence for adults aged 21 or over: England and Wales**

After section 282 of the Sentencing Code insert—

“Serious terrorism sentence

282A Serious terrorism sentence of imprisonment: persons 21 or over

A serious terrorism sentence of imprisonment is a sentence of imprisonment the term of which is equal to the aggregate of—

- (a) the appropriate custodial term (see section 282C), and
- (b) a further period (the “extension period”) for which the offender is to be subject to a licence.

282B Serious terrorism sentence of imprisonment: circumstances in which required

- (1) Subsection (2) applies where a court is dealing with an offender for a serious terrorism offence (see section 306(2)) where—
 - (a) the offence was committed on or after the day on which section 5 of the Counter-Terrorism and Sentencing Act 2021 came into force,
 - (b) the offender was aged 18 or over when the offence was committed,
 - (c) the offender is aged 21 or over when convicted of the offence,
 - (d) the court is of the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further serious terrorism offences or other specified offences (see section 308),
 - (e) the court does not impose a sentence of imprisonment for life, and
 - (f) the risk of multiple deaths condition is met.
- (2) The court must impose a serious terrorism sentence of imprisonment under section 282A unless the court is of the opinion that there are exceptional circumstances which—
 - (a) relate to the offence or to the offender, and
 - (b) justify not doing so.
- (3) The risk of multiple deaths condition is that the court is of the opinion that—
 - (a) either—
 - (i) the serious terrorism offence, or
 - (ii) the combination of the offence and one or more offences associated with it,

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, PART 1. (See end of Document for details)

was very likely to result in or contribute to (whether directly or indirectly) the deaths of at least two people as a result of an act of terrorism (within the meaning of section 1 of the Terrorism Act 2000), and

- (b) the offender was, or ought to have been, aware of that likelihood.
- (4) It is irrelevant for the purposes of determining whether the risk of multiple deaths condition is met whether or not any death actually occurred.
- (5) 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 (1) to have been committed on the last of those days.
- (6) The pre-sentence report requirements (see section 30) apply to the court in relation to forming the opinion mentioned in subsection (1)(d).

282C Term of serious terrorism sentence of imprisonment

- (1) This section applies where the court dealing with an offender is required by section 282B to impose a serious terrorism sentence of imprisonment under section 282A.
- (2) The appropriate custodial term is—
 - (a) 14 years, or
 - (b) if longer, the term of imprisonment that would be imposed in respect of the offence in compliance with section 231(2) (length of discretionary custodial sentences) if the court did not impose a serious terrorism sentence of imprisonment (or an extended sentence or a sentence under section 278).
- (3) The extension period must be a period of such length as the court considers necessary for the purpose of protecting members of the public from serious harm occasioned by the commission by the offender of further serious terrorism offences or other specified offences.

This is subject to subsection (4).

- (4) The extension period must—
 - (a) be at least 7 years, and
 - (b) not exceed 25 years.”

6 Serious terrorism sentence: Scotland

- (1) After section 205 of the Criminal Procedure (Scotland) Act 1995 insert—

“205ZA Serious terrorism sentence

- (1) This section applies where—
 - (a) a person is convicted on indictment of a serious terrorism offence,
 - (b) the offence was committed on or after the day on which section 6 of the Counter-Terrorism and Sentencing Act 2021 comes into force,
 - (c) the offender was aged 18 or over when the offence was committed,

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, PART 1. (See end of Document for details)

- (d) the court is of the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further serious terrorism offences or other terrorism offences to which section 210A applies,
 - (e) the court does not impose a sentence of imprisonment for life or a sentence of detention for life in a young offenders institution,
 - (f) the court does not make an order for lifelong restriction, and
 - (g) the risk of multiple deaths condition is met.
- (2) Where the offender is 21 years of age or over, the court must impose a serious terrorism sentence of imprisonment unless the court is of the opinion that there are exceptional circumstances which—
- (a) relate to the offence or to the offender, and
 - (b) justify not doing so.
- (3) The risk of multiple deaths condition is that the court is of the opinion that—
- (a) either—
 - (i) the serious terrorism offence, or
 - (ii) the combination of the offence and one or more offences associated with it,
 was very likely to result in or contribute to (whether directly or indirectly) the deaths of at least two people as a result of an act of terrorism (within the meaning of section 1 of the Terrorism Act 2000), and
 - (b) the offender was, or ought to have been, aware of that likelihood.
- (4) It is irrelevant for the purposes of determining whether the risk of multiple deaths condition is met whether or not any death actually occurred.
- (5) A serious terrorism sentence of imprisonment is a sentence of imprisonment the term of which is equal to the aggregate of—
- (a) the appropriate custodial term, and
 - (b) a further period (“the extension period”) for which the offender is to be subject to a licence under Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993.
- (6) Where the offender is under 21 years of age, the court must impose a serious terrorism sentence of detention unless the court is of the opinion that there are exceptional circumstances which—
- (a) relate to the offence or to the offender, and
 - (b) justify not doing so.
- (7) A serious terrorism sentence of detention is a sentence of detention in a young offenders institution the term of which is equal to the aggregate of—
- (a) the appropriate custodial term, and
 - (b) a further period (“the extension period”) for which the offender is to be subject to a licence under Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993.
- (8) The appropriate custodial term is—
- (a) 14 years, or

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, PART 1. (See end of Document for details)

- (b) if longer, the term of imprisonment or, as the case may be, detention that would be imposed in respect of the offence if the court did not impose a serious terrorism sentence of imprisonment or, as the case may be, a serious terrorism sentence of detention (or a sentence under section 205ZC or an extended sentence under section 210A).
- (9) The extension period must be a period of such length as the court considers necessary for the purpose of protecting members of the public from serious harm occasioned by the commission by the offender of further serious terrorism offences or other terrorism offences to which section 210A applies (but subject to subsection (10)).
- (10) The extension period must—
 - (a) be at least 7 years, and
 - (b) not exceed 25 years.
- (11) Before forming an opinion for the purposes of subsection (1)(d), the court must—
 - (a) consider a report by a relevant officer of a local authority about the offender and the offender's circumstances, and
 - (b) if the court thinks it necessary, hear that officer.
- (12) In this section—
 - “local authority” and “relevant officer” have the meanings given by section 27 of the Prisoners and Criminal Proceedings (Scotland) Act 1993;
 - “serious terrorism offence” means an offence that—
 - (a) is specified in Part 1 of Schedule 5ZA, or
 - (b) is specified in Part 2 of that Schedule and has been proved to have been aggravated by reason of having a terrorist connection under section 31 of the Counter-Terrorism Act 2008.”
- (2) After Schedule 5 to that Act insert, as Schedule 5ZA, the Schedule set out in Schedule 4 to this Act.

7 Serious terrorism sentence: Northern Ireland

In the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), after Article 13 insert—

“13A Serious terrorism sentence

- (1) This Article applies where—
 - (a) a person is convicted on indictment of a serious terrorism offence;
 - (b) the offence was committed after the commencement of section 7 of the Counter-Terrorism and Sentencing Act 2021;
 - (c) at the time when the offence was committed the offender was aged 18 or over;
 - (d) the court is of the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further serious terrorism offences or specified offences;

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, PART 1. (See end of Document for details)

- (e) the court does not impose a life sentence or an indeterminate custodial sentence; and
 - (f) the risk of multiple deaths condition is met.
- (2) The court shall impose a serious terrorism sentence, unless the court is of the opinion that there are exceptional circumstances which—
- (a) relate to the offence or to the offender; and
 - (b) justify not doing so.
- (3) The risk of multiple deaths condition is that the court is of the opinion that—
- (a) either—
 - (i) the offence referred to in paragraph (1)(a); or
 - (ii) the combination of that offence and one or more offences associated with it,
 was very likely to result in or contribute to (whether directly or indirectly) the deaths of at least two people as a result of an act of terrorism (within the meaning of section 1 of the Terrorism Act 2000); and
 - (b) the offender was, or ought to have been, aware of that likelihood.
- (4) It is irrelevant for the purposes of determining whether the risk of multiple deaths condition is met whether or not any death actually occurred.
- (5) Where the offender is aged 21 or over, a serious terrorism sentence is a sentence of imprisonment the term of which is equal to the aggregate of—
- (a) the appropriate custodial term; and
 - (b) a further period (“the extension period”) for which the offender is to be subject to a licence.
- (6) Where the offender is under the age of 21, a serious terrorism sentence is a sentence of detention at such place and under such conditions as the Department of Justice may direct for a term which is equal to the aggregate of—
- (a) the appropriate custodial term; and
 - (b) a further period (“the extension period”) for which the offender is to be subject to a licence.
- (7) A person detained pursuant to the directions of the Department of Justice under paragraph (6) shall while so detained be in legal custody.
- (8) In paragraphs (5)(a) and (6)(a), “the appropriate custodial term” means (subject to paragraphs (9) and (10))—
- (a) a term of 14 years; or
 - (b) if longer, the term that would (apart from this Article and Articles 14 and 15A) be imposed in compliance with Article 7 (length of custodial sentences).
- (9) The court may, to the extent that it considers appropriate in order to take into account a guilty plea in accordance with Article 33(1) of the Criminal Justice (Northern Ireland) Order 1996, specify an appropriate custodial term of less than 14 years but no less than 11 years and 73 days.
- (10) The court may specify a lesser period than that otherwise required by paragraph (8) or (9) if the court is of the opinion that it is appropriate to do so on

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, PART 1. (See end of Document for details)

taking account of matters under section 73(2) of the Serious Organised Crime and Police Act 2005 (assistance given or offered to investigator or prosecutor).

- (11) The extension period under paragraph (5)(b) or (6)(b)—
- (a) must be at least seven years and must not exceed 25 years; and
 - (b) subject to those limits, is to be of such length as the court considers necessary for the purpose of protecting members of the public from the risk of harm referred to in paragraph (1)(d).
- (12) A court which imposes a serious terrorism sentence shall not make an order under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968 (suspended sentences) in relation to that sentence.
- (13) Remission shall not be granted under prison rules to the offender in respect of a sentence imposed under this Article.”

Serious terrorism sentences: supplementary provision

8 Reduction in appropriate custodial term for guilty pleas: England and Wales

In section 73 of the Sentencing Code (reduction in sentences for guilty pleas), after subsection (2) insert—

“(2A) If the court imposes a serious terrorism sentence in relation to the offence, nothing in section 268C(2) or, as the case may be, 282C(2) prevents the court, after taking into account any matter referred to in subsection (2), from imposing as the appropriate custodial term a term of any length which is not less than 80 per cent of the term which would otherwise be required.”

9 Reduction in appropriate custodial term for guilty pleas: Scotland

In section 196 of the Criminal Procedure (Scotland) Act 1995 (sentence following guilty plea), after subsection (1A) insert—

“(1B) Subsection (1C) applies where—

- (a) the court is making an order for lifelong restriction to which section 205ZB applies in respect of an offender or imposing on an offender—
 - (i) a serious terrorism sentence of imprisonment under section 205ZA(2),
 - (ii) a serious terrorism sentence of detention under section 205ZA(6),
 - (iii) a sentence of imprisonment for life to which section 205ZB applies, or
 - (iv) a sentence of detention for life to which section 205ZB applies, and
- (b) the offender has pled guilty to the offence for which the offender is being sentenced.

(1C) The court may, after taking into account the matters mentioned in paragraphs (a) and (b) of subsection (1), impose as the appropriate custodial term or, as the case may be, specify as the punishment part, a term of any length which is not less than 80 per cent of the term which would otherwise be required.”

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, PART 1. (See end of Document for details)

10 Reduction in appropriate custodial term for assistance to prosecution: England and Wales

In section 74 of the Sentencing Code (reduction in sentence for assistance to prosecution), after subsection (4) insert—

“(4A) Nothing in section 268C(2) or 282C(2) (minimum appropriate custodial term for serious terrorism sentences) affects the court's power under subsection (2) so far it relates to determining the appropriate custodial term.”

Life or indeterminate sentences for serious terrorism offences

11 Minimum term order for serious terrorism offenders: England and Wales

In section 323 of the Sentencing Code (minimum term order: other life sentences), after subsection (2) insert—

“(3) Subsection (2) is subject to the requirement that the minimum term in a serious terrorism case must be at least 14 years.

This is subject to subsections (5) and (6).

- (4) A “serious terrorism case” is a case where, but for the fact that the court passes a life sentence, the court would be required by section 268B(2) or 282B(2) to impose a serious terrorism sentence (assuming for this purpose that the court is not of the opinion mentioned in section 268B(2) or 282B(2)).
- (5) The minimum term may be less than 14 years if the court is of the opinion that there are exceptional circumstances which—
- (a) relate to the offence or to the offender, and
 - (b) justify a lesser period.
- (6) The minimum term may be less than 14 years if the court considers it appropriate, taking into account—
- (a) the matters mentioned in subsection (2)(c), and
 - (b) the effect that the following would, if the court had sentenced the offender under section 268B(2) or 282B(2), have had in relation to the appropriate custodial term for that sentence—
 - (i) section 73 (reductions for guilty pleas), and
 - (ii) section 74 (reductions for assistance to the prosecution).”

Commencement Information

12 S. 11 in force at 29.6.2021 for specified purposes and otherwise prosp. see s. 50(2)(f)(3)(b)

12 Minimum punishment part for serious terrorism offenders: Scotland

After section 205ZA of the Criminal Procedure (Scotland) Act 1995 (inserted by section 6) insert—

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, PART 1. (See end of Document for details)

“205ZB Minimum punishment part where life sentence imposed for serious terrorism offence

- (1) This section applies where—
 - (a) section 205ZA(1)(a) to (d) and (f) applies in relation to a person, and
 - (b) the court—
 - (i) imposes a sentence of imprisonment for life or a sentence of detention for life in a young offenders institution on the person, or
 - (ii) makes an order for lifelong restriction in respect of the person.
- (2) In making under section 2(3) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 an order mentioned in section 2(2) of that Act in respect of the offender, the court must specify a punishment part of at least 14 years (but subject to subsection (3) and section 196(1C) of this Act).
- (3) The punishment part may be less than 14 years if the court is of the opinion that there are exceptional circumstances which—
 - (a) relate to the offence or to the offender, and
 - (b) justify a lesser period.
- (4) Before forming an opinion for the purposes of section 205ZA(1)(d) (by virtue of subsection (1)), the court must—
 - (a) consider a report by a relevant officer of a local authority about the offender and the offender's circumstances, and
 - (b) if the court thinks it necessary, hear that officer.
- (5) In this section, “local authority” and “relevant officer” have the meanings given by section 27 of the Prisoners and Criminal Proceedings (Scotland) Act 1993.”

13 Minimum tariff for serious terrorism offenders given life sentences: Northern Ireland

- (1) The Life Sentences (Northern Ireland) Order 2001 (S.I. 2001/2564 (N.I. 2)) is amended as follows.
- (2) In Article 5(2) (length of tariff), after “shall” insert “ (subject to Article 5A (serious terrorism cases)) ”.
- (3) After Article 5 insert—

“5A Minimum tariff in serious terrorism cases

- (1) If the court makes an order under Article 5(1) in a serious terrorism case, the part of the sentence specified in the order must be at least 14 years.
This is subject to paragraphs (2) to (4).
- (2) The court may, to the extent that it considers appropriate in order to take into account a guilty plea in accordance with Article 33(1) of the Criminal Justice (Northern Ireland) Order 1996, specify a period of less than 14 years but (subject to paragraphs (3) and (4)) no less than 11 years and 73 days.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, PART 1. (See end of Document for details)

- (3) The court may specify a lesser period than that otherwise required by paragraph (1) or (2) if the court is of the opinion that it is appropriate to do so on taking account of matters under section 73(2) of the Serious Organised Crime and Police Act 2005 (assistance given or offered to investigator or prosecutor).
- (4) The court may specify a lesser period than that otherwise required by paragraph (1) or (2) if the court is of the opinion that there are exceptional circumstances which—
 - (a) relate to the offence or to the offender; and
 - (b) justify the specification of a lesser period.
- (5) For the purposes of this Article, a “serious terrorism case” is a case where, if the court did not impose a life sentence or an indeterminate custodial sentence, it would be required by Article 13A of the Criminal Justice (Northern Ireland) Order 2008 to impose a serious terrorism sentence (assuming for this purpose that the court was not of the opinion mentioned in paragraph (2) of that Article).
- (6) In paragraph (5), “indeterminate custodial sentence” means a sentence under Article 13(4) of the Criminal Justice (Northern Ireland) Order 2008.”

14 Minimum custodial period for serious terrorism offenders given indeterminate custodial sentences: Northern Ireland

- (1) Article 13 of the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)) (life sentences and indeterminate custodial sentences) is amended as follows.
- (2) In paragraph (3)(b), after “being” insert “ (subject to paragraphs (3A) to (3E)) ”.
- (3) After paragraph (3) insert—
 - “(3A) In a serious terrorism case, the period specified under paragraph (3)(b) must (subject to paragraphs (3C) to (3E)) be at least 14 years.
 - (3B) A “serious terrorism case” is a case where, but for the fact that the court is required to impose an indeterminate custodial sentence, it would be required by Article 13A to impose a serious terrorism sentence (assuming for this purpose that the court was not of the opinion mentioned in paragraph (2) of that Article).
 - (3C) The court may, to the extent that it considers appropriate in order to take into account a guilty plea in accordance with Article 33(1) of the Criminal Justice (Northern Ireland) Order 1996, specify a period of less than 14 years but (subject to paragraphs (3D) and (3E)) no less than 11 years and 73 days.
 - (3D) The court may specify a lesser period than that otherwise required by paragraph (3A) or (3C) if the court is of the opinion that it is appropriate to do so on taking account of matters under section 73(2) of the Serious Organised Crime and Police Act 2005 (assistance given or offered to investigator or prosecutor).
 - (3E) The court may specify a lesser period than that otherwise required by paragraph (3A) or (3C) if the court is of the opinion that there are exceptional circumstances which—

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, PART 1. (See end of Document for details)

- (a) relate to the offence or to the offender; and
- (b) justify the specification of a lesser period.”

Extended sentences

15 Additional offences attracting extended sentence: England and Wales

- (1) Part 1 of Schedule 18 to the Sentencing Code (specified violent offences attracting extended sentence) is amended as follows.
- (2) In paragraph 5 (offences under the Explosive Substances Act 1883), at the end insert—
 - “(d) section 5 (punishment of accessories to offences of causing or attempting to cause explosions or making or possessing explosives) in a case where the offender is convicted on or after the day on which section 15 of the Counter-Terrorism and Sentencing Act 2021 comes into force.”
- (3) After paragraph 11 insert—

11A “Biological Weapons Act 1974

An offence under section 1 of the Biological Weapons Act 1974 (developing certain biological agents and toxins or biological weapons) in a case where the offender is convicted on or after the day on which section 15 of the Counter-Terrorism and Sentencing Act 2021 comes into force.”

- (4) In paragraph 13 (offences under the Aviation Security Act 1982), at the end insert—
 - “(e) section 6(2) (inducing or assisting the commission of offences relating to safety of aircraft) in a case where the offender is convicted on or after the day on which section 15 of the Counter-Terrorism and Sentencing Act 2021 comes into force.”
- (5) After paragraph 13 insert—

13A “Nuclear Material (Offences) Act 1983

An offence under either of the following provisions of the Nuclear Material (Offences) Act 1983 in a case where the offender is convicted on or after the day on which section 15 of the Counter-Terrorism and Sentencing Act 2021 comes into force—

- (a) section 1B (offences relating to damage to the environment);
- (b) section 2 (preparatory acts and threats).”

- (6) In paragraph 19 (offences under the Aviation and Maritime Security Act 1990), at the end insert—
 - “(g) section 14(4) (inducing or assisting the commission of offences relating to hijacking of ships, or destroying ships or fixed platforms or endangering their safety) in a case where the offender is convicted on or after the day on which section 15 of the Counter-Terrorism and Sentencing Act 2021 comes into force.”
- (7) After paragraph 20 insert—

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, PART 1. (See end of Document for details)

20A “Chemical Weapons Act 1996

An offence under either of the following provisions of the Chemical Weapons Act 1996 in a case where the offender is convicted on or after the day on which section 15 of the Counter-Terrorism and Sentencing Act 2021 comes into force—

- (a) section 2 (use etc of chemical weapons);
- (b) section 11 (premises or equipment used for producing chemical weapons).”

Commencement Information

I3 S. 15 in force at 29.6.2021 for specified purposes and otherwise prosp. see s. 50(2)(h)(3)(c)

16 Increase in extension period for serious terrorism offenders aged under 18: England and Wales

- (1) Section 256(4) of the Sentencing Code (limits on extension period in term of extended sentence of detention) is amended as follows.
- (2) In paragraph (b)—
 - (a) in sub-paragraph (i), at the end insert “ (unless sub-paragraph (iii) applies) ”;
 - (b) in sub-paragraph (ii), at the end insert “ (unless sub-paragraph (iii) applies) ”;
 - (c) after sub-paragraph (ii) insert—
 - “(iii) 10 years in the case of a serious terrorism offence for which the sentence is imposed on or after the day on which section 16 of the Counter-Terrorism and Sentencing Act 2021 comes into force.”
- (3) In the words after paragraph (b), for “and “specified terrorism offence”” substitute “, “specified terrorism offence” and “serious terrorism offence””.

Commencement Information

I4 S. 16 in force at 29.6.2021 for specified purposes and otherwise prosp. see s. 50(2)(i)(3)(d)

17 Increase in extension period for adult serious terrorism offenders aged under 21: England and Wales

- (1) Section 268(4) of the Sentencing Code (limits on extension period in term of extended sentence of detention in a young offender institution) is amended as follows.
- (2) In paragraph (b)—
 - (a) in sub-paragraph (i), at the end insert “ (unless sub-paragraph (iii) applies); ”;
 - (b) in sub-paragraph (ii), at the end insert “ (unless sub-paragraph (iii) applies); ”;
 - (c) after sub-paragraph (ii) insert—
 - “(iii) 10 years in the case of a serious terrorism offence for which the sentence is imposed on or after the day

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, PART 1. (See end of Document for details)

on which section 17 of the Counter-Terrorism and Sentencing Act 2021 comes into force.”

- (3) In the words after paragraph (b), for “and “specified terrorism offence”” substitute “, “specified terrorism offence” and “serious terrorism offence””.

Commencement Information

I5 S. 17 in force at 29.6.2021 for specified purposes and otherwise prosp. see s. 50(2)(j)(3)(e)

18 Increase in extension period for serious terrorism offenders aged 21 or over: England and Wales

- (1) Section 281(4) of the Sentencing Code (limits on extension period in term of extended sentence of imprisonment) is amended as follows.
- (2) In paragraph (b)—
- (a) in sub-paragraph (i), at the end insert “ (unless sub-paragraph (iii) applies) ”;
 - (b) in sub-paragraph (ii), at the end insert “ (unless sub-paragraph (iii) applies) ”;
 - (c) after sub-paragraph (ii) insert—
“ (iii) 10 years in the case of a serious terrorism offence for which the sentence is imposed on or after the day on which section 18 of the Counter-Terrorism and Sentencing Act 2021 comes into force.”
- (3) In the words after paragraph (b), for “and “specified terrorism offence”” substitute “, “specified terrorism offence” and “serious terrorism offence””.

Commencement Information

I6 S. 18 in force at 29.6.2021 for specified purposes and otherwise prosp. see s. 50(2)(j)(3)(e)

19 Additional terrorism offences attracting extended sentence: Scotland

- (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) In section 210A(10) (extended sentences for terrorist offenders etc: interpretation), for the definition of “terrorism offence” substitute—
- ““terrorism offence” means an offence that—
- (a) is specified in Part 1 of Schedule 5ZC, or
 - (b) is specified in Part 2 of that Schedule and has been proved to have been aggravated by reason of having a terrorist connection under section 31 of the Counter-Terrorism Act 2008;”.
- (3) After Schedule 5ZB to that Act (inserted by section 23) insert, as Schedule 5ZC, the Schedule set out in Schedule 5 to this Act.

20 Extended custodial sentences for serious terrorism offenders: Northern Ireland

- (1) Article 14 of the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)) (extended custodial sentences) is amended as follows.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, PART 1. (See end of Document for details)

- (2) In paragraph (1)—
- (a) in sub-paragraph (a), for the words from “convicted” to the end (including the final “and”) substitute “—
 - (i) convicted on indictment of a specified offence; or
 - (ii) convicted after the commencement of section 20 of the Counter-Terrorism and Sentencing Act 2021 of any other offence that is a serious terrorism offence;”;
 - (b) after sub-paragraph (a) insert—

“(aa) the offence was committed after the commencement of this Article; and”.
- (3) In paragraph (8)—
- (a) in sub-paragraph (a), for “; and” substitute “ (unless sub-paragraph (c) applies); ”;
 - (b) in sub-paragraph (b), at the end insert “ (unless sub-paragraph (c) applies); and ”;
 - (c) after sub-paragraph (b) insert—

“(c) ten years in the case of a serious terrorism offence for which the offender is convicted after the commencement of section 20 of the Counter-Terrorism and Sentencing Act 2021.”

Other custodial sentences for terrorist offenders

21 Offences attracting special custodial sentence for offenders of particular concern: England and Wales

- (1) In the Sentencing Code, for Schedule 13 (offences attracting special custodial sentence for offenders of particular concern) substitute the Schedule set out in Schedule 6 to this Act.
- (2) The amendment made by subsection (1) does not apply where a person is convicted of an offence before the day on which this section comes into force.

Commencement Information

I7 [S. 21](#) in force at 30.4.2021 for specified purposes and otherwise prosp. see [s. 50\(1\)\(b\)\(3\)\(f\)](#)

22 Special custodial sentence for certain terrorist offenders aged under 18 at time of offence: England and Wales

- (1) The Sentencing Code is amended as follows.
- (2) After section 252 insert—

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, PART 1. (See end of Document for details)

“Special custodial sentence for terrorist offenders

252A Required special sentence of detention for terrorist offenders of particular concern

- (1) Subsections (3) to (5) apply where—
 - (a) a person aged under 18 is convicted of an offence listed in Part 1 of Schedule 13 (offences involving or connected with terrorism),
 - (b) the offence was committed on or after the day on which section 22 of the Counter-Terrorism and Sentencing Act 2021 came into force,
 - (c) the court does not impose either of the following for the offence (or for an offence associated with it)—
 - (i) a sentence of detention for life under section 250, or
 - (ii) an extended sentence of detention under section 254, and
 - (d) the court would, apart from this section, impose a custodial sentence (see, in particular, section 230(2)).
 - (2) In determining for the purposes of subsection (1)(d) whether it would impose a custodial sentence, the court must disregard any restriction on its power to impose such a sentence by reference to the age of the offender.
 - (3) The court must impose a sentence of detention under this section.
 - (4) The term of the sentence must be equal to the aggregate of—
 - (a) the appropriate custodial term, and
 - (b) a further period of 1 year for which the offender is to be subject to a licence,and must not exceed the maximum term of imprisonment with which the offence is punishable in the case of a person aged 21 or over.
 - (5) For the purposes of subsection (4), the “appropriate custodial term” is the term that, in the opinion of the court, ensures that the sentence is appropriate.
 - (6) 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 (1) to have been committed on the last of those days.”
- (3) In section 265 (special sentence of detention in young offender institution for offenders of particular concern)—
- (a) in subsection (1)(b)—
 - (i) omit sub-paragraph (i) (including the final “and”);
 - (ii) in sub-paragraph (ii), after “aged” insert “ at least 18 but ”;
 - (b) after subsection (1) insert—

“(1A) But this section does not apply if—

 - (a) the offender was aged under 18 when the offence was committed, and
 - (b) the offence—
 - (i) was committed before the day on which section 22 of the Counter-Terrorism and Sentencing Act 2021 came into force, or

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, PART 1. (See end of Document for details)

(ii) is listed in Part 2 of Schedule 13 (sexual offences).”

(4) In section 278 (special sentence of imprisonment for offenders of particular concern)

- (a) in subsection (1)(b), omit sub-paragraph (i) (including the final “and”);
- (b) after subsection (1) insert—

“(1A) But this section does not apply if—

- (a) the offender was aged under 18 when the offence was committed, and
- (b) the offence—
 - (i) was committed before the day on which section 22 of the Counter-Terrorism and Sentencing Act 2021 came into force, or
 - (ii) is listed in Part 2 of Schedule 13 (sexual offences).”

23 Terrorism sentence with fixed licence period: Scotland

- (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) After section 205ZB (inserted by section 12) insert—

“205ZC Terrorism sentence with fixed licence period

- (1) This section applies where—
 - (a) a person is convicted on indictment of a terrorism offence on or after the day on which section 23 of the Counter-Terrorism and Sentencing Act 2021 comes into force, and
 - (b) the court does not impose one of the following for the offence—
 - (i) a sentence of imprisonment for life to which section 205ZB applies,
 - (ii) a sentence of imprisonment for life to which section 205ZB does not apply but which is imposed for a terrorism offence,
 - (iii) a sentence of detention for life to which section 205ZB applies,
 - (iv) a sentence of detention for life to which section 205ZB does not apply but which is imposed for a terrorism offence (or a sentence of detention without limit of time so imposed),
 - (v) an order for lifelong restriction to which section 205ZB applies,
 - (vi) an order for lifelong restriction to which section 205ZB does not apply but which is imposed for a terrorism offence,
 - (vii) a serious terrorism sentence of imprisonment under section 205ZA(2),
 - (viii) a serious terrorism sentence of detention under section 205ZA(6), or
 - (ix) an extended sentence under section 210A.
- (2) But this section does not apply where—
 - (a) the offender is under the age of 18 when convicted of the offence, and

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, PART 1. (See end of Document for details)

- (b) the offence was committed before the day on which section 23 of the Counter-Terrorism and Sentencing Act 2021 came into force.
- (3) If the court decides to impose a sentence of imprisonment and the offender is 21 years of age or over, the court must impose a sentence of imprisonment the term of which is equal to the aggregate of—
 - (a) the appropriate custodial term, and
 - (b) a further period of 1 year for which the offender is to be subject to a licence under Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993.
- (4) If the offender is at least 16 years of age but under 21 (other than an offender falling within subsection (5)) and the court decides to impose a sentence of detention, the court must impose a sentence of detention in a young offenders institution the term of which is equal to the aggregate of—
 - (a) the appropriate custodial term, and
 - (b) a further period of 1 year for which the offender is to be subject to a licence under Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993.
- (5) If the offender is a child and the court decides to impose a sentence of detention, the court must impose a sentence of detention in such place and on such conditions as may be directed under section 208 the term of which is equal to the aggregate of—
 - (a) the appropriate custodial term, and
 - (b) a further period of 1 year for which the offender is to be subject to a licence under Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993.
- (6) The “appropriate custodial term” is the term that, in the opinion of the court, ensures that the sentence is appropriate.
- (7) The term of a sentence of imprisonment or, as the case may be, a sentence of detention, imposed under this section for an offence must not exceed the term that, at the time the offence was committed, was the maximum term permitted for the offence.
- (8) In this section, “terrorism offence” means—
 - (a) an offence that is specified in Schedule 5ZB, or
 - (b) any other offence that has been proved to have been aggravated by reason of having a terrorist connection under section 31 of the Counter-Terrorism Act 2008.”
- (3) After Schedule 5ZA (inserted by section 6) insert, as Schedule 5ZB, the Schedule set out in Schedule 7 to this Act.

24 Terrorism sentence with fixed licence period: Northern Ireland

In the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), after Article 15 insert—

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, PART 1. (See end of Document for details)

“15A Terrorism sentence with fixed licence period

- (1) This Article applies where—
 - (a) a person is convicted after the commencement of section 24 of the Counter-Terrorism and Sentencing Act 2021 of—
 - (i) a serious terrorism offence;
 - (ii) an offence within Part 4 of Schedule 2A (terrorism offences punishable with more than two years' imprisonment); or
 - (iii) any other offence in respect of which a determination of terrorist connection is made;
 - (b) the court does not impose, in respect of the offence or any offence associated with it, a life sentence, an indeterminate custodial sentence, a serious terrorism sentence or an extended custodial sentence; and
 - (c) the court decides to impose a custodial sentence.
- (2) But this Article does not apply where—
 - (a) the offender is under the age of 18 when convicted of the offence; and
 - (b) the offence was committed before the commencement of section 24 of the Counter-Terrorism and Sentencing Act 2021.
- (3) The court shall impose on the offender a sentence under this Article.
- (4) Where the offender is aged 21 or over, a sentence under this Article is a sentence of imprisonment the term of which is equal to the aggregate of—
 - (a) the appropriate custodial term; and
 - (b) a further period of one year for which the offender is to be subject to a licence.
- (5) Where the offender is under the age of 21, a sentence under this Article is a sentence of detention at such place and under such conditions as the Department of Justice may direct for a term which is equal to the aggregate of—
 - (a) the appropriate custodial term; and
 - (b) a further period of one year for which the offender is to be subject to a licence.
- (6) The term under paragraph (4) or (5) must not exceed the maximum term of imprisonment with which the offence is punishable (apart from Article 13).
- (7) In paragraphs (4)(a) and (5)(a), the “appropriate custodial term” means the term that, in the opinion of the court, ensures that the sentence is appropriate.
- (8) A person detained pursuant to the directions of the Department of Justice under paragraph (5) shall while so detained be in legal custody.
- (9) A court which imposes a sentence under this Article shall not make an order under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968 (suspended sentences) in relation to that sentence.
- (10) Remission shall not be granted under prison rules to the offender in respect of a sentence under this Article.”

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the
Counter-Terrorism and Sentencing Act 2021, PART 1. (See end of Document for details)

PROSPECTIVE

Sentencing for service offences

25 Corresponding provision under service law

Schedule 8 makes provision in relation to sentencing under service law that corresponds to certain provision made by this Part.

Maximum sentences

26 Increase in maximum sentences for certain terrorist offences

- (1) In the Terrorism Act 2000—
 - (a) in section 11(3)(a) (sentence on conviction on indictment for membership of proscribed organisation), for “ten” substitute “ 14 ”;
 - (b) in section 12(6)(a) (sentence on conviction on indictment for inviting or expressing support for proscribed organisation), for “ten” substitute “ 14 ”.
- (2) In the Terrorism Act 2006, in section 8(4)(a) (sentence on conviction on indictment for attendance at place used for terrorist training), for “10” substitute “ 14 ”.
- (3) An amendment made by this section has effect only in relation to an offence committed on or after the day on which this section comes into force.

Status:

This version of this part contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, PART 1.