

*Status:* This version of this cross heading contains provisions that are prospective.

*Changes to legislation:* There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, Cross Heading: Armed Forces Act 2006 (c. 52). (See end of Document for details)

## SCHEDULES

### SCHEDULE 13

#### CONSEQUENTIAL AND RELATED AMENDMENTS

PROSPECTIVE

#### PART 5

##### AMENDMENTS IN RELATION TO SENTENCING UNDER SERVICE LAW

###### *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.”
- (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—

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- “(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 “—
- (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), ”.

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- (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 ”.”;
  - (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 ”.

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