

Changes to legislation: Sentencing Act 2020, PART 6 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 25

AMENDMENTS TO THE ARMED FORCES ACT 2006

PART 6

AMENDMENTS TO PART 9: SENTENCING: PRINCIPLES AND PROCEDURES

51 Part 9 of the Armed Forces Act 2006 is amended as follows.

Commencement Information

II Sch. 25 para. 51 in force at 1.12.2020 by [S.I. 2020/1236](#), reg. 2

52 In section 237 (duty to have regard to purposes of sentencing etc), in subsection (3)

- (a) for paragraph (b) substitute—
- “(b) an offence the sentence for which falls to be imposed under section 273(3) or 283(3) of the Sentencing Code as a result of section 218A(1B) or (2) (life sentence for second listed offence);
 - (ba) an offence the sentence for which falls to be imposed under section 274(3) or 285(3) of the Sentencing Code as a result of section 219(1A) or (2) (life sentence for certain dangerous offenders aged 18 or over);
 - (bb) an offence the sentence for which falls to be imposed under section 258(2) of the Sentencing Code as a result of section 221(2) (life sentence for certain dangerous offenders aged under 18);
 - (bc) an offence the sentence for which falls to be imposed under section 313(2) of the Sentencing Code as a result of section 225(2) (third drug trafficking offence);
 - (bd) an offence the sentence for which falls to be imposed under section 314(2) of the Sentencing Code as a result of section 226(2) (third domestic burglary);
 - (be) an offence the sentence for which falls to be imposed under section 311(2) of the Sentencing Code as a result of section 227(2) (firearms offences);”;
- (b) in paragraph (c), for “227A(2)” substitute “ 227A(1A) or (2) (threatening with a weapon in public or on school premises) ”.

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Commencement Information

I2 Sch. 25 para. 52 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

53 In section 238 (deciding the seriousness of an offence), at the end insert—

“(6) In section 69 of the Sentencing Code (seriousness of offence with terrorist connection)—

- (a) the references to a court are to be read as including a court dealing with an offender for an offence under section 42, and
- (b) the reference in subsection (1) to an offence specified in Schedule 1 to that Code 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 an offence specified in Schedule 1.”

Commencement Information

I3 Sch. 25 para. 53 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

54 In section 239 (reduction in sentences for guilty pleas)—

- (a) in subsection (4), for “110(2) or 111(2) of the Sentencing Act” substitute “313(2) or 314(2) of the Sentencing Code”;
- (b) in subsection (5), for “110(2) or 111(2) of that Act” substitute “313(2) or 314(2) of that Code” in both places it occurs;
- (c) in subsection (6), for “227A(2)” substitute “227A(1A) or (2)” in both places it occurs.

Commencement Information

I4 Sch. 25 para. 54 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

55 In section 246 (crediting of time in service custody: terms of imprisonment and detention), in subsection (6), after paragraph (b) (but before the “and”) insert—

“(ba) an extended sentence of detention under section 254 of the Sentencing Code passed as a result of section 221A of this Act.”.

Commencement Information

I5 Sch. 25 para. 55 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

56 In section 247 (crediting of time in service custody: supplementary), in subsection (7), for “any sentence within paragraph (a), (b) or (c)” substitute “a sentence within any of paragraphs (a) to (c)”.

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I6 Sch. 25 para. 56 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

57 In section 257 (pre-sentence reports: supplementary)—

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- (a) in subsection (1), for “section 158(1) of the 2003 Act” substitute “section 31(1) of the Sentencing Code”;
- (b) in subsection (2)—
 - (i) for “section 158(1) of that Act” substitute “section 31(1) of that Code”, and
 - (ii) for “section 158(2) of that Act” substitute “section 31(2) of that Code”;
- (c) in subsection (4)—
 - (i) for “Section 159(1) to (3) and (5) of the 2003 Act” substitute “Section 32(1) to (4) and (6) of the Sentencing Code”, and
 - (ii) for “section 156 of that Act” substitute “section 30 of that Code”.

Commencement Information

I7 Sch. 25 para. 57 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

- 58 In section 260 (discretionary custodial sentences: general restrictions)—
- (a) in subsection (1), for paragraph (b) (and the “or” preceding it) substitute—
 - “(b) falls to be imposed under section 273(3) or 283(3) of the Sentencing Code as a result of section 218A(1B) or (2) (life sentence for second listed offence);
 - (c) falls to be imposed under section 274(3) or 285(3) of the Sentencing Code as a result of section 219(1A) or (2) (life sentence for certain dangerous offenders aged 18 or over);
 - (d) falls to be imposed under section 258(2) of the Sentencing Code as a result of section 221(2) (life sentence for certain dangerous offenders aged under 18);
 - (e) falls to be imposed under section 313(2) of the Sentencing Code as a result of section 225(2) (third drug trafficking offence);
 - (f) falls to be imposed under section 314(2) of the Sentencing Code as a result of section 226(2) (third domestic burglary);
 - (g) falls to be imposed under section 311(2) of the Sentencing Code as a result of section 227(2) (firearms offences); or
 - (h) falls to be imposed under section 227A(1A) or (2) (threatening with a weapon in public or on school premises).”;
 - (b) in subsection (4B), for the words from “section 226A(6)” to the end substitute “—
 - (a) section 268(2) or 281(2) of the Sentencing Code, as applied by section 219A of this Act (extended sentences for offenders aged 18 or over), or
 - (b) section 256(2) of the Sentencing Code, as applied by section 221A of this Act (extended sentences for offenders aged under 18).”

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Commencement Information

18 Sch. 25 para. 58 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

- 59 In section 261 (length of discretionary custodial sentences: general provision), in subsection (1), for the words from “section 224A” to the end substitute “—
- (a) section 273(3) or 283(3) of the Sentencing Code as a result of section 218A(1B) or (2) (life sentence for second listed offence),
 - (b) section 274(3) or 285(3) of the Sentencing Code as a result of section 219(1A) or (2) (life sentence for certain dangerous offenders aged 18 or over), or
 - (c) section 258(2) of the Sentencing Code as a result of section 221(2) (life sentence for certain dangerous offenders aged under 18).”

Commencement Information

19 Sch. 25 para. 59 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

- 60 After section 261, insert—

“261A Life sentences: further provision

- (1) In Chapter 8 of Part 10 of the Sentencing Code (sections 321 to 324: effect of life sentences), references to a court include the Court Martial.
- (2) In section 322 of that Code as it applies in relation to a life sentence passed by the Court Martial—
 - (a) subsection (2)(b)(i) has effect as if, for “section 240ZA of the Criminal Justice Act 2003” there were substituted “ section 246 of the Armed Forces Act 2006 ”;
 - (b) subsection (4) has effect as if, for “section 52(2)” there were substituted “ section 252(1)(a) of the Armed Forces Act 2006 ”.
- (3) In section 323 of that Code as it applies in relation to a life sentence passed by the Court Martial, subsection (2)(c)(i) has effect as if, for “section 240ZA of the Criminal Justice Act 2003” there were substituted “ section 246 of the Armed Forces Act 2006 ”.
- (4) Section 324, as it applies in relation to a sentence passed by the Court Martial, has effect as if for the definition of “life sentence” there were substituted—

““life sentence” means any of the following sentences imposed under or by virtue of the Armed Forces Act 2006—

 - (a) a sentence of imprisonment for life,
 - (b) a sentence of detention for life or during Her Majesty's pleasure, or
 - (c) a sentence of custody for life;”.

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Commencement Information

I10 Sch. 25 para. 60 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

- 61 In section 262 (power to recommend licence conditions), for “section 238(1) of the 2003 Act” substitute “ section 328 of the Sentencing Code ”.

Commencement Information

I11 Sch. 25 para. 61 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

- 62 After section 262, insert—

“262A Conversion of sentence of detention to sentence of imprisonment

- (1) In section 329 of the Sentencing Code (conversion of sentence of detention to sentence of imprisonment), “court” includes a court dealing with an offender for a service offence.
- (2) In its application to a court dealing with an offender for a service offence, that section has effect with the following modifications.
- (3) In subsection (5)—
 - (a) paragraph (a) has effect as if, after “254,” there were inserted “ passed as a result of section 221A of the Armed Forces Act 2006 ”;
 - (b) the words following paragraph (b) have effect as if, after “279” there were inserted “ passed as a result of section 219A(7) of the Armed Forces Act 2006 ”.
- (4) Subsection (7) has effect as if, for paragraphs (a) to (f) there were substituted—
 - “(a) a sentence of detention under section 209 of the Armed Forces Act 2006 (including one imposed under section 221 of that Act (detention for life));
 - (b) an extended sentence of detention under section 254 passed as a result of section 221A of the Armed Forces Act 2006;
 - (c) a sentence of detention during Her Majesty's pleasure (see section 218 of the Armed Forces Act 2006);
 - (d) a sentence of detention in a young offender institution;
 - (e) an extended sentence of detention in a young offender institution (see section 219A(4) of the Armed Forces Act 2006);
 - (f) a sentence of custody for life (see sections 210A, 217, 218A(1B) and 219(1A) of the Armed Forces Act 2006).”

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I12 Sch. 25 para. 62 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

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- 63 In section 263 (restriction on imposing custodial sentence or service detention on unrepresented offender), in subsection (3), for paragraph (a) (including the “or” at the end) substitute—
- “(a) pass a custodial sentence on an offender who is aged under 21 on conviction, or”.

Commencement Information

I13 Sch. 25 para. 63 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

- 64 In section 269A (fines: fixing of term of imprisonment for default), in subsection (2), for “section 139(4) of the Sentencing Act” substitute “section 129(4) of the Sentencing Code”.

Commencement Information

I14 Sch. 25 para. 64 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

- 65 In section 269B (service compensation orders: power to set maximum term of imprisonment for default), in subsection (4), for “section 139(4) of the Sentencing Act” substitute “section 129(4) of the Sentencing Code”.

Commencement Information

I15 Sch. 25 para. 65 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

- 66 In section 270 (community punishments: general restrictions), in subsection (2A)—
- (a) for “section 177(2A) of the 2003 Act” substitute “section 208(10) and (11) of the Sentencing Code”;
- (b) for “section 178(3) and section 182(3A)” substitute “section 178(2) and 182(3)”.

Commencement Information

I16 Sch. 25 para. 66 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

- 67 In section 270A (exception to restrictions on community punishments), in subsection (6)—
- (a) in paragraph (b), for sub-paragraph (i) substitute—
- “(i) section 133 of the Sentencing Code (or section 130 of the Powers of Criminal Courts (Sentencing) Act 2000);”;
- (b) in paragraph (c), for “section 161A of the 2003 Act” substitute “section 42 of the Sentencing Code (or section 161A of the 2003 Act)”.

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I17 Sch. 25 para. 67 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

- 68 In section 271 (civilian courts dealing with service offences), in subsection (2)—

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- (a) omit paragraph (a), and
- (b) in paragraph (b), omit “other”.

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I18 Sch. 25 para. 68 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 34A and cross-heading inserted by [2020 c. 17 Sch. 22 para. 1](#)
- s. 80(3)(f) inserted by [2021 c. 17 s. 54\(2\)](#)
- s. 179(4A) inserted by [2020 c. 17 Sch. 22 para. 11\(1\)](#)
- s. 179A inserted by [2020 c. 17 Sch. 22 para. 12\(2\)](#)
- s. 179A(1)(b)(i)(ii) substituted for words by [2020 c. 17 Sch. 22 para. 16\(2\)](#)
- s. 180(5) inserted by [2020 c. 17 Sch. 22 para. 11\(2\)](#)
- s. 186(8A) inserted by [2020 c. 17 Sch. 22 para. 11\(3\)](#)
- s. 202(1A)(1B) inserted by [2020 c. 17 Sch. 22 para. 13\(b\)](#)
- s. 202(1A)(b)(i)(ii) substituted for words by [2020 c. 17 Sch. 22 para. 17\(2\)](#)
- s. 204A inserted by [2020 c. 17 Sch. 22 para. 14\(2\)](#)
- s. 204A(3)(c)(i)(ii) substituted for words by [2020 c. 17 Sch. 22 para. 18\(2\)](#)
- s. 215(1A)(1B) inserted by [2022 c. 32 s. 149\(2\)\(a\)](#)
- s. 215(2A) inserted by [2022 c. 32 s. 149\(2\)\(c\)](#)
- s. 226(2)(ba) and word substituted for s. 226(2)(c)(d) by [2020 c. 17 Sch. 22 para. 43](#)
- s. 230(3A) and words inserted by [2020 c. 17 Sch. 22 para. 2](#)
- s. 234(1)(aa) inserted by [2020 c. 17 Sch. 22 para. 27\(1\)\(b\)](#)
- s. 234(1)(aa) omitted by [2020 c. 17 Sch. 22 para. 28\(1\)](#)
- s. 235(3A) inserted by [2020 c. 17 Sch. 22 para. 27\(2\)](#)
- s. 236(2A) inserted by [2020 c. 17 Sch. 22 para. 29\(3\)](#)
- s. 236(2A)(b) word substituted by [2020 c. 17 Sch. 22 para. 47\(b\)](#)
- s. 301(1A)(1B) inserted by [2022 c. 32 s. 149\(3\)\(a\)](#)
- s. 301(2A) inserted by [2022 c. 32 s. 149\(3\)\(c\)](#)
- s. 323(2A)-(2C) inserted by [2020 c. 17 Sch. 22 para. 85\(3\)](#)
- s. 343(4) inserted by [2022 c. 32 s. 178\(2\)](#)
- s. 348A348B inserted by [2022 c. 32 s. 178\(4\)](#)
- s. 350(6C)(6D) inserted by [2022 c. 32 s. 178\(5\)](#)
- s. 387A inserted by [2021 c. 17 s. 54\(3\)](#)
- s. 397A inserted by [2020 c. 17 Sch. 22 para. 15](#)
- s. 397A(4)(a)(ia) inserted by [2020 c. 17 Sch. 22 para. 19\(2\)\(b\)](#)
- s. 397A(4)(a)(i) words omitted by [2020 c. 17 Sch. 22 para. 19\(2\)\(a\)](#)
- s. 397A(5) words inserted by [2020 c. 17 Sch. 22 para. 19\(3\)](#)
- s. 397A(6)(7) inserted by [2020 c. 17 Sch. 22 para. 19\(4\)](#)
- s. 418(2A) inserted by [2021 c. 11 Sch. 13 para. 43\(5\)](#)
- Sch. 1 para. 13A inserted by [2020 c. 17 Sch. 22 para. 4\(a\)](#)
- Sch. 10 para. 10(5)(d) inserted by [2020 c. 17 Sch. 22 para. 21\(2\)\(a\)](#)
- Sch. 10 para. 10(9A) inserted by [2020 c. 17 Sch. 22 para. 21\(2\)\(c\)](#)
- Sch. 10 para. 11(2)(d) inserted by [2020 c. 17 Sch. 22 para. 21\(3\)\(a\)](#)
- Sch. 10 para. 11(6A) inserted by [2020 c. 17 Sch. 22 para. 21\(3\)\(c\)](#)
- Sch. 10 para. 10(9A) omitted by [2020 c. 17 Sch. 22 para. 74\(1\)\(b\)](#)
- Sch. 10 para. 11(6A) omitted by [2020 c. 17 Sch. 22 para. 75\(1\)\(b\)](#)
- Sch. 10 para. 10(5)(d) words substituted by [2020 c. 17 Sch. 22 para. 25\(a\)](#)
- Sch. 10 para. 10(5)(d) words substituted by [2020 c. 17 Sch. 22 para. 74\(1\)\(a\)](#)
- Sch. 10 para. 11(2)(d) words substituted by [2020 c. 17 Sch. 22 para. 26\(a\)](#)
- Sch. 10 para. 11(2)(d) words substituted by [2020 c. 17 Sch. 22 para. 75\(1\)\(a\)](#)
- Sch. 17A para. 24A inserted by [2020 c. 17, Sch. 22 para. 79A \(as inserted\) by 2021 c. 11 Sch. 13 para. 11\(20\)\(m\)](#)
- Sch. 18 para. 26A and cross-heading inserted by [2020 c. 17 Sch. 22 para. 80](#)
- Sch. 19 para. 22A and cross-heading inserted by [2020 c. 17 Sch. 22 para. 84](#)

- Sch. 26 para. 13A inserted by 2021 c. 11 Sch. 13 para. 43(7)(a)
- Sch. 26 para. 15(a)(iii) inserted by 2021 c. 11 Sch. 13 para. 43(7)(c)
- Sch. 26 para. 19(a)(ia) inserted by 2021 c. 11 Sch. 13 para. 43(7)(e)(i)
- Sch. 26 para. 20(c) inserted by 2021 c. 11 Sch. 13 para. 43(7)(f)
- Sch. 26 para. 20A inserted by 2021 c. 11 Sch. 13 para. 43(7)(g)
- Sch. 26 para. 24A inserted by 2021 c. 11 Sch. 13 para. 43(7)(i)
- Sch. 26 para. 20A(za) inserted by 2022 c. 32 s. 129(3)(d)
- Sch. 27 para. 16(2)(a)(b) substituted for words by 2021 c. 11 Sch. 13 para. 43(8)