

SCHEDULES

SCHEDULE 6

Section 59

NOTIFICATION REQUIREMENTS: APPLICATION TO SERVICE OFFENCES

Service offences to which this Part applies: terrorism offences

- 1 This Part applies to a service offence as respects which the corresponding civil offence is an offence within section 41(1) or (2) (offences to which this Part applies: terrorism offences).

Service offences to which this Part applies: offences having a terrorist connection

- 2 (1) This Part applies to a service offence as to which the service court dealing with the offence has determined in accordance with section 32 that the offence has a terrorist connection.
- (2) A person to whom the notification requirements apply by virtue of such a determination may appeal against it to the same court, and subject to the same conditions, as an appeal against sentence.
- (3) If the determination is set aside on appeal, the notification requirements are treated as never having applied to that person in respect of the offence.

Service offences dealt with before commencement

- 3 (1) This Part applies to a person dealt with for a service offence before the commencement of this Part only if—
- (a) the corresponding civil offence is on the commencement of this Part within section 41(1) or (2) (offences to which this Part applies: terrorism offences), and
- (b) immediately before the commencement of this Part the person—
- (i) is imprisoned or detained in pursuance of the sentence or other order made in respect of the offence,
- (ii) would be so imprisoned or detained but for being unlawfully at large, absent without leave, on temporary leave or leave of absence, or released from custody (or on bail) pending an appeal, or
- (iii) is on licence having served the custodial part of a sentence of imprisonment in respect of the offence.
- (2) In relation to a person dealt with for a service offence before the commencement of this Part, any reference in this Schedule to a sentence, order or finding under a specified statutory provision includes a sentence or order under any corresponding earlier statutory provision.

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Service offences: persons to whom notification requirements apply

- 4 The notification requirements apply to a person who—
- (a) is aged 16 or over at the time of being dealt with for a service offence to which this Part applies, and
 - (b) is made subject in respect of the offence to a sentence or order within paragraph 5 (sentences or orders triggering notification requirements).

Service offences: sentences or orders triggering notification requirements

- 5 (1) The notification requirements apply to a person who—
- (a) has been convicted of a service offence to which this Part applies and sentenced in respect of the offence to—
 - (i) imprisonment or custody for life,
 - (ii) imprisonment or custodial order for a term of 12 months or more,
 - (iii) imprisonment or detention in a young offender institution for public protection under section 225 of the Criminal Justice Act 2003 (c. 44),
 - (iv) detention for life or for a period of 12 months or more under section 71A(4) of the Army Act 1955 or the Air Force Act 1955, section 43A(4) of the Naval Discipline Act 1957 or section 209 of the Armed Forces Act 2006 (c. 52),
 - (v) detention and training (and supervision) under section 211 of that Act, where the term of the order under that section is 12 months or more,
 - (vi) detention for public protection under section 226 of the Criminal Justice Act 2003, or
 - (vii) detention during Her Majesty’s pleasure; or
 - (b) has been—
 - (i) convicted of a service offence to which this Part applies carrying a maximum term of imprisonment of 12 months or more,
 - (ii) found not guilty by reason of insanity of such an offence, or
 - (iii) found to be unfit to stand trial and to have done the act charged against them in respect of such an offence,
 and made subject in respect of the offence to a hospital order.
- (2) The reference in sub-paragraph (1)(b)(i) to an offence carrying a maximum term of imprisonment of 12 months or more—
- (a) is to an offence carrying such a maximum term in the case of a person who has attained the age of 18 (or 21, as respects any time before the coming into force of section 61 of the Criminal Justice and Court Services Act 2000 (c. 43)), and
 - (b) includes an offence carrying in the case of such a person a maximum term of life imprisonment and an offence for which in the case of such a person the sentence is fixed by law as life imprisonment.

Service offences: power to amend specified terms or periods of imprisonment or detention

- 6 (1) The Secretary of State may by order amend the provisions of paragraph 5 referring to a specified term or period of imprisonment or detention.

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- (2) An order reducing a specified term or period has effect only in relation to persons dealt with after the order comes into force.
- (3) Where an order increases a specified term or period—
 - (a) it has effect in relation to persons dealt with at any time, whether before or after the order comes into force, and
 - (b) a person who would not have been subject to the notification requirements if the order had been in force when the offence was dealt with (and who is not otherwise subject to those requirements) ceases to be subject to the requirements when the order comes into force.
- (4) An order under this paragraph is subject to affirmative resolution procedure.

Service offences: period for which notification requirements apply

- 7
- (1) The period for which the notification requirements apply is—
 - (a) 30 years in the case of a person who—
 - (i) is aged 18 or over at the time of conviction for the service offence, and
 - (ii) receives in respect of the offence a sentence within subparagraph (2);
 - (b) 15 years in the case of a person who—
 - (i) is aged 18 or over at the time of conviction for the service offence, and
 - (ii) receives in respect of the offence a sentence within subparagraph (3);
 - (c) 10 years in any other case.
 - (2) The sentences where a 30 year period applies are—
 - (a) imprisonment or custody for life,
 - (b) imprisonment or a custodial order for a term of 10 years or more,
 - (c) imprisonment or detention in a young offender institution for public protection under section 225 of the Criminal Justice Act 2003 (c. 44),
 - (d) detention during Her Majesty's pleasure.
 - (3) The sentences where a 15 year period applies are imprisonment or a custodial order for a term of 5 years or more but less than 10 years.
 - (4) The period begins with the day on which the person is dealt with for the offence.
 - (5) If a person who is the subject of a finding within paragraph 5(1)(b)(iii) (finding of unfitness to stand trial etc) is subsequently tried for the offence, the period resulting from that finding ends—
 - (a) if the person is acquitted, at the conclusion of the trial;
 - (b) if the person is convicted, when the person is again dealt with in respect of the offence.
 - (6) For the purposes of determining the length of the period—
 - (a) a person who has been sentenced in respect of two or more terrorism offences to consecutive terms of imprisonment is treated as if sentenced, in respect of each of the offences, to a term of imprisonment equal to the aggregate of the terms; and

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- (b) a person who has been sentenced in respect of two or more such offences to concurrent terms of imprisonment (X and Y) that overlap for a period (Z) is treated as if sentenced, in respect of each of the offences, to a term of imprisonment equal to X plus Y minus Z.
- (7) In determining whether the period has expired, there shall be disregarded any period when the person was—
- (a) remanded in or committed to custody by an order of a court,
 - (b) in service custody pursuant to a decision of a court or judge advocate (or an order of a commanding officer under section 110 of the Armed Forces Act 2006 (c. 52)),
 - (c) serving a sentence of imprisonment or detention,
 - (d) detained in a hospital, or
 - (e) detained under the Immigration Acts.
- (8) In sub-paragraph (7)(b)—
- (a) “service custody” includes, in relation to times before the commencement of the relevant provisions of the Armed Forces Act 2006, military custody, air-force custody and naval custody;
 - (b) “judge advocate” includes, in relation to such times, judicial officer;
 - (c) the reference to section 110 of the Armed Forces Act 2006 includes, in relation to times before the commencement of that section, a reference to—
 - (i) section 75K of the Army Act 1955 (3 & 4 Eliz. 2 c. 18) or the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19);
 - (ii) section 47L of the Naval Discipline Act 1957 (c. 53).

Modifications in relation to service offences etc

- 8 (1) In the following provisions, references to a person committed to custody by an order of a court include a person in service custody pursuant to a decision of a court or judge advocate (or an order of a commanding officer under section 110 of the Armed Forces Act 2006)—
- (a) section 47(4) (initial notification);
 - (b) section 48(8) (notification of changes);
 - (c) section 49(2) (periodic re-notification);
 - (d) section 53(7) (period for which requirements apply);
 - (e) section 56(3) (notification on return after absence from UK).
- (2) In section 48(4) (notification on release from custody etc) the reference to custody pursuant to an order of a court includes service custody pursuant to a decision of a court or judge advocate (or an order of a commanding officer under section 110 of the Armed Forces Act 2006).
- (3) Paragraph 7(8) (meaning of “service custody” and “judge advocate” etc) applies for the purposes of this paragraph.
- 9 In the application of section 47(6) (initial notification: person dealt with before commencement) in relation to a service offence, the reference to a person being on bail pending an appeal includes a person released from custody pending an appeal.

- 10 Where in relation to a service offence the court of trial (as defined by subsection (2) of section 51 (meaning of “local police area”)) was situated outside the United Kingdom, that section has effect as if subsection (1)(c) were omitted.
- 11 References in this Part to a sentence of detention do not include—
- (a) a sentence of service detention (as defined by section 374 of the Armed Forces Act 2006 (c. 52)), or
 - (b) a corresponding sentence passed under (or by virtue of) the Army Act 1955 (3 & 4 Eliz. 2 c. 18), the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) or the Naval Discipline Act 1957 (c. 53).
- 12 The following provisions do not apply in relation to service offences—
- (a) section 43 (offences dealt with before commencement);
 - (b) section 45 (sentences or orders triggering notification requirements);
 - (c) section 53 (period for which requirements apply).

Application of power to make transitional modifications etc

- 13 An order under subsection (4) of section 380 of the Armed Forces Act 2006 (power to make transitional modifications etc) which makes provision of the kind mentioned in subsection (6) of that section may provide for paragraph 5(1)(a) or paragraph 7(2) or (3) above to have effect with such modifications (relating to custodial punishments specified in the order) as are so specified.