

SCHEDULES

SCHEDULE 22

DANGEROUS OFFENDERS SUBJECT TO SERVICE LAW ETC

PART 2

CONSEQUENTIAL PROVISION

Juries Act 1974 (c. 23)

- 11 In Part 2 of Schedule 1 to the Juries Act 1974 (persons disqualified from jury service), in paragraph 6(d), after “2003” insert “(including such a sentence imposed as a result of section 219A, 220, 221A or 222 of the Armed Forces Act 2006)”.

Rehabilitation of Offenders (Northern Ireland) Order 1978 (S.I. 1978/1908 (N.I. 27))

- 12 In article 6(1) of the Rehabilitation of Offenders (Northern Ireland) Order 1978 (sentences excluded from rehabilitation under the Order), in sub-paragraph (g)(iii), after “section” insert “226A, 226B”.

Criminal Justice Act 1982 (c. 48)

- 13 In section 32 of the Criminal Justice Act 1982 (early release of prisoners), in subsection (1A)—
- (a) before “227” insert “226A or”, and
 - (b) after “219” insert “, 219A”.

Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)

- 14 The Powers of Criminal Courts (Sentencing) Act 2000 is amended as follows.
- 15 In section 99 (conversion of sentence of detention to sentence of imprisonment), in subsection (6)—
- (a) after “226” insert “, 226B”, and
 - (b) after “221” insert “, 221A”.
- 16 In section 106A(1) (interaction with sentence of detention), in the definition of “sentence of detention”—
- (a) before “228”, in the second place it appears, insert “226B or”, and
 - (b) before “222” insert “221A or”.

Criminal Justice and Court Services Act 2000 (c. 43)

- 17 The Criminal Justice and Court Services Act 2000 is amended as follows.

- 18 In section 62 (release on licence etc: conditions as to monitoring), in subsection (5) (f), after “221” insert “, 221A”.
- 19 In section 64 (release on licence etc: drug testing requirements), in subsection (5)(f), after “221” insert “, 221A”.

Sexual Offences Act 2003 (c. 42)

- 20 In section 131 of the Sexual Offences Act 2003 (young offenders: application), in paragraph (l), before “222” insert “221A or”.

Criminal Justice Act 2003 (c. 44)

- 21 In section 237 of the Criminal Justice Act 2003 (meaning of fixed term prisoner etc), in subsection (1B), after paragraph (b) insert—
- “(ba) references to a sentence under section 226A of this Act include a sentence under that section passed as a result of section 219A of the Armed Forces Act 2006;
 - “(bb) references to a sentence under section 226B of this Act include a sentence under that section passed as a result of section 221A of the Armed Forces Act 2006;”.

Armed Forces Act 2006 (c. 52)

- 22 The Armed Forces Act 2006 is amended as follows.
- 23 (1) Section 188 (consecutive custodial sentences) is amended as follows.
- (2) In subsection (2), in paragraph (c)—
 - (a) for “228” substitute “226B”, and
 - (b) for “222” substitute “221A”.
 - (3) In subsection (4), in paragraph (c)—
 - (a) before “228” insert “226B or”, and
 - (b) before “222” insert “221A or”.
- 24 In section 209 (offenders aged under 18 convicted of certain serious offences: power to detain for specified period), in subsection (7)—
- (a) for “section 226(2)” substitute “sections 224A and 226(2)”, and
 - (b) for “section 221(2)” substitute “sections 218A and 221(2)”.
- 25 In section 211 (offenders aged under 18: detention and training orders), in subsection (4)—
- (a) after “218,” insert “218A,”, and
 - (b) for “222” substitute “221A”.
- 26 In section 221(3) (dangerous offenders aged under 18), after “as applied” insert “by”.
- 27 In section 223 (the “required opinion” for the purposes of sections 219 to 222), in subsection (1)—
- (a) for “220(1)” substitute “219A(1)”, and
 - (b) for “222(1)” substitute “221A(1)”.
- 28 In the heading of that section for “222” substitute “221A”.

Status: This is the original version (as it was originally enacted).

29 For section 224 (place of detention under certain sentences) substitute—

“224 Place of detention under certain sentences

Section 235 of the 2003 Act (detention under sections 226, 226B and 228) applies to a person sentenced to be detained under section 226(3), 226B or 228 of that Act as applied by section 221, 221A or 222 of this Act.”

30 (1) Section 228 (appeals where previous convictions set aside) is amended as follows.

(2) For subsection (1) substitute—

“(1A) Subsection (3) applies in the cases described in subsections (1B) to (2).

(1B) The first case is where—

- (a) a sentence has been imposed on any person under section 224A of the 2003 Act (as applied by section 218A of this Act);
- (b) a previous conviction of that person has been subsequently set aside on appeal; and
- (c) without that conviction, the previous offence condition mentioned in section 218A(1)(d) would not have been met.

(1C) The second case is where—

- (a) a sentence has been imposed on any person under section 225(3) of the 2003 Act (as applied by section 219(2) of this Act);
- (b) the condition in section 225(3A) of the 2003 Act was met but the condition in section 225(3B) of that Act was not; and
- (c) any previous conviction of the person without which the condition in section 225(3A) would not have been met is subsequently set aside on appeal.

(1D) The third case is where—

- (a) a sentence has been imposed on any person under section 226A of the 2003 Act (as applied by section 219A of this Act);
- (b) the condition in section 219A(2) was met, but the condition in section 219A(3) was not; and
- (c) any previous conviction of the person without which the condition in section 219A(2) would not have been met is subsequently set aside on appeal.

(1E) The fourth case is where—

- (a) a sentence has been imposed on any person under section 227(2) of the 2003 Act (as applied by section 220(2) of this Act);
- (b) the condition in section 227(2A) of the 2003 Act was met but the condition in section 227(2B) of that Act was not; and
- (c) any previous conviction of the person without which the condition in section 227(2A) would not have been met is subsequently set aside on appeal.”

(3) In subsection (2)—

- (a) for “Subsection (3) also applies” substitute “The fifth case is”; and
- (b) in paragraph (a) after “226” insert “of this Act”.

- (4) After subsection (3) insert—
- “(3A) Subsection (3B) applies where—
- (a) a sentence has been imposed on a person under section 224A of the 2003 Act (as applied by section 218A of this Act);
- (b) a previous sentence imposed on that person has been subsequently modified on appeal; and
- (c) taking account of that modification, the previous offence condition mentioned in section 218A(1)(d) would not have been met.
- (3B) An application for leave to appeal against the sentence mentioned in subsection (3A)(a) may be lodged at any time within 29 days beginning with the day on which the previous sentence was modified.”
- (5) In subsection (4), for “Subsection (3) has” substitute “Subsections (3) and (3B) have”.
- 31 In section 237 (duty to have regard to the purposes of sentencing etc), in subsection (3)(b)—
- (a) after “sections” insert “218A,”, and
- (b) before “225(2)” insert “224A,”.
- 32 In section 246 (crediting of time in service custody: terms of imprisonment and detention), in subsection (6)(b)—
- (a) before “228” insert “226B or”, and
- (b) before “222” insert “221A or”.
- 33 (1) Section 256 (pre-sentence reports) is amended as follows.
- (2) In subsection (1)(c)—
- (a) for “220(1)” substitute “219A(1)”, and
- (b) for “222(1)” substitute “221A(1)”.
- (3) After subsection (9) insert—
- “(10) The reference in subsection (1)(a) to a court forming any such opinion as is mentioned in section 260(2) or 261(2) includes a court forming such an opinion for the purposes of section 218A(4).”
- 34 (1) Section 260 (discretionary custodial sentences: general restrictions) is amended as follows.
- (2) In subsection (1)(b)—
- (a) before “225(2)” insert “224A,”, and
- (b) before “219(2)” insert “218A,”.
- (3) After subsection (4) insert—
- “(4A) The reference in subsection (4) to a court forming any such opinion as is mentioned in subsection (2) or section 261(2) includes a court forming such an opinion for the purposes of section 218A(4).
- (4B) The reference in subsection (4) to a court forming any such opinion as is mentioned in section 261(2) also includes a court forming such an opinion for the purposes of section 226A(6) or 226B(4) of the 2003 Act (as applied by section 219A or 221A of this Act).”

Status: This is the original version (as it was originally enacted).

- 35 (1) Section 261 (length of discretionary custodial sentences: general provision) is amended as follows.
- (2) In subsection (1)—
- (a) before “225” insert “224A,”, and
 - (b) before “219(2)” insert “218A,”.
- (3) In subsection (3), for “220, 222” substitute “219A, 221A”.
- 36 In section 273 (review of unduly lenient sentence by Court Martial Appeal Court), in subsection (6)(b)—
- (a) before “225(2)” insert “224A,”, and
 - (b) before “219(2)” insert “218A,”.
- 37 In section 374 (definitions applying for purposes of the whole Act), in the definition of “custodial sentence”, after paragraph (e) (but before the “or” at the end of that paragraph) insert—
- (ea) “a sentence of detention under section 226B of that Act passed as a result of section 221A of this Act;”.

Counter-Terrorism Act 2008 (c. 28)

- 38 In Schedule 6 to the Counter-Terrorism Act 2008 (notification requirements: application to service offences), in paragraph 5(1)(a), after sub-paragraph (vi) (but before the “or” at the end of that sub-paragraph) insert—
- “(via) detention under section 226B of that Act (extended sentence of detention for certain dangerous offenders aged under 18);”.