

SCHEDULES

SCHEDULE 25

Section 411

AMENDMENTS TO THE ARMED FORCES ACT 2006

PART 1

AMENDMENTS TO CHAPTER 1 OF PART 8: SERVICE COMPENSATION ORDERS, SERVICE COMMUNITY ORDERS ETC.

1 Chapter 1 of Part 8 of the Armed Forces Act 2006 is amended as follows.

2 After section 177 insert—

“177A Effect of service compensation order on subsequent award of damages in civil proceedings

(1) This section has effect where—

- (a) a service compensation order has been made in favour of any person in respect of any injury, loss or damage, and
- (b) a claim by the person in civil proceedings for damages in respect of the injury, loss or damage subsequently falls to be decided by a court in England and Wales.

(2) The damages in the civil proceedings must be assessed without regard to the order.

(3) But the claimant may recover only an amount equal to the aggregate of—

- (a) any amount by which the damages assessed exceed the compensation, and
- (b) a sum equal to any portion of the compensation which the person fails to recover (“unrecovered compensation”).

(4) The claimant may not enforce the judgment, so far as it relates to unrecovered compensation, without the leave of the court.”

3 (1) Section 178 (service community orders) is amended as follows.

(2) In subsection (1), in paragraph (a), for the words from “mentioned” to “Act)” substitute “listed in column 1 of the community order requirements table in section 201 of the Sentencing Code”.

(3) For subsections (2) to (4) substitute—

“(2) The following provisions of the Sentencing Code apply in relation to a service community order under this Act—

- (a) section 203 (restriction on making both community order and suspended sentence order);

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- (b) sections 206 and 207 (community order: available requirements);
- (c) section 208(2) and Schedule 9 (requirements relating to community orders), other than paragraph 17(2)(c) of that Schedule (condition for mental health treatment requirement) (see also the modifications to Schedule 9 made by section 179 of this Act);
- (d) section 208(10) to (14) (further requirements);
- (e) section 209 (end date);
- (f) section 210 (specification of local justice area);
- (g) section 217 (power to provide for court review);
- (h) section 212(1) to (3) and (5) (provision of copies);
- (i) sections 213 to 216 (obligations of responsible officer and offender);
- (j) section 218 and Schedule 10 (breach, revocation or amendment of community order) (see also the modifications to Schedule 10 made by section 181 of this Act);
- (k) section 219 and Schedule 11 (transfer of community order to Scotland or Northern Ireland) (see also the modifications to Schedule 11 made by section 180 of this Act);
- (l) section 220 (when order ceases to be in force);
- (m) section 394 (rules relating to community orders);
- (n) section 395 (data from electronic monitoring code).

(3) In the application of those provisions, other than Schedule 10, references to a community order include a service community order.

See section 181(1) of this Act as regards references to a community order in Schedule 10.

(4) In the application of those provisions, other than in Schedules 10 and 11, references to a court include a relevant service court.

See section 180 of this Act as regards references to a court in Schedule 11.”

(4) Omit subsection (5).

4 For section 179 (periodic review etc of service community orders) substitute—

“179 Review of service community order imposing drug rehabilitation requirement

(1) In their application to a service community order, paragraphs 21 and 22 of Schedule 9 to the Sentencing Code are modified as follows.

(2) Paragraph 21 (court review of drug rehabilitation requirement) has effect as if for paragraphs (4) to (6) there were substituted—

“(4) In this paragraph “the responsible court”, in relation to a service community order imposing a drug rehabilitation requirement, means the Crown Court.”

(3) Paragraph 22 (periodic review of drug rehabilitation requirement) has effect as if after sub-paragraph (5) there were inserted—

“(5A) In a case where the order was made by the Service Civilian Court, a term of imprisonment or detention in a young offender institution or fine imposed under sub-paragraph (4)(b) must not exceed—

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

- (a) in the case of a term of imprisonment or detention in a young offender institution, 6 months;
- (b) in the case of a fine, the prescribed sum within the meaning of section 32 of the Magistrates' Courts Act 1980.

(5B) Where a sentence is passed under sub-paragraph (4)(b), section 9 of the Criminal Appeal Act 1968 (appeal against sentence) applies as if the offender had been convicted on indictment of the offence for which the sentence was passed.””

5 For section 180 (transfer of service community order to Scotland or Northern Ireland) substitute—

“180 Transfer of service community order to Scotland or Northern Ireland

- (1) In its application to service community orders, Schedule 11 to the Sentencing Code (transfer of community orders to Scotland or Northern Ireland) applies with the following modifications.
- (2) In paragraphs 1, 3, 5, 6, 7, 9, 11, 12, 13, 15 and 17 the references to a court are to be read as including a relevant service court.
- (3) In paragraph 14, the reference to a court in England and Wales is to be read as including a relevant service court.
- (4) In paragraph 15(d), the reference to the powers of the court making or amending the community order is to be read as a reference to the powers of the Crown Court.
- (5) In paragraph 21(6) to (8), the references to the court which made the order are to be read as including a relevant service court.
- (6) In paragraph 22(1), the reference to the court which made the order or which last amended the order in England and Wales is to be read as a reference to the Crown Court.
- (7) In paragraphs 23 to 26, the references to a court in England and Wales are to be read as references to the Crown Court.
- (8) In this section “relevant service court” has the same meaning as in section 178.”

6 For section 181 (breach, revocation or amendment of service community order) substitute—

“181 Breach, revocation or amendment of service community order

- (1) Schedule 10 to the Sentencing Code (breach, revocation or amendment of community order) applies to a service community order as it applies to a Crown Court community order (within the meaning of that Schedule) with the following modifications.
- (2) Paragraph 1(1) has effect as if, for the definition of “appropriate court” there were substituted—
““appropriate court” means the Crown Court;”.

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- (3) Part 1 has effect as if, after paragraph 5, the following paragraph were inserted—

“Re-sentencing powers

- 5A (1) Sub-paragraphs (2) and (3) apply where—
- (a) this Schedule provides the court with a power to re-sentence an offender for the offence in respect of which a service community order was made, and
 - (b) the service community order was made by the Service Civilian Court.
- (2) A term of imprisonment or detention in a young offender institution imposed under the power to re-sentence the offender must not exceed 6 months.
- (3) A fine imposed under the power to re-sentence the offender must not exceed the prescribed sum (within the meaning of section 32 of the Magistrates’ Courts Act 1980).
- (4) Where a sentence is passed by virtue of a power in this Schedule for a court to re-sentence an offender, section 9 of the Criminal Appeal Act 1968 (appeal against sentence) applies as if the offender had been convicted on indictment of the offence for which the sentence was passed.”
- (4) Paragraph 11 has effect as if sub-paragraph (3) were omitted.
- (5) Paragraph 27 has effect as if sub-paragraphs (3)(b), (5) and (6) were omitted.”

- 7 (1) Section 182 (overseas community orders) is amended as follows.
- (2) In subsection (1), in paragraph (a), for the words from “mentioned” to “Act)” substitute “listed in column 1 of the community order requirements table in section 201 of the Sentencing Code”.
 - (3) In subsection (1A), for the words from “a requirement” to the end, substitute “any of the following—
 - (a) a foreign travel prohibition requirement;
 - (b) an alcohol abstinence and monitoring requirement;
 - (c) an electronic compliance monitoring requirement;
 - (d) an electronic whereabouts monitoring requirement.”
 - (4) In subsection (2), omit “mentioned in section 177(1) of the 2003 Act”.
 - (5) For subsections (3) to (5) substitute—

“(3) The following provisions of the Sentencing Code apply in relation to an overseas community order under this Act—

 - (a) section 203 (restriction on making both community order and suspended sentence order);
 - (b) sections 206 and 207(3) (community order: available requirements);

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- (c) section 208(2) and Schedule 9 (requirements relating to community orders), other than the following provisions of that Schedule—
 - (i) paragraph 3(1)(b) (unpaid work requirement: availability of arrangements);
 - (ii) paragraph 10(3) (requirement to impose electronic monitoring requirement when imposing curfew requirement);
 - (iii) paragraph 12 (requirement to impose electronic monitoring requirement when imposing exclusion requirement);
 - (iv) paragraph 15 (foreign travel prohibition requirement);
 - (v) paragraph 17(2)(c) (condition for mental health treatment requirement);
 - (vi) paragraphs 21 and 22 (periodic review of drug rehabilitation requirement);
 - (vii) paragraphs 25 and 26 (alcohol abstinence and monitoring requirement);
 - (viii) paragraph 28(a) (availability of attendance centre);
 - (ix) paragraphs 29 to 35 (electronic monitoring);
- (d) section 208(10) to (14) (further requirements) (see also the modifications to section 208(11) made by section 183(2) of this Act);
- (e) section 209 (end date);
- (f) section 212(1) to (3) and (5) (provision of copies) (see also the modifications made to section 212 by section 183(3) of this Act);
- (g) sections 213 to 216 (obligations of responsible officer and offender) (see also the modifications made to sections 214 and 216 by section 183(4) and (5) of this Act);
- (h) section 218 and Schedule 10 (breach, revocation or amendment of community order) (see also the modifications to Schedule 10 made by Schedule 6A to this Act);
- (i) section 220 (when order ceases to be in force);
- (j) section 394 (rules relating to community orders).

(4) In the application of those provisions to an overseas community order, references to a community order include an overseas community order.

(5) In the application of those provisions to an overseas community order, other than in Schedule 10, references to a court include a relevant service court.

See Schedule 6A to this Act as regards references to a court in Schedule 10.”

8 For section 183 (overseas community orders: modifications of 2003 Act) substitute—

“183 Overseas community orders: modifications of the Sentencing Code

(1) The provisions of the Sentencing Code mentioned in section 182(3) apply in relation to an overseas community order with the modifications set out in subsections (2) to (5).

(2) Section 208(11) has effect as if, before paragraph (a) there were inserted—

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- “(za) the offender is aged under 18 when convicted of the offence in respect of which the order is made;”.
- (3) Section 212 (provision of copies of community order and related documents) has effect as if, in subsection (2), for paragraphs (a) to (d) there were substituted—
- “(a) to the offender,
 (b) to the offender’s commanding officer,
 (c) if the offender is aged under 14, to the offender’s parent or guardian,
 (d) if the order imposes an education requirement under Schedule 6 to the Armed Forces Act 2006, to Service Children’s Education,
 (e) to the responsible officer, and
 (f) to an officer of a provider of probation services that is a public sector provider who is acting at the court.”
- (4) Section 214 (obligations of responsible officer) has effect as if, at the end of subsection (2) there were inserted “, and
 (c) where appropriate, to take steps to enforce those requirements.”
- (5) Section 216 (duty of offender to obtain permission before changing residence) has effect as if, in subsection (4), for the words from “has the same meaning” to the end, there were substituted “means the court that made the order”.
- (6) Schedule 6 makes provision about the application of the provisions of the Sentencing Code mentioned in section 182(3) where an overseas community order relates to a young offender.”
- 9 In section 184 (breach, revocation or amendment of overseas community order), for the words from the beginning to “2003 Act” substitute “Schedule 6A (application of Schedule 10 to the Sentencing Code”.
- 10 Omit Schedule 5 (breach, revocation and amendment of community punishments).
- 11 (1) Schedule 6 (overseas community orders) is amended as follows.
- (2) In the shoulder reference, for “section 182” substitute “section 183(6)”.
- (3) In paragraph 1 (unpaid work requirement), for “section 199 of the 2003 Act” substitute “paragraph 1(1) of Schedule 9 to the Sentencing Code”.
- (4) In paragraph 2 (exclusion requirement), for “section 205 of the 2003 Act” substitute “paragraph 11(1) of Schedule 9 to the Sentencing Code”.
- (5) In paragraph 3 (residence requirement)—
- (a) for sub-paragraph (1) substitute—
- “(1) In relation to an overseas community order made in respect of an offender aged under 18 on conviction, paragraph 13 of Schedule 9 to the Sentencing Code has effect as if—
- (a) in sub-paragraph (1)(a), after “place”)” there were inserted “or with a particular individual (“the required individual”)”;

- (b) in sub-paragraph (2)(a)(i), after “place” there were inserted “or individual”;
- (b) in sub-paragraph (3), for “Nothing in section 206(2) to (4) of the 2003 Act applies” substitute “Paragraph 14 of Schedule 9 to the Sentencing Code (requirement to consider home surroundings of offender)” does not apply”;
- (c) in sub-paragraph (4), for “specified” substitute “particular”;
- (d) omit sub-paragraph (5).
- (6) In paragraph 4 (mental health requirement)—
- (a) in sub-paragraph (1)—
- (i) for “section 207(3) of the 2003 Act” substitute “paragraph 17(1) of Schedule 9 to the Sentencing Code”;
- (ii) for “of offender to mental health requirement” substitute “condition”;
- (b) in sub-paragraph (2)—
- (i) for “section 208(1) of the 2003 Act” substitute “paragraph 18 of Schedule 9 to the Sentencing Code”;
- (ii) for “the words “with the consent of the offender” do” substitute “sub-paragraph (3) (expression of willingness of offender necessary before alternative arrangements may be made) does”.
- (7) In paragraph 5 (drug rehabilitation requirement)—
- (a) in sub-paragraph (1), for “section 209(1) of the 2003 Act” substitute “paragraph 19(1) of Schedule 9 to the Sentencing Code”;
- (b) in sub-paragraph (2)(b), for “section 209(1)(b) of the 2003 Act” substitute “paragraph 19(1)(b) of Schedule 9 to the Sentencing Code”;
- (c) in sub-paragraph (3)—
- (i) for “section 209(2) of the 2003 Act” substitute “paragraph 20(1) of Schedule 9 to the Sentencing Code”;
- (ii) for “of offender to drug rehabilitation requirement” substitute “condition”.
- (8) In paragraph 6 (alcohol treatment requirement), for “section 212 of the 2003 Act” substitute “paragraph 23(1) of Schedule 9 to the Sentencing Code”.
- (9) In paragraph 8 (power to amend) for “section 223 of the 2003 Act” substitute “paragraph 13 of Schedule 23 to the Sentencing Act 2020”.

12 After Schedule 6, insert—

“SCHEDULE
6A

Section 184

BREACH, REVOCATION AND AMENDMENT OF OVERSEAS COMMUNITY ORDERS

- 1 Schedule 10 to the Sentencing Code (breach, revocation or amendment of community order) applies to an overseas community order as it applies to a community order, with the modifications set out in this Schedule.

Preliminary

- 2 Part 1 (preliminary) has effect as if—

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

- (a) in paragraph 1(1), for the definition of “appropriate court” there were substituted—
 - ““appropriate court” means the court that made the overseas community order;”;
- (b) paragraphs 2 to 4 were omitted;
- (c) in paragraph 5 (orders made on appeal), for “Crown Court” there were substituted “Court Martial”.

Breach of requirement of order

- 3 Part 2 (breach of requirement of order) has effect as if—
 - (a) paragraph 6 were modified as set out in paragraph 4 of this Schedule;
 - (b) paragraph 7 were omitted;
 - (c) for paragraphs 8 and 9 there were substituted the paragraph 8A set out in paragraph 5 of this Schedule;
 - (d) paragraph 10 were omitted;
 - (e) paragraph 11 were modified as set out in paragraph 6 of this Schedule;
 - (f) after paragraph 11 there was inserted the paragraph 11A set out in paragraph 7 of this Schedule.
- 4 Paragraph 6 (duty to give warning or refer matter to enforcement officer) has effect as if—
 - (a) in sub-paragraph (2), for the words “refer the matter to an enforcement officer” there were substituted “apply to the court that made the order for the exercise of its powers in relation to the breach in question”;
 - (b) in sub-paragraph (3), for paragraph (b) there were substituted—
 - “(b) apply to the court that made the order for the exercise of its powers in relation to the breach.”
- 5 The paragraph 8A (substituted for paragraphs 8 and 9) is as follows—

“Issue of summons or warrant

- 8A (1) This paragraph applies where—
- (a) an overseas community order under the Armed Forces Act 2006 is in force, and
 - (b) it appears to the court that made the order, on an application by the responsible officer, that the offender has breached a requirement of the order.
- (2) The court may—
- (a) issue a summons requiring the offender to appear at the place and time specified in it, or
 - (b) issue a warrant for the offender’s arrest.
- (3) A summons or warrant issued under this paragraph must direct the offender to appear or be brought before the court issuing the summons or warrant.

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(4) Where—

- (a) a summons is issued under this paragraph, and
- (b) the offender does not appear in answer to the summons,

the court may issue a warrant for the arrest of the offender.”

6 Paragraph 11 (powers of Crown Court) has effect as if—

- (a) for the heading, there were substituted “Powers of court that made the order”;
- (b) in sub-paragraph (1)(a), for “Crown Court under paragraph 9 or by virtue of paragraph 10(3)” there were substituted “court under paragraph 8A”;
- (c) in sub-paragraph (2), for “Crown Court” there were substituted “court” (in both places);
- (d) sub-paragraph (3) were omitted;
- (e) in sub-paragraph (4), for “Crown Court” there were substituted “court”;
- (f) in sub-paragraph (6)—
 - (i) after “custodial sentence” there were inserted “within the meaning of the Armed Forces Act 2006”, and
 - (ii) for “230(2)” there were substituted “260(2) of that Act”;
- (g) in sub-paragraph (7), for “Crown Court” there were substituted “court”;
- (h) sub-paragraph (8) were omitted.

7 The paragraph 11A to be inserted after paragraph 11 is as follows—

“Further provision about fines imposed under paragraph 11

- 11A (1) Section 251 of the Armed Forces Act 2006 (power to order payment of fine by instalments) applies to a fine imposed under paragraph 11(2)(a) as it applies to a fine imposed by a court for a service offence.
- (2) Sub-paragraph (3) applies where a court imposes a fine under paragraph 11(2)(a) on an offender who—
- (a) is aged under 18 when the fine is imposed, and
 - (b) has a service parent or service guardian (within the meaning of section 268 of the Armed Forces Act 2006).
- (3) Subsections (2) to (4) of section 268 of the Armed Forces Act 2006 (payment of fine by service parent or service guardian) apply in relation to the fine imposed under paragraph 11(2)(a) as they apply in relation to a fine in the circumstances mentioned in subsection (1) that section, but with the reference in subsection (2) of section 268 to the time of conviction being read as a reference to the time the fine is imposed.
- (4) Section 269(2) of the Armed Forces Act 2006 (power of court to make financial statement order before making order under

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section 268) does not apply in relation to an order under section 268 which is made by virtue of sub-paragraph (3).”

Revocation of order

- 8 Part 3 (revocation of order with or without re-sentencing) has effect as if—
- (a) paragraph 14 were omitted;
 - (b) in paragraph 15—
 - (i) for the heading there were substituted “Overseas community order”;
 - (ii) in sub-paragraph (1), for “a Crown Court” there were substituted “an overseas”;
 - (iii) in sub-paragraph (1), in the words after paragraph (b), for “Crown Court” there were substituted “court that made the order”;
 - (iv) in sub-paragraphs (3), (4) and (6), for “Crown Court” there were substituted “court”.

Amendment of order

- 9 Part 4 (amendment of order) has effect as if—
- (a) paragraphs 16 and 17 were omitted;
 - (b) in paragraph 18—
 - (i) in sub-paragraph (2), paragraph (b) were omitted;
 - (ii) in sub-paragraph (9)(b)—
 - (a) after “custodial sentence” there were inserted “within the meaning of the Armed Forces Act 2006”, and
 - (b) for “230(2)” there were substituted “260(2) of that Act”;
 - (c) paragraph 19 were omitted.

Conviction of further offence

- 10 Part 5 (conviction of further offence) has effect as if—
- (a) in the heading above paragraph 22, for “magistrates’ court” there were substituted “Service Civilian Court”;
 - (b) in paragraph 22—
 - (i) for “Paragraphs 23 and 24 apply” there were substituted “Paragraph 23 applies”;
 - (ii) after sub-paragraph (a) (but before the “and”) there were inserted—
 - “(aa) the existing community order was made by the Service Civilian Court.”;
 - (iii) in sub-paragraph (b), for “a magistrates’ court” there were substituted “the Service Civilian Court”;
 - (c) in paragraph 23, sub-paragraphs (1) and (6) were omitted;
 - (d) paragraph 24 were omitted;

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- (e) in the heading above paragraph 25, for “Crown Court” there were substituted “Court Martial”;
- (f) in paragraph 25—
 - (i) in sub-paragraphs (1)(a), (2), (3), (4) and (5), for “Crown Court” there were substituted “Court Martial”;
 - (ii) sub-paragraph (1)(b) were omitted.

Supplementary

- 11 Part 6 (supplementary) has effect as if—
 - (a) paragraph 26 were omitted;
 - (b) paragraph 27 were modified as set out in paragraph 12 of this Schedule.
- 12 Paragraph 27 (provision of copies of orders etc) has effect as if—
 - (a) for sub-paragraph (2) there were substituted—

“(2) The court administration officer (within the meaning of the Armed Forces Act 2006) must provide copies of the revoking or amending order to—

 - (a) the offender,
 - (b) the responsible officer,
 - (c) the offender’s commanding officer, and
 - (d) if the offender is aged under 14, the offender’s parent or guardian.”;
 - (b) sub-paragraph (3) were omitted;
 - (c) in the opening words of sub-paragraph (4), for “the court” there were substituted “the court administration officer (within the meaning of the Armed Forces Act 2006)”;
 - (d) in the table in sub-paragraph (4), at the end there were inserted—

“An education requirement	Service Children’s Education”;
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 - (e) sub-paragraphs (5) to (7) were omitted.

Court Martial Rules

- 13 If Court Martial Rules provide that powers of the Court Martial under Schedule 10 to the Sentencing Code as applied by this Schedule are to be exercised by a judge advocate, the rules may also disapply section 160 of this Act in relation to sentences passed under that Schedule.

Appeals

- 14 A person who—
 - (a) is sentenced by the Court Martial under paragraph 25(2)(b)(ii) of Schedule 10 to the Sentencing Code as applied by this Schedule, and
 - (b) was not convicted by the Court Martial of the offence in respect of which the sentence is passed,

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is to be treated, for the purpose of enabling an appeal under the Court Martial Appeals Act 1968 against the sentence, as if he or she had been so convicted.”

- 13 In section 185 (conditional or absolute discharge), in subsection (2)(b), for “section 12(1)(b) of the Sentencing Act” substitute “section 80(5) of the Sentencing Code”.

PART 2

AMENDMENTS TO CHAPTER 2 OF PART 8: CONSECUTIVE SENTENCES

- 14 Chapter 2 of Part 8 of the Armed Forces Act 2006 is amended as follows.

- 15 (1) Section 188 (consecutive sentences) is amended as follows.

- (2) In subsection (2)—

- (a) after paragraph (a) insert—

“(aa) a determinate sentence of detention in a young offender institution;”;

- (b) in paragraph (c), for “section 226B of the 2003 Act” substitute “section 254 of the Sentencing Code”.

- (3) In subsection (4)—

- (a) after paragraph (a) insert—

“(aa) a determinate sentence of detention in a young offender institution passed in respect of a service offence or by a civilian court in England and Wales;”;

- (b) in paragraph (b), for “section 91 of the Sentencing Act” substitute “section 250 of the Sentencing Code”;

- (c) after paragraph (b) insert—

“(ba) a sentence of detention under section 254 of the Sentencing Code (whether or not passed as a result of section 221A of this Act);”;

- (d) in paragraph (c)—

(i) omit “226B or”;

(ii) omit “221A or”.

- (4) After subsection (4) insert—

“(4A) The sentences referred to in subsection (4)(a) and (aa) are to be taken to include a custodial order under—

- (a) section 71AA of the Army Act 1955 or the Air Force Act 1955 or section 43AA of the Naval Discipline Act 1957, or

- (b) paragraph 10 of Schedule 5A to the Army Act 1955 or the Air Force Act 1955 or paragraph 10 of Schedule 4A to the Naval Discipline Act 1957.”

- (5) In subsection (5)—

- (a) in paragraph (a), for “not falling within paragraph (a)” substitute “or detention in a young offender institution not falling within paragraph (a) or (aa)”;

- (b) in paragraph (b), after “(b)” insert “, (ba)”.

PART 3

AMENDMENTS TO CHAPTER 4 OF PART 8: SUSPENDED SENTENCE ORDERS

- 16 Chapter 4 of Part 8 of the Armed Forces Act 2006 is amended as follows.
17 In the Chapter heading, for “under 12 Months” substitute “two years or less”.
18 Omit section 196 (and the italic heading before it).
19 For section 200 substitute—

“200 Suspended sentence orders

- (1) In the following provisions of the Sentencing Code, “court” includes a relevant service court—
- (a) section 264 (suspended sentence order for offender under 21: availability);
 - (b) section 277 (suspended sentence order for person aged 21 or over: availability);
 - (c) in Chapter 5 of Part 10 (suspended sentences)—
 - (i) section 286 (suspended sentence order);
 - (ii) section 292 (power to impose requirements);
 - (iii) section 298 (provision of copies of order etc);
 - (iv) section 302 (duty to obtain permission before changing residence);
 - (d) Schedule 9 (community requirements), other than paragraphs 21 and 22 (review of drug rehabilitation requirement);
 - (e) in Schedule 17 (transfer of suspended sentence orders to Scotland and Northern Ireland)—
 - (i) paragraph 1 (restriction on making relevant suspended sentence order where offender resides in Scotland);
 - (ii) paragraph 4 (restriction on making relevant suspended sentence order where offender resides in Northern Ireland);
 - (iii) Part 3 (making of orders);
- and the provisions of the Sentencing Code relating to suspended sentence orders apply accordingly to suspended sentence orders made by a relevant service court.
- (2) In their application to a suspended sentence order made by a relevant service court, the provisions of the Sentencing Code relating to suspended sentence orders are modified as set out in—
- (a) sections 200A to 204, and
 - (b) Schedule 7 (modifications of Schedule 16 to the Sentencing Code (breach or amendment of suspended sentence order and effect of further conviction)).

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

200A Modifications of section 286 of the Sentencing Code

Section 286 of the Sentencing Code has effect in relation to a suspended sentence order made by a relevant service court as if—

(a) after subsection (2) there were inserted—

“(2A) But a court may not specify a requirement to be complied with outside the United Kingdom.”;

(b) in subsection (3), for paragraph (a) (but not the “or” after it) there were substituted—

“(a) commits during the operational period—

(i) another service offence (within the meaning of the Armed Forces Act 2006), or

(ii) an offence under the law of any part of the British Islands.”

20 In section 202 (order with community requirements: disapplication of certain provisions)—

(a) for “Chapter 4 of Part 12 of the 2003 Act” substitute “the Sentencing Code”;

(b) for “section 207(3)(a)(ii)” substitute “paragraph 17(2)(c) of Schedule 9”;

(c) for “section 219(3)” substitute “section 298(4)”.

21 For section 203 (review of order with community requirements), substitute—

“203 Review of order with community requirements

(1) Section 293 of the Sentencing Code (power to provide for review of suspended sentence order) has effect in relation to a suspended sentence order made by a relevant service court as if for subsections (4) to (6) there were substituted—

“(4) In this section “the responsible court” in relation to a suspended sentence order means the Crown Court.”

(2) In their application to a suspended sentence order made by a relevant service court, paragraphs 21 and 22 of Schedule 9 to the Sentencing Code are modified as follows.

(3) Paragraph 21 (court review of drug rehabilitation requirement) has effect as if for sub-paragraphs (4) to (6) there were substituted—

“(4) In this paragraph “the responsible court”, in relation to a suspended sentence order made by a relevant service court imposing a drug rehabilitation requirement, means the Crown Court.”

(4) Paragraph 22 (periodic review of drug rehabilitation requirement) has effect as if after sub-paragraph (5) there were inserted—

“(5A) In a case where the order was made by the Service Civilian Court, a term of imprisonment or detention in a young offender institution or fine imposed under sub-paragraph (4)(b) must not exceed—

(a) in the case of a term of imprisonment or detention in a young offender institution, 6 months;

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(b) in the case of a fine, the prescribed sum within the meaning of section 32 of the Magistrates' Courts Act 1980.

(5B) Where a sentence is passed under sub-paragraph (4)(b), section 9 of the Criminal Appeal Act 1968 (appeal against sentence) applies as if the offender had been convicted on indictment of the offence for which the sentence was passed.”.

22 For section 204 (transfer to Scotland or Northern Ireland of order with community requirements) substitute—

“204 Transfer to Scotland or Northern Ireland of order with community requirements

Schedule 17 to the Sentencing Code (transfer of suspended sentence orders to Scotland or Northern Ireland) has effect in relation to a suspended sentence order made by a relevant service court as if—

- (a) in paragraph 23, sub-paragraph (1)(b) and (c) were omitted;
- (b) in paragraph 25, sub-paragraphs (b) and (c) were omitted;
- (c) in paragraph 38, sub-paragraph (3)(b) were omitted;
- (d) in paragraph 41(1), for the definition of “original court” there were substituted—

““original court”, in relation to an SSSO or an NISSO, means the Crown Court;”.

23 Omit section 205.

24 Omit section 206.

25 For section 207 (definitions for purposes of Chapter) substitute—

“207 Definitions for purposes of Chapter

In this Chapter—

“relevant service court” means any of the following—

- (a) the Court Martial;
- (b) the Service Civilian Court;
- (c) the Court Martial Appeal Court;
- (d) the Supreme Court on an appeal brought from the Court Martial Appeal Court;

“suspended sentence order” has the same meaning as in the Sentencing Code (see section 286(6) of that Code);

“suspended sentence order with community requirements” means a suspended sentence order that specifies one or more community requirements (see section 286(2) of that Code).”

26 For Schedule 7 (suspended prison sentence: further conviction or breach of requirement) substitute—

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“SCHEDULE 7

Section 200(2)(b)

SUSPENDED SENTENCE ORDERS: BREACH OR
 AMENDMENT; EFFECT OF FURTHER CONVICTION

- 1 Schedule 16 to the Sentencing Code (breach or amendment of suspended sentence order, and effect of further conviction) applies to a suspended sentence order made by a relevant service court with the following modifications.

Preliminary

- 2 Part 1 (preliminary) has effect as if—
- (a) in paragraph 1(1), for the definition of “the appropriate court” there were substituted—
 - ““the appropriate court” means the Crown Court;”;
 - (b) at the end of paragraph 1(1) there were inserted—
 - ““relevant service court” has the same meaning as in Chapter 4 of Part 8 of the Armed Forces Act 2006 (see section 207 of that Act);
 - “service offence” has the same meaning as in the Armed Forces Act 2006 (see section 50 of that Act).”;
 - (c) paragraphs 3 to 5 were omitted.

Breach of community requirement or conviction of further offence

- 3 Part 2 (breach of community requirement or conviction of further offence) has effect as if—
- (a) in paragraph 6(4)(c), for “a court” there were substituted “the Crown Court”;
 - (b) in paragraph 7, for paragraph (b) there were substituted—
 - “(b) where appropriate, cause an information to be laid before the Crown Court in respect of the offender’s breach of the requirement.”;
 - (c) paragraph 8 were omitted;
 - (d) in paragraph 9—
 - (i) in the heading, the words “Crown Court order:” were omitted;
 - (ii) in sub-paragraph (1), for “Crown Court order” there were substituted “suspended sentence order made by a relevant service court”;
 - (e) paragraph 10 were omitted;
 - (f) paragraphs 11 to 15 were modified as set out in paragraphs 4 to 8 of this Schedule;
 - (g) after paragraph 15 there were inserted the paragraph 15A set out in paragraph 9 of this Schedule;
 - (h) paragraphs 17 to 19 were modified as set out in paragraphs 10 to 12 of this Schedule;
 - (i) paragraph 20 were omitted.

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- 4 Paragraph 11 (offender before magistrates' court: further conviction) has effect as if—
- (a) sub-paragraph (1) were omitted;
 - (b) in sub-paragraph (2), for the words from “made” to the end, there were substituted “made by a relevant service court, the magistrates' court must notify the appropriate officer of the Court Martial of the conviction.”;
 - (c) sub-paragraphs (3) and (4) were omitted.
- 5 Paragraph 12 (offender before Crown Court: breach of community requirement or further conviction) has effect as if—
- (a) in the heading, after “Crown Court” there were inserted “, Court Martial or Service Civilian Court”;
 - (b) in sub-paragraph (1)(b), the words “or (3)” were omitted;
 - (c) in sub-paragraph (2), paragraph (a)(iii) (but not the “and” following it) were omitted;
 - (d) for sub-paragraph (3) there were substituted—
 - “(3) Where—
 - (a) an offender to whom a suspended sentence order relates is convicted of a service offence or an offence under the law of any part of the British Islands that was committed during the operational period of the order,
 - (b) the suspended sentence order has not taken effect, and
 - (c) either—
 - (i) the offender is so convicted by the Crown Court, the Court Martial or the Service Civilian Court, or
 - (ii) the offender subsequently appears or is brought before the Court Martial,the court must deal with the case under paragraph 13.
- (3A) Anything that under section 376(1) and (2) of the Armed Forces Act 2006 is treated as a conviction for the purposes of that Act is also to be treated as a conviction for the purposes of sub-paragraph (3).”
- 6 Paragraph 13 (powers of court to deal with offender on breach of requirement or subsequent conviction) has effect as if—
- (a) in sub-paragraph (1)—
 - (i) in the opening words, for “a court” there were substituted “the Crown Court, the Court Martial or the Service Civilian Court”;
 - (ii) in paragraph (c), at the beginning there were inserted “where the court dealing with the offender is the Crown Court,”;
 - (b) sub-paragraph (2) were omitted.
- 7 Paragraph 14 (exercise of power in paragraph 13: duty to make activation order where not unjust) has effect as if—

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- (a) in sub-paragraph (1), for “The court” there were substituted “The Crown Court, the Court Martial or the Service Civilian Court”;
 - (b) in sub-paragraph (2)(b), the words “11 or” were omitted.
- 8 Paragraph 15 (activation orders: further provision) has effect as if—
- (a) in the heading, after “orders” there were inserted “made by the Crown Court”;
 - (b) in sub-paragraph (1), for “a court” there were substituted “the Crown Court”;
 - (c) for sub-paragraph (3) there were substituted—
 - “(3) For the purpose of any enactment conferring rights of appeal against sentence in criminal cases—
 - (a) the activation order is to be treated as a sentence passed on the offender by the Crown Court for the offence for which the suspended sentence was passed, and
 - (b) the offender is to be treated as if he or she had been convicted on indictment of that offence.”;
 - (d) in sub-paragraph (4) at the end there were inserted “and a custodial sentence within the meaning of the Armed Forces Act 2006 (see section 374 of that Act)”.
- 9 The paragraph 15A to be inserted after paragraph 15 is as follows—

“Activation orders made by the Court Martial or the Service Civilian Court: further provision

- 15A (1) This paragraph applies where the Court Martial or the Service Civilian Court makes an activation order relating to a suspended sentence.
- (2) The activation order may provide for—
 - (a) the sentence to take effect immediately, or
 - (b) the term of the sentence to begin on the expiry of another custodial sentence passed on the offender.
 - (3) The reference in sub-paragraph (2) to another custodial sentence does not include a sentence from which the offender has been released early under Chapter 6 of Part 12 of the Criminal Justice Act 2003 or Part 2 of the Criminal Justice Act 1991.
 - (4) For the purposes of sections 285 to 287 of the Armed Forces Act 2006 (appeals from Service Civilian Court) or, as the case may be, the Court Martial Appeals Act 1968—
 - (a) an activation order made by the Court Martial or the Service Civilian Court is to be treated as a sentence passed on the offender, by the court that made the order, for the offence for which the suspended sentence was passed, and

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- (b) if the offender was not convicted of that offence by that court, he or she is to be treated for the purpose of enabling an appeal against the order as if he or she had been so convicted.
 - (5) For the purposes of any appeal against the order, references in section 16A of the Court Martial Appeals Act 1968 to passing a sentence include making an order.
 - (6) In this paragraph “custodial sentence” includes a pre-Code custodial sentence (see section 222(4)) and a custodial sentence within the meaning of the Armed Forces Act 2006 (see section 374 of that Act).”
- 10 Paragraph 17 (treatment requirement: reasonable refusal to undergo certain treatment) has effect as if, in sub-paragraph (2), the words “10(1) (b) or” were omitted.
- 11 Paragraph 18 (duty of court in Scotland or Northern Ireland when informed of suspended sentence) has effect as if—
- (a) in sub-paragraph (b), for “in England or Wales” there were substituted “(anywhere) by a relevant service court”;
 - (b) in the words following sub-paragraph (b), for “the court by which the suspended sentence was passed” there were substituted “the Court Martial”.
- 12 Paragraph 19 (issue of summons or warrant where court convicting of further offence does not deal with suspended sentence) has effect as if—
- (a) in sub-paragraph (1)—
 - (i) in the opening words, for “the Crown Court” there were substituted “the Court Martial”;
 - (ii) in paragraph (a), for the words from “United Kingdom” to “Court” there were substituted “British Islands of an offence committed during the operational period of a suspended sentence order passed by a relevant service court, or has been convicted of a service offence committed during that period”;
 - (b) in sub-paragraph (2), for “Crown Court” there were substituted “Court Martial”;
 - (c) in sub-paragraph (3), for “Crown Court” there were substituted “Court Martial”.

Amendment of order

- 13 Part 3 (amendment of order) has effect as if in paragraph 25 (amendment of community requirements of suspended sentence order), after sub-paragraph (8) there were inserted—
- “(8A) In a case where the order was made by the Service Civilian Court, a term of imprisonment or detention in a young offender institution or fine imposed under sub-paragraph (7)(b) must not exceed—
- (a) in the case of a term of imprisonment or detention in a young offender institution, 6 months;

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(b) in the case of a fine, the prescribed sum within the meaning of section 32 of the Magistrates' Courts Act 1980.

(8B) Where a sentence is passed under sub-paragraph (7)(b), section 9 of the Criminal Appeal Act 1968 (appeal against sentence) applies as if the offender had been convicted on indictment of the offence for which the sentence was passed."

Supplementary

- 14 Part 4 (supplementary) has effect as if in paragraph 28 (provision of copies of orders etc)—
- (a) in sub-paragraph (1) for "a court" there were substituted "the Crown Court or a relevant service court";
 - (b) in sub-paragraph (3), paragraph (b) were omitted;
 - (c) sub-paragraphs (5) and (6) were omitted."

PART 4

AMENDMENTS TO CHAPTER 5 OF PART 8: CUSTODIAL SENTENCES FOR YOUNG OFFENDERS

- 27 Chapter 5 of Part 8 of the Armed Forces Act 2006 is amended as follows.
- 28 In section 208 (prohibition on imposing imprisonment on people under a certain age)—
- (a) for "18" substitute "21";
 - (b) in the heading, for "18" substitute "21".
- 29 (1) Section 209 (offenders under 18 convicted of certain serious offences: power to detain for specified period) is amended as follows.
- (2) In subsection (2)(a), for "18" substitute "21".
 - (3) In subsection (6), for "18" substitute "21".
- 30 After section 210 insert—

"210A Offenders under 21: offences other than murder; discretionary custody for life

- (1) This section applies where a person aged at least 18 but under 21 is convicted by the Court Martial of an offence—
 - (a) for which the sentence is not fixed by law, but
 - (b) which is punishable in the case of a person aged 21 or over with imprisonment for life.
- (2) If the court considers that a sentence for life would be appropriate, it is to sentence the offender to custody for life under section 272(2)(a) of the Sentencing Code.
- (3) Sections 260 (threshold for imposing discretionary custodial sentence) and 261 (length of discretionary custodial sentence: general provision), in particular, apply for the purposes of subsection (2).

210B Offenders under 21: power to impose detention in a young offender institution

- (1) A sentence of detention in a young offender institution is available to the Court Martial or the Service Civilian Court dealing with an offender for an offence where—
 - (a) the offender is aged at least 18 but under 21 when convicted,
 - (b) the offence is punishable with imprisonment in the case of a person aged 21 or over, and
 - (c) the court is not required to pass a sentence of—
 - (i) detention at Her Majesty’s pleasure, or
 - (ii) custody for life.
- (2) The maximum term of detention in a young offender institution that a court may impose for an offence is the same as the maximum term of imprisonment that it may impose for the offence in the case of a person aged 21 or over.
- (3) The minimum term of a sentence of detention in a young offender institution is 21 days.”

- 31 In section 211 (offenders under 18: detention and training orders)—
- (a) in subsection (1)(a), for “18 or over” substitute “21 or over”;
 - (b) in subsection (3)(c), for the words from “on” to the end substitute “after paragraph (aa) of section 234(1) of the Sentencing Code comes into force (see paragraph 27(1)(b) of Schedule 22 to the Sentencing Act 2020).”

- 32 (1) Section 212 (term of detention and training order: general) is amended as follows.
- (2) In subsections (1)(b) and (2)(c), for “18” substitute “21”.
 - (3) In subsection (3), for “provides otherwise under section 101(3) of the Sentencing Act” substitute “orders otherwise under section 237 of the Sentencing Code”.

- 33 (1) Section 213 (application of provisions relating to civilian detention and training orders) is amended as follows.
- (2) For subsections (1) to (3) substitute—

- “(1) In the following provisions of the Sentencing Code, references to a detention and training order include an order under section 211 of this Act—
 - (a) sections 237 to 248;
 - (b) Schedule 12.
- (2) In the following provisions of the Sentencing Code, “court” includes a relevant service court—
 - (a) sections 237 to 240;
 - (b) section 246;
 - (c) sections 253 and 257;
 - (d) section 270.
- (3) In its application to an order under section 211, section 239 of the Sentencing Code has effect as if—
 - (a) references to an offender’s being remanded in custody were references to an offender’s being kept in service custody, and

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- (b) subsection (5) were omitted.
- (3A) In its application to a relevant service court, section 253 of the Sentencing Code has effect as if the references to a sentence of detention under section 250 were references to a sentence of detention under 209 of this Act.
- (3B) In its application to a relevant service court, section 257 of the Sentencing Code has effect as if the references to an extended sentence of detention under section 254 were references to an extended sentence of detention under that section imposed as a result of section 221A of this Act.”
- (3) In subsection (4), for “section 104(3) (further period of detention or supervision) of the Sentencing Act” substitute “paragraph 3(2)(a) of Schedule 12 to the Sentencing Code (further period of detention)”.
- (4) For subsection (5) substitute—
 - “(5) Paragraph 5(2) of Schedule 12 to the Sentencing Code has effect as if, in the closing words, after “Schedule” there were inserted “and section 214 of the Armed Forces Act 2006”.”
- (5) In subsection (6)—
 - (a) in the definition of “further period of supervision” for “section 104(3)(aa) of the Sentencing Act” substitute “paragraph 3(2)(b) of Schedule 12 to the Sentencing Code”;
 - (b) for the definition of “supervision requirements” substitute—
 - ““supervision requirement” has the meaning given in paragraph 1 of Schedule 12 to the Sentencing Code”.
- (6) Omit subsection (7).
- (7) At the end insert—
 - “(8) In this section, “relevant service court” has the same meaning as in Chapter 4 of Part 8 (see section 207).”
- 34 (1) Section 214 (offences during currency of detention and training order) is amended as follows.
- (2) After subsection (1) insert—
 - “(1A) This section also applies to a person in respect of whom a service FSO has been made if—
 - (a) before the date on which the period of further supervision under the service FSO ends, he commits an offence within subsection (2) (“the new offence”); and
 - (b) whether before or after that date, he is convicted of the new offence.
 - (1B) A service FSO is an order under paragraph 3(2)(b) of Schedule 12 to the Sentencing Code subjecting the offender to a further period of supervision as a result of breach of supervision requirements—
 - (a) during a period of supervision under an order under section 211 of this Act,
 - (b) during a further period of supervision imposed for breach of supervision requirements during a period within paragraph (a), or
 - (c) during one of a series of further periods of supervision—

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- (i) each of which apart from the first was imposed for breach of supervision requirements during the previous further period of supervision, and
- (ii) the first of which was imposed for breach of supervision requirements during a period within paragraph (a).

Terms used in this subsection have the same meaning as in section 213(4) (see section 213(6)).”

- (3) In subsection (3)(b), at the end insert “or (1A) (as the case may be)”.
 - (4) In subsection (7)(c), for “section 105 of the Sentencing Act” substitute “paragraph 7 of Schedule 12 to the Sentencing Code”.
- 35 In section 215 (section 214: definitions etc)—
- (a) in subsection (1), for “Section 101(13) of the Sentencing Act” substitute “Section 238(3) of the Sentencing Code”;
 - (b) in subsection (3), for “section 107 of the Sentencing Act” substitute “section 248 of the Sentencing Code”.

PART 5

AMENDMENTS TO CHAPTER 6 OF PART 8: SENTENCES FOR CERTAIN OFFENCES

- 36 Chapter 6 of Part 8 of the Armed Forces Act 2006 is amended as follows.
- 37 In section 217 (mandatory life imprisonment), for subsection (2) substitute—
- “(2) Where on conviction the offender is 21 or over, the court must sentence the offender to imprisonment for life.
 - (3) Where on conviction the offender is aged under 21, the court must pass on the offender a sentence of custody for life under section 275 of the Sentencing Code.
 - (4) Subsection (3) does not apply where the offender is liable to be detained under section 218 (detention at Her Majesty’s pleasure for offender under 18).”
- 38 (1) Section 218A (life sentence for second listed offence) is amended as follows.
- (2) In subsection (1)—
 - (a) in paragraph (b), for “Part 1 of Schedule 15B to the 2003 Act” substitute “Part 1 of Schedule 15 to the Sentencing Code”;
 - (b) in paragraph (c), for “after this section comes into force” substitute “on or after the relevant date”.
 - (3) After subsection (1) insert—
 - “(1A) In subsection (1)(c), “relevant date”, in relation to an offence, means the date specified for the corresponding offence (as mentioned in subsection (1)(b)) in Part 1 of Schedule 15 to the Sentencing Code.
 - (1B) Where the offender is under 21 when convicted of the offence under section 42, section 273(3) of the Sentencing Code (duty of court to impose

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custody for life except in exceptional circumstances) applies in relation to the offender.”

- (4) In subsection (2), for “Section 224A(2) of the 2003 Act” substitute “Where the offender is 21 or over when convicted of the offence under section 42, section 283(3) of the Sentencing Code (duty of court to impose imprisonment for life except in exceptional circumstances)”.
- (5) In subsection (3)—
- (a) in the opening words—
 - (i) for “section 224A(2)(a) of that Act” substitute “sections 273(3)(a) and 283(3)(a) of that Code”;
 - (ii) for “subsection (2)” substitute “subsections (1B) and (2)”;
 - (b) in paragraph (a), for ““the offence”” substitute ““the index offence””;
 - (c) in paragraph (b), for “subsection (4)” substitute “subsection (5)”.
- (6) In subsection (4)—
- (a) after “more,” insert “or, in the case of an offender aged under 21 on conviction, a sentence of detention in a young offender institution for 10 years or more,”;
 - (b) for “section 226A of the 2003 Act” substitute “section 266 or 279 of the Sentencing Code”.
- (7) In subsection (5)(a), for “Schedule 15B to the 2003 Act” substitute “Schedule 15 to the Sentencing Code”.
- (8) After subsection (5) insert—
- “(5A) For the purposes of subsection (5), Schedule 15 is to be read as if Part 1 did not include any offence for which the date specified in that Part is after the date on which the offence under section 42 was committed.”
- (9) In subsection (6), for “section 224A(4)(b) of the 2003 Act (see subsections (5) to (10) of that section)” substitute “section 273(5)(b) of the Sentencing Code (see subsections (7) to (12) of that section) or section 283(5)(b) of that Code (see subsections (7) to (12) of that section)”.
- (10) In subsection (7), for “section 224A(2) of that Act” substitute “section 273(3) or 283(3) of the Sentencing Code”.
- (11) In subsection (8), for “and (5)(a)” substitute “, (5)(a) and (5A)”.
- 39 (1) Section 219 (life sentence for certain dangerous offenders aged 18 or over) is amended as follows.
- (2) In subsection (1)(b), for “serious offence” substitute “Schedule 19 offence within the meaning of Part 10 of the Sentencing Code (see section 307 of that Code)”.
 - (3) After subsection (1) insert—

“(1A) Where the offender is under 21 when convicted of the offence under section 42, section 274(3) of the Sentencing Code (duty to impose custody for life) applies in relation to the offender.”

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- (4) In subsection (2) for “Section 225(2) of the 2003 Act” substitute “Where the offender is 21 or over when convicted of the offence under section 42, section 285(3) of the Sentencing Code (duty to impose imprisonment for life)”.
 - (5) In subsection (3) for “section 225(2) of the 2003 Act (as applied by subsection (2))” substitute “sections 274(3) and 285(3) of the Sentencing Code (as applied by subsections (1A) and (2))”.
 - (6) Omit subsection (4).
 - (7) In subsection (5), for “section 225 of the 2003 Act” substitute “section 274 or 285 of the Sentencing Code”.
- 40 (1) Section 219A (extended sentences for certain violent, sexual or terrorism offenders aged 18 or over) is amended as follows.
- (2) In subsection (1)—
 - (a) in paragraph (b), at the end insert “within the meaning of the Sentencing Code (see section 306 of that Code)”;
 - (b) for paragraph (d) (but not the “and” following it) substitute—
 - “(d) the court is not required—
 - (i) by section 273(3) of the Sentencing Code (as applied by section 218A(1B) of this Act) to impose a sentence of custody for life;
 - (ii) by section 283(3) of the Sentencing Code (as applied by section 218A(2) of this Act) to impose a sentence of imprisonment for life;
 - (iii) by section 274(3) of the Sentencing Code (as applied by section 219(1A) of this Act) to impose a sentence of custody for life;
 - (iv) by section 285(3) of the Sentencing Code (as applied by section 219(2) of this Act) to impose a sentence of imprisonment for life;”.
 - (3) In subsection (2), for “Schedule 15B to the 2003 Act” substitute “Schedule 14 to the Sentencing Code”.
 - (4) In subsection (3), for “extended sentence of imprisonment under section 226A of the 2003 Act” substitute “extended sentence of detention in a young offender institution or an extended sentence of imprisonment”.
 - (5) For subsections (4) to (6) substitute—
 - “(4) Where the offender is under 21 when convicted of the offence under section 42, an extended sentence of detention in a young offender institution under section 266 of the Sentencing Code is available in respect of the offence.
 - (5) Subsections (2) to (5) of section 268 of the Sentencing Code apply where a court dealing with an offender for an offence imposes, or is considering whether to impose, an extended sentence of detention in a young offender institution under section 266 of the Sentencing Code by virtue of this section.
 - (6) In their application to an offender by virtue of subsection (5), subsections (2) to (5) of section 268 of the Sentencing Code are modified as follows—

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- (a) subsection (2) has effect as if, for “section 231(2)” there were substituted “section 261(2) of the Armed Forces Act 2006”;
 - (b) subsection (3) has effect as if, after “offences” there were inserted “or further acts or omissions that would be specified offences if committed in England and Wales”;
 - (c) in subsection (4)(b), sub-paragraphs (i) and (ii) both have effect as if for “in the case of” there were substituted “if the offence under section 42 was one for which the corresponding offence under the law of England and Wales was”.
- (7) Where the offender is 21 or over when convicted of the offence under section 42, an extended sentence of imprisonment under section 279 of the Sentencing Code is available in respect of the offence.
- (8) Subsections (2) to (5) of section 281 of the Sentencing Code apply where a court dealing with an offender for an offence imposes, or is considering whether to impose, an extended sentence of imprisonment under section 279 of the Sentencing Code by virtue of this section.
- (9) In their application to an offender by virtue of subsection (8), subsections (2) to (5) of section 281 of the Sentencing Code are modified as follows—
- (a) subsection (2) has effect as if, for “section 231(2)” there were substituted “section 261(2) of the Armed Forces Act 2006”;
 - (b) subsection (3) has effect as if, after “offences” there were inserted “or further acts or omissions that would be specified offences if committed in England and Wales”;
 - (c) in subsection (4)(b), sub-paragraphs (i) and (ii) both have effect as if for “in the case of” there were substituted “if the offence under section 42 was one for which the corresponding offence under the law of England and Wales was”.
- 41 (1) Section 221 (life sentence for certain dangerous offenders aged under 18) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), after “conduct)” insert “which was committed on or after 4 April 2005”;
 - (b) in paragraph (b), for “serious offence” substitute “Schedule 19 offence within the meaning of Part 10 of the Sentencing Code (see section 307 of that Code)”;
 - (c) after paragraph (b) (but before the word “and” following it) insert—
 - “(ba) the court considers that the seriousness of—
 - (i) the offence under section 42, or
 - (ii) that offence and one or more offences associated with it,
 is such as to justify the imposition of a sentence of detention for life.”.
- (3) In subsection (2), for “Section 226(2) of the 2003 Act” substitute “Section 258(2) of the Sentencing Code (duty to impose detention for life)”.
- (4) For subsection (3) substitute—

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- “(3) In section 258(2) of the Sentencing Code (as applied by subsection (2)), the reference to section 250 of that Code is to be read as a reference to section 209 of this Act.”
- (5) Omit subsection (5).
- (6) In subsection (6), for “section 226 of the 2003 Act” substitute “section 258(2) of the Sentencing Code”.
- 42 (1) Section 221A (extended sentence for certain violent, sexual or terrorism offenders aged under 18) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (b), at the end insert “within the meaning of the Sentencing Code (see section 306 of that Code)”;
- (b) in paragraph (d), for “section 226(2) of the 2003 Act” substitute “section 258(2) of the Sentencing Code”;
- (c) in paragraph (e), omit “under section 226B of the 2003 Act”.
- (3) For subsections (2) to (4) substitute—
- “(2) An extended sentence of detention under section 254 of the Sentencing Code is available in respect of the offence.
- (3) Subsections (2) to (5) of section 256 of the Sentencing Code apply where a court is determining—
- (a) the appropriate custodial term, and
- (b) the extension period,
- of an extended sentence of detention to be imposed on an offender under section 254 of the Sentencing Code by virtue of this section.
- (4) In their application to an offender by virtue of subsection (3), subsections (2) to (5) of section 256 of the Sentencing Code are modified as follows—
- (a) subsection (2) has effect as if, for “section 231(2)” there were substituted “section 261(2) of the Armed Forces Act 2006”;
- (b) subsection (3) has effect as if, after “offences” there were inserted “or further acts or omissions that would be specified offences if committed in England and Wales”;
- (c) in subsection (4)(b), sub-paragraphs (i) and (ii) both have effect as if for “in the case of” there were substituted “if the offence under section 42 was one for which the corresponding offence under the law of England and Wales was”.”
- 43 (1) Section 223 (the “required opinion” for the purposes of sections 219 to 221A) is amended as follows.
- (2) In subsection (2)—
- (a) for “section 229(2) and (2A) of the 2003 Act” substitute “subsections (2) and (3) of section 308 of the Sentencing Code”;
- (b) for “section 229(1) of that Act” substitute “subsection (1) of that section”.
- (3) For subsection (3) substitute—

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“(3) In section 308(2)(a) of the Sentencing Code as applied by this section, the reference to the offence is to be read as a reference to the offence under section 42 of this Act.”

(4) In subsection (4), in the definition of “serious harm”, for “section 224 of the 2003 Act” substitute “section 306 of the Sentencing Code”.

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

“224 Place of detention for extended sentences for offenders aged under 18

Section 261 of the Sentencing Code (detention in pursuance of extended sentence) applies to detention imposed by virtue of section 221A of this Act as it applies to detention under section 254 of that Code.”

45 (1) Section 224A (special custodial sentence for certain offenders of particular concern) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (b), for “Schedule 18A to the 2003 Act” substitute “Schedule 13 to the Sentencing Code”;

(b) in paragraph (d)—

(i) in sub-paragraph (i), after “imprisonment” insert “or custody”;

(ii) in sub-paragraph (ii), for “imprisonment under section 226A of the 2003 Act” substitute “detention or imprisonment under section 266 or 279 of the Sentencing Code”.

(3) For subsection (2) substitute—

“(2) If—

(a) the court imposes a sentence of detention in a young offender institution for the offence, and

(b) the offender is aged under 21 when convicted of the offence, subsections (2) and (3) of section 265 of the Sentencing Code (term of special sentence) apply in relation to the term of the sentence.

(2A) If—

(a) the court imposes a sentence of imprisonment for the offence, and

(b) the offender is aged 21 or over when convicted of the offence, subsections (2) and (3) of section 278 of the Sentencing Code (term of special sentence) apply in relation to the term of the sentence.”

(4) In subsection (3), for “and (2)” substitute “, (2) and (2A)”.

(5) For subsection (4) substitute—

“(4) In Schedule 13 to the Sentencing Code, as applied by subsection (1)(b), the reference in paragraph 10 to section 69 of that Code is to be read as a reference to that section as applied by section 238(6) of this Act.”

46 In section 225 (third drug trafficking offence)—

(a) in subsection (1)(b), for “section 110 of the Sentencing Act” substitute “section 313 of the Sentencing Code”;

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

- (b) in subsection (2), for “section 110(2) of that Act” substitute “section 313(2) of that Code”.
- 47 In section 226 (third domestic burglary)—
- (a) in subsection (1)(b), for “section 111 of the Sentencing Act” substitute “section 314 of the Sentencing Code”;
- (b) in subsection (2), for “section 111(2) of that Act” substitute “section 314(2) of that Code”.
- 48 (1) Section 227 (firearms offences) is amended as follows.
- (2) In subsection (1)—
- (a) after paragraph (a) (but before the “and”) insert—
- “*(aa)* the corresponding offence under the law of England and Wales is an offence listed in any of paragraphs 1 to 4 of Schedule 20 to the Sentencing Code;”;
- (b) in paragraph (b), for “the corresponding offence under the law of England and Wales, section 51A of the Firearms Act 1968 (c.27)” substitute “that corresponding offence, section 311 of the Sentencing Code”.
- (3) In subsection (2), for “section 51A(2) of that Act” substitute “section 311(2) of the Sentencing Code”.
- (4) In subsection (3)—
- (a) for “section 51A(4)(a)(ii) of that Act (interpretation of section 51A(2))” substitute “section 311(3)(a) of that Code”;
- (b) for “section 91 of the Sentencing Act” substitute “section 250 of that Code”.
- 49 (1) Section 227A (offences of threatening with a weapon on public or on school premises) is amended as follows.
- (2) After subsection (1), insert—
- “(1A) Where the offender is aged under 21 at the time of conviction, the court must impose a sentence of detention in a young offender institution for a term of at least 6 months unless the court is of the opinion that there are particular circumstances which—
- (a) relate to the offence or to the offender, and
- (b) would make it unjust to do so in all the circumstances.”
- (3) In subsection (2), at the beginning insert “Where the offender is aged 21 or over at the time of conviction,”.
- (4) Omit subsection (3).
- 50 (1) Section 228 (appeals where previous convictions set aside) is amended as follows.
- (2) In subsection (1B)(a), for “section 224A of the 2003 Act (as applied by section 218A of this Act)” substitute “section 273(3) or 283(3) of the Sentencing Code (life sentence for second listed offence) as applied by section 218A of this Act”.
- (3) In subsection (1D)(a), for “section 226A of the 2003 Act (as applied by section 219A of this Act)” substitute “section 266 or 279 of the Sentencing Code (extended sentence for certain violent, sexual or terrorism offenders aged 18 or over) as applied by section 219A of this Act”.

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

- (4) In subsection (3A)(a), for “section 224A of the 2003 Act (as applied by section 218A of this Act)” substitute “section 273(3) or 283(3) of the Sentencing Code (life sentence for second listed offence) as applied by section 218A of this Act”.

PART 6

AMENDMENTS TO PART 9: SENTENCING: PRINCIPLES AND PROCEDURES

- 51 Part 9 of the Armed Forces Act 2006 is amended as follows.
- 52 In section 237 (duty to have regard to purposes of sentencing etc), in subsection (3)
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- (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)”.
- 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.”
- 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”;

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

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

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

- (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).”
- 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).”

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;”.

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

62 After section 262, insert—

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

“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).”

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”.

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”.

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”.

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)”.

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

- 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)”.
- 68 In section 271 (civilian courts dealing with service offences), in subsection (2)—
- (a) omit paragraph (a), and
 - (b) in paragraph (b), omit “other”.

PART 7

MISCELLANEOUS FURTHER AMENDMENTS

Amendment to Part 7 (trial by Court Martial)

- 69 In section 164(3), for “under 12 months” substitute “two years or less”.

Amendments to Part 10 (Court Martial decisions: appeal and review)

- 70 In section 273 (review of unduly lenient sentence by Court Martial Appeal Court)—
- (a) in subsection (6)(b), for the words from “section 224A” to the end substitute “—
 - (i) 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);
 - (ii) 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);
 - (iii) section 258(2) of the Sentencing Code as a result of section 221(2) (life sentence for certain dangerous offenders aged under 18);
 - (iv) section 313(2) of the Sentencing Code as a result of section 225(2) (third drug trafficking offence);
 - (v) section 314(2) of the Sentencing Code as a result of section 226(2) (third domestic burglary);
 - (vi) section 311(2) of the Sentencing Code as a result of section 227(2) (firearms offences); or
 - (vii) section 227A(1A) or (2) (threatening with a weapon in public or on school premises);”;
 - (b) in subsection (7), for “an order specified in subsection (7A)” substitute “a minimum term order under section 321 of the Sentencing Code”;
 - (c) omit subsection (7A).

Amendments to Part 11 (The Service Civilian Court)

- 71 (1) Section 283 (imprisonment: maximum term) is amended as follows.

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

- (2) In subsection (1), for “12 months” substitute “6 months”.
- (3) In subsection (2), for “65 weeks” substitute “12 months”.
- (4) At the end insert—

“(3) In this section, references to imprisonment include detention in a young offender institution.”

- 72 In section 284 (fines and compensation: maximum amounts), in subsection (3), for “section 131(1) of the Sentencing Act” substitute “section 139(2) of the Sentencing Code”.

Amendments to Part 12 (service and effect of certain sentences)

- 73 In section 294 (rank or rate of WOs and NCOs while in custody pursuant to custodial sentence etc), in subsection (3)(b), for “section 104 of the Sentencing Act” substitute “paragraph 3 of Schedule 12 to the Sentencing Code”.
- 74 In section 302 (remission of certain sentences on passing of custodial sentence etc), in subsection (3)(b), for “section 104 of the Sentencing Act” substitute “paragraph 3 of Schedule 12 to the Sentencing Code”.
- 75 In section 304 (sentences passed by civilian courts), in subsection (1), for “a sentence of imprisonment” substitute “any sentence”.

Amendments to Part 13 (discipline: miscellaneous and supplementary)

- 76 In section 305 (random drug testing), in subsection (5), for “51 weeks” substitute “six months”.
- 77 In section 322 (financial penalty enforcement orders), in subsection (4), in the definition of “financial penalty”, in paragraph (a), for “paragraph 10(1)(aa) of Schedule 8 to the 2003 Act by virtue of section 184 and Part 2 of Schedule 5” substitute “paragraph 11(2)(a) of Schedule 10 to the Sentencing Code by virtue of section 184 and Schedule 6A”.

Amendments to Part 19 (supplementary)

- 78 (1) Section 374 (definitions applying for purposes of whole Act) is amended as follows.
- (2) In the definition of “associated”, for “section 161(1) of the Sentencing Act” substitute “section 400 of the Sentencing Code”.
- (3) In the definition of “custodial sentence”—
- (a) in paragraph (b), for “(certain young offenders)” substitute “, 221 or 221A (detention of offenders under 18)”;
 - (b) omit paragraph (ea);
 - (c) after paragraph (f) insert—
 - “(g) a sentence of detention in a young offender institution imposed under or as a result of this Act;
 - (h) a sentence of custody for life imposed under or as a result of this Act;”.

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

- (4) In the definition of “suspended sentence of imprisonment”, for “section 189(1) of the 2003 Act” substitute “section 286 of the Sentencing Code”.