



Counter-Terrorism and Sentencing Act 2021

2021 CHAPTER 11

PART 1

SENTENCING OF TERRORIST AND CERTAIN OTHER OFFENDERS

Other custodial sentences for terrorist offenders

- 21 Offences attracting special custodial sentence for offenders of particular concern: England and Wales**
- (1) In the Sentencing Code, for Schedule 13 (offences attracting special custodial sentence for offenders of particular concern) substitute the Schedule set out in Schedule 6 to this Act.
 - (2) The amendment made by subsection (1) does not apply where a person is convicted of an offence before the day on which this section comes into force.
- 22 Special custodial sentence for certain terrorist offenders aged under 18 at time of offence: England and Wales**
- (1) The Sentencing Code is amended as follows.
 - (2) After section 252 insert—

“Special custodial sentence for terrorist offenders

252A Required special sentence of detention for terrorist offenders of particular concern

- (1) Subsections (3) to (5) apply where—

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- (a) a person aged under 18 is convicted of an offence listed in Part 1 of Schedule 13 (offences involving or connected with terrorism),
 - (b) the offence was committed on or after the day on which section 22 of the Counter-Terrorism and Sentencing Act 2021 came into force,
 - (c) the court does not impose either of the following for the offence (or for an offence associated with it)—
 - (i) a sentence of detention for life under section 250, or
 - (ii) an extended sentence of detention under section 254, and
 - (d) the court would, apart from this section, impose a custodial sentence (see, in particular, section 230(2)).
- (2) In determining for the purposes of subsection (1)(d) whether it would impose a custodial sentence, the court must disregard any restriction on its power to impose such a sentence by reference to the age of the offender.
- (3) The court must impose a sentence of detention under this section.
- (4) The term of the sentence must be equal to the aggregate of—
- (a) the appropriate custodial term, and
 - (b) a further period of 1 year for which the offender is to be subject to a licence,
- and must not exceed the maximum term of imprisonment with which the offence is punishable in the case of a person aged 21 or over.
- (5) For the purposes of subsection (4), the “appropriate custodial term” is the term that, in the opinion of the court, ensures that the sentence is appropriate.
- (6) Where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken for the purposes of subsection (1) to have been committed on the last of those days.”
- (3) In section 265 (special sentence of detention in young offender institution for offenders of particular concern)—
- (a) in subsection (1)(b)—
 - (i) omit sub-paragraph (i) (including the final “and”);
 - (ii) in sub-paragraph (ii), after “aged” insert “at least 18 but”;
 - (b) after subsection (1) insert—

“(1A) But this section does not apply if—

 - (a) the offender was aged under 18 when the offence was committed, and
 - (b) the offence—
 - (i) was committed before the day on which section 22 of the Counter-Terrorism and Sentencing Act 2021 came into force, or
 - (ii) is listed in Part 2 of Schedule 13 (sexual offences).”
- (4) In section 278 (special sentence of imprisonment for offenders of particular concern)
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- (a) in subsection (1)(b), omit sub-paragraph (i) (including the final “and”);
 - (b) after subsection (1) insert—

“(1A) But this section does not apply if—

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- (a) the offender was aged under 18 when the offence was committed, and
- (b) the offence—
 - (i) was committed before the day on which section 22 of the Counter-Terrorism and Sentencing Act 2021 came into force, or
 - (ii) is listed in Part 2 of Schedule 13 (sexual offences).”

23 Terrorism sentence with fixed licence period: Scotland

- (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) After section 205ZB (inserted by section 12) insert—

“205ZC Terrorism sentence with fixed licence period

- (1) This section applies where—
 - (a) a person is convicted on indictment of a terrorism offence on or after the day on which section 23 of the Counter-Terrorism and Sentencing Act 2021 comes into force, and
 - (b) the court does not impose one of the following for the offence—
 - (i) a sentence of imprisonment for life to which section 205ZB applies,
 - (ii) a sentence of imprisonment for life to which section 205ZB does not apply but which is imposed for a terrorism offence,
 - (iii) a sentence of detention for life to which section 205ZB applies,
 - (iv) a sentence of detention for life to which section 205ZB does not apply but which is imposed for a terrorism offence (or a sentence of detention without limit of time so imposed),
 - (v) an order for lifelong restriction to which section 205ZB applies,
 - (vi) an order for lifelong restriction to which section 205ZB does not apply but which is imposed for a terrorism offence,
 - (vii) a serious terrorism sentence of imprisonment under section 205ZA(2),
 - (viii) a serious terrorism sentence of detention under section 205ZA(6), or
 - (ix) an extended sentence under section 210A.
- (2) But this section does not apply where—
 - (a) the offender is under the age of 18 when convicted of the offence, and
 - (b) the offence was committed before the day on which section 23 of the Counter-Terrorism and Sentencing Act 2021 came into force.
- (3) If the court decides to impose a sentence of imprisonment and the offender is 21 years of age or over, the court must impose a sentence of imprisonment the term of which is equal to the aggregate of—
 - (a) the appropriate custodial term, and

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- (b) a further period of 1 year for which the offender is to be subject to a licence under Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993.
- (4) If the offender is at least 16 years of age but under 21 (other than an offender falling within subsection (5)) and the court decides to impose a sentence of detention, the court must impose a sentence of detention in a young offenders institution the term of which is equal to the aggregate of—
 - (a) the appropriate custodial term, and
 - (b) a further period of 1 year for which the offender is to be subject to a licence under Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993.
- (5) If the offender is a child and the court decides to impose a sentence of detention, the court must impose a sentence of detention in such place and on such conditions as may be directed under section 208 the term of which is equal to the aggregate of—
 - (a) the appropriate custodial term, and
 - (b) a further period of 1 year for which the offender is to be subject to a licence under Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993.
- (6) The “appropriate custodial term” is the term that, in the opinion of the court, ensures that the sentence is appropriate.
- (7) The term of a sentence of imprisonment or, as the case may be, a sentence of detention, imposed under this section for an offence must not exceed the term that, at the time the offence was committed, was the maximum term permitted for the offence.
- (8) In this section, “terrorism offence” means—
 - (a) an offence that is specified in Schedule 5ZB, or
 - (b) any other offence that has been proved to have been aggravated by reason of having a terrorist connection under section 31 of the Counter-Terrorism Act 2008.”
- (3) After Schedule 5ZA (inserted by section 6) insert, as Schedule 5ZB, the Schedule set out in Schedule 7 to this Act.

24 Terrorism sentence with fixed licence period: Northern Ireland

In the Criminal Justice (Northern Ireland) Order 2008 ([S.I. 2008/1216 \(N.I. 1\)](#)), after Article 15 insert—

“15A Terrorism sentence with fixed licence period

- (1) This Article applies where—
 - (a) a person is convicted after the commencement of section 24 of the Counter-Terrorism and Sentencing Act 2021 of—
 - (i) a serious terrorism offence;
 - (ii) an offence within Part 4 of Schedule 2A (terrorism offences punishable with more than two years’ imprisonment); or

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- (iii) any other offence in respect of which a determination of terrorist connection is made;
 - (b) the court does not impose, in respect of the offence or any offence associated with it, a life sentence, an indeterminate custodial sentence, a serious terrorism sentence or an extended custodial sentence; and
 - (c) the court decides to impose a custodial sentence.
- (2) But this Article does not apply where—
 - (a) the offender is under the age of 18 when convicted of the offence; and
 - (b) the offence was committed before the commencement of section 24 of the Counter-Terrorism and Sentencing Act 2021.
- (3) The court shall impose on the offender a sentence under this Article.
- (4) Where the offender is aged 21 or over, a sentence under this Article is a sentence of imprisonment the term of which is equal to the aggregate of—
 - (a) the appropriate custodial term; and
 - (b) a further period of one year for which the offender is to be subject to a licence.
- (5) Where the offender is under the age of 21, a sentence under this Article is a sentence of detention at such place and under such conditions as the Department of Justice may direct for a term which is equal to the aggregate of—
 - (a) the appropriate custodial term; and
 - (b) a further period of one year for which the offender is to be subject to a licence.
- (6) The term under paragraph (4) or (5) must not exceed the maximum term of imprisonment with which the offence is punishable (apart from Article 13).
- (7) In paragraphs (4)(a) and (5)(a), the “appropriate custodial term” means the term that, in the opinion of the court, ensures that the sentence is appropriate.
- (8) A person detained pursuant to the directions of the Department of Justice under paragraph (5) shall while so detained be in legal custody.
- (9) A court which imposes a sentence under this Article shall not make an order under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968 (suspended sentences) in relation to that sentence.
- (10) Remission shall not be granted under prison rules to the offender in respect of a sentence under this Article.”