



# Counter-Terrorism and Sentencing Act 2021

## 2021 CHAPTER 11

### PART 1

#### SENTENCING OF TERRORIST AND CERTAIN OTHER OFFENDERS

##### *Serious terrorism sentences*

#### **4 Serious terrorism sentence for adults aged under 21: England and Wales**

After section 268 of the Sentencing Code insert—

##### *“Serious terrorism sentence*

#### **268A Serious terrorism sentence of detention in a young offender institution**

A serious terrorism sentence of detention in a young offender institution is a sentence of detention in a young offender institution the term of which is equal to the aggregate of—

- (a) the appropriate custodial term (see section 268C), and
- (b) a further period (the “extension period”) for which the offender is to be subject to a licence.

#### **268B Serious terrorism sentence of detention in a young offender institution: circumstances in which required**

- (1) Subsection (2) applies where a court is dealing with an offender for a serious terrorism offence (see section 306(2)) where—
  - (a) the offence was committed on or after the day on which section 4 of the Counter-Terrorism and Sentencing Act 2021 came into force,

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- (b) the offender was aged 18 or over when the offence was committed,
  - (c) the offender is aged under 21 when convicted of the offence,
  - (d) the court is of the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further serious terrorism offences or other specified offences (see section 308),
  - (e) the court does not impose a sentence of custody for life, and
  - (f) the risk of multiple deaths condition is met.
- (2) The court must impose a serious terrorism sentence of detention in a young offender institution under section 268A unless the court is of the opinion that there are exceptional circumstances which—
- (a) relate to the offence or to the offender, and
  - (b) justify not doing so.
- (3) The risk of multiple deaths condition is that the court is of the opinion that—
- (a) either—
    - (i) the serious terrorism offence, or
    - (ii) the combination of the offence and one or more offences associated with it,
 was very likely to result in or contribute to (whether directly or indirectly) the deaths of at least two people as a result of an act of terrorism (within the meaning of section 1 of the Terrorism Act 2000), and
  - (b) the offender was, or ought to have been, aware of that likelihood.
- (4) It is irrelevant for the purposes of determining whether the risk of multiple deaths condition is met whether or not any death actually occurred.
- (5) 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.
- (6) The pre-sentence report requirements (see section 30) apply to the court in relation to forming the opinion mentioned in subsection (1)(d).

### **268C Term of serious terrorism sentence of detention in a young offender institution**

- (1) This section applies where the court dealing with an offender is required by section 268B to impose a serious terrorism sentence of detention in a young offender institution under section 268A.
- (2) The appropriate custodial term is—
  - (a) 14 years, or
  - (b) if longer, the term of detention in a young offender institution that would be imposed in respect of the offence in compliance with section 231(2) (length of discretionary custodial sentences) if the court did not impose a serious terrorism sentence (or an extended sentence or a sentence under section 265).
- (3) The extension period must be a period of such length as the court considers necessary for the purpose of protecting members of the public from serious

harm occasioned by the commission by the offender of further serious terrorism offences or other specified offences.

This is subject to subsection (4).

- (4) The extension period must—
- (a) be at least 7 years, and
  - (b) not exceed 25 years.”

## **5 Serious terrorism sentence for adults aged 21 or over: England and Wales**

After section 282 of the Sentencing Code insert—

### *“Serious terrorism sentence*

#### **282A Serious terrorism sentence of imprisonment: persons 21 or over**

A serious terrorism sentence of imprisonment is a sentence of imprisonment the term of which is equal to the aggregate of—

- (a) the appropriate custodial term (see section 282C), and
- (b) a further period (the “extension period”) for which the offender is to be subject to a licence.

#### **282B Serious terrorism sentence of imprisonment: circumstances in which required**

- (1) Subsection (2) applies where a court is dealing with an offender for a serious terrorism offence (see section 306(2)) where—
- (a) the offence was committed on or after the day on which section 5 of the Counter-Terrorism and Sentencing Act 2021 came into force,
  - (b) the offender was aged 18 or over when the offence was committed,
  - (c) the offender is aged 21 or over when convicted of the offence,
  - (d) the court is of the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further serious terrorism offences or other specified offences (see section 308),
  - (e) the court does not impose a sentence of imprisonment for life, and
  - (f) the risk of multiple deaths condition is met.
- (2) The court must impose a serious terrorism sentence of imprisonment under section 282A unless the court is of the opinion that there are exceptional circumstances which—
- (a) relate to the offence or to the offender, and
  - (b) justify not doing so.
- (3) The risk of multiple deaths condition is that the court is of the opinion that—
- (a) either—
    - (i) the serious terrorism offence, or
    - (ii) the combination of the offence and one or more offences associated with it,

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was very likely to result in or contribute to (whether directly or indirectly) the deaths of at least two people as a result of an act of terrorism (within the meaning of section 1 of the Terrorism Act 2000), and

- (b) the offender was, or ought to have been, aware of that likelihood.
- (4) It is irrelevant for the purposes of determining whether the risk of multiple deaths condition is met whether or not any death actually occurred.
- (5) 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.
- (6) The pre-sentence report requirements (see section 30) apply to the court in relation to forming the opinion mentioned in subsection (1)(d).

### **282C Term of serious terrorism sentence of imprisonment**

- (1) This section applies where the court dealing with an offender is required by section 282B to impose a serious terrorism sentence of imprisonment under section 282A.
- (2) The appropriate custodial term is—
  - (a) 14 years, or
  - (b) if longer, the term of imprisonment that would be imposed in respect of the offence in compliance with section 231(2) (length of discretionary custodial sentences) if the court did not impose a serious terrorism sentence of imprisonment (or an extended sentence or a sentence under section 278).
- (3) The extension period must be a period of such length as the court considers necessary for the purpose of protecting members of the public from serious harm occasioned by the commission by the offender of further serious terrorism offences or other specified offences.

This is subject to subsection (4).

- (4) The extension period must—
  - (a) be at least 7 years, and
  - (b) not exceed 25 years.”

## **6 Serious terrorism sentence: Scotland**

- (1) After section 205 of the Criminal Procedure (Scotland) Act 1995 insert—

### **“205ZA Serious terrorism sentence**

- (1) This section applies where—
  - (a) a person is convicted on indictment of a serious terrorism offence,
  - (b) the offence was committed on or after the day on which section 6 of the Counter-Terrorism and Sentencing Act 2021 comes into force,
  - (c) the offender was aged 18 or over when the offence was committed,

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- (d) the court is of the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further serious terrorism offences or other terrorism offences to which section 210A applies,
  - (e) the court does not impose a sentence of imprisonment for life or a sentence of detention for life in a young offenders institution,
  - (f) the court does not make an order for lifelong restriction, and
  - (g) the risk of multiple deaths condition is met.
- (2) Where the offender is 21 years of age or over, the court must impose a serious terrorism sentence of imprisonment unless the court is of the opinion that there are exceptional circumstances which—
- (a) relate to the offence or to the offender, and
  - (b) justify not doing so.
- (3) The risk of multiple deaths condition is that the court is of the opinion that—
- (a) either—
    - (i) the serious terrorism offence, or
    - (ii) the combination of the offence and one or more offences associated with it,was very likely to result in or contribute to (whether directly or indirectly) the deaths of at least two people as a result of an act of terrorism (within the meaning of section 1 of the Terrorism Act 2000), and
  - (b) the offender was, or ought to have been, aware of that likelihood.
- (4) It is irrelevant for the purposes of determining whether the risk of multiple deaths condition is met whether or not any death actually occurred.
- (5) A serious terrorism sentence of imprisonment 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 (“the extension period”) for which the offender is to be subject to a licence under Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993.
- (6) Where the offender is under 21 years of age, the court must impose a serious terrorism sentence of detention unless the court is of the opinion that there are exceptional circumstances which—
- (a) relate to the offence or to the offender, and
  - (b) justify not doing so.
- (7) A serious terrorism sentence of detention is 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 (“the extension period”) for which the offender is to be subject to a licence under Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993.
- (8) The appropriate custodial term is—
- (a) 14 years, or

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- (b) if longer, the term of imprisonment or, as the case may be, detention that would be imposed in respect of the offence if the court did not impose a serious terrorism sentence of imprisonment or, as the case may be, a serious terrorism sentence of detention (or a sentence under section 205ZC or an extended sentence under section 210A).
- (9) The extension period must be a period of such length as the court considers necessary for the purpose of protecting members of the public from serious harm occasioned by the commission by the offender of further serious terrorism offences or other terrorism offences to which section 210A applies (but subject to subsection (10)).
- (10) The extension period must—
  - (a) be at least 7 years, and
  - (b) not exceed 25 years.
- (11) Before forming an opinion for the purposes of subsection (1)(d), the court must—
  - (a) consider a report by a relevant officer of a local authority about the offender and the offender’s circumstances, and
  - (b) if the court thinks it necessary, hear that officer.
- (12) In this section—
  - “local authority” and “relevant officer” have the meanings given by section 27 of the Prisoners and Criminal Proceedings (Scotland) Act 1993;
  - “serious terrorism offence” means an offence that—
    - (a) is specified in Part 1 of Schedule 5ZA, or
    - (b) is specified in Part 2 of that Schedule and has been proved to have been aggravated by reason of having a terrorist connection under section 31 of the Counter-Terrorism Act 2008.”
- (2) After Schedule 5 to that Act insert, as Schedule 5ZA, the Schedule set out in Schedule 4 to this Act.

## 7 **Serious terrorism sentence: Northern Ireland**

In the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)), after Article 13 insert—

### “13A **Serious terrorism sentence**

- (1) This Article applies where—
  - (a) a person is convicted on indictment of a serious terrorism offence;
  - (b) the offence was committed after the commencement of section 7 of the Counter-Terrorism and Sentencing Act 2021;
  - (c) at the time when the offence was committed the offender was aged 18 or over;
  - (d) the court is of the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further serious terrorism offences or specified offences;

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- (e) the court does not impose a life sentence or an indeterminate custodial sentence; and
  - (f) the risk of multiple deaths condition is met.
- (2) The court shall impose a serious terrorism sentence, unless the court is of the opinion that there are exceptional circumstances which—
  - (a) relate to the offence or to the offender; and
  - (b) justify not doing so.
- (3) The risk of multiple deaths condition is that the court is of the opinion that—
  - (a) either—
    - (i) the offence referred to in paragraph (1)(a); or
    - (ii) the combination of that offence and one or more offences associated with it,  
was very likely to result in or contribute to (whether directly or indirectly) the deaths of at least two people as a result of an act of terrorism (within the meaning of section 1 of the Terrorism Act 2000); and
  - (b) the offender was, or ought to have been, aware of that likelihood.
- (4) It is irrelevant for the purposes of determining whether the risk of multiple deaths condition is met whether or not any death actually occurred.
- (5) Where the offender is aged 21 or over, a serious terrorism sentence 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 (“the extension period”) for which the offender is to be subject to a licence.
- (6) Where the offender is under the age of 21, a serious terrorism sentence 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 (“the extension period”) for which the offender is to be subject to a licence.
- (7) A person detained pursuant to the directions of the Department of Justice under paragraph (6) shall while so detained be in legal custody.
- (8) In paragraphs (5)(a) and (6)(a), “the appropriate custodial term” means (subject to paragraphs (9) and (10))—
  - (a) a term of 14 years; or
  - (b) if longer, the term that would (apart from this Article and Articles 14 and 15A) be imposed in compliance with Article 7 (length of custodial sentences).
- (9) The court may, to the extent that it considers appropriate in order to take into account a guilty plea in accordance with Article 33(1) of the Criminal Justice (Northern Ireland) Order 1996, specify an appropriate custodial term of less than 14 years but no less than 11 years and 73 days.
- (10) The court may specify a lesser period than that otherwise required by paragraph (8) or (9) if the court is of the opinion that it is appropriate to do so on

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taking account of matters under section 73(2) of the Serious Organised Crime and Police Act 2005 (assistance given or offered to investigator or prosecutor).

- (11) The extension period under paragraph (5)(b) or (6)(b)—
  - (a) must be at least seven years and must not exceed 25 years; and
  - (b) subject to those limits, is to be of such length as the court considers necessary for the purpose of protecting members of the public from the risk of harm referred to in paragraph (1)(d).
- (12) A court which imposes a serious terrorism sentence shall not make an order under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968 (suspended sentences) in relation to that sentence.
- (13) Remission shall not be granted under prison rules to the offender in respect of a sentence imposed under this Article.”