

SCHEDULES

SCHEDULE 13

CONSEQUENTIAL AND RELATED AMENDMENTS

PART 4

SENTENCE FOR OFFENDERS OF PARTICULAR CONCERN AGED UNDER 18 AT TIME OF OFFENCE: ENGLAND AND WALES

Rehabilitation of Offenders Act 1974 (c. 53)

- 13 In section 5 of the Rehabilitation of Offenders Act 1974 as it forms part of the law of England and Wales (rehabilitation periods for particular sentences)—
- (a) in subsection (1)(d), after “or section 250” insert “or 252A”;
 - (b) in subsection (8), in paragraph (f) of the definition of “custodial sentence”, before “of the Sentencing Code” insert “or 252A”.

Magistrates’ Courts Act 1980 (c. 43)

- 14 (1) The Magistrates’ Courts Act 1980 is amended as follows.
- (2) In section 24A(5)(b) (explanation of sentencing powers if offender aged under 18 pleads guilty)—
- (a) after “16” insert “, 16A”;
 - (b) after “16(1)(c)” insert “, 16A(1)(c)”.
- (3) In section 113(3) (no bail pending appeal for accused committed to Crown Court), after “16” insert “, 16A”.

Mental Health Act 1983 (c. 20)

- 15 In section 43(4) of the Mental Health Act 1983 (modification of magistrates’ court’s powers of committal), for “or 16” substitute “, 16 or 16A”.

Criminal Justice and Public Order Act 1994 (c. 33)

- 16 In section 25(5) of the Criminal Justice and Public Order Act 1994 (restriction of bail for certain offenders: interpretation), in paragraph (a) of the definition of “the relevant enactments”, after “250” insert “or 252A”.

Crime and Disorder Act 1998 (c. 37)

- 17 (1) The Crime and Disorder Act 1998 is amended as follows.

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- (2) In section 38(4) (youth justice services to be provided by local authorities), in paragraph (i), after “250,” insert “252A,”.
- (3) In section 41(5)(i) (accommodation that may be provided under agreement with the Youth Justice Board), in sub-paragraph (ii), after “250,” insert “252A,”.
- (4) In section 51A(3) (conditions for sending offender aged under 18 to Crown Court for trial), after paragraph (b) insert—
 - “(ba) that the offence is such as is mentioned in section 252A(1)(a) of the Sentencing Code and the court considers that if he is found guilty of the offence it ought to be possible to sentence him under that section to a term of detention of more than two years;”.

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

- 18 (1) The Criminal Justice and Court Services Act 2000 is amended as follows.
- (2) In section 62(5) (sentences in relation to which electronic monitoring conditions may be imposed on release), in paragraph (d), after “250” insert “or 252A”.
 - (3) In section 62A(4) (exceptions from power to require imposition of electronic monitoring condition), in paragraph (b), after “250” insert “or 252A”.
 - (4) In section 64(5) (sentences in relation to which drug testing requirement may be imposed on release), in paragraph (d), after “250” insert “or 252A”.
 - (5) In section 64A(8) (power to require attendance at drug testing appointment: interpretation), in paragraph (c) of the definition of “sentence of imprisonment”, after “250” insert “or 252A”.

Proceeds of Crime Act 2002 (c. 29)

- 19 In section 70(5) of the Proceeds of Crime Act 2002 (duty to state whether committal would have been made on grounds other than confiscation), after “16(2)” insert “or 16A(2)”.

Sexual Offences Act 2003 (c. 42)

- 20 In section 131 of the Sexual Offences Act 2003 (application of notification requirements and orders to young offenders), in paragraph (h), after “250” insert “, 252A”.

Criminal Justice Act 2003 (c. 44)

- 21 (1) The Criminal Justice Act 2003 is amended as follows.
- (2) In section 237(1)(b) (offender sentenced to youth detention to count as fixed-term prisoner), after “250” insert “, 252A”.
 - (3) In section 240ZA(11) (time remanded in custody to count towards term of youth detention), after “250,” insert “252A,”.
 - (4) In section 247A (eligibility for release on licence of terrorist prisoners)—
 - (a) in subsection (6), after “or under section” insert “252A,”;

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- (b) in subsection (8), in the definition of “the appropriate custodial term”, and in paragraph (a) of the definition of “the requisite custodial period”, after “or under section” insert “252A,”.
- (5) In section 250 (licence conditions)—
 - (a) in subsection (4), after “250,” insert “252A,”;
 - (b) in subsection (5A)(b), after “or under section” insert “252A,”.
- (6) In section 258(3A) (no duty to release fine defaulter or contemnor also serving term of youth detention), after “250” insert “, 252A”.
- (7) In section 263(4) (sentences of detention to which provision about concurrent terms applies), after “250,” insert “252A,”.
- (8) In section 264 (consecutive sentences)—
 - (a) in subsection (6A)(a), for “265” substitute “252A, 265”;
 - (b) in subsection (7), after “250,” insert “252A,”.
- (9) In section 327(3) (sentences attracting risk assessment measures for sexual or violent offenders), in paragraph (b)(v), after “250” insert “or 252A”.

Domestic Violence, Crime and Victims Act 2004 (c. 28)

- 22 In section 45(1) of the Domestic Violence, Crime and Victims Act 2004 (victims’ representations and information: interpretation), in the definition of “relevant sentence”, after “250” insert “or 252A”.

Armed Forces Act 2006 (c. 52)

- 23 (1) The Armed Forces Act 2006 is amended as follows.
- (2) In section 188(4) (consecutive sentence may be passed on offender serving term of youth detention), in paragraph (b), after “250” insert “or 252A”.
 - (3) In section 213(3A) (application of section 253 of the Sentencing Code), after “250” insert “or 252A”.
 - (4) In section 227(3) (minimum sentence for certain firearms offences), after “250” insert “or 252A”.

Offender Management Act 2007 (c. 21)

- 24 In section 28(3) of the Offender Management Act 2007 (custodial sentences where polygraph condition may be imposed on release on licence)—
- (a) omit the “or” before paragraph (f);
 - (b) at the end of that paragraph insert “or
 - (g) a sentence of detention under section 252A of the Sentencing Code.”

Counter-Terrorism Act 2008 (c. 28)

- 25 In section 45(1)(a) of the Counter-Terrorism Act 2008 (sentences attracting notification requirements), after paragraph (via) (but before the final “or”) insert—

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“(vib) detention under section 252A of the Sentencing Code (special sentence for terrorist offenders of particular concern aged under 18).”.

Sentencing Act 2020 (c. 17)

- 26 (1) The Sentencing Act 2020 is amended as follows.
 (2) After section 16 insert—

“16A Committal for sentence of young offenders on summary trial of certain terrorist offences

- (1) This section applies where—
- (a) on summary trial of an offence within section 252A(1)(a) (terrorism offences attracting special sentence for offenders of particular concern), a person is convicted of the offence,
 - (b) the person is aged under 18 at the time of conviction, and
 - (c) the court is of the opinion that—
 - (i) the offence, or
 - (ii) the combination of the offence and one or more offences associated with it,
 was such that the Crown Court should have power to deal with the offender by imposing a sentence of detention under section 252A for a term of more than two years.
- (2) The court may commit the offender in custody or on bail to the Crown Court for sentence in accordance with section 22(2).
- (3) For powers of the court, where it commits a person under subsection (2), also to commit in respect of other offences, see section 20.”
- (3) In section 17(4) (power to commit dangerous young offender for sentence not to affect other powers of committal), after “16” insert “, 16A”.
- (4) In section 19 (committal for sentence on indication of guilty plea by child with related offences)—
- (a) in subsection (1)(b), at the end insert “or section 252A(1)(a) (terrorism offences attracting special sentence for offenders of particular concern)”;
 - (b) in subsection (2)(a), after “249(1)” insert “or within section 252A(1)(a)”;
 - (c) in subsection (3)(b), after “16(2)” insert “, 16A(2)”.
- (5) In section 22 (powers of Crown Court where offender aged under 18 committed for sentence)—
- (a) in the heading, after “16,” insert “16A,”;
 - (b) in subsection (1), after paragraph (a) insert—

“(aa) section 16A(2) (committal for sentence of young offenders on summary trial of certain terrorist offences),”;
 - (c) in subsection (4)(b), after “16(2)” insert “, 16A(2)”.
- (6) In section 166(5) (periods of extension of driving disqualification order where custodial sentence imposed), after entry 1 in the table insert—

- “1A a sentence of detention under section 252A (special sentence of detention for terrorist offenders of particular concern) two-thirds of the term imposed pursuant to section 252A(5) (the appropriate custodial term)”.
- (7) In section 221(2) (kinds of custodial sentence dealt with by Chapter 2 of Part 10), after paragraph (b) insert—
- “(ba) special sentences of detention for terrorist offenders of particular concern (section 252A);”.
- (8) In section 225 (restriction on consecutive sentences for released prisoners), in subsection (3)(c), after sub-paragraph (i) insert—
- “(ia) section 252A,”.
- (9) In section 226(2)(b) (sentences which may not be imposed on offender aged under 21 without representation), after “(or 254)” insert “, under section 252A”.
- (10) In section 234(1)(c) (sentences to be considered before detention and training order), after sub-paragraph (i) (but before the final “or”) insert—
- “(ia) a sentence of detention under section 252A,”.
- (11) In section 241(6) (modification of order for release from detention and training order where offender subject to another sentence), in paragraph (b), after sub-paragraph (i) insert—
- “(ia) a sentence of detention under section 252A,”.
- (12) In section 248(4) (meaning of “relevant sentence of detention”), after paragraph (a) insert—
- “(aa) a sentence of detention under section 252A,”.
- (13) In section 249(1) (availability of sentence of detention under section 250), after “table” insert “(but the court is not required to pass a sentence of detention under section 252A)”.
- (14) Before section 253, insert as an italic heading, “Sentences of detention passed during detention and training order”.
- (15) In section 253 (effect of sentence of detention where offender already subject to detention and training order), in subsection (1), after “250” insert “or 252A”.
- (16) In section 255(1)(a) (offences for which extended sentence of detention available), for sub-paragraph (ii) substitute—
- “(ii) is one for which a sentence of detention is available under section 250 or 252A (see the table in section 249(1) and section 252A(1)(a) and (b)),”.
- (17) In section 260 (place and conditions of detention), in the heading and in subsection (1), after “250” insert “, 252A”.
- (18) In section 265 (special sentence of detention in young offender institution for offenders of particular concern), after subsection (3) insert—
- “(4) 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

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taken for the purposes of subsection (1A) to have been committed on the last of those days.”

- (19) In section 278 (special sentence of imprisonment for offenders of particular concern), after subsection (3) insert—
- “(4) 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 (1A) to have been committed on the last of those days.”
- (20) In section 311(3) (appropriate type of sentence where minimum sentence for firearms offence imposed), after “250” insert “or, in a case to which section 252A applies, under that section”.
- (21) In section 312 (minimum sentence for threatening with weapon or bladed article), after subsection (3) insert—
- “(4) This section is subject to section 252A.”
- (22) In section 315 (minimum sentence for repeat offence involving weapon or bladed article), after subsection (5) insert—
- “(6) This section is subject to section 252A.”
- (23) In section 325(5) (sentences where certain time on bail to count towards term), in paragraph (c), after “section 250” insert “, 252A”.
- (24) In section 327(2) (sentences where time in custody awaiting extradition to count towards term), in paragraph (c), after “section 250” insert “, 252A”.
- (25) In section 329 (conversion of sentences of detention to imprisonment)—
- (a) in subsection (3), for “(4) and” substitute “(4) to”;
 - (b) after subsection (4) insert—

“(4A) If the relevant custodial sentence is—

 - (a) a sentence of detention under section 252A, or
 - (b) a sentence of detention in a young offender institution under section 265,

the offender is to be treated as if sentenced to a sentence of imprisonment under section 278.”;
 - (c) in subsection (7), after paragraph (a) insert—

“(aa) a sentence of detention under section 252A.”.
- (26) In section 417(3) (commencement of provisions of Schedule 22 which relate to prospective abolition of sentences of detention in a young offender institution), in paragraph (c), after “51” insert “, 51A”.
- (27) In Schedule 22 (amendments of the Sentencing Code, including in relation to prospective abolition of sentences of detention in a young offender institution)—
- (a) after paragraph 51 insert—

“51A In section 252A (special sentence of detention for terrorist offenders of particular concern aged under 18), in subsection (4), for “21” substitute “18”.”;

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- (b) in paragraph 70 (amendment of section 329 of the Sentencing Code in relation to the prospective abolition of sentences of detention in a young offender institution), before paragraph (a) insert—
- “(zb) in subsection (4A), omit paragraph (b) (and the word “or” immediately before it);”.
- (28) In Schedule 27 (transitional provision and savings), in paragraph 15(2), before paragraph (a) insert—
- “(za) the reference in section 252A(1)(c)(i) to a sentence of detention for life under section 250 includes a reference to a sentence of detention for life under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000;
- (zb) the reference in section 252A(1)(c)(ii) to an extended sentence of detention under section 254 includes a reference to an extended sentence of detention under section 226B of the Criminal Justice Act 2003;”.

Children (Secure Accommodation) Regulations 1991 (S.I. 1991/1505)

- 27 In regulation 5(1) of the Children (Secure Accommodation) Regulations 1991 (custodial sentences disapplying section 25 of the Children Act 1989), before “or 259” insert “, 252A”.

Youth Justice Board for England and Wales Order 2000 (S.I. 2000/1160)

- 28 In article 4(2) of the Youth Justice Board for England and Wales Order 2000 (functions exercisable by the Youth Justice Board concurrently with the Secretary of State)—
- (a) in paragraph (a), before “or 259” insert “, 252A”;
- (b) in paragraph (m)(ii), before “or 259” insert “, 252A”.

Child Benefit (General) Regulations 2006 (S.I. 2006/223)

- 29 In regulation 1(3) of the Child Benefit (General) Regulations 2006 (interpretation of Regulations), in paragraph (a) of the definition of “penalty”, after “250,” insert “252A,”.

Employment and Support Allowance Regulations 2008 (S.I. 2008/794)

- 30 In regulation 160(5) of the Employment and Support Allowance Regulations 2008 (exceptions from disqualification for imprisonment: interpretation), in paragraph (c), after “250” insert “, 252A”.

Employment and Support Allowance Regulations 2013 (S.I. 2013/379)

- 31 In regulation 96(6) of the Employment and Support Allowance Regulations 2013 (exceptions from disqualification for imprisonment: interpretation), in paragraph (c), after “250” insert “, 252A”.

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Children (Secure Accommodation) (Wales) Regulations 2015 (S.I. 2015/1988 (W. 298))

- 32 In regulation 14(a) of the Children (Secure Accommodation) (Wales) Regulations 2015 (sentences of detention disapplying section 119 of the Social Services and Well-being (Wales) Act 2014), after “250” insert “, 252A”.