

SCHEDULES

SCHEDULE 8

CORRESPONDING PROVISION ABOUT SENTENCING UNDER SERVICE LAW

PART 3

SPECIAL CUSTODIAL SENTENCE FOR TERRORIST OFFENDERS OF PARTICULAR CONCERN AGED UNDER 18 AT TIME OF OFFENCE

- 7 The Armed Forces Act 2006 is amended as follows.
- 8 (1) Section 224A (special custodial sentence for offenders of particular concern) is amended as follows.
- (2) In the heading, at the end insert “aged 18 or over”.
- (3) In subsection (1)—
- (a) in paragraph (a), after “person” insert “aged 18 or over”;
 - (b) omit paragraph (c) (but not the final “and”).
- (4) 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 paragraph 8 of Schedule 8 to the Counter-Terrorism and Sentencing Act 2021 came into force, or
 - (ii) is an offence under section 42 as respects which the corresponding offence under the law of England and Wales is listed in Part 2 of Schedule 13 to the Sentencing Code (sexual offences).”
- 9 After section 224A insert—
- “224B Special sentence of detention for terrorist offenders of particular concern aged under 18**
- (1) Subsections (3) and (4) apply where—
- (a) a person aged under 18 is convicted by the Court Martial of an offence committed on or after day on which paragraph 9 of Schedule 8 to the Counter-Terrorism and Sentencing Act 2021 comes into force,
 - (b) the offence—

Status: This is the original version (as it was originally enacted).

- (i) is an offence under section 42 (criminal conduct) as respects which the corresponding offence under the law of England and Wales is listed in Part 1 of Schedule 13 to the Sentencing Code (except in paragraph 9 of that Schedule) (terrorism offences), or
 - (ii) is an offence, other than one for which the sentence is fixed by law as life imprisonment, that is determined to have a terrorist connection under section 69 of the Sentencing Code (as applied by section 238(6)),
 - (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 209, or
 - (ii) an extended sentence of detention under section 254 of the Sentencing Code (as applied by section 221A of this Act), and
 - (d) the court would, apart from this section, impose a custodial sentence (see, in particular, section 260(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) Subsections (4) and (5) of section 252A of the Sentencing Code apply in relation to the term of the sentence.
- (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.”