

# Counter-Terrorism and Sentencing Bill

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SECOND  
MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
IN COMMITTEE OF THE WHOLE HOUSE

*The amendments have been marshalled in accordance with the Instruction of 21st January 2021, as follows –*

Clause 1	Clauses 24 and 25
Schedule 1	Schedule 8
Clause 2	Clauses 26 and 27
Schedule 2	Schedule 9
Clause 3	Clause 28
Schedule 3	Schedule 10
Clauses 4 to 6	Clauses 29 to 36
Schedule 4	Schedule 11
Clauses 7 to 19	Clauses 37 to 45
Schedule 5	Schedule 12
Clauses 20 and 21	Clauses 46 to 48
Schedule 6	Schedule 13
Clauses 22 and 23	Clauses 49 to 53
Schedule 7	Title.

*[Amendments marked ★ are new or have been altered]*

Amendment  
No.

**After Clause 31**

LORD MARKS OF HENLEY-ON-THAMES  
LORD PADDICK  
BARONESS HAMWEE

16 Insert the following new Clause –

**“Review of sections 1 to 31**

- (1) The Secretary of State must arrange for an independent review of the impact of sections 1 to 31 of this Act to be carried out in relation to the initial one-year period.
- (2) The Secretary of State must, after consultation with the Independent Reviewer of Terrorism Legislation, appoint a person with professional experience relating to imprisonment for offences of terrorism to conduct the review.

**After Clause 31 - continued**

- (3) The review under subsection (1) must consider but is not limited to considering any evidence as to any effects of this Act—
  - (a) by the imposition of longer prison sentences upon the reform or rehabilitation of those offenders on whom they are imposed;
  - (b) upon the reform or rehabilitation of those offenders required to serve a greater proportion of their sentences in prison and a correspondingly smaller proportion on licence;
  - (c) upon the radicalisation of prisoners other than those upon whom longer prison sentences are imposed or who are required to serve a greater proportion of their sentences in prison;
  - (d) on the degree to which those prisoners upon whom a serious terrorist sentence is imposed are segregated from other prisoners.
- (4) The review must be completed as soon as practicable after the end of the initial one-year period.
- (5) As soon as practicable after a person has carried out the review in relation to a particular period, the person must—
  - (a) produce a report of the outcome of the review, and
  - (b) send a copy of the report to the Secretary of State.
- (6) The Secretary of State must lay before each House of Parliament a copy of the report under subsection (5)(b) within one month of receiving the report.
- (7) In this section, “initial one-year period” means the period of one year beginning with the day on which this Act is passed.”

***Member’s explanatory statement***

*This Clause would require an independent review of the impact of sections 1 to 31 of the Act after one year, with particular attention to radicalisation in prisons and the effects of longer periods of imprisonment on reform and rehabilitation and radicalisation in prisons and of segregating serious terrorist offenders.*

**Clause 32**

LORD WOLFSON OF TREDEGAR

17 Page 28, line 30, leave out paragraph (a)

***Member’s explanatory statement***

*This amendment and the amendment at page 29, line 14 are consequential on the removal of Clause 35.*

18 Page 29, line 14, leave out paragraph (b)

***Member’s explanatory statement***

*See the explanatory statement to the amendment at page 28, line 30.*

BARONESS HAMWEE  
LORD MARKS OF HENLEY-ON-THAMES

**19** Page 29, line 18, at end insert –

“(4) In section 30 (use in criminal proceedings of evidence from polygraph sessions), in subsection (1), leave out “a released” and insert “any”.”

***Member’s explanatory statement***

*This amendment probes the use of information obtained through polygraphs against third persons.*

**Clause 33**

LORD WOLFSON OF TREDEGAR

*Lord Wolfson of Tredegar gives notice of his intention to oppose the Question that Clause 33 stand part of the Bill.*

***Member’s explanatory statement***

*This removes Clause 33 of the Bill (polygraph licence conditions for terrorist offenders in Scotland).*

**Clause 34**

LORD WOLFSON OF TREDEGAR

*Lord Wolfson of Tredegar gives notice of his intention to oppose the Question that Clause 34 stand part of the Bill.*

***Member’s explanatory statement***

*This removes Clause 34 of the Bill (polygraph licence conditions for terrorist offenders in Northern Ireland).*

**Clause 35**

LORD PADDICK  
BARONESS HAMWEE

**19A★** Page 34, line 14, leave out “or (2)”

***Member’s explanatory statement***

*This amendment is consequential on the amendment in the name of Lord Paddick to page 34, line 16.*

**19B★** Page 34, line 16, at end insert –

“( ) Regulations under subsection (2) are to be made by statutory instrument; and an instrument containing such regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

***Member’s explanatory statement***

*This amendment is to probe how subsection (2) might be applied and how the conduct of terrorism-related polygraph sessions may differ from other uses of polygraphs.*

## LORD WOLFSON OF TREDEGAR

*Lord Wolfson of Tredegar gives notice of his intention to oppose the Question that Clause 35 stand part of the Bill.*

**Member's explanatory statement**

*This removes Clause 35 of the Bill (supplementary provision about polygraph licence conditions for terrorist offenders) in consequence of the removal of Clauses 33 and 34.*

**After Clause 35**LORD FALCONER OF THOROTON  
BARONESS HAMWEE

20 Insert the following new Clause—

**“Review of polygraph testing on terrorist offenders**

- (1) The Secretary of State must, within six months of this Act being passed and before sections 32 to 35 come into force, conduct a pilot of the use of polygraph testing on terrorist offenders.
- (2) The outcome of the pilot must be reported to Parliament within 12 months of this Act being passed.
- (3) The report must include—
  - (a) data on the number of terrorist offenders who have been subject to polygraph testing during the pilot;
  - (b) an explanation of how the results of polygraph tests have been used during the pilot;
  - (c) an analysis of the effect polygraph testing has had on the licence conditions of terrorist offenders;
  - (d) data on the number of terrorist offenders who were recalled to prison on the basis of polygraph test results;
  - (e) a recommendation from the Secretary of State as to whether sections 32 to 35 should enter into force following the pilot; and
  - (f) evidence from independent research on the reliability and value of polygraph testing of terrorist offenders.”

**Member's explanatory statement**

*This new Clause requires the Secretary of State to conduct a pilot test of the use of polygraph testing on terrorist offenders and report the outcome to Parliament, in addition to setting out evidence for the reliability of polygraph tests based on independent research.*

**Schedule 11**

## LORD WOLFSON OF TREDEGAR

21 Page 93, leave out lines 28 to 32

**Member's explanatory statement**

*This amendment, and the amendments at page 94, line 15, page 94, line 29 and page 94, line 41 are consequential on the removal of Clause 33.*

22 Page 94, line 15, leave out “or (3B)”

**Member's explanatory statement**

*See the explanatory statement for the amendment at page 93, line 28.*

23 Page 94, leave out lines 29 to 33

**Member's explanatory statement**

*See the explanatory statement for the amendment at page 93, line 28.*

24 Page 94, line 41, leave out “or (4)”

**Member's explanatory statement**

*See the explanatory statement for the amendment at page 93, line 28.*

25 Page 95, leave out lines 4 to 10

**Member's explanatory statement**

*See the explanatory statement for the amendment at page 53, line 41.*

26 Page 95, line 37, leave out “or (4B)”

**Member's explanatory statement**

*See the explanatory statement for the amendment at page 53, line 41.*

**Clause 37**

LORD ANDERSON OF IPSWICH  
LORD THOMAS OF CWMGIEDD

27 Page 34, line 35, leave out from “subsection (1)” to end of line 37 and insert “after “Secretary of State” leave out “is satisfied, on the balance of probabilities,” and insert—

- “(a) for the first year of the TPIM, has reasonable grounds for suspecting;  
and
- (b) for any further years of the TPIM, is satisfied on the balance of probabilities,””

**Member's explanatory statement**

*This amendment would leave in place the existing standard of proof for the second and subsequent years of any TPIM notice.*

LORD FALCONER OF THOROTON

28 Page 34, line 36, leave out “has reasonable grounds for suspecting” and insert “, on the basis of reasonable and probable grounds, believes”

**Member's explanatory statement**

*This amendment would raise the standard of proof for imposing a TPIM under the proposals in the Bill.*

LORD PADDICK  
BARONESS HAMWEE  
LORD MARKS OF HENLEY-ON-THAMES

*The above-named Lords give notice of their intention to oppose the Question that Clause 37 stand part of the Bill.*

**Clause 38**

LORD PADDICK  
BARONESS HAMWEE

- 29** Page 35, line 2, at end insert –
- “(za) in subsection (3)(a), after “met” insert “and the court gives the Secretary of State permission”;
  - (zb) after subsection (3), insert –
- “(3A) In determining the extension, the court must apply the principles applicable on an application for judicial review.””

LORD ANDERSON OF IPSWICH  
LORD THOMAS OF CWMGIEDD

- 30** Page 35, line 3, leave out “one or more” and insert “up to three”

***Member’s explanatory statement***

*This amendment would impose a four-year limit for TPIM notices.*

LORD PADDICK  
BARONESS HAMWEE  
LORD MARKS OF HENLEY-ON-THAMES

*The above-named Lords give notice of their intention to oppose the Question that Clause 38 stand part of the Bill.*

**Clause 39**

LORD PADDICK  
BARONESS HAMWEE

- 30A★** Page 35, leave out lines 39 to 41

***Member’s explanatory statement***

*This amendment would prevent relocation for resource reasons.*

- 30B★** Page 36, leave out lines 21 to 23

***Member’s explanatory statement***

*This amendment is consequential on the amendment to page 35, line 39.*

**Clause 40**

LORD PADDICK  
BARONESS HAMWEE  
LORD MARKS OF HENLEY-ON-THAMES

*The above-named Lords give notice of their intention to oppose the Question that Clause 40 stand part of the Bill.*

**Clause 41**

LORD PADDICK  
BARONESS HAMWEE

**30C★** Page 37, line 10, after “necessary” insert “subject to the requirements of section 12 of this Act”

***Member’s explanatory statement***

*This amendment would ensure section 12 of the Terrorism Prevention and Investigation Measures Act 2011 is not overridden.*

**30D★** Page 37, line 33, at end insert “or in any decision to recall to prison an individual released on licence, or to extend or impose a further terrorism prevention and investigation measure”

***Member’s explanatory statement***

*This amendment would prohibit the use of polygraph test results as evidence in a decision to recall an individual released on licence to prison, or as evidence in a decision by the Secretary of State to impose or extend a TPIM notice.*

*The above names Lords give notice of their intention to oppose the Question that Clause 41 stand part of the Bill.*

**Clause 42**

LORD PADDICK  
BARONESS HAMWEE

**30E★** Page 38, line 22, at beginning insert “If the Secretary of State reasonably suspects that a requirement is necessary,”

***Member’s explanatory statement***

*This amendment would require reasonable suspicion before a requirement may be imposed under this section.*

**Clause 43**

LORD PADDICK  
BARONESS HAMWEE

**30F★** Page 39, line 28, leave out from “individual” to end of line 29

**Member's explanatory statement**

*This purpose of this amendment is to question the disclosure of information about an electronic device used by any other person.*

**After Clause 43**

LORD HUNT OF KINGS HEATH  
LORD BACH

**31** Insert the following new Clause—

**“TPIMs: local oversight**

- (1) The Secretary of State must notify the relevant local policing body within 28 days of a TPIM being imposed when a TPIM includes a residency requirement within the relevant local policing body's police area.
- (2) The relevant local policing body must, after six months from a notification under subsection (1) and every six months thereafter, make a report to the Secretary of State concerning the TPIM, which must include the relevant local policing body's assessment of—
  - (a) the impact of enforcing the TPIM on the efficiency and effectiveness of policing in their police area;
  - (b) the impact of the TPIM on public confidence in policing in their police area; and
  - (c) the efficacy of the TPIM in securing the prevention and detection of crime.
- (3) Any report prepared in accordance with subsection (2) may include recommendations to the Secretary of State relating to—
  - (a) variations to the TPIM, and
  - (b) the continued requirement for the TPIM.
- (4) The Secretary of State must have regard to any report and recommendations submitted in accordance with subsection (2) and respond within 28 days from receipt of the report, specifying whether any recommendations made under subsection (3) are accepted.
- (5) The Chief Officer of Police for the relevant local policing body must provide such information for a report under subsection (2) as is reasonably required.
- (6) Local policing bodies must provide such information for a report under subsection (2) as the relevant local policing body reasonably requires.
- (7) The Secretary of State must notify the relevant local policing body where a TPIM is withdrawn, or ends, or the residency requirement is amended such that it no longer falls within the relevant local policing body's police area.
- (8) For the purposes of this section—
  - (a) the “relevant local policing body” is the local policing body for a police area in which an individual is required to reside as the result of being subject to a TPIM;
  - (b) “local policing body” has the same meaning as in section 96 of the Police Reform and Social Responsibility Act 2011 (interpretation of Police Act 1996);



**After Clause 43 - continued**

- (c) A “Chief Officer of Police” has the same meaning as in section 102 of the Police Reform and Social Responsibility Act 2011 (interpretation of Part 1).”

**Clause 47**

LORD PONSONBY OF SHULBREDE

32 Page 40, line 35, leave out subsection (1) and insert –

- “(1) In section 20(9) of the Counter-Terrorism and Border Security Act 2019 (persons vulnerable to being drawn into terrorism) omit the words from “within the period” to the end and substitute “by 1 July 2021”.”

***Member’s explanatory statement***

*This amendment would reinstate a statutory deadline for the independent review of the Prevent strategy, which would have to report by 1 July 2021.*

LORD PADDICK  
BARONESS HAMWEE

33 Page 40, line 37, leave out paragraphs (a) and (b) and insert –

- “(a) in subsection (8), omit the words “this Act” and insert “the Counter-Terrorism and Sentencing Act 2021”;  
(b) in subsection (9) omit “18” and insert “12”;  
(c) in subsection (9), omit the words “this Act” and insert “the Counter-Terrorism and Sentencing Act 2021”.”

**After Clause 47**

LORD FALCONER OF THOROTON

34 Insert the following new Clause –

**“Financial impact assessment report**

- (1) The Secretary of State must, within three years of this Act being passed, lay before Parliament a report on the financial impact of the provisions of this Act.
- (2) The report must separately consider the financial impact of –
  - (a) extended sentences and their impact on the prison estate;
  - (b) extended licence periods;
  - (c) any increased staffing resources required for Her Majesty’s Prison and Probation Service;
  - (d) the extended offenders of particular concern regime; and
  - (e) adding polygraph testing to certain offenders’ licence conditions.
- (3) The report may consider other financial matters.
- (4) The report must compare the financial impact of the Act with the Impact Assessment for the Counter-Terrorism and Sentencing Bill published by the Ministry of Justice on 18 May 2020.

**After Clause 47 - continued**

- (5) A Minister of the Crown must, not later than three months after the report has been laid before Parliament, make an oral statement in the House of Commons on his or her plan to address the financial and non-financial issues identified in the report.”

***Member’s explanatory statement***

*This new Clause requires a review of the financial impact of the Act.*

LORD PONSONBY OF SHULBREDE

35 Insert the following new Clause –

**“Review of deradicalisation programmes in prisons**

- (1) Within three years of this Act being passed, the Secretary of State must publish and lay before Parliament a review of the impact of the provisions of this Act on the effectiveness and availability of deradicalisation programmes in prisons.
- (2) The review must include an assessment of –
- (a) the effectiveness of existing programmes at reducing radicalisation and terrorist offending;
  - (b) how individuals are assessed for their suitability for a programme;
  - (c) the number of individuals assessed as requiring a place on a programme;
  - (d) the number of individuals assessed as not requiring a place on a programme;
  - (e) the average length of time individuals assessed as requiring a place on a programme have to wait to start a programme; and
  - (f) whether there is sufficient capacity and resource to meet demand for places on deradicalisation programmes in prisons.”

***Member’s explanatory statement***

*This new Clause requires a review of the impact of the Act on deradicalisation programmes in prisons.*

36 Insert the following new Clause –

**“Prison capacity impact assessment report**

- (1) The Secretary of State must lay before Parliament a report on the potential impact of the provisions of this Act on prison capacity within 12 months of this Act being passed.
- (2) A Minister of the Crown must make an oral statement in the House of Commons on his or her plan to address any issues identified in the report no later than three months after it has been laid before Parliament.”

37 Insert the following new Clause –

**“Lone terrorists: review of strategy**

- (1) The Secretary of State must commission a review and publish a report on the effectiveness of current strategies to deal with lone terrorists.

**After Clause 47 - continued**

- (2) A review under subsection (1) must be conducted by a person who meets the criteria for qualification for appointment to the Supreme Court, as set out in section 25 of the Constitutional Reform Act 2005 (qualification for appointment).
- (3) A review under subsection (1) must consider –
  - (a) counter-terrorism policy;
  - (b) sentencing policy as it applies to terrorist offenders;
  - (c) the interaction and effectiveness of public services with respect to incidents of lone terrorist attacks.
- (4) For the purposes of subsection (3)(c), “public services” includes, but is not limited to –
  - (a) probation;
  - (b) the prison system;
  - (c) mental health services;
  - (d) local authorities; and
  - (e) housing providers.
- (5) The Secretary of State must lay a copy of the report before Parliament.
- (6) A Minister of the Crown must table a motion in the House of Commons in relation to the report no later than three months after the report has been laid before Parliament.”

***Member’s explanatory statement***

*This new Clause ensures that the Government orders a judge-led review into the effectiveness of current strategies to deal with lone terrorists including, but not exclusively, current counter-terrorism and sentencing policy.*

38

Insert the following new Clause –

**“Review of legislation: Northern Ireland**

- (1) On an annual basis from the day of this Act being passed, the Secretary of State must publish and lay before both Houses of Parliament a report that reviews the application of the provisions of this Act in Northern Ireland.
- (2) In producing annual reports under subsection (1), the Secretary of State must consult the Northern Ireland Minister for Justice and the Northern Ireland Executive.”

***Member’s explanatory statement***

*This new Clause ensures that all measures in the Bill as they pertain to Northern Ireland shall be reviewed annually with the Northern Ireland Minister for Justice and the Northern Ireland Executive, and a report shall be published and laid before both Houses of Parliament.*

39 Insert the following new Clause—

**“Review of legislation: National Probation Service**

- (1) Within 18 months of this Act being passed, the Secretary of State must commission a review and publish a report on the impact of the provisions in this Act on the National Probation Service.
- (2) A review under subsection (1) must consider—
  - (a) the probation support provided to offenders convicted for terrorist offences;
  - (b) the—
    - (i) type, and
    - (ii) number
 of specialist staff employed by the National Probation Service to work with terrorist offenders;
  - (c) the—
    - (i) training,
    - (ii) assessed skill level, and
    - (iii) assessed experience
 of specialist staff employed by the National Probation Service to work with terrorist offenders;
  - (d) the turnover of probation staff;
  - (e) the average length of service of probation staff;
  - (f) the non-staff resources provided to manage offenders convicted for terrorist offences; and
  - (g) the adequacy of the operating budget of the National Probation Service.
- (3) A report under subsection (1) may make recommendations to improve the probation support to terrorist offenders.
- (4) Where a report has made recommendations under subsection (3), the Secretary of State shall respond within two months.
- (5) The Secretary of State must lay a copy of the report under subsection (1) before Parliament.
- (6) A Minister of the Crown must, not later than three months after the report has been laid before Parliament, table a motion in the House of Commons in relation to the report.”

***Member’s explanatory statement***

*This new Clause requires a review of the impact of the Act on the National Probation Service.*

40 Insert the following new Clause—

**“Multi-agency public protection arrangements**

The Secretary of State must lay a report before Parliament defining which agencies are included within the multi-agency public protection arrangements under section 325 of the Criminal Justice Act 2003 for the purposes of managing terrorist offenders within 12 months of this Act being passed.”

**Schedule 13**

## LORD WOLFSON OF TREDEGAR

- 41** Page 102, line 13, at end insert –  
“(b) in paragraph (a), for “that Act” substitute “the Counter-Terrorism Act 2008.””

***Member’s explanatory statement***

*This amendment makes a further consequential amendment to section 23A of the Terrorism Act 2000 needed as a result of Clause 1 of the Bill.*

- 42** Page 102, line 34, at end insert –  
“Counter-Terrorism and Security Act 2015 (c. 6)  
2A In section 44(2)(e) of the Counter-Terrorism and Security Act 2015 (provisions subject to review by the independent reviewer of terrorism legislation), for “Schedule 1” substitute “Schedules A1 and 1”.”

***Member’s explanatory statement***

*This amends the list of terrorism legislation which is subject to review by the independent reviewer to include the new Schedule A1 inserted into the Sentencing Code by Schedule 1 to the Bill.*

- 43** Page 103, line 5, leave out paragraph 5

***Member’s explanatory statement***

*This removes a repeal to Schedule 2 to the Sentencing (Pre-Consolidation Amendments) Act 2020 that has already been made by the Sentencing Act 2020.*

- 44** Page 103, line 19, at end insert –  
“(3A) In Schedule 22, paragraph 4 (prospective addition of offences to Schedule 1 to the Code), and the heading above it, are repealed to the extent that paragraph 4 is not yet in force when section 1 of this Act comes into force.”

***Member’s explanatory statement***

*This repeals a prospective amendment to the Sentencing Code made by Schedule 22 to the Sentencing Act 2020. The repealed amendment will be unnecessary if not yet in force when Clause 1 of the Bill comes into force.*

- 45** Page 104, line 20, leave out paragraph (b)

***Member’s explanatory statement***

*This amendment is consequential on the amendment at page 121, line 17.*

- 46** Page 104, line 30, at end insert –  
“(6A) In section 255C (extended sentence prisoners and those not suitable for automatic release) –  
(a) for the heading, substitute “Prisoners not suitable for automatic release”;

**Schedule 13 - continued**

- (b) in subsection (1)(a), after “prisoner” insert “or a serious terrorism prisoner (see section 255A(7) and (7A))”.

**Member’s explanatory statement**

*This makes a consequential amendment to section 255C of the Criminal Justice Act 2003 reflecting the fact that those serving serious terrorism sentences will not be eligible for automatic further release after recall to prison.*

- 47 Page 106, line 40, leave out sub-paragraph (13)

**Member’s explanatory statement**

*This removes an unnecessary amendment to the Sentencing Code.*

- 48 Page 107, line 20, leave out sub-paragraph (16)

**Member’s explanatory statement**

*This removes an unnecessary amendment to the Sentencing Code.*

- 49 Page 108, line 11, at end insert –

- “(21) In section 417(3) (commencement of provisions of Schedule 22 which relate to prospective abolition of sentences of detention in a young offender institution) –
- (a) in paragraph (a), for “38” substitute “38B”;
  - (b) in paragraph (d), for “268” substitute “268C”;
  - (c) in paragraph (f), after “paragraphs” insert “68A,”.
- (22) In Schedule 22 (amendments of the Sentencing Code, including in relation to the prospective abolition of sentences of detention in a young offender institution) –
- (a) for paragraph 36 substitute –
 

“36 In section 15 (committal for sentence of dangerous adult offenders) –

    - (a) in subsection (1)(b), omit –
      - (i) “of detention in a young offender institution or”;
      - (ii) “266 or”;
    - (b) in subsection (1A), omit “268A or”.
  - (b) in paragraph 37 (amendments of section 59 of the Code) –
    - (i) for “59(2)(h)” substitute “59(2)”;
    - (ii) after “court” insert “ –
      - (a) in paragraph (ga), for “sections 268B and” substitute “section”;
      - (b) in paragraph (h),”;
  - (c) in paragraph 38 (amendments of section 61 of the Code), after sub-paragraph (a) insert –
 

“(aa) in subsection (2B), omit “268C(2)(b) or”.”;
  - (d) after paragraph 38 insert –
 

“38A In section 73(2A) (reduction in serious terrorism sentence for guilty plea), omit “268C(2) or, as the case may be,”.

**Schedule 13 - continued**

- 38B In section 74(4A) (reduction in serious terrorism sentence for assistance to prosecution), omit “268C(2) or”.”;
- (e) in paragraph 40 (amendments of section 166 of the Code), for “paragraphs 3 and 4” substitute “entries 3, 4 and 4A”;
- (f) in paragraph 46 (amendments of section 231 of the Code), at the end insert—  
“(d) in subsection (6A), for “sections 268C(2)(b) and” substitute “section”.”;
- (g) after paragraph 57 insert—  
“57A In section 282A (serious terrorism sentence of imprisonment: persons 21 or over), in the heading omit “: persons 21 or over”.  
57B In section 282B (serious terrorism sentence of imprisonment: circumstances in which required), omit subsection (1)(c).”;
- (h) in paragraph 62 (amendments of section 308(1) of the Code), after paragraph (a) insert—  
“(aa) in paragraph (aa), omit “268B or”.”;
- (i) after paragraph 68 insert—  
“68A In section 323 (minimum term order: other life sentences)—  
(a) in subsection (4), omit “268B(2) or” in both places;  
(b) in subsection (6)(b), omit “268B(2) or”.”;
- (j) in paragraph 70 (amendments of section 329 of the Code)—  
(i) after the opening words insert—  
“(za) in subsection (3), for “(4) to (5A)” substitute “(4), (4A) and (5)”;  
(ii) after paragraph (a) insert—  
“(aa) omit subsection (5A).”;  
(iii) in paragraph (b), after “(e)” insert “, (ea)”;
- (k) in paragraph 72 (amendments of section 397(1) of the Code)—  
(i) the words from “in the definition” to the end become sub-paragraph (a);  
(ii) at the end insert—  
“(b) in the definition of “serious terrorism sentence”, omit paragraph (a)(including the word “or” immediately after that paragraph).”;
- (l) for paragraph 73 (amendments of section 399 of the Code) substitute—  
“73 In section 399 (mandatory sentences)—  
(a) in paragraph (b)—  
(i) in the opening words, omit “, custody for life”;  
(ii) in sub-paragraph (i), omit “, 274”;  
(iii) in sub-paragraph (ii), omit “273 or”;  
(b) in paragraph (ba), omit “268B or”.”;
- (m) before paragraph 80 (amendment of Schedule 18 to the Code) insert—  
“79A In Schedule 17A (serious terrorism offences), after paragraph 24 insert—  
*“Space Industry Act 2018*  
24A An offence under any of the following provisions of Schedule 4 to the Space Industry Act 2018—  
(a) paragraph 1 (hijacking of spacecraft);

**Schedule 13 - continued**

- (b) paragraph 2 (destroying, damaging or endangering the safety of spacecraft);
- (c) paragraph 3 (other acts endangering or likely to endanger safety of spacecraft);
- (d) paragraph 4 (endangering safety at spaceports).”;
- (n) in paragraph 101 (amendment of section 37 of the Mental Health Act 1983) –
  - (i) in sub-paragraph (1), omit “, as amended by paragraph 73 of Schedule 24”;
  - (ii) in sub-paragraph (2), for “273” substitute “268A, 273”;
  - (iii) in sub-paragraph (3), after “(1B)” insert “–
    - (a) in paragraph (aa), omit “section 268A or” and “282B(2) or”;
    - (b) ”.”

**Member’s explanatory statement**

*This makes further amendments to Schedule 22 to the Sentencing Act 2020 (prospective amendments to the Sentencing Code in connection with the abolition of detention in a young offender institution) in consequence of the introduction by clauses 4 and 5 of serious terrorism sentences in England and Wales.*

50 Page 108, line 15, leave out sub-paragraph (1)

**Member’s explanatory statement**

*This is consequential on the amendment at page 108, line 18.*

51 Page 108, line 16, after “398” insert “of the Sentencing Act 2020”

**Member’s explanatory statement**

*This is consequential on the amendment at page 108, line 18.*

52 Page 108, line 17, at end insert –

“(2A) The amendment made by sub-paragraph (2) does not apply where a person is convicted of an offence before the day on which this paragraph comes into force.”

**Member’s explanatory statement**

*This ensures that the transitional provision set out in Clause 21(2) in relation to the introduction of the new Schedule 13 to the Sentencing Code by that Clause also applies to the related consequential amendment.*

53 Page 108, line 18, leave out sub-paragraph (3)

**Member’s explanatory statement**

*This leaves out an amendment to the Sentencing Act 2020 which is consequential on Schedule 8 to the Bill rather than Clause 21 (see also amendment at page 119, line 41).*



- 54 Page 110, line 35, leave out paragraph (a) and insert –  
“(a) in subsection (6A)(a), for “265” substitute “252A, 265”;

***Member’s explanatory statement***

*This adjusts a consequential amendment to section 264 of the Criminal Justice Act 2003 to reflect an amendment made to that provision by the Sentencing Act 2020.*

- 55 Page 114, line 17, at end insert –
- “(25A) 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”.
  - (25B) 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”;
    - (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);”.

***Member’s explanatory statement***

*This makes further amendments to the Sentencing Act 2020 which are consequential on the introduction of the new sentence for offenders of particular concern aged under 18 at the time of the offence by Clause 22.*

- 56 Page 115, line 19, leave out sub-paragraph (1)

***Member’s explanatory statement***

*This is consequential on the amendment at page 115, line 24*

- 57 Page 115, line 20, after “section 5” insert “of the Rehabilitation of Offenders Act 1974”

***Member’s explanatory statement***

*This is consequential on the amendment at page 115, line 24*

- 58 Page 115, line 24, at end insert –
- “33A(1) The Rehabilitation of Offenders Act 1974 as it forms part of the law of Scotland is amended as follows.
  - (2) In section 5 (rehabilitation periods for particular sentences) –
    - (a) in subsection (1)(d), after “or section 209” insert “or 224B”;
    - (b) in subsection (2F)(a)(ii), after “209” insert “or 224B”.
  - (3) In section 5B (Table B - disclosure periods: service disciplinary cases), in the sixth entry of Table B, after “209” insert “or 224B”.

**Member's explanatory statement**

*This makes amendments to section 5 of the Rehabilitation of Offenders Act 1974 as it extends to Scotland, to ensure that section deals with the service equivalent of the new sentence for offenders of particular concern aged under 18 at the time of the offence, introduced by Part 3 of Schedule 8 to the Bill.*

59

Page 119, line 41, at end insert –

“(4A) In section 418 (commencement of provisions of Schedule 26 in relation to prospective abolition of sentences of detention in a young offender institution) after subsection (2) insert –

“(2A) Paragraphs 13A, 20A and 24A (and paragraph 1 so far as it relates to them) also come into force at that time.”

(4B) In Schedule 25 (amendments of Armed Forces Act 2006), omit paragraph 45(5).

(4C) In Schedule 26 (further amendments of the Armed Forces Act 2006 in relation to prospective abolition of sentences of detention in a young offender institution) –

(a) after paragraph 13 insert –

“13A In section 219ZA (serious terrorism sentence for offenders aged 18 or over) –

(a) in subsection (1)(e), omit “a sentence of custody for life or (as the case may be)”;

(b) omit subsections (4) to (6);

(c) in subsection (7), omit “Where the offender is aged 21 or over when convicted of the serious terrorism offence.”;

(b) in paragraph 14 (amendments of section 219A of the 2006 Act), for sub-paragraph (a) substitute –

“(a) in subsection (1) –

(i) in paragraph (d), omit sub-paragraphs (i) and (iii);

(ii) in paragraph (da), omit sub-paragraph (i);”;

(c) in paragraph 15(a) (amendments of section 224A of the 2006 Act), after paragraph (ii) insert –

“(iii) in sub-paragraph (iii), for “detention or imprisonment under section 268A or 282A” substitute “imprisonment under section 282A”;

(d) in paragraph 18 (amendment of section 239 of the 2006 Act), after “pleas” insert “–

(a) in subsection (3A), omit –

(i) “(4) or”;

(ii) “268A or”;

(b) in subsection (3B), omit “268C(2) or, as the case may be,”;

(c) ”;

(e) in paragraph 19 (amendments of section 260 of the 2006 Act) –

(i) in sub-paragraph (a), after paragraph (ii) insert –

“(iia) in paragraph (ca), omit “268A or”;

(ii) for sub-paragraph (b) substitute –

“(b) in subsection (4B) –

(i) in paragraph (za), omit “268C(2) or”;

(ii) in paragraph (a), omit “268(2) or”.”;

**Schedule 13 - continued**

- (f) in paragraph 20 (amendments of section 261 of the 2006 Act), at the end insert –
  - “(c) in paragraph (ba), omit “268A or”.”;
- (g) after paragraph 20 insert –
  - “20A In section 261A(3) (life sentences: further provision) –
    - (a) in paragraph (b), omit “268B(2) or”;
    - (b) in paragraph (c)(i), omit “268B(2) or”.”;
- (h) in paragraph 21 (amendments of section 262A of the 2006 Act), for the words from “, in subsection (4)” to the end substitute –
  - “(a) in subsection (2A), omit paragraph (b);
  - (b) omit subsection (3A);
  - (c) in subsection (4), omit paragraphs (d), (da), (e) and (f) treated as substituted in subsection (7) of section 329 of the Sentencing Code.”;
- (i) after paragraph 24 insert –
  - “24A In section 304C (to be inserted by the Armed Forces Act 2016: reduction in sentence), in subsection (5A) –
    - (a) omit “268C(2) or”;
    - (b) for “section 219ZA(5) to (8)” substitute “section 219ZA(8)”.”

**Member’s explanatory statement**

*This amendment makes further amendments, to the provisions of the Sentencing Act 2020 dealing with the abolition of detention in a young offender institution, which are consequential on the provisions of the Bill dealing with sentencing under service law.*

60 Page 121, line 17, at end insert –

- “(2A) In section 250 (licence conditions) –
  - (a) in subsection (5A), in each of paragraphs (a) and (b), after “a prisoner” insert “, other than a terrorist prisoner,”;
  - (b) after subsection (5A) insert –
    - “(5AA) Subsection (5B) also applies to a licence granted, either on initial release or after recall to prison, to a terrorist prisoner in a case where the licence is granted following a direction of the Board for the prisoner’s release.”;
  - (c) omit subsection (5BA);
  - (d) after subsection (8) insert –
    - “(9) In this section “terrorist prisoner” means a prisoner to whom section 247A applies, or would apply but for the prisoner’s having been released on licence.”

**Member’s explanatory statement**

*This amends section 250 of the Criminal Justice Act 2003 so that the Parole Board will set the licence conditions for all prisoners to whom section 247A of that Act applies (restricted eligibility for early release) whose release is directed by the Board.*

61 Page 122, line 2, at end insert –

“*Social Work (Scotland) Act 1968 (c. 49)*

45A In section 6A(1)(d) of the *Social Work (Scotland) Act 1968* (inquiries into detention of children under certain enactments), after “44” insert “, 205ZC(5)”.

***Member’s explanatory statement***

*This amendment enables an inquiry to be held under section 6A of the Social Work (Scotland) Act 1968 into the detention of a child under the new terrorism sentence introduced by Clause 23.*

62 Page 122, line 2, at end insert –

“*Rehabilitation of Offenders Act 1974 (c. 53)*

45B 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), in subsection (1)(d) –

(a) for “Act 1975” substitute “Act 1995”;

(b) for the words from “section 206” to the end substitute “section 205ZC(5) or 208 of the *Criminal Procedure (Scotland) Act 1995*”.

45C In section 5 of the *Rehabilitation of Offenders Act 1974* as it forms part of the law of Scotland (rehabilitation periods for particular sentences) –

(a) in subsection (1)(da), after “section” insert “205ZA(6)(serious terrorism sentence for young offenders), 205ZC(4) or (5)(terrorism sentence for young offenders or children),”;

(b) in subsection (12), in paragraph (b) of the definition of “custodial sentence”, after “44,” insert “205ZA(6), 205ZC(4) or (5),”.

***Member’s explanatory statement***

*This makes amendments to section 5 of the Rehabilitation of Offenders Act 1974 so that it will deal with the new sentences introduced by Clauses 6 and 23.*

63 Page 122, line 7, at end insert –

“(1) The *Prisons (Scotland) Act 1989* is amended as follows.”

***Member’s explanatory statement***

*This amendment is consequential on the amendment at page 122, line 18.*

64 Page 122, line 8, leave out “of the *Prisons (Scotland) Act 1989*”

***Member’s explanatory statement***

*This amendment is consequential on the amendment at page 122, line 18.*

65 Page 122, line 18, at end insert –

“(3) In section 40(3)(a)(arrest of absent prisoners: application of section to persons sentenced or ordered to be detained under certain provisions of the 1995 Act), after “205” insert “, 205ZC(5)”.

**Member's explanatory statement**

*This amendment amends section 40(3)(a) of the Prisons (Scotland) Act 1989 so as to make section 40 applicable in relation to children sentenced to detention under the new terrorism sentence introduced by Clause 23.*

66 Page 122, line 21, at end insert –

“(1A) In section 1(3A) (release of short-term, long-term and life prisoners serving concurrent sentences), for “section 1A” substitute “sections 1A and 1B”.”

**Member's explanatory statement**

*This amendment is consequential on the insertion of new section 1B of the Prisoners and Criminal Proceedings (Scotland) Act 1993 made by the amendment at page 123, line 6.*

67 Page 123, line 6, leave out sub-paragraph (3) and insert –

“(3) In the heading of section 1A, after “to” insert “certain”.

(3A) After section 1A insert –

**“1B Prisoners serving consecutive sentences including at least one terrorism sentence**

(1) This section applies where –

- (a) a prisoner has been sentenced to two or more terms of imprisonment which are to be served consecutively on each other,
  - (b) one or more of the sentences (the “terrorism sentence”) was imposed in respect of an offence within section 1AB(2), and
  - (c) the sentences were imposed on the same occasion or, where they were imposed on different occasions, the prisoner has not been released under this Part at any time during the period beginning with the first and ending with the last of those occasions.
- (2) If the prisoner is serving a terrorism sentence and a sentence imposed in respect of an offence that is not within section 1AB(2) (a “non-terrorism sentence”), the terrorism sentence is to be served (or, where subsection (7) applies, treated as being served) after the non-terrorism sentence irrespective of when the sentences were imposed.
  - (3) Where subsection (2) applies, the prisoner is to be taken to begin serving the custodial part of the terrorism sentence (or first such sentence) as soon as the prisoner has served the custodial part of the non-terrorism sentence.
  - (4) If (but for this section) the prisoner would have been released on licence under this Part in respect of a non-terrorism sentence, the period during which the prisoner would have been on licence under this Part is to be served concurrently with the custodial part of the terrorism sentence.
  - (5) The prisoner may not be released under this Part in respect of the terrorism sentence unless and until the prisoner has served the aggregate of –
    - (a) if the prisoner is serving a non-terrorism sentence, the custodial part of the sentence, and

**Schedule 13** - *continued*

- (b) the custodial part of each terrorism sentence that the prisoner is serving.
- (6) Subsection (7) applies where –
  - (a) a non-terrorism sentence is imposed on the prisoner (the “new sentence”), and
  - (b) the prisoner has already served part of the custodial part of a terrorism sentence (the “served part”).
- (7) The prisoner is to be treated as having served –
  - (a) where the served part is less than the custodial part of the new sentence, such part of the custodial part of the new sentence as is equal to the served part,
  - (b) where the served part is equal to the custodial part of the new sentence, the custodial part of the new sentence,
  - (c) where the served part exceeds the custodial part of the new sentence –
    - (i) the custodial part of the new sentence, and
    - (ii) so much of the custodial part of the terrorism sentence as is equal to the amount by which the served part exceeds the custodial part of the new sentence.
- (8) Nothing in this Part requires –
  - (a) the Scottish Ministers to release the prisoner in respect of any of the terms of imprisonment unless and until they are required to release the prisoner in respect of each of the other terms of imprisonment,
  - (b) the Scottish Ministers or the Parole Board to consider the prisoner’s release in respect of any of the terms of imprisonment unless and until the Ministers are or the Board is required to consider the prisoner’s release, or the Ministers are required to release the prisoner, in respect of each of the other terms.
- (9) If the prisoner is released on licence under this Part the prisoner is to be on licence, on and after the release, until the prisoner would, but for the release, have served a term equal in length to the aggregate length of the term of imprisonment of any non-terrorism sentence and the term or, as the case may be, terms of imprisonment for the terrorism sentence or sentences less the period mentioned in subsection (10).
- (10) The period is –
  - (a) any period served concurrently in accordance with subsection (4), and
  - (b) if (but for this section) the prisoner would have been released unconditionally under section 1(1) in respect of a non-terrorism sentence, the period equal to one-half of the term of that sentence.

**Schedule 13 - continued**

- (11) Where a prisoner to which this section applies is released on licence under this Part (other than a licence under section 3AA), the release is to be on a single licence which is to be subject to such conditions as may be specified or required by this Part in relation to all the sentences in respect of which the prisoner has been so released.
- (12) In this section “custodial part”, in relation to a term of imprisonment means a period equal to the part of the term that (but for this section) the prisoner would be required to serve before—
- (a) the Scottish Ministers are required to release the prisoner under this Part, or
  - (b) the Parole Board is first entitled under this Part to make a recommendation that the prisoner be released on licence under this Part.
- (13) In this section—
- (a) references to a non-terrorism sentence include references to two or more such sentences that are treated as a single term by virtue of section 27(5) (whether imposed before, after or both before and after a terrorism sentence), and
  - (b) where subsection (7) applies, the references in that subsection to the “custodial part of the new sentence” include references to the custodial part of the single term.””

**Member’s explanatory statement**

*This amendment inserts new section 1B of the Prisoners and Criminal Proceedings (Scotland) Act 1993. New section 1B makes provision where a prisoner is serving consecutive sentences including at least one terrorism sentence to which section 1AB of the 1993 Act applies, including provision consequential on the amendment of section 27 of the 1993 Act made by the amendment at page 125, line 15.*

68

Page 124, line 8, at end insert—

- “(5A) In section 3A (re-release of prisoners serving extended sentences)—
- (a) in the heading, after “serving” insert “certain terrorism sentences and”;
  - (b) in subsection (1), for the words from “an” to “sentences)” substitute “a sentence mentioned in subsection (1ZA)”;
  - (c) after subsection (1) insert—
 

“(1ZA) The sentences are—

    - (a) a sentence imposed under section 205ZA of the 1995 Act (serious terrorism sentence);
    - (b) a sentence imposed under section 205ZC of that Act (terrorism sentence with fixed licence period);
    - (c) an extended sentence under section 210A of that Act.”;
  - (d) in subsection (3), after “term with” insert “the sentence under section 205ZA or, as the case may be, section 205ZC or”;
  - (e) in subsection (4), for the words from “if” to the end substitute—
 

“(a) where—

**Schedule 13 - continued**

- (i) the prisoner is serving a sentence imposed under section 205ZA or 205ZC of the 1995 Act or an extended sentence under section 210A of that Act in respect of a terrorism offence, and
  - (ii) the Board is satisfied that the condition in subsection (4A) is met (but not otherwise),
- direct that the prisoner should be released;
- (b) where—
    - (i) the prisoner is serving an extended sentence under section 210A of that Act in respect of a sexual or violent offence, and
    - (ii) the Board is satisfied that the condition in subsection (4B) is met (but not otherwise),
 direct that the prisoner should be released.”;
  - (f) after subsection (4) insert—
    - “(4A) The condition is that it is no longer necessary for the protection of the public that the prisoner should be confined.
    - (4B) The condition is that it is no longer necessary for the protection of the public from serious harm that the prisoner should be confined.”
  - (5B) In section 3B (review of decisions as to determinate sentences)—
    - (a) in subsection (1)(a), after “from” insert “a sentence imposed under section 205ZC of the 1995 Act or”;
    - (b) in subsection (1)(b)—
      - (i) after “serving” insert “a sentence imposed under section 205ZC of the 1995 Act or”;
      - (ii) after “sentence”, in the second place it occurs, insert “or extended sentence”;
    - (c) in subsection (4)(b), after “relates to” insert “a sentence imposed under section 205ZC of the 1995 Act or”.

***Member’s explanatory statement***

*This amendment amends sections 3A and 3B of the Prisoners and Criminal Proceedings (Scotland) Act 1993 in consequence of the new terrorism sentences introduced by Clauses 6 and 23.*

69

Page 124, line 35, at end insert—

“(aa) in subsection (5), after paragraph (a) (but before the final “and”) insert—

“(aa) sections 3A and 3B of this Act apply to children on whom detention has been imposed under section 205ZC(5) of the 1995 Act as they apply to long-term prisoners;”;

***Member’s explanatory statement***

*This amendment amends section 7(5) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 so as to ensure that sections 3A and 3B of that Act apply in relation to children who are sentenced to detention under the new terrorism sentence introduced by Clause 23.*



- 70 Page 125, line 15, leave out from “in” to end of line 17 and insert “relation to a sentence passed on a person –
- (a) in respect of an offence within section 1AB(2), and
  - (b) on or after the coming into force of paragraph 48(3A) of Schedule 13 to the Counter-Terrorism and Sentencing Act 2021.”

***Member’s explanatory statement***

*This amendment makes provision so that terrorism sentences to which section 1AB of the Prisoners and Criminal Proceedings (Scotland) Act 1993 apply will not be treated as a single term for the purposes of Part 1 of the Act.*

**Clause 52**

LORD WOLFSON OF TREDEGAR

- 71 Page 43, line 1, leave out sub-paragraph (i) and insert –
- “(i) Part 3 of that Schedule, except as mentioned in subsection (3)(hb);
  - (ia) Part 4 of that Schedule;”

***Member’s explanatory statement***

*This is consequential on the amendment at page 44, line 11.*

- 72 Page 43, line 4, leave out “46 and” and insert “45A to”

***Member’s explanatory statement***

*This amendment is consequential on the amendments at page 122, line 2.*

- 73 Page 43, line 27, leave out paragraph (q) and insert –
- “(q) sections 31 and 32;”

***Member’s explanatory statement***

*This amendment will ensure that Clause 32 of the Bill (polygraph conditions for terrorist offenders: England and Wales) comes into force 2 months after Royal Assent (rather than by regulations).*

- 74 Page 43, line 34, leave out sub-paragraph (i) and insert –
- “(i) Part 1 of that Schedule, except as mentioned in subsection (3)(ha);
  - (ia) Part 2 of that Schedule;”

***Member’s explanatory statement***

*This is consequential on the insertion made by the amendment at page 44, line 11.*

- 75 Page 44, line 11, leave out paragraph (h)

***Member’s explanatory statement***

*This amendment is consequential on the removal of Clauses 33 to 35 of the Bill and on the amendment at page 43, line 27.*

76 Page 44, line 11, at end insert –

- “(ha) paragraph 6(3)(a) and (3A) of Schedule 13 as they have effect for the purposes mentioned in paragraph (a) above (and section 48 to the extent that it relates to those provisions for those purposes);
- (hb) Part 3 of Schedule 13 as it has effect for the purposes mentioned in paragraph (f) above (and section 48 to the extent that it relates to that Part for those purposes);”

***Member’s explanatory statement***

*This amendment ensures that consequential amendments made by Schedule 13, so far as they relate to provisions in the Bill which will be brought into force by regulations, will also be brought into force by regulations.*

# Counter-Terrorism and Sentencing Bill

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SECOND  
MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
IN COMMITTEE OF THE WHOLE HOUSE

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*4 February 2021*

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