

The Counter-Terrorism and Sentencing Bill – Sentencing

Fact sheet

What are we doing?

1. We are introducing a new 'Serious Terrorism Sentence' (STS) for offenders who have committed a serious terrorism offence, i.e. one which carries a maximum penalty of life, where the offender is deemed dangerous and the sentencing judge finds there was a risk of multiple deaths, which the offender was or ought to have been aware of. This sentence carries a minimum 14-year custodial sentence, to be served in full, and a minimum licence period of 7 years up to a maximum of 25 years. There is no possibility of early release, and as such, offenders on this sentence will not be referred to the Parole Board. It will apply UK-wide and to adult offenders. Courts may use STS for offenders when they consider that the offending does not merit a life sentence, which remains available for serious terrorism offences.
2. Many serious terror offences already attract Extended Determinate Sentences (EDS) which may be imposed by the court if the offender is found to be dangerous, which encompass a custodial period and an extension period on licence. This disposal will remain available to the Courts, should they not impose a Life Sentence or a STS following commencement of this Bill.
3. Other offenders who have committed any offence for which the maximum penalty is over two years imprisonment and where a terrorist connection has been found by the court and would otherwise be able under current legislation receive a Standard Determinate Sentence (SDS), will instead be included in the Sentence for Offenders of Particular Concern (SOPC). This sentence carries a minimum licence period of 12 months after release, and offenders will be eligible for Parole Board referral at the two-thirds point of their custodial term. The changes will apply UK-wide, with adjustments to SOPC and a new sentence called a 'Terrorism Sentence' in Scotland and Northern Ireland. These changes to SOPC and the new Terrorism Sentence will be applicable both to adults and youth offenders.
4. These changes mean that anyone found guilty of a terrorism or terror-connected offence will either be given:
 - a. A **life sentence** – where the offender spends a minimum period or 'tariff' in custody before being considered for release by the Parole Board. The offender may therefore never be released.
 - b. A **STS** - for serious terrorism offences where the offender was found to be dangerous, there was a likelihood of multiple deaths and a life sentence was not given.
 - c. An **EDS** for offenders assessed as dangerous and a) or b) are not imposed:
 - i. For serious terrorism offences, offenders will spend the full custodial period in prison;
 - ii. For offences eligible for EDS but where the maximum penalty was not life, offenders will continue to be eligible for discretionary early release from the two-thirds point, subject to risk assessment by the Parole Board.
 - d. A **SOPC** – where a), b) or c) is not imposed and the maximum penalty is over two years. Offenders will continue to be eligible for discretionary early release from the two-thirds point, subject to risk assessment by the Parole Board.

Sentences in UK jurisdictions

Extended Sentences

5. The changes to extended sentences apply UK-wide, and to both youth and adult offenders. In England and Wales, extended sentences are currently known as EDS, in Scotland equivalent provision is an Extended Sentence (ES) and an Extended Custodial Sentence (ECS) in Northern Ireland.

Determinate Sentences

6. In England and Wales, these are called Standard Determinate Sentences (SDS); in Scotland they are known as Determinate Sentences (DS) and in Northern Ireland they are known as Determinate Custodial Sentences (DCS). These are fixed custodial sentences with no extension period for supervision of an offender. For terrorist offending, the determinate sentence will be replaced by a SOPC in England and Wales, and a Terrorism Sentence in Scotland and Northern Ireland. These changes apply to both youth and adult offenders.

How does this compare to current practice?

STS example:

The offence: training for terrorism (section 6 of the Terrorism Act 2006; maximum penalty of life imprisonment); offender sentenced under current framework to an EDS of 12 years, with an extended licence period of 6 years.

What happens now: the sentencing judge consider whether a life sentence is appropriate for the offender; if it is not appropriate then the judge would consider an EDS. In this example, the offender is found to be dangerous, so an EDS is imposed. The judge would set the appropriate custodial term of the offender, which has no lower limit but has a maximum of life. They would also set the extension period up to a maximum of 8 years for terrorist offending, but in this example, is 6 years.

The offender would be considered for early release by the Parole Board once they have served two-thirds of their custodial term (8 years in this example). If they are released early by the Parole Board, the offender would be on licence for the remainder of their custodial term (4 years), then for length of the extended licence period set by the judge (6 years).

If they are not released at the first opportunity by the Parole Board, they would be reviewed by the Parole Board every 2 years until they direct release or reach the end of their custodial term (12 years in this example). Following this, they would then serve the extension period on licence (6 years in example).

What would happen if the STS provision becomes law: the sentencing judge would consider whether a life sentence is appropriate for the offender; if it is not appropriate, then the sentencing judge found the offender dangerous, and the 'risk of multiple deaths' condition is met then the judge would be required to impose a STS unless there were exceptional circumstances. The judge will set the custodial period, which has to be a minimum of 14 years within the maximum prospective penalty of life. The offender would serve all of this period in custody, with no eligibility for Parole Board release. At the end of

their custodial term, the offender will be on licence for a period set by the sentencing judge of between 7 years and 25 years.

In this example, if their offending risked multiple deaths they would be sentenced to a STS of 14 years, and would be required to set a minimum period of 7 years on licence. They would spend all 14 years in custody, and once released would be on licence for 7 years.

Additions to SOPC (Terrorism Sentence in NI and Scotland) example:

Someone committing the offence: laundering of terrorist property (section 18 of the Terrorism Act 2000; maximum 14 years imprisonment); offender sentenced to a SDS of 9 years.

What happens now: Since the TORER Act was passed, the offender would be reviewed for early release by the Parole Board from the two-thirds point of their sentence (6 years). If the offender was released early by the Parole Board, they would spend the rest of their sentence on licence in the community (3 years). If the offender was not released early by the Parole Board, they must be released at the end of their sentence and as such, there would be no period to serve on licence.

What would happen if this provision becomes law: the offender would receive a SOPC of a length set by the sentencing judge. For example, 8 years in custody, plus the additional 1-year licence period. The offender would be reviewed for early release by the Parole Board from the two-thirds point of their custodial term (5 years and 4 months). If the offender was released by the Parole Board before the end of their custodial term, they would spend the rest of their custodial term (2 years 8 months), and an additional 12 months, on licence in the community. If the offender was not released by the Parole Board, they must be released at the end of their custodial term (in this case, 8 years) and would then spend 12 months on licence in the community.