



Armed Forces Act 2006

2006 CHAPTER 52

PART 8

SENTENCING POWERS AND MANDATORY ETC SENTENCES

CHAPTER 5

YOUNG OFFENDERS: CUSTODIAL SENTENCES AVAILABLE TO SERVICE COURTS

Detention and training orders

211 Offenders under 18: detention and training orders

(1) Where—

- (a) a person aged under 18 is convicted by the Court Martial or the Service Civilian Court of an offence which is punishable with imprisonment in the case of a person aged [^{F1}21 or over], and
- (b) the court is of the opinion mentioned in section 260(2) or the case falls within section 260(3),

the sentence that the court is to pass is (subject to subsections (2) and (3)) an order that the person shall be subject, for the term specified in the order, to a period of detention and training followed by a period of supervision.

- (2) In the case of an offender aged under 15 at the time of the conviction, the court may not make an order under this section unless it is of the opinion that he is a persistent offender.
- (3) In the case of an offender aged under 12 at the time of the conviction, the court may not make an order under this section unless—
 - (a) it is of the opinion mentioned in subsection (2);
 - (b) it is of the opinion that only a custodial sentence would be adequate to protect the public from further offending by him; and

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Changes to legislation: Armed Forces Act 2006, Cross Heading: Detention and training orders is up to date with all changes known to be in force on or before 23 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (c) the offence was committed [^{F2}after paragraph (aa) of section 234(1) of the Sentencing Code comes into force (see paragraph 27(1)(b) of Schedule 22 to the Sentencing Act 2020).]
- (4) Subsection (1) is also subject to sections 209, 218, ^{F3}... 221, [^{F4}221A] and 227 (other custodial sentences that may or must be imposed in particular cases).

Textual Amendments

- F1** Words in s. 211(1)(a) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 25 para. 31\(a\)](#) (with [s. 416\(7\), Sch. 27](#)); [S.I. 2020/1236, reg. 2](#)
- F2** Words in s. 211(3)(c) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 25 para. 31\(b\)](#) (with [s. 416\(7\), Sch. 27](#)); [S.I. 2020/1236, reg. 2](#)
- F3** Word in s. 211(4) omitted (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by virtue of [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\), s. 5\(2\)\(3\), Sch. 2 para. 123\(4\)](#) (with [s. 5\(9\)](#)); [S.I. 2012/1236, reg. 2](#)
- F4** Word in s. 211(4) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 22 para. 25\(b\)](#); [S.I. 2012/2906, art. 2\(t\)](#)

Commencement Information

- I1** S. 211 in force at 28.3.2009 for specified purposes by [S.I. 2009/812, art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))
- I2** S. 211 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

212 Term of detention and training order: general

- (1) The term of an order made under section 211 in respect of an offence—
- (a) shall be 4, 6, 8, 10, 12, 18 or 24 months; and
 - (b) may not exceed the maximum term of imprisonment with which the offence is punishable in the case of a person aged [^{F5}21] or over.
- (2) Where—
- (a) the offence is an offence under section 42 (criminal conduct),
 - (b) the corresponding offence under the law of England and Wales is under that law a summary offence, and
 - (c) the maximum term of imprisonment with which that offence is punishable in the case of a person aged [^{F6}21] or over is 51 weeks,
- the term of the order may not exceed 6 months.
- [^{F7}(3) An order under section 211 takes effect at the beginning of the day on which it is made, unless the court [^{F8}orders otherwise under section 237 of the Sentencing Code] (as applied by section 213 of this Act).]

Textual Amendments

- F5** Word in s. 212(1)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 25 para. 32\(2\)](#) (with [s. 416\(7\), Sch. 27](#)); [S.I. 2020/1236, reg. 2](#)
- F6** Word in s. 212(2)(c) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 25 para. 32\(2\)](#) (with [s. 416\(7\), Sch. 27](#)); [S.I. 2020/1236, reg. 2](#)

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- F7** S. 212(3) inserted (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\), s. 5\(2\)\(3\), Sch. 2 para. 123\(5\)](#) (with s. 5(9)); S.I. 2012/1236, reg. 2
- F8** Words in s. 212(3) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 25 para. 32\(3\)](#) (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2

Commencement Information

- I3** S. 212 in force at 28.3.2009 for specified purposes by [S.I. 2009/812, art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))
- I4** S. 212(1) in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

213 Application of provisions relating to civilian detention and training orders

[^{F9}(1) In the following provisions of the Sentencing Code, references to a detention and training order include an order under section 211 of this Act—

- (a) sections 237 to 248;
- (b) Schedule 12.

(2) In the following provisions of the Sentencing Code, “court” includes a relevant service court—

- (a) [^{F10}sections 237 and 238];
- (b) section 246;
- (c) sections 253 and 257;
- (d) section 270.

[^{F11}(3)

(3A) In its application to a relevant service court, section 253 of the Sentencing Code has effect as if the references to a sentence of detention under section 250 [^{F12}or 252A] were references to a sentence of detention under 209 of this Act.

(3B) In its application to a relevant service court, section 257 of the Sentencing Code has effect as if the references to an extended sentence of detention under section 254 were references to an extended sentence of detention under that section imposed as a result of section 221A of this Act.]

[^{F13}(4) Subsection (5) applies where an order under [^{F14}paragraph 3(2)(a) of Schedule 12 to the Sentencing Code (further period of detention)] is made against an offender for breach of supervision requirements—

- (a) during a period of supervision under an order under section 211 of this Act,
- (b) during a further period of supervision imposed for breach of supervision requirements during a period within paragraph (a), or
- (c) during one of a series of further periods of supervision—
 - (i) each of which apart from the first was imposed for breach of supervision requirements during the previous further period of supervision, and
 - (ii) the first of which was imposed for breach of supervision requirements during a period within paragraph (a).

[^{F15}(5) Paragraph 5(2) of Schedule 12 to the Sentencing Code has effect as if, in the closing words, after “Schedule” there were inserted “ and section 214 of the Armed Forces Act 2006 ”.]

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(6) In subsection (4)—

“further period of supervision” means a period of supervision imposed under ^{F16}paragraph 3(2)(b) of Schedule 12 to the Sentencing Code];

^{F17}“supervision requirement” has the meaning given in paragraph 1 of Schedule 12 to the Sentencing Code].

^{F18}(7)]

^{F19}(8) In this section, “relevant service court” has the same meaning as in Chapter 4 of Part 8 (see section 207).]

Textual Amendments

- F9** S. 213(1)-(3B) substituted (1.12.2020) for s. 213(1)-(3) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 33(2)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F10** Words in s. 213(2)(a) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(s), **Sch. 16 para. 15(a)**
- F11** S. 213(3) omitted (28.6.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(s), **Sch. 16 para. 15(b)**
- F12** Words in s. 213(3A) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 23(3)**
- F13** S. 213(4)-(7) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 80(9)(b), 151(1)** (with s. 80(10)(11)); S.I. 2012/2906, art. 2(a)
- F14** Words in s. 213(4) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 33(3)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F15** S. 213(5) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 33(4)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F16** Words in s. 213(6) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 33(5)(a)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F17** Words in s. 213(6) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 33(5)(b)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F18** S. 213(7) omitted (1.12.2020) by virtue of Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 33(6)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F19** S. 213(8) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 25 para. 33(7)** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2

Commencement Information

- I5** S. 213 in force at 28.3.2009 for specified purposes by S.I. 2009/812, **art. 3(a)(b)** (with transitional provisions in S.I. 2009/1059)
- I6** S. 213 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, **art. 4**

^{F20}213A Period in service custody: effect on term of detention and training order

(1) Subsection (2) applies where—

- (a) the Court Martial or the Service Civilian Court proposes to make an order under section 211 in respect of an offence, and
- (b) the offender has been kept in service custody in connection with the offence or any other offence the charge for which was founded on the same facts or evidence.

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- (2) In determining the term of the order under section 211, the court must take account of the period for which the offender was kept in service custody.
- (3) If the court proposes to make two or more orders under section 211 in respect of two or more offences—
 - (a) subsection (2) does not apply, but
 - (b) in determining the total term of those orders, the court must take account of the total period for which the offender has been kept in service custody in connection with—
 - (i) any of those offences, or
 - (ii) any other offence the charge for which was founded on the same facts or evidence.
- (4) A period of service custody may be taken account of under this section only once.

Textual Amendments

F20 Ss. 213A, 213B inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(s), [Sch. 16 para. 16](#)

213B Period of custody awaiting extradition: effect on term of detention and training order

- (1) This section applies where—
 - (a) the Court Martial or the Service Civilian Court proposes to make an order under section 211 in respect of an offence,
 - (b) the offender was tried for the offence, or is to be sentenced—
 - (i) after having been extradited to the United Kingdom, and
 - (ii) without having first been restored or had an opportunity of leaving the United Kingdom, and
 - (c) the offender was kept in custody for any period while awaiting extradition to the United Kingdom.
- (2) The court must—
 - (a) specify in open court the number of days for which the offender was kept in custody while awaiting extradition, and
 - (b) take account of those days in determining the term of the order.]

Textual Amendments

F20 Ss. 213A, 213B inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(s), [Sch. 16 para. 16](#)

214 Offences during currency of detention and training order

- (1) This section applies to a person in respect of whom an order under section 211 has been made if—
 - (a) after his release and before the date on which the term of the order ends, he commits an offence within subsection (2) (“the new offence”); and

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(b) whether before or after that date, he is convicted of the new offence.

[^{F21}(1A) This section also applies to a person in respect of whom a service FSO has been made if—

- (a) before the date on which the period of further supervision under the service FSO ends, he commits an offence within subsection (2) (“the new offence”); and
- (b) whether before or after that date, he is convicted of the new offence.

(1B) A service FSO is an order under paragraph 3(2)(b) of Schedule 12 to the Sentencing Code subjecting the offender to a further period of supervision as a result of breach of supervision requirements—

- (a) during a period of supervision under an order under section 211 of this Act,
- (b) during a further period of supervision imposed for breach of supervision requirements during a period within paragraph (a), or
- (c) during one of a series of further periods of supervision—
 - (i) each of which apart from the first was imposed for breach of supervision requirements during the previous further period of supervision, and
 - (ii) the first of which was imposed for breach of supervision requirements during a period within paragraph (a).

Terms used in this subsection have the same meaning as in section 213(4) (see section 213(6)).]

- (2) An offence is within this subsection if it is—
 - (a) a service offence which is punishable with imprisonment; or
 - (b) [^{F22}an offence under the law of any part of the British Islands] which is so punishable.
- (3) A court having power to do so under subsection (4) or (5) may order the person to be detained in such [^{F23}youth detention accommodation] as the Secretary of State may determine for the whole or any part of the period which—
 - (a) begins with the date of the court's order; and
 - (b) is equal in length to the period between the date on which the new offence was committed and the date mentioned in subsection (1) [^{F24}or (1A) (as the case may be)].
- (4) Where the Court Martial or the Service Civilian Court convicts the person of the new offence, the court may on the conviction make an order under subsection (3).
- (5) Where the offender is convicted of the new offence otherwise than by the Court Martial or the Service Civilian Court, the Court Martial may make an order under subsection (3) if the offender appears or is brought before it following the issue of a summons or warrant under subsection (7).
- (6) Where an order under subsection (3) is made on the conviction of the new offence, the order must be in addition to the sentence for the new offence, and the period for which the person is ordered under subsection (3) to be detained—
 - (a) shall, as the court may direct, either be served before and be followed by, or be served concurrently with, any sentence imposed for the new offence; and
 - (b) in either case, shall be disregarded in determining the appropriate length of that sentence.

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- (7) If it appears to the Court Martial—
- (a) that this section applies to a person,
 - (b) that his conviction of the new offence was not by the Court Martial or the Service Civilian Court, and
 - (c) that no order under subsection (3) or under [^{F25}paragraph 7 of Schedule 12 to the Sentencing Code] has been made in respect of the new offence,
- the Court Martial may issue a summons requiring the person to appear at the time and place specified in it, or a warrant for his arrest.
- (8) A person detained in pursuance of an order under subsection (3) shall be deemed to be in legal custody.

Textual Amendments

- F21** S. 214(1A)(1B) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 34\(2\)](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F22** Words in s. 214(2)(b) substituted (2.4.2012) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), [Sch. 3 para. 19](#); [S.I. 2012/669](#), art. 4(d)
- F23** Words in s. 214(3) substituted (1.11.2007) by [Offender Management Act 2007 \(c. 21\)](#), s. 41(1), [Sch. 3 para. 17\(2\)](#); [S.I. 2007/3001](#), art. 2(1)(r)
- F24** Words in s. 214(3)(b) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 34\(3\)](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F25** Words in s. 214(7)(c) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 34\(4\)](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

Modifications etc. (not altering text)

- C1** S. 214 modified (E.W.) (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), [ss. 245\(1\)\(2\)\(e\)\(4\)](#), 416(1) (with [ss. 2](#), 245(3), 398(1), 406, [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

Commencement Information

- I7** S. 214 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))
- I8** S. 214 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

215 Section 214: definitions etc

- (1) [^{F26}Section 238(3) of the Sentencing Code] (treatment of concurrent and consecutive terms) applies for the purposes of the reference in section 214(1)(a) of this Act to the term of an order.
- (2) Where the new offence (within the meaning of section 214) is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of that section to have been committed on the last of those days.
- (3) In section 214 [^{F27}“youth detention accommodation”] has the meaning given by [^{F28}section 248 of the Sentencing Code].

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Textual Amendments

- F26** Words in s. 215(1) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 35\(a\)](#) (with [s. 416\(7\)](#), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F27** Words in s. 215(3) substituted (1.11.2007) by [Offender Management Act 2007 \(c. 21\)](#), s. 41(1), [Sch. 3 para. 17\(3\)](#); [S.I. 2007/3001](#), art. 2(1)(r)
- F28** Words in s. 215(3) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 35\(b\)](#) (with [s. 416\(7\)](#), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

Commencement Information

- I9** S. 215 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))
- I10** S. 215 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

216 Appeals against orders under section 214

- (1) This section applies where an order under section 214 (“the relevant order”) is made.
- (2) For the purposes of sections 285 to 287 (appeals from Service Civilian Court) or, as the case may be, the Court Martial Appeals Act 1968 (c. 20)—
 - (a) the relevant order is to be treated as a sentence passed on the offender, by the court that made the relevant order, for the offence for which the order under section 211 was made; and
 - (b) if the offender was not convicted of that offence by that court he is to be treated for the purpose of enabling him to appeal against the relevant order as if he had been so convicted.
- (3) For the purposes of any appeal against the relevant order, references in section 16A of the Court Martial Appeals Act 1968 to passing a sentence include making an order.
- (4) On an appeal to the Court Martial Appeal Court against the relevant order, the court may (as an alternative to exercising its powers under section 16A(2) of the Court Martial Appeals Act 1968) quash the order.

Commencement Information

- I11** S. 216 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))
- I12** S. 216 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

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