



# Armed Forces Act 2006

## 2006 CHAPTER 52

### PART 8

#### SENTENCING POWERS AND MANDATORY ETC SENTENCES

#### CHAPTER 1

##### DEFINITION ETC OF CERTAIN SENTENCES

*Service community orders (civilians and dismissed servicemen only)*

#### **178 Service community orders**

- (1) A service community order is an order—
  - (a) imposing on the offender one or more of the requirements mentioned in section 177(1) of the 2003 Act (community orders under that Act); and
  - (b) specifying the local justice area in England and Wales, or (as the case may be) the locality in Scotland or the petty sessions district in Northern Ireland, where the offender resides or will reside.
- (2) The power to include in the order one or more of the requirements mentioned in section 177(1) of the 2003 Act is subject to—
  - (a) any restriction that section 177(1) imposes in relation to a particular requirement;
  - (b) the provisions of the 2003 Act mentioned in the paragraphs of section 177(2) of that Act; and
  - (c) section 218 of that Act.
- (3) In the following provisions of the 2003 Act “community order” includes a service community order under this Act—
  - section [F<sup>1</sup>177(2A)] to (6) (provision about the making of community orders);
  - section 178 (power to provide for court review of community orders);

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Chapter 4 of Part 12 (further provision about orders).

- (4) In those provisions in their application in relation to a service community order under this Act, “court” includes a relevant service court.
- (5) The following provisions of the 2003 Act do not apply in relation to a service community order under this Act—
  - section 207(3)(a)(ii) (condition for mental health treatment requirement);
  - section 219(3) (requirement to give copy of order to magistrates' court).
- (6) For the purposes of this section each of the following is a relevant service court—
  - (a) the Court Martial;
  - (b) the Service Civilian Court;
  - (c) the Court Martial Appeal Court;
  - (d) the Supreme Court on an appeal brought from the Court Martial Appeal Court.

#### Textual Amendments

- F1** Word in [s. 178\(3\)](#) substituted (11.12.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), [s. 61\(2\)](#), [Sch. 16 para. 32](#) (with [Sch. 16 para. 35](#)); [S.I. 2013/2981](#), [art. 2\(e\)](#)

#### Commencement Information

- I1** S. 178 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. 178 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### 179 Periodic review etc of service community orders

- (1) In section 210 of the 2003 Act (provision for periodic reviews of drug rehabilitation requirement) as it applies to a service community order under this Act—
  - (a) “the court responsible for the order” means the Crown Court; and
  - (b) subsections (2) to (4) shall be treated as omitted.
- (2) Section 211 of that Act (periodic reviews of drug rehabilitation requirement) has effect in its application to such an order as if for subsections (3) to (5) there were substituted—
 

“(3A) If the offender fails to express his willingness to comply with the drug rehabilitation requirement as proposed to be amended by the court, the court may revoke the service community order and deal with him, for the offence in respect of which the order was made—

  - (a) if that offence is an offence punishable with imprisonment, in any way in which it could deal with him if he had just been convicted before the court of an offence punishable with imprisonment;
  - (b) if it is not an offence punishable with imprisonment, in any way in which it could deal with him if he had just been convicted before the court of an offence not punishable with imprisonment.

(3B) In dealing with the offender under subsection (3A) the court—

  - (a) must take into account the extent to which the offender has complied with the requirements of the order, and

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- (b) where subsection (3A)(a) applies, may impose a sentence of imprisonment notwithstanding anything in section 152(2).
- (3C) A term of imprisonment or fine imposed under subsection (3A)—
- (a) must not exceed the maximum permitted for the offence in respect of which the order was made, and
  - (b) where the order was made by the Service Civilian Court, must not exceed—
    - (i) in the case of a term of imprisonment, 12 months;
    - (ii) in the case of a fine, the prescribed sum within the meaning of section 32 of the Magistrates' Courts Act 1980 (c. 43).”
- (3) Where a sentence is passed under section 211(3A) of the 2003 Act as substituted by subsection (2) above, section 9 of the Criminal Appeal Act 1968 (c. 19) (appeal against sentence) applies as if the offender had been convicted on indictment of the offence for which the sentence was passed.

#### Commencement Information

- I3** S. 179 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. 179 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## 180 Transfer of service community order to Scotland or Northern Ireland

- (1) In Schedule 9 to the 2003 Act (transfer of community orders to Scotland or Northern Ireland)—
  - (a) “community order” includes a service community order under this Act; and
  - (b) in the provisions mentioned in subsection (2), “court” includes a relevant service court.
- (2) Those provisions are paragraphs 1(1) and (5), 2(1), 3(1), 4(1), 6, 9 (except 9(b)) and 10(c) and (d).
- (3) In its application to a service community order under this Act, that Schedule has effect as if—
  - (a) the reference in paragraph 9(c) to the powers of the court making or amending the order were to the powers of the Crown Court;
  - (b) the reference in paragraph 11 to a community order made in England and Wales included a service community order made (anywhere) under this Act;
  - (c) the reference in paragraph 11 to the court which made the order or the court which last amended the order in England and Wales were to the Crown Court; and
  - (d) the reference in paragraph 15 to the court which made the order were to the Crown Court.
- (4) In this section “relevant service court” has the meaning given by section 178(6).

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**Commencement Information**

- I5** S. 180 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. 180 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

**181 Breach, revocation or amendment of service community order**

Part 1 of Schedule 5 (application of Schedule 8 to the 2003 Act to service community orders) has effect.

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**Commencement Information**

- I7** S. 181 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. 181 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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