
STATUTORY INSTRUMENTS

2009 No. 1059

The Armed Forces Act 2006
(Transitional Provisions etc) Order 2009

PART 12

SENTENCING POWERS IN RELATION TO SDA OFFENCES

CHAPTER 2

Young offenders

Offenders under 18 convicted of certain serious SDA offences: power to detain for specified period

86. In section 209 of AFA 2006(1) (detention for person under 18 convicted of serious offence)—

- (a) references to an offence under section 42 of that Act include an SDA civil offence;
- (b) references to the corresponding offence under the law of England and Wales include the corresponding civil offence.

Offenders under 18: detention and training orders

87.—(1) In section 212 of AFA 2006 (term of detention and training order)—

- (a) subsection (1) has effect in relation to an SDA offence as if for the words “, 10, 12, 18 or 24 months” there were substituted “or 10 months”;
- (b) in subsection (2)—

- (i) the reference to an offence under section 42 of that Act includes an SDA civil offence;
- (ii) the reference to the corresponding offence under the law of England and Wales includes the corresponding civil offence.

(2) Section 101(3) to (7) of the Powers of Criminal Courts (Sentencing) Act 2000(2) (which relate to consecutive terms of detention and training orders and are applied by section 213 of AFA 2006) have effect in relation to the sentencing of an offender by the Court Martial with the following modifications.

(3) In subsection (3), the reference to any other detention and training order includes an SDA custodial order.

(4) For the purposes of the references in each of subsections (4) and (5) to “detention and training orders”, an SDA custodial order is to be treated as a detention and training order.

(1) Section 209 of AFA 2006 is amended by the Criminal Justice and Immigration Act 2008, section 145 and Schedule 25, paragraphs 10 and 12.
(2) 2000 c. 6.

(5) In relation to the sentencing by the Court Martial of an offender for an SDA offence, subsections (4), (5) and (7) have effect as if the references to 24 months were to 12 months.

(6) In section 213(3) of AFA 2006 (taking into account time spent in service custody), the reference to service custody is to be read, in relation to any time before commencement, as a reference to military custody, air-force custody or naval custody.

(7) In this article an “SDA custodial order” means—

- (a) an order under section 71AA of, or paragraph 10 of Schedule 5A to, AA 1955 or AFA 1955; or
- (b) an order under section 43AA of, or paragraph 10 of Schedule 4A to, NDA 1957.