



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XI

SENTENCING

Imprisonment, etc.

210 Consideration of time spent in custody.

- (1) A court, in passing a sentence of imprisonment or detention on a person for an offence, shall—
- (a) in determining the period of imprisonment or detention, have regard to any period of time spent in custody by the person on remand awaiting trial or sentence, or spent in custody awaiting extradition to the United Kingdom [^{F1}otherwise than from a category 1 territory][^{F2}, or spent in hospital awaiting trial or sentence by virtue [^{F3}of an assessment order, a treatment order or an interim compulsion order or by virtue] of an order made under section ^{F4}. . . 200 of this Act];
 - (b) specify the date of commencement of the sentence; and
 - (c) if the person—
 - (i) has spent a period of time in custody on remand awaiting trial or sentence; or
 - (ii) is an extradited prisoner [^{F5}who was extradited to the United Kingdom otherwise than from a category 1 territory], [^{F6}; or
 - (iii) has spent a period of time in hospital awaiting trial or sentence by virtue [^{F7}of an assessment order, a treatment order or an interim compulsion order or by virtue] of an order made under section ^{F4}. . . 200 of this Act,]

and the date specified under paragraph (b) above is not earlier than the date on which sentence was passed, state its reasons for not specifying an earlier date [^{F8}so however that a period of time spent both in custody on remand and, by virtue of section 47(1) of the Crime (International Co-operation) Act 2003

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^{F9}..., abroad is not for any reason to be discounted in a determination under paragraph (a) above or specification under paragraph (b) above].

[^{F10}(1A) Subsection (1B) applies where—

- (a) a court is passing a sentence of imprisonment or detention on a person for an offence, and
- (b) the person is an extradited prisoner who was extradited to the United Kingdom from a category 1 territory.

(1B) The court shall specify—

- (a) the period of time spent in custody awaiting extradition, and
- (b) the date of commencement of the sentence in accordance with subsection (1C).

(1C) The date of commencement of the sentence is to be a date the relevant number of days earlier than the date the sentence would have commenced had the person not spent time in custody awaiting extradition.

(1D) In subsection (1C), “the relevant number of days” means the number of days in the period specified under subsection (1B)(a).]

(2) A prisoner is an extradited prisoner for the purposes of this section if—

- (a) he was tried for the offence in respect of which his sentence of imprisonment was imposed—
 - (i) after having been extradited to the United Kingdom; and
 - (ii) without having first been restored to the state from which he was extradited or having had an opportunity of leaving the United Kingdom; and
- (b) he was for any period in custody while awaiting such extradition.

[^{F11}(2A) In this section, “category 1 territory” means a territory designated under the Extradition Act 2003 for the purposes of Part 1 of that Act.]

^{F12}(3)

Textual Amendments

- F1** Words in s. 210(1)(a) inserted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 172(2)(a)**, 185(1) (with [ss. 21, 33, 42, 58, 75, 93](#)); S.I. 2014/1916, art. 2(q)
- F2** Words in s. 210(1) inserted (1.8.1997) by [1997 c. 48, s. 12\(a\)](#); S.I. 1997/1712, art. 3, **Sch.** (subject to [arts. 4, 5](#))
- F3** Words in s. 210(1)(a) inserted (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), [ss. 331\(1\), 333\(2\)-\(4\)](#), {[Sch. 4 para. 8\(14\)\(a\)](#)}; S.S.I. 2005/161, **art. 3**
- F4** Words in s. 210(1)(a)(c)(iii) repealed (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), [ss. 331\(2\)\(3\), 333\(2\)-\(4\)](#), **Sch. 5 Pt. 1**; S.S.I. 2005/161, **art. 3**
- F5** Words in s. 210(1)(c)(ii) substituted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 172(2)(b)**, 185(1) (with [ss. 21, 33, 42, 58, 75, 93](#)); S.I. 2014/1916, art. 2(q)
- F6** S. 210(1)(c)(iii) and the preceding word “;or” inserted (1.8.1997) by [1997 c. 48, s. 12\(b\)](#); S.I. 1997/1712, art. 3, **Sch.** (subject to [arts. 4, 5](#))
- F7** Words in s. 210(1)(c)(iii) inserted (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), [ss. 331\(1\), 333\(2\)-\(4\)](#), **Sch. 4 para. 8(14)(b)**; S.S.I. 2005/161, **art. 3**
- F8** Words in s. 210(1)(c) inserted (26.4.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\)](#), [ss. 91, 94](#), **Sch. 5 para. 65**; S.I. 2004/786, **art. 3**

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- F9** Words in s. 210(1)(c) omitted (31.12.2020) by virtue of [The Law Enforcement and Security \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/742\)](#), regs. 1, **77(2)** (with regs. 85, 86) (as amended by [S.I. 2020/1408](#), regs. 1, 28); 2020 c. 1, Sch. 5 para. 1(1)
- F10** S. 210(1A)-(1D) inserted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 172(3), 185(1)** (with ss. 21, 33, 42, 58, 75, 93); [S.I. 2014/1916](#), art. 2(q)
- F11** S. 210(2A) inserted (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 172(4), 185(1)** (with ss. 21, 33, 42, 58, 75, 93); [S.I. 2014/1916](#), art. 2(q)
- F12** S. 210(3) repealed (21.7.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 172(5), 185(1)** (with ss. 21, 33, 42, 58, 75, 93); [S.I. 2014/1916](#), art. 2(q)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5A inserted by 2010 asp 13 Sch. 7 para. 26
- s. 13(1B)(1C) inserted by 2006 asp 10 s. 82(2)
- s. 13(2)(aa) inserted by 2006 asp 10 s. 82(3)(b)
- s. 13(3A) inserted by 2006 asp 10 s. 82(4)
- s. 13(5)(ba) inserted by 2006 asp 10 s. 82(5)(a)
- s. 13(6)(a)(iii) and word inserted by 2006 asp 10 s. 82(6)(b)
- s. 13(8) inserted by 2006 asp 10 s. 82(7)
- s. 22(5A) inserted by 2007 asp 6 s. 7(2)(g)
- s. 22A(1A) inserted by 2023 asp 4 s. 1(2)
- s. 23B(1)(1A) substituted for s. 23B(1) by 2023 asp 4 s. 2(2)(a)
- s. 23B(6A) inserted by 2023 asp 4 s. 1(3)(c)
- s. 23B(8)-(10) inserted by 2023 asp 4 s. 2(2)(c)
- s. 23C(1A) inserted by 2023 asp 4 s. 2(3)(b)
- s. 23C(3) inserted by 2023 asp 4 s. 2(3)(c)
- s. 24(2C) inserted by 2023 asp 4 s. 4(4)
- s. 24(2AA) inserted by 2023 asp 4 s. 4(2)
- s. 73A inserted by 2004 asp 3 s. 2(3)
- s. 167(7D)(7E) inserted by 2007 asp 17 sch. 4 para. 1(3)
- s. 167(7D) words substituted by 2010 asp 13 Sch. 3 para. 16(2)
- s. 167(7E) words substituted by 2010 asp 13 Sch. 3 para. 16(3)
- s. 194ZA repealed by 2014 asp 18 sch. 3 para. 25
- s. 200A inserted by 2016 asp 1 s. 85
- s. 205A added by 1997 c. 48 s. 1(1) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by 2003 asp 7, s. 19(3); S.S.I. 2003/288, art. 2, Sch.)
- s. 210ZA inserted by 2023 asp 4 s. 5
- s. 249(4A)-(4D) inserted by 2014 asp 1 s. 24
- s. 271D(4A) inserted by 2019 asp 8 s. 6(4)
- s. 271F(2)(aa) inserted by 2019 asp 8 s. 10(4)
- s. 271AA inserted by 2019 asp 8 s. 6(2)
- s. 271BZD inserted by 2019 asp 8 s. 3(2)
- s. 288AB288AC inserted by 2024 asp 1 s. 32(3)
- Sch. 5A added by 1997 c. 48 s. 1(2) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by 2003 asp 7, s. 19(3); S.S.I. 2003/288, art. 2, Sch.)