

## **ARMED FORCES ACT 2006**

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### **EXPLANATORY NOTES**

#### **COMMENTARY**

##### *First Group of Parts – Discipline*

##### **Part 12 – Service and Effect of Certain Sentences**

##### **Commencement of sentence**

##### ***Section 289: Commencement of sentences of the Court Martial and Service Civilian Court***

564. This section provides that a sentence passed by the Court Martial or the SCC takes effect from the beginning of the day on which it is passed, unless some other provision enables the court to direct otherwise. The rule does not apply to suspended sentences (which take effect only when subsequently activated) or to sentences passed by the Court Martial on appeal from the SCC (which under section 287(2) take effect from the beginning of the day on which the SCC passed sentence, unless the Court Martial otherwise directs).

##### ***Section 290: Commencement of term of service detention awarded by CO***

565. This section postpones the point at which an award of service detention made by a CO takes effect (even if the CO does not suspend the award under section 189(3)). Unless the offender elects to start the sentence immediately, it does not take effect until the time allowed for bringing an appeal (the “appeal period”) expires or, if an appeal is brought, the appeal is disposed of (unless the SAC disposes of it by quashing the award or substituting another punishment).
566. Even if the offender does elect to start the sentence immediately, he can withdraw the election during the appeal period. In that case the sentence ceases to have effect, and resumes only when the appeal period expires or any appeal is disposed of. Similarly, if the sentence has already come into effect and an appeal is brought, the sentence ceases to have effect and resumes only when the appeal is disposed of.

##### ***Section 291: Commencement of consecutive term of service detention awarded by CO***

567. This section adapts the rules in section 189 for the case where a CO makes an award of service detention consecutive to an existing award. Unless the offender elects to start the new sentence as soon as the old one expires, the new one does not take effect until the old one has expired and the appeal period has expired or any appeal has been disposed of.
568. If the offender does elect to start the new sentence at the end of the old one, he can withdraw the election during the appeal period. If he withdraws the election before the end of the old sentence, the new one does not take effect until the old one has expired and the appeal period has expired or any appeal has been disposed of. If he withdraws

*These notes refer to the Armed Forces Act 2006 (c.52)  
which received Royal Assent on 8 November 2006*

the election when the old sentence has expired and the new one has begun, the new one ceases to have effect, and resumes only when the appeal period expires or any appeal is disposed of.

569. If an appeal is brought before the old sentence expires, the new one does not take effect until the old one has expired and the appeal has been disposed of. If an appeal is brought after the old sentence has expired and the new one has taken effect, the new one ceases to have effect and resumes only when the appeal is disposed of.

***Section 292: Commencement of suspended sentence activated by CO***

570. This section provides that the rules in sections 290 and 291 shall apply (with modifications) where an officer makes an order activating a suspended sentence of service detention under section 193. Unless the officer orders that the suspended sentence is to take effect from the end of another sentence, the rules in section 290 apply; if the order does provide that the suspended sentence is to take effect from the end of another sentence, then the rules in section 291 apply.