



Armed Forces Act 2006

2006 CHAPTER 52

PART 13

DISCIPLINE: MISCELLANEOUS AND SUPPLEMENTARY

CHAPTER 5

SUPPLEMENTARY

Financial penalty enforcement orders

322 Financial penalty enforcement orders

- (1) The Secretary of State may by regulations make provision for the purpose of enabling the Defence Council, or persons authorised by them, to make orders for the enforcement of financial penalties by prescribed courts in England and Wales, Scotland, Northern Ireland or the Isle of Man.
- (2) Regulations under this section may in particular make provision—
 - (a) with respect to the cases in which such orders may be made;
 - (b) with respect to the form and content of such orders, including the matters to be certified in such orders;
 - (c) with respect to the effect of such orders;
 - (d) conferring functions in relation to such orders on the Defence Council;
 - (e) for the delegation by the Defence Council of any of their functions in relation to such orders.
- (3) Provision that may be made by the regulations by virtue of subsection (2)(c) includes provision—
 - (a) that a sum certified in such an order as outstanding is to be treated as if it had been a fine imposed on a conviction by a court specified in the order;

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- [^{F1}(aa) about the effect, where a sum is certified in such an order, of an order made by the Court Martial under—
- (i) section 269A (fines: fixing of term of imprisonment for default); or
 - (ii) section 269B (service compensation order: maximum term of imprisonment for default);]
- (b) for prescribed enforcement procedures to cease to be available, or to become available, on the occurrence of prescribed events.

(4) In this section—

“financial penalty” means—

- (a) a fine or service compensation order imposed by virtue of this Act (including [^{F2} a fine imposed by the Court Martial or the Service Civilian Court under [^{F3} paragraph 11(2)(a) of Schedule 10 to the Sentencing Code by virtue of section 184 and Schedule 6A] (breach etc of overseas community order) or] a fine or service compensation order with respect to which an order under section 268 (order for service parent or guardian to pay fine or compensation) has been made);
- (b) a sum adjudged to be paid under section 236(3) (forfeiture of recognizance);
- (c) an order as to the payment of costs made by virtue of regulations under section 26, or made under section 27, of the Armed Forces Act 2001 (c. 19);

“prescribed” means prescribed, or of a description prescribed, by regulations under this section.

Textual Amendments

- F1** S. 322(3)(aa) inserted (8.3.2012) by [Armed Forces Act 2011 \(c. 18\)](#), **ss. 16(2)**, 32(3); S.I. 2012/669, **art. 3(a)**
- F2** Words in s. 322(4) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 78(5)**, 151(1); S.I. 2012/2906, **art. 2(a)**
- F3** Words in s. 322(4) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 77** (with s. 416(7), **Sch. 27**); S.I. 2020/1236, **reg. 2**

Commencement Information

- I1** S. 322 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. 322 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

Power to make provision in consequence of criminal justice enactments

323 Power to make provision in consequence of criminal justice enactments

- (1) The Secretary of State may make an order under this section if he considers it appropriate to do so in consequence of a criminal justice enactment (see section 324).
- (2) An order under this section may make provision in relation to—
- (a) service policemen,
 - (b) service courts (see section 324),
 - (c) persons subject to service law,

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- (d) civilians subject to service discipline, or
- (e) service law proceedings (see section 324),

which is equivalent to that made by a relevant provision, subject to such modifications as the Secretary of State considers appropriate.

- (3) In this section “relevant provision” means—
 - (a) the criminal justice enactment;
 - (b) any enactment relating to a criminal justice matter (see section 324) which is amended by the criminal justice enactment; or
 - (c) any subordinate legislation made under—
 - (i) the criminal justice enactment; or
 - (ii) any Act which is amended by the criminal justice enactment.
- (4) An order under this section may make provision in such way as the Secretary of State considers appropriate and may, in particular—
 - (a) be made in relation to all or any cases to which the order-making power extends;
 - (b) apply the relevant provision (with or without modifications);
 - (c) amend, repeal or revoke any enactment or subordinate legislation (including the relevant provision and any provision of or made under this Act).

Modifications etc. (not altering text)

- C1** S. 323 applied by 2003 c. 44, s. 94(1) (as substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 214\(2\)](#) (with s. 385); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4)

Commencement Information

- I3** S. 323 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. 323 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), art. 4

324 Section 323: definitions

- (1) In section 323 a “criminal justice enactment” means an enactment which—
 - (a) is contained in an Act passed after 1st January 2001; and
 - (b) amends the law of England and Wales relating to any criminal justice matter.
- (2) In section 323 and subsection (1) “criminal justice matter” means—
 - (a) the powers of the police in connection with the investigation of offences or the detection of offenders;
 - (b) powers of arrest and detention in connection with crime or criminal proceedings;
 - (c) the functions of any authority in relation to criminal prosecutions;
 - (d) remand in custody or on bail;
 - (e) the rights and duties of a defendant in relation to proceedings in civilian courts;
 - (f) evidence or procedure in civilian courts;
 - (g) the powers of civilian courts, including powers in relation to sentence;

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- (h) such other matters relating to criminal justice as the Secretary of State may by order prescribe for the purposes of this paragraph.
- (3) For the purposes of section 323, section 5 of the Criminal Justice (International Co-operation) Act 1990 (c. 5) (transfer of UK prisoner to give evidence etc overseas) is to be taken to be a criminal justice enactment.
- (4) In section 323 “service court” means—
- (a) the Court Martial;
 - (b) the Summary Appeal Court;
 - (c) the Service Civilian Court;
 - (d) the Court Martial Appeal Court; or
 - (e) the Supreme Court on an appeal brought from the Court Martial Appeal Court.
- (5) In section 323 “service law proceedings” means proceedings under this Act or the Court Martial Appeals Act 1968 (c. 20) (and does not include proceedings relating to offences under sections 344 to 346 or under regulations made by virtue of section 328(4)(b) or 343(5)(b)).

Commencement Information

- I5** S. 324 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. 324 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

Other supplementary provisions

325 Evidential burden as respects excuses

- (1) This section applies to an offence under any of sections 1 to 41, [^{F4}93A, 93E, 93G,] 107, 229, [^{F5}232G and 266] which is such that a person who would otherwise commit the offence—
- (a) does not do so if he has a lawful excuse; or
 - (b) does not do so if he has a reasonable excuse.
- (2) In proceedings for an offence to which this section applies, the defendant is to be treated as not having had a lawful excuse or reasonable excuse (as the case may be) unless sufficient evidence is adduced to raise an issue as to whether he had such an excuse.

Textual Amendments

- F4** Words in s. 325(1) inserted (1.11.2013) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), [Sch. 4 para. 13\(a\)](#); [S.I. 2013/2501](#), [art. 3\(d\)](#)
- F5** Words in s. 325(1) substituted (1.11.2013) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), [Sch. 4 para. 13\(b\)](#); [S.I. 2013/2501](#), [art. 3\(d\)](#)

Commencement Information

- I7** S. 325 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](#))

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18 S. 325 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

326 Exclusion of enactments requiring consent of Attorney General or DPP

Subject to section 61(2), no enactment requiring the consent of the Attorney General or the Director of Public Prosecutions in connection with any proceedings has effect in relation to proceedings under this Act for a service offence.

Commencement Information

- 19** S. 326 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](#))
- 110** S. 326 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

327 Local probation boards

For section 5A of the Criminal Justice and Court Services Act 2000 (c. 43) (inserted by Schedule 16 to this Act) substitute—

“5A Local probation boards and service justice

- (1) A local probation board may, in pursuance of arrangements made with the Secretary of State, carry out activities anywhere in the world in relation to persons who are or have been subject to proceedings before the Court Martial, the Summary Appeal Court or the Service Civilian Court.
- (2) Any activities carried out in relation to such persons must correspond to activities which the board is required or authorised to carry out in relation to persons who have been charged with or convicted of criminal offences.”

Commencement Information

- 111** S. 327 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](#))
- 112** S. 327 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

Changes to legislation:

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Changes and effects yet to be applied to :

- specified provision(s) transitional provisions for effects of commencing SI 2009/812 by [S.I. 2009/1059 Order](#)

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):

- Pt. 12A inserted by [2016 c. 21 s. 7](#)
- Pt. 16B inserted by [2023 c. 48 s. 1](#)
- s. 50(2)(ca) inserted by [2011 c. 18 Sch. 4 para. 3\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 4 para. 3(3) repealed (8.3.2015) without ever being in force by [2014 c. 12, Sch. 11 para. 82\(2\)](#); [S.I. 2015/373, art. 2\(g\)\(ii\)](#))
- s. 209(8) inserted by [2021 c. 11 Sch. 13 para. 41\(3\)](#)
- s. 213(3A) words inserted by [2021 c. 11 Sch. 13 para. 41\(6\)](#)
- s. 218A(6A) inserted by Sch. 26 para. 12(1)(db) (as inserted) by [S.I. 2020/1520 reg. 6\(2\)\(b\)](#)
- s. 218A(6A) words omitted by virtue of [2020 c. 17, Sch. 26 para. 12\(1\)\(dc\)](#) (as inserted) by [S.I. 2020/1520 reg. 6\(2\)\(b\)](#)
- s. 219A(1)(d)(i) omitted by virtue of [2020 c. 17, Sch. 26 para. 14\(a\)\(i\)](#) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(b\)](#)
- s. 219A(1)(d)(iii) omitted by virtue of [2020 c. 17, Sch. 26 para. 14\(a\)\(i\)](#) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(b\)](#)
- s. 219A(1)(da) inserted by [2021 c. 11 Sch. 13 para. 41\(7\)](#)
- s. 219A(1)(da)(i) omitted by virtue of [2020 c. 17, Sch. 26 para. 14\(a\)\(ii\)](#) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(b\)](#)
- s. 219A(2A) inserted by [2020 c. 17, Sch. 26 para. 14\(bb\)](#) (as inserted) by [S.I. 2020/1520 reg. 6\(3\)](#)
- s. 219ZA inserted by [2021 c. 11 Sch. 8 para. 2](#)
- s. 219ZA(1)(e) words omitted by virtue of [2020 c. 17, Sch. 26 para. 13A\(a\)](#) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(a\)](#)
- s. 219ZA(4)-(6) omitted by virtue of [2020 c. 17, Sch. 26 para. 13A\(b\)](#) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(a\)](#)
- s. 219ZA(7) words omitted by virtue of [2020 c. 17, Sch. 26 para. 13A\(c\)](#) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(a\)](#)
- s. 223(1A) inserted by [2021 c. 11 Sch. 13 para. 41\(8\)\(a\)](#)
- s. 224A(1)(d)(iii) and word inserted by [2021 c. 11 Sch. 13 para. 41\(9\)\(a\)\(ii\)](#)
- s. 224A(1)(d)(iii) words substituted by [2020 c. 17, Sch. 26 para. 15\(a\)\(iii\)](#) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(c\)](#)
- s. 224A(1A) inserted by [2021 c. 11 Sch. 8 para. 8\(4\)](#)
- s. 224A(3A) inserted by [2021 c. 11 Sch. 13 para. 41\(9\)\(b\)](#)
- s. 224B inserted by [2021 c. 11 Sch. 8 para. 9](#)
- s. 225(1A) inserted by [2020 c. 17, Sch. 26 para. 15A](#) (as inserted) by [S.I. 2020/1520 reg. 6\(4\)](#)
- s. 226(1A) inserted by [2020 c. 17, Sch. 26 para. 15B](#) (as inserted) by [S.I. 2020/1520 reg. 6\(4\)](#)
- s. 227(3)(a)(b) substituted for words by [2021 c. 11 Sch. 13 para. 41\(10\)](#)
- s. 238(6)(a) word omitted by [2021 c. 11 Sch. 13 para. 41\(11\)\(a\)](#)
- s. 238(6)(b) word substituted by [2021 c. 11 Sch. 13 para. 41\(11\)\(c\)](#)
- s. 238(6)(aa) inserted by [2021 c. 11 Sch. 13 para. 41\(11\)\(b\)](#)

- s. 239(3A)(3B) inserted by [2021 c. 11 Sch. 8 para. 3](#)
- s. 239(3A) words omitted by virtue of 2020 c. 17, Sch 26 para. 18(a)(i) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(d\)](#)
- s. 239(3A) words omitted by virtue of 2020 c. 17, Sch 26 para. 18(a)(ii) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(d\)](#)
- s. 239(3B) words omitted by virtue of 2020 c. 17, Sch 26 para. 18(b) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(d\)](#)
- s. 260(1)(ca) inserted by [2021 c. 11 Sch. 13 para. 41\(14\)\(a\)\(ii\)](#)
- s. 260(1)(ca) words omitted by virtue of 2020 c. 17, Sch. 26 para. 19(a)(iia) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(e\)\(i\)](#)
- s. 260(4B)(a) words omitted by virtue of 2020 c. 17, Sch. 26 para. 19(b)(ii) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(e\)\(ii\)](#)
- s. 260(4B)(za) inserted by [2021 c. 11 Sch. 13 para. 41\(14\)\(b\)](#)
- s. 260(4B)(za) words omitted by virtue of 2020 c. 17, Sch. 26 para. 19(b)(i) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(e\)\(ii\)](#)
- s. 261(1)(ba) inserted by [2021 c. 11 Sch. 13 para. 41\(15\)](#)
- s. 261(1)(ba) words omitted by virtue of 2020 c. 17, Sch. 26 para. 20(c) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(f\)](#)
- s. 261A(3)(a) words in s. 261A(3) renumbered as s. 261A(3)(a) by [2021 c. 11 Sch. 8 para. 4\(a\)](#)
- s. 261A(3)(b)(c) inserted by [2021 c. 11 Sch. 8 para. 4\(b\)](#)
- s. 261A(3)(b) words omitted by virtue of 2020 c. 17, Sch. 26 para. 20A(a) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(g\)](#)
- s. 261A(3)(c)(i) words omitted by virtue of 2020 c. 17, Sch. 26 para. 20A(b) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(g\)](#)
- s. 262A(2A) inserted by [2021 c. 11 Sch. 13 para. 41\(16\)\(a\)](#)
- s. 262A(2A)(b) omitted by virtue of 2020 c. 17, Sch. 26 para. 21(a) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(h\)](#)
- s. 262A(3A) inserted by [2021 c. 11 Sch. 13 para. 41\(16\)\(b\)](#)
- s. 262A(3A) omitted by virtue of 2020 c. 17, Sch. 26 para. 21(b) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(h\)](#)
- s. 262A(4) words inserted by [2021 c. 11 Sch. 13 para. 41\(16\)\(c\)\(i\)](#)
- s. 262A(4) words inserted by [2021 c. 11 Sch. 13 para. 41\(16\)\(c\)\(ii\)](#)
- s. 262A(4) words omitted by virtue of 2020 c. 17, Sch. 26 para. 21(c) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(h\)](#)
- s. 270A270B inserted by [2008 c. 4 Sch. 25 para. 27](#) (This amendment not applied to legislation.gov.uk. Sch. 25 para. 26(3)(4) repealed (2.4.2012) by 2011 c. 18, Sch. 3 para. 20(3), Sch. 5; S.I. 2012/669, art. 4(d)(f) (with art. 13))
- s. 270B(6)(aa) inserted by [2009 c. 25 Sch. 17 para. 9\(2\)](#) (This amendment not applied to legislation.gov.uk. Sch. 17 para. 9 repealed (2.4.2012) without ever being in force by 2011 c. 18, Sch. 5; S.I. 2012/669, art. 4(f))
- s. 270B(10) word repealed by [2009 c. 25 Sch. 23 Pt. 5](#)
- s. 270B(10)(a) words inserted by [2009 c. 25 Sch. 17 para. 9\(3\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Sch. 17 para. 9 repealed (2.4.2012) without ever being in force by 2011 c. 18, Sch. 5; S.I. 2012/669, art. 4(f))
- s. 270B(10)(b) words substituted by [2009 c. 25 Sch. 17 para. 9\(3\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Sch. 17 para. 9 repealed (2.4.2012) without ever being in force by 2011 c. 18, Sch. 5; S.I. 2012/669, art. 4(f))
- s. 270B(10)(c)-(e) inserted by [2009 c. 25 Sch. 17 para. 9\(3\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Sch. 17 para. 9 repealed (2.4.2012) without ever being in force by 2011 c. 18, Sch. 5; S.I. 2012/669, art. 4(f))
- s. 304B inserted by [2016 c. 21 s. 8](#)
- s. 304C inserted by [2016 c. 21 s. 9](#)
- s. 304C(5A) inserted by [2021 c. 11 Sch. 8 para. 5](#)
- s. 304C(5A) words omitted by virtue of 2020 c. 17, Sch. 26 para. 24A(a) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(i\)](#)
- s. 304C(5A) words substituted by 2020 c. 17, Sch. 26 para. 24A(b) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(i\)](#)

- s. 304D inserted by [2016 c. 21 s. 10](#)
- s. 304E inserted by [2016 c. 21 s. 11](#)
- s. 304F-304H inserted by [2016 c. 21 s. 12](#)
- s. 377(8) inserted by 2020 c. 17, Sch. 26 para. 26 (as inserted) by [S.I. 2020/1520 reg. 6\(5\)](#)
- Sch. 7 para. 9(A1) inserted by [2020 c. 9 Sch. 2 para. 123\(8\)\(a\)](#) (This pre-consolidation amendment comes into force immediately before the consolidation date on 1.12.2020 (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416) to facilitate the sentencing consolidation and then is repealed immediately afterwards on 1.12.2020 by the Sentencing Act 2020 (c. 17), Sch. 28; S.I. 2020/1236, reg. 2)