



Armed Forces Act 2006

2006 CHAPTER 52

PART 6

SUMMARY HEARING AND APPEALS AND REVIEW

CHAPTER 1

SUMMARY HEARING

Punishments available to commanding officer

132 Punishments available to commanding officer

- (1) The second column of the following Table lists the punishments that may be awarded by a commanding officer who has heard a charge summarily, subject in the case of each punishment to any limitation shown in the third column opposite it.

TABLE

<i>Row Number</i>	<i>Punishment</i>	<i>Limitation</i>
1	detention for a term not exceeding the maximum allowed by section 133	only if the person being punished is of or below the rank of— (a) leading rate; (b) lance corporal or lance bombardier; (c) corporal in any of Her Majesty's air forces [^{F1} (but see subsection (1A))]

Status: Point in time view as at 02/04/2012.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Armed Forces Act 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

2	forfeiture of a specified term of seniority or of all seniority	only if the person being punished is an officer, and only in accordance with section 134
3	reduction in rank, or disrating	only if the person being punished is a warrant officer or non-commissioned officer, only in accordance with section 135, and not to an extent prohibited by regulations under section 135(4)
4	a fine not exceeding the maximum amount allowed by section 136	
5	a severe reprimand or a reprimand	only if the person being punished is an officer, warrant officer or non-commissioned officer
6	a service supervision and punishment order (defined by section 173)	only if the person being punished is an able rate, marine, soldier or airman
7	such minor punishments as may from time to time be authorised by regulations made by the Defence Council	
8	a service compensation order (defined by section 175) of an amount not exceeding the maximum allowed by section 137	

[^{F2}(1A) In this section and section 133 references to a corporal in any of Her Majesty's air forces do not include a corporal in the Royal Air Force Regiment.]

- (2) Subsection (1) is subject to (in particular)—
- (a) section 138 (prohibited combinations of punishments) and any regulations made under that section;
 - (b) Chapter 1 of Part 9 (general provisions about sentencing).
- (3) Where regulations under row 7 of the Table authorise a minor punishment, they may—
- (a) confer on the offender's commanding officer a power, when awarding the punishment, to direct that the punishment shall take effect from a date after the date of the award;
 - (b) confer on the offender's commanding officer the function of deciding the details of the punishment;

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- (c) provide for the delegation by the commanding officer of any of his functions under the regulations.

Textual Amendments

- F1** Words in s. 132(1) Table inserted (2.4.2012) by [Armed Forces Act 2011 \(c. 18\)](#), **ss. 12(1)(a)**, 32(3); [S.I. 2012/669](#), **art. 4(a)**
- F2** S. 132(1A) inserted (2.4.2012) by [Armed Forces Act 2011 \(c. 18\)](#), **ss. 12(1)(b)**, 32(3); [S.I. 2012/669](#), **art. 4(a)**

Commencement Information

- I1** S. 132 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. 132 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

133 Detention: limits on powers

- (1) The maximum term of detention that a commanding officer may award under row 1 of the Table in section 132 to an able rate, marine, soldier or airman is—
- 90 days if the commanding officer has extended powers for the purposes of this subsection;
 - otherwise, 28 days.
- (2) A commanding officer may not award detention under row 1 of the Table in section 132 to a person of any of the following ranks—
- leading rate,
 - lance corporal or lance bombardier,
 - corporal in any of Her Majesty's air forces,
- unless the commanding officer has extended powers for the purposes of this subsection; and the maximum term of detention that a commanding officer may (if he has those powers) award such a person is 90 days.
- (3) A commanding officer has extended powers for the purposes of subsection (1) or (2) if he has, [^{F3}within the relevant time (defined by section 135A)] —
- applied to higher authority for extended powers for the purposes of that subsection; and
 - been notified by higher authority that his application has been granted.
- (4) A commanding officer also has extended powers for the purposes of subsection (1) or (2) if he is of or above the rank of rear admiral, major-general or air vice-marshal.

Textual Amendments

- F3** Words in s. 133(3) substituted (2.4.2012) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), **Sch. 3 para. 10**; [S.I. 2012/669](#), **art. 4(d)**

Commencement Information

- I3** S. 133 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. 133 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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134 Forfeiture of seniority: requirement for approval

- (1) A commanding officer may not award forfeiture of seniority under row 2 of the Table in section 132 unless he has extended powers for the purposes of this section.
- (2) A commanding officer has extended powers for the purposes of this section if he has, [^{F4}within the relevant time (defined by section 135A)] —
 - (a) applied to higher authority for extended powers for the purposes of this section; and
 - (b) been notified by higher authority that his application has been granted.
- (3) A commanding officer also has extended powers for the purposes of this section if he is of or above the rank of rear admiral, major-general or air vice-marshal.

Textual Amendments

- F4** Words in s. 134(2) substituted (2.4.2012) by [Armed Forces Act 2011 \(c. 18\), s. 32\(3\), Sch. 3 para. 10](#); [S.I. 2012/669, art. 4\(d\)](#)

Commencement Information

- I5** S. 134 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. 134 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

135 Reduction in rank: limits on powers

- (1) A commanding officer may not award reduction in rank, or disrating, under row 3 of the Table in section 132 unless—
 - (a) he has extended powers for the purposes of this subsection; or
 - (b) the person being punished is a lance corporal or lance bombardier.
- (2) The reduction in rank or disrating that a commanding officer may award is reduction or disrating—
 - (a) by one acting rank or rate; or
 - (b) if the person being punished has no acting rank or rate, by one substantive rank or rate.
- [^{F5}(3) Where the person being punished is a corporal in any of Her Majesty's air forces, the reduction in rank authorised by subsection (2)(a) or (b) (as the case may be) is reduction to the highest rank the person has held in that force as an airman; but this is subject to subsection (3A).
- (3A) In relation to the Royal Air Force Regiment, the reference in subsection (3) to a corporal is to be read as a reference to a lance corporal.]
- (4) The Defence Council may by regulations provide that persons of a trade or branch specified in the regulations may not be reduced or disrated under section 132 below a rank or rate so specified.
- (5) A commanding officer has extended powers for the purposes of subsection (1) if he has, [^{F6}within the relevant time (defined by section 135A)] —
 - (a) applied to higher authority for extended powers for the purposes of that subsection; and

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- (b) been notified by higher authority that his application has been granted.
- (6) A commanding officer also has extended powers for the purposes of subsection (1) if he is of or above the rank of rear admiral, major-general or air vice-marshal.

Textual Amendments

- F5** S. 135(3)(3A) substituted for s. 135(3) (2.4.2012) by Armed Forces Act 2011 (c. 18), ss. 12(2), 32(3); S.I. 2012/669, art. 4(a)
- F6** Words in s. 135(5) substituted (2.4.2012) by Armed Forces Act 2011 (c. 18), s. 32(3), Sch. 3 para. 10; S.I. 2012/669, art. 4(d)

Commencement Information

- I7** S. 135 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. 135 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

[^{F7} 135A Extended powers: time for obtaining

- (1) In each of sections 133(3), 134(2) and 135(5), “within the relevant time” means before the start of the summary hearing; but this is subject to subsections (2) and (3).
- (2) Subsection (3) applies where after the start of a summary hearing—
- a charge is amended under section 123(2)(a);
 - a charge is substituted for another charge under section 123(2)(b); or
 - an additional charge is brought under section 123(2)(c).
- (3) Any application for or grant of extended powers which is made in the period between—
- the making of the amendment, substitution or addition, and
 - the time when the summary hearing is proceeded with after the amendment, substitution or addition,
- is to be treated for the purposes of sections 133(3), 134(2) and 135(5) as made within the relevant time.]

Textual Amendments

- F7** S. 135A inserted (2.4.2012) by Armed Forces Act 2011 (c. 18), s. 32(3), Sch. 3 para. 11; S.I. 2012/669, art. 4(d)

136 Fine: maximum amount

- [^{F8}(1) The maximum amount of a fine that a commanding officer may award is 28 days' pay.]
- (4) For the purposes of this section a day's pay is—
- subject to paragraph (b), the gross pay which is (or would apart from any forfeiture be) issuable to the offender in respect of the day when the punishment is awarded;

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- (b) if the offender is a special member of a reserve force, the gross pay which would have been issuable to him in respect of that day if he had been an ordinary member of that reserve force of the same rank or rate.
- (5) If the offender is a member of a reserve force who is not on duty on the day the punishment is awarded, for the purposes of subsection (4) he is to be taken to have been on duty then.
- (6) In subsection (4) “special member” and “ordinary member” have the same meanings as in the Reserve Forces Act 1996 (c. 14).

Textual Amendments

- F8** S. 136(1) substituted for s. 136(1)-(3) (2.4.2012) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), [Sch. 3 para. 12](#); [S.I. 2012/669](#), [art. 4\(d\)](#) (with [art. 7](#))

Commencement Information

- I9** S. 136 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](#))
- I10** S. 136 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

137 Service compensation orders: maximum amount

- (1) Where an award by a commanding officer consists of or includes one service compensation order, the compensation to be paid under the order must not exceed £1,000.
- (2) Where an award by a commanding officer consists of or includes two or more service compensation orders, the total compensation to be paid under the orders must not exceed £1,000.
- (3) If it appears to the Secretary of State that there has been a change in the value of money since the relevant date, he may by order substitute for the sum for the time being specified in subsections (1) and (2) such other sum as appears to him justified by the change.
- (4) In subsection (3) “the relevant date” means—
- (a) the date of the coming into force of this section; or
 - (b) where the sum for the time being specified in subsections (1) and (2) was substituted for a sum previously so specified, the date of the substitution.

Commencement Information

- I11** S. 137 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](#))
- I12** S. 137 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

138 Prohibited combinations of punishments

- (1) Subsections (2) to (6) apply where a commanding officer awards punishment in respect of an offender.

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- [^{F9}(2) If he awards detention, the only additional punishments he may award are—
- (a) reduction in rank or disrating (subject to subsection (8));
 - (b) a service compensation order.]
- (4) If he awards forfeiture of seniority, the only additional punishments he may award are—
- (a) a severe reprimand or a reprimand;
 - (b) a service compensation order.
- (5) If he awards reduction in rank or disrating, the only additional punishments he may award are—
- (a) a suspended sentence of service detention (subject to subsection (8));
 - (b) a service compensation order.
- (6) If he awards a fine, he may not also award a service supervision and punishment order.
- (7) Regulations under row 7 of the Table in section 132 may make provision, as respects any punishment authorised by those regulations, prohibiting that punishment from being awarded with any other punishment (whether or not so authorised) specified by the regulations.
- (8) Nothing in this section authorises a commanding officer to award a particular punishment where the award of that punishment is prohibited otherwise than by this section.
- (9) References in this section to a service compensation order include references to two or more such orders.

Textual Amendments

- F9** S. 138(2) substituted for s. 138(2)(3) (2.4.2012) by [Armed Forces Act 2011 \(c. 18\)](#), **ss. 13(1)**, 32(3); [S.I. 2012/669](#), **art. 4(a)** (with **art. 6(1)(2)**)

Commencement Information

- I13** S. 138 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](#))
- I14** S. 138 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

139 Savings for maximum penalties for offences

- (1) Where a commanding officer awards punishment in respect of a single offence, nothing in sections 131 to 138 authorises him—
- (a) to award a punishment of a kind which the Court Martial could not award for that offence;
 - (b) if the offence is under section 42 (criminal conduct), to award a fine exceeding the maximum allowed by section 42(4).
- (2) Where a commanding officer awards punishment in respect of two or more offences—
- (a) nothing in sections 131 to 138 authorises him to award a punishment of a particular kind unless it is one which the Court Martial could award for at least one of the offences; and

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- (b) if all the offences are under section 42 and the maximum fine allowed by section 136 exceeds the permitted maximum, nothing in sections 131 to 138 authorises him to award a fine exceeding the permitted maximum.
- (3) The permitted maximum is the total of the fines that under section 42(4) the commanding officer could award in respect of the offences if he had power to make separate awards in respect of them.

Commencement Information

- I15** S. 139 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](#))
- I16** S. 139 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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