



Armed Forces Act 2011

2011 CHAPTER 18

Punishments and other court orders

12 Amendments relating to new rank of lance corporal in RAF Regiment

- (1) In section 132 of AFA 2006 (punishments available to commanding officer)—
- in row 1 of the Table, in paragraph (c) of the entry in the third column, after “air forces” insert “ (but see subsection (1A)) ”;
 - after subsection (1) insert—

“(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) In section 135 of AFA 2006 (reduction in rank: limits on powers), for subsection (3) substitute—
- “(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.”

Commencement Information

II S. 12 in force at 2.4.2012 by S.I. 2012/669, art. 4(a)

13 Reduction in rank or rate

- (1) In section 138 of AFA 2006 (prohibited combinations of punishments), for subsections (2) and (3) substitute—
- “(2) If he awards detention, the only additional punishments he may award are—

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- (a) reduction in rank or disrating (subject to subsection (8));
 - (b) a service compensation order.”
- (2) Omit section 293 of AFA 2006 (automatic reduction of rank or rate of warrant officer or non-commissioned officer given custodial sentence or sentence of service detention).
- (3) The repeal of section 293 of AFA 2006 by subsection (2) does not affect any reduction in rank or disrating that occurred by virtue of that section before the commencement of that repeal.

Commencement Information

I2 S. 13 in force at 2.4.2012 by S.I. 2012/669, art. 4(a) (with art. 6)

14 Court Martial sentencing powers

- (1) For section 165 of AFA 2006 substitute—

“165 Sentencing powers of Court Martial where election for trial by that court instead of CO

Schedule 3A (sentencing powers of Court Martial where election for trial by that court instead of CO) has effect.”

- (2) After Schedule 3 to AFA 2006 insert the Schedule set out in Schedule 1.

Commencement Information

I3 S. 14 in force at 2.4.2012 by S.I. 2012/669, art. 4(b)

15 Increase in maximum term of detention for certain offences

- (1) In section 305(5) of AFA 2006 (limit on term of imprisonment or detention for an offence under that section), omit the words “or service detention”.
- (2) In section 95 of the Reserve Forces Act 1996 (offences against orders and regulations under section 4)—
- (a) in subsection (2)(a)(ii) omit the words “or service detention”;
 - (b) after subsection (2A) insert—

“(3) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003, subsection (2)(a)(ii) has effect as if the reference to 51 weeks were to 6 months.”

Commencement Information

I4 S. 15 in force at 2.4.2012 by S.I. 2012/669, art. 4(a) (with art. 8)

16 Enforcement of financial penalties

(1) After section 269 of AFA 2006 insert—

“269A Fines: fixing of term of imprisonment for default

- (1) Where the Court Martial imposes a fine on a person aged 18 or over, the court must make an order fixing a term of imprisonment which the person is to undergo if—
 - (a) any sum which the person is liable to pay is not duly paid or recovered; and
 - (b) an enforcement order is made.
- (2) The Table in section 139(4) of the Sentencing Act (maximum periods of imprisonment for default), as for the time being in force, applies for the purpose of determining the maximum periods of imprisonment that may be fixed under this section for fines of the amounts set out in that Table.
- (3) Where the person mentioned in subsection (1) is sentenced by the court to, or is serving or otherwise liable to serve, a term of—
 - (a) imprisonment,
 - (b) detention in a young offender institution, or
 - (c) detention under section 108 of the Sentencing Act (detention of persons aged 18 to 21 for default or contempt),the court may order that any term of imprisonment fixed under subsection (1) shall not begin to run until after the end of that other term.
- (4) For the purposes of references in subsection (3) to a term of imprisonment or detention which a person has been sentenced to or is serving or liable to serve, consecutive terms and terms which are wholly or partly concurrent are to be treated as a single term.
- (5) References in subsection (3) to a term which a person is serving or liable to serve are to a term imposed—
 - (a) by a relevant service court; or
 - (b) by a civilian court in any part of the United Kingdom.
- (6) In this section—

“enforcement order” means an order under regulations made under section 322 (orders for enforcement by prescribed courts of fines etc);

“relevant service court” means the Court Martial, the Service Civilian Court, the Court Martial Appeal Court or the Supreme Court on an appeal brought from the Court Martial Appeal Court.

269B Service compensation orders: power to set maximum term of imprisonment for default

- (1) This section applies where—
 - (a) the Court Martial makes a service compensation order and the person by whom the compensation is payable is aged 18 or over; and
 - (b) the court thinks that the usual default term is insufficient.

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- (2) In subsection (1) “the usual default term” means the period for which the person would be liable to be committed to prison for default if—
 - (a) an enforcement order were made; and
 - (b) by virtue of that order, the amount payable under the service compensation order were treated as if it had been a fine imposed on a conviction by a magistrates' court in England and Wales.
- (3) Where this section applies, the court may specify a longer period as the maximum term to which the person is liable to be committed to prison for default if an enforcement order is made.
- (4) The Table in section 139(4) of the Sentencing Act (maximum periods of imprisonment for default), as for the time being in force, applies for the purpose of determining the maximum periods of imprisonment that may be specified under this section for service compensation orders of the amounts set out in that Table.
- (5) In this section “enforcement order” has the same meaning as in section 269A.

269C Orders under section 269A or 269B against service parents or service guardians: appeals

- (1) This section applies where—
 - (a) the Court Martial makes an order under section 268 in respect of a fine or service compensation order (fine or compensation to be paid by service parent or service guardian); and
 - (b) the court also makes an order under section 269A or 269B (“a default term order”) in respect of the parent or guardian (“P”).
 - (2) For the purposes of the Court Martial Appeals Act 1968—
 - (a) the default term order is to be treated as a sentence passed on P for the offence in respect of which the fine or service compensation order was imposed; and
 - (b) P is to be treated, for the purpose of enabling P to appeal against the default term order, as if P had been convicted of the offence by the Court Martial.
 - (3) For the purposes of any appeal against the default term order, references in section 16A of the Court Martial Appeals Act 1968 to passing a sentence include making an order.
 - (4) On an appeal against the default term order, the Court Martial Appeal Court may (as an alternative to exercising its powers under section 16A(2) of that Act) quash the order; but this is subject to subsection (5).
 - (5) If the default term order was made under section 269A, the power under subsection (4) may only be exercised if the court also quashes the order under section 268.”
- (2) In section 322(3) of AFA 2006 (financial penalty enforcement orders), after paragraph (a) insert—
- “(aa) about the effect, where a sum is certified in such an order, of an order made by the Court Martial under—

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- (i) section 269A (fines: fixing of term of imprisonment for default); or
- (ii) section 269B (service compensation order: maximum term of imprisonment for default);”.

Commencement Information

- I5** S. 16(1) in force at 1.11.2013 by S.I. 2013/2501, art. 3(c)
- I6** S. 16(2) in force at 8.3.2012 by S.I. 2012/669, art. 3(a)

F1 17 Service sexual offences prevention orders

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Textual Amendments

- F1** S. 17 repealed (8.3.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), Sch. 11 para. 82(1) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 2(g)(ii)

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