
STATUTORY INSTRUMENTS

2012 No. 669

**The Armed Forces Act 2011 (Commencement No. 1,
Transitional and Transitory Provisions) Order 2012**

PART 3: TRANSITIONAL

Interpretation

5. In this Part, “commencement” means the beginning of 2nd April 2012.

Reduction in rank and disrating

6.—(1) In relation to—

- (a) any sentence passed before commencement, and
- (b) an award of detention by an officer to an offender who was given the opportunity of electing Court Martial trial before commencement,

section 293 of the 2006 Act continues to have effect notwithstanding its repeal by section 13(2) of the 2011 Act.

(2) In relation to an award of punishment before commencement, section 147(3) of the 2006 Act (powers of the Summary Appeal Court) has effect as if section 13(1) of the 2011 Act had been in force at the time of the award.

(3) In relation to an offender who elected Court Martial trial under section 129 of the 2006 Act before commencement, Schedule 3A to that Act (inserted by Schedule 1 to the 2011 Act) has effect as if section 13(1) of the 2011 Act had been in force at the time of the election.

Maximum fine at summary hearing

7. In relation to a fine awarded to an offender who was given the opportunity of electing Court Martial trial before commencement, section 136 of the 2006 Act has effect without the amendment made by paragraph 12 of Schedule 3 to the 2011 Act.

Increase in maximum term of detention for certain offences

8. The amendments made by section 15(1) and (2)(a) of the 2011 Act apply only in relation to offences committed after commencement.

DSP’s powers to substitute or add charges after election for Court Martial trial

9.—(1) This article applies where—

- (a) section 130A of the 2006 Act (inserted by paragraph 9 of Schedule 3 to the 2011 Act) applies; and
- (b) the election for Court Martial trial by virtue of which that section applies was made before commencement.

(2) Subsection (2) of that section has effect as if, in paragraph (b), for “the relevant charge was in respect of such an offence” there were substituted “the defendant’s commanding officer could have heard such a charge summarily (without obtaining permission) by virtue of being of or above the rank of rear admiral, major-general or air vice-marshal”.

Court Martial sentencing powers where election for trial by that court

10.—(1) For the purposes of Schedule 3A to the 2006 Act (inserted by Schedule 1 to the 2011 Act), an offence of which a person is convicted falls within case B if the following conditions are satisfied.

- (2) The first condition is that the charge in respect of the offence was—
- (a) substituted under section 125(2)(b) of the 2006 Act for a charge as regards which the person had elected Court Martial trial under section 129 of that Act; or
 - (b) brought under section 125(2)(c) of that Act in addition to such a charge.
- (3) The second condition is that the charge in respect of the offence was substituted or brought—
- (a) before commencement; or
 - (b) after commencement (and, in the case of a substituted charge, in such circumstances that the accused’s written consent was required by section 130A(2) of the 2006 Act), but by virtue only of consent given before commencement.

11.—(1) For the purposes of that Schedule, an offence of which a person is convicted falls within case D if the following conditions are satisfied.

- (2) The first condition is that the charge in respect of the offence was—
- (a) substituted under section 125(2)(b) of the 2006 Act for a charge in respect of an offence which, if the person were convicted of it, would fall within case C; or
 - (b) brought under section 125(2)(c) of that Act in addition to such a charge.
- (3) The second condition is that the charge in respect of the offence was substituted or brought—
- (a) before commencement; or
 - (b) after commencement (and, in the case of a substituted charge, in such circumstances that the accused’s written consent was required by section 130A(2) of the 2006 Act), but by virtue only of consent given before commencement.

12. Paragraph 17 of that Schedule (interpretation of references to a charge substituted for another charge) applies for the purposes of articles 10 and 11.