



Armed Forces Act 2011

2011 CHAPTER 18

Miscellaneous amendments of Armed Forces Act 2006

18 Place of sitting of Service Civilian Court

In section 277 of AFA 2006 (Service Civilian Court), for subsection (2) substitute—

“(2) The Service Civilian Court may sit in any place, whether within or outside the United Kingdom.”

19 Administrative reduction in rank or rate

(1) In section 332 of AFA 2006 (restriction on administrative reduction in rank or rate), for subsections (1) to (4) substitute—

“(1) The rank or rate of a warrant officer or non-commissioned officer may be reduced only by an order made by that person’s commanding officer.

(2) An order of a commanding officer reducing the rank or rate of a warrant officer or non-commissioned officer (“an order reducing rank or rate”)—

(a) may not be made without the permission of higher authority (but this is subject to subsection (3));

(b) may not reduce the rank of a person in any of Her Majesty’s air forces below the highest rank that person has held in that force as an airman.

(3) The permission of higher authority is not required for an order reducing rank or rate if—

(a) the person whose rank is to be reduced is a lance corporal or lance bombardier; or

(b) the commanding officer making the order is of or above the rank of rear admiral, major-general or air vice-marshal.”

(2) For the heading to that section, substitute “Administrative reduction in rank or rate”.

20 Service complaint panels

(1) In section 335 of AFA 2006 (service complaints: role of Defence Council and service complaint panels)—

- (a) in subsection (1), after “may,” insert “in the case of a service complaint and”;
- (b) in subsection (2), for “The delegation under subsection (1) of a function” substitute “A decision by the Defence Council to delegate under subsection (1)”;
- (c) for subsection (3) substitute—

“(3) The Defence Council—

- (a) must determine the size of a service complaint panel (subject to section 336(2) and any provision made by virtue of section 336(6) relating to the size of a panel); and
- (b) must appoint the members of a service complaint panel, other than any members appointed by the Secretary of State by virtue of section 336 or 336A.”; and
- (d) in subsection (4)(b), for “function of appointing members of service complaint panels” substitute “functions”.

(2) Section 336 of AFA 2006 (composition and procedure of service complaint panels) is amended as follows.

(3) In subsection (1), for the words from “regulations” to the end substitute “determination under this section, or regulations under this section or section 336A, relating to independent members.”

(4) Omit subsection (3).

(5) After subsection (4) insert—

“(4A) The Defence Council may determine—

- (a) that a service complaint panel is to include a specified number of independent members;
- (b) that specified functions are to be exercised by independent members of a service complaint panel.

(4B) A determination under subsection (4A) may relate to—

- (a) a particular service complaint; or
- (b) any service complaint of a description determined by the Defence Council.

(4C) The Defence Council may, to such extent and subject to such conditions as they consider appropriate, delegate to a person employed in the civil service of the State or an officer their function under subsection (4A) of determining—

- (a) whether a service complaint panel is to include independent members (and, if so, how many);
- (b) whether particular functions are to be exercised by independent members of a service complaint panel.

(4D) A delegation under subsection (4C) may relate to—

- (a) a particular service complaint;
- (b) any service complaint of a description determined by the Defence Council; or

- (c) all service complaints.
- (4E) The Defence Council may not—
 - (a) make a determination under subsection (4A)(a) where a requirement mentioned in subsection (6)(a)(i) or (ii) or section 336A(2)(a) applies;
 - (b) make a determination under subsection (4A)(b) where a requirement mentioned in subsection (6)(a)(iii) or section 336A(2)(b) applies.”
- (6) In subsection (6)—
 - (a) for “The regulations” substitute “Regulations under subsection (5)(a)”; and
 - (b) for paragraph (a) substitute—
 - “(a) impose, in the case of any service complaint of a prescribed description, one or more of the following requirements—
 - (i) a requirement for a service complaint panel to include a prescribed number of independent members;
 - (ii) a requirement for all or a prescribed majority of the members of a service complaint panel to be independent members;
 - (iii) a requirement for prescribed functions to be exercised by independent members of a service complaint panel;”.
- (7) After section 336 of AFA 2006 insert—

“336A Requirement to delegate to service complaint panel

- (1) Regulations made by the Secretary of State may, in relation to any service complaint of a prescribed description, make provision—
 - (a) requiring the Defence Council to exercise their power under section 335(1) to delegate to a service complaint panel all or any of the functions conferred on them by or under section 334; and
 - (b) imposing one or more of the requirements mentioned in subsection (2).
- (2) Those requirements are—
 - (a) a requirement for all or a prescribed majority of the members of the service complaint panel to be independent members;
 - (b) a requirement for prescribed functions to be exercised by independent members of the service complaint panel.
- (3) In this section—
 - “independent member” has the same meaning as in section 336;
 - “prescribed” means prescribed by regulations under this section;
 - “service complaint” has the same meaning as in section 334;
 - “service complaint panel” has the same meaning as in section 335.”

21 Persons eligible to be prosecuting officers

In section 365 of AFA 2006 (prosecuting officers)—

- (a) in subsection (1), for “officers” (where it first occurs) substitute “persons”;

- (b) in subsection (2) for “An officer” substitute “A person”.

22 Civilians subject to service discipline

- (1) Schedule 15 to AFA 2006 (civilians subject to service discipline) is amended as follows.

- (2) In paragraph 4(1), for paragraph (c) substitute—

“(c) either—

- (i) he is in a designated area, and his normal place of work in that role is in that designated area; or
- (ii) sub-paragraph (i) does not apply, but he is in a designated area and he came there wholly or partly for the purposes of his work in that role.”

- (3) In paragraph 5(1), for paragraph (c) substitute—

“(c) either—

- (i) he is in a country outside the British Islands, and his normal place of work under that employment is in that country; or
- (ii) sub-paragraph (i) does not apply, but he is in a country outside the British Islands and he came there wholly or partly for the purposes of his work under that employment.”

- (4) In paragraph 6(1), for paragraph (b) substitute—

“(b) either—

- (i) he is in a designated area, and his normal place of work for that organisation is in that designated area; or
- (ii) sub-paragraph (i) does not apply, but he is in a designated area and he came there wholly or partly for the purposes of work for that organisation.”

- (5) In paragraph 10—

- (a) in sub-paragraph (1)—

- (i) in paragraph (a), for “a relevant person outside the British Islands” substitute “a qualifying person in a relevant country”;
- (ii) in paragraph (b), for “outside the British Islands” substitute “in that country”;

- (b) in sub-paragraph (2)—

- (i) for ““relevant person”” substitute ““qualifying person””;
- (ii) in paragraph (b), for “being in the British Islands” substitute “not being in a relevant country”;

- (c) after sub-paragraph (2) insert—

“(3) For the purposes of this paragraph, a country is “relevant” in relation to a person employed as mentioned in paragraph 5 if it is outside the British Islands and—

- (a) is where that person’s normal place of work under that employment is situated; or
- (b) is a country to which that person came wholly or partly for the purposes of his work under that employment.”

(6) After paragraph 13 insert—

“14 For the purposes of paragraphs 5(1)(c), 10 and 11, a territory that is not within a country is to be treated as a country.”

23 Protected prisoners of war

(1) After section 371 of AFA 2006 insert—

“Protected prisoners of war

371A Power to make provision in relation to protected prisoners of war

- (1) Her Majesty may by warrant make provision with respect to protected prisoners of war.
 - (2) A Royal Warrant made under this section may in particular make provision in relation to protected prisoners of war which—
 - (a) applies any relevant provision, or
 - (b) is equivalent to that made by any relevant provision,subject to such modifications as may be contained in the Royal Warrant.
 - (3) In subsection (2) “relevant provision” means any provision of or made under this Act (including any provision creating a service offence), other than any provision of or made under Part 14, 15 or 16.
 - (4) The Secretary of State must publish a Royal Warrant made under this section in such a way as appears to the Secretary of State to be appropriate.
 - (5) Section 373(5) (power to make supplementary provision etc) applies in relation to Royal Warrants under this section.
 - (6) In this section “protected prisoner of war” means a person—
 - (a) who is a protected prisoner of war within the meaning given by section 7 of the Geneva Conventions Act 1957; and
 - (b) as respects whom the United Kingdom is the detaining power for the purposes of the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949 (set out in the Third Schedule to that Act).”
- (2) In consequence of the provision made by subsection (1), section 56 of the Court Martial Appeals Act 1968 (modifications of that Act for protected prisoners of war) is repealed.