

Changes to legislation: There are currently no known outstanding effects for the Armed Forces Act 2011, Paragraph 9. (See end of Document for details)

SCHEDULES

SCHEDULE 3

MINOR AMENDMENTS OF SERVICE LEGISLATION

Right to elect Court Martial trial

9 After section 130 of AFA 2006 insert—

“130A Restrictions on DSP's powers to substitute or add charges after election

- (1) This section applies where—
 - (a) a charge is for the time being regarded for the purposes of Part 5 as allocated for Court Martial trial; and
 - (b) the charge is in respect of an offence which would be a relevant offence for the purposes of Schedule 3A (sentencing powers of Court Martial where election for trial by that court) if the accused were convicted of it.
- (2) The Director of Service Prosecutions (“the Director”) may not without the written consent of the accused substitute under section 125(2)(b)—
 - (a) a charge in respect of an offence which is not one that may be dealt with at a summary hearing (see section 53); or
 - (b) a charge in respect of an offence within section 54(2) (offences that may be dealt with summarily only with permission or by senior officer), except where the relevant charge was in respect of such an offence.
- (3) In subsection (2)(b) “relevant charge” means—
 - (a) in relation to a case A offence or a case B offence (within the meaning of Schedule 3A), the charge in respect of which the accused elected Court Martial trial; and
 - (b) in relation to a case C offence or a case D offence (within the meaning of Schedule 3A), the charge referred as mentioned in paragraph 4(c) of that Schedule.
- (4) The Director may not without the written consent of the accused bring under section 125(2)(c) a charge in addition to the charge.
- (5) In construing Part 1 of Schedule 3A (relevant offences) for the purposes of this section, paragraphs 3(b) and 5(c) of that Schedule are to be disregarded.”

Commencement Information

II Sch. 3 para. 9 in force at 2.4.2012 by S.I. 2012/669, art. 4(d) (with art. 9)

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