



# Armed Forces Act 2011

## 2011 CHAPTER 18

### *Punishments and other court orders*

#### **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.

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*Status: This is the original version (as it was originally enacted).*

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