
STATUTORY INSTRUMENTS

2009 No. 1216

The Armed Forces (Summary Hearing and Activation of Suspended Sentences of Service Detention) Rules 2009

PART 1

Preliminary Provisions and Delegation

Delegation and subordinate commanders

3.—(1) Subject to paragraphs (3) and (4), a commanding officer may delegate to a subordinate commander his relevant functions in relation to a charge, subject to such conditions as the commanding officer considers appropriate.

(2) Subject to paragraph (5), where a commanding officer makes a delegation to a subordinate commander under paragraph (1) in relation to a charge, the subordinate commander has all of the commanding officer's relevant functions in relation to the charge.

(3) A commanding officer shall not make a delegation under paragraph (1) in relation to a charge—

- (a) in respect of an offence which is within section 54(2) of the Act;
- (b) in respect of an offence alleged to have been committed by an accused during—
 - (i) the operational period of a suspended sentence of service detention passed on him;
 - (ii) the operational period of a suspended sentence of imprisonment passed on him by the Court Martial, the Court Martial Appeal Court or the Supreme Court on an appeal brought from the Court Martial Appeal Court;
 - (iii) the term of an order made under section 211 of the Act; or
- (c) brought against a person above the rank or rate of chief petty officer, marine colour sergeant, military staff sergeant, or flight sergeant.

(4) A commanding officer shall not make a delegation under paragraph (1) to a subordinate commander of the rank of naval lieutenant, military or marine captain or flight lieutenant in relation to a charge brought against a person above the rank or rate of leading rate, military or marine corporal or air force corporal.

(5) A subordinate commander to whom a delegation has been made under paragraph (1) may not—

- (a) if he is of the rank of naval lieutenant, military or marine captain or flight lieutenant, award any punishment in column 1 of the Table in Schedule 1;
- (b) if he is of the rank of lieutenant commander, major or squadron leader, award any punishment in column 2 of the Table in Schedule 1; or
- (c) if he is of or above the rank of commander, lieutenant-colonel or wing commander, award any punishment in column 3 of the Table in Schedule 1.

(6) Where a commanding officer has made a delegation under paragraph (1) in relation to a charge, he may revoke it in relation to that charge at any time before a determination is made as to whether or not that charge has been proved.

(7) Where in relation to a charge—

(a) a delegation under paragraph (1) is revoked, and

(b) the subordinate commander to whom the delegation was made has complied with rule 12(2) and taken further steps in relation to the charge,

the officer who hears the charge after the revocation shall proceed as if the subordinate commander had taken no further steps in relation to the charge after complying with rule 12(2).

(8) Where a charge in relation to which paragraph (7) applies is one which has been—

(a) amended under section 123(2)(a) of the Act,

(b) substituted for another charge under section 123(2)(b) of the Act, or

(c) added under section 123(2)(c) of the Act,

the reference in paragraph (7)(b) to rule 12(2) is a reference to that rule as modified by rule 26.

(9) In this rule “relevant function” means a function under Chapter 1 of Part 6 of the Act or Part 2 of these Rules.