

Status: Point in time view as at 28/03/2009.

Changes to legislation: Armed Forces Act 2006, Cross Heading: Criminal Justice Act 2003 (c. 44) is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 16

MINOR AND CONSEQUENTIAL AMENDMENTS

Criminal Justice Act 2003 (c. 44)

214 (1) Section 94 of the Criminal Justice Act 2003 (extension of section 31 of the Armed Forces Act 2001) is amended as follows.

(2) For subsection (1) substitute—

“(1) Section 323 of the Armed Forces Act 2006 (provision in consequence of criminal justice enactments) applies in relation to an enactment contained in this Part so far as relating to matters not specified in subsection (2) of section 324 of that Act as it applies in relation to a criminal justice enactment (within the meaning given by that section).”

(3) In subsection (2) for “that section” substitute “ section 323 of that Act ”.

(4) For subsection (3) substitute—

“(3) In subsection (2) “service offence” has the same meaning as in the Armed Forces Act 2006.”

Commencement Information

11 [Sch. 16 para. 214](#) in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))

215 In section 112(1) of that Act (interpretation of Chapter 1 of Part 11 (evidence of bad character)), for the definition of “service offence” substitute—

““service offence” has the same meaning as in the Armed Forces Act 2006;”.

Commencement Information

12 [Sch. 16 para. 215](#) in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))

216 In section 143(4) of that Act (meaning of “previous conviction”), for paragraph (b) substitute—

“(b) a previous conviction of a service offence within the meaning of the Armed Forces Act 2006 (“conviction” here including anything that under section 376(1) and (2) of that Act is to be treated as a conviction).”

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Commencement Information

I3 Sch. 16 para. 216 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

- 217 (1) Section 151 of that Act (community order for persistent offender previously fined) is amended as follows.
- (2) In subsection (4) for the words from “the finding of guilt” to the end substitute “conviction in service disciplinary proceedings”.
- (3) In subsection (5) after “compensation order” insert “, or a service compensation order awarded in service disciplinary proceedings,”.
- (4) After subsection (7) add—
- “(8) In this section—
- (a) “service disciplinary proceedings” means proceedings (whether or not before a court) in respect of a service offence within the meaning of the Armed Forces Act 2006; and
- (b) any reference to conviction or sentence, in the context of service disciplinary proceedings, includes anything that under section 376(1) to (3) of that Act is to be treated as a conviction or sentence.”

Commencement Information

I4 Sch. 16 para. 217 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

- 218 For section 233 of that Act substitute—

“233 Offences under service law

- (1) Where—
- (a) a person has at any time been convicted of an offence under section 42 of the Armed Forces Act 2006 (criminal conduct), and
- (b) the corresponding offence under the law of England and Wales, within the meaning given by that section, was a relevant offence,
- section 229 has effect as if he had at that time been convicted in England and Wales of that corresponding offence.
- (2) Section 48 of the Armed Forces Act 2006 (attempts, conspiracy, incitement and aiding and abetting outside England and Wales) applies for the purposes of this section as if the reference in subsection (3)(b) of that section to any of the following provisions of that Act were a reference to this section.”

Commencement Information

I5 Sch. 16 para. 218 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

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219 In section 237 of that Act (meaning of “ fixed-term prisoner ”), at the end of the title insert “ etc ” and after subsection (1) insert—

“(1B) In this Chapter—

- (a) references to a sentence of imprisonment include such a sentence passed by a service court;
- (b) references to a sentence of detention under section 91 of the Sentencing Act include a sentence of detention under section 209 of the Armed Forces Act 2006;
- (c) references to a sentence under section 227 of this Act include a sentence under that section passed as a result of section 220 of the Armed Forces Act 2006; and
- (d) references to a sentence under section 228 of this Act include a sentence under that section passed as a result of section 222 of that Act.

(1C) Nothing in subsection (1B) has the effect that section 240 or 265 (provision equivalent to which is made by the Armed Forces Act 2006) applies to a service court.”

Commencement Information

16 Sch. 16 para. 219 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

220 In section 241 of that Act (effect of direction under section 240 on release on licence), after subsection (1) insert—

“(1A) In subsection (1) the reference to a direction under section 240 includes a direction under section 246 of the Armed Forces Act 2006.”

Commencement Information

17 Sch. 16 para. 220 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

221 In section 246 of that Act (disapplication of power to release prisoners on licence early), after subsection (4) insert—

“(4A) In subsection (4)—

- (a) the reference in paragraph (d) to a community order includes a service community order or overseas community order under the Armed Forces Act 2006; and
- (b) the reference in paragraph (i) to a direction under section 240 includes a direction under section 246 of that Act.”

Commencement Information

18 Sch. 16 para. 221 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

222 In section 250 of that Act (licence conditions) after subsection (2) insert—

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- “(2A) If the sentence (or, if more than one, each sentence) that the prisoner is serving is one in relation to which no custody plus or intermittent custody order is in force, subsection (2) has effect as if there were omitted—
- (a) paragraph (a)(i);
 - (b) the words “so far as not inconsistent with them,” in paragraph (a)(ii); and
 - (c) the words from “and which” in paragraph (b)(i).”

Commencement Information

I9 Sch. 16 para. 222 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))

- 223 In section 251(3) of that Act (licence conditions on re-release of prisoner serving sentence of less than 12 months) after “relevant court order” add “(if any)”.

Commencement Information

I10 [Sch. 16 para. 223](#) in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))

- 224 (1) Section 252 of that Act (duty to comply with licence conditions) is renumbered as subsection (1) of that section.
- (2) After that subsection insert—
- “(2) But where—
- (a) the licence relates to a sentence of imprisonment passed by a service court,
 - (b) no custody plus order was made in relation to the sentence, or such an order was made but subsequently revoked, and
 - (c) the person is residing outside the British Islands,
- the conditions specified in the licence apply to him only so far as it is practicable for him to comply with them where he is residing.”

Commencement Information

I11 [Sch. 16 para. 224](#) in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))

- 225 In section 260 of that Act (disapplication of power to remove prisoner liable to removal from UK), after subsection (3) insert—
- “(3A) In subsection (3)(e) the reference to a direction under section 240 includes a direction under section 246 of the Armed Forces Act 2006.”

Commencement Information

I12 [Sch. 16 para. 225](#) in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))

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226 In section 263(1)(a) of that Act (concurrent terms), omit “by any court”.

Commencement Information

I13 Sch. 16 para. 226 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

227 In section 268 of that Act (interpretation of Chapter 6 of Part 12), in the definition of “fixed-term prisoner” after “237(1)” insert “ (as extended by section 237(1B)) ”.

Commencement Information

I14 Sch. 16 para. 227 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

228 In section 269(3)(b) of that Act (determination of minimum term in relation to mandatory life sentence), after “custody)” insert “ or under section 246 of the Armed Forces Act 2006 (equivalent provision for service courts) ”.

Commencement Information

I15 Sch. 16 para. 228 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

229 In section 272 of that Act (review of minimum term on a reference by the Attorney General), omit subsections (2) and (3).

Commencement Information

I16 Sch. 16 para. 229 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

230 In section 277 of that Act (interpretation of Chapter 7 of Part 12 (effect of life sentence)), in the definition of “court”, for “a court-martial” substitute “ the Court Martial ”.

Commencement Information

I17 Sch. 16 para. 230 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

231 In section 305(1) of that Act (interpretation of Part 12)—

(a) at the end of the definition of “court” insert “ , but this does not apply where a contrary intention appears from any provision of the Armed Forces Act 2006; ”; and

(b) for the definitions of “service court” and “service disciplinary proceedings” substitute—

““service court” means—

- (a) the Court Martial;
(b) the Summary Appeal Court;

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- (c) the Service Civilian Court;
- (d) the Court Martial Appeal Court; or
- (e) the Supreme Court on an appeal brought from the Court Martial Appeal Court;”.

Commencement Information

I18 Sch. 16 para. 231 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

232 In section 329 of that Act (civil proceedings for trespass to the person brought by offender), for subsection (7) substitute—

“(7) Where—

- (a) a person is convicted of an offence under section 42 of the Armed Forces Act 2006 (criminal conduct), and
- (b) the corresponding offence under the law of England and Wales (within the meaning given by that section) is an imprisonable offence,

he is to be treated for the purposes of this section as having been convicted in the United Kingdom of that corresponding offence; and in paragraph (a) the reference to conviction includes anything that under section 376(1) and (2) of that Act is to be treated as a conviction.”

Commencement Information

I19 Sch. 16 para. 232 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

233 (1) Section 337 of that Act (extent) is amended as follows.

(2) In subsection (12)—

- (a) in paragraph (a) for “by a court-martial” substitute “ in respect of service offences within the meaning of the Armed Forces Act 2006 ”;
- (b) in paragraph (b) for “courts-martial or the Courts-Martial Appeal Court” substitute “ the Court Martial or the Court Martial Appeal Court ”.

(3) After that subsection insert—

“(12A) Nothing in subsection (1) affects the extent of section 94; and section 384 of the Armed Forces Act 2006 applies in relation to section 94 of this Act as it applies in relation to that Act.”

(4) In subsection (13)—

- (a) in paragraph (a)—
 - (i) omit sub-paragraphs (i) to (iii), (v), (vii) and (viii);
 - (ii) in sub-paragraph (iv) for “Courts-Martial (Appeals) Act 1968” substitute “ Court Martial Appeals Act 1968 ”, and at the end of that sub-paragraph insert “ or ”;
- (b) omit paragraph (b).

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I20 Sch. 16 para. 233 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

- 234 (1) Schedule 6 to that Act (modifications for armed forces of provisions about evidence of bad character) is amended as follows.
- (2) In paragraph 3—
- (a) in sub-paragraph (1) for “courts-martial” substitute “ the Court Martial ”;
 - (b) in sub-paragraph (2)—
 - (i) in paragraph (a) for “judge and jury” substitute “ a judge and jury ”;
 - (ii) also in paragraph (a) for “court-martial” substitute “ the Court Martial ”;
 - (iii) in paragraph (c) for “dissolve” substitute “ discharge ”;
 - (c) in sub-paragraph (4)—
 - (i) in the paragraph substituted by paragraph (a), for the words from “section 115B(2) of the Army” to “1957” substitute “ section 167 of the Armed Forces Act 2006 ”;
 - (ii) in paragraph (c) for “dissolve” substitute “ discharge ”;
 - (d) in the subsection substituted by sub-paragraph (5), for “dissolve” substitute “ discharge ”.
- (3) In the subsection substituted by paragraph 4 of that Schedule—
- (a) in paragraph (a) for “a court-martial” substitute “ the Court Martial ”;
 - (b) in paragraph (b) for “a Standing Civilian Court” substitute “ the Summary Appeal Court or the Service Civilian Court ”.
- (4) For paragraph 6 substitute—
- “6 In this Schedule “service court” means—
- (a) the Court Martial;
 - (b) the Summary Appeal Court;
 - (c) the Service Civilian Court; or
 - (d) the Court Martial Appeal Court.”

Commencement Information

I21 Sch. 16 para. 234 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

- 235 (1) Schedule 7 to that Act (modifications for armed forces of provisions about hearsay evidence) is amended as follows.
- (2) In paragraph 2—
- (a) for sub-paragraph (2) substitute—

“(2) In section 116(2) for paragraph (c) substitute—

 - “(c) that either of the following applies—
 - (i) the court is sitting neither in the United Kingdom nor in a British overseas territory

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- and it is not reasonably practicable to secure the attendance of the relevant person; or
- (ii) the court is sitting in the United Kingdom or a British overseas territory but the relevant person is outside the United Kingdom or outside that territory (as the case may be) and it is not reasonably practicable to secure his attendance.”
- (b) in the subsection inserted by sub-paragraph (3), for the words from “criminal proceedings” to the end substitute “ the reference to criminal proceedings includes proceedings before an officer in respect of a service offence within the meaning of the Armed Forces Act 2006. ”;
- (c) in the paragraph substituted by sub-paragraph (4), for “a court-martial” substitute “ the Court Martial ”;
- (d) for sub-paragraph (5) substitute—
 - “(5) In section 127—
 - (a) in subsection (1)(c)—
 - (i) for “the appropriate rules” substitute “ rules made under the Armed Forces Act 2006 or the Court Martial Appeals Act 1968 ”;
 - (ii) for “section 9 of the Criminal Justice Act 1967 (c. 80)” substitute “ such rules ”;
 - (b) omit subsection (7).”;
 - (e) in the subsection inserted by sub-paragraph (7), for paragraphs (a) and (b) substitute “ to proceedings before an officer, the Court Martial or the Service Civilian Court in respect of a service offence within the meaning of the Armed Forces Act 2006. ”
- (3) In paragraph 3—
 - (a) in sub-paragraph (1) for “courts-martial” substitute “ the Court Martial ”;
 - (b) in sub-paragraph (2)—
 - (i) for “judge and jury” substitute “ a judge and jury ”;
 - (ii) for “court-martial” substitute “ the Court Martial ”.
- (4) In paragraph 4—
 - (a) in sub-paragraph (1) for “courts-martial” substitute “ the Court Martial ”;
 - (b) in sub-paragraph (2)—
 - (i) in paragraph (a) for “judge and jury” substitute “ a judge and jury ”;
 - (ii) also in paragraph (a) for “court-martial” substitute “ the Court Martial ”;
 - (iii) in paragraph (c) for “dissolve” substitute “ discharge ”;
 - (c) in sub-paragraph (4)—
 - (i) in the paragraph substituted by paragraph (a), for the words from “section 115B(2) of the Army” to “1957” substitute “ section 167 of the Armed Forces Act 2006 ”;
 - (ii) in paragraph (c) for “dissolve” substitute “ discharge ”;
 - (d) in the subsection substituted by sub-paragraph (5), for “dissolve” substitute “ discharge ”.

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(5) Omit paragraphs 5 to 7.

(6) For paragraph 8 substitute—

“8 In this Schedule, and in any provision of this Part as applied by this Schedule, “service court” means—

- (a) the Court Martial;
- (b) the Summary Appeal Court;
- (c) the Service Civilian Court; or
- (d) the Court Martial Appeal Court.”

Commencement Information

I22 Sch. 16 para. 235 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

236 In Schedule 21 to that Act (determination of minimum term in relation to mandatory life sentence), at the end of paragraph 12 (but not as part of sub-paragraph (c)) insert “ or of section 238(1)(b) or (c) or 239 of the Armed Forces Act 2006. ”

Commencement Information

I23 Sch. 16 para. 236 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

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