



# Armed Forces Act 2006

## 2006 CHAPTER 52

First Group of PartsDiscipline

### PART 12

#### SERVICE AND EFFECT OF CERTAIN SENTENCES

##### *Service of sentence*

#### **296 Service detention**

- (1) A person sentenced to service detention—
  - (a) may be detained in service custody; but
  - (b) may not be detained in a prison.
- (2) Subsection (1)(a) does not apply if—
  - (a) the sentence has not taken effect; or
  - (b) the sentence has ceased to have effect by virtue of section 290 or 291 and has not resumed effect.
- (3) A person detained in service custody in pursuance of a sentence of service detention is deemed to be in legal custody.

#### **297 Detention in service custody following passing of custodial sentence etc**

- (1) Where—
  - (a) a custodial sentence has been passed on a person in respect of a service offence, or
  - (b) an order under section 214 (detention for commission of offence during currency of order) has been made in respect of a person,the person may be detained in service custody until he is committed to the appropriate establishment.

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- (2) For the purposes of subsection (1), a suspended sentence of imprisonment is to be treated as passed when an order that the sentence shall take effect is made.
- (3) A person in service custody under subsection (1) is deemed to be in legal custody.

## **298 Removal to England and Wales following passing of custodial sentence etc**

- (1) If a person is outside England and Wales when—
  - (a) a custodial sentence is passed on him in respect of a service offence, or
  - (b) an order under section 214 (detention for commission of offence during currency of order) is made in respect of him,
 he must as soon as practicable be removed to England and Wales.
- (2) For the purposes of subsection (1), a suspended sentence of imprisonment is to be treated as passed when an order that the sentence shall take effect is made.

## **299 Duty to receive prisoners**

The governor of a prison in England or Wales must—

- (a) receive any person who, in accordance with rules under section 300, has been sent to the prison; and
- (b) confine that person until he is lawfully discharged or delivered over.

## **300 Service custody etc rules**

- (1) The Secretary of State may make rules about service custody and the service of relevant sentences.
- (2) The rules may in particular contain provision about—
  - (a) the provision, classification, regulation and management of service custody premises;
  - (b) the appointment, powers and duties of inspectors and visitors of service custody premises and of persons who work at such premises;
  - (c) the classification, treatment, employment, discipline and control of persons in service custody;
  - (d) the places in which persons may be required to serve sentences of service detention;
  - (e) the removal of persons serving relevant sentences from one place or type of custody to another;
  - (f) the committal of persons under relevant sentences to the appropriate establishment;
  - (g) the circumstances in which persons serving relevant sentences who are unlawfully at large are to be treated as not being unlawfully at large;
  - (h) the release (including the temporary or early release) of persons serving sentences of service detention.
- (3) The rules may confer on any person—
  - (a) a power to use reasonable force where necessary for the purpose of carrying out a search of service custody premises or of a person in service custody;
  - (b) a power to seize and detain unauthorised property (as defined by the rules).

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- (4) The rules may contain provision in respect of the award of additional days to a person guilty of a disciplinary offence created by the rules.
- (5) The rules may provide for the determination of any matter by a judge advocate, and may contain provision for and in connection with appeals against such determinations.
- (6) The rules may apply (with or without modifications), in relation to service custody premises and persons detained there, any of—
  - (a) sections 39 to 42 of the Prison Act 1952 (c. 52) (offences by persons other than prisoners etc);
  - (b) section 22(2) of the Criminal Justice Act 1961 (c. 39) (harbouring escaped prisoners etc).
- (7) In this section—
  - “relevant sentence” means—
    - (a) a custodial sentence passed in respect of a service offence;
    - (b) a sentence of service detention; or
    - (c) an order under section 214 (detention for commission of offence during currency of order);
  - “service custody premises” means premises under the control of the Secretary of State for the keeping of persons in service custody.

### **301 Duration of sentences: persons unlawfully at large or on temporary release**

- (1) In calculating the period for which a person sentenced to service detention is liable to be detained, no account shall be taken of any period within subsection (3).
- (2) In calculating the period for which a person on whom a custodial sentence has been passed in respect of a service offence is liable to be detained, no account shall be taken of any period within subsection (3) occurring before the person is committed to the appropriate establishment.
- (3) The following periods are within this subsection—
  - (a) any period when the person is unlawfully at large;
  - (b) any period of temporary release on compassionate grounds (pursuant to rules under section 300).
- (4) A person who has been temporarily released pursuant to rules under section 300 is unlawfully at large for the purposes of this section if—
  - (a) he was released subject to complying with a condition, and he fails to comply with the condition; or
  - (b) he is at large after the end of the period for which he was released.
- (5) In this section—
  - “period when the person is unlawfully at large” means the period beginning with the day when he becomes unlawfully at large and ending with the day when he is taken back into custody (whether service or otherwise) or returns to the place at which he was serving his sentence;
  - “period of temporary release on compassionate grounds” means the period beginning with the day after the day when the person is released and ending with the day when he is required to return to custody (or, if earlier, the day when he returns to custody).

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### **302 Remission of certain sentences on passing of custodial sentence etc**

- (1) Any unserved part of any relevant sentence passed on a person is remitted by—
  - (a) the passing on him of a custodial sentence in respect of a service offence; or
  - (b) the passing on him by a civilian court in the British Islands of a sentence of imprisonment or a sentence corresponding to any other custodial sentence.
- (2) In subsection (1) “relevant sentence” means—
  - (a) a sentence of service detention;
  - (b) a service supervision and punishment order; or
  - (c) a minor punishment.
- (3) Subsection (1) applies in relation to—
  - (a) the making of an order under section 214 (detention for commission of offence during currency of order),
  - (b) the making of an order under section 104 of the Sentencing Act (detention of offender subject to detention and training order for breach of supervision requirements), or
  - (c) the making by a civilian court in the British Islands of an order corresponding to an order within paragraph (a) or (b),as it applies in relation to the passing of a sentence mentioned in subsection (1)(a).
- (4) For the purposes of subsection (1), a suspended sentence of imprisonment or a sentence corresponding to such a sentence is to be treated as passed when an order that the sentence shall take effect is made.

### **303 Power of service policeman to arrest person unlawfully at large**

- (1) A person who has been sentenced to service detention and who is unlawfully at large—
  - (a) may be arrested by a service policeman; and
  - (b) may be taken to the place in which he is required in accordance with law to be detained.
- (2) Section 301(4) (cases where persons temporarily released from service detention are unlawfully at large) applies for the purposes of this section.
- (3) A person may use reasonable force, if necessary, in the exercise of a power conferred by subsection (1).