



Armed Forces Act 2006

2006 CHAPTER 52

First Group of Parts Discipline

PART 13

DISCIPLINE: MISCELLANEOUS AND SUPPLEMENTARY

CHAPTER 5

SUPPLEMENTARY

Financial penalty enforcement orders

322 Financial penalty enforcement orders

- (1) The Secretary of State may by regulations make provision for the purpose of enabling the Defence Council, or persons authorised by them, to make orders for the enforcement of financial penalties by prescribed courts in England and Wales, Scotland, Northern Ireland or the Isle of Man.
- (2) Regulations under this section may in particular make provision—
 - (a) with respect to the cases in which such orders may be made;
 - (b) with respect to the form and content of such orders, including the matters to be certified in such orders;
 - (c) with respect to the effect of such orders;
 - (d) conferring functions in relation to such orders on the Defence Council;
 - (e) for the delegation by the Defence Council of any of their functions in relation to such orders.
- (3) Provision that may be made by the regulations by virtue of subsection (2)(c) includes provision—
 - (a) that a sum certified in such an order as outstanding is to be treated as if it had been a fine imposed on a conviction by a court specified in the order;

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- (b) for prescribed enforcement procedures to cease to be available, or to become available, on the occurrence of prescribed events.

(4) In this section—

“financial penalty” means—

- (a) a fine or service compensation order imposed by virtue of this Act (including a fine or service compensation order with respect to which an order under section 268 (order for service parent or guardian to pay fine or compensation) has been made);
- (b) a sum adjudged to be paid under section 236(3) (forfeiture of recognizance);
- (c) an order as to the payment of costs made by virtue of regulations under section 26, or made under section 27, of the Armed Forces Act 2001 (c. 19);

“prescribed” means prescribed, or of a description prescribed, by regulations under this section.

Power to make provision in consequence of criminal justice enactments

323 Power to make provision in consequence of criminal justice enactments

- (1) The Secretary of State may make an order under this section if he considers it appropriate to do so in consequence of a criminal justice enactment (see section 324).
- (2) An order under this section may make provision in relation to—
 - (a) service policemen,
 - (b) service courts (see section 324),
 - (c) persons subject to service law,
 - (d) civilians subject to service discipline, or
 - (e) service law proceedings (see section 324),
 which is equivalent to that made by a relevant provision, subject to such modifications as the Secretary of State considers appropriate.
- (3) In this section “relevant provision” means—
 - (a) the criminal justice enactment;
 - (b) any enactment relating to a criminal justice matter (see section 324) which is amended by the criminal justice enactment; or
 - (c) any subordinate legislation made under—
 - (i) the criminal justice enactment; or
 - (ii) any Act which is amended by the criminal justice enactment.
- (4) An order under this section may make provision in such way as the Secretary of State considers appropriate and may, in particular—
 - (a) be made in relation to all or any cases to which the order-making power extends;
 - (b) apply the relevant provision (with or without modifications);
 - (c) amend, repeal or revoke any enactment or subordinate legislation (including the relevant provision and any provision of or made under this Act).

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324 Section 323: definitions

- (1) In section 323 a “criminal justice enactment” means an enactment which—
 - (a) is contained in an Act passed after 1st January 2001; and
 - (b) amends the law of England and Wales relating to any criminal justice matter.
- (2) In section 323 and subsection (1) “criminal justice matter” means—
 - (a) the powers of the police in connection with the investigation of offences or the detection of offenders;
 - (b) powers of arrest and detention in connection with crime or criminal proceedings;
 - (c) the functions of any authority in relation to criminal prosecutions;
 - (d) remand in custody or on bail;
 - (e) the rights and duties of a defendant in relation to proceedings in civilian courts;
 - (f) evidence or procedure in civilian courts;
 - (g) the powers of civilian courts, including powers in relation to sentence;
 - (h) such other matters relating to criminal justice as the Secretary of State may by order prescribe for the purposes of this paragraph.
- (3) For the purposes of section 323, section 5 of the Criminal Justice (International Co-operation) Act 1990 (c. 5) (transfer of UK prisoner to give evidence etc overseas) is to be taken to be a criminal justice enactment.
- (4) In section 323 “service court” means—
 - (a) the Court Martial;
 - (b) the Summary Appeal Court;
 - (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.
- (5) In section 323 “service law proceedings” means proceedings under this Act or the Court Martial Appeals Act 1968 (c. 20) (and does not include proceedings relating to offences under sections 344 to 346 or under regulations made by virtue of section 328(4)(b) or 343(5)(b)).

Other supplementary provisions

325 Evidential burden as respects excuses

- (1) This section applies to an offence under any of sections 1 to 41, 107, 229, 266 and 306 which is such that a person who would otherwise commit the offence—
 - (a) does not do so if he has a lawful excuse; or
 - (b) does not do so if he has a reasonable excuse.
- (2) In proceedings for an offence to which this section applies, the defendant is to be treated as not having had a lawful excuse or reasonable excuse (as the case may be) unless sufficient evidence is adduced to raise an issue as to whether he had such an excuse.

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326 Exclusion of enactments requiring consent of Attorney General or DPP

Subject to section 61(2), no enactment requiring the consent of the Attorney General or the Director of Public Prosecutions in connection with any proceedings has effect in relation to proceedings under this Act for a service offence.

327 Local probation boards

For section 5A of the Criminal Justice and Court Services Act 2000 (c. 43) (inserted by Schedule 16 to this Act) substitute—

“5A Local probation boards and service justice

- (1) A local probation board may, in pursuance of arrangements made with the Secretary of State, carry out activities anywhere in the world in relation to persons who are or have been subject to proceedings before the Court Martial, the Summary Appeal Court or the Service Civilian Court.
- (2) Any activities carried out in relation to such persons must correspond to activities which the board is required or authorised to carry out in relation to persons who have been charged with or convicted of criminal offences.”