

ARMED FORCES ACT 2006

EXPLANATORY NOTES

COMMENTARY

First Group of Parts – Discipline

Part 8 – Sentencing Powers and Mandatory Etc Sentences

Chapter 1 – Definition etc of Certain Sentences

Service compensation orders

Section 175: Service compensation orders

359. One of the punishments available under the SDAs is “stoppages”. This is an order to pay compensation for personal injury, loss or damage resulting from the offence, and is enforced by deductions from the offender’s pay. A court-martial or Standing Civilian Court can also make a compensation order against a civilian offender. The Act replaces stoppages and the compensation order with the service compensation order, which is available for both service and civilian offenders and closely resembles the compensation order available to civilian courts in England and Wales. The order is enforceable in the same way as a fine, which in the case of serving personnel may include deductions from pay under regulations made by virtue of section 342.
360. This section defines the service compensation order and provides for the circumstances in which it can be made. The section is modelled on section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 (“the Sentencing Act”).

Section 176: Service compensation orders: appeals etc

361. This section corresponds to section 132 of the Sentencing Act. Subsection (1) ensures that compensation awarded in favour of a person need not be paid to him until the expiry of the period allowed for an appeal.
362. Subsection (2) enables the Supreme Court to make a service compensation order if a conviction is quashed by the CMAC and restored by the Supreme Court.
363. Subsection (3) ensures that, where a service compensation order is made in respect of an offence taken into consideration when sentencing a person for an offence of which he has been convicted, and the conviction is quashed on appeal, the order ceases to have effect. It also enables the offender to appeal against such an order.

Section 177: Review of service compensation orders

364. This section corresponds to section 133 of the Sentencing Act. It enables a service compensation order to be reviewed, on application by the person against whom it is made, by the Court Martial or (in the case of an order made at a summary hearing) by the person’s CO. The court or CO can discharge the order or reduce the amount payable, but only on the grounds specified in subsection (3).