
STATUTORY INSTRUMENTS

2009 No. 1059

The Armed Forces Act 2006
(Transitional Provisions etc) Order 2009

PART 16

STANDING CIVILIAN COURTS AND THE SERVICE CIVILIAN COURT

Constitution of the Service Civilian Court

131. If before commencement a person is specified by or on behalf of the Judge Advocate General to be the judge advocate for Service Civilian Court proceedings intended to take place after commencement, the specification has effect after commencement as a specification under section 278(2) of AFA 2006.

Arraignment before a Standing Civilian Court

132.—(1) SCC rules may provide that a plea offered on arraignment before a Standing Civilian Court is to be treated, for such purposes as may be specified, as having been offered on arraignment before the Service Civilian Court.

(2) Section 279 of AFA 2006 (consideration of whether trial by Court Martial more appropriate) does not apply in relation to a charge on which the defendant was arraigned before a Standing Civilian Court.

Maximum fine for SDA civil offence

133. In section 284(2) of AFA 2006 (maximum fine by Service Civilian Court for criminal conduct offence)—

- (a) the reference to an offence under section 42 of that Act includes an SDA civil offence;
- (b) the reference to the corresponding offence under the law of England and Wales includes the corresponding civil offence.

Appeal against conviction or sentence by Standing Civilian Court

134.—(1) In section 285(1) of AFA 2006 (appeal to the Court Martial), the reference to a person convicted by the Service Civilian Court includes a person convicted by a Standing Civilian Court.

(2) Where such a person brought an appeal under paragraph 18 of Schedule 3 to AFA 1976 and the appeal has not been determined or abandoned, the appeal is to be regarded as an appeal under section 285 of AFA 2006.

(3) Any appeal by such a person must be brought within 40 days of the court's sentence, and section 285(3) and (4) of AFA 2006 do not apply in relation to such an appeal.

(4) On an appeal by such a person, the Court Martial may only pass a sentence that the Service Civilian Court could have passed if Parts 1 to 13 of AFA 2006 had been in force and that court

had convicted the appellant on the date on which the Standing Civilian Court convicted him; and section 286(6) of AFA 2006 does not apply.

(5) On an appeal against a fine imposed by a Standing Civilian Court under paragraph 4(10) of Schedule 5A to AA 1955 or AFA 1955 or of Schedule 4A to NDA 1957 (fine for offence of failure to comply with requirements of a community supervision order), the Court Martial—

(a) may substitute any punishment in rows 2 to 7 of the Table in Part 1 of Schedule 3 to AFA 2006; but

(b) may not deal with the offender for the offence for which the community supervision order was made.

(6) In section 268(5) of AFA 2006 (appeal against order that fine or compensation be paid by service parent or guardian) references to an order under section 268 include an order made by a Standing Civilian Court under paragraph 13 of Schedule 5A to AA 1955 or AFA 1955 or of Schedule 4A to NDA 1957.

(7) No appeal shall lie from—

(a) an order by a Standing Civilian Court under paragraph 14 of Schedule 5A to AA 1955 or AFA 1955 or of Schedule 4A to NDA 1957 requiring an offender's service parent or guardian to enter into a recognisance; or

(b) a declaration by a Standing Civilian Court that such a recognisance is forfeited (in whole or in part).

(8) In relation to an appeal by a person convicted by a Standing Civilian Court, references in section 287 of AFA 2006 (findings made and sentences passed by Court Martial on appeal from SCC) to the Service Civilian Court are to be read as references to the Standing Civilian Court.