

**EXPLANATORY MEMORANDUM TO**  
**THE ARMED FORCES (SERVICE SUPERVISION AND PUNISHMENT ORDERS)**  
**REGULATIONS 2009**

**2009 No. 1214**

1. This explanatory memorandum has been prepared by the Ministry of Defence and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
  - 2.1 This instrument prescribes requirements that a service supervision and punishment order may impose on an offender who is awarded that sentence under the Armed Forces Act 2006. It also provides for the management and review of such orders.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None.
4. **Legislative context**
  - 4.1 A Service Supervision and Punishment Order may be awarded to an offender under the Armed Forces Act 2006. It is an order that imposes on the offender, for a specified period, such requirements as regulations may prescribe. The period specified must be either 90, 60 or 30 days. During the period, one-sixth of gross pay is forfeit.
5. **Territorial Extent and Application**
  - 5.1 This instrument extends to the United Kingdom, the Isle of Man and British overseas territories and applies to persons subject to Service law wherever they are in the world.
6. **European Convention on Human Rights**
  - 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.
7. **Policy Background**
  - 7.1 The Armed Forces Act 2006 creates a common disciplinary system for the Armed Forces, with common offences and common punishments. Among the punishments available to both Commanding Officers and the Court Martial who find junior service personnel guilty of an offence is a Service Supervision and Punishment Order.
8. **Consultation outcome**

8.1 A memorandum about consultation on the Armed Forces Act 2006 primary legislation was submitted in written evidence to the Select Committee on the Armed Forces Bill and published on 9 May 2006 in its Special Report of Session 2005-06 (HC 828-II, page Ev 136). This memorandum explained how stakeholder consultation had been carried out and listed the individuals and organisations consulted. The individual instruments under the 2006 Act have been the subject of rigorous consultation with relevant stakeholders (such as the Services and the Office of the Judge Advocate General) over a period of many months to ensure that the policy goals have been achieved and that the provisions of each instrument will work in practice.

## **9. Guidance**

9.1 A new Manual of Service Law will provide guidance and supplementary information to Armed Forces personnel on the single system of Service law established under the Armed Forces Act 2006. The first volume of three within the manual, which is intended for commanding officers and those who administer the Service justice system, includes chapters on summary hearing punishments; and the second volume includes a chapter on the sentencing powers of the Court Martial. The Manual of Service Law will be available in time to allow Service personnel to be trained ahead of full implementation of the Act, and will subsequently be available to the general public on the internet. Guidance will be promulgated to judges advocate through the Judge Advocate General's practice memoranda.

## **10. Impact**

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring and review**

12.1 The Armed Forces Act 2006 is subject to a requirement for renewal each year by Order in Council (approved in draft by both Houses of Parliament) and renewal by Act of Parliament every five years. In response to these requirements the Act and the provisions under it will be subject to continuing monitoring and a general review will be conducted in order to provide for the Act of Parliament which will be required in 2011.

## **13. Contact**

13.1 Mr Nick Shaw at the Ministry of Defence, 020 7218 0564, email [nick.shaw460@mod.uk](mailto:nick.shaw460@mod.uk) is the point of contact regarding this instrument.