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STATUTORY INSTRUMENTS

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**2013 No. 1761**

**DEFENCE**

**The Armed Forces (Financial Penalty Enforcement Orders) (Amendment) Regulations 2013**

<i>Made</i>	- - - -	<i>15th July 2013</i>
<i>Laid before Parliament</i>		<i>17th July 2013</i>
<i>Coming into force</i>	- -	<i>1st November 2013</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 322 of the Armed Forces Act 2006<sup>(1)</sup>:

1. These Regulations may be cited as the Armed Forces (Financial Penalty Enforcement Orders) (Amendment) Regulations 2013 and shall come into force on 1<sup>st</sup> November 2013.

2.—(1) The Armed Forces (Financial Penalty Enforcement Orders) Regulations 2009<sup>(2)</sup> are amended as follows.

(2) In regulation 3(5)—

- (a) after “paragraph (6)” insert “and regulations 3A and 3B”;
- (b) omit “enforcement order”.

(3) After regulation 3 insert—

**“Imprisonment in default of payment: fines**

**3A.—**(1) This regulation applies if—

- (a) a financial penalty enforcement order is made in respect of a fine imposed by the Court Martial; and
- (b) that court made an order under section 269A of the Act<sup>(3)</sup> (fixing of term of imprisonment for default) in respect of the fine.

(2) If the relevant court is situated in England and Wales, the order under section 269A of the Act has effect as if—

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(1) [2006 c. 52](#). Section 322 is amended by section 16(2) of the Armed Forces Act [2011 \(c. 18\)](#) and section 78(5) of the Legal Aid, Sentencing and Punishment of Offenders Act [2012 \(c. 10\)](#).  
(2) [S.I. 2009/1212](#).  
(3) Section 269A of the Armed Forces Act 2006 is inserted by section 16(1) of the Armed Forces Act 2011.

- (a) the fine had been imposed by the Crown Court in England and Wales; and
  - (b) the order had been made by that court under section 139(2) of the Sentencing Act(4) in respect of the fine.
- (3) If the relevant court is situated in Scotland or Northern Ireland, the order under section 269A of the Act has effect as if—
- (a) the fine had been imposed by the Crown Court in England and Wales;
  - (b) the order had been made by that court under section 139(2) of the Sentencing Act in respect of the fine; and
  - (b) an order had been made under section 90 of the Magistrates’ Courts Act 1980(5) (transfer of fines to Scotland or Northern Ireland) that payment of the fine should be enforceable—
    - (i) if the relevant court is situated in Scotland, by that court;
    - (ii) if the relevant court is situated in Northern Ireland, in the petty sessions district in which that court is situated.

**Imprisonment in default of payment: service compensation orders**

- 3B.**—(1) This regulation applies if—
- (a) a financial penalty enforcement order is made in respect of a service compensation order made by the Court Martial; and
  - (b) that court specified a period under section 269B of the Act(6) as the maximum term to which the person by whom the compensation is payable is liable to be committed to prison for default if a financial penalty enforcement order is made.
- (2) The period so specified is to be treated for all purposes as if—
- (a) the service compensation order were a compensation order made by the Crown Court in England and Wales; and
  - (b) the period had been specified by that court under section 41(8) of the Administration of Justice Act 1970(7) in respect of that order.”

15th July 2013

*Mark Francois*  
Minister of State  
Ministry of Defence

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(4) “The Sentencing Act” is defined by section 374 of the Armed Forces Act 2006 to mean the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6).  
(5) 1980 c. 43.  
(6) Section 269B of the Armed Forces Act 2006 is inserted by section 16(1) of the Armed Forces Act 2011.  
(7) 1970 c. 31.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The Armed Forces (Financial Penalty Enforcement Orders) Regulations 2009 permit the making of an order for the registration by a civilian court (“the relevant court”) of a financial penalty imposed under the Armed Forces Act 2006 (c. 52). Regulation 3(5) of the 2009 Regulations provides that the sum certified in the order as being outstanding is to be treated for all purposes as if it had been a fine imposed upon conviction by the relevant court.

The Armed Forces Act 2011 (c. 18) inserts sections 269A and 269B in the 2006 Act. Section 269A requires the Court Martial, when imposing a fine, to make an order fixing a term for which the person liable to pay the fine may be committed to prison if the fine is not paid. Section 269B enables the Court Martial, when making a service compensation order, to specify a maximum term for which the person liable to pay the compensation may be committed to prison if the compensation is not paid.

Regulation 2(3) of these Regulations inserts new regulations 3A and 3B in the 2009 Regulations so as to provide, respectively, for the effect of an order under section 269A and of an exercise of the power under section 269B.

Under new regulation 3A, an order under section 269A has effect as if it were an order by the Crown Court in England and Wales under section 139(2) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) in respect of a fine imposed by that court (and, if the relevant court is in Scotland or Northern Ireland, as if the enforcement of that fine had been transferred to Scotland or Northern Ireland under section 90 of the Magistrates’ Courts Act 1980 (c. 43)).

Under new regulation 3B, where a period has been specified under section 269B, that period is treated as if it had been specified by the Crown Court in England and Wales under section 41(8) of the Administration of Justice Act 1970 (c. 31) in respect of a compensation order made by that court.

Regulation 2(2)(b) corrects regulation 3(5) of the 2009 Regulations to refer to the registration of a financial penalty instead of to the registration of the financial penalty enforcement order.