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STATUTORY INSTRUMENTS

2023 No. 869

DEFENCE

The Armed Forces (Minor Punishments and Limitation on Power to Reduce in Rank) Regulations 2023

Made - - - - 25th July 2023

Laid before Parliament at 1:00 p.m. on 26th July 2023

Coming into force in accordance with regulation 1(2)

The Defence Council makes these Regulations in exercise of the powers conferred by row 7 of the Table in section 132, section 132(3), section 138(7), row 11 of the Table in section 164, section 164(4) and section 164(6) of the Armed Forces Act 2006(a).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Armed Forces (Minor Punishments and Limitation on Power to Reduce in Rank) Regulations 2023.

(2) These Regulations come into force one hour after being laid.

(3) These Regulations extend to England and Wales, Scotland, Northern Ireland, the Isle of Man and the British overseas territories (except Gibraltar).

Minor punishments available to the Court Martial and commanding officers

2. The first column of the following Table lists the minor punishments that may be awarded by the Court Martial or by a commanding officer who has heard a charge summarily, subject in the case of each punishment to any limitation shown in the second column opposite it.

Table

Punishment	Limitation
a stoppage of leave order	only if the offender is below the rank or rate of warrant officer
a restriction of privileges order	only if the offender is an able rate, marine, soldier, airman or military officer cadet
an admonition	

(a) 2006 c. 52. There are amendments to the Act that are not relevant to these Regulations.

Stoppage of leave order

3.—(1) A stoppage of leave order is an order that the offender must not leave a relevant place on a specified number of days without the permission of the offender's commanding officer.

(2) The specified number of days must not exceed 14.

(3) The commanding officer must decide the dates on which each of the specified number of days is to fall.

(4) Each date decided under paragraph (3) must either be a calendar date or a date identified by reference to the occurrence of a particular event or circumstance.

(5) The commanding officer must—

(a) make the decision under paragraph (3) not more than 48 hours after the punishment is awarded; and

(b) inform the offender of the decision as soon as practicable after it is made.

(6) The latest date decided under paragraph (3) must fall no later than 28 days after the date on which the order is awarded.

(7) The commanding officer may give permission under paragraph (1) at any time after the order is awarded and before the end of the day to which the permission relates.

(8) In this regulation "relevant place" means—

(a) a naval ship or establishment;

(b) a military establishment; or

(c) an air force station.

Restriction of privileges order

4.—(1) Subject to paragraph (8), a restriction of privileges order is an order that on a specified number of days the offender must perform such extra duties as the offender's commanding officer decides.

(2) In this regulation "extra duties" means work, training or any other duty performed by the offender at times when the offender would not otherwise be required to perform any duty.

(3) The specified number of days must not exceed 14.

(4) The commanding officer must decide the dates on which each of the specified number of days is to fall.

(5) Each date decided under paragraph (4) must either be a calendar date or a date identified by reference to the occurrence of a particular event or circumstance.

(6) The commanding officer must—

(a) make the decision under paragraph (4) not more than 48 hours after the punishment is awarded; and

(b) inform the offender of the decision as soon as practicable after it is made.

(7) The latest date decided under paragraph (4) must fall no later than 28 days after the date on which the order is awarded.

(8) The offender must not spend more than a total of five and a half hours performing extra duties on each day of the specified number.

Prohibited combinations of punishments

5.—(1) Paragraphs (2) to (4) apply where a commanding officer awards a minor punishment in respect of an offender.

(2) If a stoppage of leave order is awarded, the only additional punishments that may be awarded are—

- (a) a fine;
- (b) a severe reprimand or a reprimand;
- (c) a restriction of privileges order;
- (d) a service compensation order.

(3) If a restriction of privileges order is awarded, the only additional punishments that may be awarded are—

- (a) a fine;
- (b) a stoppage of leave order;
- (c) a service compensation order.

(4) If an admonition is awarded, the only additional punishment that may be awarded is a service compensation order.

Power to direct that a minor punishment is to take effect at a later date

6. When awarding a minor punishment other than an admonition, the Court Martial or a commanding officer may direct that the punishment must be treated as if it were awarded at a time not later than 28 days after it was awarded. In that event, any reference in these Regulations to when an order is awarded is to be construed as a reference to when, in accordance with this regulation, it is to be treated as awarded.

Delegations

7.—(1) Subject to paragraphs (2) and (3), any function conferred by these Regulations on a commanding officer in relation to a punishment may be delegated to any person subject to service law who is of or above the rank of naval lieutenant, military or marine captain or flight lieutenant.

(2) The commanding officer may only delegate a function under regulation 3(3) or 4(4) to the person who hears the charge to which the punishment relates.

(3) The commanding officer may delegate the function conferred under regulation 4(1) (deciding the extra duties which the offender must perform) to any person subject to service law who is of or above the rank or rate of chief petty officer, marine colour sergeant, military staff sergeant or flight sergeant.

Limitation on power to reduce an offender in rank

8. A member of any of His Majesty's air forces may not be reduced under section 164 of the Armed Forces Act 2006 to a rank which is lower than the highest rank the member has held in that force as an airman.

Revocation of the Armed Forces (Minor Punishments and Limitation on Power to Reduce in Rank) Regulations 2009

9. The Armed Forces (Minor Punishments and Limitation on Power to Reduce in Rank) Regulations 2009(a) are revoked(b).

(a) S.I. 2009/1215.

(b) These Regulations purported to have been made by the Defence Council, were not signed by two members of the Defence Council as required by the Letters Patent establishing the Defence Council. They are revoked for the avoidance of doubt as to their continuing effect.

Signed on behalf of the Defence Council

25th July 2023

Annabel Goldie
David Williams
Members of the Defence Council
Ministry of Defence

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations authorise minor punishments which may be imposed on offenders by the Court Martial and by commanding officers who have heard charges summarily including when they are to take effect. They set out combinations of punishments that are not permitted as well as limit the power to reduce a member of the RAF in rank. They also allow commanding officers to delegate certain functions in relation to punishments.

The minor punishments authorised are stoppage of leave orders, restriction of privileges orders and admonitions.

The punishments are listed in the first column of the Table in regulation 2 and limitations, if applicable, are listed in the second column.

Regulations 3 and 4 make more detailed provision in relation to stoppage of leave orders and restriction of privilege orders respectively.

Regulation 5 prohibits the combination of each minor punishment with certain other punishments (minor or otherwise).

Regulation 6 permits the Court Martial, or the commanding officer who has heard a charge summarily, after awarding a minor punishment other than an admonition, to direct that it must take effect at a date not later than 28 days after it was awarded.

Regulation 7 provides for the delegation by commanding officers of the functions conferred on them by these Regulations.

Regulation 8 prevents the Court Martial from reducing a member of any of His Majesty's air forces below the highest rank the member has held as an airman (Ranks held as an "airman" are ranks below that of corporal). A similar limitation is placed by section 135(3) of the Armed Forces Act 2006 on commanding officers' powers to impose reduction in rank.

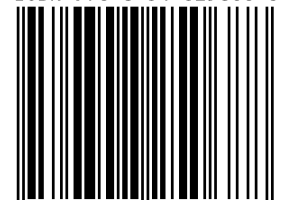
Regulation 9 revokes the Armed Forces (Minor Punishments and Limitation on Power to Reduce in Rank) Regulations 2009. Those Regulations purported to have been made by the Defence Council, were not signed by two members of the Defence Council as required by the Letters Patent establishing the Defence Council. They are revoked for the avoidance of doubt as to their continuing effect.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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