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STATUTORY INSTRUMENTS

2023 No. 870

DEFENCE

**The Armed Forces (Service Supervision and Punishment Orders)
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 sections 173 and 174 of the Armed Forces Act 2006(a).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Armed Forces (Service Supervision and Punishment Orders) 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).

Interpretation

2. In these Regulations—

“the Act” means the Armed Forces Act 2006;

“extra duties” means work, training or any other duty performed by an offender at times when they would not otherwise be required to perform any duty;

“the initial period”—

- (a) in relation to an SSPO in which the period specified under section 173(1) of the Act is thirty days, means the period of fourteen days beginning with the day the SSPO is made;
- (b) in relation to an SSPO in which the period specified under section 173(1) of the Act is sixty days, means the period of eighteen days beginning with the day the SSPO is made;

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

- (c) in relation to an SSPO in which the period specified under section 173(1) of the Act is ninety days, means the period of twenty-one days beginning with the day the SSPO is made;

“relevant place” means—

- (a) a naval ship or establishment;
- (b) a military establishment;
- (c) an air force station;

“the secondary period” means the remainder of the duration of an SSPO after the initial period;

“SSPO” means a service supervision and punishment order.

Requirements contained in an SSPO

3. An SSPO must require the offender who is subject to it not to use any entitlement to leave without the permission of their commanding officer, and may impose on the offender one or more of the following further requirements—

- (a) to perform extra duties as decided under regulation 6(1)—
 - (i) during the initial period, for up to five and a half hours each day;
 - (ii) during the secondary period, for up to one hour each day;
- (b) not to leave a relevant place without the permission of their commanding officer;
- (c) subject to such conditions as may be specified in the SSPO, not to enter specified places in a relevant place without the permission of their commanding officer.

Management of an SSPO

4.—(1) Subject to regulation 3(a), where an SSPO imposes a requirement under that paragraph, the offender’s commanding officer must decide, in respect of each day during which the SSPO is in force, what extra duties the offender must perform pursuant to that requirement, for how long, and when, and must inform the offender accordingly.

(2) The offender’s commanding officer may delegate any of their functions of granting permission under regulation 3 to an officer of or above the rank of naval lieutenant, military or marine captain or flight lieutenant.

(3) The offender’s commanding officer may delegate their functions under paragraph (1) to a person of or above the rank or rate of chief petty officer, marine colour sergeant, military staff sergeant or flight sergeant.

Review of an SSPO

5. The offender’s commanding officer must consider whether an SSPO should continue in force—

- (a) on or before the last day of the initial period;
- (b) at intervals of not more than 14 days beginning on the day after the last consideration under paragraph (a) or under this paragraph.

Revocation of the Armed Forces (Service Supervision and Punishment Orders) Regulations 2009

6. The Armed Forces (Service Supervision and Punishment Orders) Regulations 2009(a) are revoked(b).

On behalf of the Defence Council

25th July 2023

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

(a) S.I. 2009/1214.

(b) The Armed Forces (Service Supervision and Punishment Orders) Regulation 2009 (S.I. 2009/1214) (the “2009 Regulations”) purported to have been made by the Defence Council, but were not signed by two members of the Defence Council as required by the Letters Patent establishing the Defence Council. The 2009 Regulations are revoked for the avoidance of doubt as to their continuing effect.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to service supervision and punishment orders (“SSPO”). An SSPO may be imposed on an offender by the Court Martial under section 164 of the Armed Forces Act 2006 (c. 52) (‘the Act’). An SSPO may also be imposed, under section 132 of the Act, by a commanding officer who has heard a charge summarily. SSPOs are defined by section 173 of the Act.

Regulation 3 prescribes requirements which may be imposed on an offender under an SSPO. It also imposes a mandatory requirement not to use any entitlement to leave without the permission of their commanding officer.

Regulation 4 provides for the commanding officer to decide what extra duties an offender is to perform under an SSPO where a requirement to perform such duties is imposed. It also provides for delegation by the commanding officer of certain of their functions in relation to an SSPO.

Regulation 5 prescribes when the commanding officer must consider whether an SSPO is to continue in force. Section 174 of the Act requires the commanding officer to consider, at times prescribed by regulations, whether an SSPO should continue in force and, if he considers that it should not, to order that it must immediately cease to have effect.

The Armed Forces (Service Supervision and Punishment Orders) Regulations 2009 (S.I. 2009/1214) (the “2009 Regulations”) made provision in respect of service supervision and punishment orders. The 2009 Regulations purported to have been made by the Defence Council, but were not signed by two members of the Defence Council as required by the Letters Patent establishing the Defence Council. Regulation 6 of these Regulations therefore revokes the 2009 Regulations, for the avoidance of any doubt as to their continued effect, and restate their content.

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

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