



Armed Forces Act 2021

2021 CHAPTER 35

Service courts, summary hearings and jurisdiction

4 Summary hearings: power to rectify mistakes etc

(1) Section 153 of AFA 2006 (summary hearings etc rules) is amended in accordance with [subsections \(2\) to \(4\)](#).

(2) After subsection (1) insert—

“(1A) Without prejudice to the generality of subsection (1), the Secretary of State may by rules make provision with respect to the variation or rescission by a commanding officer of—

- (a) a punishment awarded by the officer, or
- (b) an order under section 193 made by the officer,

in cases where it appears to the officer that the officer had no power to award the punishment or (as the case may be) to make the order.”

(3) After subsection (2) insert—

“(2A) Rules made under subsection (1A) may make provision about the commencement of punishments or orders varied by the commanding officer.”

(4) In [subsection \(3\)](#)—

- (a) the text from ““prescribed”” to the end becomes [paragraph \(a\)](#);
- (b) after [paragraph \(a\)](#) insert—

“(b) references to hearings include any proceedings for determining whether a punishment, or an order under section 193, should be varied or rescinded.”

(5) In section 152 of AFA 2006 (review of summary findings and punishments), after subsection (2) insert—

“(2A) Subsection (2B) applies where—

- (a) a review has been carried out under this section in respect of a punishment,

Status: This is the original version (as it was originally enacted).

- (b) the person to whom the review relates has not brought an appeal under section 141 within the period provided by subsection (2) of that section, and
 - (c) the person who carried out the review considers there may be grounds for varying or rescinding the punishment, pursuant to rules made by virtue of section 153(1A).
- (2B) The person who carried out the review may refer the punishment back to the commanding officer who awarded it to consider whether to exercise the power to vary or rescind the punishment pursuant to those rules.
- (2C) Where subsection (2B) applies, that does not prevent the person who carried out the review from making a referral under subsection (4)—
 - (a) as an alternative to making a referral under subsection (2B), or
 - (b) after making a referral under subsection (2B), where the commanding officer has declined to exercise the power to vary or rescind the punishment.”