



Armed Forces Act 2006

2006 CHAPTER 52

PART 7

TRIAL BY COURT MARTIAL

CHAPTER 3

PUNISHMENTS AVAILABLE TO COURT MARTIAL

164 Punishments available to Court Martial

- (1) The second column of the following Table lists the punishments that may be awarded by sentence of the Court Martial, subject in the case of each punishment to any limitation shown in the third column opposite it.

TABLE

<i>Row Number</i>	<i>Punishment</i>	<i>Limitation</i>
1	imprisonment	
2	dismissal with disgrace from Her Majesty's service	
3	dismissal from Her Majesty's service	
4	detention for a term not exceeding two years	not if the person being sentenced is an officer
5	forfeiture of a specified term of seniority or of all seniority	only if the person being sentenced is an officer

Status: Point in time view as at 22/11/2023.

Changes to legislation: Armed Forces Act 2006, Chapter 3 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

6	reduction in rank, or disrating	only if the person being sentenced is a warrant officer or non- commissioned officer, and not to an extent prohibited by regulations under subsection (4)
7	a fine	
8	a service community order (defined by section 178)	only if the person being sentenced is on the same occasion sentenced to dismissal or dismissal with disgrace and subsection (5) permits
9	a severe reprimand or a reprimand	only if the person being sentenced is an officer, warrant officer or non- commissioned officer
10	a service supervision and punishment order (defined by section 173)	only if the person being sentenced is an able rate, marine, soldier or airman
11	such minor punishments as may from time to time be authorised by regulations made by the Defence Council	
12	a service compensation order (defined by section 175)	
[^{F1} 13	a deprivation order (defined by section 177B)	only if section 177C permits]
[^{F2} 14	a driving disqualification order (defined by section 177B)	only if subsection (5A) permits]

(2) Where this Act provides that a person guilty of a particular offence is liable to any punishment mentioned in the Table or in specified rows of the Table, it means he is liable to any one or more of the punishments so mentioned (subject in the case of each one to any limitation shown in the third column opposite it).

(3) The previous provisions of this section are subject to (in particular)—

^{F3}
...

Chapters 4 to 6 of Part 8 (imprisonment for [^{F4}two years or less], young offenders' custodial sentences, and mandatory etc sentences for serious offences); ^{F5} ...

Part 9 (general provisions about sentencing)[^{F6}; and
Schedule 3A (offender elected Court Martial trial).]

Status: Point in time view as at 22/11/2023.

Changes to legislation: Armed Forces Act 2006, Chapter 3 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) The Defence Council may by regulations restrict the extent to which persons of a description specified in the regulations may be reduced in rank or disgraced under this section.
- (5) The court may not make a service community order unless—
- the offender is aged 18 or over when convicted; and
 - it appears to the court that he will reside in the United Kingdom when the order is in force.
- [^{F7}(5A) The court may not make a driving disqualification order unless—
- the offence was committed on or after the commencement of section 15 of the Armed Forces Act 2021, and
 - the court has been notified by the Secretary of State that the power to make such orders is exercisable by the court (and the notice has not been withdrawn).]

(6) Where regulations under row 11 of the Table authorise a minor punishment, they may—

 - confer on the Court Martial a power, when awarding the punishment, to direct that the punishment shall take effect from a date after the date of the award;
 - confer on the offender's commanding officer the function of deciding the details of the punishment;
 - provide for the delegation by the commanding officer of any of his functions under the regulations.

(7) This section is modified in relation to certain offenders by Schedule 3 (civilians etc).

Textual Amendments

- F1** Words in s. 164(1) Table inserted (1.5.2022 for specified purposes, 22.11.2023 in so far as not already in force) by [Armed Forces Act 2021 \(c. 35\), ss. 14\(3\)](#), 24(1); S.I. 2022/471, reg. 2(f); S.I. 2023/1102, reg. 3
- F2** Words in s. 164(1) Table inserted (1.5.2022 for specified purposes, 1.4.2023 in so far as not already in force) by [Armed Forces Act 2021 \(c. 35\), ss. 15\(2\)\(a\)](#), 24(1); S.I. 2022/471, reg. 2(f); S.I. 2023/158, reg. 3
- F3** Words in s. 164(3) repealed (2.4.2012) by [Armed Forces Act 2011 \(c. 18\), s. 32\(3\)](#), Sch. 4 para. 9(a), [Sch. 5](#); S.I. 2012/669, art. 4(e)(f)(i)
- F4** Words in s. 164(3) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\)](#), [Sch. 25 para. 69](#) (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2
- F5** Word in s. 164(3) repealed (2.4.2012) by [Armed Forces Act 2011 \(c. 18\), s. 32\(3\)](#), Sch. 4 para. 9(b), [Sch. 5](#); S.I. 2012/669, art. 4(e)(f)(i)
- F6** Words in s. 164(3) inserted (2.4.2012) by [Armed Forces Act 2011 \(c. 18\), s. 32\(3\)](#), [Sch. 4 para. 9\(c\)](#); S.I. 2012/669, art. 4(e)
- F7** S. 164(5A) inserted (1.5.2022 for specified purposes, 1.4.2023 in so far as not already in force) by [Armed Forces Act 2021 \(c. 35\), ss. 15\(2\)\(b\)](#), 24(1); S.I. 2022/471, reg. 2(f); S.I. 2023/158, reg. 3

Modifications etc. (not altering text)

- C1** S. 164(2) applied by 1996 c. 14, s. 127(4) (as added (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\)](#), [Sch. 14 para. 53\(3\)](#) (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4)

Status: Point in time view as at 22/11/2023.

Changes to legislation: Armed Forces Act 2006, Chapter 3 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- C2** S. 164(2) applied by 1991 c. 62, s. 23(1A) (as inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 13 para. 9(3)** (with s. 385); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4)
- C3** S. 164(3) applied by 1991 c. 62, s. 23(1A) (as inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 13 para. 9(3)** (with s. 385); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4)
- C4** S. 164(3) applied by 1996 c. 14, s. 127(4) (as added (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 14 para. 53(3)** (with s. 385); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4)

Commencement Information

- I1** S. 164 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#))
- I2** S. 164 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), art. 4

[^{F8}165 Sentencing powers of Court Martial where election for trial by that court instead of CO

Schedule 3A (sentencing powers of Court Martial where election for trial by that court instead of CO) has effect.]

Textual Amendments

- F8** S. 165 substituted (2.4.2012) by [Armed Forces Act 2011 \(c. 18\)](#), **ss. 14(1)**, 32(3); [S.I. 2012/669](#), art. 4(b)

Status:

Point in time view as at 22/11/2023.

Changes to legislation:

Armed Forces Act 2006, Chapter 3 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.