



Armed Forces Act 2006

2006 CHAPTER 52

PART 8

SENTENCING POWERS AND MANDATORY ETC SENTENCES

CHAPTER 1

DEFINITION ETC OF CERTAIN SENTENCES

Conditional or absolute discharge (civilians only)

185 Conditional or absolute discharge

- (1) A conditional discharge is an order discharging the offender subject to the condition that he commits no service offence during a period specified in the order.
- (2) The period specified in the order (“the period of conditional discharge”) must—
 - (a) begin with the date of the order; and
 - (b) not exceed the maximum period for the time being specified in section 12(1)(b) of the Sentencing Act (maximum period of civilian conditional discharge).
- (3) An absolute discharge is an order discharging the offender absolutely.
- (4) Where by virtue of Schedule 3 a court sentences an offender by conditionally or absolutely discharging him, the sentence must not include any other punishment except a service compensation order.

Commencement Information

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| 11 | S. 185 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) |
| 12 | S. 185 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167 , art. 4 |

Status: Point in time view as at 31/10/2009.

Changes to legislation: Armed Forces Act 2006, Cross Heading: Conditional or absolute discharge (civilians only) is up to date with all changes known to be in force on or before 25 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)

186 Commission of further offence by person conditionally discharged

- (1) This section applies where a person who has been conditionally discharged by virtue of Schedule 3 is convicted by the Court Martial or the Service Civilian Court (“the convicting court”) of an offence committed during the period of conditional discharge.
- (2) If the convicting court is the Court Martial, it may deal with him for the offence for which he was conditionally discharged in any way in which the court that conditionally discharged him could deal with him if it had just convicted him of that offence.
- (3) If the convicting court is the Service Civilian Court, it may deal with him for the offence for which he was conditionally discharged in any way in which it could deal with him if it had just convicted him of that offence.
- (4) If a person conditionally discharged is subsequently dealt with under this section for the offence in respect of which the order conditionally discharging him was made, that order ceases to have effect.
- (5) A person who—
 - (a) is sentenced by a court under subsection (2) or (3) for an offence for which he was conditionally discharged, and
 - (b) was not convicted of that offence by that court,
 is to be treated, for the purpose of enabling him to appeal against the sentence under section 285 below or the Court Martial Appeals Act 1968 (c. 20), as if he had been so convicted.
- (6) Where subsection (3) applies and the offence for which the person was conditionally discharged is not one that the Service Civilian Court would have jurisdiction to try, it shall be assumed for the purposes of that subsection that it could have convicted him of the offence.

Commencement Information

- I3** S. 186 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](#))
- I4** S. 186 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

187 Effect of discharge

- (1) A conviction of an offence for which an order under section 185 discharging the offender absolutely or conditionally is made shall be deemed not to be a conviction for any purpose other than the purposes of the proceedings in which the order is made and of any subsequent proceedings which may be taken against the offender under section 186.
- (2) Where the offender was aged 18 or over at the time of his conviction of the offence in question and is subsequently dealt with under section 186 for that offence, subsection (1) ceases to apply to the conviction.
- (3) Without prejudice to subsections (1) and (2), a conviction of an offence for which an order under section 185 discharging the offender absolutely or conditionally is made is in any event to be disregarded for the purposes of any enactment or instrument which—
 - (a) imposes any disqualification or disability on convicted persons; or

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- (b) authorises or requires the imposition of any such disqualification or disability.
- (4) In subsection (3)—
- “enactment” includes an enactment contained in an Act of the Scottish Parliament, in Northern Ireland legislation or in a local Act;
 - “instrument” means an instrument having effect by virtue of an Act or Northern Ireland legislation (and “Act” here includes an Act of the Scottish Parliament).
- (5) Subsections (1) to (4) do not affect—
- (a) any appeal, whether against conviction or otherwise;
 - (b) any right of the offender to rely on his conviction in bar of any subsequent proceedings for the same offence; or
 - (c) the restoration of any property in consequence of the conviction.

Commencement Information

- I5** S. 187 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](#))
- I6** S. 187 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

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