



# Armed Forces Act 2006

## 2006 CHAPTER 52

### PART 8

#### SENTENCING POWERS AND MANDATORY ETC SENTENCES

### CHAPTER 7

#### COURT ORDERS OTHER THAN SENTENCES

#### *Service restraining orders*

#### **229 Service restraining orders**

- (1) The Court Martial or the Service Civilian Court may make an order under this section where—
  - (a) it convicts or acquits a person (“the defendant”) of an offence; and
  - (b) the defendant is subject to service law or is a civilian subject to service discipline.
- (2) An order under this section—
  - (a) prohibits the defendant from doing anything described in the order; and
  - (b) has effect for a fixed period specified in the order or until further order.
- (3) An order under this section may be made, and a prohibition may be included in the order, only for the purpose of protecting a person mentioned in the order from conduct which amounts to harassment.
- (4) A person subject to service law or a civilian subject to service discipline commits an offence if, without reasonable excuse, he does anything which he is prohibited from doing by an order under this section.

*Status: Point in time view as at 08/03/2012.*

*Changes to legislation: Armed Forces Act 2006, Cross Heading: Service restraining orders is up to date with all changes known to be in force on or before 06 September 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)*

- (5) A person guilty of an offence under this section is liable to any punishment mentioned in the Table in section 164, but any sentence of imprisonment imposed in respect of the offence must not exceed five years.
- (6) In proceedings for an order under this section, the Director of Service Prosecutions and the defence may lead (as further evidence) any evidence which would be admissible in proceedings in the High Court in England and Wales for an injunction under section 3 of the Protection from Harassment Act 1997 (c. 40).

#### Commencement Information

- I1** S. 229 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. 229 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

### 230 Service restraining orders: supplementary

- (1) Section 7 (interpretation) of the Protection from Harassment Act 1997 (c. 40) (“the 1997 Act”) applies for the purposes of section 229 of this Act as it applies for the purposes of sections 5 and 5A of that Act.
- (2) Section 12 of the 1997 Act (national security etc) applies for the purposes of section 229 of this Act as if—
  - (a) the reference in subsection (1)(c) to serious crime were a reference to serious service offences or serious crime (committed anywhere);
  - (b) the reference in subsection (1) to the 1997 Act were a reference to section 229 of this Act.
- (3) Where the Court Martial Appeal Court allows an appeal against conviction it may remit the case to the Court Martial for that court to consider whether to proceed under section 229.
- (4) Section 229 applies in relation to a case remitted under subsection (3) as if subsection (1)(a) were omitted.

#### Commencement Information

- I3** S. 230 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. 230 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

### 231 Service restraining orders: appeals

- (1) This section applies where a court makes an order under section 229—
  - (a) after it has acquitted the defendant of an offence; or
  - (b) in respect of a case remitted to it under section 230(3).
- (2) For the purposes of sections 285 to 287 (appeals from Service Civilian Court) or, as the case may be, the Court Martial Appeals Act 1968 (c. 20)—
  - (a) the order is to be treated as a sentence passed on the defendant in respect of the offence; and

*Status: Point in time view as at 08/03/2012.*

*Changes to legislation: Armed Forces Act 2006, Cross Heading: Service restraining orders is up to date with all changes known to be in force on or before 06 September 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)*

- (b) the defendant is to be treated for the purpose of enabling him to appeal against the order as if he had been convicted of the offence by the court.
- (3) For the purposes of any appeal against the order, references in section 16A of the Court Martial Appeals Act 1968 to passing a sentence include making an order.

#### Commencement Information

- I5** S. 231 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. 231 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### 232 Service restraining orders: variation and revocation

- (1) The Court Martial may vary or revoke an order under section 229 on an application made by—
  - (a) the Director of Service Prosecutions;
  - (b) the defendant; or
  - (c) any other person mentioned in the order.
- (2) Any person mentioned in the order is entitled to be heard on the hearing of an application under subsection (1).
- (3) Where a person is convicted of an offence under section 229, the court that convicts him may vary or revoke the order to which the offence relates.

#### Commencement Information

- I7** S. 232 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](#))
- I8** S. 232 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 08/03/2012.

**Changes to legislation:**

Armed Forces Act 2006, Cross Heading: Service restraining orders is up to date with all changes known to be in force on or before 06 September 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.