



# Armed Forces Act 2006

## 2006 CHAPTER 52

### PART 9

#### SENTENCING: PRINCIPLES AND PROCEDURES

#### CHAPTER 2

##### PRINCIPLES AND PROCEDURES APPLYING TO SERVICE COURTS ONLY

##### *Community punishments*

#### **270 Community punishments: general restrictions etc**

- (1) A court must not award a community punishment in respect of an offence unless it is of the opinion that the offence, or the combination of the offence and one or more offences associated with it, was serious enough to warrant such a punishment.
- (2) Where a court awards a community punishment—
  - (a) the particular requirement (or requirements) included in the order must be such as the court considers the most suitable for the offender; and
  - (b) the restrictions on liberty imposed by the order must be such as in the opinion of the court are commensurate with the seriousness of the offence, or the combination of the offence and one or more offences associated with it.
- (3) In forming any such opinion as is mentioned in subsection (1) or (2)(b), a court must take into account all such information as is available to it about the circumstances of the offence and any associated offence, including any aggravating or mitigating factors.
- (4) In forming an opinion for the purposes of subsection (2)(a) the court may take into account any information about the offender which is before it.
- (5) In determining the restrictions on liberty to be imposed by a community punishment in respect of an offence, the court may have regard to any period for which the offender

*Status: Point in time view as at 28/03/2009.*

*Changes to legislation: Armed Forces Act 2006, Cross Heading: Community punishments is up to date with all changes known to be in force on or before 04 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)*

has, since being charged with the offence or any related offence, been kept in service custody in connection with the offence or any related offence.

- (6) In subsection (5) “related offence” has the meaning given by section 247.
- (7) Section 151 of the 2003 Act (community order for persistent offender previously fined) applies to a court dealing with an offender for a service offence as it applies to a civilian court in England and Wales, but as if—
- (a) in subsection (1)(c), the reference to a community sentence were to a community punishment and the reference to section 143(2) of that Act were to section 238(1)(b) of this Act;
  - (b) in subsection (2), the reference to making a community order were to awarding a community punishment and the words “instead of imposing a fine” were omitted; and
  - (c) in subsection (7), the reference to section 143(2) of that Act were to section 238(1)(b) and (2) of this Act.
- (8) Accordingly, subsections (1) and (2)(b) above are subject to section 151(2) of the 2003 Act as applied by this section.

#### **Commencement Information**

- II** S. 270 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](#))

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