

Status: Point in time view as at 19/05/2020.

Changes to legislation: Armed Forces Act 2006, Paragraph 9 is up to date with all changes known to be in force on or before 13 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)

SCHEDULES

SCHEDULE 7

SUSPENDED PRISON SENTENCE: FURTHER CONVICTION OR BREACH OF REQUIREMENT

PART 2

MODIFICATIONS REFERRED TO IN PART 1

Activation of suspended sentence: appeals etc

- 9 (1) Where an order under paragraph 8(2)(a) or (b) of that Schedule is made by the Court Martial or the Service Civilian Court, paragraph 9 of that Schedule has effect as if—
- ^{F1}(a)
- (b) for sub-paragraphs (2) and (3) there were substituted—
- “(2) The reference in sub-paragraph (1)(b) to another term of imprisonment does not include a term from which the offender has been released early under Chapter 6 of Part 12 [^{F2}of this Act or under Part 2 of the Criminal Justice Act 1991].
- (3) For the purposes of sections 285 to 287 [^{F3}of the Armed Forces Act 2006] (appeals from Service Civilian Court) or, as the case may be, the Court Martial Appeals Act 1968 (c. 20)—
- (a) an order made by the Court Martial or the Service Civilian Court under paragraph 8(2)(a) or (b) is to be treated as a sentence passed on the offender, by the court that made that order, for the offence for which the suspended sentence was passed; and
- (b) if the offender was not convicted of that offence by that court he is to be treated for the purpose of enabling him to appeal against the order as if he had been so convicted.
- (4) 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.”
- (2) Where an order under paragraph 8(2)(a) or (b) of that Schedule is made by the Crown Court in relation to a suspended sentence passed by a relevant service court, paragraph 9 of that Schedule has effect as if for sub-paragraph (3) there were substituted—
- “(3) For the purposes of any enactment conferring rights of appeal against sentence in criminal cases—
- (a) an order made by the Crown Court under paragraph 8(2)(a) or
- (b) is to be treated as a sentence passed on the offender by the

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Crown Court for the offence for which the suspended sentence was passed; and

- (b) the offender is to be treated as if he had been convicted on indictment of that offence.”

Textual Amendments

- F1** Sch. 7 para. 9(1)(a) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 41\(5\)](#); S.I. 2012/2906, art. 2(h)
- F2** Words in Sch. 7 para. 9(1)(b) inserted (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 25 para. 33\(a\)](#); S.I. 2009/1028, art. 2(b)
- F3** Words in Sch. 7 para. 9(1)(b) inserted (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 25 para. 33\(b\)](#); S.I. 2009/1028, art. 2(b)

Commencement Information

- I1** Sch. 7 para. 9 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** Sch. 7 para. 9 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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