



# Armed Forces Act 2006

## 2006 CHAPTER 52

### PART 10

#### COURT MARTIAL DECISIONS: APPEALS AND REVIEW

### CHAPTER 2

#### REVIEW OF COURT MARTIAL SENTENCE

#### **273 Review of unduly lenient sentence by Court Martial Appeal Court**

- (1) If the Attorney General considers—
  - (a) that a sentence passed by the Court Martial in respect of an offence under section 42 (criminal conduct) is unduly lenient, and
  - (b) that condition A or B is satisfied,he may refer the case to the Court Martial Appeal Court for it to review the sentencing of the offender.
- (2) Condition A is that the corresponding offence under the law of England and Wales is under that law an offence which, if committed by an adult, is triable only on indictment.
- (3) Condition B is that the case is of a description specified for the purposes of this subsection in an order made by the Secretary of State.
- (4) A reference under subsection (1) may not be made without the leave of the Court Martial Appeal Court.
- (5) On a reference under subsection (1), the Court Martial Appeal Court may—
  - (a) quash the sentence passed by the Court Martial; and
  - (b) pass in substitution for it any sentence which the Court Martial Appeal Court thinks appropriate and which is a sentence that the Court Martial had power to pass in respect of the offence.

*Status: Point in time view as at 01/12/2020. This version of this provision has been superseded.*

*Changes to legislation: Armed Forces Act 2006, Section 273 is up to date with all changes known to be in force on or before 16 August 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) For the purposes of subsection (1)(a), the Attorney General may consider that a sentence passed by the Court Martial is unduly lenient if he considers—
- (a) that the Court Martial erred in law as to its powers of sentencing; or
  - (b) that the sentence is not that required by <sup>F1</sup>—
    - (i) section 273(3) or 283(3) of the Sentencing Code as a result of section 218A(1B) or (2) (life sentence for second listed offence);
    - (ii) section 274(3) or 285(3) of the Sentencing Code as a result of section 219(1A) or (2) (life sentence for certain dangerous offenders aged 18 or over);
    - (iii) section 258(2) of the Sentencing Code as a result of section 221(2) (life sentence for certain dangerous offenders aged under 18);
    - (iv) section 313(2) of the Sentencing Code as a result of section 225(2) (third drug trafficking offence);
    - (v) section 314(2) of the Sentencing Code as a result of section 226(2) (third domestic burglary);
    - (vi) section 311(2) of the Sentencing Code as a result of section 227(2) (firearms offences); or
    - (vii) section 227A(1A) or (2) (threatening with a weapon in public or on school premises);]

but nothing in this subsection limits subsection (1)(a).

<sup>F2</sup>(7) Where a reference under subsection (1) relates to a case in which the Court Martial made <sup>F3</sup>a minimum term order under section 321 of the Sentencing Code], the Court Martial Appeal Court may not, in deciding what sentence is appropriate for the case, make any allowance for the fact that the offender is being sentenced for a second time.

<sup>F4</sup>(7A) . . . . .]

- (8) The reference in subsection (1)(a) to a sentence passed by the Court Martial does not include one passed on an appeal under section 285 (appeal from Service Civilian Court).
- (9) In this section and section 274 “sentence” includes any order made by a court when dealing with an offender.

#### Textual Amendments

- F1** S. 273(6)(b)(i)(vii) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 70\(a\)](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F2** S. 273(7)(7A) substituted for s. 273(7) (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 25 para. 28](#); [S.I. 2009/1028](#), art. 2(b)
- F3** Words in s. 273(7) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 70\(b\)](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F4** S. 273(7A) omitted (1.12.2020) by virtue of [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 70\(c\)](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

#### Modifications etc. (not altering text)

- C1** S. 273 modified in part (1.12.2020 immediately before the consolidation date (see [2020 c. 9](#), ss. 3, 5(2) (3) and [2020 c. 17](#), ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), [ss. 1, 5\(2\)\(3\)](#) (with s. 5(9)); [S.I. 2012/1236](#), reg. 2

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**Changes to legislation:** Armed Forces Act 2006, Section 273 is up to date with all changes known to be in force on or before 16 August 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)

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**C2** S. 273(1)(a) modified (31.10.2009) by [The Armed Forces \(Court Martial\) Rules 2009 \(S.I. 2009/2041\)](#), art. 1, s. 166

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**Commencement Information**

- I1** S. 273 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. 273 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), art. 4

**Status:**

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**Changes to legislation:**

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