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STATUTORY INSTRUMENTS

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**2009 No. 1109**

**The Armed Forces (Forfeitures  
and Deductions) Regulations 2009**

**PART 1**

**FORFEITURES AND DEDUCTIONS**

**Forfeiture of pay – absence from duty**

**3.—(1)** The Defence Council, or an officer authorised by them, may make an order authorising a day's pay of a person subject to service law to be forfeited for—

- (a) any day during which he was absent from duty and in respect of which the Defence Council are, or the authorised officer is, satisfied that his conduct amounted to an offence under section 8 or 9 or under section 97(1)(a) of the Reserve Forces Act 1996<sup>M1</sup>;
- (b) any day during which he was absent from duty serving a relevant sentence, including any day counted under section 246(2) as time served by him as part of the sentence;
- (c) any day during which he was absent from duty serving a sentence of imprisonment or detention imposed by a civilian court (anywhere);
- (d) any day during which he was absent from duty detained under an order of a civilian court (anywhere) other than an order within sub-paragraph (e);
- (e) any day during which he was absent from duty, detained under an order of a civilian court (anywhere) for his detention awaiting or during trial or awaiting sentence, if that day was counted as time served by him as part of a sentence of a civilian court;
- (f) any day during which he was absent from duty by reason of sickness or injury if the Defence Council are, or the authorised officer is, satisfied that the sickness or injury was contributed to, or caused by, conduct in relation to which—
  - (i) he has been convicted of a service offence, or
  - (ii) a charge against him has been determined to have been proved at a summary hearing under section 131,

whether that absence occurred before or after he was convicted or the charge was determined to have been proved;

- (g) any day during which he was absent from duty by reason of his having been captured by an enemy if the Defence Council are, or the authorised officer is, satisfied that the immediate cause of his capture by the enemy was conduct amounting to an intentional breach of his duty in respect of which—
  - (i) he has been convicted of an offence under Part 1 of the Act; or
  - (ii) a charge against him in respect of an offence under Part 1 of the Act has been determined to have been proved at a summary hearing under section 131;

- (h) any day during which he was absent from duty and the Defence Council are, or the authorised officer is, satisfied that the absence was by reason of conduct in relation to which he has been convicted of an offence under section 5(2); or
  - (i) any day during which he was absent from duty and in respect of which the Defence Council are, or the authorised officer is, satisfied that he has been convicted of an offence under section 1(2).
- (2) In paragraph (1)(b) a “relevant sentence” means—
- (a) a custodial sentence awarded under the Act;
  - (b) a hospital order, made under section 37 of the Mental Health Act 1983 <sup>M2</sup> as modified by Schedule 4 to the Act, that a person be detained;
  - (c) an order made under section 214(3) that a person be detained in youth detention accommodation;
  - (d) a sentence of service detention.
- (3) For the purposes of paragraph (1)—
- (a) a reference to a person being absent from duty during a day includes his being absent for part of a day;
  - (b) in relation to a day's absence from duty—
    - (i) “a day's pay” of a person subject to service law by reason of section 367(1) or (2) (a), (b), (c) or (e) means one twelfth of his gross annual basic pay <sup>M3</sup> on that day divided by the number of days in the month in which that day occurred plus his gross specialist pay, if any, for that day;
    - (ii) “a day's pay” of a person subject to service law by reason of section 367(2)(d) means his gross daily rate of pay on that day plus his gross specialist pay, if any, for that day.

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**Marginal Citations**

**M1** 1996 c. 14.

**M2** 1983 c. 20.

**M3** Basic pay and specialist pay are provided for from time to time under Royal Warrant (see [section 333](#) of the Armed Forces Act 2006).

**Changes to legislation:**

There are currently no known outstanding effects for the The Armed Forces (Forfeitures and Deductions) Regulations 2009, Section 3.