
STATUTORY INSTRUMENTS

2023 No. 209

**The Armed Forces (Driving
Disqualification Orders) Regulations 2023**

PART 1

DRIVING DISQUALIFICATION ORDERS

Application of this Part

3. This Part applies where a driving disqualification order is made in respect of an offender under the Armed Forces Act 2006.

Interpretation of this Part

4. In this Part—

“the Act” means the Armed Forces Act 2006;

“court” means—

- (a) the Court Martial;
- (b) the Service Civilian Court;

“driving licence” means a licence to drive a motor vehicle granted under Part 3 of the Road Traffic Act 1988(1) or a Northern Ireland licence (within the meaning of Part 3 of that Act);

“extension period” means an extension period added to the disqualification period pursuant to section 177J of the Armed Forces Act 2006.

Effect of driving disqualification order

5.—(1) Where a driving disqualification order(2) is made in respect of an offender who is the holder of a driving licence, the driving licence must be treated as being revoked with effect from the beginning of the disqualification period.

(2) Where the disqualification is for a fixed period shorter than 56 days (disregarding any extension period), paragraph (1) does not prevent the driving licence from again having effect at the end of the disqualification period (including any extension period).

(3) Where the offender appeals against the order and the disqualification is suspended under regulation 6 or 7, the disqualification period must be treated for the purposes of paragraph (1) as beginning on the day on which the disqualification ceases to be suspended.

(1) 1988 c. 52, to which there are amendments not relevant to these Regulations.

(2) A “driving disqualification order” is an order of the type defined by section 177G of the Armed Forces Act 2006 (c. 52); section 177G was inserted by section 15(3) of the Armed Forces Act 2021 (c. 35).

Power of sentencing court to suspend disqualification pending appeal

6.—(1) A court that makes a driving disqualification order may suspend the disqualification pending an appeal against the order.

(2) Where the court exercises its power under paragraph (1), it must send notice of the suspension to the Secretary of State in accordance with rule 108B of the Armed Forces (Service Civilian Court) Rules 2009(3) or rule 151C of the Armed Forces (Court Martial) Rules 2009(4), as appropriate.

Power of appellate court to suspend disqualification pending appeal

7.—(1) Where an offender subject to a driving disqualification order appeals or applies for leave to appeal to the Court Martial against their conviction or sentence under section 285 (right of appeal from SCC) of the Act, the Court Martial may suspend the disqualification.

(2) Where an offender subject to a driving disqualification order appeals or applies for leave to appeal to the Court Martial Appeal Court against their conviction or sentence under sections 8 (right of appeal) and 9 (application for leave to appeal) of the Court Martial Appeals Act 1968(5), the Court Martial Appeal Court may suspend the disqualification.

(3) Where an offender subject to a driving disqualification order appeals or applies for leave to appeal to the Supreme Court under sections 39 (right of appeal)(6) and 40 (application for leave to appeal)(7) of the Court Martial Appeals Act 1968, the Court Martial Appeal Court may suspend the disqualification.

(4) Any power of the Court Martial or Court Martial Appeal Court under paragraphs (1) to (3) to suspend the disqualification of any offender is a power to do so on such terms as it considers appropriate.

(5) Where, by virtue of this regulation, the Court Martial or Court Martial Appeal Court suspends the disqualification of any offender, it must send notice of the suspension to the Secretary of State.

Removal of disqualification

8.—(1) Subject to the provisions of this regulation, an offender subject to a driving disqualification order may apply to the court which imposed the order to have it removed.

(2) On any such application the court may either by order remove the disqualification as from such date it specifies in the order or refuse the application.

(3) In making a decision under paragraph (2), the court may take into account the following factors—

- (a) the character of the offender;
- (b) the conduct of the offender since the order was imposed;
- (c) the nature of the offence;
- (d) any other circumstances of the case.

(4) No application under paragraph (1) may be made before the expiry of the relevant period.

(5) The relevant period for the purposes of paragraph (4) is—

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- (3) [S.I. 2009/1209](#), inserted by regulation 14 of these Regulations.
 - (4) [S.I. 2009/2041](#), inserted by regulation 17 of these Regulations.
 - (5) [1968 c. 20](#), section 8 was amended by section 17(2)(a) of the Armed Forces Act 1996 ([c. 46](#)) and paragraph 7 of Schedule 8 to the Armed Forces Act 2006 ([c. 52](#)); there are other amendments not relevant to these Regulations.
 - (6) Section 39 was amended by paragraphs 17(3)(a) and (b) of Schedule 9 to the Constitutional Reform Act 2005 ([c. 4](#)), paragraph 42 of Schedule 8 to the Armed Forces Act 2006, article 9(2) of the Court Martial (Prosecution Appeals) Order ([S.I. 2009/2044](#)) and article 15(2) and (3) of the Armed Forces (Retrial for Serious Offences) Order ([S.I. 2013/1852](#)).
 - (7) Section 40 was amended by paragraphs 17(3)(a) and (b) of Schedule 9 to the Constitutional Reform Act 2005, section 91 of the Courts Act 2003 ([c. 39](#)) and article 15(4) of the Armed Forces (Retrial for Serious Offences) Order ([S.I. 2013/1852](#)).

- (a) two years, if the discretionary disqualification period is less than four years;
- (b) half of the discretionary disqualification period, if the discretionary disqualification period is less than 10 years but not less than four years;
- (c) five years in any other case.

(6) In determining the expiry of the relevant period in paragraph (4), any time after conviction during which the driving disqualification order was suspended or the offender was not disqualified must be disregarded.

(7) Where an application under paragraph (1) is refused, no further application under that paragraph may be made within three months of the date of the refusal.

(8) If under this regulation a court orders a driving disqualification order to be removed, the court—

- (a) must send notice of the order to the Secretary of State in accordance with rule 108B of the Armed Forces (Service Civilian Court) Rules 2009 or rule 151C of the Armed Forces (Court Martial) Rules 2009, as appropriate,
- (b) may in any case order the applicant to pay the whole or any part of the costs of the application.

Rule for determining end of disqualification period

9. In determining the expiry of the disqualification period, any time after conviction during which the driving disqualification order was suspended, or the offender was not disqualified must be disregarded.

Supplementary provisions as to disqualification

10.—(1) Where a court orders an offender to be disqualified for a period of 56 days or more (disregarding any extension period) it must send any driving licence of that offender that is produced to the court to the Secretary of State.

(2) Where on an appeal against the disqualification of a person the appeal is allowed, the court by which the appeal is allowed must send notice of that fact to the Secretary of State.

Exemption from disqualification for certain construction and use offences

11.—(1) Where an offender is convicted of an offence under section 42 of the Act as respects which the corresponding offence under the law of England and Wales is an offence under section 40A of the Road Traffic Act 1988 (using vehicle in dangerous condition etc) the court must not impose a driving disqualification order if the offender proves that they did not know, and had no reasonable cause to suspect, that the use of the vehicle involved a danger of injury to any person.

(2) Where an offender is convicted of an offence under section 42 of the Act as respects which the corresponding offence under the law of England and Wales is an offence under section 41A of the Road Traffic Act 1988 (breach of requirement as to brakes, steering-gear or tyres) the court must not impose a driving disqualification order if the offender proves that they did not know, and had no reasonable cause to suspect, that the facts of the case were such that an offence would be committed.