



# Armed Forces Act 2021

## 2021 CHAPTER 35

### *Sentencing and rehabilitation*

#### **15 Driving disqualification**

- (1) AFA 2006 is amended as follows.
- (2) In section 164 (punishments available to Court Martial)—
- (a) in subsection (1), in the table, after row 13 (as inserted by section 14 above) insert—

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“14	a driving disqualification order (defined by section 177B)	only if subsection (5A) permits”;
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- (b) after subsection (5) insert—

“(5A) The court may not make a driving disqualification order unless—

(a) the offence was committed on or after the commencement of section 15 of the Armed Forces Act 2021, and

(b) the court has been notified by the Secretary of State that the power to make such orders is exercisable by the court (and the notice has not been withdrawn).”

- (3) After section 177F (as inserted by section 14 above) insert—

#### *“Driving disqualification orders*

#### **177G Driving disqualification orders**

A driving disqualification order is an order made under this Act in respect of an offender that the offender is disqualified, for the period specified in the order, for holding or obtaining—

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*Changes to legislation: There are currently no known outstanding effects for the Armed Forces Act 2021, Section 15. (See end of Document for details)*

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- (a) a licence to drive a motor vehicle granted under Part 3 of the Road Traffic Act 1988, and
- (b) a Northern Ireland licence (within the meaning of Part 3 of the Road Traffic Act 1988).

### **177H Driving disqualification: availability**

Where a driving disqualification order is available to a court, the court may make a driving disqualification order whether or not it also deals with the offender for the offence in any other way.

### **177I Disqualification period**

- (1) Where a court makes a driving disqualification order in respect of an offender for an offence, the disqualification period must be such period as the court considers appropriate. But this is subject to sections 177J and 177K.
- (2) The disqualification period, in relation to a driving disqualification order made in respect of an offender, is the period specified in the order as the period for which the offender is disqualified for holding or obtaining a driving licence.

### **177J Extension of disqualification where custodial sentence or service detention also imposed**

- (1) This section applies where a court—
  - (a) imposes a custodial sentence or a sentence of service detention on an offender for an offence, and
  - (b) makes a driving disqualification order in respect of the offender for the same offence.
- (2) But this section does not apply where the custodial sentence or sentence of service detention (as the case may be) is—
  - (a) a suspended sentence of imprisonment,
  - (b) a suspended sentence of service detention, or
  - (c) a life sentence in relation to which the court makes a whole life order under section 321(3) of the Sentencing Code (life sentence: minimum term order or whole life order) by virtue of section 261A of this Act (life sentences: further provision).
- (3) The disqualification period must be—
  - (a) the discretionary disqualification period, and
  - (b) the appropriate extension period.
- (4) The discretionary disqualification period is the period which the court would, in the absence of this section, have specified in the driving disqualification order.
- (5) The appropriate extension period for a sentence specified in column 2 is equal to the period calculated in accordance with column 3—

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<i>Row</i>	<i>Sentence</i>	<i>Length of appropriate extension period</i>
1	a detention and training order under section 211 (offenders under 18: detention and training orders)	half the term of the detention and training order
2	a sentence of detention under section 224B (special sentence of detention for terrorist offenders of particular concern)	two-thirds of the term imposed pursuant to section 252A(5) of the Sentencing Code by virtue of section 224B(4) of this Act (the appropriate custodial term)
3	an extended sentence of detention under section 254 of the Sentencing Code by virtue of section 221A of this Act (extended sentence for certain violent, sexual or terrorism offenders aged under 18)	two-thirds of the term imposed pursuant to section 254(a) of the Sentencing Code (the appropriate custodial term)
4	a sentence of detention in a young offender institution to which subsections (2) and (3) of section 265 of the Sentencing Code apply by virtue of section 224A of this Act (special custodial sentence for certain offenders of particular concern)	two-thirds of the term imposed pursuant to section 265(2)(a) of the Sentencing Code (the appropriate custodial term)
5	an extended sentence of detention in a young offender institution under section 266 of the Sentencing Code by virtue of section 219A of this Act (extended sentence for certain violent, sexual or terrorism offenders aged 18 or over)	two-thirds of the term imposed pursuant to section 266(a) of the Sentencing Code (the appropriate custodial term)
6	a serious terrorism sentence of detention in a young offender institution under section 268A of the Sentencing Code by virtue of section 219ZA of this	the term imposed pursuant to section 268C(2) of the Sentencing Code (the appropriate custodial term)

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<i>Row</i>	<i>Sentence</i>	<i>Length of appropriate extension period</i>
	Act (serious terrorism sentences)	
7	a sentence of imprisonment to which subsections (2) and (3) of section 278 of the Sentencing Code apply by virtue of section 224A of this Act (special custodial sentence for certain offenders of particular concern)	two-thirds of the term imposed pursuant to section 278(2)(a) of the Sentencing Code (the appropriate custodial term)
8	an extended sentence of imprisonment under section 279 of the Sentencing Code by virtue of section 219A of this Act (extended sentence for certain violent, sexual or terrorism offenders aged 18 or over)	two-thirds of the term imposed pursuant to section 279(a) of the Sentencing Code (the appropriate custodial term)
9	a serious terrorism sentence of imprisonment under section 282A of the Sentencing Code by virtue of section 219ZA of this Act (serious terrorism sentences)	the term imposed pursuant to section 282C(2) of the Sentencing Code (the appropriate custodial term)
10	a custodial sentence in respect of which section 244ZA of the Criminal Justice Act 2003 applies to the offender	two-thirds of the sentence
11	a custodial sentence not within any of the preceding entries in respect of which section 247A of the Criminal Justice Act 2003 applies to the offender	two-thirds of the sentence
12	a life sentence in relation to which a minimum term order is made under section 321 of the Sentencing Code by virtue of section 261A of this Act (life sentences: further provision)	the term specified in the minimum term order

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<i>Row</i>	<i>Sentence</i>	<i>Length of appropriate extension period</i>
13	service detention	half the term of detention imposed
14	any other case	half the custodial sentence imposed.

(6) In the case of a sentence specified in entry 3, 5 or 8 of column 2 in the table which is within section 247A(2A) of the Criminal Justice Act 2003, the corresponding entry in column 3 of the table is to be read with the omission of “two-thirds of”.

(7) Any period determined under subsection (5) which includes a fraction of a day must be rounded up to the nearest number of whole days.

(8) Where—

(a) an order (“the amending order”) is made under section 267 of the Criminal Justice Act 2003 (alteration by order of relevant proportion of sentence), and

(b) the amending order provides that the proportion of a custodial sentence for the time being referred to in section 243A(3)(a) or 244(3)(a) of that Act (release of prisoners in certain circumstances) is to be read as a reference to another proportion (the “new proportion”),

the Secretary of State may by regulations provide that the table in subsection (5) is to be read as if, in relation to such a sentence, entry 14 specified the new proportion.

#### **177K Effect of custodial sentence or service detention in other cases**

(1) This section applies where a court makes a driving disqualification order in respect of an offender for an offence, and—

(a) it imposes a custodial sentence or a sentence of service detention (other than a suspended sentence) on the offender for another offence, or

(b) a custodial sentence or a sentence of service detention previously imposed on the offender has not expired.

(2) In determining the disqualification period, the court must, so far as it is appropriate to do so, have regard to the diminished effect of disqualification as a distinct punishment if the person who is disqualified is also detained in pursuance of a custodial sentence or a sentence of service detention.

(3) But the court may not take into account for this purpose any custodial sentence or sentence of service detention that it imposes on the offender for the offence.

#### **177L Requirement to produce licences where driving disqualification order made**

A court which makes a driving disqualification order in respect of an offender must require the offender to produce any (and, if more than one, all) of the following held by the offender—

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*Changes to legislation: There are currently no known outstanding effects for the Armed Forces Act 2021, Section 15. (See end of Document for details)*

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- (a) a licence to drive a motor vehicle granted under Part 3 of the Road Traffic Act 1988;
- (b) a Northern Ireland licence (within the meaning of Part 3 of the Road Traffic Act 1988);
- (c) a Community licence (within the meaning of Part 3 of the Road Traffic Act 1988).

### **177M Driving disqualification: power to make equivalent provision to Road Traffic Offenders Act 1988**

- (1) The Secretary of State may by regulations make provision in relation to driving disqualification orders which is equivalent to that made by a relevant provision, subject to such modifications as the Secretary of State considers appropriate.
- (2) In this section, “relevant provision” means any of the following provisions of the Road Traffic Offenders Act 1988—
  - (a) section 37 (effect of order of disqualification);
  - (b) section 39 (suspension of disqualification pending appeal);
  - (c) section 40 (power of appellate courts to suspend disqualification);
  - (d) section 42 (removal of disqualification);
  - (e) section 43 (rule for determining end of period of disqualification);
  - (f) section 47 (supplementary provisions);
  - (g) section 48 (exemption from disqualification in certain cases).”
- (4) In section 373 (orders, regulations and rules)—
  - (a) in subsection (3)(d), after “93AA(2),” insert “177J(7),”;
  - (b) in [subsection \(5\)](#), at the beginning insert “Except for regulations made under section 177J(7),”;
  - (c) after subsection (5) insert—
 

“(5A) Regulations made under section 177J(7) may contain transitional, transitory and saving provision.”
- (5) In [Schedule 3](#) (civilians etc: modifications of Court Martial sentencing powers)—
  - (a) in paragraph 1(1), in the table, after row 8 (as inserted by section 14 above) insert—

“9	a driving disqualification order (defined by section 177G)	only if subsection (5A) permits”;
(b)	in paragraph 3(1), in the table, after row 11 (as inserted by section 14 above) insert—	
“12	a driving disqualification order (defined by section 177G)	only if subsection (5A) permits”.

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**Commencement Information**

- I1** S. 15 not in force at Royal Assent, see [s. 24\(1\)](#)
- I2** [S. 15](#) in force at 1.5.2022 for specified purposes by [S.I. 2022/471](#), [reg. 2\(f\)](#)
- I3** [S. 15](#) in force at 1.4.2023 in so far as not already in force by [S.I. 2023/158](#), [reg. 3](#)

**Changes to legislation:**

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