

Limitations

(2) The Armed Forces (Forfeitures and Deductions)(Minimum Rates of Pay) Regulations 2009 provide that a Serviceperson must always remain in receipt of a minimum rate of pay notwithstanding any order for deductions to which he may be subject; further guidance is in JSP 754.

Forfeiture – Absence from Duty

(3) A Service person found guilty of an offence of absence without leave or desertion may have his pay forfeit for each day he was absent from duty. In certain circumstances pay may be forfeit for a Service person in respect of an absence or desertion where no finding of guilt has been made. These circumstances usually arise where a decision has been made that it is not in the public, or Service, interest to prosecute the Service person. The MSL Chapter 10 gives further guidance on when it might be appropriate to dispense with Service proceedings following desertion.

(4) A Service person may have his pay forfeited for any day of imprisonment or detention awarded under AFA 06. This includes any custodial sentences and hospital orders that may be imposed by the Court Martial along with all sentences of detention that may be imposed by the Court Martial or at summary hearing.

Forfeiture – Post Charge Custody

(5) Where a Service person is held in custody without charge he will remain in receipt of pay as normal. A Service person held in custody after charge will also remain in receipt of pay for the period held in custody unless there is a subsequent finding of guilt and the Court Martial, or the officer who heard the charge summarily, directs that time spent in custody after charge will count as time served towards any sentence of detention awarded. In that circumstance, the Service person's pay will be forfeit for the number of days in custody after charge counted as days served.

Forfeiture – Awards of Imprisonment or Detention by Civilian Court

(6) A Service person may have his pay forfeited for any day of absence by reason of imprisonment or detention awarded to him by a civilian court. However, when being remanded in custody awaiting or during trial, he will remain in receipt of pay as normal. Pay may only be forfeit for this period where there is a subsequent conviction and the period in custody is counted as time served towards any sentence of imprisonment or detention.

Forfeiture – Time Spent Captured by the Enemy

(7) A person who is absent from duty in consequence of being captured by the enemy will continue to receive pay. There are, however, circumstances in which pay may be forfeit. They include where his capture by the enemy was caused by an intentional breach of duty in respect of which he has been convicted of an offence such as failure to escape or assisting an enemy. Further detail on these aspects of forfeiture may be found in the MSL, Volume 1, Chapter 20.

Forfeiture – Self Inflicted Sickness

(8) The general principle is a person who is absent from duty due to sickness or injury will continue to be paid. However, where a Service person is convicted of an offence under the AFA 06 in respect of conduct that contributed or caused the sickness or injury, pay may be forfeited for the period in question. The offence that is most applicable in this context is malingering under Section 16(1) but any other offences that cause injury to the offender (such as injuries caused by an assault on another person, whilst causing criminal damage or as a result of dangerous driving).

Forfeiture – Service Supervision and Punishment Orders

(9) A proportion (one sixth) of an offender's pay who is sentenced to undergo a Service Supervision and Punishment Order will be forfeited for a period of the sentence. See Regulation 1072 for further detail on this offence and the period of the sentence for which pay is forfeited.

Remission of Forfeitures

(10) Under AFA06, the Defence Council, or an authorised officer, has the power to remit any

forfeiture imposed as a result of absence from duty. An example where remission of a forfeiture would be appropriate would be where pay was forfeit for an offence of absence without leave that was subsequently overturned on appeal. JSP 754 (Tri-Service Regulations for Pay and Charges) provides further guidance on the circumstances where remission of forfeiture of pay may be appropriate.

Deductions – Satisfaction of Financial Penalty

(11) Orders authorising deductions from pay may be made against a Service person who is required to make a payment in respect of a financial penalty that has been imposed upon him. A financial penalty, in the context of forfeitures and deductions, includes any fine or Service Compensation Order imposed under AFA 06; any sum in the form of the forfeit of a recognizance ordered by the Court Martial or the Service Civilian Court and any order as to the payment of costs made by a Service court. The MSL Chapter 20 contains further detailed guidance on deductions including judgement orders and maintenance payments and the circumstances where the remission of deductions may be appropriate.

1030. (Omitted)

J1031. Provision of DNA samples and fingerprints by Service Police and support staff.

Sponsor: Policy Staffs, HQ RAFF

Members of the Service Police, upon completion of professional training, and support staff, upon assignment to a post involving the provision of technical services to the Service Police, will be required to provide a sample of their DNA and fingerprints for entry on the Police Elimination Database (PEDb). Service Police personnel enlisted prior to that date and support staff already employed on such duties may not be compelled to participate in the programme, although they may be invited to do so voluntarily. Any Service Police personnel who transfer to another trade group and then re-join after 1 July 2008 and any support staff who cease to be employed in the provision of technical services and then resume such employment after 1 July 2008 will be subject to the mandatory requirement.

J1031A. Use of Samples

Sponsor: Policy Staffs, HQ RAFF

DNA profiles and fingerprints are held for elimination purposes only. For DNA profiling a comparison will be made of a specific stain or mark against the profile of a named member of the Service Police or support staff who attended a specific scene of crime, where unidentified crime scene marks have been found. There will be no general search made of the PEDb. Where unidentified fingerprints have been found at a scene of crime a general search will be made of the PEDb.

J1031B. Destruction of Samples

Sponsor: Policy Staffs, HQ RAFF

In the case of members of Service Police who are discharged or transferred to another trade group and support staff on discharge or transfer to other employment their DNA profile and fingerprints will be destroyed and removed from all databases. A certificate confirming this will be provided upon request to the Service Police Crime Bureau, MOD Southwick Park, Fareham, Hampshire, PO17 6EJ.

J1031C. Consequences of non-compliance

Sponsor: Policy Staffs, HQ RAFF

Any member of the Service Police subject to the mandatory sampling programme who fails to comply with the terms of this policy will be liable to compulsory transfer to another trade group. Any member of the support staff so subject who similarly fails to comply with the terms of this policy will be liable to compulsory transfer to other duties.

1032-1033. (Omitted)