



# Armed Forces Act 2006

## 2006 CHAPTER 52

### PART 13 **U.K.**

#### DISCIPLINE: MISCELLANEOUS AND SUPPLEMENTARY

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

- C1** Pts. 11-13 applied (with modifications) (31.10.2009) by [The Armed Forces \(Court Martial\) Rules 2009 \(S.I. 2009/2041\)](#), art. 1, [rule 128\(3\)\(4\)](#)

### CHAPTER 1 **U.K.**

#### [<sup>F1</sup>RANDOM DRUG TESTING]

##### Textual Amendments

- F1** Pt. 13 Ch. 1 heading substituted (1.11.2013) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), [Sch. 4 para. 10](#); [S.I. 2013/2501](#), art. 3(d)

### 305 [<sup>F2</sup>Random drug testing] **U.K.**

- (1) A drug testing officer may, in order for it to be ascertained whether or to what extent a person subject to service law has or has had drugs in his body, require the person to provide a sample of his urine for analysis.
- (2) A drug testing officer may not impose a requirement under subsection (1) if—
  - (a) he or his commanding officer is the person's commanding officer; or
  - (b) the sample is sought in connection with an investigation under this Act of an offence<sup>F3</sup>....
- (3) A person commits an offence if he fails to comply with a requirement imposed under subsection (1).

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(4) In this section—

“drug” means a controlled drug as defined by section 2 of the Misuse of Drugs Act 1971 (c. 38); and

“drug testing officer” means an officer, warrant officer or non-commissioned officer who is authorised by or in accordance with regulations made by the Defence Council for the purpose of obtaining samples for analysis for drugs.

(5) A person guilty of an offence under this section is liable to any punishment mentioned in the Table in section 164, but any sentence of imprisonment<sup>F4</sup>... imposed in respect of the offence must not exceed [<sup>F5</sup>six months].

#### Textual Amendments

- F2** S. 305 heading substituted (1.11.2013) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), **Sch. 4 para. 11(a)**; [S.I. 2013/2501](#), art. 3(d)
- F3** Words in s. 305(2)(b) repealed (1.11.2013) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), **Sch. 4 para. 11(b)**, **Sch. 5**; [S.I. 2013/2501](#), art. 3(d)(e)
- F4** Words in s. 305(5) repealed (2.4.2012) by [Armed Forces Act 2011 \(c. 18\)](#), ss. 15(1), 32(3), **Sch. 5**; [S.I. 2012/669](#), art. 4(a)(f)(ii) (with art. 8)
- F5** Words in s. 305(5) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 76** (with s. 416(7), **Sch. 27**); [S.I. 2020/1236](#), reg. 2

#### Commencement Information

- I1** S. 305 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. 305 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

### <sup>F6</sup>306 Testing for alcohol and drugs after serious incident **U.K.**

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#### Textual Amendments

- F6** S. 306 repealed (1.11.2013) by [Armed Forces Act 2011 \(c. 18\)](#), ss. 11(2), 32(3), **Sch. 5**; [S.I. 2013/2501](#), art. 3(b)(e)

### <sup>F7</sup>307 Definitions etc for purposes of section 306 **U.K.**

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#### Textual Amendments

- F7** S. 307 repealed (1.11.2013) by [Armed Forces Act 2011 \(c. 18\)](#), ss. 11(2), 32(3), **Sch. 5**; [S.I. 2013/2501](#), art. 3(b)(e)

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**308** [<sup>F8</sup>Section 305]: supplementary **U.K.**

(1) The Defence Council may by regulations make provision about the obtaining of samples under [<sup>F9</sup>section 305(1)] and the analysis of such samples, including in particular provision—

- (a) as to the number of samples which a person may be required to provide;
- <sup>F10</sup>(b) .....
- (c) enabling the person imposing a requirement under section 305(1) <sup>F11</sup>... to specify the way in which the sample is to be provided;
- (d) prescribing circumstances in which a requirement under section 305(1) <sup>F12</sup>... may not be imposed;
- (e) as to the equipment to be used, and the procedures to be followed, in obtaining or analysing samples;
- (f) as to the qualifications and training of any persons engaged in obtaining or analysing samples.

<sup>F13</sup>(2) .....

(3) The results of any analysis of a sample provided pursuant to a requirement imposed under section 305(1) <sup>F14</sup>...are not admissible in evidence against any person in proceedings in respect of a service offence.

(4) Nothing in this Chapter limits the powers conferred by—

- <sup>F15</sup>(za) Chapter 3A of Part 3,
  - (a) any provision of the Road Traffic Act 1988 (c. 52), or
  - (b) any provision of an order under section 113(1) of PACE which makes provision equivalent to any provision of Part 5 of PACE (questioning and treatment of persons by police),

or affects the admissibility in any proceedings of evidence obtained under those powers.

**Textual Amendments**

- F8** Words in s. 308 heading substituted (1.11.2013) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), [Sch. 4 para. 12\(2\)](#); [S.I. 2013/2501](#), art. 3(d)
- F9** Words in s. 308(1) substituted (1.11.2013) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), [Sch. 4 para. 12\(3\)\(a\)](#); [S.I. 2013/2501](#), art. 3(d)
- F10** S. 308(1)(b) repealed (1.11.2013) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), [Sch. 4 para. 12\(3\)\(b\)](#), [Sch. 5](#); [S.I. 2013/2501](#), art. 3(d)(e)
- F11** Words in s. 308(1)(c) repealed (1.11.2013) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), [Sch. 4 para. 12\(3\)\(c\)](#), [Sch. 5](#); [S.I. 2013/2501](#), art. 3(d)(e)
- F12** Words in s. 308(1)(d) repealed (1.11.2013) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), [Sch. 4 para. 12\(3\)\(d\)](#), [Sch. 5](#); [S.I. 2013/2501](#), art. 3(d)(e)
- F13** S. 308(2) repealed (1.11.2013) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), [Sch. 4 para. 12\(4\)](#), [Sch. 5](#); [S.I. 2013/2501](#), art. 3(d)(e)
- F14** Words in s. 308(3) repealed (1.11.2013) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), [Sch. 4 para. 12\(5\)](#), [Sch. 5](#); [S.I. 2013/2501](#), art. 3(d)(e)
- F15** S. 308(4)(za) inserted (1.11.2013) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), [Sch. 4 para. 12\(6\)](#); [S.I. 2013/2501](#), art. 3(d)

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#### **Commencement Information**

- I3** S. 308 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](#))
- I4** S. 308 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## **CHAPTER 2 U.K.**

### CONTEMPT OF COURT

#### **309 Offences of misbehaviour in court etc U.K.**

- (1) A qualifying service court has jurisdiction under this section to deal with any person (“the offender”) who at a time when he is within subsection (6)—
- (a) refuses to take an oath or make an affirmation when duly required by the court to do so;
  - (b) when a witness, refuses to answer any question which the court has lawfully required him to answer;
  - (c) when attending or brought before the court refuses to produce any document or other thing which is in his custody or under his control and which the court has lawfully required him to produce;
  - (d) intentionally interrupts the proceedings of the court or otherwise misbehaves in court; or
  - (e) intentionally insults or intimidates—
    - (i) any member of the court while that member is acting as such a member or is going to or returning from the court; or
    - (ii) any witness or other person whose duty it is to attend the court, while that witness or other person is attending the court or going to or returning from the court.
- (2) If the offender is a person subject to service law or a civilian subject to service discipline, the court may—
- (a) commit the offender to service custody for a specified period not exceeding 28 days;
  - (b) impose on him a fine not exceeding level 4 on the standard scale; or
  - (c) do both.
- (3) If the offender is not a person subject to service law or a civilian subject to service discipline, the court may impose on him a fine not exceeding level 4 on the standard scale.
- (4) A qualifying service court may at any time revoke an order of committal made by it under this section and, if the offender is in custody, order his discharge.
- (5) The following are qualifying service courts for the purposes of this section—
- (a) the Court Martial;
  - (b) the Summary Appeal Court;
  - (c) the Service Civilian Court.
- (6) A person is within this subsection at any time when—
- (a) he is in the United Kingdom; or

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- (b) he is outside the United Kingdom but is subject to service law or is a civilian subject to service discipline.

**Commencement Information**

- I5** S. 309 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](#))
- I6** S. 309 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

**310 Power to detain before dealing with section 309 offence** **U.K.**

- (1) Where a court with power to deal with a person under section 309 does not immediately exercise that power, it may order a service policeman, an officer of a UK police force or a member of court staff to take the offender into service custody and detain him in service custody until the rising of the court.
- (2) If at the end of that detention—
- (a) the court considers that a decision whether to exercise that power should not be taken without a further hearing, and
- (b) any of the conditions in subsection (4) is satisfied,
- the court may give orders for the further detention of the offender in service custody.
- (3) An authorisation of detention under subsection (2) ends not more than 48 hours after the time when the offender was first detained under subsection (1).
- (4) The conditions referred to in subsection (2)(b) are—
- (a) that the court is satisfied that there are substantial grounds for believing that the offender, if released from service custody, would—
- (i) fail to attend any hearing in the proceedings against him;
- (ii) commit an offence while released; or
- (iii) interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person;
- (b) that the court is satisfied that he should be kept in service custody for his own protection or, if he is aged under 17, for his own welfare or in his own interests;
- (c) that the court is satisfied that it has not been practicable to obtain sufficient information for the purpose of deciding whether the condition in paragraph (a) or (b) is met.
- (5) A person may use reasonable force, if necessary, in the exercise of any power arising from an order of a court under this section.

**Commencement Information**

- I7** S. 310 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](#))
- I8** S. 310 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

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### 311 Certification to civil courts **U.K.**

- (1) This section applies if, in relation to proceedings before a qualifying service court, a person within section 309(6) does any act (“the offence”) that would constitute contempt of court if the proceedings were before a court having power to commit for contempt.
- (2) The qualifying service court, unless it has exercised any power conferred by section 309 in relation to the offence, may certify the offence—
  - (a) if it took place in a part of the United Kingdom, to any court of law in that part of the United Kingdom which has power to commit for contempt;
  - (b) if it took place outside the United Kingdom, to the High Court in England and Wales.
- (3) The court to which the offence is certified may inquire into the matter, and after hearing—
  - (a) any witness who may be produced against or on behalf of the person, and
  - (b) any statement that may be offered in defence,
 may deal with him in any way in which it could deal with him if the offence had taken place in relation to proceedings before that court.
- (4) Where under this section a qualifying service court certifies an offence, it may not exercise any power conferred by section 309 in relation to the offence.
- (5) In this section—
  - “qualifying service court” has the same meaning as in section 309;
  - “act” includes an omission and references to the doing of an act are to be read accordingly.

#### Commencement Information

- I9** S. 311 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](#))
- I10** S. 311 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### 312 Decisions of court under section 309: making and effect **U.K.**

- (1) Nothing in—
  - (a) section 149 (findings etc of the SAC), or
  - (b) section 160 (findings etc of the Court Martial),
 applies in relation to a decision of the Summary Appeal Court or the Court Martial under any of sections 309 to 311.
- (2) Any such decision is to be taken by the judge advocate.
- (3) Where the Court Martial or the Service Civilian Court commits a person to service custody under section 309, it may direct that the committal shall take effect from the end of any sentence of service detention—
  - (a) that has been passed on the person on a previous occasion; or
  - (b) (in the case of the Court Martial) that the court passes on the person on the same occasion.

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- (4) Where the Summary Appeal Court commits a person to service custody under section 309 it may direct that the committal shall take effect from the end of any sentence of service detention that has been passed on the person on a previous occasion.
- (5) A court imposing a fine under section 309 may make an order under section 251 (power to allow payment by instalments), and in relation to such a fine section 251(2) to (7) have effect as if any reference to a service compensation order were omitted.
- (6) In the provisions mentioned in subsection (7)—
  - (a) any reference to a sentence of service detention includes a reference to a committal to service custody under section 309; and
  - (b) references to persons sentenced to service detention are to be read accordingly.
- (7) Those provisions are—
  - section 294 (rank or rate while in custody pursuant to sentence);
  - section 296 (prohibition of detention in a prison, etc);
  - section 300 (service custody etc rules);
  - section 301 (duration of sentences: persons unlawfully at large);
  - section 302 (remission on passing of custodial sentence);
  - section 303 (arrest by service police of persons unlawfully at large);
  - section 318 (arrest by civilian police of persons unlawfully at large).

#### Commencement Information

- I11** S. 312 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](#))
- I12** S. 312 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## CHAPTER 3 **U.K.**

### ARREST AND DETENTION BY CIVIL AUTHORITIES

#### *Arrest for service offences*

#### **313 Arrest by civilian police under warrant of judge advocate **U.K.****

- (1) Where a judge advocate is satisfied by evidence given under oath or affirmation that there are reasonable grounds for doing so, he may issue a warrant for the arrest of a person who is reasonably suspected of having committed a service offence.
- (2) A warrant issued under this section—
  - (a) shall be addressed to an officer or officers of a UK police force or British overseas territory police force; and
  - (b) shall specify the name of the person for whose arrest it is issued and the offence which he is alleged to have committed.
- (3) The Secretary of State may make rules with respect to the practice and procedure which is to apply in connection with warrants issued under this section.

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- (4) A person arrested under a warrant issued under this section must as soon as practicable be transferred to service custody.

#### Commencement Information

- I13** S. 313 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](#))
- I14** S. 313 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

#### *Arrest etc for desertion or absence without leave*

### 314 Arrest by civilian police of deserters and absentees without leave U.K.

- (1) [<sup>F16</sup>A civilian policeman] may arrest without a warrant a person (“a relevant suspect”) who is reasonably suspected of being a person subject to service law who has deserted or is absent without leave.
- (2) If an authorised person is satisfied by evidence given under oath or affirmation that a relevant suspect is or is reasonably suspected of being within his jurisdiction, he may issue a warrant for the arrest of the relevant suspect.
- (3) In subsection (2) “authorised person” means a person who has authority in a relevant territory to issue a warrant for the arrest of a person suspected of an offence.
- (4) A person arrested under this section must as soon as practicable be brought before a court of summary jurisdiction in the relevant territory in which he was arrested.
- [<sup>F17</sup>(4A) In this section “civilian policeman” means an officer of a UK police force or British overseas territory police force, other than a force or body constituted in Gibraltar.]
- (5) In this section “relevant territory” means—
- (a) England and Wales;
  - (b) Scotland;
  - (c) Northern Ireland;
  - (d) the Isle of Man; or
  - (e) a British overseas territory [<sup>F18</sup>other than Gibraltar].

#### Textual Amendments

- F16** Words in [s. 314\(1\)](#) substituted (12.5.2016) by [Armed Forces Act 2016 \(c. 21\)](#), [s. 19\(2\)\(b\)](#), [Sch. para. 7\(2\)](#)
- F17** [S. 314\(4A\)](#) inserted (12.5.2016) by [Armed Forces Act 2016 \(c. 21\)](#), [s. 19\(2\)\(b\)](#), [Sch. para. 7\(3\)](#)
- F18** Words in [s. 314\(5\)\(e\)](#) inserted (12.5.2016) by [Armed Forces Act 2016 \(c. 21\)](#), [s. 19\(2\)\(b\)](#), [Sch. para. 7\(4\)](#)

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

- C2** Ss. 314-317 applied (with modifications) by 1952 c. 67, s. 13 (as amended (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), [s. 383\(2\)](#), [Sch. 16 para. 18\(2\)\(a\)](#) (with [s. 385](#)); [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#))



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- C3** S. 314(1)(2) extended by S.I. 1999/1736, Sch. 8 para. 6(1) (as amended) (31.10.2009) by [The Armed Forces Act 2006 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2054\)](#), art. 1(2), **Sch. 1 para. 21(6)(d)**
- C4** S. 314(4) extended by S.I. 1999/1736, Sch. 8 para. 6(3) (as amended) (31.10.2009) by [The Armed Forces Act 2006 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2054\)](#), art. 1(2), **Sch. 1 para. 21(6)(f)**

#### Commencement Information

- I15** S. 314 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](#))
- I16** S. 314 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

### 315 Deserters and absentees without leave surrendering to civilian police **U.K.**

- (1) Where—
- (a) a person surrenders to a civilian policeman as being a person subject to service law who has deserted or is absent without leave, and
  - (b) the surrender occurs at a place in a relevant territory which is not a police station,
- he must be taken to a police station.
- (2) Subsection (3) applies where a person—
- (a) is brought to a police station under subsection (1), or
  - (b) surrenders to a civilian policeman, at a police station in a relevant territory, as being a person subject to service law who has deserted or is absent without leave.
- (3) The person in charge of the police station, or a person authorised by him, must consider the case.
- (4) If it appears to the person considering the case that the person who has surrendered is a person subject to service law who has deserted or is absent without leave, he may—
- (a) arrange for him to be transferred to service custody;
  - (b) arrange for him to be brought, as soon as practicable, before a court of summary jurisdiction in the relevant territory in which the police station is situated; or
  - (c) release him subject to a condition that he reports, at or by such time as may be specified in the condition, to such place or person as may be so specified for the purpose of enabling him to be taken into service custody.

<sup>F19</sup>(5) .....

- (6) In this section [<sup>F20</sup>“civilian policeman” and “relevant territory” have] the same meaning as in section 314.

#### Textual Amendments

- F19** S. 315(5) omitted (12.5.2016) by virtue of [Armed Forces Act 2016 \(c. 21\)](#), s. 19(2)(b), **Sch. para. 8(2)**
- F20** Words in s. 315(6) substituted (12.5.2016) by [Armed Forces Act 2016 \(c. 21\)](#), s. 19(2)(b), **Sch. para. 8(3)**

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

- C2** Ss. 314-317 applied (with modifications) by 1952 c. 67, s. 13 (as amended (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 18\(2\)\(a\)](#) (with s. 385); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4)
- C5** S. 315 extended by [S.I. 1999/1736](#), Sch. 8 para. 6(2) (as amended (31.10.2009) by [The Armed Forces Act 2006 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2054\)](#), art. 1(2), [Sch. 1 para. 21\(6\)\(e\)](#))

#### **Commencement Information**

- I17** S. 315 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](#))
- I18** S. 315 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), art. 4

### **316 Proceedings before civilian court where person suspected of illegal absence U.K.**

- (1) This section applies where a person is brought before a court of summary jurisdiction in a relevant territory under section 314(4) or 315(4)(b).
- (2) Subsection (3) applies if—
  - (a) the person admits to the court that he is a person subject to service law who has deserted or is absent without leave; or
  - (b) the court has in its possession evidence of a description prescribed by regulations made by the Secretary of State.
- (3) Where this subsection applies—
  - (a) if the person is not in custody for some other cause, the court must either—
    - (i) arrange for him to be transferred to service custody; or
    - (ii) release him subject to a condition that he reports, at or by such time as may be specified in the condition, to such place or person as may be so specified for the purpose of enabling him to be taken into service custody;
  - (b) if the person is in custody for some other cause, the court may arrange for him to be transferred to service custody.
- (4) Where subsection (3) does not apply—
  - (a) if the person is not in custody for some other cause, the court must release him;
  - (b) if the person is in custody for some other cause, the court may release him.
- (5) If there is likely to be a delay before a person can be transferred to service custody under subsection (3)(a)(i) or (b), the court may commit him to be held in custody pending his transfer—
  - (a) in a prison,
  - (b) in a police station, or
  - (c) in any other place provided for the confinement of persons in custody, which is situated in the relevant territory in which the court is situated.
- (6) The release of a person under subsection (4) does not prevent him from being subsequently arrested under section 67, or under a warrant issued under section 313, as a person who is reasonably suspected of having committed an offence under section 8 or 9.

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(7) In this section “relevant territory” has the same meaning as in section 314.

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

- C2** Ss. 314-317 applied (with modifications) by 1952 c. 67, s. 13 (as amended (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 18\(2\)\(a\)](#) (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4)
- C6** S. 316 extended by S.I. 1999/1736, Sch. 8 para. 6(3) (as amended (31.10.2009) by [The Armed Forces Act 2006 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2054\)](#), art. 1(2), [Sch. 1 para. 21\(6\)\(f\)](#))
- C7** S. 316 extended by S.I. 1999/1736, Sch. 8 para. 6(4) (as amended (31.10.2009) by [The Armed Forces Act 2006 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2054\)](#), art. 1(2), [Sch. 1 para. 21\(6\)\(g\)](#))

**Commencement Information**

- I19** S. 316 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](#))
- I20** S. 316 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

**317 Warrant for the arrest of persons released under section 315(4)(c) or 316(3)(a)**  
**(ii) U.K.**

- (1) Where a person who is released under section 315(4)(c) or 316(3)(a)(ii) fails to comply with the condition subject to which he was released, a warrant for his arrest may be issued—
- where he was released under section 315(4)(c), by a judge advocate;
  - where he was released under section 316(3)(a)(ii), by a judge advocate or by a person who is authorised to issue the warrant by the court that imposed the condition.
- (2) A warrant issued under this section—
- shall be addressed to an officer or officers of a UK police force or British overseas territory police force; and
  - shall specify the name of the person for whose arrest it is issued.
- (3) The Secretary of State may make rules with respect to the practice and procedure which is to apply in connection with warrants issued under this section by judge advocates.
- (4) A person arrested under a warrant issued under this section must as soon as practicable be transferred to service custody.

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

- C2** Ss. 314-317 applied (with modifications) by 1952 c. 67, s. 13 (as amended (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 18\(2\)\(a\)](#) (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4)

**Commencement Information**

- I21** S. 317 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](#))

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*Changes to legislation: Armed Forces Act 2006, Part 13 is up to date with all changes known to be in force on or before 26 June 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) View outstanding changes*

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**I22** S. 317 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

### *Arrest of persons unlawfully at large*

## **318 Arrest by civilian police of persons unlawfully at large** U.K.

- (1) A person who has been sentenced to service detention and who is unlawfully at large—
- (a) may be arrested without a warrant by [<sup>F21</sup>a civilian policeman]; and
  - (b) may be taken to the place in which he is required in accordance with law to be detained.
- (2) Section 301(4) (cases where persons temporarily released from service detention are unlawfully at large) applies for the purposes of this section.

[<sup>F22</sup>(3) In this section “civilian policeman” has the same meaning as in section 314.]

#### **Textual Amendments**

**F21** Words in s. 318(1)(a) substituted (12.5.2016) by [Armed Forces Act 2016 \(c. 21\)](#), s. 19(2)(b), **Sch. para. 9(2)**

**F22** S. 318(3) inserted (12.5.2016) by [Armed Forces Act 2016 \(c. 21\)](#), s. 19(2)(b), **Sch. para. 9(3)**

#### **Commencement Information**

**I23** S. 318 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](#))

**I24** S. 318 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

### *Supplementary*

## **319 Certificates in connection with transfer to service custody etc** U.K.

- (1) The Secretary of State may by regulations make provision requiring a certificate to be supplied when a person—
- (a) is transferred to service custody under this Chapter; or
  - (b) is released under section 315(4)(c) or 316(3)(a)(ii).
- (2) Regulations under this section may in particular make provision with respect to—
- (a) the information to be included in a certificate;
  - (b) the person who is to sign a certificate;
  - (c) the person to whom a certificate is to be supplied;
  - (d) the payment of a fee for the supply of a certificate.

#### **Commencement Information**

**I25** S. 319 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](#))

**I26** S. 319 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

**Changes to legislation:** Armed Forces Act 2006, Part 13 is up to date with all changes known to be in force on or before 26 June 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) View outstanding changes

## 320 Power to use reasonable force **U.K.**

Where a power of arrest is conferred on any person by virtue of this Chapter, he may use reasonable force, if necessary, in the exercise of the power.

### Commencement Information

- I27** S. 320 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](#))
- I28** S. 320 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## <sup>F23</sup>CHAPTER 3A **U.K.**

### GUIDANCE ON EXERCISE OF CRIMINAL JURISDICTION

### Textual Amendments

- F23** [Pt. 13 Ch. 3A](#) inserted (1.5.2022 for specified purposes, 13.11.2023 in so far as not already in force) by [Armed Forces Act 2021 \(c. 35\)](#), [ss. 7, 24\(1\)](#); [S.I. 2022/471](#), [reg. 4\(b\)](#); [S.I. 2023/1102](#), [reg. 2](#)

## 320A Guidance on exercise of criminal jurisdiction: England or Wales **U.K.**

- (1) The Director of Service Prosecutions and the Director of Public Prosecutions must agree a protocol regarding the exercise of concurrent jurisdiction in respect of alleged conduct of the description in subsection (2).
- (2) Subsection (1) refers to conduct of a person subject to service law which—
  - (a) occurs when the person is in England or Wales, and
  - (b) is punishable by the law of England and Wales.
- (3) The protocol—
  - (a) must give guidance as to general principles which are to be taken into account by a relevant prosecutor when considering in which jurisdiction (service or civilian) proceedings should be brought, and
  - (b) may give guidance as to—
    - (i) procedures for making decisions regarding the exercise of jurisdiction, including as to the cases in which there should be consultation between relevant prosecutors within paragraphs (a) and (b) of subsection (10), and
    - (ii) any other matters the Directors think appropriate for the purposes of or in connection with [subsection \(1\)](#).
- (4) Guidance under [subsection \(3\)\(a\)](#) must be designed to promote fair and efficient justice.
- (5) Where relevant prosecutors within [subsection \(10\)\(a\)](#) and relevant prosecutors within [subsection \(10\)\(b\)](#) cannot resolve a disagreement between them about the exercise of jurisdiction in a case to which guidance under this section applies, it is for the Director of Public Prosecutions to decide in which jurisdiction proceedings should be brought in that case.

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- (6) The Director of Service Prosecutions and the Director of Public Prosecutions may from time to time agree revisions to the protocol.
- (7) Before agreeing the protocol or revisions to it under this section the Directors must consult—
  - (a) the Secretary of State,
  - (b) the Attorney General,
  - (c) the National Police Chiefs’ Council, and
  - (d) any other person the Directors think appropriate.
- (8) The current version of the protocol must be published in whatever manner the Directors think appropriate.
- (9) Consultation undertaken before the Armed Forces Act 2021 is passed is as effective for the purposes of subsection (7) as consultation undertaken after it is passed.
- (10) In this section “relevant prosecutor” means—
  - (a) the Director of Service Prosecutions and any person appointed under section 365 (prosecuting officers), and
  - (b) the Director of Public Prosecutions, a Crown Prosecutor and any person appointed under section 5(1) of the Prosecution of Offences Act 1985 (conduct of prosecutions on behalf of the Service).
- (11) But this section applies in relation to a relevant prosecutor only where that prosecutor is aware that the Court Martial has (or may have) jurisdiction to try the person in respect of the alleged conduct mentioned in [subsection \(1\)](#).
- (12) In subsection (2)(a) a reference to England or Wales includes the territorial waters of the United Kingdom adjacent to England or Wales (as the case may be).
- (13) In this section—
  - “conduct” means an act or omission;
  - “the Directors” means the Director of Service Prosecutions and the Director of Public Prosecutions (acting jointly);
  - “punishable” has the same meaning as in section 42 (criminal conduct).

### **320B Guidance on exercise of criminal jurisdiction: Scotland U.K.**

- (1) The Director of Service Prosecutions and the Lord Advocate must agree a protocol regarding the exercise of concurrent jurisdiction, in respect of alleged conduct of the description in subsection (2), in the cases specified in subsection (3).
- (2) Subsection (1) refers to conduct of a person subject to service law which—
  - (a) occurs when the person is in Scotland, and
  - (b) constitutes an offence under the law of Scotland.
- (3) The cases mentioned in subsection (1) are where—
  - (a) the alleged conduct also constitutes an offence under section 42 (criminal conduct), or
  - (b) the person mentioned in subsection (2) could on the same facts be charged with an offence under section 42 which is broadly equivalent to the offence under the law of Scotland.

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*Changes to legislation: Armed Forces Act 2006, Part 13 is up to date with all changes known to be in force on or before 26 June 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) View outstanding changes*

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- (4) The protocol—
  - (a) must give guidance as to general principles which are to be taken into account by a relevant prosecutor when considering in which jurisdiction (service or civilian) proceedings should be brought, and
  - (b) may give guidance as to—
    - (i) procedures for making decisions regarding the exercise of jurisdiction, including as to the cases in which there should be consultation between relevant prosecutors within paragraphs (a) and (b) of subsection (11), and
    - (ii) any other matters the issuing authorities think appropriate for the purposes of or in connection with subsection (1).
- (5) Guidance under subsection (4)(a) must be designed to promote fair and efficient justice.
- (6) Where relevant prosecutors within subsection (11)(a) and relevant prosecutors within subsection (11)(b) cannot resolve a disagreement between them about the exercise of jurisdiction in a case to which guidance under this section applies, it is for the Lord Advocate to decide in which jurisdiction proceedings should be brought in that case.
- (7) The Director of Service Prosecutions and the Lord Advocate may from time to time agree revisions to the protocol.
- (8) Before agreeing the protocol or revisions to it under this section the issuing authorities must consult—
  - (a) the Secretary of State,
  - (b) the chief constable of the Police Service of Scotland, and
  - (c) any other person the issuing authorities think appropriate.
- (9) The current version of the protocol must be published in whatever manner the issuing authorities think appropriate.
- (10) Consultation undertaken before the Armed Forces Act 2021 is passed is as effective for the purposes of subsection (8) as consultation undertaken after it is passed.
- (11) The following are “relevant prosecutors” for the purposes of this section—
  - (a) the Director of Service Prosecutions and any person appointed under section 365 (prosecuting officers), and
  - (b) any prosecutor as defined in section 307(1) of the Criminal Procedure (Scotland) Act 1995 (other than a private prosecutor).
- (12) But this section applies in relation to a relevant prosecutor only where that prosecutor is aware that the Court Martial has (or may have) jurisdiction to try the person in respect of the alleged conduct mentioned in subsection (1).
- (13) In subsection (2)(a) the reference to Scotland includes the territorial waters of the United Kingdom adjacent to Scotland.
- (14) In this section—
  - “conduct” means an act or omission;
  - “the issuing authorities” means the Director of Service Prosecutions and the Lord Advocate (acting jointly).

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### **320C Guidance on exercise of criminal jurisdiction: Northern Ireland U.K.**

- (1) The Director of Service Prosecutions and the Director of Public Prosecutions for Northern Ireland must agree a protocol regarding the exercise of concurrent jurisdiction, in respect of alleged conduct of the description in subsection (2), in the cases specified in subsection (3).
- (2) Subsection (1) refers to conduct of a person subject to service law which—
  - (a) occurs when the person is in Northern Ireland, and
  - (b) constitutes an offence under the law of Northern Ireland.
- (3) The cases mentioned in subsection (1) are where—
  - (a) the alleged conduct also constitutes an offence under section 42 (criminal conduct), or
  - (b) the person mentioned in subsection (2) could on the same facts be charged with an offence under section 42 which is broadly equivalent to the offence under the law of Northern Ireland.
- (4) The protocol—
  - (a) must give guidance as to general principles which are to be taken into account by a relevant prosecutor when considering in which jurisdiction (service or civilian) proceedings should be brought, and
  - (b) may give guidance as to—
    - (i) procedures for making decisions regarding the exercise of jurisdiction, including as to the cases in which there should be consultation between relevant prosecutors within paragraphs (a) and (b) of subsection (1), and
    - (ii) any other matters the issuing authorities think appropriate for the purposes of or in connection with subsection (1).
- (5) Guidance under subsection (4)(a) must be designed to promote fair and efficient justice.
- (6) Where relevant prosecutors within subsection (1)(a) and relevant prosecutors within subsection (1)(b) cannot resolve a disagreement between them about the exercise of jurisdiction in a case to which guidance under this section applies, it is for the Director of Public Prosecutions for Northern Ireland to decide in which jurisdiction proceedings should be brought in that case.
- (7) The Director of Service Prosecutions and the Director of Public Prosecutions for Northern Ireland may from time to time agree revisions to the protocol.
- (8) Before agreeing the protocol or revisions to it under this section the issuing authorities must consult—
  - (a) the Secretary of State,
  - (b) the Department of Justice in Northern Ireland,
  - (c) the Chief Constable of the Police Service of Northern Ireland,
  - (d) the Attorney General for Northern Ireland, and
  - (e) any other person the issuing authorities think appropriate.
- (9) The current version of the protocol must be published in whatever manner the issuing authorities think appropriate.



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**Changes to legislation:** *Armed Forces Act 2006, Part 13 is up to date with all changes known to be in force on or before 26 June 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) View outstanding changes*

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- (10) Consultation undertaken before the Armed Forces Act 2021 is passed is as effective for the purposes of subsection (8) as consultation undertaken after it is passed.
- (11) The following are “relevant prosecutors” for the purposes of this section—
- (a) the Director of Service Prosecutions and any person appointed under section 365 (prosecuting officers), and
  - (b) the Director of Public Prosecutions for Northern Ireland, the Deputy Director of Public Prosecutions for Northern Ireland, a Public Prosecutor and any person appointed under section 36(2) of the [Justice \(Northern Ireland\) Act 2002 \(c. 26 \(N.I.\)\)](#) (exercise of functions on behalf of the Service).
- (12) But this section applies in relation to a relevant prosecutor only where that prosecutor is aware that the Court Martial has (or may have) jurisdiction to try the person in respect of the alleged conduct mentioned in subsection (1).
- (13) In subsection (2)(a) the reference to Northern Ireland includes the territorial waters of the United Kingdom adjacent to Northern Ireland.
- (14) In this section—
- “conduct” means an act or omission;
  - “the issuing authorities” means the the Director of Service Prosecutions and the Director of Public Prosecutions for Northern Ireland (acting jointly).]

## CHAPTER 4 **U.K.**

### POWERS OF THE CRIMINAL CASES REVIEW COMMISSION

#### **321 Powers of the Criminal Cases Review Commission **U.K.****

Schedule 11 (powers of the Criminal Cases Review Commission) has effect.

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##### **Commencement Information**

- I29** S. 321 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](#))
- I30** S. 321 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## [<sup>F24</sup>CHAPTER 4A **U.K.**

### INSPECTION OF SERVICE POLICE INVESTIGATIONS

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##### **Textual Amendments**

- F24** Pt. 13 Ch. 4A inserted (4.6.2014) by [Armed Forces Act 2011 \(c. 18\)](#), [ss. 4, 32\(3\)](#); [S.I. 2014/1444](#), [art. 3](#)

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*Changes to legislation: Armed Forces Act 2006, Part 13 is up to date with all changes known to be in force on or before 26 June 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) View outstanding changes*

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### 321A Inspection of service police investigations **U.K.**

- (1) Her Majesty's Inspectors of Constabulary (“the inspectors”) are to inspect, and report to the Secretary of State on, the independence and effectiveness of investigations carried out by each service police force.
- (2) In this section “investigations” means investigations of matters where service offences have or may have been committed, and includes investigations outside the United Kingdom.
- (3) For the purposes of subsection (1) the inspectors may—
  - (a) undertake such number of inspections as they think appropriate;
  - (b) undertake inspections when they think it appropriate; and
  - (c) decide which aspects of, or matters related to, investigations by a service police force are to be the subject of a particular inspection;
 but this is subject to subsection (4).
- (4) The Secretary of State may at any time require the inspectors to inspect, and report to the Secretary of State on, any or all of the following—
  - (a) the independence of investigations carried out by a particular service police force;
  - (b) the effectiveness of such investigations;
  - (c) a particular aspect of, or matter related to, such investigations.

[ For the purposes of this section the tri-service serious crime unit is to be regarded as <sup>F25</sup>(5) a service police force.]

#### Textual Amendments

**F25** S. 321A(5) inserted (1.5.2022 for specified purposes, 5.12.2022 in so far as not already in force) by Armed Forces Act 2021 (c. 35), s. 24(1), **Sch. 5 para. 31**; S.I. 2022/471, reg. 2(e); S.I. 2022/1095, reg. 4

### 321B Inspectors' reports to be laid before Parliament **U.K.**

- (1) The Secretary of State must lay before Parliament each report made under section 321A.
- (2) The Secretary of State may exclude from a report laid before Parliament under this section any material whose publication, in the Secretary of State's opinion—
  - (a) would be against the interests of national security; or
  - (b) might jeopardise the safety of any person.]

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**Changes to legislation:** Armed Forces Act 2006, Part 13 is up to date with all changes known to be in force on or before 26 June 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) View outstanding changes

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## CHAPTER 5 U.K.

### SUPPLEMENTARY

#### *Financial penalty enforcement orders*

### 322 Financial penalty enforcement orders U.K.

- (1) The Secretary of State may by regulations make provision for the purpose of enabling the Defence Council, or persons authorised by them, to make orders for the enforcement of financial penalties by prescribed courts in England and Wales, Scotland, Northern Ireland or the Isle of Man.
- (2) Regulations under this section may in particular make provision—
  - (a) with respect to the cases in which such orders may be made;
  - (b) with respect to the form and content of such orders, including the matters to be certified in such orders;
  - (c) with respect to the effect of such orders;
  - (d) conferring functions in relation to such orders on the Defence Council;
  - (e) for the delegation by the Defence Council of any of their functions in relation to such orders.
- (3) Provision that may be made by the regulations by virtue of subsection (2)(c) includes provision—
  - (a) that a sum certified in such an order as outstanding is to be treated as if it had been a fine imposed on a conviction by a court specified in the order;
  - <sup>F26</sup>(aa) about the effect, where a sum is certified in such an order, of an order made by the Court Martial under—
    - (i) section 269A (fines: fixing of term of imprisonment for default); or
    - (ii) section 269B (service compensation order: maximum term of imprisonment for default);]
  - (b) for prescribed enforcement procedures to cease to be available, or to become available, on the occurrence of prescribed events.
- (4) In this section—

“financial penalty” means—

  - (a) a fine or service compensation order imposed by virtue of this Act (including <sup>F27</sup> a fine imposed by the Court Martial or the Service Civilian Court under <sup>F28</sup> paragraph 11(2)(a) of Schedule 10 to the Sentencing Code by virtue of section 184 and Schedule 6A] (breach etc of overseas community order) or] a fine or service compensation order with respect to which an order under section 268 (order for service parent or guardian to pay fine or compensation) has been made);
  - (b) a sum adjudged to be paid under section 236(3) (forfeiture of recognizance);
  - (c) an order as to the payment of costs made by virtue of regulations under section 26, or made under section 27, of the Armed Forces Act 2001 (c. 19);

“prescribed” means prescribed, or of a description prescribed, by regulations under this section.

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### Textual Amendments

- F26** S. 322(3)(aa) inserted (8.3.2012) by [Armed Forces Act 2011 \(c. 18\)](#), **ss. 16(2)**, 32(3); S.I. 2012/669, art. 3(a)
- F27** Words in s. 322(4) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 78(5)**, 151(1); S.I. 2012/2906, art. 2(a)
- F28** Words in s. 322(4) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 77** (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2

### Commencement Information

- I31** S. 322 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](#))
- I32** S. 322 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

### *Power to make provision in consequence of criminal justice enactments*

## 323 Power to make provision in consequence of criminal justice enactments U.K.

- (1) The Secretary of State may make an order under this section if he considers it appropriate to do so in consequence of a criminal justice enactment (see section 324).
- (2) An order under this section may make provision in relation to—
  - (a) service policemen,
  - (b) service courts (see section 324),
  - (c) persons subject to service law,
  - (d) civilians subject to service discipline, or
  - (e) service law proceedings (see section 324),
 which is equivalent to that made by a relevant provision, subject to such modifications as the Secretary of State considers appropriate.
- (3) In this section “relevant provision” means—
  - (a) the criminal justice enactment;
  - (b) any enactment relating to a criminal justice matter (see section 324) which is amended by the criminal justice enactment; or
  - (c) any subordinate legislation made under—
    - (i) the criminal justice enactment; or
    - (ii) any Act which is amended by the criminal justice enactment.
- (4) An order under this section may make provision in such way as the Secretary of State considers appropriate and may, in particular—
  - (a) be made in relation to all or any cases to which the order-making power extends;
  - (b) apply the relevant provision (with or without modifications);
  - (c) amend, repeal or revoke any enactment or subordinate legislation (including the relevant provision and any provision of or made under this Act).

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**Changes to legislation:** Armed Forces Act 2006, Part 13 is up to date with all changes known to be in force on or before 26 June 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) View outstanding changes

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

- C8** S. 323 applied by 2003 c. 44, s. 94(1) (as substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 214\(2\)](#) (with s. 385); [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#))

**Commencement Information**

- I33** S. 323 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](#))
- I34** S. 323 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

**324 Section 323: definitions** **U.K.**

- (1) In section 323 a “criminal justice enactment” means an enactment which—
- is contained in an Act passed after 1st January 2001; and
  - amends the law of England and Wales relating to any criminal justice matter.
- (2) In section 323 and subsection (1) “criminal justice matter” means—
- the powers of the police in connection with the investigation of offences or the detection of offenders;
  - powers of arrest and detention in connection with crime or criminal proceedings;
  - the functions of any authority in relation to criminal prosecutions;
  - remand in custody or on bail;
  - the rights and duties of a defendant in relation to proceedings in civilian courts;
  - evidence or procedure in civilian courts;
  - the powers of civilian courts, including powers in relation to sentence;
  - such other matters relating to criminal justice as the Secretary of State may by order prescribe for the purposes of this paragraph.
- (3) For the purposes of section 323, section 5 of the Criminal Justice (International Cooperation) Act 1990 (c. 5) (transfer of UK prisoner to give evidence etc overseas) is to be taken to be a criminal justice enactment.
- (4) In section 323 “service court” means—
- the Court Martial;
  - the Summary Appeal Court;
  - the Service Civilian Court;
  - the Court Martial Appeal Court; or
  - the Supreme Court on an appeal brought from the Court Martial Appeal Court.
- (5) In section 323 “service law proceedings” means proceedings under this Act or the Court Martial Appeals Act 1968 (c. 20) (and does not include proceedings relating to offences under sections 344 to 346 or under regulations made by virtue of section 328(4)(b) or 343(5)(b)).

*Changes to legislation: Armed Forces Act 2006, Part 13 is up to date with all changes known to be in force on or before 26 June 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) View outstanding changes*

#### Commencement Information

- I35** S. 324 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](#))
- I36** S. 324 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

#### *Other supplementary provisions*

### 325 Evidential burden as respects excuses **U.K.**

- (1) This section applies to an offence under any of sections 1 to 41, [<sup>F29</sup>93A, 93E, 93G,] 107, 229, [<sup>F30</sup>232G and 266] which is such that a person who would otherwise commit the offence—
- (a) does not do so if he has a lawful excuse; or
  - (b) does not do so if he has a reasonable excuse.
- (2) In proceedings for an offence to which this section applies, the defendant is to be treated as not having had a lawful excuse or reasonable excuse (as the case may be) unless sufficient evidence is adduced to raise an issue as to whether he had such an excuse.

#### Textual Amendments

- F29** Words in s. 325(1) inserted (1.11.2013) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), [Sch. 4 para. 13\(a\)](#); [S.I. 2013/2501](#), [art. 3\(d\)](#)
- F30** Words in s. 325(1) substituted (1.11.2013) by [Armed Forces Act 2011 \(c. 18\)](#), s. 32(3), [Sch. 4 para. 13\(b\)](#); [S.I. 2013/2501](#), [art. 3\(d\)](#)

#### Commencement Information

- I37** S. 325 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](#))
- I38** S. 325 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### 326 Exclusion of enactments requiring consent of Attorney General or DPP **U.K.**

Subject to section 61(2), no enactment requiring the consent of the Attorney General or the Director of Public Prosecutions in connection with any proceedings has effect in relation to proceedings under this Act for a service offence.

#### Commencement Information

- I39** S. 326 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](#))
- I40** S. 326 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### 327 Local probation boards **U.K.**

For section 5A of the Criminal Justice and Court Services Act 2000 (c. 43) (inserted by Schedule 16 to this Act) substitute—

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**Changes to legislation:** *Armed Forces Act 2006, Part 13 is up to date with all changes known to be in force on or before 26 June 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) View outstanding changes*

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### “5A Local probation boards and service justice

- (1) A local probation board may, in pursuance of arrangements made with the Secretary of State, carry out activities anywhere in the world in relation to persons who are or have been subject to proceedings before the Court Martial, the Summary Appeal Court or the Service Civilian Court.
- (2) Any activities carried out in relation to such persons must correspond to activities which the board is required or authorised to carry out in relation to persons who have been charged with or convicted of criminal offences.”

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#### Commencement Information

- I41** S. 327 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](#))
- I42** S. 327 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

**Changes to legislation:**

Armed Forces Act 2006, Part 13 is up to date with all changes known to be in force on or before 26 June 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.

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**Changes and effects yet to be applied to :**

- specified provision(s) transitional provisions for effects of commencing SI 2009/812 by [S.I. 2009/1059 Order](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 12A applied (with modifications) by S.I. 2009/1059, art. 106A (as inserted) by [S.I. 2024/619 reg. 44\(2\)](#)
- Pt. 12A inserted by [2016 c. 21 s. 7](#)
- Pt. 16B inserted by [2023 c. 48 s. 1](#)
- s. 50(2)(ca) inserted by [2011 c. 18 Sch. 4 para. 3\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 4 para. 3(3) repealed (8.3.2015) without ever being in force by [2014 c. 12, Sch. 11 para. 82\(2\)](#); [S.I. 2015/373, art. 2\(g\)\(ii\)](#))
- s. 209(8) inserted by [2021 c. 11 Sch. 13 para. 41\(3\)](#)
- s. 213(3A) words inserted by [2021 c. 11 Sch. 13 para. 41\(6\)](#)
- s. 218A(6A) inserted by Sch. 26 para. 12(1)(db) (as inserted) by [S.I. 2020/1520 reg. 6\(2\)\(b\)](#)
- s. 218A(6A) words omitted by virtue of [2020 c. 17, Sch. 26 para. 12\(1\)\(dc\)](#) (as inserted) by [S.I. 2020/1520 reg. 6\(2\)\(b\)](#)
- s. 219A(1)(d)(i) omitted by virtue of [2020 c. 17, Sch. 26 para. 14\(a\)\(i\)](#) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(b\)](#)
- s. 219A(1)(d)(iii) omitted by virtue of [2020 c. 17, Sch. 26 para. 14\(a\)\(i\)](#) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(b\)](#)
- s. 219A(1)(da) inserted by [2021 c. 11 Sch. 13 para. 41\(7\)](#)
- s. 219A(1)(da)(i) omitted by virtue of [2020 c. 17, Sch. 26 para. 14\(a\)\(ii\)](#) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(b\)](#)
- s. 219A(2A) inserted by [2020 c. 17, Sch. 26 para. 14\(bb\)](#) (as inserted) by [S.I. 2020/1520 reg. 6\(3\)](#)
- s. 219ZA inserted by [2021 c. 11 Sch. 8 para. 2](#)
- s. 219ZA(1)(e) words omitted by virtue of [2020 c. 17, Sch. 26 para. 13A\(a\)](#) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(a\)](#)
- s. 219ZA(4)-(6) omitted by virtue of [2020 c. 17, Sch. 26 para. 13A\(b\)](#) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(a\)](#)
- s. 219ZA(7) words omitted by virtue of [2020 c. 17, Sch. 26 para. 13A\(c\)](#) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(a\)](#)
- s. 223(1A) inserted by [2021 c. 11 Sch. 13 para. 41\(8\)\(a\)](#)
- s. 224A(1)(d)(iii) and word inserted by [2021 c. 11 Sch. 13 para. 41\(9\)\(a\)\(ii\)](#)
- s. 224A(1)(d)(iii) words substituted by [2020 c. 17, Sch. 26 para. 15\(a\)\(iii\)](#) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(c\)](#)
- s. 224A(1A) inserted by [2021 c. 11 Sch. 8 para. 8\(4\)](#)
- s. 224A(3A) inserted by [2021 c. 11 Sch. 13 para. 41\(9\)\(b\)](#)
- s. 224B inserted by [2021 c. 11 Sch. 8 para. 9](#)
- s. 225(1A) inserted by [2020 c. 17, Sch. 26 para. 15A](#) (as inserted) by [S.I. 2020/1520 reg. 6\(4\)](#)
- s. 226(1A) inserted by [2020 c. 17, Sch. 26 para. 15B](#) (as inserted) by [S.I. 2020/1520 reg. 6\(4\)](#)
- s. 227(3)(a)(b) substituted for words by [2021 c. 11 Sch. 13 para. 41\(10\)](#)
- s. 238(6)(a) word omitted by [2021 c. 11 Sch. 13 para. 41\(11\)\(a\)](#)



- s. 238(6)(b) word substituted by [2021 c. 11 Sch. 13 para. 41\(11\)\(c\)](#)
- s. 238(6)(aa) inserted by [2021 c. 11 Sch. 13 para. 41\(11\)\(b\)](#)
- s. 239(3A)(3B) inserted by [2021 c. 11 Sch. 8 para. 3](#)
- s. 239(3A) words omitted by virtue of 2020 c. 17, Sch 26 para. 18(a)(i) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(d\)](#)
- s. 239(3A) words omitted by virtue of 2020 c. 17, Sch 26 para. 18(a)(ii) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(d\)](#)
- s. 239(3B) words omitted by virtue of 2020 c. 17, Sch 26 para. 18(b) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(d\)](#)
- s. 260(1)(ca) inserted by [2021 c. 11 Sch. 13 para. 41\(14\)\(a\)\(ii\)](#)
- s. 260(1)(ca) words omitted by virtue of 2020 c. 17, Sch. 26 para. 19(a)(iia) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(e\)\(i\)](#)
- s. 260(4B)(a) words omitted by virtue of 2020 c. 17, Sch. 26 para. 19(b)(ii) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(e\)\(ii\)](#)
- s. 260(4B)(za) inserted by [2021 c. 11 Sch. 13 para. 41\(14\)\(b\)](#)
- s. 260(4B)(za) words omitted by virtue of 2020 c. 17, Sch. 26 para. 19(b)(i) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(e\)\(ii\)](#)
- s. 261(1)(ba) inserted by [2021 c. 11 Sch. 13 para. 41\(15\)](#)
- s. 261(1)(ba) words omitted by virtue of 2020 c. 17, Sch. 26 para. 20(c) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(f\)](#)
- s. 261A(3)(a) words in s. 261A(3) renumbered as s. 261A(3)(a) by [2021 c. 11 Sch. 8 para. 4\(a\)](#)
- s. 261A(3)(b)(c) inserted by [2021 c. 11 Sch. 8 para. 4\(b\)](#)
- s. 261A(3)(b) words omitted by virtue of 2020 c. 17, Sch. 26 para. 20A(a) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(g\)](#)
- s. 261A(3)(c)(i) words omitted by virtue of 2020 c. 17, Sch. 26 para. 20A(b) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(g\)](#)
- s. 262A(2A) inserted by [2021 c. 11 Sch. 13 para. 41\(16\)\(a\)](#)
- s. 262A(2A)(b) omitted by virtue of 2020 c. 17, Sch. 26 para. 21(a) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(h\)](#)
- s. 262A(3A) inserted by [2021 c. 11 Sch. 13 para. 41\(16\)\(b\)](#)
- s. 262A(3A) omitted by virtue of 2020 c. 17, Sch. 26 para. 21(b) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(h\)](#)
- s. 262A(4) words inserted by [2021 c. 11 Sch. 13 para. 41\(16\)\(c\)\(i\)](#)
- s. 262A(4) words inserted by [2021 c. 11 Sch. 13 para. 41\(16\)\(c\)\(ii\)](#)
- s. 262A(4) words omitted by virtue of 2020 c. 17, Sch. 26 para. 21(c) (as substituted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(h\)](#)
- s. 270A270B inserted by [2008 c. 4 Sch. 25 para. 27](#) (This amendment not applied to legislation.gov.uk. Sch. 25 para. 26(3)(4) repealed (2.4.2012) by 2011 c. 18, Sch. 3 para. 20(3), Sch. 5; S.I. 2012/669, art. 4(d)(f) (with art. 13))
- s. 270B(6)(aa) inserted by [2009 c. 25 Sch. 17 para. 9\(2\)](#) (This amendment not applied to legislation.gov.uk. Sch. 17 para. 9 repealed (2.4.2012) without ever being in force by 2011 c. 18, Sch. 5; S.I. 2012/669, art. 4(f))
- s. 270B(10) word repealed by [2009 c. 25 Sch. 23 Pt. 5](#)
- s. 270B(10)(a) words inserted by [2009 c. 25 Sch. 17 para. 9\(3\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Sch. 17 para. 9 repealed (2.4.2012) without ever being in force by 2011 c. 18, Sch. 5; S.I. 2012/669, art. 4(f))
- s. 270B(10)(b) words substituted by [2009 c. 25 Sch. 17 para. 9\(3\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Sch. 17 para. 9 repealed (2.4.2012) without ever being in force by 2011 c. 18, Sch. 5; S.I. 2012/669, art. 4(f))
- s. 270B(10)(c)-(e) inserted by [2009 c. 25 Sch. 17 para. 9\(3\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Sch. 17 para. 9 repealed (2.4.2012) without ever being in force by 2011 c. 18, Sch. 5; S.I. 2012/669, art. 4(f))
- s. 304B inserted by [2016 c. 21 s. 8](#)
- s. 304C inserted by [2016 c. 21 s. 9](#)
- s. 304C(5A) inserted by [2021 c. 11 Sch. 8 para. 5](#)
- s. 304C(5A) words omitted by virtue of 2020 c. 17, Sch. 26 para. 24A(a) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(i\)](#)

- s. 304C(5A) words substituted by 2020 c. 17, Sch. 26 para. 24A(b) (as inserted) by [2021 c. 11 Sch. 13 para. 43\(7\)\(i\)](#)
- s. 304F-304H inserted by [2016 c. 21 s. 12](#)
- s. 377(8) inserted by 2020 c. 17, Sch. 26 para. 26 (as inserted) by [S.I. 2020/1520 reg. 6\(5\)](#)
- Sch. 7 para. 9(A1) inserted by [2020 c. 9 Sch. 2 para. 123\(8\)\(a\)](#) (This pre-consolidation amendment comes into force immediately before the consolidation date on 1.12.2020 (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416) to facilitate the sentencing consolidation and then is repealed immediately afterwards on 1.12.2020 by the Sentencing Act 2020 (c. 17), Sch. 28; S.I. 2020/1236, reg. 2)