



# Armed Forces Act 2006

## 2006 CHAPTER 52

### PART 1

#### OFFENCES

##### *Assisting an enemy, misconduct on operations etc*

#### 1 Assisting an enemy

- (1) A person subject to service law commits an offence if, without lawful excuse, he intentionally—
  - (a) communicates with an enemy;
  - (b) gives an enemy information that would or might be useful to the enemy;
  - (c) fails to make known to the proper authorities any information received by him from an enemy;
  - (d) provides an enemy with any supplies; or
  - (e) harbours or protects an enemy other than a prisoner of war.
- (2) A person subject to service law who has been captured by an enemy commits an offence if, without lawful excuse, he intentionally serves with or assists the enemy—
  - (a) in the prosecution of hostilities or of measures likely to influence morale; or
  - (b) in any other manner not authorised by international law.
- (3) A person guilty of an offence under this section is liable to any punishment mentioned in the Table in section 164, and any sentence of imprisonment imposed in respect of the offence may be for life.

#### Commencement Information

- I1** S. 1 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. 1 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Status: Point in time view as at 30/06/2021.*

*Changes to legislation: Armed Forces Act 2006, Part 1 is up to date with all changes known to be in force on or before 25 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)*

## 2 Misconduct on operations

- (1) A person subject to service law commits an offence if, without reasonable excuse, he—
  - (a) surrenders any place or thing to an enemy; or
  - (b) abandons any place or thing which it is his duty to defend against an enemy or to prevent from falling into the hands of an enemy.
- (2) Subsections (3) to (5) apply to a person subject to service law who is—
  - (a) in the presence or vicinity of an enemy;
  - (b) engaged in an action or operation against an enemy; or
  - (c) under orders to be prepared for any action or operation by or against an enemy.
- (3) A person to whom this subsection applies commits an offence if he fails to use his utmost exertions to carry out the lawful commands of his superior officers.
- (4) A person to whom this subsection applies commits an offence if he is on guard duty and posted or ordered to patrol, or is on watch, and—
  - (a) without reasonable excuse, he sleeps; or
  - (b) (without having been regularly relieved) he leaves any place where it is his duty to be.
- (5) A person to whom this subsection applies commits an offence if, without reasonable excuse, he intentionally communicates with a person who is—
  - (a) a member of any of Her Majesty's forces or of any force co-operating with them, or
  - (b) a relevant civilian,
 and the communication is likely to cause that person to become despondent or alarmed.
- (6) In subsection (5) “relevant civilian” means a person who—
  - (a) is a civilian subject to service discipline; and
  - (b) is accompanying a person subject to service law who is—
    - (i) in the presence or vicinity of an enemy; or
    - (ii) engaged in an action or operation against an enemy.
- (7) A person guilty of an offence under this section is liable to any punishment mentioned in the Table in section 164, and any sentence of imprisonment imposed in respect of the offence may be for life.

### Modifications etc. (not altering text)

- C1** S. 2 modified (31.10.2009) by [The Armed Forces \(Naval Chaplains\) Regulations 2009 \(S.I. 2009/826\)](#), regs. 1, 4 (with [reg. 2\(c\)](#))

### Commencement Information

- I3** S. 2 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. 2 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## 3 Obstructing operations

- (1) A person subject to service law commits an offence if—

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- (a) he does an act that is likely to put at risk the success of an action or operation of any of Her Majesty's forces; and
  - (b) he intends to prevent, or is reckless as to whether he prevents, the success of the action or operation.
- (2) A person subject to service law commits an offence if—
- (a) without lawful excuse, he does an act that delays or discourages an action or operation of any of Her Majesty's forces; and
  - (b) he intends to delay or discourage the action or operation.
- (3) In this section “act” includes an omission and references to the doing of an act are to be read accordingly.
- (4) A person guilty of an offence under this section is liable to any punishment mentioned in the Table in section 164, and any sentence of imprisonment imposed in respect of the offence—
- (a) if the offence relates to an action or operation against an enemy, may be for life;
  - (b) otherwise, must not exceed ten years.

#### Commencement Information

- 15** S. 3 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](#))
- 16** S. 3 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## 4 Looting

- (1) A person within subsection (4) commits an offence if, without lawful excuse—
- (a) he takes any property from a person who has been killed, injured, captured or detained in the course of an action or operation of any of Her Majesty's forces or of any force co-operating with them; or
  - (b) he searches such a person with the intention of taking property from him.
- (2) A person within subsection (4) commits an offence if, without lawful excuse—
- (a) he takes any property which has been left exposed or unprotected in consequence of—
    - (i) an action or operation of any of Her Majesty's forces or of any force co-operating with them; or
    - (ii) an event, or state of affairs, in relation to which such an action or operation is undertaken; or
  - (b) he searches any place or thing with the intention of taking property of a description mentioned in paragraph (a).
- (3) A person within subsection (4) commits an offence if he takes otherwise than for the public service any vehicle, equipment or stores abandoned by an enemy.
- (4) A person is within this subsection if he is—
- (a) a person subject to service law; or
  - (b) a civilian subject to service discipline.

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- (5) A person guilty of an offence under this section is liable to any punishment mentioned in the Table in section 164, and any sentence of imprisonment imposed in respect of the offence—
- (a) in the case of an offence under subsection (1) or (2), may be for life;
  - (b) in the case of an offence under subsection (3), must not exceed seven years.

**Commencement Information**

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

**5 Failure to escape etc**

- (1) Subsections (2) and (3) apply to a person subject to service law who has been captured by an enemy.
- (2) A person to whom this subsection applies commits an offence if—
  - (a) he is aware of steps that he could take to rejoin Her Majesty's forces;
  - (b) he could reasonably be expected to take those steps; and
  - (c) without lawful excuse, he fails to take them.
- (3) A person to whom this subsection applies commits an offence if, without lawful excuse, he intentionally prevents or discourages another person subject to service law who has been captured by an enemy from taking any reasonable steps to rejoin Her Majesty's forces.
- (4) 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 imposed in respect of the offence must not exceed ten years.

**Commencement Information**

- 19** S. 5 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](#))
- 110** S. 5 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

*Mutiny*

**6 Mutiny**

- (1) A person subject to service law commits an offence if he takes part in a mutiny.
- (2) For the purposes of this section a person subject to service law takes part in a mutiny if—
  - (a) in concert with at least one other person subject to service law, he—
    - (i) acts with the intention of overthrowing or resisting authority; or
    - (ii) disobeys authority in such circumstances as to subvert discipline;

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- (b) he agrees with at least one other person subject to service law to overthrow or resist authority; or
  - (c) he agrees with at least one other person subject to service law to disobey authority, and the agreed disobedience would be such as to subvert discipline.
- (3) For the purposes of subsection (2)—
- (a) “authority” means lawful authority in any part of Her Majesty's forces or of any force co-operating with them;
  - (b) the reference to acting includes omitting to act.
- (4) A person guilty of an offence under this section is liable to any punishment mentioned in the Table in section 164, and any sentence of imprisonment imposed in respect of the offence may be for life.

#### Commencement Information

- I11** S. 6 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. 6 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## 7 Failure to suppress mutiny

- (1) A person subject to service law commits an offence if—
- (a) he knows that a mutiny is occurring or is intended; and
  - (b) he fails to take such steps as he could reasonably be expected to take to prevent or suppress it.
- (2) For the purposes of this section a mutiny occurs when a person subject to service law, in concert with at least one other person subject to service law—
- (a) acts with the intention of overthrowing or resisting authority; or
  - (b) disobeys authority in such circumstances as to subvert discipline.
- (3) A person guilty of an offence under this section is liable to any punishment mentioned in the Table in section 164, and any sentence of imprisonment imposed in respect of the offence may be for life.

#### Commencement Information

- I13** S. 7 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. 7 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### *Desertion and absence without leave*

## 8 Desertion

- (1) A person subject to service law commits an offence if he deserts.
- (2) For the purposes of this Act a person deserts if he is absent without leave and—
- (a) he intends to remain permanently absent without leave; or

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- (b) he intends to avoid a period of active service.
- (3) In this section “active service” means service in—
  - (a) an action or operation against an enemy;
  - (b) an operation outside the British Islands for the protection of life or property; or
  - (c) the military occupation of a foreign country or territory.
- (4) A person guilty of an offence under this section is liable to any punishment mentioned in the Table in section 164, and any sentence of imprisonment imposed in respect of the offence—
  - (a) if the offender intended to avoid a period of active service, may be for life;
  - (b) otherwise, must not exceed two years.

#### Commencement Information

- I15** S. 8 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. 8 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## 9 Absence without leave

- (1) A person subject to service law commits an offence if subsection (2) or (3) applies to him.
- (2) This subsection applies to a person if he is intentionally or negligently absent without leave.
- (3) This subsection applies to a person if—
  - (a) he does an act, being reckless as to whether it will cause him to be absent without leave; and
  - (b) it causes him to be absent without leave.
- (4) In subsection (3) “act” includes an omission and the reference to the doing of an act is to be read accordingly.
- (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 imposed in respect of the offence must not exceed two years.

#### Commencement Information

- I17** S. 9 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. 9 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## 10 Failure to cause apprehension of deserters or absentees

- (1) A person subject to service law commits an offence if—
  - (a) he knows that another person—
    - (i) has committed, is committing or is attempting to commit an offence under section 8 (desertion); or

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- (ii) is committing or attempting to commit an offence under section 9 (absence without leave); and
  - (b) he fails to take such steps as he could reasonably be expected to take to cause that person to be apprehended.
- (2) 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 imposed in respect of the offence must not exceed two years.

#### Commencement Information

- I19** S. 10 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. 10 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### *Insubordination etc*

## 11 Misconduct towards a superior officer

- (1) A person subject to service law commits an offence if—
- (a) he uses violence against a superior officer (“B”); and
  - (b) he knows or has reasonable cause to believe that B is a superior officer.
- (2) A person subject to service law commits an offence if—
- (a) his behaviour towards a superior officer (“B”) is threatening or disrespectful; and
  - (b) he knows or has reasonable cause to believe that B is a superior officer.
- (3) For the purposes of this section—
- (a) the behaviour of a person (“A”) towards another person (“B”) includes any communication made by A to B (whether or not in B's presence);
  - (b) “threatening” behaviour is not limited to behaviour that threatens violence.
- (4) 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 imposed in respect of the offence must not exceed—
- (a) in the case of an offence under subsection (1), or an offence under subsection (2) of behaviour that is threatening, ten years;
  - (b) in any other case, two years.

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

- C2** S. 11 modified (31.10.2009) by [The Armed Forces \(Naval Chaplains\) Regulations 2009 \(S.I. 2009/826\)](#), [regs. 1, 4](#) (with [reg. 2\(c\)](#))

#### Commencement Information

- I21** S. 11 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](#))
- I22** S. 11 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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## 12 Disobedience to lawful commands

- (1) A person subject to service law commits an offence if—
  - (a) he disobeys a lawful command; and
  - (b) he intends to disobey, or is reckless as to whether he disobeys, the command.
- (2) 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 imposed in respect of the offence must not exceed ten years.

### Commencement Information

- I23** S. 12 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. 12 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## 13 Contravention of standing orders

- (1) A person subject to service law, or a civilian subject to service discipline, commits an offence if—
  - (a) he contravenes a lawful order to which this section applies; and
  - (b) he knows or could reasonably be expected to know of the order.
- (2) This section applies to standing orders, and other routine orders of a continuing nature, of any of Her Majesty's forces, made for any—
  - (a) part of Her Majesty's forces;
  - (b) area or place; or
  - (c) ship, train or aircraft;
 but paragraph (a) of this subsection does not apply in relation to a civilian subject to service discipline.
- (3) 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 imposed in respect of the offence must not exceed two years.

### Commencement Information

- I25** S. 13 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. 13 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## 14 Using force against a sentry etc

- (1) A person subject to service law commits an offence if—
  - (a) he uses force against a member of any of Her Majesty's forces, or of any force co-operating with them, who is—
    - (i) on guard duty and posted or ordered to patrol;
    - (ii) on watch; or
    - (iii) under orders to regulate traffic by land, water or air; or



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- (b) by the threat of force he compels such a person to let him or any other person pass.
- (2) 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 imposed in respect of the offence must not exceed two years.

#### Commencement Information

- I27** S. 14 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. 14 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### *Neglect of duty and misconduct*

## **15 Failure to attend for or perform duty etc**

- (1) A person subject to service law commits an offence if, without reasonable excuse, he—
- fails to attend for any duty;
  - leaves any duty before he is permitted to do so; or
  - fails to perform any duty.
- (2) A person subject to service law commits an offence if he performs any duty negligently.
- (3) 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 imposed in respect of the offence must not exceed two years.

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

- C3** S. 15 modified (31.10.2009) by [The Armed Forces \(Naval Chaplains\) Regulations 2009 \(S.I. 2009/826\)](#), [regs. 1, 5\(4\)](#) (with [reg. 2\(c\)](#))

#### Commencement Information

- I29** S. 15 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. 15 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## **16 Malingering**

- (1) A person subject to service law commits an offence if, to avoid service—
- he pretends to have an injury;
  - by any act he causes himself an injury;
  - by any act or omission he aggravates or prolongs any injury of his; or
  - he causes another person to injure him.
- (2) A person subject to service law commits an offence if, at the request of another person subject to service law (“B”) and with the intention of enabling B to avoid service—
- by any act he causes B an injury; or

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- (b) by any act or omission he aggravates or prolongs any injury of B.
- (3) In this section—  
     “injury” includes any disease and any impairment of a person's physical or mental condition, and the reference to injuring is to be read accordingly;  
     “service” includes any particular duty or kind of duty.
- (4) 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 imposed in respect of the offence must not exceed two years.

#### Commencement Information

- I31** S. 16 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. 16 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### 17 Disclosure of information useful to an enemy

- (1) A person subject to service law commits an offence if—  
     (a) without lawful authority, he discloses information that would or might be useful to an enemy; and  
     (b) he knows or has reasonable cause to believe that the information would or might be useful to an enemy.
- (2) 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 imposed in respect of the offence must not exceed two years.

#### Commencement Information

- I33** S. 17 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. 17 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### 18 Making false records etc

- (1) A person subject to service law commits an offence if—  
     (a) he makes an official record, knowing that it is false in a material respect; and  
     (b) he knows or has reasonable cause to believe that the record is official.
- (2) A person who adopts as his own a record made by another person is for the purposes of subsection (1) to be treated, as well as that other person, as making the record.
- (3) A person subject to service law commits an offence if—  
     (a) with intent to deceive, he tampers with or suppresses an official document; and  
     (b) he knows or has reasonable cause to believe that the document is official.
- (4) A person subject to service law commits an offence if—  
     (a) with intent to deceive, he fails to make a record which he is under a duty to make; and

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- (b) he knows or has reasonable cause to believe that the record would, if made, be official.
- (5) For the purposes of this section—
- (a) “record” means a document or an entry in a document;
  - (b) “document” means anything in which information is recorded;
  - (c) a record or document is official if it is or is likely to be made use of, in connection with the performance of his functions as such, by a person who holds office under the Crown or is in the service of the Crown.
- (6) 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 imposed in respect of the offence must not exceed two years.

#### Commencement Information

- I35** S. 18 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. 18 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## 19 Conduct prejudicial to good order and discipline

- (1) A person subject to service law commits an offence if he does an act that is prejudicial to good order and service discipline.
- (2) In this section “act” includes an omission and the reference to the doing of an act is to be read accordingly.
- (3) 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 imposed in respect of the offence must not exceed two years.

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

- C4** S. 19 modified (31.10.2009) by [The Armed Forces \(Naval Chaplains\) Regulations 2009](#) (S.I. 2009/826), [regs. 1, 5\(4\)](#) (with [reg. 2\(c\)](#))

#### Commencement Information

- I37** S. 19 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. 19 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## 20 Unfitness or misconduct through alcohol or drugs

- (1) A person subject to service law commits an offence if, due to the influence of alcohol or any drug—
- (a) he is unfit to be entrusted with his duty or any duty which he might reasonably expect to be called upon to perform; or
  - (b) his behaviour is disorderly or likely to bring discredit to Her Majesty's forces.

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- [<sup>F1</sup>(1A) For the purposes of subsection (1) a person is to be taken to be unfit to be entrusted with his duty, or a duty which he might reasonably expect to be called upon to perform, if his ability to carry out the duty in question is impaired.]
- (2) Subsection (1) does not apply to the influence of a drug on a person (“A”) if—
- (a) the drug was taken or administered on medical advice and A complied with any directions given as part of that advice;
  - (b) the drug was taken or administered for a medicinal purpose, and A had no reason to believe that the drug might impair his ability to carry out the duties mentioned in subsection (1)(a) or (as the case may be) result in his behaving in a way mentioned in subsection (1)(b);
  - (c) the drug was taken on the orders of a superior officer of A; or
  - (d) the drug was administered to A on the orders of a superior officer of the person administering it.
- (3) In this section—
- (a) “drug” includes any intoxicant other than alcohol;
  - (b) a person's “behaviour” includes anything said by him.
- (4) In proceedings for an offence under this section, any paragraph of subsection (2) is to be treated as not having applied in relation to the defendant unless sufficient evidence is adduced to raise an issue as to whether it did.
- (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 imposed in respect of the offence must not exceed two years.

#### Textual Amendments

**F1** S. 20(1A) inserted (1.11.2013) by [Armed Forces Act 2011 \(c. 18\)](#), **ss. 9, 32(3)**; [S.I. 2013/2501](#), art. 3(a)

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

**C5** S. 20 modified (31.10.2009) by [The Armed Forces \(Naval Chaplains\) Regulations 2009 \(S.I. 2009/826\)](#), regs. 1, 4 (with reg. 2(c))

#### Commencement Information

**I39** S. 20 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. 20 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

#### [<sup>F2</sup>20A Exceeding alcohol limit for prescribed safety-critical duties

- (1) A person subject to service law (“P”) commits an offence if the proportion of alcohol in P's breath, blood or urine exceeds the relevant limit at a time when P—
- (a) is performing, or purporting to perform, a prescribed duty; or
  - (b) might reasonably expect to be called on to perform such a duty.
- (2) In subsection (1) “prescribed duty” means a duty specified, or of a description specified, by regulations; but a duty or description may be specified only if performing that duty (or a duty of that description) with ability impaired by alcohol would result in a risk of—

*Status: Point in time view as at 30/06/2021.*

*Changes to legislation: Armed Forces Act 2006, Part 1 is up to date with all changes known to be in force on or before 25 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)*

- (a) death;
  - (b) serious injury to any person;
  - (c) serious damage to property; or
  - (d) serious environmental harm.
- (3) In this section “the relevant limit”, in relation to a duty specified or of a description specified by regulations, means the limit prescribed by regulations in relation to that duty or duties of that description.
- (4) In this section “regulations” means regulations made by the Defence Council for the purposes of this section.
- (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 imposed in respect of the offence must not exceed two years.]

#### Textual Amendments

- F2** S. 20A inserted (8.3.2012 for specified purposes, 1.11.2013 in so far as not already in force) by [Armed Forces Act 2011 \(c. 18\)](#), [ss. 10, 32\(3\)](#); [S.I. 2012/669, art. 3\(b\)](#); [S.I. 2013/2501, art. 3\(b\)](#)

## 21 Fighting or threatening behaviour etc

- (1) A person subject to service law commits an offence if, without reasonable excuse, he fights another person.
- (2) A person subject to service law commits an offence if—
- (a) without reasonable excuse, his behaviour is—
    - (i) threatening, abusive, insulting or provocative; and
    - (ii) likely to cause a disturbance; and
  - (b) he intends to be, or is aware that his behaviour may be, threatening, abusive, insulting or provocative.
- (3) For the purposes of this section a person's “behaviour” includes anything said by him.
- (4) 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 imposed in respect of the offence must not exceed two years.

#### Commencement Information

- I41** S. 21 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. 21 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

## 22 Ill-treatment of subordinates

- (1) A person subject to service law who is an officer, warrant officer or non-commissioned officer commits an offence if—
- (a) he ill-treats a subordinate (“B”);
  - (b) he intends to ill-treat B or is reckless as to whether he is ill-treating B; and

*Status: Point in time view as at 30/06/2021.*

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- (c) he knows or has reasonable cause to believe that B is a subordinate.
- (2) For the purposes of this section a person (“B”) is a subordinate of another person (“A”) if—
- (a) B is subject to service law; and
  - (b) A is a superior officer of B.
- (3) 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 imposed in respect of the offence must not exceed two years.

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

- C6** S. 22 modified (31.10.2009) by [The Armed Forces \(Naval Chaplains\) Regulations 2009 \(S.I. 2009/826\)](#), regs. 1, 4 (with reg. 2(c))

**Commencement Information**

- I43** S. 22 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](#))
- I44** S. 22 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

**23 Disgraceful conduct of a cruel or indecent kind**

- (1) A person subject to service law commits an offence if—
- (a) he does an act which is cruel or indecent; and
  - (b) his doing so is disgraceful.
- (2) In this section “act” includes an omission and the reference to the doing of an act is to be read accordingly.
- (3) 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 imposed in respect of the offence must not exceed two years.

**Commencement Information**

- I45** S. 23 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](#))
- I46** S. 23 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Property offences*

**24 Damage to or loss of public or service property**

- (1) A person subject to service law commits an offence if—
- (a) he does an act that causes damage to or the loss of any public or service property or any property belonging to another person subject to service law; and
  - (b) either—

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- (i) he intends to cause damage to or the loss of the property, and there is no lawful excuse for his act; or
  - (ii) he is reckless as to whether he causes damage to or the loss of the property.
- (2) A person subject to service law commits an offence if—
- (a) negligently, he does an act that causes damage to or the loss of any public or service property; or
  - (b) he does an act that is likely to cause damage to or the loss of any public or service property and—
    - (i) he is reckless as to whether he causes damage to or the loss of the property; or
    - (ii) he is negligent.
- (3) For the purposes of this section—
- (a) “act” includes an omission and references to the doing of an act are to be read accordingly;
  - (b) references to causing include allowing;
  - (c) “loss” includes temporary loss;
  - (d) “property” means property of a tangible nature, and references to public or service property are to be read accordingly.
- (4) 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 imposed in respect of the offence must not exceed—
- (a) in the case of an offence under subsection (1), ten years;
  - (b) in the case of an offence under subsection (2), two years.

#### Commencement Information

**I47** S. 24 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](#))

**I48** S. 24 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## 25 Misapplying or wasting public or service property

- (1) A person subject to service law commits an offence if he misapplies or wastes any public or service property.
- (2) A person guilty of an offence under this section is liable to any punishment mentioned in rows 2 to 12 of the Table in section 164.

#### Commencement Information

**I49** S. 25 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](#))

**I50** S. 25 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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## 26 Sections 24 and 25: “public property” and “service property”

- (1) This section applies for the purposes of sections 24 and 25.
- (2) “Public property” means property belonging to or held for the purposes of—
  - (a) a department of the Government of the United Kingdom;
  - (b) any part of the Scottish Administration;
  - (c) a Northern Ireland department; or
  - (d) the National Assembly for Wales.
- (3) “Service property” means property—
  - (a) belonging to or used for the purposes of any of Her Majesty's forces;
  - (b) belonging to a Navy, Army and Air Force Institute; or
  - (c) belonging to an association established, or having effect as if established, under section 110 of the Reserve Forces Act 1996 (c. 14) (reserve associations).

### Commencement Information

- I51** S. 26 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](#))
- I52** S. 26 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### *Offences against service justice*

## 27 Obstructing or failing to assist a service policeman

- (1) A person within subsection (2) commits an offence if—
  - (a) he intentionally obstructs, or intentionally fails to assist when called upon to do so, a person who is—
    - (i) a service policeman acting in the course of his duty; or
    - (ii) a person subject to service law lawfully exercising authority on behalf of a provost officer; and
  - (b) he knows or has reasonable cause to believe that that person is a service policeman or a person exercising authority on behalf of a provost officer.
- (2) A person is within this subsection if he is—
  - (a) a person subject to service law; or
  - (b) a civilian subject to service discipline.
- (3) 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 imposed in respect of the offence must not exceed two years.

### Commencement Information

- I53** S. 27 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](#))
- I54** S. 27 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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## 28 Resistance to arrest etc

- (1) A person subject to service law (“A”) commits an offence if another person (“B”), in the exercise of a power conferred by or under this Act, orders A into arrest and—
  - (a) A disobeys the order;
  - (b) A uses violence against B; or
  - (c) A's behaviour towards B is threatening.
- (2) A person subject to service law, or a civilian subject to service discipline, commits an offence if—
  - (a) he uses violence against a person who has a duty to apprehend him, or his behaviour towards such a person is threatening; and
  - (b) he knows or has reasonable cause to believe that the person has a duty to apprehend him.
- (3) For the purposes of this section—
  - (a) a person's “behaviour” includes anything said by him;
  - (b) “threatening” behaviour is not limited to behaviour that threatens violence;
  - (c) a “duty” to apprehend a person means such a duty arising under service law.
- (4) 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 imposed in respect of the offence must not exceed two years.

### Commencement Information

**I55** S. 28 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](#))

**I56** S. 28 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## 29 Offences in relation to service custody

- (1) A person subject to service law, or a civilian subject to service discipline, commits an offence if he escapes from lawful custody.
- (2) A person subject to service law, or a civilian subject to service discipline, commits an offence if—
  - (a) he uses violence against a person in whose lawful custody he is, or his behaviour towards such a person is threatening; and
  - (b) he knows or has reasonable cause to believe that the custody is lawful.
- (3) For the purposes of this section—
  - (a) references to custody are to service custody;
  - (b) a person's behaviour includes anything said by him;
  - (c) “threatening” behaviour is not limited to behaviour that threatens violence.
- (4) 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 imposed in respect of the offence must not exceed two years.

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#### Commencement Information

- I57** S. 29 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](#))
- I58** S. 29 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### 30 Allowing escape, or unlawful release, of prisoners etc

- (1) A person subject to service law commits an offence if—
- he knows that a person is committed to his charge, or that it is his duty to guard a person;
  - he does an act that results in that person's escape; and
  - he intends to allow, or is reckless as to whether the act will allow, that person to escape, or he is negligent.
- (2) A person subject to service law commits an offence if—
- he knows that a person is committed to his charge;
  - he releases that person without authority to do so; and
  - he knows or has reasonable cause to believe that he has no such authority.
- (3) In this section “act” includes an omission and the reference to the doing of an act is to be construed accordingly.
- (4) 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 imposed in respect of the offence must not exceed—
- in the case of an offence under subsection (1) where the offender intended to allow the person to escape, or an offence under subsection (2) where the offender knew he had no authority to release the person, ten years;
  - in any other case, two years.

#### Commencement Information

- I59** S. 30 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](#))
- I60** S. 30 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### *Ships and aircraft*

### 31 Hazarding of ship

- (1) A person subject to service law commits an offence if he does an act that causes the hazarding of any of Her Majesty's ships and—
- he intends to cause damage to or the stranding or loss of the ship, and there is no lawful excuse for his act; or
  - he is reckless as to whether he causes damage to or the stranding or loss of the ship.
- (2) A person subject to service law commits an offence if, negligently, he does an act that causes the hazarding of any of Her Majesty's ships.

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- (3) For the purposes of this section—
- (a) “act” includes an omission and references to the doing of an act are to be read accordingly;
  - (b) references to causing include allowing;
  - (c) “Her Majesty's ships” means all ships belonging to or used for the purposes of any of Her Majesty's forces.
- (4) A person guilty of an offence under this section is liable to any punishment mentioned in the Table in section 164, and any sentence of imprisonment imposed in respect of the offence—
- (a) in the case of an offence under subsection (1), may be for life;
  - (b) in the case of an offence under subsection (2), must not exceed two years.

#### Commencement Information

- I61** S. 31 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](#))
- I62** S. 31 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### 32 Giving false air signals etc

- (1) A person subject to service law commits an offence if, without lawful excuse, he intentionally—
- (a) gives a false air signal; or
  - (b) alters or interferes with an air signal or any equipment for giving an air signal.
- (2) In this section “air signal” means a message, signal or indication given (by any means) for the guidance of aircraft or a particular aircraft.
- (3) A person guilty of an offence under this section is liable to any punishment mentioned in the Table in section 164, and any sentence of imprisonment imposed in respect of the offence may be for life.

#### Commencement Information

- I63** S. 32 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](#))
- I64** S. 32 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### 33 Dangerous flying etc

- (1) A person subject to service law commits an offence if—
- (a) he does an act—
    - (i) when flying or using an aircraft, or
    - (ii) in relation to an aircraft or aircraft material,that causes or is likely to cause loss of life or injury to any person; and
  - (b) either—
    - (i) he intends to cause loss of life or injury to any person, and there is no lawful excuse for his act; or

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- (ii) he is reckless as to whether he causes loss of life or injury to any person.
- (2) A person subject to service law commits an offence if, negligently, he does an act—
- (a) when flying or using an aircraft, or
  - (b) in relation to an aircraft or aircraft material,
- that causes or is likely to cause loss of life or injury to any person.
- (3) In this section—
- “act” includes an omission and the reference to the doing of an act is to be read accordingly;
- “aircraft material” includes—
- (a) parts of and accessories for aircraft (whether or not for the time being in aircraft);
  - (b) armaments in or for use in aircraft;
  - (c) any other equipment or instrument in or for use in aircraft;
  - (d) any equipment for use in connection with the taking-off or landing of aircraft or for detecting the movement of aircraft;
  - (e) any fuel for the propulsion of aircraft; and
  - (f) any lubricant for aircraft or for anything within any of paragraphs (a) to (d).
- (4) A person guilty of an offence under this section is liable to any punishment mentioned in the Table in section 164, and any sentence of imprisonment imposed in respect of the offence—
- (a) in the case of an offence under subsection (1), may be for life;
  - (b) in the case of an offence under subsection (2), must not exceed two years.

#### Commencement Information

- I65** S. 33 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](#))
- I66** S. 33 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## 34 Low flying

- (1) A person subject to service law commits an offence if—
- (a) he flies an aircraft at a height less than the minimum height, other than—
    - (i) when taking off or landing; or
    - (ii) in any other circumstances prescribed by regulations made by the Defence Council; and
  - (b) he intends to fly, or is reckless as to whether he flies, the aircraft at a height less than the minimum height, or he is negligent.
- (2) If a person flies an aircraft in contravention of subsection (1) on the orders of another person who is in command of the aircraft, that other person is for the purposes of this section to be treated as flying the aircraft.
- (3) In this section “minimum height” means the height prescribed by regulations made by the Defence Council.

*Status: Point in time view as at 30/06/2021.*

*Changes to legislation: Armed Forces Act 2006, Part 1 is up to date with all changes known to be in force on or before 25 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)*

- (4) 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 imposed in respect of the offence must not exceed two years.

#### Commencement Information

- I67** S. 34 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](#))
- I68** S. 34 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### 35 Annoyance by flying

- (1) A person subject to service law commits an offence if—
- (a) he flies an aircraft so as to annoy or be likely to annoy any person;
  - (b) he can reasonably avoid flying the aircraft as mentioned in paragraph (a); and
  - (c) he intends to fly, or is reckless as to whether he flies, the aircraft so as to annoy any person, or he is negligent.
- (2) If a person flies an aircraft in contravention of subsection (1) on the orders of another person who is in command of the aircraft, that other person is for the purposes of this section to be treated as flying the aircraft.
- (3) A person guilty of an offence under this section is liable to any punishment mentioned in rows 3 to 12 of the Table in section 164.

#### Commencement Information

- I69** S. 35 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](#))
- I70** S. 35 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### 36 Inaccurate certification

- (1) A person subject to service law commits an offence if he makes or signs a relevant certificate without having ensured its accuracy.
- (2) In this section “relevant certificate” means a certificate (including an electronic certificate) relating to—
- (a) any matter affecting the seagoing or fighting efficiency of any of Her Majesty's ships;
  - (b) any of Her Majesty's aircraft;
  - (c) any aircraft material; or
  - (d) any equipment of a description prescribed by regulations made by the Defence Council.
- (3) In subsection (2)—
- “Her Majesty's ships” has the meaning given by section 31;
  - “Her Majesty's aircraft” means all aircraft belonging to or used for the purposes of any of Her Majesty's forces;
  - “aircraft material” has the meaning given by section 33.

*Status: Point in time view as at 30/06/2021.*

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- (4) 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 imposed in respect of the offence must not exceed two years.

#### Commencement Information

- I71** S. 36 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](#))
- I72** S. 36 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### 37 Prize offences by officer in command of ship or aircraft

- (1) A person subject to service law who, while in command of any of Her Majesty's ships or aircraft, takes any ship or aircraft as prize commits an offence if he unlawfully fails to ensure that all the ship papers or aircraft papers found on board are sent to a prize court of competent jurisdiction.
- (2) A person subject to service law who, while in command of any of Her Majesty's ships or aircraft, takes any ship, aircraft or goods as prize commits an offence if he unlawfully fails to ensure that—
- the ship is brought to a convenient port for adjudication;
  - the aircraft is brought to a convenient airfield for adjudication; or
  - the goods are brought to a convenient port or airfield for adjudication.
- (3) In this section—
- “Her Majesty's ships” and “Her Majesty's aircraft” have the meanings given (respectively) by sections 31 and 36;
- “prize court” means a prize court within the meaning of the Naval Prize Act 1864 (c. 25);
- “ship papers” and “aircraft papers” have the meanings given by section 2 of that Act.
- (4) 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 imposed in respect of the offence must not exceed two years.

#### Commencement Information

- I73** S. 37 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](#))
- I74** S. 37 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### 38 Other prize offences

- (1) A person subject to service law commits an offence if—
- he ill-treats a person who is on board a ship or aircraft when it is taken as prize; or
  - he unlawfully takes anything in the possession of such a person.

*Status: Point in time view as at 30/06/2021.*

*Changes to legislation: Armed Forces Act 2006, Part 1 is up to date with all changes known to be in force on or before 25 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)*

- (2) A person subject to service law commits an offence if he unloads, unpacks or otherwise interferes with any goods that are on board a ship or aircraft which has been taken as prize, unless—
  - (a) the goods have been adjudged by a prize court (within the meaning of the Naval Prize Act 1864 (c. 25)) to be lawful prize; or
  - (b) the goods are removed for safe keeping or for necessary use by any of Her Majesty's forces or any force co-operating with them.
- (3) A person subject to service law commits an offence if, without lawful excuse, he unloads, unpacks or otherwise interferes with any goods that are on board a ship or aircraft that has been detained in exercise of a belligerent right or under an enactment.
- (4) 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 imposed in respect of the offence must not exceed two years.

#### Commencement Information

- I75** S. 38 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](#))
- I76** S. 38 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Attempts, [<sup>F3</sup>encouragement and assistance], and aiding and abetting*

#### Textual Amendments

- F3** Words in s. 39 cross-heading substituted (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 5 para. 10](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), [art. 2\(a\)](#)

## 39 Attempts

- (1) A person subject to service law commits an offence if he attempts to commit an offence to which this subsection applies.
- (2) Subsection (1) applies to any service offence except—
  - (a) an offence committed by virtue of section 41 (aiding and abetting);
  - (b) an offence under this section or section 42.
- (3) A civilian subject to service discipline commits an offence if he attempts to commit an offence to which this subsection applies.
- (4) Subsection (3) applies to—
  - (a) an offence under section 4, 13, 27, 28(2), 29, 107 or 306 of this Act or under section 18 or 20 of the Armed Forces Act 1991 (c. 62); and
  - (b) an offence under section 40 of [<sup>F4</sup>encouraging or assisting the commission of] an offence mentioned in paragraph (a).
- (5) For the purposes of this section a person attempts to commit an offence if, with intent to commit the offence, he does an act which is more than merely preparatory to the commission of the offence.

*Status: Point in time view as at 30/06/2021.*

*Changes to legislation: Armed Forces Act 2006, Part 1 is up to date with all changes known to be in force on or before 25 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)*

- (6) For those purposes, a person may attempt to commit an offence even though the facts are such that the commission of the offence is impossible.
- (7) Where—
- (a) apart from this subsection a person's intention would not be regarded as having amounted to an intent to commit an offence, but
  - (b) if the facts of the case had been as he believed them to be his intention would be so regarded,
- then for the purposes of this section he shall be regarded as having had an intent to commit that offence.
- (8) Where in proceedings for an offence under this section there is evidence sufficient in law to support a finding that the defendant did an act falling within subsection (5), the question whether his act fell within that subsection is a question of fact.
- (9) A person guilty of an offence under this section is liable to the same punishment as he would be liable to if guilty of the offence attempted.

#### Textual Amendments

- F4** Words in s. 39(4)(b) substituted (1.10.2008) by [Serious Crime Act 2007 \(c. 27\), s. 94\(1\), Sch. 5 para. 8](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504, art. 2\(a\)](#)

#### Commencement Information

- I77** S. 39 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](#))
- I78** S. 39 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

### [<sup>F5</sup>40] Encouraging and assisting

- (1) A person subject to service law commits an offence if he encourages or assists the commission of a service offence (other than an offence under section 42).
- (2) A civilian subject to service discipline commits an offence if he encourages or assists the commission of an offence mentioned in section 39(4).
- (3) Reference in this section to encouraging or assisting the commission of an offence is to the doing of an act that would have constituted an offence under Part 2 of the Serious Crime Act 2007 if the offence encouraged or assisted had been an offence under the law of England and Wales.
- (4) In determining whether an act would have constituted an offence under that Part, section 49(4) of that Act has effect as if for “offences under this Part and listed offences” it read “offences under sections 39 and 40 of the Armed Forces Act 2006”.
- (5) Any requirement in that Part to specify matters in an indictment applies for the purposes of this section as it applies for the purposes of that Part, but with references to the indictment being read as references to the charge sheet.
- (6) A person guilty of an offence under this section is liable to the same punishment as he would be liable to if guilty of—
  - (a) the service offence encouraged or assisted; or



*Status: Point in time view as at 30/06/2021.*

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- (b) if convicted of the offence under this section by reference to more than one such service offence, any one of those service offences.]

#### Textual Amendments

**F5** S. 40 substituted (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 5 para. 9](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), art. 2(a)

#### Commencement Information

**I79** S. 40 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](#))

**I80** S. 40 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## 41 Aiding, abetting, counselling or procuring

- (1) Where a person subject to service law aids, abets, counsels or procures the commission by another person of an offence to which this subsection applies, he commits that offence.
- (2) Subsection (1) applies to any service offence except an offence under section 42.
- (3) A person who by virtue of subsection (1) commits an offence is liable to be charged, tried (including dealt with at a summary hearing) and punished as a principal offender.
- (4) Where a civilian subject to service discipline aids, abets, counsels or procures the commission by another person of an offence mentioned in section 39(4), he commits that offence and is liable to be charged, tried and punished as a principal offender.

#### Commencement Information

**I81** S. 41 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](#))

**I82** S. 41 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### *Criminal conduct*

## 42 Criminal conduct

- (1) A person subject to service law, or a civilian subject to service discipline, commits an offence under this section if he does any act that—
  - (a) is punishable by the law of England and Wales; or
  - (b) if done in England or Wales, would be so punishable.
- (2) A person may be charged with an offence under this section even if he could on the same facts be charged with a different service offence.
- (3) A person guilty of an offence under this section is liable to—
  - (a) if the corresponding offence under the law of England and Wales is under that law an offence punishable with imprisonment, any punishment mentioned in the Table in section 164;
  - (b) otherwise, any punishment mentioned in rows 5 to 12 of that Table.

*Status: Point in time view as at 30/06/2021.*

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- (4) Any sentence of imprisonment or fine imposed in respect of an offence under this section must not exceed—
- (a) if the corresponding offence under the law of England and Wales is a summary offence, the maximum term of imprisonment or fine that could be imposed by a magistrates' court on summary conviction;
  - (b) if that corresponding offence is an indictable offence, the maximum sentence of imprisonment or fine that could be imposed by the Crown Court on conviction on indictment.
- (5) In subsection (4) “a summary offence” and “an indictable offence” mean, respectively, a summary offence under the law of England and Wales and an indictable offence under that law.
- (6) In this section and sections 45 to 49 “act” includes an omission and references to the doing of an act are to be read accordingly.
- (7) In subsections (1) and (8) and sections 45 to 49 “punishable” means punishable with a criminal penalty.
- (8) In this Act “the corresponding offence under the law of England and Wales”, in relation to an offence under this section, means—
- (a) the act constituting the offence under this section; or
  - (b) if that act is not punishable by the law of England and Wales, the equivalent act done in England or Wales.

#### Commencement Information

- 183** S. 42 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](#))
- 184** S. 42 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

### 43 Attempting criminal conduct

- (1) Subsection (2) applies for the purpose of determining whether an attempt is an offence under section 42.
- (2) For that purpose section 1(4) of the Criminal Attempts Act 1981 (c. 47) (offences that it is an offence to attempt) has effect as if for the words from “offence which” to “other than” there were substituted “offence under section 42 of the Armed Forces Act 2006 consisting of an act punishable by the law of England and Wales as an indictable offence or an act that, if done in England or Wales, would be so punishable by that law; but “indictable offence” here does not include ”.
- (3) Section 42(6) applies for the purposes of section 1(4) of the Criminal Attempts Act 1981 as modified by this section.

#### Commencement Information

- 185** S. 43 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](#))
- 186** S. 43 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

*Status: Point in time view as at 30/06/2021.*

*Changes to legislation: Armed Forces Act 2006, Part 1 is up to date with all changes known to be in force on or before 25 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)*

#### 44 Trial of section 42 offence of attempt

- (1) Where, in proceedings for a section 42 offence of attempt, there is evidence sufficient in law to support a finding that the defendant did an act falling within subsection (1) of section 1 of the Criminal Attempts Act 1981, the question whether his act fell within that subsection is a question of fact.
- (2) In this section “a section 42 offence of attempt” means an offence under section 42 consisting of an act that is, or that would be if done in England or Wales, an offence under section 1(1) of the Criminal Attempts Act 1981 (c. 47).
- (3) References in subsections (1) and (2) to section 1(1) of the Criminal Attempts Act 1981 are to that provision as it has effect by virtue of section 43 above.

##### Commencement Information

- I87** S. 44 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](#))
- I88** S. 44 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

#### 45 Conspiring to commit criminal conduct

- (1) For the purpose of determining whether an agreement that a course of conduct be pursued is an offence under section 42—
  - (a) sections 1(1) and 2 of the Criminal Law Act 1977 (c. 45) (conspiracy) have effect as if any reference to an offence included a reference to an act that, if done in England or Wales, would be punishable by the law of England and Wales; and
  - (b) section 1(2) of that Act has effect as if it read—
    - “(2) Where liability for any offence may be incurred without knowledge on the part of the person committing it of any particular fact or circumstance necessary for the commission of it, a person is nevertheless not guilty by virtue of subsection (1) above of conspiracy to commit—
      - (a) that offence, or
      - (b) an act that would amount to that offence if done in England or Wales,unless he and at least one other party to the agreement intend or know that that fact or circumstance shall or will exist at the time when the conduct constituting the offence, or the act, is to take place.”
- (2) Section 42(6) applies for the purposes of section 1(2) of the Criminal Law Act 1977 as substituted by this section.

##### Commencement Information

- I89** S. 45 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](#))
- I90** S. 45 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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## [<sup>F6</sup>46 Encouraging or assisting criminal conduct

- (1) Subsection (2) applies if a person subject to service law, or a civilian subject to service discipline, encourages or assists the doing of an act (or one or more of a number of acts) that, if done in England or Wales, would be punishable by the law of England and Wales.
- (2) Regardless of where that act (or those acts) might be done and of his state of mind with respect to that question, his encouragement or assistance shall be treated for the purposes of section 42(1) as an act that is punishable by the law of England and Wales (so far as it is not such an act in any event).
- (3) Reference in this section to encouraging or assisting is to an act that would constitute an offence under Part 2 of the Serious Crime Act 2007 disregarding any provision in that Part about the place where the act (or acts) being encouraged or assisted might be done or the accused's state of mind with respect to that question.]

### Textual Amendments

- F6** S. 46 substituted (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 5 para. 11](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), art. 2(a)

### Commencement Information

- I91** S. 46 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](#))
- I92** S. 46 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## 47 Aiding, abetting, counselling or procuring criminal conduct

- (1) Subsection (2) applies if—
  - (a) any person (“A”) does an act that is punishable by the law of England and Wales or would be so punishable if done in England or Wales; and
  - (b) a person subject to service law, or a civilian subject to service discipline, aids, abets, counsels or procures A's doing of that act.
- (2) Regardless of where the act aided, abetted, counselled or procured was done, the aiding, abetting, counselling or procuring shall be treated for the purposes of section 42(1) as an act that is punishable by the law of England and Wales.
- (3) For the purpose of determining whether an attempt is an act that falls within subsection (1)(a) above, section 1(4) of the Criminal Attempts Act 1981 (c. 47) has effect with the modification made by section 43.

### Commencement Information

- I93** S. 47 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](#))
- I94** S. 47 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

## 48 Provision supplementary to sections 43 to 47

- (1) This section applies where—

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- (a) an attempt, agreement or [<sup>F7</sup>encouragement or assistance], or a person's aiding, abetting, counselling or procuring, is an offence under section 42 by reason of section 43, 45, 46 or 47; and
  - (b) the act to which it relates (“the contemplated act”) is not an act that is (or that if done would have been) punishable by the law of England and Wales.
- (2) For the following purposes it shall be assumed that the contemplated act amounted to the offence under the law of England and Wales that it would have amounted to if it had been the equivalent act in England or Wales.
- (3) Those purposes are—
- (a) the purpose of determining what punishment may be imposed for the offence under section 42;
  - (b) the purpose of determining for the purposes of any of the following provisions of this Act whether the act constituting the offence under section 42, or the equivalent act done in England or Wales, is or would be—
    - (i) an offence under the law of England and Wales;
    - (ii) any particular such offence;
    - (iii) such an offence of any particular description.

#### Textual Amendments

- F7** Words in s. 48(1)(a) substituted (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 5 para. 12](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), art. 2(a)

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

- C7** S. 48 applied (with modifications) by 2003 c. 44, Sch. 15A para. 52(2) (as inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 13(2), 153(7), [Sch. 5](#); [S.I. 2008/1586](#), art. 2(1), [Sch. 1 para. 4](#) (with [Sch. 2 para. 2](#)))
- C8** S. 48 applied (with modifications) by 2003 c. 44, s. 233(2) (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. 218](#) (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)
- C9** S. 48 applied (with modifications) by 2000 c. 6, s. 114(3) (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. 166](#) (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)
- C10** S. 48 applied (with modifications) by 2000 c. 43, s. 27(3) (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. 179\(3\)](#) (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)
- C11** S. 48 applied (with modifications) by 1992 c. 34, s. 6(1A) (as inserted (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. 127\(3\)](#) (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)
- C12** S. 48 applied (with modifications) by 2003 c. 42, Sch. 5 para. 172A(2) (as inserted (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. 213](#) (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)
- C13** S. 48 applied (with modifications) by 2003 c. 42, Sch. 3 para. 93A(3) (as inserted (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.

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- 383(2), **Sch. 16 para. 212(3)** (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)
- C14** S. 48 applied (with modifications) by 1982 c. 48, s. 32(2A) (as inserted (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. 94(4)** (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)
- C15** S. 48 applied (3.8.2009) by **Criminal Justice and Immigration Act 2008 (c. 4)**, **ss. 98(5)**, 153(7) (with **Sch. 27 para. 32**); S.I. 2009/1842, art. 2(a)
- C16** S. 48 applied (with modifications) by 1991 c. 53, s. 33(1D) (as inserted (31.10.2009) by **Criminal Justice and Immigration Act 2008 (c. 4)**, **ss. 26(2)**, 153(7) (with **Sch. 27 paras. 89**); S.I. 2009/2606, art. 3(b))
- C17** S. 48 applied (with modifications) by 2003 c. 44, s. 255A(10) (as inserted (31.10.2009) by **Criminal Justice and Immigration Act 2008 (c. 4)**, **ss. 29(2)**, 153(7) (with **Sch. 27 para. 11**); S.I. 2009/2606, art. 3(c))
- C18** S. 48 applied (with modifications) (E.W.) (1.12.2020) by **Sentencing Act 2020 (c. 17)**, s. 416(1), **Sch. 15 para. 19(2)** (with **Sch. 27**); S.I. 2020/1236, reg. 2
- C19** S. 48 applied (with modifications) (E.W.) (1.12.2020) by **Sentencing Act 2020 (c. 17)**, s. 416(1), **Sch. 14 para. 17(2)** (with **Sch. 27**); S.I. 2020/1236, reg. 2
- C20** S. 48 applied (30.6.2021) by **Overseas Operations (Service Personnel and Veterans) Act 2021 (c. 23)**, s. 14(2), **Sch. 1 para. 16(2)**; S.I. 2021/678, reg. 2

#### Commencement Information

- I95** S. 48 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)
- I96** S. 48 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, **art. 4**

## 49 Air Navigation Order offences

- (1) If a person subject to service law, or a civilian subject to service discipline, does in or in relation to a military aircraft any act that if done in or in relation to a civil aircraft would amount to a prescribed Air Navigation Order offence, the act shall be treated for the purposes of section 42(1) as punishable by the law of England and Wales.
- (2) Where an act is an offence under section 42 by reason of subsection (1) above—
- section 42(8)(b) does not apply; and
  - it shall be assumed for the following purposes that the act amounted to the offence under the law of England and Wales that it would have amounted to if it had been done in or in relation to a civil aircraft.
- (3) Those purposes are—
- the purpose of determining what punishment may be imposed for the offence under section 42;
  - the purpose of determining for the purposes of any of the following provisions of this Act whether the act constituting the offence under section 42 is—
    - an offence under the law of England and Wales;
    - any particular such offence;
    - such an offence of any particular description.
- (4) In this section—
- “military aircraft” has the meaning given by section 92 of the Civil Aviation Act 1982 (c. 16);

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“civil aircraft” means an aircraft that is registered in the United Kingdom and is not a military aircraft;

“Air Navigation Order offence” means an offence under an Order in Council made under section 60 of the Civil Aviation Act 1982 (whenever made, and whether or not also made under any other enactment);

“prescribed” means prescribed by an order made by the Secretary of State for the purposes of this section.

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**Commencement Information**

- 197** S. 49 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](#))
- 198** S. 49 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

**Status:**

Point in time view as at 30/06/2021.

**Changes to legislation:**

Armed Forces Act 2006, Part 1 is up to date with all changes known to be in force on or before 25 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.