

## SCHEDULES

### SCHEDULE 1

Section 2

#### CONSTITUTION OF THE COURT MARTIAL

##### *Number and rank of the lay members*

- 1 (1) Section 155 of AFA 2006 (constitution of the Court Martial) is amended as follows.
  - (2) In subsection (1)(b), for “at least three but not more than five” substitute “three or, in the case of proceedings of a prescribed description, six”.
  - (3) In subsection (2), omit paragraph (a) (together with the final “or”).
  - (4) After subsection (2) insert—
    - “(2A) In the case of proceedings where the number of lay members would (but for this subsection) be three, a judge advocate may, in accordance with Court Martial rules, direct that the number of lay members is to be four.”
  - (5) In subsection (3)(a), for “or warrant officers” substitute “, warrant officers or OR-7 ranks”.
  - (6) After subsection (6) insert—
    - “(6A) Court Martial rules may provide that in prescribed circumstances the Court Martial is to remain validly constituted despite the reduction of the number of lay members—
      - (a) from six to five, or
      - (b) where a direction has been made under subsection (2A), from four to three,if a judge advocate gives a direction to that effect.”
  - (7) Omit subsections (7) and (8).
  - (8) For subsection (9) substitute—
    - “(9) In this section—
      - “OR-7 rank” means any of the following—
        - (a) chief petty officer;
        - (b) staff corporal;
        - (c) staff sergeant;
        - (d) colour sergeant, Royal Marines;
        - (e) flight sergeant;
        - (f) chief technician;
      - “prescribed” means prescribed by Court Martial rules.”
- 2 (1) Section 156 of AFA 2006 (officers and warrant officers qualified for membership of the Court Martial) is amended as follows.

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*Status: This is the original version (as it was originally enacted).*

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- (2) In the heading, for “and warrant officers” substitute “etc”.
  - (3) In subsection (1), for “or warrant officer” substitute “, warrant officer or OR-7 rank”.
  - (4) After subsection (3) insert—
    - “(3A) An OR-7 rank is not qualified for membership of the court if that person is an acting—
      - (a) chief petty officer,
      - (b) staff corporal,
      - (c) staff sergeant,
      - (d) colour sergeant, Royal Marines,
      - (e) flight sergeant, or
      - (f) chief technician.”
  - (5) In subsection (4), in the words before paragraph (a), for “or warrant officer” substitute “, warrant officer or OR-7 rank”.
  - (6) At the end insert—
    - “(6) In this section “OR-7 rank” has the meaning given by section 155(9).”
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- (1) Section 157 of AFA 2006 (officers and warrant officers ineligible for membership in particular circumstances) is amended as follows.
    - (2) In the heading, for “and warrant officers” substitute “etc”.
    - (3) In subsection (2), after “warrant officer” insert “or OR-7 rank”.
    - (4) In subsection (4), for “or warrant officer” substitute “, warrant officer or OR-7 rank”.
    - (5) At the end insert—
      - “(5) In this section “OR-7 rank” has the meaning given by section 155(9).”

#### *Findings and sentence*

- 4 (1) Section 160 of AFA 2006 (decisions of Court Martial: finding and sentence) is amended as follows.
  - (2) Before subsection (1) insert—
    - “(A1) The finding of the Court Martial on a charge must be determined by votes of the members of the Court Martial other than the judge advocate (the “lay members”) and—
      - (a) where there are three lay members, must be a finding with which no fewer than two of them agree;
      - (b) where there are four lay members, must be a finding with which no fewer than three of them agree;
      - (c) where there are five lay members, must be a finding with which no fewer than four of them agree;
      - (d) where there are six lay members, must be a finding with which no fewer than five of them agree.”
  - (3) In subsection (1), for the words from “the following” to “passed by it,” substitute “subsection (4), any sentence passed by the Court Martial”.

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*Status: This is the original version (as it was originally enacted).*

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(4) Omit subsections (2) and (3).