



Armed Forces Act 2006

2006 CHAPTER 52

PART 2

JURISDICTION AND TIME LIMITS

CHAPTER 1

JURISDICTION

Court Martial

50 Jurisdiction of the Court Martial

- (1) The Court Martial has jurisdiction to try any service offence.
- (2) In this Act “service offence” means—
 - (a) any offence under Part 1;
 - (b) an offence under section 107 (breach of requirement imposed on release from custody);
 - (c) an offence under section 229 (breach of service restraining order);
 - (d) an offence under section 266 (failure to comply with financial statement order);
 - (e) any offence under Chapter 1 of Part 13 (testing for alcohol and drugs);
 - (f) any offence under regulations under section 328 (false answer during enlistment in a regular force) or section 343 (service inquiries) that the regulations provide is a service offence;
 - (g) an offence under section 18 or 20 of the Armed Forces Act 1991 (c. 62) (orders for the protection of children);
 - (h) an offence under any of sections 95 to 97 of the Reserve Forces Act 1996 (c. 14) (reserve forces offences); or

Status: Point in time view as at 02/07/2012.

Changes to legislation: Armed Forces Act 2006, Chapter 1 is up to date with all changes known to be in force on or before 16 July 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)

- (i) an offence under paragraph 5(1) of Schedule 1 to that Act (false answer during enlistment in a reserve force) committed by a person within paragraph 5(3) of that Schedule.

Commencement Information

- I1** S. 50 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. 50 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

Service Civilian Court

51 Jurisdiction of the Service Civilian Court

- (1) The Service Civilian Court has jurisdiction to try any service offence committed outside the British Islands by a civilian, except an offence within subsection (3) or an offence in relation to which subsection (6) applies.
- (2) For the purposes of subsection (1) an offence is committed by a civilian if it is committed by a person who, at the time when it is committed, is a civilian subject to service discipline.
- (3) The offences within this subsection are—
- (a) an indictable-only offence under section 42;
 - (b) an offence under section 266 committed in respect of a financial statement order made by a court other than the Service Civilian Court;
 - (c) any service offence under regulations under section 328 or 343;
 - (d) an offence within section 50(2)(h) or (i) (Reserve Forces Act offences).
- (4) For the purposes of subsection (3)(a) an offence under section 42 is “indictable-only” if the corresponding offence under the law of England and Wales is under that law an offence which, if committed by an adult, is triable only on indictment; but this is subject to subsection (5).
- (5) Where the defendant is aged under 18 at the time a decision under section 279 is made, an offence under section 42 is “indictable-only” for the purposes of subsection (3)(a) above if (and only if)—
- (a) the corresponding offence under the law of England and Wales is murder, manslaughter or an offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 (c. 28) [^{F1}of causing or allowing the death of a child or vulnerable adult]; or
 - (b) section 227 (firearms offences) would apply if the accused were convicted by the Court Martial of the offence under section 42.
- (6) This subsection applies in relation to an offence if the defendant is for the time being—
- (a) a member of the regular or reserve forces; or
 - (b) liable to recall.
- (7) For the purposes of subsection (6) a person is “liable to recall” if—
- (a) under section 65(1) of the Reserve Forces Act 1996 (c. 14) he is liable to be recalled for service; or

Status: Point in time view as at 02/07/2012.

Changes to legislation: Armed Forces Act 2006, Chapter 1 is up to date with all changes known to be in force on or before 16 July 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)

- (b) he is liable to be recalled as mentioned in section 35(1) of the Reserve Forces Act 1980 (c. 9).

Textual Amendments

- F1** Words in s. 51(5)(a) substituted (2.7.2012) by [Domestic Violence, Crime and Victims \(Amendment\) Act 2012 \(c. 4\)](#), s. 4(2), [Sch. para. 11](#); S.I. 2012/1432, art. 2

Commencement Information

- I3** S. 51 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. 51 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

Commanding officers

52 Charges capable of being heard summarily

- (1) A charge against a person (“the accused”) in respect of an offence is capable of being heard summarily if (and only if) conditions A to C are met.
- (2) Condition A is that the offence is one that may be dealt with at a summary hearing (see section 53).
- (3) Condition B is that the accused is—
- an officer of or below the rank of commander, lieutenant-colonel or wing commander; or
 - a person of or below the rank or rate of warrant officer.
- (4) Condition C is (subject to subsections (5) and (6)) that the accused is—
- subject to service law,
 - a member of a volunteer reserve force, or
 - a member of an ex-regular reserve force who is subject to an additional duties commitment,
- from the time the offence is committed to the end of the summary hearing of the charge.
- (5) If the offence is one under section 96(1) of the Reserve Forces Act 1996 (c. 14) committed by virtue of section 96(2) of that Act, condition C is that the accused is—
- liable to recall, or
 - a member of the regular forces,
- from the time the offence is committed to the end of the summary hearing of the charge.
- (6) If the offence is any other Reserve Forces Act offence, condition C is that the accused is a member of a reserve force from the time the offence is committed to the end of the summary hearing of the charge.
- (7) For the purposes of this section—
- a person is “liable to recall” if—
 - under section 65(1) of the Reserve Forces Act 1996 he is liable to be recalled for service; or
 - he is liable to be recalled as mentioned in section 35(1) of the Reserve Forces Act 1980 (c. 9);

Status: Point in time view as at 02/07/2012.

Changes to legislation: Armed Forces Act 2006, Chapter 1 is up to date with all changes known to be in force on or before 16 July 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)

(b) “Reserve Forces Act offence” means an offence within section 53(1)(k).

(8) Where at any time it falls to a person to determine for the purposes of any provision of this Act whether a charge is or would be capable of being heard summarily, the references in subsections (4) to (6) to the end of the summary hearing of the charge are to be read as references to that time.

Modifications etc. (not altering text)

C1 S. 52 modified (31.10.2009) by [The Armed Forces \(Naval Chaplains\) Regulations 2009 \(S.I. 2009/826\)](#), regs. 1, 6 (with reg. 2(c))

Commencement Information

I5 S. 52 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. 52 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

53 Offences that may be dealt with at a summary hearing

- (1) The following service offences may be dealt with at a summary hearing—
- (a) an offence under section 4(3);
 - (b) an offence under any of sections 9 to 15;
 - (c) an offence under section 16(1)(a), or an offence under section 16(1)(c) committed by omission;
 - (d) an offence under any of sections 17 to 29;
 - (e) an offence under section 30(1) of negligently doing an act that results in a person's escape, or an offence under section 30(2);
 - (f) an offence under any of sections 34 to 36;
 - (g) an offence under section 42 (criminal conduct) within subsection (3);
 - (h) an offence under section 107;
 - (i) an offence under Chapter 1 of Part 13;
 - (j) any service offence under regulations under section 328 or 343;
 - (k) an offence under section 96 or 97 of the Reserve Forces Act 1996 of absence without leave.
- (2) Any reference in a paragraph of subsection (1), except paragraph (g), to an offence includes an offence under section 39 of attempting to commit that offence.
- (3) An offence under section 42 is within this subsection if the corresponding offence under the law of England and Wales is—
- (a) an offence listed in either Part of Schedule 1 (criminal conduct offences that may be dealt with at a summary hearing); or
 - (b) an offence under section 1 of the Criminal Attempts Act 1981 (c. 47) of attempting to commit an (indictable) offence so listed.
- (4) The Secretary of State may by order amend Schedule 1.

Status: Point in time view as at 02/07/2012.

Changes to legislation: Armed Forces Act 2006, Chapter 1 is up to date with all changes known to be in force on or before 16 July 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)

Commencement Information

- I7** S. 53 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. 53 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

54 Charges which may be heard summarily only with permission or by senior officer

- (1) An officer may not hear summarily a charge in respect of an offence within subsection (2) unless—
- (a) he has obtained the permission of higher authority; or
 - (b) he is of or above the rank of rear admiral, major-general or air vice-marshal.
- (2) An offence is within this subsection if it is an offence under section 42 as respects which the corresponding offence under the law of England and Wales is—
- (a) an offence listed in Part 2 of Schedule 1; or
 - (b) an offence under section 1 of the Criminal Attempts Act 1981 of attempting to commit an (indictable) offence so listed.

Commencement Information

- I9** S. 54 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. 54 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 02/07/2012.

Changes to legislation:

Armed Forces Act 2006, Chapter 1 is up to date with all changes known to be in force on or before 16 July 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.