



# Armed Forces Act 2006

## 2006 CHAPTER 52

### PART 7

#### TRIAL BY COURT MARTIAL

#### CHAPTER 1

#### THE COURT MARTIAL

#### 154 The Court Martial

- (1) There shall be a court, to be known as the Court Martial.
- (2) The Court Martial may sit in any place, whether within or outside the United Kingdom.

#### Commencement Information

- II [S. 154](#) 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](#))

#### 155 Constitution of the Court Martial

- (1) In the case of any proceedings, the Court Martial is to consist of—
  - (a) a judge advocate; and
  - (b) at least three but not more than five other persons (“lay members”).
- (2) But Court Martial rules may provide that, in the case of proceedings of a prescribed description, there are to be—
  - (a) at least five but not more than seven lay members; or
  - (b) no lay members.

*Status: Point in time view as at 28/03/2009.*

*Changes to legislation: Armed Forces Act 2006, Chapter 1 is up to date with all changes known to be in force on or before 28 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)*

- (3) In the case of proceedings where the Court Martial consists of a judge advocate and lay members—
  - (a) a prescribed number of the lay members must be officers or warrant officers qualified for membership under section 156 and not ineligible by virtue of section 157; and
  - (b) the rest must be officers so qualified and not so ineligible.
- (4) Subsection (3) is subject to any provision made by Court Martial rules.
- (5) The judge advocate for any proceedings is to be specified by or on behalf of the Judge Advocate General.
- (6) The lay members for any proceedings are to be specified by or on behalf of the court administration officer.
- (7) The number of lay members specified under subsection (6) is to be the minimum required unless a judge advocate, in accordance with Court Martial rules, directs otherwise.
- (8) In subsection (7) “the minimum required” means—
  - (a) the minimum required by subsection (1)(b); or
  - (b) where rules made by virtue of subsection (2)(a) apply instead of subsection (1)(b), the minimum required by those rules.
- (9) In this section “prescribed” means prescribed by Court Martial rules.

#### Commencement Information

**I2** S. 155 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)

### 156 Officers and warrant officers qualified for membership of the Court Martial

- (1) Subject to subsections (2) to (4), an officer or warrant officer is qualified for membership of the Court Martial if he is subject to service law.
- (2) An officer is not qualified for membership of the court unless—
  - (a) he has held a commission in any of Her Majesty's forces for at least three years, or for periods amounting in the aggregate to at least three years; or
  - (b) immediately before receiving his commission, he was a warrant officer in any of those forces.
- (3) A warrant officer is not qualified for membership of the court if he is an acting warrant officer.
- (4) An officer or warrant officer is not qualified for membership of the court if—
  - (a) he is a member of the Military Court Service;
  - (b) he is a member of or on the staff of the Service Prosecuting Authority;
  - (c) he is a service policeman;
  - (d) he is a member of the Royal Army Chaplains' Department or the Royal Air Force Chaplains' Branch;

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- (e) he has a general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990 (c. 41);
  - (f) he is an advocate or solicitor in Scotland;
  - (g) he is a member of the Bar of Northern Ireland or a solicitor of the Court of Judicature of Northern Ireland; or
  - (h) he has in a relevant territory rights and duties similar to those of a barrister or solicitor in England and Wales, and is subject to punishment or disability for breach of professional rules.
- (5) In this section “relevant territory” means—
- (a) any of the Channel Islands;
  - (b) the Isle of Man;
  - (c) a Commonwealth country; or
  - (d) a British overseas territory.

#### Commencement Information

- I3** S. 156 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)

### 157 Officers and warrant officers ineligible for membership in particular circumstances

- (1) An officer is ineligible for membership of the Court Martial for proceedings after the arraignment of a defendant if—
- (a) he was the commanding officer of the defendant at any time in the period beginning with the date of commission of the offence to which the arraignment relates and ending with the arraignment;
  - (b) he has taken part in investigating the subject matter of any charge against the defendant; or
  - (c) he has conducted (whether alone or with other persons) an inquiry into the subject matter of any charge against the defendant.
- (2) A warrant officer is ineligible for membership of the Court Martial for proceedings after the arraignment of a defendant if he falls within subsection (1)(b) or (c).
- (3) Where a defendant is arraigned in respect of more than one offence, the reference in subsection (1)(a) to the date of commission of the offence there mentioned is to the date of commission of the earliest such offence.
- (4) Court Martial rules may provide that an officer or warrant officer of a description prescribed by the rules is ineligible for membership of the Court Martial for a description of proceedings so prescribed.

#### Commencement Information

- I4** S. 157 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)

**Status:**

Point in time view as at 28/03/2009.

**Changes to legislation:**

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