

Status: Point in time view as at 30/06/2018.

Changes to legislation: Armed Forces Act 2006, SCHEDULE 3 is up to date with all changes known to be in force on or before 26 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)

SCHEDULES

SCHEDULE 3

Section 164

CIVILIANS ETC: MODIFICATIONS OF COURT MARTIAL SENTENCING POWERS

PART 1

CIVILIAN OFFENDERS

- 1 (1) In relation to a civilian offender, section 164 (punishments available to Court Martial) has effect as if subsections (4), (6) and (7) were omitted and as if for the Table there were substituted—

“TABLE

<i>Row Number</i>	<i>Punishment</i>	<i>Limitation</i>
1	imprisonment	
2	a fine	
3	a service community order (defined by section 178)	only if subsection (5) permits
4	an overseas community order (defined by section 182)	only if it appears to the court that the offender will reside outside the United Kingdom when the order is in force
5	a conditional discharge (defined by section 185)	
6	an absolute discharge (defined by section 185)	
7	a service compensation order (defined by section 175)	”

- (2) A person is a “civilian offender” for the purposes of this Part of this Schedule if he has committed a service offence and—

- he was a civilian when he committed the offence;
- he is a civilian when sentenced for the offence; and
- he remained a civilian throughout the period between committing the offence and being sentenced.

- (3) In sub-paragraph (2) “a civilian” means a person who is—

- not a member of the regular forces;
- not a member of the reserve forces; and
- not liable to recall.

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

Commencement Information

- I1** Sch. 3 para. 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** Sch. 3 para. 1 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 2 For the purposes of determining the Court Martial's powers when sentencing a civilian offender for an offence under section 42, section 42(3) (maximum penalties) has effect as if the reference to rows 5 to 12 were to rows 2 to 7.

Commencement Information

- I3** Sch. 3 para. 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** Sch. 3 para. 2 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

PART 2

EX-SERVICEMEN ETC

- 3 (1) In relation to an offender to whom this Part of this Schedule applies, section 164 (punishments available to Court Martial) has effect as if subsections (6) and (7) were omitted and as if for the Table there were substituted—

“TABLE

<i>Row Number</i>	<i>Punishment</i>	<i>Limitation</i>
1	imprisonment	
2	dismissal with disgrace from Her Majesty's service	only if the person being sentenced is an officer or a member of the reserve forces
3	dismissal from Her Majesty's service	only if the person being sentenced is an officer or a member of the reserve forces
4	detention for a term not exceeding two years	not if the person being sentenced is an officer, or was an officer when last a member of Her Majesty's forces
5	reduction in rank, or disrating	only if the person being sentenced is a warrant

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		officer or non-commissioned officer, and not to an extent prohibited by regulations under subsection (4)
6	a fine	
7	a service community order (defined by section 178)	only if subsection (5) permits
8	a severe reprimand or a reprimand	only if the person being sentenced is, or was at the time of the offence, an officer, warrant officer or non-commissioned officer
9	an absolute discharge (defined by section 185)	
10	a service compensation order (defined by section 175)	”

(2) A person is an offender to whom this Part of this Schedule applies if when sentenced he is—

- (a) not subject to service law;
- (b) not a member of a volunteer reserve force;
- (c) not a member of an ex-regular reserve force who is subject to an additional duties commitment; and
- (d) not a civilian offender for the purposes of Part 1 of this Schedule.

Commencement Information

- I5** Sch. 3 para. 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](#))
- I6** Sch. 3 para. 3 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 4 For the purposes of determining the Court Martial's powers when sentencing an offender to whom this Part of this Schedule applies—
- (a) section 25(2) (penalty for misapplying public property etc) has effect as if the reference to rows 2 to 12 were to rows 2 to 10;
 - (b) section 35(3) (penalty for annoyance by flying) has effect as if the reference to rows 3 to 12 were to rows 3 to 10;
 - (c) section 42(3) (penalties for criminal conduct offences) has effect as if the reference to rows 5 to 12 were to rows 5 to 10;
 - (d) any provision of regulations under section 328 (enlistment) which provides that an offence is punishable by any punishment mentioned in rows 2 to 12 of the Table in section 164 has effect as if the reference to rows 2 to 12 were to rows 2 to 10;
 - (e) any provision of regulations under section 343 (service inquiries) which provides that an offence is punishable by any punishment mentioned in rows 7 to 12 of the Table in section 164 has effect as if the reference to rows 7 to 12 were to rows 6 to 10.

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Commencement Information

- I7** Sch. 3 para. 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](#))
- I8** Sch. 3 para. 4 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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