



# Armed Forces Act 1976

## 1976 CHAPTER 52

### PART II

#### TRIAL AND PUNISHMENT OF OFFENCES

##### *Civilians*

#### **6 Establishment of Standing Civilian Courts.**

- (1) Courts may be established for the trial outside the United Kingdom of persons (in this section and section 7 below referred to as “civilians” ) to whom Part II of the <sup>M1</sup>Army Act 1955 or Part II of the <sup>M2</sup>Air Force Act 1955 is applied by section 209 of either Act (including persons to whom Part II of either Act applies by virtue of section 131 (persons treated as continuing to be subject to Part II for purposes of trial and punishment of offences)).
- (2) Courts established under this section shall be known as Standing Civilian Courts.
- (3) The Secretary of State, with the approval of the Lord Chancellor, may by order direct that any area specified in the order shall be an area for which trials may be directed to be held before Standing Civilian Courts for offences committed in that area or elsewhere.
- (4) The Lord Chancellor shall appoint such number of the assistants to the Judge Advocate General appointed under section 30 of the <sup>M3</sup>Courts-Martial (Appeals) Act 1951 as he considers necessary to sit as magistrates in Standing Civilian Courts.
- (5) Subject to subsections (12) and (13) below, a trial held by virtue of this section shall be before such a magistrate.
- (6) The Secretary of State may direct such authority as appears to him to be appropriate in relation to an area for which trials may be directed to be held before Standing Civilian Courts to draw up and from time to time add to a panel of persons whom the authority considers suitable to act as assessors in trials before such courts under subsection (12) below.

*Status: Point in time view as at 01/10/1996.*

*Changes to legislation: There are currently no known outstanding effects for the  
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- (7) If the Secretary of State is satisfied, after consultation with the Lord Chancellor, that there are in any area for which trials may be directed to be held before Standing Civilian Courts sufficient persons suitably qualified by training and experience to sit as members of Standing Civilian Courts, he may by order direct that subsection (13) below shall have effect in relation to trials before Standing Civilian Courts for that area.
- (8) If an order is made under subsection (7) above, the Secretary of State, with the approval of the Lord Chancellor, shall draw up and from time to time add to a panel of persons qualified as mentioned in that subsection to sit as members of Standing Civilian Courts for the area specified in the order.
- (9) Each member of a panel under subsection (6) or (8) above shall be—
- (a) a civilian, or
  - (b) an officer of the Royal Navy, the regular forces or the regular air force (as defined respectively in the <sup>M4</sup>Army Act 1955 and the <sup>M5</sup>Air Force Act 1955), [<sup>F1</sup>or Queen Alexandra's Royal Naval Nursing Service].
- (10) A person shall cease to be a member of such a panel if he ceases—
- (a) to be a person such as is mentioned in subsection (9) above, or
  - (b) to reside in the area for which the panel is drawn up.
- (11) The Secretary of State may, if he thinks fit, remove a member of a panel under subsection (6) or (8) above from that panel on the ground of incapacity or misbehaviour, but shall not exercise the power conferred by this subsection in relation to a member of a panel under subsection (8) above without the approval of the Lord Chancellor.
- (12) For a trial where the person, or every person to be tried was under 17 years of age at the date of the alleged commission of the offence for which he is to be tried, and in relation to which subsection (13) below does not have effect, not more than two members of the appropriate panel under subsection (6) above may sit with the magistrate as assessors.
- (13) If this subsection applies, the court for such a trial shall consist of a magistrate and not more than two members of the appropriate panel under subsection (8) above.
- (14) The magistrate for any sitting or succession of sittings of a Standing Civilian Court shall be specified by or on behalf of the Judge Advocate General.
- (15) The persons to sit as assessors or members of the court under subsection (12) or (13) above shall be specified for a trial or succession of trials by the authority who directs the trial or trials to be held.
- (16) Any power to make an order under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (17) Schedule 3 to this Act shall have effect.

#### **Subordinate Legislation Made**

**P1** S. 6: power previously exercised by S.I. 1977/88, 1977/89

**P2** S. 6(3): s. 6(3) (with s. 22(4)) power exercised by S.I. 1991/2788

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#### Textual Amendments

**F1** Words in s. 6(9)(b) substituted (1.10.1996) by 1996 c. 46, s. 35(1), **Sch. 6 para. 11**; S.I. 1996/2474, **art. 2**,

#### Marginal Citations

**M1** 1955 c. 18.  
**M2** 1955 c. 19.  
**M3** 1951 c. 46.  
**M4** 1955 c. 18.  
**M5** 1955 c. 19.

## 7 Jurisdiction of Standing Civilian Courts.

- (1) The offences for which a civilian may be tried by a Standing Civilian Court are offences committed outside the United Kingdom for which a court-martial may try a civilian, other than—
  - (a) any offence under section 57 of the <sup>M6</sup>Army Act 1955 or the <sup>M7</sup>Air Force Act 1955 (offences in relation to courts), and
  - (b) any offence under section 70 of either of those Acts constituted by the commission of an offence which, if the person charged were alleged to have committed it in England or Wales, a magistrates' court would be unable to try.
- (2) No person may be tried by a Standing Civilian Court if he or any person jointly charged with him elects to be tried by court-martial in accordance with the provisions of this Act or of any order made under this Act.
- (3) ..... <sup>F2</sup>
- (4) No person shall be tried for an offence under section 70 of the <sup>M8</sup>Army Act 1955 or section 70 of the <sup>M9</sup>Air Force Act 1955 in any case where proceedings [<sup>F3</sup>on indictment] for the corresponding civil offence must be brought within a limited time, unless the trial is begun within that time.

#### Textual Amendments

**F2** S. 7(3) repealed by Armed Forces Act 1986 (c. 21, SIF 7:1), ss. 7(4)(6), 16(2), **Sch. 2**  
**F3** Words inserted by Armed Forces Act 1986 (c. 21, SIF 7:1), **s. 7(5)(6)**

#### Marginal Citations

**M6** 1955 c. 18.  
**M7** 1955 c. 19.  
**M8** 1955 c. 18.  
**M9** 1955 c. 19.

## 8 Powers of courts in relation to civilians. **E+W**

- (1) Subject to subsection (3) below [<sup>F4</sup>and to the restrictions imposed by section 71A] of the Army Act 1955 and section 71A of the Air Force Act 1955, the punishments which may be awarded by sentence of a Standing Civilian Court are—
  - (a) imprisonment for a term not exceeding six months; and
  - (b) a fine not exceeding [<sup>F5</sup>£5,000]

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- (2) Such a court may award consecutive terms of imprisonment, provided that their aggregate does not exceed 12 months.
- (3) Where a person is found guilty by a Standing Civilian Court of an offence under section 70 of the Army Act 1955 or of the Air Force Act 1955 (civil offences) the court may not award a term of imprisonment or impose a fine which a magistrates' court in England or Wales could not award or impose for the corresponding civil offence.
- (4) Without prejudice to any of the other powers of a court-martial under the Army Act 1955, the Air Force Act 1955 or the <sup>M10</sup>Naval Discipline Act 1957 or of a Standing Civilian Court under this section—
  - (a) on the trial of a person to whom the Schedule inserted in the Army Act 1955 and the Air Force Act 1955 by Schedule 4 below applies, a court-martial or Standing Civilian Court shall have the powers specified in the Schedule so inserted; and
  - (b) on the trial of a person to whom that Schedule as inserted in the Naval Discipline Act 1957 by Schedule 4 below applies, a court-martial shall have the powers specified in the Schedule as so inserted.

#### Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland and Northern Ireland only.

#### Textual Amendments

- F4** Words in s. 8(1) substituted (1.1.1992) by [Armed Forces Act 1991 \(c. 62, SIF 39:1\)](#), s. 26(1), [Sch. 2 para. 10](#); [S.I. 1991/2719](#), [art. 2](#)
- F5** Word in s. 8(1) substituted (E.W.) (*1.10.1992*) by virtue of [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 17(3), [Sch. 4 Part I](#) (with s. 28); [S.I. 1992/333](#), [art. 2\(2\)](#), [Sch.2](#)

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

- C1** Power to amend s. 8(1)(b) conferred by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), [s. 143\(1\)\(2\)\(k\)](#) as substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 48\(1\)\(b\)\(iii\)](#)

#### Marginal Citations

- M10** [1957 c. 53](#)

## 8 Powers of courts in relation to civilians. **S+N.I.**

- (1) Subject to subsection (3) below [<sup>F6</sup> and to the restrictions imposed by section 71A] of the Army Act 1955 and section 71A of the Air Force Act 1955, the punishments which may be awarded by sentence of a Standing Civilian Court are—
  - (a) imprisonment for a term not exceeding six months; and
  - (b) a fine not exceeding [<sup>F7</sup>£2,000]
- (2) Such a court may award consecutive terms of imprisonment, provided that their aggregate does not exceed 12 months.
- (3) Where a person is found guilty by a Standing Civilian Court of an offence under section 70 of the Army Act 1955 or of the Air Force Act 1955 (civil offences) the court may not award a term of imprisonment or impose a fine which a magistrates' court in England or Wales could not award or impose for the corresponding civil offence.

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- (4) Without prejudice to any of the other powers of a court-martial under the Army Act 1955, the Air Force Act 1955 or the <sup>M11</sup>Naval Discipline Act 1957 or of a Standing Civilian Court under this section—
- (a) on the trial of a person to whom the Schedule inserted in the Army Act 1955 and the Air Force Act 1955 by Schedule 4 below applies, a court-martial or Standing Civilian Court shall have the powers specified in the Schedule so inserted; and
- (b) on the trial of a person to whom that Schedule as inserted in the Naval Discipline Act 1957 by Schedule 4 below applies, a court-martial shall have the powers specified in the Schedule as so inserted.

#### Extent Information

- E2** This version of this provision extends to Scotland and Northern Ireland only; a separate version has been created for England and Wales only.

#### Textual Amendments

- F6** Words in s. 8(1) substituted (1.1.1992) by [Armed Forces Act 1991 \(c. 62, SIF 39:1\)](#), s. 26(1), [Sch. 2](#), para. 10; S.I. 1991/2719, [art. 2](#)
- F7** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 58, [Sch. 8 para. 12\(1\)\(2\)](#) and S.I. 1984/447, [art. 2\(1\)](#), [Sch. 1](#)

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

- C3** Power to amend s. 8(1)(b) conferred by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), s. 143(1)(2)(k) as substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 48(1)(b)(iii)

#### Marginal Citations

- M11** [1957 c. 53](#)

## 9 Constitution of courts-martial for civilians.

- (1) After paragraph (f) of section 209(3) of the Army Act 1955 and section 209(3) of the Air Force Act 1955 (modifications of Acts in relation to civilians) there shall be inserted the following paragraphs:—

- “(fa) a court-martial for the trial of any such person as is mentioned in subsection (1) or (2) above may include in place of the corresponding number of officers—
- (i) if it is a general court-martial constituted under section 87 above, not more than two persons who are in the service of the Crown and are persons such as are mentioned in subsection (1) or (2) above, and
- (ii) if it is a district constituted under section 88 above, not more than one person who is in the service of the Crown and is himself a person such as is mentioned in either of those subsections,

but a person who is a member of a court-martial by virtue of this paragraph shall not be appointed the president of the court-martial;

- (fb) the reference to an officer under instruction in section 93(1) above shall include a reference to a person under instruction who is qualified for membership of courts-martial under paragraph (fa) above;”

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(2) After section 118(3) of the Naval Discipline Act 1957 there shall be inserted the following subsection:—

“(3A) A court-martial for the trial of any such person may include in place of the corresponding number of officers not more than two persons who are in the service of the Crown and are persons to whom this Act applies by virtue of this section, but a person who is a member of a court-martial by virtue of this subsection shall not be appointed the president of the court-martial.”

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

**C2** The text of ss. 2, 5(1), 9–12, 15, 16, 18, 20, 22(5)(6), Schs. 1, 2, and 4–10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

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