



Armed Forces Act 2006

2006 CHAPTER 52

Third Group of PartsGeneral

PART 18

COMMANDING OFFICER AND OTHER PERSONS WITH FUNCTIONS UNDER ACT

Officers

360 Meaning of “commanding officer”

The officer who is the “commanding officer” of a person for the purposes of any provision made by or under this Act shall be determined by or under regulations made by the Defence Council.

361 Meaning of “higher authority”

In this Act “higher authority”, in relation to a commanding officer, means any officer in the commanding officer’s disciplinary chain of command who is superior in that chain of command to the commanding officer.

Court officials

362 Judge advocates

In this Act “judge advocate” means—

- (a) the Judge Advocate General;
- (b) a person appointed under section 30(1)(a) or (b) or (2) of the Courts-Martial (Appeals) Act 1951 (c. 46) (assistants to the Judge Advocate General); or
- (c) a puisne judge of the High Court in England and Wales who (following a request by the Judge Advocate General) is nominated by or on behalf of the Lord Chief Justice of England and Wales to sit as a judge advocate.

*Status: This is the original version (as it was originally enacted). This
item of legislation is currently only available in its original format.*

363 Court administration officer

- (1) There shall be a court administration officer for the Court Martial, the Service Civilian Court and the Summary Appeal Court.
- (2) The court administration officer is to be appointed by the Defence Council.

Service Prosecuting Authority

364 Director of Service Prosecutions

- (1) Her Majesty may appoint a person as the Director of Service Prosecutions.
- (2) A person may be appointed as the Director of Service Prosecutions only if he—
 - (a) has a ten year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990 (c. 41);
 - (b) is an advocate or solicitor in Scotland of at least ten years' standing;
 - (c) is a member of the Bar of Northern Ireland, or a solicitor of the Court of Judicature of Northern Ireland, of at least ten years' standing; or
 - (d) has in a relevant territory rights and duties similar to those of a barrister or solicitor in England and Wales, has had those rights and duties for at least ten years, and is subject to punishment or disability for breach of professional rules.
- (3) The Director of Service Prosecutions shall hold and vacate office in accordance with the terms of his appointment.
- (4) 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.

365 Prosecuting officers

- (1) The Director of Service Prosecutions (“the Director”) may appoint officers to be prosecuting officers.
- (2) An officer may be appointed as a prosecuting officer only if he—
 - (a) has a general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990;
 - (b) is an advocate or solicitor in Scotland;
 - (c) is a member of the Bar of Northern Ireland or a solicitor of the Court of Judicature of Northern Ireland; or
 - (d) 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.
- (3) A prosecuting officer shall hold and vacate office in accordance with the terms of his appointment.
- (4) A prosecuting officer may, unless the Director otherwise directs, exercise any function of the Director.

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- (5) In this section “relevant territory” has the same meaning as in section 364.

Service Complaints Commissioner

366 Service Complaints Commissioner

- (1) There shall be a Service Complaints Commissioner.
- (2) The Service Complaints Commissioner is to be appointed by the Secretary of State.
- (3) A person may not be appointed as the Service Complaints Commissioner if he is—
 - (a) a member of the regular or reserve forces; or
 - (b) a person employed in the civil service of the State.
- (4) The Service Complaints Commissioner shall hold and vacate office in accordance with the terms of his appointment.
- (5) The Service Complaints Commissioner is not to be regarded—
 - (a) as the servant or agent of the Crown; or
 - (b) as enjoying any status, immunity or privilege of the Crown.