



Armed Forces Act 2006

2006 CHAPTER 52

First Group of Parts Discipline

PART 4

CUSTODY

CHAPTER 2

CUSTODY ETC AFTER CHARGE

Custody after charge

105 Custody after charge

- (1) Where a person (referred to in this section and sections 106 to 109 as “the accused”) is kept in service custody after being charged with a service offence, he must be brought before a judge advocate as soon as practicable.
- (2) At a hearing under subsection (1), the judge advocate may by order authorise the keeping of the accused in service custody, but only if one or more of conditions A to C in section 106 are met.
- (3) The period for which a judge advocate may, by an order under subsection (2), authorise the keeping of the accused in service custody is such period, ending not later than eight days after the day on which the order is made, as he considers appropriate having regard to the evidence before him.
- (4) For the purpose of deciding whether condition A in section 106 is met, the judge advocate must have regard to such of the following considerations as appear to him to be relevant—
 - (a) the nature and seriousness of the offence with which the accused is charged (and the probable method of dealing with him for it),
 - (b) the character, antecedents, associations and social ties of the accused,

Status: This is the original version (as it was originally enacted).

- (c) the accused's behaviour on previous occasions while charged with a service offence and released from service custody or while on bail in criminal proceedings, and
 - (d) the strength of the evidence that the accused committed the offence, as well as to any other considerations which appear to be relevant.
- (5) If—
- (a) the accused is charged with an offence under section 42 as respects which the corresponding offence under the law of England and Wales is—
 - (i) murder,
 - (ii) manslaughter,
 - (iii) an offence under section 1 of the Sexual Offences Act 2003 (c. 42) (rape), or
 - (iv) an attempt to commit an offence within sub-paragraph (i) or (iii),
 - (b) representations are made as to any of the matters mentioned in condition A in section 106, and
 - (c) the judge advocate decides not to authorise the keeping of the accused in service custody,
- the judge advocate must state the reasons for his decision and must cause those reasons to be included in the record of the proceedings.
- (6) An order under subsection (2) does not authorise the keeping of the accused in service custody—
- (a) if the accused is subsequently released from service custody, at any time after his release; or
 - (b) at any time after he is sentenced in respect of the offence with which he is charged.
- (7) Subsection (1) does not apply where the accused is charged with a service offence at a time when he is kept in service custody by reason of a sentence passed in respect of a service offence or of an order under subsection (2), unless that reason ceases to apply.