



Armed Forces Act 2006

2006 CHAPTER 52

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.

Commencement Information

II [S. 360](#) in force at 15.10.2007 by [S.I. 2007/2913](#), [art. 2](#)

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.

Commencement Information

I2 [S. 361](#) 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Status: Point in time view as at 28/03/2009.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: Armed Forces Act 2006, Part 18 is up to date with all changes known to be in force on or before 05 April 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)

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.

Commencement Information

- I3** [S. 362](#) 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)

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.

Commencement Information

- I4** [S. 363](#) 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)

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—

Status: Point in time view as at 28/03/2009.

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- (a) any of the Channel Islands;
- (b) the Isle of Man;
- (c) a Commonwealth country; or
- (d) a British overseas territory.

Commencement Information

I5 [S. 364](#) in force at 24.6.2008 by [S.I. 2008/1650](#), [art. 4\(b\)](#)

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

Commencement Information

I6 [S. 365](#) 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)

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.

***Status:** Point in time view as at 28/03/2009.*

***Changes to legislation:** Armed Forces Act 2006, Part 18 is up to date with all changes known to be in force on or before 05 April 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)*

- (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.

Status:

Point in time view as at 28/03/2009.

Changes to legislation:

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