



# Armed Forces Act 2006

## 2006 CHAPTER 52

### PART 2 **U.K.**

#### JURISDICTION AND TIME LIMITS

### CHAPTER 1 **U.K.**

#### JURISDICTION

#### *Court Martial*

### 50 Jurisdiction of the Court Martial **U.K.**

- (1) The Court Martial has jurisdiction to try any service offence.
- (2) In this Act “service offence” means—
  - (a) any offence under Part 1;
  - (b) an offence under section 107 (breach of requirement imposed on release from custody);
  - (c) an offence under section 229 (breach of service restraining order);
  - (d) an offence under section 266 (failure to comply with financial statement order);
  - (e) any offence under Chapter 1 of Part 13 (testing for alcohol and drugs);
  - (f) any offence under regulations under section 328 (false answer during enlistment in a regular force) or section 343 (service inquiries) that the regulations provide is a service offence;
  - (g) an offence under section 18 or 20 of the Armed Forces Act 1991 (c. 62) (orders for the protection of children);
  - (h) an offence under any of sections 95 to 97 of the Reserve Forces Act 1996 (c. 14) (reserve forces offences); or

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- (i) an offence under paragraph 5(1) of Schedule 1 to that Act (false answer during enlistment in a reserve force) committed by a person within paragraph 5(3) of that Schedule.

#### Commencement Information

- I1** S. 50 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** S. 50 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

### *Service Civilian Court*

## 51 Jurisdiction of the Service Civilian Court U.K.

- (1) The Service Civilian Court has jurisdiction to try any service offence committed outside the British Islands by a civilian, except an offence within subsection (3) or an offence in relation to which subsection (6) applies.
- (2) For the purposes of subsection (1) an offence is committed by a civilian if it is committed by a person who, at the time when it is committed, is a civilian subject to service discipline.
- (3) The offences within this subsection are—
  - (a) an indictable-only offence under section 42;
  - (b) an offence under section 266 committed in respect of a financial statement order made by a court other than the Service Civilian Court;
  - (c) any service offence under regulations under section 328 or 343;
  - (d) an offence within section 50(2)(h) or (i) (Reserve Forces Act offences).
- (4) For the purposes of subsection (3)(a) an offence under section 42 is “indictable-only” if the corresponding offence under the law of England and Wales is under that law an offence which, if committed by an adult, is triable only on indictment; but this is subject to subsection (5).
- (5) Where the defendant is aged under 18 at the time a decision under section 279 is made, an offence under section 42 is “indictable-only” for the purposes of subsection (3)(a) above if (and only if)—
  - (a) the corresponding offence under the law of England and Wales is murder, manslaughter or an offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 (c. 28) (causing or allowing death of child etc); or
  - (b) section 227 (firearms offences) would apply if the accused were convicted by the Court Martial of the offence under section 42.
- (6) This subsection applies in relation to an offence if the defendant is for the time being—
  - (a) a member of the regular or reserve forces; or
  - (b) liable to recall.
- (7) For the purposes of subsection (6) 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

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

#### Commencement Information

- I3** S. 51 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** S. 51 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

### Commanding officers

## 52 Charges capable of being heard summarily **U.K.**

- (1) A charge against a person (“the accused”) in respect of an offence is capable of being heard summarily if (and only if) conditions A to C are met.
- (2) Condition A is that the offence is one that may be dealt with at a summary hearing (see section 53).
- (3) Condition B is that the accused is—
- (a) an officer of or below the rank of commander, lieutenant-colonel or wing commander; or
  - (b) a person of or below the rank or rate of warrant officer.
- (4) Condition C is (subject to subsections (5) and (6)) that the accused is—
- (a) subject to service law,
  - (b) a member of a volunteer reserve force, or
  - (c) a member of an ex-regular reserve force who is subject to an additional duties commitment,
- from the time the offence is committed to the end of the summary hearing of the charge.
- (5) If the offence is one under section 96(1) of the Reserve Forces Act 1996 (c. 14) committed by virtue of section 96(2) of that Act, condition C is that the accused is—
- (a) liable to recall, or
  - (b) a member of the regular forces,
- from the time the offence is committed to the end of the summary hearing of the charge.
- (6) If the offence is any other Reserve Forces Act offence, condition C is that the accused is a member of a reserve force from the time the offence is committed to the end of the summary hearing of the charge.
- (7) For the purposes of this section—
- (a) a person is “liable to recall” if—
    - (i) under section 65(1) of the Reserve Forces Act 1996 he is liable to be recalled for service; or
    - (ii) he is liable to be recalled as mentioned in section 35(1) of the Reserve Forces Act 1980 (c. 9);
  - (b) “Reserve Forces Act offence” means an offence within section 53(1)(k).
- (8) Where at any time it falls to a person to determine for the purposes of any provision of this Act whether a charge is or would be capable of being heard summarily, the

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references in subsections (4) to (6) to the end of the summary hearing of the charge are to be read as references to that time.

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

- C1** S. 52 modified (31.10.2009) by [The Armed Forces \(Naval Chaplains\) Regulations 2009 \(S.I. 2009/826\)](#), regs. 1, 6 (with reg. 2(c))

**Commencement Information**

- I5** S. 52 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** S. 52 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

**53 Offences that may be dealt with at a summary hearing U.K.**

- (1) The following service offences may be dealt with at a summary hearing—
- (a) an offence under section 4(3);
  - (b) an offence under any of sections 9 to 15;
  - (c) an offence under section 16(1)(a), or an offence under section 16(1)(c) committed by omission;
  - (d) an offence under any of sections 17 to 29;
  - (e) an offence under section 30(1) of negligently doing an act that results in a person's escape, or an offence under section 30(2);
  - (f) an offence under any of sections 34 to 36;
  - (g) an offence under section 42 (criminal conduct) within subsection (3);
  - (h) an offence under section 107;
  - (i) an offence under Chapter 1 of Part 13;
  - (j) any service offence under regulations under section 328 or 343;
  - (k) an offence under section 96 or 97 of the Reserve Forces Act 1996 of absence without leave.
- (2) Any reference in a paragraph of subsection (1), except paragraph (g), to an offence includes an offence under section 39 of attempting to commit that offence.
- (3) An offence under section 42 is within this subsection if the corresponding offence under the law of England and Wales is—
- (a) an offence listed in either Part of Schedule 1 (criminal conduct offences that may be dealt with at a summary hearing); or
  - (b) an offence under section 1 of the Criminal Attempts Act 1981 (c. 47) of attempting to commit an (indictable) offence so listed.
- (4) The Secretary of State may by order amend Schedule 1.

**Commencement Information**

- I7** S. 53 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** S. 53 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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## 54 Charges which may be heard summarily only with permission or by senior officer **U.K.**

- (1) An officer may not hear summarily a charge in respect of an offence within subsection (2) unless—
  - (a) he has obtained the permission of higher authority; or
  - (b) he is of or above the rank of rear admiral, major-general or air vice-marshal.
- (2) An offence is within this subsection if it is an offence under section 42 as respects which the corresponding offence under the law of England and Wales is—
  - (a) an offence listed in Part 2 of Schedule 1; or
  - (b) an offence under section 1 of the Criminal Attempts Act 1981 of attempting to commit an (indictable) offence so listed.

### Commencement Information

- I9** S. 54 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)
- I10** S. 54 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

## CHAPTER 2 **U.K.**

### TIME LIMITS FOR COMMENCING PROCEEDINGS

#### *Time limits for offences other than Reserve Forces Act offences*

## 55 Time limit for charging former member of a regular or reserve force **U.K.**

- (1) This section applies where a person ceases to be a member of a regular or reserve force.
- (2) The person may not, after the end of six months beginning with the date he ceased to be a member of that force, be charged with a service offence committed while he was a member.
- (3) Subsection (2) applies even if the person rejoins the force within those six months.

### Commencement Information

- I11** S. 55 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)
- I12** S. 55 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

## 56 Time limit for charging certain members or former members of ex-regular reserve forces **U.K.**

- (1) This section applies where—
  - (a) a person, while a member of an ex-regular reserve force, has been subject to an additional duties commitment; and
  - (b) the person ceases to be subject to the commitment.

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- (2) The person may not, after the end of six months beginning with the date he ceased to be subject to the commitment, be charged with a service offence committed while he was so subject.

**Commencement Information**

- I13** S. 56 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)
- I14** S. 56 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

**57 Time limit for charging person formerly subject to service law** **U.K.**

- (1) This section applies where a person ceases to be subject to service law.
- (2) The person may not, after the end of six months beginning with the date he ceased to be subject to service law, be charged with a service offence committed while he was so subject.
- (3) Subsection (2) applies even if the person (again) becomes subject to service law within those six months.
- (4) Subsection (2) does not apply in relation to an offence committed by a person when he was—
- (a) a member of a volunteer reserve force; or
  - (b) a member of an ex-regular reserve force who was subject to an additional duties commitment.

**Commencement Information**

- I15** S. 57 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)
- I16** S. 57 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

**58 Time limit for charging civilian formerly subject to service discipline** **U.K.**

- (1) Subsection (2) applies in any case where a person ceases to be a civilian subject to service discipline, except a case where at the time he does so he becomes subject to service law.
- (2) Where this subsection applies—
- (a) the person may not, after the end of six months beginning with the date he ceased to be a civilian subject to service discipline, be charged with a service offence committed while he was such a civilian; and
  - (b) this applies even if he (again) becomes such a civilian within those six months.
- (3) Where a person ceases to be a civilian subject to service discipline and at the time he does so becomes subject to service law, section 57 has effect as if—
- (a) the reference in subsection (2) to a service offence committed while the person was subject to service law included a service offence committed during the relevant period; and

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- (b) the reference in subsection (3) to becoming subject to service law included becoming a civilian subject to service discipline.
- (4) In subsection (3)(a) above “the relevant period” means the period while the person was a civilian subject to service discipline that ended with his becoming subject to service law.
- (5) Subsection (6) applies to a person—
- (a) who ceases to be a civilian subject to service discipline by reason only of—
    - (i) leaving an area designated for the purposes of Schedule 15;
    - (ii) entering the British Islands; or
    - (iii) leaving an area which a designation under paragraph 7 of Schedule 15 specifies as an area that he must be in for the designation to apply to him; and
  - (b) who is residing or staying in a qualifying place at the time he does so.
- (6) As regards that time, and for so long after that time as he continues—
- (a) to reside or stay in a qualifying place, and
  - (b) to be a person who is not a civilian subject to service discipline but who would be such a civilian if he were in a qualifying place,
- he is to be treated for the purposes of this section (apart from subsection (5)) as being such a civilian.
- (7) In subsections (5) and (6) “in a qualifying place” means—
- (a) in relation to a person who falls within subsection (5)(a) by reason of leaving an area designated for the purposes of Schedule 15, in any such area;
  - (b) in relation to a person who falls within subsection (5)(a) by reason of entering the British Islands, outside the British Islands;
  - (c) in relation to a person who falls within subsection (5)(a) by reason of leaving an area mentioned in subsection (5)(a)(iii), in that area.

#### Commencement Information

- I17** S. 58 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)
- I18** S. 58 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

## 59 Time limit for charging offence under section 107 **U.K.**

- (1) A person may not be charged with an offence under section 107 (breach of requirement imposed on release from custody) after the end of whichever of the following periods ends last—
- (a) six months beginning with the date of commission of the offence;
  - (b) two months beginning with the date the person is apprehended.
- (2) Where subsection (1) prohibits the charging of a person with an offence, the power under section 123(2)(c) or 125(2)(c) may not be exercised so as to charge that person with that offence.



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#### Commencement Information

- I19** S. 59 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)
- I20** S. 59 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

### 60 Time limit for charging offence under section 266 **U.K.**

A person may not be charged with an offence under section 266 (failure to comply with financial statement order) after the end of whichever of the following periods ends first—

- (a) two years beginning with the date of commission of the offence;
- (b) six months beginning with the date the offence becomes known to a member of the Service Prosecuting Authority.

#### Commencement Information

- I21** S. 60 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)
- I22** S. 60 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

### 61 Sections 55 to 60: exceptions and interpretation **U.K.**

- (1) References in sections 55 to 60 and this section to charging (except the second such reference in section 59(2)) are to charging under section 120 or 122.
- (2) Where any of sections 55 to 58 prohibits the charging of a person with an offence, the person may be charged with the offence if the Attorney General consents.
- (3) Each of sections 55 to 60 is without prejudice to the rest of those sections.
- (4) Nothing in those sections applies in relation to a Reserve Forces Act offence (as defined by section 62).

#### Commencement Information

- I23** S. 61 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)
- I24** S. 61 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

#### *Time limit for Reserve Forces Act offences*

### 62 Time limit for charging Reserve Forces Act offences **U.K.**

- (1) A person may not be charged with a Reserve Forces Act offence after the end of whichever of the following periods ends last—
  - (a) six months beginning with the date of commission of the offence;
  - (b) two months beginning with the date the offence becomes known to the person's commanding officer;



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- (c) two months beginning with the date the person is apprehended;
  - (d) if the offence was committed when the person was a relevant reservist, six months beginning with the date he ceases to be a relevant reservist.
- (2) If—
- (a) the offence was committed when the person was a relevant reservist, and
  - (b) he ceases to be a relevant reservist after committing it,
- the period in subsection (1)(d) is not extended by his (again) becoming a relevant reservist within the six months beginning with the date he so ceased.
- (3) In this section—
- (a) the reference in subsection (1) to charging is to charging under section 120 or 122;
  - (b) “Reserve Forces Act offence” means an offence within section 50(2)(h) or (i);
  - (c) “relevant reservist” means—
    - (i) a member of a volunteer reserve force; or
    - (ii) a member of an ex-regular reserve force who is in full-time service or subject to an additional duties commitment;
  - (d) “in full-time service” means in such service under a commitment entered into under section 24 of the Reserve Forces Act 1996 (c. 14).
- (4) Where subsection (1) prohibits the charging (as defined by subsection (3)(a)) of a person with an offence, the power under section 123(2)(c) or 125(2)(c) may not be exercised so as to charge that person with that offence.

#### Commencement Information

- I25** S. 62 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)
- I26** S. 62 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

## CHAPTER 3 U.K.

### DOUBLE JEOPARDY

#### 63 Service proceedings barring subsequent service proceedings U.K.

- (1) This section applies where a person—
- (a) has been convicted or acquitted of a service offence; or
  - (b) has had a service offence taken into consideration when being sentenced;
- and in this section “offence A” means the offence mentioned in paragraph (a) or (b).
- (2) The Court Martial may not try that person for an offence (“offence B”) if—
- (a) offence B is the same offence in law as offence A, or subsection (3) applies; and
  - (b) the alleged facts on which the charge in respect of offence B is based are the same, or substantially the same, as those on which the charge in respect of offence A was based.
- (3) This subsection applies if—

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- (a) the person was convicted of offence A, or offence A was taken into consideration, and offence B is an offence all of whose elements are elements of offence A;
  - (b) the person was acquitted of offence A and offence B is an offence whose elements include all the elements of offence A; or
  - (c) the person was convicted or acquitted of offence A by the Court Martial or the Service Civilian Court and offence B is an offence of which under section 161 (alternative offences) he could have been convicted on acquittal of offence A.
- (4) Where offence A is an offence taken into consideration which was not charged, the reference in subsection (2)(b) to the facts on which the charge in respect of offence A was based is to be read as a reference to the facts on which a charge in respect of offence A would have been based.
- (5) Where by reason of this section a person cannot be tried by the Court Martial for an offence—
- (a) the Service Civilian Court may not try him for that offence; and
  - (b) a charge against him in respect of that offence may not be heard summarily by an officer.

#### **Commencement Information**

- I27** S. 63 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)
- I28** S. 63 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

## **64 Service proceedings barring subsequent civilian proceedings** U.K.

- (1) This section applies where a person—
- (a) has been convicted or acquitted of an offence under section 42 (criminal conduct); or
  - (b) has had such an offence taken into consideration when being sentenced.
- (2) A civilian court in a relevant territory may not try that person for any offence for which, under the law of that territory, it would be debarred from trying him if he had been convicted or (as the case may be) acquitted by a court in England and Wales of the relevant offence.
- (3) “The relevant offence” means the offence under the law of England and Wales which the act (or alleged act) constituting the offence under section 42 amounted to.
- (4) Where that act (or alleged act) would amount to an offence under the law of England and Wales if it had been done in England or Wales, for the purposes of subsection (3) it shall be assumed to amount to that offence.
- (5) In this section “relevant territory” means—
- (a) England and Wales;
  - (b) Scotland;
  - (c) Northern Ireland; or
  - (d) the Isle of Man.

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- (6) In this section “act” includes an omission and references to the doing of an act are to be read accordingly.

#### Commencement Information

- I29** S. 64 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)
- I30** S. 64 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

### 65 Sections 63 and 64: supplementary **U.K.**

- (1) If a direction under section 127(1) or (2) has been made in relation to an offence, the person to whom the direction relates shall be treated—
- for the purposes of section 63, and
  - in the case of a direction under section 127(2), for the purposes of section 64, as if he had been acquitted of the offence.
- (2) The reference in subsection (1)(a) above to section 63 does not include subsection (3) (c) of that section.
- (3) For the purposes of sections 63 and 64 a person shall be taken not to have had an offence taken into consideration when being sentenced if the sentence has been quashed.

#### Commencement Information

- I31** S. 65 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)
- I32** S. 65 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

### 66 Civilian proceedings barring subsequent service proceedings **U.K.**

- (1) The Court Martial may not try a person for an offence under section 42 (criminal conduct) if the act constituting the offence amounts to an offence under the law of England and Wales for which a civilian court in England and Wales would on the ground of *autrefois acquit* or *autrefois convict* be debarred from trying him.
- (2) The Court Martial may not try a person for a non-criminal service offence (that is, a service offence not under section 42) if—
- any act constituting an element of the offence amounts to an offence under the law of England and Wales (“offence X”); and
  - a civilian court in England and Wales would on the ground of *autrefois acquit* be debarred from trying the person for offence X.
- (3) Where an act constituting—
- an offence under section 42, or
  - an element of a non-criminal service offence,
- would amount to an offence under the law of England and Wales if it had been done in England or Wales, it shall be assumed for the purposes of subsection (1) or (2) to amount to that offence.

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- (4) Where a civilian court (anywhere) has taken an offence into consideration in sentencing a person and the sentence has not been quashed, the person shall be treated for the purposes of subsection (1) as having been convicted by that court of that offence.
- (5) Where by reason of this section a person cannot be tried by the Court Martial for an offence—
- (a) the Service Civilian Court may not try him for that offence; and
  - (b) a charge against him in respect of that offence may not be heard summarily by an officer.
- (6) This section does not apply in any case where the question whether a person can be tried for an offence (or dealt with summarily for it) is determined by section 63.
- (7) In this section “act” includes an omission and references to the doing of an act are to be read accordingly.

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**Commencement Information**

- I33** S. 66 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)
- I34** S. 66 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, **art. 4**

**Status:**

Point in time view as at 31/10/2009.

**Changes to legislation:**

Armed Forces Act 2006, Part 2 is up to date with all changes known to be in force on or before 11 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.