

SCHEDULES

SCHEDULE 1

Section 2

CONSTITUTION OF THE COURT MARTIAL

Number and rank of the lay members

- 1 (1) Section 155 of AFA 2006 (constitution of the Court Martial) is amended as follows.
 - (2) In subsection (1)(b), for “at least three but not more than five” substitute “three or, in the case of proceedings of a prescribed description, six”.
 - (3) In subsection (2), omit paragraph (a) (together with the final “or”).
 - (4) After subsection (2) insert—
 - “(2A) In the case of proceedings where the number of lay members would (but for this subsection) be three, a judge advocate may, in accordance with Court Martial rules, direct that the number of lay members is to be four.”
 - (5) In subsection (3)(a), for “or warrant officers” substitute “, warrant officers or OR-7 ranks”.
 - (6) After subsection (6) insert—
 - “(6A) Court Martial rules may provide that in prescribed circumstances the Court Martial is to remain validly constituted despite the reduction of the number of lay members—
 - (a) from six to five, or
 - (b) where a direction has been made under subsection (2A), from four to three,if a judge advocate gives a direction to that effect.”
 - (7) Omit subsections (7) and (8).
 - (8) For subsection (9) substitute—
 - “(9) In this section—
 - “OR-7 rank” means any of the following—
 - (a) chief petty officer;
 - (b) staff corporal;
 - (c) staff sergeant;
 - (d) colour sergeant, Royal Marines;
 - (e) flight sergeant;
 - (f) chief technician;
 - “prescribed” means prescribed by Court Martial rules.”
- 2 (1) Section 156 of AFA 2006 (officers and warrant officers qualified for membership of the Court Martial) is amended as follows.

Status: This is the original version (as it was originally enacted).

- (2) In the heading, for “and warrant officers” substitute “etc”.
- (3) In subsection (1), for “or warrant officer” substitute “, warrant officer or OR-7 rank”.
- (4) After subsection (3) insert—
 - “(3A) An OR-7 rank is not qualified for membership of the court if that person is an acting—
 - (a) chief petty officer,
 - (b) staff corporal,
 - (c) staff sergeant,
 - (d) colour sergeant, Royal Marines,
 - (e) flight sergeant, or
 - (f) chief technician.”

- (5) In subsection (4), in the words before paragraph (a), for “or warrant officer” substitute “, warrant officer or OR-7 rank”.
- (6) At the end insert—

“(6) In this section “OR-7 rank” has the meaning given by section 155(9).”

- 3 (1) Section 157 of AFA 2006 (officers and warrant officers ineligible for membership in particular circumstances) is amended as follows.
 - (2) In the heading, for “and warrant officers” substitute “etc”.
 - (3) In subsection (2), after “warrant officer” insert “or OR-7 rank”.
 - (4) In subsection (4), for “or warrant officer” substitute “, warrant officer or OR-7 rank”.
 - (5) At the end insert—
 - “(5) In this section “OR-7 rank” has the meaning given by section 155(9).”

Findings and sentence

- 4 (1) Section 160 of AFA 2006 (decisions of Court Martial: finding and sentence) is amended as follows.
 - (2) Before subsection (1) insert—
 - “(A1) The finding of the Court Martial on a charge must be determined by votes of the members of the Court Martial other than the judge advocate (the “lay members”) and—
 - (a) where there are three lay members, must be a finding with which no fewer than two of them agree;
 - (b) where there are four lay members, must be a finding with which no fewer than three of them agree;
 - (c) where there are five lay members, must be a finding with which no fewer than four of them agree;
 - (d) where there are six lay members, must be a finding with which no fewer than five of them agree.”
 - (3) In subsection (1), for the words from “the following” to “passed by it,” substitute “subsection (4), any sentence passed by the Court Martial”.

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

(4) Omit subsections (2) and (3).