

**Changes to legislation:** Criminal Justice Act 2003, SCHEDULE 7 is up to date with all changes known to be in force on or before 22 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) View outstanding changes

## SCHEDULES

### SCHEDULE 7

Section 135

#### HEARSAY EVIDENCE: ARMED FORCES

##### *Application to proceedings before service courts*

- 1 Sections 114 to 121, 123, 124, 126, 127 to 129 and 133 and 134, in so far as they are not applied in relation to proceedings before service courts by provision contained in or made under any other Act, have effect in relation to such proceedings (whether in the United Kingdom or elsewhere) as they have effect in relation to criminal proceedings.

#### **Commencement Information**

- II** Sch. 7 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 31](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 2 (1) In their application to such proceedings those sections have effect with the following modifications.

[<sup>F1</sup>(2) In section 116(2) for paragraph (c) substitute—

“(c) that either of the following applies—

- (i) the court is sitting neither in the United Kingdom nor in a British overseas territory and it is not reasonably practicable to secure the attendance of the relevant person; or
- (ii) the court is sitting in the United Kingdom or a British overseas territory but the relevant person is outside the United Kingdom or outside that territory (as the case may be) and it is not reasonably practicable to secure his attendance.”]

(3) In section 117 insert after subsection (7)—

“(8) In subsection (4) [<sup>F2</sup>the reference to criminal proceedings includes proceedings before an officer in respect of a service offence within the meaning of the Armed Forces Act 2006.”]

(4) In section 123(4) for paragraph (a) substitute—

“(a) in the case of proceedings before [<sup>F3</sup>the Court Martial], proceedings held for the determination of the issue must take place before the judge advocate in the absence of the other members of the court;”.

[<sup>F4</sup>(5) In section 127—

(a) in subsection (1)(c)—

- (i) for “the appropriate rules” substitute rules made under the Armed Forces Act 2006 or the Court Martial Appeals Act 1968;

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- (ii) for “section 9 of the Criminal Justice Act 1967 (c. 80)” substitute such rules;
- (b) omit subsection (7).]
- [<sup>F5</sup>(6) Section 132 has effect as if the expression “rules of court” included rules regulating the practice and procedure of service courts.]
- (7) In section 134 insert after subsection (1)—
- “(1A) In this Part “criminal investigation” includes any investigation which may lead
- (a) to proceedings before a court-martial or Standing Civilian Court, or
- (b) to summary proceedings under section 76B of the Army Act 1955, section 76B of the Air Force Act 1955 or section 52D of the Naval Discipline Act 1957.
- [<sup>F6</sup>to proceedings before an officer, the Court Martial or the Service Civilian Court in respect of a service offence within the meaning of the Armed Forces Act 2006.”]

#### Textual Amendments

- F1** Sch. 7 para. 2(2) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c.52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(2\)\(a\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F2** Words in Sch. 7 para. 2(3) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(2\)\(b\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F3** Words in Sch. 7 para. 2(4) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c.52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(2\)\(c\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F4** Sch. 7 para. 2(5) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c.52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(2\)\(d\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F5** Sch. 7 para. 2(6) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), [art. 3](#), [Sch. para. 53](#) (with [art. 2\(2\)](#))
- F6** Words in Sch. 7 para. 2(7) substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) for Sch. 7 para. 2(7)(a)(b) by [Armed Forces Act 2006 \(c.52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(2\)\(e\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

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

- C1** Sch. 7 para. 2 modified (24.4.2009 for certain purposes, otherwise 31.10.2009) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), arts. 1(3), 205, [Sch. 1 para. 53\(3\)\(4\)](#)

#### Commencement Information

- I2** Sch. 7 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 31](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 3 (1) Section 122 has effect in relation to proceedings before [<sup>F7</sup>the Court Martial](whether in the United Kingdom or elsewhere) with the following modifications.
- (2) In subsection (1) for “ [<sup>F8</sup>a judge and jury]” substitute “ [<sup>F9</sup>the Court Martial] ”.
- (3) In subsection (2)—

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- (a) for “jury when they retire to consider their” substitute “ court when it retires to consider its ”.
- (b) for “the court” in paragraph (a) substitute “ the judge advocate ”;
- (c) for “the jury” in paragraph (b) substitute “ the court ”.

#### Textual Amendments

- F7** Words in Sch 7 para. 3(1) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by **Armed Forces Act 2006 (c. 52)**, ss. 378(1), 383, **Sch. 16 para. 235(3)(a)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F8** Words in Sch. 7 para. 3(2) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by **Armed Forces Act 2006 (c. 52)**, ss. 378(1), 383, **Sch. 16 para. 235(3)(b)(i)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F9** Words in Sch. 7 para. 3(2) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by **Armed Forces Act 2006 (c. 52)**, ss. 378(1), 383, **Sch. 16 para. 235(3)(b)(ii)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

#### Commencement Information

- I3** Sch. 7 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, **Sch. 1 para. 31** (subject to **art. 2(2)**, **Sch. 2**)

4 (1) Section 125 has effect in relation to proceedings before [<sup>F10</sup>the Court Martial](whether in the United Kingdom or elsewhere) with the following modifications.

(2) In subsection (1)—

- (a) for “ [<sup>F11</sup>a judge and jury]” substitute “ [<sup>F12</sup>the Court Martial] ”;
- (b) for “the court is satisfied” substitute “ the judge advocate is satisfied ”;
- (c) for the words after paragraph (b) substitute “the judge advocate must either direct the court to acquit the defendant of the offence or, if he considers that there ought to be a retrial, the [<sup>F13</sup>discharge] court.”

(3) In subsection (2)—

- (a) for “jury” substitute “ court ”;
- (b) for “the court is satisfied” substitute “ the judge advocate is satisfied ”.

(4) In subsection (3)—

- (a) for paragraph (a) substitute—
  - “(a) a court is required to determine under section 115B(2) of the Army Act 1955, [<sup>F14</sup>section 167 of the Armed Forces Act 2006] whether a person charged with an offence did the act or made the omission charged,”;
- (b) for “the court is satisfied” substitute “ the judge advocate is satisfied ”;
- (c) for the words after paragraph (b) substitute “ the judge advocate must either direct the court to acquit the defendant of the offence or, if he considers that there ought to be a rehearing, [<sup>F15</sup>discharge] the court. ”

(5) For subsection (4) substitute—

- “(4) This section does not prejudice any other power a judge advocate may have to direct a court to acquit a person of an offence or to [<sup>F16</sup>discharge] a court.”

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**Textual Amendments**

- F10** Words in Sch. 7 para. 4(1) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(4\)\(a\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F11** Words in Sch. 7 para. 4(2)(a) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(4\)\(b\)\(i\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F12** Words in Sch. 7 para. 4(2)(a) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(4\)\(b\)\(ii\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F13** Word in Sch. 7 para. 4(2)(c) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(4\)\(b\)\(iii\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F14** Words in Sch. 7 para. 4(4)(a) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(4\)\(c\)\(i\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F15** Word in Sch. 7 para. 4(4)(c) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(4\)\(c\)\(ii\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F16** Word in Sch. 7 para. 4(5) substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 235\(4\)\(d\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

**Commencement Information**

- I4** Sch. 7 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 31](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

*Amendments*

5 **F17** .....

**Textual Amendments**

- F17** Sch. 7 paras. 5-7 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Force Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 235\(5\)](#), [Sch. 17](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

**Commencement Information**

- I5** Sch. 7 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 31](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

6 **F18** .....

**Textual Amendments**

- F18** Sch. 7 paras. 5-7 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Force Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 235\(5\)](#), [Sch. 17](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

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**Commencement Information**

**I6** Sch. 7 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 31 (subject to **art. 2(2)**, Sch. 2)

7 **F19** .....

**Textual Amendments**

**F19** Sch. 7 paras. 5-7 repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by **Armed Force Act 2006 (c. 52)**, ss. 378, 383, Sch. 16 para. 235(5), **Sch. 17**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

**Commencement Information**

**I7** Sch. 7 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 31 (subject to **art. 2(2)**, Sch. 2)

*Interpretation*

[<sup>F20</sup>8 In this Schedule, and in any provision of this Part as applied by this Schedule, “service court” means—  
(a) the Court Martial;  
(b) the Summary Appeal Court;  
(c) the Service Civilian Court; or  
(d) the Court Martial Appeal Court.]

**Textual Amendments**

**F20** Sch. 7 para. 8 substituted (28.3.2009 for certain purposes, otherwise 31.10.2009) by **Armed Forces Act 2006 (c. 52)**, ss. 378(1), 383, **Sch. 16 para. 235(6)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

**Commencement Information**

**I8** Sch. 7 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 31 (subject to **art. 2(2)**, Sch. 2)

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2012/2574, Sch. by [S.I. 2012/2761 art. 2](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 150(aa) inserted by [2012 c. 10 Sch. 26 para. 19\(2\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 26 para. 19 omitted (11.12.2013) by virtue of 2013 c. 22, Sch. 16 para. 23(2); S.I. 2013/2981, art. 2(d))
- s. 150(ba) inserted by [2012 c. 10 Sch. 26 para. 19\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 26 para. 19 omitted (11.12.2013) by virtue of 2013 c. 22, Sch. 16 para. 23(2); S.I. 2013/2981, art. 2(d))
- s. 151(A1) inserted by [2008 c. 4 s. 11\(3\)](#)
- s. 151(1A) inserted by [2008 c. 4 s. 11\(5\)](#)
- s. 151(1A)(b) word substituted by [2008 c. 4 Sch. 4 para. 76\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 151(1A) is still only prospectively inserted by 2008 c. 4, s. 11(5))
- s. 151(1A)(c) substituted by [2009 c. 25 Sch. 17 para. 8\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 151(1A) is still only prospectively inserted by 2008 c. 4, s. 11(5))
- s. 151(2A)(b) substituted by [2009 c. 25 Sch. 17 para. 8\(4\)](#)
- s. 151(4A) inserted by [2009 c. 25 Sch. 17 para. 8\(5\)](#)
- s. 151(8)(a) words substituted by [2009 c. 25 Sch. 17 para. 8\(6\)\(a\)](#)
- s. 151(8)(b) words inserted by [2009 c. 25 Sch. 17 para. 8\(6\)\(b\)\(i\)](#)
- s. 151(8)(b) words substituted by [2009 c. 25 Sch. 17 para. 8\(6\)\(b\)\(ii\)](#)
- s. 151(8)(c)-(f) inserted by [2009 c. 25 Sch. 17 para. 8\(6\)\(c\)](#)
- s. 165(5) inserted by [2014 c. 12 s. 179\(3\)](#)
- s. 237(1A) inserted by [2006 c. 48 s. 34\(3\)](#)
- s. 237(1B)(f)(g) inserted by [2021 c. 11 Sch. 13 para. 40\(b\)](#)
- s. 239A inserted by [2015 c. 2 s. 8\(1\)](#)
- s. 239A cross-heading inserted by [2015 c. 2 Sch. 3 para. 5](#)
- s. 250(5C) inserted by [2015 c. 2 Sch. 3 para. 7\(4\)](#)
- s. 255A(4A) inserted by [2015 c. 2 s. 9\(2\)](#)
- s. 255B(3A) inserted by [2015 c. 2 s. 9\(3\)\(b\)](#)
- s. 255B(4A)-(4C) inserted by [2015 c. 2 s. 9\(3\)\(d\)](#)
- s. 255C(3A) inserted by [2015 c. 2 s. 9\(4\)\(b\)](#)
- s. 255C(4A)-(4C) inserted by [2015 c. 2 s. 9\(4\)\(d\)](#)
- s. 256A(1)-(1B) substituted for s. 256A(1) by [2015 c. 2 s. 9\(6\)\(a\)](#)
- s. 256A(4A)(4B) inserted by [2015 c. 2 s. 9\(6\)\(f\)](#)
- s. 256A(5)(6) substituted for s. 256A(5) by [2015 c. 2 s. 9\(6\)\(g\)](#)
- s. 256AZA inserted by [2015 c. 2 s. 10\(1\)](#)
- s. 257(3) inserted by [2006 c. 48 s. 34\(4\)](#)
- s. 258(1A) inserted by [2006 c. 48 s. 34\(5\)](#)
- s. 260(4)(aa) substituted for word by [2008 c. 4 s. 34\(7\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 34(2)(4)(b)(7)(10) omitted (3.12.2012) by virtue of 2012 c. 10, s. 118(4)(b); S.I. 2012/2906, art. 2(d))

- Sch. 15B para. 49A omitted by [S.I. 2019/780 reg. 26\(4\)\(c\)](#) (This amendment not applied to [legislation.gov.uk](#). Regs. 21, 25, 26, 27, 30 revoked (1.12.2020) by 2020 c. 17, Sch. 28; S.I. 2020/1236, reg. 2)
- Sch. 15B para. 49B omitted by [S.I. 2019/780 reg. 26\(4\)\(d\)](#) (This amendment not applied to [legislation.gov.uk](#). Regs. 21, 25, 26, 27, 30 revoked (1.12.2020) by 2020 c. 17, Sch. 28; S.I. 2020/1236, reg. 2)
- Sch. 20B para. 34(6)(7) substituted for Sch. 20B para. 34(6) by [2015 c. 2 Sch. 3 para. 10](#)