

Act no. 530 of 24/06/2005

Military Penal Code

BE IT KNOWN that the Folketing has enacted and We Margrethe the Second, by the grace of God, Queen of Denmark, have given Our Royal Assent to the following Act:

Chapter 1 *General Part*

§1 The present act shall apply to military personnel in active service and discharged military personnel regarding military duties imposed on such personnel after their discharge.

(2) The present act shall also apply to international military personnel interned in this country and other people who are, according to international agreements accepted by Denmark, entitled to treatment as military personnel.

§2 In an armed conflict, the present act shall also cover:

- 1) Anybody serving in the armed forces or accompanying a unit thereof, and
- 2) Prisoners of war and medical staff and army chaplains who are retained to assist prisoners of war, provided that there are no stipulations to the contrary in current international agreements, and
- 3) anybody who is guilty of a violation of §§ 28-34 and 36-38 of the present act.

§3 The act shall apply to crimes committed within and outside the Danish state.

§4 The act shall also apply to crimes committed against the military forces of other countries cooperating with Danish military forces.

§5 Danish penal authority shall, cf. §§6-12 of the Penal Code, also cover violations of §§28-30 and 32 carried out during armed conflict outside the Danish state regardless of where the offender belongs, unless otherwise provided for in general international law.

(2) Danish penal authority shall furthermore cover violations of §§ 36 and 38 committed outside the Danish state regardless of where the offender belongs, when the violation was committed against Danish military personnel or people covered by § 2 (1) and (2).

§6 Violation of the present act shall be punished when committed deliberately or through gross negligence, unless otherwise provided in the individual stipulations.

§7 §13 (3) of the Penal Code shall be applied to actions necessary to bring about obedience or maintain order.

§8 Anybody who is not covered by the act under §§1 and 2 shall only be punished for aiding the violation of stipulations in the act if the violation may lead to imprisonment for four years or more.

(2) Under similar conditions as stipulated in (1), companies etc. (legal entities) shall be subjected to criminal liability according to the stipulations in chapter 5 of the penal code for aiding a violation of the present act.

§9 The fact that a criminal offence was committed according to order from a superior shall not release the offender from criminal liability, unless the person in question was under an obligation to obey orders from the superior in question and did not know that the order was illegal, and the order was not clearly illegal.

§10 The stipulations of the act regarding armed conflict shall apply when Danish forces in or outside the country are involved in an armed conflict, or when information to this effect has been given under (2) or (3).

(2) In case of imminent prospects of armed conflict, the Minister of Defence shall be able to publish a statement to the effect that the stipulations of the act regarding armed conflict shall apply.

(3) The Minister of Defence can in connection with the stationing of Danish military forces abroad in case of imminent prospects of armed conflict authorise the chief of the stationed military force to state that the stipulations of the act on armed conflict shall apply to the force.

Chapter 2

Special part

Duties of the subordinates

§11 A person who omits to obey an official order from a superior or a guard, or who obeys the order in a clearly unsatisfactory way shall in serious cases be punished for disobedience with penalty or prison for up to one year.

(2) In case of deliberate violation, the punishment may be extended to three years when the disobedience is of a particularly serious nature, in particular when it has led to considerable damage or danger or has been suited to weaken the obedience of other people present. If the disobedience is connected to violence against a superior or a guard, the punishment may be increased to six years' imprisonment.

(3) During armed conflict, the punishment may in case of deliberate violation be extended to ten years' imprisonment.

§12 If several people show joint deliberate disobedience, or if they use power, violence or threats of violence against a superior or a guard, they shall be punished for mutiny with imprisonment for up to six years.

(2) During armed conflict the punishment may be extended to imprisonment for life.

§13 Anybody who deliberately through action or word offends a superior or a guard grossly, shall be punished for disrespectful behaviour by penalty or prison for up to six months.

§14 The sentence according to §11-13 can be reduced or lapse when the superior or the guard has through his/her behaviour caused the violation in question.

Duties of the superior and peer, etc.

§15 A superior who deliberately through discrimination, harassment or in any similar way persecutes one or more subordinates shall be punished with a fine or imprisonment for up to six months.

§16 A superior who wrongfully accepts from subordinates gift, advance of money or any other advantage shall be punished for abuse of his position with a fine or imprisonment for up to six months unless a more severe punishment follows from other legislation.

§17 A superior who deliberately does not interfere against a subordinate's offending treatment of the subordinates or peers of such subordinate shall be punished with a fine or imprisonment for up to six months.

§18 A superior who deliberately through action or words offends a subordinate grossly shall be punished with a fine or imprisonment for up to six months.

§19 Anybody who exposes a peer to particularly offending actions, including degrading rituals, shall be punished with a fine or imprisonment for up to 6 months.

Narcotics, etc.

§20 Anybody who through the use of alcohol, narcotics, stimulating or anaesthetising substances or in a similar way has brought himself/herself in a condition in which the person in question is unable to do his/her duties in a completely responsible way shall be punished with a fine or imprisonment for up to one year.

§21 The Minister of Defence shall be able to fix stipulations regarding blood alcohol percentage limits in special areas for military service, in particular on the basis of safety considerations. The Ministry of Defence shall be able to authorise military authorities to fix limits for blood alcohol percentage in particular situations. Violation of such limits shall be punished with a fine or imprisonment of up to one year.

§22 Anybody who is, in military service or in a military area, found in possession of narcotics, cf. act on narcotic substances, shall be punished with a fine or imprisonment of up to six months, unless a more severe punishment follows from other legislation. This shall also apply to anybody who takes such substances during military service or in a military area.

§23 Anybody who disturbs public order or appears visibly under the influence for the reasons mentioned above under §20, and who through his/her clothes etc. obviously belongs the military forces, shall be fined.

(2) Anybody who in connection with service abroad disturbs the public order or appears visibly under the influence for the reasons mentioned above under (1) shall be fined. In particularly aggravated circumstances, the punishment can be extended to one year's imprisonment.

Other types of dereliction of duty

§24 Anybody who grossly neglects his/her duty as a guard shall punished for dereliction of duty with a fine or imprisonment for up to one year.

(2) The punishment may be extended to three years if the offence is particularly gross, in particular when it has led to considerable damage or danger or led to a crime.

(3) In armed conflict the punishment in connection with deliberate violation can be extended to imprisonment for ten years.

§ 25 Anybody who leaves the place of service or is absent from service without cause shall in grave cases be punished for absence with a fine or imprisonment for up to six months.

(2) Anybody who deliberately evades service by afflicting illness or bodily harm on himself/herself, by pretending to be ill or by using other methods with a view to misleading the authorities shall be punished similarly.

(3) In case of deliberate absence, the punishment can be extended to imprisonment for three years when the absence is particularly grave, in particular when the offender must be assumed to intend to remain absent permanently, or when the absence has led to considerable damage or danger.

(4) During armed conflict, the punishment in case of deliberate violation of (1) and (2) can be extended to ten years' imprisonment.

§26 Anybody who causes objects belonging to the military forces to disappear, be destroyed or damaged, shall be fined or punished with imprisonment for up to six months.

(2) In case of deliberate violation of (1), the punishment can in particularly aggravated circumstances be extended to imprisonment for six years.

§27 Anybody who in any other way gravely neglects his/her duties in military service shall be punished for dereliction of duty with a fine or imprisonment for up to three months.

(2) The punishment can be extended to one year's imprisonment when the dereliction of duty is particularly grave or when it has caused considerable damage or danger.

(3) During armed conflict, the punishment for deliberate violation can be extended to three years' imprisonment.

Crimes against the effectiveness of the military forces

§28 Punishment for treason during war of up to imprisonment for life shall be imposed on anybody who deliberately during armed conflict or imminent armed conflict in order to benefit the enemy or cause damage to the Danish military forces

1) attempts to ensure that troops, equipment, territory or infrastructure are brought under the control of the enemy, or does not benefit the Danish military forces

2) encourages mutiny, surrender or desertion to the enemy or spreads rebel or hostile statements within the Danish military forces

3) destroys infrastructure or tries in any other way to damage the means of communication of the Danish military forces

4) informs the enemy of the circumstances of the Danish military forces, including circumstances regarding safety of communication or information

5) guides the enemy or misleads any part of the Danish military forces

6) omits obeying an order

7) makes false reports

8) helps prisoners of war to escape or

9) is guilty of any count similar in nature to any of the above.

§29 Punishment for espionage of up to imprisonment for life shall be imposed on anybody who secretly or under false pretences obtains or tries to obtain information about the field of operation of the military forces in order to pass such information on to the enemy.

(2) A spy from enemy armed forces who is caught after returning to his/her own forces shall be treated as a prisoner of war and shall not be held responsible for the previous act of espionage.

§30 Anybody who deliberately carries out changes to or replaces ammunition or other types of war equipment in such a way that the effect is deteriorated or absent or people are subjected to danger, shall be punished with up to eight years' imprisonment.

(2) If the perpetrator realises that the change etc. may have an effect during an armed conflict, the punishment can be extended to twelve years' imprisonment.

(3) If the act was committed during armed conflict, the punishment can be extended up to imprisonment for life.

§31 Anybody who during battle or when battle is imminent tries deliberately contrary to his/her duties to avoid the danger or tries to bring about surrender, shall be punished with prison for up to twelve years.

(2) Anybody who during armed conflict deliberately contrary to his/her duties contributes to furthering the intentions of the enemy or to hurting or exposing the Danish military forces to danger or who leaves weapons, ammunition or other types of equipment shall be punished similarly.

(3) If an officer violates (2) by surrendering his position unnecessarily or surrendering to the enemy or by acting as stated under (1) above, the punishment may be extended to prison for life.

(4) Grossly negligent violations of (2) and (3) shall be punished with up to four years' imprisonment.

§32 Anybody who deliberately discloses a military secret the disclosing of which may hurt the defence of the country if foreign powers or forces are made aware of such secrets shall be punished with up to eight years' imprisonment. The punishment can be extended to twelve years' imprisonment if the violation is of a particularly grave nature, in particular when it has led to considerable damage or danger. If the action is committed during armed conflict or imminent prospects of armed conflict, the punishment can be extended to imprisonment for life.

(2) Anybody who without cause obtains information about any such secrets shall be fined or punished with up to four years' imprisonment. If this happens during armed conflict or imminent prospects of armed conflict, the punishment can be extended to imprisonment for ten years.

(3) Anybody who violates (1) or (2) above in gross negligence shall be fined or imprisoned for up to two years. If this happens during armed conflict or imminent prospects of armed conflict, the punishment can be extended to prison for up to four years.

§33 Anybody who is aware that mutiny, treason or any other crime which is dangerous for the military forces are intended and who deliberately omits doing what is in his/her powers to prevent the crime or its consequences, if necessary through reporting, shall be punished if the crime is committed or attempted by a fine or imprisonment for up to three years.

(2) Anybody who omits taking such preventive actions shall, however, not be punished if taking the actions would expose the person in question or his/her closest relations to danger to life, health or welfare.

§34 Anybody who during armed conflict within the military forces deliberately carries out actions which are suited to cause dispiriting shall be punished with up to four years' imprisonment.

§35 Anybody who deliberately during armed conflict without permission contacts anybody who belongs to the enemy or is positioned within the enemy's area shall be fined or imprisoned for up to one year. If this has caused information to be passed on which may benefit the enemy, the punishment can be extended to four years' imprisonment.

Other types of crime during armed conflict

§36 Anybody who during armed conflict deliberately abuses or does not respect characteristics or designations reserved for people, equipment and materials designated to provide help to people who are wounded or ill shall be punished with imprisonment for life.

(2) Anybody who deliberately uses war methods or procedures contrary to an international agreement signed by Denmark or international customary law shall be punished similarly.

§37 Punishment by imprisonment for up to six years for plundering shall be imposed on anybody who in order to obtain for himself/herself or others unjustified benefits by exploiting the fear of war or the fear of the forces to which the person in question belongs, deliberately

1) takes or steals a tangible object from a stranger

2) brings such a stolen object to safety or

3) forces anybody to commit an act or an omission which will lead to loss of property for the person attacked or for anybody on whose behalf such a person is acting.

(2) The punishment can be extended to ten years' imprisonment when the plundering is of a particularly grave nature, mainly because of its particularly dangerous nature, the way it is committed, or the extent of the benefit gained or intended, or when a large number of crimes have been committed.

§38 Anybody who deliberately during armed conflict unjustly acquires objects from a person who has been killed in war action shall be punished for robbery from a body with imprisonment for up to 18 months.

(2) The punishment can be extended to six years' imprisonment when the crime is of a particularly grave nature, mainly because of the extent or the method.

§39 In act on military personnel, cf. consolidated act no. 81 of 12 February 2004, the following changes shall be made:

1. In §4, after (3), the following shall be added:

“(4) The Minister of Defence shall stipulate the extent to which the serving of sentences or illegal absence of conscripts shall lead to additional service or discharge with a view to new calling up. The additional service cannot exceed the time served and the period for which the person in question may have been illegally absent.”

(4) shall become (5).

2. §14 shall be abolished.

Effective date, etc.

§40 The present act shall become effective as at 1 January 2006.

(2) At the same time, military penal code, cf. consolidated act no. 642 of 30 September 1987 shall be abolished.

§41 The present act shall not apply to the Faeroe Islands and Greenland, but can by royal request be made effective for these parts of the country with the deviations necessitated by the specific circumstances in the Faeroe Islands and Greenland.

Issued at Amalienborg, 24 June 2005
Witness Our Royal Hand and Seal
MARGRETHE R.

/Søren Gade