

The Defence (Summary Jurisdiction) Regulations, 2013

8 2013, No. 18

ANTIGUA AND BARBUDA

Made this day of 2013.

Chairman, The Defence Board

Made this 2nd day of May, 2013.

Sen. Hon. Dr. Errol Cort,
Minister of National Security & Labour.



THE DEFENCE (SUMMARY JURISDICTION) REGULATIONS, 2013

STATUTORY INSTRUMENT

2013, No. 18

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martial, the subordinate commander may not deal further with the charge, but shall order that the non-commissioned officer or soldier, be taken before the commanding officer who delegated to the subordinate commander the power of investigating the charge.

9. Jurisdiction of superior authority

(1) An appropriate superior authority may not deal summarily with a charge –

- (a) under section 81 of the Act where the corresponding civil offence is high treason, murder, manslaughter or rape, or
- (b) under sections 37 to 41, 45, 46, 75, 77 or 79 of the Act where the principal offence cannot be dealt with summarily by virtue of this paragraph.

(2) An appropriate superior authority may not, without the permission of a higher authority, deal summarily with a charge –

- (a) under section 81 of the Act, or
- (b) under sections 43, 51, 58, 59, 62 to 64, 69, 70, 74, 76 or 79 of the Act where the principal offence cannot be dealt with summarily by virtue of this paragraph.

10. Period of detention

(1) A soldier who is undergoing detention, field punishment or confinement to barracks may be dealt with summarily for a fresh offence, but the aggregate periods of consecutive punishment may not exceed –

- (a) detention for 42 days or field punishment, or both detention and field punishment;
- (b) a combination of detention or field punishment and confinement to barracks for 42 days; or
- (c) confinement to barracks for 28 days.

- (a) to remand an accused for trial by court-martial; or
- (b) to order the taking of a summary of evidence or the making of an abstract of evidence.

7. Punishment

(1) The punishment that may be imposed by a subordinate commander referred to in regulation 6 are –

- (a) in the case of a non-commissioned officer below the rank of sergeant –
 - (i) a fine of a sum not exceeding the equivalent of 14 days pay,
 - (ii) reprimand;
 - (iii) stoppages not exceeding one eighth of the individual's salary, where the offence has occasioned any expense, loss or damage, or
 - (iv) admonition or
- (b) in the case of a soldier –
 - (i) a fine of a sum not exceeding the equivalent of 10 days pay;
 - (ii) stoppages not exceeding one eighth of the individual's salary, where the offence has occasioned any expense, loss or damage;
 - (iii) confinement to barracks for a period not exceeding 14 days;
 - (iv) extra guards or picquets not exceeding 3 in number;
 - (v) admonition

(2) A subordinate commander who is below the rank of captain may not award a fine or stoppages.

8. Restrictions on power delegated

(1) Where a commanding officer delegates the power of investigating and dealing summarily with charges under regulation 6, he may, in addition to the restrictions imposed by sub-regulation (3) of that regulation, impose such restrictions as he considers proper upon the exercise of that power by the officer to whom it is delegated.

(2) Where a subordinate commander is dealing with a charge against a non-commissioned officer or a soldier and the non-commissioned officer or soldier, as the case may be, tried by court-

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ARRANGEMENT

Regulation

1. Short title
2. Interpretation
3. Commanding Officer
4. Jurisdiction of Commanding Officer
5. Power of a Commanding Officer
6. Delegation
7. Punishment
8. Restrictions on power delegated
9. Jurisdiction of superior authority
10. Period of detention

ANTIGUA AND BARBUDA

THE DEFENCE (SUMMARY JURISDICTION) REGULATIONS, 2013

2013, No. 18

THE DEFENCE (SUMMARY JURISDICTION) REGULATIONS, 2013, made by the Defence Board in exercise of the powers contained in section 144 of the Defence Act, 2006 No. 10 of 2006.

1. Short title

These Regulations may be cited as the Defence (Summary Jurisdiction) Regulations, 2013.

2. Interpretation

In these Regulations –

“Act” means the Defence Act, 2006, No. 10 of 2006;

“detachment” means a part of a unit that is so separated from the unit to which it belongs that the officer commanding the unit cannot effectively exercise his disciplinary powers as commanding officer over that part; and

“subordinate commander” means the officer commanding a company or equivalent sub-unit.

3. Commanding Officers

(1) A unit or detachment may be placed for disciplinary purposes under the command of the Commanding Officer of another unit or detachment, and that officer is, for those purposes, the Commanding Officer of the first mentioned unit or detachment, as the case may be.

(2) For the purposes of these regulations, the commanding officer referred to in sub-regulation (1) is a subordinate commander.

4. Jurisdiction of Commanding Officer

(1) A commanding officer may not deal summarily with a charge –

(a) under section 81 of the Act where the corresponding civil offence is treason, murder, manslaughter or rape; or

(b) under sections 37 to 41, 45, 46, 75, 77 or 79 of the Act where the principal offence cannot be dealt with summarily by virtue of this paragraph.

(2) A commanding officer may not, without permission of a higher authority, deal summarily with a charge –

(a) under sections 43, 51, 58, 59, 62 to 64, 69, 70, 74, 76 or 79 of the Act where the principal offence cannot be dealt with summarily by virtue of this regulation; or

(b) under section 81 of the Act.

5. Power of a Commanding Officer below the rank of Major

(1) A commanding officer may not, without the permission of a higher authority, award to a soldier detention for a period exceeding 42 days detention.

(2) A commanding officer below the rank of Major may not, without permission of a higher authority, award to a soldier

(a) detention for a period exceeding 28 days, or

(b) a fine of a sum exceeding the equivalent of 14 days pay.

(3) A commanding officer may not, without the permission of a higher authority, award stop-pages exceeding one quarter of the individual’s salary.

(4) In addition to the restrictions imposed by sub-regulations (1) and (2), the powers of an officer commanding a detachment who is below the rank of major may be further restricted by the officer commanding the unit to which the detachment belongs, or by higher authority.

(5) Where the powers of an officer commanding a detachment have been restricted under sub-regulation (4) he may, notwithstanding the restriction, but subject to sub-regulations (1) and (2), exercise his full powers as a commanding officer if it is necessary for him to do so for the maintenance of discipline; and if he does so he shall report that fact to the officer or higher authority, as the case may be, who restricted his powers.

6. Delegation

(1) Subject to regulation 7, a commanding officer may delegate to a subordinate commander, whatever his rank, who is under the command of the commanding officer and directly responsible to him for disciplinary matters, the powers of investigating and dealing summarily with charges with which the commanding officer may deal.

(2) Where powers have been delegated under sub-regulation (1) the subordinate commander is, for the purposes of the Act, the commanding officer of any person who is subject to military law under the Act.

(3) Sub-regulation (1) does not apply to the power –