

Table of Contents

Volume 1

PART 1. DEFENCE, ARMED FORCES AND MILITARY LAW

CHAPTER 1. HISTORICAL ANTECEDENTS

I. PROVISION OF DEFENCE AND SECURITY IN A NEW DOMINION

- § 1:1 Introduction
- § 1:2 Pre-Confederation
- § 1:3 Post-Confederation—1868 Militia Act
- § 1:4 —1885 North-West Rebellion
- § 1:5 —South African (Boer) War
- § 1:6 —1904 Militia Act

II. CANADIANS IN THE FIRST WORLD WAR

- § 1:7 Introduction
- § 1:8 1917 Military Service Act
- § 1:9 Toward National Armed Forces

III. FIRST ATTEMPTS AT DEFENCE ORGANIZATION AND CONSOLIDATION

- § 1:10 National Defence Act, 1922
- § 1:11 1933 Visiting Forces (British Commonwealth) Act
- § 1:12 Canadian Command and Control in the Second
World War
- § 1:13 1940 Royal Canadian Air Force Act
- § 1:14 1944 Naval Service Act

IV. COLD WAR YEARS

- § 1:15 Introduction
- § 1:16 Justification for Sounder National Defence
Legislation

- § 1:17 1950 National Defence Act
- § 1:18 Rearmament, Korea and Cold War Roles

V. UNIFICATION

- § 1:19 Introduction
- § 1:20 1964 “Act to Amend the National Defence Act”
- § 1:21 1967 Canadian Forces Reorganization Act
- § 1:22 The Canadian Forces

VI. IMPETUS FOR CHANGE

- § 1:23 Somalia and Its Aftermath
- § 1:24 1998 “Act to Amend the National Defence Act”
- § 1:25 Bill C-7, An Act to Amend the National Defence Act
- § 1:26 Strengthening Military Justice in the Defence of
Canada Act
- § 1:27 Victims Rights in the Military Justice System Act

CHAPTER 2. MILITARY JUSTICE

I. THE PURPOSE AND EFFECT OF MILITARY LAW

- § 2:1 Introduction
- § 2:2 A Separate Military Justice System
- § 2:3 *R. v. MacKay*
- § 2:4 *R. v. Généreux*
- § 2:5 *R. v. Forster*
- § 2:6 *R. v. Moriarity*
- § 2:7 *R. v. Stillman*
- § 2:8 *R. v. Edwards*

II. JUDGE ADVOCATE GENERAL

- § 2:9 Overview
- § 2:10 Investigation and Custody
- § 2:11 Summary Hearing
- § 2:12 Courts Martial
- § 2:13 —Military Judiciary
- § 2:14 —Military Sentencing
- § 2:15 Review and Appeal

TABLE OF CONTENTS

CHAPTER 3. CIVILIAN OVERSIGHT

I. CANADA'S MILITARY IN A PARLIAMENTARY DEMOCRACY

§ 3:1 Overview

II. CIVILIAN CONTROL OVER THE MILITARY

- § 3:2 Introduction
- § 3:3 Prime Minister and Cabinet
- § 3:4 Minister of National Defence
- § 3:5 —Deputy Minister of National Defence
- § 3:6 —Review Services
- § 3:7 Parliament
- § 3:8 Auditor General of Canada
- § 3:9 Military Police Complaints Commission
- § 3:10 Military Grievances External Review Committee
- § 3:11 Department of National Defence and Canadian
Armed Forces Ombudsman
- § 3:12 Public Commissions of Inquiry
- § 3:13 Federal Courts
- § 3:14 Communications Security Establishment and the
Communications Security Establishment
Commissioner

CHAPTER 4. LEGAL ISSUES IN THE CANADIAN FORCES

I. THE MILITARY, SOCIAL CHANGE AND THE LAW

- § 4:1 Introduction
- § 4:2 Sex and Gender in the Canadian Forces

II. LIABILITIES OF SERVICE

- § 4:3 Overview
- § 4:4 Vaccination and Medical Tests and Treatment
- § 4:5 Military Unionism
- § 4:6 Job Protection for Military Reservists

III. FITNESS STANDARDS

- § 4:7 Overview
- § 4:8 Continued Service and Release

IV. AGE DISCRIMINATION

§ 4:9 Generally

V. DISABILITY AND DEATH

§ 4:10 Overview

§ 4:11 Post-Conflict Entitlements and Treatment

§ 4:12 —Post-Traumatic Stress Disorder

§ 4:13 —Suicide

§ 4:14 Preparing for the Eventuality of Death

§ 4:15 Financial Benefits Accruing to Survivors

VI. GENDER INTEGRATION

§ 4:16 Overview

§ 4:17 Sexual Harassment

§ 4:18 Sexual Relations and Sexual Assault

§ 4:19 Publication Bans Hide Military Sexual Assaults

§ 4:20 Punishing Sexual Assault in the Canadian Forces

VII. SEXUAL ORIENTATION

§ 4:21 Overview

§ 4:22 Military Homosexuality Comes Before the Courts

§ 4:23 Homosexuality in the Canadian Forces

VIII. SPOUSAL ABUSE

§ 4:24 Generally

IX. PORNOGRAPHY

§ 4:25 Overview

§ 4:26 Pornography and Appropriate Computer Usage in
the Military Context

§ 4:27 Uncovering Pornography Consumers in the Military

§ 4:28 Child Pornography

X. HARASSMENT

§ 4:29 Generally

TABLE OF CONTENTS

**PART 2. LEGAL DIMENSIONS OF
OPERATIONS**

**CHAPTER 5. DOMESTIC VERSUS
INTERNATIONAL OPERATIONS**

I. MILITARY OPERATIONS

§ 5:1 Introduction

II. DOMESTIC OPERATIONS

§ 5:2 Overview

§ 5:3 Assistance to Other Federal Government
Departments

§ 5:4 Aid to the Civil Power

§ 5:5 —Military Assistance to Provincial and Territorial
Law Enforcement

§ 5:6 —Peace Officer Status

§ 5:7 —Soldiers in the Streets in Support of Public Order

§ 5:8 Coup d'état

§ 5:9 Aid to the Civil Power—Domestic Extremism and
Terrorism

§ 5:10 Sovereignty

§ 5:11 Continental Defence

III. INTERNATIONAL OPERATIONS

§ 5:12 Overview

§ 5:13 Nationals Evacuation

§ 5:14 Humanitarian Relief

§ 5:15 Peacekeeping under Chapter VI of the Charter of
the United Nations

§ 5:16 —United Nations Mission in Eritrea and Ethiopia

§ 5:17 Military Intervention and Stability Operations
Under Chapter VII of the Charter of the United
Nations

§ 5:18 —United Nations Organization Mission in the
Democratic Republic of the Congo

§ 5:19 —Canadian Engagement in Afghanistan

§ 5:20 Desertions to Canada from U.S. Military

§ 5:21 The Fight against Jihadist Extremism and the
Islamic State of Iraq and the Levant (“ISIL”)

CHAPTER 6. STATUS OF FORCES

I. CONVENTIONAL AND UNCONVENTIONAL PARTICIPANTS IN CONFLICT

§ 6:1 Introduction

II. STATUS OF FORCES AGREEMENTS (SOFAs)

§ 6:2 Overview

§ 6:3 North Atlantic Treaty Organization (NATO) SOFA

§ 6:4 United Nations SOFAs

§ 6:5 Use of Memorandum of Understanding for
Operational Deployments

III. COMBATANTS

§ 6:6 Overview

§ 6:7 Extending Combatant Status Beyond Professional
Armed Forces

IV. UNLAWFUL COMBATANTS

§ 6:8 Overview

§ 6:9 Armed Civilians in Armed Conflict

§ 6:10 —Child Soldiers

§ 6:11 Determination and Withholding of Combatant
Status

§ 6:12 Mercenaries

§ 6:13 Pirates

§ 6:14 Spies and Traitors

V. SPECIAL FORCES

§ 6:15 Overview

§ 6:16 Joint Task Force 2

§ 6:17 Canadian Rangers

VI. CONTRACTORS

§ 6:18 Overview

§ 6:19 Inter-Departmental and Inter-Agency Accompanying
Civilians

VII. RETAINED PERSONNEL

§ 6:20 Generally

VIII. PLENIPOTENTIARIES

§ 6:21 Generally

TABLE OF CONTENTS

CHAPTER 7. USE OF FORCE

I. LEGAL PRINCIPLES BEHIND MILITARY USE OF FORCE

- § 7:1 Introduction
- § 7:2 Military Necessity
- § 7:3 Proportionality

II. CANADIAN FORCES CODE OF CONDUCT

- § 7:4 Overview
- § 7:5 Mercy Killing

III. RULES OF ENGAGEMENT (ROE)

- § 7:6 Generally

IV. NON-DEADLY AND DEADLY FORCE

- § 7:7 Overview
- § 7:8 Self-Defence

V. TARGETING

- § 7:9 Overview
- § 7:10 Friendly Fire
- § 7:11 Shoot-Down Authority

VI. GENERAL DALLAIRE'S DILEMMA AND FORCE IN PEACE SUPPORT OPERATIONS

- § 7:12 Generally

CHAPTER 8. PROTECTED PERSONS AND WAR CRIMES

I. CANADIAN OBLIGATIONS UNDER INTERNATIONAL AND DOMESTIC LAW

- § 8:1 Introduction

II. THE LAW OF GENEVA

- § 8:2 Overview
- § 8:3 Civilians
- § 8:4 —Responsibility to Protect
- § 8:5 Wounded, Sick and Shipwrecked

- § 8:6 Prisoners of War
- § 8:7 —Standards of Treatment
- § 8:8 Detainees
- § 8:9 —Torture
- § 8:10 —Mistreatment of Detainees on Canadian Peace Support Operations
- § 8:11 —Transfer of Detainees to Potential Torture in Afghanistan

III. WAR CRIMES

- § 8:12 Definition
- § 8:13 Canada's Historical Record with Prosecution of War Crimes
- § 8:14 War Crimes and the Canadian Forces

IV. COMMAND RESPONSIBILITY

- § 8:15 Overview
- § 8:16 Practical Examples of Command Responsibility in the Canadian Context
- § 8:17 Superior Orders

APPENDICES

Appendix A. Legislation

- Appendix A1. Militia Act, S.C. 1868, c. 40
- Appendix A2. National Defence Act, 1922 S.C. 1922, c. 34
- Appendix A3. Sex Offender Information Registration Regulations (Canadian Forces), SOR/2008-247
- Appendix A4. Military Rules of Evidence, C.R.C. 1978, c. 1049
- Appendix A5. Royal Canadian Air Force Act, S.C. 1940, c. 15
- Appendix A6. Rules of Appeal Practices and Procedures of the Court Martial Appeal Court of Canada
- Appendix A7. Visiting Forces (British Commonwealth) Act, 1933 S.C. 1933, c. 21
- Appendix A8. Court Martial Rules of Practice
- Appendix A9. Court Martial Procedures: Guide for Participants and Members of the Public, A-LG-007-000/AG-001

TABLE OF CONTENTS

Appendix A10. Canadian Forces Members and Veterans
Re-establishment and Compensation
Regulations, SOR/2006-50

Appendix A11. Other Legislation Relevant to the Armed
Forces

Appendix B. Courts Martial Lists

Appendix B1. Overview

Appendix B2. Registered Court Martial Appeals

Appendix B3. Registered Court Martial Appeals
Names Index

Appendix B4. Courts Martial — Sequential Citation

Appendix B5. Courts Martial — Names Index

Appendix B6. Courts Martial Charge Index

Appendix B-2026. Courts Martial in 2026

Appendix B-2025. Courts Martial in 2025

Volume 2

Appendix B-2024. Courts Martial in 2024

Appendix B-2023. Courts Martial in 2023

Appendix B-2022. Courts Martial in 2022

Appendix B-2021. Courts Martial in 2021

Appendix B-2020. Courts Martial in 2020

Appendix B-2019. Courts Martial in 2019

Appendix B-2018. Courts Martial in 2018

Appendix B-2017. Courts Martial in 2017

Appendix B-2016. Courts Martial in 2016

Appendix B-2015. Courts Martial in 2015

Appendix B-2014. Courts Martial in 2014

Appendix B-2013. Courts Martial in 2013

Appendix B-2012. Courts Martial in 2012

Appendix B-2011. Courts Martial in 2011

Appendix B-2010. Courts Martial in 2010

Appendix B-2009. Courts Martial in 2009

Appendix B-2008. Courts Martial in 2008

Appendix B-2007. Courts Martial in 2007

Appendix B-2006. Courts Martial in 2006

Appendix B-2005.	Courts Martial in 2005
Appendix B-2004.	Courts Martial in 2004
Appendix B-2003.	Courts Martial in 2003
Appendix B-2002.	Courts Martial in 2002
Appendix B-2001.	Courts Martial in 2001
Appendix B-2000.	Courts Martial in 2000
Appendix B-1999.	Courts Martial in 1999
Appendix B-1998.	Courts Martial in 1998
Appendix B-1997.	Courts Martial in 1997
Appendix B-1996.	Courts Martial in 1996
Appendix B-1995.	Courts Martial in 1995
Appendix B-1994.	Courts Martial in 1994
Appendix B-1993.	Courts Martial in 1993
Appendix B-1992.	Courts Martial in 1992
Appendix B-1991.	Courts Martial in 1991
Appendix B-1990.	Courts Martial in 1990
Appendix B-1989.	Courts Martial in 1989
Appendix B-1988.	Courts Martial in 1988
Appendix B-1987.	Courts Martial in 1987
Appendix B-1986.	Courts Martial in 1986
Appendix B-1985.	Courts Martial in 1985
Appendix B-1984.	Courts Martial in 1984
Appendix B-1983.	Courts Martial in 1983

Volume 3

Appendix B-1982.	Courts Martial in 1982
Appendix B-1981.	Courts Martial in 1981
Appendix B-1980.	Courts Martial in 1980
Appendix B-1979.	Courts Martial in 1979
Appendix B-1978.	Courts Martial in 1978
Appendix B-1977.	Courts Martial in 1977
Appendix B-1976.	Courts Martial in 1976
Appendix B-1975.	Courts Martial in 1975
Appendix B-1974.	Courts Martial in 1974
Appendix B-1973.	Courts Martial in 1973

TABLE OF CONTENTS

Appendix B-1972. Courts Martial in 1972

Appendix C. Digests

Appendix D. Operational Documents

Appendix E. Military Sentencing Digests

Appendix E1. Glossary of Short Forms and Military Terms

Appendix E2. Ranks of the Canadian Forces (CF)

Appendix E3. National Defence Act R.S.C. 1985, c. N-5 —
Part III Code of Service Discipline

Table of Cases

Index