Changes to Legislation: as of 13 October 2026, this Act is up to date with all changes known to be in force.

Number 8 *of* 1987

DEFENCE (AMENDMENT) ACT 1987

REVISED

Updated to 28 May 2019

This Revised Act is an administrative consolidation of the *Defence (Amendment) Act 1987*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Greyhound Racing Act 2019* (15/2019), enacted 28 May 2019, and all statutory instruments up to and including *European Communities (Sheep Identification) (Amendment) Regulations 2019* (S.I. No. 243 of 2019), made 28 May 2019, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

Number 8 *of* 1987

DEFENCE (AMENDMENT) ACT 1987

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ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Increase of certain fines awardable under Principal Act.
3. Increase of fines and compensation awardable under sections 177, 178 and 179 of Principal Act.
4. Alteration of punishments awardable, and disqualifications incurred, under sections 209 and 210 of Principal Act.
5. Offences relating to drugs, volatile substances and volatile preparations.
6. Powers exercisable by captain of service aircraft and certain other persons when safety of aircraft, etc. in jeopardy.
7. Lopping, cutting or removal of certain trees, etc.
8. Production of documents in evidence.
9. Amendment of section 35 (1) of Principal Act.
10. Amendment of section 107 of Principal Act.
11. Amendment of section 206 (2) of Principal Act.
12. Amendment of section 208 of Principal Act.
13. Amendment of section 248 of Principal Act.
14. Amendment of section 264 of Principal Act.
15. Amendment of Fourth Schedule to Principal Act.
16. Commencement of certain sections.
17. Short title, collective citation and construction.

ACTS REFERRED TO

Debtors Act (Ireland), 1872	1872, c. 57
Enforcement of Court Orders Act, 1940	1940, No. 23
Defence Act, 1954	1954, No. 18

Defence Acts, 1954 to 1979

Age of Majority Act, 1985 1985, No. 2

Number 8 *of* 1987

DEFENCE (AMENDMENT) ACT 1987

REVISED

Updated to 28 May 2019

AN ACT TO ALTER THE PUNISHMENTS WHICH MAY BE AWARDED UNDER THE DEFENCE ACT, 1954, AND OTHERWISE TO AMEND AND EXTEND THAT ACT. [24*th June*, 1987]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.—In this Act—

"a day's pay" means—

(*a*) in relation to a person who is convicted by a court-martial of an offence against military law or whose case is being dealt with summarily under Chapter IV of Part V of the Principal Act and who is a member of the Defence Forces, the basic pay, excluding any additional pay or allowance, that is, or would be, payable to that person in respect of the day on which punishment is awarded in respect of the offence, or

(*b*) in relation to a person convicted of an offence against military law who is not a member of the Defence Forces but who was a member of the Defence Forces when the offence was committed, the basic pay, excluding any additional pay or allowance, that would be payable to that person in respect of the day on which punishment is awarded in respect of the offence if he were a member of the Defence Forces on that day and his rank and service (or service in rank, if appropriate) were the same as those on the last day of his service in the Defence Forces;

"the Principal Act" means the Defence Act, 1954.

Increase of certain fines awardable under Principal Act.

2.—The fine which may be awarded under a section of the Principal Act specified in *column (2)* of the Table to this section shall be a fine not exceeding in amount the amount specified in *column (3)* of that Table opposite the reference number opposite which that section is so specified.

TABLE

Reference Number (1)	Section of Principal Act (2)	Maximum Fine (3)
		£
1.	Section 31 (2)	200
2.	Section 35 (1) (*c*)	1,000
3.	Section 35 (2) (*b*)	1,000

Reference Number (1)	Section of Principal Act (2)	Maximum Fine (3)
4.	Section 36 (7) (*a*)	1,000
5.	Section 37 (2)	200
6.	Section 38 (3)	200
7.	Section 183 (2)	100
8.	Section 235	500
9.	Section 236	100
10.	Section 242 (1)	250
11	Section 243 (2) (*b*)	250
12.	Section 245	250
13.	Section 252	200
14.	Section 253	200
15.	Section 255	500
16.	Section 256 (3)	200
17.	Section 257	1,000
18.	Section 258 (1)	250
19.	Section 260 (2) (*a*)	250
20.	Section 261	200
21.	Section 262	200
22.	Section 265 (3)	200
23.	Section 266 (1)	100
24.	Section 267 (1)	200
25.	Section 268 (1)	1,000
26.	Section 268 (2)	500
27.	Section 268 (3)	250
28.	Section 272 (1)	100
29.	Section 272 (2)	150
30.	Section 283 (1)	150
31.	Section 284 (3)	150
32.	Section 286	250
33.	Section 312 (2)	1,000
34.	Section 317 (4)	250

Increase of fines and compensation awardable under sections 177, 178 and 179 of Principal Act.

3.—(1) Section 177 of the Principal Act is hereby amended by—

(*a*) the substitution of the following clause for clause (I) of subsection (3) (*a*) (ii):

"(I) a fine not exceeding an amount equal to three days' pay of the officer charged,",

and

(*b*) the substitution in paragraph (*f*) of subsection (3) of "or an amount equal to nine days' pay of the officer charged" for "or the sum of fifteen pounds",

and the said paragraph (*f*), as amended by this subsection, is set out in *paragraph 1* of the Table to this section.

(2) Section 178 of the Principal Act is hereby amended by—

(*a*) the substitution of the following paragraph for paragraph (*a*) of subsection (2):

"(*a*) a fine not exceeding an amount equal to three days' pay of the offender,",

(*b*) the substitution of the following subparagraph for subparagraph (ii) of subsection (3) (*a*):

"(ii) a fine not exceeding an amount equal to three days' pay of the offender,",

and

(*c*) the substitution in subsection (4) of "or an amount equal to nine days' pay of the offender" for "or the sum of ten pounds",

and the said subsection (4), as amended by this subsection, is set out in *paragraph 2* of the Table to this section.

(3) Section 179 of the Principal Act is hereby amended by—

(*a*) the substitution of the following paragraph for paragraph (*a*) of subsection (3):

"(*a*) a fine not exceeding an amount equal to a day's pay of the offender,",

and

(*b*) the substitution in subsection (4) of "or an amount equal to four days' pay of the offender" for "or the sum of three pounds",

and the said subsection (4), as amended by this subsection, is set out in paragraph 3 of the Table to this section.

TABLE

1. (*f*) where—

(i) the authorised officer deals with the case summarily, and

(ii) the offence charged occasioned any expense, loss, damage or destruction,

the authorised officer may, in lieu of or in addition to any punishment which he is authorised by paragraph (*a*) of this subsection to award in respect of the offence, order that there shall be paid by the officer charged, as compensation for the expense, loss, damage or destruction so occasioned, such sum (not exceeding the amount required to make good such expense, loss, damage or destruction or an amount equal to nine days' pay of the officer charged, whichever is the less) as the authorised officer may direct.

2. (4) Where—

(*a*) a commanding officer deals with a case summarily under this section, and

(*b*) the offence charged occasioned any expense, loss, damage or destruction.

the commanding officer may, in lieu of or in addition to any punishment which he is authorised by this section to award in respect of the offence, order that there shall be paid by the offender, as compensation for the expense, loss, damage or destruction so occasioned, such sum (not exceeding the amount required to make good such expense, loss, damage or destruction or an amount equal to nine days' pay of the offender, whichever is the less) as the commanding officer thinks fit.

3. (4) Where—

(*a*) a subordinate officer deals with a case summarily under this section, and

(*b*) the offence charged occasioned any expense, loss, damage or destruction,

the subordinate officer may, in lieu of or in addition to any punishment which he is authorised by this section to award in respect of the offence, order that there shall be paid by the offender, as compensation for the expense, loss, damage or destruction so occasioned, such sum (not exceeding the amount required to make good such expense, loss, damage or destruction or an amount equal to four days' pay of the offender, whichever is the less) as the subordinate officer thinks fit.

Alteration of punishments awardable, and disqualifications incurred, under sections 209 and 210 of Principal Act.

4.—(1) Section 209 of the Principal Act is hereby amended by—

(*a*) the insertion of the following after item E in the Scale to subsection (1):

"EI. Where the person convicted is an officer, reduction to,—

(*a*) if he holds a commissioned army rank, any lower commissioned army rank,

or

(*b*) if he holds a commissioned naval rank, any lower commissioned naval rank.",

(*b*) the substitution of the following for item G in the said Scale:

"G. A fine not exceeding—

(*a*) in case the person convicted is an officer, an amount equal to ten days' pay of that officer, or

(*b*) in case the person convicted is not an officer but was an officer when the offence was committed, an amount equal to ten days' pay of that person as an officer, or

(*c*) in any other case, an amount equal to the maximum fine awardable for the time being by a court-martial to an officer holding the rank of second-lieutenant who is in receipt of the maximum pay applicable to that rank.",

(*c*) the insertion after subsection (6) of the following subsection:

"(6A) An officer sentenced by a court-martial to reduction in rank may be also sentenced to a fine or severe reprimand or reprimand.",

and

(*d*) the substitution of the following subsections for subsection (8):

"(8) An officer dismissed with ignominy from the Defence Forces shall—

(*a*) be disqualified for ever serving the State again in any military capacity, and

(*b*) during the period of seven years beginning on the date of his dismissal, subject to subsection (9) of this section, be disqualified for serving the State in any civil capacity.

(9) Where a person by reason of this section is for the time being disqualified for serving the State in any civil capacity, the Government may, in their absolute discretion, remove the disqualification.".

(2) Section 210 of the Principal Act is hereby amended by—

(*a*) the substitution of the following for items D, E and F in the Scale to subsection (1):

"D. Discharge with ignominy from the Defence Forces.

E. Discharge from the Defence Forces.

F. Detention for any term not exceeding two years.",

(*b*) the substitution of the following for item H in the said Scale:

"H. A fine not exceeding—

(*a*) in case the person convicted is a non-commissioned officer, an amount equal to nine days' pay of that non-commissioned officer, or

(*b*) in case the person convicted is a private or a seaman, an amount equal to six days' pay of that private or seaman, as may be appropriate, or

(*c*) in case the person convicted is not a member of the Defence Forces but was a non-commissioned officer when the offence was committed, an amount equal to nine days' pay of that person as a non-commissioned officer, or

(*d*) in case the person convicted is not a member of the Defence Forces but was a private or a seaman when the offence was committed, an amount equal to six days' pay of that person as a private or a seaman, as may be appropriate, or

(*e*) in any other case, an amount equal to the maximum fine awardable for the time being by a court-martial to a private of the highest grade who is in receipt of the maximum pay applicable to that rank and grade." ,

and

(*c*) the substitution of the following subsections for subsection (11):

"(11) A man discharged with ignominy from the Defence Forces shall—

(*a*) be disqualified for ever serving the State again in any military capacity, and

(*b*) during the period of seven years beginning on the date of his discharge, subject to subsection (12) of this section, be disqualified for serving the State in any civil capacity.

(12) Where a person by reason of this section is for the time being disqualified for serving the State in any civil capacity, the Government may, in their absolute discretion, remove the disqualification.".

Offences relating to drugs, volatile substances and volatile preparations.

5.—The Principal Act is hereby amended by the insertion of the following section after section 142:

"Drugs, etc.

142A.—(1) Every person subject to military law, whether on duty or not on duty, who, owing to his being under the influence of any drug or any volatile substance or volatile preparation,—

(*a*) is unfit to be entrusted with any duty he is or may be required to perform, or

(*b*) behaves in a disorderly manner or in any manner likely to bring discredit on the Defence Forces,

is guilty of an offence against military law and shall, on conviction by court-martial, be liable to suffer,—

(i) if an officer, dismissal from the Defence Forces or any less punishment awardable by a court-martial, or

(ii) if a man and the offence is committed on active service or on duty, imprisonment or any less punishment awardable by a court-martial, or

(iii) if a man and the offence is committed otherwise than on active service or on duty, discharge from the Defence Forces or any less punishment awardable by a court-martial.

(2) In any proceedings for an offence under this section it shall be a defence for the person charged with the offence to prove that the relevant drug, substance or preparation was used by him pursuant to and in accordance with a prescription issued by a registered medical practitioner or was used by him in good faith for medical reasons.".

Powers exercisable by captain of service aircraft and certain other persons when safety of aircraft, etc. in jeopardy.

6.—(1) Where the captain of a service aircraft has reasonable grounds for believing that a person who is not subject to military law has committed, or is about to commit, on board the aircraft any act jeopardising, or which may jeopardise,—

(*a*) the safety of the aircraft, or

(*b*) the safety of any person or property on board the aircraft, or

(*c*) good order and discipline on board the aircraft,

the captain may take, with respect to that person, such reasonable measures, including restraint of his person, as he reasonably considers to be necessary to protect the safety of the aircraft or of any person or property, or to maintain good order and discipline, on board the aircraft.

(2) For the purposes of enabling him to exercise the powers conferred on him by *subsection (1)* of this section, the captain of a service aircraft may—

(*a*) order or authorise the assistance of any other member of the crew of the aircraft, or

(*b*) request or authorise the assistance of any other person on board the aircraft.

(3) Any member of the crew of a service aircraft, or any other person on board the aircraft, may, without being ordered, authorised or requested in that behalf by the captain of the aircraft, take, with respect to any other person on board the aircraft who is not subject to military law, any reasonable measures which he has reasonable grounds for believing to be immediately necessary to protect the safety of the aircraft or of any person or property on board the aircraft.

(4) A measure authorised by this section shall constitute neither—

(*a*) an offence either at common law or under statute, nor

(*b*) a cause of action in any court.

(5) For the purposes of this section and section 154 of the Principal Act, the person who has been designated to be in command of a service aircraft shall be regarded as being the captain of the aircraft.

Lopping, cutting or removal of certain trees, etc.

7.—(1) The Minister may lop, cut or remove, or cause to be lopped, cut or removed, any tree, shrub, hedge or other plant on land in the vicinity of an aerodrome vested in or occupied by him which, in his opinion, obstructs or otherwise interferes with the navigation of aircraft using the aerodrome.

(2) (*a*) Before exercising a power under *subsection (1)* of this section, the Minister shall give to the occupier of the land concerned notice in writing of his intention to so do after the expiration of a period (being a period of not less than twenty-one days) specified in the notice, and in case an occupier of land receives a notice under this section and apart from this subsection would not be entitled to carry out the lopping, cutting or removal referred to in the notice, he may, if he so wishes, by virtue of having received the notice, himself carry out or cause to be carried out such lopping, cutting or removal: provided that, before the expiration of the period specified in the notice, he informs the Minister in writing of his intention so to do.

(*b*) Where an occupier of land to whom a notice under this section is given carries out, or causes to be carried out, whether or not by virtue of the power conferred on him in that behalf by *paragraph (a)* of this subsection, the lopping, cutting or removal referred to in the notice, the reasonable expenses thereby incurred by him shall be paid to him on demand by the Minister.

(3) Where a notice is given under this section, a person appointed in writing by the Minister to be an authorised person for the purposes of this section and any persons acting under that person's direction may, for the purpose of or in connection with carrying out the lopping, cutting or removal specified in the notice, at any reasonable time after the expiration of the period specified in the notice, enter (with or without vehicles) the land to which the notice relates or any other land and, in addition to carrying out such lopping, cutting or removal, do thereon all things ancillary to or reasonably necessary for the aforesaid purpose.

(4) Any person who obstructs or impedes a person in the exercise of a power conferred on him by *subsection (3)* of this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

Production of documents in evidence.

8.—(1) A person summoned or ordered under section 207 of the Principal' Act to give evidence before a court-martial may by letter signed by the F1**[**military judge presiding at**]** the court-martial be required to produce to such court-martial any document, record or other thing in his power or control being a document, record or other thing which is either specified in such letter or is of a class or description so specified and being in either case a document, record or other thing required as evidence at such court-martial.

(2) A person summoned or ordered under section 183 (1) of the Principal Act to attend as a witness before an authorised officer or a commanding officer investigating a charge under Chapter IV of Part V of that Act may by letter signed by such authorised officer or commanding officer, as may be appropriate, be required to produce to such officer any document, record or other thing in the person's power or control being a document, record or other thing which is either specified in the letter or is of a class or description so specified and being in either case a document, record or other thing which such officer considers necessary for the purposes of the investigation.

F1**[** (3) For the purposes of subsection (1) of this section—

(*a*) subsection (3) of section 207 of the Principal Act shall apply as it applies for the purposes of the said section 207, and

(*b*) references to the military judge shall be construed as including references to such officer.**]**

(4) Any person, not being a person subject to military law, who without just cause or excuse fails or refuses to produce a document, record or other thing, the production

of which is required under *subsection (2)* of this section, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding F1**[**€2,000**]**.

Amendment of section 35 (1) of Principal Act.

9.—Section 35 (1) of the Principal Act is hereby amended by the substitution of the following paragraph for paragraph (*a*):

"(*a*) The Minister may cause to be erected, placed and attached upon, in or to any land or building in the vicinity of any other land (including an aerodrome) vested in or occupied by him, and may thereafter maintain and use, such apparatus (including electric lines) as he considers necessary for the purpose of indicating any position or any obstruction or of signalling or supplying information to persons navigating aircraft in such vicinity.".

Amendment of section 107 of Principal Act.

10.—Section 107 (as amended by section 5 of the Age of Majority Act, 1985) of the Principal Act is hereby amended by the substitution of the following subsections for subsection (1):

"(1) An order shall not be made under section 8 of the Enforcement of Court Orders Act, 1940, directing the imprisonment of any person—

(*a*) who is a man of the Permanent Defence Force, or

(*b*) who is a reservist and is for the time being called out on permanent service.

(2) An order shall not be made under section 6 of the Debtors Act (Ireland), 1872, or under section 6 of the Enforcement of Court Orders Act, 1940, directing the imprisonment of any person—

(*a*) who is a man of the Permanent Defence Force on active service, or

(*b*) who is a reservist and is for the time being called out on permanent service.".

Amendment of section 206 (2) of Principal Act.

11.—Section 206 (2) of the Principal Act is hereby amended by the insertion after paragraph (*b*) of the following paragraph:

"(*bb*) reduction to a lower commissioned army rank, or to a lower commissioned naval rank,".

Amendment of section 208 of Principal Act.

12.—Section 208 of the Principal Act is hereby amended by the substitution of the following subsection for subsection (1):

"(1) If any person not subject to military law—

(*a*) having been duly summoned as a witness before a court-martial, without just cause or excuse disobeys the summons, or

(*b*) being in attendance as a witness at a court-martial, without just cause or excuse fails or refuses to take an oath or make a solemn declaration when legally required by the court-martial to do so, or to produce any document, record or other thing in his power or control legally required by the court-martial to be produced by him, or to answer any question to which the court-martial may legally require an answer, or

(*c*) does anything, whether at the court-martial or otherwise, which, if the court-martial were a civil court having power to commit for contempt, would be contempt of court,

the person shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding twelve months or to both such fine and such imprisonment.".

Amendment of section 248 of Principal Act.

13.—Section 248 of the Principal Act is hereby amended by the insertion in paragraph (*d*) after subparagraph (ii) of the following subparagraph:

"(iiA) having, or not having, at any specified time or times, served outside the State as a member of the Permanent Defence Force with an armed International United Nations Force, or".

Amendment of section 264 of Principal Act.

14.—Section 264 of the Principal Act is hereby amended by—

(*a*) the substitution of the following subsection for subsection (1):

"(1) If any person (not being a member of the Defence Forces) wears, without permission granted by or on behalf of the Minister, any uniform of the Defence Forces, or any colourable imitation thereof, such person shall be guilty of an offence under this section and shall be liable on summary conviction to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for any term not exceeding six months or to both such fine and such imprisonment.",

and

(*b*) the insertion after subsection (3) of the following subsection:

"(4) In any proceedings for an offence under this section it shall be presumed, until the contrary is proved, that permission to wear a uniform of the Defence Forces, or any colourable imitation thereof, had not been granted by or on behalf of the Minister.".

Amendment of Fourth Schedule to Principal Act.

15.—The Fourth Schedule to the Principal Act is hereby amended by the substitution of the following paragraph for paragraph 20:

"20. The flying, certification and maintenance of service aircraft and the certification and maintenance of service aircraft material.".

Commencement of certain sections.

16.—*Sections 2*, *3*, *4*, *8 (4)*, *12* and *14* of this Act shall have effect only in relation to offences committed after the commencement of this Act.

Short title, collective citation and construction.

17.—(1) This Act may be cited as the Defence (Amendment) Act, 1987.

(2) The Defence Acts, 1954 to 1979, and this Act may be cited together as the Defence Acts, 1954 to 1987, and shall be construed together as one Act.

Number 8 *of* 1987

DEFENCE (AMENDMENT) ACT 1987

REVISED

Updated to 28 May 2019

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Defence Acts 1954 to 2015: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Defence (Amendment) Act 2015*, s. 4(2)), to be construed together as one (*Defence (Amendment) Act 2011*, s. 12(2)). The Acts in the collectively cited group are:

- *Defence Act 1954* (18/1954)
- *Defence (Amendment) (No. 2) Act 1960* (44/1960)
- *Defence (Amendment) Act 1979* (1/1979)
- *Defence (Amendment) (No. 2) Act 1979* (28/1979)
- *Defence (Amendment) Act 1987* (8/1987)
- *Defence (Amendment) Act 1990* (6/1990)
- *Criminal Law Act 1997* (14/1997), s. 14 and sch. 2
- *Defence (Amendment) Act 1998* (31/1998)
- *Defence (Amendment) Act 2006* (20/2006)
- *Defence (Amendment) Act 2007* (24/2007)
- *Defence (Amendment) Act 2011* (17/2011)
- *Defence (Amendment) Act 2015* (24/2015) (citation only)

Acts previously included in the group but now repealed are:

- *Defence (Amendment) Act 1993* (18/1993)

The following legislation deals with related subject matter:

- *Courts Martial Appeals Act 1983* (19/1983)
- *Civil Defence Act 2002* (16/2002)
- *Ombudsman (Defence Forces) Act 2004* (36/2004)
- *Defence (Miscellaneous Provisions) Act 2009* (35/2009)

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.