

THE MANUAL OF THE LAW OF ARMED CONFLICT (JOINT SERVICES PUBLICATION 383) – AMENDMENT 7

The text¹ of the Manual of the Law of Armed Conflict should be read in the light of the following amendments:

Insert/delete the following text as indicated.

Chapter 14

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1. In paragraph 14.1, insert new first sentence “A peace support operation is defined as ‘[a]n operation that impartially makes use of diplomatic, civil and military means, normally in pursuit of United Nations Charter purposes and principles, to restore or maintain peace. Such operations may include conflict prevention, peacemaking, peace enforcement, peacekeeping, peacebuilding and/or humanitarian operation.’ [Insert notation to footnote 1]”
2. Insert new footnote 1, “See JWP 3-50, The Military Contribution to Peace Support Operations ,para.103.a.”
3. In paragraph 14.1.d, after “(UN Safety Convention)” add “and its Optional Protocol of 2005”.

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4. In paragraph 14.3, line 3, delete footnote annotation 1 and insert annotation 1bis. Amend footnote 1 to read footnote 1bis.

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5. In paragraph 14.8, line 3, after “other international organization”, insert “(e.g. NATO)”.
6. In paragraph 14.8, line 10, “only states” and insert “it is principally states that”. At the end of the paragraph before annotation to footnote 5, add “International tribunals may also have jurisdiction in particular circumstances.”

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7. In paragraph 14.15, line 6, after “and Associated Personnel 1994”, insert “and its Optional Protocol of 2005”.
8. In footnote 15, line 2, before “arrested”, delete “have”.

¹ All page and paragraph references refer equally to the Binder and OUP versions – pagination is identical. There is, however, some discrepancy in the Appendices.

Chapter 15

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9. In paragraph 15.1(b), line 4, after “over”, insert “a”.
10. In paragraph 15.1(b), line 5, at the end of the quotation, insert notational mark “1bis”.
At bottom of the page, insert new footnote “1bis. Additional Protocol II 1977(AP II), Art 1(1).”

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11. In footnote 8, Delete “Additional Protocol II 1977 (AP II)” and insert “AP II”.

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12. In paragraph 15.2.5, line 6, after “Germany”, delete “; and” and insert “together with”.

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13. In footnote 19, line 3, after “unless”, insert “an international tribunal such as”.

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14. In paragraph 15.4, in the quote from Common Article 3(1)(d), line 2, delete “judgement” and insert “judgment”.
15. In footnote 21, delete “Algerian Revolutionary Front (FLN)” and insert “National Liberation Front (FLN)”.

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16. In paragraph 15.6, delete the heading “**Combatants and non-combatants**” and insert “**The principle of distinction**”.
17. In footnote 25, line 1, after “Art 3.”, insert “See also para.5.3.”
18. In paragraph 15.6.2, lines 3 to 4, delete “dissident combatant” and insert “member of dissident armed forces”.

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19. In paragraph 15.6.4, line 2, delete “a combatant or a civilian” and insert “a direct participant or not”.
20. In footnote 28, add "**Art.4(1) of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict of 25 May 2000 increases this age limit to 18 for armed groups. In relation to state armed**

forces, States Parties are obliged to raise their recruitment age to a minimum of 16 (Article 3), their conscription age to 18 (Article 2) and “shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities” (Article 1). The Protocol has been signed and ratified by the UK, subject to a Declaration on specific situations where excluding the deployment of members of its armed forces under the age of 18 may not be feasible.”

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21. In paragraph 15.9, line 2, after “importance” add “so as to amount to military objectives”.

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22. In paragraph 15.13, delete “or red crescent” and insert “red crescent or red crystal” In footnote 33, add “See also APIII.”
23. In paragraph 15.15, delete “targets” and insert “objectives”.

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24. In paragraph 15.16.1, lines 4 to 5, delete “are being used for military purposes” and insert “have become military objectives”.

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25. In paragraph 15.21, line 2, delete “objects such as”.
26. In paragraph 15.22, line 2, before “minimize” insert “avoid or at least”.
27. In paragraph 15.22.1, line 4, delete “15.21” and insert “15.22”.

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28. In paragraph 15.25.1, line 8, before “minimize” insert “avoid or at least”.
29. In footnote 52, delete text and insert “See paras 15.19 and 15.19.1”.

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30. In paragraph 15.28, line 1, delete “It” and insert “In particular, it”.
31. In paragraph 15.28, at the end of subparagraph e, delete full stop and insert semi-colon. Add new subparagraph, “f. cluster munitions.[footnote annotation 58bis]”. Insert new footnote “58bis Oslo Convention 2008, Art 1.”

32. In paragraph 15.29.1, line 6, delete “or red crescent” and insert “red crescent or red crystal”.

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33. In footnote 66, delete “15.30(d)” and insert “15.30(f)”.

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34. In footnote 103, delete “7.33” and insert “7.31”.

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35. In paragraph 15.48, after “red crescent,” insert “red crystal.”

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36. In paragraph 15.54, line 1, before “red cross”, insert “national”.

Chapter 16

Page 412

37. In footnote 12, **line 3**, after “(GC(A) 1995)”, add “and the text of AP III by the Geneva Conventions and United Nations Personnel (Protocols) Act 2009”.

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38. In footnote 16, delete all text after “AP I, Art 82.” and insert “In the UK this is mainly achieved through the service legal branches. The ‘appropriate level’ will depend on the circumstances but will usually include maritime, land and air component commanders and joint task force commanders at the Brigade or equivalent level. See JDP 3-46, Legal Support to Joint Operations.”

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39. In paragraph 16.10.2, line 1, after “It”, insert “is”.

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40. In paragraph 16.11.1, last line, delete “the same” and insert “a similar”.

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41. In paragraph 16.13.1, delete last sentence and insert “Military commanders must ensure that the unique role of the ICRC is understood and taken into account during military operations”.

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42. In paragraph 16.17a, line 2, delete “combatants” and insert “personnel”.

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43. In footnote 88, add “This would include the red crystal”.

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44. In paragraph 16.26.1, line 5, delete “Service Discipline Acts” and insert “Armed Forces Act 2006”.

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45. In footnote 111, add “This would include the red crystal.”

46. In footnote 121, delete “Army Act (AA) 1955, s 30” and insert “Armed Forces Act 2006, s 4”.

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47. Delete text in paragraph 16.29c and insert “improper use of a privileged building for military purposes;”. Retain annotation to footnote 122.

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48. In footnote 130, delete “8.114” and insert “8.115”.

49. In footnote 134, add “These Regulations are in the process of being updated. Provision has now been made for a replacement Royal Warrant in Armed Forces Act 2006, s.371A.”

50. In paragraph 16.30.2, line 14, delete “their own service disciplinary code” and insert “the Armed Forces Act 2006”.

51. In paragraph 16.30.3, lines 6-7, delete “except when they are committed within the United Kingdom”. Retain annotation to footnote 139. In footnote 139, delete text and insert “These are now “Schedule 2” offences, see Armed Forces Act 2006, Schedule 2, para 12(aq).”

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52. In paragraph 16.31.1, delete all text apart from the final sentence. Insert: “In the United Kingdom, extradition is governed by the Extradition Act 2003. The applicable procedure depends on whether the extradition is governed by the European Arrest Warrant (that is, to Category 1 territories) or by other extradition arrangements between the UK and another state (Category 2 territories).” Delete footnotes 141 and 142.

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53. In paragraph 16.33.2, line 1, delete “will have” and insert “has”.

54. In paragraph 16.33, delete text in its entirety and insert “The court has jurisdiction over genocide, war crimes and crimes against humanity. It will also have jurisdiction over the crime of aggression though this cannot be before 2017 at the earliest. [footnote annotation 162]. In footnote 162, after “Art 5” add “and 15bis”.

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55. In paragraph 16.34, line 1, delete “Article 8” and insert “Article 8(2)”.

56. In footnote 163, line 2, delete “Kingdon” and insert “Kingdom”.

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57. After the italicised heading to Article 8(2)(e), insert footnote annotation “165 bis”. Insert new footnote “165 bis. See Rome Statute, Art 8(2)(f).”

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58. In paragraph 16.34, at the end of the paragraph, insert footnote annotation “166bis”. Insert new footnote “166bis At a Review Conference in 2010, amendments, which have not yet been ratified by the United Kingdom, were made to the list of crimes under Art 8(2)(e) to include employing poison or poisoned weapons, employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices, and employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions.”

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59. In paragraph 16.38, lines 5 to 6, delete “But failure to do so does not of itself give rise to criminal responsibility.”

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60. In paragraph 16.41.1, lines 6 to 7, delete “Of course, the excuse of mistake may wear thin if raised in case after case, especially” and insert “The defence of mistake will be more difficult to argue”.

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61. In footnote 213, add “These Regulations are in the process of being updated. Provision has now been made for a replacement Royal Warrant in Armed Forces Act 2006, s.371A.”

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62. In footnote 215, delete “To the contrary in internal armed conflict, see AP II, Art 6(5).” and insert “In internal armed conflict, AP II, Art 6(5) is not considered to apply to international crimes.”

17 May 2013