

THE MANUAL OF THE LAW OF ARMED CONFLICT (JOINT SERVICES PUBLICATION 383) – AMENDMENT 5

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 9

Page 215

1. In paragraph 9.1.2, line 2, after “under” insert “the control of”.

Page 217

2. In paragraph 9.5, last line, before “Additional Protocol I” insert “Article 75 of”.

Page 219

3. **In footnote 17, add “See also Art 3 of the Optional Additional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict 2000, which provides that the minimum age for compulsory recruitment into the armed forces is raised to 18 years, and states that “States Parties 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”. The Protocol has been signed and ratified by the UK.”**
4. In paragraph 9.9.1, lines 5 to 6, delete “this paragraph” and insert “paragraph 9.9 and its sub-paragraphs”.

Page 220

5. In footnote 24, line 4, delete “societies” and insert “Red Cross and Red Crescent Societies”.

Page 221

6. **In footnote 33, delete “13.93-13.95” and insert “13.65-13.76”.**

Page 224

7. In paragraph 9.17.1, line 5, after “is used” insert “in this Chapter”.
8. In paragraph 9.18.a, delete “since at the time of writing the only states not party to the Convention are the Republic of the Marshall Islands and Nauru”. Insert “since all states are now party to the Convention”.

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.

Page 225

9. In footnote 52, delete “para.9.67” and insert “para.9.61”.

Page 226

10. In paragraph 9.23, line 2 to 3, delete “national red cross (or equivalent) society” and insert “National Red Cross or Red Crescent Society”.

Page 231

11. In footnote 83, add “All States are now party to GC IV.”

Page 241

12. **In paragraph 9.72, lines 7 to 10, delete the last sentence and insert “Allowances from the state to which they owe allegiance shall be the same for each category of internees (such as, for example, the infirm, the sick, and pregnant women) but may vary between categories according to the particular needs of that category. No other discrimination in allocation is permissible.”**
13. In paragraph 9.73.d, delete text and insert “money taken from that internee.” Retain footnote annotation 154.

Page 245

14. In footnote 182, insert “For transfers between states, see also para.9.35.”

Page 247

15. In paragraph 9.95, line 4, after “and”, and before “special courts”, insert “,other than courts set up in occupied territory by the occupying power,”.

Page 251

16. In footnote 220, after “coroner’s inquest” insert “(or equivalent)”.

Page 254

17. In footnote 232, delete “paras.9.14-9.15” and insert “paras.9.14-9.16”.
18. In paragraph 9.116, final line, delete “national red cross societies” and insert “National Red Cross or Red Crescent Societies”.

Chapter 10

Page 258

19. In paragraph 10.3.1, line 7, delete “communications” and insert “communication”.

Page 261

20. In paragraph 10.8.1, lines 3 to 4, delete “even blindfolding” and insert “other steps to restrict his ability to observe”.

Page 262

21. In paragraph 10.10.1, line 3 to 4, delete “the war crime of perfidy” and insert “a war crime”.

22. In paragraph 10.13, line 1, after “agreement”, insert footnote annotation “18bis”. Insert new footnote:

“18bis The general reference to ‘agreement’ here and elsewhere in this Manual unless otherwise stated includes any form of agreement, arrangement or understanding whether legally binding or not. Where States intend to enter into a legally binding agreement, they do so by Treaty as defined in Art 2 of the Vienna Convention on the Law of Treaties. However, informal, or non-legally binding, instruments are often used by States in the conduct of international relations, where they intend to commit themselves to a particular course of action but do not wish to enter into a legal obligation to do so. The use of informal instruments (often called Memoranda of Understanding or Arrangements) is very common in a wide variety of contexts including during military operations where sometimes they are also referred to as military technical agreements.”

23. In paragraph 10.13, line 2, delete “involve” and insert “engage”.

Page 265

24. In paragraph 10.21, delete the last sentence in its entirety and insert: “Subject to this and unless expressly prohibited from doing so by the agreement, belligerent parties are, however, permitted to engage in other activity that will tend to the improvement of the situation after the expiration of the armistice.”

Page 267

25. In paragraph 10.26, line 12, before “attack”, insert “armed”.
26. In paragraph 10.27.1, line 2, delete “sanctioned” and insert “endorsed”.

Page 269

27. In paragraph 10.31, lines 2 to 3, delete “the disciplinary code of his Service” and insert “the Armed Forces Act 2006”. In footnote 44, delete text in its entirety and insert “See AFA 2006, s.2(1).”

Chapter 11

Page 277

28. In paragraph 11.8, line 8, after “parties”, insert “, such as the UK,”

Page 278

29. At the end of paragraph 11.8.1, after “service legal office”, add “who will in turn consult with appropriate MOD legal advisers”.

Page 279

30. In paragraph 11.12, delete the last sentence in its entirety and insert “However, they must distinguish themselves from the civilian population while they are engaged in an attack or in a military operation preparatory to an attack.” Retain the annotation to footnote 17 after “attack”. Delete the text of footnote 17 in its entirety and insert “AP I, Arts 43 and 44. See also paras. 4.4-4.5.4.”
31. **In paragraph 11.13, lines 1 to 4, delete “Even after an occupation is effective, members of the armed forces who have not surrendered, members of organised resistance movements, and members of internationally recognized liberation movements may continue the fight”. Insert “Members of the armed forces who have not surrendered, members of organized resistance movements, and members of internationally recognized liberation movements may fight to resist invading troops until an effective occupation is established”. The existing footnote annotation should be retained.**

Page 280

32. In paragraph 11.14, line 4, delete “belligerents” and insert “combatants”.

Page 281

33. **In paragraph 11.15.1, delete text in its entirety and replace with:**
- “The occupying power may issue lawful orders, in the form of legislation, proclamations and regulations, and is entitled to require the inhabitants of the occupied territory to obey them. Inhabitants may be punished for disobedience to such lawful orders but such disobedience will not necessarily be a breach of the law of armed conflict.”**

Page 282

34. In paragraph 11.19, line 11, delete “the standards of”.

Page 283

35. In paragraph 11.21.1, line 7, delete “lawful”.

Page 286

36. In footnote 60, delete “11.82” and insert “11.83”.

Page 290

37. In paragraph 11.46, line 3, before “occupied territory”, insert “the”.

Page 291

38. In footnote 87, delete “An example would be a civil defence organization, see also API I, Art 63.”
39. In footnote 88, add “An example would be a civil defence organization, see also API I, Art 63.”
40. In paragraph 11.51, line 3, delete “national red cross and red crescent societies” and insert “National Red Cross and Red Crescent Societies”.

Page 292

41. In paragraph 11.52.1, line 1, before “occupied territory”, insert “the”.

Page 293

42. In paragraph 11.55.1, delete “of the Convention”.
43. In paragraph 11.56, line 4, before “occupied territory”, insert “the”.

Page 297

44. In paragraph 11.68.1, delete footnote 122 in its entirety.

Page 300

45. **In footnote 134, delete “See also NDA 1957, ss 5, 35A; AA 1955, s 30, and AFA 1955, s 63.” Insert “See also AFA 2006, s 4.”**

Page 302

46. **In footnote 143, delete “See also AA 1955, Pt IV in MML, Pt I.”**

Page 303

47. In paragraph 11.87.1, line 4, delete comma after “other”.

16 August 2011