

CANADA

Last updated: 29 November 2016

RULES/GENERAL LAWS

General	<p>Canada's Military Justice Overview: http://www.forces.gc.ca/assets/FORCES_Internet/docs/en/jag/military-justice-overview.pdf</p> <p>National Defence Act: http://laws-lois.justice.gc.ca/eng/acts/n-5/</p> <p>Queen's Regulations and Orders (QR&Os) Volume II -Disciplinary: http://www.forces.gc.ca/en/about-policies-standards-queens-regulations-orders-vol-02/index.page</p> <p>The National Defence Act applies to all deployed armed forces personnel. By virtue of s. 130(1)(a) of the National Defence Act, the Criminal Code of Canada applies to all deployed armed forces personnel. http://laws.justice.gc.ca/PDF/C-46.pdf http://laws.justice.gc.ca/PDF/N-5.pdf</p> <p>Deployed Canadian military personnel are considered "on duty" at all times. Canadian military personnel are subject to the Code of Service Discipline at all times when deployed (section 60 of the National Defence Act). http://laws-lois.justice.gc.ca/PDF/N-5.pdf</p> <p>The United Nations rules on Sexual Exploitation and Abuse are implemented in the field through the incorporation of such rules into Canadian military orders and delivered through a Canadian military authority who exercises jurisdiction over the deployed forces. Additionally, UN rules on sexual exploitation and abuse are implemented through pre-deployment training, deployment specific orders, investigation and appropriate action in proven allegations of SEA.</p>
SEA:military offence?	<p>The National Defence Act creates "service offences" and through s. 130(1)(a) incorporates the criminal offences in the Criminal Code of Canada. As such, criminal offences such as sexual assault, assault and criminal harassment are service offences when committed by persons subject to the Code of Service Discipline. Depending on the circumstances, uniquely military service offences such as s. 83 (disobedience of a lawful command), s. 129 (conduct to the prejudice of good order and discipline) of the National Defence Act may capture actions that can be considered SEA.</p> <p>http://laws-lois.justice.gc.ca/PDF/N-5.pdf</p> <p>http://laws.justice.gc.ca/PDF/C-46.pdf</p>
Powers of the Commanding Officer (CO)	<p>A Commanding Officer may promulgate standing orders. Such orders may include direction on topics such as personal relationships, fraternization, and areas that are out of bounds. Defence Administrative Order and Directive 5019-1 specifically provides that a task force commander "shall issue orders and guidance on fraternization appropriate to the situation in their area of operations." Failure to follow a lawful order could be a service offence under s. 83 (disobedience of a lawful command) or s. 129 (conduct to the prejudice of good order and discipline) of the National Defence Act.</p> <p>http://laws-lois.justice.gc.ca/PDF/N-5.pdf</p> <p>http://www.forces.gc.ca/en/about-policies-standards-defence-admin-orders-directives-5000/5019-1.page</p> <p>Commanding Officers have the authority to exercise administrative and disciplinary measures in relation to personnel under their command. Criminal jurisdiction is exercised concurrently by the Commanding Officer and the Military Police. Investigations may be ordered and conducted by both a command authority and by Military Police.</p>

<http://www.forces.gc.ca/en/about-policies-standards-queens-regulations-orders-vol-02/ch-106.page#cha-106-02>
<http://www.forces.gc.ca/en/about-policies-standards-defence-admin-orders-directives-5000/5019-5.page>

INVESTIGATION

Who can investigate?	The National Investigation Service, a branch of the Canadian Forces Military Police, investigates allegations relating to activity that is serious or sensitive. In most cases, Sexual Exploitation and Abuse would fall within this category. Civilian police and Military Judges do not have a role in investigations into incidents that occur on deployments.
National Investigation Officer (NIO)	Military Police and/or National Investigation Service personnel accompany deployed forces.

PROSECUTION

Referral	National Investigation Service members may lay charges on their own authority, or they may refer a matter to the Commanding Officer of the suspect (See Queen's Regulation and Order Article 107.02). http://www.forces.gc.ca/en/about-policies-standards-queens-regulations-orders-vol-02/ch-107.page#cha-107-02
Who can charge?	Charges may be laid by the National Investigation Service, or by the chain of command (See Queen's Regulation and Order Article 107.02). Once charges are laid, allegations of Sexual Exploitation and Abuse will most likely be prosecuted at court martial by the Director of Military Prosecutions (See s. 165(1), National Defence Act). Additionally, s. 273, National Defence Act , empowers Canadian civilian criminal courts to exercise jurisdiction over any act or omission that takes place outside of Canada by a person who is subject to the Code of Service Discipline , if the act or omission would normally be an offence within the jurisdiction of Canadian civilian criminal courts if it had taken place inside of Canada. http://www.forces.gc.ca/en/about-policies-standards-queens-regulations-orders-vol-02/ch-107.page#cha-107-02 http://laws-lois.justice.gc.ca/PDF/N-5.pdf

JUSTICE

Military justice	The Canadian military justice system is created by the Code of Service Discipline found at Part III of the National Defence Act, commencing at section 60 . Court martials can be conducted under a variety of conditions, including during peace time deployments. Sections 165 - 196 of the National Defence Act establish much of the procedure related to court martials. In addition to the National Defence Act , court martials are regulated by Chapters 111 and 112 of the Queen's Regulations and Orders . http://laws.justice.gc.ca/PDF/N-5.pdf http://www.forces.gc.ca/en/about-policies-standards-queens-regulations-orders-vol-02/toc-111.page http://www.forces.gc.ca/en/about-policies-standards-queens-regulations-orders-vol-02/toc-112.page
Deployable Court Martial?	Court martials can be conducted under a variety of conditions, including during peace time deployments. Sections 165 - 196 of the National Defence Act establish much of the procedure related to court martials. In addition to the National Defence Act , court martials are regulated by Chapters 111 and 112 of the Queen's Regulations and Orders .

DISCLAIMER

While the information contained in the Member State (MS) fact sheet is periodically updated, the United Nations does not guarantee that the information provided is correct, complete or up to date. The fact sheet reproduces content received from the Member State, and therefore, the United Nations is not responsible for the content nor can it guarantee its accuracy.