

EFFECTIVE DATE

Section effective on the date designated by the President, not later than the first day of the first calendar month beginning two years after Dec. 23, 2016, with implementing regulations prescribed by the President not later than one year after Dec. 23, 2016, and with provisions relating to applicability to various situations, see section 5542 of Pub. L. 114-328, set out as an Effective Date of 2016 Amendment note under section 801 of this title.

CHAPTER 47A—MILITARY COMMISSIONS

Subchapter I. General Provisions 948a.
II. Composition of Military Commissions 948h.
III. Pre-Trial Procedure 948q.
IV. Trial Procedure 949a.
V. Classified Information Procedures 949p-1.
VI. Sentences 949s.
VII. Post-Trial Procedures and Review of Military Commissions 950a.
VIII. Punitive Matters 950p.

CODIFICATION

This chapter was originally added by Pub. L. 109-366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2600, and amended by Pub. L. 110-181, Jan. 28, 2008, 122 Stat. 3. This chapter is shown here, however, as having been added by Pub. L. 111-84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2574, without reference to those intervening amendments because of the general amendment of this chapter by Pub. L. 111-84.

SUBCHAPTER I—GENERAL PROVISIONS

Sec. 948a. Definitions.
948b. Military commissions generally.
948c. Persons subject to military commissions.
948d. Jurisdiction of military commissions.

§ 948a. Definitions

In this chapter:

(1) ALIEN.—The term “alien” means an individual who is not a citizen of the United States.

(2) CLASSIFIED INFORMATION.—The term “classified information” means the following:

(A) Any information or material that has been determined by the United States Government pursuant to statute, Executive order, or regulation to require protection against unauthorized disclosure for reasons of national security.

(B) Any restricted data, as that term is defined in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

(3) COALITION PARTNER.—The term “coalition partner”, with respect to hostilities engaged in by the United States, means any State or armed force directly engaged along with the United States in such hostilities or providing direct operational support to the United States in connection with such hostilities.

(4) GENEVA CONVENTION RELATIVE TO THE TREATMENT OF PRISONERS OF WAR.—The term “Geneva Convention Relative to the Treatment of Prisoners of War” means the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316).

1 So in original. Does not conform to subchapter heading.

(5) GENEVA CONVENTIONS.—The term “Geneva Conventions” means the international conventions signed at Geneva on August 12, 1949.

(6) PRIVILEGED BELLIGERENT.—The term “privileged belligerent” means an individual belonging to one of the eight categories enumerated in Article 4 of the Geneva Convention Relative to the Treatment of Prisoners of War.

(7) UNPRIVILEGED ENEMY BELLIGERENT.—The term “unprivileged enemy belligerent” means an individual (other than a privileged belligerent) who—

(A) has engaged in hostilities against the United States or its coalition partners;

(B) has purposefully and materially supported hostilities against the United States or its coalition partners; or

(C) was a part of al Qaeda at the time of the alleged offense under this chapter.

(8) NATIONAL SECURITY.—The term “national security” means the national defense and foreign relations of the United States.

(9) HOSTILITIES.—The term “hostilities” means any conflict subject to the laws of war.

(Added Pub. L. 111-84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2574.)

PRIOR PROVISIONS

A prior section 948a, added Pub. L. 109-366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2601, related to definitions, prior to the general amendment of this chapter by Pub. L. 111-84.

SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111-84, div. A, title XVIII, §1801, Oct. 28, 2009, 123 Stat. 2574, provided that: “This title [enacting this chapter, amending sections 802 and 839 of this title, enacting provisions set out as notes under this section, and amending provisions set out as a note under section 801 of this title] may be cited as the ‘Military Commissions Act of 2009.’”

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109-366, §1(a), Oct. 17, 2006, 120 Stat. 2600, provided that: “This Act [see Tables for classification] may be cited as the ‘Military Commissions Act of 2006.’”

PROHIBITION ON ENFORCEMENT OF MILITARY COMMISSION RULINGS PREVENTING MEMBERS OF THE ARMED FORCES FROM CARRYING OUT OTHERWISE LAWFUL DUTIES BASED ON MEMBER SEX

Pub. L. 114-328, div. A, title X, §1056, Dec. 23, 2016, 130 Stat. 2400, provided that:

“(a) PROHIBITION.—No order, ruling, finding, or other determination of a military commission may be construed or implemented to prohibit or restrict a member of the Armed Forces from carrying out duties otherwise lawfully assigned to such member to the extent that the basis for such prohibition or restriction is the sex of such member.

“(b) APPLICABILITY TO PRIOR ORDERS, ETC.—The prohibition or restriction described in subsection (a) shall, upon motion, apply to any order, ruling, finding, or other determination described in that subsection that was issued before the date of the enactment of this Act [Dec. 23, 2016] in a military commission and is still effective as of the date of such motion.

“(c) MILITARY COMMISSION DEFINED.—In this section, the term ‘military commission’ means a military commission established under chapter 47A of title 10, United States Code, and any military commission otherwise established or convened by law.”

PROCEEDINGS UNDER PRIOR STATUTE

Pub. L. 111-84, div. A, title XVIII, §1804, Oct. 28, 2009, 123 Stat. 2612, provided that: