

§ 762.6

Military Justice, other pertinent Navy directives, and federal law.

[41 FR 29672, July 19, 1976, as amended at 51 FR 22283, June 19, 1986]

Subpart B—Executive Authority; Authorized Powers; Emergency Authority

§ 762.6 Executive authority; duration.

The executive authority at the Midway Islands is vested in the Secretary of the Navy. The Officer-in-Charge, U.S. Naval Air Facility, Midway Island, is the agent of the Secretary or his designee in carrying out any function, power, or duty under this part 762. The Officer-in-Charge's authority commences upon his assumption of command of U.S. Naval Air Facility, Midway Island, and continues until he is relieved of that command by replacement. In the event of the absence, disability, or death of the Officer-in-Charge, the Acting Commanding Officer of U.S. Naval Air Facility, Midway Island, is vested with the authority prescribed in this part for the Officer-in-Charge and shall remain so vested until the return, recovery, or replacement of the Officer-in-Charge.

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§ 762.8 Authorized functions, powers, and duties.

The Officer-in-Charge may, personally or through his staff:

- (a) Issue citations for violations of subpart C of this part;
- (b) Abate any public nuisance upon the failure of the person concerned to comply with a removal notice;
- (c) Make sanitation and fire-prevention inspections;
- (d) Perform marriages, and maintain records of vital statistics, including birth, marriage, and death certificates;
- (e) Inspect vehicles, including bicycles, for roadworthiness, and boats for seaworthiness;
- (f) Confiscate property used in committing a crime;
- (g) Investigate accidents and suspected crimes;
- (h) Move unlawfully parked vehicles, boats, or aircraft;

- (i) Take possession of lost or abandoned property and dispose of it under the provisions of 10 U.S.C. 2575 and applicable Navy directives;
- (j) Delay or restrict the departure of any aircraft for reasonable cause;
- (k) Impose quarantines;
- (l) Impound and destroy unsanitary food, fish, or beverages;
- (m) Evacuate any person from a hazardous area;
- (n) Establish and maintain a facility for the lawful restraint or confinement of persons and provide for their care;
- (o) Remove any person from the Midway Islands for cause;
- (p) Issue traffic regulations that are not inconsistent with this part, and post traffic signs;
- (q) Perform any other acts, not inconsistent with this part or other applicable laws or regulations, that he considers necessary for protecting the health and safety of persons and property on the Midway Islands; and
- (r) Issue any order or notice necessary to implement this section.

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§ 762.10 Emergency authority.

During the imminence and duration of any emergency, the Officer-in-Charge may perform any acts necessary to protect life and property.

[41 FR 29672, July 19, 1976, as amended at 51 FR 22283, June 19, 1986]

Subpart C—Criminal Law; Petty Offenses; Penalties

§ 762.15 General.

In addition to any act made criminal in this part, any act committed on Midway Islands which would be a violation of the laws of the United States; or of the provisions of title 37, "Hawaii Revised Statutes," as they now appear or as they may be amended or recodified; or any act committed on the Midway Islands that would be criminal if committed on board a merchant vessel or other vessel belonging to the United States, is a criminal offense and shall be punished, respectively, according to this part; the laws of the United States; title 37, "Hawaii Revised Statutes," as it now appears or as it may be

amended or recodified; or according to the laws applicable on board United States vessels on the high seas. [The Act of June 15, 1950 (ch. 253, 64 Stat. 217).]

§ 762.16 Adoption of certain criminal provisions of the Hawaii Revised Statutes.

(a) *Offenses adopted.* Whoever on the Midway Islands is guilty of any act or omission, which, although not made punishable by an enactment of Congress or under §§ 762.20 through 762.39, would be punishable if committed within the State of Hawaii by the laws thereof at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

(b) *Jurisdiction over such offenses.* The United States District Court for the District of Hawaii shall have jurisdiction to try all such offenses except those which are subject, under title 37, "Hawaii Revised Statutes," as it now appears or as it may be amended or recodified, to a penalty of imprisonment for six months or less or a fine of not more than \$500 or both. Those offenses falling within the above-stated exception shall be tried in the Midway Islands Court.

§ 762.17 Conflicts of laws.

In no event shall the provisions of this part supersede the Uniform Code of Military Justice when the latter is applicable. Any adopted provisions of title 37, "Hawaii Revised Statutes," as they now appear or as they may be amended or recodified, which duplicate or conflict with any other provisions of this part shall be of no effect.

§ 762.18 Time limitations.

(a) A prosecution for any petty offense under this part must be commenced within two years after it is committed.

(b) An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

(c) A prosecution is commenced either when an information is filed, or when an arrest warrant or other process is issued, provided that such warrant or process is executed without unreasonable delay.

(d) The period of limitation does not run:

(1) During any time when the accused is absent from the Midway Islands or has no reasonably ascertainable place of abode or work within the Midway Islands, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years; or

(2) During any time when a prosecution against the accused for the same conduct is pending in the Midway Islands Court.

(e) Except those offenses which are subject, under title 37 of the "Hawaii Revised Statutes," as they now appear or as they may be amended or recodified, to a penalty of imprisonment for six months or less or a fine of not more than \$500, or both, offenses charged and treated under § 762.16 (a) and (b), shall be subject to the appropriate time-limitation rules set forth in section 108, title 37, "Hawaii Revised Statutes," as it now appears or as it may be amended or recodified.

§ 762.19 Petty offenses; general.

All offenses contained in §§ 762.20 through 762.39 and those offenses adopted under § 762.16(a), as they now appear or as they may be amended or recodified, which are subject, under title 37, "Hawaii Revised Statutes," to a penalty of imprisonment for six months or less or a fine of not more than \$500, or both, shall be termed "Petty Offenses" and subject to the penalties set forth in §§ 762.40 through 762.49.

§ 762.20 Breach of the peace offenses.

It shall be unlawful for any person, while on the Midway Islands:

(a) With intent to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, to engage in fighting, threatening, or other violent or tumultuous behavior; or to make unreasonable noise or offensively coarse utterances, gestures, or displays, or address abusive language to