



# Armed Forces Act 1971

## 1971 CHAPTER 33

### PART II

#### REVISION OF SERVICE OFFENCES AND PUNISHMENTS

*Misconduct in action and other offences arising out of military etc. service*

#### **2 Misconduct in action, assisting the enemy, obstructing operations, etc.**

- (1) The following provisions shall be substituted for sections 24 to 28 of the Army Act 1955:—

*“Misconduct in action and other offences arising out of military service*

#### **24 Misconduct in action.**

- (1) A person subject to military law shall be guilty of an offence against this section if, without lawful excuse, he—
- (a) surrenders any place or thing to the enemy, or
  - (b) abandons any place or thing which it is his duty to defend against the enemy or to prevent from falling into the hands of the enemy.
- (2) A person subject to military law shall be guilty of an offence against this section if, being in the presence or vicinity of the enemy, or being engaged in any action or operation against the enemy or under orders to be prepared for any action or operation by or against the enemy, he—
- (a) fails to use his utmost exertions to carry the lawful orders of his superior officers into execution, or
  - (b) while on guard duty and posted or ordered to patrol, or while on watch, sleeps or, without having been regularly relieved, leaves any place where it is his duty to be, or

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- (c) behaves in such a manner as to show cowardice, or induces any other person so to behave at a time when that other person, being a member of Her Majesty's forces or of a force co-operating with Her Majesty's forces, is in the presence or vicinity of the enemy, or is engaged in any action or operation against the enemy or under orders to be prepared for any action or operation by or against the enemy, or
  - (d) uses words likely to cause despondency or unnecessary alarm.
- (3) A person guilty of an offence against this section shall, on conviction by court-martial, be liable—
- (a) if the offence consisted in an act or omission falling within subsection (1) or paragraph (a) of subsection (2) and was committed with intent to assist the enemy, to suffer death or any less punishment provided by this Act;
  - (b) in any other case, to imprisonment or any less punishment provided by this Act.
- (4) The reference in subsection (2)(a) above to superior officers shall be construed in accordance with section 33(2) of this Act.

### **25 Assisting the enemy.**

- (1) A person subject to military law shall be guilty of an offence against this section if, knowingly and without lawful excuse, he—
- (a) communicates with, or gives intelligence to, the enemy, or
  - (b) fails to make known to the proper authorities any information received by him from the enemy, or
  - (c) furnishes the enemy with supplies of any description, or
  - (d) having been captured by the enemy, serves with or aids the enemy in the prosecution of hostilities or of measures likely to influence morale, or in any other manner whatsoever not authorised by international usage, or
  - (e) having been captured by the enemy, fails to take, or prevents or discourages any other person subject to service law who has been captured by the enemy from taking, any reasonable steps to rejoin Her Majesty's service which are available to him or, as the case may be, to that other person, or
  - (f) harbours or protects an enemy not being a prisoner of war.
- (2) A person guilty of an offence against this section shall, on conviction by court-martial, be liable—
- (a) if the offence consisted in an act or omission falling within paragraph (a), (b), (c), (d) or (f) of subsection (1) and was committed with intent to assist the enemy, to suffer death or any less punishment provided by this Act,
  - (b) in any other case, to imprisonment or any less punishment provided by this Act.

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### **26 Obstructing operations, giving false air signals, etc.**

- (1) A person subject to military law shall be guilty of an offence against this section if he does any act likely to imperil the success of any action or operation on the part of any of Her Majesty's forces, or wilfully delays or discourages upon any pretext whatsoever any such action or operation.
  - (2) A person subject to military law shall be guilty of an offence against this section if, knowingly and without lawful excuse, he gives any false air signal, or alters or interferes with any air signal or any apparatus for giving an air signal.
  - (3) A person guilty of an offence against this section shall, on conviction by court-martial, be liable—
    - (a) if the offence was committed with intent to assist the enemy, to suffer death or any less punishment provided by this Act;
    - (b) in any other case, to imprisonment or any less punishment provided by this Act”.
- (2) The provisions set out in subsection (1) above shall also be substituted for sections 24 to 28 of the Air Force Act 1955, but modified for that purpose by the substitution throughout of " air-force service " for " military service " and " air-force law " for " military law ".
- (3) The said provisions shall also be substituted for sections 2 to 5 of the Naval Discipline Act 1957, being numbered respectively as sections 2, 3 and 4 of that Act, and being modified for that purpose—
  - (a) by the substitution throughout of " naval service " for " military service ", of " person subject to this Act ", for " person subject to military law ", and of " punishment authorised by this Act " for " punishment provided by this Act ", and
  - (b) by the omission of subsection (4) of the first of those provisions, and the omission throughout of " on conviction by court-martial ".

### **3 Prize offences**

- (1) The following provisions shall be inserted in the Army Act 1955 as sections 27 and 28:—

#### **“27 Prize offences by commanding officers.**

- (1) Any person subject to military law who, being in command of any of Her Majesty's ships or aircraft—
  - (a) having taken any ship or aircraft as prize, fails to send to the High Court, or to some other prize court having jurisdiction in the case, all the ship papers or aircraft papers, as the case may be, found on board, or
  - (b) unlawfully makes any agreement for the ransoming of any ship, aircraft or goods taken as prize, or

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- (c) in pursuance of any such agreement as aforesaid, or otherwise by collusion, restores or abandons any ship, aircraft or goods taken as prize,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

- (2) In this section 'prize court' means a prize court within the meaning of the Naval Prize Act 1864, and 'ship papers' and 'aircraft papers' have the same meanings as in that Act.

### **28 Other prize offences.**

Any person subject to military law who—

- (a) strikes or otherwise ill-treats any person who is on board a ship or aircraft when taken as prize, or unlawfully takes from any such person anything in his possession, or
- (b) removes out of any ship or aircraft taken as prize (otherwise than for safe keeping or for the necessary use and service of any of Her Majesty's forces or any forces co-operating therewith) any goods not previously adjudged by a prize court within the meaning of the Naval Prize Act 1864 to be lawful prize, or
- (c) breaks bulk on board any ship or aircraft taken as prize, or detained in exercise of any belligerent right or under any enactment, with intent to steal anything therein,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act”.

- (2) The provisions set out in subsection (1) above shall also be inserted in the Air Force Act 1955 as sections 27 and 28, but modified for that purpose by the substitution throughout of "air-force law" for "military law".
- (3) Sections 23 and 24 of the Naval Discipline Act 1957 (under which prize offences are punishable by dismissal with disgrace or any less authorised punishment) shall each be amended by substituting the words "imprisonment for a term not exceeding two years" for the words "dismissal with disgrace from Her Majesty's service".

## **4 Offences by or in relation to sentries, persons on watch etc.**

- (1) The following provision shall be substituted for section 29 of the Army Act 1955:—

### **“29 Offences by or in relation to sentries, persons on watch etc.**

Any person subject to military law who—

- (a) while on guard duty and posted or ordered to patrol, or on watch, or under orders to regulate traffic by land, water or air, sleeps or, without having been regularly relieved, leaves any place where it is his duty to be, or
- (b) strikes or otherwise uses force against a member of Her Majesty's forces, or of any forces co-operating therewith, who is on guard duty and posted or ordered to patrol, or on watch, or under orders to regulate traffic by land, water or air, or

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- (c) by the threat of force compels any such person as is mentioned in paragraph (b) above to let him or any other person pass, shall be liable, on conviction by court-martial, to imprisonment for a term not exceeding two years or any less punishment provided by this Act.”
- (2) The provision set out in subsection (1) above shall also be substituted for section 29 of the Air Force Act 1955, but modified for that purpose by the substitution of " air-force law " for " military law " .
- (3) The said provision shall also be substituted for section 6 of the Naval Discipline Act 1957 (including the cross-heading preceding that section), being numbered as section 6 of that Act, and being modified for that purpose by the substitution of " person subject to this Act " for " person subject to military law " and of " punishment authorised by this Act " for " punishment provided by this Act", and by the omission of " on conviction by court-martial " .

## **5 Failure to attend for duty, neglect of duty etc.**

- (1) The following provision shall be inserted in the Army Act 1955 after section 29, and section 41 of that Act (failure to ' perform military duties) shall accordingly cease to have effect:—

### **“29A Failure to attend for duty, neglect of duty etc.**

Any person subject to military law who—

- (a) without reasonable excuse fails to attend for any duty of any description, or leaves any such duty before he is permitted to do so, or
- (b) neglects to perform, or negligently performs, any duty of any description,

shall be liable, on conviction by court-martial, to imprisonment for a term not exceeding two years or any less punishment provided by this Act.”

- (2) The provision set out in subsection (1) above shall also be inserted in the Air Force Act 1955 after section 29, but modified for that purpose by the substitution of " air-force law " for " military law " ; and section 41 of that Act shall also cease to have effect.
- (3) The said provision shall also be substituted for section 7 of the Naval Discipline Act 1957 (neglect of duty), being numbered as section 7 of that Act, and being modified for that purpose by the substitution of " person subject to this Act " for " person subject to military law" and of " punishment authorised by this Act" for " punishment provided by this Act", and by the omission of " on conviction by court-martial " .

## **6 Looting**

- (1) Section 30 of the Army Act 1955 and section 30 of the Air Force Act 1955 (looting) shall each be amended as follows:—
- (a) in paragraph (a) (stealing etc. from the person of anyone killed or wounded in the course of warlike operations), for the words " killed or wounded in the course of warlike operations " there shall be substituted the words " killed, wounded or captured in the course of warlike operations, or killed, injured or detained in the course of operations undertaken by Her Majesty's forces for the preservation of law and order or otherwise in aid of the civil authorities " , and

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- (b) in paragraph (b) (stealing property left exposed or unprotected in consequence of warlike operations), for the words " warlike operations " there shall be substituted the words " any such operations as are mentioned in paragraph (a) above ".
- (2) The following provision (being one corresponding to the provisions referred to in subsection (1) above as amended by that subsection) shall be inserted in the Naval Discipline Act 1957 as section 5:—

**“5 Looting.**

Any person subject to this Act who—

- (a) steals from, or with intent to steal searches, the person of anyone killed, wounded or captured in the course of warlike operations, or killed, injured or detained in the course of operations undertaken by Her Majesty's forces for the preservation of law and order or otherwise in aid of the civil authorities, or
- (b) steals any property which has been left exposed or unprotected in consequence of any such operations as are mentioned in paragraph (a) above, or
- (c) takes otherwise than for the public service any vehicle, equipment or stores abandoned by the enemy,

shall be guilty of looting and liable to imprisonment or any less punishment authorised by this Act.”

*Mutiny, insubordination, etc.*

**7 Mutiny**

A person taking part in a mutiny, or inciting another person to take part in a mutiny, shall not be liable to suffer death by reason only that the mutiny is one involving the use of violence or the threat of the use of violence, and accordingly—

- (a) in section 31(1)(a) of the Army Act 1955 and section 31(1)(a) of the Air Force Act 1955, the words " involving the use of violence or the threat of the use of violence, or " shall be omitted, and
- (b) section 9(1)(a) of the Naval Discipline Act 1957 shall cease to have effect.

**8 Insubordinate behaviour, and disobedience to lawful commands**

- (1) Section. 33 of the Army Act 1955 and section 33 of the Air Force Act 1955 (insubordinate behaviour) shall each be amended by substituting the following for the proviso to subsection (1) (which limits imprisonment to two years for offences not committed on active service and not involving violence)—

“Provided that it shall be a defence for any person charged under this subsection to prove that he neither knew nor had reasonable cause to believe that the person in relation to whom the offence is alleged to have been committed was his superior officer.”

- (2) The following provision shall be substituted for section 34 of the Army Act 1955 (disobedience to particular orders) and also, but with the substitution of " air-force law " for " military law ", for section 34 of the Air Force Act 1955:—

**“34 Disobedience to lawful commands.**

Any person subject to military law who, whether wilfully or through neglect, disobeys any lawful command (by whatever means communicated to him) shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act.”

- (3) The following provisions shall be substituted for sections 11 and 12 of the Naval Discipline Act 1957 (striking a superior officer, and disobedience or threatening a superior officer):—

**“11 Insubordinate behaviour.**

Every person subject to this Act who—

- (a) strikes or otherwise uses violence to, or offers violence to, his superior officer, or
- (b) uses threatening or insubordinate language to, or behaves with contempt to, his superior officer,

shall be liable to imprisonment or any less punishment authorised by this Act:

Provided that it shall be a defence for any person charged under this section to prove that he neither knew nor had reasonable cause to believe that the person in relation to whom the offence is alleged to have been committed was his superior officer.

**12 Disobedience to lawful commands.**

Any person subject to this Act who, whether wilfully or through neglect, disobeys any lawful command (by whatever means communicated to him) shall be liable to imprisonment or any less punishment authorised by this Act.”

**9 Obstruction of provost officers etc.**

- (1) Section 35 of the Army Act 1955 and section 35 of the Air Force Act 1955 (obstructing or refusing to assist any person known to be a provost officer, or to be a person exercising authority under or on behalf of a provost officer) shall each be amended by—

- (a) substituting for the words from " any person known " to " or to be a person " the words " any provost officer, or any person ", and
- (b) inserting the following proviso at the end—

“Provided that it shall be a defence for any person charged under this section to prove that he neither knew nor had reasonable cause to believe that the person in relation to whom the offence is alleged to have been committed was a provost officer or, as the case may be, a person legally exercising authority under or on behalf of a provost officer.”

- (2) Section 14 of the Naval Discipline Act 1957 (wilfully obstructing or wilfully refusing to assist any provost officer, or any person exercising authority under or on behalf of a provost officer) shall be amended by omitting the word " wilfully " in both places

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where it occurs, and by inserting at the end a proviso similar in all respects to that set out in subsection (1)(b) above.

## 10 **Disobedience to standing orders etc.**

- (1) Section 36 of the Army Act 1955 (disobedience to standing orders or other routine orders of a continuing nature made for any formation, unit, body of troops etc.) shall be amended by substituting, in subsection (2), for the words " body of troops " the words " body of Her Majesty's forces ".
- (2) Section 36 of the Air Force Act 1955 (which is to the like effect) shall be amended by substituting, in subsection (2), for the words " body of the air force " the words " body of Her Majesty's forces ".
- (3) The following provision (being one corresponding to the provisions referred to in subsections (1) and (2) above as amended by those subsections) shall be inserted in the Naval Discipline Act 1957 as section 14A:—

### **“14A Disobedience to standing orders.**

- (1) Every person subject to this Act who contravenes or fails to comply with any provision of orders to which this section applies, being a provision known to him or which he might reasonably be expected to know, shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.
- (2) This section applies to standing orders or other routine orders of a continuing nature made for any formation or unit or body of Her Majesty's forces, or for any command or other area, garrison or place, or for any ship, vessel, train or aircraft.”

*Desertion, absence without leave, etc.*

## 11 **Desertion**

- (1) The following provision shall be substituted for section 37 of the Army Act 1955:—

### **“37 Desertion.**

- (1) Any person subject to military law who deserts shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act.
- (2) For the purposes of this Act a person deserts who—
  - (a) leaves or fails to attend at his unit, ship or place of duty with the intention of remaining permanently absent from duty without lawful authority, or, having left or failed to attend at his unit, ship or place of duty, thereafter forms the like intention, or
  - (b) absents himself without leave with intent to avoid serving at any place overseas, or to avoid service or any particular service when before the enemy,

and references in this Act to desertion shall be construed accordingly.”



- (2) The provision set out in subsection (1) above shall also be substituted for section 37 of the Air Force Act 1955, but modified for that purpose by the substitution of " air-force law " for " military law " .
- (3) The following provision shall be substituted for section 15 of the Naval Discipline Act 1957:—

**“15 Definition of ' desertion ' .**

A person is guilty of desertion within the meaning of this Act if he—

- (a) leaves or fails to attend at his unit, ship or place of duty with the intention of remaining permanently absent from duty without lawful authority, or, having left or failed to attend at his unit, ship or place of duty, thereafter forms the like intention, or
- (b) absents himself without leave with intent to avoid serving at any place overseas, or to avoid service or any particular service when before the enemy.”;

and section 16 of that Act (subsections (1) and (2) of which penalise desertion by imprisonment or any less punishment authorised by that Act and by forfeiture) shall be amended by omitting subsection (3) (incitement to desert).

**12 Absence without leave**

- (1) The following provision shall be substituted for section 38 of the Army Act 1955:—

**“38 Absence without leave.**

Any person subject to military law who—

- (a) absents himself without leave, or
- (b) improperly leaves his ship,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.”

- (2) The provision set out in subsection (1) above shall also be substituted for section 38 of the Air Force Act 1955, but modified for that purpose by the substitution of " air-force law " for " military law " .
- (3) Section 17 of the Naval Discipline Act 1957 shall be amended by omitting, in subsection (1), the words " without being guilty of desertion " immediately before paragraph (a) and the words " or place of duty " at the end of paragraph (b), and subsection (2) (so that the section corresponds with the provision set out in subsection (1) above except by continuing to provide for forfeiture as an additional punishment).

**13 Failure to report or apprehend deserters or absentees**

- (1) The following provision shall be substituted for section 39 of the Army Act 1955:—

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**“39 Failure to report or apprehend deserters or absentees.**

Any person subject to military law who, knowing that any other person so subject has committed an offence, or is attempting to commit an offence, under section 37(1) or section 38 of this Act—

- (a) fails to report the fact without delay, or
- (b) fails to take any steps within his power to cause that other person to be apprehended,

shall be liable, on conviction by court-martial, to imprisonment for a term not exceeding two years or any less punishment provided by this Act.”

- (2) The provision set out in subsection (1) above shall also be substituted for section 39 of the Air Force Act 1955, but modified for that purpose by the substitution of " air-force law " for " military law ".
- (3) Section 18 of the Naval Discipline Act 1957 shall be amended so as to correspond with the said provision, that is to say, by substituting for the words from " has deserted " to " place of duty" immediately before paragraph (a) the words " has committed an offence, or is attempting to commit an offence, under section 16(1) or section 17(1) of this Act ".

*Malingering, drunkenness and disorderly conduct*

**14 Malingering**

Section 42(1)(c) of the Army Act 1955 (under which the injuring of another person can constitute malingering only if he is a person subject to military law), section 42(1)(c) of the Air Force Act 1955 (under which the person injured must be subject to air-force law), and section 27(1) of the Naval Discipline Act 1957 (under which malingering does not include injury to others) shall be amended as follows:—

- (a) in the said sections 42(1)(c), the words " service law " shall be substituted for the words " military law " or, as the case may be, " air-force law ", and
- (b) in the said section 27(1), after the words " with that intent" there shall be inserted the words " if he injures another person subject to service law at the instance of that other person and with intent thereby to render that other person unfit for service ".

**15 Drunkenness**

- (1) Section 43 of the Army Act 1955 and section 43 of the Air Force Act 1955 shall each be amended—
  - (a) by omitting the proviso to subsection (1) (under which the maximum term of imprisonment for drunkenness is reduced from two years to six months in the case of an offence committed by a warrant officer, non-commissioned officer, soldier or airman who is neither on active service nor on duty), and
  - (b) by substituting in subsection (2) (under which one test of drunkenness is whether a person is unfit to be entrusted with his duty or any duty he may be called upon to perform) for the words " he may be called upon to perform " the words " he might reasonably expect to be called upon to perform ".

- (2) Section 28 of the Naval Discipline Act 1957 shall be amended so as to correspond with the provisions referred to in subsection (1) above as amended by that subsection, that is to say, by inserting after the word " might " the words " reasonably expect to ".

## 16 **Disorderly conduct**

- (1) The following provision shall be inserted in the Army Act 1955 after section 43:—

### *“Disorderly conduct*

#### **43A Fighting, threatening words etc.**

Any person subject to military law who, without reasonable excuse—

- (a) fights with any other person, whether subject to military law or not, or
- (b) uses threatening, abusive, insulting or provocative words or behaviour likely to cause a disturbance,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.”

- (2) The provision set out in subsection (1) above shall also be inserted in the Air Force Act 1955 after section 43, but modified for that purpose by the substitution throughout of " air-force law " for " military law ".
- (3) Section 13 of the Naval Discipline Act 1957 shall be amended so as to correspond with the said provision, that is to say, by inserting the words " without reasonable excuse " at the end of the words preceding paragraph (a), and by omitting the words " or quarrels " after the word " fights " in that paragraph.

### *Offences relating to service etc. property*

## 17 **Service etc. property: damage, loss, misapplication and waste**

- (1) The following provisions shall be substituted for sections 44 to 46 of the Army Act 1955:—

#### **“44 Damage to, and loss of, public or service property etc.**

- (1) Any person subject to military law who—
- (a) wilfully damages or causes the loss of, or is concerned in the wilful damage or loss of, any public or service property, or any property belonging to another person so subject, or
  - (b) by wilful neglect causes or allows damage to, or the loss of, any public or service property or property so belonging,
- shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act.
- (2) Any person subject to military law who—
- (a) by any negligent act or omission causes or allows damage to, or the loss of, any public or service property, or

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(b) is guilty of any wilful or negligent act or omission which is likely to cause damage to, or the loss of, any such property, shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

#### **44A Damage to, and loss of, Her Majesty's aircraft or aircraft material.**

- (1) Without prejudice to the generality of section 44 above, a person subject to military law shall be guilty of an offence against this section if he—
- (a) wilfully damages or causes the loss of, or is concerned in the wilful damage or loss of, any of Her Majesty's aircraft or aircraft material, or
  - (b) by wilful neglect causes or allows damage to, or the loss of, any of Her Majesty's aircraft or aircraft material, or
  - (c) without lawful authority disposes of any of Her Majesty's aircraft or aircraft material, or
  - (d) by any negligent act or omission causes or allows damage to, or the loss of, any of Her Majesty's aircraft or aircraft material, or
  - (e) is guilty of any wilful or negligent act or omission which is likely to cause damage to, or the loss of, any of Her Majesty's aircraft or aircraft material, or
  - (f) during a state of war, wilfully and without proper occasion, or negligently, causes the sequestration by or under the authority of a neutral state, or the destruction in a neutral state, of any of Her Majesty's aircraft.
- (2) A person guilty of an offence against this section shall, on conviction by court-martial, be liable—
- (a) if his offence consisted in an act or omission falling within paragraph (a), (b) or (c) of subsection (1), or if it consisted in an act or omission falling within paragraph (f) of that subsection and it is proved that he acted wilfully or with wilful neglect, to imprisonment or any less punishment provided by this Act;
  - (b) in any other case, to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

#### **45 Misapplication and waste of public or service property.**

Any person subject to military law who misapplies or wastefully expends any public or service property shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

#### **46 Offences relating to issues and decorations.**

- (1) Any person subject to military law who makes away with (whether by pawning, selling, destroying or in any other way), or loses, or by negligence damages or allows to be damaged—
- (a) any clothing, arms, ammunition or other equipment issued to him for his use for military purposes, or
  - (b) any military, air-force or naval decoration granted to him,

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shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

- (2) It shall be a defence for a person charged under this section with losing any property that he took reasonable steps for its care and preservation.”
- (2) The provisions set out in subsection (1) above shall also be substituted for sections 44 to 46 of the Air Force Act 1955, but modified for that purpose by the substitution throughout of " air-force law " for " military law " and, in the provision to become section 46 of that Act, of " air-force purposes" for " military purposes " and " air-force, military or naval decoration " for " military, air-force or naval decoration ".
- (3) The provisions set out in subsection (1) above and numbered there as sections 44, 44A and 45 shall also be substituted for sections 29 and 30 of the Naval Discipline Act 1957, being numbered as sections 29, 29A and 30 of that Act respectively, and being modified for that purpose by the substitution throughout of " person subject to this Act " for " person subject to military law " and of " punishment authorised by this Act" for " punishment provided by this Act", by the substitution, in the provision to become section 29A, of " 29 " for " 44 ", and by the omission throughout of " on conviction by court-martial ".

#### *Billeting offences*

### **18 Billeting offences**

Section 47 of the Army Act 1955 and section 47 of the Air Force Act 1955 (billeting offences) shall each be amended so as to correspond with section 32 of the Naval Discipline Act 1957, that is to say, by substituting for paragraph (c) (offence for person billeted in any premises to commit any offence against other persons or property therein, or to damage the premises or any such property wilfully or by wilful neglect) the following paragraph:—

“(c) wilfully or by wilful neglect damages, or causes or allows to be damaged, any premises in which he is billeted in pursuance of such a requisition, or any property being in such premises.”

#### *Navigation and flying offences etc.*

### **19 Loss or hazarding of ship**

- (1) The following provision shall be inserted in the Army Act 1955 after the cross-heading following section 48 of that Act:—

#### **“48A Loss or hazarding of ship.**

Any person subject to military law who, either wilfully or by negligence, causes or allows to be lost, stranded or hazarded any of Her Majesty's ships shall, on conviction by court-martial, be liable—

- (a) if he acts wilfully or with wilful neglect, to imprisonment or any less punishment provided by this Act,
- (b) in any other case, to imprisonment for a term not exceeding two years or any less punishment so provided.”

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- (2) The provision set out in subsection (1) above shall also be inserted in the Air Force Act 1955 after the cross-heading following section 48 of that Act, but modified for that purpose by the substitution of " air-force law " for " military law ".
- (3) Section 19 of the Naval Discipline Act 1957 (loss or hazarding of ship or aircraft) shall be amended so as to correspond with the said provision, that is to say, by omitting paragraph (b) (loss or hazarding of aircraft) together with the word " or " immediately preceding that paragraph.

## **20 Inaccurate certification of ships and aircraft**

- (1) The following provision (being one corresponding to section 25 of the Naval Discipline Act 1957) shall be substituted for section 50 of the Army Act 1955 (which relates to the inaccurate certification of aircraft and aircraft material only):—

### **“50 Inaccurate certification.**

Any person subject to military law who makes or signs, without having ensured its accuracy.—

- (a) a certificate relating to any matter affecting the seagoing or fighting efficiency of any of Her Majesty's ships, or
- (b) any certificate relating to any of Her Majesty's aircraft or aircraft material,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.”

- (2) The provision set out in subsection (1) above shall also be substituted for section 50 of the Air Force Act 1955, but modified for that purpose by the substitution of " air-force law " for " military law ".

## **21 Low flying, and annoyance by flying**

- (1) The following proviso shall be inserted at the end of sections 51 and 52 of the Army Act 1955 (which penalise pilots subject to military law for low flying and flying so as to cause annoyance), and also at the end of sections 51 and 52 of the Air Force Act 1955 and sections 21 and 22 of the Naval Discipline Act 1957 (which make corresponding provision for pilots subject to air-force law or, as the case may be, to the said Act of 1957):—

“Provided that where a pilot flies an aircraft in contravention of this section on the orders of some other person who is in command of the aircraft, that other person shall be treated for the purposes of this section as having been the pilot of, and flying, the aircraft at the material time.”

- (2) The said sections 52 (under which the maximum penalty for flying so as to cause annoyance is imprisonment for a term not exceeding two years) shall each be further amended so as to impose the same maximum penalty as that imposed by the said section 22, that is to say, by substituting for the words " imprisonment for a term not exceeding two years " the words " dismissal from Her Majesty's service ".

*Offences relating to, and by, persons in custody*

**22 Permitting escape, resisting arrest, and escaping**

The following provisions (being provisions corresponding to sections 54 to 56 of the Army Act 1955 and the Air Force Act 1955) shall be inserted in the Naval Discipline Act 1957 immediately after section 33:—

*“Offences relating to, and by, persons in custody*

**33A Permitting escape, and unlawful release of prisoners.**

- (1) Every person subject to this Act who wilfully allows to escape any person who is committed to his charge, or whom it is his duty to guard, shall be liable to imprisonment or any less punishment authorised by this Act.
- (2) Every person subject to this Act who—
  - (a) without proper authority releases any person who is committed to his charge, or
  - (b) without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to guard,shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

**33B Resistance to arrest.**

- (1) Every person subject to this Act who, being concerned in any quarrel or disorder, refuses to obey any officer who orders him into arrest, or strikes or otherwise uses violence to, or offers violence to, any such officer, shall be guilty of an offence against this section whether or not the officer is his superior officer.
- (2) Every person subject to this Act who strikes or otherwise uses violence to, or offers violence to, any person, whether subject to this Act or not, whose duty it is to apprehend him or in whose custody he is shall be guilty of an offence against this section.
- (3) Every person guilty of an offence against this section shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

**33C Escape from confinement.**

Every person subject to this Act who escapes from arrest, prison or other lawful custody (whether naval or not), shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.”

### *Miscellaneous offences*

#### **23 Offences in relation to courts-martial**

- (1) Section 57(2) of the Army Act 1955, section 57(2) of the Air Force Act 1955 and section 38(3) of the Naval Discipline Act 1957 (power of courts-martial to deal summarily with offences committed in relation there(a) shall have effect subject to the amendments specified in subsections (2) and (3) below (being amendments enabling a court-martial held in pursuance of either of the said Acts of 1955 so to deal, as can a court-martial held in pursuance of the said Act of 1957, with all such offences, and amendments giving uniform powers of punishment to courts-martial so dealing).
- (2) In the said provisions of the Army Act 1955 and the Air Force Act 1955, the words " paragraph (e) or (f) of " shall be omitted; and, for all the words from " order the offender " to the end there shall be substituted the words " sentence the offender—
  - (a) if he is an officer, to imprisonment for a term not exceeding twenty-one days, or to a fine not exceeding the amount of his pay for twenty-eight days (a day's pay being taken for this purpose as the gross amount which is, or would apart from any forfeiture be, issuable to the offender in respect of the day on which the order is made),
  - (b) in any other case, to imprisonment or detention for such a term as aforesaid, or to such a fine as aforesaid."
- (3) In the said provision in the Naval Discipline Act 1957, for all the words after " sentence " there shall be substituted the words " the offender—
  - (a) if he is an officer, to imprisonment for a term not exceeding twenty-one days, or to a fine not exceeding the amount of his pay for twenty-eight days (a day's pay being taken for this purpose as the gross amount which is, or would apart from any forfeiture be, issuable to the offender in respect of the day on which the order is made),
  - (b) in any other case, to imprisonment or detention for such a term as aforesaid, or to such a fine as aforesaid."

#### **24 Unauthorised disclosure of information**

- (1) The following provision (being one corresponding to section 34 of the Naval Discipline Act 1957) shall be substituted for section 60 of the Army Act 1955 (injurious disclosures) :—

**“60 Unauthorised disclosure of information.**

- (1) Any person subject to military law who without lawful authority discloses or purports to disclose, whether orally, in writing, by signal or by any other means whatsoever, information relating to any matter upon which information would or might be useful to an enemy shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.
- (2) It shall be a defence for a person charged with an offence under this section that he did not know and had no reasonable cause to believe that the information disclosed related to a matter upon which information would or might be directly or indirectly useful to an enemy.”



- (2) The provision set out in subsection (1) above shall also be substituted for section 60 of the Air Force Act 1955, but modified for that purpose by the substitution of " air-force law " for " military law " .

## **25 False statements on entry into Royal Navy**

The following provision (which reproduces the effect of section 8(2) of the Armed Forces Act 1966, and corresponds with section 61 of the Army Act 1955 and section 61 of the Air Force Act 1955) shall be inserted in the Naval Discipline Act 1957 after section 34:—

### **“34A False statements on entry.**

Any person who, when offering himself to be entered for service in the Royal Navy, has knowingly made a false answer to any question put to him in connection with his entry into such service by, or by the direction of, an officer or other person authorised under regulations made by the Defence Council to enter persons for such service shall, if he has since become and remains subject to this Act, be liable to imprisonment for a term not exceeding three months or any less punishment authorised by this Act.”

## **26 Falsification of documents**

- (1) Section 62 of the Army Act 1955 and section 62 of the Air Force Act 1955 (falsification etc. of any service report, return, pay list or certificate or other service document) shall each be amended as follows—
- (a) the word " service " shall be omitted in each place where it occurs before the word " report " , and shall be replaced by the word " official" in each place where it occurs before the word " document " ,
  - (b) in paragraph (c) (with intent to defraud, failing to make any entry), for the word " defraud" there shall be substituted the word " deceive " , and
  - (c) paragraph (d) (aiding and abetting etc.) shall be omitted, together with the word " or "immediately preceding that paragraph.
- (2) The following provision (being one corresponding to the provisions referred to in subsection (1) above as amended by that subsection) shall be substituted for section 35 of the Naval Discipline Act 1957 :—

### **“35 Falsification of documents.**

Every person subject to this Act who—

- (a) makes, signs, or makes an entry in, any report, return, pay list or certificate or other official document, being a document or entry which is to his knowledge false in a material particular, or
- (b) alters any report, return, pay list or certificate or other official document, or alters any entry in such a document, so that the document or entry is to his knowledge false in a material particular, or suppresses, defaces or makes away with any such document or entry which it is his duty to preserve or produce, or
- (c) with intent to deceive, fails to make an entry in any such document,

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shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.”

## **27 Offences against civilian population**

The following provision (being one corresponding to section 63 of the Army Act 1955 and section 63 of the Air Force Act 1955) shall be inserted in the Naval Discipline Act 1957 after section 35:—

### **“35A Offences against civilian population.**

Every person subject to this Act who, in any country or territory outside the United Kingdom, commits any offence against the person or property of any member of the civilian population shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.”

## **28 Offences against morale**

(1) The following provision shall be inserted in the Army Act 1955 after section 63:—

### **“63A Offences against morale.**

Any person subject to military law who spreads (whether orally, in writing, by signal, or otherwise) reports relating to operations of Her Majesty's forces, of any forces co-operating therewith, or of any part of any of those forces, being reports likely to create despondency or unnecessary alarm, shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.”

(2) The provision set out in subsection (1) above shall also be inserted in the Air Force Act 1955 after section 63, but modified for that purpose by the substitution of " air-force law " for " military law ".

(3) The said provision shall also be inserted in the Naval Discipline Act 1957 after that inserted in that Act by section 27 above, being numbered as section 35B of that Act, and being modified for that purpose by the substitution of " person subject to this Act " for " person subject to military law" and of " punishment authorised by this Act " for " punishment provided by this Act", and by the omission of " on conviction by court-martial ".

## **29 Scandalous conduct by officers**

(1) The following provision shall be substituted for section 64 of the Army Act 1955 (under which an officer who behaves in a scandalous manner unbecoming the character of an officer and a gentleman is to be cashiered):—

### **“64 Scandalous conduct by officers.**

Every officer subject to military law who behaves in a scandalous manner unbecoming the character of an officer shall, on conviction by court-martial, be liable to dismissal from Her Majesty's service with or without disgrace.”

- (2) The provision set out in subsection (1) above shall also be substituted for section 64 of the Air Force Act 1955, but modified for that purpose by the substitution of " air-force law " for " military law " .
- (3) Section 36 of the Naval Discipline Act 1957 shall be amended so as to correspond with the said provision, that is to say, by substituting for the words " is guilty of cruelty or of any scandalous, fraudulent or other conduct " the words " behaves in a scandalous manner " .

### **30 Ill-treatment of persons of inferior rank etc.**

The following provision (being one corresponding to section 65 of the Army Act 1955 and section 65 of the Air Force Act 1955) shall be inserted in the Naval Discipline Act 1957 after section 36:—

#### **“36A Ill-treatment of persons of inferior rank etc.**

If—

- (a) any officer subject to this Act strikes or otherwise ill-treats any officer subject thereto of inferior rank or less seniority, or any rating so subject, or
- (b) any rating subject to this Act and of or above the rate of leading seaman strikes or otherwise ill-treats any rating subject thereto of inferior rate or less seniority,

he shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.”

### **31 Disgraceful conduct**

Section 37 of the Naval Discipline Act 1957 (disgraceful conduct of an indecent kind) shall be amended so as to correspond with section 66 of the Army Act 1955 and section 66 of the Air Force Act 1955, that is to say, by substituting for the words " disgraceful conduct of an indecent kind " the words " disgraceful conduct of a cruel, indecent or unnatural kind ", and for the words " dismissal with disgrace from Her Majesty's service " the words " imprisonment for a term not exceeding two years."

### **32 Attempts, aiding and abetting etc., and inciting**

- (1) Section 68 of the Army Act 1955 (which penalises attempts to commit offences, but does not extend to the offence under section 69 of that Act of conduct etc. to the prejudice of good order and military discipline) and section 68 of the Air Force Act 1955 (which is to the like effect) shall each be amended by inserting, after the words " offence against any of the foregoing provisions of this Part of this Act " , the words " or against section 69 below " .
- (2) The following provision shall be inserted in the Army Act 1955 after the said section 68:—

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**“68A Aiding and abetting etc., and inciting.**

- (1) Any person subject to military law who aids, abets, counsels or procures the commission by another person of an offence against any of the foregoing provisions of this Part of this Act, or against section 69 below, or who incites another person to commit any such offence, shall himself be guilty of the offence in question, and shall be liable to be charged, tried and punished accordingly.
- (2) A person may be guilty by virtue of subsection (1) above of an offence against section 62 of this Act whether or not he knows the nature of the document in question.”
- (3) The provision set out in subsection (2) above shall also be inserted in the Air Force Act 1955 after section 68, but modified for that purpose by the substitution of " air-force law " for " military law " .
- (4) The said provision shall also be substituted for section 41 of the Naval Discipline Act 1957 (which relates to aiding, abetting, counselling and procuring, but not to incitement), being numbered as section 41 of that Act, and being modified for that purpose—
  - (a) in subsection (1), by the substitution of " person subject to this Act " for " person subject to military law " and the omission of " this Part of " and " or against section 69 below " , and
  - (b) in subsection (2), by the substitution of " section 35 "for " section 62 " .

**33 Conduct to the prejudice of service discipline**

Section 69 of the Army Act 1955 and section 69 of the Air Force Act 1955 (act conduct or neglect to prejudice of good order and military or air force discipline) shall each be amended by omitting the word " act " ; and section 39 of the Naval Discipline Act 1957 (act, disorder or neglect to prejudice of good order and naval discipline, being one not described in the foregoing provisions of that Act) shall be amended by substituting the word " conduct " for the words " act, disorder", by omitting the words " not described in the foregoing provisions of this Act " , and by substituting the words " imprisonment for a term not exceeding two years " for the words " dismissal with disgrace from Her Majesty's service " .

**34 Civil offences**

- (1) Section 70 of the Army Act 1955 (trial by court-martial for civil offence) shall be amended—
  - (a) by omitting the proviso to subsection (3) (under which, for an offence for which a civil court could not award imprisonment, a court-martial may impose certain service penalties greater than a fine), and
  - (b) by adding after subsection (5) the following subsection (which corresponds to section 42(2) of the Naval Discipline Act 1957):—
 

“(6) A person subject to military law may be charged with an offence against this section notwithstanding that he could on the same facts be charged with an offence against any other provision of this Part of this Act.”

- (2) Section 70 of the Air Force Act 1955 shall have effect subject to the like amendments, save that, in the subsection to be added thereto, " air-force law " shall be substituted for " military law ".
- (3) Section 42(1) of the Naval Discipline Act 1957 (which enables a court-martial under that Act to punish certain civil offences more severely than could a civil court) shall be amended so as to correspond with section 70(3) of the Army Act 1955 and section 70(3) of the Air Force Act 1955 as above amended, that is to say, by substituting the following for paragraph (c):—
- “(c) in the case of any other offence, to such punishment or punishments (being a punishment or punishments authorised by this Act) as could be imposed on the offender on conviction by a civil court of the like offence committed in England, or to any punishment so authorised which is less than the maximum punishment which could be so imposed.”

#### *Abolition of certain offences*

### **35 Abolition of certain offences**

The following provisions shall cease to have effect—

- (a) in the Army Act 1955 and the Air Force Act 1955, sections 40 (falsely obtaining or prolonging leave), 53 (irregular arrest and confinement), 58 (false evidence) and 67 (false accusations etc.), and
- (b) in the Naval Discipline Act 1957, section 26 (improper carriage of goods).

#### *Punishments*

### **36 Punishments for army and air-force offences dealt with by courts-martial**

The following provision shall be substituted for sections 71 to 73 of the Army Act 1955, and also (but modified for that purpose by the substitution of " an airman " for " a soldier " in subsection (2)(d)) for sections 71 to 73 of the Air Force Act 1955:—

#### *“Punishments available to courts-martial*

#### **71 Scale of punishments, and supplementary provisions.**

- (1) The punishments which may be awarded by sentence of a court-martial under this Act are, subject to the following provisions of this section and to the limitations hereinafter provided on the powers of certain courts-martial, as follows—
- (a) death,
- (b) imprisonment,
- (c) dismissal with disgrace from Her Majesty's service,
- (d) dismissal from Her Majesty's service,
- (e) detention for a term not exceeding two years,
- (f) forfeiture of seniority for a specified term or otherwise,
- (g) reduction to the ranks or any less reduction in rank,

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- (h) fine,
- (i) severe reprimand,
- (j) reprimand,
- (k) in the case of an offence which has occasioned any expense, loss or damage, stoppages, and
- (l) such minor punishments as may from time to time be authorised by the Defence Council;

and references in this Act to any punishment provided by this Act are, subject to the limitation imposed in any particular case by the addition of the word "less", references to any one or more of the said punishments.

For the purposes of this Part of this Act a punishment specified in any of the above paragraphs shall be treated as less than the punishments specified in the paragraphs preceding that paragraph and greater than those specified in the paragraphs following it:

Provided that detention shall not be deemed to be a less punishment than imprisonment if the term of detention is longer than the term of imprisonment.

- (2) Subsection (1) above shall have effect—
- (a) in relation to a convicted person who is an , officer, with the omission of paragraphs (e), (g) and (l),
  - (b) in relation to a convicted person who is a warrant officer, with the omission of paragraphs (f) and (l),
  - (c) in relation to a convicted person who is a non-commissioned officer, with the omission of paragraph (f), and
  - (d) in relation to a convicted person who is a soldier, with the omission of paragraphs (f), (g), (i) and (j).
- (3) A person sentenced by a court-martial to imprisonment shall also be sentenced either to dismissal with disgrace from Her Majesty's service or to dismissal from Her Majesty's service :

Provided that, if the court-martial fail to give effect to this subsection, their sentence shall not be invalid, but shall be deemed to include a sentence of dismissal from Her Majesty's service.

- (4) A warrant officer or non-commissioned officer sentenced by a court-martial to imprisonment, to dismissal from Her Majesty's service (whether or not with disgrace), or to detention, shall also be sentenced to be reduced to the ranks:

Provided that, if the court-martial fail to give effect to this subsection, their sentence shall not be invalid, but shall be deemed to include a sentence of reduction to the ranks.

- (5) The amount of a fine that may be awarded by a court-martial—
- (a) except in the case of an offence against section 70 of this Act, shall not exceed the amount of the offender's pay for twenty-eight days or, where the offence was committed on active service, fifty-six days, and
  - (b) in the said excepted case—
    - (i) where the civil offence constituting an offence against that section is punishable by a civil court in England only on

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summary conviction, and is so punishable by a fine, shall not exceed the maximum amount of that fine, and

- (ii) where the said civil offence is punishable by a civil court in England on indictment (whether or not it is also punishable on summary conviction) by a fine, shall not exceed the maximum amount of that fine ;

and for the purposes of this subsection a day's pay shall, as regards a person found guilty of an offence, be deemed to be the gross pay that is, or would (apart from any forfeiture) be, issuable to that person in respect of the day on which punishment is awarded in respect of the offence.”

### **37 Punishments for army and air-force offences dealt with summarily**

- (1) The following subsection shall be substituted for subsection (3) of section 78 of the Army Act 1955 (punishments on summary dealings with offences against military law by non-commissioned officers and soldiers), and also (but modified for that purpose by the substitution of " an airman " for " a soldier " in the first paragraph (a)) for subsection (3) of section 78 of the Air Force Act 1955 (corresponding provision for offences against air-force law by non-commissioned officers and airmen):—

“(3) Otherwise, the commanding officer shall proceed to deal with the charge summarily; and if he records a finding of guilty, he may award one or more of the following punishments—

- (a) if the accused is a soldier, detention for a period not exceeding twenty-eight days,
- (b) fine,
- (c) if the accused is a non-commissioned officer, severe reprimand or reprimand,
- (d) where the offence has occasioned any expense, loss or damage, stoppages, and
- (e) any minor punishment for the time being authorised by the Defence Council:

Provided that no fine or minor punishment shall be awarded for an offence for which detention is awarded :

And provided also that the amount of a fine that may be awarded—

- (a) except in the case of an offence against section 70 of this Act, shall not exceed the amount of the offender's pay for fourteen days or, where the offence was committed on active service, twenty-eight days, and
- (b) in the said excepted case—
  - (i) in any case, shall not exceed the amount of the offender's pay for fourteen days or, where the civil offence constituting the offence against that section was committed on active service, twenty-eight days, and
  - (ii) where the said civil offence is punishable by a civil court in England only on summary conviction, and is so punishable by any fine of a maximum amount less than the amount limited by sub-paragraph (i) above, shall not exceed that maximum, and
  - (iii) where the said civil offence is punishable by a civil court in England on indictment by a fine of a maximum amount

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less than the amount so limited (whether or not it is also punishable on summary conviction) shall not exceed that maximum,

a day's pay being taken for the purposes of this proviso, as regards a person found guilty of any offence, as the gross pay that is, or would (apart from any forfeiture) be, issuable to that person in respect of the day on which punishment is awarded in respect of the offence.”

- (2) The following subsection shall be substituted for subsection (5) of section 79. of the Army Act 1955 (punishments on summary dealings with offences against military law by officers and warrant officers), and also for subsection (5) of section 79 of the Air Force Act 1955 (corresponding provision for offences against air-force law):—

“(5) If the appropriate superior authority records a finding of guilty, the authority may award one or more of the following punishments—

- (a) except in the case of a warrant officer, forfeiture of seniority for a specified term or otherwise,
- (b) fine,
- (c) severe reprimand or reprimand, and
- (d) where the offence has occasioned any expense, loss or damage, stoppages:

Provided that the appropriate superior authority may not award both forfeiture of seniority and a fine:

And provided also that the second proviso to section 78(3) of this Act shall have effect as respects fines awarded by virtue of this section as it has effect as respects fines awarded by virtue of the said section 78.”

### **38 Punishments for naval offences**

The following provision shall be substituted for sections 43 and 44 of the Naval Discipline Act 1957:—

#### **“43 Scale of punishments, and supplementary provisions.**

- (1) The punishments which may be awarded to persons convicted of offences under this Part of this Act are, subject to the following provisions of this section, as follows:—
- (a) death,
  - (b) imprisonment,
  - (c) dismissal with disgrace from Her Majesty's service,
  - (d) dismissal from Her Majesty's service,
  - (e) detention for a term not exceeding two years,
  - (f) forfeiture of seniority for a specified term or otherwise,
  - (g) dismissal from the ship or naval establishment to which the offender belongs,
  - (h) disrating,
  - (i) fine,
  - (j) severe reprimand,
  - (k) reprimand,



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- (l) in the case of an offence which has occasioned any expense, loss or damage, stoppages, that is to say, the recovery, by deductions from the offender's pay, of a specified sum by way of compensation for the expense, loss or damage, and
- (m) such minor punishments as may from time to time be authorised by the Defence Council;

and references in this Act to any punishment authorised by this Act are, subject to the limitation imposed in any particular case by the addition of the word "less ", references to any one or more of the said punishments.

For the purposes of this Part of this Act a punishment specified in any of the above paragraphs shall be treated as less than the punishments specified in the paragraphs preceding that paragraph and greater than those specified in the paragraphs following it:

Provided that detention shall not be deemed to be a less punishment than imprisonment if the term of detention is longer than the term of imprisonment.

- (2) Subsection (1) above shall have effect—
  - (a) in relation to a convicted person who is an officer, with the omission of paragraphs (e), (h) and (m),
  - (b) in relation to a convicted person who is a warrant officer, with the omission of paragraphs (f), (g) and (m), and
  - (c) in relation to a convicted person who is a rating below the rate of warrant officer with the omission of paragraphs (f) and (g) and, if he is below the rate of leading seaman, of paragraphs (h), (j) and (k) also.
- (3) A person sentenced under this Act to imprisonment shall also be sentenced either to dismissal with disgrace from Her Majesty's service or to dismissal from Her Majesty's service:

Provided that, if the sentencing authority fail to give effect to this subsection, their sentence shall not be invalid, but shall be deemed to include a sentence of dismissal from Her Majesty's service.

- (4) A rating of the rate of leading seaman or above sentenced under this Act to imprisonment, to dismissal from Her Majesty's service (whether or not with disgrace), or to detention, shall also be sentenced to disrating:

Provided that, if the sentencing authority fail to give effect to this subsection, their sentence shall not be invalid, but shall be deemed to include a sentence of disrating.

- (5) A sentence of disrating awarded in compliance with subsection (4) above, or deemed to have been awarded by virtue of the proviso to that subsection, shall be one reducing the offender to such rate as may be prescribed in relation to persons of the class to which he belongs by regulations made by the Defence Council; and any other sentence of disrating under this Act may reduce the offender to any rate not lower than that so prescribed.
- (6) The amount of a fine that may be awarded under this Act by way of punishment for an offence, except in the case of an offence under section 42 thereof, shall not exceed the amount of the offender's pay for twenty-eight days or, where the offence was committed on active service, fifty-six days; and in the said excepted case—

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- (a) the amount of a fine that may be so awarded by a court-martial—
  - (i) where the civil offence constituting the offence under that section is punishable by a civil court in England only on summary conviction, and is so punishable by a fine, shall not exceed the maximum amount of that fine, and
  - (ii) where the said civil offence is punishable by a civil court in England on indictment (whether or not it is also punishable on summary conviction) by a fine, shall not exceed the maximum amount of that fine;
- (b) the amount of a fine that may be so awarded where the offence is tried summarily—
  - (i) in any case shall not exceed the amount of the offender's pay for twenty-eight days or, where the civil offence constituting the offence was committed on active service, fifty-six days, and
  - (ii) where the said civil offence is punishable by a civil court in England only on summary conviction, and is so punishable by a fine of a maximum amount less than the amount mentioned in sub-paragraph (i) above, shall not exceed that maximum, and
  - (iii) where the said civil offence is punishable by a civil court in England on indictment by a fine of a maximum amount less than the amount so mentioned (whether or not it is also punishable on summary conviction) shall not exceed that maximum;

and for the purposes of this subsection a day's pay shall, as regards a person found guilty of an offence be deemed to be the gross pay that is, or would (apart from any forfeiture) be, issuable to that person in respect of the day on which punishment is awarded in respect of that offence.”

### **39 Imprisonment and detention: consecutive terms**

- (1) The following provision shall be inserted in the Army Act 1955 after section 118:—

**“118A Consecutive terms of imprisonment and detention.**

- (1) Where any person who is serving a sentence of imprisonment, whether passed under this Act or otherwise, is awarded a military sentence of imprisonment, or where a person who is awarded a military sentence of imprisonment is further sentenced to imprisonment under section 57(2) of this Act, the court-martial by whom the subsequent or further sentence is awarded may order that that sentence shall begin to run from the expiry of the first-mentioned sentence.
- (2) Where any person who is serving a military sentence of detention, or a sentence of detention passed on him under the Air Force Act 1955 or the Naval Discipline Act 1957, is found guilty under this Act of another offence for which he is awarded a military sentence of detention, or where a person who is awarded a military sentence of detention is further sentenced to detention under section 57(2) of this Act, the court-martial or officer by whom the subsequent or further sentence is awarded may order that that sentence shall begin to run from the expiry of the first-mentioned sentence.

- (3) Where a person is convicted by a. general court-martial or a field general court-martial of two or more offences against section 70 of this Act consisting in the commission of a civil offence for which a civil court in England could award imprisonment, the court-martial may by its sentence award, for any of the said offences, a term of imprisonment which is to run from the expiry of a term awarded by that sentence for any other of those offences.”
- (2) The provision set out in subsection (1) above shall also be inserted in the Air Force Act 1955 after section 118, but modified for that purpose—
- (a) by the substitution throughout subsections (1) and (2) of that provision of " an air-force sentence of imprisonment " for " a military sentence of imprisonment " and " an air-force sentence of detention " for " a military sentence of detention ". and
- (b) by the substitution in the said subsection (2) of " the Army Act 1955 " for " the Air Force Act 1955 ".
- (3) The following subsection shall be added at the end of section 86 of the Naval Discipline Act 1957 (subsections (1) and (2) of which make provision corresponding to subsections (1) and (2) of the provision set out in subsection (1) above):—
- “(3) Where a person is convicted by a court-martial of two or more offences under section 42 of this Act consisting in the commission of a civil offence for which a civil court in England could award imprisonment, the court-martial may by its sentence award, for any of the said offences, a term of imprisonment which is to run from the expiry of a term awarded by that sentence for any other of those offences.”

#### **40 Detention for army and air-force offences: limitation of total period**

The following provision (being one which re-enacts the existing law with minor modifications, and corresponds to section 89 of the Naval Discipline Act 1957) shall be inserted in the Army Act 1955 after section 119, and also (but modified for that purpose by the substitution of " the Army Act 1955 " for " the Air Force Act 1955 " in subsection (3)) in the Air Force Act 1955 after section 119:—

##### **“119A Limitation of total period of sentences of detention.**

- (1) Notwithstanding anything in this Part of this Act, no offender shall be kept continuously in detention for a period exceeding two years in pursuance of two or more sentences of detention.
- (2) Subsection (1) above shall not affect the validity of any order or direction under this Part of this Act that a sentence of detention shall begin to run from the expiry of another such sentence; but so much of any term of detention to which any such order or direction relates as would prolong the total term of detention beyond two years shall be remitted by virtue of the order or direction.
- (3) Where any person who has been sentenced by a court-martial (whether under this Act, the Air Force Act 1955 or the Naval Discipline Act 1957) to detention is subsequently sentenced by a court-martial under this Act to imprisonment, any part of the sentence of detention which has not been served shall thereupon be remitted by virtue of this subsection.”

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*Status: This is the original version (as it was originally enacted).*

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*Other provisions*

**41 Time for trial of offences under section 42 of Naval Discipline Act 1957**

Section 52 of the Naval Discipline Act 1957 (subsections (1) and (2) of which prevent the trial of a naval offence more than three years after its commission and more than three months after the offender has ceased to be subject to that Act, and subsection (3) of which excludes those subsections in the case of mutiny, desertion and, with the consent of the Attorney General, any civil offence punishable under section 42 of that Act and committed outside the United Kingdom) shall be amended so as to correspond, as respects civil offences, with section 132 of the Army Act 1955 and section 132 of the Air Force Act 1955, that is to say, by substituting for the said subsection (3) the following subsection:—

- “(3) Subsections (1) and (2) above shall not apply to an offence of mutiny or desertion; and, in the case of a civil offence punishable under section 42 of this Act—
- (a) if proceedings for the civil offence must, by virtue of any enactment, be brought within a limited time, that limit of time shall apply to the trial of the offence under the said section 42 in substitution for the provisions of subsection (1) above, and
  - (b) if the civil offence was committed outside the United Kingdom and the Attorney General consents to the trial—
    - (i) subject to any such limit of time as is mentioned in paragraph (a) above, the offence may be tried under that section notwithstanding that it was committed more than three years before the beginning of the trial, and
    - (ii) subsection (2) above shall not apply.”

**42 Naval offences by civilians**

Section 118(2) of the Naval Discipline Act 1957 (which applies certain provisions of that Act, including section 39 (conduct to prejudice of naval discipline), to certain civilians who are within the limits of the command of any officer commanding any of Her Majesty's naval forces outside the United Kingdom) shall be amended by adding at the end the following proviso:—

“Provided that the said section 39 shall not apply to a person by virtue only of this subsection except at a time when he is on board one of Her Majesty's ships.”

**43 Consequential, and minor, amendments**

The enactments specified in Schedule 1 to this Act shall have effect subject to the amendments there specified in relation thereto, being amendments consequential on, or minor amendments connected with, the preceding provisions of this Part of this Act.