



Army and Air Force Act 1961

1961 CHAPTER 52

An Act to continue, and amend, the Army Act, 1955, and the Air Force Act, 1955; to amend the Courts-Martial (Appeals) Act, 1951; to validate the employment of British protected persons in certain military and air forces; and for purposes connected with the matters aforesaid. [27th July, 1961]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Continuance of Army Act, 1955, and Air Force Act, 1955

1 Continuance of Army Act, 1955, and Air Force Act, 1955

- (1) The Army Act, 1955, and the Air Force Act, 1955, shall, instead of expiring at the end of the year nineteen hundred and sixty-one, continue in force until the end of the year nineteen hundred and sixty-two, and shall then, unless continued in force in accordance with the following provisions of this section, expire.
- (2) Subject to the provisions of the next following subsection, Her Majesty may from time to time by Order in Council provide that the Army Act, 1955, or, as the case may be, the Air Force Act, 1955, shall continue in force for a period of twelve months beyond the day on which it would otherwise expire.
- (3) No Order in Council shall be made under the last foregoing subsection so as to continue either of the said Acts beyond (the end of the year nineteen hundred and sixty-six.
- (4) No recommendation shall be made to Her Majesty in Council to make an Order under subsection (2) of this section unless a draft thereof has been laid before Parliament and approved by resolution of each House of Parliament.
- (5) Subsections (2) to (5) of section two hundred and twenty-six of the Army Act, 1955, and the corresponding provisions of the Air Force Act, 1955, shall cease to have effect at the end of the year nineteen hundred and sixty-one.

Army Enlistment

2 Terms of enlistment in regular forces

- (1) The term for which a person enlisting in the regular forces may be enlisted shall be such term, beginning with the date of his attestation, as is mentioned in the following provisions of this section.
- (2) Where the person enlisting has attained the age of eighteen years the said term shall be—
 - (a) a term of twenty-two years of army service ; or
 - (b) such term, not exceeding twelve years, as may be prescribed, being a term of army service ; or
 - (c) such term, not exceeding twelve years, as may be prescribed, being as to such part thereof as may be prescribed a term of army service and as to the remainder a term of service in the reserve.
- (3) Where the person enlisting has not attained the age of eighteen years but has attained the minimum age for man's service the said term shall be—
 - (a) a term ending with the expiration of the period of twenty-two years beginning with the date on which he attains the age of eighteen years, being a term of army service; or
 - (b) a term, ending with the expiration of such period, not exceeding twelve years, beginning with the date on which he attains the age of eighteen years, as may be prescribed, being a term of army service; or
 - (c) a term, ending with the expiration of such period as is mentioned in the last foregoing paragraph, being as to such part thereof as may be prescribed a term of army service and as to the remainder a term of service in the reserve.
- (4) Where the said person has not attained the minimum age for man's service the said term shall be—
 - (a) a term ending with the expiration of such period, not exceeding twelve years, beginning with the date on which he attains the age of eighteen years, as may be prescribed, being a term of army service ; or
 - (b) a term ending with the expiration of such period as aforesaid, being as to such part thereof as may be prescribed a term of army service and as to the remainder a term of service in the reserve.
- (5) References (however expressed) in the four next following sections to a person's enlisting or having enlisted on a long-term enlistment shall be construed as referring to his enlisting or, as the case may be, having enlisted for such a term as is mentioned in paragraph (a) of subsection (2) of this section or paragraph (a) of subsection (3) thereof; and in the said sections the expression " relevant date " means.—
 - (a) in the case of a person who enlisted after having attained the age of eighteen years, the date of his attestation, and
 - (b) in the case of a person who enlisted before having attained that age, the date of his attaining that age.

3 Change of conditions of service after long-term enlistment in regular forces

- (1) In the case of persons who enlisted on a long-term enlistment, the Army Council shall have power by regulations under Part I of the Army Act, 1955, to confer—

- (a) any right to be transferred to the reserve at a time or times before the end of the period of twelve years beginning with the relevant date, and
- (b) any right to determine army service at a time or times before the end of the said period,

being rights exercisable in such circumstances and subject to such conditions as may be prescribed, and the power of varying regulations made in pursuance of this subsection shall be subject to the restrictions specified in subsection (6) of this section.

- (2) Every person who enlists on a long-term enlistment may, on making application in the prescribed manner, and with the consent of the competent military authority, be transferred to the reserve at any time before he has completed twelve years' service beginning with the relevant date.
- (3) Every person who enlists on a long-term enlistment shall, subject to the provisions of this section, have the right to determine his service at the end of the period of twelve years beginning with the relevant date, or of any succeeding period of three years, by a notice given in such form and at such time, and revocable in such circumstances, as may be prescribed.
- (4) Where a person is transferred to the reserve under regulations made in pursuance of subsection (1) of this section, or under subsection (2) of this section, he shall serve in the reserve for such period as may be prescribed, so, however, that that period shall not extend beyond twelve years from the relevant date, and regulations under Part I of the Army Act, 1955, may provide for the conditions under which a person so transferred to the reserve may re-enter upon army service and prescribe the conditions subject to which a person so re-entering army service will serve.
- (5) Without prejudice to the power under subsection (1) of this section of prescribing the circumstances in which and the conditions subject to which rights conferred under that subsection are exercisable, regulations made under the said Part I may also—
 - (a) require that, in consideration of a person's being permitted to undergo any course of instruction or to transfer to a corps different from the one in which he was previously serving, or in consideration of the conferring on him of any other benefit or advantage, he shall give an undertaking not to determine his army service before the expiration of a specified period, and
 - (b) provide that a person who has given such an undertaking shall not give notice to exercise a right conferred by regulations made in pursuance of subsection (1) of this section, or a right conferred by subsection (3) of this section, which would result in his transfer to the reserve or the determination of his service before the end of that period,and any such regulations may provide for the giving of such undertakings by persons who enlisted before the regulations were made as well as by persons who enlisted after that time.
- (6) Subject to the provisions of the last foregoing subsection, any regulations which vary or revoke regulations made in pursuance of subsection (1) of this section, or which vary any period prescribed under subsection (4) of this section as a period for which a person shall serve in the reserve, shall not affect persons who enlisted on a long-term enlistment before the time when the varying or revoking regulations are made.

4 Conversion of short-term enlistment in regular forces into long-term enlistment

- (1) A person in army service who enlisted otherwise than on a long-term enlistment after attaining the age of eighteen years or before attaining that age but after attaining the minimum age for man's service may, on giving to his commanding officer written notice in the prescribed form and with the consent of the competent military authority, be treated for the purposes of this Act as if, on the day of his enlistment, he had enlisted on a long-term enlistment.
- (2) A person in army service who enlisted before attaining the minimum age for man's service may, on giving to his commanding officer written notice in the prescribed form, and with the consent of the competent military authority, be treated for the purposes of this Act at any time after attaining the age of eighteen years as if he were a person who, on the day on which he attained that age, had enlisted on a long-term enlistment.

A person shall not give a notice under this subsection before attaining the age of seventeen years and six months.

- (3) A person who, by virtue of this section, is treated as having enlisted on a long-term enlistment shall not exercise his right under subsection (1) of the last foregoing section so as to reduce his army service to less than it would have been if he had not been treated as aforesaid.

5 Other changes of conditions of service of persons enlisted on short-term enlistments in regular forces

- (1) Where a person in army service enlisted otherwise than on a long-term enlistment his conditions of service may, on written application in that behalf made by him to the competent military authority and with the consent of that authority, be changed as follows, that is to say:—
 - (a) if his enlistment was for a term ending before the expiration of a period of twelve years beginning with the relevant date, that term may be extended so as to end at such time, not later than the expiration of the said period, as may be specified in the application and so as to increase the period of his army service, his service in the reserve, or both, as may be so specified:—
 - (b) if the term for which he enlisted, or that term as extended under paragraph (a) of this subsection, includes a period of Service in the reserve, his period of army service may be increased, according as may be specified in the application, so as to extend to the whole or a specified part of that period;
 - (c) he may be transferred to the reserve to serve therein for the residue of the term for which he was enlisted, or if that term has been extended under paragraph (a) of this subsection, for the residue of that term as so extended.
- (2) A person in the reserve by virtue either of the terms of his enlistment or of subsection (1) of this section may, on written application in that behalf made by him to the competent military authority and with the consent of that authority, at any time re-enter upon army service and, according as may be specified in the application, either—
 - (a) serve in army service for the remainder of the period for which he would have been liable to serve in the reserve if he had not re-entered upon army service, or
 - (b) serve in army service for a specified part of that remainder and thereafter serve in the reserve for the residue thereof.

6 Continuance in service in regular forces after long-term service

- (1) A soldier of the regular forces enlisted on a long-term enlistment who has completed the prescribed period (which shall not be less than fifteen years) of continuous service from the relevant date may give notice to his commanding officer of his desire to continue in army service after the completion of his term of service, for such period, not exceeding five years, as may be specified in the notice ; and if the competent military authority approve he may, after the completion of his term of service, be continued as a soldier of the regular forces for the period specified in the notice, in all respects as if his term of service were still unexpired.

The giving, under the foregoing provisions of this subsection, of a notice by a soldier shall not prejudice the exercise by him of any right conferred by regulations made in pursuance of subsection (1) of section three of this Act or by subsection (3) of that section.

- (2) Where a soldier of the regular forces will, at the end of the term for which he enlisted, have completed not less than twenty-two years' service but will not be entitled to give a notice under the last foregoing subsection, he may, at any time during the last twelve months of that term, give notice to his commanding officer of his desire to continue in army service, after the end of that term, for such period, not exceeding five years, as may be specified in the notice; and, if the competent military authority approve, he may, after the end of that term, be continued as a soldier of the regular forces, for the period specified in the notice, in all respects as if that term were still unexpired.

The references in this subsection to the term for which a soldier enlisted shall, where the term has been extended under subsection (1) of the last foregoing section, be construed as references to the term as so extended.

- (3) A soldier of the regular forces for the time being continued in service under subsection (1) or (2) of this section may, within the prescribed period immediately preceding the date on which the period for which he is so continued will end, give notice to his commanding officer of his desire to continue further in army service after that date for such period, not exceeding five years, as may be specified in the notice; and if the competent military authority approve, he may, after that date, be further continued as a soldier of the regular forces, for the period specified in the notice, in all respects as if the term for which he was previously continued in service were still unexpired.
- (4) The last foregoing subsection shall apply to soldiers of the regular forces continued in service thereunder as it applies to such soldiers continued in service under subsection (1) or (2) of this section.
- (5) Section three of this Act shall not apply in the case of a soldier who is continued in service under this section; but any such soldier may claim his discharge at the expiration of the period of three months beginning with the date on which he gives to his commanding officer notice of his wish to be discharged.
- (6) References in this section to periods of service shall, except so far as the context otherwise requires, be construed as including references to periods served in the reserve, but as not including—
- (a) periods of whole-time or part-time service within the meaning of Part I of the National Service Act, 1948, or

- (b) in relation to a soldier who enlisted for a term ending with the expiration of a period beginning with the date of his attaining the age of eighteen years, any period during which he was under that age.

7 Application of, amendments consequential on, and interpretation of, sections 2 to 6

- (1) The five last foregoing sections shall apply only to persons who enlist in the regular forces after the coming into operation of those sections (not being persons who enlist in the Royal Marines or enlist in pursuance of the National Service Act, 1948), and sections four to eight of the Army Act, 1955, and the Army (Conditions of Enlistment) Act, 1957, shall not apply to persons who so enlist in the regular forces.
- (2) In sections thirteen and fourteen of the Army Act, 1955, references to Part I of that Act shall be construed as including references to the five last foregoing sections.
- (3) In subsection (2) of section seventeen of the Army Act, 1955, the reference to Part I of that Act shall, in the case of persons who enlist as aforesaid in the regular forces, be construed as including a reference to the five last foregoing sections.
- (4) In subsections (4) and (6) of the said section seventeen, the references to the right conferred by subsection (1) of section five of the Army Act, 1955, shall, in the case of persons who enlist as aforesaid in the regular forces, be construed as references to rights conferred by regulations made in pursuance of subsection (1) of section three of this Act or by subsection (3) thereof, and the reference in the said subsection (6) to the purposes of the said Act of 1955 shall, in the case of such persons, be construed as including a reference to the purposes of the five last foregoing sections.
- (5) Nothing in the said section seventeen shall apply to a person who deserts at a time when he is continued in service under section six of this Act.
- (6) In subsection (5) of section twenty of the Army Act, 1955, the reference to subsection (2) of section four of that Act shall be construed as including a reference to subsections (2) and (3) of section two of this Act.
- (7) In section twenty-two of the Army Act, 1955, the reference to Part I of that Act shall be construed as including a reference to the five last foregoing sections.
- (8) So much of the five last foregoing sections as relates to service in, and transfer to, the reserve shall not apply to women members of the regular forces.
- (9) Expressions used in the five last foregoing sections to which meanings are assigned by section two, twenty-three or two hundred and twenty-five of the Army Act, 1955, shall have those meanings for the purposes of the first-mentioned sections.

Air Force Enlistment

8 Terms of enlistment in regular air force

- (1) The term for which a person enlisting in the regular air force may be enlisted shall be such term, beginning with the date of his attestation, as is mentioned in the following provisions of this section.
- (2) Where the person enlisting has attained the age of eighteen years the said term shall be—

- (a) a term of twenty-two years of air-force service; or
 - (b) such term, not exceeding twelve years, as may be prescribed, being a term of air-force service ; or
 - (c) such term, not exceeding twelve years, as may be prescribed, being as to such part thereof as may be prescribed, a term of air-force service and as to the remainder a term of service in the reserve.
- (3) Where the person enlisting has not attained the age of eighteen years the said term shall be—
- (a) a term ending with the expiration of the period of twenty-two years beginning with the date on which he attains the age of eighteen years, 'being a term of air-force service; or
 - (b) a term ending with the expiration of such period, not exceeding twelve years, beginning with the date on which he attains the age of eighteen years, as may be prescribed, being a term of air-force service ; or
 - (c) a term, ending with the expiration of such period as is mentioned in the last foregoing paragraph, being as to such part thereof as may be prescribed a term of air-force service and as to the remainder a term of service in the reserve.
- (4) References (however expressed) in the four next following sections and in section fifteen of this Act to a person's enlisting or having enlisted on a long-term enlistment shall be construed as referring to his enlisting or, as the case may be, having enlisted for such a term as is mentioned in paragraph (a) of subsection (2) of this section or paragraph (a) of subsection (3) thereof; and in the said sections the expression " relevant date " means, subject to the provisions of the next following subsection and of the said section fifteen.—
- (a) in the case of a person who enlisted after having attained the age of eighteen years, the date of his attestation, and
 - (b) in the case of a person who enlisted before having attained that age, the date of his attaining that age.
- (5) In relation to women enlisting in the regular air force, this section shall have effect with the addition in subsection (3), after paragraph (c), of the following words:—

“or

- (d) such term, not exceeding six years, as may be prescribed, being a term of air-force service”,

and in relation to a woman enlisting for such a term as is referred to in the said paragraph (d), the expression " relevant date " in the four next following sections means the date of her attestation.

9 Change of conditions of service after long-term enlistment in regular air force

- (1) A person in air-force service who enlisted on a long-term enlistment shall, subject to the provisions of subsections (3) and (4) of this section, have the right to determine his service at the end of such period, not exceeding twelve years beginning with the relevant date, as may be prescribed.
- (2) Where a person in air-force service enlisted as aforesaid his conditions of service may, on written application in that behalf made by him to his commanding officer and with the consent of the competent air-force authority, be changed as follows, that is to say:
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Status: This is the original version (as it was originally enacted).

- (a) the term for which he enlisted, or that term as previously extended under this paragraph, may be extended so as to end at such time, not later than the day on which he attains the age of fifty-five years, as may be specified in the application ;
 - (b) he may be transferred to the reserve with liability to serve therein until the expiration of the term for which he enlisted or of that term as extended under the foregoing paragraph, or such shorter term as the said authority may in his case approve.
- (3) The right conferred by subsection (1) of this section shall be exercisable by notice in writing in the prescribed form given by the person in question to his commanding officer not less than the prescribed period before the expiration of the period at the end of which his service is to determine.
- (4) Where a person, in consideration of his being permitted to undergo a prescribed course of instruction or a course of instruction of a prescribed class, or of the conferring on him of such other benefit or advantage as may be prescribed, has undertaken, in the prescribed form and manner, not to determine his air-force service before the expiration of such period, not exceeding six years, beginning with the day on which that course of instruction ends as may be prescribed or, as the case may be, before the expiration of such period not exceeding six years as may be prescribed in relation to that other benefit or advantage, he shall not give a notice under the last foregoing subsection which would result in the determination of his service before the end of the said period.
- (5) A notice given by a person under subsection (3) of this section may be withdrawn by a notice in writing in the prescribed form given by him to his commanding officer at any time before the expiration of the period last mentioned in that subsection ; but where a notice under this subsection is given after the beginning of the said prescribed period it shall be of no effect unless approved by the competent air-force authority.

10 Conversion of short-term enlistment in regular air force into long-term enlistment

- (1) A person in air-force service who enlisted otherwise than on a long-term enlistment may, on written application in that behalf made by him to his commanding officer and with the consent of the competent air-force authority, be treated for the purposes of this Act, but subject to the provisions of this section, as if, on the date of his attestation, he had enlisted on a long-term enlistment.
- (2) A person shall not give a notice under the foregoing subsection before attaining the age of seventeen years and six months.
- (3) Subsection (1) of the last foregoing section shall not apply to a person who by virtue of this section is treated as if he had enlisted on a long-term enlistment unless his application under subsection (1) of this section is made before he has completed four years' service, and, in relation to a person who is so treated, the last foregoing section shall have effect as if, at the end of subsection (1) thereof, there were added the words " or the term for which he originally enlisted, whichever last expires ".
- (4) In reckoning for the purposes of the last foregoing subsection the period of service completed by any person, there shall be included, in addition to any period served by him in air-force service since the relevant date, any period served by him since that date in the reserve and, if before his attestation he has at any time served as an officer

or airman of the regular air force in air-force service or in the reserve, or the Royal Auxiliary Air Force, any period so served by him before his attestation other than—

- (a) any period served while undergoing training as an officer or airman of the reserve or the Royal Auxiliary Air Force, or
- (b) any period served before attaining the age of eighteen years in service in the regular air force as an apprentice or a boy entrant.

11 Other changes of conditions of service of persons enlisted on short-term enlistments in regular air force

- (1) Where a person in air-force service enlisted otherwise than on a long-term enlistment, his conditions of service may, on written application in that behalf made by him to his commanding officer and with the consent of the competent air-force authority, be changed as follows, that is to say:—
 - (a) if his enlistment was for a term ending before the expiration of a period of twelve years beginning with the relevant date, that term, or that term as previously extended under this paragraph, may be extended so as to end at such time, not later than the expiration of the said period, as may be specified in the application and so as to increase the period of his air-force service, his service in the reserve, or both, as may be so specified ;
 - (b) if he has completed four years' service, the term for which he enlisted, or that term as previously extended under any provision (including this paragraph) of this subsection, may be extended so as to end at such time falling before the expiration of the period of twenty-two years beginning with the relevant date as may be specified in the application, and so as to increase the period of his air-force service, his service in the reserve, or both, as may be so specified ;
 - (c) if he has completed four years' service, his period of air-force service may be extended so as to end at such time, not later than the day on which he attains the age of fifty-five years, as may be specified in the application;
 - (d) if the term for which he enlisted, or that term as extended under paragraph (a) or (b) of this subsection, includes a period of service in the reserve, his period of air-force service may be increased, according as may be specified in the application, so as to extend to the whole or a specified part of that period ;
 - (e) he may be (transferred to the reserve with liability to serve therein for the residue of the term for which he enlisted, or if that term has been extended under paragraph (a) or (b) of this subsection, for the residue of that term as so extended or, in any case, for such shorter term as the competent air-force authority may in his case approve.
- (2) Subsection (4) of the last foregoing section shall apply in reckoning for the purposes of paragraph (b) or (c) of the foregoing subsection the period of service completed by a person as it applies in reckoning such a period for the purposes of subsection (3) of that section.

12 Continuance in service in regular air-force after expiration of term

- (1) A person in air-force service who enlisted on a long-term enlistment, and a person in air-force service who enlisted otherwise than on a long-term enlistment and has completed such period of air-force service, not being less than twelve years, as may be prescribed, may, at any time during the last twelve months of the term for which he enlisted, or if that term has been extended under any of the foregoing provisions of this Act, of that term as so extended, give notice to his commanding officer of his

desire to continue in service after the end of that term, or, as the case may be, of that term as so extended, and, if the competent air-force authority consent, he may, after the end of that term or, as the case may be, that term as so extended, be continued as an airman of the regular air force in all respects (subject to the next following subsection) as if his term of service were still unexpired.

- (2) Where a person is continued in service under this section—
 - (a) sections nine to eleven of this Act shall not apply to him;
 - (b) he may claim his discharge at the expiration of any period of three months beginning with the date on which he gives to his commanding officer notice of his wish to be discharged.

13 Provisions as to forfeiture of service in certain cases

- (1) Where on conviction by a court-martial any of an airman's service is forfeited in consequence of subsection (1) of section seventeen of the Air Force Act, 1955 (forfeiture of service for desertion) Or that subsection and an award of a court-martial under Part II of that Act, and the right conferred by subsection (1) of section nine of this Act to determine his service ceased in his case to be exercisable before the day of the sentence, the forfeiture shall not operate to confer on him any further such right under the last-mentioned subsection.
- (2) Where service of any description forfeited as mentioned in the foregoing subsection is restored under subsection (4) of the said section seventeen to a person who, at the time of the restoration, is serving, or subsequently serves, on terms which entitle him to the right conferred by subsection (1) of section nine of this Act, the restoration shall not operate to alter the date on which, by reason of the operation of subsection (2) of the said section seventeen, his air-force service may be determined in pursuance of an exercise of that right.
- (3) Nothing in the said section seventeen shall require a person whose term of enlistment has been extended under paragraph (a) of subsection (2) of section nine of this Act or paragraph (c) of subsection (1) of section eleven thereof so as to end at a specified time to serve for any period after that time.
- (4) This section shall apply in relation to the forfeiture of service by virtue of section eighty-one of the Air Force Act, 1955 (forfeiture of service in case of confession of desertion on direction of Air Council or officer provided by Queen's Regulations that offence shall not be tried by court-martial or dealt with summarily) as it applies in relation to forfeiture of service on conviction by a court-martial, subject to the modification that, for any reference to the day of the sentence, there shall be substituted a reference to the day on which the direction under that section was given.

14 Repeal of sections 4 to 8 of Air Force Act, 1955, and consequential provisions

- (1) Sections four to eight of the Air Force Act, 1955, are hereby repealed, and the six last foregoing sections and the Air Force Act, 1955, shall have effect as if the said six last foregoing sections were contained in Part I of the said Act of 1955.
- (2) Subsection (1) of section twenty of the Air Force Act, 1955, shall have effect as if, for the reference to sections four to six of that Act, there were substituted a reference to sections eight to ten of this Act and to paragraphs (a), (d) and (e) of subsection (1) of section eleven thereof, and subsection (5) of the said section twenty shall have effect as if, for (the reference to paragraph (a) of subsection (2) of section four of the Air

Force Act, 1955, there were substituted a reference to subsection (2) of section eight of this Act.

15 Transitional provisions relating to sections 8 to 14

- (1) The following provisions of this section shall have effect for the purposes of the application of sections eight to fourteen of this Act to the case of any person who is in air-force service immediately before the coming into operation of sections eight to fourteen of this Act (hereafter in this section referred to as " an existing airman ").
- (2) The repeal by the last foregoing section of sections four to eight of the Air Force Act, 1955, shall not affect the term of service (either as respects duration, or as respects liability to air-force service or any liability to serve in the reserve) for which an existing airman is serving immediately before the coming into operation of sections eight to fourteen of this Act, and subsections (1) to (3) and subsection (5) of section eight of this Act shall not apply to an existing airman.
- (3) Subsection (4) of section eight of this Act shall have effect in relation to an existing airman who enlisted before he attained the age of eighteen years but after he had attained the minimum age for man's service within the meaning of the Air Force Act, 1955, with the modification that the expression " relevant date " shall mean the date of his attestation.
- (4) An existing airman who has been re-engaged for a further period of air-force service by virtue of paragraph (a) of subsection (1) of section seven of the Air Force Act, 1955, shall be treated for the purposes of subsection (2) of section nine of this Act and of sections ten to twelve of this Act as if on the date of his attestation section eight of this Act had been in force and he had enlisted on a long-term enlistment.
- (5) In relation to an existing airman (other than such a one as is mentioned in the last foregoing subsection) subsection (1) of section ten of this Act shall have effect as if, after the words " on the date of his attestation ", there were inserted the words " section eight of this Act had been in force and ".
- (6) In relation to an existing airman, any reference in section eleven or section 'twelve of this Act to the term of a person's enlistment—
 - (a) shall, if the term for which he enlisted has been extended under subsection (1) of section five of the Air Force Act, 1955, and he is serving on that term as so extended, include a reference to that term as so extended ;
 - (b) shall, if he is serving on a term for which he has re-entered under subsection (2) of section six of the Air Force Act, 1955, 'be construed as a reference to the term for which he so re-entered ;
 - (c) shall, if he is serving on a term for which he has been re-engaged by virtue of paragraph (b) or paragraph (c) of subsection (1) of section seven of the Air Force Act, 1955, be construed as a reference to the term for which he was so re-engaged.
- (7) Sections nine to eleven of this Act shall not apply to an existing airman continued in service under section eight of the Air Force Act, 1955, but such an airman may claim his discharge at the expiration of any period of three months beginning with the date on which he gives to his commanding officer within the meaning of the Air Force Act, 1955, notice of his wish to be discharged.

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

- (8) In so far as any application made under any of sections five to eight of the Air Force Act, 1955, could have been made under a corresponding provision of any of sections nine to twelve of this Act, it shall not be invalidated by the repeal by this Act of the said sections five to eight, but shall have effect as if made under that corresponding provision.

*Amendment of Provisions as to Enlistment, Service
and Discharge of Men of the Royal Marines*

16 Amendment of provisions as to enlistment, service and discharge of men of the Royal Marines

The provisions of the First Schedule to this Act shall have effect for the purpose of making amendments in Part I of the Seventh Schedule to the Army Act, 1955 (enlistment, service and discharge 'of men of the Royal Marines), being amendments whose object is to enable such men to be re-engaged more than once and amendments of minor detail.

*Amendment as to Discharge by Purchase applicable
alike to Army Act, 1955, and Air Force Act, 1955*

17 Amendment of section 14 of Army Act, 1955, and Air Force Act, 1955

- (1) In relation to persons enlisting after the coming into operation of this section, Part I of the Army Act, 1955, shall have effect with the substitution, for subsection (1) of section fourteen thereof, of the following subsection:—

“(1) A recruit shall be entitled to claim his discharge before the expiration of the period of three months beginning with the date of his attestation, and if he makes such a claim he shall on payment of a sum not exceeding twenty pounds be discharged with all convenient speed:

Provided that—

- (a) the Army Council may by regulations provide that the right conferred by this subsection shall not be exercisable by a recruit before the expiration of such period (not exceeding two months) beginning with the said date as may be prescribed by the regulations, and
 - (b) if a claim is made under this subsection by a recruit at a time when soldiers are required by a proclamation under section ten of this Act to continue in army service, he shall not be entitled to be discharged so long as they are so required to continue in army service”.
- (2) In relation to persons so enlisting, Part I of the Air Force Act, 1955, shall have effect with the substitution, for subsection (1) of section fourteen thereof, of a subsection in other respects similar to that set out in the foregoing subsection but modified by the substitution, for the words " Army Council " , of the words " Air Council", for the word " soldiers", of the word " airmen " and, for the words " army service " (in both places where they occur), of the words " air-force service " .

*Amendments as to Discipline, &c, applicable
alike to Army Act, 1955, and Air Force Act, 1955*

18 Change of circumstances for award of field punishment and forfeiture of pay

- (1) The circumstances in which field punishment may be awarded to a warrant officer, non-commissioned officer, soldier or airman by sentence of a court-martial under the Army Act, 1955, or the Air Force Act, 1955, for an offence and the punishment of forfeiture of pay may be so awarded or may, under either Act, be awarded by a commanding officer to a soldier or airman for an offence shall, instead of being that the offence was committed on active service (as provided, in the case of field punishment, by subsection (1) of section seventy-three of each of those Acts and, in the case of forfeiture of pay, by paragraph (b) of subsection (2) of section seventy-two thereof and paragraph (c) of subsection (3) of section seventy-eight thereof), be that the offender is on active service at the time at which the sentence of the court is announced or, as the case may be, the commanding officer's award is made; and forfeiture of pay shall, when awarded by sentence of a court-martial, instead of being treated for the purposes of Part II of each of those Acts as less than severe reprimand or reprimand (which are specified in paragraph (i) of the said subsection (2)) be so treated as greater than those punishments but less than the punishments specified in paragraphs (a) to (h) of that subsection.
- (2) Accordingly.—
- (a) the said Acts shall each be amended as follows:—
- (i) in subsection (2) of section seventy-two, after paragraph (e) thereof, there shall be inserted the following paragraph:—
- “(ee) where the offender is on active service on the day of the sentence, field punishment for a period not exceeding ninety days”;
- (ii) in the said subsection (2), after paragraph (h) thereof, there shall be inserted the following paragraph:—
- “(hh) where the offender is on active service on the day of the sentence, forfeiture of pay for a period beginning with the day of the sentence and not exceeding ninety days”,
- and paragraph (j) shall be omitted;
- (iii) in subsection (6) of (the said section seventy-two, for the words " or detention ", there shall be substituted the words " detention or field punishment " ;
- (iv) for subsection (8) of the said section seventy-two, there shall be substituted the following subsection:—
- “(8) Where an offender is on active service when sentence of a court-martial is announced, forfeiture of pay may be awarded in addition to field punishment and, in a case where he is a warrant officer or non-commissioned officer, severe reprimand or reprimand may be awarded in addition to forfeiture of pay”;
- (v) subsection (1) of section seventy-three shall be omitted;
- (b) subsection (3) of section seventy-eight of the Army Act, 1955, shall be amended as follows:—

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- (i) after paragraph (a) thereof, there shall be inserted the following paragraph:—
 - “(aa) if the accused is a soldier who is on active service on the day of the sentence, forfeiture of pay for a period beginning with the day of the sentence and not exceeding twenty-eight days”;
- (ii) paragraph (c) shall be omitted ; and
- (c) subsection (3) of section seventy-eight of the Air Force Act, 1955, shall be amended as follows:—
 - (i) after paragraph (a) thereof, there shall be inserted the following paragraph:—
 - “(aa) if the accused is an airman Who is on active service on the day of the sentence, forfeiture of pay for a period beginning with the day of the sentence and not exceeding twenty-eight days”;
 - (ii) paragraph (c) shall be omitted.

19 Forfeiture of sums from pay by way of punishment

- (1) The following provisions of this section shall have effect for the purpose of permitting the imposition, on persons found guilty under the Army Act, 1955, or the Air Force Act, 1955 (which Acts are hereafter in this section referred to as " the Acts ") of offences, of (punishment consisting in the forfeiture of sums from their pay.
- (2) Section seventy-one of each of the Acts (punishment of officers) shall be amended—
 - (a) by the insertion, in subsection (2) (scale of punishments), after paragraph (e) thereof, of the following paragraph:—
 - “(ee) forfeiture of a sum from pay”;
 - (b) by the addition, at the end of subsection (6) (power to award severe reprimand or reprimand in addition to forfeiture of seniority of rank), of the words " or forfeiture of a sum from pay ".
- (3) Section seventy-two of each of the Acts (punishment of other ranks) shall be amended—
 - (a) by the insertion, in subsection (2) (scale of punishments), after the paragraph directed to be inserted therein by sub-paragraph (ii) of paragraph (a) of subsection (2) of the last foregoing section, of the following paragraph:—
 - “(hhh) forfeiture of a sum from pay”;
 - (b) by the addition, at the end of subsection (7) (power to award, to warrant officer or non-commissioned officer, severe reprimand or reprimand in addition to forfeiture of seniority of rank), of the words "or forfeiture of a sum from pay ".
- (4) Section seventy-eight of each of the Acts (mode of dealing with charge against non-commissioned officer, soldier or airman after commanding officer's investigation) shall be amended—
 - (a) by the insertion, in subsection (3) (permissible punishments), after the paragraph directed to be inserted therein by paragraph (b) of subsection (2) of the last foregoing section in the case of the Army Act, 1955, and by paragraph (c) of that subsection in the case of the Air Force Act, 1955, of the following paragraph:—
 - “(aaa) forfeiture of a sum from pay”;

- (b) by the substitution, for the proviso to the said subsection (3) (no forfeiture of pay or minor punishment to be awarded for an offence for which detention is awarded), of the following proviso:—
- “Provided that no forfeiture of pay, forfeiture of a sum from pay or minor punishment shall be awarded for an offence for which detention is awarded, and that no forfeiture of a sum from pay shall be awarded for an offence for which field punishment or forfeiture of pay is awarded”.
- (5) Section seventy-nine of each of the Acts (mode of dealing with charge against officer or warrant officer after commanding officer's investigation), shall be amended—
- (a) by the insertion, in subsection (5) (permissible punishments), after paragraph (a) thereof, of the following paragraph:—
- “(aa) forfeiture of a sum from pay”;
- (b) by the addition, at the end of that subsection, of the words " except that he may not award both forfeiture of seniority of rank and forfeiture of a sum from pay";
- (c) by the insertion, in subsection (6) (accused to be afforded opportunity of being tried by court-martial where, inter alia, appropriate superior authority to whom charge is referred determines that if it is dealt with summarily he will award forfeiture of seniority or stoppages), of the words " forfeiture of a sum from pay " , after the words " forfeiture of seniority " .
- (6) The amount of the sum that may be forfeited under either of the Acts from an offender's pay by way of punishment for an offence other than one against section seventy (civil offences) of either of them shall not exceed the aggregate of fourteen days' pay, and the amount of the sum that may be so forfeited by way of punishment for an offence against section seventy of either of the Acts—
- (a) in any case, shall not exceed the aggregate of fourteen days' pay;
- (b) where the civil offence constituting the offence against that section 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 said aggregate, shall not exceed that maximum;
- (c) 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 said aggregate (whether or not it is also punishable on summary conviction), shall not exceed that maximum.
- (7) For the purposes of this section 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.

20 Furnishing the enemy with things likely to assist him

Subsection (1) of section twenty-four of the Army Act, 1955 (which specifies the offences, which, when committed by a person subject to military law with intent to assist the enemy, are punishable with death or any other punishment provided by that Act), shall have effect with the substitution, for paragraph (d) thereof (furnishing the enemy with arms or ammunitions or with supplies of any description) of the following paragraph:—

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“(d) furnishes the enemy with arms or ammunition or with supplies of any description or with any other thing likely to assist him (whether similar to any of the things aforesaid or not), or”;

and subsection (1) of section twenty-four of the Air Force Act 1955 (which makes provision corresponding to that of subsection (1) of section twenty-four of the Army Act, 1955), shall have effect with a similar substitution.

21 Penalisation of receiving proceeds of stolen, &c, property

In the following provisions, that is to say, paragraph (b) of section forty-four and paragraph (b) of section forty-five of the Army Act, 1955, and paragraph (b) of subsection (1) of section forty-four and paragraph (b) of section forty-five of the Air Force Act, 1955 (which penalise receiving certain property knowing it to have been stolen or fraudulently misapplied), any reference to property shall include not only a reference to such property as has been originally in the possession or control of any person, but also any property into or for which that property has been converted or exchanged, and anything acquired by a conversion or exchange of that property, whether immediately or otherwise.

22 Power of commanding officer as to reduction in acting rank

Subsection (4) of section seventy-eight of the Army Act, 1955, and subsection (4) of section seventy-eight of the Air Force Act, 1955 (power of commanding officer, where he finds-acting warrant officer or non-commissioned officer guilty of an offence and awards no other punishment or no other punishment except stoppages, to order the accused to revert to his permanent rank), shall each be amended by the addition, at the end thereof, of the words " or to assume an acting rank lower than that held by him but higher than his permanent rank ".

23 Repeal of prohibition of dismissal of certain charges referred to higher authority

Subsection (2) of section eighty of the Army Act, 1955, and subsection (2) of section eighty of the Air Force Act, 1955 (which prohibit the reference back, for dismissal, of & charge referred to higher authority with a view to its being tried by court-martial where the accused has elected to be so tried and has not withdrawn his election) shall cease to have effect.

24 Extension of admissibility of statutory declaration in evidence

At the end of paragraph (b) of the proviso to subsection (2) of section ninety-nine of the Army Act, 1955, and of paragraph (b) of the proviso to subsection (2) of section ninety-nine of the Air Force Act, 1955 (by virtue of which provisos the admission in evidence in proceedings before a court-martial of a statutory declaration put forward by the defence is prohibited unless a copy thereof has, not less than seven days before the trial, been served on the commanding officer of the accused) there shall be added the words " or the commanding officer of the accused has given his agreement in writing to its admission ".

25 Power of authority reviewing summary findings and awards

In subsection (3) of section one hundred and fifteen of the Army Act, 1955, and in subsection (3) of section one hundred and fifteen of the Air Force Act, 1955 (which

subsections enable an authority reviewing a finding on a charge that has been dealt with summarily to quash the finding, and require an award to be quashed where a finding is quashed) the words " and if the finding is quashed the authority shall also quash the award " shall cease to have effect; and after each of the said subsections there shall be inserted the following subsection:—

“(3A) If a finding in any proceedings is quashed under the last foregoing subsection and the award made in those proceedings relates only to the finding quashed, the authority shall also quash the award; and if the award relates also to any other finding and it appears to the authority that the award was not warranted by this Act in respect of that other finding, the authority may vary the award by substituting such punishment or punishments as the authority may think proper, being a punishment or punishments which could have been included in the original award in relation to that other finding, and not being in the opinion of the authority more severe than the punishment or punishments included in the original award”.

26 Amendments as to persons qualified to hold inquiries

- (1) For subsection (2) of section one hundred and thirty-five of the Army Act, 1955 (composition of boards of inquiry) there shall be substituted the following subsection:

—
“(2) A board of inquiry shall consist of a president, who shall be an officer not below the rank of captain or corresponding rank and be subject to military law, the Naval Discipline Act, 1957, or air-force law, and not less than two other members each of whom shall either be a person so subject or be a person not so subject who is in the service of the Crown”,

and for subsection (2) of section one hundred and thirty-five of the Air Force Act, 1955 (which is the corresponding section of that Act) there shall be substituted the following subsection:—

“(2) A board of inquiry shall consist of a president, who shall be an officer not below the rank of flight-lieutenant or corresponding rank and be subject to air-force law, the Naval Discipline Act, 1957, or military law, and not less than two other members each of whom shall either be a person so subject or be a person not so subject who is in the service of the Crown”.

- (2) In subsection (1) of section one hundred and thirty-seven of the Army Act, 1955 (holding of regimental inquiries by persons subject to military law, the Naval Discipline Act, 1957, or air-force law) for the words " by such person or persons subject to military law, the Naval Discipline Act or air-force law as may be specified by or determined under such regulations ", there shall be substituted the words " by such person or persons as may be specified by or determined under such regulations (being, as the case may be, a person who is subject to military law, the Naval Discipline Act, 1957, or air-force law or, not being so subject, is in the service of the Crown, or persons each of whom is so subject or, not being so subject, is in that service) ", and in subsection (1) of section one hundred and thirty-seven of the Air Force Act, 1955 (which is the corresponding section of that Act) for the words " by such person or persons subject to air-force law, the Naval Discipline Act or military law as may be specified by or determined under such regulations " there shall be substituted the words " by such person or persons as may be specified by or determined under such regulations (being, as the case may be, a person who is subject to air-force law, the Naval Discipline Act, 1957, or military law or, not being so subject, is in the service

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of the Crown, or persons each of whom is so subject or, not being so subject, is in that service) ".

- (3) Subsection (4) of section one hundred and thirty-five of the Army Act, 1955 (which requires board of inquiry rules to contain provision for securing to persons who may be affected by the findings of such a board an opportunity of being present, and represented, at sittings of the board), shall have effect—

- (a) in its application to a board of inquiry the sittings of which begin after the time at which this section comes into operation, and
- (b) in its application, by virtue of subsection (3) of section one hundred and thirty-seven of that Act, to an inquiry the holding of which, in pursuance of that section, is begun after that time,

as if the reference to a person who may be affected by the findings of, as the case may be, the board or inquiry did not include anyone other than a person who is subject to military law, the Naval Discipline Act, 1957, or air-force law or a person who, though not so subject, is in the service of the Crown and may be so affected in his character or professional reputation ; and subsection (4) of section one hundred and thirty-five of the Air Force Act, 1955, shall have corresponding effect.

Other Amendments applicable alike to Army Act, 1955, and Air Force Act, 1955

27 Deduction from pay of civil penalties

- (1) For section one hundred and forty-six of the Army Act, 1955 (which authorises deduction from pay of any payment made by a military authority towards meeting the whole or part of any fine, penalty, damages, compensation or costs awarded by a sentence or order of a civil court against a person who at the time of the sentence or order is a member of the regular forces) there shall be substituted the following section:—

Where a person sentenced or ordered by a civil court (whether within or without Her Majesty's dominions) to pay a sum by way of fine, penalty, damages, compensation or costs in consequence of being charged before the court with an offence is at the time of the sentence or order, or subsequently becomes, a member of the regular forces, then if the whole or any part of that sum is met by a payment made by or on behalf of any military authority, the amount of the payment may be deducted from his pay.”.

- (2) For section one hundred and forty-six of the Air Force Act, 1955 (which makes provision corresponding to that of section one hundred and forty-six of the Army Act, 1955) there shall be substituted a section in other respects similar to that set out in the foregoing subsection but modified by the substitution, for the words " regular forces " , of the words " regular air force " and, for the words " military authority ", of the words " air-force authority ".

28 Extension of power to order compensation for loss occasioned by wrongful act or negligence

- (1) An order may be made under subsection (2) of section one hundred and forty-seven of the Army Act, 1955 (which empowers the Army Council or an officer authorised by them, where it appears to them or him that loss of, or damage to, public or service property has been occasioned by a person while a member of the regular forces, to order that person to pay compensation for the loss or damage), notwithstanding

that that person is at the time when the order is made no longer a member of the regular forces, and accordingly in the said subsection (2) after the words " the person responsible " (where first occurring) there shall be inserted the words " (whether or not he is a member of the regular forces at the time when the order is made) ".

- (2) The reference in the foregoing subsection to the Army Act, 1955, shall be deemed to include a reference to the Air Force Act, 1955, but that subsection shall, in its application to the last-mentioned Act, have effect with the substitution, for the words " Army Council " , of the words " Air Council", and, for the words " regular forces " , in each place where they occur, of the words " regular air force " .

29 Extension of power of enforcement of maintenance order by deduction from pay

- (1) Section one hundred and fifty of the Army Act, 1955, and section one hundred and fifty of the Air Force Act, 1955 (which authorise deduction from pay of sums payable by a person under an order of a civil court for the maintenance Of a child of his), shall each be amended by the insertion, in subsection (5), after the second paragraph, of the following paragraph:—

“references to a child of a person include references to a child of his wife, and to an illegitimate or adopted child of that person or of his wife, and in this paragraph ' adopted child' means a child adopted (whether alone or jointly)' in pursuance of an adoption order made under the Adoption Act, 1958, or any enactment repealed by that Act or by the Adoption Act, 1950, or under any corresponding enactment of the Parliament of Northern Ireland ;”.

- (2) Accordingly.—

- (a) in each of those sections, in subsection (1), in paragraph (a), the words " or of any illegitimate child of whom-he is the putative father " shall be omitted ; and in subsection (3), in the proviso, for the words " an order for payment of a sum for or in respect of the maintenance of an illegitimate child or " there shall be substituted the words " an order adjudging a man to be the father of an illegitimate child, and ordering him to pay a sum of money for or in respect of the maintenance of that child or any order varying or reviving such an order, or any order ";
- (b) in subsection (8) of section two hundred and fourteen of the Army Act, 1955, and in subsection (8) of section two hundred and twelve of the Air Force Act, 1955, the words from the beginning to " the father; and shall be omitted.

30 Persons whose duty it is to sign certificates of arrest or surrender of deserters and absentees

Subsection (1) of section one hundred and eighty-nine of the Army Act, 1955, and subsection (1) of section one hundred and eighty-nine of the Air Force Act, 1955 (which require certificates of arrest of deserters and absentees brought before a court of summary jurisdiction to be signed by a justice of the peace), shall, as regards certificates issued after the coming into operation of this section, have effect—

- (a) in their application to England and Wales, with the substitution, for references to a justice of the peace, of references to a justice of the peace or the clerk of the court;
- (b) in their application to Scotland, with the substitution, for references to a justice of the peace, of references, to the clerk of the court;

- (c) in their application to Northern Ireland, with the substitution, for references to a justice of the peace, of references to a resident magistrate or the clerk of petty sessions for the petty sessions district in which the court sat;
- (d) in their application to the Isle of Man, with the substitution, for references to a justice of the peace, of references to a justice of the peace or the clerk of the court;
- (e) in their application to the islands of Jersey and Guernsey, with the substitution, for references to a justice of the peace, of references to a magistrate or a person for the time being authorised to act as a magistrate;
- (f) in their application to Alderney, with the substitution, for references to a justice of the peace, of references to the chairman of the Court of Alderney or the person for the time being authorised to act as chairman of that Court;
- (g) in their application to Sark, with the substitution, for references to a justice of the peace, of references to the Seneschal or the Deputy Seneschal;
- (h) in their application to a colony, a territory under Her Majesty's protection or a territory for the time being administered by Her Majesty's government in the United Kingdom under the trusteeship system of the United Nations, with the substitution, for references to a justice of the peace, of references to a magistrate or the official (by whatever designation known) who exercises in the court functions similar to those exercised in England by the clerk of a court of summary jurisdiction.

*Extension of penal Provisions of Army Act, 1955, to Acts
and Omissions relating to Aircraft and aircraft Material*

31 Extension of section 24 of Army Act, 1955, to offences relating to aircraft

- (1) Subsection (1) of section twenty-four of the Army Act, 1955, shall have effect as if, after paragraph (e) thereof, there were inserted the following:—

“or

- (f) gives any false air signal or alters or interferes with any air signal or any apparatus for giving an air signal, or
- (g) when ordered by his superior officer, or otherwise under orders, to carry out any warlike operations in the air fails to use his utmost exertions to carry such orders into effect, or
- (h) causes the capture or destruction by the enemy of any of Her Majesty's aircraft”.

- (2) In subsection (2) of the said section twenty-four (which provides for the punishment, with imprisonment or any less punishment provided by the said Act, of persons subject to military law who, without intent to assist the enemy but knowingly and without lawful excuse, do any of the acts specified in paragraphs (a) to (e) of subsection (1) of that section), for the reference to those paragraphs there shall be substituted a reference to paragraphs (a) to (g) of that subsection.

- (3) At the end of the said section there shall be added the following subsection:—

“(3) Any person subject to military law who negligently causes the capture or destruction by the enemy of any of Her Majesty's aircraft shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act”.

32 Extension of section 26 of Army Act, 1955, to offences relating to aircraft

Section twenty-six of the Army Act, 1955 (which provides for the punishment, with imprisonment or any less punishment provided by that Act, of a person subject to military law who, when before the enemy, does either of the acts specified in paragraphs (a) and (b) of subsection (1) thereof in such a manner as to show cowardice or otherwise behaves in such a manner as to show cowardice, or induces other persons so subject to do either of those acts in such a manner or otherwise so to behave) shall have effect as if, after the said paragraph (b), there were inserted the following:—

“or

- (c) does any of the acts specified in paragraphs (f) to (h) of subsection (1) of section twenty-four of this Act”.

33 Extension of section 44 of Army Act, 1955, to aircraft and aircraft material

At the end of section forty-four of the Army Act, 1955 (which provides for the punishment, with imprisonment or any less punishment provided by that Act, of a person subject to military law who commits the offences specified in that section in relation to public or service property) there shall be added the following subsections:—

“(2) Without prejudice to the generality of the foregoing provisions of this section, any person subject to military law who—

- (a) wilfully damages, or is concerned in the wilful damage of, any of Her Majesty's aircraft or aircraft material, or
- (b) by wilful neglect causes 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,

shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act.

(3) Any person subject to military law who, 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 shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act:

Provided that if he has not acted wilfully or with wilful neglect he shall not be liable to imprisonment for a term exceeding two years”.

34 Extension of section 46 of Army Act, 1955, to aircraft and aircraft material

Section forty-six of the Army Act, 1955 (which provides for the punishment, with imprisonment for a term not exceeding two years or any less punishment provided by that Act, of a person subject to military law who commits any of the miscellaneous offences relating to property specified in paragraphs (a) to (e) thereof) shall have effect as if, after paragraph (a) thereof, there were inserted the following paragraphs:—

- “(aa) by negligence loses or damages any of Her Majesty's aircraft or aircraft material, or
- (ab) is guilty of any act or neglect likely to cause damage to, or the loss of, any of Her Majesty's aircraft or aircraft material, or”.

*Colonial, &c, Forces***35 Application of Army Act, 1955, and Air Force Act, 1955, to members of force of colony serving outside it**

In subsection (3) of section two hundred and seven of the Army Act, 1955 (which provides for the application of that Act to a member of a colonial force who is acting with the regular or other military forces in the United Kingdom and for his being subject to military law) and in subsection (3) of section two hundred and seven of the Air Force Act, 1955 (which makes similar provision in the case of persons acting with the regular or other air forces) for the words " in the United Kingdom " there shall be substituted the words " outside that colony ".

36 Provision for employment of British protected persons in colonial, &c, military and air forces

- (1) Section three of the Act of Settlement shall not apply, and shall be deemed never to have applied, so as to prevent a British protected person's being employed as an officer, warrant officer or non-commissioned officer of a military or air force raised under the law of a colony, a territory under Her Majesty's protection, a United Kingdom mandated territory or a United Kingdom trust territory.
- (2) In the foregoing subsection the reference to such law as is therein mentioned shall include, in relation to two or more colonies or territories under a central legislature, a reference to law made by that legislature, and " United Kingdom mandated territory " and " United Kingdom trust territory " have the same meanings as in the British Nationality Act, 1948.

*Miscellaneous Provisions***37 Amendments consequential on creation of ranks of lance-corporal and lance-bombardier**

- (1) If provision is made by the Queen's Regulations for the Army for creating the ranks of lance-corporal and lance-bombardier, the following provisions of this section shall come into operation on the day on which the provision so made takes effect.
- (2) The Army Act, 1955, shall be amended as follows:—
 - (a) after subsection (3) of section seventy-eight there shall be inserted the following subsection:—

“(3A) Where the accused is a lance-corporal or lance-bombardier, and the commanding officer finds him guilty, the commanding officer may, if he awards no other punishment or no other punishment except stoppages, order the accused to be reduced to the ranks.”;
 - (b) in subsection (6) of section seventy-eight, for the words " the three last foregoing subsections" there shall be substituted the words " the four last foregoing subsections " ;
 - (c) in subsection (1) of section two hundred and one (restrictions on reduction in rank of warrant officers and non-commissioned officers), after the words " noncommissioned officer of the regular forces " there shall be inserted the words " (other than a lance-corporal or lance-bombardier) ";

- (d) in subsection (1) of section two hundred and twenty-five (general provisions as to interpretation), in the definition of " acting rank ", the words " and references to acting non-commissioned officers shall be construed as including references to lance-corporals and lance-bombardiers " shall be omitted.
- (3) After paragraph 3 of the Sixth Schedule to the Air Force Act, 1955 (application of Act to attached members of naval and military forces), there shall be inserted the following paragraph:—
 - “3A Notwithstanding anything in section two hundred and one of this Act, a commanding officer dealing summarily, under section seventy-eight of this Act, with a lance-corporal or lance-bombardier subject to air-force law as aforesaid may, if he finds him guilty and awards no other punishment or no other punishment except stoppages, order him to be reduced to the ranks”.

38 Minor and consequential amendments of enactments and transitional provisions as to punishments

- (1) The enactments specified in the first column of the Second Schedule to this Act shall have effect subject to the amendments respectively specified in relation thereto in the second column of that Schedule, being minor amendments or amendments consequential on the foregoing provisions of this Act.
- (2) The transitional provisions set out in the Third Schedule to this Act shall have effect in connection with the amendments made by this Act in Part II (discipline and trial and punishment of offences) of the Army Act, 1955, and of the Air Force Act, 1955.

Short Title, Construction and Commencement

39 Short title, construction and commencement

- (1) This Act may be cited as the Army and Air Force Act, 1961.
- (2) Any reference in an Act passed before the passing of this Act to an enactment contained in the Army Act, 1955, or the Air Force Act, 1955, being an enactment amended by this Act, shall, unless the contrary intention appears, be construed as referring to that enactment as so amended.
- (3) Sections two to sixteen, eighteen to thirty-five and thirty-eight of this Act and the Schedules thereto, except so much of the Second Schedule as amends the Courts-Martial (Appeals) Act, 1951, shall come into operation on the first day of January, nineteen hundred and sixty-two.

SCHEDULES

FIRST SCHEDULE

Section 16.

AMENDMENTS OF PART I OF SEVENTH SCHEDULE TO ARMY ACT, 1955

- 1 In the following provisions of the Seventh Schedule to the Army Act, 1955 (hereafter in this Schedule referred to as "the principal Schedule "), namely.—
- (a) heads (a) and (b) of sub-paragraph (2) of paragraph 2 ;
 - (b) heads (a) and (b) of sub-paragraph (3) of that paragraph ; and
 - (c) sub-paragraph (7) of paragraph 5 ;
- for the words " by order of the Admiralty " there shall be substituted the words " by regulations of the Admiralty ".
- 2 In sub-paragraph (4) of paragraph 2 of the principal Schedule, after the words " Royal Marines", where secondly occurring, there shall be inserted the words " with the consent of the competent authority ".
- 3 For sub-paragraph (1) of paragraph 3 of the principal Schedule, there shall be substituted the following sub-paragraph:—
- “(1) Any marine may, if approved by the competent authority as a fit person to continue in Her Majesty's service as a marine, be re-engaged for any period authorised by regulations of the Admiralty”.
- 4 (1) In sub-paragraph (2) of paragraph 4 of the principal Schedule, for the word " second " there shall be substituted the words " a subsequent " and for the words " two years " there shall be substituted the words " one year ".
- (2) In sub-paragraph (3) of the said paragraph 4, for the words from the beginning to " give notice ", there shall be substituted the words " Where a marine serving in the Royal Marines will, at the end of a period for which he has been re-engaged, have completed not less than twenty-two years' service in the Royal Marines after attaining the age of eighteen years, he may at any time during the last twelve months of that period give notice ", and for the words " his commanding officer or other competent authority " there shall be substituted the words " the competent authority ".
- 5 (1) In sub-paragraph (4) of paragraph 5 of the principal Schedule, for the words " if he so elects and Obtains the consent of his commanding officer and, through his commanding officer, the consent of the proper authority of the country where he is ", there shall be substituted the words " if, through his commanding officer, he obtains the consent of the competent authority and that of the proper authority of the country where he is ".
- (2) Sub-paragraph (6) of the said paragraph 5 shall cease to have effect.
- 6 At the end of paragraph 10 of the principal Schedule there shall be added the words " and the expression ' competent authority ' means the Admiralty or an officer authorised by regulations of the Admiralty to act for the purposes of this Part of this Schedule ".

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- 7 (1) Paragraph 2 of this Schedule shall not apply to a marine serving in the Royal Marines at the relevant time and sub-paragraph (1) of paragraph 4 of this Schedule shall not apply to a marine whose service expired before that time.
- (2) In the case of a marine serving in the Royal Marines at the relevant time on a second engagement—
- (a) sub-paragraph (2) of paragraph 4 of this Schedule (except in so far as it substitutes the competent authority for the commanding officer or other competent authority) shall not apply; but
 - (b) sub-paragraph (3) of paragraph 4 of the principal Schedule shall have effect as if, for the words " his second engagement ", there were substituted the words " (his second, or a subsequent, engagement) ".
- (3) Any approval given under sub-paragraph (1) of paragraph 3 of the principal Schedule before the relevant time shall have effect as if it were approval given under the sub-paragraph substituted therefor by paragraph 3 of this Schedule, and any approval given under sub-paragraph (3) of paragraph 4 of the principal Schedule before that time shall have effect as if it were approval given under that sub-paragraph as amended by sub-paragraph (2) of paragraph 4 of this Schedule.
- (4) In this paragraph " the relevant time " means the time at which this Schedule comes into operation.

SECOND SCHEDULE

Sections 38 & 39.

MINOR AND CONSEQUENTIAL AMENDMENTS OF ENACTMENTS

<i>Enactment</i>	<i>Amendment</i>
The Recall of Army and Air Force Pensioners Act, 1948 (12, 13 & 14 Geo. 6. c. 8).	The reference in subsection (3) of section two (as amended by the Revision of the Army and Air Force Acts (Transitional Provisions) Act, 1955) to the provisions of the Army Act, 1955, or the Air Force Act, 1955, as to the term for which a person may be enlisted shall be construed as including a reference to the corresponding provisions of this Act.
The Army Reserve Act, 1950 (14 Geo. 6. c. 32).	Any reference which, by virtue of the Revision of the Army and Air Force Acts (Transitional Provisions) Act, 1955, is to be construed as a reference to transfer to the army reserve in pursuance either of the Army Act or of the Army Act, 1955, shall be construed as referring also to transfer to that reserve in pursuance of this Act.
The Air Force Reserve Act, 1950 (14 Geo. 6. c. 33).	Any reference which, by virtue of the Revision of the Army and Air Force Acts (Transitional Provisions) Act, 1955, is to be construed as a reference to transfer to the air force reserve in pursuance either of the

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<i>Enactment</i>	<i>Amendment</i>
<p>The Courts-Martial (Appeals) Act, 1951 (14 & 15 Geo. 6. c. 46).</p>	<p>Air Force Act or of the Air Force Act, 1955, shall be construed as referring also to transfer to that reserve in pursuance of this Act.</p> <p>In section eighteen, for the words " any proceedings with respect to the revision of the finding or sentence of the court-martial in pursuance of subsection (2) of section fifty-four of the Army Act or subsection (2) of section fifty-four of the Air Force Act " there shall be substituted the words " any proceedings with respect to the revision of the finding of the court-martial in pursuance of section one hundred and nine of the Army Act, 1955, or section one hundred and nine of the Air Force Act, 1955 ".</p>
<p>The Army Act, 1955 (3 & 4 Eliz. 2. c. 18).</p>	<p>Subsection (3) of section thirty-seven shall not apply to a person who deserts at a time when he is continued in service under section eight of the Army Act, 1955, or section six of this Act.</p> <p>At the end of subsection (7) of section one hundred and forty-four there shall be added the words " and the whole or any part of any sum forfeited from an offender's pay may be recovered by deduction from any such balance ".</p> <p>In section one hundred and ninety-eight, in subsection (5), for the words " one of the said service books " there shall be substituted the words " any such book or other document as aforesaid ", and after the words " custody of the book" there shall be substituted the words " or other document ".</p> <p>In section two hundred and twenty-five, in subsection (1), after the definition of " aircraft material" there shall be inserted the following definition:—</p> <p style="padding-left: 40px;">“ air signal ' means any message, signal or indication given, by any means whatsoever, for the guidance of aircraft or a particular aircraft”,</p> <p>and in the definition of " corps ", for the words " the regular forces " there shall be substituted the words " Her Majesty's military forces ".</p> <p>In the Third Schedule, paragraph 9 of the first column and paragraph 9 of the second column shall be omitted.</p>

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<i>Enactment</i>	<i>Amendment</i>
<p>The Air Force Act, 1955 (3 & 4 Eliz. 2. c. 19).</p>	<p>Section seventeen shall not apply to a person who deserts at a time when he is continued in service under section eight of the Air Force Act, 1955, or section twelve of this Act.</p> <p>Subsection (3) of section thirty-seven shall not apply to a person who deserts at a time when he is continued in service under section eight of the Air Force Act, 1955, or section twelve of this Act.</p> <p>In paragraph (e) of section one hundred and one, after the words " acting as a member thereof " there shall be inserted the words " or is so attending " , and the words " is so attending or " shall be omitted.</p> <p>At the end of subsection (7) of section one hundred and forty-four there shall be added the words " and the whole or any part of any sum forfeited from an offender's pay may be recovered by deduction from any such balance " .</p> <p>In section one hundred and ninety-eight, in subsection (5), for the words " one of the said service books" there shall be substituted the words " any such book or other document as aforesaid " , and after the words " custody of the book " there shall be inserted the words " or other document " .</p> <p>In the Third Schedule, paragraph 9 of the first column and paragraph 9 of the second column shall be omitted.</p> <p>In the Sixth Schedule, in paragraph 11, the words " this Part of" shall be omitted.</p>

THIRD SCHEDULE

Section 38.

TRANSITIONAL PROVISIONS AS TO PUNISHMENTS

- 1 In relation to a sentence of a court-martial announced before the end of the year nineteen hundred and sixty-one, but falling to be dealt with under section one hundred and ten of the Army Act, 1955, or of the Air Force Act, 1955, after that time, subsection (3) of that section shall have effect as if the reference to any punishment or punishments which could have been awarded by the court referred to any punishment or punishments which could have been so awarded had sections eighteen to twenty-six of this Act been in operation when the sentence was announced, and in relation to a finding or sentence of a court-martial announced before that time but falling to be reviewed after that time under section one hundred

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and thirteen of the Army Act, 1955, or of the Air Force Act, 1955, paragraph (c) of subsection (5) of that section shall have effect as if the reference to power conferred by the said subsection (3) referred to power conferred by that subsection as amended by this paragraph.

- 2 In relation to an award made before the time aforesaid in consequence of a charge's having been dealt with summarily but falling to be reviewed under section one hundred and fifteen of the Army Act, 1955, or of the Air Force Act, 1955, after that time, subsections (3A) and (4) of that section shall each have effect as if the reference to a punishment or punishments which could have been included in the original award referred to a punishment or punishments which could have been so included had sections eighteen to twenty-six of this Act been in operation when the award was made.

TABLE OF STATUTES REFERRED TO IN THIS ACT

Short Title	Session and Chapter
Act of Settlement	12 & 13 Will. 3. c. 2.
British Nationality Act, 1948	11 & 12 Geo. 6. c. 56.
National Service Act, 1948	11 & 12 Geo. 6. c. 64.
Recall of Army and Air Force Pensioners Act, 1948	12, 13 & 14 Geo. 6. c. 8.
Adoption Act, 1950	14 Geo. 6. c. 26.
Army Reserve Act, 1950	14 Geo. 6. c. 32.
Air Force Reserve Act, 1950	14 Geo. 6. c. 33.
Courts-Martial (Appeals) Act, 1951	14 & 15 Geo. 6. c. 46.
Army Act, 1955	3 & 4 Eliz. 2. c. 18.
Air Force Act, 1955	3 & 4 Eliz. 2. c. 19.
Revision of the Army and Air Force Acts (Transitional Provisions) Act, 1955	3 & 4 Eliz. 2. c. 20.
Army (Conditions of Enlistment) Act, 1957	5 & 6 Eliz. 2. c. 50.
Naval Discipline Act, 1957	5 & 6 Eliz. 2. c. 53.
Adoption Act, 1958	7 & 8 Eliz. 2. c. 5.