



Visiting Forces (British Commonwealth) Act 1933

1933 CHAPTER 6

An Act to make provision with respect to forces of His Majesty from other parts of the British Commonwealth when visiting the United Kingdom or a colony; with respect to the exercise of command and discipline when forces of His Majesty from different parts of the Commonwealth are serving together; with respect to the attachment of members of one such force to another such force, and with respect to deserters from such forces. [29th March 1933.]

BE IT ENACTED by the King'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:—

1 Provisions with respect to the discipline and internal administration of visiting forces

- (1) When a visiting force is present in the United Kingdom, it shall be lawful for the naval, military and air force courts and authorities (in this Act referred to as the "service courts" and "service authorities") of that part of the Commonwealth to which the force belongs to exercise within the United Kingdom in relation to members of the force in matters concerning discipline and in matters concerning the internal administration of the force all such powers as are conferred upon them by the law of that part of the Commonwealth.
- (2) The members of any such service court as aforesaid exercising jurisdiction by virtue of this Act and witnesses appearing before any such court shall enjoy the like immunities and privileges as are enjoyed by a service court exercising jurisdiction by virtue of the Naval Discipline Act, the Army Act or the Air Force Act, as the case may be, and by witnesses appearing before such a court.
- (3) Where any sentence has, whether within or without the United Kingdom, been passed upon a member of a visiting force by a service court of that part of the Commonwealth

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to which the force belongs, then for the purposes of any legal proceedings within the United Kingdom the court shall be deemed to have been properly constituted, and its proceedings shall be deemed to have been regularly conducted, and the sentence shall be deemed to be within the jurisdiction of the court and in accordance with the law of that part of the Commonwealth, and if executed according to the tenor thereof shall be deemed to have been lawfully executed, and any member of a visiting force who is detained in custody in pursuance of any such sentence, or pending the determination by such a service court as aforesaid of a charge brought against him, shall for the purposes of any such proceedings as aforesaid be deemed to be in legal custody.

For the purposes of any such proceedings as aforesaid a certificate under the hand of the officer commanding a visiting force that a member of that force is being detained for either of the causes aforesaid shall be conclusive evidence of the cause of his detention, but not of his being such a member, and a certificate under the hand of such an officer that the persons specified in the certificate sat as a service court of that part of the Commonwealth to which the force belongs shall be conclusive evidence of that fact.

- (4) No proceedings in respect of the pay, terms of service or discharge of a member of a visiting force shall be entertained by any court of the United Kingdom.
- (5) For the purpose of enabling such service courts and service authorities as aforesaid to exercise more effectively the powers conferred upon them by this section, the Admiralty, Army Council, or Air Council, as the case may be, if so requested by the officer commanding a visiting force, or by the Government of that part of the Commonwealth to which the force belongs, may from time to time by general or special orders to any home force direct the members thereof to arrest members of the visiting force alleged to have been guilty of offences against the law of that part of the Commonwealth, and to hand over any person so arrested to the appropriate authorities of the visiting force.

2 Relations of visiting forces to the civil power and civilians

- (1) His Majesty may by Order in Council authorise any Government department, Minister of the Crown, or other person in the United Kingdom, to perform, at the request of such authority or officer as may be specified in the Order, but subject to such limitations as may be so specified, any function in relation to a visiting force and members thereof which that department, Minister, or person performs or could perform in relation to a home force of like nature to the visiting force, or in relation to members of such a force and, for the purpose of the exercise of any such function, any power exercisable by virtue of any enactment by the Minister, department or person in relation to a home force or members thereof shall be exercisable by him or them in relation to the visiting force and members thereof:

Provided that nothing in this subsection shall authorise any interference with the visiting force in matters relating to discipline, or to the internal administration of the force.

For the purposes of this subsection, the Admiralty, the Army Council and the Air Council shall be deemed to be Government departments.

- (2) If His Majesty by Order in Council so provides, members of a visiting force if sentenced by a service court of that part of the Commonwealth to which the force belongs to penal servitude, imprisonment or detention may, under the authority of a Secretary of State or the Admiralty, given at the request of the officer commanding

the visiting force, be temporarily detained in custody in prisons or detention barracks in the United Kingdom, and if so sentenced to imprisonment may, under the like authority, be imprisoned during the whole or any part of the term of their sentences in prisons in the United Kingdom, and His Majesty may by the same or a subsequent Order make provision with respect to any of the following matters, that is to say, the reception of such persons from, and their return to, the service authorities concerned, their treatment while in such custody, or while so imprisoned, the circumstances under which they are to be released, and the manner in which they are to be dealt with in the event of their unsoundness of mind while in such custody, or while so imprisoned.

Any costs incurred in the "maintenance and return of, or otherwise in connection with, any person dealt with in accordance with the provisions of this subsection shall be defrayed in such manner as may, with the consent of the Treasury, be agreed between the Secretary of State or the Admiralty and the Government of that part of the Commonwealth which is concerned.

- (3) Subject as hereinafter provided, any enactment (whether contained in the Naval Discipline Act, the Army Act, the Air Force Act or any other statute) which—
- (a) exempts, or provides for the exemption of, any vessel, vehicle, aircraft, machine or apparatus of, or employed for the purposes of, the home forces or any of them from the operation of any enactment; or
 - (b) in virtue of a connection with the home forces or any of them, confers a privilege or immunity on any person; or
 - (c) in virtue of such a connection, excepts any property, trade or business, in whole or in part, from the operation of any enactment, or from any tax, rate, imposition, toll or charge; or
 - (d) imposes upon any person or undertaking obligations in relation to the home forces, or any of them, or any member or service court thereof; or
 - (e) penalises misconduct by any person in relation to the home forces or any of them, or any member or service court thereof,

shall, with any necessary modifications, apply in relation to a visiting force as it would apply in relation to a home force of a like nature to the visiting force:

Provided that His Majesty may by Order in Council direct that any such enactment either shall not apply, or shall apply with such exceptions and subject to such adaptations or modifications as may be specified in the Order.

- (4) An Order in Council under this section may apply either generally, or in relation to visiting forces from any particular part of the Commonwealth, or in relation to any particular visiting force, or in relation to any particular place.

3 Provisions with respect to deserters from certain forces

- (1) The forces to which this section applies are such of the naval, military and air forces of His Majesty raised in the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State, or Newfoundland, as His Majesty may by Order in Council direct.
- (2) Subject to the provisions, of this section, paragraphs (1) to (4) of section one hundred and fifty-four of the Army Act (which relates to the apprehension of deserters and absentees without leave from a home military force) shall within the United Kingdom apply in relation to a deserter, or absentee without leave, from any force to which this section applies (including any member of a reserve or auxiliary force who, having

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failed to obey a notice calling upon him to appear at any place for service, is by the law of that part of the Commonwealth to which the force belongs liable to the same punishment as a deserter, or to the same punishment as an absentee without leave), as they apply in relation to a deserter, or absentee without leave, from a home military force :

Provided that any reference in the said paragraphs to military custody shall be construed as including a reference to naval or air force custody.

- (3) No person who is alleged to be a deserter from any such force as aforesaid shall be apprehended or dealt with under this section except in compliance with a specific request from the Government of that part of the Commonwealth to which the force belongs, and a person so dealt with shall be handed over to the authorities of that part of the Commonwealth at such place on the coast or frontier of the United Kingdom as may be agreed:

Provided that a person who is alleged to be a deserter or absentee without leave from a visiting force may also be apprehended and dealt with under this section in compliance with a request, whether specific or general, from the officer commanding that force, and shall, if that force is still present in the United Kingdom, be handed over to the officer commanding that force at the place where the force is stationed.

- (4) For the purposes of any proceedings under this section—
- (i) a document purporting to be a certificate under the hand of the Secretary of the Admiralty, the Secretary of the Army Council or the Secretary of the Air Council, that a request has been made under subsection (3) of this section shall be admissible without proof as evidence of the making of such a request;
 - (ii) a document purporting to be a certificate under the hand of the officer commanding a unit or detachment of any force to which this section applies that a named and described person was at the date of the certificate a deserter, or absentee without leave, from that force shall be admissible without proof as evidence of the facts so certified.

4 Attachment of personnel and mutual powers of command

- (1) The forces, other than home forces, to which this section applies are the naval, military and air forces of His Majesty raised in the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State or Newfoundland.
- (2) The Admiralty, Army Council or Air Council, as the case may be—
- (i) may attach temporarily to a home force any member of another force to which this section applies who is placed at their disposal for the purpose by the service authorities of that part of the Commonwealth to which the other force belongs;
 - (ii) subject to anything to the contrary in the conditions applicable to his service, may place any member of a home force at the disposal of the service authorities of another part of the Commonwealth for the purpose of being attached temporarily by those authorities to a force to which this section applies belonging to that part of the Commonwealth.
- (3) Whilst a member of another force is by virtue of this section attached temporarily to a home force, he shall be subject, as the case may be, to the Naval Discipline Act, or to military law as an officer or soldier, or to the Air Force Act as an officer or airman,

in like manner, and shall be treated and shall have the like powers of command and punishment over members of the home force to which he is attached, as if he were a member of that force of relative rank:

Provided that His Majesty may by Order in Council direct that in relation to members of a force of any part of the Commonwealth specified in the Order, the Naval Discipline Act, the Army Act or the Air Force Act, as the case may be, shall apply with such exceptions and subject to such adaptations and modifications as may be so specified.

- (4) When a home force and another force to which this section applies are serving together, whether alone or not—
 - (a) any member of the other force shall be treated and shall have over members of the home force the like powers of command as if he were a member of the home force of relative rank; and
 - (b) if the forces are acting in combination, any officer of the other force appointed by His Majesty, or in accordance with regulations made by or by authority of His Majesty, to command the combined force, or any part thereof, shall be treated and shall have over members of the home force the like powers of command and punishment and may be invested with the like authority to convene, and confirm the findings and sentences of, courts martial as if he were an officer of the home force of relative rank and holding the same command.
- (5) For the purposes of this section, forces shall be deemed to be serving together or acting in combination if and only if they are declared to be so serving or so acting by order of the Admiralty, the Army Council or the Air Council, according as the home force is a naval, a military or an air force, and the relative rank of members of the home forces and of other forces shall be such as may be prescribed by Regulations made by His Majesty.

5 Application of Act to colonies

- (1) His Majesty may as regards any colony by Order in Council direct that the provisions of sections one to three of this Act, or such of those provisions as may be specified in the Order, shall, subject to such adaptations and modifications as may be so specified, apply in that colony in relation to forces visiting that colony and in relation to deserters and absentees without leave, as they apply in the United Kingdom.

An Order in Council under this subsection may apply any such provisions either generally, or in relation to the forces of any particular part of the Commonwealth, or in relation to any particular visiting force.

- (2) His Majesty may as regards any colony by Order in Council direct that the provisions of section four of this Act shall, with such exceptions and subject to such adaptations and modifications as may be specified in the Order, apply in relation to all or any of the forces raised in that colony, and in relation to officers and members thereof, as they apply in relation to home forces and officers and members thereof.
- (3) In this section the expression "colony" includes Aden and any territory which is under His Majesty's protection.

6 Application of Act to mandated and certain other territories

This Act shall apply—

- (a) in relation to any territory in respect of which a mandate on behalf of the League of Nations is being exercised by His Majesty's Government in the United Kingdom as if that territory were for the time being a colony;
- (b) in relation to any territory in respect of which such a mandate is being exercised by His Majesty's Government in a Dominion as if that territory were for the time being part of that Dominion;

and for the purposes of this Act, any other territory which is being administered by His Majesty's Government in a Dominion shall be deemed to form part of that Dominion.

7 Saving for other enactments

- (1) So far as regards any naval force and the members of any such force, the provisions of this Act shall be deemed to be in addition to and not in derogation of such of the provisions of the Naval Discipline Act and of any other Act of Parliament, whether of the United Kingdom or of any other part of the Commonwealth, as are for the time being applicable to that force and the members thereof.
- (2) So far as regards the military and air forces of any Dominion to which this subsection applies and the members of any such forces, the provisions of this Act shall be deemed to be in addition to and not in derogation of the provisions of any Act of Parliament whether of the United Kingdom or of the Dominion which, by virtue of sections one hundred and seventy-seven and one hundred and eighty-seven C. of the Army Act or, as the case may be, by virtue of the corresponding sections of the Air Force Act, are for the time being applicable to a force of that Dominion and the members of that force.

The Dominions to which this subsection applies are the Commonwealth of Australia, the Dominion of New Zealand and Newfoundland.

8 Interpretation, and c

- (1) In this Act—

"The Commonwealth" means the British Commonwealth of Nations, and "Dominion" has the same meaning as in the Statute of Westminster, 1931;

"Home forces" means the naval, military and air forces of His Majesty raised in the United Kingdom; and "home force" includes any body, contingent, or detachment of any of the home forces, wherever serving;

"Visiting force" means any body, contingent or detachment of the naval, military and air forces of His Majesty raised in the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State or Newfoundland which is, with the consent of His Majesty's Government in the United Kingdom, lawfully present in the United Kingdom;

"Forces" includes reserve and auxiliary forces;

"Court" includes a service Court of Inquiry, and any officer of a visiting force who is empowered by the law of that part of the Commonwealth to which the force belongs to review the proceedings of a service court, or to investigate charges, or himself to dispose of charges, and the expression "sentence" shall be construed accordingly;

" Internal administration" in relation to any visiting force includes the administration of the property of a deceased member of the force; and

" Member " in relation to a visiting force includes any person who is by the law of that part of the Commonwealth to which the force belongs subject to the naval, military or air force law thereof, and who, being a member of another force, is attached to the visiting force, or, being a civilian employed in connection with the visiting force, entered into his engagement outside the United Kingdom.

- (2) An Order in Council under this Act may be revoked or varied by a subsequent Order in Council.

9 Short title

This Act may be cited as the Visiting Forces (British Commonwealth) Act, 1933.