Naval Forces (Enforcement of Maintenance Liabilities) Act 1947

1947 CHAPTER 24

1 Deductions from pay in respect of liabilities for maintenance, etc.

(1) Section three of the Naval and Marine Pay and Pensions Act, 1865 (which provides that pay, pensions and certain other moneys payable in respect of service in His Majesty's naval or marine force shall be paid in such manner and subject to such restrictions, conditions and provisions as are from time to time directed by Order in Council) shall have effect as if the expression " restrictions ", in relation to the pay of a person being an officer, seaman or marine, included deductions for the purpose of providing, to such extent and in such circumstances as may be specified in the Order in Council,—

(a) for the maintenance of the wife and children (whether legitimate or illegitimate) of that person ;

(b) for the payment of any sum adjudged as costs, or awarded as expenses, incurred in obtaining against that person an order or decree of any court in His Majesty's dominions in respect of the maintenance of his wife and .any such children of his as aforesaid :

Provided that no deduction from pay shall be made under this subsection greater than will leave to the person from whose pay the deduction is made (subject, however, to the making of any other deduction authorised by or under any Act) not less than four-sevenths of his pay if he is an officer and otherwise not less than one-third of his pay if he is not below the rank of petty officer or, if a marine, the rank of sergeant, and otherwise not less than one quarter of his pay.

(2) No deduction from pay shall be made under the last foregoing subsection in liquidation of a sum adjudged to be paid by an order or decree of any court unless such authority as may be specified by Order in Council under section three of the said Act of 1865 is satisfied that the person against whom the order or decree was made has had a reasonable opportunity of appearing himself, or has appeared by a duly authorised legal representative, to defend the case before the court by which the order or decree was made ; and a certificate purporting to be a certificate of the commanding officer of the ship in which he was or is serving, or on the books of which he was or is borne,

that the person has been prevented by the requirements of the service from attending at a hearing of any such case shall be evidence of the fact unless the contrary is proved.

(3) Where any arrears have accumulated in respect of sums adjudged to be paid by any order or decree to which this subsection applies while the person against whom the order or decree was made was serving under the Naval Discipline Act, whether or not deductions in respect thereof have been made from his pay under this section or, before the commencement of this Act, under subsection (2) of section ninety-eight A of the Naval Discipline Act (which provides for deductions from pay to satisfy liabilities for maintenance), then after the said person has ceased so to serve an order of committal shall not be made in respect of those arrears unless the court is satisfied that he is able, or has, since he has ceased so to serve, been able, to pay the arrears or any part thereof and has failed to do so.

This subsection applies to any order or decree having effect under any Act (including an Act of the Parliament of Northern Ireland and an Act of Tynwald) or at common law for payment by a person who is, or subsequently becomes, an officer, seaman or marine, either of the cost of the maintenance of his wife or child, or of any illegitimate child of his, or of the cost of any relief given to his wife or child by way of loan.

(4) The said subsection (2) of section ninety-eight A of the Naval Discipline Act shall cease to have effect ; in subsection (3) of that section (which relates to the service of process)—

(a) after the words " any Act," in each place where they occur, there shall be inserted the words " (including an Act of the Parliament of Northern Ireland and an Act of Tynwald) ";

(b) for the words " sent to the Admiralty or officer in accordance with subsection (2) of this section " there shall be substituted the words " made in consequence of process served in accordance with this subsection "; and

(c) the words " in addition to those mentioned in sub section (2) of this section " shall cease to have effect;

and in subsection (4) of that section (which provides that the section shall not apply to officers) for the words " This section " there shall be substituted the words " So much of the last foregoing subsection as provides for the service of process on the commanding officer or by sending it to the Secretary to the Admiralty, and for the leaving therewith of sufficient money to enable the defendant to attend the hearing and return therefrom. "

(5) Paragraph (2) of Regulation thirteen of the Defence (Armed Forces) Regulations, 1939 (which provides for interim orders for deductions under the said subsection (2)) shall cease to have effect; but if any Order in Council coming into force by virtue of subsection (1) of this section at the commencement of this Act makes provision for deductions such as could have been made under the said paragraph (2), any order under that paragraph in force immediately before the commencement of this Act shall continue in force as if made under the Order in Council.