



Armed Forces Act 1971

1971 CHAPTER 33

PART I

DURATION OF SERVICES ACTS

- 1 Duration of Army Act 1955, Air Force Act 1955 and Naval Discipline Act 1957**
- (1) The Army Act 1955 and the Air Force Act 1955 shall, instead of expiring at the end of the year 1971, continue in force until the end of the year 1972, and shall then expire unless continued in force in accordance with the following provisions of this section.
 - (2) The Naval Discipline Act 1957 shall also expire at the end of the year 1972 unless continued in force in accordance with those provisions.
 - (3) Subject to subsection (4) below, Her Majesty may from time to time by Order in Council provide for any of the said Acts to continue in force for a period of twelve months beyond the day on which it would otherwise expire.
 - (4) No Order in Council shall be made under subsection (3) above so as to continue any of the said Acts beyond the end of the year 1976.
 - (5) No recommendation shall be made to Her Majesty in Council to make an order under subsection (3) above unless a draft thereof has been laid before Parliament and approved by resolution of each House of Parliament.
 - (6) Section 1 of the Armed Forces Act 1966 shall be repealed at the end of the year 1971.

Status: This is the original version (as it was originally enacted).

PART II

REVISION OF SERVICE OFFENCES AND PUNISHMENTS

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

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

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

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

24 Misconduct in action.

- (1) A person subject to military law shall be guilty of an offence against this section if, without lawful excuse, he—
- (a) surrenders any place or thing to the enemy, or
 - (b) abandons any place or thing which it is his duty to defend against the enemy or to prevent from falling into the hands of the enemy.
- (2) A person subject to military law shall be guilty of an offence against this section if, being in the presence or vicinity of the enemy, or being engaged in any action or operation against the enemy or under orders to be prepared for any action or operation by or against the enemy, he—
- (a) fails to use his utmost exertions to carry the lawful orders of his superior officers into execution, or
 - (b) while on guard duty and posted or ordered to patrol, or while on watch, sleeps or, without having been regularly relieved, leaves any place where it is his duty to be, or
 - (c) behaves in such a manner as to show cowardice, or induces any other person so to behave at a time when that other person, being a member of Her Majesty's forces or of a force co-operating with Her Majesty's forces, is in the presence or vicinity of the enemy, or is engaged in any action or operation against the enemy or under orders to be prepared for any action or operation by or against the enemy, or
 - (d) uses words likely to cause despondency or unnecessary alarm.
- (3) A person guilty of an offence against this section shall, on conviction by court-martial, be liable—
- (a) if the offence consisted in an act or omission falling within subsection (1) or paragraph (a) of subsection (2) and was committed with intent to assist the enemy, to suffer death or any less punishment provided by this Act;
 - (b) in any other case, to imprisonment or any less punishment provided by this Act.
- (4) The reference in subsection (2)(a) above to superior officers shall be construed in accordance with section 33(2) of this Act.

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25 Assisting the enemy.

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

26 Obstructing operations, giving false air signals, etc.

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

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- (3) The said provisions shall also be substituted for sections 2 to 5 of the Naval Discipline Act 1957, being numbered respectively as sections 2, 3 and 4 of that Act, and being modified for that purpose—
- (a) by the substitution throughout of " naval service " for " military service ", of " person subject to this Act ", for " person subject to military law ", and of " punishment authorised by this Act " for " punishment provided by this Act ", and
 - (b) by the omission of subsection (4) of the first of those provisions, and the omission throughout of " on conviction by court-martial ".

3 Prize offences

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

“27 Prize offences by commanding officers.

- (1) Any person subject to military law who, being in command of any of Her Majesty's ships or aircraft—
- (a) having taken any ship or aircraft as prize, fails to send to the High Court, or to some other prize court having jurisdiction in the case, all the ship papers or aircraft papers, as the case may be, found on board, or
 - (b) unlawfully makes any agreement for the ransoming of any ship, aircraft or goods taken as prize, or
 - (c) in pursuance of any such agreement as aforesaid, or otherwise by collusion, restores or abandons any ship, aircraft or goods taken as prize,
- shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.
- (2) In this section 'prize court' means a prize court within the meaning of the Naval Prize Act 1864, and ' ship papers ' and ' aircraft papers ' have the same meanings as in that Act.

28 Other prize offences.

Any person subject to military law who—

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

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

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

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

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

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

Any person subject to military law who—

- (a) while on guard duty and posted or ordered to patrol, or on watch, or under orders to regulate traffic by land, water or air, sleeps or, without having been regularly relieved, leaves any place where it is his duty to be, or
- (b) strikes or otherwise uses force against a member of Her Majesty's forces, or of any forces co-operating therewith, who is on guard duty and posted or ordered to patrol, or on watch, or under orders to regulate traffic by land, water or air, or
- (c) by the threat of force compels any such person as is mentioned in paragraph (b) above to let him or any other person pass,

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

- (2) The provision set out in subsection (1) above shall also be substituted for section 29 of the Air Force Act 1955, but modified for that purpose by the substitution of " air-force law " for " military law ".
- (3) The said provision shall also be substituted for section 6 of the Naval Discipline Act 1957 (including the cross-heading preceding that section), being numbered as section 6 of that Act, and being modified for that purpose by the substitution of " person subject to this Act " for " person subject to military law " and of " punishment authorised by this Act " for " punishment provided by this Act", and by the omission of " on conviction by court-martial ".

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

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

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

Any person subject to military law who—

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

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

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

6 Looting

- (1) Section 30 of the Army Act 1955 and section 30 of the Air Force Act 1955 (looting) shall each be amended as follows:—
 - (a) in paragraph (a) (stealing etc. from the person of anyone killed or wounded in the course of warlike operations), for the words " killed or wounded in the course of warlike operations " there shall be substituted the words " killed, wounded or captured in the course of warlike operations, or killed, injured or detained in the course of operations undertaken by Her Majesty's forces for the preservation of law and order or otherwise in aid of the civil authorities " , and
 - (b) in paragraph (b) (stealing property left exposed or unprotected in consequence of warlike operations), for the words " warlike operations " there shall be substituted the words " any such operations as are mentioned in paragraph (a) above ".
- (2) The following provision (being one corresponding to the provisions referred to in subsection (1) above as amended by that subsection) shall be inserted in the Naval Discipline Act 1957 as section 5:—

“5 Looting.

Any person subject to this Act who—

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

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

Mutiny, insubordination, etc.

7 Mutiny

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

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

8 Insubordinate behaviour, and disobedience to lawful commands

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

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

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

“34 Disobedience to lawful commands.

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

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

“11 Insubordinate behaviour.

Every person subject to this Act who—

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

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

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

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12 Disobedience to lawful commands.

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

9 Obstruction of provost officers etc.

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

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

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

(2) Section 14 of the Naval Discipline Act 1957 (wilfully obstructing or wilfully refusing to assist any provost officer, or any person exercising authority under or on behalf of a provost officer) shall be amended by omitting the word " wilfully " in both places where it occurs, and by inserting at the end a proviso similar in all respects to that set out in subsection (1)(b) above.

10 Disobedience to standing orders etc.

(1) Section 36 of the Army Act 1955 (disobedience to standing orders or other routine orders of a continuing nature made for any formation, unit, body of troops etc.) shall be amended by substituting, in subsection (2), for the words " body of troops " the words " body of Her Majesty's forces ".

(2) Section 36 of the Air Force Act 1955 (which is to the like effect) shall be amended by substituting, in subsection (2), for the words " body of the air force " the words " body of Her Majesty's forces ".

(3) The following provision (being one corresponding to the provisions referred to in subsections (1) and (2) above as amended by those subsections) shall be inserted in the Naval Discipline Act 1957 as section 14A:—

“14A Disobedience to standing orders.

(1) Every person subject to this Act who contravenes or fails to comply with any provision of orders to which this section applies, being a provision known to him or which he might reasonably be expected to know, shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

- (2) This section applies to standing orders or other routine orders of a continuing nature made for any formation or unit or body of Her Majesty's forces, or for any command or other area, garrison or place, or for any ship, vessel, train or aircraft.”

Desertion, absence without leave, etc.

11 Desertion

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

“37 Desertion.

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

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

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

“15 Definition of ' desertion ' .

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

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

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

12 Absence without leave

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

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“38 Absence without leave.

Any person subject to military law who—

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

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

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

13 Failure to report or apprehend deserters or absentees

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

“39 Failure to report or apprehend deserters or absentees.

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

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

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

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

Malingering, drunkenness and disorderly conduct

14 Malingering

Section 42(1)(c) of the Army Act 1955 (under which the injuring of another person can constitute malingering only if he is a person subject to military law), section 42(1)(c) of the Air Force Act 1955 (under which the person injured must be subject to air-force

law), and section 27(1) of the Naval Discipline Act 1957 (under which malingering does not include injury to others) shall be amended as follows:—

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

15 Drunkenness

- (1) Section 43 of the Army Act 1955 and section 43 of the Air Force Act 1955 shall each be amended—
 - (a) by omitting the proviso to subsection (1) (under which the maximum term of imprisonment for drunkenness is reduced from two years to six months in the case of an offence committed by a warrant officer, non-commissioned officer, soldier or airman who is neither on active service nor on duty), and
 - (b) by substituting in subsection (2) (under which one test of drunkenness is whether a person is unfit to be entrusted with his duty or any duty he may be called upon to perform) for the words " he may be called upon to perform " the words " he might reasonably expect to be called upon to perform ".
- (2) Section 28 of the Naval Discipline Act 1957 shall be amended so as to correspond with the provisions referred to in subsection (1) above as amended by that subsection, that is to say, by inserting after the word " might " the words " reasonably expect to ".

16 Disorderly conduct

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

“Disorderly conduct

43A Fighting, threatening words etc.

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

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

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

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

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Offences relating to service etc. property

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

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

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

- (1) Any person subject to military law who—
- (a) wilfully damages or causes the loss of, or is concerned in the wilful damage or loss of, any public or service property, or any property belonging to another person so subject, or
 - (b) by wilful neglect causes or allows damage to, or the loss of, any public or service property or property so belonging,
- shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act.
- (2) Any person subject to military law who—
- (a) by any negligent act or omission causes or allows damage to, or the loss of, any public or service property, or
 - (b) is guilty of any wilful or negligent act or omission which is likely to cause damage to, or the loss of, any such property,
- shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

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

- (1) Without prejudice to the generality of section 44 above, a person subject to military law shall be guilty of an offence against this section if he—
- (a) wilfully damages or causes the loss of, or is concerned in the wilful damage or loss of, any of Her Majesty's aircraft or aircraft material, or
 - (b) by wilful neglect causes or allows damage to, or the loss of, any of Her Majesty's aircraft or aircraft material, or
 - (c) without lawful authority disposes of any of Her Majesty's aircraft or aircraft material, or
 - (d) by any negligent act or omission causes or allows damage to, or the loss of, any of Her Majesty's aircraft or aircraft material, or
 - (e) is guilty of any wilful or negligent act or omission which is likely to cause damage to, or the loss of, any of Her Majesty's aircraft or aircraft material, or
 - (f) during a state of war, wilfully and without proper occasion, or negligently, causes the sequestration by or under the authority of a neutral state, or the destruction in a neutral state, of any of Her Majesty's aircraft.
- (2) A person guilty of an offence against this section shall, on conviction by court-martial, be liable—
- (a) if his offence consisted in an act or omission falling within paragraph (a), (b) or (c) of subsection (1), or if it consisted in an act or omission falling within paragraph (f) of that subsection and it is

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- proved that he acted wilfully or with wilful neglect, to imprisonment or any less punishment provided by this Act;
- (b) in any other case, to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

45 Misapplication and waste of public or service property.

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

46 Offences relating to issues and decorations.

- (1) Any person subject to military law who makes away with (whether by pawning, selling, destroying or in any other way), or loses, or by negligence damages or allows to be damaged—
- (a) any clothing, arms, ammunition or other equipment issued to him for his use for military purposes, or
- (b) any military, air-force or naval decoration granted to him,
- shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.
- (2) It shall be a defence for a person charged under this section with losing any property that he took reasonable steps for its care and preservation.”
- (2) The provisions set out in subsection (1) above shall also be substituted for sections 44 to 46 of the Air Force Act 1955, but modified for that purpose by the substitution throughout of " air-force law " for " military law " and, in the provision to become section 46 of that Act, of " air-force purposes" for " military purposes " and " air-force, military or naval decoration " for " military, air-force or naval decoration ".
- (3) The provisions set out in subsection (1) above and numbered there as sections 44, 44A and 45 shall also be substituted for sections 29 and 30 of the Naval Discipline Act 1957, being numbered as sections 29, 29A and 30 of that Act respectively, and being modified for that purpose by the substitution throughout of " person subject to this Act " for " person subject to military law " and of " punishment authorised by this Act" for " punishment provided by this Act", by the substitution, in the provision to become section 29A, of " 29 " for " 44 ", and by the omission throughout of " on conviction by court-martial ".

Billeting offences

18 Billeting offences

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

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

Navigation and flying offences etc.

19 **Loss or hazarding of ship**

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

“48A Loss or hazarding of ship.

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

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

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

20 **Inaccurate certification of ships and aircraft**

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

“50 Inaccurate certification.

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

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

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

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

21 Low flying, and annoyance by flying

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

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

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

Offences relating to, and by, persons in custody

22 Permitting escape, resisting arrest, and escaping

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

“Offences relating to, and by, persons in custody

33A Permitting escape, and unlawful release of prisoners.

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

33B Resistance to arrest.

- (1) Every person subject to this Act who, being concerned in any quarrel or disorder, refuses to obey any officer who orders him into arrest, or strikes or otherwise uses violence to, or offers violence to, any such officer, shall be guilty of an offence against this section whether or not the officer is his superior officer.

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

- (2) Every person subject to this Act who strikes or otherwise uses violence to, or offers violence to, any person, whether subject to this Act or not, whose duty it is to apprehend him or in whose custody he is shall be guilty of an offence against this section.
- (3) Every person guilty of an offence against this section shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

33C Escape from confinement.

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

Miscellaneous offences

23 Offences in relation to courts-martial

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

24 Unauthorised disclosure of information

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

“60 Unauthorised disclosure of information.

- (1) Any person subject to military law who without lawful authority discloses or purports to disclose, whether orally, in writing, by signal or by any other means whatsoever, information relating to any matter upon which information would or might be useful to an enemy shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.
- (2) It shall be a defence for a person charged with an offence under this section that he did not know and had no reasonable cause to believe that the information disclosed related to a matter upon which information would or might be directly or indirectly useful to an enemy.”
- (2) The provision set out in subsection (1) above shall also be substituted for section 60 of the Air Force Act 1955, but modified for that purpose by the substitution of " air-force law " for " military law " .

25 False statements on entry into Royal Navy

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

“34A False statements on entry.

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

26 Falsification of documents

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

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

- (2) The following provision (being one corresponding to the provisions referred to in subsection (1) above as amended by that subsection) shall be substituted for section 35 of the Naval Discipline Act 1957 :—

“35 Falsification of documents.

Every person subject to this Act who—

- (a) makes, signs, or makes an entry in, any report, return, pay list or certificate or other official document, being a document or entry which is to his knowledge false in a material particular, or
 - (b) alters any report, return, pay list or certificate or other official document, or alters any entry in such a document, so that the document or entry is to his knowledge false in a material particular, or suppresses, defaces or makes away with any such document or entry which it is his duty to preserve or produce, or
 - (c) with intent to deceive, fails to make an entry in any such document,
- shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.”

27 Offences against civilian population

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

“35A Offences against civilian population.

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

28 Offences against morale

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

“63A Offences against morale.

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

- (2) The provision set out in subsection (1) above shall also be inserted in the Air Force Act 1955 after section 63, but modified for that purpose by the substitution of " air-force law " for " military law " .
- (3) The said provision shall also be inserted in the Naval Discipline Act 1957 after that inserted in that Act by section 27 above, being numbered as section 35B of that Act,

and being modified for that purpose by the substitution of " person subject to this Act " for " person subject to military law" and of " punishment authorised by this Act " for " punishment provided by this Act", and by the omission of " on conviction by court-martial ".

29 Scandalous conduct by officers

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

“64 Scandalous conduct by officers.

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

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

30 Ill-treatment of persons of inferior rank etc.

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

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

If—

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

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

31 Disgraceful conduct

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

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

32 Attempts, aiding and abetting etc., and inciting

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

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

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

33 Conduct to the prejudice of service discipline

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

34 Civil offences

- (1) Section 70 of the Army Act 1955 (trial by court-martial for civil offence) shall be amended—

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- (a) by omitting the proviso to subsection (3) (under which, for an offence for which a civil court could not award imprisonment, a court-martial may impose certain service penalties greater than a fine), and
 - (b) by adding after subsection (5) the following subsection (which corresponds to section 42(2) of the Naval Discipline Act 1957):—
 - “(6) A person subject to military law may be charged with an offence against this section notwithstanding that he could on the same facts be charged with an offence against any other provision of this Part of this Act.”
- (2) Section 70 of the Air Force Act 1955 shall have effect subject to the like amendments, save that, in the subsection to be added thereto, " air-force law " shall be substituted for " military law ".
- (3) Section 42(1) of the Naval Discipline Act 1957 (which enables a court-martial under that Act to punish certain civil offences more severely than could a civil court) shall be amended so as to correspond with section 70(3) of the Army Act 1955 and section 70(3) of the Air Force Act 1955 as above amended, that is to say, by substituting the following for paragraph (c):—
 - “(c) in the case of any other offence, to such punishment or punishments (being a punishment or punishments authorised by this Act) as could be imposed on the offender on conviction by a civil court of the like offence committed in England, or to any punishment so authorised which is less than the maximum punishment which could be so imposed.”

Abolition of certain offences

35 Abolition of certain offences

The following provisions shall cease to have effect—

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

Punishments

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

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

“Punishments available to courts-martial

71 Scale of punishments, and supplementary provisions.

- (1) The punishments which may be awarded by sentence of a court-martial under this Act are, subject to the following provisions of this section and to the

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limitations hereinafter provided on the powers of certain courts-martial, as follows—

- (a) death,
- (b) imprisonment,
- (c) dismissal with disgrace from Her Majesty's service,
- (d) dismissal from Her Majesty's service,
- (e) detention for a term not exceeding two years,
- (f) forfeiture of seniority for a specified term or otherwise,
- (g) reduction to the ranks or any less reduction in rank,
- (h) fine,
- (i) severe reprimand,
- (j) reprimand,
- (k) in the case of an offence which has occasioned any expense, loss or damage, stoppages, and
- (l) such minor punishments as may from time to time be authorised by the Defence Council;

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

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

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

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

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

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

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

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

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

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

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

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

- “(3) Otherwise, the commanding officer shall proceed to deal with the charge summarily; and if he records a finding of guilty, he may award one or more of the following punishments—
- (a) if the accused is a soldier, detention for a period not exceeding twenty-eight days,
 - (b) fine,
 - (c) if the accused is a non-commissioned officer, severe reprimand or reprimand,
 - (d) where the offence has occasioned any expense, loss or damage, stoppages, and
 - (e) any minor punishment for the time being authorised by the Defence Council:

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

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

- (a) except in the case of an offence against section 70 of this Act, shall not exceed the amount of the offender's pay for fourteen days or, where the offence was committed on active service, twenty-eight days, and

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

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

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

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

- “(5) If the appropriate superior authority records a finding of guilty, the authority may award one or more of the following punishments—
- (a) except in the case of a warrant officer, forfeiture of seniority for a specified term or otherwise,
 - (b) fine,
 - (c) severe reprimand or reprimand, and
 - (d) where the offence has occasioned any expense, loss or damage, stoppages:

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

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

38 Punishments for naval offences

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

“43 Scale of punishments, and supplementary provisions.

- (1) The punishments which may be awarded to persons convicted of offences under this Part of this Act are, subject to the following provisions of this section, as follows:—
 - (a) death,

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

- (b) imprisonment,
- (c) dismissal with disgrace from Her Majesty's service,
- (d) dismissal from Her Majesty's service,
- (e) detention for a term not exceeding two years,
- (f) forfeiture of seniority for a specified term or otherwise,
- (g) dismissal from the ship or naval establishment to which the offender belongs,
- (h) disrating,
- (i) fine,
- (j) severe reprimand,
- (k) reprimand,
- (l) in the case of an offence which has occasioned any expense, loss or damage, stoppages, that is to say, the recovery, by deductions from the offender's pay, of a specified sum by way of compensation for the expense, loss or damage, and
- (m) such minor punishments as may from time to time be authorised by the Defence Council;

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

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

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

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

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

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

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

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

- (5) A sentence of disrating awarded in compliance with subsection (4) above, or deemed to have been awarded by virtue of the proviso to that subsection, shall be one reducing the offender to such rate as may be prescribed in relation to persons of the class to which he belongs by regulations made by the Defence Council; and any other sentence of disrating under this Act may reduce the offender to any rate not lower than that so prescribed.
- (6) The amount of a fine that may be awarded under this Act by way of punishment for an offence, except in the case of an offence under section 42 thereof, shall not exceed the amount of the offender's pay for twenty-eight days or, where the offence was committed on active service, fifty-six days; and in the said excepted case—
- (a) the amount of a fine that may be so awarded by a court-martial—
 - (i) where the civil offence constituting the offence under that section is punishable by a civil court in England only on summary conviction, and is so punishable by a fine, shall not exceed the maximum amount of that fine, and
 - (ii) where the said civil offence is punishable by a civil court in England on indictment (whether or not it is also punishable on summary conviction) by a fine, shall not exceed the maximum amount of that fine;
 - (b) the amount of a fine that may be so awarded where the offence is tried summarily—
 - (i) in any case shall not exceed the amount of the offender's pay for twenty-eight days or, where the civil offence constituting the offence was committed on active service, fifty-six days, and
 - (ii) where the said civil offence is punishable by a civil court in England only on summary conviction, and is so punishable by a fine of a maximum amount less than the amount mentioned in sub-paragraph (i) above, shall not exceed that maximum, and
 - (iii) where the said civil offence is punishable by a civil court in England on indictment by a fine of a maximum amount less than the amount so mentioned (whether or not it is also punishable on summary conviction) shall not exceed that maximum;

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

39 Imprisonment and detention: consecutive terms

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

“118A Consecutive terms of imprisonment and detention.

- (1) Where any person who is serving a sentence of imprisonment, whether passed under this Act or otherwise, is awarded a military sentence of imprisonment, or where a person who is awarded a military sentence of imprisonment is further sentenced to imprisonment under section 57(2) of this Act, the court-martial by whom the subsequent or further sentence is awarded may order that that sentence shall begin to run from the expiry of the first-mentioned sentence.
 - (2) Where any person who is serving a military sentence of detention, or a sentence of detention passed on him under the Air Force Act 1955 or the Naval Discipline Act 1957, is found guilty under this Act of another offence for which he is awarded a military sentence of detention, or where a person who is awarded a military sentence of detention is further sentenced to detention under section 57(2) of this Act, the court-martial or officer by whom the subsequent or further sentence is awarded may order that that sentence shall begin to run from the expiry of the first-mentioned sentence.
 - (3) Where a person is convicted by a. general court-martial or a field general court-martial of two or more offences against section 70 of this Act consisting in the commission of a civil offence for which a civil court in England could award imprisonment, the court-martial may by its sentence award, for any of the said offences, a term of imprisonment which is to run from the expiry of a term awarded by that sentence for any other of those offences.”
- (2) The provision set out in subsection (1) above shall also be inserted in the Air Force Act 1955 after section 118, but modified for that purpose—
 - (a) by the substitution throughout subsections (1) and (2) of that provision of " an air-force sentence of imprisonment " for " a military sentence of imprisonment " and " an air-force sentence of detention " for " a military sentence of detention ". and
 - (b) by the substitution in the said subsection (2) of " the Army Act 1955 " for " the Air Force Act 1955 ".
 - (3) The following subsection shall be added at the end of section 86 of the Naval Discipline Act 1957 (subsections (1) and (2) of which make provision corresponding to subsections (1) and (2) of the provision set out in subsection (1) above):—
 - “(3) Where a person is convicted by a court-martial of two or more offences under section 42 of this Act consisting in the commission of a civil offence for which a civil court in England could award imprisonment, the court-martial may by its sentence award, for any of the said offences, a term of imprisonment which is to run from the expiry of a term awarded by that sentence for any other of those offences.”

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

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

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

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

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

Other provisions

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

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

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

42 Naval offences by civilians

Section 118(2) of the Naval Discipline Act 1957 (which applies certain provisions of that Act, including section 39 (conduct to prejudice of naval discipline), to certain

civilians who are within the limits of the command of any officer commanding any of Her Majesty's naval forces outside the United Kingdom) shall be amended by adding at the end the following proviso:—

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

43 Consequential, and minor, amendments

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

PART III

REVISION OF PROCEDURAL PROVISIONS, AND OTHER MATTERS RELATING TO SERVICE OFFENCES AND PUNISHMENTS

44 Arrest by civil authorities

(1) Section 103 of the Naval Discipline Act 1957 (arrest under warrants of naval authorities) shall be amended by adding the following subsection at the end:—

“(4) A certificate under subsection (3) above shall be in such form as may be prescribed by regulations made by a Secretary of State by statutory instrument and shall for the purpose of this Act be evidence of the matters stated therein.”

(2) The following provisions (being provisions corresponding to section 103 of the Naval Discipline Act 1957 (as amended by subsection (1) above) and section 104 of that Act) shall be inserted in the Army Act 1955 after section 190, and also (but modified for that purpose by the substitution of " air-force custody " for " military custody " and " air forces " for " military forces" throughout subsection (3) of the provision numbered 190A) in the Air Force Act 1955 after section 190:—

“Further powers of arrest of civil authorities

190A Arrest under warrants of commanding officers

- (1) A warrant for the arrest of a person suspected of any offence under Part II of this Act may be issued by his commanding officer (determined for the purposes of this subsection as if that person had been charged with the offence).
- (2) A warrant issued under this section shall be addressed to an officer or officers of police, and shall specify the name of the person for whose arrest it is issued and the offences which he is alleged to have committed; and any such warrant may be issued in respect of two or more persons alleged to have committed the same offence, or offences of the same class.
- (3) A person arrested under a warrant issued under this section shall as soon as practicable be delivered into military custody; and there shall be handed over with him a certificate signed by the officer of police who causes him to be

delivered into military custody stating the fact, date, time and place of arrest, and whether or not the person arrested was at the time of arrest wearing the uniform of any of Her Majesty's military forces.

- (4) A certificate under subsection (3) above shall be in such form as may be prescribed by regulations made by a Secretary of State by statutory instrument and shall for the purposes of this Act be evidence of the matters stated therein.

190B Arrest of persons unlawfully at large.

- (1) A constable may arrest without warrant any person who, having been sentenced under Part II of this Act to imprisonment or detention, is unlawfully at large during the currency of the sentence, and may take him to any place in which he may be required in accordance with law to be detained.
- (2) The provisions of subsections (5) to (7) of section 119 of this Act shall have effect for the purposes of subsection (1) above as they have effect for the purposes of the said section 119.”

45 Exclusion of enactments requiring fiat of Attorney General etc. in connection with proceedings

- (1) The following provision shall be inserted in the Army Act 1955, and also in the Air Force Act 1955, in each case after section 204:—

“204A Exclusion of enactments requiring fiat of Attorney General etc in connection with proceedings.

With the exception of subsections (1) and (3) of section 132 of this Act, no enactment requiring the fiat or consent of the Attorney General or the Director of Public Prosecutions in connection with any proceedings shall have effect in relation to proceedings under this Act.”

- (2) The following provision shall be inserted in the Naval Discipline Act 1957 after section 129:—

“129A Exclusion of enactments requiring fiat of Attorney General etc. in connection with proceedings.

With the exception of section 52(3)(b) of this Act, no enactment requiring the fiat or consent of the Attorney General or the Director of Public Prosecutions in connection with any proceedings shall have effect in relation to proceedings under this Act.”

46 Extension of powers of " higher authority " with respect to army and air-force charges

The following provision shall be substituted for section 80 of the Army Act 1955 (which empowers a higher authority to direct the dismissal of any charge against a non-commissioned officer or soldier which has been referred to the authority with a view to its being tried by court martial, and any charge against an officer or warrant officer which has been submitted to the authority for determination how it is to be

proceeded with, but which contains no power for the authority to stay proceedings), and also for section 80 of the Air Force Act 1955 (which is to the like effect):—

“80 Directions by higher authority for dismissal of charges or stay of proceedings.

- (1) Notwithstanding anything in section 78 or 79 of this Act, where a charge has been referred to higher authority with a view to its being tried by court-martial, or has been submitted to higher authority for determination how it is to be proceeded with, that authority may refer the charge back to the commanding officer of the accused with a direction to dismiss the charge or a direction to stay all further proceedings thereon; and the commanding officer shall deal with the charge accordingly.
- (2) The reference back of a charge under subsection (1) above shall be without prejudice to the preferring of another charge if the higher authority has so directed or the commanding officer thinks fit.”

47 Amendments as to summary trial for naval offences

Section 49 of the Naval Discipline Act 1957 (summary trial) shall be amended as follows—

- (a) at the end of subsection (2) (which authorises summary trial by commanding officers for any offence triable by court-martial other than an offence punishable by sentence of death) there shall be added the words " or an offence of murder ", and
- (b) in the proviso to subsection (5) (under which an officer to whom the power of summary trial is delegated may not award any punishment other than the minor punishments referred to in section 43(1)(m) of that Act) after the words " other than " there shall be inserted the words " a fine or ".

48 Amendments as to convening or ordering of courts-martial

- (1) Section 86(1) of the Army Act 1955 (under which a general court-martial may be convened by any qualified officer (meaning one not below field rank and exercising command) who is authorised in that behalf by royal warrant, or by any qualified officer under the command of a qualified officer so authorised to whom the latter has delegated his power in accordance with the warrant) shall be amended by substituting, for the words from " or by any qualified officer "to the end, the words " or by any officer to whom a qualified officer so authorised has delegated his power under the warrant, being an officer under the command of the qualified officer and not below the rank of colonel."
- (2) Section 86(1) of the Air Force Act 1955 (which is to the like effect) shall have effect subject to the like amendment, but with the substitution at the end of " group captain " for " colonel ".
- (3) In section 53 of the Naval Discipline Act 1957 (under subsections (1) and (2) of which a court-martial may be ordered by the Defence Council, by any officer of the Royal Navy authorised in that behalf by commission of the Defence Council, or by any officer on whom the command of an officer so authorised has devolved) the following subsection shall be substituted for subsection (3) (which gives limited powers of delegation to authorised officers):—

“(3) Any officer authorised to order courts-martial by commission of the Defence Council, and any officer having the like power by virtue of his being in command of a fleet or squadron formerly under the command of such an officer, may from time to time by commission authorise any officer of the Royal Navy under his command to order courts-martial; and any commission granted by virtue of this subsection shall continue in force until revoked by the officer by whom it was granted, by the officer for the time being having command of the fleet or squadron formerly commanded by that officer, or by the Defence Council.”;

and subsection (4) of the said section 53 (as between two officers empowered to order a court-martial, power of officer of superior rank to prevail) shall cease to have effect.

49 Amendments as to procedure of courts-martial, and evidence in naval disciplinary courts

(1) The provisions of the Army Act 1955 and the Air Force Act 1955 with respect to Rules of Procedure shall be amended as follows:—

(a) in section 103(2) of each Act (specific matters for which Rules may make provision), the following paragraph shall be inserted after paragraph (k):—

“(kk) directing that the powers conferred by section 7 of the Bankers' Books Evidence Act 1879 (which enables orders to be made for the inspection of bankers' books for the purposes of legal proceedings) may be exercised for the purposes of a court-martial (whether within or without the United Kingdom) by the authority by whom the court-martial is convened, as well as by the court or a judge within the meaning of that Act;”;

(b) in section 104(2)(b) of each Act (under which Rules as to the functions of a judge advocate may provide for him to determine questions of law in the absence of the members of a court-martial), after the words " questions of law " there shall be inserted the words " or of law and fact mixed ".

(2) Section 58 of the Naval Discipline Act 1957 (General Orders as to procedure of courts-martial) shall be amended as follows:—

(a) in subsection (2) (specific matters for which General Orders may provide), the following paragraph shall be inserted after paragraph (a):—

“(aa) for determining the cases in which and the extent to which courts-martial may, in sentencing an accused for any offence of which he is convicted, at the request of the accused take into consideration other offences against this Act committed by him;”;

(b) the following subsection shall be substituted for subsection (4) (under which General Orders are to have effect only if approved by Her Majesty in Council in pursuance of a report of the Judicial Committee of the Privy Council, and every Order in Council made for the purposes of that subsection is to be laid before Parliament):—

“(4) The power to make General Orders under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

- (3) Section 6(1) of the Criminal Evidence Act 1898 (which applies that Act to all criminal proceedings, including proceedings in courts-martial) shall be amended by inserting after (the words " courts-martial " the words " under the Army Act 1955 and the Air Force Act 1955, and proceedings in courts-martial and disciplinary courts under the Naval Discipline Act 1957 ".

50 Army and air-force courts-martial: amendments as to revision and confirmation of findings

- (1) Section 109 of the Army Act 1955 and section 109 of the Air Force Act 1955 shall each be amended by inserting the following subsection after subsection (5) (under which a court-martial directed by a confirming officer to revise a finding of guilty may substitute a different sentence, not being one of greater severity than the original sentence, if the court either adheres to the finding or substitutes therefor a different finding of guilty):—

“(5A) The power conferred by subsection (5) above (as limited by the proviso to that subsection) shall also be exercisable by a court-martial notwithstanding that it substitutes a finding of not guilty for the finding, or each of the findings, to which a direction under this section relates if the original findings of the court included one or more findings of guilty to which the direction does not relate.”

- (2) Section 110 of the Army Act 1955 and section 110 of the Air Force Act 1955 shall each be amended by inserting the following subsection after subsection (2) (under which, where a confirming officer does not propose to confirm a finding of guilty and the court-martial could on the charge in question have validly made some other such finding, the confirming officer may, instead of withholding confirmation of the finding, substitute that other finding for it):—

“(2A) Where a court-martial has recorded no finding on one or more charges alternative to a charge on which the court has made a finding of guilty, a confirming officer, if he is of opinion that the court must have been satisfied of the facts necessary to justify a finding of guilty on the alternative charge or, as the case may be, one of the alternative charges, may, instead of withholding confirmation of the finding—

- (a) substitute for the finding a finding of guilty on the alternative charge, and
- (b) substitute for the sentence of the court such sentence as he thinks proper, being in his opinion one which is not of greater severity than that for which it is substituted.”

51 Naval findings and sentences: amendments as to reviewing authorities

Section 1(5) of the Defence (Transfer of Functions) Act 1964 (general provision for discharge of functions of Defence Council by Admiralty Board, Army Board and Air Force Board) shall cease to have effect so far as it relates to the functions of the Defence Council under sections 70 to 72 of the Naval Discipline Act 1957 (review of findings and sentences), and the following subsection shall be added instead at the end of the said section 70:—

“(4) The functions of the Defence Council under this section and sections 71, 71A and 72 below may be discharged by the Admiralty Board or by any officer empowered in that behalf by that Board ; and for the purposes of any enactment

(including the provisions of this Act hereinbefore referred to) anything done, and any document purporting to be an order or direction made or given, by the Admiralty Board or by any such officer in or in connection with the discharge of any such functions shall be of the same effect as if done, or as if a document purporting to be an order or direction made or given, by the Defence Council.”

52 Countries for serving of naval sentences of imprisonment and detention

- (1) The following provision (being one corresponding to section 127 of the Army Act 1955 and section 127 of the Air Force Act 1955) shall be inserted in the Naval Discipline Act 1957 after section 82:—

“82A Country for service of sentence.

- (1) A person serving in the United Kingdom a sentence of imprisonment or detention awarded under this Act may (in so far as may be specified by or under Naval Detention Quarters Rules) be removed out of the United Kingdom to, but only to—
 - (a) any colony in which he was entered for service in the Royal Navy, or
 - (b) any place outside the United Kingdom where the ship or naval establishment to which he for the time being belongs is situated.
 - (2) Subject to the following provisions of this section, a person sentenced by a court-martial held outside the United Kingdom to imprisonment or detention for a term exceeding twelve months shall as soon as practicable be removed to the United Kingdom.
 - (3) Subsection (2) above shall not apply in relation to any person belonging to a class of persons specified by or under Naval Detention Quarters Rules as persons whose removal to the United Kingdom would, for reasons of climate, place of birth or place of entry in the Royal Navy, or for any other reason, not be beneficial.
 - (4) Where a person has been sentenced by a court-martial held outside the United Kingdom to imprisonment or detention for a term exceeding twelve months, the Defence Council may, notwithstanding anything in subsection (2) above, direct that he shall not be required to be removed to the United Kingdom until he has served such part of his sentence, not exceeding two years, as may be specified in the direction ; and in determining whether or not to exercise the power conferred by this subsection, the Defence Council shall have regard to any recommendation in that behalf made by the court-martial.
 - (5) Any direction under subsection (4) above may at any time be revoked by the Defence Council or superseded by a subsequent direction thereunder.
 - (6) In ascertaining at any time for the purposes of this section the nature or length of any sentence, regard shall be had to any commutation or remission of the sentence previously directed.”
- (2) Section 125(2) of the Naval Discipline Act 1957 (under which, except in the provisions there specified, references in that Act to the United Kingdom include references to the Channel Islands and the Isle of Man) shall be amended by substituting for the words " section eighty " the words " sections 80 and 82A " , and by adding at the end the words

" and in the said section 82A, the reference to a colony shall be construed as including a reference to the Channel Islands and the Isle of Man ".

53 Commencement of naval sentences of imprisonment and detention

Section 85(3) of the Naval Discipline Act 1957 (under which a committal order in respect of a sentence of imprisonment or detention may, if no place in which the sentence may be served is available where the offender is tried, direct that the term of the sentence shall run not from the date of the sentence but from the date on which the offender reaches the place specified in the order) shall cease to have effect.

54 Remission of sentences of imprisonment and detention

(1) Section 114 of the Army Act 1955 and section 114 of the Air Force Act 1955 shall each be amended as follows—

- (a) in subsection (1) (reconsideration of sentences of imprisonment and detention by officers authorised by Defence Council: power to remit, but only for good conduct), for all the words after " Defence Council" there shall be substituted the words " ; and an officer reconsidering any sentence by virtue of this subsection may by order remit the sentence in whole or in part. ", and
- (b) subsection (2) (duty to reconsider periodically) shall be omitted.

(2) Section 120 of the Army Act 1955 and section 120 of the Air Force Act 1955 (suspension of sentences of imprisonment and detention) shall each be amended by adding at the end of subsection (7) (person whose sentence suspended to be released from custody) the words " and a sentence which has been suspended shall, unless the suspension has been sooner determined, be remitted by virtue of this subsection at the expiry of one year from the date on which the suspension took effect " ; and the following subsection shall be added to section 92 of the Naval Discipline Act 1957 after subsection (2) (under which suspended sentences are to be reconsidered periodically, and may on reconsideration be remitted for good conduct):—

“(3) Without prejudice to subsection (2) above, a sentence of imprisonment or detention which has been suspended shall, unless the suspension has been sooner determined, be remitted by virtue of this subsection at the expiry of one year from the date on which the suspension took effect.”

55 Amendment of Naval Discipline Act 1957 as respects effect of taking offences into consideration

Section 129 of the Naval Discipline Act 1957 (jurisdiction of civil courts) shall be amended as follows—

- (a) in subsection (1) (under which, where a person is acquitted or convicted of an offence by a court-martial or disciplinary court or on summary trial, a civil court is debarred from trying him for the same, or substantially the same, offence), immediately before the words " a civil court" there shall be inserted the words " or has had an offence committed by him taken into consideration by a court-martial or disciplinary court in sentencing him ", and
- (b) in subsection (2) (under which, where a person is acquitted or convicted of an offence by a civil court, wherever situated, he cannot be tried under the Act for the same, or substantially the same, offence, and a person so convicted is not to lose any seniority, privilege etc. by reason of the conviction or the offence),

after the words " wherever situated " there shall be inserted the words " or has had an offence committed by him taken into consideration when being sentenced by a civil court in the United Kingdom ", and for the words " so convicted " there shall be substituted the words " who has been so convicted or has had an offence committed by him so taken into consideration ".

56 Amendments as to deserters and absentees without leave

- (1) Section 186 of the Army Act 1955 and section 186 of the Air Force Act 1955 (which confer special powers of arrest in respect of persons suspected of desertion or absence without leave, and, by subsection (4), require any person arrested under those powers to be brought before a court of summary jurisdiction) shall each be amended by inserting the following subsection after the said subsection (4):—

“(4A) A person shall also be brought before a court of summary jurisdiction if, having been brought before such a court by virtue of subsection (4) above and discharged by that court by virtue of section 187(3) below—

- (a) he is subsequently arrested as an alleged or suspected deserter or absentee without leave under section 74 of this Act, or under a warrant issued under section 190A thereof, and
- (b) the question whether he is in fact in desertion or absent without leave raises any issue which was investigated by the court discharging him, and
- (c) he does not admit that he is in desertion or absent without leave to the person arresting him under the said section 74 or; as the case may be, to the person into whose custody he is delivered pursuant to the said section 190A.

and the like subsection shall also be inserted in section 105 of the Naval Discipline Act 1957 after subsection (4), but modified for that purpose by the substitution of " 109(3)(b) "; for "187(3)", of "45" for "74" (twice), and of "103" for " 190A " (twice).”

- (2) The following subsection shall be inserted after subsection (4) of section 187 of the Army Act 1955 (proceedings where person brought before court of summary jurisdiction as illegally absent), and also (but modified for that purpose by the substitution of " regular air force " for " regular forces ") after subsection (4) of section 187 of the Air Force Act 1955:—

“(4A) For the purposes of any proceedings under this section, a certificate which states that a person is a member of, and illegally absent from, the regular forces, and purports to be signed by an officer who, if that person were charged with an offence, would be either his commanding officer or authorised to act as his appropriate superior authority, shall be evidence of the matters so stated.”

- (3) Section 189(3) of the Army Act 1955 and section 189(3) of the Air Force Act 1955 (certain certificates of arrest or surrender of deserters and absentees to be evidence of matters therein stated in proceedings for offences under sections 37 and 38) shall each be amended by inserting the following paragraph after paragraph (a):—

“(aa) where the proceedings are against a person who has surrendered himself to a consular officer, a certificate purporting to be signed by that officer and stating the fact, date, time and place of surrender shall be evidence of the matters stated in the certificate ;”.

57 Addition to Naval Discipline Act 1957 of provisions as to proof of proceedings

- (1) The following provisions (being provisions corresponding to sections 199 and 200 of the Army Act 1955 and the Air Force Act 1955) shall be inserted in the Naval Discipline Act 1957 after the provision inserted therein as section 129A by section 45(2) of this Act:—

“129B Proof of outcome of civil trial.

- (1) Where a person subject to this Act has been tried before a civil court (whether at the time of the trial he was subject to this Act or not), a certificate signed by the clerk of the court stating all or any of the following matters—
- (a) that the said person has been tried before the court for the offences specified in that certificate,
 - (b) the result of the trial,
 - (c) what judgment or order was given or made by the court,
 - (d) that other offences specified in the certificate were taken into consideration at the trial,
- shall for the purposes of this Act be evidence of the matters stated in the certificate.
- (2) The clerk of the court shall, if required by the commanding officer of the person in question or any other officer, furnish a certificate under this section, and shall be paid such fee as may be prescribed by regulations made by a Secretary of State.
- (3) A document purporting to be a certificate under this section and to be signed by the clerk of the court shall, unless the contrary is shown, be deemed such a certificate.
- (4) References in this section to the clerk of the court include references to his deputy, and to any other person having the custody of the records of the court.

129C Evidence of proceedings of court-martial.

- (1) The original proceedings of a court-martial purporting to be signed by the judge advocate appointed for the purposes of the court and being in the custody of a Secretary of State or of any person having the lawful custody thereof shall be admissible in evidence on production from that custody.
 - (2) A document purporting to be a copy of the original proceedings of a court-martial or any part thereof and to be certified by a Secretary of State or any person authorised by him, or by any other person having the lawful custody of the proceedings, to be a true copy shall be evidence of the contents of the proceedings or the part to which the document relates, as the case may be.
 - (3) This section applies to evidence given in any court, whether civil or criminal and whether in the United Kingdom or in any colony.”
- (2) Paragraph 1 of Schedule 1 to the Courts-Martial (Appeals) Act 1968 (under which, where the record of any evidence given before a naval court-martial may be read as evidence on a retrial, it may be so read without further proof if it is produced from the custody of the Defence Council) shall be amended by substituting for the words " if it is produced from the custody of the Defence Council " the words " if it forms part

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

of the original proceedings of the original court-martial or a copy thereof and those proceedings are, or that copy is, admissible as evidence under section 129C of the Naval Discipline Act ".

58 Fees for copies of proceedings of army and air-force courts-martial

Section 141(2) of the Army Act 1955 and section 141(2) of the Air Force Act 1955 (under which a person tried by court-martial may obtain a copy of the record of the proceedings of the court on payment therefor at such rate as may be prescribed, meaning prescribed by Rules of Procedure) shall each be amended by substituting for the words " as may be prescribed " the words " as the Judge Advocate General may determine " ; and in section 141(3) of each Act (right of personal representatives etc. to obtain copies), for the words " the prescribed rate " there shall be substituted the words " the rate determined under subsection (2) above ".

PART IV

FORFEITURE OF PAY ETC. AND DEDUCTIONS FROM PAY

59 Army and air force: new provision for deductions in respect of judgment debts etc.

- (1) Section 150(1) of the Army Act 1955 and section 150(1) of the Air Force Act 1955 (deductions from pay in respect of maintenance orders and legal aid contribution orders) shall each be amended by omitting paragraph (d) (legal aid contribution orders), and the following provision shall be inserted in each Act after section 151 (but, in the case of the Air Force Act 1955, modified by the substitution throughout of " regular air force " for " regular forces "):—

“151A Deductions from pay in respect of judgment debts etc.

- (1) Where by any judgment or order enforceable by a court in the United Kingdom any sum is required to be paid by a person who is a member of the regular forces, the Defence Council or an officer authorised by them may, whether or not that person was a member of the regular forces at the time when the judgment or order was given or made, order such amount or amounts as the Council or officer think fit to be deducted from the pay of that person, and appropriated in or towards satisfaction of that sum:

Provided that this subsection shall not apply to any such sum as is mentioned in section 146 of this Act, to any sum in respect of which deductions may be ordered under section 150 of this Act, or to any sum in respect of which deductions may be made by virtue of section 32(2)(b) of the Courts-Martial (Appeals) Act 1968.

- (2) The Defence Council or an officer authorised by them may by order vary or revoke any order previously made under this section, and may treat any order made under this section as being in suspense at any time while the person against whom the order was made is absent as mentioned in section 145(1) (a) of this Act.”

- (2) The following subsection shall be substituted for subsection (1) of section 152 of the Army Act 1955 and subsection (1) of section 152 of the Air Force Act 1955 (under which deductions under sections 150 and 151 of those Acts must not together exceed a specified proportion of pay):—

“(1) The sums deducted from a person's pay under sections 150, 151 and 151A above shall not together exceed such proportion of his pay as the Defence Council may determine.”;

and section 152(2) of each Act (effect of deductions under sections 150 and 151 on forfeitures) shall be amended by, substituting, for the words " under either of the two last foregoing sections the words "under section 150, 151 or 151A above. "

60 Navy: amendments as to forfeitures for illegal absence

Section 75(1) of the Naval Discipline Act 1957 (power of Defence Council to order forfeiture of a person's pay etc. and effects if it appears that he is absent without leave and has been so absent for a period of not less than one month) shall be amended by omitting the words " and has been so absent for a period of not less than one month " ; and the following subsection shall be substituted for subsection (3) of the said section 75 (under which forfeiture may also be ordered by the Commander-in-Chief or flag officer from whose command a person is absent):—

“(3) The powers conferred by this section on the Defence Council may also be exercised in relation to any person by the Commander-in-Chief or flag officer from whose command that person is absent as aforesaid and by any other officer authorised in that behalf by the Defence Council.”.

61 Navy: new provisions as to forfeitures and deductions generally, and as to deductions for civil penalties, judgment debts etc.

- (1) The following provisions (which correspond respectively to the following sections of the Army Act 1955 and the Air Force Act 1955, that is to say, section 144, section 146, section 147, section 149 and the new section 151A set out in section 59(1) above) shall be inserted in the Naval Discipline Act 1957 after section 128:—

“Additional provisions as to forfeiture of pay and deductions from pay

128A General provisions.

- (1) No forfeiture of the pay of any person subject to this Act shall be imposed unless authorised by or under this or some other Act, and no deduction from such pay shall be made unless authorised either by this or some other Act or by Her Majesty by an Order in Council made under this section or (by virtue of section 1(1) of the Naval Forces (Enforcement of Maintenance Liabilities) Act 1947) under the Naval and Marine Pay and Pensions Act 1865.
- (2) An Order in Council under this section shall not authorise the making of any penal deduction, that is to say, a deduction to be made by reason of the commission of any offence or other wrongful act or in consequence of any negligence.

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- (3) Notwithstanding subsections (1) and (2) above, Her Majesty may by Order in Council under this section, and the Defence Council may by regulation, order or instruction, make provision for the making of any deduction authorised by Act, as to the time at which and the manner in which sums may be deducted from pay to give effect to authorised deductions or in which amounts may be so deducted in order to recover any fine imposed in pursuance of this Act, as to the appropriation of any such sum or amount when deducted, and for the determination of questions as to forfeitures and deductions.
- (4) A person subject to this Act shall, notwithstanding any deduction from his pay but subject to any forfeiture, remain in receipt of pay at not less than such minimum rate as may be prescribed by order of the Defence Council.
- (5) Notwithstanding that forfeiture of a person's pay for any period has been imposed in pursuance of this Act, he may remain in receipt of pay at such minimum rate as aforesaid ; but the amount received for that period may be recovered from him by deduction from pay.
- (6) Any amount authorised to be deducted from the pay of a person subject to this Act may be deducted from any balance (whether or not representing pay) which may be due to him, and references in this Act to the making of deductions from pay shall be construed accordingly.

128B Deductions for payment of civil penalties.

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 his being charged before the court with an offence is at the time of the sentence or order, or subsequently becomes, a person subject to this Act, then, if the whole or any part of that sum is met by a payment made by or on behalf of any naval authority, the amount of the payment may be deducted from his pay.

128C Compensation for loss occasioned by wrongful act or negligence.

- (1) Without prejudice to the provisions of this Act as to the imposition of stoppages as a punishment, the following provisions shall have effect where, after such investigation as may be prescribed by regulations of the Defence Council, it appears to the Defence Council or an officer authorised by them that any loss of, or damage to, public or service property, has been occasioned by any wrongful act or negligence of a person subject to this Act (hereafter referred to as 'the person responsible').
- (2) The Defence Council or authorised officer, as the case may be, may order the person responsible (whether or not he is subject to this Act at the time when the order is made) to pay, as or towards compensation for the loss or damage, such sum as may be specified in the order; and any such sum in so far as not otherwise paid by the person responsible may be deducted from his pay.
- (3) No order shall be made under subsection (2) above if, in proceedings (whether under this Act, the Army Act 1955 or the Air Force Act 1955) before a court-martial, the appropriate superior authority or the commanding officer of the person responsible, that person—

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- (a) has been acquitted in circumstances involving a finding that he was not guilty of the wrongful act or negligence in question, or
 - (b) has been awarded stoppages in respect of the same loss or damage ;
- but save as aforesaid, the fact that any such proceedings have been brought in respect of the wrongful act or negligence in question shall not prevent the making of an order or deductions under that subsection.

128D Remission of deductions.

Any deduction imposed under section 128B or 128C above, or under an Order in Council made under section 128A above, may be remitted by the Defence Council or in such manner and by such authority as may be provided by an Order in Council so made.

128E Deductions in respect of judgment debts etc.

- (1) Where by any judgment or order enforceable by a court in the United Kingdom any sum is required to be paid by a person who is subject to this Act, the Defence Council or an officer authorised by them may, whether or not that person was subject to this Act at the time when the judgment or order was given or made, order such amount or amounts as the Council or officer think fit to be deducted from the pay of that person, and appropriated in or towards satisfaction of that sum:

Provided that this subsection shall not apply to any such sum as is mentioned in section 128B of this Act, or to any sum in respect of which deductions may be authorised by virtue of section 1(1) of the Naval Forces (Enforcement of Maintenance Liabilities) Act 1947 or made by virtue of section 32(2)(2) of the Courts-Martial (Appeals) Act 1968.

- (2) The Defence Council or an officer authorised by them may by order vary or revoke any order previously made under this section.
 - (3) The sums deducted from a person's pay by virtue of this section and section 1(1) of the Naval Forces (Enforcement of Maintenance Liabilities) Act 1947 shall not together exceed such proportion of his pay as the Defence Council may determine.”
- (2) In consequence of the provision set out in subsection (1) above as section 128E, section 1(1) of the Naval Forces (Enforcement of Maintenance Liabilities) Act 1947 shall be amended by omitting paragraph (c) (deductions in respect of legal aid contribution orders) and the proviso to that subsection (limit on deductions).

62 Amendment of provisions as to service of process in maintenance proceedings

- (1) Section 153 of the Army Act 1955 and section 153 of the Air Force Act 1955 (rules for service of process in maintenance proceedings where the defendant is a member of the regular forces or, as the case may be, of the regular air force) shall each be amended as follows—
 - (a) subsection (2) (service of process for a hearing more than twenty miles away to be of no effect unless travelling expenses are paid) shall be omitted, and
 - (b) at the end there shall be added the following subsection:—

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“(4) Nothing in this section shall be construed as enabling process to be served in connection with proceedings in a court of summary jurisdiction unless the defendant is within the United Kingdom.”.

- (2) Section 101 of the Naval Discipline Act 1957 (rules for service of process in maintenance proceedings where the defendant is subject to that Act) shall be amended by omitting subsection (3) (service of process for a hearing more than twenty miles away to be of no effect unless travelling expenses are paid).

PART V

MISCELLANEOUS AMENDMENTS

63 Minimum age for enlistment or entry without parental etc consent

- (1) The following subsection shall be substituted for subsection (5) of section 2 of the Army Act 1955 and also for subsection (5) of section 2 of the Air Force Act 1955 (under which the " appropriate minimum age " , being the age below which a person may not be enlisted without certain consents, means the age of seventeen years and six months or, in such classes of case as may be prescribed, the age of seventeen years):—

“(5) In this Part of this Act the expression ' appropriate minimum age' means the age of eighteen or, in a case falling within any class for which a lower age is for the time being prescribed, that lower age.”.

- (2) Section 9(3) of the Armed Forces Act 1966 (which defines " appropriate minimum age " similarly for the purposes of entry into the Royal Navy) shall be amended so as to correspond with the provision set out in subsection (1) above, that is to say, by substituting for the words from " the age of seventeen years and six months " to the end the words " the age of eighteen or, in a case falling within any class for which a lower age is for the time being prescribed by regulations of the Defence Council, that lower age " .
- (3) Paragraph 9 of Schedule 7 to the Army Act 1955 (which substitutes references to the age of 17 for references to the appropriate minimum age in Part I of that Act as it applies to marines) shall cease to have effect.

64 Purchase of discharge from army and air force

- (1) Regulations made under section 2 of the Armed Forces Act 1966 and conferring, subject to any conditions and restrictions specified in the regulations, a right on persons enlisted in the regular army to claim their discharge within a specified time after attestation may repeal section 14 of the Army Act 1955 (which also confers such a right) together with the enactments amending that section; and regulations under the said section 2 making the like provision with respect to persons enlisted in the regular air force may repeal section 14 of the Air Force Act 1955 and the enactments amending that section.
- (2) In section 2 of the Navy, Army and Air Force Reserves Act 1964 (liability of certain former soldiers to recall for service), in subsection (1)(b) (no liability in the case of persons discharged under section 14 of the Army Act 1955), the reference to section 14

of the Army Act 1955 shall include a reference to regulations under section 2 of the Armed Forces Act 1966 conferring a right to discharge by purchase.

65 Forfeiture of service for naval deserters

The following provision (being one corresponding to section 17 of the Army Act 1955 and section 17 of the Air Force Act 1955) shall be inserted in the Naval Discipline Act 1957 after the provision inserted therein as section 129C by section 57 of this Act:

“129D Forfeiture of service for desertion, and restoration of forfeited service.

- (1) Where a rating of Her Majesty's naval forces other than a reserve force is convicted of desertion, the period of his service as respects which he is convicted of having been a deserter shall be forfeited.
- (2) Where any of a rating's service is forfeited by virtue of subsection (1) above, any provision governing his terms of service other than one relating to discharge by purchase shall apply to him, and he shall be liable to serve, in like manner as if the appropriate date were the date of his entry or, as the case may be, attestation and he had on the appropriate date been duly entered or enlisted to serve for the like term (both as respects duration and as respects liability to serve in Her Majesty's naval forces and any liability to serve in any reserve) as that for which he was in fact serving at the date of his conviction:

Provided that where at the date of his conviction the rating was serving a term ending with the expiration of the period beginning with the date of his attaining the age of eighteen years and he had attained that age when he was convicted (whether or not he had attained it when the offence was committed) the duration of the term for which he is liable to serve shall be equal to that period, and the time for which he is required to serve in Her Majesty's naval forces shall be reduced accordingly.

- (3) In subsection (2) above 'the appropriate date' means in relation to any person a date earlier than the date of his conviction for desertion by the length of his service which is not forfeited.
- (4) The Defence Council may by regulations make provision for the restoration in whole or in part of any forfeited service to a rating in consideration of good service or on other grounds justifying the restoration of service forfeited; and any service restored to a rating under this subsection shall be credited to him for the purpose of determining for the purposes of any provision governing his terms of service the amount of service in Her Majesty's naval forces or in any reserve which he has served or is liable to serve.
- (5) Nothing in this section shall apply to a person who deserts at a time when he is, under regulations made in pursuance of section 2 of the Armed Forces Act 1966 or under any enactment repealed by any such regulations, continued in service after twenty-two years' service.”

66 Redress of complaints

- (1) The following provision shall be substituted for section 130 of the Naval Discipline Act 1957 (under which a Person subject to that Act may complain of oppression,

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injustice or other ill-treatment to the authority specified for that purpose by Queen's Regulations, and, if dissatisfied, may carry the complaint to the next superior authority, and so on):—

“130 Redress of complaints.

- (1) If a person subject to this Act thinks that he has suffered any personal oppression, injustice or other ill-treatment, he may make a complaint in accordance with the procedure laid down in Queen's Regulations and, if he does not obtain the redress to which he thinks he is entitled, a complaint to the Defence Council.
- (2) On receiving any complaint made by virtue of subsection (1) above, it shall be the duty of the Defence Council to investigate the complaint and to grant any redress which appears to them to be necessary, or, if the complainant is an officer and so requires, to make a report to Her Majesty through the Secretary of State in order to receive the directions of Her Majesty thereon”.
- (2) Section 181 of the Army Act 1955 and section 181 of the Air Force Act 1955 (complaints by warrant officers and below) shall each be amended as follows—
 - (a) in subsection (2) (under which a person who has complained to his commanding officer and has not received satisfactory redress, or who thinks himself wronged by his commanding officer for any other reason, may complain to a superior officer under whom he is serving), for all the words from " he may make a complaint with respect thereto " to the end there shall be substituted the words " he may, in accordance with the procedure laid down in Queen's Regulations, make a complaint with respect thereto to the Defence Council ", and
 - (b) in subsection (3) (duty of a commanding or other officer to have any complaint received by him investigated, and to give any redress appearing to him to be necessary), for the words " a commanding or other officer " there shall be substituted the words " a commanding officer or, as the case may be, the Defence Council ", and the words " or them " shall be inserted after the words " by him " and after the words " to him ".

67 Naval billeting and requisitioning

- (1) At any time when section 154 of the Army Act 1955 (issue of billeting requisitions by military officers having a command in the United Kingdom) is in operation by virtue of an order of the Secretary of State under section 174 of that Act, a billeting requisition may be issued under this subsection by any flag officer having a command in the United Kingdom; and at any time when section 165 of that Act (issue of requisitioning orders by military officers having a command as aforesaid) is so in operation, any such flag officer as aforesaid may issue a requisitioning order under this subsection.
- (2) For the purposes of Part IV of the said Act of 1955, a billeting requisition or requisitioning order issued under subsection (1) above shall have effect as if issued under the said section 154 or, as the case may be, the said section 165 ; but, in relation to any such requisition or order, the said Part IV and Schedule 4 to that Act shall have effect subject to such adaptations as the Defence Council may by regulations prescribe, being adaptations appearing to the Defence Council necessary for adapting the said Part IV and Schedule to the naval forces.

- (3) The Naval Billeting &c. Act 1914 (under which the issue of a billeting requisition or requisitioning order by naval officers depends upon the existence of a proclamation calling out the naval reserves) shall cease to have effect; and in sections 32(a), 33(1) (a) and 33(2)(a) of the Naval Discipline Act 1957 (which relate to billeting and requisitioning offences) for the words "issued by virtue of subsection (1) of section 1 of the Naval Billeting &c. Act 1914" there shall be substituted the words " issued under section 67(1) of the Armed Forces Act 1971 ".

68 Reductions in rank under Army Act 1955 and Air Force Act 1955

Section 201 of the Army Act 1955 (under which the Defence Council may not authorise an officer to impose reductions in rank on warrant officers or non-commissioned officers unless he is of or above the rank of brigadier, flag officer, or air commodore) shall be amended by substituting, for the words, " brigadier, flag officer or air commodore ", the words " colonel, of captain in the Royal Navy or of group captain " ; and section 201 of the Air Force Act 1955 (which is to the like effect) shall be amended by substituting, for the words " air commodore, flag officer or brigadier, " the words " group captain, of captain in the Royal Navy or of colonel " .

69 Assisting deserters from reserve forces

- (1) Section 15(1) of the Army Reserve Act 1950 and section 15(1) of the Air Force Reserve Act 1950 (which relate to deserters from the army reserve and the air force reserve respectively) shall each be amended so as to correspond with section 192(1) of the Army Act 1955 and section 192(1) of the Air Force Act 1955 (which relate to deserters from the regular forces), that is to say, by substituting the following paragraph for paragraph (c) (offence of concealing, employing, or assisting in the rescue of, a known deserter):—

“(c) knowing any such man to be a deserter, procures or persuades or assists him to remain a deserter, or assists in his rescue from custody”.

- (2) Section 27(2) of the Auxiliary Forces Act 1953 (which relates to deserters from the Territorial Army and the Royal Auxiliary Air Force) shall also be amended so as to correspond with the provisions of the Acts of 1955 above referred to, that is to say, by substituting the following paragraph for paragraph (c):—

“(c) knowing any such man to be a deserter contrary to subsection (1) of this section, procures or persuades or assists him to remain such a deserter, or assists in his rescue from custody.”

70 Taking of affidavits and declarations abroad

- (1) Section 204 of the Army Act 1955, section 204 of the Air Force Act 1955 and section 10 of the Emergency Laws (Miscellaneous Provisions) Act 1953 (under which certain military, air-force and naval officers may take affidavits and declarations abroad, but only from persons belonging to or connected with the same .service) shall have effect subject to the amendments specified in subsections (2) to (4) below (being amendments extending those sections, so that an officer of one service may take affidavits and declarations from persons belonging to or connected with another service).
- (2) The following subsection shall be added at the end of the said section 204 of the Army Act 1955:—

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“(3) The power conferred by subsection (1) above may also be exercised by any officer empowered to take affidavits and declarations by section 204(1) of the Air Force Act 1955 or section 10(1) of the Emergency Laws (Miscellaneous Provisions) Act 1953.”.

(3) The following subsection shall be added at the end of the said section 204 of the Air Force Act 1955:—

“(3) The power conferred by subsection (1) above may also be exercised by any officer empowered to take affidavits or declarations by section 204(1) of the Army Act 1955 or section 10(1) of the Emergency Laws (Miscellaneous Provisions) Act 1953.”.

(4) The following subsection shall be added at the end of the said section 10 of the Emergency Laws (Miscellaneous Provisions) Act 1953 :—

“(4) The power conferred by subsection (1) above may also be exercised by any officer empowered to take affidavits and declarations by section 204(1) of the Army Act 1955 or section 204(1) of the Air Force Act 1955.”.

71 Addition to Naval Discipline Act 1957 of provision indemnifying prison officers, etc.

The following provision (being one corresponding to section 142 of the Army Act 1955 and section 142 of the Air Force Act 1955) shall be inserted in the Naval Discipline Act 1957 after section 130:—

“130A Indemnity for prison officers etc.

No action shall lie in respect of anything done by any person in pursuance of a sentence of imprisonment or detention awarded under this Act if the doing thereof would have been lawful but for a defect in any instrument made for the purposes of that sentence.”.

72 Application of Army Act 1955 and Air Force Act 1955 to passengers in H.M. ships and aircraft

(1) The following provision (which corresponds to section 117 of the Naval Discipline Act 1957) shall be inserted in the Army Act 1955 after section 208, and also (but modified for that purpose by the substitution of " air-force law " for " military law " and " military law " for " air-force law ") in the Air Force Act 1955 after section 208 :—

“208A Application of Act to passengers in H.M. ships and aircraft.

Part II of this Act shall, to such extent and subject to such modifications as may be prescribed by regulations made by the Defence Council, apply to persons embarked as passengers on board Her Majesty's ships or aircraft (not being persons who are subject to military law by virtue of any of the foregoing provisions of this Act, or persons who are subject to air-force law or to the Naval Discipline Act 1957) as it applies to persons subject to military law.”.

- (2) Section 209 of the Army Act 1955 and section 209 of the Air Force Act 1955 (application of those Acts to civilians) shall each be amended by adding the following subsection at the end:—

“(5) This section does not apply to any person to whom section 208A above applies.”.

73 Appeal against sentence by civilians

- (1) The Courts-Martial (Appeals) Act 1968 (under which appeals to the Courts-Martial Appeal Court are confined to appeals against conviction) shall be amended in accordance with subsections (2) and (3) below.

- (2) In section 8—

- (a) at the end of subsection (1) (which confers the right of appeal) there shall be added the words " and, if he was a civilian (as defined in subsection (5) below) both at the time of his conviction and when the offence was committed, may also with the leave of the Court appeal against his sentence, unless it is one fixed by law ", and
- (b) the following subsection shall be added after subsection (4)—

“(5) In this section 'civilian' means any person who is not subject to service law (meaning military law, air-force law and the Naval Discipline Act) and any person within section 208A or 209 of the Army Act, section 208A or 209 of the Air Force Act or section 117 or 118 of the Naval Discipline Act (which apply certain provisions of those Acts to passengers in Her Majesty's ships and aircraft, persons employed by or accompanying Her Majesty's forces, families of members of those forces etc.).”

- (3) The following section shall be inserted after section 16:—

“16A Powers on appeals against sentence.

On an appeal against sentence the Appeal Court, if they consider that the sentence is not appropriate for the case, may quash the sentence and pass in substitution for it such sentence as they think is appropriate, being a sentence which the court-martial had power to pass and which is not of greater severity than that for which it is substituted”.

- (4) The provisions of Schedule 2 to this Act shall have effect, being provisions making in the said Act of 1968 and the other enactments there specified amendments consequential on, or otherwise connected with, the preceding provisions of this section.

74 Meaning of " active service " in Naval Discipline Act 1957

Section 134 of the Naval Discipline Act 1957 (under which a force is on active service when engaged in operations against an enemy, when situated in an area in which such operations are taking place, or when landed elsewhere than in the United Kingdom for the protection of life or property) shall be numbered as section 134(1) of that Act, and shall be amended by substituting for the words " landed elsewhere than in the United

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Kingdom " the words " engaged elsewhere than in the United Kingdom in operations ", and by adding at the end the following subsections:—

- “(2) Where any of Her Majesty's naval forces is serving outside the United Kingdom, and it appears to the appropriate authority that, by reason of the imminence of active service or of the recent existence of active service, it is necessary for the public service that the force should be deemed to be on active service, the appropriate authority may declare that for such period, not exceeding three months, beginning with the coming into force of the declaration as may be specified therein that force shall be deemed to be on active service.
- (3) Where it appears to the appropriate authority that it is necessary for the public service that the period specified in a declaration under subsection (2) above should be prolonged or, if previously prolonged under this subsection, should be further prolonged, the appropriate authority may declare that the said period shall be prolonged by such time, not exceeding three months, as may be specified in the declaration under this subsection.
- (4) If at any time while any force is deemed to be on active service by virtue of the foregoing provisions of this section it appears to the appropriate authority that there is no necessity for the force to continue to be treated as being on active service, the appropriate authority may declare that as from the coming into operation of the declaration the force shall cease to be deemed to be on active service.
- (5) Before any declaration is made under this section, the appropriate authority shall, unless satisfied that it is not possible to communicate with sufficient speed with the Secretary of State, obtain the consent of the Secretary of State to the declaration ; and in any case where that consent has not been obtained before the making of a declaration under this section, the appropriate authority shall report the making thereof to the Secretary of State with the utmost practicable speed.
- (6) The Secretary of State may, if he thinks fit, direct that any declaration whereby any force is deemed to be, or to continue, on active service shall cease to have effect as from the coming into force of the direction; but any direction under this subsection shall be without prejudice to anything done by virtue of the declaration before the coming into force of the direction.
- (7) A declaration under this section shall have effect not only as respects the members of the force to which it relates but also as respects other persons the application to whom of any provisions of this Act depends on whether that force is on active service.
- (8) In this section the expression 'the appropriate authority' means, in relation to any force, the Commander-in-Chief or flag officer in operational command of that force.
- (9) Any declaration or direction under this section shall come into operation on being published in local orders.”

75 Amendments for introducing naval rate, and marine rank, of warrant officer

The enactments specified in Schedule 3 to this Act shall have effect subject to the amendments specified in that Schedule, being amendments connected with the introduction of the naval rate, and the marine rank, of warrant officer.

76 Sufficiency of evidence in Scottish courts

Section 214 of the Army Act 1955 and section 212 of the Air Force Act 1955 (application to Scotland) shall each be amended by inserting the following subsection after subsection (8):—

“(9) Where by virtue of this Act a document is admissible in evidence or is evidence of any matter stated in it in proceedings before a civil court in England, it shall be sufficient evidence of the matter so stated in such proceedings in Scotland.”; and the like subsection shall also be inserted in section 123 of the Naval Discipline Act 1957 as subsection (10), in section 21 of the Army Reserve Act 1950 as subsection (3), in section 21 of the Air Force Reserve Act 1950 as subsection (3) and in section 34 of the Auxiliary Forces Act 1953 as subsection (4).

PART VI

SUPPLEMENTAL

77 Repeals and transitional provisions

- (1) The enactments specified in Schedule 4 to this Act (Part II of which includes certain enactments which are spent) are hereby repealed to the extent specified in column 3 of that Schedule.
- (2) Any regulations in force at the commencement of this section under section 44(7) of the Naval Discipline Act 1957 (rates to which offenders may be reduced by sentences of disrating) shall thereafter have effect as if made under the provision becoming section 43(5) of that Act by virtue of section 38 of this Act; and any regulations so in force under paragraph 6(2) of Schedule 2 to the Revision of the Army and Air Force Acts (Transitional Provisions) Act 1955 (adaptation for navy of army provisions as to billeting and requisitioning) shall have effect as if made under section 67(2) of this Act.

78 Short title, construction and commencement

- (1) This Act may be cited as the Armed Forces Act 1971.
- (2) Except so far as the context otherwise requires, any reference in this Act to any other enactment is a reference to that enactment as amended by or under any subsequent enactment, including an enactment contained in this Act.
- (3) This Act, except section 1 and this section, shall come into force on such date as the Secretary of State may by order made by statutory instrument appoint, but subject to the qualifications specified in subsection (4) below.
- (4) The said qualifications are as follows:—
 - (a) the following provisions of this Act, that is to say, Part II, section 69, Schedule 1 and Part I of Schedule 4, shall not have effect in relation to any

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- act or omission occurring before the date appointed under subsection (3) above, and, in particular, shall not affect the operation of any enactment in force immediately before that date in relation to any offence against any such enactment committed, or partly committed, before that date;
- (b) the provisions to become sections 128B and 128C of the Naval Discipline Act 1957 by virtue of section 61(1) of this Act shall apply only to sums payable under sentences and orders awarded or made in respect of offences committed on or after the date appointed under subsection (3) above, or, as the case may be, to loss or damage occasioned by acts and omissions occurring on or after that date ;
 - (c) the provision to become section 129D of the Naval Discipline Act 1957 by virtue of section 65 of this Act shall apply only to desertions beginning on or after the date appointed under subsection (3) above, and the amendment of section 75(1) of that Act effected by section 60 of this Act and Part II of Schedule 4 shall have effect only in relation to absences so beginning.
- (5) Section 59 of this Act, the provision to become section 128E of the Naval Discipline Act 1957 by virtue of section 61(1) of this Act, and section 61(2) of this Act, shall each apply to liabilities arising before, as well as after, the date appointed under subsection (3) above.