



Armed Forces Act 1971

1971 CHAPTER 33

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

Status: This is the original version (as it was originally enacted).

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.

Status: This is the original version (as it was originally enacted).

- (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—

Status: This is the original version (as it was originally enacted).

- (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:—

Status: This is the original version (as it was originally enacted).

- “(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).