

SCHEDULES

SCHEDULE 1

PROCEDURE FOR DEALING WITH OFFENCES UNDER SERVICES ACTS.

PART IV

MINOR AND CONSEQUENTIAL AMENDMENTS

Courts-Martial (Appeals) Act 1951 (c. 46)

64 In section 28(2) of the Courts-Martial (Appeals) Act 1951 (qualification for appointment as Judge Advocate of Her Majesty's Fleet), in paragraph (b), for the words from "been" to "and" there shall be substituted the words "had a right of audience in the Court of Session or".

65 In section 31 of that Act (qualification for appointment as Judge Advocate General and his assistants), in paragraph (b) in each of subsections (1), (2) and (3), for the words from "been" to "and" there shall be substituted the words "had a right of audience in the Court of Session or".

Army Act 1955 (c. 18)

66 The Army Act 1955 shall be amended as follows.

67 In section 134 (persons not to be tried under Act for offences already disposed of), in subsection (1)(b), for the words "been found guilty on the charge" there shall be substituted the words "had a finding that the charge has been proved recorded against him".

68 Section 139 shall cease to have effect.

69 In section 143(1) (interpretation of Part II)—

- (a) the definition of "convening officer" shall cease to have effect; and
- (b) in the definition of "prescribed", for the words "Rules of Procedure" there shall be substituted the words "rules under section 103 of this Act".

70 In section 198 (general provisions as to evidence), in subsection (9), after the words "that Act" there shall be inserted the words ", or in any proceedings under the Naval Discipline Act 1957, by virtue of section 64C of that Act,".

71 In section 209(3) (modifications of Act in relation to trial of civilians by courts-martial)—

- (a) paragraph (d) shall cease to have effect;
- (b) in paragraph (fa), the words "constituted under section 87 above" and "constituted under section 88 above" shall cease to have effect; and
- (c) after paragraph (fa) there shall be inserted the following paragraph—

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- “(faa) references to the officers appointed members of a court-martial shall be construed as including references to persons who are members of a court-martial by virtue of paragraph (fa) above;”.
- 72 (1) Section 209(3B) (modifications of Act in its application to any area for which Standing Civilian Courts are established) shall be amended as follows.
- (2) After paragraph (a) there shall be inserted the following paragraph—
- “(aa) section 83 above shall have effect as if after subsection (1) there were inserted the following subsection—
- “(1A) Regulations under this section may provide for sections 76 to 76C of this Act to have effect subject to such modifications as may be specified in relation to charges which may be tried by Standing Civilian Courts and which are brought against persons whom such courts may try.”;
- (3) For paragraph (b) there shall be substituted the following paragraph—
- “(b) section 103(1) above shall have effect as if the following paragraph were inserted after paragraph (b)—
- “(c) the hearing by courts-martial of appeals against findings and sentences of Standing Civilian Courts.”;
- (4) In paragraph (c)—
- (a) for “77, 79 and 80” there shall be substituted “to 76C”; and
- (b) for the words from “consequential” to “Procedure” there shall be substituted the words “as may be specified by regulations under section 83 of this Act”.
- 73 In section 211 (application of Act to reserve forces), in subsection (7), for the words “subsection (3) of section seventy-eight” there shall be substituted the words “section 76C(2)”.
- 74 In section 225(1) (general provisions as to interpretation of Act)—
- (a) in the definition of “appropriate superior authority” for the words from “has” to “and” there shall be substituted the words “means a person who may act as an appropriate superior authority by virtue of”;
- (b) after the definition of “corresponding rank” there shall be inserted the following definition—
- ““court administration officer” and “the court administration officer” have the meanings assigned to them by section 84A of this Act;”;
- (c) after the definition of “Her Majesty’s air forces”, “Her Majesty’s military forces” and “Her Majesty’s naval forces” there shall be inserted the following definition—
- ““the judge advocate” has the meaning assigned to it by section 84B(1) of this Act;”;
- (d) after the definition of “property” there shall be inserted the following definition—
- ““the prosecuting authority” has the meaning assigned to it by section 83A(1) of this Act;” and

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(e) the definition of “Rules of Procedure” shall cease to have effect.

75 In Schedule 5A (powers of court on trial of civilian), in paragraphs 13(2)(a) and 14(6)(a), for the words “Rules of Procedure” there shall be substituted the word “rules”.

Air Force Act 1955 (c. 19)

76 The Air Force Act 1955 shall be amended as follows.

77 In section 134 (persons not to be tried under Act for offences already disposed of), in subsection (1)(b), for the words “been found guilty on the charge” there shall be substituted the words “had a finding that the charge has been proved recorded against him”.

78 Section 139 shall cease to have effect.

79 In section 143(1) (interpretation of Part II)—

- (a) the definition of “convening officer” shall cease to have effect; and
- (b) in the definition of “prescribed”, for the words “Rules of Procedure” there shall be substituted the words “rules under section 103 of this Act”.

80 In section 198 (general provisions as to evidence), in subsection (9), after the words “that Act” there shall be inserted the words “, or in any proceedings under the Naval Discipline Act 1957, by virtue of section 64C of that Act,”.

81 In section 209(3) (modifications of Act in relation to trial of civilians by courts-martial)—

- (a) paragraph (d) shall cease to have effect;
- (b) in paragraph (fa), the words “constituted under section 87 above” and “constituted under section 88 above” shall cease to have effect; and
- (c) after paragraph (fa) there shall be inserted the following paragraph—
 - “(faa) references to the officers appointed members of a court-martial shall be construed as including references to persons who are members of a court-martial by virtue of paragraph (fa) above;”.

82 (1) Section 209(3B) (modifications of Act in its application to any area for which Standing Civilian Courts are established) shall be amended as follows.

(2) After paragraph (a) there shall be inserted the following paragraph—

“(aa) section 83 above shall have effect as if after subsection (1) there were inserted the following subsection—

“(1A) Regulations under this section may provide for sections 76 to 76C of this Act to have effect subject to such modifications as may be specified in relation to charges which may be tried by Standing Civilian Courts and which are brought against persons whom such courts may try.”;

(3) For paragraph (b) there shall be substituted the following paragraph—

“(b) section 103(1) above shall have effect as if the following paragraph were inserted after paragraph (b)—

“(c) the hearing by courts-martial of appeals against findings and sentences of Standing Civilian Courts.”;

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- (4) In paragraph (c)—
- (a) for “77, 79 and 80” there shall be substituted “to 76C”; and
 - (b) for the words from “consequential” to “Procedure” there shall be substituted the words “as may be specified by regulations under section 83 of this Act”.
- 83 In section 210 (application of Act to reserve forces), in subsection (7), for the words “subsection (3) of section seventy-eight” there shall be substituted the words “section 76C(2)”.
- 84 In section 223(1) (general provisions as to interpretation of Act)—
- (a) in the definition of “appropriate superior authority” for the words from “has” to “and” there shall be substituted the words “means a person who may act as an appropriate superior authority by virtue of”;
 - (b) after the definition of “corresponding rank” there shall be inserted the following definition—
 - ““court administration officer” and “the court administration officer” have the meanings assigned to them by section 84A of this Act;”;
 - (c) after the definition of “Her Majesty’s air forces”, “Her Majesty’s military forces” and “Her Majesty’s naval forces” there shall be inserted the following definition—
 - ““the judge advocate”, in relation to a court-martial, has the meaning assigned to it by section 84B(1) of this Act;”;
 - (d) after the definition of “property” there shall be inserted the following definition—
 - ““the prosecuting authority” has the meaning assigned to it by section 83A(1) of this Act;”;
 - (e) the definition of “Rules of Procedure” shall cease to have effect.
- 85 In Schedule 5A (powers of court on trial of civilian), in paragraphs 13(2)(a) and 14(6)(a), for the words “Rules of Procedure” there shall be substituted the word “rules”.

Naval Discipline Act 1957 (c. 53)

- 86 The Naval Discipline Act 1957 shall be amended as follows.
- 87 In section 65(4) (contempt of court-martial by civilians), for the words “subsection (5) of section fifty” there shall be substituted the words “section 52G(9)”.
- 88 In section 66(1) (record of proceedings of court-martial) for the words from “judge” to “it” there shall be substituted the words “court administration officer shall transmit the record of the proceedings”.
- 89 In section 76 (restitution or compensation on conviction of larceny etc.)—
- (a) in subsection (6)(a), the words from “by the officer” to the end shall cease to have effect; and
 - (b) in subsection (6)(b), for the words “section forty-nine” there shall be substituted the words “section 52D”.
- 90 In section 81 (place of imprisonment or detention)—

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- (a) in subsection (3)(c) for the words “officer who ordered the court-martial” there shall be substituted the words “court-martial by which he is tried”; and
 - (b) in subsection (3)(d) for the words “section forty-nine” there shall be substituted the words “section 52D”.
- 91 In section 85(2) (commencement of sentences) for the words “section forty-nine” there shall be substituted the words “section 52D”.
- 92 In section 103(1) (arrest under warrants of naval authorities) for the words from “subsection (4)” to the end there shall be substituted the words “regulations under section 52E(2)(a) above may exercise the powers of that person’s commanding officer”.
- 93 In section 129(1) (jurisdiction of civil courts) for the words “section forty-nine” there shall be substituted the words “section 52D”.
- 94 In section 135(1) (general provisions as to interpretation of Act)—
- (a) after the definition of “civil prison” there shall be inserted the following definition—
 - ““the commanding officer”, in relation to a person charged with an offence, has the meaning assigned to it by section 52E(1) of this Act;”;
 - (b) after the definition of “constable” there shall be inserted the following definition—
 - ““court administration officer” and “the court administration officer” have the meanings assigned to them by section 53A of this Act;”;
 - (c) after the definition of “Her Majesty’s forces” there shall be inserted the following definition—
 - ““the judge advocate”, in relation to a court-martial, has the meaning assigned to it by section 53B(1) of this Act;”;
 - (d) after the definition of “property” there shall be inserted the following definition—
 - ““the prosecuting authority” has the meaning assigned to it by section 52H(1) of this Act;”.
- 95 In Schedule 1 (application of Act to marine forces), in paragraph 3, for the words “section forty-nine” there shall be substituted the words “section 52D”.
- 96 In Schedule 2 (application of Act to attached military and air forces)—
- (a) in paragraph 6, for the words “section forty-nine” there shall be substituted the words “section 52D”; and
 - (b) in paragraph 7, for the words “section fifty” there shall be substituted the words “section 52G” and for the words “subsection (3)” there shall be substituted the words “subsection (5)”.
- 97 In Schedule 4 (application of Act to certain civilians), in paragraph 4—
- (a) for the words “section forty-nine” in both places there shall be substituted the words “section 52D”; and
 - (b) the words from “and subsections” to “not apply” shall cease to have effect.

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- 98 In Schedule 4A (powers of court on trial of civilian), in paragraphs 13(2)(a) and 14(6)(a), for the words “General Orders” there shall be substituted the word “rules”.

Criminal Justice Act 1967 (c. 80)

- 99 In section 12 of the Criminal Justice Act 1967 (application to courts-martial of certain provisions relating to admissibility of evidence)—
- (a) after the words “Air Force Act 1955” in the first place they appear there shall be inserted the words “, or section 64A(1) of the Naval Discipline Act 1957;”; and
 - (b) for paragraphs (a) and (b) there shall be substituted the words “sections 10 and 11 above shall apply to proceedings before courts-martial”.

Civil Evidence Act 1968 (c. 64)

- 100 In section 11 of the Civil Evidence Act 1968 (convictions as evidence in civil proceedings), in subsection (6), for the words “section 50” there shall be substituted the words “section 52G”.

Civil Evidence Act (Northern Ireland) 1971 (c. 36 (N.I.))

- 101 In section 7 of the Civil Evidence Act (Northern Ireland) 1971 (convictions as evidence in civil proceedings), in subsection (6), for the words “section 50” there shall be substituted the words “section 52G”.

Armed Forces Act 1976 (c. 52)

- 102 In section 6 of the Armed Forces Act 1976 (establishment of Standing Civilian Courts), in subsection (15), for the words “authority who directs the trial or trials” there shall be substituted the words “court administration officer notified by the prosecuting authority that the trial or trials are”.

- 103 (1) Schedule 3 to that Act (Standing Civilian Courts) shall be amended as follows.

- (2) In paragraph 1 (interpretation)—

- (a) after the definition of “the court” there shall be inserted the following definitions—

““court administration officer” has the same meaning as in the Army Act 1955;

“the court administration officer”, in relation to a civilian, means the court administration officer notified by the prosecuting authority that the civilian is to be tried by the court and includes his successor or any person for the time being exercising his or his successor’s functions;

“the higher authority”, in relation to a civilian, means the higher authority who referred his case to the prosecuting authority;”;

- (b) the definition of “the directing officer” shall cease to have effect; and
- (c) after the definition of “prescribed” there shall be inserted the following definition—

““the prosecuting authority”—

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- (a) in the case of a civilian to whom Part II of the Army Act 1955 applies, has the same meaning as in that Act;
 - (b) in the case of a civilian to whom Part II of the Air Force Act 1955 applies, has the same meaning as in that Act;”.
- (3) In paragraph 2 (sittings of the Standing Civilian Court)—
- (a) in sub-paragraphs (1) and (3), for the word “directing” there shall be substituted the words “court administration”; and
 - (b) in sub-paragraph (2), for the word “shall” there shall be substituted the word “may” and the words from “if so” to “direction” shall cease to have effect.
- (4) In paragraph 4 (right of accused to elect trial by court-martial)—
- (a) in sub-paragraph (4), for the words from “report” to the end there shall be substituted the words “shall refer the case to the prosecuting authority”; and
 - (b) sub-paragraph (5) shall cease to have effect.
- (5) For paragraph 6 there shall be substituted the following paragraph—

“Unfitness to stand trial and insanity

- 6 (1) Where on a trial by the court the question arises (whether at the instance of the defence or otherwise)—
- (a) whether the accused is fit to stand trial, or
 - (b) where it appears to the court that the accused did the act or made the omission constituting the offence with which he is charged, whether he was insane at the time of the act or omission concerned,
- the court shall adjourn the hearing and refer the case to the prosecuting authority.
- (2) For the purposes of this paragraph a person is unfit to stand trial if he is under a disability such that apart from the Criminal Procedure (Insanity) Act 1964 it would constitute a bar to his being tried on indictment in England and Wales.”
- (6) Paragraph 7 shall cease to have effect.
- (7) In paragraph 8 (re-trial where Standing Civilian Court ceases to be properly constituted)—
- (a) in sub-paragraph (1), for the words from the beginning to “directing” there shall be substituted the words “The court administration”;
 - (b) in sub-paragraphs (2) and (3), for the word “directing” there shall be substituted the words “court administration”.
- (8) In paragraph 12 (procedures etc. of Standing Civilian Court)—
- (a) in sub-paragraph (1), after the word “namely” there shall be inserted the following paragraph—
 - “(aa) the prosecution of offences which may be tried by Standing Civilian Courts;”;
 - (b) after sub-paragraph (4)(b) there shall be inserted the following paragraphs—
 - “(ba) proceedings preliminary to trials by Standing Civilian Courts;

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- (bb) the appointment of a magistrate for any preliminary proceedings;”;
 - (c) in sub-paragraph (4)(f), after the word “trials” there shall be inserted the words “and any preliminary proceedings”;
 - (d) in sub-paragraph (4)(h), the words “and the directing officer” shall cease to have effect; and
 - (e) sub-paragraph (4)(m) shall cease to have effect.
- (9) In paragraph 18 (appeals to courts-martial)—
- (a) in sub-paragraphs (3) and (4), for the words “directing officer” there shall be substituted the words “higher authority”;
 - (b) in sub-paragraph (4), for the words “Rules of Procedure” there shall be substituted the word “rules”; and
 - (c) in sub-paragraph (10), the words “or as judge advocate” shall cease to have effect.
- (10) In paragraph 20 (review of findings and sentences of Standing Civilian Court), in sub-paragraph (9), for the words “directing officer” there shall be substituted the words “higher authority”.

Police and Criminal Evidence Act 1984 (c. 60)

- 104 The Police and Criminal Evidence Act 1984 shall be amended as follows.
- 105 In section 67(12)(a), the definition of “court-martial” in section 82(1) and section 113(11)(a), for the words “section 50” there shall be substituted the words “section 52G”.
- 106 In section 72(1) (meaning of certain expressions used in Part VII), in the definition of “proceedings”—
- (a) in paragraph (a), for the words “or the Air Force Act 1955” there shall be substituted the words “, the Air Force Act 1955 or the Naval Discipline Act 1957”; and
 - (b) in paragraph (b)(i), the words from “or from” to “1957” shall cease to have effect.
- 107 In section 82(1) (meaning of certain expressions used in Part VIII), in the definition of “proceedings”—
- (a) in paragraph (a), for the words “or the Air Force Act 1955” there shall be substituted the words “, the Air Force Act 1955 or the Naval Discipline Act 1957”; and
 - (b) in paragraph (b)(i), the words from “or from” to “1957” shall cease to have effect.

Criminal Justice Act 1988 (c. 33)

- 108 In section 146 of the Criminal Justice Act 1988 (evidence before courts-martial etc.) for the words “section 50” there shall be substituted the words “section 52G”.
- 109 (1) Schedule 13 to that Act (evidence before courts-martial etc.) shall be amended as follows.
- (2) In paragraph 1 (interpretation)—

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- (a) for the words “Rules of Procedure” there shall be substituted the word “rules”;
 - (b) for the words “General Orders” there shall be substituted the word “rules”;
and
 - (c) for the words “section 50” there shall be substituted the words “section 52G”.
- (3) In paragraph 4 (application of section 26 of the Act of 1988)—
- (a) for the words “section 77” in both places they appear there shall be substituted the words “section 76B”; and
 - (b) for the words “section 49” there shall be substituted the words “section 52D”.
- (4) In paragraph 7 (forms of evidence and glossaries)—
- (a) for the words “section 50” there shall be substituted the words “section 52G”;
 - (b) for the words “Rules of Procedure” there shall be substituted the word “rules”; and
 - (c) for the words “General Orders” there shall be substituted the word “rules”.

Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))

- 110 In Article 66(11)(a) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (codes of practice supplementary), for the words “section 50” there shall be substituted the words “section 52G”.

Criminal Justice and Public Order Act 1994 (c. 33)

- 111 In section 39 of the Criminal Justice and Public Order Act 1994 (power to apply sections 34 to 38 to armed forces), in subsection (2)(g), for the words “section 50” there shall be substituted the words “section 52G”.