

SCHEDULES

SCHEDULE 4

AMENDMENTS RELATING TO CUSTODY

Army Act 1955 (c. 18) and Air Force Act 1955 (c. 19)

6 After Schedule 1 to the Army Act 1955 (c. 18) there is inserted—

“SCHEDULE 1A

CUSTODY IN CONNECTION WITH TRIAL BY STANDING CIVILIAN COURTS

Custody during Standing Civilian Court proceedings

- 1 (1) Where the accused is kept in military custody under an order under section 75F(2) of this Act at any time after the commencement of his trial by a Standing Civilian Court, section 75G of this Act (and section 75F as applied by that section) shall apply with the following modifications.
 - (2) References to a judicial officer shall have effect as references to a magistrate appointed under section 6(4) of the Armed Forces Act 1976.
 - (3) In section 75F(2), after paragraph (d) there shall be inserted—

“; or

 - (e) the accused’s case has been adjourned for inquiries or a report and it appears to a magistrate appointed under section 6(4) of the Armed Forces Act 1976 that it would be impracticable to complete the inquiries or make the report without keeping the accused in military custody.”
 - (4) Section 75F(3)(d) does not apply in the case of an accused who is awaiting sentence.
 - (5) An order under section 75F(2) does not authorise the keeping of the accused in military custody after he is sentenced by a Standing Civilian Court.

Release from custody during proceedings

- 2 (1) This paragraph applies where, on a review under section 75G(1) of this Act, the magistrate does not authorise keeping the accused in military custody.
 - (2) Where this paragraph applies, the accused—

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- (a) subject to paragraph (b) below, shall be released from military custody forthwith, but
 - (b) may be required to comply, before release or later, with such requirements as appear to the magistrate to be necessary for the purpose of securing his attendance at any hearing in the proceedings against him.
- (3) On an application made—
- (a) by or on behalf of the accused, or
 - (b) by the commanding officer of the accused,
- any requirement imposed under section 75J(2)(b) of this Act or under sub-paragraph (2)(b) above (including such a requirement as previously varied under section 75J(2A) of this Act or under this sub-paragraph) may be varied or discharged by a magistrate appointed under section 6(4) of the Armed Forces Act 1976.
- (4) A person on whom a requirement has been imposed under section 75J(2)(b) of this Act or under sub-paragraph (2)(b) above is guilty of an offence if he fails without reasonable cause to attend any Standing Civilian Court hearing to which the requirement relates.
- (5) A person guilty of an offence under this paragraph shall be liable on conviction by a Standing Civilian Court to any punishment authorised by section 8 of the Armed Forces Act 1976.

Arrest during Standing Civilian Court proceedings

- 3
- (1) At any time before the conclusion of the trial of the accused by a Standing Civilian Court, a magistrate appointed under section 6(4) of the Armed Forces Act 1976, if satisfied that taking the accused into military custody is justified, may direct the arrest of the accused; and any person with power to arrest the accused for an offence against a provision of this Act shall have the same power, exercisable in the same way, to arrest him pursuant to a direction under this sub-paragraph.
 - (2) For the purposes of this paragraph, taking the accused into military custody is justified if there are substantial grounds for believing that, if not taken into military custody, he would—
 - (a) fail to attend any hearing in the proceedings against him,
 - (b) commit an offence,
 - (c) injure himself, or
 - (d) interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person.
 - (3) Taking the accused into military custody is also justified for the purposes of this section if the accused has failed to attend any hearing in the proceedings against him.
 - (4) A person arrested under sub-paragraph (1) above—
 - (a) shall be treated as being in military custody under an order under section 75F(2) of this Act, and
 - (b) shall be brought as soon as practicable before a magistrate appointed under section 6(4) of the Armed Forces Act 1976

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(unless already before such a magistrate), and shall be dealt with by the magistrate as on a review under section 75G(1) of this Act.”