

SCHEDULES

SCHEDULE 6

MISCELLANEOUS AMENDMENTS

PART 6

OTHER AMENDMENTS

Marriages in service chapels

- 31 In section 68 of the Marriage Act 1949 (c. 76) (solemnization of marriages in naval, military and air force chapels)—
- (a) in subsection (2)(e), after “daughter” there is inserted “, son, step-daughter or step-son”, and
 - (b) in subsection (3), the words from “and the expression” to the end are omitted.

Retirement age for assistants to Judge Advocate General

- 32 (1) In section 32(2) of the Courts-Martial (Appeals) Act 1951 (c. 46) (tenure of office of Judge Advocate General and assistants), for “sixty-five” there is substituted “seventy”.
- (2) The amendment made by sub-paragraph (1) applies in relation to any such officer as is mentioned in section 30(1) of that Act (assistants to Judge Advocate General) whether appointed before or after the commencement of sub-paragraph (1).

Sentence where penalty for civil offence fixed by law as life imprisonment

- 33 (1) Section 70(3) of each of the 1955 Acts (punishment of civil offences) is amended as follows.
- (2) For paragraphs (aa) and (ab) there is substituted—
- “(aa) if the corresponding civil offence is one for which the sentence is fixed by law as life imprisonment, be sentenced to imprisonment for life;”.
- 34 (1) Section 42(1) of the 1957 Act (punishment of civil offences) is amended as follows.
- (2) The words “Subject to section 43A below” are inserted at the beginning and the words “subject to section 43A below be liable” are omitted.
- (3) For paragraph (b) there is substituted—
- “(b) in the case of an offence constituted by a civil offence the sentence for which is fixed by law as life imprisonment, be sentenced to imprisonment for life;”.

Status: This is the original version (as it was originally enacted).

(4) In paragraph (c), after “any other offence,” there is inserted “be liable”.

Qualification for appointment as judicial officer

- 35 (1) Section 75L of each of the 1955 Acts (judicial officers) is amended as follows.
- (2) In subsection (2) the word “or” at the end of paragraph (a) is omitted and at the end of paragraph (b) there is inserted—

“or

- (c) immediately before his appointment, he holds a relevant judicial appointment in any Commonwealth country or colony and has professional or educational qualifications in law which appear to the Judge Advocate General to be appropriate.”

(3) After that subsection there is inserted—

“(3) In subsection (2)(c), “relevant judicial appointment”, in relation to a Commonwealth country or colony, means an appointment by virtue of which he is capable of exercising, in criminal proceedings in that country or colony, functions similar to the functions exercisable, in criminal proceedings in England and Wales, by a judge of the Supreme Court, a Circuit judge or a District Judge (Magistrates' Courts).”

- 36 (1) Section 47M of the 1957 Act (judicial officers) is amended as follows.
- (2) In subsection (2) the word “or” at the end of paragraph (a) is omitted and at the end of paragraph (b) there is inserted—

“or

- (c) immediately before his appointment, he holds a relevant judicial appointment in any Commonwealth country or colony and has professional or educational qualifications in law which appear to the Chief Naval Judge Advocate to be appropriate.”

(3) After that subsection there is inserted—

“(3) In subsection (2)(c), “relevant judicial appointment”, in relation to a Commonwealth country or colony, means an appointment by virtue of which he is capable of exercising, in criminal proceedings in that country or colony, functions similar to the functions exercisable, in criminal proceedings in England and Wales, by a judge of the Supreme Court, a Circuit judge or a District Judge (Magistrates' Courts).”

Evidence given before boards of inquiry

- 37 In section 135 of the Army Act 1955 (c. 18) (boards of inquiry), for subsection (5) there is substituted—

“(5) Evidence given before a board of inquiry convened—

- (a) under this section,
 (b) under section 135 of the Air Force Act 1955, or
 (c) under the Queen’s Regulations for the Royal Navy,

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shall not be admissible against any person in proceedings before a court-martial, commanding officer or appropriate superior authority, other than proceedings for an offence against section 70 of this Act where the corresponding civil offence is perjury.”

- 38 In section 135 of the Air Force Act 1955 (c. 19) (boards of inquiry), for subsection (5) there is substituted—

“(5) Evidence given before a board of inquiry convened—

- (a) under this section,
- (b) under section 135 of the Army Act 1955, or
- (c) under the Queen’s Regulations for the Royal Navy,

shall not be admissible against any person in proceedings before a court-martial, commanding officer or appropriate superior authority, other than proceedings for an offence against section 70 of this Act where the corresponding civil offence is perjury.”

Compensation for loss

- 39 In subsection (2) of section 147 of each of the 1955 Acts (compensation for loss occasioned by wrongful act or negligence), for the words from “may order” to “made)” there is substituted “may, at a time when the person responsible is a member of the regular forces, order him”.

- 40 In subsection (2) of section 128C of the 1957 Act (compensation for loss occasioned by wrongful act or negligence), for the words from “may order” to “made)” there is substituted “may, at a time when the person responsible is subject to this Act, order him”.

Redress of complaints

- 41 In section 180 of each of the 1955 Acts (redress of complaints) for subsection (2) there is substituted—

“(2) A person (“the person aggrieved”) may not make a complaint under this section with respect to—

- (a) any decision of a judicial officer or judge advocate under section 75C, 75F, 75G, 75H, 75J or 75K of this Act,
- (b) any decision of a judicial officer under Part 2 of the Armed Forces Act 2001,
- (c) any matter against which the person aggrieved may present a petition under section 113 of this Act, or
- (d) any matter against which the person aggrieved may bring an appeal under section 83ZE of this Act or under the Courts-Martial (Appeals) Act 1968.”

- 42 In section 130 of the 1957 Act (redress of complaints) for subsection (2) there is substituted—

“(2) A person (“the person aggrieved”) may not make a complaint under this section with respect to—

- (a) any decision of a judicial officer or judge advocate under section 47D, 47G, 47H, 47J, 47K and 47L of this Act,

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- (b) any decision of a judicial officer under Part 2 of the Armed Forces Act 2001,
- (c) any matter against which the person aggrieved may present a petition under section 70 of this Act, or
- (d) any matter against which he may bring an appeal under section 52FK of this Act or under the Courts-Martial (Appeals) Act 1968.”

43 In paragraph 9 of Schedule 6 to each of the 1955 Acts (provisions not applying to attached members of other services), the words “and one hundred and eighty” are omitted.

Civilian contractors attached to or accompanying armed forces

- 44 In Schedule 5 to each of the 1955 Acts (which lists civilians who are subject to Part 2 of the Act when outside the United Kingdom), in paragraph 4—
- (a) after “profession” there is inserted “, business”, and
 - (b) at the end there is inserted “or by an officer authorised by the Defence Council”.
- 45 In Schedule 3 to the 1957 Act (which lists civilians who are subject to certain provisions of the Act when outside the United Kingdom), in paragraph 4—
- (a) after “profession” there is inserted “, business”, and
 - (b) at the end there is inserted “or by an officer authorised by the Defence Council”.

Interpretation of references to “Royal Air Force Police”

- 46 In section 225(1) of the Army Act 1955 (c. 18) and section 135(1) of the 1957 Act (interpretation), after the definition of “the relevant time” there is inserted—
- ““the Royal Air Force Police” includes the Provost Marshal of the Royal Air Force and any officer appointed to exercise the functions conferred by or under the Air Force Act 1955 on provost officers;”.
- 47 In section 223(1) of the Air Force Act 1955 (c. 19) (interpretation) after the definition of “the relevant time” there is inserted—
- ““the Royal Air Force Police” includes the Provost Marshal of the Royal Air Force and any officer appointed to exercise the functions conferred by or under this Act on provost officers;”.
- 48 In subsection (4) of section 11 of the Armed Forces Act 1996 (c. 46) (which relates to the interpretation of that section)—
- (a) after the definition of “fingerprints” there is inserted—

““the Royal Air Force Police” includes the Provost Marshal of the Royal Air Force and any officer appointed to exercise the functions conferred by or under the Air Force Act 1955 on provost officers;”,
and
 - (b) in the definition of “service policeman”, for “, the Royal Air Force Police or the staff of the Royal Air Force Provost Marshal” there is substituted “or the Royal Air Force Police”.

Interpretation of references to a “constable”

- 49 At the end of the definition of “constable” in each of the following provisions—
- (a) section 225(1) of the Army Act 1955 (c. 18),
 - (b) section 223(1) of the Air Force Act 1955 (c. 19), and
 - (c) section 135(1) of the 1957 Act,
- there is inserted “but does not include a provost officer or a person exercising authority under or on behalf of a provost officer”.

Application to civilians

- 50 (1) Section 209 of each of the 1955 Acts (application of Act to civilians) is amended as follows.
- (2) In paragraphs (a) and (b) of the proviso to subsection (2), for “section 68 so far as it relates” there is substituted “sections 68 and 68A so far as they relate”.
 - (3) In subsection (3)(f), for “the provisions of this Act relating to custody and the investigation of offences” there is substituted “Part 2 of this Act”.
 - (4) Subsection (3C) is omitted.
- 51 In Schedule 4 to the 1957 Act (application of Act to civilians), paragraph 4B is omitted.
- 52 In paragraph 4 of Schedule 5A to each of the 1955 Acts (community supervision orders) after sub-paragraph (7D) there is inserted—
- “(7E) Section 132(3) of this Act (as applied to civilians by section 209 of this Act) does not apply in relation to an offence under sub-paragraph (6) above.”
- 53 In paragraph 4 of Schedule 4A to the 1957 Act (community supervision orders) after sub-paragraph (7D) there is inserted—
- “(7E) Section 52(2) of this Act (as applied to civilians by section 118 of this Act) does not apply in relation to an offence under sub-paragraph (6) above.”

Arrest of civilian whose sentence is deferred

- 54 In paragraph 2A of Schedule 5A to each of the 1955 Acts (deferment of award of sentence)—
- (a) in sub-paragraph (8) for “the Court or the directing officer” there is substituted “a magistrate appointed under section 6(4) of the Armed Forces Act 1976”,
 - (b) in sub-paragraph (9)—
 - (i) for “subject to service law” there is substituted “a person to whom Part 2 of this Act is applied by section 209 above”, and
 - (ii) in paragraph (b), for “the directing officer or by any superior officer or authority” there is substituted “a magistrate appointed under section 6(4) of the Armed Forces Act 1976”,
 - (c) in sub-paragraph (10) for the words “the Standing Civilian Court or directing officer” there is substituted “the magistrate”, and
 - (d) sub-paragraph (13) is omitted.

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

Right of appeal to Courts-Martial Appeal Court

- 55 (1) Section 8 of the Courts-Martial (Appeals) Act 1968 (c. 20) (right of appeal) is amended as follows.
- (2) In subsection (1A), for “any of those Schedules” there is substituted “Schedule 5A to the Army Act, Schedule 5A to the Air Force Act or Schedule 4A to the Naval Discipline Act”.
- (3) For subsections (2) and (3) there is substituted—
- “(2) Subject to subsection (3) below, the person’s right of appeal is not exercisable—
- (a) unless he has presented a petition to the Defence Council under section 113 of the Army Act or the Air Force Act or section 70 of the Naval Discipline Act within the period prescribed for the purposes of the section in question, and
- (b) until either the prescribed period (beginning with the day on which the petition is presented) expires or he is notified by the reviewing authority of the result of its review under the section in question, whichever first occurs.
- (3) The Appeal Court may direct that a person who—
- (a) has not presented a petition as mentioned in subsection (2)(a) above,
- (b) has been notified by the reviewing authority of the result of its review under section 113 of the Army Act or the Air Force Act or section 70 of the Naval Discipline Act, and
- (c) has applied for leave to appeal,
- may appeal if they think that there is a reasonable explanation for his not having exercised his right to present a petition and that it is in the interests of justice that he should appeal.”
- (4) In subsection (4) for “subsection (1)” there is substituted “subsection (2)”.
- 56 In section 36(1)(a) of that Act (functions of Courts-Martial Appeal Court which are exercisable by any judge of that court) for “be treated as not having lost his right of” there is substituted “may”.

Children in respect of whom protective orders may be made

- 57 In section 17 of the Armed Forces Act 1991 (c. 62) (power to make service family child assessment orders), for subsections (1) and (2) there is substituted—
- “(1) The power to make an order under this section (in this Part of this Act referred to as an “assessment order”) is exercisable only with respect to a child who—
- (a) resides outside the British Islands with the family of a person subject to service law serving in a country or territory outside the British Islands or of a civilian in a corresponding position, or
- (b) is staying (for however short a time) outside the British Islands with such a family.
- (2) In the following provisions of this section and in section 18 of this Act, any reference to a person with whom a child was at any time residing includes a reference to a person with whom a child was staying.”

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

58 In section 19 of that Act (power to make orders for the emergency protection of children of service families) for subsections (1) and (2) there is substituted—

“(1) The power to make an order under this section (in this Part of this Act referred to as a “protection order”) is exercisable only with respect to a child who—

- (a) resides outside the British Islands with the family of a person subject to service law serving in a country or territory outside the British Islands or of a civilian in a corresponding position, or
- (b) is staying (for however short a time) outside the British Islands with such a family.

(2) In the following provisions of this Part, any reference to a person with whom a child was at any time residing includes a reference to a person with whom a child was staying.”

Amendment relating to abolition of naval disciplinary courts

59 In section 5 of the Sex Offenders Act 1997 (c. 51) (certificates for purposes of Part 1 of that Act) for subsection (6) there is substituted—

“(6) In this section “court” includes a court-martial and a Standing Civilian Court.”