



Air Force Act 1955 (repealed)

1955 CHAPTER 19 3 and 4 Eliz 2

PART II

DISCIPLINE AND TRIAL AND PUNISHMENT OF AIR-FORCE OFFENCES

Punishments available to courts-martial

Textual Amendments applied to the whole legislation

F1 Act: the provisions of the 1955 Acts providing for findings of courts-martial to be subject to confirmation and to revision at the direction of the confirming officer cease to have effect (1.4.1997 subject to art. 3 of the commencing S.I.) by virtue of 1996 c. 46, s. 15; S.I. 1997/304, arts. 2, 3, **Sch. 2**

[^{F1}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 [^{F2}and section 71A below] and to the limitations hereinafter provided on the powers of certain courts-martial, as follows—

- (a) death,
- (b) imprisonment,
- [^{F3}(bb) detention by virtue of a custodial order made under section 71 AA of this Act;]
- (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,

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- (k) in the case of an offence which has occasioned any expense, [^{F4}personal injury] 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:

[^{F5}Provided that a punishment such as is mentioned in paragraph (e) of this subsection shall not be treated as a less punishment than a punishment such as is mentioned in paragraph (b) or (bb) if the term of detention is longer than the term of imprisonment or, as the case may be, than the term of detention by virtue of the custodial order.]

- (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 an airman, with the omission of paragraphs (f), (g), (i), and (j).
- (3) A person [^{F6}who, otherwise than under section 57(2) of this Act, is] 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 [^{F6}who, otherwise than under section 57(2) of this Act, is] 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:

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

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- (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.]

[^{F7}(6) Unless the Secretary of State by order provides that this subsection shall no longer apply, the stoppages awarded by a court-martial in respect of any offence occasioning personal injury of which a person is convicted or any other such offence which is taken into consideration in determining sentence shall not exceed such sum as is for the time being specified by an order made by the Secretary of State.

(7) The power to make an order under subsection (6) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

- F1** S. 71 substituted for ss. 71-73 by [Armed Forces Act 1971 \(c. 33\)](#), **ss. 36, 78(4)**
- F2** Words inserted by [Armed Forces Act 1976 \(c. 52\)](#) s. 10(3)(b)
- F3** S. 71(1)(bb) inserted by [Armed Forces Act 1981 \(c. 55\)](#), **s. 2(3)(a)**
- F4** Words in s. 71 inserted (1.1.1992) by [Armed Forces Act 1991 \(c. 62, SIF 7:1\)](#), **s. 7(1)(a)**; S.I. 1991/2719, **art. 2**
- F5** Proviso substituted by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), s. 16(1), **Sch. 1 para. 4**
- F6** Words inserted (*retrospectively*) by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), s. 16(1), **Sch. 1 para. 1(1)(a)**
- F7** S. 71(6)(7) inserted (1.1.1992) by [Armed Forces Act 1991 \(c. 62, SIF 7:1\)](#), **s. 7(1)(b)**; S.I. 1991/2719, **art. 2**

[^{F8}71A Juveniles

(1) A person under [^{F9}21] years of age shall not be sentenced to imprisonment.

[Where a person under 21 years of age is convicted of murder or any other civil offence
^{F10}(1A) the sentence for which is fixed by law as imprisonment for life, the court shall sentence him to custody for life unless he is liable to be detained under subsection (3) below.

(1B) Where a person aged 17 years or over but under 21 years of age is convicted of any other offence for which a person aged 21 years or over would be liable to imprisonment for life [^{F11}then, subject to subsection (1E) below], the court shall sentence him to custody for life if—

^{F12}(a)

(b) it considers that a custodial sentence for life would be appropriate.

(1C) For the purpose of determining whether any method of dealing with a person to whom subsection (1B) of this section applies, other than sentencing him to custody for life, is appropriate, the court shall obtain and consider information about the circumstances, and shall take into account any information before the court which is relevant to his character and his physical and mental condition.]

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[Subject to subsections (3) and (4) below, the only custodial sentences that a court may
^{F13}(1D) award where a person under 21 years of age is convicted or found guilty of an offence are—

- (a) a custodial order under section 71AA of this Act or under paragraph 10 of Schedule 5A to this Act; and
- (b) a sentence of custody for life under subsection (1A) or (1B) above.

(1E) A court may not—

- (a) make a custodial order under section 71AA of this Act; or
- (b) pass a sentence of custody for life under subsection (1B) above;

unless it is satisfied—

- (i) that the circumstances, including the nature and the gravity of the offence, are such that if the offender were aged 21 or over the court would pass a sentence of imprisonment; and
- (ii) that he qualifies for a custodial sentence.

(1F) An offender qualifies for a custodial sentence if—

- (a) he has a history of failure to respond to non-custodial sentences and is unable or unwilling to respond to them; or
- (b) only a custodial sentence would be adequate to protect the public from serious harm from him; or
- (c) the offence of which he has been convicted or found guilty was so serious that a non-custodial sentence for it cannot be justified.]

(2)

^{F14}(3) A person convicted of murder who was under 18 years of age when the offence was committed shall not be sentenced to imprisonment for life, nor shall sentence of death be pronounced on or recorded against a person convicted of any offence who was under 18 years of age when the offence was committed; but in lieu thereof the court shall (notwithstanding anything in this or any other Act) sentence him to be detained during Her Majesty's pleasure, and if so sentenced he shall be liable to be detained in such place and under such conditions as the Secretary of State may direct.

(4) [^{F15}In any case where—

- (a) a person aged 14 or over but under 17 years of age is]

found guilty of a civil offence (other than one the sentence for which is fixed) which is punishable by a civil court in England or Wales on indictment by, in the case of an adult, a term of imprisonment for 14 years or more, [^{F16}or

- (b) a person under 14 years of age is found guilty of manslaughter,

and, in either case, the court] is of opinion that none of the other methods in which the case may be legally dealt with is suitable, [^{F17}the court may sentence that person] to be detained for such period, not exceeding the maximum term of imprisonment with which the offence is punishable by such a civil court in the case of an adult, as may be specified in the sentence; and where such a sentence has been passed, the person on whom it is passed shall during that period be liable to be detained in such place and on such conditions as the Secretary of State may direct.

(5) A sentence of [^{F18}custody for life or]detention under subsection (3) or (4) above shall be treated for the purposes of this Part of this Act as a punishment provided by this Act involving the same degree of punishment as a sentence of imprisonment; and

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section 71(3) and (4) above shall apply to such a sentence of detention [^{F18}and to a sentence of custody for life]as they apply to a sentence of imprisonment.

(6) A person detained pursuant to the directions of the Secretary of State under this section shall, while so detained, be deemed to be in legal custody.]

[^{F19}(7) A sentence of detention under section 71(1)(e) of this Act shall be treated for the purposes of this section as a non-custodial sentence and references in this section to a custodial sentence shall be construed accordingly.]

Textual Amendments

- F8** S. 71A inserted by [Armed Forces Act 1976 \(c. 52\), s. 10\(1\)](#)
- F9** Figure substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 58, Sch. 8 para. 2\(a\)](#)
- F10** S. 71A(1A)–(1C) inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 58, Sch. 8 para. 2\(b\)](#)
- F11** Words in s. 71A(1B) inserted (1.1.1992) by [Armed Forces Act 1991 \(c. 62, SIF 7:1\), s. 2\(2\)\(a\)](#); S.I. 1991/2719, [art.2](#) (with [art. 3\(1\)](#))
- F12** S. 71A(1B)(a) repealed (1.1.1992) by [Armed Forces Act 1991 \(c. 62, SIF 7:1\), ss. 2\(2\)\(b\), 26\(2\), Sch. 3](#); S.I. 1991/2719, [art. 2](#), Sch. (with [art. 3\(1\)](#))
- F13** S. 71A(1D)(1E)(1F) inserted (1.1.1992) by [Armed Forces Act 1991 \(c. 62, SIF 7:1\), s. 2\(3\)](#); S.I. 1991/2719, [art.2](#) (with [art. 3\(1\)](#))
- F14** S. 71A(2) repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 78, Sch. 16](#)
- F15** Words in s. 71A(4) substituted (1.1.1992) by [Armed Forces Act 1991 \(c. 62, SIF 7:1\), s. 2\(4\)\(a\)](#); S.I. 1991/2719, [art. 2](#) (with [art. 3\(1\)](#))
- F16** Words in s. 71A(4) substituted (1.1.1992) by [Armed Forces Act 1991 \(c. 62, SIF 7:1\), s. 2\(4\)\(b\)](#); S.I. 1991/2719, [art.2](#) (with [art. 3\(1\)](#))
- F17** Words in s. 71A(4) inserted (1.1.1992) by [Armed Forces Act 1991 \(c. 62, SIF 7:1\), s. 2\(4\)\(c\)](#); S.I. 1991/2719, [art.2](#) (with [art. 3\(1\)](#))
- F18** Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 58, Sch. 8 para. 2\(d\)](#)
- F19** S. 71A(7) inserted (1.1.1992) by [Armed Forces Act 1991 \(c. 62, SIF 7:1\), s. 2\(5\)](#); S.I. 1991/2719, [art. 2](#) (with [art. 3\(1\)](#))

[^{F20}71A]Young service offenders: custodial orders.

(1) Where a person who has attained seventeen years of age but is under twenty-one years of age is found guilty by a court-martial of an offence punishable under this Act with imprisonment, the court shall have power, ^{F21}. . . , to make an order (in this section referred to as a “custodial order”) committing him to be detained in accordance with the provisions of this section for a [^{F22}period to be specified in the order [^{F23}being not less than 21 days and] not exceeding the maximum period for which he could have been sentenced to imprisonment if he had attained the age of twenty-one years.]

[^{F24}.....
^{F25}(1A)

^{F26}(1B) For the purposes of determining whether [^{F27}it is satisfied as mentioned in subparagraphs (i) and (ii) of subsection (1E) of section 71A of this Act with respect to any person]] the court shall obtain and consider information about the circumstances, and shall take into account any information before the court which is relevant to his character and his physical and mental condition.

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- (2) If a person is outside the United Kingdom at the time a custodial order is made in respect of him, he shall as soon as practicable ^{F28} . . . be removed to the United Kingdom.
- (3) A person in respect of whom a custodial order has been made shall be detained in such appropriate institution as the Secretary of State may direct, and any enactment applying to persons detained in any such institution shall apply to a person so detained under this section.
- (4) A custodial order shall be sufficient authority for the detention of the person subject to it in service custody until he is received into the institution specified in the Secretary of State's direction.
- [The following provisions of this Act shall apply in the case of a sentence under a ^{F24}(5) custodial order as they apply in the case of a sentence of imprisonment, that is to say—
- (a) sections 71(3) and (4), 118(1), 118A(1) and (3), 119A(3) and 145; and
 - (b) for the period before a person sentenced under a custodial order is received into the institution where he is to be detained (or for the currency of the sentence if its term ends before he is so received), sections 119(2), (4) and (5), 122, 123, 129, 142 and 190B;
- and, accordingly, references in those provisions to a sentence of imprisonment shall include for the purposes of this subsection references to a sentence under a custodial order.]
- (6) In this section “appropriate institution” means—
- ^{F29}(a) [where the offender is in or removed to England or Wales, any institution in which a person sentenced to detention in a young offender institution could be detained, section 1C of the Criminal Justice Act ^{MI}1982 having effect in relation to the offender as it has effect in relation to an offender sentenced to detention in a young offender institution;]
 - ^{F30}(b) [where the offender is in or removed to Scotland, a young offenders institution;]
 - (c) where the offender is in or removed to Northern Ireland, a young offenders centre.
- [Section 15 of the Criminal Justice Act 1982 (release of young offenders) shall apply ^{F31}(6A) to persons released from a term of detention under a custodial order as it applies to persons released from a term of detention under a detention centre order or a term of youth custody.]
- [^{F33}Section 32 of the Prisons (Scotland) Act 1989](supervision of young offenders ^{F32}(6B) following release) shall apply to persons released from a term of detention under a custodial order as it applies to those released from a term of detention imposed under section 207 or section 415 of the Criminal Procedure (Scotland) Act ^{M2}1975.]
- (7) This section does not apply to offenders who are civilians (as regards whom similar provision is made by paragraph 10 of Schedule 5A to this Act)]

Textual Amendments

F20 S. 71AA inserted by [Armed Forces Act 1981 \(c. 55\), s. 2\(1\)](#)

F21 Words in s. 71AA(1) repealed (1.1.1992) by virtue of [Armed Forces Act 1991 \(c. 62, SIF 7:1\), ss. 3\(1\), 26\(2\), Sch. 3; S.I. 1991/2719, art. 2, Sch.](#) (with art. 3(1))

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- F22** Words in s. 71AA(1) substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, **Sch. 8 para. 3(a)**
- F23** Words in s. 71AA(1) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 3(1); S.I. 1991/2719, **art.2** (with art. 3(1))
- F24** S. 71AA(5) substituted by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), **Sch. 1 para. 5(2)**
- F25** S. 71AA(1A) repealed (1.1.1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), ss. 3(2), 26(2), **Sch. 3**; S.I. 1991/2719, **art. 2**, Sch. (with art. 3(1))
- F26** S. 71AA(1A)(1B) inserted by Criminal Justice Act 1982 (c. 8, SIF 39:1), s. 58, **Sch. 8 para. 3(b)**
- F27** Words in s. 71AA(1B) substituted (1.1.1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 3(3); S.I. 1991/2719, **art.2** (with art. 3(1))
- F28** Words in s. 71AA(2) repealed (1.1.1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 26(1)(2), Sch. 2 para. 1, **Sch. 3**; S.I. 1991/2719, **art. 2**, Sch. (with art. 3(1))
- F29** S. 71AA(6)(a) substituted (E.W.) by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 123(6), **Sch. 8 para. 4(a)**
- F30** S. 71AA(6)(b) substituted (S.) by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 124(4), **Sch. 9 para. 2(a)**
- F31** S. 71AA(6A) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, **Sch. 8 para. 3(d)**
- F32** S. 71AA(6B) inserted (S.) by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 39:1), s. 46(1)
- F33** Words substituted by Prisons (Scotland) Act 1989 (c. 45, SIF 39:1), s. 45(1), **Sch. 2 para. 4**

Marginal Citations

- M1** 1982 c.48 (39:1).
M2 1975 c.21 (39:1).

[^{F34}71AB] Reasons to be given where custodial sentence awarded to young offender.

- (1) This section applies where a court—
- makes a custodial order under section 71AA of this Act, or
 - passes a sentence of custody for life under section 71A(1B) of this Act.
- (2) It shall be the duty of the court—
- to state in open court and to record in the proceedings that it is satisfied that the offender qualifies for a custodial sentence under one or more of the paragraphs of subsection (1F) of section 71A of this Act, the paragraph or paragraphs in question, and why it is so satisfied; and
 - to explain to the offender in open court and in ordinary language why it is passing a custodial sentence on him.
- (3) Where a court makes a custodial order and, in accordance with its duty under subsection (2) above, makes the statement required by paragraph (a) of that subsection, the matters stated shall be specified in the order (made under Imprisonment and Detention Rules) pursuant to which the offender is committed into custody.]

Textual Amendments

- F34** S. 71AB inserted (1.1.1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 4(1); S.I. 1991/2719, **art. 2** (with art. 3(1))

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[^{F35}71B Power to impose imprisonment for default in payment of fines.

- (1) Subject to the provisions of this section, if a court-martial imposes a fine on a person found guilty of any offence—
- (a) who is sentenced to imprisonment on the same occasion for the same or another offence or.
 - (b) who is already serving or otherwise liable to serve a term of imprisonment, [^{F36}or]
 - [in respect of whom the court makes an order under section 71AA above on
 - ^{F37}(c) the same occasion for the same or another offence, or
 - (d) who is already serving or otherwise liable to serve a period of detention under such an order,]

it may make an order fixing a further consecutive term of imprisonment [^{F38}or detention]which the said person is to undergo if any part of the fine is not duly paid or recovered on or before the date on which he could otherwise be released.

[Subject to subsections (4) and (5) below, the Table in section 31(3A) of the Powers ^{F39}(2) of Criminal Courts Act ^{M3}1973 (maximum periods of imprisonment for default in payment of fines etc.), as [^{F40}for the time being in force], shall have effect for the purpose of determining the maximum periods of further imprisonment or detention that may be specified under subsection (1) above for fines of the amounts set out in that Table.]

- (3) Where the whole amount of the said fine is paid or recovered in the prescribed manner the order under subsection (1) above shall cease to have effect, and the person subject to it shall be released unless he is in custody for some other cause.
- (4) Where part of the said amount is paid or recovered in the prescribed manner, the period of the further term of imprisonment [^{F41}or detention]specified under subsection (1) above shall be reduced by such number of days as bears to the total number of days in that period less one day the same proportion as the amount so paid or recovered bears to the amount of the said fine.
- (5) In calculating the reduction required under the last preceding subsection any fraction of a day shall be left out of account.

[An order imposing a term of detention under this section shall be given effect as if it ^{F42}(5A) were a custodial order under section 71AA above.]

- (6) In this section, references to the due recovery of any amount include references to deductions from pay under Part III of this Act, but do not include references to amounts forfeited under the said Part III.]

Textual Amendments

- F35** S. 71B inserted by [Armed Forces Act 1976 \(c. 52\)](#), s. 13, **Sch. 6 para. 1**
- F36** Word inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 58, **Sch. 8 para. 4(1)(a)**
- F37** S. 71B(1)(c)(d) inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 58, **Sch. 8 para. 4(1)(a)**
- F38** Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 58, **Sch. 8 para. 4(1)(b)**
- F39** S. 71B(2) substituted by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), s. 5
- F40** Words in s. 71B(2) substituted (1.1.1992) by [Armed Forces Act 1991 \(c. 62, SIF 7:1\)](#), s. 26(1), **Sch. 2 para. 2**; S.I. 1991/2719, **art. 2**
- F41** Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 58, **Sch. 8 para. 4(1)(b)**
- F42** S. 71B(5A) inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 58, **Sch. 8 para. 4(1)(c)**

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M3 1973 c.62 (39:1).

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