Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Naval Discipline Act 1957

1957 CHAPTER 53 5 and 6 Eliz 2

F1

An Act to make provision for the discipline of the Navy, and for other purposes connected with the Navy. [31st July 1957]

Textual Amendments

F1 Act repealed (prosp.) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 17** and the repeal being partly in force, as to which see individual provisions

Modifications etc. (not altering text)

C1 Act amended (women's services) by Armed Forces Act 1981 (c. 55), **Sch. 3 Pt. I para.1**; restricted by Acts listed in Chronological Table of the Statutes, Belize Act 1981 (c. 52), **Sch. 2 para. 1** and S.I. 1981/1105, **Sch. para. 2(a)**
Act amended (N.I.) (25.8.1996) by 1996 c. 22, **ss. 54(7)(b)**, 62(1) (which temporary amending provision of s. 54 expires (subject to savings as mentioned in s. 62(3)) on 15.6.1997 as mentioned in s. 62(2) of the amending Act
Act amended (9.11.1998) by 1998 c. 42, **ss. 21(5)**, 22(2) (with ss. 7(8), 22(5))

C2 Act extended by S.I. 1972/971, art. 4, **Sch. 1**
Act extended (1.4.1997) by 1996 c. 14, **s. 103**; S.I. 1997/305, **art. 2**

C3 Act applied (1.6.1996) by Armed Forces Act 1991 (c. 62), **ss. 18(8)**, 20(9), 27(2); S.I. 1996/1173, **art. 2**

C4 Power to continue Act conferred by Armed Forces Act 1986 (c. 21, SIF 7:1), **s. 1(2)**
Power to continue Act conferred (25.7.1991) by Armed Forces Act 1991 (c. 62), **s. 1(2)-(4)**
Power to continue Act conferred (24.7.1996) by 1996 c. 46, **ss. 1(2)(3)**, 36(3)
Power to continue Act conferred (11.5.2001) by 2001 c. 19, **ss. 1(1)(3)**, 39(3)(a)
Power to continue Act conferred (8.11.2006) by Armed Forces Act 2006 (c. 52), ss. {382}, 383(1)

C5 Power to amend Act conferred by Criminal Justice Act 1988 (c. 33, SIF 39:1), **s. 50(3)(a)(iii)**
Power to amend Act conferred (25.8.2006) by 2001 c. 19, ss. 30(4)(e), 39(2); S.I. 2006/2309, **art. 2(b)**
Power to amend Act conferred (4.6.2007) by Armed Forces Act 2006 (c. 52), **ss. 381**, 383; S.I. 2007/1442, **art. 2(2)**

C6 By Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 123, Sch. 8 Pt. I paras. 1, **2** it is provided that in certain enactments including this Act for a reference to a detention centre or to a youth custody centre or to both there shall be substituted a reference to a young offender institution and for a reference

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(however expressed) to a detention centre order or to a sentence of youth custody or to both there shall be substituted a reference to a sentence of detention in a young offender institution

C7 By Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(1), **Sch. 12 para. 23**; S.I. 1991/2208, art. 2(1), **Sch. 1** it is provided (14.10.1991) that in relation to any time before the commencement of s. 70 of that 1991 Act (which came into force on 1.10.1992 by S.I. 1992/333, art. 2(2), **Sch. 2**) references in any enactment amended by that 1991 Act, to youth courts shall be construed as references to juvenile courts.

C8 Act continued in force until 31.8.1987 by virtue of 1986 c. 21, **s. 1(1)**
Act continued in force for a period of 12 months beyond 31.8.1987 by S.I. 1987/1262, **art. 1**
Act continued in force for a period of 12 months beyond 31.8.1988 by S.I. 1988/1293, **art. 1**
Act continued in force for a period of 12 months beyond 31.8.1989 by S.I. 1989/1328, **art. 1**
Act continued in force for a period of twelve months beyond 31.8.1990 by S.I. 1990/1501, **art. 1**
Act continued in force (24.7.1991) until 31.12.1991 by S.I. 1991/1696, **art. 1**.
Act continued in force (25.7.1991) until 31.8.1992 by Armed Forces Act 1991 (c. 62), **s. 1(1)**.
Act continued in force for a period of twelve months beyond 31.8.1992 by S.I. 1992/1712, **art. 1**.
Act continued in force for a period of twelve months beyond 31.8.1993 by S.I. 1993/1804, **art. 1**.
Act continued in force for a period of twelve months beyond 31.8.1994 by S.I. 1994/1903, **art. 1**
Act continued in force for a period of twelve months (beginning on the day following 31.8.1995) by S.I. 1995/1964, **art. 1**
Act continued in force (24.7.1996) until 31.8.1997 by 1996 c. 46, **ss. 1(1)**, 36(3)
Act continued in force for a period of twelve months (beginning on the day following 31.8.1997) by S.I. 1997/1745, **art. 2**
Act continued in force for a period of twelve months (beginning on the day following 31.8.1998) by S.I. 1998/1499, **art. 2**
Act continued in force for a period of twelve months (beginning on the day following 31.8.1999) by S.I. 1999/1734, **art. 2**
Act continued in force for a period of twelve months (beginning on the day following 31.8.2000) by S.I. 2000/1814, **art. 2**
Act continued in force (11.5.2001) until 31.8.2002 by 2001 c. 19, **s. 1(1)**, 39(3)
Act continued in force for a period of twelve months (beginning on the day following 31.8.2002) by S.I. 2002/1820, **art. 2**

C9 Act continued in force for a period of 12 months (beginning on the day following 31.8.2003) by The Army, Air Force and Naval Discipline Acts (Continuation) Order 2003 (S.I. 2003/1869), **art. 2**
Act continued in force for a period of 12 months (beginning on the day following 31.8.2004) by The Army, Air Force and Naval Discipline Acts (Continuation) Order 2004 (S.I. 2004/1496), **art. 2**
Act continued in force for a period of 12 months (beginning on the day following 31.8.2005) by The Army, Air Force and Naval Discipline Acts (Continuation) Order 2005 (S.I. 2005/2021) {art. 2}
Act continued in force until 31.12.2006 by The Army, Air Force and Naval Discipline Acts (Continuation) Order 2006 (S.I. 2006/1910), **art. 2**

C10 Act continued in force until the end of one year beginning with 8.11.2006 by virtue of Armed Forces Act 2006 (c. 52), **ss. 382(2)**, 383 (subject to s. 382(3)) (with s. 382(6))

C11 Act continued in force (until 8.11.2008) by The Armed Forces, Army, Air Force and Naval Discipline Acts (Continuation) Order 2007 (S.I. 2007/2123), **art. 2**

C12 Act continued in force (until 8.11.2009) by The Armed Forces, Army, Air Force and Naval Discipline Acts (Continuation) Order 2008 (S.I. 2008/1780), **art. 2**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART I

ARTICLES OF WAR

Modifications etc. (not altering text)

C13 Pt. I (ss. 1-44) applied (1.6.1996) by Armed Forces Act 1991 (c. 62), ss. 18(9)(c), 20(10)(c), 27(2); S.I. 1996/1173, **art. 2**

Public worship

1 Public worship to be performed.

All officers in command of Her Majesty's ships shall cause public worship of Almighty God to be solemnly, orderly and reverently performed in their respective ships, and shall take care that prayers and preaching, by the chaplains of those ships, be performed diligently and that the Lord's Day be observed.

Misconduct in action and other offences arising out of naval service

[F2 2 Misconduct in action.

(1) A person subject to this Act shall be guilty of an offence against this section if, without lawful excuse, he—

(a) surrenders any place or thing to the enemy, or

(b) abandons any place or thing which it is his duty to defend against the enemy or to prevent from falling into the hands of the enemy.

(2) A person subject to this Act shall be guilty of an offence against this section if, being in the presence or vicinity of the enemy, or being engaged in any action or operation against the enemy or under orders to be prepared for any action or operation by or against the enemy, he—

(a) fails to use his utmost exertions to carry the lawful orders of his superior officers into execution, or

(b) while on guard duty and posted or ordered to patrol, or while on watch, sleeps or, without having been regularly relieved, leaves any place where it is his duty to be, or

(c) behaves in such a manner as to show cowardice, or induces any other person so to behave at a time when that other person, being a member of Her Majesty's forces or of a force co-operating with Her Majesty's forces, is in the presence or vicinity of the enemy, or is engaged in any action or operation against the enemy or under orders to be prepared for any action or operation by or against the enemy, or

(d) uses words likely to cause despondency or unnecessary alarm.

(3) A person guilty of an offence against this section shall be **[**[F3]liable to imprisonment or any less punishment authorised by this Act**]]**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F2 Ss. 2-4 substituted for ss. 2-5 by Armed Forces Act 1971 (c. 33), **ss. 2(1)(3)**, 78(4)

F3 Words in s. 2(3) substituted (11.5.2001) for s. 2(3)(a)(b) and the preceding word "liable" by 2001 c. 19, ss. 34, 39(3)(f), **Sch. 6 Pt. 4 para. 19**

3 Assisting the enemy.

(1) A person subject to this Act shall be guilty of an offence against this section if, knowingly and without lawful excuse, he—

(a) communicates with, or gives intelligence to, the enemy, or

(b) fails to make known to the proper authorities any information received by him from the enemy, or

(c) furnishes the enemy with supplies of any description, or

(d) having been captured by the enemy, serves with or aids the enemy in the prosecution of hostilities or of measures likely to influence morale, or in any other manner whatsoever not authorised by international usage, or

(e) having been captured by the enemy, fails to take, or prevents or discourages any other person subject to service law who has been captured by the enemy from taking, any reasonable steps to rejoin Her Majesty's service which are available to him or, as the case may be, to that other person, or

(f) harbours or protects an enemy not being a prisoner of war.

(2) A person guilty of an offence against this section shall be **[**[F4]liable to imprisonment or any less punishment authorised by this Act**]**

Textual Amendments

F4 Words in s. 3(2) substituted (11.5.2001) for s. 3(2)(a)(b) and the preceding word "liable" by 2001 c. 19, ss. 34, 39(3)(f), **Sch. 6 Pt. 4 para. 20**

4 Obstructing operations, giving false air signals, etc.

(1) A person subject to this Act shall be guilty of an offence against this section if he does any act likely to imperil the success of any action or operation on the part of any of Her Majesty's forces, or wilfully delays or discourages upon any pretext whatsoever any such action or operation.

(2) A person subject to this Act shall be guilty of an offence against this section if, knowingly and without lawful excuse, he gives any false air signal, or alters or interferes with any air signal or any apparatus for giving an air signal.

(3) A person guilty of an offence against this section shall be **[**[F5]liable to imprisonment or any less punishment authorised by this Act**]**

Textual Amendments

F5 Words in s. 4(3) substituted (11.5.2001) for s. 4(3)(a)(b) and the preceding word "liable" by 2001 c. 19, ss. 34, 39(3)(f), **Sch. 6 Pt. 4 para. 21**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F6 5 Looting.

Any person subject to this Act who—

(a) steals from, or with intent to steal searches, the person of anyone killed, wounded or captured in the course of warlike operations, or killed, injured or detained in the course of operations undertaken by Her Majesty's forces for the preservation of law and order or otherwise in aid of the civil authorities, or

(b) steals any property which has been left exposed or unprotected in consequence of any such operations as are mentioned in paragraph (a) above, or

(c) takes otherwise than for the public service any vehicle, equipment or stores abandoned by the enemy,

shall be guilty of looting and liable to imprisonment or any less punishment authorised by this Act.**]**

Textual Amendments

F6 S. 5 inserted by Armed Forces Act 1971 (c. 33), **ss. 6(2)**, 78(4)

Modifications etc. (not altering text)

C14 S. 5 extended (E.W.) (S.) by Rehabilitation of Offender's Act 1974 (c. 53), **s. 2(3)(b)**

[F7 6 Offences by or in relation to sentries, persons on watch etc.

Any person subject to this Act who—

(a) while on guard duty and posted or ordered to patrol, or on watch, or under orders to regulate traffic by land, water or air, sleeps or, without having been regularly relieved, leaves any place where it is his duty to be, or

(b) . . . F8 uses force against a member of Her Majesty's forces, or of any forces co-operating therewith, who is on guard duty and posted or ordered to patrol, or on watch, or under orders to regulate traffic by land, water or air, or

(c) by the threat of force compels any such person as is mentioned in paragraph (b) above to let him or any other person pass,

shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.**]**

Textual Amendments

F7 S. 6 substituted by Armed Forces Act 1971 (c. 33), **ss. 4(1)(3)**, 78(4)

F8 Words repealed by Armed Forces Act 1986 (c. 21, SIF 7:1), ss. 4(1), 16(2), **Sch. 2**

[F9 7 Failure to attend for duty, neglect of duty etc.

Any person subject to this Act who—

(a) without reasonable excuse fails to attend for any duty of any description, or leaves any such duty before he is permitted to do so, or

(b) neglects to perform, or negligently performs, any duty of any description,

shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.**]**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F9 S. 7 substituted by Armed Forces Act 1971 (c. 33), **ss. 5(1)(3)**, 78(4)

Mutiny

8 Definition of "mutiny".

In this Act "mutiny" means a combination between two or more persons subject to service law, or between persons two at least of whom are subject to service law,—

(a) to overthrow or resist lawful authority in Her Majesty's forces or any forces co-operating therewith, or in any part of any of the said forces;

(b) to disobey such authority in such circumstances as to make the disobedience subversive of discipline, or with the object of avoiding any duty or service against, or in connection with operations against, the enemy; or

(c) to impede the performance of any duty or service in Her Majesty's forces or in any forces co-operating therewith, or in any part of any of the said forces;

and "service law" means this Act, military law or air force law.

9 Offences of mutiny.

[F10](1) . . . . . .

(2) Every person subject to this Act who takes part in a mutiny [F11]. . ., or incites any other person subject to service law to take part in such a mutiny, whether actual or intended, shall be liable to imprisonment . . . [F12] or any less punishment authorised by this Act.

Textual Amendments

F10 S. 9(1) repealed (11.5.2001) by 2001 c. 19, ss. 38, 39(3)(g), **Sch. 7 Pt. 4**

F11 Words in s. 9(2) repealed (11.5.2001) by 2001 c. 19, ss. 38, 39(3)(g), **Sch. 7 Pt. 4**

F12 Words repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

10 Failure to suppress mutiny.

Every person subject to this Act who, knowing that a mutiny is taking place or is intended,—

(a) fails to use his utmost endeavours to suppress or prevent it; or

(b) fails to report without delay that the mutiny is taking place or is intended,

shall be liable [F13]. . . to imprisonment . . . [F14] or any less punishment so authorised.

Textual Amendments

F13 Words in s. 10 repealed (11.5.2001) by 2001 c. 19, ss. 38, 39(3)(g), **Sch. 7 Pt. 4**

F14 Words repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Insubordination and similar offences

[F15 11 Insubordinate behaviour.

Every person subject to this Act who—

(a) . . . F16 uses violence to, or offers violence to, his superior officer, or

(b) uses threatening or insubordinate language to, or behaves with contempt to, his superior officer,

shall be liable to imprisonment or any less punishment authorised by this Act:

Provided that it shall be a defence for any person charged under this section, to prove that he neither knew nor had reasonable cause to believe that the person in relation to whom the offence is alleged to have been committed was his superior officer.]

Textual Amendments

F15 Ss. 11, 12 substituted by Armed Forces Act 1971 (c. 33), **ss. 8(3)**, 78(4)

F16 Words repealed by Armed Forces Act 1986 (c. 21, SIF 7:1), ss. 4(1), 16(2), **Sch. 2**

12 Disobedience to lawful commands.

Any person subject to this Act who, whether wilfully or through neglect, disobeys any lawful command (by whatever means communicated to him) shall be liable to imprisonment or any less punishment authorised by this Act.

[F17 12A Failure to provide a sample for drug testing.

(1) Any person subject to this Act who, when requested to do so by a drug testing officer, fails to provide a sample of his urine for [F18 the purpose of ascertaining whether, or to what extent, he has, or has had, drugs in his body] shall, F19 . . . , be liable to imprisonment for a term not exceeding six months or any less punishment provided by this Act.

F20 [(1A) A drug testing officer may not request a person to provide a sample under subsection (1) above if—

(a) he is that person's commanding officer, or

(b) the commanding officer of that person is his commanding officer.

(1B) A request under subsection (1) above may not be made if the sample is sought in connection with—

(a) an investigation under this Act of an offence, or

(b) an investigation of such an incident as is referred to in section 32(1)(a) of the Armed Forces Act 2001 (powers to test for alcohol or drugs after serious incident).

(1C) The results of tests performed on a sample provided by a person at the request of a drugs testing officer shall not be admissible in evidence against—

(a) that person, or

(b) any other person,

in proceedings before a court-martial, commanding officer or appropriate superior authority.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(1D) Nothing in this section—

(a) limits the powers conferred by—

[[F21](i) any provision of the Road Traffic Act 1988 (c. 52),**]**

(ii) sections 62 and 63 of the Police and Criminal Evidence Act 1984 (intimate and other samples), as applied by order under section 113(1) of that Act; or

(b) affects the admissibility in any proceedings of evidence obtained under those powers.**]**

(2) For the purposes of this section—

"drug" means any drug which is a controlled drug for the purposes of the Misuse of Drugs Act 1971; and

"drug testing officer" means an officer, warrant officer **[**[F22], chief petty officer, petty officer or leading rating**]** who is authorised by or in accordance with Queen's Regulations for the purpose of supervising the conduct of tests for the presence of drugs.**]**

Textual Amendments

F17 S. 12A inserted (1.10.1996 with savings) by 1996 c. 46, **s. 32(3)**; S.I. 1996/2474, **art. 2** (with art. 3)

F18 Words in s. 12A(1) substituted (3.2.2006) by 2001 c. 19, ss. 32(9), 39(2), Sch. 5 para. 5(2)(a); S.I. 2006/235, **art. 2** (with art. 3)

F19 Words in s. 12A(1) omitted (28.2.2002) by virtue of 2001 c. 19, ss. 32(9), 39(2), Sch. 5 para. 5(2)(b) and repealed (prosp.) by 2001 c. 19, s. 38, Sch. 7 Pt. 7; S.I. 2002/345, **art. 2** (subject to art. 3)

F20 S. 12A(1A)-(1D) inserted (3.2.2006) by 2001 c. 19, ss. 32(9), 39(2), Sch. 5 para. 5(3); S.I. 2006/235, **art. 2** (with art. 3)

F21 S. 12A(1D)(a)(i) substituted (30.3.2004) by Railways and Transport Safety Act 2003 (c. 20), ss. 107, 120, **Sch. 7 para. 11**; S.I. 2004/827, **art. 3(ii)**

F22 S. 12A(2): words in the definition of "drug testing officer" substituted (28.2.2002) by 2001 c. 19, s. 32(9), Sch. 5 para. 5(4); S.I. 2002/345, **art. 2** (subject to art. 3)

[[F23]12B Failure to provide sample after serious incident

Any person subject to this Act who, without reasonable excuse, fails to comply with a request made under subsection (3) or (4) of section 32 of the Armed Forces Act 2001 (powers to test for alcohol or drugs after serious incident) shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding six months or any less punishment provided by this Act.**]**

Textual Amendments

F23 S. 12B inserted (3.2.2006) by 2001 c. 19, ss. 32(9), 39(2), Sch. 5 para. 6; S.I. 2006/235, **art. 2** (with art. 3)

13 Fighting and quarrelling.

Every person subject to this Act who **[**[F24]without reasonable excuse**]**—

(a) fights . . . [F25] with any other person, whether subject to this Act or not; or

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) uses threatening, abusive, insulting or provocative words or behaviour likely to cause a disturbance,

shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

Textual Amendments

F24 Words inserted by Armed Forces Act 1971 (c. 33), **ss. 16(3)**, 78(4)

F25 Words repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

14 Obstruction of provost officers.

Every person subject to this Act who . . . [F26] obstructs, or . . . [F26] refuses, when called on, to assist, any provost officer, or any person (whether subject to this Act or not) legally exercising authority under or on behalf of a provost officer, shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act:

[[F27]Provided that it shall be a defence for any person charged under this section to prove that he neither knew nor had reasonable cause to believe that the person in relation to whom the offence is alleged to have been committed was a provost officer or, as the case may be, a person legally exercising authority under or on behalf of a provost officer.**]**

Textual Amendments

F26 Word repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

F27 Proviso inserted by Armed Forces Act 1971 (c. 33), **ss. 9(1)(b)(2)**, 78(4)

[[F28]14A Disobedience to standing orders.

(1) Every person subject to this Act who contravenes or fails to comply with any provision of orders to which this section applies, being a provision known to him or which he might reasonably be expected to know, shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

(2) This section applies to standing orders or other routine orders of a continuing nature made for any formation or unit or body of Her Majesty's forces, or for any command or other area, garrison or place, or for any ship, vessel, train or aircraft.**]**

Textual Amendments

F28 S. 14A inserted by Armed Forces Act 1971 (c. 33), **ss. 10(3)**, 78(4)

Desertion and absence without leave

[[F29]15 Definition of "desertion".

A person is guilty of desertion within the meaning of this Act if he—

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) leaves or fails to attend at his unit, ship or place of duty with the intention of remaining permanently absent from duty without lawful authority, or, having left or failed to attend at his unit, ship or place of duty, thereafter forms the like intention, or

(b) absents himself without leave with intent to avoid serving at any place overseas, or to avoid service or any particular service when before the enemy.**]**

Textual Amendments

F29 S. 15 substituted by Armed Forces Act 1971 (c. 33), **ss. 11(3)**, 78(4)

16 Offences of desertion.

(1) Every person subject to this Act who deserts shall be liable to imprisonment . . . [F30] or any less punishment authorised by this Act.

(2) A person convicted of desertion shall, except so far as the court or officer by whom he is tried or **[**[F31]the Defence Council**]** may otherwise direct, forfeit all pay, bounty, salvage and allowances earned by him, all annuities, pensions and gratuities granted to him, and all clothes and effects left by him on board his ship or at his place of duty.

(3) . . . [F32]

Textual Amendments

F30 Words repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

F31 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

F32 Ss. 16(3), 17(2), 26 repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

17 Absence without leave etc.

(1) Every person subject to this Act who, . . . [F33],—

(a) absents himself without leave; or

(b) improperly leaves his ship . . . [F33],

shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act, and to such other punishment by way of forfeiture of pay or other benefits as may be prescribed by regulations made by **[**[F34]the Defence Council.**]**

(2) . . . [F35]

Textual Amendments

F33 Words repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

F34 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

F35 Ss. 16(3), 17(2), 26 repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

18 Failure to report deserters and absentees.

Every person subject to this Act who, knowing that any other person subject thereto **[**[F36]has committed an offence, or is attempting to commit an offence, under section 16(1) or section 17(1) of this Act**]**,—

(a) fails to report the fact without delay; or

(b) fails to take any steps within his power to cause that person to be apprehended,

shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

Textual Amendments

F36 Words substituted by Armed Forces Act 1971 (c. 33), **ss. 13(3)**, 78(4)

Navigation and flying offences

19 Loss or hazarding of ship or aircraft.

Every person subject to this Act who, either wilfully or by negligence—

(a) causes or allows to be lost, stranded or hazarded any of Her Majesty's ships or vessels; . . . [F37]

(b) . . . [F38]

shall be liable, if he acts wilfully or with wilful neglect, to imprisonment . . . [F39] or any less punishment authorised by this Act, and in any other case to imprisonment for a term not exceeding two years or any less punishment so authorised.

Textual Amendments

F37 Words repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

F38 S. 19(b) repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

F39 Words repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

20 Dangerous flying, etc.

Every person subject to this Act who is guilty of any act or neglect in flying, or in the use of any aircraft, or in relation to any aircraft or aircraft material, which causes or is likely to cause loss of life or bodily injury to any person shall be liable—

(a) if he acts wilfully or with wilful neglect, to imprisonment . . . [F40] or any less punishment authorised by this Act;

(b) in any other case, to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

Textual Amendments

F40 Words repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

21 Low flying.

Every person subject to this Act who, being the pilot of one of Her Majesty's aircraft, flies it at a height less than such height as may be provided by any regulations issued under the authority of **[**[F41]the Defence Council**]**, . . . [F42], except—

(a) while taking off or alighting; or

(b) in such other circumstances as may be so provided,

shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

[[F43]Provided that where a pilot flies an aircraft in contravention of this section on the orders of some other person who is in command of the aircraft, that other person shall be treated for the purposes of this section as having been the pilot of, and flying, the aircraft at the material time.**]**

Textual Amendments

F41 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

F42 Words repealed by S.I. 1964/488, **Sch. 1 Pt. I**

F43 Proviso inserted by Armed Forces Act 1971 (c. 33), **ss. 21(1)**, 78(4)

22 Annoyance by flying.

Every person subject to this Act who, being the pilot of one of Her Majesty's aircraft, flies it so as to cause, or to be likely to cause, unnecessary annoyance to any person shall be liable to dismissal from Her Majesty's Service or any less punishment authorised by this Act.

[[F44]Provided that where a pilot flies an aircraft in contravention of this section on the orders of some other person who is in command of the aircraft, that other person shall be treated for the purposes of this section as having been the pilot of, and flying, the aircraft at the material time.**]**

Textual Amendments

F44 Proviso inserted by Armed Forces Act 1971 (c. 33), **ss. 21(1)**, 78(4)

Prize offences

23 Prize offences by commanding officers.

Every person subject to this Act who, being in command of any of Her Majesty's ships, vessels or aircraft,—

(a) having taken any ship, vessel or aircraft as prize, fails to send to the High Court, or to some other prize court having jurisdiction in the case, all the ship papers or aircraft papers, as the case may be, found on board;

(b) unlawfully makes any agreement for the ransoming of any ship, vessel, aircraft or goods taken as prize; or

(c) in pursuance of any such agreement as aforesaid, or otherwise by collusion, restores or abandons any ship, vessel, aircraft or goods taken as prize,

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

shall be liable to **[**[F45]imprisonment for a term not exceeding two years**]** or any less punishment authorised by this Act.

Textual Amendments

F45 Words substituted by Armed Forces Act 1971 (c. 33), **ss. 3(3)**, 78(4)

24 Other prize offences.

Every person subject to this Act who—

(a) . . . [F46] ill-treats any person who is on board a ship, vessel or aircraft when taken as prize, or unlawfully takes from any such person anything in his possession;

(b) removes out of any ship, vessel or aircraft taken as prize (otherwise than for safe keeping or for the necessary use and service of any of Her Majesty's forces **[**[F47]or any forces co-operating therewith**]**) any goods not previously adjudged by a prize court to be lawful prize; or

(c) breaks bulk on board any ship, vessel or aircraft taken as prize, or detained in exercise of any belligerent right or under any enactment, with intent to **[**[F48]steal**]** anything therein,

shall be liable to **[**[F49]imprisonment for a term not exceeding two years**]** or any less punishment authorised by this Act.

Textual Amendments

F46 Words repealed by Armed Forces Act 1986 (c. 21, SIF 7:1), ss. 4(1), 16(2), **Sch. 2**

F47 Words inserted by Armed Forces Act 1966 (c. 45), **Sch. 4**

F48 Word substituted by Armed Forces Act 1981 (c. 55), **s. 15** except as to an offence alleged to have been committed before 1.5.1982

F49 Words substituted by Armed Forces Act 1971 (c. 33), **ss. 3(3)**, 78(4)

Other offences in respect of ships and aircraft

25 Inaccurate certification.

Every person subject to this Act who makes or signs, without having ensured its accuracy,—

(a) a certificate relating to any matter affecting the seagoing or fighting efficiency of any of Her Majesty's ships or vessels; or

(b) any certificate relating to any of Her Majesty's aircraft or aircraft material,

shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

26 . . . . . [F50]

Textual Amendments

F50 Ss. 16(3), 17(2), 26 repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Malingering and drunkenness

27 Malingering.

(1) A person is guilty of malingering within the meaning of this section if he falsely pretends to be suffering from sickness or disability, if he injures himself with intent thereby to render himself unfit for service, or causes himself to be injured by any person with that intent, **[**[F51]if he injures another person subject to service law at the instance of that other person and with intent thereby to render that other person unfit for service**]** or if, with intent to render or keep himself unfit for service, he does or fails to do anything (whether at the time of the act or omission he is in hospital or not) whereby he produces, or prolongs or aggravates, any sickness or disability; and for the purposes of this subsection the expression "unfit" includes temporarily unfit.

(2) Every person subject to this Act who malingers shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

Textual Amendments

F51 Words inserted by Armed Forces Act 1971 (c. 33), **ss. 14**, 78(4)

28 Drunkenness.

(1) A person is drunk within the meaning of this section if owing to the influence of alcohol or any drug, whether alone or in combination with any other circumstances, he is unfit to be entrusted with his duty or with any duty which he might **[**[F52]reasonably expect to**]** be called upon to perform, or behaves in a disorderly manner or in a manner likely to bring discredit on Her Majesty's service.

(2) Every person subject to this Act who is drunk, whether on duty or not, shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

Textual Amendments

F52 Words inserted by Armed Forces Act 1971 (c. 33), **ss. 15(2)**, 78(4)

Offences relating to property

[[F53]29 Damage to, and loss of, public or service property etc.

(1) Any person subject to this Act who—

(a) wilfully damages or causes the loss of, or is concerned in the wilful damage or loss of, any public or service property, or any property belonging to another person so subject, or

(b) by wilful neglect causes or allows damage to, or the loss of, any public or service property or property so belonging,

shall be liable to imprisonment or any less punishment authorised by this Act.

(2) Any person subject to this Act who—

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) by any negligent act or omission causes or allows damage to, or the loss of, any public or service property, or

(b) is guilty of any wilful or negligent act or omission which is likely to cause damage to, or the loss of, any such property,

shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.**]**

Textual Amendments

F53 Ss. 29, 29A, 30 substituted for ss. 29, 30 by Armed Forces Act 1971 (c. 33), **ss. 17(1)(3)**, 78(4)

29A Damage to, and loss of, Her Majesty's aircraft or aircraft material.

(1) Without prejudice to the generality of section 29 above, a person subject to this Act shall be guilty of an offence against this section if he—

(a) wilfully damages or causes the loss of, or is concerned in the wilful damage or loss of, any of Her Majesty's aircraft or aircraft material, or

(b) by wilful neglect causes or allows damage to, or the loss of, any of Her Majesty's aircraft or aircraft material, or

(c) without lawful authority disposes of any of Her Majesty's aircraft or aircraft material, or

(d) by any negligent act or omission causes or allows damage to, or the loss of, any of Her Majesty's aircraft or aircraft material, or

(e) is guilty of any wilful or negligent act or omission which is likely to cause damage to, or the loss of, any of Her Majesty's aircraft or aircraft material, or

(f) during a state of war, wilfully and without proper occasion, or negligently, causes the sequestration by or under the authority of a neutral state, or the destruction in a neutral state, of any of Her Majesty's aircraft.

(2) A person guilty of an offence against this section shall be liable—

(a) if his offence consisted in an act or omission falling within paragraph (a), (b) or (c) of subsection (1), or if it consisted in an act or omission falling within paragraph (f) of that subsection and it is proved that he acted wilfully or with wilful neglect, to imprisonment or any less punishment authorised by this Act;

(b) in any other case, to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

[[F54]**29B Interference etc. with equipment, messages or signals.**

(1) Any person subject to this Act who by any conduct of his—

(a) intentionally impairs the efficiency or effectiveness of any equipment which is public or service property; or

(b) intentionally interferes with or modifies any message or other signal which is being transmitted, by means of **[**[F55]an electronic communications network**]** , directly or indirectly to or from any such equipment,

shall be liable to imprisonment or any less punishment authorised by this Act.

(2) Any person subject to this Act who is guilty of any conduct which is likely to have the effect—

(a) of impairing the efficiency or effectiveness of any such equipment; or

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) of interfering with or modifying any such message or signal,

shall (whether or not that conduct has that effect) be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

(3) It shall be a defence for a person charged with an offence under subsection (2) of this section in respect of any conduct likely to have a particular effect that, in the circumstances, his conduct was in all respects consistent with the exercise of reasonable care to avoid producing that effect.

(4) For the purposes of this section the efficiency or effectiveness of any equipment is impaired if, whether or not it is damaged, the equipment is made temporarily or permanently less efficient or effective either for all purposes or for a particular purpose for which it has been designed, adapted, adjusted or programmed.

(5) in this section—

"conduct" includes any act or omission;

"equipment" includes any apparatus, any computer and any vessel, aircraft or vehicle; **[**[F56]and**]**

[[F56]"telecommunication system "has the same meaning as in the Telecommunications Act 1984.**]]**

Textual Amendments

F54 S. 29B inserted by Armed Forces Act 1986 (c. 21, SIF 7:1),s. 2(1)(2)

F55 Words in s. 29B(1)(b) substituted (25.7.2003 for specified purposes and 29.12.2003 for specified purposes) by Communications Act 2003 (c. 21), ss. 406, 411(2), **Sch. 17 para. 26** (with transitional provisions in Sch. 18); S.I. 2003/1900, art. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6 (as amended by S.I. 2003/3142, art. 1(3)) and S.I. 2003/3142, **art. 3(2)** (with art. 11)

F56 S. 29B(5): definition of "telecommunication system" and preceding word repealed (25.7.2003 for specified purposes and 29.12.2003 for specified purposes) by Communications Act 2003 (c. 21), ss. 406, 411(2), **Sch. 19** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, Sch. 1 (with transitional provisions in arts. 3-6 (as amended by S.I. 2003/3142, art. 1(3)) and S.I. 2003/3142, **art. 3(2)** (with art. 11)

30 Misapplication and waste of public or service property.

Any person subject to this Act who misapplies or wastefully expends any public or service property shall be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Modifications etc. (not altering text)

C15 S. 30 extended (E.W.) (S.) by Rehabilitation of Offenders Act 1974 (c. 53), **s. 2(3)(b)**

31 Offences relating to issues and decorations.

(1) Every person subject to this Act who makes away with (whether by pawning, selling, destroying or in any other way), or loses or by negligence damages or allows to be damaged—

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) any clothing, arms, ammunition or other equipment issued to him for his use for naval purposes; or

(b) any naval, military or air force decoration granted to him,

shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

(2) It shall be a defence for a person charged under this section with losing any property that he took reasonable steps for its care and preservation.

Modifications etc. (not altering text)

C16 S. 31 extended (E.W.) (S.) by Rehabilitation of Offenders Act 1974 (c. 53), **s. 2(3)(b)**

Offences relating to billeting and requisitioning of vehicles, etc.

32 Billeting offences.

Every person subject to this Act who—

(a) knowing that no billeting requisition **[**[F57]issued under section 67(1) of the [M1]Armed Forces Act 1971**]**, is in force authorising him to demand any billets, or that he is otherwise not authorised to demand them, obtains those billets or orders or procures another person to obtain them;

(b) takes or agrees to take, or demands, from a person on whom he or any other person or any vehicle is or is to be billeted in pursuance of such a requisition any money or thing as consideration for not requiring, or ceasing to require, accommodation for himself or the said other person or standing room for the vehicle; or

(c) wilfully or by wilful neglect destroys or damages, or causes or allows to be destroyed or damaged, any premises in which he is billeted in pursuance of such a requisition, or any property being in such premises,

shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

Textual Amendments

F57 Words substituted by Armed Forces Act 1971 (c. 33), **s. 67(3)**

Marginal Citations

M1 1971 c. 33.

33 Offences in relation to requisitioning of vehicles, etc.

(1) Every person subject to this Act who—

(a) knowing that no requisitioning order **[**[F58]issued under section 67(1) of the [M2]Armed Forces Act 1971**]**, is in force authorising him to give directions for the provision of any vehicle, or that he is otherwise not authorised to give such directions, gives directions for the provision of the vehicle or orders or procures another person to give such directions;

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) in purported exercise of powers conferred by such a requisitioning order takes, or orders or procures any other person to take, possession of a vehicle, knowing that no such requisition order is in force under which the taking possession of the vehicle could be authorised, or that the taking possession thereof is otherwise not authorised under such an order; or

(c) takes or agrees to take, or demands, from any person any money or thing as consideration for directions, or any particular directions, for the provision of a vehicle not being given, or possession of a vehicle not being taken, or not being retained, under such a requisitioning order,

shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

(2) Subsection (1) of this section shall apply in relation to horses, mules, food and forage, and in relation to other chattels required—

(a) for vehicles, horses or mules furnished or to be furnished in pursuance of a requisitioning order **[**[F58]issued under section 67(1) of the [M3]Armed Forces Act 1971**]**, or for use in connection with such vehicles, horses or mules; or

(b) for persons or vehicles billeted in pursuance of a billeting requisition issued as aforesaid, or otherwise temporarily accommodated or to be so accommodated, or for use in connection with such persons or vehicles,

as it applies in relation to vehicles.

Textual Amendments

F58 Words substituted by Armed Forces Act 1971 (c. 33), **s. 67(3)**

Marginal Citations

M2 1971 c. 33.

M3 1971 c. 33.

*Offences relating to, and by, persons in custody **[**[F59]33A.*

Textual Amendments

F59 Ss. 33A-33C inserted by Armed Forces Act 1971 (c. 33), **ss. 22**, 78(4)

33A Permitting escape, and unlawful release of prisoners.

(1) Every person subject to this Act who wilfully allows to escape any person who is committed to his charge, or whom it is his duty to guard, shall be liable to imprisonment or any less punishment authorised by this Act.

(2) Every person subject to this Act who—

(a) without proper authority releases any person who is committed to his charge, or

(b) without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to guard,

shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

33B Resistance to arrest.

(1) Every person subject to this Act who, being concerned in any quarrel or disorder, refuses to obey any officer who orders him into arrest, or . . . [F60] uses violence to, or offers violence to, any such officer, shall be guilty of an offence against this section whether or not the officer is his superior officer.

(2) Every person subject to this Act who . . . [F60] uses violence to, or offers violence to, any person, whether subject to this Act or not, whose duty it is to apprehend him or in whose custody he is shall be guilty of an offence against this section.

(3) Every person guilty of an offence against this section shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

Textual Amendments

F60 Words repealed by Armed Forces Act 1986 (c. 21, SIF 7:1), ss. 4(1), 16(2), **Sch. 2**

33C Escape from confinement.

Every person subject to this Act who escapes from arrest, prison or other lawful custody (whether naval or not), shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.**]**

Miscellaneous offences

34 Unauthorised disclosure of information.

(1) Every person subject to this Act who without lawful authority discloses or purports to disclose, whether orally, in writing, by signal or by any other means whatsoever, information relating to any matter upon which information would or might be useful to an enemy shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

(2) It shall be a defence for a person charged with an offence under this section that he did not know and had no reasonable cause to believe that the information disclosed related to a matter upon which information would or might be directly or indirectly useful to an enemy.

[[F61]34A False statements on entry.

Any person who, when offering himself to be entered for service in the Royal Navy, has knowingly made a false answer to any question put to him in connection with his entry into such service by, or by the direction of, an officer or other person authorised under regulations made by the Defence Council to enter persons for such service shall, if he has since become and remains subject to this Act, be liable to imprisonment for a term not exceeding three months or any less punishment authorised by this Act.**]**

Textual Amendments

F61 S. 34A inserted by Armed Forces Act 1971 (c. 33), **ss. 25**, 78(4)

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Modifications etc. (not altering text)

C17 S. 34A extended (E.W.) (S.) by Rehabilitation of Offenders Act 1974 (c. 53), **s. 2(3)(b)**

[F62 35 Falsification of documents.

(1) A person subject to this Act who—

(a) makes an official document which is to his knowledge false in a material particular, or

(b) makes in any official document an entry which is to his knowledge false in a material particular, or

(c) tampers with the whole or any part of an official document (whether by altering it, destroying it, suppressing it, removing it or otherwise), or

(d) with intent to deceive, fails to make an entry in an official document,

is liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

(2) For the purposes of this section—

(a) a document is official if it is or is likely to be made use of, in connection with the performance of his functions as such, by a person who holds office under, or is in the service of, the Crown; and

(b) a person who has signed or otherwise adopted as his own a document made by another shall be treated, as well as that other, as the maker of the document.

(3) In this section "document" means anything in which information of any description is recorded.**]**

Textual Amendments

F62 S. 35 substituted (31.1.1997) by 1995 c. 38, s. 15(1), **Sch. 1 para. 3** (with ss. 1(3), 6(4)(5) and 14); S.I. 1996/3217, **art. 2**

[F63 35A Offences against civilian population.

Every person subject to this Act who, in any country or territory outside the United Kingdom, commits any offence against the person or property of any member of the civilian population shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.**]**

Textual Amendments

F63 S. 35A inserted by Armed Forces Act 1971 (c. 33), **ss. 27**, 78(4)

[F64 35B Offences against morale.

Any person subject to this Act who spreads (whether orally, in writing, by signal, or otherwise) reports relating to operations of Her Majesty's forces, of any forces co-operating therewith, or of any part of any of those forces, being reports likely to create despondency or unnecessary alarm, shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.**]**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F64 S. 35B inserted by Armed Forces Act 1971 (c. 33), **ss. 28(1)(3)**, 78(4)

36 Cruelty or scandalous conduct by officers.

Every officer subject to this Act who **[**[F65]behaves in a scandalous manner**]** unbecoming the character of an officer shall be liable to dismissal from Her Majesty's service with or without disgrace.

Textual Amendments

F65 Words substituted by Armed Forces Act 1971 (c. 33), **ss. 29(3)**, 78(4)

Modifications etc. (not altering text)

C18 S. 36 extended (E.W.) (S.) by Rehabilitation of Offenders Act 1974 (c. 53), **s. 2(3)(b)**

[[F66]36A Ill-treatment of persons of inferior rank etc.

If—

(a) any officer subject to this Act . . . [F67] ill-treats any officer subject thereto of inferior rank or less seniority, or any rating so subject, or

(b) any rating subject to this Act and of or above the rate of leading seaman . . . [F67] ill-treats any rating subject thereto of inferior rate or less seniority,

he shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.**]**

Textual Amendments

F66 S. 36A inserted by Armed Forces Act 1971 (c. 33), **ss. 30**, 78(4)

F67 Words repealed by Armed Forces Act 1986 (c. 21, SIF 7:1), ss. 4(1), 16(2), **Sch. 2**

37 Disgraceful conduct.

Every person subject to this Act who is guilty of any **[**[F68]disgraceful conduct of a cruel, indecent or unnatural kind**]** shall be liable to **[**[F68]imprisonment for a term not exceeding two years**]** or any less punishment authorised by this Act.

Textual Amendments

F68 Words substituted by Armed Forces Act 1971 (c. 33), **ss. 31**, 78(4)

Modifications etc. (not altering text)

C19 S. 37 extended (E.W.) (S.) by Rehabilitation of Offenders Act 1974 (c. 53), **s. 2(3)(b)**

38 Offences in relation to courts-martial.

(1) Every person subject to this Act who—

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) having been duly summoned or ordered to attend before a court-martial, fails to comply with the summons or order;

(b) refuses to take an oath or make an affirmation when duly required by a court-martial to do so;

(c) refuses to produce any **[**[F69]document or other thing which is in his custody or under his control and**]** which a court-martial has lawfully required him to produce;

(d) when a witness, refuses to answer any question which a court-martial has lawfully required him to answer;

(e) wilfully insults any person, being a member of a court-martial or a witness or any other person whose duty it is to attend on or before the court, while that person is acting as a member thereof or is so attending, or while that person is going to or returning from the proceedings of the court; or

(f) wilfully interrupts the proceedings of a court-martial, or otherwise misbehaves before the court,

shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

(2) References in subsection (1) of this section to a court-martial shall include references to a court-martial held in pursuance of the [M4]Army Act 1955, or the [M5]Air Force Act 1955, or the law of any colony [F70]. . . .

(3) Where an offence against subsection (1) of this section is committed in relation to a court-martial and the court is of opinion that it is expedient that the offender should be dealt with summarily by the court instead of being brought to trial under this Act, the court may by order under the hand of the president sentence **[**[F71]the offender—

(a) if he is an officer, to imprisonment for a term not exceeding twenty-one days, or to a fine not exceeding the amount of his pay for twenty-eight days [F72]. . .,

(b) in any other case, to imprisonment or detention for such a term as aforesaid, or to such a fine as aforesaid.**]**

[[F73](3A) If the offender has attained seventeen years of age but is under twenty-one years of age, **[**[F74]subsection (3)**]** above shall have effect in relation to him as if the power to impose a sentence of imprisonment were a power to make an order under section 43AA below.**]**

[[F75](3B) For the purposes of subsection (3) above, a day's pay shall be taken to be–

(a) subject to paragraph (b) below, the gross pay which is, or would apart from any forfeiture be, issuable to the offender in respect of the day on which the order is made;

(b) if the offender is a special member of a reserve force, the gross pay which would have been issuable to him in respect of that day if he had been an ordinary member of that reserve force of the same rank.

(3C) In subsection (3B)(b) above "special member" and "ordinary member" have the same meaning as in the Reserve Forces Act 1996.**]**

[[F76](4) References in paragraphs (a) to (f) of subsection (1) of this section to a court-martial or to a member of a court-martial include references to a judicial officer or a person appointed under section 75L of the Army Act 1955 or section 75L of the Air Force Act 1955 and, in relation to an offence committed in relation to a judicial officer, subsection (3) of this section shall have effect as if—

(a) references to a court-martial were references to the judicial officer, and

(b) the words "under the hand of the president" were omitted.**]**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[[F77](5) References in paragraphs (a) to (f) of subsection (1) of this section to a court-martial include references to the summary appeal court, the court established by section 83ZA of the Army Act 1955 or the court established by section 83ZA of the Air Force Act 1955 and, in relation to an offence committed in relation to the summary appeal court, subsection (3) of this section shall have effect as if the reference to a court-martial were a reference to the summary appeal court.**]**

Textual Amendments

F69 Words in s. 38(1)(c) substituted (28.2.2002) by 2001 c. 19, s. 24(2)(e); S.I. 2002/345, **art. 2** (subject to art. 3)

F70 Words in s. 38(2) repealed (28.2.2002) by 2001 c. 19, s. 38, Sch. 7 Pt. 1; S.I. 2002/345, **art. 2** (subject to art. 3)

F71 Words substituted by Armed Forces Act 1971 (c. 33), **ss. 23(3)**, 78(4)

F72 Words in s. 38(3)(a) repealed (1.1.1999) by S.I. 1998/3086, **reg. 4(1)(b)**

F73 S. 38(3A) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, **Sch. 8 para. 1(1)(2)**

F74 Words substituted (*retrospectively*) by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), **Sch. 1 para. 2**

F75 S. 38(3B) and (3C) inserted (1.1.1999) by S.I. 1998/3086, **reg. 4(3)**

F76 S. 38(4) inserted (2.10.2000) by 2000 c. 4, s. 10, **Sch. 1 para. 6**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F77 S. 38(5) inserted (2.10.2000) by 2000 c. 4, s. 25, **Sch. 3 para. 3**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

Marginal Citations

M4 1955 c. 18.

M5 1955 c. 19.

39 Conduct to the prejudice of naval discipline.

Every person subject to this Act who is guilty **[**[F78]whether by any act or omission or otherwise, of conduct**]** to the prejudice of good order and naval discipline . . . [F79] shall be liable to **[**[F80]imprisonment for a term not exceeding two years**]** or any less punishment authorised by this Act.

Textual Amendments

F78 Words substituted by Armed Forces Act 1986 (c. 21, SIF 7:1), **s. 4(2)**

F79 Words repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

F80 Words substituted by Armed Forces Act 1971 (c. 33), **ss. 33**, 78(4)

Attempts and aiding and abetting

40 Attempt to commit naval offence.

Every person subject to this Act who attempts to commit an offence against any of the foregoing provisions of this Act shall be liable to the like punishment as for that offence:

[F81] . . .

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F81 S. 40: proviso repealed (11.5.2001) by 2001 c. 19, ss. 38, 39(3)(g), **Sch. 7 Pt. 4**

[F82 41 Aiding and abetting etc., and inciting.

(1) Any person subject to this Act who aids, abets, counsels or procures the commission by another person of an offence against any of the foregoing provisions of this Act or who incites another person to commit any such offence, shall himself be guilty of the offence in question, and shall be liable to be charged, tried and punished accordingly.

(2) A person may be guilty by virtue of subsection (1) above of an offence against section 35 of this Act whether or not he knows the nature of the document in question.**]**

Textual Amendments

F82 S. 41 substituted by Armed Forces Act 1971 (c. 33), **ss. 32(2)(4)**, 78(4)

Civil offences

42 Civil offences.

(1) **[**F83Subject to section 43A below**]** every person subject to this Act who is guilty of any civil offence (that is to say any act or omission which is punishable by the law of England or would be so punishable if committed in England) shall F84. . . on conviction under this Act—

F85(a) . . . . . .

[F86(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;**]**

[F87(c) in the case of any other offence, **[**F88be liable**]** to such punishment or punishments (being a punishment or punishments authorised by this Act) as could be imposed F89. . . on conviction by a civil court of the like offence committed in England, or to any punishment so authorised which is less than the maximum punishment which could be so imposed.**]**

[F90(1A) Where the corresponding civil offence is one to which **[**F91section 109, 110 or 111 of the Powers of Criminal Courts (Sentencing) Act 2000**]** would apply, the court-martial shall impose the sentence required by subsection (2) of that section unless it is of the opinion that there are exceptional circumstances which justify its not doing so.**]**

(2) A person subject to this Act may be charged with an offence under this section notwithstanding that he could on the same facts be charged with an offence under any other provision of this Part of this Act.

[F92(2A) For the purpose of determining under this section whether an attempt to commit an offence is a civil offence, subsection (4) of section 1 of the M6Criminal Attempts Act 1981 (which relates to the offence of attempt) shall have effect as if for the words "offence which, if it were completed, would be triable in England and Wales as an indictable offence" there were substituted the words "civil offence consisting of an act punishable by the law of England and Wales as an indictable offence or an act which, if committed in England or Wales, would be so punishable by that law".**]**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F83 Words in s. 42(1) inserted (1.10.2001) by 2001 c. 19, s. 34, **Sch. 6 Pt. 6 para. 34(2)**; S.I. 2001/3234, **art. 2** (subject to transitional provisions in art. 3)

F84 Words in s. 42(1) repealed (1.10.2001) by 2001 c. 19, ss. 34, 38, Sch. 6 Pt. 6 para. 34(2), **Sch. 7 Pt. 7**; S.I. 2001/3234, **art. 2** (subject to transitional provisions in art. 3)

F85 S. 42(1)(a) repealed (11.5.2001) by 2001 c. 19, ss. 38, 39(3)(g), **Sch. 7 Pt. 4**

F86 S. 42(1)(b) substituted (1.10.2001) by 2001 c. 19, s. 34, **Sch. 6 Pt. 6 para. 34(3)**; S.I. 2001/3234, **art. 2** (subject to transitional provisions in art. 3)

F87 S. 42(1)(c) substituted by Armed Forces Act 1971 (c. 33), **ss. 34(3)**, 78(4)

F88 Words in s. 42(1)(c) inserted (1.10.2001) by 2001 c. 19, s. 34, **Sch. 6 Pt. 6 para. 34(4)**; S.I. 2001/3234, **art. 2** (subject to transitional provisions in art. 3)

F89 Words repealed by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1)(2), Sch. 1 para. 3, **Sch. 2**

F90 S. 42(1A) inserted (1.10.1997) by 1997 c. 43, s. 55, **Sch. 4 para. 3(1)**; S.I. 1997/2200, **art. 2**

F91 Words in s. 42(1A) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 18**

F92 S. 42(2A) inserted by Criminal Attempts Act 1981 (c. 47), **s. 7(1)**

Modifications etc. (not altering text)

C20 S. 42 modified (1.10.1997) by 1997 c. 43, **s. 7(1)**; S.I. 1997/2200, **art. 2(1)**

Marginal Citations

M6 1981 c. 47.

Punishments

[F93 43 Scale of punishments, and supplementary provisions.

(1) The punishments which may be awarded to persons convicted of offences under this Part of this Act are, subject to the following provisions of this section [F94 and section 43A below], as follows:—

F95 (a) . . . . . .

(b) imprisonment,

F96 [(bb) detention by virtue of a custodial order made under section 43AA of this Act;]

F97 [(bc) order that the convicted person be disqualified from working with children]

(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) dismissal from the ship or naval establishment to which the offender belongs,

(h) disrating,

(i) fine,

(j) severe reprimand,

(k) reprimand,

(l) in the case of an offence which has occasioned any expense, [F98 personal injury], loss or damage, stoppages, that is to say, the recovery, by deductions from the offender's pay, of a specified sum by way of compensation for the expense, [F98 personal injury] loss or damage, and

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(m) such minor punishments as may from time to time be authorised by the Defence Council;

and references in this Act to any punishment authorised 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:

[[F99]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), (h) and (m),

(b) in relation to a convicted person who is a warrant officer, with the omission of paragraphs (f), (g) and (m), and

(c) in relation to a convicted person who is a rating below the rate of warrant officer with the omission of paragraphs (f) and (g) and, if he is below the rate of leading seaman, of paragraphs (h), (j) and (k) also.

(3) A person **[**[F100]who, otherwise than under section 38(3) of this Act, is**]** sentenced under this Act 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 sentencing authority 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 rating of the rate of leading seaman or above **[**[F100]who, otherwise than under section 38(3) of this Act, is**]** sentenced under this Act to imprisonment, to dismissal from Her Majesty's service (whether or not with disgrace), or to detention, shall also be sentenced to disrating:

Provided that, if the sentencing authority fail to give effect to this subsection, their sentence shall not be invalid, but shall be deemed to include a sentence of disrating

(5) A sentence of disrating awarded in compliance with subsection (4) above, or deemed to have been awarded by virtue of the proviso to that subsection, shall be one reducing the offender to such rate as may be prescribed in relation to persons of the class to which he belongs by regulations made by the Defence Council; and any other sentence of disrating under this Act may reduce the offender to any rate not lower than that so prescribed.

(6) The amount of a fine that may be awarded under this Act by way of punishment for an offence, except in the case of an offence under section 42 thereof, 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 in the said excepted case—

(a) the amount of a fine that may be so awarded by a court-martial—

(i) where the civil offence constituting the offence under that section is punishable by a civil court in England only on summary conviction,

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

and is so punishable by a fine, shall not exceed the maximum amount of that fine, and

(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;

(b) the amount of a fine that may be so awarded where the offence is tried summarily—

(i) in any case shall not exceed the amount of the offender's pay for twenty-eight days or, where the civil offence constituting the offence was committed on active service, fifty-six days, and

(ii) where the said civil offence is punishable by a civil court in England only on summary conviction, and is so punishable by a fine of a maximum amount less than the amount mentioned in sub-paragraph (i) above, shall not exceed that maximum, and

(iii) where the said civil offence is punishable by a civil court in England on indictment by a fine of a maximum amount less than the amount so mentioned (whether or not it is also punishable on summary conviction) shall not exceed that maximum;

F101 . . ..

[For the purposes of subsection (6) above, a day's pay shall be taken to be–

F102(6A) (a) subject to paragraph (b) below, the gross pay which is, or would apart from any forfeiture be, issuable to the offender in respect of the day on which the punishment is awarded;

(b) if the offender is a special member of a reserve force, the gross pay which would have been issuable to him in respect of that day if he had been an ordinary member of that reserve force of the same rank.

(6B) In subsection (6A)(b) above "special member" and "ordinary member" have the same meaning as in the Reserve Forces Act 1996.**]**

[Unless the Secretary of State by order provides that this subsection shall no longer

F103(7) apply, the stoppages awarded 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.

F103(8) The power to make an order under subsection (7) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.**]]**

Textual Amendments

F93 S. 43 substituted for ss. 43, 44 by Armed Forces Act 1971 (c. 33), **ss. 38**, 78(4)

F94 Words inserted by Armed Forces Act 1976 (c. 52), **s. 10(3)(d)**

F95 S. 43(1)(a) repealed (11.5.2001) by 2001 c. 19, ss. 38, 39(3)(g), **Sch. 7 Pt. 4**

F96 S. 43(1)(bb) inserted by Armed Forces Act 1981 (c. 55), **s. 2(3)(b)**

F97 S. 43(1)(bc) inserted (11.1.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 28**; S.I. 2000/3302, **art. 2(b)**

F98 Words in s. 43(1)(l) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 8(1)(a)**; S.I. 1991/2719, **art. 2**

F99 Words substituted by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), **Sch. 1 para. 4**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F100 Words inserted (*retrospectively*) by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), **Sch. 1 para. 1(2)**
F101 Words in s. 43(6) repealed (1.1.1999) by S.I. 1998/3086, **reg. 3(1)**
F102 S. 43(6A) and (6B) inserted (1.1.1999) by S.I. 1998/3086, **reg. 3(3)**
F103 S. 43(7)(8) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 8(1)(b)**; S.I. 1991/2719, **art. 2**

[F104 43A Juveniles

(1) A person under21 years of age shall not be sentenced to imprisonment.

F105 [Where—

(1A) (a) a person under 21 years of age is convicted of murder or any other civil offence the sentence for which is fixed by law as imprisonment for life; or

(b) a person under that age is convicted of any civil offence to which [F106 section 109 of the Powers of Criminal Courts (Sentencing) Act 2000] would apply and the court is not of the opinion mentioned in subsection (2) of that section,

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 [F107 18 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 [F108 then, subject to subsection (1E) below], the court shall sentence him to custody for life if—

F109 (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.

F110 [Subject to subsections (3) and (4) below, the only custodial sentences that a court may

(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 43AA of this Act or under paragraph 10 of Schedule 4A 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 43AA 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

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(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) . . . [F111]

(3) A person convicted of murder **[**[F112]or any other offence the sentence for which is fixed by law as life imprisonment**]** who was under 18 years of age when the offence was committed shall not be sentenced to imprisonment for life, [F113]. . .; 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) **[**[F114] In any case where—

(a) a person aged 14 or over but under **[**[F115]18 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, **[**[F114]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 **[**[F116] 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 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 authorised by this Act involving the same degree of punishment as a sentence of imprisonment; and section 43(3) and (4) above shall apply to such a sentence of detention 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.**]**

[[F117](7) A sentence of detention under section 43(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

F104 S. 43A inserted by Armed Forces Act 1976 (c. 52), **s. 10(1)(2)**

F105 S. 43A(1A) substituted (1.10.1997) by 1997 c. 43, s. 55, **Sch. 4 para. 3(2)**; S.I. 1997/2200, **art. 2**

F106 Words in s. 43A(1A) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 19**

F107 Words in s. 43A(1B) substituted (1.10.1992 for E.W.) by Criminal Justice Act 1991 (c. 53), ss. 71, 102(2)(8), **Sch. 9 para. 5**; S.I. 1992/333, arts. 2(2), 3(1), **Sch. 2**

F108 Words in s. 43A(1B) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 2(2)(a)(6)**; S.I. 1991/2719, **art. 2**

F109 S. 43A(1B)(a) repealed (1.1.1992) by Armed Forces Act 1991 (c. 62), ss. 2(2)(b)(6), 26(2), **Sch. 3**; S.I. 1991/2719, **art. 2**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F110 S. 43A(1D)-(1F) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 2(3)(6)**; S.I. 1991/2719, **art. 2**

F111 S. 43(2) repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 78, **Sch. 16**

F112 Words in s. 43A(3) inserted (30.11.2000 with effect as mentioned in Sch. 7 para. 29(2) of the amending Act) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 29(1)(e)**

F113 Words in s. 43A(3) repealed (11.5.2001) by 2001 c. 19, ss. 38, 39(3)(g), **Sch. 7 Pt. 4**

F114 Words in s. 43A(4) substituted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 2(4)(a)(b)(6)**; S.I. 1991/2719

F115 Words in s. 43A(4)(a) substituted (1.10.1992 for E.W.) by Criminal Justice Act 1991 (c. 53), ss. 71, 102(2)(8), **Sch. 9 para. 5**; S.I. 1992/333, arts. 2(2), 3(1), **Sch. 2**

F116 Words in s. 43A(4) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 2(4)(c)(6)**; S.I. 1991/2719, **art. 2**

F117 S. 43A(7) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 2(5)(6)**; S.I. 1991/2719, **art. 2**

[F118 43AA 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, F119. . . 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 **[**F120 period to be specified in the order **[**F121 being not less than 21 days and**]**[F122 which—

(a) shall be not less than the appropriate minimum period, that is to say—

(i) in the case of an offender who has attained eighteen years of age, the period of 21 days; or

(ii) in the case of an offender who is under that age, the period of two months; and

(b) shall not exceed**]** the maximum period for which he could have been sentenced to imprisonment if he had attained the age of twenty-one years**]**

F123 (1A) . . . . . .

F124 (1AA) **[** The court shall not make a custodial order committing an offender aged 17 to be detained for a period exceeding twelve months or for a period such that the continuous period for which he is committed to be detained under that order and any one or more other custodial orders exceeds twelve months.**]**

(1B) For the purposes of determining whether **[**F125 it is satisfied as mentioned in sub-paragraphs (i) and (ii) of subsection (1E) of section 43A 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.**]**

(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 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.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(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.

[[F126](5) The following provisions of this Act shall apply in the case of a sentence under a custodial order as they apply in the case of a sentence of imprisonment, that is to say—

(a) sections 43(3) and (4), 85(1), 86(1) and (3), 89(3) and 92(1); 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 81, 82, 87, 88, 104, 119 and 130A;

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—

[[F127](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, **[**[F128]section 98 of the Powers of Criminal Courts (Sentencing) Act 2000**]** having effect in relation to the offender as it has effect in relation to an offender sentenced to detention in a young offender institution;**]**

[[F129](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.

[[F130](6A) **[**[F131]Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act)**]** (release of young offenders) shall apply to persons released from a term of detention under a custodial order as it applies to persons released from **[**[F132]a sentence of detention in a young offender institution**].]**

[[F133](6B) . . . . . .**]**

(7) This section does not apply to offenders who are civilians (as regards whom similar provision is made by paragraph 10 of Schedule 4A to this Act).

Textual Amendments

F118 S. 43AA inserted by Armed Forces Act 1981 (c. 55), **s. 2(2)**

F119 Words in s. 43AA(1) repealed (1.1.1992) by Armed Forces Act 1991 (c. 62), **ss. 3(1)**, 26(2). Sch. 3; S.I. 1991/2719, **art. 2** and repealed (1.10.1992 for E.W.) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 71, 101(2), 102(2)(8), Sch. 9 para. 6(b), **Sch. 13**; S.I. 1992/333, arts. 2(2), 3(1), **Sch. 2**

F120 Words in s. 43AA(1) substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, **Sch. 8 para. 3(a)**

F121 Words in s. 43AA(1) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 3(1)**; S. I. 1991/2719, **art. 2** and repealed (1.10.1992 for E.W.) by Criminal Justice Act 1991 (c. 53), ss. 101(2), 102(2)(8), **Sch. 13**; S.I. 1992/333, arts. 2(2), 3(1), **Sch. 2**

F122 Words in s. 43AA(1) substituted (1.10.1992 for E.W.) by Criminal Justice Act 1991 (c. 53), SS. 71, 102(2)(8), Sch. 9 para. 6; S.I. 1992/333, arts. 2(2), 3(1), **Sch. 2**

F123 S. 43AA(1A) repealed (1.1.1992) by Armed Forces Act 1991 (c. 62), ss. 3(2), 26(2), **Sch. 3**; S.I. 1991/2719, **art. 2** and repealed (1.10.1992 for E.W.) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 71, 101(2), 102(2)(8), Sch. 9 para. 6(b), **Sch. 13**; S.I. 1992/333, arts. 2(2), 3(1), **Sch. 2**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F124 S. 43AA(1AA) inserted (1.10.1992 for E.W.) by Criminal Justice Act 1991 (c. 53), ss. 71, 102(2)(8), **Sch. 9 para. 6(c)**; S.I. 1992/333, arts. 2(2), 3(1), **Sch. 2**

F125 Words in s. 43AA(1B) substituted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 3(3)(4)**; S.I. 1991/2719, **art. 2**

F126 S. 43AA(5) substituted by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), **Sch. 1 para. 5(5)**

F127 S. 43AA(6)(*a*) substituted (E.W.) by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 123(6), **Sch. 8 para. 4(b)**

F128 Words in s. 43AA(6)(a) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 20**

F129 S. 43AA(6)(*b*) substituted (S.) by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 124(4), **Sch. 9 para. 2(b)**

F130 S. 43AA(6A) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, **Sch. 8 para. 3**(*d*)

F131 Words in s. 43AA(6A) substituted (1.12.1999) by 1997 c. 43, s. 55(2), **Sch. 4 para. 3(3)**; S.I. 1999/3096, **art. 2(d)**

F132 Words in s. 43AA(6A) substituted (1.10.1988) by virtue of 1988 c. 33, s. 123, Sch. 8 Pt. I paras. 1, **2**; S.I. 1988/1408, art. 2(1), **Sch.**

F133 S. 43AA(6B) repealed (1.10.1993) by 1993 c. 9, ss. 47(3), 48(7), **Sch. 7 Pt. I** (with Sch. 6 paras. 1, 2); S.I. 1993/2050, **art. 3(4)**.

[43AB [F134] Reasons to be given where custodial sentence awarded to young offender.

(1) This section applies where a court—

(a) makes a custodial order under section 43AA of this Act, or

(b) passes a sentence of custody for life under section 43A(1B) of this Act.

(2) It shall be the duty of the court—

(a) 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 43A of this Act, the paragraph or paragraphs in question, and why it is so satisfied; and

(b) 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 committal order.**]**

Textual Amendments

F134 S. 43AB inserted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 4(2)**; S.I. 1991/2719, **art. 2**

[[F135]43B 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, **[**[F136]or

(c) in respect of whom the court makes an order under section 43AA above on the same occasion for the same or another offence, or

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(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 **[**[F137]or detention**]** . . . [F138] 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.

[F139]**[** Subject to subsections (4) and (5) below, the Table in **[**[F140]section 139(4) of the Powers (2) of Criminal Courts (Sentencing) Act 2000**]** (maximum periods of imprisonment for default in payment of fines etc.), as from time to time amended under section 143 of the Magistrates' Courts Act [M7]1980, 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 such manner as may be prescribed by regulations of the Defence Council, the period of the further term of imprisonment **[**[F141]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.

[F142]**[** An order imposing a term of detention under this section shall be given effect as if it (5A) were a custodial order under section 43AA above.**]**

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

Textual Amendments

F135 S. 43B inserted by Armed Forces Act 1976 (c. 52), s. 13, Sch. 6 paras. 1, **2**
F136 S. 43(B)(1)(*c*)(*d*) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, **Sch. 8 para. 4(1)**(*a*)(2)
F137 Words inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, **Sch. 8 para. 4(1)**(*b*)(2)
F138 Words repealed by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(2), **Sch. 2**
F139 S. 43B(2) substituted by Armed Forces Act 1986 (c. 21, SIF 7:1), **s. 5**
F140 Words in s. 43B(2) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 21**
F141 Words inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, **Sch. 8 para. 4(1)**(*b*)(2)
F142 S. 43B(5A) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, **Sch. 8 para. 4(1)**(*c*)(2)

Marginal Citations

M7 1980 c.43**(82).**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART II

TRIAL AND PUNISHMENT OF OFFENCES

Arrest

45 Duty to bring offenders to justice and powers of arrest.

(1) It shall be the duty of every person subject to this Act who knows or has reasonable grounds for suspecting that any other person subject thereto is committing or has committed an offence under any provision of Part I of this Act, to take all reasonable steps within his power to cause that person to be brought to justice.

(2) Subject to Standing Orders of the commanding officer of any of Her Majesty's ships or naval establishments, the following persons shall have power to arrest a person subject to this Act who is found committing or is alleged to have committed or is reasonably suspected of having committed any such offence as aforesaid, that is to say:—

(a) in the case of an officer, an officer subject to this Act who is his superior officer or, if the person to be arrested is engaged in a mutiny, quarrel or disturbance, any officer subject to this Act;

(b) in the case of a rating, an officer subject to this Act, a **[**[F143]warrant officer**]** chief petty officer, petty officer or leading rating subject to this Act who is of superior rate or senior to him in the same rate, and any rating exercising authority as a member of the regulating staff or as a member of the staff of the officer of the watch;

(c) in any case, a provost officer and any officer or person legally exercising authority under or on behalf of a provost officer:

Provided that an officer shall not be arrested by virtue of paragraph (c) of this subsection except on the order of another officer.

(3) Any power of arrest under this section may be exercised either personally or by ordering into arrest the person to be arrested or by giving orders for that person's arrest.

Textual Amendments

F143 Words inserted by Armed Forces Act 1971 (c. 33), **Sch. 3 para. 5(1)**

VALID FROM 18/07/2008

[[F144]45A Power of arrest in anticipation of commission of offence

(1) A service policeman may arrest a person whom he reasonably suspects of being about to commit an offence under any provision of Part 1 of this Act.

(2) Subsection (7) of section 45 of this Act applies in relation to the power of arrest conferred by this section as it applies in relation to the power of arrest conferred by that section.

(3) Where a person is arrested under this section—

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the arrest must be reported as soon as practicable to his commanding officer; and

(b) he may be kept in naval, military or air-force custody until such time as a service policeman is satisfied that the risk of his committing the offence concerned has passed.**]**

Textual Amendments

F144 S. 45A inserted (18.7.2008) by The Armed Forces (Alignment of Service Discipline Acts) Order 2008 (S.I. 2008/1694), **art. 9**

[F145]46 . . . . . .

Textual Amendments

F145 S. 46 repealed (2.10.2000) by 2000 c. 4, ss. 10, 27, Sch. 1 para. 7, **Sch. 4**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

47 Evidence of arrest or surrender.

(1) In any proceedings for an offence under Part I of this Act against a person who—

(a) has surrendered himself to any consular officer;

(b) has been taken on arrest or surrender into the custody of a provost officer; or

(c) has been taken on arrest or surrender into custody at any police station, guard-room or other place in any part of Her Majesty's dominions,

a certificate purporting to be signed by the consular or provost officer, or the officer in charge of the police station, guard-room or other place, as the case may be, containing a statement of the fact, date, time and place of arrest or surrender, and whether or not the person charged was wearing the uniform of any of Her Majesty's naval forces at the time of arrest or surrender, shall be evidence of the matter therein contained.

(2) In any proceedings for an offence of desertion, absence without leave or improperly leaving his ship . . . [F146] against a person who on arrest or surrender has been brought before a court of summary jurisdiction in accordance with the provisions of Part III of this Act, a certificate purporting to be signed by a justice of the peace **[**[F147]or (in Northern Ireland) resident magistrate**]** containing a statement of the fact, date, time and place of arrest or surrender, and whhe person charged was wearing the uniform of any of Her Majesty's naval forces at the time of arrest og such particulars as to the proceedings before the court as may be prescribed by regulations made by **[**[F148]the Defence Council**]** by statutory instrument, shall be evidence of the matter therein contained.

(3) In this section "provost officer" includes a corresponding officer of any of the forces of a Commonwealth country, or of a force raised under the law of any colony.

Textual Amendments

F146 Words repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F147 Words in s. 47(2) inserted (N.I.) (1.4.2005) by Justice (Northern Ireland) Act 2002 (c. 26), ss. 10, 87, **Sch. 4 para. 12**; S.R. 2005/109, **art. 2**, Sch.
F148 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

Modifications etc. (not altering text)
C21 S. 47(2) modified by Armed Forces Act 1966 (c. 45), **s. 33**

[F149 Custody

Textual Amendments
F149 Ss. 47A-47F and crossheading inserted (2.10.2000) by 2000 c. 4, **s. 1(3)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F150 47A Limitations on custody without charge.

(1) A person arrested under section 45 of this Act shall not be kept in naval custody without being charged except in accordance with sections 47B to 47D of this Act.

(2) If at any time the commanding officer of a person who is kept in naval custody without being charged—
   (a) becomes aware that the grounds for keeping that person in naval custody have ceased to apply; and
   (b) is not aware of any other grounds on which continuing to keep that person in naval custody could be justified under the provisions of this Act,

   it shall be the duty of the commanding officer, subject to subsection (3) below, to order his immediate release from naval custody.

(3) A person who appears to his commanding officer to have been unlawfully at large when he was arrested is not to be released under subsection (2) above.

(4) For the purposes of this section and sections 47B to 47L of this Act a person is to be treated as charged with an offence when he is informed in accordance with regulations of the Defence Council that a charge is to be reported to his commanding officer under section 52B(1) of this Act.

Textual Amendments
F150 Ss. 47A-47F inserted (2.10.2000) by 2000 c. 4, **s. 1(3)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F151 47B Authorisation of custody without charge.

(1) Where a person is arrested under section 45 of this Act—
   (a) the arrest, and
   (b) any grounds on which he is being kept in naval custody without being charged,

   shall be reported as soon as practicable to his commanding officer.

(2) Until such a report is made, the person may be kept in naval custody without being charged, but only if the person who made the arrest has reasonable grounds for believing that keeping him in naval custody without charge is necessary—

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) to secure or preserve evidence relating to an offence for which he is under arrest, or

(b) to obtain such evidence by questioning him.

(3) After receiving a report under subsection (1) above the commanding officer shall as soon as practicable determine—

(a) whether the requirements of subsection (4) below are satisfied, and

(b) if so, whether to exercise his powers under that subsection;

and the person to whom the report relates may be kept in naval custody for such period as is necessary to enable the commanding officer to make that determination.

(4) If in relation to the person to whom the report relates the commanding officer has reasonable grounds for believing—

(a) that keeping him in naval custody without being charged is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning him, and

(b) that the investigation is being conducted diligently and expeditiously,

he may authorise the keeping of that person in naval custody.

(5) An authorisation under subsection (4) above—

(a) if given less than 12 hours after the relevant time, shall end not more than 12 hours after the relevant time;

(b) if given not less than 12 but less than 36 hours after the relevant time, shall end not more than 36 hours after the relevant time;

(c) if given not less than 36 but less than 48 hours after the relevant time, shall end not more than 48 hours after the relevant time.

(6) A person shall not be kept in naval custody later than 48 hours after the relevant time without being charged except in accordance with section 47D of this Act.

(7) In this Act "the relevant time" in relation to a person arrested under section 45 of this Act means the time of the arrest.

Textual Amendments

F151 Ss. 47A-47F inserted (2.10.2000) by 2000 c. 4, **s. 1(3)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

Modifications etc. (not altering text)

C22 S. 47B(1)(3)(5)(6) modified (4.9.2000) by S.I. 2000/2366, art. 3, **Sch. para. 4** (with Sch. para. 15)

[F152]47C Review of custody by commanding officer.

(1) The commanding officer of a person kept in naval custody in accordance with section 47B of this Act shall, subject to subsection (3) below, review the keeping of that person in naval custody not later than the end of the period for which it is authorised.

(2) Subsections (4) and (5) of section 47B of this Act shall apply on each review under this section as they apply where a report is received under subsection (1) of that section.

(3) A review may be postponed—

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) if, having regard to all the circumstances prevailing at the expiry of the last authorisation under subsection (4) of that section, it is not practicable to carry out the review at that time;

(b) without prejudice to the generality of paragraph (a) above—

(i) if at that time the person in naval custody is being questioned and the commanding officer is satisfied that an interruption of the questioning for the purpose of carrying out the review would prejudice the investigation in connection with which he is being questioned; or

(ii) if at that time the commanding officer is not readily available.

(4) If a review is postponed under subsection (3) above—

(a) it shall be carried out as soon as practicable after the expiry of the last authorisation under section 47B(4) of this Act, and

(b) the keeping in naval custody of the person to whom the review relates shall by virtue of this paragraph be authorised until that time.

Textual Amendments

F152 Ss. 47A-47F inserted (2.10.2000) by 2000 c. 4, **s. 1(3)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

[F153]47D Extension of custody without charge.

(1) If, on an application by the commanding officer of a person arrested under section 45 of this Act, a judicial officer is satisfied that there are reasonable grounds for believing that the continued keeping of that person in naval custody is justified, the judicial officer may by order authorise the keeping of that person in naval custody.

(2) A judicial officer may not hear an application under this section unless the person to whom it relates—

(a) has been informed in writing of the grounds for the application, and

(b) has been brought before him for the hearing.

(3) The person to whom the application relates shall be entitled to be legally represented at the hearing and, if he is not so represented but wishes to be so represented—

(a) the judicial officer shall adjourn the hearing to enable him to obtain representation, and

(b) he may be kept in naval custody during the adjournment.

(4) For the purposes of this section, the continued keeping of a person in naval custody is justified only if—

(a) keeping him in custody without charge is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning him, and

(b) the investigation is being conducted diligently and expeditiously.

(5) Subject to subsection (7) below, an application under this section may be made—

(a) at any time before the end of 48 hours after the relevant time; or

(b) if it is not practicable for the application to be heard at the expiry of that period, as soon as practicable thereafter but not more than 96 hours after the relevant time.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) Where subsection (5)(b) above applies, an authorisation on a review under section 47C of this Act may be for a period ending more than 48 hours after the relevant time, but may not be—
  (a) for a period of more than six hours, or
  (b) for a period ending more than 96 hours after the relevant time.

(7) If—
  (a) an application under this section is made more than 48 hours after the relevant time, and
  (b) it appears to the judicial officer that it would have been reasonable for the commanding officer to make the application before the end of that period,

the judicial officer shall refuse the application.

(8) Where on an application under this section relating to any person the judicial officer is not satisfied that there are reasonable grounds for believing that continuing to keep that person in naval custody is justified, he shall—
  (a) refuse the application, or
  (b) adjourn the hearing of it until a time not later than 48 hours after the relevant time.

(9) The person to whom the application relates may be kept in naval custody during the adjournment.

(10) The period for which a judicial officer, on an application under this section, may authorise the keeping of a person in naval custody shall be such period, ending not more than 96 hours after the relevant time, as he thinks fit having regard to the evidence before him.

(11) Where a judicial officer refuses an application under this section at any time less than 48 hours after the relevant time, he may direct that the person to whom it relates forthwith be charged or released from naval custody.

(12) Where a judicial officer refuses an application under this section at any later time, he shall direct that the person to whom it relates forthwith be charged or released from naval custody.

Textual Amendments
F153 Ss. 47A-47F inserted (2.10.2000) by 2000 c. 4, **s. 1(3)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

[F154]47E Custody without charge: other cases.

(1) Sections 47A to 47D of this Act apply—
  (a) where a person is delivered into naval custody under section 103(3), 108(2) or 109(1) or (3) of this Act or under Schedule 2 to the [M8]Reserve Forces Act 1996, and
  (b) in any other case where a person arrested by a constable is delivered into naval custody,

as they apply where a person is arrested under section 45 of this Act, subject to such modifications as the Secretary of State may by regulations made by statutory instrument prescribe.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) In those cases references to the relevant time are—

(a) in relation to a person delivered into naval custody following arrest under section 103 or 105 of this Act or paragraph 2 of Schedule 2 to the 1996 Act or otherwise following arrest by a constable, references to the time of the arrest;

(b) in relation to a person delivered into naval custody following surrender under section 188 of this Act or paragraph 6 of that Schedule, references to the time of the surrender.

(3) Regulations under subsection (1) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F154 Ss. 47A-47F inserted (2.10.2000) by 2000 c. 4, **s. 1(3)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

Marginal Citations

M8 1996 c. 14.

[F155]47F Custody without charge: supplementary.

(1) The Defence Council may by regulations make provision with respect to—

(a) the delegation by the commanding officer of a person in naval custody of any of the commanding officer's functions under sections 47A to 47D of this Act to any other person subject to this Act;

(b) circumstances in which a person kept in naval custody without being charged is to be informed of, or given an opportunity to make representations about, any matter;

(c) the keeping of written records relating to compliance with any requirement of sections 47A to 47D of this Act or of regulations under paragraph (b) above.

(2) Any reference in sections 47B to 47D of this Act to a period of time is to be treated as approximate only.**]**

Textual Amendments

F155 Ss. 47A-47F inserted (2.10.2000) by 2000 c. 4, **s. 1(3)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

[[F156]47G Custody after charge.

(1) Where a person subject to this Act ("the accused") is kept in naval custody after being charged with an offence under any provision of Part I of this Act, he shall be brought before a judicial officer as soon as practicable.

(2) Where the accused is brought before a judicial officer in accordance with subsection (1) above, the judicial officer may by order authorise the keeping of the accused in naval custody, but only if—

(a) the judicial officer is satisfied that there are substantial grounds for believing that the accused, if released from naval custody, would—

(i) fail to attend any hearing in the proceedings against him,

(ii) commit an offence while released, or

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(iii) interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person;

(b) the judicial officer is satisfied that the accused should be kept in naval custody for his own protection or, if he is under 17 years of age, for his own welfare;

(c) the judicial officer is satisfied that it has not been practicable to obtain sufficient information for the purpose of taking the decisions required by this subsection for want of time since the accused was charged with the offence; or

(d) the accused, having been released from naval custody after being charged with the offence, has deserted or absented himself without leave.

(3) In taking the decision required by subsection (2)(a) above, the judicial officer shall have regard to such of the following considerations as appear to him to be relevant—

(a) the nature and seriousness of the alleged offence (and the probable method of dealing with the accused for it),

(b) the character, antecedents, associations and social ties of the accused,

(c) the accused's behaviour on previous occasions while charged with an offence and released from naval custody or while on bail in criminal proceedings,

(d) the strength of the evidence that the accused committed the offence,

as well as to any others which appear to be relevant.

(4) If—

(a) the accused is charged with an offence to which this subsection applies;

(b) representations are made as to any of the matters mentioned in subsection (2)(a) above; and

(c) the judicial officer decides not to authorise the keeping of the accused in naval custody,

the judicial officer shall state the reasons for his decision and shall cause those reasons to be included in the record of the proceedings.

(5) Subsection (4) above applies to any offence under section 42 of this Act where the civil offence constituting the offence is—

(a) murder;

(b) manslaughter;

(c) rape;

(d) attempted murder; or

(e) attempted rape.

(6) The period for which a judicial officer may, by an order under subsection (2) above, authorise the keeping of the accused in naval custody shall be such period, ending (subject to section 47H(7) of this Act) not later than 8 days after the day on which the order is made, as he thinks fit having regard to the evidence before him.

(7) An order under subsection (2) above does not authorise the keeping of the accused in naval custody—

(a) if the accused is subsequently released from naval custody, at any time after his release; or

(b) at any time after the award of punishment on summary trial of the charge or any amended or substituted charge.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(8) Subsection (1) above does not apply where the accused is charged at a time when he is kept in naval custody by reason of an award or sentence under this Act or of an order under subsection (2) above, unless that reason ceases to apply.**]**

Textual Amendments

F156 S. 47G inserted (2.10.2000) by 2000 c. 4, **s. 2(3)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

[[F157]47H Review of custody after charge.

(1) Where the keeping of the accused in naval custody is authorised by an order under section 47G(2) of this Act, it shall be reviewed by a judicial officer not later than the end of the period for which it is authorised.

(2) If at any time it appears to the accused's commanding officer that the grounds on which such an order was made have ceased to exist, he shall—
  (a) release the accused from naval custody, or
  (b) request a review.

(3) Where a request is made under subsection (2) above, a review shall be carried out as soon as practicable.

(4) Subsections (2) to (6) of section 47G of this Act apply on a review as they apply where the accused is brought before a judicial officer under subsection (1) of that section.

(5) At the first review the accused may support an application for release from naval custody with any argument as to fact or law that he desires (whether or not he has advanced that argument previously).

(6) At subsequent reviews the judicial officer need not hear arguments as to fact or law which have been heard previously.

(7) On a review at a hearing at which the accused is legally represented, the judicial officer may, if the accused consents, authorise the keeping of the accused in naval custody for a period of not more than 28 clear days.

(8) In this section "review" means a review under subsection (1) above.**]**

Textual Amendments

F157 S. 47H inserted (2.10.2000) by 2000 c. 4, **s. 3(3)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

Modifications etc. (not altering text)

C23 S. 47H(6) applied (2.10.2000) by S.I. 2000/2367, **rule 23**

[[F158]47J Custody during court-martial proceedings.

(1) Where the accused is kept in naval custody under an order under section 47G(2) of this Act at any time after the commencement of his trial by court-martial, section 47H of this Act (and section 47G as applied by that section) shall apply with the following modifications.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) In relation to a review before the announcement of the court-martial's finding on the charge or every charge against the accused, references to a judicial officer shall have effect as references to the judge advocate **[**[F159], unless on an adjournment of the court-martial the judge advocate orders that during the adjournment matters relating to custody are to be dealt with by a judicial officer**]**.

(3) In section 47G(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 the judicial officer that it would be impracticable to complete the inquiries or make the report without keeping the accused in naval custody."

(4) Section 47G(3)(d) does not apply in the case of an accused who is awaiting sentence.

(5) An order under section 47G(2) does not authorise the keeping of the accused in naval custody after he is sentenced by the court-martial.

(6) Subsection (1) above shall cease to apply (but without prejudice to any order already made by virtue of that subsection) if the court-martial is dissolved.**]**

Textual Amendments

F158 S. 47J inserted (2.10.2000) by 2000 c. 4, **s. 4(3)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F159 Words in s. 47J(2) inserted (25.8.2006) by 2001 c. 19, ss. 29, 39(2), Sch. 4 para. 8; S.I. 2006/2309, **art. 2(a)**

[[F160]**47K Release from custody after charge or during proceedings.**

(1) This section applies where, at a hearing under section 47G(1) of this Act or on a review under section 47H(1) of this Act, the judicial officer or judge advocate (as the case may be) does not authorise keeping the accused in naval custody.

(2) Where this section applies, the accused—

(a) subject to paragraph (b) below, shall be released from naval custody forthwith, but

(b) if he is a person to whom section 51 of this Act applies or is subject to this Act by virtue of section 111(3) or (5) of this Act, may be required to comply, before release or later, with such requirements as appear to the judicial officer or judge advocate (as the case may be) to be necessary for the purpose of securing his attendance at any hearing in connection with the offence to which the charge relates.

[F161](2A) **[** 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 subsection (2)(b) above (including such a requirement as previously varied under this subsection) may be varied or discharged by a judicial officer or, where section 47J(2) of this Act has effect, by the judge advocate in relation to the court-martial.**]**

(3) A person on whom a requirement has been imposed under subsection (2)(b) above is guilty of an offence if he fails without reasonable cause to attend any hearing to which the requirement relates.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) A person guilty of an offence under this section shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

(5) Any such offence shall be treated as if it were an offence under Part I of this Act.**]**

Textual Amendments

F160 S. 47K inserted (2.10.2000) by 2000 c. 4, **s. 5(3)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F161 S. 47K(2A) inserted (25.8.2006) by 2001 c. 19, ss. 29, 39(2), Sch. 4 para. 9; S.I. 2006/2309, **art. 2**

[F162 47L Arrest during proceedings.

(1) Except where subsection (3) below applies, the commanding officer of a person subject to this Act ("the accused") who—

(a) has been charged with, or is awaiting sentence for, an offence under any provision of Part I of this Act, and

(b) is not in naval custody,

may, if satisfied that taking the accused into naval custody is justified, give orders for his arrest.

(2) Subject to subsection (4) below, subsection (3) below applies between the commencement of the trial of the accused by court-martial and the announcement of the court-martial's finding on the charge or every charge against the accused.

(3) Where this subsection applies, the judge advocate, if satisfied that taking the accused into naval custody is justified, may direct the arrest of the accused; and any person with power to arrest the accused for an offence under Part I of this Act shall have the same power, exercisable in the same way, to arrest him pursuant to a direction under this subsection.

F163 **[** (3A) Where on an adjournment of the court-martial the judge advocate has ordered that during the adjournment matters relating to custody are to be dealt with by a judicial officer, the reference in subsection (3) above to the judge advocate shall have effect as a reference to a judicial officer.**]**

(4) Subsection (3) above shall cease to apply (but without prejudice to any direction already given by virtue of that subsection) if the court-martial is dissolved.

(5) For the purposes of this section, taking the accused into naval custody is justified if there are substantial grounds for believing that, if not taken into naval 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.

(6) Taking the accused into naval custody is also justified for the purposes of this section if—

(a) the accused is a person to whom section 51 of this Act applies, and

(b) he has failed to attend any hearing in the proceedings against him.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(7) A person arrested under subsection (1) above, if kept in naval custody—

(a) shall be treated as being in naval custody under an order under section 47G(2) of this Act, and

(b) shall be brought as soon as practicable before a judicial officer to be dealt with as on a review under section 47H(1) of this Act.

(8) A person arrested under subsection (3) above—

(a) shall be treated as being in naval custody under an order under section 47G(2) of this Act, and

(b) shall be brought as soon as practicable before the judge advocate on whose direction the arrest was made **[**[F164]or any judicial officer (unless already before the judge advocate or a judicial officer)**]**, and shall be dealt with by him as on a review under section 47H(1) of this Act.**]**

Textual Amendments

F162 S. 47L inserted (2.10.2000) by 2000 c. 4, **s. 6(3)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F163 S. 47L(3A) inserted (25.8.2006) by 2001 c. 19, ss. 29, 39(2), Sch. 4 para. 10(2); S.I. 2006/2309, **art. 2(a)**

F164 Words in s. 47L(8)(b) substituted (25.8.2006) by 2001 c. 19, ss. 29, 39(2), Sch. 4 para. 10(3); S.I. 2006/2309, **art. 2**

Modifications etc. (not altering text)

C24 S. 47L(1)(7) modified (4.9.2000) by S.I. 2000/2366, art. 3, **Sch. para. 7** (with Sch. para. 15)

[[F165]**47MJudicial officers.**

(1) Judicial officers shall be appointed for the purposes of this Act by the **[**[F166]Judge Advocate General**]** .

(2) No person shall be appointed under this section unless—

(a) he is qualified under section 53B(2) of this Act for appointment as the judge advocate in relation to a court-martial, [F167]. . .

(b) he has, and has had for at least five years, in any Commonwealth country or any colony rights and duties similar to those of a barrister or solicitor in England and Wales, and is subject to punishment or disability for breach of professional rules.**][**[F168]or**]**

[[F168](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 **[**[F166]Judge Advocate General**]** to be appropriate.**]**

[[F169](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).**]**

Textual Amendments

F165 S. 47M inserted (2.10.2000) by 2000 c. 4, **s. 7(2)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F166 Words in s. 47M substituted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383(2), **Sch. 16 para. 26**; S.I. 2007/2913, **art. 3**

F167 Word in s. 47M(2)(a) repealed (1.10.2001) by 2001 c. 19, ss. 34, 38, Sch. 6 Pt. 6 para. 36(2), **Sch. 7 Pt. 7**; S.I. 2001/3234, **art. 2** (subject to transitional provisions in art. 3)

F168 S. 47M(2)(c) and the word "or" immediately preceding it inserted (1.10.2001) by 2001 c. 19, s. 34, **Sch. 6 Pt. 6 para. 36(2)**; S.I. 2001/3234, **art. 2** (subject to transitional provisions in art. 3)

F169 S. 47M(3) inserted (1.10.2001) by 2001 c. 19, s. 34, **Sch. 6 Pt. 6 para. 36(3)**; S.I. 2001/3234, **art. 2** (subject to transitional provisions in art. 3)

[F170 47N Custody rules.

(1) The Secretary of State may make rules with respect to proceedings—

(a) on an application under section 47D of this Act;

(b) under section 47G(1) of this Act;

(c) on a review under section 47H(1) of this Act.

F171 [(d) on an application under section 47K(2A) of this Act.]

(2) Rules under this section may in particular make provision with respect to—

(a) arrangements preliminary to the proceedings;

(b) the representation of the person to whom the proceedings relate;

(c) the admissibility of evidence;

(d) procuring the attendance of witnesses;

(e) the immunities and privileges of witnesses;

(f) the administration of oaths;

(g) circumstances in which a review under section 47H(1) of this Act may be carried out without a hearing;

(h) the use for the purposes of the proceedings of live television links or similar arrangements, including the use of such a link or other arrangement as a means of satisfying the requirement of section 47D(2)(b), 47G(1) or 47L(7)(b) or (8)(b) of this Act for a person to be brought before a judicial officer or judge advocate;

(i) the appointment of persons to discharge administrative functions under the rules.

(3) Rules under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

F170 S. 47N inserted (2.10.2000) by 2000 c. 4, **s. 8(2)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F171 S. 47N(1)(d) inserted (25.8.2006) by 2001 c. 19, ss. 34, 39(2), Sch. 4 para. 11; S.I. 2006/2309, **art. 2**

Modifications etc. (not altering text)

C25 S. 47N modified (4.9.2000) by S.I. 2000/2366, art. 3, **Sch. para. 7** (with Sch. para. 15)

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Jurisdiction

48 Jurisdiction of courts-martial.

(1) Subject to the provisions of this section, any offence under Part I of this Act may be tried and punished by court-martial; and a court-martial shall have jurisdiction to try any such offence whether committed within the United Kingdom or elsewhere.

(2) A person shall not be tried by court-martial by virtue of section forty-two of this Act for a civil offence of treason, murder, manslaughter, treason-felony [F172]. . . **[**[F173]or an offence under section 1 of the Geneva Conventions Act 1957**]**. . . **[**[F174]or an offence under section 1 of the [M9]Biological Weapons Act 1974**][**[F175]or an offence under section 2 or 11 of the Chemical Weapons Act 1996**][**[F176]or an offence under section 51 or 52 of the International Criminal Court Act 2001**]**committed on shore within the United Kingdom; and for the purposes of this subsection an offence of murder or manslaughter **[**[F177], or an offence under section 1 of the Geneva Conventions Act 1957 or section 51 of the International Criminal Court Act 2001 consisting of the killing of a person,**]**. . .shall be deemed to have been committed at the place of the commission of the act or the occurrence of the neglect which caused the death, irrespective of the place of the death. **[**[F178]In this subsection the references to murder shall apply also to aiding, abetting, counselling or procuring suicide**]**.

(3) Except as provided by subsection (3) of section thirty-eight of this Act, a person who commits an offence under that section in relation to a court-martial shall not be dealt with by that court for that offence.

Textual Amendments

F172 Words in s. 48(2) repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 139, 140, 141, Sch. 6 para. 12, **Sch. 7**; S.I. 2004/874, **art. 2**; S.S.I. 2004/138, **art. 2**

F173 Words in s. 48(2) inserted (1.9.2001) by 2001 c. 17, **s. 74(2)(a)** (with ss. 56(2), 63(2), 78); S.I. 2001/2161, **art. 2**

F174 Words inserted by Biological Weapons Act 1974 (c. 6), **s. 5(2)**

F175 Words in s. 48(2) inserted (16.9.1996) by 1996 c. 6, **s. 35(c)** (with s. 37); S.I. 1996/2054, **art. 2**

F176 Words in s. 48(2) inserted (1.9.2001) by 2001 c. 17, **s. 74(2)(b)** (with ss. 56(2), 63(2), 78); S.I. 2001/2161, **art. 2**

F177 Words in s. 48(2) inserted (1.9.2001) by 2001 c. 17, **s. 74(3)** (with ss. 56(2), 63(2), 78); S.I. 2001/2161, **art. 2**

F178 Words added by Suicide Act 1961 (c. 60), **Sch. 1 Pt. II**

Marginal Citations

M9 1974 c. 6.

[F179]49 . . . . . .

Textual Amendments

F179 S. 49 repealed (1.4.1997 with savings) by 1996 c. 46, ss. 5, 35(2), Sch. 1 para. 12, **Sch. 7 Pt. I**; S.I. 1997/304, **art. 2** (with art. 3)

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F180]50 . . . . . .

Textual Amendments

F180 S. 50 repealed (1.4.1997 with savings) by 1996 c. 46, ss. 8, 35(2), Sch. 1 para. 12, **Sch. 7 Pt. I**; S.I. 1997/304, **art. 2** (with art. 3)

51 Jurisdiction to try offenders no longer subject to this Act.

(1) Subject to the provisions of . . . [F181] the next following section, a person who has ceased to be subject to this Act may be tried under this Part of this Act for any offence committed while subject to this Act, and may for that purpose be arrested and kept in custody, as if he had not ceased to be subject thereto.

(2) . . . [F182]

Textual Amendments

F181 Words repealed by Armed Forces Act 1981 (c. 55), **Sch. 5 Pt. II**

F182 S. 51(2) repealed by Armed Forces Act 1981 (c. 55), **Sch. 5 Pt. II**

52 Limitation of time for trial.

[[F183](1) Where by virtue of any enactment proceedings on indictment for any civil offence must be brought within a limited period, a person shall not be tried for that offence under section 42 of this Act unless the trial is begun within that period.**]**

(2) Without prejudice to the foregoing subsection, but subject to the provisions of subsection (3) of this section, a person shall not be tried by virtue of section fifty-one of this Act for an offence committed while subject to this Act unless the trial is begun within three months **[**[F184]or, in the case of trial by court-martial, six months**]** after he ceased to be subject thereto.

[[F185](3) **[**[F186]Subsection (2)**]** above shall not apply to an offence of mutiny or desertion; **[**[F186]or, without prejudice to subsection (1) above, to a civil offence punishable under section 42 of this Act where the civil offence is alleged to have been committed outside the United Kingdom and the Attorney General consents to the trial.**]]**

Textual Amendments

F183 S. 52(1) substituted by Armed Forces Act 1986 (c. 21, SIF 7:1), **s. 7(2)(6)**

F184 Words inserted by Armed Forces Act 1981 (c. 55), **s. 6(6)**

F185 S. 52(3) substituted by Armed Forces Act 1971 (c. 33), **ss. 41**, 78(4)

F186 Words substituted by Armed Forces Act 1986 (c. 21, SIF 7:1), **s. 7(3)(6)**

[F187]52A . . . . . .

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F187 S. 52A repealed (1.4.1997 with savings) by 1996 c. 46, ss. 8, 35(2), Sch. 1 para. 12, **Sch. 7 Pt. I**; S.I. 1997/304, **art. 2** (with art. 3)

[F188 Investigation and summary trial]

Textual Amendments

F188 Crossheading before s. 52B inserted (1.4.1997) by 1996 c. 46, s. 5, **Sch. 1 Pt. I para. 13**; S.I. 1997/304, **art. 2** (with art. 3)

[F189 52B Investigation of charges by commanding officer

(1) An allegation that a person subject to this Act ("the accused") has committed an offence against any provision of this Act shall be reported, in the form of a charge, to his commanding officer.

(2) A commanding officer shall investigate a charge reported to him under subsection (1) above.

(3) If, in the course of investigating a charge, the commanding officer considers it appropriate to do so, he may amend the charge or substitute another charge for it and treat the amended or substituted charge as if that charge had been reported to him under subsection (1) above.

(4) If, in the course of investigating a charge, it appears to the commanding officer that proceedings in respect of the matters to which the charge relates could be, and in the interests of the better administration of justice should be, taken against the accused otherwise than under this Act he may stay further proceedings with respect to the charge.

(5) After investigating a charge, the commanding officer may, subject to **[**F190 subsections (6) and (6A)**]** below—
   (a) dismiss the charge;
   (b) refer the charge to higher authority; or
   (c) try the accused summarily.

[F191 (6) The commanding officer may not try summarily any charge which is not capable of being tried summarily.

(6A) The commanding officer may not try summarily any charge against an officer unless—
   (a) the commanding officer is of or above the rank of commander,
   (b) the rank of the commanding officer is at least two ranks higher than that of the accused, and
   (c) the accused is below the rank of captain.

(6B) For the purposes of subsection (6A) above, the holding by any person of any acting rank other than that of commodore is to be disregarded; and in this subsection "acting rank" means rank of any description (however called) such that under Queen's

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Regulations a commanding officer has power to order the holder to revert from that rank.**]**

[[F192](7) For the purposes of this Act, a charge is capable of being tried summarily if it is for an offence triable by court-martial under this Act, other than—

(a) an offence listed in subsection (8) below (offences which, before the passing of the Human Rights Act 1998, were punishable by sentence of death), or

(b) an offence under section 42 of this Act where the civil offence is one for which the sentence is fixed by law as life imprisonment.

(8) The offences are—

(a) an offence under section 2 of this Act, if it consists in an act or omission falling within subsection (1) or (2)(a) of that section and it is charged that it was committed with intent to assist the enemy;

(b) an offence under section 3 of this Act, if it consists in an act or omission falling within subsection (1)(a), (b), (c), (d) or (f) of that section and it is charged that it was committed with intent to assist the enemy;

(c) an offence under section 4 of this Act, if it is charged that it was committed with intent to assist the enemy;

(d) an offence under section 9 of this Act, if it is charged that the mutiny had as its object or one of its objects the refusal or avoidance of any duty or service against or in connection with operations against the enemy, or the impeding of the performance of any such duty or service;

(e) an offence under section 10 of this Act, if it is charged that it was committed with intent to assist the enemy;

(f) an offence under section 42 of this Act, where the civil offence is treason.**]**

Textual Amendments

F189 Ss. 52B-52G inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. I para. 13**; S.I. 1997/304, **art. 2** (with art. 3)

F190 Words in s. 52B(5) substituted (28.2.2002) by 2001 c. 19, s. 17, Sch. 1 para. 9(2); S.I. 2002/345, **art. 2** (subject to art. 3)

F191 S. 52B(6)-(6B) substituted (28.2.2002) for s. 52B(6) by 2001 c. 19, s. 17, Sch. 1 para. 9(3); S.I. 2002/345, **art. 2** (subject to art. 3)

F192 S. 52B(7)(8) substituted (11.5.2001) for s. 52B(7) by 2001 c. 19, ss. 34, 39(3)(f), **Sch. 6 Pt. 4 para. 22**

[[F193]**52C Powers of higher authority.**

(1) Where a charge is referred to higher authority, the higher authority shall refer the case to the prosecuting authority unless he takes one of the steps mentioned in this section in relation to the charge.

(2) The higher authority may refer the charge back to the commanding officer of the accused with a direction to dismiss it or to stay all further proceedings in relation to it; and the commanding officer shall deal with the charge accordingly.

(3) If the charge is against a rating and is capable of being tried summarily, the higher authority may, subject to subsection (4) below, refer it back to the commanding officer of the accused to be so tried.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F194(3A) If the charge is against an officer below the rank of captain and is capable of being tried summarily, the higher authority may, subject to subsection (4) below—

(a) in a case where the commanding officer satisfies the conditions in section 52B(6A)(a) and (b) of this Act, refer the charge back to the commanding officer to be so tried, and

(b) in any other case, refer the charge to the appropriate superior authority to be so tried.**]]**

(4) If the charge has been referred to the higher authority as a result of an election for court-martial trial, and that election has not been withdrawn with leave, he may not refer the charge back to the commanding officer **[**F195or appropriate superior authority**]** to be tried summarily.

(5) F196. . . . . .

Textual Amendments

F193 Ss. 52B-52G inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. I para. 13**; S.I. 1997/304, **art. 2** (with art. 3)

F194 S. 52C(3A) inserted (28.2.2002) by 2001 c. 19, s. 17, Sch. 1 para. 10; S.I. 2002/345, **art. 2** (subject to art. 3)

F195 Words in s. 52C(4) substituted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 27**; S.I. 2007/2913, **art. 3**

F196 S. 52C(5) repealed (28.2.2002) by 2001 c. 19, s. 38, Sch. 7 Pt. 1; S.I. 2002/345, **art. 2** (subject to art. 3)

[F197**52D Summary trial.**

(1) This section applies where a charge is to be tried summarily.

[F198(2) The commanding officer or appropriate superior authority (as the case may be) shall afford the accused the opportunity of electing court-martial trial.**]**

[F199(2A) Where in accordance with regulations under section 52F of this Act two or more charges are together to be tried summarily, any election for court-martial trial must relate to all the charges concerned.**]]**

(3) If the accused **[**F200elects court-martial trial**]** and does not withdraw his election with leave, the commanding officer **[**F201or appropriate superior authority**]** shall refer the charge to higher authority with a view to the trial of the accused by court-martial.

[F202(4) If a charge has been referred to higher authority as a result of an election for court-martial trial, and that election is withdrawn with leave, the higher authority shall—

(a) if the accused is a rating, refer the charge back to the commanding officer of the accused;

[F203(b) if the accused is an officer below the rank of captain whose commanding officer satisfies the conditions in section 52B(6A)(a) and (b), refer the charge back to the commanding officer of the accused;

(c) if the accused is an officer other than one within paragraph (b) above, refer the charge back to the appropriate superior authority;**]**

for the commanding officer or appropriate superior authority to try the charge summarily.**]**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[[F204](4A) **[**[F205]Subsection (2) above does not**]** enable the accused to make a further election for court-martial trial in relation to a charge which has been referred back to the commanding officer or appropriate superior authority under subsection (4) above.

(4B) If, before determining whether the charge is proved, he considers it appropriate to do so, the commanding officer or appropriate superior authority may amend the charge or substitute another charge for it and treat the amended or substituted charge as the charge to be dealt with summarily by him.

(4C) Where under subsection (4B) above a charge is amended or one charge is substituted for another, **[**[F206]subsection (2) above**]** applies in relation to the amended or substituted charge.**]**

(5) If, in the course of trying the charge, the commanding officer **[**[F207]or appropriate superior authority**]** considers that it should not be tried summarily, he may refer the charge to higher authority.

(6) If the commanding officer **[**[F207]or appropriate superior authority**]** determines that the charge has not been proved, he shall acquit the accused.

(7) If the commanding officer **[**[F207]or appropriate superior authority**]** determines that the charge has been proved, he shall record a finding of guilt and award punishment accordingly.

(8) A commanding officer **[**[F207]or appropriate superior authority**]** shall not have power on a summary trial to award a sentence of dismissal with disgrace from Her Majesty's service, a sentence of imprisonment or a sentence of detention for any term exceeding three months.

[[F208](9) Nothing in this section or section 52C of this Act shall be taken to prevent an officer from acting as both higher authority and appropriate superior authority in relation to a charge.**]**

Textual Amendments

F197 SS. 52B-52G inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. I para. 13**; S.I. 1997/304, **art. 2** (with art. 3)

F198 S. 52D(2) substituted (4.6.2007) for s. 52D(2)(2ZA) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 28(2)**; S.I. 2007/1442, **art. 2(1)**

F199 S. 52D(2A) inserted (2.10.2000) by 2000 c. 4, **s. 11(4)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F200 Words in s. 52D(3) substituted (2.10.2000) by 2000 c. 4, **s. 11(5)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F201 Words in s. 52D(3) inserted (28.2.2002) by 2001 c. 19, s. 17, Sch. 1 para. 11(4); S.I. 2002/345, **art. 2** (subject to art. 3)

F202 S. 52D(4) substituted (28.2.2002) by 2001 c. 19, s. 17, Sch. 1 para. 11(5); S.I. 2002/345, **art. 2** (subject to art. 3)

F203 S. 52D(4)(b)(c) substituted (4.6.2007) for s. 52D(4)(b) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 28(3)**; S.I. 2007/1442, **art. 2(1)**

F204 S. 52D(4A)-(4C) inserted (28.2.2002) by 2001 c. 19, s. 17, Sch. 1 para. 11(6); S.I. 2002/345, **art. 2** (subject to art. 3)

F205 Words in s. 52D(4A) substituted (4.6.2007) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 28(4)**; S.I. 2007/1442, **art. 2(1)**

F206 Words in s. 52D(4C) substituted (4.6.2007) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 28(5)**; S.I. 2007/1442, **art. 2(1)**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F207 Words in s. 52D(5)-(8) inserted (28.2.2002) by 2001 c. 19, s. 17, Sch. 1 para. 11(7); S.I. 2002/345, **art. 2** (subject to art. 3)

F208 S. 52D(9) inserted (28.2.2002) by 2001 c. 19, s. 17, Sch. 1 para. 11(8); S.I. 2002/345, **art. 2** (subject to art. 3)

[F209 52E Commanding officers.

(1) In this Act "the commanding officer", in relation to a person charged with **[**F210, or in custody in connection with,**]]** an offence, means the officer in command of the ship or naval establishment to which he belongs at the time of the commission of the offence **[**F211, while he is in custody in connection with it**]** or at the time of its investigation or summary trial.

(2) The Defence Council may by regulations make provision—

(a) enabling the powers conferred by this Act on the commanding officer of **[**F212a person charged with, or in custody in connection with, an offence**]** to be exercised by other persons of such descriptions as may be specified;

(b) with respect to the delegation by the commanding officer, or other person exercising the powers of a commanding officer by virtue of regulations under paragraph (a) above, of any of his powers to any officer not below the rank of lieutenant or corresponding rank.

(3) An officer to whom any powers are delegated by virtue of subsection (2)(b) above shall not have power to award any punishment other than a fine, stoppages or those described in section 43(1)(m) of this Act.

[F213(3A) Subsection (2)(b) above is without prejudice to section 47F(1)(a) of this Act.**]**

(4) The reference in subsection (3) above to stoppages does not include a reference to stoppages for personal injury.

Textual Amendments

F209 Ss. 52B-52G inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. I para. 13**; S.I. 1997/304, **art. 2** (with art. 3)

F210 Words in s. 52E(1) inserted (2.10.2000) by 2000 c. 4, s. 10, **Sch. 1 para. 8(2)(a)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F211 Words in s. 52E(1) inserted (2.10.2000) by 2000 c. 4, s. 10, **Sch. 1 para. 8(2)(b)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F212 Words in s. 52E(2)(a) substituted (2.10.2000) by 2000 c. 4, s. 10, **Sch. 1 para. 8(3)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F213 S. 52E(3A) inserted (2.10.2000) by 2000 c. 4, s. 10, **Sch. 1 para. 8(4)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

[F214 52EI Officers who may act as appropriate superior authorities

(1) A person may act as appropriate superior authority in relation to a person charged with an offence if—

(a) he is of or above the rank of commander, and

(b) his rank is at least two ranks higher than that of the accused.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) The appropriate superior authority in relation to a person charged with an offence shall be appointed by the higher authority.

(3) For the purposes of subsection (1) above, the holding by any person of any acting rank other than that of commodore is to be disregarded; and in this subsection "acting rank" means rank of any description (however called) such that under Queen's Regulations a commanding officer has power to order the holder to revert from that rank.**]**

Textual Amendments

F214 S. 52EE inserted (28.2.2002) by 2001 c. 19, s. 17, Sch. 1 para. 12; S.I. 2002/345, **art. 2** (subject to art. 3)

[F215 52F Regulations as to summary trial etc.

(1) The Defence Council may make regulations with respect to the investigation of charges by commanding officers and summary trial.

(2) Regulations under this section may in particular make provision with respect to—

(a) the reporting of a charge to a commanding officer;

(b) the procedure to be followed by a commanding officer investigating a charge;

(c) the amendment or substitution of charges;

(d) the procedure on summary trial;

(e) limitations on the punishments which may be awarded on summary trial by **[**F216a commanding officer or appropriate superior authority of a specified description;**]]**;

(f) limitations on the punishments which may be so awarded to a specified description of accused;

(g) requirements for punishments to be approved before taking effect;

[F217(gg) the procedure for making elections under section 85A(2) of this Act and withdrawing such elections;**]**

(h) the information to be provided to a person afforded an opportunity of electing court-martial trial;

(i) the procedure for electing court-martial trial, including any period within which any such election may be made;

(j) the procedure for requesting leave to withdraw an election for court-martial trial and for withdrawing any such election;

[F218(k) who may act as the higher authority and the appropriate superior authority in specified descriptions of cases;

(l) who is to act as the higher authority and the appropriate superior authority in any particular case.**]**

(3) A regulation under this section which is inconsistent with the provisions of this Act shall to the extent of the inconsistency be void.

Textual Amendments

F215 Ss. 52B-52G inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. I para. 13**; S.I. 1997/304, **art. 2** (with art. 3)

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F216 Words in s. 52F(2)(e) substituted (28.2.2002) by 2001 c. 19, s. 17, Sch. 1 para. 13(a); S.I. 2002/345, **art. 2** (subject to art. 3)

F217 S. 52F(2)(gg) inserted (2.10.2000) by 2000 c. 4, s. 25, **Sch. 3 para. 5**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F218 S. 52F(2)(k)(l) substituted (28.2.2002) for s. 52F(2)(k) by 2001 c. 19, s. 17, Sch. 1 para. 13(b); S.I. 2002/345, **art. 2** (subject to art. 3)

[F219 The summary appeal court

Textual Amendments

F219 S. 52FF and crossheading inserted (2.10.2000) by 2000 c. 4, **s. 14(2)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F220 52FF The summary appeal court.

(1) There shall be a court (in this Act referred to as "the summary appeal court") for the purpose of hearing appeals against findings recorded and punishments awarded on summary trial.

(2) The court shall consist of—

(a) judge advocates appointed under section 52FG of this Act, F221. . .

(b) officers qualified under section 52FH of this Act to be members of the court **[**F222, and

(c) warrant officers qualified under an order made by virtue of section 20 of the Armed Forces Act 2001 to be members of the court**]**

(3) The court—

(a) may sit in two or more divisions, and

(b) may sit in any place, whether within or outside the United Kingdom.

(4) There shall be a court administration officer for the court, who shall be an officer (or other person) appointed by the Defence Council.

(5) The court shall sit at such times and in such places as may be determined by the court administration officer.

(6) The court administration officer shall perform such other functions as may be prescribed by rules under section 52FP of this Act.**]**

Textual Amendments

F220 S. 52FF and crossheading inserted (2.10.2000) by 2000 c. 4, **s. 14(2)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F221 Word in s. 52FF(2)(a) omitted (19.8.2004) by virtue of The Summary Appeal Courts (Warrant Officers) Order 2004 (S.I. 2004/1937), **art. 6(2)(a)**

F222 S. 52FF(2)(c) and preceding word inserted (19.8.2004) by The Summary Appeal Courts (Warrant Officers) Order 2004 (S.I. 2004/1937), **art. 6(2)(b)**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F223 52FG Judge advocates.

(1) Judge advocates in relation to the summary appeal court shall be appointed by the **[**F224 Judge Advocate General**]** .

(2) No person shall be appointed under this section unless he is qualified under section 53B(2) of this Act for appointment as the judge advocate in relation to a court-martial.**]**

Textual Amendments

F223 S. 52FG inserted (2.10.2000) by 2000 c. 4, **s. 15(2)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F224 Words in s. 52FG(1) substituted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 29**; S.I. 2007/2913, **art. 3**

[F225 52FH Officers qualified for membership of summary appeal court.

(1) Subject to subsections (2) and (3) below, an officer is qualified under this section for membership of the summary appeal court if he is a naval officer of or above the rank of lieutenant who has held a commission in any of Her Majesty's naval, military, or air forces for a period of not less than three years or periods amounting in the aggregate to not less than three years.

(2) Subject to subsection (3) below, rules under section 52FP of this Act may specify circumstances in which any other naval officer or a military or air-force officer is qualified under this section for membership of the court.

(3) The following are not qualified under this section for membership of the court—

(a) the court administration officer,

(b) an officer under the command of the court administration officer,

(c) the prosecuting authority,

(d) any person who has a general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990,

(e) an advocate in Scotland or a solicitor who has a right of audience in the Court of Session or the High Court of Justiciary,

(f) a member of the Bar of Northern Ireland,

(g) a person who has in any Commonwealth country rights and duties similar to those of a barrister or solicitor in England and Wales, and is subject to punishment or disability for breach of professional rules, or

(h) any person who is, or has at any time during the preceding five years been, a member of the Royal Navy Regulating Branch.

(4) In this section—

"air-force officer" means an officer belonging to Her Majesty's air forces and subject to air-force law;

"military officer" means an officer belonging to Her Majesty's military forces and subject to military law; and

"naval officer" means an officer belonging to Her Majesty's naval forces and subject to this Act.**]**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F225 S. 52FH inserted (2.10.2000) by 2000 c. 4, **s. 16(3)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

[F226 52FJ Constitution of summary appeal court for appeals.

(1) For the purpose of hearing an appeal, the summary appeal court shall consist of—

(a) one of the judge advocates appointed under section 52FG of this Act, and

[F227 (b) an officer qualified under section 52FH of this Act for membership of the court, and

(c) a third person who is either—

(i) an officer qualified under that section, or

(ii) a warrant officer qualified under an order made by virtue of section 20 of the Armed Forces Act 2001,

for membership of the court.]

(2) Subsection (1) above has effect subject to any provision made by virtue of section 52FP of this Act [F228 or section 20 of the Armed Forces Act 2001 (eligibility of warrant officers to be members of summary appeal courts)] .

(3) The judge advocate for any appeal shall be specified by or on behalf of the [F229 Judge Advocate General] .

(4) The other members of the court for any appeal shall be specified by or on behalf of the court administration officer.

(5) In specifying members of the court under subsection (4) above the person doing so shall ensure that at least one member of the court for any appeal is of or above the rank of commander.

(6) At any sitting of the court, the most senior member of the court at that sitting shall preside.]

Textual Amendments

F226 S. 52FJ inserted (2.10.2000) by 2000 c. 4, **s. 17(2)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F227 S. 52FJ(1)(b)(c) substituted (19.8.2004) for s. 52FJ(1)(b) by The Summary Appeal Courts (Warrant Officers) Order 2004 (S.I. 2004/1937), **art. 6(3)(a)**

F228 Words in s. 52FJ(2) inserted (19.8.2004) by The Summary Appeal Courts (Warrant Officers) Order 2004 (S.I. 2004/1937), **art. 6(3)(b)**

F229 Words in s. 52FJ(3) substituted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 30**; S.I. 2007/2913, **art. 3**

[F230 52FK Right of appeal.

(1) Any person in respect of whom—

(a) a charge has been tried summarily, and

(b) a finding of guilt has been recorded,

may appeal to the summary appeal court against the finding or against any punishment awarded (or against both).

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Subject to subsection (3) below, any appeal must be brought within the period of fourteen days beginning with the date on which the punishment was awarded ("the initial period") or within such longer period as the court may (before the end of the initial period) allow.

(3) The court may at any later time give leave for an appeal to be brought.

(4) On any appeal under this section, the respondent shall be the prosecuting authority.**]**

Textual Amendments

F230 S. 52FK inserted (2.10.2000) by 2000 c. 4, **s. 18(2)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

[F231 52FL Hearing of appeals.

(1) An appeal under section 52FK of this Act against a finding shall be by way of a rehearing of the charge.

(2) An appeal under section 52FK of this Act which relates only to the punishment awarded shall be by way of a rehearing in relation to the award of punishment.

(3) Except in such cases as may be prescribed by rules under section 52FP of this Act, appeals shall be heard in open court.

(4) Proceedings of the summary appeal court shall be conducted in accordance with the law of England and Wales.

(5) Rulings and directions on questions of law (including questions of procedure and practice) shall be given by the judge advocate.

(6) Any directions given by the judge advocate shall be binding on the court.**]**

Textual Amendments

F231 S. 52FL inserted (2.10.2000) by 2000 c. 4, **s. 19(2)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

[F232 52FM Powers of court.

(1) On an appeal against a finding of guilt, the summary appeal court—
  (a) may confirm or quash the finding, or
  (b) in a case where the officer who conducted the summary trial could validly have recorded a finding that another charge had been proved, may substitute for the finding a finding that that other charge has been proved.

(2) Where the court quashes a finding—
  (a) the court shall quash any punishment which relates only to that finding (or to that and one or more other findings which are also quashed), and
  (b) the court may vary any punishment which relates both to that and one or more other findings so as to award any punishment which—
    (i) it would have been within the powers of the officer who conducted the summary trial to award, and

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(ii) in the opinion of the court, is no more severe than the punishment originally awarded.

(3) Where, on an appeal against a finding of guilt, the court confirms the finding or substitutes for it a finding that another charge has been proved, the court may vary the punishment awarded at the summary trial so as to award any punishment which—
(a) it would have been within the powers of the officer who conducted the summary trial to award, and
(b) in the opinion of the court, is no more severe than that originally awarded.

(4) On an appeal against the punishment awarded, the court—
(a) may confirm the punishment awarded at the summary trial, or
(b) may substitute any other punishment which—
(i) it would have been within the powers of the officer who conducted the summary trial to award, and
(ii) in the opinion of the court, is no more severe than that originally awarded.

(5) Any punishment awarded by the court shall have effect as if awarded on the day on which the original punishment was awarded on summary trial of the charge.

(6) Any finding substituted or sentence awarded by the court shall be treated for all purposes as having been awarded or made by the officer who conducted the summary trial.**]**

Textual Amendments
F232 S. 52FM inserted (2.10.2000) by 2000 c. 4, **s. 20(2)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

Modifications etc. (not altering text)
C26 S. 52FM(1)(b) modified (2.10.2000) by S.I. 2000/2370, **rule 46(4)**

[[F233]52FN Making of, and appeals from, decisions of court.

(1) Subject to section 52FL(5) of this Act, any decision of the summary appeal court when constituted as mentioned in section 52FJ(1) of this Act shall be determined by a majority of the votes of the members of the court.

(2) The person who brought the appeal may question any judgment of the summary appeal court on the ground that it is wrong in law or is in excess of jurisdiction, by applying to the summary appeal court to have a case stated for the opinion of the High Court in England and Wales.**]**

Textual Amendments
F233 S. 52FN inserted (2.10.2000) by 2000 c. 4, **s. 21(2)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

[[F234]52FO Rules of summary appeal court.

(1) The Secretary of State may make rules for the purpose of regulating the practice and procedure to be followed in the summary appeal court.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Rules under this section may, in particular, make provision—

(a) as to the practice and procedure of the court in exercising functions preliminary to or incidental to the hearing of appeals under section 52FK of this Act;

(b) as to the bringing and abandonment of appeals;

(c) as to the procedure for applying for leave under section 52FK(2) or (3) of this Act;

(d) as to the procedure for applying for leave, or making a reference, under section 71B(5A) or (5B) of this Act;

(e) as to circumstances in which the jurisdiction of the court may be exercised by a judge advocate appointed under section 52FG of this Act sitting alone;

(f) enabling an uncontested appeal to be determined without a hearing;

(g) as to the convening and constitution of the court to hear any appeal;

(h) as to circumstances in which officers otherwise qualified under section 52FH of this Act are ineligible to hear particular appeals;

(i) enabling the appellant to object to members of the court;

(j) as to the representation of the appellant on the hearing of appeals under section 52FK of this Act and at any preliminary proceedings;

(k) as to the admissibility of evidence;

(l) as to the rehearing of an appeal where any member of the court originally constituted to hear it has been unable to continue hearing the appeal;

(m) as to procuring the attendance of witnesses at the hearing of appeals and at any preliminary proceedings;

(n) as to the administration of oaths;

(o) as to the recording of the proceedings of the court and custody of records of the proceedings;

(p) as to making copies of the records of proceedings available and as to the fees payable for such copies;

(q) as to the procedure for applying to have a case stated under section 52FN(2) of this Act.

(3) Rules under this section may provide for any enactment which relates to the practice or procedure of courts-martial or to the admissibility of evidence in courts-martial to apply in relation to the court with such modifications as may be specified.

(4) Rules under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.**]**

Textual Amendments

F234 S. 52FP inserted (2.10.2000) by 2000 c. 4, **s. 22(2)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

[F235 52FQ Administration of oaths to members of summary appeal court.

(1) Every member of the summary appeal court shall, before first sitting as a member of the court, have administered to him by the prescribed person in the prescribed manner an oath in the prescribed form.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) In subsection (1) above "prescribed" means prescribed by the Secretary of State by order made by statutory instrument.

(3) An order made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.**]**

Textual Amendments
F235 S. 52FQ inserted (2.10.2000) by 2000 c. 4, **s. 23(2)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

[F236 52FR Privileges of witnesses and others.

A witness before the summary appeal court or any other person whose duty it is to attend on or before the court shall be entitled to the same immunities and privileges as a witness before the High Court in England and Wales.**]**

Textual Amendments
F236 S. 52FR inserted (2.10.2000) by 2000 c. 4, **s. 24(2)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

[F237 Disciplinary courts]

Textual Amendments
F237 Crossheading before s. 52G inserted (1.4.1997) by 1996 c. 46, s. 5, **Sch. 1 Pt. I para. 13**; S.I. 1997/304, **art. 2** (with art. 3)

52G Disciplinary courts.

F238 . . . . . .

Textual Amendments
F238 S. 52G repealed (28.2.2002) by 2001 c. 19, ss. 18, 38, Sch. 7 Pt. 1; S.I. 2002/345, **art. 2** (subject to art. 3)

[F239 The prosecuting authority

Textual Amendments
F239 Crossheading and ss. 52H-52J inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. II para. 16**; S.I. 1997/304, **art. 2** (with art. 3)

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F240]52H The prosecuting authority.

(1) Her Majesty may appoint a qualified officer of Her naval forces to be the prosecuting authority for the Royal Navy; and in this Act "the prosecuting authority" means the officer so appointed.

(2) An officer shall not be qualified to be appointed as the prosecuting authority unless he is—

(a) a person who has a five year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990;.

(b) an advocate or solicitor in Scotland of at least five years' standing; or

(c) a member of the Bar of Northern Ireland, or a solicitor of the Supreme Court of Northern Ireland, of at least five years' standing.

Textual Amendments

F240 Ss. 52H-52J inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. II para. 16**; S.I. 1997/304, **art. 2** (with art. 3)

[F241]52I Functions of the prosecuting authority.

(1) This section applies where a case has been referred to the prosecuting authority.

(2) If the case has been referred to him as a result of an election for court-martial trial, and that election is withdrawn with leave, the prosecuting authority shall refer the case to the commanding officer of the accused for the preliminary charge to be tried summarily.

(3) In subsection (2) above "the preliminary charge" means the charge which would have been tried summarily had the accused not elected court-martial trial.

(4) If the prosecuting authority considers that court-martial proceedings under this Act should be instituted, he shall determine any charge to be preferred and **[**[F242](subject to section 52II of this Act)**]** prefer any such charge.

(5) The prosecuting authority shall, in accordance with rules under section 58 of this Act, notify the commanding officer of the accused and a court administration officer of any charge preferred; and the commanding officer shall, in accordance with any such rules, inform the accused accordingly.

(6) The prosecuting authority shall have the conduct of any court-martial proceedings under this Act against the accused.

(7) Without prejudice to any other power of his in relation to the conduct of the proceedings, the prosecuting authority may, in accordance with rules under section 58 of this Act—

(a) amend, or substitute another charge or charges for, any charge preferred;

(b) prefer an additional charge, or additional charges, against the accused;

(c) discontinue proceedings on any charge.

(8) The powers mentioned in subsection (7)(a) above may be exercised in relation to an amended or substituted charge as well as in relation to any charge preferred by the prosecuting authority.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F243 **[** If the case has been referred to the prosecuting authority as a result of an election for (8A) court-martial trial, the prosecuting authority may not—

(a) determine under subsection (4) above that a charge different from that in respect of which the election was made is to be preferred, or

(b) exercise any power mentioned in subsection (7)(a) or (b) above in relation to any charge against the accused before the commencement of the trial,

unless the accused has given his written consent or the charge is being referred under section 52II of this Act.**]**

(9) The prosecuting authority may not exercise any power mentioned in subsection (7)(a) or (c) above in relation to any charge against the accused after the commencement of the trial of that charge unless the court-martial gives him leave to do so.

(10) If, before the commencement of the trial of a charge against the accused ("the original charge"), the prosecuting authority exercises the power mentioned in subsection (7)(b) above, he may, in accordance with rules under section 58 of this Act, direct any additional charge to be tried by the court-martial convened to try the original charge; and where he does so, subsection (5) above shall apply with such exceptions and modifications as may be prescribed.

(11) The prosecuting authority may not exercise the power mentioned in subsection (7)(b) above after the commencement of the trial of a charge against the accused unless the court-martial gives him leave to do so; and where the prosecuting authority exercises that power with the leave of the court-martial, the court may try any additional charge preferred.

F244 **[** If the prosecuting authority— (12)

(a) decides not to prefer any charge referred to him, or

(b) before the commencement of the trial of any charge preferred by him, discontinues proceedings on that charge,

he may direct that the accused shall not be liable to be tried summarily or by court-martial for the offence charged.**]**

(13) If, after the commencement of the trial of any charge, the prosecuting authority discontinues proceedings on that charge, the court-martial may give a direction such as is mentioned in subsection (12) above.

Textual Amendments

F241 Ss. 52H-52J inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. II para. 16**; S.I. 1997/304, **art. 2** (with art. 3)

F242 Words in s. 52I(4) inserted (2.10.2000) by 2000 c. 4, s. 13, **Sch. 2 para. 2(1)**; S.I. 2000/2366, **art. 2**

F243 S. 52I(8A) inserted (2.10.2000) by 2000 c. 4, s. 13, **Sch. 2 para. 2(2)**; S.I. 2000/2366, **art. 2** (with Sch. para. 12)

F244 S. 52I(12) substituted (2.10.2000) by 2000 c. 4, s. 13, **Sch. 2 para. 2(3)**; S.I. 2000/2366, **art. 2**

Modifications etc. (not altering text)

C27 S. 52I(2) modified (1.1.2008) by The Courts-Martial (Royal Navy) Rules 2007 (S.I. 2007/3443), **rule 5**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F245 52II Cases where charge may be referred back to commanding officer.

(1) Where—

(a) a case has been referred to the prosecuting authority as a result of an election for court-martial trial, and

(b) the prosecuting authority considers that a charge different from, or additional to, the preliminary charge should be preferred,

the prosecuting authority may refer back to the commanding officer of the accused the charge or charges which the prosecuting authority considers should be preferred.

(2) In subsection (1) above—

(a) "the preliminary charge" means the charge which would have been tried summarily had the accused not elected court-martial trial, and

(b) the reference to preferring a charge different from, or additional to, the preliminary charge includes a reference to amending, or substituting another charge for, a charge already preferred.

[F246(2A) Where—

(a) a case has been referred to the prosecuting authority otherwise than as a result of an election for court-martial trial,

(b) the prosecuting authority—

(i) in respect of the case or part of the case, does not determine any charge to be preferred, or

(ii) before the commencement of the trial of any charge preferred, discontinues proceedings on that charge, and

(c) the accused is below the rank of captain,

the prosecuting authority may refer the case, or the part concerned, back to the commanding officer of the accused.**]**

(3) Where a charge is referred to a commanding officer under subsection (1) **[**F247or (2A)**]** above, the commanding officer shall deal with the charge as if it had been reported to him under section 52B(1) of this Act.**]**

Textual Amendments

F245 S. 52II inserted (2.10.2000) by 2000 c. 4, s. 13, **Sch. 2 para. 4**; S.I. 2000/2366, **art. 2**

F246 S. 52II(2A) inserted (28.2.2002) by 2001 c. 19, s. 17, Sch. 1 para. 14(2); S.I. 2002/345, **art. 2** (subject to art. 3)

F247 Words in s. 52II(3) inserted (28.2.2002) by 2001 c. 19, s. 17, Sch. 1 para. 14(3); S.I. 2002/345, **art. 2** (subject to art. 3)

Modifications etc. (not altering text)

C28 S. 52II(1) modified (1.1.2008) by The Courts-Martial (Royal Navy) Rules 2007 (S.I. 2007/3443), **rule 6**

S. 52II(1) modified (1.1.2008) by The Courts-Martial (Royal Navy) Rules 2007 (S.I. 2007/3443), **rule 13**

[F248 52IJ Power of prosecuting authority to advise police forces

(1) The prosecuting authority may give advice to police forces on all matters relating to offences under this Act (including offences under the Reserve Forces Act 1996 which

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

by virtue of subsection (1) of section 103 of that Act are treated for the purposes mentioned in that subsection as being offences under this Act).

(2) In this section "police force" means any of the following—

(a) the Royal Navy Regulating Branch;
(b) the Royal Air Force Police;
(c) the Royal Military Police;
(d) the Ministry of Defence Police;
(e) any police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London);
(f) the metropolitan police force;
(g) the City of London police force;
(h) any police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967;
(i) the Police Service of Northern Ireland;
(j) the British Transport Police;
(k) [F249] . . . . . .]

Textual Amendments

F248 S. 52IJ inserted (28.2.2002) by 2001 c. 19, s. 17, Sch. 1 para. 15; S.I. 2002/345, **art. 2** (subject to art. 3)

F249 S. 52IJ(2)(k) repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 59, 174, 178, Sch. 4 para. 5, **Sch. 17**; S.I. 2006/378, **art. 4(1)**, Sch. (subject to art. 4(2)-(7))

[F250]52J Prosecuting officers.

(1) The prosecuting authority may delegate any of his functions to officers appointed by him as prosecuting officers.

(2) An officer shall not be appointed as a prosecuting officer unless he is—

(a) a person who has a general qualification within the meaning of section 71 of the [M10]Courts and Legal Services Act 1990;
(b) an advocate or solicitor in Scotland; or
(c) a member of the Bar of Northern Ireland or a solicitor of the Supreme Court of Northern Ireland.]

Textual Amendments

F250 Ss. 52H-52J inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. II para. 16**; S.I. 1997/304, **art. 2** (with art. 3)

Marginal Citations

M10 1990 c. 41.

Constitution of courts-martial

[F251]53 . . . . . .

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F251 S. 53 repealed (1.4.1997 with savings) by 1996 c. 46, ss. 8, 35(2), Sch. 1 Pt. III para. 50, **Sch. 7 Pt. I**; S.I. 1997/304, **art. 2** (with art. 3)

[[F252]53A Court administration officers.

In this Act—

"court administration officer" means an officer (or other person) appointed by the Defence Council to order courts-martial and perform such other functions as may be prescribed by rules under section 58 of this Act; and

"the court administration officer", in relation to a court-martial, means the court administration officer who ordered the court-martial and includes his successor or any person for the time being exercising his or his successor's functions.**]**

Textual Amendments

F252 Ss. 53A, 53B and 53C inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 51**; S.I. 1997/304, **art. 2** (with art. 3)

[F253]53B Judge advocates.

(1) In this Act "the judge advocate", in relation to a court-martial, means the judge advocate appointed by or on behalf of the **[**[F254]Judge Advocate General**]** to be a member of the court-martial.

(2) No person shall be appointed as the judge advocate unless he is—

(a) a person who has a five year general qualification within the meaning of section 71 of the [M11]Courts and Legal Services Act 1990;

(b) an advocate in Scotland of at least five years' standing or a solicitor who has had a right of audience in the Court of Session or the High Court of Justiciary for at least five years; or

(c) a member of the Bar of Northern Ireland of at least five years' standing.

(3) Rulings and directions on questions of law (including questions of procedure and practice) shall be given by the judge advocate.

(4) Any directions given by the judge advocate shall be binding on the court.

Textual Amendments

F253 Ss. 53A, 53B and 53C inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 51**; S.I. 1997/304, **art. 2** (with art. 3)

F254 Words in s. 53B(1) substituted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 31**; S.I. 2007/2913, **art. 3**

Marginal Citations

M11 1990 c. 41.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F255]53C Ordering of courts-martial.

(1) On being notified by the prosecuting authority of the charge preferred, a court administration officer shall order a court-martial.

(2) The order assembling the court-martial shall specify—

(a) the date, time and place at which the court-martial is to sit;

(b) the officers who are to be members of the court-martial;

(c) which of those officers is to be president of the court-martial;

[[F256](cc) any warrant officers who are to be members of the court-martial;**]**

(d) any other officers **[**[F257]or warrant officers**]** appointed for the purpose of filling vacancies,

and shall state that a judge advocate appointed by or on behalf of the **[**[F258]Judge Advocate General**]** is to be a member of the court-martial.

(3) At any time before the commencement of the trial, the court administration officer may, in accordance with rules under section 58 of this Act, amend or withdraw the order assembling the court-martial.

(4) The following shall not be eligible to be members of a court-martial for the trial of a charge—

(a) the court administration officer;

(b) an officer who at any time between the date on which the preliminary charge was reported to the commanding officer of the accused and the date of the trial has been the commanding officer of the accused;

(c) the higher authority to whom the preliminary charge against the accused was referred;

(d) any other officer who has investigated the subject matter of the charge against the accused;

(e) any other officer **[**[F259]or warrant officer**]** who under this Act has held, or has acted as one of the persons holding, an inquiry into matters relating to the subject matter of the charge against the accused.

(5) In subsection (4) above "the preliminary charge" means the charge referred to higher authority by the commanding officer of the accused.

Textual Amendments

F255 Ss. 53A, 53B and 53C inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 51**; S.I. 1997/304, **art. 2** (with art. 3)

F256 S. 53C(2)(cc) inserted (28.2.2002) by 2001 c. 19, s. 19, Sch. 2 para. 15(2)(a); S.I. 2002/345, **art. 2** (subject to art. 3)

F257 Words in s. 53C(2)(d) inserted (28.2.2002) by 2001 c. 19, s. 19, Sch. 2 para. 15(2)(b); S.I. 2002/345, **art. 2** (subject to art. 3)

F258 Words in s. 53C(2) substituted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 32**; S.I. 2007/2913, **art. 3**

F259 Words in s. 53C(4)(e) inserted (28.2.2002) by 2001 c. 19, s. 19, Sch. 2 para. 15(3); S.I. 2002/345, **art. 2** (subject to art. 3)

[[F260]54 Composition of courts-martial

(1) A court-martial shall consist of—

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the president, who shall be a naval officer,
(b) the judge advocate, and
(c) not less than four nor more than eight other persons, of whom—
(i) two shall each be either a naval officer or a naval warrant officer, and
(ii) the rest shall be naval officers.

(2) The president of a court-martial shall not be below the rank of captain, and in the case of a court-martial for the trial of an officer of flag rank shall be an officer of flag rank.

(3) An officer shall not be appointed under subsection (1)(c) above as a member of a court-martial unless—
(a) he is of or above the rank of lieutenant and has held a commission in any of Her Majesty's naval, military or air forces for a period of not less than three years, or for periods amounting in the aggregate to not less than three years, or
(b) immediately before he received his commission, he was a warrant officer in any of those forces.

(4) The officers and warrant officers appointed members of a court-martial shall not all belong to the same ship or naval establishment.

(5) The members appointed under subsection (1)(c) above—
(a) shall not include any warrant officer, unless the court-martial is for the trial of a person of a rank or rate below that of a warrant officer,
(b) shall not include any officer who qualifies under subsection (3) above only by virtue of paragraph (b) of that subsection, unless the court-martial is for the trial of a person of a rank or rate below that which the officer held immediately before he received his commission,
(c) in the case of a trial of an officer of flag rank, shall be of or above the rank of captain,
(d) in the case of a trial of a commodore or captain, shall be of or above the rank of commander,
(e) in the case of a trial of a commander, shall include at least two members who are of or above the rank of commander.

(6) If, in the opinion of the court administration officer, the necessary number of naval officers or naval warrant officers having suitable qualifications is not, with due regard to the public service, available for appointment under subsection (1)(c) above, he may appoint under that provision—
(a) any military or air-force officer having qualifications corresponding to those required for a naval officer, or
(b) where a naval warrant officer could be appointed, any military or air-force warrant officer having qualifications corresponding to those required for a naval warrant officer.

(7) In this section—

"air-force officer" means an officer belonging to Her Majesty's air forces and subject to air-force law;

"air-force warrant officer" means a warrant officer belonging to Her Majesty's air forces and subject to air-force law;

"military officer" means an officer belonging to Her Majesty's military forces and subject to military law;

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"military warrant officer" means a warrant officer belonging to Her Majesty's military forces and subject to military law;

"naval officer" means an officer belonging to Her Majesty's naval forces and subject to this Act;

"naval warrant officer" means a warrant officer belonging to Her Majesty's naval forces and subject to this Act;

"warrant officer" does not include an acting warrant officer (that is, a warrant officer whom a commanding officer has power under Queen's Regulations to order to revert from the rank of warrant officer).**]**

Textual Amendments

F260 S. 54 substituted (28.2.2002) by 2001 c. 19, s. 19, Sch. 2 para. 16; S.I. 2002/345, **art. 2** (subject to art. 3)

[F261]55 . . . . . .

Textual Amendments

F261 S. 55 repealed (1.4.1997 with savings) by 1996 c. 46, ss. 5, 35(2), Sch. 1 Pt. III para. 53, **Sch. 7 Pt. I**; S.I. 1997/304, **art. 2** (with art. 3)

56 Place and time of sittings of courts-martial.

(1) A court-martial shall be held on board such of Her Majesty's ships or vessels, or at such premises on shore, whether within or out of the United Kingdom, as may be **[**[F262]specified in the order assembling the court**]**.

(2) A court-martial may, if it appears to the court to be expedient in the interests of justice, be adjourned, either generally or for the purpose of any part of the proceedings, to any other ship, vessel or place [F263]. . ..

(3) Without prejudice to the provisions of the last foregoing subsection, a court-martial may, if it appears to the court that an adjournment is desirable for any reason, be adjourned for such period as the court thinks fit:

Provided that except with the consent of the accused and the **[**[F264]prosecuting authority**][**[F265], or for the purpose of exercising powers under section 63A of this Act,**]** the period for which the court may be adjourned under this subsection shall not on any occasion exceed six days.

(4) Subject to the provisions of this section, a court-martial shall, unless prevented by weather or other unavoidable cause, sit from day to day (with the exception of Sundays) until the court has arrived at a finding and, in the case of a conviction, until sentence is pronounced.

Textual Amendments

F262 words in s. 56(1) substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 54(2)**; S.I. 1997/304, **art. 2** (with art. 3)

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F263 Words in s. 56(2) repealed (1.4.1997 with savings) by 1996 c. 46, s. 5, 35(2), Sch. 1 Pt. III para. 54(3), **Sch. 7 Pt. I**; S.I. 1997/304, **art. 2** (with art. 3)

F264 Words in s. 56(3) substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1** PT. III para. 54(4); S.I. 1997/304, **art. 2** (with art. 3)

F265 Words in s. 56(3) inserted (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 26, 60, **Sch. 3 para. 4** (with Sch. 12 para. 8); S.I. 2005/579, **art. 3(b)**

[F266 56A Dissolution of courts-martial.

(1) Where, before the commencement of the trial, it appears to the court administration officer necessary or expedient in the interests of the administration of justice that a court-martial be dissolved, he may by order dissolve the court-martial.

(2) Where, after the commencement of the trial, it appears to the judge advocate necessary or expedient in the interests of the administration of justice that a court-martial be dissolved, he may by order dissolve the court-martial.

(3) If after the commencement of the trial the president dies or is otherwise unable to attend, the court-martial shall be dissolved.

(4) Where a court-martial is dissolved the accused may be tried by another court.**]**

Textual Amendments

F266 S. 56A inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 55**; S.I. 1997/304, **art. 2** (with art. 3)

57 Quorum.

F267 (1) . . . . . .

(2) The proceedings of a court-martial shall be valid notwithstanding the absence of one or more of the **[**F268 officers**]** other than the president, so long as the number of **[**F268 officers**]** present throughout the proceedings is not reduced below four:

Provided that **[**F269 an officer appointed**]** a member of the court who has been absent for any time during a sitting shall take no further part in the proceedings.

F267 (3) . . . . . .

Textual Amendments

F267 S. 57(1) and (3) repealed (1.4.1997 with savings) by 1996 c. 46, ss. 5, 35(2), Sch. 1 Pt. III para. 56(2), **Sch. 7 Pt. I**; S.I. 1997/304, **art. 2** (with art. 3)

F268 Word in s. 57(2) substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 56(3)(a)**; S.I. 1997/304, **art. 2** (with art. 3)

F269 Words in s. 57(2) inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 56(3)(b)**; S.I. 1997/304, **art. 2** (with art. 3)

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Proceedings of courts-martial

[F270 58 Rules.

(1) The Secretary of State may make rules with respect to—

(a) the investigation, prosecution and trial of, and the awarding of punishment for, offences cognizable by courts-martial;

(b) the review of findings and sentences of courts-martial.

(2) Rules under this section may in particular make provision with respect to—

(a) proceedings preliminary to trials by courts-martial;

(b) the appointment of a judge advocate for any preliminary proceedings;

F271 [(ba) appeals against orders or rulings made in preliminary proceedings;]

(c) the delegation by court administration officers of any of their functions;

(d) the ordering and composition of courts-martial;

(e) the sittings, adjournment and dissolution of courts-martial;

(f) the procedure to be followed in trials by courts-martial;

(g) the functions of the clerk of the court and the exercise by him of those functions;

(h) the representation of the accused at trials by courts-martial and any preliminary proceedings;

(i) procuring the attendance of witnesses at such trials and any preliminary proceedings;

(j) enabling a court-martial, in such cases and to such extent as may be prescribed by the rules, to amend a charge which is being tried by the court;

(k) enabling a court-martial, where the particulars proved or admitted at the trial differ from those alleged in the charge but are sufficient to support a finding of guilty of the like offence as that charged, to make a finding of guilty subject to exceptions or variations specified in the finding if it appears to the court that the difference is not so material as to have prejudiced the accused in his defence;

(l) directing that the powers conferred by section 7 of the M12 Bankers' Books Evidence Act 1879 (which enables orders to be made for the inspection of bankers' books for the purposes of legal proceedings) may be exercised for the purposes of a court-martial (whether within or without the United Kingdom) by the commanding officer of the accused or a judge advocate, as well as by the court or a judge within the meaning of that Act;

(m) the forms of orders and other documents to be made for the purposes of any provision of this Act or of rules under this section;

(n) the cases in which, and extent to which, offences may be taken into consideration by a court-martial and the powers of the court in relation to any offences taken into consideration;

F272 [(nn) enabling any jurisdiction conferred on a court-martial by virtue of sections 26 to 28 of the Armed Forces Act 2001 to be exercised by the judge advocate sitting alone;]

F273 [(no) appeals against any orders (including directions) of courts-martial prohibiting or restricting the publication of any matter or excluding the public from any proceedings;]

(o) the recording of the proceedings of a court-martial;

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(p) the procedure to be followed on review of findings and sentences of courts-martial.

[F274] **[** (2A) In subsection (2)(a), (b) and (ba), the references to proceedings preliminary to trials include hearings at which the accused is arraigned.

(2B) Rules made by virtue of subsection (2)(ba) or (no) may confer jurisdiction on the Courts-Martial Appeal Court, and rules under section 49 of the Courts-Martial (Appeals) Act 1968 may make provision about the powers of that court in relation to appeals made by virtue of subsection (2)(ba) or (no).**]**

(3) Rules made by virtue of paragraph (j) of subsection (2) above shall secure that the power to amend charges is not exercisable in circumstances substantially different from those in which indictments are amendable by a civil court in England, or otherwise than subject to the like conditions, as nearly as circumstances admit, as those subject to which indictments are so amendable.

[F275] **[** (3A) Rules under this section may make provision as to the application of sections 52I and 52II of this Act in relation to cases where an election for court-martial trial relates to two or more charges.**]**

(4) Rules under this section which are inconsistent with the provisions of this Act shall to the extent of the inconsistency be void.

(5) Rules under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.**]**

Textual Amendments

F270 S. 58 substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 57**; S.I. 1997.304, art. 2 (with art. 3)

F271 S. 58(2)(ba) inserted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 33(2)(a)**; S.I. 2007/2913, **art. 3**

F272 S. 58(2)(nn) inserted (14.10.2005) by 2001 c. 19, ss. 28(5), 39(2); S.I. 2005/2861, **art. 2**

F273 S. 58(2)(no) inserted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 33(2)(b)**; S.I. 2007/2913, **art. 3**

F274 S. 58(2A)(2B) inserted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 33(3)**; S.I. 2007/2913, **art. 3**

F275 S. 58(3A) inserted (2.10.2000) by 2000 c. 4, s. 13, **Sch. 2 para. 6**; S.I. 2000/2366, **art. 2**

Marginal Citations

M12 1879 c. 11.

[F276 58A Preliminary hearings as to plea

(1) Subsections (2) to (4) apply in relation to a charge against a person ("the accused") preferred by the prosecuting authority.

(2) The accused shall be arraigned at a hearing before a judge advocate.

(3) That hearing may take place at any time before the time when the court-martial that is to try the charge first sits.

(4) The arraignment is to be treated as having occurred before the court-martial.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) Rules under section 58 may make provision for and in connection with the making of orders and rulings by a judge advocate at a hearing at which the accused is arraigned, including in particular—

(a) provision corresponding to any provision of, or that may be made by virtue of, sections 31, 33, 34 and 37 of the Criminal Procedure and Investigations Act 1996, subject to such modifications as the Secretary of State considers appropriate;

(b) provision for the variation or discharge of such orders and rulings.

(6) The reference in subsection (1) to a charge preferred by the prosecuting authority includes—

(a) a charge substituted by the prosecuting authority; and

(b) where a charge is amended by the prosecuting authority before the accused is arraigned in respect of it, the charge as so amended.

(7) Nothing in this section applies in relation to a charge preferred or substituted after the time when the court-martial first sits.**]**

Textual Amendments

F276 S. 58A inserted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 34**; S.I. 2007/2913, **art. 3**

59 Challenge by accused.

(1) Before the **[**[F277]officers appointed**]** members of a court-martial **[**[F278], and any warrant officers so appointed,**]** are sworn, the names of the **[**[F279]members of**]** the court shall be read over in the presence of the accused, and he shall be asked whether he objects to **[**[F279]any of those members**]**.

(2) Every objection made by the accused in respect of any **[**[F280]member**]**shall be **[**[F281]determined by the judge advocate**]**.

[[F282](3) If an objection to the president is allowed, the court shall be dissolved.**]**

(4) If **[**[F283]an objection to any other officer appointed a member of the court **[**[F284]or to any warrant officer so appointed**]** is allowed**]**, the member objected to shall retire, and the vacancy shall be filled by the first officer **[**[F285]or warrant officer**]****[**[F286]appointed**]** as a spare member in accordance with the provisions of **[**[F287]section 53C**]** of this Act who is qualified to be and is not already a member of the court.

[[F288](4A) If an objection to the judge advocate is allowed, the judge advocate shall retire and another judge advocate shall be appointed by or on behalf of the **[**[F289]Judge Advocate General**]** .**]**

(5) . . . . . .

(6) After the **[**[F290]officers appointed**]** members of a court-martial **[**[F291], and any warrant officers so appointed,**]** have been duly sworn, no question as to the constitution of the court shall be raised in the proceedings, but without prejudice to any power of the Courts-Martial Appeal Court or of **[**[F292]the **[**[F293]reviewing authority**]]** in a case in which it appears that a substantial miscarriage of justice has occurred by reason of the court not having been duly constituted.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F277 Words in s. 59(1) inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 58(1)(2)(a)**; S.I. 1997/304, **art. 2** (with art. 3)

F278 Words in s. 59(1) inserted (28.2.2002) by 2001 c. 19, s. 19, Sch. 2 para. 17(2); S.I. 2002/345, **art. 2** (subject to art. 3)

F279 Words in s. 59(1) substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 58(2)**; S.I. 1997/304, **art. 2** (with art. 3)

F280 Word in s. 59(2) substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 58(3)(a)**; S.I. 1997/304, **art. 2** (with art. 3)

F281 Words in s. 59(2) substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 58(3)(b)**; S.I. 1997/304, **art. 2** (with art. 3)

F282 S. 59(3) substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 58(4)**; S.I. 1997/304, **art. 2** (with art. 3)

F283 S. 59(4): it is provided (1.4.1997 with savings) that, for the words from "objection" to "the member" there shall be substituted the words "an objection to any other officer appointed a member of the court is allowed" by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 58(5)(a)**; S.I. 1997/304, **art. 2** (with art. 3) [Editorial note: it is thought that it was not the drafter's intention to remove the words "the member"]

F284 Words in s. 59(4) inserted (28.2.2002) by 2001 c. 19, s. 19, Sch. 2 para. 17(3)(a); S.I. 2002/345, **art. 2** (subject to art. 3)

F285 Words in s. 59(4) inserted (28.2.2002) by 2001 c. 19, s. 19, Sch. 2 para. 17(3)(b); S.I. 2002/345, **art. 2** (subject to art. 3)

F286 Word in s. 59(4) substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 58(5)(b)**; S.I. 1997/304, **art. 2** (with art. 3)

F287 Words in s. 59(4) substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 58(5)(c)**; S.I. 1997/304, **art. 2** (with art. 3)

F288 S. 59(4A) inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 58(6)**; S.I. 1997/304, **art. 2** (with art. 3)

F289 Words in s. 59(4A) inserted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 35**; S.I. 2007/2913, **art. 3**

F290 Words in s. 59(6) inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 58(8)(a)**; S.I. 1997/304, **art. 2** (with art. 3)

F291 Words in s. 59(6) inserted (28.2.2002) by 2001 c. 19, s. 19, Sch. 2 para. 17(4); S.I. 2002/345, **art. 2** (subject to art. 3)

F292 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

F293 Words in s. 59(6) substituted (1.4.1997 with savings) by virtue of 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 58(8)(b)**; S.I. 1997/304, **art. 2** (with art. 3)

60 Administration of oaths.

[[F294](1) An oath shall be administered separately to each member of a court-martial, to the clerk of the court and any officer or other person in attendance for instruction, and to any person appointed to attend as interpreter.**]**

[F295]**[**[F296](2) A witness before a court-martial—

(a) shall be examined on oath if he has attained the age of fourteen; and

(b) shall give evidence unsworn if he is under that age.

(3) Unsworn evidence admitted by virtue of subsection (2)(b) above may corroborate evidence (sworn or unsworn) given by any other person.**]**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[[F297](3A) Unsworn evidence admitted by virtue of subsection (3) above may corroborate evidence (sworn or unsworn) given by any other person.**]**

(4) A person shall be permitted to make a solemn affirmation instead of taking an oath under this section—

(a) if he objects to being sworn, [F298]. . .; or

(b) if it is not reasonably practicable to administer an oath to him in the manner appropriate to his religious belief.

(5) An oath or affirmation required to be administered under this section shall be in such form, and shall be administered at such time, by such person and in such manner, as may be prescribed by **[**[F299]rules**]** under section fifty-eight of this Act.

[[F300](6) A person who may be permitted under this section to make his solemn affirmation may also be required to do so, and for the purposes of this section "reasonably practicable" means reasonably practicable without inconvenience or delay.**]**

Textual Amendments

F294 S. 60(1) substituted (1.4.1997) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 59(2)**; S.I. 1997/304, **art. 2** (with art. 3)

F295 S. 60(2)(3) substituted (1.10.1992 for E.W.) by Criminal Justice Act 1991 (c. 53), ss. 71, 102(2)(8), **Sch. 9 para. 7**; S.I. 1992/333, arts. 2(2), 3(1), **Sch. 2**

F296 S. 60(2)(3) repealed (1.4.2000) by 1999 c. 23, ss. 67, 68(3), Sch. 6 (with Sch. 7 para. 5(2)); S.I. 1999/3427, **art. 3**

F297 S. 60(3A) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 26(1), **Sch. 2 para. 3(2)(b)**; S.I. 1991/2719, **art. 2** and repealed (1.10.1992 for E.W.) by Criminal Justice Act 1991 (c. 53), ss. 101(2), 102(2)(8), **Sch. 13**; S.I. 1992/333, arts. 2(2), 3(1), **Sch. 2**

F298 Words repealed by Administration of Justice Act 1977 (c. 38) Sch. 5 Pt. II

F299 Word in s. 60(5) substituted (1.4.1997) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 59(3)**; S.I. 1997/304, **art. 2** (with art. 3)

F300 S. 60(6) added by Oaths Act 1961 (c. 21), **s. 1**; saved by Oaths Act 1978 (c. 19), **s. 7(4)**

61 Courts-martial to sit in open court.

(1) Subject to the provisions of this section and to any provisions of General Orders under section fifty-eight of this Act with respect to the deliberations of the court upon their finding and sentence or upon other matters specified in those Orders, a court-martial shall sit in open court and in the presence of the accused.

(2) It is hereby declared that a court-martial has the like power to order the exclusion of the public from its proceedings as a civil court; and without prejudice to any such power, a court-martial may order that, subject to such exceptions, if any, as the court may specify, the public shall be excluded from all or any part of the proceedings of the court if it appears to the court that any evidence to be given or statement made in the course of the proceedings or of that part of the proceedings, as the case may be, might otherwise lead to the disclosure of any information which would or might be directly or indirectly useful to an enemy.

[[F301](3) A court-martial shall sit in closed court while deliberating on their finding and sentence on any charge.

(4) A court-martial may sit in closed court on any other deliberation amongst the members.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) Where a court-martial sits in closed court no person shall be present except the members of the court and such other persons as may be prescribed by rules under section 58 of this Act.

(6) The judge advocate shall not be present while the other members of the court are deliberating on their finding on any charge.

(7) Any ruling or direction of the judge advocate on a question of law (including a question of procedure or practice) shall be given in open court.

(8) The judge advocate may determine, and give rulings on, questions of law (including questions of procedure and practice) in the absence of the other members of the court.**]**

Textual Amendments

F301 S. 61(3)-(8) added (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 60**; S.I. 1997/304, **art. 2** (with art. 3)

62 Finding and sentence.

(1) Subject to the provisions of this section, **[**[F302]the finding of a court-martial and any sentence awarded**]** shall be determined by a majority of the votes of the members of the court.

[[F303](1A) The judge advocate shall not be entitled to vote on the finding.**]**

(2) In the case of an equality of votes on the finding, the court shall acquit the accused.

(3) Without prejudice to the provisions of section sixty-one of this Act, the finding of a court-martial on each charge, and any sentence of the court, together with any recommendation to mercy **[**[F304]and any reasons for the sentence**]**, shall be announced in open court.

[F305](4) . . . . . .

[F305](5) . . . . . .

Textual Amendments

F302 Words in s. 62(1) substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 61(2)**; S.I. 1997/304, **art. 2** (with art. 3)

F303 S. 62(1A) inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 61(3)**; S.I. 1997/304, **art. 2** (with art. 3)

F304 Words in s. 62(3) inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 61(4)**; S.I. 1997/304, **art. 2** (with art. 3)

F305 S. 62(4)(5) repealed (11.5.2001) by 2001 c. 19, ss. 38, 39(3)(g), **Sch. 7 Pt. 4**

[[F306]62ZA Powers of court-martial where accused elected court-martial trial.

(1) Where a court-martial tries a person in pursuance of an election for court-martial trial, the court shall not award any punishment which could not have been awarded by the officer who would have tried the preliminary charge summarily if the election had not been made.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) In subsection (1) above, "the preliminary charge" means the charge which would have been tried summarily had the accused not elected court-martial trial.

(3) Where regulations under section 52F of this Act would have prevented a punishment of a particular description awarded by the officer from taking effect without the approval of another person, it shall be assumed for the purposes of subsection (1) above that the approval would have been obtained.

(4) For the purposes of this section a court-martial is not to be regarded as trying a person in pursuance of an election for court-martial trial if, since the election was made, the prosecuting authority has referred the charge back to the commanding officer under section 52II of this Act.**]**

Textual Amendments

F306 S. 62ZA inserted (2.10.2000) by 2000 c. 4, **s. 12(3)**; S.I. 2000/2366, **art. 2**

[[F307]63E Provisions supplementary to sections 62A to 63D.

(1) In this section and sections 62A to 63D above—

"the appropriate mental health legislation" means—

(a) in a case where an order is treated as if it had been made by a civil court in England and Wales, the [M13]Mental Health Act 1983;

(b) in a case where an order is treated as if it had been made by a civil court in Scotland, the [M14]Mental Health (Scotland) Act 1984 and Part VI of the [M15]Criminal Procedure (Scotland) Act 1995;

(c) in a case where an order is treated as if it had been made by a civil court in Northern Ireland, the [M16]Mental Health (Northern Ireland) Order 1986;

"duly approved" means—

(a) approved for the purposes of section 12 of the Mental Health Act 1983 by the Secretary of State as having special experience in the diagnosis and treatment of mental disorder (within the meaning of that Act);

(b) approved for the purposes of section 20 or 39 of the Mental Health (Scotland) Act 1984 by a Health Board as having special experience in the diagnosis and treatment of mental disorder (within the meaning of that Act); or

(c) appointed for the purposes of Part II of the Mental Health (Northern Ireland) Order 1986 by the Mental Health Commission for Northern Ireland;

"prescribed" means prescribed by regulations made by the Secretary of State.

(2) For the purposes of the provisions of sections 62A, 63, 63C and 63D of this Act which permit a court to act on the written evidence of a registered medical practitioner or a registered medical practitioner who is duly approved, a report in writing purporting to be signed by a registered medical practitioner or a registered medical practitioner who is duly approved may, subject to subsection (3) below, be received in evidence without proof of the signature of the practitioner and without proof that he has the requisite qualifications or is duly approved; but the court may require the signatory of any such report to be called to give oral evidence.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) Where, in pursuance of a direction of the court, any such report is tendered in evidence otherwise than by or on behalf of the accused, then—

(a) if the accused is represented by counsel or a solicitor, a copy of the report shall be given to his counsel or solicitor;

(b) if the accused is not so represented, the substance of the report shall be disclosed to him; and

(c) the accused may require the signatory of the report to be called to give oral evidence, and evidence to rebut the evidence contained in the report may be called by the accused or on his behalf.

(4) The power of the Secretary of State to make regulations under sections 63A, 63B, 63C and 63D above, and orders under section 63D(2) above, shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.**]**

Textual Amendments

F307 Ss. 62A-63E substituted (prosp.) for s. 63 by 1996 c. 46, ss. 8, 36(2)(3), **Sch. 2 para. 4** (but the said Sch. 2 was repealed (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(2), 60, **Sch. 11**; S.I. 2005/579, **art. 3(ix)**)

Marginal Citations

M13 1983 c. 20.
M14 1984 c. 36.
M15 1995 c. 43.
M16 S.I. 1986/595 (N.I. 4).

[F308 Findings of unfitness to stand trial and insanity]

Textual Amendments

F308 Ss. 62A-63D and preceding cross-heading substituted (31.3.2005) for s. 63 by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 26, 60, **Sch. 3 para 3**; S.I. 2005/579, **art. 3(b)**

[F309 62A Fitness to stand trial

(1) This section applies where on a trial by court-martial of a person the question arises (at the instance of the defence or otherwise) whether the accused is fit to stand trial.

(2) For the purposes of this Act 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.

(3) If, having regard to the nature of the supposed disability, the judge advocate is of opinion that it is expedient to do so and in the interests of the accused, he may postpone consideration of the question of fitness to stand trial until any time up to the opening of the case for the defence.

(4) If, before the question of fitness to stand trial falls to be determined, the court finds the accused not guilty on the charge or each of the charges on which he is being tried, that question shall not be determined.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) Subject to subsections (3) and (4) above, the question of fitness to stand trial shall be determined as soon as it arises.

(6) The question of fitness to stand trial shall be determined by the judge advocate sitting alone.

(7) A judge advocate shall not make a determination under subsection (6) above except on the written or oral evidence of two or more registered medical practitioners at least one of whom is duly approved.**]**

Textual Amendments

F309 Ss. 62A-63D and preceding cross-heading substituted (31.3.2005) for s. 63 by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 26, 60, **Sch. 3 para. 3**; S.I. 2005/579, **art. 3(b)**

[F310 62B Finding that the accused did the act or made the omission charged

(1) This section applies where in accordance with section 62A(6) above it is determined by a judge advocate that the accused is unfit to stand trial.

(2) The trial shall not proceed or further proceed but it shall be determined by the court—
   (a) on the evidence (if any) already given in the trial, and
   (b) on such evidence as may be adduced or further adduced by the prosecution, or adduced by a person appointed by the judge advocate under this section to put the case for the defence,

   whether it is satisfied, as respects the charge or each of the charges on which the accused was to be or was being tried, that he did the act or made the omission charged against him as the offence.

(3) If as respects that charge or any of those charges the court is satisfied as mentioned in subsection (2) above, it shall make a finding that the accused did the act or made the omission charged against him.

(4) If as respects that charge or any of those charges the court is not so satisfied, the court shall find the accused not guilty as if on the charge in question the trial had proceeded to a conclusion.

(5) Where the question of fitness to stand trial was determined after arraignment of the accused, the determination under subsection (2) above shall be made by the court-martial by whom he was being tried.**]**

Textual Amendments

F310 Ss. 62A-63D and preceding cross-heading substituted (31.3.2005) for s. 63 by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 26, 60, **Sch. 3 para. 3**; S.I. 2005/579, **art. 3(b)**

[F311 63 Findings of insanity

(1) Where, on the trial of a person by court-martial, the court is satisfied, as respects the charge or any of the charges on which he is being tried, that the accused did the act or made the omission charged against him as the offence but that at the time of that

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

act or omission he was insane, the court shall find that the accused was not guilty of that offence by reason of insanity.

(2) No finding under subsection (1) above shall be made except on the written or oral evidence of two or more registered medical practitioners at least one of whom is duly approved.**]**

Textual Amendments

F311 Ss. 62A-63D and preceding cross-heading substituted (31.3.2005) for s. 63 by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 26, 60, **Sch. 3 para. 3**; S.I. 2005/579, **art. 3(b)**

[F312 63A Powers to deal with person unfit to stand trial or not guilty by reason of insanity

(1) This section applies where, on a trial of a person by a court-martial—

(a) the accused is found to be unfit to stand trial and to have done the act or made the omission charged against him; or

(b) the accused is found not guilty by reason of insanity.

(2) The court shall make in respect of the accused—

(a) a hospital order (with or without a restriction order);

(b) a supervision order; or

(c) an order for his absolute discharge.

(3) Where—

(a) the offence to which the finding relates is an offence the sentence for which is fixed by law, and

(b) the court has power to make a hospital order,

the court shall make a hospital order with a restriction order (whether or not it would have power to make a restriction order apart from this subsection).

(4) The functions of the court under this section shall be exercised by the judge advocate (or, where subsection (5) below applies, the judicial officer) sitting alone, and sections 56A(3) and 57 above shall not apply.

(5) Any function of the court under this section exercisable after an adjournment or an appeal shall be exercisable by a judicial officer if—

(a) the court ordering the adjournment, or (as the case may be) the Courts-Martial Appeal Court, so orders; or

(b) the **[F313** Judge Advocate General**]** so directs.

(6) In this Act—

"hospital order" has the meaning given in section 37 of the Mental Health Act 1983;

"restriction order" has the meaning given to it by section 41 of that Act;

"supervision order" means an order which requires the person in respect of whom it is made ("the supervised person") to be under the supervision of a person ("the supervising officer") for a period specified in the order of not more than two years.**]**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F312 Ss. 62A-63D and preceding cross-heading substituted (31.3.2005) for s. 63 by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 26, 60, **Sch. 3 para. 3**; S.I. 2005/579, **art. 3(b)**

F313 Words in s. 63A(5)(b) substituted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 36**; S.I. 2007/2913, **art. 3**

[F314 63B Orders under the Mental Health Act

(1) In relation to the making of an order by virtue of subsection (2)(a) of section 63A above, section 37 (hospital orders etc) of the Mental Health Act 1983 ("the 1983 Act") shall have effect as if—

(a) the reference in subsection (1) to a person being convicted before the Crown Court included a reference to the case where section 63A above applies;

(b) the words after "punishable with imprisonment" and before "or is convicted" were omitted; and

(c) for subsections (4) and (5) there were substituted—

"(4) Where an order is made under this section requiring a person to be admitted to a hospital ("a hospital order"), it shall be the duty of the managers of the hospital specified in the order to admit him in accordance with it."

(2) In relation to a case where section 63A above applies but the court has not yet made one of the disposals mentioned in subsection (2) of that section—

(a) section 35 of the 1983 Act (remand to hospital for report on accused's mental condition) shall have effect with the omission of the words after paragraph (b) in subsection (3);

(b) section 36 of that Act (remand of accused person to hospital for treatment) shall have effect with the omission of the words "(other than an offence the sentence for which is fixed by law)" in subsection (2);

(c) references in sections 35 and 36 of that Act to an accused person shall be construed as including a person in whose case this subsection applies; and

(d) section 38 of that Act (interim hospital orders) shall have effect as if—

(i) the reference in subsection (1) to a person being convicted before the Crown Court included a reference to the case where section 63A above applies; and

(ii) the words "(other than an offence the sentence for which is fixed by law)" in that subsection were omitted.

(3) In relation to the making of any order under the 1983 Act by virtue of this Act, that Act shall apply—

(a) as if references to the Crown Court were references to a court-martial;

(b) as if references to an offender were references to a person in whose case section 63A above applies (references to an offence being construed accordingly); and

(c) with such further modifications as may be prescribed.

(4) The Secretary of State may by regulations make provision with respect to the admission to, detention in, and release from, hospital of any person in respect of whom an order is made under the 1983 Act by virtue of this Act.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Regulations under this subsection may in particular make provision for a person in respect of whom such an order has been made to be conveyed to, and detained in, a place of safety pending his admission to hospital.

(5) Where—

(a) a person is detained in pursuance of a hospital order which the court had power to make by virtue of section 63A(1)(a) above, and

(b) the court also made a restriction order, and that order has not ceased to have effect,

the Secretary of State, if satisfied after consultation with the responsible medical officer that the person can properly be tried, may either remit the person for trial before a court-martial or direct that he be tried before a civil court.

In this subsection "responsible medical officer" means the registered medical practitioner in charge of the person's treatment.

(6) The Secretary of State may by regulations make provision supplementing subsection (5) above, including in particular—

(a) provision for a person in whose case that subsection applies to be conveyed to a court or place of detention and to be detained in such a place;

(b) provision for the hospital order and the restriction order to cease to have effect at such time as may be prescribed.**]**

Textual Amendments

F314 Ss. 62A-63D and preceding cross-heading substituted (31.3.2005) for s. 63 by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 26, 60, **Sch. 3 para. 3**; S.I. 2005/579, **art. 3(b)**

Modifications etc. (not altering text)

C29 Ss. 63B-63D applied (with modifications) (31.5.2005) by Courts-Martial (Appeals) Act 1968 (c. 20), s. 16 (as substituted by Domestic Violence, Crime and Victims Act 2004 ss. 26, 60, {Sch. 3 para. 10}); S.I. 2005/579, **art. 3**

C30 Ss. 63B-63D applied (with modifications) (31.5.2005) by Courts-Martial (Appeals) Act 1968 (c. 20), s. 16 (as substituted by Domestic Violence, Crime and Victims Act 2004 ss. 26, 60, {Sch. 3 para. 7}); S.I. 2005/579, **art. 3**

[[F315]63C Supervision orders

(1) The court shall not make an order under section 63A(2)(b) above unless it is satisfied—

(a) that, having regard to all the circumstances of the case, the making of a supervision order is the most suitable means of dealing with the accused;

(b) that the supervising officer intended to be specified in the order is willing to undertake the supervision; and

(c) that arrangements have been made for any treatment which (under subsection (2) below) is intended to be specified in the order.

(2) An order under section 63A(2)(b) above may, in accordance with regulations under subsection (3) below, require the supervised person to submit, during the whole of that period or such part of it as may be specified in the order, to treatment by or under the direction of a registered medical practitioner.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) The Secretary of State may—

(a) by order direct that the definition of "supervision order" in section 63A(6) above shall be amended by substituting, for the period for the time being specified there, such period as may be specified in the order under this subsection;

(b) by regulations make further provision in relation to supervision orders.

(4) Regulations under subsection (3) above may in particular make provision—

(a) as to the procedure to be followed by a court-martial making a supervision order;

(b) as the requirements which may be specified in such an order;

(c) as to the descriptions of supervising officer who may be so specified;

(d) for treatment to be provided at a place other than the place specified in the order in accordance with arrangements made by the medical practitioner by whom or under whose direction the supervised person is being treated;

(e) for the amendment and revocation of any supervision order.**]**

Textual Amendments

F315 Ss. 62A-63D and preceding cross-heading substituted (31.3.2005) for s. 63 by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 26, 60, **Sch. 3 para. 3**; S.I. 2005/579, **art. 3(b)**

Modifications etc. (not altering text)

C31 Ss. 63B-63D applied (with modifications) (31.5.2005) by Courts-Martial (Appeals) Act 1968 (c. 20), s. 16 (as substituted by Domestic Violence, Crime and Victims Act 2004 ss. 26, 60, {Sch. 3 para. 10}); S.I. 2005/579, **art. 3**

C32 Ss. 63B-63D applied (with modifications) (31.5.2005) by Courts-Martial (Appeals) Act 1968 (c. 20), s. 16 (as substituted by Domestic Violence, Crime and Victims Act 2004 ss. 26, 60, {Sch. 3 para. 7}); S.I. 2005/579, **art. 3**

[[F316]63D Provisions supplementary to sections 62A to 63C

(1) In this section and sections 62A to 63C above—

"duly approved" means approved for the purposes of section 12 of the Mental Health Act 1983 by the Secretary of State as having special experience in the diagnosis and treatment of mental disorder (within the meaning of that Act);

"prescribed" means prescribed by regulations made by the Secretary of State.

(2) For the purposes of the provisions of sections 62A and 63 of this Act which permit a court to act on the written evidence of a registered medical practitioner or a registered medical practitioner who is duly approved, a report in writing purporting to be signed by a registered medical practitioner or a registered medical practitioner who is duly approved may, subject to subsection (3) below, be received in evidence without proof of the signature of the practitioner and without proof that he has the requisite qualifications or is duly approved; but the court may require the signatory of any such report to be called to give oral evidence.

(3) Where, in pursuance of a direction of the court, any such report is tendered in evidence otherwise than by or on behalf of the accused, then—

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) if the accused is represented by counsel or a solicitor, a copy of the report shall be given to his counsel or solicitor;

(b) if the accused is not so represented, the substance of the report shall be disclosed to him; and

(c) the accused may require the signatory of the report to be called to give oral evidence, and evidence to rebut the evidence contained in the report may be called by the accused or on his behalf.

(4) The power of the Secretary of State to make regulations under sections 63A to 63C above, and orders under section 63C(3) above, shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.**]**

Textual Amendments

F316 Ss. 62A-63D and preceding cross-heading substituted (31.3.2005) for s. 63 by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 26, 60, **Sch. 3 para. 3**; S.I. 2005/579, **art. 3(b)**

Modifications etc. (not altering text)

C33 Ss. 63B-63D applied (with modifications) (31.5.2005) by Courts-Martial (Appeals) Act 1968 (c. 20), s. 16 (as substituted by Domestic Violence, Crime and Victims Act 2004 ss. 26, 60, {Sch. 3 para. 10}); S.I. 2005/579, **art. 3**

C34 Ss. 63B-63D applied (with modifications) (31.5.2005) by Courts-Martial (Appeals) Act 1968 (c. 20), s. 16 (as substituted by Domestic Violence, Crime and Victims Act 2004 ss. 26, 60, {Sch. 3 para. 7}); S.I. 2005/579, **art. 3**

64 Summoning of witnesses.

[F317](1) . . . . . .

(2) Any person not subject to this Act who attends a court-martial in pursuance of a **[**[F318]summons issued in accordance with rules under section 58**]** shall be entitled to receive such expenses of his attendance as may be authorised in accordance with regulations made by **[**[F319]the Secretary of State**]**.

Textual Amendments

F317 S. 64(1) omitted (1.1.2008) by virtue of Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch 16 para. 37(a)**; S.I. 20072913, {art. 3}

F318 Words in s. 64(2) substituted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 37(b)**; S.I. 2007/2913, **art. 3**

F319 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

[[F320]64A Rules of evidence

(1) The rules as to the admissibility of evidence to be observed in proceedings before courts-martial shall, subject to Schedule 13 to theCriminal Justice Act 1988 (evidence before courts-martial etc) **[**[F321]to Schedules 6 and 7 to the Criminal Justice Act 2003**]** and to service modifications, be the same as those observed in trials on indictment in England, and no person shall be required in proceedings before a court-martial to

answer any question or to produce any document which he could not be required to answer or produce in similar proceedings in a trial on indictment in England.

(2) In this section "service modifications" means such modifications as the Secretary of State may by regulations made by statutory instrument prescribe, being modifications which appear to him to be necessary or proper for the purposes of proceedings before a court-martial; and it is hereby declared that in this section—

"rules" includes rules contained in or made by virtue of an enactment; and

"enactment" includes an enactment contained in an Act passed after this Act.

(3) Regulations under subsection (2) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) A court-martial shall take judicial notice of all matters of notoriety, including all matters within the general service knowledge of the court, and of all other matters of which judicial notice would be taken in a trial on indictment in England.**]**

Textual Amendments

F320 Ss. 64A-64D inserted (1.4.1997) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 63**; S.I. 1996/304, **art. 2** (with art. 3)

F321 Words in s. 64A(1) inserted (1.1.2005 for certain purposes and 4.4.2005 in so far as not already in force) by Criminal Justice Act 2003 (c. 44), ss. 331, 336, **Sch. 36 Pt. 5 para. 83**; S.I. 2004/3033, **art. 4(1)(2)(b)(c)**; S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 43(b) (subject to art. 2(2), Sch. 2 (as amended by S.I. 2005/2122, art. 2 and S.I. 2007/391, art. 2))

Modifications etc. (not altering text)

C35 S. 64A(1)(4) applied (with modifications) by S.I. 2000/2370, **rule 27(a)**

C36 S. 64A(1)(4) applied (with modifications) by S.I. 2000/2370, **rule 27(a)**

[F322 64B Proofs at courts-martial by written statement

(1) Without prejudice to section 64A above, section 9 of theCriminal Justice Act 1967 (proof by written statement) shall apply subject to subsection (2) below and to service modifications, for the purposes of proceedings before courts-martial (whether held in the United Kingdom or not) as it applies to proceedings on indictment.

(2) The statements rendered admissible by this section are statements made—

(a) in the United Kingdom by any person, and

(b) outside the United Kingdom by any person who at the time of making the statement was—

(i) a person subject to service law, or

(ii) a person to whom Parts I and II of this Act are applied by section 117 or section 118 of this Act, or to whom Part II of theArmy Act 1955 or Part II of theAir Force Act 1955 is applied by section 208A or section 209 of the Army Act 1955 or the Air Force Act 1955 respectively,

and the persons mentioned in this paragraph include persons to whom section 119 of this Act, section 131 of the Army Act 1955 or section 131 of the Air Force Act 1955 apply.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) In subsection (1) above "service modifications" means—

(a) modifications made by any regulations under section 12 of the Criminal Justice Act 1967 in force on the coming into force of this section, and

(b) such modifications in the said section 9, as applied by subsection (1) above, as the Secretary of State may by regulations made by statutory instrument prescribe thereafter, being modifications which appear to him to be necessary or proper for the purpose of the operation of that section in relation to proceedings before a court-martial.

(4) Regulations under subsection (3)(b) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Section 89 of the said Act of 1967 (punishment of making false statements tendered under section 9) shall apply to any statement rendered admissible by this section.**]**

Textual Amendments

F322 Ss. 64A-64D inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 63**; S.I. 1997/304, **art. 2** (with art. 3)

Modifications etc. (not altering text)

C37 S. 64B(1)(2)(5) applied (with modifications) by S.I. 2000/2370, rule. 27(b)

C38 S. 64B(1)(2)(5) applied (with modifications) by S.I. 2000/2370, rule. 27(b)

C39 S. 64B(1)(2)(5) applied (with modifications) by S.I. 2000/2370, rule. 27(b)

[[F323]64C Proof of service facts and records.

(1) This section applies with respect to proceedings before a court-martial.

(2) A letter, return or other document stating that any person—

(a) was or was not serving at any specified time or during any specified period in any part of Her Majesty's forces;

(b) was discharged from any part of those forces at or before any specified time;

(c) held or did not hold at any specified time any specified rank or appointment in any of those forces;

(d) had at or before any specified time been attached, posted or transferred to any part of those forces;

(e) at any specified time or during any specified time was or was not serving or held or did not hold any rank or appointment in any particular country or place; or

(f) was or was not at any specified time authorised to use or wear any decoration, badge or emblem;

shall if purporting to be issued by or on behalf of the Defence Council or by a person authorised by them, be evidence of the matter stated in the document.

(3) A record—

(a) made in any service record in pursuance of any Act or of Queen's Regulations, or otherwise in pursuance of naval duty; and

(b) purporting to be signed by the commanding officer or by any person whose duty it was to make or keep the records,

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

may be received without formal proof in all trials under this Act as prima facie evidence of the record.

(4) A copy of a record (including the signature thereto) such as is mentioned in subsection (3) above, purporting to be certified to be a true copy by a person stated in the certificate to have the custody of the record, may be received without formal proof in all trials under this Act as prima facie evidence of the record.

(5) A document purporting to be issued by order of the Defence Council and to contain instructions given or regulations made by the Defence Council shall be evidence of the giving of the instructions or making of the regulations and of their contents.

(6) A certificate purporting to be issued by or on behalf of the Defence Council or by a person authorised by them, and stating—
   (a) that a decoration of a description specified in, or as annexed to, the certificate is a military, naval or air force decoration; or
   (b) that a badge or emblem of a description specified in, or as annexed to, the certificate is one supplied or authorised by the Defence Council;

   shall be evidence of the matters stated in the certificate.

(7) A certificate purporting to be signed by a person's commanding officer or any officer authorised by him to give the certificate, and stating the contents of, or of any part of, standing orders or other routine orders of a continuing nature made for—
   (a) any ship, train or aircraft;
   (b) any formation or unit or body of Her Majesty's forces; or
   (c) any command or other area, or place;

   shall in proceedings against that person be evidence of the matters stated in the certificate.

(8) Any document which would be evidence in any proceedings under the Army Act 1955 or the Air Force Act 1955 shall in like manner, subject to the like conditions, and for the like purposes, be evidence in a court-martial under this Act.**]**

Textual Amendments

F323 Ss. 64A-64D inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 63**; S.I. 1997/304, **art. 2** (with art. 3)

Modifications etc. (not altering text)

C40 S. 64C applied (with modifications) by S.I. 2000/2370, **rule 27(c)**

[F324 64D Privilege of witnesses and others at courts-martial

A witness before a court-martial or any other person whose duty it is to attend on or before the court shall be entitled to the same immunities and privileges as a witness before the High Court in England.**]**

Textual Amendments

F324 Ss. 64A-64D inserted (1.4.1997) by 1996 c. 46, s. 5, **Sch. 1 Pt. III para. 63**; S.I. 1997/304, **art. 2** (with art. 3)

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

65 Contempt of court-martial by civilians.

(1) Subject to the provisions of this section, if any person not subject to this Act (whether within the United Kingdom or elsewhere)—

(a) having been duly summoned to attend as a witness before a court-martial, fails to comply with the summons;

(b) is guilty in relation to a court-martial of any such act or default as is described in paragraphs (b) to (f) of subsection (1) of section thirty-eight of this Act; or

(c) does any other act in relation to a court-martial which, if the court were a court of law having power to commit for contempt, would be punishable as contempt of that court,

the president of the court-martial may certify the offence to any court of law having jurisdiction in the place where it is alleged to have been committed or in the place where the offender is to be found, being a court having power to commit as aforesaid.

(2) The court to which an offence is certified under this section may inquire into the alleged offence and, after hearing any witnesses who may be produced against or on behalf of the person charged therewith, and after hearing any statement that may be offered in defence, deal with him in any manner in which the court could deal with him if he had committed the like offence in or in relation to that court.

(3) A person shall not be dealt with under this section in respect of failure to comply with a summons requiring him to attend as a witness before a court-martial unless any expenses to which he is entitled under this Act in respect of his attendance have been paid or tendered:

Provided that for the purposes of this subsection—

(a) the tender of a warrant or voucher entitling any person to travel free of charge shall be deemed to constitute tender of his expenses in respect of any travelling authorised by the warrant or voucher; and

(b) the tender of a written undertaking on behalf of the **[**[F325]Defence Council**]** to defray at the trial any other expenses to which such a person may be entitled under this Act in respect of his attendance shall be deemed to constitute tender of those expenses.

(4) Without prejudice to the provisions of **[**[F326]section 52G(9)**]** of this Act, this section applies in relation to a disciplinary court as it applies in relation to a court-martial.

[[F327](5) References in subsections (1) and (3) above to a court-martial include references to the summary appeal court.**]**

[[F328](6) References in subsections (1) and (3) above to a court-martial or its president include references to a judicial officer.**]**

Textual Amendments

F325 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

F326 Words in s. 65(4) substituted (1.4.1997) by 1996 c. 46, s. 5, **Sch. 1 Pt. IV para. 87**; S.I. 1997/304, **art. 2** (with art. 3)

F327 S. 65(5) inserted (2.10.2000) by 2000 c. 4, s. 25, **Sch. 3 para. 7**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F328 S. 65(6) inserted (2.10.2000) by 2000 c. 4, s. 10, **Sch. 1 para. 9**; S.I. 2000/2366, **art. 2**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Modifications etc. (not altering text)

C41 S. 65(1) modified (21.7.2008) by Criminal Evidence (Witness Anonymity) Act 2008 (c. 15), **s. 8(4)(5)** (with s. 9(1) and with saving in s. 1(3))

[F329 65A Powers to compel attendance of witnesses

(1) Where the appropriate person (as defined by subsection (2) below) is satisfied by evidence on oath—

(a) that a person not subject to this Act who is in the United Kingdom or in any colony is likely to be able to give material evidence or produce any document or other thing likely to be material evidence at a trial by court-martial in the United Kingdom or (as the case may be) in that colony,

(b) that he will not voluntarily attend as a witness or produce the document or other thing, and

(c) that it is probable that a summons requiring him to attend the court to give evidence or to produce the document or other thing would not procure his attendance,

the appropriate person may, instead of issuing a summons requiring that person to attend, issue a warrant to arrest him and bring him before the court-martial at a time and place specified in the warrant.

(2) For the purposes of subsection (1) above the appropriate person is, at any time before the court-martial is convened, a judicial officer and, thereafter, the judge advocate.

(3) Where—

(a) a person not subject to this Act ("the defaulter") fails to attend a court-martial held in the United Kingdom or any colony in response to a summons requiring him to so attend,

(b) the judge advocate is satisfied by evidence on oath that the defaulter is in the United Kingdom or (as the case may be) the colony and that he is likely to be able to give material evidence or produce any document or other thing likely to be material evidence in the proceedings,

(c) it is proved on oath or in such manner as may be prescribed by rules under section 58 of this Act that the defaulter has been duly served with the summons and that any expenses to which he is entitled by virtue of regulations made by the Defence Council have been paid or tendered (within the meaning of section 65(3) of this Act), and

(d) it appears to the judge advocate that there is no just excuse for the defaulter's failure to attend,

the judge advocate may issue a warrant to arrest the defaulter and bring him before the court-martial at a time and place specified in the warrant.

(4) A warrant under subsection (1) or (3) above must be addressed to a constable.

(5) Subsections (1) to (4) above apply in relation to proceedings before a judicial officer as they apply in relation to a court-martial, and in their application in relation to such proceedings—

(a) any reference to a court-martial shall be construed as a reference to those proceedings or to the judicial officer (as appropriate);

(b) the reference in subsection (1)(a) above to a trial by court-martial shall be construed as a reference to the proceedings before the judicial officer;

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) the appropriate person for the purposes of subsection (1) above is (instead of the person mentioned in subsection (2) above) the judicial officer;

(d) for paragraph (c) of subsection (3) above there is substituted—

(c) "it is proved on oath or in such manner as may be prescribed by rules under section 47N of this Act that he has been duly served with the summons and that any expenses to which he is entitled under those rules have been paid or tendered (within the meaning of those rules), and " and

(e) any reference in that subsection to the judge advocate shall be construed as a reference to the judicial officer.

(6) Subsections (1) to (4) above apply in relation to the summary appeal court as they apply in relation to a court-martial, and in their application in relation to the summary appeal court—

(a) any reference to a court-martial shall be construed as a reference to the summary appeal court;

(b) the reference in subsection (1)(a) above to a trial by court-martial shall be construed as a reference to the hearing of an appeal by the summary appeal court;

(c) the appropriate person for the purposes of subsection (1) above is (instead of the person mentioned in subsection (2) above)—

(i) at any time before the commencement of the hearing by the summary appeal court, any judge advocate appointed under section 52FG of this Act, and

(ii) thereafter, the summary appeal court;

(d) for paragraph (c) of subsection (3) above there is substituted—

(c) it is proved on oath or in such manner as may be prescribed by rules under section 52FP of this Act that he has been duly served with the summons and that any expenses to which he is entitled under those rules have been paid or tendered (within the meaning of those rules), and ; and

(e) any reference in that subsection to the judge advocate shall be construed as a reference to the summary appeal court.**]**

Textual Amendments

F329 S. 65A inserted (1.1.2008) by Armed Forces Act 2001 (c. 19), ss. 25(3), 39(2); S.I. 2007/3434, **art. 2**

[X1]66 Record of proceedings of courts-martial.

(1) As soon as practicable after the conclusion of a court-martial, the **[**[F330]court administration officer shall transmit the record of the proceedings**]** to **[**[F331]the Defence Council**]**.

(2) Subject to the provisions of this section, a person who has been charged before a court-martial shall be entitled, on application made to [F331]the Defence Council within five years after the conclusion of the proceedings before the court-martial, to receive a copy of the record of the proceedings, subject to payment of such fee (if any), not exceeding the cost of making the copy, as may be required by [F331]the Defence Council.

(3) Where a person charged as aforesaid dies within the period of five years mentioned in subsection (2) of this section, his personal representatives, or any person who in the opinion of [F331]the Defence Council ought to be treated for the purposes of this

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

subsection as his personal representative, shall, on application made to [F331]the Defence Council within one year after his death, have the like right to receive a copy of the record as that person would have had on application made under that subsection.

[F332][(3A) The right of a person or his representatives to obtain a copy of the record under this section does not extend to so much of the record as relates only to a charge of which he was found not guilty.]

(4) If, on application made in pursuance of this section for a copy of the record of any proceedings, [F331]the Defence Council certify that it is necessary for reasons of security that the proceedings or any part thereof should not be disclosed, the applicant shall not be entitled to a copy of the proceedings or part to which the certificate relates.

Editorial Information

X1 The insertion of the new crossheading "Findings of unfitness to stand trial and insanity" into Pt. II on 31.3.2005 gives rise to a change in the structure of this piece of legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new crossheading.

Textual Amendments

F330 Words in s. 66(1) substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. IV para. 88**; S.I. 1997/304, **art. 2** (with art. 3)

F331 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

F332 S. 66(3A) inserted by Armed Forces Act 1981 (c. 55), **s. 7(3)(4)** except in relation to a record of proceedings commenced before 1.5.1982

[X2][F333]66A Right of penalised parent or guardian to copy of record of court-martial proceedings.

(1) Subject to the provisions of this section, where a court-martial imposes a fine on or makes a compensation order against a parent or guardian under paragraph 13 of Schedule 4A to this Act, the parent or guardian shall be entitled, on application made to the Defence Council within five years after the conclusion of the proceedings before the court-martial, to receive a copy of the relevant part of the record of the proceedings, subject to payment of such fee (if any), not exceeding the cost of making the copy, as may be required by the Defence Council.

(2) Where the parent or guardian dies within the period of five years mentioned in subsection (1) of this section, his personal representatives, or any person who in the opinion of the Defence Council ought to be treated for the purposes of this subsection as his personal representative, shall, on application made to the Defence Council within one year after his death, have the like right to receive a copy of the relevant part of the record as that person would have had on application made under that subsection.

(3) In a case where this section applies, any entitlement conferred by subsection (1) or (2) above is in addition to any entitlement conferred by section 66(2) or (3) of this Act.

(4) If, on application made in pursuance of this section for a copy of the record of any proceedings, the Defence Council certify that it is necessary for reasons of security that any part of the proceedings should not be disclosed, the applicant shall not be entitled to a copy of the part to which the certificate relates.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) In this section "the relevant part of the record" means so much of the record as relates to compliance with the requirements of the said paragraph 13 or to any matters taken into account by the court in deciding to impose the fine or make the compensation order.**]**

Editorial Information

X2 The insertion of the new crossheading "Findings of unfitness to stand trial and insanity" into Pt. II on 31.3.2005 gives rise to a change in the structure of this piece of legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new crossheading.

Textual Amendments

F333 S. 66A inserted by Armed Forces Act 1981 (c. 55), **s. 8(3)**

Power to convict of mitigated or alternative offence

67 Power to convict of mitigated offence.

Where the punishment for any offence under this Act depends upon the intent with which or the circumstances in which the offender acts, and any person is charged with committing that offence with an intent or in circumstances involving the higher degree of punishment, he may be found guilty of committing that offence without that intent, or in circumstances involving the lower degree of punishment, as the case may be.

68 Power to convict of alternative offence.

(1) Where a person is charged with an offence under any provision of this Act other than section forty-two, and it is not proved that he committed that offence but is proved that he committed any other such offence, being—

(a) an attempt to commit the offence charged; or

(b) an offence of the same class as the offence charged and not involving greater punishment,

he may be found not guilty of the offence charged but guilty of the said other offence.

(2) Where a person is charged with a civil offence under section forty-two of this Act and it is not proved that he committed that offence but is proved that he committed any other civil offence of which, if he had been tried by a civil court for committing the first-mentioned offence in England, he might have been found guilty, he may be convicted of an offence under the said section forty-two in respect of the commission of that other civil offence.

69 Power to convict of attempt notwithstanding proof of completed offence.

It is hereby declared that a person charged under this Act with an attempt to commit any offence may be convicted notwithstanding proof that he actually committed that offence.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Review of finding and sentence

[F334 70 Review of findings and sentences of courts-martial.

(1) Where a court-martial has found the accused guilty of any offence, the accused may, before the end of the prescribed period after sentence is passed, present a petition to the Defence Council against finding or sentence or both.

(2) The reviewing authority shall, in accordance with subsections (3) and (4) below, review any finding of guilt made, and sentence passed, by a court-martial.

(3) The review shall (if it does not begin sooner) begin as soon as is practicable after—
- (a) in a case where a petition has been presented under this section, the presentation of the petition;
- (b) in any other case, the end of the period within which a petition under this section may be presented.

(4) Where an application for leave to appeal to the Courts-Martial Appeal Court against a finding or sentence has been made before the review of the finding or sentence has been completed—
- (a) the reviewing authority shall complete the review as soon as is practicable; but
- (b) if leave to appeal is granted before the review has been completed, the authority shall cease considering the review.

(5) For the purposes of this Act the reviewing authority is—
- (a) the Defence Council; or
- (b) any officer to whom all or any of the powers of the Defence Council as reviewing authority may be delegated by the Defence Council.

F335(6) . . . . . .

(7) F336. . . . . .

(8) In this section "prescribed" means prescribed by rules under section 58 of this Act.**]**

Textual Amendments

F334 S. 70 substituted (1.4.1997 with savings) by 1996 c. 46, s. 16, **Sch. 5 para. 9**; S.I. 1997/304, **art. 2** (with art. 3)

F335 S. 70(6) repealed (11.5.2001) by 2001 c. 19, s. 38, **Sch. 7 Pt. 4**

F336 S. 70(7) repealed (28.2.2002) by 2001 c. 19, s. 38, Sch. 7 Pt. 1; S.I. 2002/345, **art. 2** (subject to art. 3)

[F337 71 Powers of the reviewing authority.

(1) On a review under section 70 of this Act the reviewing authority has the following powers.

(2) In so far as the review is of a finding of guilt, the authority may—
- (a) quash that finding and, if the sentence relates only to that finding, quash the sentence passed in consequence of that finding;
- (b) substitute a finding mentioned in subsection (3) below if that finding could have been validly made by the court-martial and the authority is of the opinion

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

that the court-martial must have been satisfied of facts which would justify the making of that finding;

and, where another finding is so substituted, the authority may pass any such sentence (not being, in the opinion of the authority, more severe than the sentence originally passed) open to the court-martial on making such a finding as appears proper.

(3) The findings referred to in subsection (2) above are—

(a) any finding of guilt which could have been validly made by the court-martial on the charge before it;

(b) if the court-martial recorded no finding on a charge alternative to a charge on which the court made the finding being reviewed, a finding of guilt on that alternative charge.

(4) In so far as the review is of a sentence, the authority may quash the sentence or substitute a sentence (not being, in the opinion of the authority, more severe than the sentence originally passed) which was open to the court-martial.

(5) In reviewing a sentence, the authority may—

(a) revoke an order made by the court under section 89A(1) of this Act;

(b) remit in whole or part any punishment awarded by the court;

(c) commute any such punishment for one or more punishments provided by this Act, being less than the punishment commuted.

(6) Where it appears to the reviewing authority that the court-martial, in sentencing the accused, exceeded or erroneously exercised its powers to take other offences into consideration, the authority shall (whether or not substituting a different sentence or remitting or commuting punishment) annul the taking into consideration of the other offence or offences in question and any orders dependent thereon; and where the authority does so the offence or offences shall be treated for all purposes as not having been taken into consideration.

(7) Any substituted finding or sentence, or sentence having effect after the remission or commutation of punishment—

(a) shall be treated for all purposes as having been made or passed by the court;

(b) shall be promulgated and shall have effect as from the date of promulgation.**]**

Textual Amendments

F337 S. 71 substituted (1.4.1997 with savings) by 1996 c. 46, s. 16, **Sch. 5 para. 10**; S.I. 1997/304, **art. 2** (with art. 3)

[[F338]71A Power to authorise retrial.

(1) The following provisions of the [M17]Courts-Martial (Appeals) Act 1968, that is to say,—

section 19,

section 20, and

Parts I and IV of Schedule 1,

power of Courts-Martial Appeal Court to authorise retrial and supplementary provisions applicable when the power is exercised) shall apply with any necessary

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

modifications in relation to the review by the **[**[F339]reviewing authority**]** under section 70 of this Act of the findings of a courts-martial as they apply in relation to an appeal to the Courts-Martial Appeal Court.

(2) Any document purporting to be an order or direction made or given by virtue of the foregoing subsection by the **[**[F339]reviewing authority**]**shall be evidence of the making of the order or the giving of the direction, as the case may be, and of its contents.**]**

Textual Amendments

F338 S. 71A added by Courts-Martial (Appeals) Act 1968 (c. 20), **Sch. 4**

F339 Words in s. 71A substituted (1.4.1997 with savings) by 1996 c. 46, s. 16, **Sch. 5 para. 11**; S.I. 1997/304, **art. 2** (with art. 3)

Marginal Citations

M17 1968 c. 20.

[[F340]**71AB Scope of section 71AC**

(1) Section 71AC of this Act applies to any case—

(a) which is of a description specified for the purposes of this paragraph in an order made by the Secretary of State, or

(b) in which a sentence is passed by a court-martial on a person—

(i) in respect of an offence against section 42 of this Act which satisfies the condition in subsection (2) below, or

(ii) in respect of two or more offences against that section each of which satisfies that condition.

(2) The condition referred to in subsection (1)(b) above is that the civil offence is—

(a) an offence which would be triable by a civil court in England and Wales only on indictment, or

(b) an offence of a description specified for the purposes of this paragraph in an order made by the Secretary of State.

(3) For the purposes of this section and section 71AC of this Act—

(a) "sentence", in relation to an offence, includes any order made by a court-martial in dealing with an offender, including an order that no punishment be awarded, and

(b) any reference to a sentence passed by a court-martial is a reference to any such sentence as it has effect following a review under section 70 of this Act of the sentence or the finding to which it relates (and, accordingly, the reference in paragraph (a) above to an order that no punishment be awarded includes a reference to the quashing of a sentence on a review).

(4) The power of the Secretary of State to make an order under subsection (1)(a) or (2)(b) above shall be exercisable by statutory instrument.

(5) A statutory instrument containing an order under subsection (1)(a) or (2)(b) above shall be subject to annulment in pursuance of a resolution of either House of Parliament**]**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F340 Ss. 71AB, 71AC inserted (28.2.2007) by 2001 c. 19, ss. 21(2), 39(2); S.I. 2007/662, **art. 2**

Modifications etc. (not altering text)

C42 S. 71AB(1)(a) applies (31.3.2007) by The Courts-Martial (Review of Sentencing) (Categories of Offences) Order 2007 (S.I. 2007/711), **art. 2**, Sch.

[F341 71AC Review of sentences by Courts-Martial Appeal Court

(1) If it appears to the Attorney General—

(a) that a sentence passed on a person by a court-martial has been unduly lenient, and

(b) that the case is one to which this section applies,

he may, with the leave of the Courts-Martial Appeal Court, refer the case to them for them to review the sentencing of that person.

(2) On a reference under subsection (1) above the Courts-Martial Appeal Court may—

(a) quash the sentence passed by the court-martial on the person; and

(b) in place of it pass such sentence, being a sentence which would have been open to the court-martial on the findings made against that person, as they think appropriate.

(3) Without prejudice to the generality of subsection (1) above, the condition specified in paragraph (a) of that subsection may be satisfied if it appears to the Attorney General that—

(a) the court-martial erred in law as to its powers of sentencing or the reviewing authority so erred as to its powers on a review under section 70 of this Act; or

(b) the sentence passed on the person was not that required by section 42(1B), (1E) or (1G) of this Act.

F342 [(3A) Where a reference under this section relates to an order under subsection (2) of section 269 of the Criminal Justice Act 2003 (determination of minimum term in relation to mandatory life sentence), the Courts-Martial Appeal Court shall not, in deciding what order under that section is appropriate for the case, make any allowance for the fact that the person to whom it relates is being sentenced for a second time.]

(4) Where the Courts-Martial Appeal Court have concluded their review of a case referred to them under this section, the Attorney General or the person to whose sentencing the reference relates may refer a point of law involved in any sentence passed on that person in the proceedings to the House of Lords for their opinion, and the House shall consider the point and give their opinion on it accordingly, and either remit the case to the Courts-Martial Appeal Court to be dealt with or deal with it themselves; and section 41(1) of the Courts-Martial (Appeals) Act 1968 (composition of House for appeals) shall apply also in relation to any proceedings of the House under this section.

(5) A reference under subsection (4) above shall be made only with the leave of the Courts-Martial Appeal Court or the House of Lords; and leave shall not be granted unless it is certified by the Courts-Martial Appeal Court that the point of law is of general public importance and it appears to the Courts-Martial Appeal Court or the House of Lords (as the case may be) that the point is one which ought to be considered by that House.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) For the purpose of dealing with a case under this section the House of Lords may exercise any powers of the Courts-Martial Appeal Court.

(7) A sentence passed by the Courts-Martial Appeal Court or the House of Lords under subsection (2)(b) above shall be treated for the purposes of this Act as a sentence passed by a court-martial.

(8) The Secretary of State may by regulations made by statutory instrument make supplementary provision with respect to references and applications under this section; and the regulations may in particular contain provision equivalent to that made by any provision of Schedule 3 to the Criminal Justice Act 1988 (which contains supplementary provisions relating to reviews under Part 4 of that Act), subject to such modifications as the Secretary of State thinks fit.

(9) A statutory instrument containing regulations under subsection (8) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.**]**

Textual Amendments

F341 Ss. 71AB, 71AC inserted (28.2.2007) by 2001 c. 19, ss. 21(2), 39(2); S.I. 2007/662, **art. 2**

F342 S. 71AC(3A) inserted (18.12.2003) by Criminal Justice Act 2003 (c. 44), **ss. 272(2)(c)(3)**, 336(2)

Modifications etc. (not altering text)

C43 S. 71AC applied (31.3.2007) by The Courts-Martial (Review of Sentencing) (Categories of Offences) Order 2007 (S.I. 2007/711), **art. 2**, Sch. (with art. 3)

[F343 71B Review of summary findings and awards.

(1) This section applies where on a summary trial the accused has been found guilty of any offence.

F344 (2) . . . . . .

(3) The finding or any **[**F345 punishment**]** awarded (or both) may be reviewed at any F346 . . .time.

(4) A review under this section shall be carried out in accordance with the provisions of Queen's Regulations.

(5) A review under this section may be carried out by—

(a) the Defence Council;

(b) any naval officer superior in command to the officer who tried the charge summarily;

(c) a flag officer appointed by the Defence Council to carry out the review or any class of review which includes the review.

F347 (5A) **[** Where—

(a) the period of fourteen days referred to in subsection (2) of section 52FK of this Act has expired, and

(b) no appeal has been brought under that section,

the authority carrying out a review under this section may, with the leave of the summary appeal court, refer the finding or any punishment awarded (or both) to that court to be considered by it as on an appeal.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F347](5B) Where an appeal has been brought under section 52FK of this Act and it appears to the authority carrying out a review under this section, on consideration of matters appearing to him not to have been brought to the notice of the summary appeal court on the appeal, to be expedient to do so, he may, with the leave of the summary appeal court, refer the finding or any punishment awarded (or both), including any finding or punishment substituted or awarded by the summary appeal court, to that court to be co sidered or reconsidered by that court as on an appeal.

[F347](5C) A reference to the summary appeal court under subsection (5A) or (5B) of this section shall for the purposes of this Act be treated as an appeal brought by the person to whom the finding or punishment relates against the finding or punishment.

[F347](5D) In a case where exceptionally the authority carrying out a review under this section of a finding considers it necessary to do so, the authority may quash that finding and, if the punishment awarded relates only to that finding, quash the punishment awarded in consequence of that finding.

[F347](5E) The powers conferred by subsection (5D) of this section are exercisable whether or not the conditions in subsection (5A)(a) and (b) are satisfied.**]**

(6) . . . . . .

[F348](7) . . . . . .**]**

Textual Amendments

F343 S. 71B inserted (1.4.1997 with savings) by 1996 c. 46, s. 16, **Sch. 5 para. 12**; S.I. 1997/304, **art. 2** (with art. 3)

F344 S. 71B(2) repealed (2.10.2000) by 2000 c. 4, ss. 25, 27, Sch. 3 para. 10(2), **Sch. 4**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F345 Word in s. 71B(3) substituted (2.10.2000) by 2000 c. 4, s. 25, **Sch. 3 para. 20(3)(a)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F346 Word in s. 71B(3) repealed (2.10.2000) by 2000 c. 4, ss. 25, 27, Sch. 3 para. 20(3)(b), **Sch. 4**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F347 S. 71B(5A)-(5E) inserted (2.10.2000) by 2000 c. 4, s. 25, **Sch. 3 para. 20(4)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F348 S. 71B(6)(7) repealed (2.10.2000) by 2000 c. 4, ss. 25, 27, Sch. 3 para. 20(5), **Sch. 4**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

Modifications etc. (not altering text)

C44 S. 71B(5A)(5B) modified (2.10.2000) by S.I. 2000/2370, **rule 13(7)**

[F349]72 . . . . . .

Textual Amendments

F349 S. 72 repealed (1.4.1997 with savings) by 1996 c. 46, s. 16, **Sch. 5 para. 13**; S.I. 1997/304, art. 2, **Sch.** (with art. 3)

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

73 Saving for functions of [F350Judge Advocate General].

Nothing in this Part of this Act shall prejudice the exercise by the **[**F350Judge Advocate General**]** of his functions of considering and reporting on the proceedings of courts-martial F351. . . , or any other of his functions in relation to such courts.

Textual Amendments

F350 Words in s. 73 and in sidenote substituted (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 38**; S.I. 2007/2913, **art. 3**

F351 Words in s. 73 repealed (28.2.2002) by 2001 c. 19, s. 38, Sch. 7 Pt. 1; S.I. 2002/345, **art. 2** (subject to art. 3)

Special powers of Admiralty.

74 Power to dispense with trial of persons confessing to desertion.

(1) If any rating subject to this Act signs a confession that he is guilty of desertion, **[**F352the Defence Council**]** may by order dispense with his trial for that offence and, if they think fit, impose on him any such forfeiture as could be imposed on conviction of that offence under Part I of this Act.

(2) The powers of **[**F352the Defence Council**]** under this section may be exercised by any flag officer authorised by **[**F352the Defence Council**]** in that behalf, as well as by **[**F352the Defence Council.**]**

Textual Amendments

F352 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

75 Forfeiture of pay and effects of certain absentees.

(1) If it appears to **[**F353the Defence Council**]** that any person subject to this Act is absent without leave . . . F354 (whether or not he appears to be guilty of desertion), then, without prejudice to any proceedings which may be taken against him in the event of his apprehension or return, **[**F353the Defence Council**]** may by an order containing a statement of his said absence impose on him any such forfeiture as could be imposed on conviction of an offence of desertion under Part I of this Act.

(2) An order under this section for the forfeiture of any property shall be sufficient authority for the sale of that property and for the disposal of the proceeds of sale in accordance with the directions of **[**F353the Defence Council**]**:

Provided that **[**F353the Defence Council**]** may, if they think fit on sufficient cause shown at any time after the making of the order—

(a) remit the forfeiture of any property which has not been sold thereunder; or

(b) pay or dispose of the proceeds of sale of any property sold thereunder to or for the use of the person to whom it belonged or his representatives.

[F355(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

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

command that person is absent as aforesaid and by any other officer authorised in that behalf by the Defence Council.**]**

Textual Amendments

F353 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

F354 Words repealed by Armed Forces Act 1971 (c. 33), **Sch. 4 Pt. II**

F355 S. 75(3) substituted by Armed Forces Act 1971 (c. 33), **s. 60**

76 Restitution or compensation on conviction of larceny, etc.

(1) Where any person is convicted under this Part of this Act of unlawfully obtaining any property, whether by stealing it, **[**[F356]handling**]** it, . . . [F357] or otherwise, **[**[F358]the Defence Council**]** may—

(a) if the whole or any part of the property unlawfully obtained is found in the possession of the offender, order the property so found to be repaid or restored to the person appearing to **[**[F358]the Defence Council**]** to be its owner;

(b) if any property (other than money) appearing to **[**[F358]the Defence Council**]** to have been obtained by the conversion or exchange of any of the property unlawfully obtained is found as aforesaid, order the property so found to be delivered to the person appearing to **[**[F358]the Defence Council**]** to be the owner of the property unlawfully obtained;

(c) if and so far as neither the property unlawfully obtained nor property of equivalent value in respect of which an order is made under paragraph (b) of this subsection is found in the possession of the offender, order that the offender be required to pay to the person appearing to **[**[F358]the Defence Council**]** to be the owner of the property unlawfully obtained such sum as or towards compensation as appears to **[**[F358]the Defence Council**]** to be just.

[[F359](1A) The Defence Council may also exercise the powers conferred by subsection (1) above where the court has taken an offence mentioned in that subsection into consideration in determining sentence.**]**

(2) Where a person is convicted as aforesaid and it appears to **[**[F358]the Defence Council**]** that any of the property unlawfully obtained was taken in exchange from the offender by any other person who did not then know it to have been unlawfully obtained, **[**[F358]the Defence Council**]** may—

(a) if the whole or any part of the property given in exchange by the said other person is found in the possession of the offender, order that on restitution of the property taken in exchange to the person appearing to **[**[F358]the Defence Council**]** to be its owner, the property so found be restored to the said other person;

(b) if and so far as the said property is not so found, order that on restitution as aforesaid of the property taken in exchange the offender be required to pay to the said other person such sum as or towards compensation as appears to **[**[F358]the Defence Council**]** to be just.

(3) Where a person is convicted as aforesaid and it appears to **[**[F358]the Defence Council**]** that any of the property unlawfully obtained was purchased or taken in pawn from the offender by a person who did not then know it to have been unlawfully obtained, **[**[F358]the Defence Council**]** may order that on restitution of that property to the person appearing to **[**[F358]the Defence Council**]** to be its owner the offender be required to pay

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

to the said other person such sum as or towards compensation as appears to **[**[F358]the Defence Council**]** to be just.

(4) Any sum payable by an offender by way of compensation under this section may be ordered to be paid out of money found in the possession of the offender or by means of deductions from his pay.

(5) . . . [F360]

(6) Subject to regulations made by **[**[F358]the Defence Council**]**, the powers conferred on **[**[F358]the Defence Council**]** by the foregoing provisions of this section may be exercised—

(a) where the offender is tried by a court-martial [F361]. . . , by that court, [F362]. . .;

(b) where the offender is tried summarily under **[**[F363]section 52D**]**of this Act, by the officer in command of the ship or establishment to which he belongs,

as well as by **[**[F358]the Defence Council**]**, and references in those provisions to **[**[F358]the Defence Council**]** shall be construed accordingly.

(7) An order under this section shall not bar the right of any person, other than the offender or a person claiming through him, to recover any property delivered or paid in pursuance of such an order from the person to whom it is delivered or paid.

Textual Amendments

F356 Word substituted by Theft Act 1968 (c. 60), **Sch. 2 Pt. II**

F357 Words repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

F358 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

F359 S. 76(1A) added by Armed Forces Act 1976 (c. 52), s. 14, **Sch. 7 para. 3(1)**

F360 S. 76(5) repealed by Armed Forces Act 1976 (c. 52), **Sch. 10**

F361 Words in s. 76(6)(a) repealed (28.2.2002) by 2001 c. 19, s. 38, Sch. 7 Pt. 1; S.I. 2002/345, **art. 2** (subject to art. 3)

F362 Words in s. 76(6)(a) repealed (1.4.1997 with savings) by 1996 c. 46, ss. 5, 35(2), Sch. 1 Pt. IV para. 89(a), **Sch. 7 Pt. I**; S.I. 1997/304, **art. 2** (with art. 3)

F363 Words in s. 76(6)(b) substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. IV para. 89(b)**; S.I. 1997/304, **art. 2** (with art. 3)

Modifications etc. (not altering text)

C45 S. 76 modified by Courts-Martial (Appeals) Act 1968 (c. 20), **s. 46(1)**

77 Effect of appeal against conviction on order for restitution or compensation.

(1) The operation of any order made under section seventy-six of this Act on conviction by a court-martial [F364]. . . shall be suspended—

(a) in any case, until the expiration of the period prescribed under **[**[F365]Part II of the [M18]Courts-Martial (Appeals) Act 1968**]**, as the period within which an application for leave to appeal to the Courts-Martial Appeal Court against **[**[F366]a relevant conviction**]** must be lodged; and

(b) if such an application is duly lodged, until either the application is finally refused or is withdrawn or the appeal is determined or abandoned;

and where the operation of any such order is suspended under this subsection, the order shall not take effect if the conviction is quashed on appeal.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) On any appeal to the Courts-Martial Appeal Court the court may by order annul or vary any order made under the said section seventy-six although **[**[F366]a relevant conviction**]** in respect of which it was made is not quashed.

(3) Rules of court made under **[**[F365]Part II of the said Act of 1968**]** may make provision for securing the safe custody, during the period during which the operation of an order is suspended under this section, of the property ordered to be restored or handed over or the money to which the order relates.

(4) Notwithstanding anything in this section, an order under the said section seventy-six shall not, so far as it relates to the delivery of property to the person appearing to be the owner thereof, be suspended if it is certified by **[**[F367]the Defence Council**]**, or by the court or officer by whom the order is made, that the title to the property is not in dispute.

[[F368](5) In this section "relevant conviction" means—

(a) where an order under section 76 above was made as a result of a conviction of such an offence of unlawfully obtaining property as is mentioned in subsection (1) of that section, that conviction; or

(b) where an order under that section was made as a result of such an offence of unlawfully obtaining property having been taken into consideration in determining sentence, the conviction or, if more than one, each conviction in respect of which the said sentence fell to be determined.**]**

Textual Amendments

F364 Words in s. 77(1) repealed (28.2.2002) by 2001 c. 19, s. 38, Sch. 7 Pt. 1; S.I. 2002/345, **art. 2** (subject to art. 3)

F365 Words substituted by Courts-Martial (Appeals) Act 1968 (c. 20), **Sch. 4**

F366 Words substituted by Armed Forces Act 1976 (c. 52), s. 14, **Sch. 7 para. 4(1)**

F367 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

F368 S. 77(5) added by Armed Forces Act 1976 (c. 52), s. 14, **Sch. 7 para. 4(2)**

Marginal Citations

M18 1968 c. 20.

Execution of sentence of death

[F369]**78** . . . . . .

Textual Amendments

F369 Ss. 78-80 repealed (11.5.2001) by 2001 c. 19, s. 38, **Sch. 7 Pt. 4**

[F370]**79** . . . . . .

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments
F370 Ss. 78-80 repealed (11.5.2001) by 2001 c. 19, s. 38, **Sch. 7 Pt. 4**

[F371]80 . . . . . .

Textual Amendments
F371 Ss. 78-80 repealed (11.5.2001) by 2001 c. 19, ss. 38, 39(3)(g), **Sch. 7 Pt. 4**

Service of sentence of imprisonment or detention

81 Place of imprisonment or detention.

(1) Any person sentenced under this Act to imprisonment may be confined during the term of the sentence—
  (a) in any naval detention quarters;
  (b) in any military establishment or air-force establishment within the meaning of Part II of the [M19]Army Act 1955, or Part II of the [M20]Air Force Act 1955;
  (c) in any civil prison in any part of Her Majesty's dominions;
  (d) in any other establishment in which persons may be required to serve sentences of imprisonment passed under the [M21]Army Act 1955, or the [M22]Air Force Act 1955.

(2) Any person sentenced under this Act to detention may be confined during the term of the sentence—
  (a) in any naval detention quarters;
  (b) in any such military or air-force establishment as aforesaid, not being a military or air-force prison;

  and may, in such cases and subject to such conditions as may be specified by or under regulations made by **[**[F372]the Secretary of State**]**, be temporarily detained in a military or air-force prison or a civil prison for any period not exceeding seven days.

(3) Subject to the foregoing provisions of this section, the place to which a person sentenced under this Act to imprisonment or detention is to be committed may be determined by any of the following authorities, that is to say:—
  (a) in any case, **[**[F372]the Defence Council**]** or the Commander-in-Chief;
  (b) where the offender is tried on any foreign station, the senior naval officer present at the place where he is tried;
  (c) where the offender is tried by court-martial, the **[**[F373]court-martial by which he is tried**]**;
  (d) where the offender is summarily tried under **[**[F373]section 52D**]** of this Act, the officer by whom he is so tried or the officer in command of the ship or naval establishment to which the offender belongs;

  and a committal order made by any such authority shall be sufficient warrant for sending the offender to such place as may be specified therein, there to undergo his sentence according to law, and for detaining him in custody until he reaches that place.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F372 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

F373 Words in s. 81(3)(c) and (d) substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. IV para. 90**; S.I. 1997/304, **art. 2** (with art. 3)

Marginal Citations

M19 1955 c. 18.

M20 1955 c. 19.

M21 1955 c. 18.

M22 1955 c. 19.

82 Naval Detention Quarters Rules.

(1) **[**[F374]The Defence Council**]** may set apart any premises or vessels under the control of **[**[F374]the Secretary of State**]**, or any parts of such premises or vessels, as naval detention quarters, and **[**[F375]the Secretary of State**]** may make rules (in this Part of this Act referred to as Naval Detention Quarters Rules) with respect to all or any of the following matters, that is to say—

(a) the provision, classification, regulation and management of naval detention quarters;

(b) the classification, regulation, employment, discipline and control of persons serving sentences of imprisonment or detention passed under this Act in naval detention quarters or otherwise in naval custody;

(c) the removal of such persons from such quarters or custody as aforesaid, either temporarily or by way of transfer to another establishment or form of custody, and their release on the expiration or determination of their term of imprisonment or detention;

(d) the temporary release of such persons on compassionate grounds, the cases in which, periods for which and conditions subject to which they may be allowed out of such quarters or custody as aforesaid, and the remission of part of their sentences [F376]. . .;

(e) the appointment, powers and duties of inspectors and visitors and of officers and other members of the staff, of naval detention quarters;

and such rules may apply the provisions of **[**[F377]the Coroners Acts 1887 to 1926**]****[**[F377]the Coroners Act 1988**]**, to naval detention quarters as those provisions apply in relation to prisons.

(2) Naval Detention Quarters Rules shall not authorise the infliction of corporal punishment.

(3) Naval Detention Quarters Rules may apply with the necessary modifications all or any of the provisions of sections thirty-nine to forty-two of the [M23]Prison Act 1952 (which relate to offences by persons other than prisoners).

(4) Naval Detention Quarters Rules may, to such extent as may be provided by the Rules, be made so as to apply to persons detained in naval detention quarters while serving sentences of imprisonment or detention awarded under the [M24]Army Act 1955, or the [M25]Air Force Act 1955, notwithstanding that such persons are not for time being subject to this Act.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) Naval Detention Quarters Rules may contain such incidental and supplementary provisions as are necessary for the purposes of the Rules.

(6) **[**[F374]The Secretary of State**]** may, in respect of any foreign station on which persons subject to this Act are on active service, delegate the power to make Naval Detention Quarters Rules to the Commander-f in-Chief or flag officer commanding the station, subject to such restrictions, reservations, exceptions and conditions as **[**[F374]the Secretary of State**]** may think fit.

(7) Naval Detention Quarters Rules made by **[**[F374]the Secretary of State**]** under this section shall be made by statutory instrument; and any statutory instrument containing such rules shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F374 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

F375 Words inserted by S.I. 1964/488, **Sch. 1 Pt. I**

F376 Words in s. 82(1)(d) repealed (1.10.1996) by 1996 c. 46, s. 35(1)(2), Sch. 6 para. 6, **Sch. 7 Pt. III**; S.I. 1996/2474, art. 2, **Sch.**

F377 "the Coroners Act 1988" substituted (E.W.) for "the Coroners Acts 1887 to 1926" by Coroners Act 1988 (c. 13, SIF 33), s. 36(1), **Sch. 3 para. 12**

Modifications etc. (not altering text)

C46 S. 82 amended by Courts-Martial (Appeals) Act 1968 (c. 20), **s. 52**

C47 S. 82(3) amended (E.W.) by Criminal Justice Act 1961 (c. 39), **s. 22(3)**

Marginal Citations

M23 1952 c. 52.

M24 1955 c. 18.

M25 1955 c. 19.

[[F378]**82A Country for service of sentence.**

(1) A person serving in the United Kingdom a sentence of imprisonment or detention awarded under this Act may (in so far as may be specified by or under Naval Detention Quarters Rules) be removed out of the United Kingdom to, but only to—

(a) any colony in which he was entered for service in the Royal Navy, or

(b) any place outside the United Kingdom where the ship or naval establishment to which he for the time being belongs is situated.

(2) Subject to the following provisions of this section, a person sentenced by a court-martial held outside the United Kingdom to imprisonment or detention for a term exceeding twelve months shall as soon as practicable be removed to the United Kingdom.

(3) Subsection (2) above shall not apply in relation to any person belonging to a class of persons specified by or under Naval Detention Quarters Rules as persons whose removal to the United Kingdom would, for reasons of climate, place of birth or place of entry in the Royal Navy, or for any other reason, not be beneficial.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Where a person has been sentenced by a court-martial held outside the United Kingdom to imprisonment or detention for a term exceeding twelve months, the Defence Council may, notwithstanding anything in subsection (2) above, direct that he shall not be required to be removed to the United Kingdom until he has served such part of his sentence, not exceeding two years, as may be specified in the direction; and in determining whether or not to exercise the power conferred by this subsection, the Defence Council shall have regard to any recommendation in that behalf made by the court-martial.

(5) Any direction under subsection (4) above may at any time be revoked by the Defence Council or superseded by a subsequent direction thereunder.

(6) In ascertaining at any time for the purposes of this section the nature or length of any sentence, regard shall be had to any commutation or remission of the sentence previously directed.**]**

Textual Amendments

F378 S. 82A added by Armed Forces Act 1971 (c. 33), **s. 52(1)**

83 Service of sentence in civil prison in the United Kingdom.

The provisions of any enactment, rule or regulation with respect to the confinement, removal and treatment of persons committed to civil prisons in any part of the United Kingdom (including provisions relating to release, discharge and remission) shall apply to any person sentenced under this Act to imprisonment and committed or transferred to any such prison as they apply to a person committed to that prison under a like sentence of a civil court.

84 Removal of certain prisoners.

(1) Subject to the provisions of this section **[**[F379]the Defence Council**]**, the Commander-in-Chief or the senior naval officer present may by order give directions, in the case of any person subject to this Act who is serving a sentence of imprisonment or detention in a civil prison or a military or air-force establishment,—

(a) for the transfer of that person to any other prison or establishment to which he could have been committed under this Act, there to undergo the remainder of his sentence according to law; or

(b) for the production of that person for the purpose of attending any proceedings under this Act, whether as a witness or for trial or otherwise, or for any other purpose specified in the order,

and any such order may give directions as to the custody of the person to whom it relates and, in the case of an order under paragraph (b) of this subsection, for his return or transfer to the place from which he is removed or to any other place in which his sentence may be required to be served.

(2) An order under this section shall be a sufficient warrant for the removal of the person to whom it relates from the prison or establishment in which he is serving his sentence, for his reception in the prison or establishment to which he is transferred or returned in pursuance of the order, and for his detention in custody pending such reception.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) Where the attendance of any such person as aforesaid is required for the purposes of a court-martial under this Act, the power to make an order under paragraph (b) of subsection (1) of this section may be exercised by the Commander-in-Chief or senior naval officer present at the place where that person is confined or where the court-martial is or is to be held.

(4) Any time during which a person removed in pursuance of an order under this section is in naval, military, air force or civil custody, or is serving any sentence of imprisonment or detention passed on him while so removed, shall be reckoned as part of the sentence current when the order was made.

(5) The provisions of this section shall be without prejudice to any enactment, rule or regulation authorising the removal of persons from civil prisons or military or air force establishments; but no order shall be made under this section for the transfer of a person confined in a civil prison within the United Kingdom to any other such prison to which he could be removed under the [M26]Prison Act 1952, the [M27]Prisons (Scotland) Act 1952, **[**[F380]the [M28]Prison Act (Northern Ireland) 1953, or the [M29]Criminal Justice Act 1961**]**.

Textual Amendments

F379 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

F380 Words substituted by Criminal Justice Act 1961 (c. 39), s. 41(3), **Sch. 4**

Marginal Citations

M26 1952 c. 52.

M27 1952 c. 61.

M28 1953 c. 18 (N.I.)

M29 1961 c. 39.

Commencement and duration of sentences of imprisonment and detention

85 Commencement of sentences.

(1) Except as otherwise provided by the following provisions of this Part of this Act, and by **[**[F381]section 11(2) of the [M30]Courts-Martial (Appeals) Act 1968**]** (which empowers the court in certain cases to direct that a sentence shall begin to run from the day upon which an application for leave to appeal is dismissed), any term of imprisonment or detention under a sentence awarded **[**[F382]by a court-martial**]** shall begin to run from the beginning of the day on which the sentence is awarded.

[F383](2) . . . . . .

(3) . . . [F384]

Textual Amendments

F381 Words substituted by Courts-Martial (Appeals) Act 1968 (c. 20), **Sch. 4**

F382 Words in s. 85(1) substituted (2.10.2000) by 2000 c. 4, s. 25, **Sch. 3 para. 10(2)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F383 S. 85(2) repealed (2.10.2000) by 2000 c. 4, ss. 25, 27, **Sch. 3 para. 10(3)**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F384 S. 85(3) repealed by Armed Forces Act 1971 (c. 33), **Sch. 4 Pt. II**

Marginal Citations

M30 1968 c. 20.

[F385 85A Sentence of detention awarded on summary trial.

(1) Subject to the following provisions of this Part of this Act, subsections (2) to (5) below apply to a sentence of detention awarded on summary trial.

(2) If the offender so elects at the time of the award, his sentence shall begin to run from the day on which it is awarded.

(3) For the purposes of subsection (2) above, a sentence shall be taken to be awarded on the day on which the warrant specifying the sentence, as approved in accordance with regulations made by the Defence Council, is read to the offender or, if the offender has been detained in custody since the signature of that warrant by the officer by whom he was tried, on the first day on which he was so detained.

(4) If the offender does not make an election under subsection (2) above or, having made such an election, withdraws it during the appeal period, his sentence or, in the case of withdrawal, the remainder of his sentence shall be suspended by virtue of this subsection—

(a) until the end of the appeal period, or

(b) where an appeal is brought within the appeal period, until the determination of the appeal.

(5) Where an appeal is brought—

(a) within the appeal period, by an offender who has made an election under subsection (2) above which has not been withdrawn, or

(b) after the end of the appeal period, by any offender,

the remainder of his sentence shall be suspended by virtue of this subsection until the determination of the appeal.

(6) In this section "the appeal period" means the period within which an appeal may be brought under section 52FK(2) of this Act.**]**

Textual Amendments

F385 S. 85A inserted (2.10.2000) by 2000 c. 4, s. 25, **Sch. 3 para. 11**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

86 Consecutive sentences.

(1) Where any person who is serving a sentence of imprisonment, whether passed under this Act or otherwise, is sentenced to imprisonment under this Part of this Act, or where a person sentenced to imprisonment under this Part of this Act is further sentenced to imprisonment under subsection (3) of section thirty-eight of this Act, the court or officer by whom the subsequent or further sentence is awarded may order that that sentence shall begin to run from the expiration of the first-mentioned sentence.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Where any person who is serving a sentence of detention passed on him under this Act or under the [M31]Army Act 1955, or the [M32]Air Force Act 1955, is found guilty under this Act of another offence for which he is sentenced to detention, or where a person sentenced to detention under this Act is further sentenced to detention under subsection (3) of section thirty-eight of this Act, the court or officer by whom the subsequent or further sentence is awarded may order that that sentence shall begin to run from the expiration of the first-mentioned sentence.

[[F386](2A) Where on awarding a sentence of detention ("the subsequent sentence") the offender's commanding officer orders under subsection (2) of this section that the subsequent sentence is to begin to run from the expiry of another sentence ("the current sentence") —

(a) section 85A of this Act shall have effect in relation to the subsequent sentence as if the reference in subsection (2) of that section to the day on which the sentence is awarded were a reference to the expiry of the current sentence, and

(b) where the suspension of a sentence by virtue of subsection (4) or (5) of that section would end before the expiry of the current sentence, the sentence shall run from the expiry of the current sentence.**]**

[[F387](3) Where a person is convicted by a court-martial of two or more offences under section 42 of this Act consisting in the commission of a civil offence for which a civil court in England could award imprisonment, the court-martial may by its sentence award, for any of the said offences, a term of imprisonment which is to run from the expiry of a term awarded by that sentence for any other of those offences.**]**

Textual Amendments

F386 S. 86(2A) inserted (2.10.2000) by 2000 c. 4, s. 25, **Sch. 3 para. 13**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

F387 S. 86(3) added by Armed Forces Act 1971 (c. 33), **ss. 39(3)**, 78(4)

Marginal Citations

M31 1955 c. 18.

M32 1955 c. 19.

87 Periods of compassionate release.

Where any person detained in naval detention quarters or in a military or air-force establishment in pursuance of a sentence of imprisonment or detention passed on him under this Part of this Act is released on compassionate grounds in pursuance of Naval Detention Quarters Rules, or Imprisonment and Detention Rules made under the [M33]Army Act 1955, or the [M34]Air Force Act 1955, as the case may be, no account shall be taken, in calculating the period for which he is liable to be detained under his sentence, of the period beginning with the day after that on which he is so released and ending with the day on which he is required to return to custody.

Marginal Citations

M33 1955 c. 18.

M34 1955 c. 19.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

88 Periods of unlawful absence.

(1) Where any person sentenced under this Part of this Act to imprisonment or detention becomes unlawfully at large during the currency of the sentence, no account shall be taken, in calculating the period for which he is liable to be detained under his sentence, of the period beginning with the day on which he becomes unlawfully at large and ending with the day on which he is taken into naval, military or air force custody or the custody of a civil authority, as being a person unlawfully at large, or, not having been taken into such custody, returns to the place in which he was imprisoned or detained before he became unlawfully at large:

Provided that if it appears to **[**[F388]the Defence Council**]** that during any part of that period he was in the custody of a civil authority or of any naval, military or air force authority specified in Imprisonment and Detention Rules made for the purpose of paragraph (b) of the proviso to subsection (2) of section one hundred and nineteen of the [M35]Army Act 1955, or the [M36]Air Force Act 1955, that part of the period shall be disregarded for the purposes of this subsection.

(2) For the purposes of this section a person temporarily released from custody in pursuance of the appropriate rules or otherwise allowed out of naval, military, air force or civil custody for any period or subject to any condition, shall be treated as unlawfully at large if he fails to return at the expiration of the period, or to comply with the condition, as the case may be, or if an order recalling him has been made in pursuance of the said rules.

(3) In this section "the appropriate rules" means—

(a) in relation to a person serving a sentence in naval detention quarters, Naval Detention Quarters Rules;

(b) in relation to a person serving a sentence in military or air-force custody, Imprisonment and Detention Rules made under the [M37]Army Act 1955, or the [M38]Air Force Act 1955, as the case may be;

(c) in relation to a person serving a sentence in civil custody, rules made under subsection (5) of section forty-seven of the [M39]Prison Act 1952, subsection (6) of section **[**[F389]thirty-five of the [M40]Prisons (Scotland) Act 1952**][**[F389]39 of the Prisons (Scotland) Act 1989**]**, or paragraph (c) of subsection (1) of section thirteen of the [M41]Prison Act (Northern Ireland) 1953, or (in the case of a person serving a sentence outside the United Kingdom) any corresponding provision of the law of the country or territory in which he is serving his sentence;

and "civil authority" means a civil authority (whether of the United Kingdom or of any country or territory outside the United Kingdom) authorised by law to detain persons, and includes a constable.

(4) In relation to any person committed or transferred to a civil prison in the United Kingdom, this section shall have effect in substitution for section forty-nine of the [M42]Prison Act 1952, section **[**[F390]thirty-seven of the [M43]Prisons (Scotland) Act 1952**][**[F390]40 of the Prisons (Scotland) Act 1989**]**, or section thirty-eight of the [M44]Prison Act (Northern Ireland) 1953, as the case may be.

Textual Amendments

F388 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F389 "39 of the Prisons (Scotland) Act 1989" substituted (S.) for words commencing "thirty-five" by Prisons (Scotland) Act 1989 (c. 45, SIF 39:1), s. 45(1), **Sch. 2 para. 6**

F390 By Prisons (Scotland) Act 1989 (c. 45, SIF 39:1), s. 45(1), **Sch. 2 para. 6** it is provided that the words "40 of Prisons (Scotland) Act 1989" are substituted (S.) for "37 of the Prisons (Scotland) Act 1952"

Marginal Citations

M35 1955 c. 18.
M36 1955 c. 19.
M37 1955 c. 18.
M38 1955 c. 19.
M39 1952 c. 52.
M40 1952 c. 61.
M41 1953 c. 18 (N.I.)
M42 1952 c. 52.
M43 1952 c. 61.
M44 1953 c. 18 (N.I.)

89 Limitation of total period of sentences of detention.

(1) Notwithstanding anything in this Part of this Act, no offender shall be kept continuously in detention for a period exceeding two years in pursuance of two or more sentences of detention.

(2) The foregoing subsection shall not affect the validity of any order or direction under this Part of this Act that a sentence of detention shall begin to run from the expiration of another such sentence; but so much of any term of detention to which any such order or direction relates as would prolong the total term of detention beyond two years shall be remitted by virtue of the order or direction.

[[F391](2A) Where the whole or part of a sentence of detention is suspended by virtue of section 85A(4) or (5) of this Act, any period of detention ending with the beginning of the suspension shall be taken for the purposes of subsection (1) above to be continuous with any period of detention beginning with the end of the suspension.**]**

(3) Where any person sentenced to detention under this Act, the [M45]Army Act 1955, or the [M46]Air Force Act 1955, is subsequently sentenced to imprisonment under this Act, any part of the sentence of detention which has not been served shall be remitted by virtue of the sentence of imprisonment, whether or not that sentence is suspended.

Textual Amendments

F391 S. 89(2A) inserted (2.10.2000) by 2000 c. 4, s. 25, **Sch. 3 para. 15**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

Marginal Citations

M45 1955 c. 18.
M46 1955 c. 19.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F392 Postponement of sentences]

Textual Amendments

F392 S. 89A and crossheading inserted (1.4.1997 with savings) by 1996 c. 46, **s. 9(3)**; S.I. 1997/304, **art. 2** (with art. 3)

F393 89A Postponement of sentences.

(1) On passing any sentence a court-martial may order that the sentence shall not have effect until the end of the period specified in the order.

(2) On reviewing a sentence under section 70 of this Act, the reviewing authority may—

(a) if the sentence has not had effect, order that the sentence shall not have effect until the end of the period specified in the order;

(b) if the sentence has had effect, order that the sentence shall cease to have effect on the making of the order until the end of the period specified in the order.

(3) On exercising any power under section 71 of this Act to pass or substitute a sentence, the reviewing authority may order that the sentence shall not have effect until the end of the period specified in the order.

(4) The Defence Council or any officer authorised by them may terminate the period specified in an order under this section or extend such a period for a further period specified by them.

(5) On the termination of such a period the sentence in respect of which the order in question was made shall have effect or (in the case of an order under subsection (2) (b) above) resume effect.

(6) Nothing in this section shall be taken to prevent section 85(1) of this Act from applying in relation to a sentence of imprisonment or detention awarded under this Act.

Textual Amendments

F393 S. 89A inserted (1.4.1997 with savings) by 1996 c. 46, **s. 9(3)**; S.I. 1997/304, **art. 2** (with art. 3)

Suspension and reconsideration of sentences of imprisonment and detention

90 Suspension of sentences.

(1) Where any person has been sentenced under this Act to imprisonment or detention, the authority having power under section eighty-one of this Act to issue a committal order may, in lieu of issuing such an order, order that the sentence be suspended; and in **[**F394any case where a sentence is suspended under this subsection**]** the sentence shall not begin to run until a committal order is issued under section ninety-one of this Act.

F395**[**(1A) Where any person has been sentenced under this Act by a court-martial to imprisonment or detention, the court-martial may itself exercise the power under subsection (1) above to order the suspension of the sentence.**]**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Where any person has been sentenced under this Act to imprisonment or detention and a committal order in respect of that sentence has been issued under the said section eighty-one, the sentence may be suspended by an order made—

(a) in any case, by **[**[F396]the Defence Council**]** or by any officer holding such command as may be prescribed by regulations made by **[**[F396]the Defence Council**]**;

(b) where the committal order was issued by an officer not holding such command, by that officer;

and in any such case the offender shall be released and the currency of the sentence suspended until a further committal order is issued in respect of that sentence under section ninety-one of this Act.

(3) Where a sentence is suspended under this section, **[**[F396]the Defence Council**]** or, subject to any regulations or directions made or given by **[**[F396]the Defence Council**]**, any other authority by whom the sentence is suspended, may direct that any other punishment which the suspended sentence involves shall be suspended or remitted; but except as aforesaid the suspension of a sentence under this section shall not affect any such other punishment.

Textual Amendments

F394 Words in s. 90(1) substituted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 12(1)**; S.I. 1991/2719, **art. 2**

F395 S. 90(1A) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 12(1)**; S.I. 1991/2719, **art. 2**

F396 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

91 Committal or re-committal of persons under suspended sentence.

(1) Where a sentence of imprisonment or detention is suspended under section ninety of this Act, a committal order may at any time be issued in respect of the sentence—

(a) in any case, by **[**[F397]the Defence Council**]** or by any officer holding such command as may be prescribed by regulations made by **[**[F397]the Defence Council**]**;

(b) where a committal order under section eighty-one of this Act had been issued before the suspension of the sentence by an officer not holding such command, by that officer.

(2) In relation to a sentence in respect of which a committal order has been issued under this section, subsection (2) of section ninety of this Act and subsection (1) of this section shall apply as if for any reference to a committal order under section eighty-one of this Act there were substituted a reference to the committal order under this section.

(3) Where any person whose sentence is suspended under the said section ninety is, during the suspension, found guilty under this Act of another offence for which he is sentenced to imprisonment or detention, then, subject to any recommendation to the contrary made by the court or officer by whom he is so sentenced, and subject to the provisions of subsection (3) of section eighty-nine of this Act,—

(a) the authority by whom a committal order under subsection (1) of this section is issued in respect of the suspended sentence, or

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) the authority by whom a committal order under section eighty-one of this Act or under subsection (1) of this section is issued in respect of the further sentence

may direct that the sentence in respect of which the order is issued shall begin to run from the expiration of the other sentence.

Textual Amendments

F397 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

VALID FROM 18/07/2008

[F398 91A Activation of suspended sentence by court-martial: appeals

(1) Subsections (2) to (4) apply where a court-martial makes an order under section 91(1) of this Act.

(2) For the purposes of the Courts-Martial (Appeals) Act 1968 (c. 20) ("the 1968 Act")—
- (a) the order is to be treated as a sentence passed on the offender for the offence for which the sentence was passed;
- (b) if the offender was not convicted by court-martial of that offence, he is to be treated as having been so convicted;
- (c) any appeal, or application for leave to appeal, against the sentence passed in respect of the new offence is to be treated as also being an appeal or application for leave to appeal against the order; and
- (d) any appeal, or application for leave to appeal, against the order is to be treated as also being an appeal or application for leave to appeal against the sentence passed in respect of the new offence.

(3) In relation to any appeal against the order, section 16A of the 1968 Act (powers on appeals against sentence) is to be read as conferring power—
- (a) to quash the order; or
- (b) if the court-martial gave a direction under section 91(2) of this Act, to quash the direction.

(4) Where the Appeal Court quashes the order, or a direction under section 91(2) of this Act, then in relation to any appeal against the sentence passed in respect of the new offence—
- (a) section 16A of the 1968 Act has effect as if the words "and which is not of greater severity than that for which it is substituted" were omitted; but
- (b) the Appeal Court may not exercise its powers under that section in such a way that, taking the case as a whole, the appellant is dealt with more severely on appeal than he was dealt with by the court-martial.

(5) Subsections (6) and (7) apply where a court-martial has power to make an order under section 91(1) of this Act in respect of a sentence ("the suspended sentence") but does not do so.

(6) On any appeal against the sentence passed in respect of the new offence, the Appeal Court's power under section 16A of the 1968 Act to pass a sentence in substitution for the sentence of the court-martial includes—

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) power to make an order under section 91(1) of this Act in respect of the suspended sentence; and

(b) if the court makes such an order, power to give a direction under section 91(2) of this Act in relation to the order.

(7) But the Appeal Court may not exercise its powers under subsection (6) in such a way that, taking the case as a whole, the appellant is dealt with more severely on appeal than he was dealt with by the court-martial.

(8) In this section—

(a) "the new offence" means the offence mentioned in section 91(1) of this Act;

(b) "the Appeal Court" means the Courts-Martial Appeal Court.

Textual Amendments

F398 Ss. 91-91D substituted for s. 91 (18.7.2008) by The Armed Forces (Alignment of Service Discipline Acts) Order 2008 (S.I. 2008/1694), **art. 31** (with Sch. para. 10)

VALID FROM 18/07/2008

91B Activation of suspended sentence by commanding officer

(1) Where, while a sentence of detention is suspended under section 90 of this Act—

(a) an officer finds the offender guilty on summary trial of an offence committed since the sentence was suspended, or

(b) the offender is convicted of an offence in the British Islands committed since the sentence was suspended and subsequently appears before the officer in command of the ship or naval establishment to which he belongs,

the officer may make an order determining the suspension of the sentence (whether or not he also makes a committal order under section 81(3) of this Act, in a case in which he is not prohibited by section 81(4) from doing so).

(2) Subsections (3) to (8) apply where an officer makes an order under subsection (1).

(3) If the sentence is for a term of more than 90 days, the order has effect as if the sentence were for a term of 90 days; but this is subject to section 91C of this Act (partial activation by commanding officer of suspended sentence for more than 90 days).

(4) The sentence in respect of which the order is made is to be treated for the purposes of section 85A of this Act (commencement of sentence of detention awarded on summary trial) as a sentence awarded on summary trial at the time at which the order is made.

(5) The reference in subsection (3) of that section to the signature of the warrant by the officer by whom the offender was tried is to be read, in relation to the sentence in respect of which the order is made, as a reference to the making, in accordance with regulations made under section 52F of this Act, of an application to higher authority for permission to make the order.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) The officer may direct that the sentence in respect of which the order is made ("the subsequent sentence") shall begin to run from the end of another sentence of detention ("the current sentence") which—

(a) has been passed on the offender on a previous occasion; or

(b) where the order is made by virtue of subsection (1)(a), the officer passes on him on the same occasion.

(7) Subsection (6) is subject to section 89 of this Act (limitation of total period of sentences of detention), as modified by section 91C of this Act in a case where that section applies.

(8) Where the officer gives a direction under subsection (6)—

(a) section 85A of this Act applies to the subsequent sentence as if the reference in subsection (2) of that section to the day on which the sentence is awarded were to the expiry of the current sentence, and subsection (3) of that section were omitted; and

(b) where the suspension of the subsequent sentence by virtue of subsection (4) or (5) of that section would end before the expiry of the current sentence, the subsequent sentence shall run from the expiry of the current sentence.

Textual Amendments

F398 Ss. 91-91D substituted for s. 91 (18.7.2008) by The Armed Forces (Alignment of Service Discipline Acts) Order 2008 (S.I. 2008/1694), **art. 31** (with Sch. para. 10)

VALID FROM 18/07/2008

91C Partial activation by commanding officer of suspended sentence for more than 90 days

(1) This section applies where an officer has made an order under section 91B(1) of this Act (activation of suspended sentence by commanding officer) in respect of a sentence for a term of more than 90 days.

(2) That part of the term which exceeds 90 days is not to be remitted by virtue of section 89(2) of this Act (limitation of total period of sentences of detention).

(3) Unless the order is quashed on appeal, sections 91 and 91B of this Act (activation of suspended sentence by court-martial and by commanding officer respectively) have effect as if—

(a) the sentence were for that part of the term which exceeds 90 days; and

(b) no order determining the suspension of the sentence had been made.

(4) For the purposes of section 92(3) of this Act (remission of suspended sentence) the date on which the order was made is to be treated as the date on which the suspension of the sentence took effect.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F398 Ss. 91-91D substituted for s. 91 (18.7.2008) by The Armed Forces (Alignment of Service Discipline Acts) Order 2008 (S.I. 2008/1694), **art. 31** (with Sch. para. 10)

VALID FROM 18/07/2008

91D Activation of suspended sentence by commanding officer: appeals etc.

(1) For the purposes of sections 52FF to 52FR and 71B of this Act (appeals and review) an order under section 91B(1) of this Act is to be treated as a punishment awarded for the offence for which the sentence was passed.

(2) In relation to any appeal against such an order, section 52FM(4) of this Act (powers of the summary appeal court on an appeal against punishment) has effect as if for paragraphs (a) and (b) there were substituted—

"(a) may confirm the order;

(b) may quash the order; or

(c) if the officer who made the order gave a direction under section 91B(6) of this Act, may confirm the order but quash the direction.".

(3) Subsections (4) to (6) apply where an officer makes an order under section 91B(1) of this Act by virtue of paragraph (a) of that subsection.

(4) Any appeal, or application for leave to appeal, against the finding or the punishment awarded in respect of the offence mentioned in that paragraph ("the new offence") is for the purposes of sections 52FF to 52FR of this Act to be treated as also being an appeal or application for leave to appeal against the order.

(5) Any appeal, or application for leave to appeal, against the order is for those purposes to be treated as also being an appeal or application for leave to appeal against the punishment awarded in respect of the new offence.

(6) Where the summary appeal court quashes the order, or a direction under section 91B(6) of this Act, then—

(a) in relation to any appeal against the finding of guilt in respect of the new offence, the references in section 52FM(2)(b)(ii) and (3)(b) of this Act to the punishment originally awarded include the order and any such direction given in relation to it (as well as the punishment awarded in respect of the new offence); and

(b) in relation to any appeal against the punishment awarded in respect of the new offence, the reference in section 52FM(4)(b)(ii) of this Act to the punishment originally awarded includes the order and any such direction given in relation to it (as well as the punishment awarded in respect of the new offence).

(7) Subsections (8) and (9) apply where an officer has power to make an order under section 91B(1) of this Act by virtue of paragraph (a) of that subsection but does not do so.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(8) On any appeal against the finding of guilt or the punishment awarded in respect of the new offence, the summary appeal court's powers under section 52FM(2)(b), (3) and (4)(b) of this Act to vary the punishment or substitute another punishment include—

(a) power to make the order under section 91B(1) of this Act which the officer could have made; and

(b) power to give any direction under section 91B(6) of this Act which the officer could have given if he had made the order.

(9) But the court may not exercise its powers under subsection (8) in such a way that, taking the case as a whole, the appellant is dealt with more severely on appeal than he was dealt with by the officer who tried him for the new offence.**]**

Textual Amendments

F398 Ss. 91-91D substituted for s. 91 (18.7.2008) by The Armed Forces (Alignment of Service Discipline Acts) Order 2008 (S.I. 2008/1694), **art. 31** (with Sch. para. 10)

92 Reconsideration of sentences.

(1) Where any person has been sentenced under this Act to imprisonment or detention and the sentence is not for the time being suspended under section ninety of this Act, the unexpired portion of the sentence may be remitted by an order made—

(a) in any case, by **[**[F399]the Defence Council**]** or by any officer holding such command as may be prescribed by regulations made by **[**[F399]the Defence Council**]**;

(b) where the committal order or last committal order under section eighty-one or section ninety-one of this Act was issued by an officer not holding such command, by that officer,

and in any such case the offender shall be discharged from custody.

(2) Any sentence of imprisonment or detention which is for the time being suspended under the said section ninety may at any time be reconsidered by **[**[F399]the Defence Council**]** or any other authority by whom the sentence was or could have been suspended, and shall be so reconsidered at intervals of not more than three months; and if on any such reconsideration it appears that the conduct of the offender since his conviction has been such as to justify remission of the sentence, whether in whole or in part, it shall be remitted accordingly.

[[F400](3) Without prejudice to subsection (2) above, a sentence of imprisonment or detention which has been suspended shall, unless the suspension has been sooner determined, be remitted by virtue of this subsection at the expiry of one year from the date on which the suspension took effect.**]**

Textual Amendments

F399 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

F400 S. 92(3) added by Armed Forces Act 1971 (c. 33), **s. 54(2)**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART III

PROVISIONS RELATING TO CIVILIANS AND CIVIL AUTHORITIES

Offences by civilians triable by court-martial

93 Spying in ships or in naval establishments abroad.

Every person not subject to this Act who, being on board any of Her Majesty's ships or vessels, or being within any of Her Majesty's naval establishments outside **[**[F401]the United Kingdom and Colonies**]**, acts as a spy for the enemy shall be liable on conviction by court-martial to . . . [F402] imprisonment for any term.

Textual Amendments

F401 Words substituted by Armed Forces Act 1976 (c. 52), **s. 15(1)**

F402 Words repealed by Armed Forces Act 1981 (c. 55), **Sch. 5 Pt. II**

Modifications etc. (not altering text)

C48 S. 93 amended by Armed Forces Act 1981 (c. 55), **s. 17**

94 Seduction from duty in ships or in naval establishments abroad.

Every person not subject to this Act who, being on board any of Her Majesty's ships or vessels, or being within any of Her Majesty's naval establishments outside **[**[F403]the United Kingdom and Colonies**]**, endeavours to seduce any person subject to this Act from his duty or allegiance to Her Majesty shall be liable on conviction by court-martial to imprisonment for any term.

Textual Amendments

F403 Words substituted by Armed Forces Act 1976 (c. 52), **s. 15(1)**

95 Arrest and jurisdiction.

(1) Any person found committing an offence under section ninety-three or section ninety-four of this Act, or alleged to have committed or reasonably suspected of having committed such an offence, may be arrested by any officer or rating subject to this Act, or by any provost officer or person legally exercising authority under a provost officer or on his behalf.

(2) Any such offence may be tried and punished by court-martial under Part II of this Act; and the provisions of the said Part II (except provisions relating to summary trial [F404]. . .) shall apply accordingly as they apply in relation to offences under Part I of this Act.

Textual Amendments

F404 Words in s. 95(2) repealed (28.2.2002) by 2001 c. 19, s. 38, Sch. 7 Pt. 1; S.I. 2002/345, **art. 2** (subject to art. 3)

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Offences punishable by civil courts

96 False pretence of desertion or absence without leave.

Every person who, whether within or without **[**[F405]the United Kingdom**]**, falsely represents himself to any naval, military, air force or civil authority to be a person who is illegally absent from any of Her Majesty's naval forces shall be liable on summary conviction to a fine not exceeding **[**[F406]level 3 on the standard scale**]** or to imprisonment for a term not exceeding three months or to both such a fine and such imprisonment.

Textual Amendments

F405 Words substituted by Armed Forces Act 1976 (c. 52), **s. 15(2)**

F406 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G and (N.I.) S.I. 1984/703 (N.I. 3), **arts. 5**, 6

97 Procuring or assisting desertion or absence without leave.

(1) Every person who, whether within or without **[**[F407]the United Kingdom**]**,—

(a) procures or persuades any person subject to this Act to commit an offence of desertion, of absenting himself without leave or of improperly leaving his ship . . . [F408]; or

(b) knowing that any such person is about to commit such an offence as aforesaid, assists him in so doing; or

[[F409](c) knowing any such person to have committed such an offence, procures or persuades or assists him to remain a deserter, absentee without leave or improperly absent from his ship . . . [F409], or assists in his rescue from custody.**]**

shall be guilty of an offence against this section.

(2) A person guilty of an offence against this section shall be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months, or to both such a fine and such imprisonment, or on conviction on indictment to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years, or to both such a fine and such imprisonment.

Textual Amendments

F407 Words substituted by Armed Forces Act 1976 (c. 52), **s. 15(2)**

F408 Words repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

F409 S. 97(1)(c) substituted by Armed Forces Act 1966 (c. 45), **s. 18(2)**

98 Unlawful purchase of naval property.

(1) Every person who, whether within or without **[**[F410]the United Kingdom**]**, acquires any naval property, or solicits or procures any person to dispose of any naval property, or acts for any person in the disposing of any naval property, shall be guilty of an offence against this section unless he proves either—

(a) that he did not know, and could not reasonably be expected to know, that the chattels in question were naval property; or

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) that those chattels had (by the transaction with which he is charged or some earlier transaction) been disposed of by order of or with the consent of **[**[F411]the Defence Council**]** or of some person in authority who had, or whom he had reasonable cause to believe to have, power to give the order or consent; or

(c) that those chattels had become the property of an officer who had retired or ceased to be an officer, or of a rating who had been discharged, or of the personal representatives of a person who had died.

(2) A person guilty of an offence against this section shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both such a fine and such imprisonment, or on conviction on indictment to a fine not exceeding five hundred pounds or imprisonment for a term not exceeding two years, or to both such a fine and such imprisonment.

(3) In this section the following expressions have the meanings hereby respectively assigned to them—

"acquire" means, buy, take in exchange, take in pawn or otherwise receive (whether apart from this section the receiving is lawful or not);

"dispose" means, sell, give in exchange, pledge or otherwise hand over (whether apart from this section the handing over is lawful or not);

"naval property" means any chattel of any description belonging to Her Majesty, which has been issued for use for naval purposes or is held in store for the purpose of being so issued when required, and includes any chattel which had belonged, and had been issued or held, as aforesaid at some past time.

Textual Amendments

F410 Words substituted by Armed Forces Act 1976 (c. 52), **s. 15(2)**

F411 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

99 Illegal dealings in official documents.

(1) Every person who receives, detains or has in his possession—

(a) as a pledge or as security for a debt; or

(b) with a view to obtaining payment from the person entitled thereto of a debt due either to himself or to any other person,

any official document issued in connection with the payment to any person of any pay, pension, allowance, gratuity or other payment payable in respect of his or any other person's service in Her Majesty's naval forces shall be guilty of an offence against this section.

(2) Every person who has in his possession without lawful authority or excuse (the proof whereof shall lie on him) any such document as aforesaid, or any official document issued in connection with the mobilisation or demobilisation of any of Her Majesty's naval forces or any member thereof, shall be guilty of an offence against this section.

(3) A person guilty of an offence against this section shall be liable on summary conviction to a fine not exceeding **[**[F412]level 3 on the standard scale**]** or to imprisonment for a term not exceeding three months, or to both such a fine and such imprisonment.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) For the purpose of this section a document shall be deemed to be in the possession of a person if he has it under his control, and whether he has it for his own use or benefit or for the use or benefit of another.

(5) References in this section to Her Majesty's naval forces include references to the naval forces of any Commonwealth country or raised under the law of any colony.

Textual Amendments

F412 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G and (N.I.) S.I. 1984/703 (N.I. 3), **arts. 5**, 6

100 Jurisdiction and application of summary fines.

(1) A person alleged to have committed an offence under any provision of sections ninety-six to ninety-nine of this Act may, subject to the provisions of this section, be tried by a civil court having jurisdiction in the place where he is for the time being, notwithstanding that the offence was committed outside the jurisdiction of that court.

(2) Notwithstanding anything in the foregoing subsection, an offence committed in England and Wales, in Scotland or in Northern Ireland, shall not be triable outside England or Wales, Scotland or Northern Ireland, as the case may be.

(3) . . . [F413]

Textual Amendments

F413 S. 100(3) repealed by Criminal Justice Act 1972 (c. 71), **Sch. 6 Pt. II**

Process and execution in certain civil proceedings

101 Service of proceedings for maintenance, etc.

(1) Any process to be served on an officer or rating who is subject to this Act (in this section referred to as "the defendant") in connection with proceedings for a maintenance order as defined by this section, or for the variation, revocation or revival of such an order, shall be deemed to be duly served on the defendant if served on the commanding officer of the ship or establishment in which the defendant is serving or on the books of which he is borne, and may, without prejudice to any other method of service, be so served within the United Kingdom by registered post.

(2) . . . [F414]

(3) . . . [F415]

(4) Where any such process is served in the United Kingdom and the defendant will be required to appear in person at the hearing, the service of the process shall be of no effect if **[**[F416]his commanding officer certifies**]** to the court by which the process was issued that the defendant is under orders for service on a foreign station and that **[**[F416]in the commanding officer's opinion**]** it would not be possible for the defendant to attend the hearing and return in time to embark for that service.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[[F417](4A) Where any such process is to be served in the United Kingdom or elsewhere and the defendant will be required to appear in person at the hearing, the service of that process shall be of no effect if his commanding officer certifies to the court by which the process was issued that the defendant is absent without leave or has deserted and remains in desertion.**]**

(5) In this section the expression "maintenance order" means an order made by a court in the United Kingdom or registered in or confirmed by such a court under the provisions of the [M47]Maintenance Orders (Facilities for Enforcement) Act 1920 **[**[F418]or registered in such a court under Part I of the [M48]Maintenance Orders (Reciprocal Enforcement) Act 1972 **[**[F419]or Part I of the Civil Jurisdiction and Judgments Act 1982**]][**[F420]or Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters **[**[F421], as amended from time to time and as applied by the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ No. L 299 16.11.2005 at p62)**]]**, being an order for the payment of any periodical or other sum specified therein for or in respect of—

[[F422](a) the maintenance of the wife **[**[F423]or civil partner**]** of the person against whom the order is made; or

(b) the maintenance of any child of that person or his wife **[**[F423]or civil partner**]** or of any other child who has been treated by them both as a child of their family; or**]**

(c) any costs incurred in obtaining the order; or

(d) any costs incurred in proceedings on appeal against or for the variation, revocation or revival of any such order;

[[F424]and includes an affiliation order within the meaning of **[**[F425]the Affiliation Proceedings Act 1957**]]**

[[F426](5A) In subsection (5) above—

(a) references to the wife of a person include, in relation to an order made in proceedings in connection with the dissolution or annulment of a marriage, references to a person who would have been his wife if the marriage had subsisted; and

[[F427](aa) references to the civil partner of a person include, in relation to an order made in proceedings in connection with the dissolution or annulment of a civil partnership, references to a person who would have been his civil partner if the civil partnership had subsisted; and**]**

(b) without prejudice to any enactment or rule of law relating to adoption or legitimation, references to a child of a person or his wife shall be construed without regard to whether or not the father and mother of the child have or had been married to each other at any time.

(5B) In relation to women members of Her Majesty's naval forces, references in this section to a wife shall be construed as references to a husband.**]**

(6) 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 or is serving in a ship on a home station or a naval establishment within the United Kingdom.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F414 S. 101(2) repealed by Armed Forces Act 1981 (c. 55), **Sch. 5 Pt. II**

F415 S. 101(3) repealed by Armed Forces Act 1971 (c. 33), **Sch. 4 Pt. II**

F416 Words substituted by Armed Forces Act 1981 (c. 55), **s. 18(3)(b)**

F417 S. 101(4A) inserted by Armed Forces Act 1981 (c. 55), **s. 18(3)(c)**

F418 Words inserted by Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18), **Sch. para. 3**

F419 Words inserted by Civil Jurisdiction and Judgments Act 1982 (c. 27, SIF 45:3), ss. 15(4), 23(2), 36(6), **Sch. 12 Pt. I para. 2**

F420 Words in s. 101(5) inserted (1.3.2001) by S.I. 2001/3929, arts. 1(b), 5, **Sch. 3 para. 4**

F421 Words in s. 101(5) inserted (1.7.2007) by The Civil Jurisdiction and Judgments Regulations 2007 (S.I. 2007/1655), reg. 5, **Sch. para. 4(2)**

F422 S. 101(5)(a)(b) substituted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 15(5)**; S.I. 1991/2719, **art. 2**

F423 Words in s. 101(5)(a)(b) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 257, 263, **Sch. 26 para. 32(1)(2)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

F424 Words in s. 101(5) repealed (N.I.) (4.11.1996) by S.I. 1995/755 (N.I. 2), art. 185(2), **Sch. 10**; S.R. 1996/297, **art. 2(2)**

F425 Words substituted by virtue of Affiliation Proceedings Act 1957 (C. 55), s. 12(3)

F426 S. 101(5A)(5B) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 15(6)**; S.I. 1991/2719, **art. 2**

F427 S. 101(5A)(aa) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 257, 263, **Sch. 26 para. 32(1)(3)**; S.I. 2005/3175, **art. 2(1)**, Sch. 1

Marginal Citations

M47 1920 c. 33.

M48 1972 c. 18.

102 Exemption of naval property from execution.

No judgment or order given or made by any court against a member of any of Her Majesty's naval forces or of any naval force of a Commonwealth country or raised under the law of any colony shall be enforced by the levying of execution on any property of the person against whom it is given or made, being arms, ammunition, equipment, instruments or clothing used by him for naval purposes.

Arrest and detention of offenders by civil authorities

103 Arrest under warrants of naval authorities.

(1) A warrant for the arrest of a person suspected of any offence under Part I of this Act may be issued by any Commander-in-Chief, by the senior naval officer present at any port, by any officer in command of any of Her Majesty's ships or naval establishments, or by any officer who by virtue of **[**[F428]regulations under section 52E(2)(a) above may exercise the powers of that person's commanding officer**]**.

(2) A warrant issued under this section shall be addressed to an officer or officers of police, and shall specify the name of the person for whose arrest it is issued and the offence which he is alleged to have committed; and any such warrant may be issued in respect of two or more persons alleged to have committed the same offence or offences of the same class.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) A person arrested under a warrant issued under this section shall as soon as practicable be delivered into naval custody; and there shall be handed over with him a certificate signed by the officer of police who causes him to be delivered into naval custody stating the fact, date, time and place of arrest, and whether or not the person arrested was at the time of arrest wearing the uniform of any of Her Majesty's naval forces.

[[F429](4) A certificate under subsection (3) above shall be in such form as may be prescribed by regulations made by a Secretary of State by statutory instrument and shall for the purpose of this Act be evidence of the matters stated therein.**]**

Textual Amendments

F428 Words in s. 103(1) substituted (1.4.1997 with saving) by 1996 c. 46, s. 5, **Sch. 1 para. 92**; S.I. 1997/304, **art. 2** (with art. 3)

F429 S. 103(4) added by Armed Forces Act 1971 (c. 33), **s. 44(1)**

104 Arrest of persons unlawfully at large.

(1) A constable may arrest without warrant any person who, having been sentenced under Part II of this Act to imprisonment or detention, is unlawfully at large during the currency of the sentence, and may take him to any place in which he may be required in accordance with law to be detained.

(2) The provisions of subsections (2) and (3) of section eighty-eight of this Act shall have effect for the purposes of the foregoing subsection as they have effect for the purposes of that section.

105 Arrest of deserters and absentees.

(1) A constable may arrest without warrant any person whom he has reasonable cause to suspect of being an officer or rating of any of Her Majesty's naval forces who has deserted or is absent without leave.

(2) Where no constable is available, any officer or rating who is subject to this Act, or any other person, may arrest any person whom he has reasonable cause to suspect as aforesaid.

(3) Any person having authority to issue a warrant for the arrest of a person charged with crime, if satisfied by evidence on oath that there is, or is reasonably suspected of being, within his jurisdiction an officer or rating of any of Her Majesty's naval forces who has deserted or is absent without leave, or is reasonably suspected of having deserted or being absent without leave, may issue a warrant authorising his arrest.

(4) Any person taken into custody in pursuance of this section shall as soon as practicable be brought before a court of summary jurisdiction.

[[F430](4A) A person shall also be brought before a court of summary jurisdiction if, having been brought before such a court by virtue of subsection (4) above and discharged by that court by virtue of section 109(3)(b) below—

(a) he is subsequently arrested as an alleged or suspected deserter or absentee without leave under section 45 of this Act, or under a warrant issued under section 103 thereof, and

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) the question whether he is in fact in desertion or absent without leave raises any issue which was investigated by the court discharging him, and

(c) he does not admit that he is in desertion or absent without leave to the person arresting him under the said section 45 or, as the case may be, to the person into whose custody he is delivered pursuant to the said section 103.**]**

Textual Amendments

F430 S. 105(4A) inserted by Armed Forces Act 1971 (c. 33), **s. 56(1)**

Modifications etc. (not altering text)

C49 S. 105 as read with s. 126 extended by Guyana Independence Act 1966 (c. 14), **s. 5(2)**

106 Arrest of persons suspected of offences punishable by civil courts.

(1) A constable **[**[F431]may arrest without warrant any person whom he has reasonable grounds for suspecting of having committed an offence punishable under this Part of this Act on summary conviction, and**]** may seize any property which he has reasonable grounds for suspecting of having been the subject of an offence against section ninety-eight of this Act.

(2) Any person having authority to issue a warrant for the arrest of a person charged with crime may, if satisfied by evidence on oath that a person within his jurisdiction has, or is reasonably suspected of having, in his possession any property which has been the subject of an offence against the said section ninety-eight, grant a warrant to search for such property as in the case of stolen goods; and any property suspected of having been the subject of such an offence which is found on such a search shall be seized by the officer charged with the execution of the warrant, and that officer shall bring the person in whose possession or keeping the property is found before a court of summary jurisdiction.

(3) For the purposes of this section property shall be deemed to be in the possession of a person if he has it under his control, and whether he has it for his own use or benefit or for the use or benefit of another.

Textual Amendments

F431 Words repealed by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), s. 119, **Sch. 7 Pt. I** (E.W.) and by S.I. 1989/1341 (N.I. 12), art. 90(2)(3), **Sch. 7 Pt. I**

107 Duties of governors of civil prisons, etc.

(1) It shall be the duty of the governor of a civil prison—

(a) to receive and confine until discharged in due course of law any person sentenced under this Act to imprisonment who is committed, transferred or returned to that prison in pursuance of a committal order or an order made under section eighty-four of this Act, and to deliver over or discharge any such person in accordance with any order under this Act or on the expiration of his sentence;

(b) to receive and confine for a period not exceeding seven days any person who is for the time being in naval custody upon delivery of an order in that behalf

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

purporting to be signed by a flag officer or by the officer in command of any of Her Majesty's ships or naval establishments, or upon production of a committal order or an order made under the said section eighty-four relating to that person;

(c) to receive any person duly committed to that prison by a court of summary jurisdiction under this Part of this Act as being illegally absent from any of Her Majesty's naval forces, and to detain him until, in accordance with the directions of the court, he is delivered into naval custody.

(2) Subsection (1) of this section, except paragraph (a), shall apply to the person having charge of any police station or other place (not being a prison) provided for the confinement of persons in custody as it applies to the governor of a prison.

Modifications etc. (not altering text)
C50 S. 107 as read with s. 126 extended by Guyana Independence Act 1966 (c. 14), **s. 5(2)**

Powers of civil courts and authorities as to deserters and absentees

108 Deserters and absentees surrendering to police.

(1) Where a person surrenders himself to a constable as being a person who is illegally absent from any of Her Majesty's naval forces, the constable shall, unless that person surrenders himself at a police station, bring him to a police station.

(2) The officer of police in charge of a police station at which a person has surrendered himself as aforesaid, or to which a person who has so surrendered himself is brought, shall forthwith inquire into the case; and if it appears to that officer that the said person is illegally absent as aforesaid he may cause him to be delivered into naval custody without bringing him before a court of summary jurisdiction or may bring him before such a court.

Modifications etc. (not altering text)
C51 S. 108 as read with s. 126 extended by Guyana Independence Act 1966 (c. 14), **s. 5(2)**

109 Proceedings before summary courts.

(1) Where a person who is brought before a court of summary jurisdiction as being illegally absent from any of Her Majesty's naval forces admits that he is so absent and the court is satisfied of the truth of the admission, the court may in any case, and shall unless he is in custody for some other cause, forthwith either—

(a) cause him to be delivered into naval custody in such manner as the court may think fit; or

[[F432](b) where it is unable to do so, adjourn the proceedings and remand him for such time as appears reasonably necessary for the purpose of arranging for him to be delivered into naval custody.**]**

[F433](2) . . . . . .

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) Where a person who is brought as aforesaid does not admit that he is illegally absent as aforesaid, or does so admit but the court is not satisfied of the truth of the admission, the court shall consider the evidence and any statement of the accused, and thereupon—

(a) if the court is satisfied that he is subject to this Act and is of opinion that there is sufficient evidence to justify his being tried under Part II of this Act for an offence of desertion, absence without leave or improperly leaving his ship . . . [F434], the court may in any case, and shall unless he is in custody for some other cause, either cause him to be delivered into naval custody or **[**[F435], where it is unable to do so, adjourn the proceedings and remand him for such time as appears reasonably necessary for the purpose of arranging for him to be delivered into naval custody**]**;

(b) in any other case the court shall, unless he is in custody for some other cause, discharge him.

(4) The following provisions of **[**[F436]the [M49]Magistrates' Courts Act 1980**]**, that is to say the provisions relating to the constitution and procedure of courts of summary jurisdiction acting as examining justices and conferring powers of adjournment and remand on such courts so acting, and the provisions as to evidence and the issue and enforcement of summonses or warrants to secure the attendance of witnesses, shall apply to any proceedings under this section; and for the purposes of any such proceedings, a certificate purporting to be signed by the officer in command of any of Her Majesty's ships or naval establishments and stating that a person is subject to this Act and is illegally absent as aforesaid shall be evidence of the matters so stated.

Textual Amendments

F432 S. 109(1)(b) substituted (2.10.2000) by 2000 c. 4, **s. 9(3)(a)**; S.I. 2000/2366, **art. 2**

F433 S. 109(2) repealed (2.10.2000) by 2000 c. 4, ss. 9(3)(b), 27, **Sch. 4**; S.I. 2000/2366, **art. 2**

F434 Words repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

F435 Words in s. 109(3)(a) substituted (2.10.2000) by 2000 c. 4, ss. 9(3)(c), 27, **Sch. 4**; S.I. 2000/2366, **art. 2**

F436 Words substituted by virtue of Magistrates' Courts Act 1980 (c. 43), **Sch. 8 para. 5**

Modifications etc. (not altering text)

C52 S. 109 as read with s. 126 extended by Guyana Independence Act 1966 (c. 14), **s. 5(2)**

Marginal Citations

M49 1980 c. 43.

110 Certificates of arrest or surrender.

(1) Where an officer of police causes any person to be delivered into naval custody under section one hundred and eight of this Act without being brought before a court of summary jurisdiction, there shall be handed over with that person a certificate in the prescribed form signed by the officer of police, containing a statement of the fact, date, time and place of surrender and whether or not the said person was at the time of surrender wearing the uniform of any of Her Majesty's naval forces.

(2) Where a court of summary jurisdiction causes any person to be delivered into naval custody under section one hundred and nine of this Act, or any person is so delivered after having been committed under that section, there shall be handed over with him a

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

certificate in the prescribed form, signed by a justice of the peace **[**[F437]or (in Northern Ireland) resident magistrate**]** , containing—

(a) a statement of the fact, date, time and place of arrest or surrender, and whether or not the said person was, at the time of arrest or surrender, wearing the uniform of any of Her Majesty's naval forces; and

(b) such particulars of the proceedings before the court as may be prescribed;

and for any such certificate there shall be payable to the **[**[F438]proper officer**]** of the court, by such person as **[**[F439]the Defence Council**]** may direct, such fee (if any) as may be prescribed.

[[F440](2A) In subsection (2) of this section "proper officer" means—

(a) in relation to a court of summary jurisdiction in England and Wales, the **[**[F441]designated officer**]** for the court; and

(b) in relation to a court of summary jurisdiction elsewhere, the clerk of the court.**]**

(3) In this section "prescribed" means prescribed by regulations made by **[**[F439]the Secretary of State**]** by statutory instrument.

Textual Amendments

F437 Words in s. 110(2) inserted (N.I.) (1.4.2005) by Justice (Northern Ireland) Act 2002 (c. 26), ss. 10, 87, **Sch. 4 para. 12**; SR 2005/109, {art. 2} Sch.

F438 Words in s. 110(2) substituted (1.4.2001) by 1999 c. 22, s. 98, Sch. 13 paras. 22, **23(2)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)

F439 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

F440 S. 110(2A) inserted (1.4.2001) by 1999 c. 22, s. 98, Sch. 13 paras. 22, **23(3)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)

F441 Words in s. 110(2A)(a) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 97(a)**; S.I. 2005/910, **art. 3(y)**

Modifications etc. (not altering text)

C53 S. 110 as read with s. 126 extended by Guyana Independence Act 1966 (c. 14), **s. 5(2)**

C54 S. 110(2) modified by Armed Forces Act 1966 (c. 45), **s. 33**

PART IV

MISCELLANEOUS AND GENERAL

Persons subject to this Act

111 Naval forces, volunteers and trainees.

[[F442](1) Every officer on the active list, and every rating, of the Royal Navy, [F443]. . . is subject to this Act at all times.

(2) Any officer on any retired or emergency list of officers of the Royal Navy [F444]. . . [F445]. . . is subject to this Act when ordered on any duty or service for which such an officer is liable, and is so subject from the time appointed to report or attend for that purpose until duly released or discharged.**]**

[[F446](3) Any officer or rating of any of the naval reserve forces is subject to this Act while—

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) in permanent service on call out under any provision of the Reserve Forces Act 1980, the Reserve Forces Act 1996 or any other call-out obligations of an officer;

(b) in full-time service under a commitment entered into under section 24 of the Reserve Forces Act 1996;

(c) undertaking any training or duty (whether in pursuance of an obligation or not); or

(d) serving on the permanent staff of the Royal Fleet Reserve or the Royal Naval Reserve.**]**

(4) Without prejudice to subsection (1) of this section, any **[**[F447]person recalled to the Royal Navy under section 30 of the Reserve Forces Act 1980 or Part VII of the Reserve Forces Act 1996 is subject to this Act from the time he is accepted into service until duly released or discharged.**]**.

(5) Any person not otherwise subject to this Act who volunteers or engages for service, training or exercise with the Royal Navy, not being—

(a) . . . [F448]

(c) a member of the Sea Cadet Corps or the Combined Cadet Force; or

(d) a person excepted from this subsection by directions of **[**[F449]the Defence Council,**]**

is subject to this Act during the period of service, training or exercise.

(6) A person not otherwise subject to this Act, being a member of—

(a) any of the armed forces of the Crown raised outside the United Kingdom; or

(b) any armed forces other than armed forces of the Crown,

not being in either case forces excepted from this subsection by directions of **[**[F449]the Defence Council**]** is subject to this Act when ordered to be trained or exercised on board any of Her Majesty's ships or in any of Her Majesty's naval establishments.

(7) Where by virtue of this section this Act applies to any person not being a member of the armed forces of the Crown, it shall apply to him (except so far as may be otherwise provided by regulations made by **[**[F449]the Defence Council**]**)—

(a) if he holds any rank or rate in any other naval, military or air forces, as it applies to a person holding the corresponding rank or rate in the armed forces of the Crown;

(b) in any other case, as it applies to an able seaman.

(8) This section applies to chaplains in the Royal Navy or in any of the naval reserve forces as it applies to officers of the Royal Navy, or of that force, as the case may be.

Textual Amendments

F442 S. 111(1)(2) substituted by Armed Forces Act 1976 (c. 52), s. 4, **Sch. 2 para. 2**

F443 Words in s. 111(1) repealed (11.5.2001) by 2001 c. 19, ss. 34, 38, Sch. 6 para. 23(a), **Sch. 7 Pt. 6**

F444 Words in s. 111(2) repealed (11.5.2001) by 2001 c. 19, ss. 34, 38, Sch. 6 para. 23(b), **Sch. 7 Pt. 6**

F445 Words in s. 111(2) repealed (1.10.1996) by 1996 c. 46, s. 35(2), **Sch. 7 Pt. III**; S.I. 1996/2474, **art. 2** (with art. 3)

F446 S. 111(3) substituted (1.4.1997) by 1996 c. 14, s. 131(1), **Sch. 10 para. 12(2)** (with s. 72(5)); S.I. 1997/305, **art. 2**

F447 Words in s. 111(4) substituted (1.4.1997) by 1996 c. 14, s. 131(1), **Sch. 10 para. 12(3)** (with s. 72(5)); S.I. 1997/305, **art. 2**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F448 S. 111(5)(a)(b) repealed by Armed Forces Act 1976 (c. 52), **Sch. 10**
F449 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

112 Marines.

(1) An officer, **[**[F450]warrant officer**]** non-commissioned officer or marine of the marine forces is subject to this Act when borne on the books of any of Her Majesty's ships or naval establishments.

(2) The provisions of the First Schedule to this Act shall have effect for the purposes of the application of this Act to any person who is subject thereto by virtue of this section.

Textual Amendments
F450 Words inserted by Armed Forces Act 1971 (c. 33), **Sch. 3 para. 5(2)**

113 Attached military and air forces.

(1) Subject to the provisions of this section, a member of Her Majesty's military or air forces is subject to this Act when attached to Her Majesty's naval forces under section one hundred and seventy-nine of the [M50]Army Act 1955, or section one hundred and seventy-nine of the [M51]Air Force Act 1955.

(2) The provisions of the Second Schedule to this Act shall have effect for the purposes of the application of this Act to any person who is subject thereto by virtue of this section.

(3) . . . [F451]

Textual Amendments
F451 S. 113(3) repealed by Armed Forces Act 1976 (c. 52), **Sch. 10**

Marginal Citations
M50 1955 c. 18.
M51 1955 c. 19.

114 Commonwealth forces.

(1) Without prejudice to subsection (6) of section one hundred and eleven of this Act, the members of a naval, military or air force of a Commonwealth country are subject to this Act to such extent, and subject to such adaptations and modifications, as may be provided by or under the [M52]Visiting Forces (British Commonwealth) Act 1933, or by the law of that country.

(2) Where members of a force of any Commonwealth country are subject to this Act as aforesaid by virtue of the law of that country, Her Majesty may by Order in Council make such adaptations and modifications of this Act in relation to other members of Her Majesty's naval forces as may be desirable for the purpose of regulating the relations between those members of Her Majesty's naval forces and members of the force of that country.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Marginal Citations

M52 1933 c. 6.

115 Colonial naval forces.

(1) Without prejudice to subsection (6) of section one hundred and eleven of this Act, the members of a force raised for the naval defence of a colony in pursuance of section one of the [M53]Colonial Naval Defence Act 1931, are subject to this Act to such extent, and subject to such adaptations and modifications, as may be provided by the legislature of that colony under subsection (1) of section two of that Act.

(2) Without prejudice to the foregoing subsection, any officer or rating of any force raised by a colony as aforesaid is subject to this Act while at the disposal of Her Majesty for general service in the Royal Navy under subsection (2) of the said section two.

Marginal Citations

M53 1931 c. 9.

116 Application to deserters, etc. from Commonwealth and colonial naval forces.

(1) Without prejudice to the foregoing provisions of this Part of this Act, Her Majesty may by Order in Council direct that members of any naval force of a Commonwealth country or raised by any colony shall be subject to this Act so far as it relates to the offences of desertion or absence without leave, and to the arrest **[**[F452], custody**]**, trial and punishment of persons who have committed or are suspected of having committed either of the said offences.

(2) Where any Order in Council is made under this section in relation to members of a naval force, references in section forty-seven and in Part III of this Act to Her Majesty's naval forces shall include references to that force.

Textual Amendments

F452 Words in s. 116(1) inserted (2.10.2000) by 2000 c. 4, s. 10, **Sch. 1 para. 10**; S.I. 2000/2366, **art. 2**

117 Application to passengers in H.M. ships.

Parts I and II of this Act shall, to such extent and subject to such modifications as may be prescribed by regulations made by **[**[F453]the Defence Council**]**, apply to persons embarked as passengers on board Her Majesty's ships **[**[F454], vessels**]** or aircraft (not being persons who are subject to this Act by virtue of any of the foregoing provisions of this Act or are subject to military or air-force law), as they apply to persons subject to this Act.

Textual Amendments

F453 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F454 Words inserted by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), **Sch. 1 para. 8**

118 Application to certain civilians.

(1) Subject to the provisions of this section where any body of Her Majesty's naval forces are on active service Parts I and II of this Act shall (so far as applicable) apply to the following persons, that is to say—

(a) any person employed in the service of that body of those forces;

(b) any person employed in the service of any portion or member of that body of those forces; or

(c) any person who accompanies that body of those forces or any portion thereof,

as they apply to persons subject to this Act.

(2) Without prejudice to the foregoing subsection, but subject to the provisions of this section, the following provisions of this Act, that is to say—

(a) sections **[**[F455]12B,**]** fourteen, **[**[F456]14A,**]**thirty-eight and thirty-nine;

(b) sections forty and forty-one, so far as they relate to the sections aforesaid;

(c) sections forty-two and forty-three; and

(d) Part II so far as it applies to an offence under any of the said sections,

shall apply to a person of any class described in the Third Schedule to this Act who is within the limits of the command of any officer commanding any of Her Majesty's naval forces outside the United Kingdom . . . [F457], as they apply to persons subject to this Act.

[[F458]Provided that the said section 39 shall not apply to a person by virtue only of this subsection except at a time when he is on board one of Her Majesty's ships **[**[F459]and the said section 12B, and sections 40 and 41 so far relating thereto, shall apply only to persons falling within any description specified in paragraphs 1 to 4 of Schedule 3.**]]**

(3) The provisions of the Fourth Schedule to this Act shall have effect for the purposes of the application of this Act to any person to whom it applies by virtue of this section.

[[F460](3A) Rules under section 58 may, in relation to a court-martial for the trial of a person mentioned in subsection (1) or (2) above (whether alone or with other persons), make provision—

(a) as to the persons who may be appointed under section 54(1)(a) or (c) as members of the court-martial (and the rules may in particular provide that persons other than naval officers or naval warrant officers may be so appointed);

(b) modifying the application of Part 2 of this Act in consequence of any provision made by virtue of paragraph (a).**]**

[[F461](3B) On the trial of **[**[F462]a person mentioned in subsection (1) or (2) above**]** a court-martial may make an order authorised by Schedule 4A below, and any such order shall be treated as a punishment for the purposes of this Act.**]**

(4) This section does not apply to any person to whom section one hundred and seventeen of this Act applies, or who is otherwise subject to this Act apart from this section or is subject to military or air-force law apart from section two hundred and nine of the [M54]Army Act 1955, or the [M55]Air Force Act 1955.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F455 Words in s. 118(2)(a) inserted (3.2.2006) by 2001 c. 19, ss. 32(9), 39(2), Sch. 5 para. 7(a); S.I. 2006/235, **art. 2** (with art. 3)

F456 Words inserted by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 1 para. 2(3)**

F457 Words repealed by Armed Forces Act 1966 (c. 45), **Sch. 5**

F458 Proviso added by Armed Forces Act 1971 (c. 33), **ss. 42**, 78(4)

F459 Words in the proviso of s. 118(2) inserted (3.2.2006) by 2001 c. 19, ss. 32(9), 39(2), Sch. 5 para. 7(b); S.I. 2006/235, **art. 2** (with art. 3)

F460 S. 118(3A) substituted (28.6.2007) by The Armed Forces (Alignment of Service Discipline Acts) Order 2007 (S.I. 2007/1859), art. 2, **Sch. para. 3(2)**

F461 S. 118(3B) inserted by Armed Forces Act 1976 (c. 52), **Sch. 9 para. 10**

F462 Words in s. 118(3B) substituted (28.6.2007) by The Armed Forces (Alignment of Service Discipline Acts) Order 2007 (S.I. 2007/1859), art. 2, **Sch. para. 3(3)**

Marginal Citations

M54 1955 c. 18.

M55 1955 c. 19.

119 Application to sentenced offenders, etc.

(1) A person sentenced under Part II of this Act to imprisonment or detention shall be subject to this Act until the expiration of the term of his sentence, whether or not he would have ceased to be subject to this Act apart from the provisions of this subsection; and in relation to any such person this Act shall apply as it applies in relation to an able seaman.

(2) If any person not otherwise subject to this Act, being in custody by virtue of section fifty-one or section ninety-five of this Act, commits or is reasonably suspected of having committed an offence which, if he were subject to this Act, would be an offence against any provision of Part I of this Act, he shall be treated for the purposes of that provision and of Part II of this Act as having been subject to this Act at the time of the offence or suspected offence, and as continuing to be so subject thereafter.

(3) Where by virtue of subsection (2) of this section a person who does not hold any naval rank or rate is treated for the purpose of any provisions of this Act as a person subject to this Act, this Act shall apply to him for that purpose—

(a) if he holds any military or air force rank, as it applies to a person holding the corresponding naval rank or rate;

(b) if he held any naval rank or rate or any military or air-force rank when last subject to this Act apart from this section, as it applies to a person holding that or the corresponding naval rank or rate;

(c) in any other case, as it applies to an able seaman.

Attachment and powers of command

120 Attachment to military or air forces.

(1) Any officer or rating of Her Majesty's naval forces may be attached temporarily to any of Her Majesty's military or air forces.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Regulations may be made by **[**[F463]the Defence Council**]** for prescribing the circumstances in which officers and ratings of Her Majesty's naval forces are to be treated as attached to any of Her Majesty's military or air forces, as the case may be, under this section.

(3) . . . [F464]

(4) A person shall not cease to be subject to this Act by reason only of his being attached to any forces in pursuance of this section.

Textual Amendments

F463 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

F464 S. 120(3) repealed by S.I. 1964/488, **Sch. 1 Pt. I**

121 Attachment to commonwealth and other forces.

(1) Without prejudice to the provisions of section four of the [M56]Visiting Forces (British Commonwealth) Act 1933 (which provides for the attachment of members of home forces to the forces of certain Commonwealth countries), any officer or rating of Her Majesty's naval forces may, by order of **[**[F465]the Defence Council**]** or of the Commander-in-Chief or senior naval officer present on a foreign station, be required to serve with any naval, military or air force of a Commonwealth country or of any other country.

(2) A person shall not cease to be subject to this Act by reason only of his being required to serve with any naval, military or air force in pursuance of this section.

Textual Amendments

F465 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

Marginal Citations

M56 1933 c. 6.

122 Powers of command of members of co-operating military or air forces.

(1) In so far as powers of command depend on rank or rate, an officer, warrant officer or non-commissioned officer of any of Her Majesty's military or air forces who—

(a) is acting with any body of Her Majesty's naval forces; or

(b) is a member of a body of the said military or air forces which is acting with any body of Her Majesty's naval forces,

shall have the like such powers as an officer or rating of Her Majesty's naval forces of corresponding rank or rate.

(2) For the purposes of **[**[F466]sections 11, 45 and 52EE**]** of this Act, any such officer, warrant officer or non-commissioned officer as aforesaid shall be treated as an officer or rating of corresponding rank or rate, and shall have the like powers under the said section forty-five as if he were a person subject to this Act.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F466 Words in s. 122(2) substituted (28.2.2002) by 2001 c. 19, s. 17, Sch. 1 para. 16; S.I. 2002/345, **art. 2** (subject to art. 3)

Application to particular countries and territories

123 Scotland.

(1) The provisions of this section shall have effect for the purpose of the application of this Act to Scotland.

(2) . . . [F467]

(3) In section forty-eight, the expression "manslaughter" means culpable homicide.

[F468](4) . . . . . .

(5) In section eighty-two, in subsection (1), for the reference to **[**[F469]the Coroners Acts 1887 to 1926**]**[F469]the Coroners Act 1988**]**, there shall be substituted a reference to section twenty-five of the [M57]Prisons (Scotland) Act 1952, and in subsection (3) the reference to sections thirty-nine to forty-two of the [M58]Prison Act 1952, shall include a reference to section thirty of the [M59]Prisons (Scotland) Act 1952.

(6) In section ninety-eight, the expression "chattel" means corporeal moveable.

(7) In subsection (5) of section one hundred and one, the expression "putative father" means the person proved or admitted to be the father.

(8) In subsection (2) of section one hundred and six, for the words from "and that officer" to the end of the subsection there shall be substituted the words "who shall report the matter to the procurator fiscal".

(9) In subsection (4) of section one hundred and nine, for the words from the beginning to "such proceedings" there shall be substituted the words "For the purposes of any proceedings under this section".

[[F470](10) Where by virtue of this Act a document is admissible in evidence or is evidence of any matter stated in it in proceedings before a civil court in England, it shall be sufficient evidence of the matter so stated in such proceedings in Scotland.**]**

Textual Amendments

F467 S. 123(2) repealed by Armed Forces Act 1966 (c. 45), **Sch. 5**

F468 S. 123(4) repealed (11.5.2001) by 2001 c. 19, s. 38, **Sch. 7 Pt. 4**

F469 "the Coroners Act 1988" substituted (E.W.) for "the Coroners Acts 1887 to 1926" by Coroners Act 1988 (c. 13, SIF 33), s. 36(1), **Sch. 3 para. 13**

F470 S. 123(10) added by Armed Forces Act 1971 (c. 33), **s. 76**

Marginal Citations

M57 1952 c. 61.

M58 1952 c. 52.

M59 1952 c. 61.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

124 Northern Ireland.

(1) The provisions of this section shall have effect for the purposes of the application of this Act to Northern Ireland.

[F471](2) . . . . . .

(3) In section eighty-two, in subsection (1), for the words "the Coroners Acts 1887 to 1926" there shall be substituted the words "section thirty-nine of the [M60]Prison Act (Northern Ireland) 1953, with any necessary modifications", and in subsection (3) the reference to sections thirty-nine to forty-two of the [M61]Prison Act 1952, shall include a reference to sections twenty-eight to thirty-six of the [M62]Prison Act (Northern Ireland) 1953.

(4) Subsection (3) of section one hundred shall not apply; and all fines imposed in proceedings taken before a court of summary jurisdiction in Northern Ireland shall be dealt with in the manner provided by section twenty of the [M63]Administration of Justice Act (Northern Ireland) 1954.

[[F472](5) For the purposes of section one hundred and one the expression "maintenance order" shall include an order made under section one of the Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924.**]**

(6) In subsection (4) of section one hundred and nine for the reference to **[**[F473]the [M64]Magistrates' Courts Act 1980**]**, there shall be substituted a reference to the Summary Jurisdiction Acts (Northern Ireland) and the rules made thereunder.

[[F474](6A) Where a financial penalty enforcement order has been registered under section 128F below by a court of summary jurisdiction in Northern Ireland in respect of any person, a justice of the peace may issue a summons to that person requiring him to appear before the court which registered that penalty or a warrant for the arrest of that person.**]**

[[F475](6AA) The reference in section 128E(1) to any judgment or order enforceable by a court in the United Kingdom shall include a reference to a judgment enforceable by the Enforcement of Judgments Office.**]**

[[F476](6B) Where a person appears before a court of summary jurisdiction in Northern Ireland in pursuance of a summons or warrant issued under subsection (6A) above, the court may exercise the like Powers as are conferred on it by **[**[F477]Part IX of the [M65]Magistrates' Courts (Northern Ireland) Order 1981**]** (satisfaction and enforcement of orders).

(6C) A financial penalty enforcement order shall be registered in Norther Ireland under section 128F below in accordance with Magistrates' Courts Rules.**]**

Textual Amendments

F471 S. 124(2) repealed (11.5.2001) by 2001 c. 19, s. 38, **Sch. 7 Pt. 4**

F472 S. 124(5) repealed (N.I.) (4.11.1996) by S.I. 1995/755 (N.I. 2), art. 185(2), **Sch. 10**; S.R. 1996/297, **art. 2(2)**

F473 Words substituted by virtue of Magistrates' Courts Act 1980 (c. 43), **Sch. 8 para. 5**

F474 S. 124(6A) inserted by Armed Forces Act 1976 (c. 52), s. 16, **Sch. 8 para. 4(1)(3)**

F475 S. 124(6AA) inserted by S.I. 1979/298, **art. 2**

F476 S. 124(6B)(6C) inserted by Armed Forces Act 1976 (c. 52), s. 16, **Sch. 8 para. 4(1)(3)**

F477 Words substituted by S.I. 1981/1675 (N.I. 26), **Sch. 6 para. 10**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Marginal Citations

M60 1953 c. 18 (N.I.)
M61 1952 c. 52.
M62 1953 c. 18 (N.I.)
M63 1954 c. 9 (N.I.)
M64 1980 c. 43.
M65 S.I. 1981/1675 (N.I. 26)

125 Channel Islands and Isle of Man.

[[F478](1) This Act extends to the Channel Islands and the Isle of Man subject to subsection (2) below and to such modifications as Her Majesty may by Order in Council specify; and, where any such modification refers to any law for the time being in force in any of the Channel Islands or the Isle of Man, the modification may be expressed to have effect for all purposes of this Act (and not only in the application of this Act to the Channel Islands or the Isle of Man, as the case may be).**]**

(2) Any reference in this Act to the United Kingdom (except the references in **[**[F479]sections [F480]. . . 82A**]** and in subsections (3) and (4) of section eighty-eight) shall be construed as including a reference to the Channel Islands and the Isle of Man **[**[F481]and in the said section 82A, the reference to a colony shall be construed as including a reference to the Channel Islands and the Isle of Man**]**.

[F482](3) . . . . . .

Textual Amendments

F478 S. 125(1) substituted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 24(2)**; S.I. 1991/2719, **art. 2**
F479 Words substituted by Armed Forces Act 1971 (c. 33), **s. 52(2)**
F480 Words in s. 125(2) repealed (11.5.2001) by 2001 c. 19, s. 38, **Sch. 7 Pt. 4**
F481 Words added by Armed Forces Act 1971 (c. 33), **s. 52(2)**
F482 S. 125(3) repealed (1.1.1992) by Armed Forces Act 1991 (c. 62), ss. 24(3), 26(2), **Sch. 3**; S.I. 1991/2719, **art. 2**

Modifications etc. (not altering text)

C55 S. 125 modified (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 24(5)**; S.I. 1991/2719, **art. 2**
S. 125 applied (*prosp.*) by 1996 c. 46, **s. 36(1)**
C56 S. 125 applied (11.5.2001) by 2001 c. 19, **s. 36(1)**

126 Colonies.

(1) This section shall have effect for the purposes of the application of this Act to the colonies.

(2) Any reference in this Act to a constable shall be construed as or as including a reference to a person having the powers of a constable within a colony.

(3) Any reference in this Act to a court of summary jurisdiction, . . . [F483] or to summary conviction shall be construed as a reference to a court exercising corresponding jurisdiction within a colony, to a judge or member of such a court or to conviction by such a court, as the case may be; and the reference in subsection (4) of section

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

one hundred and nine of this Act to **[**[F484]the [M66]Magistrates' Courts Act 1980**]**, shall be construed as a reference to any corresponding law of a colony.

(4) Any reference in this Act to a civil prison or to the governor of such a prison shall be construed as a reference to a prison or institution in which persons sentenced by a civil court in a colony may be confined, or to the governor, superintendent or other person in charge of such a prison or institution, as the case may be.

(5) In the application to a colony of any enactment contained in Part III of this Act providing for the imposition of a fine there shall, if the law of the colony so provides, be substituted for the fine specified in that enactment such higher or lower fine as may be provided by that law; and it shall be competent for the law of any colony to declare what amount of the local currency is to be treated as equivalent to the amount of money specified in any such enactment.

Textual Amendments

F483 Words repealed by Armed Forces Act 1966 (c. 45), **Sch. 5**

F484 Words substituted by virtue of Magistrates' Courts Act 1980 (c. 43), **Sch. 8 para. 5**

Modifications etc. (not altering text)

C57 S. 126 restricted by Federation of Malaya Independence Act 1957 (c. 60), s. 2(1), **Sch. 1 para. 2(1)**

Marginal Citations

M66 1980 c. 43.

127 Protectorates, protected states, trust territories and federated territories.

(1) This Act shall apply in relation to any of the following, that is to say—

(a) any territory under Her Majesty's protection;

(b) any territory for the time being administered by Her Majesty's Government in the United Kingdom under the trusteeship system of the United Nations;

(c) any country or territory consisting of two or more of any of the following units, namely colonies, territories under Her Majesty's protection or territories administered as aforesaid,

as it applies in relation to a colony; and references in this Act to Her Majesty's dominions shall be construed as including references to any such territory as is described in paragraph (a) or paragraph (b) of this subsection.

(2) Any reference in this Act to the law of a colony shall include, in relation to any two or more units described in paragraph (c) of subsection (1) of this section which are under a central legislature, references to law made by that legislature.

(3) . . . [F485]

Textual Amendments

F485 S. 127(3) repealed by Federation of Malaya Independence Act 1957 (c. 60), **Sch. 1 para. 2(1)**

128 . . . . . [F486]

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F486 S. 128 repealed by Armed Forces Act 1966 (c. 45), **Sch. 5**

Additional provisions as to forfeiture of pay and deductions from pay

[F487 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 **[**F488 by or under an Order in Council made under the Naval and Marine Pay and Pensions Act 1865**]**.

(2) **[**F489 Such an Order in Council**]** 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.

(3) Notwithstanding subsections (1) and (2) above, **[**F490 and without prejudice to the power conferred on Her Majesty in Council by section 3 of the said Act of 1865**]** 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.**]**

Textual Amendments

F487 Ss. 128A-128E inserted by Armed Forces Act 1971 (c. 33), **ss. 61(1)**, 78(4)(b)(5)

F488 Words substituted (*retrospectively*) by Armed Forces Act 1986 (c. 21, SIF 7:1),s. 16(1), Sch. 1 para. 9(1)(*a*)

F489 Words substituted (*retrospectively*) by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), **Sch. 1 para. 9(1)**(*b*)

F490 Words substituted (*retrospectively*) by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), **Sch. 1 para. 9(1)**(*c*)

Modifications etc. (not altering text)

C58 S. 128A(1) modified by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), **Sch. 1 para. 9(3)**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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, **[**[F491]may, at a time when the person responsible is subject to this Act, order him**]** 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 [M67]Army Act 1955 or the [M68]Air Force Act 1955) before a court-martial, the appropriate superior authority or the commanding officer of the person responsible, that person—

(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.

Textual Amendments

F491 Words in s. 128C(2) substituted (1.10.2001) by 2001 c. 19, s. 34, **Sch. 6 Pt. 6 para. 40**; S.I. 2001/3234, **art. 2** (subject to transitional provisions in art. 3)

Marginal Citations

M67 1955 c. 18.

M68 1955 c. 19.

128D Remission of deductions.

Any deduction imposed under section 128B or 128C above, or **[**[F492]by or under an Order in Council made under section 3 of the Naval and Marine Pay and Pensions Act 1865**]**, 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.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F492 Words substituted (*retrospectively*) by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), **Sch. 1 para. 9(2)**

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 [M69]Naval Forces (Enforcement of Maintenance Liabilities) Act 1947 or made by virtue of section 32(2)(b) of the [M70]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 [M71]Naval Forces (Enforcement of Maintenance Liabilities) Act 1947 shall not together exceed such proportion of his pay as the Defence Council may determine.

Marginal Citations

M69 1947 c. 24.
M70 1968 c. 20.
M71 1947 c. 24.

[[F493]128F Financial penalty enforcement orders.

(1) If—

(a) a financial penalty has been awarded against any person under this Act, and

[[F494](b) the penalty was—

(i) a fine awarded in respect of a qualifying offence (or in respect of such an offence together with other offences) on the conviction of a qualifying offence either of that person or of the person as whose parent or guardian that person is to pay the penalty; or

(ii) stoppages or a compensation order awarded in respect of a qualifying offence, (whether on the conviction of any person of the offence or on a request by any person for the offence to be taken into consideration); and]

(c) no term of imprisonment was imposed in default of payment, and

(d) no appeal is outstanding and the time provided for the giving of notice of appeal against the award has expired, and

(e) the whole or any part of the penalty remains unpaid or unrecovered, and

Status: Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.
Changes to legislation: Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(f) the person against whom the award was made is a person to whom this section applies,

the Defence Council or an officer authorised by them may make an order (in this section referred to as a "financial penalty enforcement order") for the registration of the penalty by the relevant court.

(2) This section applies to a person who

[F495F495(a)] is, or would be but for section 119 above, neither subject to service law nor a civilian to whom Parts I and II of this Act are applied by section 118 above, Part II of the [M72]Army Act 1955 is applied by section 209 of that Act or Part II of the [M73]Air Force Act 1955 is applied by section 209 of that Act. [[F495]or]

[F495(b) is subject to service law because he is a special member of a reserve force within the meaning of the Reserve Forces Act 1996.]

(3) In this section "qualifying offence" means

(a) an offence under section 14A above committed outside the United Kingdom and consisting of or including acts or omissions that would constitute a comparable foreign offence or a local road traffic offence;

(b) an offence under section 42 above;

(c) an offence under any provision of this Act other than section 42 above consisting of or including acts or omissions which would also constitute an offence under section 42 above;

and for the purposes of this definition—

"comparable foreign offence" means an offence under the civil law of any place outside the United Kingdom which is comparable to an offence under the law of England and Wales; and

"local road traffic offence" means an offence under the civil law of any place outside the United Kingdom relating to road traffic.

(4) A financial penalty enforcement order shall contain a certificate issued on behalf of the Defence Council or by an officer authorised by them and stating—

(a) that a financial penalty has been awarded against the person named in the order;

(b) that the conditions specified in paragraphs (b) to (f) of subsection (1) above are satisfied;

(c) the nature and amount of the penalty;

(d) the date on which and the [[F496]offence or offences] in respect of which it was awarded;

(e) if it was awarded against the person named in the order as the parent or guardian of some other person, the fact that it was so awarded and the name of that other person;

(f) sufficient particulars of the case (including particulars of any offences taken into consideration at the trial);

(g) the date of any payment or recovery of a sum on account of the penalty;

(h) the sum outstanding; and

(j) the authority to whom and address to which any stoppages or compensation included in the penalty will fall, on recovery, to be remitted under subsection (7) below.

(5) A document purporting to be a financial penalty enforcement order and to be signed on behalf of the Defence Council or by an officer authorised by them shall be deemed

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

to be such an order unless the contrary is proved, and a certificate under subsection (4) above shall be evidence of the matters stated.

(6) Subject to subsection (7) below, upon registration of a financial penalty enforcement order—

(a) service enforcement procedures shall cease to be available for the recovery of the sum certified as outstanding, and

(b) that sum shall be treated for all purposes as if it had been a fine imposed upon a conviction by the relevant court.

(7) Stoppages or compensation recovered under this section shall be remitted to the authority at the address specified in the certificate under subsection (4) above.

(8) Where it appears from a financial penalty enforcement order that the penalty was imposed in respect of more than one offence, it shall be deemed for the purposes of enforcement to be a single penalty only.

(9) Where—

(a) a financial penalty enforcement order has been made against any person, and

(b) he ceases to be a person to whom this section applies at a time when the whole or any part of the certified sum is still outstanding,

service enforcement procedures shall apply to the amount outstanding as if it were a sum payable by way of a fine imposed by a civil court.

(10) In this section—

"financial penalty" means—

(a) a fine, including a fine imposed by virtue of paragraph 13 of Schedule 4A below;

(b) stoppages;

(c) a compensation order imposed by virtue of paragraph 11 or 13 of Schedule 4A below; . . . [F497]

. . . [F497]

"the relevant court" means—

(a) the magistrates' court in England or Wales,

(b) the sheriff court in Scotland, or

(c) the court of summary jurisdiction in Northern Ireland,

within whose jurisdiction the person against whom a financial penalty enforcement order is made appears to the Defence Council or an officer authorised by them to reside or to be likely to reside;

"service enforcement procedures" means any procedure available by virtue of any of the following enactments, namely—

(a) section 128A and section 128B above; and

(b) sections 144, 146 and 209(4) and (4A) of the [M74]Army Act 1955 and the [M75]Air Force Act 1955;

"stoppages" has the meaning assigned to it by section 43(1)(l) above except that it does not include sums awarded by virtue of section 128C above.**]**

[[F498](11) Where a fine has been awarded together with stoppages or a compensation order, this section shall have effect in relation to the fine and to the stoppages or compensation order as if they were separate penalties.**]**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F493 S. 128F inserted by Armed Forces Act 1976 (c. 52), s. 16, Sch. 8 paras. 1, **3**

F494 S. 128F(1)(*b*) substituted by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), **Sch. 1 para. 7(2)**

F495 Sub-para. (a), Word and sub-para. (b) inserted (1.1.1999) in s. 128F (2) by S.I. 1998/3086, **art. 5(1)**

F496 Words substituted by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), **Sch. 1 para. 7(3)**

F497 "or" and paragraph(*d*) repealed by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(2), **Sch. 2**

F498 S. 128F(11) inserted by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), **Sch. 1 para. 7(4)**

Marginal Citations

M72 1955 c. 18.

M73 1955 c. 19.

M74 1955 c. 18.

M75 1955 c. 19.

[128G [F499]Avoidance of assignment of or charge on naval pay and pensions etc.

(1) Every assignment of or charge on, and every agreement to assign or charge, any pay, pensions, bounty, grants or other allowances in the nature thereof payable to any person in respect of his or any other person's service in Her Majesty's naval forces shall be void.

(2) Save as expressly provided by this Act, no order shall be made by any court the effect of which would be to restrain any person from receiving anything which by virtue of this section he is precluded from assigning and to direct payment thereof to another person.

(3) Nothing in this section—

(a) shall apply to the making or variation of attachment of earnings orders; or

(b) shall prejudice any enactment providing for the payment of any sum to a bankrupt's trustee in bankruptcy for distribution among creditors.

(4) In the application of this section to Northern Ireland at any time before the coming into operation of the Insolvency (Northern Ireland) Order 1989, for the reference in subsection (3) above to a bankrupt's trustee in bankruptcy there shall be substituted a reference to an assignee in bankruptcy.]

Textual Amendments

F499 S. 128G inserted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 16(1)(2)**; S.I. 1991/2719, **art. 2**

Modifications etc. (not altering text)

C59 S. 128G amended (1.1.1992) by Naval Pensions Act 1884 (c. 44), **s. 2** (as amended (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 16(3)**; S.I. 1991/2719, **art. 2**)

C60 S. 128G(1) and (2) excluded (1.8.1996) by 1995 c. 26, **ss. 166(5)(a)**, 167(4); S.I. 1996/1675, **art. 3**
S. 128G(1) and (2) excluded (1.8.1996) by S.I. 1995/3213 (NI 22), art. 162(4)(5)(a); S.R. 1996/284, **art. 3**

C61 S. 128G(1)(2) excluded (11.11.1999 for specified purposes otherwise 1.12.2000) by 1999 c. 30, **ss. 44(1)(a)**, 89(5); S.I. 2000/1047, art. 2(2)(d), **Sch. Pt. IV**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Miscellaneous provisions

129 Jurisdiction of civil courts.

(1) Where a person subject to this Act is acquitted or convicted of an offence on trial by a court-martial [F500]. . . , or on summary trial under **[**[F501]section 52D**]** of this Act, **[**[F502]or has had an offence committed by him taken into consideration by a court-martial [F503]. . . in sentencing him**]** a civil court shall be debarred from trying him subsequently **[**[F504]for the same, or substantially the same, offence**]**; but except as aforesaid nothing in this Act shall be construed as restricting the jurisdiction of any civil court to try a person subject to this Act for any offence.

(2) Where a person subject to this Act is acquitted or convicted of an offence on trial by a civil court **[**[F505]wherever situated**]****[**[F506]or has had an offence committed by him taken into consideration when being sentenced by a civil court in the United Kingdom**]**, he shall not subsequently be tried under this Act **[**[F504]for the same, or substantially the same, offence**]**; and no person **[**[F507]who has been so convicted or has had an offence committed by him so taken into consideration**]** shall, by reason of the conviction or the offence, be subjected to any loss or forfeiture of seniority or of rate, of privilege in respect of leave, or of pay or service (other than pay and service in respect of time spent in civil custody pending trial, or while attending his trial, or while serving any sentence of imprisonment, [F508]. . .detention in a Borstal institution or other detention awarded by the civil court):

Provided that nothing in this subsection shall affect the power to discharge any person from Her Majesty's service as a person whose services are no longer required; and notwithstanding anything in this subsection a rating who would otherwise be so discharged may, on his own application, be reverted in lieu of being so discharged.

Textual Amendments

F500 Words in s. 129(1) repealed (28.2.2002) by 2001 c. 19, s. 38, Sch. 7 Pt. 1; S.I. 2002/345, **art. 2** (subject to art. 3)

F501 Words in s. 129(1) substituted (1.4.1997 with saving) by 1996 c. 46, s. 5, **Sch. 1 Pt. IV para. 93**; S.I. 1997/304, **art. 2** (with art. 3)

F502 Words inserted by Armed Forces Act 1971 (c. 33), **s. 55(a)**

F503 Words in s. 129(1) repealed (28.2.2002) by 2001 c. 19, s. 38, Sch. 7 Pt. 1; S.I. 2002/345, **art. 2** (subject to art. 3)

F504 Words substituted by Armed Forces Act 1966 (c. 45), **s. 35(1)**

F505 Words inserted by Armed Forces Act 1966 (c. 45), **s. 35(2)**

F506 Words inserted by Armed Forces Act 1971 (c. 33), **s. 55(b)**

F507 Words substituted by Armed Forces Act 1971 (c. 33), **s. 55(b)**

F508 Words in s. 129(2) repealed (1.1.1992) by Armed Forces Act 1991 (c. 62), s. 26(1)(2), Sch. 2 para. 11(3), **Sch. 3**; S.I. 1991/2719, **art. 2**

[[F509]129A Exclusion of enactments requiring fiat of Attorney General etc. in connection with proceedings.

With the exception of **[**[F510]section 52(3)**]** of this Act, no enactment requiring the fiat or consent of the Attorney General or the Director of Public Prosecutions in connection with any proceedings shall have effect in relation to proceedings under this Act.**]**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F509 S. 129A inserted by Armed Forces Act 1971 (c. 33), **s. 45(2)**

F510 Words in s. 129A substituted (1.1.1992) by Armed Forces Act 1991 (c. 62), s. 26(1), **Sch. 2 para. 6(2)**; S.I. 1991/2719, **art. 2**

[F511 129B Proof of outcome of civil trial.

(1) Where a person subject to this Act has been tried before a civil court (whether at the time of the trial he was subject to this Act or not), a certificate signed by the **[**F512 proper officer**]** of the court stating all or any of the following matters—

(a) that the said person has been tried before the court for the offences specified in that certificate,

(b) the result of the trial,

(c) what judgment or order was given or made by the court,

(d) that other offences specified in the certificate were taken into consideration at the trial,

shall for the purposes of this Act be evidence of the matters stated in the certificate.

(2) The **[**F512 proper officer**]** of the court shall, if required by the commanding officer of the person in question or any other officer, furnish a certificate under this section, and shall be paid such fee as may be prescribed by regulations made by a Secretary of State.

(3) A document purporting to be a certificate under this section and to be signed by the **[**F512 proper officer**]** of the court shall, unless the contrary is shown, be deemed to be such a certificate.

[In this section "proper officer" means—

F513 (4) (a) in relation to a court of summary jurisdiction in England and Wales, the **[**F514 designated officer**]** for the court; and

(b) in relation to any other court, the clerk of the court, his deputy or any other person having the custody of the records of the court.**]]**

Textual Amendments

F511 Ss. 129B, 129C inserted by Armed Forces Act 1971 (c. 33), **s. 57(1)**

F512 Words in s. 129B(1)(2)(3) substituted (1.4.2001) by 1999 c. 22, s. 98, Sch. 13 paras. 22, **24(3)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)

F513 S. 129B(4) substituted (1.4.2001) by 1999 c. 22, s. 98, Sch. 13 paras. 22, **24(3)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)

F514 Words in s. 129B(4)(a) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, **Sch. 8 para. 97(b)**; S.I. 2005/910, **art. 3(y)**

129C Evidence of proceedings of court-martial.

(1) The original proceedings of a court-martial purporting to be signed by the judge advocate appointed for the purposes of the court and being in the custody of a Secretary of State or of any person having the lawful custody thereof shall be admissible in evidence on production from that custody.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) A document purporting to be a copy of the original proceedings of a court-martial or any part thereof and to be certified by a Secretary of State or any person authorised by him, or by any other person having the lawful custody of the proceedings, to be a true copy shall be evidence of the contents of the proceedings or the part to which the document relates, as the case may be.

(3) This section applies to evidence given in any court, whether civil or criminal and whether in the United Kingdom or in any colony.

[F515 129D Forfeiture of service for desertion, and restoration of forfeited service.

(1) Where a rating of Her Majesty's naval forces other than a reserve force is convicted of desertion, the period of his service as respects which he is convicted of having been a deserter shall be forfeited.

(2) Where any of a rating's service is forfeited by virtue of subsection (1) above, any provision governing his terms of service other than one relating to discharge by purchase shall apply to him, and he shall be liable to serve, in like manner as if the appropriate date were the date of his entry or, as the case may be, attestation and he had on the appropriate date been duly entered or enlisted to serve for the like term (both as respects duration and as respects liability to serve in Her Majesty's naval forces and any liability to serve in any reserve) as that for which he was in fact serving at the date of his conviction:

Provided that where at the date of his conviction the rating was serving a term ending with the expiration of the period beginning with the date of his attaining the age of eighteen years and he had attained that age when he was convicted (whether or not he had attained it when the offence was committed) the duration of the term for which he is liable to serve shall be equal to that period, and the time for which he is required to serve in Her Majesty's naval forces shall be reduced accordingly.

(3) In subsection (2) above "the appropriate date" means in relation to any person a date earlier than the date of his conviction for desertion by the length of his service which is not forfeited.

(4) The Defence Council may by regulations make provision for the restoration in whole or in part of any forfeited service to a rating in consideration of good service or on other grounds justifying the restoration of service forfeited; and any service restored to a rating under this subsection shall be credited to him for the purpose of determining for the purposes of any provision governing his terms of service the amount of service in Her Majesty's naval forces or in any reserve which he has served or is liable to serve.

(5) Nothing in this section shall apply to a person who deserts at a time when he is, under regulations made in pursuance of section 2 of the [M76] Armed Forces Act 1966 or under any enactment repealed by any such regulations, continued in service after twenty-two years' service.**]**

Textual Amendments

F515 S. 129D inserted by Armed Forces Act 1971 (c. 33), **ss. 65**, 78(4)(c)

Marginal Citations

M76 1966 c. 45.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F516 129E Provision as to age.

Where the age of any person at any time is material for the purposes of any provision of this Act regulating the powers of a court-martial, his age at the material time shall be deemed to be or to have been that which appears to the court, after considering any available evidence, to be or to have been his age at that time.]

Textual Amendments

F516 S. 129E inserted by Armed Forces Act 1976 (c. 52), **Sch. 9 para. 11**

130 Redress of complaints.

F517 . . . . . .

Textual Amendments

F517 S. 130 repealed (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 17**; S.I 2007/2913, {art. 3} (with art. 4(1)(2))

[F518 130A Indemnity for prison officers etc.

No action shall lie in respect of anything done by any person in pursuance of a sentence of imprisonment or detention awarded under this Act if the doing thereof would have been lawful but for a defect in any instrument made for the purposes of that sentence.]

Textual Amendments

F518 S. 130A inserted by Armed Forces Act 1971 (c. 33), **s. 71**

131 Ships under convoy.

(1) It is the duty of the master or other person for the time being in command of any vessel comprised in a convoy under the command of an officer of Her Majesty's naval forces, or of any person appointed in that behalf with the authority of [F519 the Defence Council], to obey, in all matters relating to the navigation or security of the convoy, any directions which may be given—

(a) where the convoy is escorted by any of Her Majesty's ships or vessels, by the commanding officer of any such ship or vessel;

(b) in any case, by the said officer or other person in command of the convoy,

and to take such precautions for avoiding the enemy as may be required by any such directions.

(2) If any such directions are not obeyed, any such commanding officer, or the said officer or other person in command of the convoy, may compel obedience by force of arms, and neither he nor any person acting under his orders shall be liable for any injury or loss of life or any damage to or loss of property resulting therefrom.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F519 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

Interpretation

132 Definitions of Her Majesty's ships, forces, etc.

(1) In this Act "Her Majesty's ships" means commissioned ships flying the white ensign, and "Her Majesty's vessels" means ships and vessels, other than Her Majesty's ships, engaged in the naval service of Her Majesty, whether belonging to Her Majesty or not; but "Her Majesty's ships" and "Her Majesty's vessels" do not include ships or vessels of a Commonwealth country or maintained by a colony, other than ships or vessels placed at the disposal of **[**[F520]the Defence Council**]** or placed at the disposal of Her Majesty for general service in the Royal Navy.

(2) In this Act "Her Majesty's naval establishments" means establishments **[**[F520]under the control of the Secretary of State and maintained for any purpose of the naval service**]**, whether within or without Her Majesty's dominions.

(3) Where persons subject to this Act are appointed or drafted to one of Her Majesty's ships or naval establishments for duty in any or any other of Her Majesty's ships, vessels or naval establishments, those persons shall be treated for the purposes of this Act as belonging to the ship or establishment to which they are appointed or drafted.

(4) In this Act "Her Majesty's aircraft" means aircraft in the service of Her Majesty, whether belonging to Her Majesty or not, but does not include aircraft belonging to a Commonwealth country or to any colony other than aircraft placed at the disposal of **[**[F520]the Defence Council**]** or placed at the disposal of Her Majesty for general service in the Royal Navy.

(5) In this Act "Her Majesty's naval forces" means the Royal Navy **[**[F521]. . ., [F522]. . .**]** the naval reserve forces (as defined by this section) and such of the marine forces, and of the naval forces of a Commonwealth country or raised under the law of any colony, as are for the time being subject to this Act.

(6) In this Act "Her Majesty's military forces" and "Her Majesty's air forces" include forces raised under the law of a colony but do not include the forces of any Commonwealth country.

[[F523](7) In this Act "the marine forces" means the Royal Marines, the Royal Marines Reserve and the Royal Fleet Reserve so far as it consists of **[**[F524]marine officers and persons who were transferred to that force from the Royal Marines or who enlisted as marines.**]]**.

[[F525](8) In this Act "naval reserve forces" means the Royal Fleet Reserve (except so far as it consists of marine officers and persons who were transferred from the Royal Marines or who enlisted as marines) and the Royal Naval Reserve.**]**

Textual Amendments

F520 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

F521 Words in s. 132(5) repealed (11.5.2001) by 2001 c. 19, ss. 34, 38, 39(3)(f)(g), Sch. 6 Pt. 5 para. 24, **Sch. 7 Pt. 6**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F522 Words in s. 132(5) repealed (1.10.1996) by 1996 c. 46, s. 135(2), **Sch. 7 Pt. III**; S.I. 1996/2474, art. 2, **Sch.**
F523 S. 132(7)(8) substituted by Armed Forces Act 1981 (c. 55), **s. 12**
F524 Words in s. 132(7) substituted (1.4.1997) by 1996 c. 14, s. 131(1), **Sch. 10 para. 13(a)** (with s. 72(5)); S.I. 1997/305, **art. 2**
F525 S. 132(8) substituted (1.4.1997) by 1996 c. 14, s. 131(1), **Sch. 10 para. 13(b)** (with s. 72(5)); S.I. 1997/305, **art. 2**

133 Definitions of officer, rating and superior officer.

(1) In this Act "officer", in relation to any of Her Majesty's naval forces, means a person of or above the rank of cadet, and in relation to any other forces means an officer of rank corresponding to the said rank or any superior rank.

[[F526](2) In this Act "rating" means a member of Her Majesty's naval forces of or below the rate of warrant officer; and any reference in this Act to a rating, or to a rating of any particular rate, shall include a reference to any warrant officer who is subject to this Act without being a member of those forces, and to any non-commissioned officer, marine, soldier or airman who is so subject, or, as the case may be, to any such warrant officer or non-commissioned officer of rank corresponding to that rate**]**.

(3) In this Act "superior officer", in relation to any person means an officer or a rating not below the rate of **[**[F527]leading seaman**]**, who is of rank or rate higher than that person, or senior to that person in the same rank or rate.

(4) Any reference in this Act to a specific rank or rate in Her Majesty's naval forces includes a reference to any other rank or rate in those forces which is equivalent to that rank or rate.

(5) In this Act "corresponding rank" in relation to any rank or rate in any of Her Majesty's naval, military or air forces, means such rank or rate in any other of those forces as may be declared by Queen's Regulations . . . [F528] for the time being in force to correspond therewith.

Textual Amendments
F526 S. 133(2) substituted by Armed Forces Act 1971 (c. 33), **Sch. 3 para. 5(4)**
F527 Words substituted by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 1 para. 2(4)**
F528 Words repealed by S.I. 1964/488, **Sch. 1 Pt. I**

134 Definition of active service.

[[F529](1)**]** For the purposes of this Act a force shall be deemed to be on active service when engaged in operations against an enemy, when situated in an area in which such operations are taking place, or when **[**[F530]engaged elsewhere than in the United Kingdom in operations**]** for the protection of life or property, and a person shall be deemed to be on active service when serving in or with a force which is on active service.

[[F531](2) Where any of Her Majesty's naval forces is serving outside the United Kingdom, and it appears to the appropriate authority that, by reason of the imminence of active service or of the recent existence of active service, it is necessary for the public service that the force should be deemed to be on active service, the appropriate authority may

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

declare that for such period, not exceeding three months, beginning with the coming into force of the declaration as may be specified therein that force shall be deemed to be on active service.

(3) Where it appears to the appropriate authority that it is necessary for the public service that the period specified in a declaration under subsection (2) above should be prolonged or, if previously prolonged under this subsection, should be further prolonged, the appropriate authority may declare that the said period shall be prolonged by such time, not exceeding three months, as may be specified in the declaration under this subsection.

(4) If at any time while any force is deemed to be on active service by virtue of the foregoing provisions of this section it appears to the appropriate authority that there is no necessity for the force to continue to be treated as being on active service, the appropriate authority may declare that as from the coming into operation of the declaration the force shall cease to be deemed to be on active service.

(5) Before any declaration is made under this section, the appropriate authority shall, unless satisfied that it is not possible to communicate with sufficient speed with the Secretary of State, obtain the consent of the Secretary of State to the declaration; and in any case where that consent has not been obtained before the making of a declaration under this section, the appropriate authority shall report the making thereof to the Secretary of State with the utmost practicable speed.

(6) The Secretary of State may, if he thinks fit, direct that any declaration whereby any force is deemed to be, or to continue, on active service shall cease to have effect as from the coming into force of the direction; but any direction under this subsection shall be without prejudice to anything done by virtue of the declaration before the coming into force of the direction.

(7) A declaration under this section shall have effect not only as respects the members of the force to which it relates but also as respects other persons the application to whom of any provisions of this Act depends on whether that force is on active service.

(8) In this section the expression "the appropriate authority" means, in relation to any force, the Commander-in-Chief or flag officer in operational command of that force.

(9) Any declaration or direction under this section shall come into operation on being published in local orders.**]**

Textual Amendments

F529 S. 134 re-numbered as s. 134(1) by Armed Forces Act 1971 (c. 33), **s. 74**

F530 Words substituted by Armed Forces Act 1971 (c. 33), **s. 74**

F531 S. 134(2)-(9) added by Armed Forces Act 1971 (c. 33), **s. 74**

135 General interpretation.

(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"aircraft" means any machine for flying, whether propelled by mechanical means or not, and includes any description of balloon;

"aircraft material" includes—

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) parts of, and components of or accessories for, aircraft, whether for the time being in aircraft or not;

(b) engines, armaments, ammunition and bombs and other missiles of any description in, or for use in, aircraft;

(c) any other gear, apparatus or instruments in, or for use in, aircraft;

(d) any apparatus used in connection with the taking-off or landing of aircraft or for detecting the movement of aircraft; and

(e) any fuel used for the propulsion of aircraft and any material used as a lubricant for aircraft or aircraft material;

"aircraft papers" has the meaning assigned to it by the [M77]Naval Prize Act 1864;

[[F532]"air signal" means any message, signal or indication given, by any means whatsoever, for the guidance of aircraft or a particular aircraft;

[[F533]"appropriate superior authority" means a person who may act as an appropriate superior authority by virtue of section 52EE of this Act;**]**

"before the enemy", in relation to a person, means that he is in action against the enemy or about to go into action against the enemy, or is under attack or threat of imminent attack by the enemy;**]**

"civil court" means a court of ordinary criminal jurisdiction but does not, except where otherwise expressly provided, include any such court outside Her Majesty's dominions;

"civil prison" means a prison in which a person sentenced by a civil court to imprisonment can be confined;

[[F534]"the commanding officer," in relation to a person charged with **[**[F535], or in custody in connection with,**]** an offence, has the meaning assigned to it by section 52E(1) of this Act;**]**

"committal order" means an order committing a person sentenced under this Act to imprisonment or detention to any establishment in which, by virtue of subsection (1) or (2) of section eighty-one of this Act, he may be confined during the term of the sentence:

[[F536]"Commonwealth country" means Canada, the Commonwealth of Australia, New Zealand, **[**[F537]South Africa,**]**India, **[**[F538]Pakistan,**]** Ceylon, Ghana, Malaysia, the Republic of Cyprus, Nigeria, Sierra Leone, Tanganyika, Jamaica, Trinidad and Tobago, Uganda, Kenya, Zanzibar, Malawi, Zambia, Malta, The Gambia, Guyana, Botswana, Lesotho, Singapore, Barbados, Mauritius, Swaziland, Tonga, Fiji, the Bahamas, Bangladesh, Grenada, Seychelles, Solomon Islands, Tuvalu, Dominica, Saint Lucia, Kiribati, Saint Vincent and the Grenadines, Papua New Guinea, Western Samoa, Nauru, the New Hebrides, Zimbabwe, Belize or Antigua and Barbuda **[**[F539]or Saint Christopher and Nevis**][**[F540]or Brunei or Maldives**][**[F541]or Namibia**][**[F542]or Cameroon or Mozambique**]]**

"constable" includes any person having powers corresponding with those of a constable **[**[F543]but does not include a provost officer or a person exercising authority under or on behalf of a provost officer**]**;

[[F534]"court administration officer" and "the court administration officer" have the meanings assigned to them by section 53A of this Act;**]**

"court-martial" means a court-martial under this Act;

[[F532]"damage" includes destruction, and references to damaging shall be construed accordingly;**]**

"decoration" includes medal, medal ribbon, clasp and good conduct badge;

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"desertion" has the meaning assigned to it by section fifteen of this Act, and "desert" shall be construed accordingly;

"enemy" includes all persons engaged in armed operations against Her Majesty's forces **[**[F544]or any forces co-operating therewith**]**, and also includes all armed mutineers, armed rebels, armed rioters and pirates;

"Governor", in relation to any colony, means the Governor-General, Governor or other officer, however styled, who is for the time being administering the government of the colony . . . [F545], but where two or more colonies or the parts of any colony are under local governments and also under a central government, references to the Governor shall be construed as references to the Governor-General, Governor or other officer, however styled, who is for the time being administering the central government;

[[F546]"handles" has the same meaning as in the [M78]Theft Act 1968**]**

[[F547]"Her Majesty's forces" includes forces raised under the law of a colony but does not include a force of any Commonwealth country**]**;

[[F548]"hospital order" has the meaning assigned to it by section 63A(6) of this Act;**]**

[[F534]"the judge advocate", in relation to a court-martial, has the meaning assigned to it by section 53B(1) of this Act;**]**

[[F549]"judicial officer" means a person appointed under section 47M of this Act;**]**

"mutiny" has the meaning assigned to it by section eight of this Act;

"naval detention quarters" means premises or vessels, or parts of premises or vessels, set apart by **[**[F550]the Defence Council**]** under subsection (1) of section eighty-two of this Act;

"prize court" means a prize court within the meaning of the [M79]Naval Prize Act 1864;

"property" includes real property in England and Wales or Northern Ireland, heritable property in Scotland and property outside the United Kingdom of the nature of real property;

[[F534]"the prosecuting authority" has the meaning assigned to it by section 52H(1) of this Act;**]**

"provost officer" means a naval provost marshal, an assistant to a naval provost marshal and any other officer being a provost officer within the meaning of the [M80]Army Act 1955, or the [M81]Air Force Act 1955;

"public or service property" means property belonging to any department of Her Majesty's Government in the United Kingdom or of the Government of Northern Ireland, or held for the purposes of any such department, and property belonging to or connected with Her Majesty's naval forces, the naval forces of any Commonwealth country or naval forces raised under the law of any colony, or any part of any of those forces;

[[F551]"Queen's Regulations" means the Queen's Regulations for the Royal Navy;**]**

[[F552]"the relevant time" in relation to a person arrested under section 45 of this Act, means the time of the arrest;**]**

[[F553]"restriction order" has the meaning assigned to it by section 63A(6) of this Act;**]**

[[F554]"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;**]**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"service law" has the meaning assigned by section eight of this Act;

"ship papers" has the meaning assigned to it by the [M82]Naval Prize Act 1864;

[[F555]"steals" has the same meaning as in the [M83]Theft Act 1968, and references to "stolen goods" shall be construed as if contained in that Act**]**

[[F556]"the summary appeal court" means the court established by section 52FF of this Act;**]**

[[F557]"supervision order" has the meaning assigned to it by section 63A(6) of this Act;**]**

(2) Any reference in this Act to an offence under Part I thereof includes a reference to a civil offence punishable on conviction thereunder by virtue of section forty-two of this Act.

[[F558](2A) References in this Act, in relation to any of the armed forces of the Crown, to an officer holding a commission include references to a person to whom a commission is required to be issued; and for the purposes of this Act, where a commission issued to any person takes effect from a date earlier than the date of its issue, that earlier date shall be conclusively presumed to be the date on which the requirement to issue the commission arose.**]**

(3) Any reference in this Act to an enactment is a reference thereto as amended by or under any subsequent enactment.

(4) Any power conferred by this Act to make an Order in Council or order shall include power to vary or revoke the Order in Council or order by a subsequent Order in Council or order.

(5) Any Order in Council, order or regulations made under this Act may make different provision for different circumstances or cases, or may make provision for particular circumstances or cases only.

Textual Amendments

F532 Definitions inserted by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 1 para. 2(5)**

F533 Definition of "appropriate superior authority" in s. 135(1) inserted (28.2.2002) by 2001 c. 19, s. 17, Sch. 1 para. 17; S.I. 2002/345, **art. 2** (subject to art. 3)

F534 Definitions in s. 135(1) inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. IV para. 94(a)-(d)**; S.I. 1997/304, **art. 2** (with art. 3)

F535 Words in definition of"the commanding officer" in s. 135(1) inserted (2.10.2000) by 2000 c. 4, s. 10, **Sch. 1 para. 11(a)**; S.I. 2000/2366, **art. 2**

F536 Definition of "Commonwealth country" printed as amended by enactments listed in Chronological Table of the Statutes, Belize Act 1981 (c. 52), **Sch. 2 para. 1** and S.I. 1981/1105, **Sch. para. 2(b)**

F537 Words in the definition in s. 135(1) inserted (23.3.1995) by 1995 c. 3, s. 1, **Sch.**

F538 Words inserted (*retrospectively*: 1.10.1989) by Pakistan Act 1990 (c. 14, SIF 26:30), s. 1, **Sch. para. 3**

F539 Words added by S.I. 1983/882, art. 5, **Sch. para. 1**

F540 Words added by Brunei and Maldives Act 1985 (c. 3, SIF 26:9A), s. 1, **Sch. para. 4**

F541 Words in s. 135(1) added (*retrospectively*: 21.3.1990) by Namibia Act 1991 (c. 4), ss. 1, 2(2), **Sch. para. 2**

F542 Words in s. 135(1) inserted (7.1.2003) by Commonwealth Act 2002 (c. 39), ss. 2, 4(2), **Sch. 2** {para. 1(c)}

F543 Words in the definition of "constable" in s. 135(1) inserted (1.10.2001) by 2001 c. 19, s. 34, **Sch. 6 Pt. 6 para. 49(c)**; S.I. 2001/3234, **art. 2** (subject to transitional provisions in art. 3)

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F544 Words inserted by Armed Forces Act 1966 (c. 45), **s. 36(2)**
F545 Words repealed by Zanibar Act 1963 (c. 55), **Sch. 3**
F546 Definition inserted by Theft Act 1968 (c. 60), **Sch. 2 Pt. II**
F547 Definition inserted by Armed Forces Act 1966 (c. 45), **s. 36(1)**
F548 Definition of "hospital order" in s. 135(1) inserted (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 26, 60, **Sch. 3 para. 5** (with Sch. 12 para. 8); S.I. 2005/579, **art. 3(b)**
F549 Definition of"judicial officer" in s. 135(1) inserted (2.10.2000) by 2000 c. 4, s. 10, **Sch. 1 para. 11(b)**; S.I. 2000/2366, **art. 2**
F550 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**
F551 Definition in s. 135(1) inserted (1.10.1996) by 1996 c. 46, s. 35(1), **Sch. 6 para. 12**; S.I. 1996/2474, **art. 2**
F552 Definition of"the relevant time" in s. 135(1) inserted (2.10.2000) by 2000 c. 4, s. 10, **Sch. 1 para. 11(c)**; S.I. 2000/2366, **art. 2**
F553 Definition of "restriction order" in s. 135(1) inserted (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 26, 60, **Sch. 3 para. 5** (with Sch. 12 para. 8); S.I. 2005/579, **art. 3(b)**
F554 Definition of "the Royal Air Force Police" in s. 135(1) inserted (1.10.2001) by 2001 c. 19, s. 34, **Sch. 6 Pt. 6 para. 46**; S.I. 2001/3234, **art. 2** (subject to transitional provisions in art. 3)
F555 Definition substituted by Theft Act 1968 (c. 60), **Sch. 2 Pt. II**
F556 Definition of"the summary appeal court" in s. 135(1) inserted (2.10.2000) by 2000 c. 4, s. 25, **Sch. 3 para. 24**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)
F557 Definition of "supervision order" in s. 135(1) inserted (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 26, 60, **Sch. 3 para. 5** (with Sch. 12 para. 8); S.I. 2005/579, **art. 3(b)**
F558 S. 135(2A) inserted (*retrospectively*) by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), **Sch. 1 para. 10(2)**

Marginal Citations

M77 1864 c. 25.
M78 1968 c. 60.
M79 1864 c. 25.
M80 1955 c. 18.
M81 1955 c. 19.
M82 1864 c. 25.
M83 1968 c. 60.

Supplemental

136 Minor amendments. [X3]

The enactments specified in the Fifth Schedule to this Act shall have effect subject to the amendments set out in the second column of that Schedule.

Editorial Information

X3 The text of s. 136 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

137 [X4]Repeals and transitional provisions.

(1) . . . [F559]

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Without prejudice to the provisions of **[**[F560]sections 16(1) and 17(2)(a) of the [M84]Interpretation Act 1978**]** (which relate to the effect of repeals) any reference in any enactment to the Naval Discipline Act or to any provision of that Act shall be construed as, or as including, a reference to this Act or the corresponding provision of this Act.

(3) . . . [F561]

Editorial Information
X4 Unreliable marginal note

Textual Amendments
F559 S. 137(1) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. XI**
F560 Words substituted by virtue of Interpretation Act 1978 (c. 30), **s. 25(2)**
F561 S. 137(3) repealed by Statute Law (Repeals) Act 1977 (c. 18), **Sch. 1 Pt. I**

Marginal Citations
M84 1978 c. 30.

138 Savings.

(1) Nothing in this Act shall take away, abridge or prejudicially affect any right, power or prerogative of Her Majesty in right of Her Crown or in right of Her Office of Admiralty.

(2) The provisions of this Act specifying the classes of persons who are subject thereto shall not affect the application of this Act to any person to whom it applies by virtue of the [M85]Coastguard Act 1925.

Marginal Citations
M85 1925 c. 88.

139 Short title and commencement.

(1) This Act may be cited as the Naval Discipline Act 1957.

(2) This Act shall come into force on such date as Her Majesty may by Order in Council appoint.

Subordinate Legislation Made
P1 1.1.1959 appointed under s. 139(2) by S.I. 1958/1952 (1958 II, p. 2119)

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULES

FIRST SCHEDULE

Section 112.

APPLICATION OF ACT TO MARINE FORCES

[F562 1 The following paragraph shall be substituted for paragraph (h) of section 43(1) of this Act:—

"(h) reduction to the ranks or any less reduction in rank."]

Textual Amendments

F562 Paras. 1, 2 substituted by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 1 para. 2(6)**

2 For the references to disrating in subsection (4) of the said section 43 there shall be substituted references to reduction to the ranks, and subsection (5) of that section shall not apply.

3 Notwithstanding anything in section two hundred and one of the [M86]Army Act 1955, a sentence of reduction to the ranks or any less reduction in rank may be awarded in the case of an offender tried under [F563]section 52D] of this Act.

Textual Amendments

F563 Words in Sch. 1 para. 3 substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. IV para. 95**; S.I. 1997/304, **art. 2** (with art. 3)

Marginal Citations

M86 1955 c. 18.

4 In subsection (2) of section fifty-two of this Act, for the words "after he ceased to be subject thereto" there shall be substituted the words "next after the earliest date on which he is no longer subject to service law".

SECOND SCHEDULE

Section 113.

APPLICATION OF ACT TO ATTACHED MILITARY AND AIR FORCES

1, 2 . . . [F564]

Textual Amendments

F564 Sch. 2 paras. 1, 2 repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

[F565 3 The following paragraph shall be substituted for paragraph (h) of section 43(1) of this Act:—

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"(h) reduction to the ranks or any less reduction in rank."**]**

Textual Amendments
F565 Para. 3, substituted by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 1 para. 2(7)**

4 . . . [F566]

Textual Amendments
F566 Sch. 2 para. 4 repealed by Armed Forces Act 1966 (c. 45), **Sch. 5**

[[F567]5 For the references to disrating in subsection (4) of the said section 43 there shall be substituted references to reduction to the ranks, and subsection (5) of that section shall not apply.**]**

Textual Amendments
F567 Para. 5 substituted by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 1 para. 2(7)**

6 Notwithstanding anything in section two hundred and one of the [M87]Army Act 1955, or the [M88]Air Force Act 1955, a sentence of reduction to the ranks or any less reduction in rank may be awarded in the case of an offender tried under **[**[F568]section 52D**]**of this Act.

Textual Amendments
F568 Words in Sch. 2 para. 6 substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. IV para. 96(a)**; S.I. 1997/304, **art. 2** (with art. 3)

Marginal Citations
M87 1955 c. 18.
M88 1955 c. 19.

7 In subsection (1) of **[**section 52G**]**, the reference to an officer of Her Majesty's naval forces below the rank of commander shall be construed as a reference to an officer of the regular forces or the regular air force of corresponding rank; and in relation to the trial of such an officer **[**[F569]subsection (5)**]**of that section shall have effect as if the reference to officers of Her Majesty's naval forces included a reference to officers of the regular forces or of the regular air force, as the case may be.

Textual Amendments
F569 Words in Sch. 2 para. 7 substituted (1.4.1997) by 1996 c. 46, s. 5, **Sch. 1 Pt. IV para. 96(b)**; S.I. 1997/304, **art. 2** (with art. 3)

8 In relation to the trial of a member of the regular forces or of the regular air force, section fifty-four shall have effect:—

(a) as if the officers described in subsection (1) included officers of those forces or of that force, as the case may be;

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) as if any other reference in that section to a specified naval rank included a reference to the corresponding military or air-force rank.

9 In subsection (2) of section fifty-two of this Act, for the words "after he ceased to be subject thereto" there shall be substituted the words "next after the earliest date on which he is no longer subject to service law".

10 Any reference in this Act to the uniform of any of Her Majesty's naval forces, or to illegal absence from any of those forces, shall be construed as a reference to the uniform of, or to illegal absence from, any of the regular forces, or the regular air force, as the case may be.

11 . . . [F570]

Textual Amendments

F570 Sch. 2 para. 11 repealed by S.I. 1964/488, **Sch. 1 Pt. I**

THIRD SCHEDULE

Section 118.

[[F571]PERSONS SUBJECT TO ACT OUTSIDE THE UNITED KINGDOM]

Textual Amendments

F571 Heading substituted by Armed Forces Act 1976 (c. 52), **Sch. 9 para. 13**

1 Persons serving Her Majesty, or otherwise employed, in such capacities connected with Her Majesty's naval, military or air forces as may be specified for the purposes of this Schedule by regulations made by [[F572]the Defence Council], being persons serving or employed under Her Majesty's Government in the United Kingdom.

Textual Amendments

F572 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

2 Persons who are employed by, or in the service of, any naval, military or air force organisation so specified to which Her Majesty's government in the United Kingdom is a party and are employed by or in the service of that organisation by reason of that government being a party thereto.

3 Persons belonging to or employed by any other organisation so specified which operates in connection with Her Majesty's naval, military or air forces.

4 Persons who, for the purposes of their profession [[F573], business] or employment, are attached to or accompany any of Her Majesty's naval, military or air forces in pursuance of an authorisation granted by or on behalf of [[F574]the Defence Council], . . . [F575][[F576]or by an officer authorised by the Defence Council].

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F573 Words in Sch. 3 para. 4 inserted (1.10.2001) by 2001 c. 19, s. 34, **Sch. 6 Pt. 6 para. 45(a)**; S.I. 2001/3234, **art. 2** (subject to transitional provisions in art. 3)

F574 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

F575 Words repealed by S.I. 1964/488, **Sch. 1 Pt. I**

F576 Words in Sch. 3 para. 4 inserted (1.10.2001) by 2001 c. 19, s. 34, **Sch. 6 Pt. 6 para. 45(b)**; S.I. 2001/3234, **art. 2** (subject to transitional provisions in art. 3)

5 Persons forming part of the family of members of any of Her Majesty's naval, military or air forces and residing with them or about to reside or departing after residing with them.

6 Persons forming part of the family of persons falling within paragraphs 1 to 4 of this Schedule and residing with them or about to reside or departing after residing with them.

7 Persons employed by members of any of Her Majesty's naval, military or air forces.

8 Persons employed by persons falling within paragraphs 1 to 6 of this Schedule.

9 Persons forming part of the family of persons falling within paragraph 7 or paragraph 8 of this Schedule and residing with them or about to reside or departing after residing with them.

FOURTH SCHEDULE

Section 118.

APPLICATION OF ACT TO CERTAIN CIVILIANS

1 In the application of any enactment contained in Part I of this Act to a person to whom it applies by virtue of section one hundred and eighteen of this Act—

(a) for any reference to dismissal with disgrace from Her Majesty's service there shall be substituted a reference to imprisonment for a term not exceeding two years; and

(b) for any reference to dismissal from Her Majesty's service (not being dismissal with disgrace) there shall be substituted a reference to a fine,

[[F577]and in relation to such persons—

(i) paragraphs (e) to (m) of section 43(1) above shall be omitted; and

(ii) paragraph 15 of Schedule 4A below shall have effect in substitution for the words in that subsection from "and references in this Act" to the end.**]**

Textual Amendments

F577 Words substituted by Armed Forces Act 1976 (c. 52), **Sch. 9 para. 14(a)**

2 . . . [F578]

Textual Amendments

F578 Sch. 4 para. 2 repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

3 Any person found committing an offence for which he is liable to be tried by virtue of the said section one hundred and eighteen, or alleged to have committed or reasonably suspected of having committed such an offence, may be arrested by a provost officer, by any officer or person legally exercising authority under a provost officer or on his behalf, or by or on the orders of any officer subject to this Act; and subsection (3) of section forty-five of this Act shall apply to the powers of arrest conferred by this paragraph as it applies to the powers conferred by that section.

[[F579]3A In relation to persons to whom Part II of this Act applies by virtue of section 118 of this Act, sections 47A to 47E of this Act shall have effect with the substitution of references to paragraph 3 of this Schedule for references to section 45 of this Act.**]**

Textual Amendments

F579 Sch. 4 paras. 3A, 3B inserted (2.10.2000) by 2000 c. 4, s. 10, **Sch. 1 para. 12**; S.I. 2000/2366, **art. 2**

[F580]3B In relation to such persons—

(a) section 47K(2)(b) of this Act shall have effect with the omission of the words from the beginning to "(5) of this Act", and

(b) section 47L(6) of this Act shall have effect with the omission of paragraph (a).

Textual Amendments

F580 Sch. 4 paras. 3A, 3B inserted (2.10.2000) by 2000 c. 4, s. 10, **Sch. 1 para. 12**; S.I. 2000/2366, **art. 2**

4 In relation to a person liable to be tried as aforesaid, **[**[F581]section 52D**]**of this Act shall apply as it applies in relation to a rating, but subject to the following modifications:—

(a) the officer empowered to try and punish an offence in accordance with the said **[**section 52D**]** shall be such officer as may be determined by or under regulations made by **[**[F582]the Defence Council**]** for the purposes of this paragraph, [F583]. . .;

(b) the punishment which may be awarded under that section shall in the case of any offence be a fine not exceeding **[**[F584] £100**]**, and no other punishment shall be so awarded.

Textual Amendments

F581 Words in Sch. 4 para. 4 substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. IV para. 97(a)**; S.I. 1997/304, **art. 2** (with art. 3)

F582 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

F583 Words in Sch. 4 para. 4 repealed (1.4.1997 with savings) by 1996 c. 46, ss. 5, 35(2), Sch. 1 Pt. IV para. 97(b), **Sch. 7 Pt. I**; S.I. 1997/304, **art. 2** (with art. 3)

F584 Words substituted by Armed Forces Act 1981 c. 55, **Sch. 1 para. 1**

[[F585]4A For the purposes of section 52(2) of this Act a person shall be deemed not to have ceased to be a person to whom this Act applies by virtue of section 118(2) of this Act if he has so ceased by reason only of one or both of the following, namely—

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the fact that he has ceased to be within the limits of a command within whose limits he continues to have his ordinary residence or to serve or to be employed;

(b) the fact that there has been an interruption of his residence with a family of persons whose place of residence continues to be his home.**]**

Textual Amendments

F585 Sch. 4 para. 4A inserted by Armed Forces Act 1986 (c. 21, SIF 7:1), **s. 8(2)–(4)**

[F586]4B . . . . . .

Textual Amendments

F586 Sch. 4 para. 4B repealed (1.10.2001) by 2001 c. 19, ss. 34, 38, Sch. 6 Pt. 6 para. 51, **Sch. 7 Pt. 7**; S.I. 2001/3234, **art. 2** (subject to transitional provisions in art. 3)

[[F587]4C(1) Where the summary appeal court hears an appeal brought by any person to whom this Act applies by virtue of section 118 of this Act and the court would otherwise include two officers qualified under section 52FH of this Act for membership of the court, the court may include in place of either or both of them a corresponding number of persons who are in the service of the Crown and are persons to whom this Act applies by virtue of section 118.

(2) References in Part II of this Act to the officers qualified under section 52FH for membership of the summary appeal court shall be construed as including references to persons who are members of that court by virtue of sub-paragraph (1) of this paragraph.**]**

Textual Amendments

F587 Sch. 4 para. 4C inserted (2.10.2000) by 2000 c. 4, s. 25, **Sch. 3 para. 18**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

[[F588]5 Section 129B above shall apply to a person to whom this Act applies by virtue of section 118 above, as it applies to a person subject to this Act.**]**

Textual Amendments

F588 Para. 5 added by Armed Forces Act 1976 (c. 52), **Sch. 9 para. 14(b)**

[[F589]SCHEDULE 4A**]**

POWERS OF COURT ON TRIAL OF CIVILIAN

Textual Amendments

F589 Sch. 4A inserted by Armed Forces Act 1976 (c. 52), Sch. 4 paras. 1, **3**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Modifications etc. (not altering text)

C62 Sch. 4A excluded (1.5.2004) by Sexual Offences Act 2003 (c. 42), **s. 134(1)(d)(2)(3)**; S.I. 2004/874, **art. 2**; S.S.I. 2004/138, **art. 2**

General

1 The powers conferred by this Schedule shall be exercisable on the trial of a person (in this Schedule referred to as a "civilian") to whom Parts I and II of this Act are applied by section 118 above.

2 (1) In this Schedule—

"community supervision order" has the meaning assigned to it by paragraph 4(2) below;

"compensation order" has the meaning assigned to it by paragraph 11(1) below;

"the court" means a court-martial;

"custodial order" has the meaning assigned to it by paragraph 10(1) below;

"local authority in England and Wales" means the council of a non-metropolitan county, a metropolitan district or a London borough or the Common Council of the City of London;

"local authority in Scotland" means a regional or islands council;

"order for absolute discharge" means an order under paragraph 3 below discharging a person absolutely;

"order for conditional discharge" means an order under that paragraph discharging a person subject to a condition;

"period of conditional discharge" means the period specified in an order for conditional discharge;

"prescribed" means prescribed by regulations under paragraph 17 below;

"" F590 . . .

"the Services Acts" means this Act, the [M89]Army Act 1955 and the [M90]Air Force Act 1955; and

"Standing Civilian Court" means a Standing Civilian Court established under the [M91]Armed Forces Act 1976;

"supervision period" and "supervisor" have the meanings assigned to them by paragraph 4(2) below.

(2) A parent or guardian is a service parent or guardian for the purposes of this Schedule if—

(a) he is subject to service law, or

(b) Parts I and II of this Act are applied to him by section 118 above, or

(c) Part II of the [M92]Army Act 1955 is applied to him by section 209 of that Act, or

(d) Part II of the [M93]Air Force Act 1955 is applied to him by section 209 of that Act.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F590 Sch. 4A para. 2 (definition of "reception order") repealed (1.1.1992) by Armed Forces Act 1991 (c. 62), ss. 6(a), 26(2), **Sch. 3**; S.I. 1991/2719, **art. 2** (subject to a saving in art. 3(1) of S.I. 1991/2719 insofar as affecting any reception order made on or before 31.12.1991)

Marginal Citations

M89 1955 c. 18.
M90 1955 c. 19.
M91 1976 c. 52.
M92 1955 c. 18.
M93 1955 c. 19.

Absolute and conditional discharge

3 (1) The court by which a civilian is found guilty of an offence (not being an offence the sentence for which is fixed by law **[**[F591] or falls to be imposed under section 42(1A) above**]**) may make an order discharging him absolutely, or, if the court thinks fit, discharging him subject to the condition that, during such period, not exceeding 3 years from the date of the order, as may be specified in the order, he commits no offence that may be tried by court-martial under any of the Services Acts or by a Standing Civilian Court.

(2) If a court-martial under any of the Services Acts finds a person in whose case an order for conditional discharge has been made guilty of an offence committed during the period of conditional discharge, the court-martial may deal with him for the offence for which the order was made in any manner in which the court which made the order could deal with him if it had just found him guilty of that offence.

(3) If a Standing Civilian Court finds such a person guilty of an offence committed during the period of conditional discharge, the Standing Civilian Court may deal with him for the offence for which the order was made in any manner in which such a court could deal with him if it had just found him guilty of that offence.

(4) Before making an order for conditional discharge the court shall explain to the offender in ordinary language that if he commits another offence during the period of conditional discharge he will be liable to be sentenced for the original offence.

Textual Amendments

F591 Words in Sch. 4A para. 3(1) inserted (1.10.1997) by 1997 c. 43, s. 55(2), **Sch. 4 para. 3(4)**; S.I. 1997/2200, **art. 2**

Community supervision orders

4 (1) Subject to sub-paragraph (4) below, where a civilian . . . [F592] is found guilty of an offence and the court is of opinion that, having regard to the circumstances, including the nature of the offence and the character of the offender, it is expedient that he should undergo a period of supervision, the court may make an order directing him to comply during a specified period not exceeding **[**[F593]three years**]** with the reasonable requirements of a specified person nominated in the prescribed manner.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) In this Schedule—

"community supervision order" means an order under this paragraph;

"supervision period" means the period specified in a community supervision order; and

"supervisor" means a person with whose requirements a community supervision order for the time being requires compliance on the part of the person subject to it.

(3) The court making a community supervision order may include in it direction to the person who is to be subject to it to comply during the whole or any specified part of the supervision period with such requirements of any prescribed description as the court, having regard to the circumstances, considers will be beneficial for him.

(4) Before making a community supervision order the court—

(a) shall explain in ordinary language to the person who is to be subject to it the effect of such an order and the consequences under sub-paragraphs (6) to (10) below of breach of any requirement imposed by virtue of sub-paragraph (1) or (3) above, and

(b) shall obtain his consent and, if he is under 17 years of age, the consent of his parent or guardian, to the making of the order and to the inclusion in it of any requirement by virtue of sub-paragraph (3) above.

(5) If the court makes a community supervision order against any person on finding him guilty of an offence, it may not make any other order except a compensation order in respect of his conviction for that offence.

(6) If a person subject to a community supervision order fails without reasonable excuse to comply with any requirement reasonably imposed by his supervisor or with any requirement included in the order by virtue of sub-paragraph (3) above, he shall be guilty of an offence triable by court-martial.

(7) Any such offence shall be treated as if it were an offence against a provision of **[**[F594]Part I**]** of this Act.

[[F595](7A) Without prejudice to any other power of arrest, a person found committing an offence under sub-paragraph (6) above or alleged to have committed or reasonably suspected of having committed any such offence, may be arrested by a provost officer, by any officer or person legally exercising authority under a provost officer or on his behalf, or by or on the orders of any officer subject to this Act.

(7B) The power of arrest given to any person by sub-paragraph (7A) above may be exercised either personally or by ordering into arrest the person to be arrested or by giving orders for that person's arrest.

(7C) A person shall not be arrested by virtue of sub-paragraph (7A) above after the end of a period of 6 months beginning with the end of the supervision period.

(7D) No proceedings shall be taken against a person for an offence under sub-paragraph (6) above unless the trial is begun within 6 months after the end of the supervision period.**]**

[[F596](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.**]**

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(8) If a court-martial under any of the Services Acts finds a person guilty of any offence (including an offence under sub-paragraph (6) above) committed during a supervision period, the court-martial may deal with him for the offence for which the community supervision order was made in any manner in which the court which made the order could deal with him if it had just found him guilty of that offence.

(9) If a Standing Civilian Court finds a person guilty of any offence (including an offence under sub-paragraph (6) above) committed during a supervision period, the Standing Civilian Court may deal with him for the offence for which the community supervision order was made in any manner in which such a court could deal with him if it had just found him guilty of it.

(10) If the court finds a person guilty of an offence under sub-paragraph (6) above, it may, instead of dealing with him for the offence for which the community supervision order was made, impose a fine not exceeding **[**[F597]£1,000**]** upon him.

(11) An officer authorised by the Defence Council—

(a) may discharge a community supervision order or modify such an order in any way which in his opinion does not increase its severity, and

(b) may replace a supervisor by specifying a new supervisor nominated in the prescribed manner.

(12) The powers conferred by sub-paragraph (11)(a) above are without prejudice to any of the powers of a [F598]. . . reviewing authority.

Textual Amendments

F592 Words repealed by Armed Forces Act 1986 (c. 21, SIF 7:1), ss. 10(1), 16(2), **Sch. 2**

F593 Words in Sch. 4A para. 4(1) substituted (1.4.1997 with savings) by 1996 c. 46, s. 10, **Sch. 3 para. 3(2)**; S.I. 1997/304, **art. 2** (with art. 3)

F594 Words in Sch. 4A para. 4(7) substituted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 12(2)**; S.I. 1991/2719, **art. 2**

F595 Sch. 4A para. 4(7A)-(7D) inserted (1.4.1997 with savings) by 1996 c. 46, s. 10, **Sch. 3 para. 3(3)**; S.I. 1997/304, **art. 2** (with art. 3)

F596 Sch. 4A para. 4(7E) inserted (1.10.2001) by 2001 c. 19, s. 34, **Sch. 6 Pt. 6 para. 53**; S.I. 2001/3234, **art. 2** (subject to transitional provisions in art. 3)

F597 Words in Sch. 4A para. 4(10) substituted (1.4.1997 with savings) by 1996 c. 46, s. 10, **Sch. 3 para. 3(4)**; S.I. 1997/304, **art. 2** (with art. 3)

F598 Words in Sch. 4A para. 4(12) repealed (1.4.1997 with savings) by 1996 c. 46, s. 35(2), **Sch. 7 Pt. II**; S.I. 1997/304, **art. 2** (with art. 3)

Modifications etc. (not altering text)

C63 Sch. 4A para. 4 power to exclude conferred by Criminal Justice Act 1988 (c. 33, SIF 39:1), **s. 50(4)(a)**

Absolute and conditional discharge and community supervision orders—supplementary

5 (1) If upon finding a person guilty of an offence the court makes in respect of that offence—

(a) an order for his absolute discharge, or

(b) an order for his conditional discharge, or

(c) a community supervision order,

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

he shall be deemed not to have been convicted of the offence except—

(i) where the order was an order for conditional discharge or a community supervision order, for the purposes of paragraph 3(2) or (3) or 4(8) or (9) above, as the case may be, and

(ii) in all cases, for the purposes specified in sub-paragraph (2) below.

(2) The purposes mentioned in sub-paragraph (1)(ii) above are the purposes—

(a) of the proceedings in which the order is made,

(b) of any [F599]. . . review of these proceedings,

(c) of any appeal against conviction in those proceedings, and

(d) of the [M94]Rehabilitation of Offenders Act 1974 **[**[F600]or of the [M95]Rehabilitation of Offenders (Northern Ireland) Order 1978**]**.

(3) Sub-paragraph (1) above shall not affect—

(a) any right of a person in respect of whom an order for absolute or conditional discharge or a community supervision order was made to rely on his conviction in bar of any subsequent proceedings for the same offence; or

(b) the restoration of any property in consequence of the conviction.

(4) No appeal shall lie against any such order.

(5) If a person is dealt with for an offence for which an order for conditional discharge or a community supervision order was made, the original order shall cease to have effect.

(6) The powers conferred by paragraphs 3(2) and (3) and 4(8) and (9) above to deal with an offence for which an order for conditional discharge or a community supervision order has been made are without prejudice to any power of the court to deal with an offence, whenever committed, other than the offence for which the order in question was made.

Textual Amendments

F599 Words in Sch. 4A para. 5(2)(b) repealed (1.4.1997) by 1996 c. 46, s. 35(2), **Sch. 7 Pt. II**; S.I. 1997/304, **art. 2** (with art. 3)

F600 Words added by S.I. 1978/1908 (N.I. 27), **art. 4(5)**

Marginal Citations

M94 1974 c. 53.

M95 1978/1908 (N.I. 27).

Reception orders and committal into care—general

[F601]6 . . . . . .

Textual Amendments

F601 Sch. 4A para. 6 repealed (1.1.1992) by Armed Forces Act 1991 (c. 62), ss. 6(b), 26(2), **Sch. 3**; S.I. 1991/2719, **art. 2** (subject to a saving in art. 3(1) of S.I. 1991/2719 insofar as affecting any reception order made on or before 31.12.1991)

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Committal into care—England and Wales

[F602]7 . . . . . .

Textual Amendments

F602 Sch. 4A para. 7 repealed (1.1.1992) by Armed Forces Act 1991 (c. 62), ss. 6(b), 26(2), **Sch. 3**; S.I. 1991/2719, **art. 2** (subject to a saving in art. 3(1) of S.I. 1991/2719 insofar as affecting any reception order made on or before 31.12.1991)

Committal into care—transfer to Scotland

[F603]8 . . . . . .

Textual Amendments

F603 Sch. 4A para. 8 repealed (1.1.1992) by Armed Forces Act 1991 (c. 62), ss. 6(b), 26(2), **Sch. 3**; S.I. 1991/2719, **art. 2** (subject to a saving in art. 3(1) of S.I. 1991/2719 insofar as affecting any reception order made on or before 31.12.1991)

Committal into care—transfer to Northern Ireland

[F604]9 . . . . . .

Textual Amendments

F604 Sch. 4A para. 9 repealed (1.1.1992) by Armed Forces Act 1991 (c. 62), ss. 6(b), 26(2), **Sch. 3**; S.I. 1991/2719, **art. 2** (subject to saving in art. 3(1) of S.I. 1991/2719 insofar as affecting any reception order made on or before 31.12.1991)

Custodial orders

10 (1) Where a civilian who has attained **[**[F605]the minimum age**]** but is under 21 years of age is found guilty of an offence punishable under this Act with imprisonment, the court shall have power, **[**[F606]subject to **[**[F607]sub-paragraphs (1A) and (1AA) below**]]**, to make an order (in this Schedule referred to as a "custodial order") committing him to be **[**[F608]detained for a period, to be specified in the order, which—

(a) shall be not less than the appropriate minimum period, that is to say—

(i) in the case of an offender who has attained the age of 18, the period of 21 days; or

(ii) in the case of an offender who is under 18 years of age, the period of two months; and

(b) shall not exceed the maximum period for which he could have been sentenced to imprisonment if he had attained the age of 21; and in this sub-paragraph**]**[[F609]" the minimum age", in relation to a male offender, means 15 years of age and, in relation to a female offender, means 17 years of age.**]**

[[F610](1A) [F611]. . . **[**[F612F611]. . . the court shall not make a custodial order committing an offender under **[**[F613]18 years**]** of age to be detained for a period which exceeds twelve months or

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

for a period such that the continuous period for which he is committed to be detained under that order and any one or more other custodial orders exceeds twelve months.**]**

[The court may not make a custodial order unless it is satisfied—

[F614](1AA) (a) 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

(b) that he qualifies for a custodial sentence.

(1AB) 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.**]**

[F610](1B) For the purposes of determining whether **[**[F615]it is satified as mentioned in paragraphs (a) and (b) of sub-paragraph (1AA) above with respect to an offender**]** 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 mental and physical condition.**]**

(2) Before making a custodial order, the court shall consider any report made in respect of the offender by or on behalf of the Secretary of State.

(3) The court shall give a copy of any such report to the offender or any person representing him.

[[F616](3A) Where the court makes a custodial order it shall be its duty—

(a) 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 sub-paragraph (1AB) above, the paragraph or paragraphs in question, and why it is so satisfied; and

(b) to explain to the offender in open court and in ordinary language why it is passing a custodial sentence on him.

(3B) Where the court makes a custodial order and, in accordance with its duty under sub-paragraph (3A) above, makes the statement required by paragraph (a) of that sub-paragraph, the matters stated shall be specified in the committal order**]**

[[F617](4) 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 be removed to the United Kingdom.

(4A) 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 paragraph.**]**

(5) 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.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[[F618](5A) The following provisions of this Act shall apply in the case of a sentence under a custodial order as they apply in the case of a sentence of imprisonment, that is to say—

(a) sections 85(1), 86(1) and (3) and 92(1); 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 81, 82, 87, 88, 104, 119 and 130A;

and, accordingly, references in those provisions to a sentence of imprisonment shall include for the purposes of this sub-paragraph references to a sentence under a custodial order.**]**

(6) In this paragraph "appropriate institution" means—

[[F619](a) where the offender is **[**[F620]in or**]** removed to England or Wales, any institution in which a person sentenced to detention in a young offender institution could be detained, **[**[F621]section 98 of the Powers of Criminal Courts (Sentencing) Act 2000**]** having effect in relation to the offender as it has effect in relation to an offender sentenced to detention in a young offender institution;**]**

[[F622](b) where the offender is **[**[F620]in or**]** removed to Scotland, a young offenders institution;**]**

[[F623](c) where the offender is **[**[F620]in or**]** removed to Northern Ireland,

[if the offender is a male person who is under the age of 17 years, a [F624](i) remand home; and

(ii) in any other case, a young offenders centre;**]**;**]**

and in sub-paragraph (4) above "enactment", in relation to an offender who is removed to Northern Ireland, includes an enactment of the Parliament of Northern Ireland and a Measure of the Northern Ireland Assembly.

[[F625](6A) **[**[F626]Section 65 of the Criminal Justice Act 1991**]**(release of young offenders) shall apply to persons released from a term of detention under a custodial order as it applies to persons released from **[**[F627]a sentence of detention in a young offender institution**]**.**]**

[F628](6B) . . . . . .

Textual Amendments

F605 Words substituted by Armed Forces Act 1986 (c. 21, SIF 7:1), **s. 11(1)**(*a*)(6)

F606 Words substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, **Sch. 8 para. 7**(*a*)(i)

F607 Words in Sch. 4A para. 10(1) substituted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 5(1)(2)(a)(9)**; S.I. 1991/2719, **art. 2**

F608 Words in Sch. 4A para. 10(1) substituted (1.10.1992 for E.W.) by Criminal Justice Act 1991 (c. 53), ss. 71, 102(2)(8), **Sch. 9 para. 8(a)**; S.I. 1992/333, arts. 2(2), 3(1), **Sch. 2**.

F609 Words inserted by Armed Forces Act 1986 (c. 21, SIF 7:1), **s. 11(1)**(*b*)(6)

F610 Sch. 4A para. 10(1A)(1B) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, **Sch. 8 para. 7**(*b*)

F611 Words in Sch. 4A para. 10(1A) repealed (1.1.1992) by Armed Forces Act 1991 (c. 62), ss. 5(1)(3), 26(2), **Sch. 3**; S.I. 1991/2719, **art. 2**

F612 Words inserted by Armed Forces Act 1986 (c. 21, SIF 7:1), **s. 11(2)(6)**

F613 Words in Sch. 4A para. 10(1A) substituted (1.10.1992 as regards England and Wales) by Criminal Justice Act 1991 (c. 53), ss. 71, 102(2)(8), **Sch. 9 para. 8(b)**; S.I. 1992/333, arts. 2(2), 3(1), **Sch. 2**.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F614 Sch. 4A para. 10(1AA)(1AB) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 5(1)(4)**; S.I. 1991/2719, **art. 2**

F615 Words in Sch. 4A para. 10(1B) substituted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 5(1)(5)**; S.I. 1991/2719, **art. 2**

F616 Sch. 4A para. 10(3A)(3B) substituted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 5(1)(6)(10)**; S.I. 1991/2719, **art. 2**

F617 Sch. 4A para. 10(4)(4A) substituted (1.1.1992) for para. 10(4) by Armed Forces Act 1991 (c. 62), **s. 5(1)(7)**; S.I. 1991/2719, **art. 2**

F618 Sch. 4A para. 10(5A) substituted by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), **Sch. 1 para. 5(6)**

F619 Sch. 4A para. 10(6)(*a*) commencing "where the offender is removed to England or Wales, any institution" substituted (E.W.) for sub-paragraph (6)(*a*) commencing "where the offender is removed to England or Wales–(i)" by virtue of Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 123(6), **Sch. 8 para. 5(b)**

F620 Words in Sch. 4A para. 10(6)(a)-(c) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 5(1)(8)**; S.I. 1991/2719, **art. 2**

F621 Words in Sch. 4A para. 10(6)(a) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 22**

F622 Sch. 4A para. 10(6)(*b*) commencing "where the offender is removed to Scotland, a young" substituted (S.) for para. 10(6)(*b*) commencing "where the offender is removed to Scotland–(i)" by virtue of Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 124(4), **Sch. 9 para. 3(b)**

F623 Para. 10(6)(c) substituted by S.I. 1980/1088, **art. 3**

F624 Words substituted by Armed Forces Act 1986 (c. 21, SIF 7:1), **s. 11(4)(6)**

F625 Sch. 4A para. 10(6A) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, **Sch. 8 para. 7(e)**

F626 Words in Sch. 4A para. 10(6A) substituted (1.10.1992 for E.W.) by Criminal Justice Act 1991 (c. 53), ss. 71, 102(2)(8), **Sch. 9 para. 8(c)**; S.I. 1992/333, arts. 2(2), 3(1), **Sch. 2**

F627 Words in Sch. 4A para. 10(6A) substituted (1.10.1988) by 1988 c. 33, s. 123, Sch. 8 Pt. I paras. 1, **2**; S.I. 1988/1408, art. 2(1), **Sch.**

F628 Sch. 4A para. 10(6B) repealed (1.10.1993) by 1993 c. 9, ss. 47(3), 48(7), **Sch. 7 Pt. I** (with Sch. 6 paras. 1, 2); S.I. 1993/2050, **art. 3(4)**

Compensation orders

11 (1) The court, on finding a civilian guilty of an offence, may, on application or otherwise (and whether or not it makes any other order), make an order (in this Schedule referred to as a "compensation order") requiring him to pay such sum as appears to the court to be just as or towards compensation for any **[**[F629]personal injury, loss or damage**]** resulting from the offence or any other offence taken into consideration in determining sentence.

[[F630](1A) Unless the Secretary of State by order provides that this sub-paragraph shall no longer apply, the sum specified in a compensation order made for any personal injury shall not exceed such sum as is for the time being specified in paragraph 11(2) of Schedule 5A to the Army Act 1955 or such larger sum as may for the time being be specified by an order made by the Secretary of State; and the power to make an order under this sub-paragraph shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.**]**

(3) In the case of an offence of unlawfully obtaining any property (whether by stealing it, handling it or otherwise), where the property in question is recovered, any damage to the property occurring while it was out of the owner's possession shall be treated for the purposes of this paragraph as having resulted from the offence, however and by whomsoever the damage was caused.

(4) No compensation order shall be made in respect of loss suffered by the dependants of a person in consequence of his death [F631]. . ..

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F632(4A) A compensation order may only be made in respect of injury, loss or damage which was due to an accident arising out of the presence of a motor vehicle on a road if—

(a) it is in respect of damage which is treated by sub-paragraph (3) above as resulting from an offence of unlawfully obtaining any property; or

(b) it is in respect of injury, loss or damage as respects which—

(i) the offender is uninsured in relation to the use of the vehicle; and

(ii) compensation is not payable under any arrangements specified by the Secretary of State for the purposes of this paragraph;

and, where a compensation order is made in respect of injury, loss or damage due to such an accident, the amount to be paid may include an amount representing the whole or part of any loss of or reduction in preferential rates of insurance attributable to the accident.

(4B) For the purposes of sub-paragraph (4A) above, a person is not uninsured in relation to the use of a vehicle if—

(a) the vehicle is in the public service of the Crown; or

(b) the use of the vehicle is exempted from insurance by section 144 of the Road Traffic Act 1988 or paragraph (2) or paragraph (3) of Article 90 of the Road Traffic (Northern Ireland) Order 1981.]

(5) In determining whether to make a compensation order against any person, and in determining the amount to be paid by any person under such an order, the court shall have regard to his means so far as they appear or are known to the court.

[F633(6) Where the court considers—

(a) that it would be appropriate both to impose a fine and to make a compensation order, but

(b) that the person concerned has insufficient means to pay both an appropriate fine and appropriate compensation,

the court shall give preference to compensation (though it may impose a fine as well).]

Textual Amendments

F629 Words in Sch. 4A para. 11(1) substituted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 9(2)**; S.I. 1991/2719, **art. 2**

F630 Sch. 4A para. 11(1A) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 9(6)**; S.I. 1991/2719, **art. 2**

F631 Words in Sch. 4A para. 11(4) repealed (1.1.1992) by Armed Forces Act 1991 (c. 62), ss. 9(4), 26(2), **Sch. 3**; S.I. 1991/2719, **art. 2**

F632 Sch. 4A para. 11(4A)(4B) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 9(4)**; S.I. 1991/2719, **art. 2**

F633 Sch. 4A para. 11(6) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62), **s. 9(5)**, S.I. 1991/2719, art. 2

12 (1) The operation of a compensation order made by a court-martial shall be suspended—

(a) in any case until the end of the period specified under Part II of the M96Courts-Martial (Appeals) Act 1968 as the period within which an application for leave to appeal must be lodged; and

(b) if such an application is duly lodged, until either the application is finally refused or it is withdrawn or the appeal is determined or abandoned.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) Where a compensation order has been made against any person in respect of an offence taken into consideration in determining his sentence—
(a) the order shall cease to have effect if he successfully petitions or appeals against his conviction of the offence or all the offences of which he was convicted in the proceedings in which the order was made; and
(b) he may petition or appeal against the order as if it were part of the sentence imposed for the offence in respect of which it was made.

Marginal Citations
M96 1968 c. 20.

Imposition of fines on and making of compensation orders against parents and guardians

13 [F634(1) Where—
(a) a civilian under 17 years of age is found guilty of any offence; and
(b) the court is of the opinion that the case would best be met (whether or not in conjunction with any other punishment) by the exercise of any power of the court to impose a fine in respect of the offence or to make a compensation order in respect of the offence or any other offence taken into consideration in determining sentence,

it shall be the duty of the court to order that the fine or compensation awarded be paid by any parent or guardian of his who is a service parent or guardian, instead of by the person himself, unless the court is satisfied—
(i) that the parent or guardian cannot be found; or
(ii) that it would be unreasonable to make an order for payment, having regard to the circumstances of the case.

(2) An order under this paragraph may be made against the parent or guardian if—
(a) he has been required to attend in the manner prescribed by [F635rules] under section 58 of this Act, and
(b) he has failed to do so,

but, save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.]

[F636(3) A parent or guardian on or against whom a fine has been imposed or compensation order made under this paragraph may present a petition in accordance with [F637section 70(1)] of this Act against sentence or may appeal against sentence in accordance with section 8 of the M97Courts-Martial (Appeals) Act 1968 as if he had been convicted of and sentenced for the offence by the court-martial.]

(4) If a parent or guardian against whom a fine is so imposed or an order so made—
(a) is subject to this Act, or
(b) is a member of the regular forces, as defined by section 225(1) of the M98Army Act 1955, or
(c) is a member of the regular air force, as defined by section 223(1) of the M99Air Force Act 1955,

any sum which he is liable to pay, in so far as not otherwise paid by him, may be deducted from his pay.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[[F638](5) In this paragraph "guardian", in relation to an offender, includes any individual who, in the court's opinion, had at the time of the offence care or control of the offender.**]**

Textual Amendments

F634 Sch. 4A para. 13(1)(2) substituted by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), **Sch. 1 para. 12(2)**

F635 Word in Sch. 4A para. 13(2)(a) substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. IV para. 98**; S.I. 1997/304, **art. 2** (with art. 3)

F636 Para. 13(3) substituted by Armed Forces Act 1981 (c. 55), **Sch. 1 para. 3(7)**

F637 Words in Sch. 4A para. 13(3) substituted (1.4.1997 with savings) by 1996 c. 46, s. 35(1), **Sch. 6 para. 8**; S.I. 1997/304, **art. 2** (with art. 3)

F638 Para. 13(5) inserted by Armed Forces Act 1981 (c. 55), **Sch. 1 para. 3(8)**

Marginal Citations

M97 1968 c. 20.

M98 1955 c. 18.

M99 1955 c. 19.

Orders requiring parents or guardians to enter into recognisance

14 (1) Subject to sub-paragraph (2) below, where a civilian under 17 years of age is found guilty of any offence, the court may make an order requiring any parent or guardian of his who is a service parent or guardian to enter into a recognisance for an amount not exceeding **[**[F639]£1,000**]** for a period not exceeding one year to exercise proper control over him.

(2) The power conferred by sub-paragraph (1) above shall not be exercisable unless the parent or guardian consents.

(3) Before making an order in the exercise of that power the court shall explain to the parent or guardian in ordinary language that if the offender is found guilty by court-martial under any of the Services Acts or by a Standing Civilian Court of another offence committed during the period specified in the order, his recognisance may be forfeited under sub-paragraph (4) below.

(4) If a person whose parent or guardian has entered into a recognisance under this paragraph is found guilty by court-martial under any of the Services Acts or by a Standing Civilian Court of any offence committed within the period specified in the order, the recognisance or any part of it may in the prescribed manner be declared to be forfeited (without prejudice to any power of the court to punish the offender or to make any other order against him or an order against his parent or guardian under this paragraph or paragraph 13 above) and the person bound by it adjudged, subject to subparagraphs (5) and (6) below, to pay the sum in which he is bound or any lesser sum.

(5) No declaration may be made except against a person who is a service parent or guardian when it is made.

(6) No declaration may be made against any person without giving him an opportunity of being heard unless—

(a) he has been required in the manner prescribed by **[**[F640]rules**]** under section 58 above to attend the court, and

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) he has failed to do so.

(7) Payment of any sum adjudged to be paid under this paragraph shall be enforceable as if it were a fine imposed for an offence against section 42 above.

(8) No appeal shall lie from an order or declaration under this paragraph.

[[F641](9) In this paragraph "guardian", in relation to an offender, includes any individual who, in the court's opinion. has control of the offender.**]**

Textual Amendments

F639 Words in Sch. 4A para. 14(1) substituted (1.1.1992) by Armed Forces Act 1991 (c. 62), s. 26(1), **Sch. 2 para. 7**; S.I. 1991/2719, **art. 2**

F640 Word in Sch. 4A para. 14(6)(a) substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. IV para. 98**; S.I. 1997/304, **art. 2** (with art. 3)

F641 Para. 14(9) inserted by Armed Forces Act 1981 (c. 55), **Sch. 1 para. 3(9)**

Modifications etc. (not altering text)

C64 Power to amend para. 14(1) conferred by Magistrates' Courts Act 1980 (c. 43, SIF 82), **s. 143(1)(2)**(*h*) (as substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 48(1)**(*a*)(*b*)(iii))

Scale of punishments and orders

15 (1) In their application to civilians, references in this Act to any punishment authorised by this Act are, subject to sub-paragraphs (4) to (7) below and to the limitation imposed in any particular case by the addition of the word "less", references to any one or more of the punishments that may be awarded to civilians under this Act or of the orders that may be made against them under it.

(2) For the purposes of Part I of this Act—

(a) a punishment or order specified in any paragraph of one of the columns in the Table below shall be treated as less than any punishments or orders specified in the paragraphs preceding that paragraph and greater than those specified in the paragraphs following it; and

(b) a fine on or compensation order against an offender's parent or guardian shall be treated as involving the same degree of punishment as a fine of the same amount on the offender or, as the case may be, a compensation order of the same amount against him.

(3) In the Table—

(a) the first column applies in the case of a person who at the date of his conviction had attained 21 years of age;

(b) the second column applies in the case of a person who at the date of his conviction had attained 17 years of age but was under 21 years of age; and

(c) the third column applies in the case of a person who at the date of his conviction was under 17 years of age.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Table

GRADING OF PUNISHMENTS AND ORDERS

Offender 21 or over	***Offender17 but und er 21***	***Offender under 17***
1. [F642] . . .	1. [F642] . . .	1. Detention as the Secretary of State may direct.
		[[F643]1A. Custodial order.**]**
2. Imprisonment.	2.Custody for life	2. [F644] . . ..
3. Fine.	3. Custodial order.	3. Fine.
[[F645]3A. Community supervision order.**]**		
4.	4. Fine.	4.
5.	5.	5.
6.	6.	6.
7.	7.	
8.	8.	

Note. In the application of the above Table—

(a) to a person convicted of murder **[**[F646]or any other offence the sentence for which is fixed by law as life imprisonment**]** who was under 18 years of age when the offence was committed, [F647]. . .

[F647](b) . . . . . .

[F647]. . . a reference to detention during Her Majesty's pleasure shall be substituted—

(i) for the reference to **[**[F648]a custodial order**]** in the second column, and

(ii) for the reference to detention as the Secretary of State may direct in the third column.

(4) No order requiring the giving of a consent or the making of an explanation may be made on any [F649]. . ., review [F649]. . . of a sentence or any appeal against a sentence without the consent being given or the explanation made.

(5) If a community supervision order is made on any such [F649]. . ., review, [F649]. . . or appeal, no other order may be made except a compensation order.

(6) Where an order under paragraph 13 or 14 above was made at the trial, no other order under either of those paragraphs may be substituted for it on any such [F649]. . ., review, [F649]. . . or appeal.

(7) Where—

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) on the trial of any person an order might have been made against his parent or guardian under paragraph 13 or 14 above, and

(b) there is power, on [F649]. . ., review, [F649]. . . or appeal, to substitute a fine or compensation order for the order made on the trial,

that power shall include—

(i) power to substitute a fine or compensation order of an equal or smaller amount under paragraph 13 above, and

(ii) power to make an order under paragraph 14 above which is not of greater severity, in the opinion of the person to whom it falls to exercise the power, than the order made on the trial.

Textual Amendments

F642 Words in Sch. 4A para. 15 Table repealed (11.5.2001) by 2001 c. 19, ss. 38, 39(3)(g), **Sch. 7 Pt. 4**

F643 Entry inserted by Armed Forces Act 1986 (c. 21, SIF 7:1), **s. 11(5)(6)**

F644 Words in Sch. 4A para. 15(3), Table, Column 3 para. 2 repealed (1.1.1992) by Armed Forces Act 1991 (c. 62), s. 26(2), **Sch. 3**; S.I. 1991/2719, **art. 2**

F645 Entry inserted by Armed Forces Act 1986 (c. 21, SIF 7:1), **s. 10(2)**

F646 Words in sub-para. (a) of note to table in Sch. 4A para. 15(3) inserted (30.11.2000 with effect as mentioned in Sch. 7 para. 32(4)) by 2000 c. 43, ss. 74, 80(3), **Sch. 7 Pt. II para. 32(3)(c)(ii)**

F647 Sch. 4A para. 15: para. (b) and words in the Note to the Table repealed (11.5.2001) by 2001 c. 19, s. 38, **Sch. 7 Pt. 4**

F648 Words in sub-para. (b)(i) of note to table in Sch. 4A para. 15(3) substituted (*prosp.*) by 2000 c. 43, ss. 74, 80(1), **Sch. 7 Pt. II para. 32(3)(c)(ii)**

F649 Words in Sch. 4A para. 15(4)-(7) repealed (1.4.1997 with savings) by 1996 c. 46, s. 35(2), **Sch. 7 Pt. II**; S.I. 1997/304, **art. 2** (with art. 3)

Indemnity for persons carrying out orders under Schedule

16 No action shall lie in respect of anything done by any person in pursuance of an order under this Schedule if the doing thereof would have been lawful but for a defect in any instrument made for the purposes of that order.

Regulations

17 (1) The Secretary of State may by regulations make provision supplementary or incidental to the provisions of this Schedule.

(2) The power to make regulations conferred by this paragraph includes power to make provision for specified cases or classes of cases, and for the purpose of any such orders classes of cases may be defined by reference to any circumstances specified in the regulations.

(3) The power to make such regulations shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[X5]FIFTH SCHEDULE

Section 136.

MINOR AMENDMENTS

Editorial Information

X5 The text of Sch. 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Enactment	Amendment
. . . F650	. . . F650
The Army Act, 1955, 2 & 3 Eliz. 2. c. 18.	In section fifty-seven, in subsection (3), F651 . . . after the words "the Naval Discipline Act" there shall be inserted the words "and to a court-martial held in pursuance of". In section seventy-four, in subsection (4), the words "petty officer or" shall be omitted and, after the words "non-commissioned officer", in the first place where those words occur, there shall be inserted the words "or rating". In the Seventh Schedule, in paragraph 12 for the words "good conduct badges" there shall be substituted the words "good conduct medal or good conduct badges or both"; and after paragraph 12 there shall be inserted the following paragraph:— " 12A. Section seventy-eight shall have effect as if in subsection (3) the following paragraph were inserted after paragraph (d): — "(dd) forfeiture of good conduct medal or good conduct badges or both". "
The Air Force Act, 1955, 3 & 4 Eliz. 2. c. 19.	In section fifty-seven, in subsection (3), F652 . . . after the words "the Naval Discipline Act" there shall be inserted the words "and to a court-martial held in pursuance of". In section seventy-four, in subsection (4), the words "petty officer or" shall be omitted and, after the words "non-commissioneed officer", in the first place where those words occur, there shall be inserted the words "or rating".

Status: *Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F650 Entries repealed by Armed Forces Act 1966 (c. 45), **Sch. 5**, Courts-Martial (Appeals) Act 1968 (c. 20), **Sch. 6** and by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

F651 Words in Sch. 5 repealed (28.2.2002) by 2001 c. 19, s. 38, Sch. 7 Pt. 1; S.I. 2002/345, **art. 2** (subject to art. 3)

F652 Words in Sch. 5 repealed (28.2.2002) by 2001 c. 19, s. 38, Sch. 7 Pt. 1; S.I. 2002/345, **art. 2** (subject to art. 3)

SIXTH SCHEDULE

. . . **F653**

Textual Amendments

F653 Sch. 6 repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. XI**

SEVENTH SCHEDULE

. . . **F654**

Textual Amendments

F654 Sch. 7 repealed by Statute Law (Repeals) Act 1977 (c. 18), **Sch. 1 Pt. I**

Status:
Point in time view as at 01/01/2008. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:
Naval Discipline Act 1957 (repealed) is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.