



Army and Air Force Act 1961

1961 CHAPTER 52

*Amendments as to Discipline, &c, applicable
alike to Army Act, 1955, and Air Force Act, 1955*

18 Change of circumstances for award of field punishment and forfeiture of pay

(1) The circumstances in which field punishment may be awarded to a warrant officer, non-commissioned officer, soldier or airman by sentence of a court-martial under the Army Act, 1955, or the Air Force Act, 1955, for an offence and the punishment of forfeiture of pay may be so awarded or may, under either Act, be awarded by a commanding officer to a soldier or airman for an offence shall, instead of being that the offence was committed on active service (as provided, in the case of field punishment, by subsection (1) of section seventy-three of each of those Acts and, in the case of forfeiture of pay, by paragraph (b) of subsection (2) of section seventy-two thereof and paragraph (c) of subsection (3) of section seventy-eight thereof), be that the offender is on active service at the time at which the sentence of the court is announced or, as the case may be, the commanding officer's award is made; and forfeiture of pay shall, when awarded by sentence of a court-martial, instead of being treated for the purposes of Part II of each of those Acts as less than severe reprimand or reprimand (which are specified in paragraph (i) of the said subsection (2)) be so treated as greater than those punishments but less than the punishments specified in paragraphs (a) to (h) of that subsection.

(2) Accordingly.—

(a) the said Acts shall each be amended as follows:—

(i) in subsection (2) of section seventy-two, after paragraph (e) thereof, there shall be inserted the following paragraph:—

“(ee) where the offender is on active service on the day of the sentence, field punishment for a period not exceeding ninety days”;

(ii) in the said subsection (2), after paragraph (h) thereof, there shall be inserted the following paragraph:—

“(hh) where the offender is on active service on the day of the sentence, forfeiture of pay for a period beginning

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with the day of the sentence and not exceeding ninety days”;

and paragraph (j) shall be omitted;

(iii) in subsection (6) of (the said section seventy-two, for the words " or detention ", there shall be substituted the words " detention or field punishment " ;

(iv) for subsection (8) of the said section seventy-two, there shall be substituted the following subsection:—

“(8) Where an offender is on active service when sentence of a court-martial is announced, forfeiture of pay may be awarded in addition to field punishment and, in a case where he is a warrant officer or non-commissioned officer, severe reprimand or reprimand may be awarded in addition to forfeiture of pay”;

(v) subsection (1) of section seventy-three shall be omitted;

(b) subsection (3) of section seventy-eight of the Army Act, 1955, shall be amended as follows:—

(i) after paragraph (a) thereof, there shall be inserted the following paragraph:—

“(aa) if the accused is a soldier who is on active service on the day of the sentence, forfeiture of pay for a period beginning with the day of the sentence and not exceeding twenty-eight days”;

(ii) paragraph (c) shall be omitted ; and

(c) subsection (3) of section seventy-eight of the Air Force Act, 1955, shall be amended as follows:—

(i) after paragraph (a) thereof, there shall be inserted the following paragraph:—

“(aa) if the accused is an airman Who is on active service on the day of the sentence, forfeiture of pay for a period beginning with the day of the sentence and not exceeding twenty-eight days”;

(ii) paragraph (c) shall be omitted.

19 Forfeiture of sums from pay by way of punishment

(1) The following provisions of this section shall have effect for the purpose of permitting the imposition, on persons found guilty under the Army Act, 1955, or the Air Force Act, 1955 (which Acts are hereafter in this section referred to as " the Acts ") of offences, of (punishment consisting in the forfeiture of sums from their pay.

(2) Section seventy-one of each of the Acts (punishment of officers) shall be amended—

(a) by the insertion, in subsection (2) (scale of punishments), after paragraph (e) thereof, of the following paragraph:—

“(ee) forfeiture of a sum from pay”;

(b) by the addition, at the end of subsection (6) (power to award severe reprimand or reprimand in addition to forfeiture of seniority of rank), of the words " or forfeiture of a sum from pay ".

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- (3) Section seventy-two of each of the Acts (punishment of other ranks) shall be amended—
- (a) by the insertion, in subsection (2) (scale of punishments), after the paragraph directed to be inserted therein by sub-paragraph (ii) of paragraph (a) of subsection (2) of the last foregoing section, of the following paragraph:—

“(hhh) forfeiture of a sum from pay”;
 - (b) by the addition, at the end of subsection (7) (power to award, to warrant officer or non-commissioned officer, severe reprimand or reprimand in addition to forfeiture of seniority of rank), of the words "or forfeiture of a sum from pay ".
- (4) Section seventy-eight of each of the Acts (mode of dealing with charge against non-commissioned officer, soldier or airman after commanding officer's investigation) shall be amended—
- (a) by the insertion, in subsection (3) (permissible punishments), after the paragraph directed to be inserted therein by paragraph (b) of subsection (2) of the last foregoing section in the case of the Army Act, 1955, and by paragraph (c) of that subsection in the case of the Air Force Act, 1955, of the following paragraph:—

“(aaa) forfeiture of a sum from pay”;
 - (b) by the substitution, for the proviso to the said subsection (3) (no forfeiture of pay or minor punishment to be awarded for an offence for which detention is awarded), of the following proviso:—

“Provided that no forfeiture of pay, forfeiture of a sum from pay or minor punishment shall be awarded for an offence for which detention is awarded, and that no forfeiture of a sum from pay shall be awarded for an offence for which field punishment or forfeiture of pay is awarded”.
- (5) Section seventy-nine of each of the Acts (mode of dealing with charge against officer or warrant officer after commanding officer's investigation), shall be amended—
- (a) by the insertion, in subsection (5) (permissible punishments), after paragraph (a) thereof, of the following paragraph:—

“(aa) forfeiture of a sum from pay”;
 - (b) by the addition, at the end of that subsection, of the words " except that he may not award both forfeiture of seniority of rank and forfeiture of a sum from pay";
 - (c) by the insertion, in subsection (6) (accused to be afforded opportunity of being tried by court-martial where, inter alia, appropriate superior authority to whom charge is referred determines that if it is dealt with summarily he will award forfeiture of seniority or stoppages), of the words " forfeiture of a sum from pay " , after the words " forfeiture of seniority " .
- (6) The amount of the sum that may be forfeited under either of the Acts from an offender's pay by way of punishment for an offence other than one against section seventy (civil offences) of either of them shall not exceed the aggregate of fourteen days' pay, and the amount of the sum that may be so forfeited by way of punishment for an offence against section seventy of either of the Acts—
- (a) in any case, shall not exceed the aggregate of fourteen days' pay;
 - (b) where the civil offence constituting the offence against that section is punishable by a civil court in England only on summary conviction and is so

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punishable by a fine of a maximum amount less than the said aggregate, shall not exceed that maximum;

- (c) 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 said aggregate (whether or not it is also punishable on summary conviction), shall not exceed that maximum.

- (7) For the purposes of this section a day's pay shall, as regards a person found guilty of an offence, be deemed to be the gross pay that is, or would (apart from any forfeiture) be, issuable to that person in respect of the day on which punishment is awarded in respect of the offence.

20 Furnishing the enemy with things likely to assist him

Subsection (1) of section twenty-four of the Army Act, 1955 (which specifies the offences, which, when committed by a person subject to military law with intent to assist the enemy, are punishable with death or any other punishment provided by that Act), shall have effect with the substitution, for paragraph (d) thereof (furnishing the enemy with arms or ammunitions or with supplies of any description) of the following paragraph:—

- “(d) furnishes the enemy with arms or ammunition or with supplies of any description or with any other thing likely to assist him (whether similar to any of the things aforesaid or not), or”;

and subsection (1) of section twenty-four of the Air Force Act 1955 (which makes provision corresponding to that of subsection (1) of section twenty-four of the Army Act, 1955), shall have effect with a similar substitution.

21 Penalisation of receiving proceeds of stolen, &c, property

In the following provisions, that is to say, paragraph (b) of section forty-four and paragraph (b) of section forty-five of the Army Act, 1955, and paragraph (b) of subsection (1) of section forty-four and paragraph (b) of section forty-five of the Air Force Act, 1955 (which penalise receiving certain property knowing it to have been stolen or fraudulently misapplied), any reference to property shall include not only a reference to such property as has been originally in the possession or control of any person, but also any property into or for which that property has been converted or exchanged, and anything acquired by a conversion or exchange of that property, whether immediately or otherwise.

22 Power of commanding officer as to reduction in acting rank

Subsection (4) of section seventy-eight of the Army Act, 1955, and subsection (4) of section seventy-eight of the Air Force Act, 1955 (power of commanding officer, where he finds-acting warrant officer or non-commissioned officer guilty of an offence and awards no other punishment or no other punishment except stoppages, to order the accused to revert to his. permanent rank), shall each be amended by the addition, at the end thereof, of the words " or to assume an acting rank lower than that held by him but higher than his permanent rank " .

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23 Repeal of prohibition of dismissal of certain charges referred to higher authority

Subsection (2) of section eighty of the Army Act, 1955, and subsection (2) of section eighty of the Air Force Act, 1955 (which prohibit the reference back, for dismissal, of & charge referred to higher authority with a view to its being tried by court-martial where the accused has elected to be so tried and has not withdrawn his election) shall cease to have effect.

24 Extension of admissibility of statutory declaration in evidence

At the end of paragraph (b) of the proviso to subsection (2) of section ninety-nine of the Army Act, 1955, and of paragraph (b) of the proviso to subsection (2) of section ninety-nine of the Air Force Act, 1955 (by virtue of which provisos the admission in evidence in proceedings before a court-martial of a statutory declaration put forward by the defence is prohibited unless a copy thereof has, not less than seven days before the trial, been served on the commanding officer of the accused) there shall be added the words " or the commanding officer of the accused has given his agreement in writing to its admission ".

25 Power of authority reviewing summary findings and awards

In subsection (3) of section one hundred and fifteen of the Army Act, 1955, and in subsection (3) of section one hundred and fifteen of the Air Force Act, 1955 (which subsections enable an authority reviewing a finding on a charge that has been dealt with summarily to quash the finding, and require an award to be quashed where a finding is quashed) the words " and if the finding is quashed the authority shall also quash the award " shall cease to have effect; and after each of the said subsections there shall be inserted the following subsection:—

“(3A) If a finding in any proceedings is quashed under the last foregoing subsection and the award made in those proceedings relates only to the finding quashed, the authority shall also quash the award; and if the award relates also to any other finding and it appears to the authority that the award was not warranted by this Act in respect of that other finding, the authority may vary the award by substituting such punishment or punishments as the authority may think proper, being a punishment or punishments which could have been included in the original award in relation to that other finding, and not being in the opinion of the authority more severe than the punishment or punishments included in the original award”.

26 Amendments as to persons qualified to hold inquiries

(1) For subsection (2) of section one hundred and thirty-five of the Army Act, 1955 (composition of boards of inquiry) there shall be substituted the following subsection:

“(2) A board of inquiry shall consist of a president, who shall be an officer not below the rank of captain or corresponding rank and be subject to military law, the Naval Discipline Act, 1957, or air-force law, and not less than two other members each of whom shall either be a person so subject or be a person not so subject who is in the service of the Crown”.

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and for subsection (2) of section one hundred and thirty-five of the Air Force Act, 1955 (which is the corresponding section of that Act) there shall be substituted the following subsection:—

“(2) A board of inquiry shall consist of a president, who shall be an officer not below the rank of flight-lieutenant or corresponding rank and be subject to air-force law, the Naval Discipline Act, 1957, or military law, and not less than two other members each of whom shall either be a person so subject or be a person not so subject who is in the service of the Crown”.

(2) In subsection (1) of section one hundred and thirty-seven of the Army Act, 1955 (holding of regimental inquiries by persons subject to military law, the Naval Discipline Act, 1957, or air-force law) for the words " by such person or persons subject to military law, the Naval Discipline Act or air-force law as may be specified by or determined under such regulations ", there shall be substituted the words " by such person or persons as may be specified by or determined under such regulations (being, as the case may be, a person who is subject to military law, the Naval Discipline Act, 1957, or air-force law or, not being so subject, is in the service of the Crown, or persons each of whom is so subject or, not being so subject, is in that service) ", and in subsection (1) of section one hundred and thirty-seven of the Air Force Act, 1955 (which is the corresponding section of that Act) for the words " by such person or persons subject to air-force law, the Naval Discipline Act or military law as may be specified by or determined under such regulations " there shall be substituted the words " by such person or persons as may be specified by or determined under such regulations (being, as the case may be, a person who is subject to air-force law, the Naval Discipline Act, 1957, or military law or, not being so subject, is in the service of the Crown, or persons each of whom is so subject or, not being so subject, is in that service) ".

(3) Subsection (4) of section one hundred and thirty-five of the Army Act, 1955 (which requires board of inquiry rules to contain provision for securing to persons who may be affected by the findings of such a board an opportunity of being present, and represented, at sittings of the board), shall have effect—

- (a) in its application to a board of inquiry the sittings of which begin after the time at which this section comes into operation, and
- (b) in its application, by virtue of subsection (3) of section one hundred and thirty-seven of that Act, to an inquiry the holding of which, in pursuance of that section, is begun after that time,

as if the reference to a person who may be affected by the findings of, as the case may be, the board or inquiry did not include anyone other than a person who is subject to military law, the Naval Discipline Act, 1957, or air-force law or a person who, though not so subject, is in the service of the Crown and may be so affected in his character or professional reputation ; and subsection (4) of section one hundred and thirty-five of the Air Force Act, 1955, shall have corresponding effect.