

SCHEDULES

SECOND SCHEDULE

Section 2.

PERMANENT ENACTMENT OF PROVISIONS OF CERTAIN DEFENCE REGULATIONS

Provisions reproducing part of Regulation 40 AA of Defence (General) Regulations, 1939

- 1 (1) The power conferred by section three of the Special Constables Act, 1923, to appoint persons nominated by the Admiralty, Army Council, or Air Council, to be special constables within the places and limits therein mentioned shall extend to the appointment of persons so nominated to be special constables in, and within fifteen miles of, any other premises in Great Britain which are for the time being in the possession or under the control of the Admiralty, the Army Council, the Air Council, the Secretary of State for Air or the Minister of Supply, or are for the time being used for or in connection with naval, military or air force purposes, and the said section three shall have effect accordingly.
- (2) A resident magistrate within the meaning of the Summary Jurisdiction and Criminal Justice Act (Northern Ireland), 1935, may appoint such persons as may be nominated for the purpose by the appropriate authority to be special constables at any premises in Northern Ireland which are, for the time being, in the possession or under the control of the Admiralty, the Army Council, the Air Council, the Secretary of State for Air or the Minister of Supply or are specified by the appropriate authority to be, for the time being, used for or in connection with naval, military or air force purposes; and every person so appointed shall make a declaration before the resident magistrate duly to execute the office of a constable at the premises aforesaid, and, when he has made that declaration, shall at those premises have the same powers and privileges and be liable to the same duties and responsibilities as a constable in Northern Ireland.

Special constables appointed under this paragraph shall be under the exclusive control of the authority on whose nomination they are appointed and that authority shall have power to suspend or terminate the appointment of any such special

In this paragraph the expression " appropriate authority " means—

- (a) in the case of premises in the possession or under the control of the Admiralty or used for or in connection with naval purposes, the Admiralty;
- (b) in the case of premises in the possession or under the control of the Army Council or used for or in connection with military purposes, the Army Council;
- (c) in the case of premises in the possession or under the control of the Air Council or the Secretary of State for Air or used for or in connection with air force purposes, the Air Council;
- (d) in the case of premises in the possession or under the control of the Minister of Supply, not being premises mentioned in the last two preceding subparagraphs, either the Army Council or the Air Council.

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

- (3) Any appointment made by virtue of Regulation forty AA of the Defence (General) Regulations, 1939, and in force immediately before the date on which this Act comes into force, shall be deemed to have been made by virtue of the preceding provisions, and any special constable who, immediately before that date, is authorised by paragraph (3) of the said Regulation to act within the premises and limits mentioned in sub-paragraph (1) hereof, shall continue to be authorised so to act.

Provisions reproducing part of Regulation 9 of Defence (Armed Forces) Regulations, 1939

- 2 (1) An order made by the appropriate authorities may, as respects any area specified in the order, whether in the United Kingdom or elsewhere, authorise the exercise—
- (a) by naval provost marshals of the powers of army provost marshals in relation to persons subject to military law, and by army provost marshals of the powers of naval provost marshals in relation to persons subject to the Naval Discipline Act; or
 - (b) by naval provost marshals of the powers of air force provost marshals in relation to persons subject to the Air Force Act, and by air force provost marshals of the powers of naval provost marshals in relation to persons subject to the Naval Discipline Act; or
 - (c) by army provost marshals of the powers of air force provost marshals in relation to persons subject to the Air Force Act, and by air force provost marshals of the powers of army provost marshals in relation to persons subject to military law; or
 - (d) by naval provost marshals of the powers of army provost marshals in relation to persons subject to military law and of air force provost marshals in relation to persons subject to the Air Force Act, by army provost marshals of the powers of naval provost marshals in relation to persons subject to the Naval Discipline Act and of air force provost marshals in relation to persons subject to the Air Force Act, and by air force provost marshals of the powers of naval provost marshals in relation to persons subject to the Naval Discipline Act and of army provost marshals in relation to persons subject to military law.

In this sub-paragraph the expression " the appropriate authorities " means the Admiralty and the Army Council, the Admiralty and the Air Council, the Army Council and the Air Council, or the Admiralty, the Army Council and the Air Council, according as the order makes the provision specified in (a), (b), (c) or (d) of this sub-paragraph.

- (2) The powers conferred by or under the preceding sub-paragraph on any provost marshal shall be exercisable also by his assistants, and by any officer, or seaman or marine, soldier or airman, as the case may be, legally exercising authority under him or on his behalf :

Provided that no officer shall be arrested or detained otherwise than on the order of another officer.

- (3) Nothing in the preceding provisions shall be construed as affecting any powers of arrest or detention exercisable apart from those provisions.
- (4) Any order made under Regulation 9 of the Defence (Armed Forces) Regulations, 1939, and in force immediately before the commencement of this Act shall continue in force and have effect as if it had been made under sub-paragraph (1) hereof.

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

Provisions reproducing Regulation 10A of Defence (Armed Forces) Regulations, 1939

- 3 For the purpose of any proceedings under the Naval Discipline Act—
- (a) where the person charged has surrendered himself into the custody of a naval, army or air force provost marshal, assistant provost marshal or other officer of His Majesty's forces, or has surrendered himself to any consular officer, or has on surrender been taken into custody at a police station in any place in any part of His Majesty's dominions, a certificate purporting to have been signed by that provost marshal, assistant provost marshal or other officer, or by that consular officer, or by the police officer in charge of that police station, as the case may be, and stating the fact, date and place of his surrender, and whether or not he was wearing the uniform of any of His Majesty's naval or marine forces at the time of his surrender, shall be evidence of the matters so stated ;
 - (b) where the person charged has been apprehended and has on arrest been taken into the custody of any such provost marshal, assistant provost marshal or other officer as aforesaid, or to any such police station as aforesaid, a certificate purporting to have been signed by that provost marshal, assistant provost marshal or other officer, or by the police officer in charge of that police station, as the case may be, and stating the fact, date and place of arrest, and whether or not he was wearing the uniform of any of His Majesty's naval or marine forces at the time of arrest, shall be evidence of the matters so stated.

Provision reproducing Regulation 57C of Defence (General) Regulations, 1939

- 4 Paragraph (5) of section ninety-seven of the Explosives Act, 1875 (which exempts from that Act the conveyance of explosives under the control of a government department or otherwise held for the service of the Crown), shall be deemed to extend to any explosive the conveyance of which is certified by a government department to be in connection with the execution of a contract with that department and which is conveyed in accordance with regulations made under the said paragraph.

*Provisions reproducing Regulation 17B of Defence
(Administration of Justice) Regulations, 1940*

- 5 (1) Where a court of summary jurisdiction (hereafter in this paragraph referred to as "the original court ") has made an affiliation order or a maintenance order, then, if, on a complaint for the recovery of any payments under the order made in writing and upon oath to the original court, it appears to the court that the person from whom the payments are due is for the time being within the jurisdiction of some other court of summary jurisdiction and that the order can be more conveniently enforced by that other court,—
- (a) the original court may, instead of issuing a summons or warrant on the complaint, order the clerk of the original court to send the complaint by post to the clerk of that other court; and
 - (b) on receipt of the complaint by the clerk of that other court, that other court shall issue a summons or warrant and shall hear and determine the complaint as if it were the original court.
- (2) Where—

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- (a) an affiliation order provides that payments thereunder shall be made through any person or officer other than the collecting officer of the court; or
 - (b) a maintenance order provides that payments thereunder shall be made through any person or officer (including the collecting officer of the court) ;
- the person or officer through whom the payments are to be made shall have the same power of proceeding in his own name for the recovery of payments under the order as the collecting officer of the court has in a case where an affiliation- order provides for the making of payments to him.
- (3) If, after a complaint for the recovery of payments under an order has by virtue of these provisions been sent by the clerk of the original court to the clerk of some other court, any payment under the order is received by the collecting officer or other officer of the original court or some Other person or officer specified in the order—
- (a) that officer or person shall forthwith inform the clerk of the original court of the date and amount of the payment; and
 - (b) the clerk of the original court shall forthwith send by post to the clerk of that other court a certificate of the said date and amount ;
- and any such certificate purporting to be signed by the clerk of the original court shall be evidence on the hearing of the complaint that the amount specified therein was paid on the date so specified.

*Provisions reproducing Regulation 17C of Defence
 (Administration of Justice) Regulations, 1940*

- 6 (1) The following provisions shall have effect as respects complaints under subsection (3) of section thirty of the Criminal Justice Administration Act, 1914, or section seven of the Summary Jurisdiction (Married Women) Act, 1895, as amended by section nine of the Money Payments (Justices Procedure) Act, 1935, for the revocation, discharge, revival, alteration or variation of an affiliation order or a maintenance order.
- (2) A complaint may be made to a court of summary jurisdiction having jurisdiction in the place where the complainant is for the time being, instead of to the court which made the order (hereafter in this paragraph referred to as " the original court ").
- (3) The court to which the complaint is made whether it is the original court or any other court shall take no action thereon unless and until the complainant furnishes the court with written particulars—
- (a) of the nature of the evidence by which it is proposed to support the complaint; and
 - (b) of the occupations of the complainant and the defendant and of the address of the complainant and of the last address of the defendant known to the complainant; and
 - (c) of the names, addresses and occupations of any other persons whom the complainant proposes to call as witnesses on the hearing of the complaint:

Provided that this sub-paragraph shall not apply where the complaint is made to the original court and it appears to the court that the last address of the defendant known to the complainant is within the jurisdiction of that court.

- (4) Where the complaint is made to the original court and it appears that the places stated in the said particulars as being the addresses of the complainant and defendant are

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within the jurisdiction of another court or other courts of summary jurisdiction, or that one of them is within the jurisdiction of another such court:—

- (a) the original court shall, having regard to the said particulars, determine whether the complaint could more conveniently be dealt with by the original court or by that other court or one of those other courts ;
- (b) if the original court determines that the complaint could more conveniently be dealt with by itself, it shall issue a summons and hear and determine the complaint accordingly ;
- (c) if the original court determines that the complaint could more conveniently be dealt with by some other such court of summary jurisdiction as aforesaid—
 - (i) it shall order the clerk of the court to send by post to the clerk of that other court the complaint and the said particulars; and
 - (ii) on receipt thereof by the clerk of that other court, that other court shall issue a summons and hear and determine the complaint as if it were the original court.

(5) Where by virtue of sub-paragraph (2) hereof the complaint is made to a court other than the original court—

- (a) that other court shall order the clerk thereof to send the complaint and the said particulars by post to the clerk of the original court;
- (b) on receipt of the complaint and the said particulars by the clerk of the original court, paragraph (4) hereof shall apply as if the complaint had been made to the original court.

(6) Where by virtue of these provisions an affiliation order or a maintenance order is, revoked, discharged, revived, altered or varied by order of a court of summary jurisdiction other than the original court—

- (a) the clerk of that other court shall forthwith send by post an extract from the register kept by him under section twenty-two of the Summary Jurisdiction Act, 1879, containing a minute or memorandum of the order of that other court to the clerk of the original court ; and
- (b) on receipt of the extract, the clerk of the Original court shall enter the minute or memorandum in the register kept by him as aforesaid.

*Provisions reproducing Regulation 17D of the
Defence (Administration of Justice) Regulations, 1940*

7 (1) An extract from the register kept under section twenty-two of the Summary Jurisdiction Act, 1879, by the clerk of a court of summary jurisdiction, purporting to be certified by the clerk of that court to be a true extract, and containing a minute or memorandum of—

- (a) an affiliation order or maintenance order made by the court; or
- (b) an order made by the court revoking, discharging, reviving, altering or varying an affiliation order or maintenance order made by the court or some other court ; or
- (c) an order whereof a minute or memorandum has been entered in the register by virtue of sub-paragraph (6) of the last preceding paragraph;

shall, in any proceedings before any other court of summary jurisdiction relating to the enforcement of the order or the revocation, discharge, revival, alteration or variation of the order, be evidence of the making of the order.

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- (2) A certificate purporting to be signed by the clerk of a court of summary jurisdiction, and stating that no minute or memorandum of an order revoking, discharging, reviving, altering or varying an affiliation order or maintenance order made by the court is entered in the register kept by him as aforesaid, shall, in any such proceedings as aforesaid, be evidence that the affiliation order or maintenance order has not been revoked, discharged, revived, altered or varied.
- (3) Nothing in these provisions shall be taken to prejudice the provisions of subsection (2) of the said section twenty-two (which provides that a register kept as aforesaid or an extract therefrom, shall be evidence of the matters entered therein for the purpose of informing a court of summary jurisdiction for the same county, borough or place)

Interpretation, extent and savings

- 8 (1) In paragraphs 5, 6 and 7 of this Schedule, the expression " affiliation order " has the same meaning as in the Affiliation Orders Act, 1914, and the expression " maintenance order " means an order made under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1925, or under those Acts as amended by section eleven of the Matrimonial Causes Act, 1937, requiring a husband to pay a weekly sum to his wife or to an officer of the court or third person on her behalf, and the expression " court " means, except in relation to the hearing and determination of a complaint, any justice or justices having jurisdiction in the petty sessional division or place for which the court acts.
- (2) Paragraphs 5, 6 and 7 of this Schedule shall not extend to Scotland or Northern Ireland.
- (3) Any order, complaint, proceeding, summons, warrant, certificate, determination, extract, entry, minute, memorandum or other thing, made, taken, issued or done under Regulation 17B, Regulation 17C or Regulation 17D of the Defence (Administration of Justice) Regulations, 1940, shall, if in force immediately before the commencement of this Act, continue in force and have effect as if made, taken, issued or done under the corresponding provision of paragraph 5, paragraph 6 or paragraph 7 of this Schedule.