

1960 No. 1956

## The Visiting Forces (Canadian Military and Air Forces) Order, 1960

Made - - - - 26th October, 1960

Coming into Operation 1st November, 1960

At the Court at Buckingham Palace, the 26th day of October, 1960

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by Section 4 of the Visiting Forces (British Commonwealth) Act, 1933(a), as amended by the Revision of the Army and Air Force Acts (Transitional Provisions) Act, 1955(b), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

### *Citation and Commencement*

1.—(1) This Order may be cited as The Visiting Forces (Canadian Military and Air Forces) Order, 1960.

(2) This Order shall come into operation on the first day of November, 1960.

### *Interpretation*

2.—(1) The Interpretation Act, 1889(c), applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

(2) The expression “military establishment” shall in this Order have the same meaning as it has in Part II of the Army Act, 1955(d), and the expression “air-force establishment” shall have the same meaning as it has in Part II of the Air Force Act, 1955(e).

### *Provision for Approval of Punishment*

3. Notwithstanding any provision in the Army Act, 1955, or the Air Force Act, 1955, no officer of the military or air forces of Her Majesty raised in Canada who by virtue of section 4 of the Visiting Forces (British Commonwealth) Act, 1933, is attached temporarily to Her Majesty's military or air forces raised in the United Kingdom shall, on conviction by court-martial, be liable to suffer death, imprisonment, cashiering or dismissal, and no other member of the military or air forces of Her Majesty raised in Canada who is similarly attached shall be liable to suffer death or imprisonment for a period of more than two years, unless the infliction of such punishment is approved in the case of death by the Governor-General of Canada in Council and in other cases by the Minister of National Defence of Canada or an officer overseas appointed by him for that purpose.

### *Handing-over of persons sentenced by courts-martial under the Army and Air Force Acts, 1955, to Canadian service authorities*

4.—(1) Notwithstanding any provisions of the Army Act, 1955, or the Air Force Act, 1955, any member of the military or air forces of Her

(a) 23 & 24 Geo. 5. c. 6.

(b) 3 & 4 Eliz. 2. c. 20.

(c) 52 & 53 Vict. c. 63.

(d) 3 & 4 Eliz. 2. c. 18.

(e) 3 & 4 Eliz. 2. c. 19.

Majesty raised in Canada who by virtue of section 4 of the Visiting Forces (British Commonwealth) Act, 1933, is attached temporarily to Her Majesty's military or air forces raised in the United Kingdom and has been sentenced to imprisonment or detention by a court-martial held under the Army Act, 1955, or the Air Force Act, 1955, may, when such sentence has been duly confirmed and any necessary approval of the punishment thereby inflicted been given under the foregoing Article, and when such period or periods as shall have been prescribed for the exercise of any rights of petition under the provisions of section 108 of the Army Act, 1955, or section 108 of the Air Force Act, 1955, or of any rights of application or appeal under the Courts-Martial (Appeals) Act, 1951(a), has or have expired, and any and every such petition, application or appeal has been finally disposed of in accordance with the provisions of the said Acts, be handed over to the appropriate Canadian service authority (whether or not he has already been committed to a prison or a military or air-force establishment) to be dealt with as may be provided by the law of Canada; and thereupon sections 113 and 114 of the Army Act, 1955, or the Air Force Act, 1955, as the case may be (which relate to review of findings and sentences and reconsideration of sentences), subsection (2) of section 118 and sections 119 and 120 thereof (which relate to commencement, duration and suspension of sentences), sections 124, 126 and 127 thereof (which contain provisions relating to the serving of sentences) and Imprisonment and Detention Rules made under the provisions of section 122 thereof shall cease to apply in relation to that sentence but without prejudice to the validity of anything previously done thereunder.

(2) An order of an administrative staff officer not below the rank of lieutenant-colonel or corresponding rank shall be a sufficient warrant for the handing over of any such person to the appropriate Canadian service authority under this Order, and such person may, in the course of being so handed over, be subjected to such restraint as may be necessary.

#### *Revocation of existing Orders*

5. The Visiting Forces (Royal Canadian Air Force) Order, 1942(b), the Visiting Forces (Royal Canadian Air Force) Order, 1943(c), the Visiting Forces (Royal Canadian Air Force) (Amendment) Order, 1944(d), the Visiting Forces (Royal Canadian Air Force) (Amendment) Order, 1945(e), and the Visiting Forces (Canadian Military and Air Forces) Order, 1945(f), are hereby revoked.

*W. G. Agnew.*

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#### EXPLANATORY NOTE

*(This Note is not part of the Order, but is intended to indicate its general purport.)*

This Order revokes previous Orders which modified certain provisions of the Army Act and Air Force Act in relation to members of Canadian forces attached temporarily to home forces, and makes provision for appropriate modifications of the provisions of the Army Act, 1955, and the Air Force Act, 1955, in relation to such persons.

- (a) 14 & 15 Geo. 6. c. 46.
- (b) S.R. & O. 1942/2568 (Rev. XXIII, p. 364: 1942 I, p. 842).
- (c) S.R. & O. 1943/1388 (Rev. XXIII, p. 365: 1943 I, p. 981).
- (d) S.R. & O. 1944/332 (Rev. XXIII, p. 365: 1944 I, p. 1035).
- (e) S.R. & O. 1945/322 (Rev. XXIII, p. 364: 1945 I, p. 1248).
- (f) S.R. & O. 1945/616 (Rev. XXIII, p. 366: 1945 I, p. 1249).