
STATUTORY INSTRUMENTS

1987 No. 2001

DEFENCE

The Standing Civilian Courts (Amendment) Order 1987

Made - - - - *23rd November 1987*
Laid before Parliament *27th November 1987*
Coming into force - - *1st January 1988*

The Secretary of State in exercise of the powers conferred on him by paragraph 12 of Schedule 3 to the Armed Forces Act 1976(1), hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Standing Civilian Courts (Amendment) Order 1987 and shall come into force on 1st January 1988.

Interpretation

2. In this Order the Principal Order means the Standing Civilian Courts Order 1977(2).

Amendment

3.—(1) The Principal Order shall be amended as follows.

(2) In article 19.(1) the words “(3) or”. shall be omitted.

(3) In article 49 for sub-paragraph (ii) there shall be substituted the following:—

“(ii) subject to paragraph (3) below, any previous convictions of his by a civil court, court-martial or a Standing Civilian Court, including a conviction by a Standing Civilian Court in respect of which the award of sentence has been deferred under paragraph 2A of Schedule 5A to the Act of 1955, except in the case of an accused who has attained 21 years of age, any conviction before he had attained 14 years of age;”.

(4) After article 53 there shall be inserted the following:—

(1) 1976 c. 52; paragraph 12 of Schedule 3 was amended by the Armed Forces Act 1986 (c. 21), section 9(3).
(2) S.I.1977/88, to which there are amendments not relevant to this Order.

“Deferment of award of sentence

53A.—(1) Where in accordance with its powers under paragraph 2A of Schedule 5A to the Act of 1955 the court defers the award of sentence the deferment shall be announced in open court and shall be made under the hand of the magistrate in the form set out in Schedule 5 to this Order, a copy of which should then be given to the offender or sent to the offender within 48 hours of the announcement.

(2) The consent of the offender to deferment of the award of sentence shall be obtained in writing in the form set out in Schedule 5 to this Order.

53B. In accordance with the provisions of paragraph 2A(4)(b) of Schedule 5A to the Act of 1955 the conditions under which a court, which has deferred the award of sentence against an offender, may deal with him at a time when the period of deferment has not expired are where the court has reason to believe either that the offender is or may be about to leave the Command permanently or for a period in excess of 42 days.”.

(5) After article 54 there shall be inserted the following:—

“Certificate of delivery into custody

54A. A certificate issued in accordance with paragraph 2A(12) of Schedule 5A of the Act of 1955 shall be in the form set out in Schedule 6 to this Order.”.

(6) In article 55:—

- (a) at the end of paragraph (1) there shall be inserted the words “or the subject of an offence upon which the award of sentence was deferred under paragraph 2A of Schedule 5A to the said Act”;
- (b) in paragraph (3) for the words “, 6(1) or 10” there shall be substituted “or 6(1)”;
- (c) in paragraph (4) the words “or awards more than one custodial order” shall be inserted after the words “one term of imprisonment” and the words “or any period awarded under a custodial order” shall be inserted after the words “any term of imprisonment”.

(7) In article 79 for sub-paragraph (1) there shall be substituted the following:—

“(1) Subject to the provisions of this Order, the Magistrate shall keep a legible note of the proceedings before the court such as will enable—

- (a) the court to deliberate fairly on any matter before it,
- (b) a reviewing authority to follow the course and substance of the proceedings, and
- (c) any court to which it subsequently falls to deal with any offence in respect of which the award of sentence has been deferred by a Standing Civilian Court;

but, subject thereto, the magistrate shall not be bound to record every particular of the proceedings.”.

(8) After Schedule 4 there shall be inserted the following:—

“SCHEDULE 5

Article 53A

DEFERMENT OF SENTENCE

Directing Officer's Ref. No. JAG's Ref. No.

STANDING CIVILIAN COURTS

(Armed Forces Acts 1976 and 1986; Standing Civilian Courts Order 1977)

ANNOUNCEMENT OF DEFERMENT OF AWARD OF SENTENCE

Whereas the offender,², has been convicted of the following offences by the Standing Civilian Court, namely³ and whereas the said offender has consented to deferment of award of sentence, NOW in pursuance of paragraph 2A of Schedule 5A to the (Air Force Act) (Army Act)⁴ 1955 this court defers the award of sentence until the day of 19^{5 6}.

DATED this day of 19

Signature

Name in full

Magistrate.

Notes

- 1. A copy of this form should be served upon the offender in accordance with Article 53A(1).
- 2. Insert offender's full name.
- 3. Insert brief particulars of the offences of which the offender was convicted.
- 4. Delete as necessary.
- 5. Insert the date on which sentence is to be awarded, being a date not more than six months after the date on which the court announces the deferment.
- 6. The conditions imposed under the authority of paragraph 2A(4)(b) of Schedule 5A to the Army and Air Force Acts 1955 are that the court may deal with the sentencing of the offender before the date to which sentence has been deferred where the court has reason to believe either that the offender is or may be about to leave the Command permanently or for a period in excess of 42 days.

FORM OF CONSENT OF OFFENDER TO DEFERMENT OF AWARD OF SENTENCE

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

I, of **HEREBY CONSENT¹** to the making of this order and acknowledge that I have read and understood note 6. above and 1. below.

Dated this day of 19

(Signature of offender).....

(Name)

1. The offender is reminded that he is obliged to inform the directing officer in writing of any change of address before sentence is awarded by the court and, in particular, that he is also obliged so to inform the directing officer if he is likely to leave the Command permanently or for a period in excess of 42 days. If an offender fails to appear before the court for sentencing he is liable to arrest under paragraph 2A(8) and (9) of Schedule 5A to the Army and Air Force Acts 1955.

SCHEDULE 6

Article 54A

CERTIFICATE IN ACCORDANCE WITH PARAGRAPH 2A(12) OF SCHEDULE 5A OF THE (AIR FORCE ACT) (ARMY ACT)¹ 1955.

I certify that ² (with last known address at ³) who was arrested at ⁴ at ⁵ on the day of 19 under a warrant of arrest issued pursuant to paragraph 2A of Schedule 5A to the (Air Force Act) (Army Act)¹ 1955 signed on the day of 19 by ⁶ was this day delivered by me into (air force) (military)¹ custody.

Dated this day of 19

Signature of officer of police who causes the above-named person to be delivered into military or air force custody. }

- 1. Delete as appropriate.
2. Insert offender's full name.
3. Insert offender's last address, if known.
4. Insert place of arrest.
5. Insert time of arrest.
6. Insert the rank and name of the directing officer, his superior officer or authority.

Dated this 23rd day of November 1987

George Younger
Secretary of State for Defence

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Standing Civilian Courts Order 1977.

In consequence of section 9 of the Armed Forces Act 1986, articles 49, 55 and 79 of the Principal Order are amended and articles 53A, 53B and 54, together with Schedules 5 and 6, are introduced into the Principal Order and establish procedures and prescribe forms to give effect to the power, under paragraphs 2A of Schedule 5A to the Army Act 1955 (c. 18) and of Schedule 5A to the Air Force Act 1955 (c. 19), of Standing Civilian Courts to defer the award of sentence.

Article 19(1) is amended in consequence of sections 7(4) and 16(2) of and Schedule 2 to the Armed Forces Act 1986, which repealed section 7(3) of the Armed Forces Act 1976 (time limit on the commencement of proceedings before a Standing Civilian Court).