

SCHEDULE 8

Article 17

CUSTODY, DETENTION AND TREATMENT OF PERSONS SENTENCED BY SERVICE COURTS OF VISITING FORCES

1.—(1) Where a person has been sentenced to any form of custody by a service court, and is being removed from the United Kingdom to another country, he may in the circumstances specified in sub-paragraph (2) be detained for a period not exceeding seven days at such establishment in the United Kingdom as may be determined in accordance with the following provisions of this Schedule.

(2) The circumstances referred to in sub-paragraph (1) are that—

- (a) a written request has been made by the service authorities of the country to which the person belongs, and
- (b) his temporary detention in the United Kingdom has been authorised by the Secretary of State.

2. Where a person has been sentenced to any form of imprisonment, he may be detained in any prison or establishment in which a person sentenced to imprisonment by a court-martial under the Naval Discipline Act 1957, the Army Act 1955 or the Air Force Act 1955 may be detained, or in naval, military or air-force custody.

3. Where, in the case of a person who is a member of a visiting force or a military member of a headquarters, he has been sentenced to any other form of custody, he may be detained in any naval, military or air-force establishment in which a person sentenced to detention by a court-martial under the Naval Discipline Act 1957, the Army Act 1955 or the Air Force Act 1955 may be detained, or in naval, military or air-force custody.

4. The Defence Council may make arrangements with a visiting force as to the reception from, and return to, the force of persons to be detained under this Schedule.

5. The provisions of any enactment, or of any instrument having effect under an enactment, with respect to the treatment of persons detained in prisons or other establishments mentioned in the foregoing provisions of this Schedule (including any provisions relating to unsoundness of mind) shall apply—

- (a) in relation to any person detained in pursuance of this Schedule in a civil prison, as if he were a person sentenced by a court of the United Kingdom to imprisonment for the like term as the term of the sentence of the service court;
- (b) in relation to a person sentenced by a service court to any form of imprisonment and detained as aforesaid in any naval, military or air-force establishment, as if he were a person sentenced by a court-martial under the Naval Discipline Act 1957, the Army Act 1955 or the Air Force Act 1955, as the case may be, to imprisonment for the same term as the term of the sentence of the service court;
- (c) in relation to a person sentenced by a service court to any other form of custody and detained as aforesaid in any naval, military or air-force establishment, as if he were a person sentenced by a court-martial under the Naval Discipline Act 1957, the Army Act 1955 or the Air Force Act 1955, as the case may be, to detention for the same term as the term of the sentence of the service court.

6.—(1) The powers of arrest conferred by section 186(1) to (3) of the Army Act 1955 (“the 1955 Act”) shall in the United Kingdom be exercisable in relation to a member of a visiting force or a military member of a headquarters detained in pursuance of this Schedule, where that person is at large in circumstances in which those powers would be exercisable in relation to him if he were a member of the regular forces (within the meaning of section 225(1) of the 1955 Act).

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

(2) Where a member of a visiting force or a military member of a headquarters who has been detained in pursuance of this Schedule is at large in circumstances in which the powers of arrest under section 186 of that Act would be exercisable in relation to him if he were a member of the regular forces (within the meaning of section 225(1) of the 1955 Act), section 188 of the 1955 Act shall apply to him as it applies to a member of the regular forces who is illegally absent therefrom.

(3) Subject to sub-paragraph (4), sections 186(4), 187 and 190 shall apply to a person arrested in pursuance of sub-paragraph (1), and a person to whom section 188 of the 1955 Act applies by virtue of sub-paragraph (2).

(4) Sections 187 and 190 shall have effect in relation to a person to whom sub-paragraph (3) applies subject to the following modifications—

- (a) in section 187(1), the reference to a person alleged to be an officer, warrant officer, non-commissioned officer or soldier of the regular forces who is absent without leave shall include a reference to a person who is alleged to be a member of a visiting force or a military member of a headquarters detained in pursuance of this Schedule;
- (b) in sections 187(2) and 190(1), the words “from the regular forces” shall be omitted;
- (c) in section 187(3), for the words from “and if satisfied” to “absence without leave” there shall be substituted “and if satisfied that he is a person authorised to be detained in pursuance of Schedule 8 to the Visiting Forces and International Headquarters (Application of Law) Order 1999”;
- (d) there shall be substituted for section 187(4A)—
 - “(4A) For the purposes of any proceedings under this section, a certificate which states that a person is authorised to be detained in pursuance of Schedule 8 to the Visiting Forces and International Headquarters (Application of Law) Order 1999, and purports to be signed by an officer of any of Her Majesty’s forces, shall be evidence of the matters so stated.”;
 - and
- (e) in sections 187 and 190, any reference to military custody shall include a reference to naval or air-force custody.