



# Air Force Act 1955

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## PART II

### DISCIPLINE AND TRIAL AND PUNISHMENT OF AIR-FORCE OFFENCES

#### *Investigation of, and summary dealing with, charges*

#### **76 Investigation of charges by commanding officer**

Before an allegation against a person subject to air-force law (hereinafter referred to as " the accused ") that he has committed an offence against any provision of this Part of this Act is further proceeded with, the allegation shall be reported, in the form of a charge, to the accused's commanding officer and the commanding officer shall investigate the charge in the prescribed manner.

#### **77 Charges to be dealt with summarily or by court-martial**

- (1) After investigation, a charge against an officer below the rank of squadron leader or against a warrant officer may, if an authority has power under the following provisions of this Part of this Act to deal with it summarily, be so dealt with by that authority (in this Act referred to as " the appropriate superior authority ") in accordance with those provisions.
- (2) After investigation, a charge against a non-commissioned officer or airman may be dealt with summarily by his commanding officer, subject to and in accordance with the following provisions of this Part of this Act.
- (3) Any charge not dealt with summarily as aforesaid shall after investigation be remanded for trial by court-martial.
- (4) Notwithstanding anything in the foregoing provisions of this section, where—
  - (a) the commanding officer has investigated a charge against an officer or warrant officer, or

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- (b) the commanding officer has investigated a charge against a non-commissioned officer or airman which is not one which can be dealt with summarily,

the commanding officer may dismiss the charge if he is of opinion that it ought not to be further proceeded with.

- (5) References in this Act to dealing summarily with a charge are references to the taking by the appropriate superior authority or the commanding officer of the accused, as the case may require, of the following action, that is to say, determining whether the accused is guilty, dismissing the charge or recording a finding of guilty accordingly, and awarding punishment.

## **78 Further proceedings on charges against N.C.O.S and airmen**

- (1) The following provisions of this section shall have effect where the commanding officer has investigated a charge against a non-commissioned officer or airman.

- (2) If—

- (a) the charge is not one which can be dealt with summarily and the commanding officer has not dismissed it, or  
 (b) the charge is one which can be dealt with summarily but the commanding officer is of opinion that it should not be so dealt with,

he shall take the prescribed steps with a view to the charge being tried by court-martial.

- (3) Otherwise, the commanding officer shall proceed to deal with the charge summarily ; and if he records a finding of guilty he may award one or more of the following punishments, that is to say:—

- (a) if the accused is an airman, detention for a period not exceeding twenty-eight days or, if the accused is on active service, field punishment for a period not exceeding twenty-eight days;  
 (b) if the accused is a non-commissioned officer, severe reprimand or reprimand;  
 (c) if the accused is an airman and the offence was committed on active service, forfeiture of pay for a period beginning with the day of the sentence and not exceeding twenty-eight days;  
 (d) where the accused is an airman and the offence charged is drunkenness, a fine not exceeding two pounds;  
 (e) where the offence has occasioned any expense, loss or damage, stoppages;  
 (f) any minor punishment for the time being authorised by Queen's Regulations:

Provided that no forfeiture of pay or minor punishment shall be awarded for an offence for which detention is awarded.

- (4) Where the accused is an acting warrant officer or noncommissioned officer, and the commanding officer finds him guilty, the commanding officer may, if he awards no other punishment or no other punishment except stoppages, order the accused to revert to his permanent rank.

- (5) Notwithstanding anything in subsection (3) of this section, where the commanding officer has determined that the accused is guilty and if the charge is dealt with summarily will award a punishment other than severe reprimand, reprimand or a minor punishment, or where a finding of guilty (whatever the punishment awarded) will involve a forfeiture of pay, the commanding officer shall not record a finding until after affording the accused an opportunity of electing to be tried by court-martial; and if the

accused so elects and does not subsequently in accordance with Queen's Regulations withdraw his election, the commanding officer shall not record a finding but shall take the prescribed steps with a view to the charge being tried by court-martial.

- (6) Where a charge is one which can be dealt with summarily, but the commanding officer has taken steps with a view to its being tried by court-martial, any higher authority to whom the charge is referred may refer the charge back to the commanding officer to be dealt with summarily; and on any such reference the three last foregoing subsections shall apply as if the commanding officer had originally been of opinion that the charge should be dealt with summarily:

Provided that a charge shall not be referred back where the accused has elected to be tried (by court-martial and has not withdrawn his election.

## **79 Further proceedings on charges against officers and warrant officers**

- (1) After investigating a charge against an officer or warrant officer, the commanding officer shall, unless he has dismissed the charge, or the case is one where he has power, and proposes, to direct trial by field general court-martial, submit it in the prescribed manner to higher authority ; and thereupon it shall be determined by such authority how the charge is to be proceeded with in accordance with the two next following subsections.
- (2) If the charge is one which can be dealt with summarily, it may be referred to the appropriate superior authority.
- (3) If the charge is not so referred, the prescribed steps shall be taken with a view to its being tried by court-martial.
- (4) Where the charge is referred to the appropriate superior authority, that authority shall investigate the charge in the prescribed manner and determine whether the accused is guilty of the charge and accordingly dismiss the charge or record a finding of guilty:

Provided that if in the course of investigating the charge the authority determines that it is desirable that the charge should be tried by court-martial, the prescribed steps shall be taken with a view to its being so tried.

- (5) If the appropriate superior authority records a finding of guilty, the authority may award one or more of the following punishments, that is to say:—
- (a) forfeiture in the prescribed manner of seniority of rank;
  - (b) severe reprimand or reprimand ;
  - (c) where the offence has occasioned any expense, loss or damage, stoppages.
- (6) Notwithstanding anything in subsection (4) of this section, where the appropriate superior authority has determined that the accused is guilty and if the charge is dealt with summarily will award forfeiture of seniority or stoppages, or where a finding of guilty will involve a forfeiture of pay, the authority shall not record a finding until after affording the accused an opportunity of electing to be tried by court-martial; and if the accused so elects the authority shall not record a finding but shall take the prescribed steps with a view to the charge being tried by court-martial.

## **80 Dismissal of charges referred to higher authority**

- (1) Notwithstanding anything in the two last foregoing sections, where a charge—

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- (a) has been referred to higher authority with a view to its being tried by court-martial, or
- (b) has been submitted to higher authority for determination how it is to be proceeded with,

that authority may, subject to the provisions of this section, refer the charge back to the commanding officer of the accused with a direction that it shall be dismissed, and in any such case the commanding officer shall dismiss the charge.

- (2) In a case falling within paragraph (a) of the last foregoing subsection, a charge shall not be referred back where the accused has elected to be tried 'by court-martial and has not withdrawn his election.
- (3) The reference back of a charge in pursuance of this section shall be without prejudice to the preferring of another charge if the higher authority has so directed or the commanding officer thinks fit.

## **81 Confession of desertion by warrant officer, non-commissioned officer or airman**

- (1) Where in accordance with Queen's Regulations a warrant officer, non-commissioned officer or airman signs a written confession that he has been guilty of desertion, his commanding officer may, notwithstanding anything in the foregoing provisions of this Part of this Act, submit the confession for the consideration of the Air Council or such officer not below the rank of group captain as may be provided by Queen's Regulations.
- (2) After considering any such confession the Air Council or such officer as aforesaid may direct that the offence shall not be tried by court-martial or dealt with summarily by the appropriate superior authority or commanding officer, and if such a direction is given the period of his service as respects which he confesses to have been a deserter shall be forfeited.
- (3) A direction under the last foregoing subsection may further provide that the whole or any part of the offender's service previous to that as respects which he confesses as aforesaid shall also be forfeited.
- (4) Subsections (2) to (5) of section seventeen of this Act shall apply in relation to the forfeiture of service by virtue of this section subject to the following modifications:—
  - (a) for references to an award of forfeiture of service by the court-martial there shall be substituted references to the direction;
  - (b) for references to the date on which the offender was convicted there shall be substituted references to the date on which the direction was given.

## **82 Officers who are to act as commanding officers and appropriate superior authorities**

- (1) In this Act the expression "commanding officer", in relation to a person charged with an offence, means such officer having powers of command over that person as may be determined by or under regulations of the Air Council.
- (2) The following persons may act as appropriate superior authority in relation to a person charged with an offence, that is to say,—
  - (a) any air officer, flag officer, general officer or brigadier having power to convene general courts-martial, or

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- (b) such other air officer, flag officer, general officer or brigadier, or, where the Air Council in special circumstances so direct, group captain, as may be specified by or under regulations of the Air Council:

Provided that an officer under such rank as may be specified by regulations under this section shall not act as appropriate superior authority where the accused is above such rank as may be so specified.

- (3) Regulations under this section may confer on officers, or any class of officers, who by or under the regulations are authorised to exercise the functions of commanding officer power to delegate those functions, in such cases and to such extent as may be specified in the regulations, to officers of a class so specified.

### **83 Limitation on powers of summary dealing with charges**

- (1) The charges which may be dealt with summarily by a commanding officer, and the charges which may be dealt with summarily by an appropriate superior authority, shall be such as may (be specified by regulations of the Air Council.
- (2) In such cases as may be specified in that behalf by regulations of the Air Council, the powers of a commanding officer or appropriate superior authority to award punishment shall be subject to such limitations as may be so specified.