



# Armed Forces Act 1981

## 1981 CHAPTER 55

### PART III

#### MISCELLANEOUS

##### *New powers in relation to persons under incapacity*

### **13 Temporary removal to and detention for treatment in service hospitals abroad of servicemen and others suffering from mental disorder**

- (1) In the circumstances specified in subsection (2) below a person who is subject to service law and is serving in a country or territory outside the United Kingdom and a civilian in a corresponding position may be admitted to and detained in a service hospital outside the United Kingdom for observation or treatment on the authority of an order of his commanding officer.
- (2) Where it appears to a person's commanding officer—
  - (a) that the person is suffering from mental disorder of a nature or degree which warrants his detention in a hospital for observation or treatment for at least a limited period; and
  - (b) that he ought to be so detained in the interests of his own health or safety or with a view to the protection of other persons,that officer may, if he thinks fit, order that person to be admitted to and detained in a hospital specified in the order.
- (3) Subject to subsection (4) below, no order shall be made by a person's commanding officer under this section except on the written recommendations of two registered medical practitioners each of whom shall include in his recommendation a statement that he is satisfied of the matters set out in paragraphs (a) and (b) of subsection (2) above.
- (4) In a case of urgent necessity a person's commanding officer may make an order under this section for that person's detention on the written recommendation of one registered medical practitioner if the practitioner includes in his recommendation, in addition to

---

*Status: This is the original version (as it was originally enacted).*

---

the statement required by subsection (3) above, a statement that it is of urgent necessity for the person in question to be admitted to and detained in a hospital under this section and that the obtaining of another recommendation for his admission and detention would involve undesirable delay.

(5) Where a person's commanding officer makes an order for that person's admission to and detention in a hospital by virtue of subsection (4) above on the recommendation of one registered medical practitioner he may, on production to him during the currency of that order of a recommendation of another registered medical practitioner made for the purposes of this section, make a further order for that person's further detention in the hospital specified in his original order or for that person's admission to and detention in a hospital specified in the order.

(6) An order of a person's commanding officer under this section shall have effect for twenty-eight days or, in the case of an order made by virtue of subsection (4) above, for five days and shall, while in force, be sufficient authority for the following acts in relation to that person, that is to say—

- (a) his being taken and conveyed to the hospital specified in the order;
- (b) his detention in the hospital; and
- (c) where arrangements are made for his removal to the United Kingdom for further observation or treatment, his being taken from the hospital and conveyed to the United Kingdom and, for that purpose, his detention, subject to subsection (7) below, in any place or on board any ship or aircraft;

and a person in relation to whom such an order is in force shall, while being so conveyed or detained, be deemed to be in military, air-force or naval custody, as the case may be.

(7) Where a person is removed to the United Kingdom on the authority of his commanding officer's order under this section he shall not, on the authority of the order, be detained in any place in the United Kingdom for longer than twenty-four hours.

(8) Where a person's commanding officer is absent or otherwise not available the powers conferred by this section shall,

except where that person is a civilian, be exercisable, in the same circumstances and subject to the same limitations, by any officer under the command of the first-mentioned officer, being an officer of or above the following ranks, that is to say, captain, flight-lieutenant or lieutenant according as he serves in the military, air or naval forces of the Crown.

(9) In this section—

" civilian in a corresponding position " means a person to whom Part II of the Army Act 1955, Part II of the Air Force Act 1955 or Parts I and II of the Naval Discipline Act 1957 is or are applied by section 209 of the Army Act 1955, section 209 of the Air Force Act 1955 or section 118 of the Naval Discipline Act 1957 respectively;

" commanding officer ", in relation to a person, means—

- (a) where that person is subject to military law or air-force law, the officer in command of the unit or detachment to which that person belongs or is attached;
- (b) where that person is subject to the Naval Discipline Act 1957, the officer in command of the ship or naval establishment to which that person belongs;

(c) where that person is a civilian in a corresponding position to a person subject to military law, air-force law or the Naval Discipline Act 1957, any officer of or above the rank of lieutenant colonel, wing commander or commander respectively;

" mental disorder " has the same meaning as it has in the Mental Health Act 1959 ;

" service hospital " means a military, air-force or naval unit or establishment or a ship at or in which medical or surgical treatment is provided for persons subject to service law ; and

" service law " means military law, air-force law or the Naval Discipline Act 1957 ;

and any reference to the United Kingdom includes a reference to the Channel Islands and the Isle of Man.

#### **14 Temporary removal to and detention in a place of safety abroad of children of service families in need of care or control**

- (1) This section applies to a child who—
  - (a) forms part of the family of a person subject to service law serving in a country or territory outside the United Kingdom or of a civilian in a corresponding position;
  - (b) resides outside the United Kingdom with that family or another such family ; and
  - (c) is under seventeen years of age and unmarried.
- (2) This section also applies to a child who is staying (for however short a time) with a family other than the family to which he belongs but otherwise satisfies the conditions specified in subsection (1) above and so applies to him as if he resided with that family.
- (3) A child to whom this section applies may be removed to and detained for a limited period in a place of safety outside the United Kingdom in a case where an officer having power under this section to order the child's removal to and detention in such a place thinks fit to do so on being satisfied, on one or more of the grounds specified in subsection (4) below, that the child is in need of care or control.
- (4) The grounds which justify the making of such an order in relation to a child to whom this section applies are—
  - (a) that his proper development is being avoidably prevented or neglected or his health is being avoidably impaired or neglected or he is being or is likely to be ill-treated;
  - (b) that he is exposed to moral danger;
  - (c) that he is beyond the control of his parent or guardian or, in a case where the child resides for the time being with the family of another person, of that person.
- (5) The power to make an order for the child's removal to and detention in a place of safety is vested in the following officers, that is to say—
  - (a) the commanding officer of the person to whose family the child belongs;
  - (b) the commanding officer of the person with whose family the child resides ; and
  - (c) any officer who is superior in command to the commanding officer of either of those persons.

---

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

---

- (6) Where a person's commanding officer is absent or otherwise not available the power to make such an order shall, except where that person is a civilian, be exercisable, in the same circumstances and subject to the same limitations, by any officer under the command of the first-mentioned officer, being an officer of or above the following ranks, that is to say, captain, flight-lieutenant or lieutenant according as he serves in the military, air or naval forces of the Crown.
- (7) An order under this section shall specify the place of safety to which the child is to be removed and the period during which the child is to be detained there and shall be sufficient authority for his removal and detention in accordance with the order.
- (8) The maximum period during which a child may be detained in a place of safety by virtue of an order under this section is—
- (a) eight days in a case where the order is made by the commanding officer of the person to whose family the child belongs or with whose family the child resides; and
  - (b) twenty days in a case where the order is made by an officer superior in command to the commanding officer of either of those persons ;
- being a period beginning in either case with the date of the order.
- (9) Where an order has been made under this section for the detention of a child for a period of eight days or less the child may be further detained for a period not exceeding twenty days in the same or another place of safety on the making of a further order under this section by any superior officer in whom the power to make such an order in relation to the child is vested.
- (10) No order shall be made under this section in relation to a child without affording the child's parent or guardian and, in a case where the child resides for the time being with the family of another person, that person an opportunity to make representations to the officer by whom the case is being considered except where it appears to that officer that it would be undesirable to do so in the interests of the child or that it will be impracticable, or will cause unnecessary delay, to communicate with the parent or guardian or with that other person.
- (11) In this section—
- " civilian in a corresponding position", " commanding officer ", " service hospital " and " service law " have the same meanings as they have in section 13 above; and
  - " place of safety " means any service hospital or other suitable place the occupier of which is willing temporarily to receive the child ;
- and any reference to the United Kingdom includes a reference to the Channel Islands and the Isle of Man.

*Amendments of the Naval Discipline Act 1957 as to offences and punishments*

**15 Prize offence: minor amendment as to intent**

- (1) In section 24(c) of the Naval Discipline Act 1957 (which penalises breaking bulk on prizes with intent to embezzle or fraudulently misapply anything therein) for the words " embezzle or fraudulently misapply " there shall be substituted the word " steal "

- (2) This section shall not apply to an offence alleged to have been committed before this section comes into force.

## **16 Power on summary trial to award stoppages**

- (1) In section 49(5) of the Naval Discipline Act 1957 (officer other than commanding officer may try offences summarily but may only award a fine or prescribed minor punishment), in the proviso, after the word "fine" there shall be inserted the word " stoppages ".
- (2) This section shall not apply to an offence alleged to have been committed before this section comes into force.

## **17 Abolition of death penalty for spying in ships etc. abroad**

No person shall be liable to suffer death for having committed the offence under section 93 of the Naval Discipline Act 1957 of spying for the enemy in ships or vessels or in naval establishments abroad.

*Amendments of the Services Acts relating to evidence and proceedings thereunder*

## **18 Service of process in maintenance proceedings**

- (1) Section 153 of the Army Act 1955 and the Air Force Act 1955 and section 101 of the Naval Discipline Act 1957 (which make provision for the service of process in maintenance proceedings) shall be amended as provided in this section.
- (2) In the said sections 153—
- (a) in subsection (1), for the words "either on him or" there shall be substituted the word " on ";
  - (b) in subsection (3) for the word " then" there shall be substituted the words " the service of the process shall be of no effect " and the words from " the service of the process " onwards shall be omitted; and
  - (c) after subsection (3), there shall be inserted the following subsection—

“(3A) Where any such process as is mentioned in subsection (1) of this section is to be served in the United Kingdom or elsewhere and the defendant will be required to appear in person at the hearing, the service of the process shall be of no effect if his commanding officer certifies to the court by which the process was issued that the defendant is absent without leave or has deserted and remains in desertion.”.
- (3) In the said section 101—
- (a) subsection (2) (which permits service on the Secretary of the Defence Council) shall be omitted ;
  - (b) in subsection (4), for the words from " it is certified " to " section " there shall be substituted the words " his commanding officer certifies " and for the words " in the opinion of that officer " there shall be substituted the words " in the commanding officer's opinion " ; and
  - (c) after subsection (4), there shall be inserted the following subsection—

---

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

---

“(4A) Where any such process is to be served in the United Kingdom or elsewhere and the defendant will be required to appear in person at the hearing, the service of that process shall be of no effect if his commanding officer certifies to the court by which the process was issued that the defendant is absent without leave or has deserted and remains in desertion.”.

## **19 Officers who can take affidavits and declarations abroad**

- (1) The enactments specified in this section (which empower certain officers to take affidavits and declarations outside the United Kingdom) shall be amended as follows.
- (2) In section 10 of the Emergency Laws (Miscellaneous Provisions) Act 1953—
  - (a) in subsection (1), after the words "or relative rank" there shall be inserted the words " or is of the rank of lieutenant and is specially appointed for the purposes of this section "; and
  - (b) after subsection (1), there shall be inserted the following subsection—
 

“(1A) An officer of the rank of lieutenant shall not be appointed to take affidavits and declarations under subsection (1) above unless he is a barrister, solicitor or advocate.”.
- (3) In section 204 of the Army Act 1955, in subsection (1), for the words " of a rank not below that of major " there shall be substituted the words " who is of or above the rank of major or is of the rank of captain and is a member of the legal corps of those forces ".
- (4) In section 204 of the Air Force Act 1955, in subsection (1), for the words " of a rank not below that of squadron leader " there shall be substituted the words " who is of or above the rank of squadron leader or is of the rank of flight lieutenant and is a member of the legal branch of that force ".

### *Miscellaneous*

## **20 Women's services: statutory assimilation and application thereto of certain enactments**

- (1) Parts I and II of Schedule 3 to this Act shall have effect for the purpose of completing the assimilation for all purposes of the statute law of the women's services administered by the Defence Council with the military, naval and air forces of the Crown in or with which their members serve.
- (2) Part III of that Schedule shall have effect for the purpose of applying to the members of Queen Alexandra's Royal Naval Nursing Service and the Women's Royal Naval Service provisions of the Armed Forces Act 1966 applicable to ratings in the Royal Navy relating to discharge from service and to false statements made on entry into service.
- (3) The Reserve Forces Act 1980 shall have effect, and be deemed always to have had effect, with the substitution, in section 156(3) (application of the Act to women as to men), for the words " so far as it relates to the military and air forces " of the words "except so much of it as relates to the Royal Fleet Reserve and the Royal Marines Reserve ".

**21 Clarification of the meaning in the Naval Discipline Act 1957 of " marine forces " and " naval reserve forces "**

In section 132 of the Naval Discipline Act 1957 (which defines certain expressions for the purposes of that Act), for subsections (7) and (8) there shall be substituted the following subsections—

“(7) In this Act " the marine forces " means the Royal Marines, the Royal Marines Reserve and the Royal Fleet Reserve so far as it consists of warrant officers, non-commissioned officers and marines who have served in the Royal Marines.

(8) In this Act " naval reserve forces " means—

- (a) the Royal Naval Reserve including officers of reserve to the Royal Navy and including the Royal Fleet Reserve except so far as it consists of warrant officers, non-commissioned officers and marines who have served in the Royal Marines, and
- (b) any reserve of Queen Alexandra's Royal Naval Nursing Service or the Women's Royal Naval Service.”.

**22 Members of the armed forces are " employees " for the purposes of the Patents Act 1977**

- (1) The Patents Act 1977 shall have effect, and be deemed always to have had effect, with the following amendments (being amendments to secure that members of the armed forces are " employees " for the purposes of that Act).
- (2) In section 42(4), at the end of the definition of " Crown employee ", there shall be added the words " or a person serving in the naval, military or air forces of the Crown .".
- (3) In section 130(1), at the end of the definition of "employee ", there shall be added the words " or a person who serves (or served) in the naval, military or air forces of the Crown ".

**23 Inquiries: persons affected who must be given an opportunity to be present and represented**

- (1) Section 135(4) of the Army Act 1955 and the Air Force Act 1955 (which require rules for boards of inquiry to secure to witnesses and other persons affected the right to be present and represented) shall be amended by the insertion after the words " other person " of the words " to whom this subsection applies " and the addition at the end of the following paragraph—

“This subsection, so far as it applies to persons other than witnesses who may be affected by the findings, applies to persons of the following descriptions only, that is to say—

- (a) persons who are subject to military law, air-force law or the Naval Discipline Act 1957;
- (b) persons who, though not so subject, are in the service of the Crown and may be so affected in character or professional reputation ; and
- (c) persons who, though not so subject, are employed by the Civil Aviation Authority in or in connection with the provision by the Authority of air navigation services and may be so affected in character or professional reputation.”.

---

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

---

- (2) Section 26(3) of the Army and Air Force Act 1961 (whose effect is reproduced by the provision made by subsection (1) above) is hereby repealed.

**24 Abolition of the office of Accountant General of the Navy**

- (1) The office of Accountant General of the Navy is hereby abolished and the functions of that office shall become functions of the Secretary of State.
- (2) Accordingly the enactments specified in this subsection which refer to that office shall be amended as follows—
- (a) in sections 6 and 8 of the Naval Agency and Distribution Act 1864 (registration of certain instruments in the Accountant General's office) for the words "in the office of the Accountant General of the Navy " there shall be substituted the words " with the Secretary of State "; and
  - (b) in section 47 of the Greenwich Hospital Act 1865 (Accountant General to prepare for audit the accounts of the hospital's property) for the words " The Accountant General of the Navy " there shall be substituted the words " The Secretary of State ".

**25 Naval prize cash balance not to include percentage deduction**

The percentage of the proceeds of all prizes, grants, bounty money and other money distributable among the officers and crew of Her Majesty's ships of war which is directed by section 17 of the Naval Agency and Distribution Act 1864 to be carried to and form part of the naval prize cash balance shall cease to be so dealt with and shall instead be distributable in the same way as the respective sums from which it would otherwise have been deducted.

**26 Payment of military pensions**

The Army Pensions Act 1914 (which requires pensions in respect of military service, whether payable under statute or the prerogative, to be paid in advance) shall cease to have effect except in relation to pensions which have been granted before the passing of this Act and which are, at the date of its passing, paid in advance in accordance with that Act.

**27 Naval and marine pay and pensions: no further publication in London Gazette**

Orders in Council made under the Naval and Marine Pay and Pensions Act 1865 (which regulate the payment of such pay and pensions) shall cease to be published in the London Gazette.