



Army Act 1955 (repealed)

1955 CHAPTER 18 3 and 4 Eliz 2

PART II

DISCIPLINE AND TRIAL AND PUNISHMENT OF MILITARY OFFENCES

Trial of persons ceasing to be subject to military law and time limits for trials

Textual Amendments applied to the whole legislation

- F1** Act: the provisions of the 1955 Acts providing for findings of courts-martial to be subject to confirmation and to revision at the direction of the confirming officer cease to have effect (1.4.1997 subject to art. 3 of the commencing S.I.) by virtue of 1996 c. 46, s. 15; S.I. 1997/304, arts. 2, 3, **Sch. 2**

131 Trial and punishment of offences under military law notwithstanding offender ceasing to be subject to military law.

- (1) Subject to the provisions of the next following section, where an offence under this Act triable by court-martial has been committed, or is reasonably suspected of having been committed, by any person while subject to military law, then in relation to that offence he shall be treated, for the purposes of the provisions of this Act relating to arrest, keeping in custody, investigation of charges, [^{F1}summary dealing with charges] trial and punishment by court-martial (including confirmation, review, reconsideration and suspension) and execution of sentences as continuing subject to military law notwithstanding his ceasing at any time to be subject thereto.
- (2) Where, while a person is in military or air-force custody by virtue of this section (whether before, during or after trial) he commits, or is reasonably suspected of having committed, an offence which if he were subject to military law would be an offence under this Act triable by court-martial, then in relation to that offence or suspected offence he shall be treated, for the purposes of the provisions of this Act mentioned in the last foregoing subsection ^{F2}, as having been subject to military law when the offence was committed or is suspected of having been committed and as continuing subject to military law thereafter.

Status: Point in time view as at 01/02/1991.

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- (3) Where by virtue of either of the two last foregoing subsections a person is treated as being at any time subject to military law for the purpose of any provision of this Act, that provision shall apply to him—
- (a) if he holds any military rank, as to a person having that rank;
 - (b) if he holds any naval or air-force rank or rating, as to a person having the corresponding military rank;
 - (c) otherwise as to a person having the rank which he had when last actually subject to military law:

Provided that as respects any time after he has been sentenced for the offence in question and the sentence has been confirmed the said provision shall apply to him (in any case) as to a soldier.

- (4) Where apart from this subsection any provision of this Act would under the last foregoing subsection apply to a person, in relation to different offences, as to a person having different ranks, it shall apply to him as to a person having the lower or lowest of those ranks.

Textual Amendments

F1 Words inserted by [Armed Forces Act 1981 \(c. 55\), s. 6\(2\)](#)

F2 Words repealed by [Armed Forces Act 1981 \(c. 55\), Sch. 5 Pt. II](#)

132 Limitation of time for trial of offences under military law.

[^{F3}(1) Where by virtue of any enactment proceedings on indictment for any civil offence must be brought within a limited period, no proceedings shall be taken against any person for an offence against section 70 of this Act corresponding to that civil offence unless the trial or proceedings on a summary dealing with the charge is or are begun before the end of that period.]

(2) Where a person who has committed an offence of desertion, other than desertion on active service, has since the offence served as a member of the regular forces continuously in an exemplary manner for not less than three years, he shall not be tried for that offence.

[^{F4}(3) Except in relation to the offences specified in subsection (3A) below, no proceedings shall be taken against a person by virtue of subsection (1) of section 131 of this Act unless—

- (a) in a case where the charge is one which may be dealt with summarily, the proceedings on the summary dealing with the charge are begun within three months or the trial by court-martial is begun within six months after he ceases to be subject to military law;
- (b) in a case where the charge is one which cannot be dealt with summarily, the trial is begun within six months after he ceases to be subject to military law.

(3A) Subsection (3) above does not apply to an offence against section 31 or 32 of this Act or desertion or to an offence against section 70 where the civil offence is alleged to have been committed outside the United Kingdom and the Attorney General consents to the proceedings.]

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- (4) A person shall not be arrested or kept in custody by virtue of subsection (1) of the last foregoing section for an offence at any time after he has ceased to be triable for the offence.

Textual Amendments

- F3** S. 132(1) substituted by [Armed Forces Act 1986 \(c. 21, SIF 7:1\), s. 7\(1\)\(6\)](#)
F4 S. 132(3)(3A) substituted for s. 132(3) by [Armed Forces Act 1981 \(c. 55\), s. 6\(3\)\(c\)](#)

Modifications etc. (not altering text)

- C1** S. 132 excluded (1.4.1997) by [S.I. 1997/172, art. 86](#)

[^{F5}133 Jurisdiction of civil courts

- (1) Where a person subject to military law—
- has been tried for an offence by a court-martial or has had an offence committed by him taken into consideration by a court-martial in sentencing him, or
 - has been charged with an offence under this Act and has had the charge dealt with summarily by his commanding officer or the appropriate superior authority,

a civil court shall be debarred from trying him subsequently for an offence substantially the same as that offence; but except as aforesaid nothing in this Act shall be construed as restricting the jurisdiction of any civil court to try a person subject to this Act for an offence.

- (2) For the purposes of this section—
- a person shall not be deemed to have been tried by a court-martial if confirmation is withheld of a finding by the court-martial that he is guilty of the offence, or of a finding by the court-martial that he is not guilty of the offence by reason of insanity;
 - a person shall not be deemed to have had an offence taken into consideration by a court-martial in sentencing him if confirmation of the sentence is withheld or the sentence is quashed [^{F6}(as well as in a case where the taking into consideration of the offence has been annulled by the confirming officer or reviewing authority)];
 - a case shall be deemed to have been dealt with summarily by the commanding officer or appropriate superior authority notwithstanding that the finding of that officer or authority has been quashed, or the award of that officer or authority quashed or varied, on the review thereof].

Textual Amendments

- F5** S. 133 substituted by [Armed Forces Act 1966 \(c. 45\), s. 25\(1\)](#)
F6 Words added by [Armed Forces Act 1981 \(c. 55\), s. 5\(4\)\(a\)](#)

Modifications etc. (not altering text)

- C2** S. 133 extended with modifications by [Armed Forces Act 1976 \(c. 52\), Sch. 3 para. 16](#)

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[^{F7}133A Financial penalty enforcement orders.

(1) If—

- (a) a financial penalty has been awarded against any person under this Act, and the penalty was—
- ^{F8}(b)
 - (i) a fine awarded in respect of a qualifying offence (or in respect of such an offence together with other offences) on the conviction of a qualifying offence either of that person or of the person as whose parent or guardian that person is to pay the penalty; or
 - (ii) stoppages or a compensation order awarded in respect of a qualifying offence, (whether on the conviction of any person of the offence or on a request by any person for the offence to be taken into consideration); and
- (c) no term of imprisonment was imposed in default of payment, and
- (d) no appeal is outstanding and the time provided for the giving of notice of appeal against the award has expired, and
- (e) the whole or any part of the penalty remains unpaid or unrecovered, and
- (f) the person against whom the award was made is a person to whom this section applies,

the Defence Council or an officer authorised by them may make an order (in this section referred to as a “financial penalty enforcement order”) for the registration of the penalty by the relevant court.

(2) This section applies to a person who is, or would be but for section 131 above, neither subject to service law nor a civilian to whom Part II of this Act is applied by section 209 below, Part II of the ^{M1}Air Force Act 1955 is applied by section 209 of that Act or Parts I and II of the ^{M2}Naval Discipline Act 1957 are applied by section 118 of that Act.

(3) In this section “qualifying offence” means

- (a) an offence under section 36 above committed outside the United Kingdom and consisting of or including acts or omissions that would constitute a comparable foreign offence or a local road traffic offence;
- (b) an offence under section 70 above;
- (c) an offence under any provision of this Act other than section 70 above consisting of or including acts or omissions which would also constitute an offence under section 70 above;

and for the purposes of this definition—

“comparable foreign offence” means an offence under the civil law of any place outside the United Kingdom which is comparable to an offence under the law of England and Wales; and

“local road traffic offence” means an offence under the civil law of any place outside the United Kingdom relating to road traffic.

(4) A financial penalty enforcement order shall contain a certificate issued on behalf of the Defence Council or by an officer authorised by them and stating—

- (a) that a financial penalty has been awarded against the person named in the order;
- (b) that the conditions specified in paragraphs (b) to (f) of subsection (1) above are satisfied;
- (c) the nature and amount of the penalty;

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- (d) the date on which and the [F⁹offence or offences] in respect of which it was awarded;
 - (e) if it was awarded against the person named in the order as the parent or guardian of some other person, the fact that it was so awarded and the name of that other person;
 - (f) sufficient particulars of the case (including particulars of any offences taken into consideration at the trial);
 - (g) the date of any payment or recovery of a sum on account of the penalty;
 - (h) the sum outstanding; and
 - (j) the authority to whom and address to which any stoppages or compensation included in the penalty will fall, on recovery, to be remitted under subsection (7) below.
- (5) A document purporting to be a financial penalty enforcement order and to be signed on behalf of the Defence Council or by an officer authorised by them shall be deemed to be such an order unless the contrary is proved, and a certificate under subsection (4) above shall be evidence of the matters stated.
- (6) Subject to subsection (7) below, upon registration of a financial penalty enforcement order—
- (a) service enforcement procedures shall cease to be available for the recovery of the sum certified as outstanding, and
 - (b) that sum shall be treated for all purposes as if it had been a fine imposed upon a conviction by the relevant court.
- (7) Stoppages or compensation recovered under this section shall be remitted to the authority at the address specified in the certificate under subsection (4) above.
- (8) Where it appears from a financial penalty enforcement order that the penalty was imposed in respect of more than one offence, it shall be deemed for the purposes of enforcement to be a single penalty only.
- (9) Where—
- (a) a financial penalty enforcement order has been made against any person, and
 - (b) he ceases to be a person to whom this section applies at a time when the whole or any part of the certified sum is still outstanding,
- service enforcement procedures shall apply to the amount outstanding as if it were a sum payable by way of a fine imposed by a civil court.
- (10) In this section—
- “financial penalty” means—
 - (a) a fine, including a fine imposed by virtue of paragraph 13 of Schedule 5A below;
 - (b) stoppages;
 - (c) a compensation order imposed by virtue of paragraph 11 or 13 of Schedule 5A below; ^{F¹⁰}
 - (d) ^{F¹⁰}“the relevant court” means—
 - (a) the magistrates’ court in England or Wales,
 - (b) the sheriff court in Scotland, or
 - (c) the court of summary jurisdiction in Northern Ireland,

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within whose jurisdiction the person against whom a financial penalty enforcement order is made appears to the Defence Council or an officer authorised by them to reside or to be likely to reside;

“service enforcement procedures” means any procedure available by virtue of any of the following enactments, namely—

- (a) sections 144, 146 and 209(4) and (4A) below and sections 144, 146 and 209(4) and (4A) of the ^{M3}Air Force Act 1955, and
- (b) sections 128A and 128B of the ^{M4}Naval Discipline Act 1957; and “stoppages” does not include sums awarded by virtue of section 147 or 148 below.

[Where a fine has been awarded together with stoppages or a compensation order, this ^{F11}(11) section shall have effect in relation to the fine and to the stoppages or compensation order as if they were separate penalties.]]

Textual Amendments

- F7** S. 133A inserted by Armed Forces Act 1976 (c. 52), s. 16, **Sch. 8 para. 1**
- F8** S. 133A(1)(b) substituted by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), **Sch. 1 para. 7(2)**
- F9** Words substituted by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), **Sch. 1 para. 7(3)**
- F10** Para. (d) in the definition of “financial penalty” and the word “or” immediately preceding it repealed by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(2), **Sch. 2**
- F11** S. 133A(11) inserted by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), **Sch. 1 para. 7(4)**

Marginal Citations

- M1** 1955 c. 19.
- M2** 1957 c. 53.
- M3** 1955c. 19.
- M4** 1957 c. 53

134 Persons not to be tried under this Act for offences already disposed of.

- (1) Where a person subject to military law—
 - [^{F12}(a) has been tried for an offence by a competent civil court, wherever situated, or a court-martial (whether held under this Act, the ^{M5}Air Force Act 1955 or the ^{M6}Naval Discipline Act 1957), or
 - (aa) has had an offence committed by him taken into consideration when being sentenced by a competent civil court in the United Kingdom or any such court-martial as is referred to in the foregoing paragraph; or]
 - (b) has been charged with an offence under this Act, [^{F13}the ^{M7}Naval Discipline Act 1957] or the ^{M8}Air Force Act 1955, and has had the charge dismissed, or has been found guilty on the charge, by his commanding officer or the appropriate superior authority, or
 - (c) has had an offence condoned by his commanding officer (whether military, naval or air-force),

he shall not be liable in respect of that offence to be tried by court-martial or to have the case dealt with summarily by his commanding officer or the appropriate superior authority.

- (2) For the purposes of this section—
 - (a) a person shall not be deemed to have been tried by a court-martial if confirmation is withheld of a finding by the court-martial that he is guilty of

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- the offence [^{F14}or of a finding by the court-martial that he is not guilty of the offence by reason of insanity];
- (b) a person shall not be deemed to have had an offence taken into consideration by a court-martial in sentencing him if confirmation of the sentence of the court is withheld or the sentence is quashed [^{F15}(as well as in a case where the taking into consideration of the offence has been annulled by the confirming officer or reviewing authority)];
- (c) a case shall be deemed to have been dealt with summarily by the commanding officer or appropriate superior authority notwithstanding that the finding of that officer or authority has been quashed, or the award of that officer or authority quashed or varied, on the review thereof;
- (d) an offence shall be deemed to have been condoned by the commanding officer of a person alleged to have committed the offence if, and only if, that officer or any officer authorised by him to act in relation to the alleged offence has with knowledge of all relevant circumstances informed him that he will not be charged therewith;
- (e) a person ordered under subsection (2) of section fifty-seven of this Act or the corresponding provision of the ^{M9}Air Force Act 1955, to be imprisoned or to undergo detention for an offence against that section or provision shall be deemed to have been tried by court-martial for the offence.
- (3) Where confirmation of a finding of guilty of an offence [^{F16}or of a finding of not guilty of an offence by reason of insanity] is withheld the accused shall not be tried again by court-martial for that offence unless the order convening the later court-martial is issued not later than twenty-eight days after the promulgation of the decision to withhold confirmation.
- (4) Save as provided in the foregoing provisions of this section, proceedings for an offence against this Act (whether before a commanding officer or appropriate superior authority or before a court-martial) shall not be barred on the ground of condonation.

Textual Amendments

F12 S. 134(1)(a)(aa) substituted for s. 134(1)(a) by [Armed Forces Act 1966 \(c. 45\), s. 26](#)

F13 Words substituted by virtue of [Naval Discipline Act 1957 \(c. 53\), s. 137\(2\)](#)

F14 Words added by [Criminal Procedure \(Insanity\) Act 1964 \(c. 84\), s. 8\(3\)](#) proviso (c), Sch. 2 Pt. I

F15 Words added by [Armed Forces Act 1981 \(c. 55\), s. 5\(4\)\(b\)](#)

F16 Words inserted by [Criminal Procedure \(Insanity\) Act 1964 \(c. 84\), s. 8\(3\)](#) proviso (c), Sch. 2 Pt. I

Modifications etc. (not altering text)

C3 S. 134 excluded by [Courts-Martial \(Appeals\) Act 1968 \(c. 20\), s. 19\(2\)](#)

C4 S. 134(1)(2) extended with modification by [Armed Forces Act 1976 \(c. 52\), Sch. 3 para. 16](#)

Marginal Citations

M5 1955 c. 19.

M6 1957 c. 53.

M7 1957 c. 53.

M8 1955 c. 19.

M9 1955 c. 19.

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