



# Air Force Act 1955

1955 CHAPTER 19 3 4 Eliz2

## PART III

### FORFEITURES AND DEDUCTIONS AND ENFORCEMENT OF MAINTENANCE LIABILITIES

#### **144 Forfeitures and deductions: general provisions**

- (1) No forfeiture of the pay of an officer, warrant officer, non-commissioned officer or airman of the regular air force shall be imposed unless authorised by this or some other Act, and no deduction from such pay shall be made unless so authorised or authorised by an order under section two of the Air Force (Constitution) Act, 1917.
- (2) An order under section two of the Air Force (Constitution) Act, 1917, shall not authorise the making of any penal deduction, that is to say a deduction to be made by reason of the commission of any offence or other wrongful act or in consequence of any negligence.
- (3) The foregoing provisions of this section shall not prevent the making, by such an order or by any regulation, order or instruction of the Air Council, of provision for the imposition of any forfeiture authorised by Act or the making of any deduction so authorised, or for the time at which and manner in which sums may be deducted from pay to give effect to authorised deductions or in which amounts may be so deducted in order to recover any fine imposed in pursuance of this Act, or as to the appropriation of any such sum or amount when deducted, or of provision for the determination of questions relating to forfeitures or deductions.
- (4) Subsection (2) of this section shall not prevent the making by an order under section two of the Air Force (Constitution) Act, 1917, of provision for the deduction from a person's pay as an officer, warrant officer, non-commissioned officer or airman of the regular air force of any sum which has become recoverable from him (whether by deduction from pay or otherwise) under the enactments relating to any of the reserve or auxiliary forces.
- (5) Notwithstanding any deduction from the pay of an officer, warrant officer, non-commissioned officer or airman of the regular air force he shall (subject to any

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forfeiture) remain in receipt of pay at not less than such minimum rate as may be prescribed by order of the Air Council.

- (6) Notwithstanding that forfeiture of a person's pay for any period has been ordered in pursuance of this Act, he may remain in receipt of pay at such minimum rate as aforesaid; but the amount received for that period may be recovered from him by deduction from pay.
- (7) Any amount authorised to be deducted from the pay of an officer, warrant officer, non-commissioned officer or airman of the regular air force may be deducted from any balance (whether or not representing pay) which may be due to him, and references in this Act to the making of deductions from pay shall be construed accordingly.

#### **145 Forfeiture of pay for absence from duty**

- (1) The pay of an officer, warrant officer, non-commissioned officer or airman of the regular air force may be forfeited:—
- (a) for any day of absence in such circumstances as to constitute an offence under section thirty-seven or thirty-eight of this Act or, if the Air Council or an officer authorised by them so direct, of other absence without leave;
  - (b) for any day of imprisonment, detention or field punishment awarded under this Act, the Naval Discipline Act or the Army Act, 1955, by a court-martial or commanding officer, or of imprisonment, corrective training, preventive detention, detention in a Borstal institution or detention of any other description to-which he is liable in consequence of an order or sentence of a civil court or an order of recall made by the Prison Commissioners, the Secretary of State or the Ministry of Home Affairs for Northern Ireland;
  - (c) where he is found guilty (whether by court-martial, the appropriate superior authority or his commanding officer) of an offence under this Act, the Naval Discipline Act or the Army Act, 1955, for any day (whether before or after he is found guilty) on which he is in hospital on account of sickness or injury certified by the proper medical officer to have been occasioned by the offence.
- (2) The pay of an officer, warrant officer, non-commissioned officer or airman of the regular air force may be forfeited for any day of absence by reason of his having been made a prisoner of war if the Air Council or an officer authorised by them are satisfied—
- (a) that he was made a prisoner of war through disobedience to orders or wilful neglect of his duty ; or
  - (b) that having been made a prisoner of war he failed to take any reasonable steps available to him to rejoin Her Majesty's service; or
  - (c) that having been made a prisoner of war he served with or aided the enemy in the prosecution of hostilities or measures calculated to influence morale or in any other manner whatsoever not authorised by international usage,
- and nothing in paragraph (a) of the last foregoing subsection shall apply to absence by reason of having been made a prisoner of war.
- (3) Regulations or orders of the Air Council may make provision as to the computation of time for the purposes of this section and in particular as to the counting or disregarding of parts of days.

#### **146 Deductions for payment of civil penalties**

Where an officer, warrant officer, non-commissioned officer or airman of the regular air force charged with an offence before a civil court (whether within or without Her Majesty's dominions) is sentenced or ordered by the court to pay any fine, penalty, damages, compensation or costs, and the whole or part thereof is met by a payment made by or on behalf of any air-force authority, the amount of the payment may be deducted from his pay.

#### **147 Compensation for loss occasioned by wrongful act or negligence**

- (1) Without prejudice to the provisions of this Act as to the imposition of stoppages as a punishment, the following provisions shall have effect where, after such investigation as may be prescribed by regulations of the Air Council, it appears to the Air Council or an officer authorised by them that any loss of, or damage to, public or service property has been occasioned by any wrongful act or negligence of an officer, warrant officer, non-commissioned officer or airman of the regular air force (hereinafter referred to as " the person responsible ").
- (2) The Air Council or authorised officer, as the case may be, may order the person responsible to pay, as or towards compensation for the loss or damage, such sum as may be specified in the order ; and any such sum, in so far as not otherwise paid by the person responsible, may be deducted from his pay.
- (3) No order shall be made under the last foregoing subsection if, in proceedings (whether under this Act, the Naval Discipline Act or the Army Act, 1955) before a court-martial, the appropriate superior authority or the commanding officer of the person responsible, that person—
  - (a) has been acquitted in circumstances involving a finding that he was not guilty of the wrongful act or negligence in question, or
  - (b) has been awarded stoppages in respect of the same loss or damage;but save as aforesaid, the fact that any such proceedings have been brought in respect of the wrongful act or negligence in question shall not prevent the making of an order or deductions under the last foregoing subsection.

#### **148 Deductions for barrack damage**

- (1) Where damage occurs to any premises in which one or more units of the regular air force or parts of such units are quartered or billeted, or any fixtures, furniture or effects in or belonging to such premises are damaged or lost, then if it appears, on investigation in accordance with the provisions of Queen's Regulations, that the damage or loss was occasioned by the wrongful act or negligence of persons belonging to any of the units or parts of units in occupation of the premises and was so occasioned at a time when they were in occupation thereof, but that the said persons cannot be identified, any person belonging to any of the said units or parts of units may be required to contribute towards compensation for the damage or loss such amount as may in accordance with Queen's Regulations be determined to be just, and the amount may be deducted from his pay.
- (2) The last foregoing subsection shall extend to ships, trains and aircraft in which units or parts of units of the regular air force are being transported, and references to premises, quartering and occupation shall be construed accordingly.

## **149 Remission of forfeitures and deductions**

Any forfeiture or deduction imposed under the four last foregoing sections or under an order under section two of the Air Force (Constitution) Act, 1917, may be remitted by the Air Council or in such manner and by such authority as may be provided by the order.

## **150 Enforcement of maintenance and affiliation orders by deduction from pay**

(1) Where any court in the United Kingdom has made an order against any person (hereinafter referred to as " the defendant") for the payment of any periodical or other sum specified in the order for or in respect of—

- (a) the maintenance of his wife or child or of any illegitimate child of whom he is the putative father; or
- (b) any costs incurred in obtaining the order; or
- (c) any costs incurred in proceedings on appeal against, or for the variation, revocation or revival of, any such order,

and the defendant is an officer, warrant officer, non-commissioned officer or airman of the regular air force, then (whether or not he was a member of that force when the said order was made) the Air Council or an officer authorised by them may order such sum to be deducted from the pay of the defendant and appropriated in or towards satisfaction of the payment due under the order of the court as the Air Council or officer think fit.

(2) Where to the knowledge of the court making any such order as aforesaid, or an order varying, revoking or reviving any such order, the defendant is an officer, warrant officer, noncommissioned officer or airman of the regular air force, the court shall send a copy of the order to the Air Council or an officer authorised by them.

(3) Where such an order as is mentioned in subsection (1) of this section has been made by a court in Her Majesty's dominions outside the United Kingdom, and the Air Council or an officer authorised by them are satisfied that the defendant has had a reasonable opportunity of appearing in person, or has appeared by a duly authorised legal representative, to defend the case before the court by which the order was made, the Air Council or officer shall have the like power under subsection (1) of this section as if the order had been made by such a court as is mentioned in that subsection:

Provided that this subsection shall not apply to an order for payment of a sum for or in respect of the maintenance of an illegitimate child or for the payment of costs incurred in obtaining such an order or in proceedings on appeal against, or for the variation, revocation or revival of, such an order.

(4) The Air Council or an officer authorised by them may by order vary or revoke any order previously made under this section, and may treat any order made under this section as being in suspense at any time while the person against whom the order was made is absent as mentioned in paragraph (a) of subsection (1) of section one hundred and forty-five of this Act.

(5) In this section—

references to an order made by a court in the United Kingdom include references to an order registered in or confirmed by such a court under the provisions of the Maintenance Orders (Facilities for Enforcement) Act, 1920 ;

references to a wife or child include, in relation to an order made in proceedings in connection with the dissolution or annulment of a marriage, references to a

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person who would have been the wife or child of the defendant if the marriage had subsisted ;

references to a sum ordered to be paid for or in respect of the maintenance of an illegitimate child include references to any sum ordered to be paid by an order under section four of the Bastardy Laws Amendment Act, 1872.

## **151 Deductions from pay for maintenance of wife or child**

- (1) Where the Air Council or an officer authorised by them are satisfied that an officer, warrant officer, non-commissioned officer or airman of the regular air force is neglecting, without reasonable cause, to maintain his wife or any child of his under the age of sixteen the Air Council or officer may order such sum to (be deducted from his pay and appropriated towards the maintenance of his wife or child as the Air Council or officer think fit.
- (2) On an application made to the Air Council or an officer authorised by them for an order under the last foregoing subsection the Air Council or officer, if satisfied that a prima facie case has been made out for the making of such an order, may make an interim order for such deduction and appropriation as is mentioned in the last foregoing subsection to take effect pending the further examination of the case.
- (3) Where an order is in force under subsection (1) or subsection (3) of the last foregoing section for the making of deductions in favour of any person from the pay of an officer, warrant officer, non-commissioned officer or airman of the regular air force, no deductions from his pay in favour of the same person shall be ordered under the foregoing provisions of this section unless the officer, warrant officer, non-commissioned officer or airman is in a place where process cannot be served on him in connection with proceedings for the variation of the order of the court in consequence of which the order under the last foregoing section was made.
- (4) The Air Council or an officer authorised by them may by order vary or revoke any order previously made under this section, and may treat any order made under this section as being in suspense at any time while the person against whom the order was made is absent as mentioned in paragraph (a) of subsection (1) of section one hundred and forty-five of this Act.
- (5) The power to make an order under this section for the deduction of any sum and its appropriation towards the maintenance of a child shall include power—
  - (a) subject to the provisions of subsection (3) of this section, to make such an order after the child has attained the age of sixteen, if an order in favour of the child is in force under subsection (1) or subsection (3) of the last foregoing section; or
  - (b) to make such an order after the child has attained the age of sixteen if—
    - (i) such an order of the court as is mentioned in subsection (1) of the last (foregoing section was in force in favour of the child at the time when the child attained that age, and
    - (ii) the person from whose pay the deductions are ordered is in such a place as is mentioned in subsection (3) of this section, and
    - (iii) the child is for the time being engaged in a course of education or training ; or
  - (c) to continue such an order from time to time after the child has attained the age of sixteen, if the child is for the time being engaged in a course of education or training;

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but no order so made or continued shall remain in force after the child attains the age of twenty-one or shall, unless continued under paragraph (c) of this subsection, remain in force for more than two years.

**152 Limit of deductions under ss. 150 and 151 and effect on forfeiture**

- (1) The sums deducted under the two last foregoing sections shall not together exceed—
  - (a) in the case of an officer, three-sevenths of his pay;
  - (b) in the case of a warrant officer or non-commissioned officer not below the rank of sergeant, two-thirds of his pay;
  - (c) in the case of an airman or non-commissioned officer, below the rank of sergeant, three-fourths of his pay.
- (2) Where any deductions have been ordered under either of the two last foregoing sections from a person's pay and (whether before or after the deductions have been ordered) he incurs a forfeiture of pay by or in consequence of the finding or sentence of a court-martial or the finding or award of the appropriate superior authority or his commanding officer, it shall apply only to so much of his pay as remains after the deductions have been made.
- (3) For the purposes of paragraphs (b) and (c) of subsection (1) of this section a person having acting rank shall be treated as of that rank.

**153 Service of process in maintenance proceedings**

- (1) Any process to be served on an officer, warrant (officer, non-commissioned officer or airman of the regular air force (hereinafter referred to as " the defendant")) in connection with proceedings for any such order of a court in the United Kingdom as is mentioned in subsection (1) of section one hundred and fifty of this Act, or for the variation, revocation or revival of such an order, shall be deemed to be duly served on him if served either on him or his commanding officer, and may, without prejudice to any other method of service, be so served by registered post.
- (2) Where any such process appoints a hearing at a place more than twenty miles from the place where the defendant is then stationed and his appearance in person will be required at the hearing, the service of the process shall not be valid unless there is left with it, in the hands of the person on whom it is served, a sum of money sufficient to enable the defendant to attend the hearing and return.
- (3) Where any such process as is mentioned in subsection (1) of this section is served in the United Kingdom and the defendant will be required to appear in person at the hearing, then if his commanding officer certifies to the court by which the process was issued that the defendant is under orders for active service out of the United Kingdom and that in the commanding officer's opinion it would not be possible for the defendant to attend the hearing and return in time to embark for that service, the service of the process shall be deemed not to have been effected.