



# Naval Discipline Act 1957 (repealed)

1957 CHAPTER 53 5 and 6 Eliz 2

## PART I

### ARTICLES OF WAR

#### *Punishments*

#### [<sup>F1</sup>43A Juveniles

(1) A person under 21 years of age shall not be sentenced to imprisonment.

[ Where—

- <sup>F2</sup>(1A) (a) a person under 21 years of age is convicted of murder or any other civil offence the sentence for which is fixed by law as imprisonment for life; or
- (b) a person under that age is convicted of any civil offence to which [<sup>F3</sup>section 109 of the Powers of Criminal Courts (Sentencing) Act 2000] would apply and the court is not of the opinion mentioned in subsection (2) of that section,

the court shall sentence him to custody for life unless he is liable to be detained under subsection (3) below.]

(1B) Where a person aged [<sup>F4</sup>18 years] or over but under 21 years of age is convicted of any other offence for which a person aged 21 years or over would be liable to imprisonment for life [<sup>F5</sup>then, subject to subsection (1E) below], the court shall sentence him to custody for life if—

- <sup>F6</sup>(a) . . . . .
- (b) it considers that a custodial sentence for life would be appropriate.

(1C) For the purpose of determining whether any method of dealing with a person to whom subsection (1B) of this section applies, other than sentencing him to custody for life, is appropriate, the court shall obtain and consider information about the circumstances, and shall take into account any information before the court which is relevant to his character and his physical and mental condition.

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*Status: Point in time view as at 07/01/2003. This version of this provision has been superseded.*

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[ Subject to subsections (3) and (4) below, the only custodial sentences that a court may  
<sup>F7</sup>(1D) award where a person under 21 years of age is convicted or found guilty of an offence are—

- (a) a custodial order under section 43AA of this Act or under paragraph 10 of Schedule 4A to this Act; and
- (b) a sentence of custody for life under subsection (1A) or (1B) above.

(1E) A court may not—

- (a) make a custodial order under section 43AA of this Act; or
- (b) pass a sentence of custody for life under subsection (1B) above;

unless it is satisfied—

- (i) that the circumstances, including the nature and the gravity of the offence, are such that if the offender were aged 21 or over the court would pass a sentence of imprisonment; and
- (ii) that he qualifies for a custodial sentence.

(1F) An offender qualifies for a custodial sentence if—

- (a) he has a history of failure to respond to non-custodial sentences and is unable or unwilling to respond to them; or
- (b) only a custodial sentence would be adequate to protect the public from serious harm from him; or
- (c) the offence of which he has been convicted or found guilty was so serious that a non-custodial sentence for it cannot be justified.]

(2) . . . <sup>F8</sup>

(3) A person convicted of murder [<sup>F9</sup>or any other offence the sentence for which is fixed by law as life imprisonment] who was under 18 years of age when the offence was committed shall not be sentenced to imprisonment for life, <sup>F10</sup>. . .; but in lieu thereof the court shall (notwithstanding anything in this or any other Act) sentence him to be detained during Her Majesty's pleasure, and if so sentenced he shall be liable to be detained in such place and under such conditions as the Secretary of State may direct.

(4) [<sup>F11</sup> In any case where—

- (a) a person aged 14 or over but under [<sup>F12</sup>18 years] of age is] found guilty of a civil offence (other than one the sentence for which is fixed) which is punishable by a civil court in England or Wales on indictment by, in the case of an adult, a term of imprisonment for 14 years or more, [<sup>F11</sup>or,
- (b) a person under 14 years of age is found guilty of manslaughter, and, in either case, the court] is of opinion that none of the other methods in which the case may be legally dealt with is suitable [<sup>F13</sup> the court may sentence that person], to be detained for such period, not exceeding the maximum term of imprisonment with which the offence is punishable by such a civil court in the case of an adult, as may be specified in the sentence; and where such a sentence has been passed, the person on whom it is passed shall during that period be liable to be detained in such place and on such conditions as the Secretary of State may direct .

(5) A sentence of custody for life or detention under subsection (3) or (4) above shall be treated for the purposes of this Part of this Act as a punishment authorised by this Act involving the same degree of punishment as a sentence of imprisonment; and

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section 43(3) and (4) above shall apply to such a sentence of detention and to a sentence of custody for life as they apply to a sentence of imprisonment.

(6) A person detained pursuant to the directions of the Secretary of State under this section shall, while so detained, be deemed to be in legal custody.]

[<sup>F14</sup>(7) A sentence of detention under section 43(1)(e) of this Act shall be treated for the purposes of this section as a non-custodial sentence and references in this section to a custodial sentence shall be construed accordingly.]

#### Textual Amendments

- F1** S. 43A inserted by [Armed Forces Act 1976 \(c. 52\), s. 10\(1\)\(2\)](#)
- F2** S. 43A(1A) substituted (1.10.1997) by 1997 c. 43, s. 55, [Sch. 4 para. 3\(2\)](#); S.I. 1997/2200, [art. 2](#)
- F3** Words in s. 43A(1A) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), [Sch. 9 para. 19](#)
- F4** Words in s. 43A(1B) substituted (1.10.1992 for E.W.) by [Criminal Justice Act 1991 \(c. 53\)](#), ss. 71, 102(2)(8), [Sch. 9 para. 5](#); S.I. 1992/333, arts. 2(2), 3(1), [Sch. 2](#)
- F5** Words in s. 43A(1B) inserted (1.1.1992) by [Armed Forces Act 1991 \(c. 62\)](#), [s. 2\(2\)\(a\)\(6\)](#); S.I. 1991/2719, [art. 2](#)
- F6** S. 43A(1B)(a) repealed (1.1.1992) by [Armed Forces Act 1991 \(c. 62\)](#), ss. 2(2)(b)(6), 26(2), [Sch. 3](#); S.I. 1991/2719, [art. 2](#)
- F7** S. 43A(1D)-(1F) inserted (1.1.1992) by [Armed Forces Act 1991 \(c. 62\)](#), [s. 2\(3\)\(6\)](#); S.I. 1991/2719, [art. 2](#)
- F8** S. 43(2) repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 78, [Sch. 16](#)
- F9** Words in s. 43A(3) inserted (30.11.2000 with effect as mentioned in [Sch. 7 para. 29\(2\)](#) of the amending Act) by 2000 c. 43, s. 74, [Sch. 7 Pt. II para. 29\(1\)\(e\)](#)
- F10** Words in s. 43A(3) repealed (11.5.2001) by 2001 c. 19, ss. 38, 39(3)(g), [Sch. 7 Pt. 4](#)
- F11** Words in s. 43A(4) substituted (1.1.1992) by [Armed Forces Act 1991 \(c. 62\)](#), [s. 2\(4\)\(a\)\(b\)\(6\)](#); S.I. 1991/2719
- F12** Words in s. 43A(4)(a) substituted (1.10.1992 for E.W.) by [Criminal Justice Act 1991 \(c. 53\)](#), ss. 71, 102(2)(8), [Sch. 9 para. 5](#); S.I. 1992/333, arts. 2(2), 3(1), [Sch. 2](#)
- F13** Words in s. 43A(4) inserted (1.1.1992) by [Armed Forces Act 1991 \(c. 62\)](#), [s. 2\(4\)\(c\)\(6\)](#); S.I. 1991/2719, [art. 2](#)
- F14** S. 43A(7) inserted (1.1.1992) by [Armed Forces Act 1991 \(c. 62\)](#), [s. 2\(5\)\(6\)](#); S.I. 1991/2719, [art. 2](#)

#### Textual Amendments applied to the whole legislation

- F1** Act repealed (prosp.) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 17](#) and the repeal being partly in force, as to which see individual provisions

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