
STATUTORY INSTRUMENTS

1997 No. 579

DEFENCE

**The Courts-Martial and Standing Civilian
Courts (Army and Royal Air Force) (Additional
Powers on Trial of Civilians) Regulations 1997**

<i>Made</i>	- - - -	<i>5th March 1997</i>
<i>Laid before Parliament</i>		<i>6th March 1997</i>
<i>Coming into force</i>	- -	<i>1st April 1997</i>

The Secretary of State, in exercise of the powers conferred on him by paragraph 17 of Schedule 5A to the Army Act 1955(1), paragraph 17 of Schedule 5A to the Air Force Act 1955(2) and paragraph 17 of Schedule 4A to the Naval Discipline Act 1957(3), hereby makes the following Regulations—

PART I
PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Courts-Martial and Standing Civilian Courts (Army and Royal Air Force) (Additional Powers on Trial of Civilians) Regulations 1997 and shall come into force on 1st April 1997.

Interpretation

2. In these Regulations—

“the 1976 Act” means the Armed Forces Act 1976(4);

“the 1955 Act” means—

- (a) where the accused is being prosecuted under the Army Act 1955, that Act; and
- (b) where the accused is being prosecuted under the Air Force Act 1955, that Act;

(1) 1955 c. 18; Schedule 5A was inserted by the Armed Forces Act 1976 (c. 52), section 8 and Schedule 4.
(2) 1955 c. 19; Schedule 5A was inserted by the Armed Forces Act 1976, section 8 and Schedule 4.
(3) 1955 c. 53; Schedule 4A was inserted by the Armed Forces Act 1976, section 8 and Schedule 4.
(4) 1976 c. 52.

“commanding officer”, in relation to an accused, means the officer determined by or under regulations of the Defence Council under section 209(3)(f) of the 1955 Act;

“court administration officer” and “the court administration officer” have the meanings assigned to them—

- (a) where the offender has been tried by court-martial, by section 84A of the 1955 Act⁽⁵⁾; and
- (b) where the offender has been tried by Standing Civilian Court, by paragraph 1(1) of Schedule 3 to the 1976 Act ⁽⁶⁾; and

“duly qualified medical practitioner” means a medical practitioner—

- (a) approved for the purposes of section 12 of the Mental Health Act 1983⁽⁷⁾;
- (b) approved for the purposes of section 20 or 39 of the Mental Health (Scotland) Act 1984⁽⁸⁾; or
- (c) appointed for the purposes of Part II of the Mental Health (Northern Ireland) Order 1986⁽⁹⁾ by the Mental Health Commission for Northern Ireland.

Manner in which documents may be served

- 3. Where under these Regulations any document is to be served on any person, it may be served—
 - (a) by personal delivery; or
 - (b) by post in a letter addressed to that person at his last known or usual place of work or abode.

PART II

COMMUNITY SUPERVISION ORDERS

Nomination of supervisors

4.—(1) An officer appointed by the Defence Council for the purposes of this regulation shall draw up and maintain a list of persons, which may include a specified class of persons, who are in his opinion fit to be specified as supervisors under paragraph 4 of Schedule 5A to the 1955 Act⁽¹⁰⁾ by reason of their experience, occupation, training or other qualification.

(2) The list drawn up under paragraph (1) above may be maintained in different sections for different purposes or for different areas.

Specifying a supervisor

5.—(1) Where the court has found an accused guilty, the prosecutor shall, if the court so requests, supply it with a copy of the list maintained under regulation 4 above or a relevant section of it.

(2) The court shall specify in any community supervision order a named person from the list to act as supervisor in relation to that order.

(3) Where the list maintained under regulation 4 above includes a specified class of persons, the court may specify any person who falls within that class to act as supervisor.

(5) Section 84A was inserted by the Armed Forces Act 1996 (c. 46), section 5 and Schedule 1.

(6) Paragraph 1 was amended by the Armed Forces Act 1996, section 5 and Schedule 1.

(7) 1983 c. 20.

(8) 1984 c. 36.

(9) S.I. 1986/595 (N.I. 4).

(10) Paragraph 4 was amended by the Armed Forces Act 1996, section 10 and Schedule 3.

(4) The court shall not specify a person to act as a supervisor unless it is satisfied that the person consents so to act.

General duty of a supervisor

6. It shall be the general duty of a supervisor to advise an offender under his supervision and to assist in his rehabilitation.

Prescribed requirements

7. Subject to regulation 8 below, the requirements with which the court may direct an offender who is to be subject to a community supervision order to comply, in accordance with paragraph 4(3) of Schedule 5A to the 1955 Act, are—

- (a) where an offender is under the age of 17 years at the date on which the order is made, any requirement set out in Part I of Schedule 1 to these Regulations; and
- (b) in any other case, any requirement set out in that Schedule.

Limitations on requirements

8.—(1) The court may not include in a community supervision order the requirement set out in paragraph 6 of Schedule 1 to these Regulations unless it is satisfied, on the evidence of a duly qualified medical practitioner, that the mental condition of the offender is such as requires and may be susceptible to treatment.

(2) The court may not include in a community supervision order the requirement set out in paragraph 7 of Schedule 1 to these Regulations unless it is satisfied that—

- (a) the offender is dependent on drugs or alcohol;
- (b) his dependency caused or contributed to the offence in respect of which the order is being made; and
- (c) his dependency is such as requires and may be susceptible to treatment.

(3) The court may not include in a community supervision order both of the requirements set out in paragraphs 8 and 9 of Schedule 1 to these Regulations.

(4) No requirement directed by the court or a supervisor shall operate such as to conflict with any religious belief or observance of the person under supervision, or interfere with the times, if any, at which he normally works or attends an educational establishment.

Calculation of periods specified

9. For the purpose of calculating any period or number of days in respect of a requirement directed by the court or a supervisor, a direction given in respect of one or more parts of a day shall be treated as given in respect of the whole of that day.

PART III

FORMS AND ORDERS

Form of orders

10. An order made by the court under a power contained in Schedule 5A to the 1955 Act shall be drawn up in the appropriate form set out in Part I of Schedule 2 to these Regulations or in a form substantially to the like effect.

Service of orders

11. Where the court makes an order specified in column 1 of Part II of Schedule 2 to these Regulations, the court administration officer shall—

- (a) where the order requires the payment of a fine or compensation by a parent or guardian, serve the order on the parent or guardian; and
- (b) in any case, serve a certified copy of the order on each of the persons specified in relation to that order in column 2 of Part II of Schedule 2 to these Regulations.

Discharge or modification of a community supervision order

12.—(1) Where an officer discharges or modifies a community supervision order or replaces a supervisor, in accordance with paragraph 4(11) of Schedule 5A to the 1955 Act, he shall—

- (a) serve notice in writing on the Judge Advocate General (or his deputy) for retention with the record or note of proceedings as the case may be, and
- (b) serve a certified copy of his notice on each of the persons specified in relation to a community supervision order in column 2 of Part II of Schedule 2 to these Regulations.

(2) Where an officer replaces a supervisor, he shall specify a named person from the list maintained under regulation 4 above to act as the replacement supervisor.

(3) Where the list maintained under regulation 4 above includes a specified class of persons, the officer may specify any person who falls within that class to act as the replacement supervisor.

(4) The officer shall not specify a person to act as a replacement supervisor unless that person consents in writing.

PART IV

MISCELLANEOUS

Revocations and savings

13.—(1) Subject to paragraph (2) below, the Regulations set out in Schedule 3 to these Regulations are hereby revoked.

(2) The Regulations set out in Schedule 3 shall continue to apply in relation to any trial by a court-martial or Standing Civilian Court which commenced before 1st April 1997 until the conclusion of that trial.

5th March 1997

Nicholas Soames
Minister of State, Ministry of Defence

SCHEDULE 1

Regulation 7

REQUIREMENTS WHICH MAY BE INCLUDED
IN A COMMUNITY SUPERVISION ORDER

PART I

REQUIREMENTS AVAILABLE FOR ALL ORDERS

1. To report in person and to receive visits at his home as directed by the supervisor.
2. To notify the supervisor of any change, whether temporary or permanent, in his address or employment.
3. To participate in activity of a recreational, educational or cultural nature or of social value as directed by the supervisor.
4. To reside for a period or periods specified in the order, not exceeding in aggregate 365 days, with a person named in the order who consents in writing to that requirement.
5. To reside for a period or periods specified in the order at a place so specified.
6. To submit, for a period or periods specified in the order, to treatment by or under the direction of a duly qualified medical practitioner named in the order with a view to the improvement of the offender's mental condition.
7. To submit, for a period or periods specified in the order, to treatment by or under the direction of a person named in the order having the necessary qualifications or experience with a view to the reduction or elimination of the offender's dependency on drugs or alcohol.

PART II

REQUIREMENTS AVAILABLE FOR AN ORDER IN RESPECT
OF AN OFFENDER WHO IS AGED 17 YEARS OR OVER

8. To perform unpaid work or activity as specified by the supervisor for a fixed number of hours between 40 and 240 as specified in the order.
9. To perform unpaid work or activity as specified by the supervisor for the number of hours which the supervisor may from time to time direct, within any limit between 40 and 240 hours in aggregate as specified in the order.

SCHEDULE 2

Regulations 10 and 11

FORMS AND ORDERS

PART I

FORMS OF ORDERS

Form 1—Community supervision order

Form 2—Custodial order

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 3—Order requiring the payment of a fine or compensation by a parent or guardian

Form 4—Order of recognisance

Form 5—Order declaring forfeiture of recognisance

Form 1 **COMMUNITY SUPERVISION ORDER**

WHEREAS *(name of offender)* of *(address of offender)* (hereinafter called the offender) who was born on *(date of birth)* appeared before a *Court-Martial/Standing Civilian Court sitting at *(place of trial)* and *he/she was on *(date of conviction)* found guilty of the following offence(s):

NOW IT IS ORDERED that the offender comply during the period of *(period of supervision)* with effect from *(date from which order is to run)* with the reasonable requirements of *(name of supervisor)* of *(address of supervisor)* (hereinafter called the supervisor).

*IT IS FURTHER ORDERED that the offender shall:
(list any requirement of the Order including the full name of any person referred to)

DATED the day of

(signed)
*Judge Advocate/Magistrate

CONSENT OF OFFENDER *AND PARENT/GUARDIAN

I *(name of offender)* of *(address)*

*and I *(name of parent/guardian if offender is under 17 years of age)* of *(address)*

HEREBY CONSENT to the making of this order *and to the inclusion in it of the requirement(s) listed above.

DATED the day of

(signed)
Offender

(signed)
*Parent/guardian
*Rank

* Delete as appropriate

Form 2 **CUSTODIAL ORDER**

WHEREAS *(name of offender)* of *(address of offender)* (hereinafter called the offender) who was born on *(date of birth)* appeared before a *Court-Martial/Standing Civilian Court sitting at *(place of trial)* and *he/she was on *(date of conviction)* found guilty of the following offence(s) punishable with imprisonment:

NOW IT IS ORDERED that the offender be committed to such appropriate institution as the Secretary of State may direct for a period of *(period of the custodial order)* with effect from *(date order made)*

DATED the day of

(signed)
*Judge Advocate/Magistrate

* Delete as appropriate

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 3 ORDER REQUIRING THE PAYMENT OF A FINE OR COMPENSATION BY A PARENT OR GUARDIAN

TO: *(name of person ordered to pay)* of *(address of person ordered to pay)*

WHEREAS *(name of offender)* of *(address of offender)* (hereinafter called the offender) who was born on *(date of birth)* appeared before a *Court-Martial/Standing Civilian Court sitting at *(place of trial)* and *he/she was on *(date of conviction)* found guilty of the following offence(s):

YOU, being the parent/guardian of the offender, are **ORDERED** to pay the sum of *(total amount in words and figures)* as shown below:

ADJUDICATION

Fine

Compensation

Total

Payment is to be made to *(name/appointment and address of person to whom payment is to be made)*.

Any application for the grant of time to pay is to be made in writing to the commanding officer of the offender.

DATED the day of

(signed)
*Judge Advocate/Magistrate

* Delete as appropriate

Form 4 ORDER OF RECOGNISANCE

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

WHEREAS (name of offender) of (address of offender) (hereinafter called the offender) who was born on (date of birth) appeared before a *Court-Martial/Standing Civilian Court sitting at (place of trial) and *he/she was on (date of conviction) found guilty of the following offence(s):

IT IS ORDERED that (name of parent/guardian bound by the recognisance), of (address of parent/guardian bound by the recognisance), the offender's service parent/guardian who consents to the making of this order, do forthwith enter into a RECOGNISANCE in the sum of (amount of recognisance in words and figures) to exercise proper control over the offender for the period of (period of recognisance) from (date order made).

DATED the day of

(signed)
*Judge Advocate/Magistrate

I, (name of parent/guardian bound by the recognisance), HEREBY CONSENT to the making of this order against me.

(signed)
Parent/guardian
*Rank and Number/Description

* Delete as appropriate

Form 5ORDER DECLARING FORFEITURE OF RECOGNISANCE

WHEREAS on (date of original order) it was ordered that (name of parent/guardian bound by the recognisance) of (address of parent/guardian bound by the recognisance), the service parent/guardian of (name of offender) of (address of offender) (hereinafter called the offender), do enter into a RECOGNISANCE in the sum of (amount of recognisance in words and figures) to exercise proper control over the offender for the period of (period of recognisance) from (date order made);

TO which order the said (name of parent/guardian bound by the recognisance) consented;

AND WHEREAS the offender who was born on (date of birth) appeared before a *Court-Martial/Standing Civilian Court sitting at (place of trial) and *he/she was on (date of conviction) found guilty of the following offence(s):

committed during the said period of recognisance;

IT IS THEREFORE DECLARED AND ORDERED that [*part of] the recognisance is forfeited and that (name of parent/guardian bound by the recognisance) do pay the sum of (amount in words and figures) in respect of it.

Payment is to be made to (name/appointment and address of person to whom payment is to be made)

Any application for the grant of time to pay is to be made in writing to the commanding officer of the offender.

DATED the day of

(signed)
*Judge Advocate/Magistrate

* Delete as appropriate

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PART II

PERSONS ON WHOM COPIES OF ORDERS ARE TO BE SERVED

<i>Column 1</i>	<i>Column 2</i>
1. Community supervision order	(a) (a) The offender. (b) If the offender was under 17 years of age when the order was made, the parent or guardian who consented to it being made. (c) The supervisor (and, if the supervisor is replaced, the replacement supervisor). (d) Any person named in the order in connection with a requirement directed by the court and, where the offender is required to reside at a specified place, the person in charge of that place. (e) The commanding officer of the offender.
2. Custodial order	(a) (a) The Secretary of State. (b) The offender. (c) The commanding officer of the offender.
3. Order requiring the payment of a fine by a parent or guardian	(a) (a) The commanding officer of the offender.
4. Order requiring the payment of compensation by a parent or guardian	(a) (a) The commanding officer of the offender.
5. Order of recognisance	(a) (a) The parent or guardian bound by it.
6. Order declaring forfeiture recognisance	(a) (a) The parent or guardian ordered to pay.

SCHEDULE 3

Regulation 13

REVOCATIONS

<i>Regulations revoked</i>	<i>Reference</i>
Courts-Martial and Standing Civilian Courts (Additional Powers on Trial of Civilians) Regulations 1977	S.I. 1977/87

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<i>Regulations revoked</i>	<i>Reference</i>
Courts-Martial and Standing Civilian Courts (Additional Powers on Trial of Civilians) (Amendment) Regulations 1982	S.I. 1982/365
Courts-Martial and Standing Civilian Courts (Additional Powers on Trial of Civilians) (Amendment) Regulations 1983	S.I. 1983/717
Courts-Martial and Standing Civilian Courts (Additional Powers on Trial of Civilians) (Amendment) Regulations 1986	S.I. 1986/1241
Courts-Martial and Standing Civilian Courts (Additional Powers on Trial of Civilians) (Amendment) Regulations 1987	S.I. 1987/1999

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations, which come into force on 1st April 1997, revoke the Courts-Martial and Standing Civilian Courts (Additional Powers on Trial of Civilians) Regulations 1977 ([S.I.1977/87](#)) and the subsequent amending regulations, which were tri-service in application. These regulations, which principally affect only the prosecution of civilians under the Army Act 1955 and the Air Force Act 1955 (the 1955 Acts), make provision for matters which are supplementary and incidental to the additional powers available under Schedule 5A to the 1955 Acts. Those Schedules permit the court to exercise additional powers on sentence if a civilian is convicted under either of the 1955 Acts by a court-martial or by a Standing Civilian Court established under the Armed Forces Act 1976 (the 1976 Act).

The Regulations substantially reenact the 1977 regulations, but take into account the changes made to the 1955 Acts and the 1976 Act by the Armed Forces Act 1996.

Part II and Schedule 1 relate to community supervision orders, including the provision of supervisors for such orders and requirements which may be imposed by such an order.

Part III requires the forms set out in Schedule 2 to be used where the court makes an order under its additional powers and provides on whom copies of the orders must be served.