

SCHEDULES

SCHEDULE 8

Section 58.

COURTS-MARTIAL ETC.

- 1 (1) The following subsection shall be inserted after section 57(2) of the Army Act 1955 and of the Air Force Act 1955—
 - “(2A) If the offender has attained seventeen years of age but is under twenty-one years of age, subsection (2) above shall have effect in relation to him as if the power to impose a sentence of imprisonment were a power to make an order under section 71AA below.”
- (2) The subsection inserted by sub-paragraph (1) above in section 57 of the Army Act 1955 and the Air Force Act 1955 shall also be inserted after subsection (3) of section 38 of the Naval Discipline Act 1957, as subsection (3A) of that section, but with the substitution of " 43AA " for " 71AA ".
- 2 Section 71A of the Army Act 1955 and of the Air Force Act 1955 and section 43A of the Naval Discipline Act 1957 (powers of courts in relation to juveniles) shall have effect subject to the following amendments—
 - (a) in subsection (1), for " 17 " there shall be substituted " 21 ";
 - (b) the following subsections shall be inserted after that subsection—
 - “(1A) Where 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, 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 17 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, the court shall sentence him to custody for life if—
 - (a) it is of the opinion that no other method of dealing with him is appropriate ; and
 - (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.”;
 - (c) subsection (2) shall be omitted ; and
 - (d) in subsection (5)—
 - (i) after the word " of ", in the first place where it occurs, there shall be inserted the words " custody for life or " ; and

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(ii) after the word "detention", in the second place where it occurs, there shall be inserted the words "and to a sentence of custody for life".

3 In section 71AA of the Army Act 1955 and the Air Force Act 1955 and in section 43AA of the Naval Discipline Act 1957 (custodial orders)—

(a) in subsection (1)—

(i) for the words "instead of so punishing him" there shall be substituted the words "subject to subsection (1A) below"; and

(ii) for the words from "maximum" to the end there shall be substituted the words "period to be specified in the order not exceeding the maximum period for which he could have been sentenced to imprisonment if he had attained the age of twenty-one years.";

(b) the following subsections shall be inserted after that subsection—

“(1A) The court shall not make a custodial order in respect of a person unless it is of the opinion that no other method of dealing with him is appropriate.

(1B) For the purposes of determining whether there is any appropriate method of dealing with a person other than making a custodial order in respect of him 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.”;

(c) in subsection (6)(a) the following paragraphs shall be substituted for paragraphs (i) and (ii)—

“(i) if the period specified in the order is four months or less and he is male, a detention centre, and

(ii) in any other case, any place where he could have been detained under section 12 of the Criminal Justice Act 1982 if he had been sentenced to youth custody for the period specified in the order ;”;

(d) the following subsection shall be inserted after that subsection—

“(6A) Section 15 of the Criminal Justice Act 1982 (release of young offenders) shall apply to persons released from a term of detention under a custodial order as it applies to persons released from a term of detention under a detention centre order or a term of youth custody.”.

4 (1) In section 71B of the Army Act 1955 and section 71B of the Air Force Act 1955 (power to impose imprisonment for default in payment of fines)—

(a) at the end of paragraph (b) of subsection (1) there shall be inserted “or

(c) in respect of whom the court makes an order under section 71AA above on the same occasion for the same or another offence, or

(d) who is already serving or otherwise liable to serve a period of detention under such an order;”;

(b) the words "or detention" shall be inserted after the word "imprisonment" —

(i) in the third place where it occurs in that subsection ; and

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- (ii) in subsection (4); and
 - (c) the following subsection shall be inserted after subsection (5)—
 - “(5A) An order imposing a term of detention under this section shall be given effect as if it were a custodial order under section 71AA above.”.
- (2) The amendments made by sub-paragraph (1) above shall also be made in section 43B of the Naval Discipline Act 1957 but with the substitution of " 43AA " for " 71AA ", in both places where it occurs.
- 5 In section 85 of the Army Act 1955 and the Air Force Act 1955 (powers of different descriptions of courts-martial)—
 - (a) the words "or make an order committing a person to be detained under section 71AA of this Act for a period exceeding two years " shall be inserted at the end of subsection (2); and
 - (b) the words "or detention under section 71AA of this Act for a period of two years " shall be inserted at the end of subsection (3).
- 6 In section 145(1)(b) of those Acts (forfeiture of pay for absence from duty), for the words " Borstal institution " there shall be substituted the words " youth custody centre ".
- 7 Paragraph 10 of Schedule 5A to the Army Act 1955 and to the Air Force Act 1955 and Schedule 4A to the Naval Discipline Act 1957 (custodial orders) shall have effect subject to the following amendments—
 - (a) in sub-paragraph (1)—
 - (i) for the words " instead of so punishing him " there shall be substituted the words " subject to subsection (1A) below "; and
 - (ii) for the words from "for" to the end there shall be substituted the words—
 - “(a) if the order is made by a court-martial, for a period to be specified in the order not exceeding the maximum period for which he could have been sentenced to imprisonment if he had attained the age of 21 ; or
 - (b) if it is made by a Standing Civilian Court, for a period of not more than six months.”;
 - (b) the following sub-paragraphs shall be inserted after that sub-paragraph—
 - “(1A) The court shall not make a custodial order in respect of an offender unless it is of the opinion that no other method of dealing with him is appropriate.
 - (1B) For the purposes of determining whether there is any appropriate method of dealing with an offender other than making a custodial order in respect of him 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 mental and physical condition.”;
 - (c) the following sub-paragraphs shall be inserted after subparagraph (3)—

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- “(3A) Where a Standing Civilian Court makes a custodial order in respect of an offender, it shall state in open court the reason for its opinion that no other method of dealing with him is appropriate.
- (3B) A Standing Civilian Court shall cause a reason stated under sub-paragraph (3A) above to be specified in the custodial order and to be recorded in the proceedings.”;
- (d) in sub-paragraph (6)(a) the following paragraphs shall be substituted for paragraphs (i) and (ii)—
- “(i) if the period specified in the order is four months or less and he is male, a detention centre, and
- (ii) in any other case, any place where he could have been detained under section 12 of the Criminal Justice Act 1982 if he had been sentenced to youth custody for the period specified in the order ;”;
- (e) the following sub-paragraph shall be inserted after that subparagraph—
- “(6A) Section 15 of the Criminal Justice Act 1982 (release of young offenders) shall apply to persons released from a term of detention under a custodial order as it applies to persons released from a term of detention under a detention centre order or a term of youth custody.”.
- 8 (1) In paragraph 11(2) of Schedule 5A to the Army Act 1955 and to the Air Force Act 1955 (compensation orders) for " £400 " there shall be substituted " £1,000 ".
- (2) Sub-paragraph (1) above has effect only in relation to offences committed after this paragraph comes into force.
- 9 The following sub-paragraph shall be substituted for sub-paragraphs (1) and (2) of paragraph 13 of those Schedules (imposition of fines on and making of compensation orders against parent or guardian)—
- “(1) Where—
- (a) a civilian under 17 years of age is found guilty of any offence for the commission of which a fine may be imposed or a compensation order may be made under paragraph 11 above ; and
- (b) the court is of the opinion that the case would best be met by the imposition of a fine or the making of such an order, whether with or without any other punishment,
- it shall be the duty of the court to order that the fine or compensation awarded be paid by any parent or guardian of his who is a service parent or guardian, instead of by the person himself, unless the court is satisfied—
- (i) that the parent or guardian cannot be found ; or
- (ii) that it would be unreasonable to make an order for payment, having regard to the circumstances of the case.
- (2) An order under this paragraph may be made against the parent or guardian if—
- (a) he has been required to attend in the manner prescribed by Rules of Procedure under section 103 above or, as the case may be, by an order under paragraph 12 of Schedule 3 to the Armed Forces Act 1976 to attend the court, and

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- (b) he has failed to do so,
but, save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.”.
- 10 (1) In paragraph 14(1) of those Schedules (recognisances from parents and guardians) for £50 there shall be substituted " £500 ".
- (2) Sub-paragraph (1) above has effect only in relation to offences committed after this paragraph comes into force.
- 11 In paragraph 15(3) of those Schedules (scale of punishments and orders)—
- (a) in the Table, in paragraph 3, in the second column, for the word " imprisonment" there shall be substituted the words " custody for life "; and
- (b) in paragraph (i) of the Note following that Table for the word " imprisonment" there shall be substituted the words " custody for life ".
- 12 (1) In section 8(1)(b) of the Armed Forces Act 1976 (powers of Standing Civilian Court to fine and sentence) for "£400" there shall be substituted " £1,000 ".
- (2) Sub-paragraph (1) above has effect only in relation to offences committed after this paragraph comes into force.