



# Armed Forces Act 1966

## 1966 CHAPTER 45

### PART III

#### OTHER AMENDMENTS OF LAW RELATING TO ARMED FORCES

*Provision applicable alike to Persons subject to Naval Discipline Act 1957, military Law or air-force Law*

#### **15 Taking into custody persons arrested or likely to be arrested by overseas authorities.**

- (1) A person who is subject to service law and is detained in the custody of a civil or service authority of a country outside the United Kingdom in connection with an offence punishable under the law of that country may, if he is handed over by the authority, be taken into naval, military or air force custody under this section in accordance with subsection (3) below and kept in such custody.
- (2) Where a person who is subject to service law is in a country outside the United Kingdom and it appears to an officer not below the rank of lieutenant-commander or a military or air-force officer of corresponding rank or an officer below that rank in command of one of Her Majesty's ships.—
  - (a) that the arrest of that person by a civil or service authority of that country in connection with an offence against the law of that country is imminent; or
  - (b) that, if a request made by a civil or service authority of that country for the arrest, in accordance with a power exercisable by members of Her Majesty's forces, of that person in connection with such an offence is not complied with, that person is likely to be arrested by that authority ;

that person—

- (i) may be arrested by that officer, irrespective of that officer's rank; or
- (ii) may, if that officer so requires, be arrested in accordance with the next following subsection ;

and a person arrested under this section may be kept in naval, military or air-force custody under this section.

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- (3) A person may be taken into custody under subsection (1) above or arrested by virtue of subsection (2)(ii) above by a person described in section 45 of the Naval Discipline Act 1957, section 74 of the Army Act 1955 or section 74 of the Air Force Act 1955 who would thereunder have power to arrest him if he had committed an offence under Part I of the said Act of 1957 or against any provision of Part II of the Army Act 1955 or Part II of the Air Force Act 1955 ; and the powers conferred by this subsection may be exercised either personally or by ordering into naval, military or air force custody or, as the case may be, arrest the person to be taken into custody or arrested or by giving orders for his being taken into custody or arrested.

For the purposes of this subsection a member of one service whom it is proposed should be taken into custody or arrested by a member of another service shall be treated as holding corresponding rank in that other service to the rank held by him.

- (4) For the purpose of trial for, or an investigation into, the offence in connection with which a person is in custody under this section, that person.—
- (a) if he is so in custody by virtue of subsection (1) above—may, at the request of the authority by whom he was handed over in accordance with that subsection, be handed back to that authority ; or
  - (b) if he is so in custody by virtue of subsection (2) above, may, at the request of the authority whose apparent intention it was to arrest that person, or, as the case may be, whose request for his arrest was the occasion of his arrest under that subsection, be handed over to that authority.
- (5) A person in custody by virtue of this section may be retained therein notwithstanding his ceasing at any time while he is so retained to be subject to service law.
- (6) The Defence Council may make regulations with respect to all or any of the following matters, that is to say.—
- (a) the manner in which persons may be taken into custody or arrested under this section ;
  - (b) the making of reports on the reasons why a person has been so taken into custody or arrested, and on the necessity for the keeping of a person in custody under this section, the persons by whom, the time at which, and the authority to whom such reports are to be made, and, in the case of reports as to the keeping -of a person in custody, the frequency with which such reports are to be made;
  - (c) the custody and treatment ,of persons kept in custody under this section, and their removal from one country to another; and
  - (d) the giving of directions, by such persons as may be specified in or determined under the regulations, with respect to all or any of the matters above mentioned.
- (7) None of the following provisions (which relate to proceedings after arrest of a person under service law) shall apply to a person kept in custody by virtue of this section, that is to say, section 46 of the Naval Discipline Act 1957, sections 53 and 75 of the Army Act 1955 and sections 53 and 75 of the Air Force Act 1955.
- (8) This section shall apply to a person to whom—
- (a) any enactment contained in Part I of the Naval Discipline Act 1957 applies by virtue of section 118 of that Act (application to civilians); or
  - (b) Part II of the Army Act 1955 applies by virtue of section 209 of that Act (application to civilians); or

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(c) Part II of the Air Force Act 1955 applies by virtue of section 209 of that Act (application to civilians),

as it applies to a person subject to the Naval Discipline Act 1957, military law or air-force law, as the case may be, but with the substitution, for the reference to section 45 of the Naval Discipline Act, of a reference to paragraph 3 of Schedule 4 to that Act, for references to section 74 of the Army Act 1955 and section 74 of the Air Force Act 1955, of references to those sections as modified respectively by section 209 of the Army Act 1955 and section 209 of the Air Force Act 1955, and the omission, in subsection (3), of the words from " For the purposes of this subsection " to the end of the subsection.

(9) In this section—

" civil authority " means a civil authority authorised by law to detain persons ;

" corresponding rank " has the same meaning as in the Army Act 1955;

" Her Majesty's ships " has the same meaning as in the Naval Discipline Act 1957 ;

" service authority " means a naval, military or air-force authority;

" service law " means the Naval Discipline Act 1957, military law or air-force law ;

and any reference to the keeping of a person in custody includes a reference to his being kept under open arrest.

#### *Command over Her Majesty's Forces*

### **16 Powers of command over Her Majesty's forces.**

- (1) Notwithstanding anything in section 3 of the Act of Settlement, Her Majesty may make regulations providing for the vesting of command over Her Majesty's forces, or any part or member thereof, in persons being members of forces of countries outside Her dominions, and as to the extent to which such command is to be exercised.
- (2) In this section " Her Majesty's forces " does not include a force of a Commonwealth country within the meaning of the Naval Discipline Act 1957.
- (3) Nothing in the foregoing provisions of this section shall be taken to affect the powers vested in Her Majesty by virtue of the prerogative of the Crown.

#### *Amendments applicable alike to Army Act 1955, Air Force Act 1955 and Naval Discipline Act 1957*

### **17 Increase in maximum fine awardable to civilians on summary trial under Armed Forces Acts.**

- (1) The fine that may be awarded—
  - (a) by virtue of subsection (3)(b) of section 209 of the Army Act 1955 on a summary trial of a person to whom Part II of that Act applies by virtue of that section; and
  - (b) by virtue of subsection (3)(b) of section 209 of the Air Force Act 1955 on a summary trial of a person to whom Part II of that Act applies by virtue of that section; and

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(c) by virtue of paragraph 4 of Schedule 4 to the Naval Discipline Act 1957 on a summary trial of a person liable to be tried by virtue of section 118 of that Act; shall, instead of being a fine not exceeding £10, be one not exceeding £25.

(2) Accordingly, in subsection (3)(b) of section 209 of each of the said Acts of 1955, and in paragraph 4(b) of Schedule 4 to the said Act of 1957, for the words "ten pounds" there shall be substituted the words "twenty-five pounds".

## **18 Procuring or assisting continuation of desertion or absence without leave.**

(1) Section 192(1) of the Army Act 1955 (which makes it an offence to procure or assist desertion or absence without leave) shall have effect with the substitution, for paragraph (c) (concealing or assisting in concealing a deserter or assisting his rescue from custody), of the following paragraph:—

“(c) knowing any person to be a deserter or absentee without leave from the regular forces, procures or persuades or assists him to remain such a deserter or absentee, or assists in his rescue from custody”,

and section 192(1) of the Air Force Act 1955 (which is the corresponding provision of that Act) shall have effect with the substitution for paragraph (c), of a paragraph in other respects similar to that set out above but modified by the substitution, for the words "regular forces" , of the words "regular air force

(2) Section 97(1) of the Naval Discipline Act 1957 (which makes similar provision to that of section 192(1) of the Army Act 1955) shall have effect with the substitution, for paragraph (c) thereof (concealing or assisting a person who is a deserter or is absent without leave or has improperly left his ship or place of duty, or assisting in his rescue from custody), of the following paragraph:—

“(c) knowing any such person to have committed such an offence, procures or persuades or assists him to remain a deserter, absentee without leave or improperly absent from his ship or place of duty, or assists in his rescue from custody”.

## **19 Application of Armed Forces Acts to Republic of Ireland.**

For the purposes of the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957, the Republic of Ireland shall not be a foreign country, and references in any of those Acts to foreign powers, aliens and foreign stations shall be construed accordingly; and section 219 of the Army Act 1955 (which applies that Act to the Republic of Ireland as it applies to a foreign country), and section 217 of the Air Force Act 1955 and section 128 of the Naval Discipline Act 1957 (which are the provisions of those Acts corresponding to the said section 219) shall accordingly cease to have effect.

## **20 Amendments as to active service.**

(1) The cases in which, where a force is engaged in operations for the protection of life or property, it is, by virtue of section 224(1) of the Army Act 1955 or section 222(1) of the Air Force Act 1955, on active service within the meaning of each of those Acts shall be extended to include, as well as the case where the operations are in a foreign country, one in which they are in any other country outside the United Kingdom.

- (2) The authority by whom under subsections (2), (3) and (4) of the said section 224 or, as the case may be, of the said section 222, declarations may be made with respect to a force's being deemed to be on active service, shall cease to include, in relation to a force in a colony, the Governor of the colony.
- (3) The cases in which, where a force is landed for the purpose of the protection of life and property, it is by section 134 of the Naval Discipline Act 1957 to be deemed to be on active service shall be extended to include, as well as the case where it is landed in a foreign country, one in which it is landed in any other country outside the United Kingdom.
- (4) Accordingly.—
  - (a) in the said section 224(1) and the said section 222(1), for the words "is engaged in a foreign country in operations for the protection of life or property", there shall be substituted the words "is engaged elsewhere than in the United Kingdom in operations for the protection of life or property";
  - (b) in the said section 224 and the said section 222, the following shall cease to have effect, that is to say, in subsection (8), paragraph (a), and, in paragraph (b), the words "not in a colony", and subsection (9);
  - (c) in the said section 134, for the words "landed in any foreign country", there shall be substituted the words "landed elsewhere than in the United Kingdom".

*Amendments applicable alike to Army Act 1955 and Air Force Act 1955*

## **21 Substitution of fine by way of punishment for forfeiture of sums from pay.**

- (1) The following provisions of this section shall have effect for the purpose of substituting, for the punishment for which provision was made by section 19 of the Army and Air Force Act 1961 consisting in forfeiture of sums from the pay of persons found guilty under the Army Act 1955 or the Air Force Act 1955 (which Acts are hereafter referred to in this section as "the Acts") of offences, the punishment of a fine, and of making connected amendments.
- (2) Sections 71 (punishment of officers), 72 (punishment of other ranks), 78 (mode of dealing with charge against non-commissioned officer, soldier or airman on commanding officer's investigation) and 79 (mode of dealing with charge against officer or warrant officer after commanding officer's investigation) of each of the Acts as amended by the said Act of 1961 shall have effect with the substitution, for the words "forfeiture of a sum from pay", wherever they occur, of the word "fine".
- (3) The amount of a fine that may be awarded by a court-martial under either of the Acts by way of punishment for an offence—
  - (a) except in the case of an offence against section 70 (civil offences) of either of them, shall not exceed the amount of the offender's pay for twenty-eight days; and
  - (b) in the said excepted case—
    - (i) where the civil offence constituting the offence against that section is punishable by a civil court in England only on summary conviction and is so punishable by a fine, shall not exceed the maximum amount of that fine ;

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- (ii) where the said civil offence is punishable by a civil court in England on indictment (whether or not it is also punishable on summary conviction) by a fine, shall not exceed the maximum amount of that fine.
- (4) The amount of a fine that may be awarded by way of punishment for an offence where, under either of the Acts, a charge is dealt with summarily—
- (a) except in the case of an offence against the said section 70, shall not exceed the amount of the offender's pay for fourteen days ; and
  - (b) in the said excepted case—
    - (i) in any case, shall not exceed the amount mentioned in the foregoing paragraph;
    - (ii) where the civil offence constituting the offence against that section is punishable by a civil court in England only on summary conviction and is so punishable by any fine of a maximum amount less than the amount so mentioned, shall not exceed that maximum ;
    - (iii) where the said civil offence is punishable by a civil court in England on indictment by a fine of a maximum amount less than the amount so mentioned (whether or not it is also punishable on summary conviction) shall not exceed that maximum.
- (5) A warrant officer, non-commissioned officer and soldier shall cease to be liable, as provided by section 43(1) of the Army Act 1955, on conviction by court-martial of drunkenness to a fine in addition to any other punishment, and the limitation of five pounds thereby imposed on the amount of the fine to which he is liable on such conviction shall cease to have effect; and the reference in the foregoing provisions of this subsection to the Army Act 1955 shall be deemed to include a reference to the Air Force Act 1955, but those provisions shall, in their application to the last-mentioned Act, have effect with the substitution, for the word " soldier " , of the word " airman " .
- (6) For the purposes of this section a day's pay shall, as regards a person found guilty of an offence, be deemed to be the gross pay that is, or would (apart from any forfeiture) be, issuable to that person in respect of the day on which punishment is awarded in respect of the offence.
- (7) In accordance with the foregoing provisions of this section, the following enactments shall cease to have effect, that is to say:—
- in each of the Acts, in section 43, the words from " and in the case of a warrant officer " to " five pounds " , and the words " with or without a fine " ;
  - in each of the Acts, in section 72(2), paragraph (k) (by virtue of which the punishment for drunkenness by a fine is authorised);
  - in each of the Acts, in section 78(3), paragraph (d) (by virtue of which the punishment for drunkenness by a fine not exceeding two pounds is authorised);
  - in the said Act of 1961, section 19(6) and (7) (which relate to the amount of the punishment that may be inflicted by way of forfeiture of sums from pay).
- (8) Nothing in the foregoing provisions of this section shall be taken as affecting the amount of the fine that may be awarded by virtue of subsection (3) (a) or (b) of section 209 of the Army Act 1955 to a person to whom Part II of that Act applies by virtue of that section, or that may be awarded by virtue of subsection (3)(a) or (b) of section 209 of the Air Force Act 1955 to a person to whom Part II of that Act applies by virtue of that section.

**22 Extension of power to award sentence of dismissal from service and renaming of " discharge with ignominy ".**

- (1) A court-martial shall have power under section 72 of the Army Act 1955 and section 72 of the Air Force Act 1955 (punishment of other ranks) to award a sentence of dismissal from Her Majesty's service not only, as provided by subsection (2)(d) of each of those sections, in the case of a warrant officer, but also in the case of a non-commissioned officer and, under the said section 72 of the Army Act 1955, in the case of a soldier and, under section 72 of the Air Force Act 1955, in the case of an airman; and, notwithstanding subsection (4) of each of those sections, such a sentence may be awarded in addition to any sentence the court has power to award by way of imprisonment or detention.
- (2) The punishment described in section 72(2)(c) of each of the said Acts as " discharge with ignominy from Her Majesty's service " shall henceforth be known as " dismissal with disgrace from Her Majesty's service ".
- (3) Accordingly.—
  - (a) the said Acts shall each be amended as follows:—
    - (i) in section 72(2) (scale of punishments), in paragraph (d), the words " in the case of a warrant officer " shall cease to have effect;
    - (ii) for any reference, except in paragraph 1(3) of Schedule 6 (application of military or air-force law to attached members of any forces) to discharge with ignominy from Her Majesty's service there shall be substituted a reference to dismissal with disgrace from Her Majesty's service;
    - (iii) in the said paragraph 1 (3) the words " or discharge with ignominy " shall cease to have effect;
  - (b) the Army Act 1955 shall be amended as follows:—
    - (i) for section 72(5) there shall be substituted the following subsection:  
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“(5) A warrant officer, non-commissioned officer or soldier sentenced by a court-martial to imprisonment may in addition thereto be sentenced to dismissal with disgrace from Her Majesty's service or to dismissal from Her Majesty's service”;
    - (ii) after the said section 72(5) there shall be inserted the following subsection:—

“(5A) A warrant officer, non-commissioned officer or soldier sentenced by a court-martial to dismissal from Her Majesty's service may in addition be sentenced to detention”;
  - (c) the Air Force Act 1955 shall be amended as follows:—
    - (i) for section 72(5) there shall be substituted the following subsection:  
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“(5) A warrant officer, non-commissioned officer or airman sentenced by a court-martial to imprisonment may in addition thereto be sentenced to dismissal with disgrace from Her Majesty's service, or to dismissal from Her Majesty's service”;
    - (ii) after the said section 72(5) there shall be inserted the following subsection:—

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“(5A) A warrant officer, non-commissioned officer or airman sentenced by a court-martial to dismissal from Her Majesty's service may in addition be sentenced to detention”;

- (d) in the Naval Discipline Act 1957, in paragraph 1 of Schedule 2 (application of Act to attached military and air forces) paragraph (b) shall cease to have effect.

**23 Power of Defence Council to authorise further officers to deal summarily with charges against certain officers and warrant officers.**

- (1) For section 82(2) of the Army Act 1955 (which makes provision as to the authority, therein referred to as the appropriate superior authority, who may deal summarily with charges against officers below the rank of lieutenant-colonel or against warrant officers), except the proviso thereto, there shall be substituted the following words—

“The following persons may act as appropriate superior authority in relation to a person charged with an offence, that is to say.—

- (a) any general officer, flag officer, air officer or brigadier having power to convene general courts-martial ; or
- (b) such other general officer, flag officer, air officer or brigadier, or, where the Defence Council in special circumstances so direct, colonel or naval or air force officer of corresponding rank, as may be specified by or under regulations of the Defence Council”;
- (2) In section 82(2) of the Air Force Act 1955 (which includes, among the persons who may be specified by or under regulations of the Defence Council to act as appropriate superior authority for dealing summarily with charges against certain officers and against warrant officers, a group captain in a case in which the Defence Council in special circumstances direct) after the words " group captain " there shall be inserted the words " or naval or military officer of corresponding rank " .

**24 Qualification for membership of court-martial.**

- (1) The requirement imposed by each of the following provisions of the Army Act 1955, namely, sections 87(2) (qualification of officer for membership of general court-martial), 88(2) (qualification of officer for membership of district court-martial) and 90(3) (qualification of naval or air force officer in certain circumstances for membership of a court-martial) that, to be a member of a court-martial, an officer must have held a commission in any of the armed forces of the Crown for any period shall be construed as a requirement that he must have held a commission for that period in any of Her Majesty's naval, military or air forces within the meaning of the said Act, and the similar requirement imposed by each of the corresponding provisions of the Air Force Act 1955 shall be similarly construed.
- (2) Accordingly, sections 87(2), 88(2) and 90(3) of each of the said Acts shall have effect with the substitution, for the words " any of the armed forces of the Crown " , wherever they occur, of the words " any of Her Majesty's naval, military or air forces " .

**25 Jurisdiction of civil courts.**

- (1) The Army Act 1955 shall have effect with the substitution, for section 133, of the following section:—
- (1) Where a person subject to military law—



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- (a) 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
- (b) 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) 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;
- (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 is withheld or the sentence is quashed;
- (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”.

(2) The Air Force Act 1955 shall have effect with the substitution, for section 133 thereof, of a section in other respects similar to that set out in subsection (1) above but modified by the substitution, for the words " military law " , of the words " air-force law " .

## **26 Amendments as to trial under Army Act 1955 and Air Force Act 1955 after trial by civil courts.**

(1) In section 134(1) of the Army Act 1955—

- (a) the provision whereby a person subject to military law who has been tried for an offence by a competent civil court shall not be liable in respect of that offence to be tried by court martial or to have the case dealt with summarily under that Act shall be extended so that the reference therein to a civil court shall have effect as a reference to such a court in any country;
- (b) the provision whereby a person subject to military law who has had an offence committed by him taken into consideration by a civil court in sentencing him is not to be liable in respect of that offence to be tried or have the case dealt with as aforesaid shall be restricted so that the reference therein to a civil court shall not include a reference to such a court outside the United Kingdom.

(2) The foregoing subsection shall have effect in relation to section 134(1) of the Air Force Act 1955 as it has effect in relation to section 134(1) of the Army Act 1955 but with the substitution, for the words " military law " , of the words " air-force law " .

(3) Accordingly, in section 134(1) of the Army Act 1955, for paragraph (a) there shall be substituted the following paragraphs :—

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- “(a) has been tried for an offence by a competent civil court, wherever situated, or a court-martial (whether held under this Act, the Air Force Act 1955 or the 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”

and in section 134(1) of the Air Force Act 1955, for paragraph (a), there shall be substituted paragraphs similar to those set out above but modified by the substitution, for the words " the Air Force Act 1955 " , of the words " the Army Act 1955 " .

## **27 Amendments relating to Her Majesty's aircraft, aircraft material and ships.**

- (1) In section 24 of the Army Act 1955, and in section 24 of the Air Force Act 1955, subsection (1)(h) (by virtue of which it is an offence cognizable by court-martial to cause, with intent to assist the enemy, the capture or destruction by the enemy of any of Her Majesty's aircraft) and subsection (3) (which makes it an offence so cognizable negligently to cause the capture or destruction by the enemy of any of Her Majesty's aircraft) shall each have effect with the insertion, after the words " Her Majesty's aircraft " , of the words " or the aircraft of any force co-operating with Her Majesty's forces " .
- (2) In section 225 of the Army Act 1955 (interpretation), after subsection (1) and in section 223 of the Air Force Act 1955 (interpretation), after subsection (1), there shall be inserted the following subsections:—
  - “(1A) Any reference in this Act to Her Majesty's aircraft is a reference to aircraft in the service of Her Majesty, whether belonging to Her Majesty or not, but does not include a reference to aircraft of a Commonwealth force other than aircraft placed at the disposal of Her Majesty for service with any of Her Majesty's forces, and any reference to aircraft material shall be construed accordingly.
  - (1B) Any reference in this Act to Her Majesty's ships is a reference to ships in the service of Her Majesty, whether belonging to Her Majesty or not, but does not include a reference to ships of any Commonwealth force other than ships placed at the disposal of Her Majesty for service with any of Her Majesty's forces”.

## **28 Construction of references to Her Majesty's forces and amendment of definitions of " desertion " and " enemy " .**

- (1) Any reference in the Army Act 1955 to Her Majesty's forces shall, except in sections 37(2)(b) (desertion to include joining Her Majesty's forces without release from previous engagement) and 177 (power of Her Majesty to vest command in members of Her Majesty's forces), be construed in accordance with the definition in section 225(1) of that Act of Her Majesty's air forces, military forces, and naval forces, that is to say, except where otherwise provided, as not including a reference to a Commonwealth force as defined in that section.
- (2) In the Army Act 1955, the expression "enemy" shall be extended to include, as well as persons engaged in armed operations against any of Her Majesty's forces, as provided by the said section 225(1), persons so engaged against any forces co-operating with Her Majesty's forces.

- (3) Any reference in the foregoing provisions of this section to the Army Act 1955 shall include a reference to the Air Force Act 1955, but those provisions shall, in their application to the last mentioned Act, have effect with the substitution, for the references to section 225(1), of references to section 223(1), and, for the reference to a soldier, of a reference to an airman.
- (4) Accordingly, in section 225(1) of the Army Act 1955 and section 223(1) of the Air Force Act 1955, in the definition of "enemy ", after the words " any of Her Majesty's forces " there shall be inserted the words " or any forces co-operating therewith " , and at the end of the paragraph beginning with the words " Her Majesty's air forces " there shall be added the words " and references to ' Her Majesty's forces' , except in sections 37 and 177, shall be construed accordingly ".

**29 Additional alternative offences of which an accused may be convicted by court-martial. '**

- (1) Schedule 3 to the Army Act 1955 (by virtue of which an accused charged with an offence specified in column 1 of the Schedule may be found guilty of an offence specified in relation thereto in column 2 of the Schedule) shall have effect with the following amendments, that is to say, the insertion after the paragraphs numbered 1 therein, of the following:—

“1A. Striking a person on guard duty.

1A. Using force against a person on guard duty, otherwise than by striking him”,

and the addition at the end of the Schedule of the following:—

“13. Being an officer subject to military law, striking a person who is an officer so subject of inferior rank or less seniority or a warrant officer, non-commissioned officer or soldier so subject.

13. Ill-treating such a person otherwise than by striking him.

14. Being a warrant officer or non-commissioned officer subject to military law, striking a person so subject, being a warrant officer or a non-commissioned officer of inferior rank or less seniority or a soldier.

14. Ill-treating such a person otherwise than by striking him”.

- (2) Schedule 3 to the Air Force Act 1955 (which makes provision corresponding to Schedule 3 to the Army Act 1955) shall have effect with amendments in other respects similar to those mentioned in the foregoing subsection, but modified by the substitution, for the words " military law " , wherever occurring, of the words " air-force law " , and for the word " soldier", wherever occurring, of the word " airman " .
- (3) The foregoing provisions of this section shall not have effect in relation to an offence with which a person is charged if the acts by virtue of which he is so charged occurred before the coming into operation of this section.

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*Amendments of Army Act 1955 and Air Force Act  
 1955 with respect to Punishment of army N.C.Os*

**30 Power of commanding officer as to reduction in rank of N.C.Os.**

(1) The power of punishment conferred on a commanding officer by section 78(4) of the Army Act 1955 (which enables a commanding officer on investigating a charge against an acting warrant officer or non-commissioned officer to order the accused to revert to his permanent rank or to assume an acting rank lower than that held by him but higher than his permanent rank) shall, where the permanent rank of the accused is that of lance-corporal or lance-bombardier, include power to order the accused to forfeit his acting rank and to be reduced to the ranks; and the power of punishment conferred on a commanding officer by section 78(4) of the Air Force Act 1955 (which is the corresponding section of that Act) shall, in its application to members of Her Majesty's military forces subject for the time being to air-force law, be similarly extended.

(2) Accordingly.—

- (a) section 78(4) of the Army Act 1955 shall have effect with the addition, after the words added by section 22 of the Army and Air Force Act 1961, of the words " or, where his permanent rank is that of lance-corporal or lance-bombardier, to forfeit his acting rank and be reduced to the ranks ";
- (b) in Schedule 6 to the Air Force Act 1955, after paragraph 3A, there shall be inserted the following paragraph:—

“3B In relation to a person subject to air-force law as aforesaid, section 78(4) of this Act shall have effect with the addition, after the words added by section 22 of the Army and Air Force Act 1961, of the words ' or, where his permanent rank is that of lance-corporal or lance-bombardier, to forfeit his acting rank and be reduced to the ranks '”.

*Amendment applicable to Air Force Act 1955 only*

**31 Power to deal summarily with charges against officers of rank of squadron leader.**

The rank specified in section 77(1) of the Air Force Act 1955 as that below which an officer must be for an authority to deal summarily in accordance with Part II of that Act with a charge against him shall, instead of being that of squadron leader, be that of wing commander; and accordingly, in the said section 77(1), for the words " squadron leader", there shall be substituted the words " wing commander ".

*Amendments applicable to Naval Discipline Act 1957 only*

**32 Fines by way of punishment for ratings and alteration of maximum amount of fines.**

(1) The punishments that may be awarded by virtue of subsection (1) of section 43 of the Naval Discipline Act 1957 to a person convicted of an offence under Part I of that Act, being a rating within the meaning of that Act, shall, notwithstanding subsection (3) of that section (which excludes a fine from the punishments so awardable) include a fine; and disrating (specified in paragraph (k) of the said subsection (1)), shall, instead

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*Status: This is the original version (as it was originally enacted).*

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of being treated, for the purposes of the said Part I, as less than a fine, be so treated as greater than that punishment but less than the punishments specified in paragraphs (a) to (h) of that subsection.

- (2) The amount of a fine that may be awarded under the said Act of 1957 by way of punishment for an offence, except in the case of an offence under section 42 of that Act (civil offences), shall not exceed the amount of the offender's gross pay for twenty-eight days ; and in the said excepted case—
- (a) the amount of a fine that may be so awarded by a court-martial under that Act—
- (i) where the civil offence constituting the offence under that section is punishable by a civil court in England only on summary conviction and is so punishable by a fine, shall not exceed the maximum amount of that fine ;
- (ii) where the said civil offence is punishable by a civil court in England on indictment (whether or not it is also punishable on summary conviction) by a fine, shall not exceed the maximum amount of that fine;
- (b) the amount of a fine that may be so awarded where under that Act the offence is tried summarily—
- (i) in any case, shall not exceed the amount of the offender's gross pay for twenty-eight days ;
- (ii) where the civil offence constituting the offence is punishable by a civil court in England only on summary conviction and is so punishable by a fine of a maximum amount less than the amount mentioned in the foregoing sub-paragraph, shall not exceed that maximum;
- (iii) where the said civil offence is punishable by a civil court in England on indictment by a fine of a maximum amount less than the amount so mentioned (whether or not it is also punishable on summary conviction) shall not exceed that maximum.
- (3) For the purposes of the foregoing subsection, the gross pay for a day of a person found guilty of an offence shall be deemed to be the gross pay that is, or would (apart from any forfeiture) be, issuable to that person in respect of the day on which -punishment is awarded in respect of that offence.
- (4) Accordingly, the said Act of 1957 shall be amended as follows:—
- (a) in the said section 43(1), after paragraph (h) there shall be inserted the following paragraph :—  
“(hh) disrating”;  
and paragraph (k) shall cease to have effect;
- (b) in the said section 43(3), for the reference to paragraph (k) of section 43(1), there shall be substituted a reference to paragraph (hh) thereof, and the reference to paragraph (i) thereof shall cease to have effect;
- (c) in section 44(6) the words " shall not exceed the amount of the offender's basic pay for thirty days, and " shall cease to have effect.

### **33 Persons whose duty it is, for purposes of Naval Discipline Act 1957, to sign certificates of arrest or surrender of absentees or deserters.**

Section 110(2) of the Naval Discipline Act 1957 (which requires certificates of arrest of deserters and absentees brought before a court of summary jurisdiction to be signed

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*Status: This is the original version (as it was originally enacted).*

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by a justice of the peace) and section 47(2) thereof (which provides that in proceedings under that Act such a certificate purporting to be signed by a justice of the peace shall be evidence of the matters therein contained) shall, as regards certificates issued after the coming into force of this section, have effect—

- (a) in their application to England and Wales, with the substitution, for references to a justice of the peace, of references to a justice of the peace or the clerk of the court;
- (b) in their application to Scotland, with the substitution, for references to a justice of the peace, of references to the clerk of court;
- (c) in their application to Northern Ireland, with the substitution, for references to a justice of the peace, of references to a resident magistrate or the clerk of the petty sessions for the petty sessions district in which the court sat;
- (d) in their application to the Isle of Man, with the substitution, for references to a justice of the peace, of references to a justice of the peace or the clerk of the court;
- (e) in their application to the Islands of Jersey and Guernsey, with the substitution, for references to a justice of the peace, of references to a magistrate or a person for the time being authorised to act as a magistrate;
- (f) in their application to Alderney, with the substitution, for references to a justice of the peace, of references to the chairman of the Court of Alderney or the person for the time being authorised to act as chairman of that Court;
- (g) in their application to Sark, with the substitution, for references to a justice of the peace, of references to the Seneschal or the Deputy Seneschal;
- (h) in their application to any of the following, that is to say.—
  - (i) a colony;
  - (ii) a territory under Her Majesty's protection;
  - (iii) a territory for the time being administered by Her Majesty's Government in the United Kingdom under the trusteeship system of the United Nations;
  - (iv) a country or territory consisting of two or more of any of the following units, namely, colonies, territories under Her Majesty's protection and territories administered as aforesaid ;

with the substitution, for references to a justice of the peace, of references to a magistrate or the official (by whatever designation known) who exercises in the court functions similar to those exercised in England by the clerk of a court of summary jurisdiction.

#### **34 Amendment as to application to civilians of Naval Discipline Act 1957.**

In section 118(2) of the Naval Discipline Act 1957 (by virtue of which certain provisions of that Act are applied to certain civilians who are within the limits of the command of an officer commanding any of Her Majesty's naval forces outside the United Kingdom or any colony) the words " or any colony " shall cease to have effect.

#### **35 Amendments as to trial by civil court after trial under Naval Discipline Act 1957, and trial under that Act after trial by civil court.**

- (1) In subsection (1) of section 129 of the Naval Discipline Act 1957 (which provides that a person subject to that Act who is acquitted or convicted of an offence on trial thereunder shall not be tried subsequently by a civil court for the same offence) and

subsection (2) of that section (which, contains provision whereby the trial under that Act of a person subject thereto is barred where he has been acquitted or convicted by a civil court for the same offence) for the words " for the same offence " there shall be substituted the words " for the same, or substantially the same, offence ".

- (2) The said subsection (2) shall be extended so that the reference to a civil court in the said provision contained therein shall have effect as a reference to such a court in any country, and accordingly after the words " civil court", in the first place where they occur in that subsection, there shall be inserted the words " wherever situated ".

### **36 Definition of " Her Majesty's forces " and amendment of definition of " enemy "**

- (1) In section 135(1) of the Naval Discipline Act 1957, after the definition of " Governor " there shall be inserted the following paragraph:—

“ Her Majesty's forces ' includes forces raised under the law of a colony but does not include a force of any Commonwealth country”.

- (2) In the said Act of 1957 the expression " enemy " shall be extended to include, as well as persons engaged in armed operations against Her Majesty's forces, a person so engaged against any forces co-operating with Her Majesty's forces, and accordingly, in the said section 135(1) in the definition of the expression "enemy ", after the words "Her Majesty's forces", there shall be inserted the words " or any forces co-operating therewith