



# Air Force Act 1955 (repealed)

1955 CHAPTER 19 3 and 4 Eliz 2

## PART II

### DISCIPLINE AND TRIAL AND PUNISHMENT OF AIR-FORCE OFFENCES

#### *Commencement, suspension and duration of sentences*

#### **Textual Amendments applied to the whole legislation**

- F1** Act: the provisions of the 1955 Acts providing for findings of courts-martial to be subject to confirmation and to revision at the direction of the confirming officer cease to have effect (1.4.1997 subject to art. 3 of the commencing S.I.) by virtue of 1996 c. 46, s. 15; S.I. 1997/304, arts. 2, 3, **Sch. 2**

#### **118 Commencement of sentences.**

- (1) An air-force sentence of imprisonment or detention <sup>F1</sup> shall, subject to the [<sup>F2</sup>following provisions of this Part of this Act and to][<sup>F3</sup>section 11(2) of the <sup>M1</sup>Courts-Martial (Appeals) Act 1968] (which empowers the Court in certain cases to direct that a sentence shall begin to run from the day on which the Court dismisses an application for leave to appeal), begin to run from the beginning of the day on which sentence was originally pronounced by the court-martial trying the offender or, as the case may be, was originally awarded by his commanding officer.
- (2) A sentence of imprisonment or detention passed by a court-martial on a warrant officer, non-commissioned officer or airman which is suspended in pursuance of section one hundred and twenty of this Act before he has been committed to prison or an air-force establishment shall not begin to run until the beginning of the day on which the suspension is determined:

Provided that where the sentence is suspended by the confirming officer and the reviewing authority determines the suspension, the reviewing authority may direct that the sentence shall run from such earlier date, not earlier than the day on which

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sentence was originally pronounced by the court-martial, as the reviewing authority may specify.

#### Textual Amendments

- F1** Words repealed by [Armed Forces Act 1971 \(c. 33\)](#), s. 78(4), **Sch. 4 Pt. I**
- F2** Words substituted by [Armed Forces Act 1971 \(c. 33\)](#), s. 78(4), **Sch. 1 para. 1(4)**
- F3** Words substituted by [Courts-Martial \(Appeals\) Act 1968 \(c. 20\)](#), **Sch. 4**

#### Modifications etc. (not altering text)

- C1** [S. 118](#) excluded by [Armed Forces Act 1976 \(c. 52\)](#), Sch. 3 paras. 1(2), **18(7)**

#### Marginal Citations

- M1** [1968 c. 20](#).

VALID FROM 02/10/2000

#### [<sup>F4</sup>**118ZA** Commencement of sentence of detention awarded by commanding officer.

- (1) Subject to the following provisions of this Part of this Act, subsections (2) to (4) below apply to a sentence of detention awarded by the offender's commanding officer.
- (2) If the offender so elects at the time of the award, his sentence shall begin to run from the day on which it is awarded.
- (3) If the offender does not make an election under subsection (2) above or, having made such an election, withdraws it during the appeal period, his sentence or, in the case of withdrawal, the remainder of his sentence shall be suspended by virtue of this subsection—
  - (a) until the end of the appeal period, or
  - (b) where an appeal is brought within the appeal period, until the determination of the appeal.
- (4) Where an appeal is brought—
  - (a) within the appeal period, by an offender who has made an election under subsection (2) above which has not been withdrawn, or
  - (b) after the end of the appeal period, by any offender,
 the remainder of his sentence shall be suspended by virtue of this subsection until the determination of the appeal.
- (5) In this section “the appeal period” means the period within which an appeal may be brought under section 83ZE(2) of this Act.]

#### Textual Amendments

- F4** [S. 118ZA](#) inserted (2.10.2000) by [2000 c. 4](#), s. 25, **Sch. 3 para. 9**; [S.I. 2000/2366](#), **art. 2** (with transitional provisions in [art. 3](#), **Sch. para. 14**)

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## [<sup>F5</sup>118A Consecutive terms of imprisonment and detention.

- (1) Where any person who is serving a sentence of imprisonment, whether passed under this Act or otherwise, is awarded an air-force sentence of imprisonment, or where a person who is awarded an air-force sentence of imprisonment is further sentenced to imprisonment under section 57(2) of this Act, the court-martial by whom the subsequent or further sentence is awarded may order that that sentence shall begin to run from the expiry of the first-mentioned sentence.
- (2) Where any person who is serving an air-force sentence of detention, or a sentence of detention passed on him under the <sup>M2</sup>Army Act 1955 or the <sup>M3</sup>Naval Discipline Act 1957, is found guilty under this Act of another offence for which he is awarded an air-force sentence of detention, or where a person who is awarded an air-force sentence of detention is further sentenced to detention under section 57(2) of this Act, the court-martial or officer by whom the subsequent or further sentence is awarded may order that that sentence shall begin to run from the expiry of the first-mentioned sentence.
- (3) Where a person is convicted by a general court-martial or a field general court-martial of two or more offences against section 70 of this Act consisting in the commission of a civil offence for which a civil court in England could award imprisonment, the court-martial may by its sentence award, for any of the said offences, a term of imprisonment which is to run from the expiry of a term awarded by that sentence for any other of those offences.]

### Textual Amendments

**F5** S. 118A inserted by [Armed Forces Act 1971 \(c. 33\)](#), [ss. 39\(1\)\(2\)](#), [78\(4\)](#)

### Marginal Citations

**M2** 1955 c. 18.

**M3** 1957 c. 53.

## 119 Duration of sentences of imprisonment and detention.

- (1) Where a warrant officer, non-commissioned officer or airman has been sentenced to imprisonment or detention by a court-martial, and the sentence is suspended [<sup>F6</sup>in pursuance of section 120 of this Act] after he has been committed to prison or an air-force establishment, the currency of the sentence shall be suspended from the beginning of the day after the day on which he is released in accordance with [<sup>F6</sup>the provisions of the said section 120] until the beginning of the day on which the suspension is determined.
- (2) Where any person serving an air-force sentence of imprisonment or detention becomes unlawfully at large during the currency of the sentence, then, in calculating the period for which he is liable to be imprisoned or detained in pursuance of the sentence, no account shall be taken of time elapsing during the period beginning with the day on which he became at large and ending with the day on which, as a person having become unlawfully at large, he is taken into air-force, naval or military custody or the custody of a civil authority or (not having been taken into such custody) returns to the place in which he was imprisoned or detained before he became unlawfully at large:

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Provided that if he satisfies such authority as may be specified in that behalf by or under Imprisonment and Detention Rules that during any time during the last-mentioned period he was—

- (a) in the custody of a civil authority, or
- (b) if and in so far as Imprisonment and Detention Rules so provide, in the custody of any air-force, naval or military authority of any country or territory outside the United Kingdom as respects which arrangements have been made under section one hundred and twenty-six of this Act,

the last-mentioned time shall not be disregarded in calculating the period for which he is liable to be imprisoned or detained in pursuance of the air-force sentence.

- (3) In the last foregoing subsection the expression “civil authority” means a civil authority (whether of the United Kingdom or of any country or territory outside the United Kingdom) authorised by law to detain persons, and includes a constable.
- (4) Without prejudice to subsection (2) of this section, where any person serving an air-force sentence of imprisonment or detention has in accordance with Imprisonment and Detention Rules been temporarily released on compassionate grounds, then, in calculating the period for which he is liable to be imprisoned or detained in pursuance of the sentence, no account shall be taken of time elapsing during the period beginning with the day after that on which he is released and ending with the day on which he is required to return to custody.
- (5) A person who for any period is released as mentioned in the last foregoing subsection or who is otherwise allowed, in pursuance of Imprisonment and Detention Rules, out of any air-force establishment or otherwise out of air-force custody for any period or subject to any condition shall, on failure to return at the expiration of the period or to comply with the condition, be treated for the purposes of subsection (2) of this section as being unlawfully at large.
- (6) A person serving an air-force sentence of imprisonment or detention in civil custody who, after being temporarily released under civil law, is at large at any time during the period for which he is liable to be detained in civil custody in pursuance of his sentence shall be deemed to be unlawfully at large if the period for which he was temporarily released has expired or if an order recalling him has been made in pursuance of civil law.
- (7) References in the last foregoing subsection to release or recall under civil law are references to release or recall in pursuance of rules made under subsection (5) of section forty-seven of the <sup>M4</sup>Prison Act 1952, subsection (6) of section thirty-five of the <sup>M5</sup>Prisons (Scotland) Act 1952, or paragraph (c) of subsection (1) of section thirteen of the <sup>M6</sup>Prison Act (Northern Ireland) 1953, or (in the case of a person serving his sentence outside the United Kingdom) in pursuance of any corresponding provision of the law of the country or territory in which he is serving his sentence.

#### Textual Amendments

**F6** Words substituted by [Armed Forces Act 1971 \(c. 33\), s. 78\(4\), Sch. 1 para. 1\(5\)](#)

#### Marginal Citations

**M4** 1952 c. 52.

**M5** 1952 c. 61.

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**M6** 1953 c. 18 (N.I.)

### [<sup>F7</sup>119A Limitation of total period of sentences of detention.

- (1) Notwithstanding anything in this Part of this Act, no offender shall be kept continuously in detention for a period exceeding two years in pursuance of two or more sentences of detention.
- (2) Subsection (1) above shall not affect the validity of any order or direction under this Part of this Act that a sentence of detention shall begin to run from the expiry of another such sentence; but so much of any term of detention to which any such order or direction relates as would prolong the total term of detention beyond two years shall be remitted by virtue of the order or direction.
- (3) Where any person who has been sentenced by a court-martial (whether under this Act, the <sup>M7</sup>Army Act 1955 or the <sup>M8</sup>Naval Discipline Act 1957) to detention is subsequently sentenced by a court-martial under this Act to imprisonment, any part of the sentence of detention which has not been served shall thereupon be remitted by virtue of this subsection.]

#### Textual Amendments

**F7** S. 119A inserted by [Armed Forces Act 1971 \(c. 33\)](#), ss. 40, 78(4)

#### Marginal Citations

**M7** 1955 c. 18.

**M8** 1957 c. 53.

### 120 Suspension of sentences.

- (1) The following provisions of this section shall have effect as respects the suspension of a sentence of imprisonment or detention passed by a court-martial on a warrant officer, non-commissioned officer or airman.
- (2) Without prejudice to subsection (5)
- of section one hundred and ten of this Act, in confirming such a sentence the confirming officer may order that the sentence shall be suspended.
- (3) Any such sentence which is not for the time being suspended may, on the review <sup>F8</sup>of the sentence, be suspended by order of the authority reviewing <sup>F8</sup>the sentence.
- (4) The suspension of any such sentence may (without prejudice to its again being suspended) be determined on the review <sup>F8</sup>of the sentence by an order of the said authority committing the person sentenced to imprisonment or detention, as the case may be.
- (5) Where, while any such sentence is suspended, the person sentenced is sentenced by court-martial to imprisonment or detention for a fresh offence then (unless the balance of the earlier sentence is remitted by virtue of [<sup>F9</sup>section 119A (3)] of this Act)—
- (a) the court may determine the suspension of the earlier sentence by an order committing the person sentenced to imprisonment or detention, as the case

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may be, and if so the court shall direct whether the two sentences are to run concurrently or consecutively;

- (b) if the court does not exercise the powers conferred by the last foregoing paragraph, the confirming officer may exercise those powers on the confirmation of the later sentence;
- (c) if neither the court nor the confirming officer exercises the said powers, a reviewing authority may exercise those powers on the review of the later sentence;
- (d) where the said powers are exercised (whether by the court, the confirming officer or a reviewing authority), any power of suspension or remission exercisable in relation to the later sentence shall be exercisable also in relation to the earlier sentence:

<sup>F10</sup>(6) Without prejudice to the further suspension of the earlier sentence, an order under the last foregoing subsection directing that the suspension of that sentence shall be determined shall not be affected by the later sentence not being confirmed or by its being quashed.

(7) Where the sentence of a person in custody is suspended, he shall thereupon be released [<sup>F11</sup>and a sentence which has been suspended shall, unless the suspension has been sooner determined, be remitted by virtue of this subsection at the expiry of one year from the date on which the suspension took effect].

(8<sup>F12</sup>)

#### Textual Amendments

- F8** Words repealed by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), s. 16(2), **Sch. 2**
- F9** Words substituted by [Armed Forces Act 1971 \(c. 33\)](#), s. 78(4), **Sch. 1 para. 1(6)**
- F10** Proviso repealed by [Armed Forces Act 1971 \(c. 33\)](#), s. 78(4), **Sch. 4 Pt. I**
- F11** Words added by [Armed Forces Act 1971 \(c. 33\)](#), s. 54(2)
- F12** Ss. 120(8), 152(3), 153(2) repealed by [Armed Forces Act 1971 \(c. 33\)](#), **Sch. 4 Pt. II**

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#### <sup>F13</sup>**120A Postponement of sentences.**

- (1) On passing any sentence a court-martial may order that the sentence shall not have effect until the end of the period specified in the order.
- (2) On reviewing a sentence under section 113 of this Act, the reviewing authority may—
  - (a) if the sentence has not had effect, order that the sentence shall not have effect until the end of the period specified in the order;
  - (b) if the sentence has had effect, order that the sentence shall cease to have effect on the making of the order until the end of the period specified in the order.
- (3) On exercising any power under section 113AA of this Act to pass or substitute a sentence, the reviewing authority may order that the sentence shall not have effect until the end of the period specified in the order.

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- (4) The Defence Council or any officer authorised by them may terminate the period specified in an order under this section or extend such a period for a further period specified by them.
- (5) On the termination of such a period the sentence in respect of which the order in question was made shall have effect or (in the case of an order under subsection (2) (b) above) resume effect.
- (6) Nothing in this section shall be taken to prevent section 118(1) of this Act from applying in relation to an air-force sentence of imprisonment or detention.]

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#### **Textual Amendments**

**F13** S. 120A inserted (1.4.1997) by 1996 c. 46, s. 9(2); S.I. 1997/304, art. 2 (with art. 3, Sch. 2)

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