

*Status: Point in time view as at 01/07/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Air Force Act 1955 (repealed). (See end of Document for details)*

## SCHEDULES

### FIRST SCHEDULE

Sections 2, 18, 23.

#### PROCEDURE FOR ATTESTATION

- 1 The recruiting officer shall warn the person to be enlisted that if he makes any false answer to the questions to be read out to him he will be liable to be punished as provided by this Act.
- 2 He shall then read, or cause to be read, to that person the questions set out in the attestation paper and satisfy himself that he understands each of those questions and that his answers thereto have been duly recorded in the attestation paper.
- 3 He shall then ask that person to make and sign the declaration set out in the attestation paper as to the truth of the answers and shall administer to him the oath of allegiance as set out in the attestation paper.
- 4 Upon signing the declaration and taking the oath the said person shall become an airman of the regular air force.
- 5 The recruiting officer shall by signature attest, in the manner required by the attestation paper, that the requirements of this Act as to the attestation of the recruit have been carried out and shall deliver the attestation paper duly dated to such person as may be prescribed by regulations of [<sup>F1</sup>the Defence Council].

#### Textual Amendments

**F1** Words substituted by [S.I. 1964/488](#), [Sch. 1 Pt. I](#)

- 6 When in accordance with such regulations the recruit is finally approved for service, the officer by whom he is approved shall at his request furnish him with a certified copy of the attestation paper.

### <sup>F2</sup>SECOND SCHEDULE

#### Textual Amendments

**F2** [Ss. 20, 213\(11\)](#), [Sch. 2](#) repealed by [Statute Law \(Repeals\) Act 1977 \(c. 18\)](#), [Sch. 1 Pt. I](#)

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THIRD SCHEDULE

Section 98.

ALTERNATIVE OFFENCES OF WHICH ACCUSED MAY BE CONVICTED BY COURT-MARTIAL

<i>Offence charged</i>	<i>Alternative offence</i>
1. Communicating with or giving intelligence to the enemy, F3	1. Disclosing information without authority.
.	
F4	F4
1A. . . .	1A. . . .
F4	F4
2. . . .	2. . . .
3. Using violence to his superior officer F5	3. Offering violence to his superior officer.
.	
4. Using threatening language to his superior officer. F4	4. Using insubordinate language to his superior officer. F4
4A. . . . F6	4A. . . . F6
5. . . .	. . . .
6. Desertion.	6. Absence without leave.
7. Attempting to desert.	7. Absence without leave.
[ <sup>F7</sup> 7A. Using threatening, abusive, insulting or provocative words likely to cause a disturbance.	7A. Using threatening, abusive, insulting or provocative behaviour likely to cause a disturbance.
7B. Using threatening, abusive, insulting or provocative behaviour likely to cause a disturbance.	7B. Using threatening, abusive, insulting or provocative words likely to cause a disturbance.]
[ <sup>F8</sup> 7C. Wilfully damaging public or service property or property belonging to another person subject to airforce law.	7C. By wilful neglect causing damage to public or service property or property belonging to another person subject to airforce law.]
8. F6 F6 . . . .	
9. F9 F9 . . . .	

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[ <sup>F10</sup> 9A. Misapplying public or service property.	9A. Wastefully expending public or service property.
9B. Wastefully expending public or service property.	9B. Misapplying public or service property.]
10. Any offence against subsection (1) of section fifty-four of this Act.	10. Any offence against subsection (2) of section fifty-four of this Act.
11. F4	11. F4
. . .	. . .
12. Any offence against section fifty-five of this Act involving the use of violence F5	12. The corresponding offence involving the offering of violence.
.	.
[ <sup>F11</sup> 13. <sup>F4</sup> . . .	13. <sup>F4</sup> . . .
14. <sup>F4</sup> . . .	14. <sup>F4</sup> . . .]

#### Textual Amendments

- F3** Words repealed by [Armed Forces Act 1971 \(c. 33\), s. 78\(4\)](#), **Sch. 4 Pt. I**
- F4** [Sch. 3 paras. 1A, 2, 4A, 11, 13, 14](#) repealed by [Armed Forces Act 1986 \(c. 21, SIF 7:1\), s. 16\(2\)](#), **Sch. 2**
- F5** Words repealed by [Armed Forces Act 1986 \(c. 21, SIF 7:1\), s. 16\(2\)](#), **Sch. 2**
- F6** [Sch. 3 paras. 5, 8](#) repealed by [Armed Forces Act 1971 \(c. 33\), s. 78\(4\)](#), **Sch. 4 Pt. I**
- F7** [Paras. 7A, 7B](#) inserted by [Armed Forces Act 1971 \(c. 33\), s. 78\(4\)](#), **Sch. 1 para. 1(14)**
- F8** [Sch. 3 para. 7C](#) inserted (1.1.1992) by [Armed Forces Act 1991 \(c. 62, SIF 7:1\), s. 13\(2\)](#); S.I. 1991/2719, **art.2**
- F9** [Sch. 3 para. 9](#) repealed by [Army and Air Force Act 1961 \(c. 52\)](#), **Sch. 2**
- F10** [Paras. 9A, 9B](#) inserted by [Armed Forces Act 1971 \(c. 33\), s. 78\(4\)](#), **Sch. 1 para. 1(15)**
- F11** [Paras. 13, 14](#) added with saving by [Armed Forces Act 1966 \(c. 45\), s. 29](#)

## FOURTH SCHEDULE

Sections 168, 172.

### SUPPLEMENTARY PROVISIONS AS TO PAYMENT FOR REQUISITIONED VEHICLES

- 1 (1) Subject to the provisions of this Schedule, any payment under subsection (1) of section one hundred and sixty-eight of this Act shall (without prejudice to any agreement as to payment on account) become due on the expiration of the period for which possession of the vehicle in question is retained.
- (2) Subject to the provisions of this Schedule, any payment under subsection (2) of section one hundred and sixty-eight of this Act shall become due on the furnishing of the vehicle.
- (3) Any payment under paragraph (b) of subsection (3) of the said section one hundred and sixty-eight shall become due on the furnishing of the vehicle.

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- 2 (1) As soon as may be after the furnishing of a vehicle there shall be given or sent to the person by whom it was furnished, by such person and in such form and manner as may be specified by instructions of [<sup>F12</sup>the Defence Council], a receipt for the vehicle specifying what payment, at what rate or of what amount, is offered in respect of the furnishing thereof under paragraph (a) of subsection (1), or as the case may be under subsection (2), of section one hundred and sixty-eight of this Act.
- (2) As soon as may be after the end of the period for which possession of a vehicle is retained, there shall be given or sent to the person by whom the vehicle was furnished, by such person and in such form and manner as aforesaid, a notice stating whether any, and if so what, damage to the vehicle has occurred during the period for which possession of the vehicle was retained, other than damage which has been made good by a person acting on behalf of Her Majesty, or that the total loss of the vehicle has occurred, and specifying what payment is offered in respect of the damage or loss under paragraph (b) or (c) of subsection (1) of section one hundred and sixty-eight of this Act.

#### Textual Amendments

**F12** Words substituted by [S.I. 1964/488](#), [Sch. 1 Pt. I](#)

- 3 (1) A person to whom a receipt or notice under the last foregoing paragraph has been given or sent (hereinafter referred to as “the claimant”) shall be deemed to have accepted the offer contained therein unless within three weeks from the time at which he received the receipt or notice he gives notice to the person by whom the receipt or notice was given or sent that he claims some specified greater amount or rate.
- (2) Where a notice under the last foregoing paragraph has been given or sent stating that no damage has occurred to a vehicle during the period for which possession of the vehicle is retained, the claimant shall be deemed to have agreed that no damage has so occurred unless within three weeks from the time at which he received the notice he gives notice to the person by whom the notice was given or sent claiming that damage has so occurred and stating what payment he claims under subsection (1) of section one hundred and sixty-eight of this Act in respect of the damage.
- (3) On the making of a claim under either of the two last foregoing sub-paragraphs [<sup>F13</sup>the Defence Council] may notify the claimant either that they do not propose to make any further offer or that they make a specified further offer.

#### Textual Amendments

**F13** Words substituted by [S.I. 1964/488](#), [Sch. 1 Pt. I](#)

- 4 (1) Subject to the provisions of the last foregoing paragraph and to the following provisions of this paragraph, a county court shall have jurisdiction to determine any dispute—
- (a) as to the amount of any payment due under subsection (1) or (2) of section one hundred and sixty-eight of this Act, or whether any payment is due under any provision of the said subsection (1), or
- (b) as to the amount of any payment due under paragraph (b) of subsection (3) of that section,
- irrespective of the amount in dispute.

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- (2) An application to the county court for the determination of any such dispute as is mentioned in head (a) of the last foregoing sub-paragraph shall not be made before the expiration of three weeks from the making of the claim under sub-paragraph (1) or (2) of the last foregoing paragraph unless a notification has been given to the applicant under sub-paragraph (3) of the last foregoing paragraph; and where such a notification contains a further offer by [<sup>F14</sup>the Defence Council], the person to whom it is given shall be deemed to have accepted the offer unless he makes such an application within three weeks from receipt of the notification.

#### Textual Amendments

**F14** Words substituted by [S.I. 1964/488](#), [Sch. 1 Pt. I](#)

- 5 The instructions of [<sup>F15</sup>the Defence Council] referred to in paragraph 2 of this Schedule shall secure that any receipt or notice under that paragraph, or any notification under sub-paragraph (2) of the last foregoing paragraph, contains a statement of the effect of paragraph 3 of this Schedule or, as the case may be, of sub-paragraph (2) of the last foregoing paragraph.

#### Textual Amendments

**F15** Words substituted by [S.I. 1964/488](#), [Sch. 1 Pt. I](#)

- 6 In the foregoing provisions of this Schedule, the expression “damage” does not include damage resulting in a total loss, or damage attributable to fair wear and tear.
- 7 Nothing in the foregoing provisions of this Schedule shall apply to a case falling within subsection (4) of section one hundred and sixty-eight or the proviso to subsection (2) of section one hundred and seventy-two of this Act, and any sum payable by virtue of that subsection or proviso shall become due on the making, by the person by whom the vehicle is required to be furnished, of a claim therefor to such authority as may have been specified in that behalf in the direction requiring the furnishing of the vehicle (or if no such authority was specified, to [<sup>F16</sup>the Defence Council]):

Provided that before making any such payment the said authority or [<sup>F16</sup>the Defence Council], as the case may be, may require reasonable particulars of the damage in question and of the circumstances in which it occurred and may require a reasonable opportunity to be afforded to a person authorised by them to inspect the vehicle in question.

#### Textual Amendments

**F16** Words substituted by [S.I. 1964/488](#), [Sch. 1 Pt. I](#)

- 8 A county court shall have jurisdiction to deal with any claim arising under subsection (4) or subsection (5) of section one hundred and sixty-eight of this Act, or under the proviso to subsection (2) of section one hundred and seventy-two thereof, irrespective of the amount of the claim.

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## FIFTH SCHEDULE

Sections 204, 209.

### CIVILIANS OUTSIDE THE UNITED KINGDOM SUBJECT TO PART II WHEN NOT ON ACTIVE SERVICE

- 1 Persons serving Her Majesty, or otherwise employed, in such capacities connected with Her Majesty's naval, military or air forces as may be specified for the purposes of this Schedule by regulations of [<sup>F17</sup>the Defence Council], being persons serving or employed under Her Majesty's Government in the United Kingdom.

#### Textual Amendments

**F17** Words substituted by [S.I. 1964/488, Sch. 1 Pt. I](#)

- 2 Persons who are employed by, or in the service of, any naval, military or air-force organisation so specified to which Her Majesty's Government in the United Kingdom is a party and are employed by or in the service of that organisation by reason of that Government being a party thereto.
- 3 Persons belonging to or employed by any other organisation so specified which operates in connection with Her Majesty's naval, military or air forces.
- 4 Persons who, for the purposes of their profession [<sup>F18</sup>, business] or employment, are attached to or accompany any of Her Majesty's naval, military or air forces in pursuance of an authorisation granted by or on behalf of <sup>F19</sup>. . . [<sup>F20</sup>the Defence Council [<sup>F21</sup>or by an officer authorised by the Defence Council].]

#### Textual Amendments

**F18** Words in [Sch. 5 para. 4](#) inserted (1.10.2001) by [2001 c. 19, s. 34, Sch. 6 Pt. 6 para. 44\(a\)](#); [S.I. 2001/3234, art. 2](#)

**F19** Words repealed by [S.I. 1964/488, Sch. 1 Pt. I](#)

**F20** Words substituted by [S.I. 1964/488, Sch. 1 Pt. I](#)

**F21** Words in [Sch. 5 para. 4](#) inserted (1.10.2001) by [2001 c. 19, s. 34, Sch. 6 Pt. 6 para. 44\(b\)](#); [S.I. 2001/3234, art. 2](#)

- 5 Persons forming part of the family of members of any of Her Majesty's naval, military or air forces and residing with them or about to reside or departing after residing with them.
- 6 Persons forming part of the family of persons falling within paragraphs 1 to 4 of this Schedule and residing with them or about to reside or departing after residing with them.
- 7 Persons employed by members of any of Her Majesty's naval, military or air forces.
- 8 Persons employed by persons falling within paragraphs 1 to 6 of this Schedule.
- 9 Persons forming part of the family of persons falling within either of the last two foregoing paragraphs and residing with them or about to reside or departing after residing with them.

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## F<sup>22</sup> SCHEDULE 5A

### POWERS OF COURT ON TRIAL OF CIVILIAN

#### Textual Amendments

F<sup>22</sup> Sch. 5A inserted by Armed Forces Act 1976 (c. 52), Sch. 4 paras. 1,2

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

C1 Sch. 5A referred to (1.4.1997) by S.I. 1997/579, regs. 4, 7, 10, 12

#### General

- 1 The powers conferred by this Schedule shall be exercisable on the trial of a person (in this Schedule referred to as a “civilian”) to whom Part II of this Act is applied by section 209 above.
- 2 (1) In this Schedule—
  - “community supervision order” has the meaning assigned to it by paragraph 4(2) below;
  - “compensation order” has the meaning assigned to it by paragraph 11(1) below;
  - “the court” means a court-martial or a Standing Civilian Court;
  - “custodial order” has the meaning assigned to it by paragraph 10(1) below;
  - “local authority in England or Wales” means the council of a non-metropolitan county, a metropolitan district or a London borough or the Common Council of the City of London;
  - “local authority in Scotland” means a [<sup>F<sup>23</sup></sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];
  - “order for absolute discharge” means an order under paragraph 3 below discharging a person absolutely;
  - “order for conditional discharge” means an order under that paragraph discharging a person subject to a condition;
  - “period of conditional discharge” means the period specified in an order for conditional discharge;
  - “prescribed” means prescribed by regulations under paragraph 17 below;
  - <sup>F<sup>24</sup></sup> . . .
  - “the Services Acts” means this Act, the <sup>M<sup>1</sup></sup>Army Act 1955 and the <sup>M<sup>2</sup></sup>Naval Discipline Act 1957; and
  - “supervision period” and “supervisor” have the meanings assigned to them by paragraph 4(2) below.
- (2) A parent or guardian is a service parent or guardian for the purposes of this Schedule if—
  - (a) he is subject to service law, or
  - (b) Part II of this Act is applied to him by section 209 above, or
  - (c) Part II of the <sup>M<sup>3</sup></sup>Army Act 1955 is applied to him by section 209 of that Act, or

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- (d) Parts I and II of the <sup>M4</sup>Naval Discipline Act 1957 are applied to him by section 118 of that Act.

**Textual Amendments**

- F23** Words in the definition of “local authority in Scotland” in Sch. 5A para. 2(1) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 45(3)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F24** Definition in Sch. 5A para. 2 repealed (1.1.1992) by **Armed Forces Act 1991 (c. 62, SIF 7:1)**, ss. 6(a), 26(2), **Sch. 3**; S.I. 1991/2719, **art. 2, Sch** (with art. 3(1))

**Marginal Citations**

- M1** 1955 c. 18.  
**M2** 1957 c. 53.  
**M3** 1955 c. 18.  
**M4** 1957 c. 53.

*f<sup>F25</sup>Deferment of award of sentence*

**Textual Amendments**

- F25** **Sch. 5A para. 2A** inserted by **Armed Forces Act 1986 (c. 21, SIF 7:1)**, **s. 9(1)(2)**

- 2A (1) Subject to the provisions of this paragraph, where a civilian is found guilty of an offence by a Standing Civilian Court, the Standing Civilian Court may defer the award of sentence against him for the purpose of enabling the Standing Civilian Court, or any other court to which it falls to deal with him, to have regard, in dealing with him, to his conduct after conviction (including, where appropriate, the making by him of reparation for his offence) or to any change in his circumstances.
- (2) Any deferment under this paragraph shall be until such date as may be specified by the Standing Civilian Court being a date not more than six months after the date on which the Standing Civilian Court announces the deferment; and where the award of sentence against an offender has been deferred on one occasion, it shall not be further deferred.
- (3) The power conferred by this paragraph shall be exercisable only if the offender consents and the Standing Civilian Court is satisfied, having regard to the nature of the offence and the character and circumstances of the offender, that it would be in the interests of justice to exercise the power.
- (4) A Standing Civilian Court which has deferred the award of sentence against an offender may deal with him at a time when the period of deferment has not expired if—
- (a) he is during that period found guilty of an offence by a court-martial under any of the Services Acts or by a Standing Civilian Court; or
  - (b) such conditions as may be specified for the purposes of this paragraph in an order under paragraph 12 of Schedule 3 to the Armed Forces Act <sup>M5</sup>1976 (proceedings in Standing Civilian Courts) are satisfied in relation to him.
- (5) Without prejudice to sub-paragraph (4) above, where a Standing Civilian Court has deferred the award of sentence against an offender in respect of one or more offences



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and the offender is, during the period of the deferment, found guilty of an offence ('the subsequent offence') by a court-martial under any of the Services Acts or by a Standing Civilian Court, then, subject to subsection (6) below, the court which (whether during that period or not) deals with the offender for the subsequent offence may also, if this has not already been done, deal with him for the offence or offences in respect of which the award of sentence was deferred.

- (6) Subject to sub-paragraph (7) below, the power of a court under this paragraph to deal with an offender for an offence in respect of which the award of sentence has been deferred shall be a power to deal with him in any way in which the Standing Civilian Court which deferred the award of sentence could have dealt with him for that offence.
- (7) In a case falling within sub-paragraph (5) above a court-martial which awards a sentence of imprisonment or a sentence under a custodial order for the subsequent offence may (subject to the application to the aggregate of the sentences of any limit imposed by, or by any provision corresponding to, section 85 of this Act or paragraph 10(1A) below) order that the sentence shall begin to run from the expiry of any sentence which, being a sentence of imprisonment or a sentence under a custodial order, is awarded for the offence or offences in respect of which the award of sentence was deferred.
- (8) Where a Standing Civilian Court has deferred the award of sentence against an offender, [<sup>F26</sup>a magistrate appointed under section 6(4) of the Armed Forces Act 1976] may order the offender's arrest either—
  - (a) in order to secure the offender's appearance on the day specified by the Standing Civilian Court as the day on which it proposes to deal with him (including a day before the end of the period of deferment); or
  - (b) where the offender has failed to appear on a day so specified.
- (9) Where the arrest of an offender has been ordered under sub-paragraph (8) above, then, whether or not the offender continues to be [<sup>F27</sup>a person to whom Part 2 of this Act is applied by section 209 above]—
  - (a) he may be arrested—
    - (i) by a provost officer; or
    - (ii) by any warrant officer or non-commissioned officer legally exercising authority under or on behalf of a provost officer; or
    - (iii) by order of any officer of the regular air force or of the regular forces (within the meaning of the Army Act <sup>M6</sup>1955); and
  - (b) a warrant for the offender's arrest may be issued to any officer or officers of police by [<sup>F28</sup>a magistrate appointed under section 6(4) of the Armed Forces Act 1976].
- (10) A warrant under sub-paragraph (9)(b) above shall specify the name of the person for whose arrest it is issued and shall refer to the order of [<sup>F29</sup>the magistrate] that that person be arrested.
- (11) A person arrested under this paragraph shall be delivered into military or air force custody and may be kept in such custody until his appearance before the Standing Civilian Court which deferred the award of sentence against him.
- (12) Where under this section an officer of police delivers a person into military or air force custody, there shall be handed over with him a certificate which shall—

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- (a) be in such form as may be specified by order under paragraph 12 of Schedule 3 to the Armed Forces Act <sup>M7</sup>1976;
- (b) be signed by that officer of police; and
- (c) state the fact, date, time and place of arrest;
- and such a certificate shall for the purposes of this Act be evidence of the matters stated therein.

<sup>F30</sup>(13) . . . . .]

#### Textual Amendments

- F26** Words in Sch. 5A para. 2A(8) substituted (1.10.2001) by 2001 c. 19, s. 34, Sch. 6 Pt. 6 para. 54(a); S.I. 2001/3234, art. 2
- F27** Words in Sch. 5A para. 2A(9) substituted (1.10.2001) by 2001 c. 19, s. 34, Sch. 6 Pt. 6 para. 54(b)(i); S.I. 2001/3234, art. 2
- F28** Words in Sch. 5A para. 2A(9)(b) substituted (1.10.2001) by 2001 c. 19, s. 34, Sch. 6 Pt. 6 para. 54(b)(ii); S.I. 2001/3234, art. 2
- F29** Words in Sch. 5A para. 2A(10) substituted (1.10.2001) by 2001 c. 19, s. 34, Sch. 6 Pt. 6 para. 54(c); S.I. 2001/3234, art. 2
- F30** Sch. 5A para. 2A(13) repealed (1.10.2001) by 2001 c. 19, ss. 34, 38, Sch. 6 Pt. 6 para. 54(d), Sch. 7 Pt. 7; S.I. 2001/3234, art. 2

#### Marginal Citations

- M5** 1976 c.52 (7:1).
- M6** 1955 c.18 (7:1).
- M7** 1976 c.52 (7:1).

#### *Absolute and conditional discharge*

- 3 (1) The court by which a civilian is found guilty of an offence (not being an offence the sentence for which is fixed by law [<sup>F31</sup>or falls to be imposed under section 70(3A) above]) may make an order discharging him absolutely, or, if the court thinks fit, discharging him subject to the condition that, during such period, not exceeding 3 years from the date of the order, as may be specified in the order, he commits no offence that may be tried by court-martial under any of the Services Acts or by a Standing Civilian Court.
- (2) If a court-martial under any of the Services Acts finds a person in whose case an order for conditional discharge has been made guilty of an offence committed during the period of conditional discharge, the court-martial may deal with him for the offence for which the order was made in any manner in which the court which made the order could deal with him if it had just found him guilty of that offence.
- (3) If a Standing Civilian Court finds such a person guilty of an offence committed during the period of conditional discharge, the Standing Civilian Court may deal with him for the offence for which the order was made in any manner in which such a court could deal with him if it had just found him guilty of that offence.
- (4) Before making an order for conditional discharge the court shall explain to the offender in ordinary language that if he commits another offence during the period of conditional discharge he will be liable to be sentenced for the original offence.

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#### Textual Amendments

**F31** Words in Sch. 5A para. 3(1) inserted (E.W.) (1.10.1997) by 1997 c. 43, s. 55(1), Sch. 4 para. 2(4); S.I. 1997/2200, art. 2(1)(I)(2)(a)

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

**C2** Sch. 5A para. 3 amended (E.W.) (1.10.1997) by 1997 c. 43, ss. 55(2), 57(2), Sch. 4 para. 2(4); S.I. 1997/2200, art. 2(1)(m)(2)(a)

### *Community supervision orders*

- 4 (1) Subject to sub-paragraph (4) below, where a civilian <sup>F32</sup>is found guilty of an offence and the court is of opinion that, having regard to the circumstances, including the nature of the offence and the character of the offender, it is expedient that he should undergo a period of supervision, the court may make an order directing him to comply during a specified period not exceeding [<sup>F33</sup>three years] with the reasonable requirements of a specified person nominated in the prescribed manner.
- (2) In this Schedule—
- “community supervision order” means an order under this paragraph;
  - “supervision period” means the period specified in a community supervision order; and
  - “supervisor” means a person with whose requirements a community supervision order for the time being requires compliance on the part of the person subject to it.
- (3) The court making a community supervision order may include in it directions to the person who is to be subject to it to comply during the whole or any specified part of the supervision period with such requirements of any prescribed description as the court, having regard to the circumstances, considers will be beneficial for him.
- (4) Before making a community supervision order the court—
- (a) shall explain in ordinary language to the person who is to be subject to it the effect of such an order and the consequences under sub-paragraphs (6) to (10) below of breach of any requirement imposed by virtue of sub-paragraph (1) or (3) above, and
  - (b) shall obtain his consent and, if he is under 17 years of age, the consent of his parent or guardian, to the making of the order and to the inclusion in it of any requirement by virtue of sub-paragraph (3) above.
- (5) If the court makes a community supervision order against any person on finding him guilty of an offence, it may not make any other order except a compensation order in respect of his conviction for that offence.
- (6) If a person subject to a community supervision order fails without reasonable excuse to comply with any requirement reasonably imposed by his supervisor or with any requirement included in the order by virtue of sub-paragraph (3) above, he shall be guilty of an offence triable by court-martial.
- (7) Any such offence shall be treated as if it were an offence against a provision of Part II of this Act.

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- [<sup>F34F34</sup>(7A) Without prejudice to any other power of arrest, a person found committing an offence under sub-paragraph (6) above or alleged to have committed or reasonably suspected of having committed any such offence, may be arrested by a provost officer, by a warrant officer or non-commissioned officer legally exercising authority under a provost officer or on his behalf, or by order of any officer of the regular forces.
- <sup>F34</sup>(7B) The power of arrest given to any person by sub-paragraph (7A) above may be exercised either personally or by ordering into arrest the person to be arrested or by giving orders for that person's arrest.
- <sup>F34</sup>(7C) A person shall not be arrested by virtue of sub-paragraph (7A) above after the end of a period of 6 months beginning with the end of the supervision period.
- <sup>F34</sup>(7D) No proceedings shall be taken against a person for an offence under sub-paragraph (6) above unless the trial is begun within 6 months after the end of the supervision period.]
- [<sup>F35</sup>(7E) Section 132(3) of this Act (as applied to civilians by section 209 of this Act) does not apply in relation to an offence under sub-paragraph (6) above.]
- (8) If a court-martial under any of the Services Acts finds a person guilty of any offence (including an offence under sub-paragraph (6) above) committed during a supervision period, the court-martial may deal with him for the offence for which the community supervision order was made in any manner in which the court which made the order could deal with him if it had just found him guilty of that offence.
- (9) If a Standing Civilian Court finds a person guilty of any offence (including an offence under sub-paragraph (6) above) committed during a supervision period, the Standing Civilian Court may deal with him for the offence for which the community supervision order was made in any manner in which such a court could deal with him if it had just found him guilty of it.
- (10) If the court finds a person guilty of an offence under sub-paragraph (6) above, it may, instead of dealing with him for the offence for which the community supervision order was made, impose a fine not exceeding [<sup>F36</sup>£1,000] upon him.
- (11) An officer authorised by the Defence Council—
- (a) may discharge a community supervision order or modify such an order in any way which in his opinion does not increase its severity, and
  - (b) may replace a supervisor by specifying a new supervisor nominated in the prescribed manner.
- (12) The powers conferred by sub-paragraph (11)(a) above are without prejudice to any of the powers of a <sup>F37</sup> . . . reviewing authority.

#### Textual Amendments

- F32** Words repealed by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), ss. 10(1), 16(2), [Sch. 2](#)
- F33** Words in [Sch. 5A para. 4\(1\)](#) substituted (1.4.1997) by 1996 c. 46, s. 10, [Sch. 3 para. 2\(2\)](#); S.I. 1997/304, [art. 2](#) (with [art. 3](#), [Sch. 2](#))
- F34** [Sch. 5A para. 4\(7A\)-\(7D\)](#) inserted (1.4.1997) by 1996 c. 46, s. 10, [Sch. 3 para. 2\(3\)](#); S.I. 1997/304, [art. 2](#) (with [art. 3](#), [Sch. 2](#))
- F35** [Sch. 5A para. 4\(7E\)](#) inserted (1.10.2001) by 2001 c. 19, s. 34, [Sch. 6 Pt. 6 para. 52](#); S.I. 2001/3234, [art. 2](#)

*Status: Point in time view as at 01/07/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Air Force Act 1955 (repealed). (See end of Document for details)*

**F36** Figure in Sch. 5A para. 4(10) substituted (1.4.1997) by 1996 c. 46, s. 10, **Sch. 3 para. 2(4)**; S.I. 1997/304, **art. 2** (with art. 3, Sch. 2)

**F37** Words in Sch. 5A para. 4(12) repealed (1.4.1997) by 1996 c. 46, s. 35(2), **Sch. 7 Pt. II**; S.I. 1997/304, **art. 2** (with art. 3, Sch. 2)

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

**C3** Sch. 5A para. 4: power to exclude conferred by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 50(4)(a)

*Absolute and conditional discharge and community supervision orders—supplementary*

- 5 (1) If upon finding a person guilty of an offence the court makes in respect of that offence—
- (a) an order for his absolute discharge, or
  - (b) an order for his conditional discharge, or
  - (c) a community supervision order,
- he shall be deemed not to have been convicted of the offence except—
- (i) where the order was an order for conditional discharge or a community supervision order, for the purposes of paragraph 3(2) or (3) or 4(8) or (9) above, as the case may be, and
  - (ii) in all cases, for the purposes specified in sub-paragraph (2) below.
- (2) The purposes mentioned in sub-paragraph (1)(ii) above are the purposes—
- (a) of the proceedings in which the order is made,
  - (b) of any <sup>F38</sup> . . . review of those proceedings,
  - (c) of any appeal against conviction in those proceedings, and
  - (d) of the <sup>M8</sup>Rehabilitation of Offenders Act 1974 [<sup>F39</sup>or of the <sup>M9</sup>Rehabilitation of Offenders (Northern Ireland) Order 1978].
- (3) Sub-paragraph (1) above shall not affect—
- (a) any right of a person in respect of whom an order for absolute or conditional discharge or a community supervision order was made to rely on his conviction in bar of any subsequent proceedings for the same offence; or
  - (b) the restoration of any property in consequence of the conviction.
- (4) No appeal shall lie against any such order.
- (5) If a person is dealt with for an offence for which an order for conditional discharge or a community supervision order was made, the original order shall cease to have effect.
- (6) The powers conferred by paragraphs 3(2) and (3) and 4(8) and (9) above to deal with an offence for which an order for conditional discharge or a community supervision order has been made are without prejudice to any power of the court to deal with an offence, whenever committed, other than the offence for which the order in question was made.

**Textual Amendments**

**F38** Words in Sch. 5A para. 5(2)(b) repealed (1.4.1997) by 1996 c. 46, s. 35(2), **Sch. 7 Pt. II**; S.I. 1997/304, **art. 2** (with art. 3, Sch. 2)

**F39** Words added by S.I. 1978/1908 (N.I. 27), **art. 4(5)**

*Status: Point in time view as at 01/07/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Air Force Act 1955 (repealed). (See end of Document for details)*

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

- C4** Sch. 5A para. 5(1) excluded (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), [ss. 134\(1\)\(d\)](#), 141 (with [s. 134\(2\)\(3\)](#)); [S.S.I. 2004/138](#), [art. 2](#); [S.I. 2004/874](#), [art. 2](#)

**Marginal Citations**

- M8** 1974 c. 53.  
**M9** 1978/1908 (N.I. 27).

*Reception orders and committal into care—general*

**F40**<sup>6</sup> .....

**Textual Amendments**

- F40** Sch. 5A para. 6 repealed (1.1.1992) by [Armed Forces Act 1991 \(c. 62, SIF 7:1\)](#), [ss. 6\(b\)](#), 26(2), [Sch.3](#); [S.I. 1991/2719](#), [art. 2](#),Sch. (with [art. 3\(1\)](#))

*Committal into care—England and Wales*

**F41**<sup>7</sup> .....

**Textual Amendments**

- F41** Sch. 5A para. 7 repealed (1.1.1992) by [Armed Forces Act 1991 \(c. 62, SIF 7:1\)](#), [ss. 6\(b\)](#), 26(2), [Sch. 3](#); [S.I. 1991/2719](#), [art. 2](#),Sch. (with [art. 3\(1\)](#))

*Committal into care—transfer to Scotland*

**F42**<sup>8</sup> .....

**Textual Amendments**

- F42** Sch. 5A para. 8 repealed (1.1.1992) by [Armed Forces Act 1991 \(c. 62, SIF 7:1\)](#), [ss. 6\(b\)](#), 26(2), [Sch.3](#); [S.I. 1991/2719](#), [art. 2](#),Sch. (with [art. 3\(1\)](#))

*Committal into care—transfer to Northern Ireland*

**F43**<sup>9</sup> .....

**Textual Amendments**

- F43** Sch. 5A para. 9 repealed (1.1.1992) by [Armed Forces Act 1991 \(c. 62, SIF 7:1\)](#), [ss. 6\(b\)](#), 26(2), [Sch.3](#); [S.I. 1991/2719](#), [art. 2](#),Sch. (with [art. 3\(1\)](#))

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### *Custodial orders*

10 (1) Where a civilian who has attained [<sup>F44</sup>the minimum age] but is under 21 years of age is found guilty of an offence punishable under this Act with imprisonment, the court shall have power, [<sup>F45</sup>subject to [<sup>F46</sup>sub-paragraphs (1A) and (1AA) below]], to make an order (in this Schedule referred to as a “custodial order”) committing him to be [<sup>F47</sup>detained for a period, to be specified in the order, which—

- (a) shall not be less than the appropriate minimum period, that is to say—
  - (i) in the case of an offender who has attained the age of 18, the period of 21 days; or
  - (ii) in the case of an offender who is under 18 years of age, the period of two months;
- (b) shall not exceed the maximum period for which he could have been sentenced to imprisonment if he had attained the age of 21; and
- (c) if the order is made by a Standing Civilian Court, shall not exceed six months.]

[and in this sub-paragraph “the minimum age”, in relation to a male offender, means 15 years of age and, in relation to a female offender, means 17 years of age.]

[<sup>F48</sup>(1A) <sup>F49</sup> . . . [<sup>F50</sup><sup>F49</sup> . . . the court shall not make a custodial order committing an offender under [<sup>F51</sup>18 years] of age to be detained for a period which exceeds twelve months or for a period such that the continuous period for which he is committed to be detained under that order and any one or more other custodial orders exceeds twelve months.]

[ The court may not make a custodial order unless it is satisfied—

- <sup>F52</sup>(1AA) (a) 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
- (b) that he qualifies for a custodial sentence.

(1AB) 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.]

<sup>F48</sup>(1B) For the purposes of determining whether [<sup>F53</sup>it is satisfied as mentioned in paragraphs (a) and (b) of sub-paragraph (1AA) above with respect to an offender] 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.]

(2) Before making a custodial order, the court shall consider any report made in respect of the offender by or on behalf of the Secretary of State.

(3) The court shall give a copy of any such report to the offender or any person representing him.

[<sup>F54</sup>(3A) Where the court makes a custodial order it shall be its duty—

- (a) to state in open court and to record in the proceedings that it is satisfied that the offender qualifies for a custodial sentence under one or more of the

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- paragraphs of sub-paragraph (1AB) above, the paragraph or paragraphs in question, and why it is so satisfied; and
- (b) to explain to the offender in open court and in ordinary language why it is passing a custodial sentence on him.
- (3B) Where the court makes a custodial order and, in accordance with its duty under sub-paragraph (3A) above, makes the statement required by paragraph (a) of that sub-paragraph, the matters stated shall be specified in the order (made under Imprisonment and Detention Rules) pursuant to which the offender is committed into custody.]
- [<sup>F55</sup>(4) If a person is outside the United Kingdom at the time a custodial order is made in respect of him, he shall as soon as practicable be removed to the United Kingdom.
- (4A) A person in respect of whom a custodial order has been made shall be detained in such appropriate institution as the Secretary of State may direct, and any enactment applying to persons detained in any such institution shall apply to a person so detained under this paragraph.]
- (5) A custodial order shall be sufficient authority for the detention of the person subject to it in service custody until he is received into the institution specified in the Secretary of State's direction.
- [<sup>F56</sup>(5A) The following provisions shall apply in the case of a sentence under a custodial order as they apply in the case of a sentence of imprisonment by the same court, that is to say—
- (a) where the court is a court-martial, sections 118(1) and 118A(1) and (3) of this Act; and
- (b) where the court is a Standing Civilian Court, section 8(2) of the Armed Forces Act <sup>M10</sup>1976;
- and, accordingly, references in those provisions to a sentence of imprisonment shall include for the purposes of this sub-paragraph references to a sentence under a custodial order.]
- [<sup>F57</sup>(5B) For the period before a person sentenced under a custodial order is received into the institution where he is to be detained (or for the currency of the sentence if its term ends before he is so received), sections 119(2), (4) and (5), 122, 123, 129, 142 and 190B of this Act shall apply in the case of the sentence as they apply in the case of a sentence of [<sup>F58</sup>imprisonment].]
- (6) In this paragraph “appropriate institution” means—
- [<sup>F59</sup>(a) where the offender is [<sup>F60</sup>in or] removed to England or Wales, any institution in which a person sentenced to detention in a young offender institution could be detained, [<sup>F61</sup>section 98 of the Powers of Criminal Courts (Sentencing) Act 2000] having effect in relation to the offender as it has effect in relation to an offender sentenced to detention in a young offender institution;]
- [<sup>F62</sup>(b) where the offender is [<sup>F60</sup>in or] removed to Scotland, a young offenders institution;]
- [<sup>F63</sup>(c) where the offender is [<sup>F60</sup>in or] removed to Northern Ireland,
- [ if the offender is a male person who is under the age of 17 years, a <sup>F64</sup>(i) remand home; and
- (ii) in any other case, a young offenders centre;]]



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and in sub-paragraph (4) above “enactment”, in relation to an offender who is removed to Northern Ireland, includes an enactment of the Parliament of Northern Ireland and a Measure of the Northern Ireland Assembly.

[<sup>F65</sup>(6A) [<sup>F66</sup>Section 65 of the Criminal Justice Act 1991] (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.]

<sup>F67</sup>(6B) . . . . .

#### Textual Amendments

- F44 Words substituted by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 11(1)(a)(6)
- F45 Words substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, Sch. 8 para. 7(a)(i)
- F46 Words in Sch. 5A para. 10(1) substituted (1.1.1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 5(2)(a); S.I. 1991/2719, art. 2 (with art. 3(1))
- F47 Words in Sch. 5A para. 10(1) substituted (1.10.1992) by Criminal Justice 1991 (c. 53, SIF 39:1), ss. 71, 102(2), Sch. 9 para. 4 (a); S.I. 1992/333, art. 2(2), Sch. 2
- F48 Sch. 5A para. 10(1A)(1B) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, Sch. 8 para. 7(b)
- F49 Words in Sch. 5A para. 10(1A) repealed (1.1.1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 5(3), 26(2), Sch. 3; S.I. 1991/2719, art. 2, Sch. (with art. 3(1))
- F50 Words inserted by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 11(2)(6)
- F51 Words in Sch. 5A para. 10(1A) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 71, 102(2), Sch. 9, para. 4(b); S.I. 1992/333, art. 2(2), Sch. 2
- F52 Sch. 5A para. 10(1AA)(1AB) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 5(4); S.I. 1991/2719, art. 2 (with art. 3(1))
- F53 Words in Sch. 5A para. 10(1B) substituted (1.1.1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 5(5); S.I. 1991/2719, art. 2 (with art. 3(1))
- F54 Sch. 5A para. 10(3A)(3B) substituted (1.1.1992) for sub-paras. (3A)(3B) (inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, Sch. 8 para. 7(e)) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 5(6); S.I. 1991/2719, art. 2 (with art. 3(1))
- F55 Sch. 5A para. 10(4)(4A) substituted (1.1.1992) for sub-para. (4) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 5(7); S.I. 1991/2719, art. 2 (with art. 3(1))
- F56 Sch. 5A para. 10(5A) substituted by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), Sch. 1 para. 5(3)
- F57 Para. 10(5B) inserted by Armed Forces Act 1981 (c. 55), Sch. 1 para. 3(3)
- F58 Word substituted by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), Sch. 1 para. 5(4)
- F59 Sch. 5A para. 10(6)(a) substituted (E.W.) by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 123(6), Sch. 8 para. 5(a)
- F60 Words in Sch. 5A para. 10(6)(a)(b)(c) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 5(8); S.I. 1991/2719, art. 2 (with art. 3(1))
- F61 Words in Sch. 5A para. 10(6)(a) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), Sch. 9 para. 17
- F62 Sch. 5A para. 10(6)(b) substituted (S.) by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 124(4), Sch. 9 para. 3(a)
- F63 Para. 10(6)(c) substituted by S.I. 1980/1088, art. 3
- F64 Words substituted by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 11(4)(6)
- F65 Sch. 5A para. 10(6A) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, Sch. 8 para. 7(e)
- F66 Words in Sch. 5A para. 10(6A) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 71, 102(2), Sch. 9 para. 4(c); S.I. 1992/333, art. 2(2), Sch. 2
- F67 Sch. 5A para. 10(6B) repealed (1. 10. 1993) by 1993 (c. 9), s. 47(3), Sch. 7 Pt. I; S.I. 1993/2050, art. 3(4)

*Status: Point in time view as at 01/07/2007.*

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### Marginal Citations

**M10** 1976 c.52 (7:1).

### *Compensation orders*

- 11 (1) The court, on finding a civilian guilty of an offence, may, on application or otherwise (and whether or not it makes any other order), make an order (in this Schedule referred to as a “compensation order”) requiring him to pay such sum as appears to the court to be just as or towards compensation for any [<sup>F68</sup>personal injury, loss or damage], resulting from the offence or any other offence taken into consideration in determining sentence.
- [<sup>F69</sup>(1A) Unless the Secretary of State by order provides that this sub-paragraph shall no longer apply, the sum specified in a compensation order made by a court-martial for any personal injury shall not exceed such sum as is for the time being specified in sub-paragraph (2) below or such larger sum as may for the time being be specified by an order made by the Secretary of State; and the power to make an order under this sub-paragraph shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]
- (2) The sum specified in a compensation order made by a Standing Civilian Court shall not exceed [<sup>F70</sup>£5,000].
- (3) In the case of an offence of unlawfully obtaining any property (whether by stealing it, handling it or otherwise), where the property in question is recovered, any damage to the property occurring while it was out of the owner’s possession shall be treated for the purposes of this paragraph as having resulted from the offence, however and by whomsoever the damage was caused.
- (4) No compensation order shall be made in respect of loss suffered by the dependants of a person in consequence of his death, <sup>F71</sup> . . .
- [<sup>F72</sup>(4A) A compensation order may only be made in respect of injury, loss or damage which was due to an accident arising out of the presence of a motor vehicle on a road if—
- (a) it is in respect of damage which is treated by sub-paragraph (3) above as resulting from an offence of unlawfully obtaining any property; or
  - (b) it is in respect of injury, loss or damage as respects which—
    - (i) the offender is uninsured in relation to the use of the vehicle; and
    - (ii) compensation is not payable under any arrangements specified by the Secretary of State for the purposes of this paragraph;
- and, where a compensation order is made in respect of injury, loss or damage due to such an accident, the amount to be paid may include an amount representing the whole or part of any loss of or reduction in preferential rates of insurance attributable to the accident.
- (4B) For the purposes of sub-paragraph (4A) above, a person is not uninsured in relation to the use of a vehicle if—
- (a) the vehicle is in the public service of the Crown; or
  - (b) the use of the vehicle is exempted from insurance by section 144 of the Road Traffic Act 1988 or paragraph (2) or paragraph (3) of Article 90 of the Road Traffic (Northern Ireland) Order 1981.]

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- (5) In determining whether to make a compensation order against any person, and in determining the amount to be paid by any person under such an order, the court shall have regard to his means so far as they appear or are known to the court.
- [<sup>F73</sup>(6) Where the court considers—
- (a) that it would be appropriate both to impose a fine and to make a compensation order, but
  - (b) that the person concerned has insufficient means to pay both an appropriate fine and appropriate compensation,
- the court shall give preference to compensation (though it may impose a fine as well).]

#### Textual Amendments

- F68** Words in Sch. 5A para. 11(1) substituted (1.1.1992) by Armed Forces Act (c. 62, SIF 7:1), s. 9(2); S.I. 1991/2719, art. 2
- F69** Sch. 5A para. 11 (1A) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 9(3); S.I. 1991/2719, art. 2
- F70** Words in Sch. 5A para. 11(2) substituted (E.W.) (1.10.1992) by virtue of Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 17(3), Sch. 4 Pt.I (with s. 28); S.I. 1992/333, art. 2(2), Sch.2
- F71** Words in Sch. 5A para. 11(4) repealed (1.1.1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), ss. 9(4), 26(2), Sch.3; S.I. 1991/2719, art. 2, Sch.
- F72** Sch. 5A para. 11(4A)(4B) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 9(4); S.I. 1991/2719, art. 2
- F73** Sch. 5A para. 11(6) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62, SIF 7:1), s. 9(5); S.I. 1991/2719, art. 2

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

- C5** Power to amend para. 11(2) conferred by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 143(1)(2)(g) as substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 48(1)(a)(b)(iii)

- 12 (1) The operation of a compensation order made by a court-martial shall be suspended—
- (a) in any case until the end of the period specified under Part II of the <sup>M11</sup>Courts-Martial (Appeals) Act 1968 as the period within which an application for leave to appeal must be lodged; and
  - (b) if such an application is duly lodged, until either the application is finally refused or it is withdrawn or the appeal is determined or abandoned.
- (2) The operation of a compensation order made by a Standing Civilian Court shall be suspended—
- (a) in any case until the end of the period within which notice of appeal may be given; and
  - (b) if such notice is given, until the appeal is determined or abandoned.
- (3) Where a compensation order has been made against any person in respect of an offence taken into consideration in determining his sentence—
- (a) the order shall cease to have effect if he successfully petitions or appeals against his conviction of the offence or all the offences of which he was convicted in the proceedings in which the order was made; and
  - (b) he may petition or appeal against the order as if it were part of the sentence imposed for the offence in respect of which it was made.

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### Marginal Citations

M11 1968 c. 20.

### *Imposition of fines on and making of compensation orders against parents and guardians*

13 [F74(1) Where—

[ a civilian under 17 years of age is found guilty of an offence; and  
F75(a)

(b) the court is of the opinion that the case would best be met (whether or not in conjunction with any other punishment) by the exercise of any power of the court to impose a fine in respect of the offence or to make a compensation order in respect of the offence or of any other offence taken into consideration in determining sentence,]

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 [F76 rules] 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
- (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.]

[F77(3) A parent or guardian on or against whom a fine has been imposed or compensation order made under this paragraph may petition or appeal against the sentence as follows, that is to say—

- (a) if the court which imposed the fine or made the order was a court-martial, the parent or guardian may present a petition in accordance with [F78 section 113] of this Act against sentence or may appeal against sentence in accordance with section 8 of the M12 Courts-Martial (Appeals) Act 1968 as if he had been convicted of and sentenced for the offence by the court-martial; or
- (b) if the court which imposed the fine or made the order was a Standing Civilian Court, the parent or guardian may present a petition in accordance with [F78 section 113] of this Act against sentence or may appeal against sentence under paragraph 18 of Schedule 3 to the M13 Armed Forces Act 1976 as if he had been convicted of and sentenced for the offence by the Court.]

(4) If a parent or guardian against whom a fine is so imposed or an order so made—

- (a) is a member of the regular air force, or
- (b) is a member of the regular forces, as defined by section 225(1) of the M14 Army Act 1955, or
- (c) is subject to the M15 Naval Discipline Act 1957,

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any sum which he is liable to pay, in so far as not otherwise paid by him, may be deducted from his pay.

#### Textual Amendments

- F74** Sch. 5A para. 13(1)(2) substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, **Sch. 8 para. 9**
- F75** Paras. (a)(b) substituted (*retrospectively*) by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), **Sch. 1 para. 11**
- F76** Words in Sch. 5A para. 13(2)(a) substituted (1.4.1997) by 1996 c. 46, s. 5, **Sch. 1 Pt. IV para. 85**; S.I. 1997/304, **art. 2** (with art. 3, Sch. 2)
- F77** Para. 13(3) substituted by Armed Forces Act 1981 (c. 55), **Sch. 1 para. 3(6)**
- F78** Words in Sch. 5A para. 13(3)(a)(b) substituted (1.4.1997) by 1996 c. 46, s. 35(1), **Sch. 6 para. 7** (with art. 3, Sch. 2)

#### Marginal Citations

- M12** 1968 c. 20.
- M13** 1976 c. 52.
- M14** 1955 c. 18.
- M15** 1957 c. 53.

#### *Orders requiring parents or guardians to enter into recognisance*

- 14 (1) Subject to sub-paragraph (2) below, where a civilian under 17 years of age is found guilty of any offence, the court may make an order requiring any parent or guardian of his who is a service parent or guardian to enter into a recognisance for an amount not exceeding [<sup>F79</sup>£1000] for a period not exceeding one year to exercise proper control over him.
- (2) The power conferred by sub-paragraph (1) above shall not be exercisable unless the parent or guardian consents.
- (3) Before making an order in the exercise of that power the court shall explain to the parent or guardian in ordinary language that if the offender is found guilty by court-martial under any of the Services Acts or by a Standing Civilian Court of another offence committed during the period specified in the order, his recognisance may be forfeited under sub-paragraph (4) below.
- (4) If a person whose parent or guardian has entered into a recognisance under this paragraph is found guilty by court-martial under any of the services Acts or by a Standing Civilian Court of any offence committed within the period specified in the order, the recognisance or any part of it may in the prescribed manner be declared to be forfeited (without prejudice to any power of the court to punish the offender or to make any other order against him or an order against his parent or guardian under this paragraph or paragraph 13 above) and the person bound by it adjudged, subject to sub-paragraphs (5) and (6) below, to pay the sum in which he is bound or any lesser sum.
- (5) No declaration may be made except against a person who is a service parent or guardian when it is made.
- (6) No declaration may be made against any person without giving him an opportunity of being heard unless—

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- (a) he has been required in the manner prescribed by [<sup>F80</sup>rules] under section 103 above or, as the case may be, by an order under paragraph 12 of Schedule 3 to the <sup>M16</sup>Armed Forces Act 1976 to attend the court, and
- (b) he has failed to do so.
- (7) Payment of any sum adjudged to be paid under this paragraph shall be enforceable as if it were a fine imposed for an offence against section 70 above.
- (8) No appeal shall lie from an order or declaration under this paragraph.
- [<sup>F81</sup>(9) In this paragraph “guardian”, in relation to an offender, includes any individual who, in the court’s opinion, has control of the offender.]

#### Textual Amendments

- F79** “£1,000” substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 58, [Sch. 8 para. 10\(1\)\(2\)](#) and [S.I. 1984/447, art. 2\(1\), Sch. 1](#)
- F80** Words in [Sch. 5A para. 14\(6\)\(a\)](#) substituted (1.4.1997) by 1996 c. 46, s. 5, [Sch. 1 Pt. IV para. 85](#); [S.I. 1997/304, art. 2](#) (with [art. 3, Sch. 2](#))
- F81** [Para. 14\(9\)](#) inserted by [Armed Forces Act 1981 \(c. 55\), Sch. 1 para. 3\(9\)](#)

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

- C6** Power to amend [para. 14\(1\)](#) conferred by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), s. [143\(1\)\(2\)\(h\)](#) (as substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. [48\(1\)\(a\)\(b\)\(iii\)](#))

#### Marginal Citations

- M16** [1976 c. 52.](#)

#### *Scale of punishments and orders*

- 15 (1) In their application to civilians, references in this Act to any punishment provided by this Act are, subject to sub-paragraphs (4) to (7) below and to the limitation imposed in any particular case by the addition of the word “less”, references to any one or more of the punishments that may be awarded to civilians under this Act or of the orders that may be made against them under it.
- (2) For the purposes of Part II of this Act—
- (a) a punishment or order specified in any paragraph of one of the columns in the Table below shall be treated as less than any punishments or orders specified in the paragraphs preceding that paragraph and greater than those specified in the paragraphs following it; and
- (b) a fine on or compensation order against an offender’s parent or guardian shall be treated as involving the same degree of punishment as a fine of the same amount on the offender or, as the case may be, a compensation order of the same amount against him.
- (3) In the Table—
- (a) the first column applies in the case of a person who at the date of his conviction had attained 21 years of age;
- (b) the second column applies in the case of a person who at the date of his conviction had attained 17 years of age but was under 21 years of age; and

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- (c) the third column applies in the case of a person who at the date of his conviction was under 17 years of age.

Table

GRADING OF PUNISHMENTS AND ORDERS

<i>Offender 21 or over</i>	<i>Offender 17 or over but under 21</i>	<i>Offender under 17</i>
F82	F82	1. Detention as the Secretary of State may direct.
...	...	[ <sup>F83</sup> 1A. Custodial order.]
2. Imprisonment.	[ <sup>F84</sup> 2. Custody for life].	<sup>F85</sup>
3. Fine.	3. Custodial order.	3. Fine.
[ <sup>F86</sup> 3A. Community supervision order.]		
4. Compensation order.	4. Fine.	4. Community supervision order.
5. Order for conditional discharge.	5. Community supervision order.	5. Compensation order.
6. Order for absolute discharge.	6. Compensation order.	6. Order for absolute discharge.
	7. Order for conditional discharge.	7. Order for conditional discharge.
	8. Order for absolute discharge.	8. Order for absolute discharge.

Note. In the application of the above Table—

- (a) to a person convicted of murder [<sup>F87</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, <sup>F88</sup> . . .
- (b) . . . . .

. . . a reference to detention during Her Majesty’s pleasure shall be substituted—

- (i) for the reference to [<sup>F89</sup>custody for life]in the second column, and
- (ii) for the reference to detention as the Secretary of State may direct in the third column.

- (4) No order requiring the giving of a consent or the making of an explanation may be made on any <sup>F90</sup> . . . , review <sup>F90</sup> . . .of a sentence or any appeal against a sentence without the consent being given or the explanation made.
- (5) If a community supervision order is made on any such <sup>F91</sup> . . . , review, <sup>F91</sup> . . . or appeal, no other order may be made except a compensation order.

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- (6) Where an order under paragraph 13 or 14 above was made at the trial, no other order under either of those paragraphs may be substituted for it on any such <sup>F91</sup> . . . , review, <sup>F91</sup> . . . or appeal.
- (7) Where—
- (a) on the trial of any person an order might have been made against his parent or guardian under paragraph 13 or 14 above, and
  - (b) there is power, on <sup>F91</sup> . . . , review, <sup>F91</sup> . . . or appeal, to substitute a fine or compensation order for the order made on the trial,
- that power shall include—
- (i) power to substitute a fine or compensation order of an equal or smaller amount under paragraph 13 above, and
  - (ii) power to make an order under paragraph 14 above which is not of greater severity, in the opinion of the person to whom it falls to exercise the power, than the order made on the trial.

#### Textual Amendments

- F82** Sch. 5A para. 15(3): entries in table repealed (11.5.2001) by 2001 c. 19, ss 39(3)(g), 38, **Sch. 7 Pt. 4**
- F83** Words inserted by **Armed Forces Act 1986** (c. 21, SIF 7:1), s. 11(5)(6)
- F84** Words substituted by **Criminal Justice Act 1982** (c. 48, SIF 39:1), s. 58, **Sch. 8 para. 11(a)**
- F85** Sch. 5A para. 15(3) Table: in Column 3, para. 2 repealed (1.1.1992) by **Armed Forces Act 1991** (c. 62, SIF 7:1), ss. 6(c), 26(2), **Sch. 3**; S.I. 1991/2719, art. 2, **Sch.** (with art. 3(1))
- F86** Words inserted by **Armed Forces Act 1986** (c. 21, SIF 7:1), s. 10(2)
- F87** Sch. 5A para. 15(3): words in the note to the table inserted (30.11.2000 with effect as mentioned in Sch. 7 para. 25(4)) by 2000 c. 43, s. 74, **Sch. 7 para. 25(3)(c)(i)**
- F88** Sch. 5A para. 15(3): words and para. (b) in the note to the table repealed (11.5.2001) by 2001 c. 19, ss. 38, 39(3)(g), **Sch. 7 Pt. 4**
- F89** Words substituted by **Criminal Justice Act 1982** (c. 48, SIF 39:1), s. 58, **Sch. 8 para. 11(b)**
- F90** Words in Sch. 5A para. 15(4) repealed (1.4.1997) by 1996 c. 46, s. 35(2), **Sch. 7 Pt. II**; S.I. 1997/304, art. 2 (with art. 3, Sch. 2)
- F91** Words in Sch. 5A para. 15(5)-(7) repealed (1.4.1997) by 1996 c. 46, s. 35(2), **Sch. 7 Pt. II**; S.I. 1997/304, art. 2 (with art. 3, Sch. 2)

#### *Indemnity for persons carrying out orders under Schedule*

- 16 No action shall lie in respect of anything done by any person in pursuance of an order under this Schedule if the doing thereof would have been lawful but for a defect in any instrument made for the purposes of that order.

#### *Regulations*

- 17 (1) The Secretary of State may by regulations make provision supplementary or incidental to the provisions of this Schedule.
- (2) The power to make regulations conferred by this paragraph includes power to make provision for specified cases or classes of cases, and for the purpose of any such orders classes of cases may be defined by reference to any circumstances specified in the regulations.



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- (3) The power to make such regulations shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### SIXTH SCHEDULE

#### APPLICATION OF ACT TO ATTACHED MEMBERS OF NAVAL AND MILITARY FORCES

- 1 (1) As respects the punishment of a person subject to air-force law by virtue of section two hundred and eight of this Act, the following provisions of this paragraph shall have effect.
  - <sup>F92</sup>(2) .....
  - (3) If he is a member of any of Her Majesty’s naval forces <sup>F93</sup> . . . , references to reduction to the ranks or any less reduction in rank shall be construed as references to disrating to an extent not greater than that which would have been authorised on conviction by a court-martial under [<sup>F94</sup>the <sup>M17</sup>Naval Discipline Act 1957]

**Textual Amendments**

- F92** Ss. 40, 41, 53, 58, 67, 75(3), 81(3), 210(3), Sch. 3 paras. 5, 8, Sch. 6 para. 1(2) repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**
- F93** Words repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**
- F94** Words substituted by virtue of Naval Discipline Act 1957 (c. 53), s. 137(2)

**Marginal Citations**

- M17** 1957 c. 53.

- 2 For the purposes of the provisions of this Act relating to the constitution of courts-martial an officer subject to air-force law as aforesaid shall be treated as an officer belonging to Her Majesty’s air forces of corresponding rank.
  - <sup>F95</sup>3 .....

**Textual Amendments**

- F95** S. 179(3), Sch. 6 paras. 3, 4 repealed by S.I. 1964/488, **Sch. 1 Pt. I**

- [<sup>F96</sup>3A Notwithstanding anything in section two hundred and one of this Act, a commanding officer dealing summarily, under section seventy-eight of this Act, with a lance-corporal or lance-bombardier subject to air-force law as aforesaid may, if he finds him guilty and awards no other punishment or no other punishment except stoppages, order him to be reduced to the ranks.]

**Textual Amendments**

- F96** Para. 3A inserted by Army and Air Force Act 1961 (c. 52), s. 37(1)(3)

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- [<sup>F97</sup>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 <sup>M18</sup>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”.]

**Textual Amendments**

**F97** Para. 3B inserted by [Armed Forces Act 1966 \(c. 45\)](#), s. 30

**Marginal Citations**

**M18** 1961 c. 52.

<sup>F98</sup>4

**Textual Amendments**

**F98** S. 179(3), Sch. 6 paras. 3, 4 repealed by [S.I. 1964/488](#), Sch. 1 Pt. I

- 5 In proceedings under this Act against a person subject to air-force law as aforesaid any document which would have been evidence in the like proceedings under his own service law shall be evidence in like manner, subject to the like conditions and for the like purposes as in the first-mentioned proceedings.
- 6 In the application of this Act to a person subject to air-force law as aforesaid references to the regular air force shall include references to his own service, and references to any rank shall include references to the corresponding rank of his own service.
- 7 In relation to a person subject to air-force law as aforesaid subsection (3) of section one hundred and thirty-two of this Act shall have effect with the [<sup>F99</sup>substitution for references to air-force law of references to service law.]

**Textual Amendments**

**F99** Words substituted by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), s. 16(1), Sch. 1 para. 6(2)

- 8 In the application of sections one hundred and forty-four and one hundred and forty-nine of this Act to a person subject to air-force law as aforesaid references to an order under section two of the <sup>M19</sup>Air Force (Constitution) Act 1917, shall include references to an Order in Council (if he is a member of any of Her Majesty’s naval forces or of the Royal Marines) or to a Royal Warrant (if he is a member of any of Her Majesty’s military forces other than the Royal Marines).

**Marginal Citations**

**M19** 1917 c. 51.

- 9 Sections one hundred and fifty to one hundred and fifty-two <sup>F100</sup>...of this Act shall not apply to a person subject to air-force law as aforesaid.

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**Textual Amendments**

**F100** Words in [Sch. 6 para. 9](#) repealed (1.10.2001) by [2001 c. 19, ss. 34, 38, Sch. 6 Pt. 6 para. 43, Sch. 7 Pt. 7; S.I. 2001/3234, art. 2](#)

10 In this Schedule—

- (a) references to a person’s own service shall be construed as references to the naval or military force to which he belongs,
- (b) references to a person’s own service law shall be construed as references to [<sup>F101</sup>the <sup>M20</sup>Naval Discipline Act 1957] or to military law, and

<sup>F102</sup>(c) . . . . .  
according as he is a member of Her Majesty’s naval forces or Her Majesty’s military forces.

**Textual Amendments**

**F101** Words substituted by virtue of [Naval Discipline Act 1957 \(c. 53\), s. 137\(2\)](#)

**F102** [Para. 10\(c\)](#) repealed by [S.I. 1964/488, Sch. 1 Pt. I](#)

**Marginal Citations**

**M20** [1957 c. 53.](#)

11 In relation to officers, [<sup>F103</sup>warrant officers] non-commissioned officers and marines of the Royal Marines who are subject to air-force law as aforesaid, the foregoing provisions of <sup>F104</sup>. . . this Schedule shall have effect <sup>F105</sup>. . . as if references to a person’s own service law included references to [<sup>F106</sup>the <sup>M21</sup>Naval Discipline Act 1957].

**Textual Amendments**

**F103** Words inserted by [Armed Forces Act 1976 \(c. 52\), s. 3\(2\), Sch. 1 para. 4](#)

**F104** Words repealed by [Army and Air Force Act 1961 \(c. 52\), Sch. 2](#)

**F105** Words repealed by [S.I. 1964/488, Sch. 1 Pt. I](#)

**F106** Words substituted by virtue of [Naval Discipline Act 1957 \(c. 53\), s. 137\(2\)](#)

**Marginal Citations**

**M21** [1957 c. 53.](#)

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Air Force Act 1955 (repealed).