

SCHEDULES

FIRST SCHEDULE

Section 2.

TRANSITIONAL PROVISIONS AND SAVINGS

- 1 In this Schedule the expression " the old Act " means the Army Act or the Air Force Act, and the expression " the new Act "—
- (a) in relation to the Army Act or persons subject to military law, means the Army Act, 1955, and
 - (b) in relation to the Air Force Act or persons subject to air force law, means the Air Force Act, 1955.
- 2 (1) In relation to an offence against any section in Part I of the old Act, sections seventy-one to one hundred and thirty-four and one hundred and thirty-eight to one hundred and forty-two of the new Act, and the rules and regulations made under those sections, shall apply as if the said section had been contained in the new Act and that Act had been in force when the offence was committed, and as if any finding or punishment having effect before the appointed day, and anything done before that day by virtue of or in relation to such a finding or sentence, had been come to, awarded or done under the new Act:
- Provided that nothing in this sub-paragraph shall render an offence capable of being tried by court-martial or dealt with summarily, if by reason of the time or place of the commission of the offence it could not have been so tried or dealt with under the old Act.
- (2) Notwithstanding anything in the foregoing sub-paragraph, where any proceedings for such an offence as aforesaid have been begun before the appointed day, any step in the proceedings taken after that day shall be deemed to be validly taken if taken in accordance with the old Act and the rules made thereunder.
- (3) In section one hundred and thirty-four of the new Act (which provides against trial for offences already disposed of) references to the new Act or to any provision thereof shall be construed as including respectively references to the old Act and to the corresponding provision thereof.
- 3 Where after the appointed day a person is alleged—
- (a) to have committed an offence continuing over a period beginning before that day and ending thereon or thereafter, or
 - (b) to have committed an offence between two dates falling within such a period,
- and the offence would be one against a provision in Part II of the new Act if that Act had been in force at all material times, he may be proceeded against as if the new Act had so been in force.
- 4 In relation to offences under the old Act triable by civil courts subsection (2) of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals) shall apply after the expiry of the old Act as if that Act had been repealed.

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- 5 Any instrument issued before the appointed day which authorises the convening of general courts-martial or district courts-martial shall if in force on that day continue in force thereafter as if issued under the new Act, and may be varied or revoked accordingly.
- 6 Any officer who immediately before the appointed day was authorised under section ninety-four of the old Act to attest soldiers or airmen shall, without prejudice to any subsequent withdrawal of the authorisation, be deemed without further authorisation a recruiting officer for the purposes of Part I of the new Act.
- 7 (1) A person enlisted in pursuance of the old Act, or of the enactments relating to the Royal Marines repealed by this Act, whose term of enlistment is current at the appointed day shall be deemed to have been enlisted under the corresponding provisions of the new Act.
- (2) Anything done under the provisions of the old Act or the said enactments and relating to the varying of a person's terms of enlistment shall, if the doing thereof would have been authorised by any provisions of the new Act if they had been in force when it was done, be deemed to have been done under the last-mentioned provisions.
- (3) Where a person is in army service in consequence of having enlisted before the first day of May, nineteen hundred and fifty-two, then—
- (a) if he was re-engaged in pursuance of section eighty-four of the Army Act as in force before the said date, his re-engagement shall remain effective notwithstanding anything in this Act, and section six of the new Act shall not apply to him;
 - (b) if he was not so re-engaged the said section six shall apply to him subject to the provisions of the next following sub-paragraph, and if, immediately before the appointed day, he fell to be treated by virtue of section eleven of the Army and Air Force (Annual) Act, 1952, as having enlisted for a term of twenty-two years, his notice and the approval of the competent military authority under that section shall be deemed to be a notice and consent given under the said section six.
- (4) Where the said section six applies to a person who enlisted before the first day of May, nineteen hundred and fifty-two, then if his enlistment took place at the end of a period of relevant service it shall be treated for the purposes of that section as having taken place at the beginning of that period or on the date of his attaining the age of eighteen years, whichever is the later:
- Provided that if his notice under the said section six so requires, his enlistment shall not be so treated but in that case he shall not exercise the right conferred by subsection (1) of section five of the new Act.
- (5) In the last foregoing sub-paragraph the expression " period of relevant service " means continuous service of any one or more of the following descriptions, that is to say, army service, whole-time service in the Territorial Army or whole-time service in the Auxiliary Territorial Service.
- (6) Where a person's enlistment took place at the end of a period of whole-time service in the Auxiliary Territorial Service that service shall be deemed to 'be included in the references to service in section eight of the new Act.
- (7) Where a person to whom the proviso to sub-paragraph (4) of this paragraph applies deserts after completing the service comprised in the term which, if he had not given a notice under section six of the new Act, would have been his term of enlistment, no

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part of that service shall be included in any direction given in respect of the desertion under subsection (3) of section thirty-seven or subsection (2) of section eighty-one of that Act.

- 8 (1) If immediately before the appointed day any person is 'being detained in service under section eighty-seven of the old Act or under the enactments relating to the Royal Marines repealed by this Act, then in calculating for what period he may be retained and his service prolonged under the corresponding provisions of the new Act account shall be taken of the period for which he has been so detained, or his service prolonged, as if during that period he had been retained, or his service prolonged, under the said provisions of the new Act.
- (2) If immediately before the appointed day a proclamation is in force under section eighty-eight of the old Act, it shall continue in force as if made under the corresponding provisions of the new Act.
- 9 Any order authorising the discharge of a person given before the appointed day by an officer prescribed in that behalf under the old Act shall be treated for the purposes of subsection (3) of section eleven of the new Act as an order of the competent military, or as the case may be, air-force authority.
- 10 Any order under section ninety-one of the old Act in force immediately before the appointed day shall have effect as if it had been made under the corresponding provisions of the new Act.
- 11 The powers conferred by the new Act of restoring forfeited service and remitting forfeitures and deductions shall be exercisable in relation to service forfeited and forfeitures and deductions imposed under the old Act.
- 12 (1) Any forfeiture of, or deduction from, pay having effect under the old Act immediately before the appointed day shall, subject to the last foregoing paragraph, continue to have effect notwithstanding the expiry of the old Act.
- (2) Any order having effect immediately (before the appointed day under the provisions of the old Act corresponding with sections one hundred and fifty and one hundred and fifty-one of the new Act shall continue to have effect as if made under the new Act, and section one hundred and fifty-two of the new Act shall apply accordingly.
- 13 Any document made before the appointed day which would have been admissible in evidence under the provisions of the old Act, or those provisions as applied by any other enactment, shall be admissible to the like extent and in the like proceedings notwithstanding that the old Act has ceased to be in force.
- 14 If immediately before the appointed day any declaration or renewal is in force under section one hundred and eighty-nine of the old Act, it shall continue in force as if made under the corresponding provision of the new Act