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# Naval Discipline Act 1957 (repealed)

1957 CHAPTER 53 5 and 6 Eliz 2

## PART I

### ARTICLES OF WAR

#### *Punishments*

#### Textual Amendments applied to the whole legislation

**F1** Act repealed (prosp.) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 17](#) and the repeal being partly in force, as to which see individual provisions

#### [<sup>F1</sup>43 Scale of punishments, and supplementary provisions.

(1) The punishments which may be awarded to persons convicted of offences under this Part of this Act are, subject to the following provisions of this section [<sup>F2</sup>and section 43A below], as follows:—

- (a) death,
- (b) imprisonment,
  - [<sup>F3</sup>(bb) detention by virtue of a custodial order made under section 43AA of this Act;]
- (c) dismissal with disgrace from Her Majesty's service,
- (d) dismissal from Her Majesty's service,
- (e) detention for a term not exceeding two years,
- (f) forfeiture of seniority for a specified term or otherwise,
- (g) dismissal from the ship or naval establishment to which the offender belongs,
- (h) disrating,
  - (i) fine,
  - (j) severe reprimand,
  - (k) reprimand,

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- (l) in the case of an offence which has occasioned any expense, loss or damage, stoppages, that is to say, the recovery, by deductions from the offender's pay, of a specified sum by way of compensation for the expense, loss or damage, and
- (m) such minor punishments as may from time to time be authorised by the Defence Council;

and references in this Act to any punishment authorised by this Act are, subject to the limitation imposed in any particular case by the addition of the word "less", references to any one or more of the said punishments.

For the purposes of this Part of this Act a punishment specified in any of the above paragraphs shall be treated as less than the punishments specified in the paragraphs preceding that paragraph and greater than those specified in the paragraphs following it:

[<sup>F4</sup>Provided that a punishment such as is mentioned in paragraph (e) of this subsection shall not be treated as a less punishment than a punishment such as is mentioned in paragraph (b) or (bb) if the term of detention is longer than the term of imprisonment or, as the case may be, than the term of detention by virtue of the custodial order.]

(2) Subsection (1) above shall have effect—

- (a) in relation to a convicted person who is an officer, with the omission of paragraphs (e), (h) and (m),
- (b) in relation to a convicted person who is a warrant officer, with the omission of paragraphs (f), (g) and (m), and
- (c) in relation to a convicted person who is a rating below the rate of warrant officer with the omission of paragraphs (f) and (g) and, if he is below the rate of leading seaman, of paragraphs (h), (j) and (k) also.

(3) A person [<sup>F5</sup>who, otherwise than under section 38(3) of this Act, is] sentenced under this Act to imprisonment shall also be sentenced either to dismissal with disgrace from Her Majesty's service or to dismissal from Her Majesty's service:

Provided that, if the sentencing authority fail to give effect to this subsection, their sentence shall not be invalid, but shall be deemed to include a sentence of dismissal from Her Majesty's service.

(4) A rating of the rate of leading seaman or above [<sup>F5</sup>who, otherwise than under section 38(3) of this Act, is] sentenced under this Act to imprisonment, to dismissal from Her Majesty's service (whether or not with disgrace), or to detention, shall also be sentenced to disrating:

Provided that, if the sentencing authority fail to give effect to this subsection, their sentence shall not be invalid, but shall be deemed to include a sentence of disrating

(5) A sentence of disrating awarded in compliance with subsection (4) above, or deemed to have been awarded by virtue of the proviso to that subsection, shall be one reducing the offender to such rate as may be prescribed in relation to persons of the class to which he belongs by regulations made by the Defence Council; and any other sentence of disrating under this Act may reduce the offender to any rate not lower than that so prescribed.

(6) The amount of a fine that may be awarded under this Act by way of punishment for an offence, except in the case of an offence under section 42 thereof, shall not exceed the amount of the offender's pay for twenty-eight days or, where the offence was committed on active service, fifty-six days; and in the said excepted case—

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- (a) the amount of a fine that may be so awarded by a court-martial—
  - (i) where the civil offence constituting the offence under that section is punishable by a civil court in England only on summary conviction, and is so punishable by a fine, shall not exceed the maximum amount of that fine, and
  - (ii) where the said civil offence is punishable by a civil court in England on indictment (whether or not it is also punishable on summary conviction) by a fine, shall not exceed the maximum amount of that fine;
- (b) the amount of a fine that may be so awarded where the offence is tried summarily—
  - (i) in any case shall not exceed the amount of the offender's pay for twenty-eight days or, where the civil offence constituting the offence was committed on active service, fifty-six days, and
  - (ii) where the said civil offence is punishable by a civil court in England only on summary conviction, and is so punishable by a fine of a maximum amount less than the amount mentioned in subparagraph (i) above, shall not exceed that maximum, and
  - (iii) where the said civil offence is punishable by a civil court in England on indictment by a fine of a maximum amount less than the amount so mentioned (whether or not it is also punishable on summary conviction) shall not exceed that maximum;

and for the purposes of this subsection a day's pay shall, as regards a person found guilty of an offence be deemed to be the gross pay that is, or would (apart from any forfeiture) be, issuable to that person in respect of the day on which punishment is awarded in respect of that offence.]

#### Textual Amendments

- F1** S. 43 substituted for ss. 43, 44 by Armed Forces Act 1971 (c. 33), ss. 38, 78(4)
- F2** Words inserted by Armed Forces Act 1976 (c. 52), s. 10(3)(d)
- F3** S. 43(1)(bb) inserted by Armed Forces Act 1981 (c. 55), s. 2(3)(b)
- F4** Words substituted by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), Sch. 1 para. 4
- F5** Words inserted (*retrospectively*) by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), Sch. 1 para. 1(2)

#### [<sup>F6</sup>43A Juveniles

- (1) A person under [<sup>F7</sup>21] years of age shall not be sentenced to imprisonment.

[ Where a person under 21 years of age is convicted of murder or any other civil offence  
<sup>F8</sup>(1A) the sentence for which is fixed by law as imprisonment for life, the court shall sentence him to custody for life unless he is liable to be detained under subsection (3) below.

- (1B) Where a person aged 17 years or over but under 21 years of age is convicted of any other offence for which a person aged 21 years or over would be liable to imprisonment for life, the court shall sentence him to custody for life if—
  - (a) it is of the opinion that no other method of dealing with him is appropriate; and
  - (b) it considers that a custodial sentence for life would be appropriate.

- (1C) For the purpose of determining whether any method of dealing with a person to whom subsection (1B) of this section applies, other than sentencing him to custody for life, is

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appropriate, the court shall obtain and consider information about the circumstances, and shall take into account any information before the court which is relevant to his character and his physical and mental condition.]

(2) . . . <sup>F9</sup>

(3) A person convicted of murder who was under 18 years of age when the offence was committed shall not be sentenced to imprisonment for life, nor shall sentence of death be pronounced on or recorded against a person convicted of any offence who was under 18 years of age when the offence was committed; but in lieu thereof the court shall (notwithstanding anything in this or any other Act) sentence him to be detained during Her Majesty's pleasure, and if so sentenced he shall be liable to be detained in such place and under such conditions as the Secretary of State may direct.

(4) A person under 17 years of age found guilty of a civil offence (other than one the sentence for which is fixed) which is punishable by a civil court in England or Wales on indictment by, in the case of an adult, a term of imprisonment for 14 years or more, may be sentenced by the court, if it is of opinion that none of the other methods in which the case may be legally dealt with is suitable, to be detained for such period, not exceeding the maximum term of imprisonment with which the offence is punishable by such a civil court in the case of an adult, as may be specified in the sentence; and where such a sentence has been passed, the person on whom it is passed shall during that period be liable to be detained in such place and on such conditions as the Secretary of State may direct.

(5) A sentence of [<sup>F10</sup>custody for life or] detention under subsection (3) or (4) above shall be treated for the purposes of this Part of this Act as a punishment authorised by this Act involving the same degree of punishment as a sentence of imprisonment; and section 43(3) and (4) above shall apply to such a sentence of detention [<sup>F10</sup>and to a sentence of custody for life] as they apply to a sentence of imprisonment.

(6) A person detained pursuant to the directions of the Secretary of State under this section shall, while so detained, be deemed to be in legal custody.]

#### Textual Amendments

**F6** S. 43A inserted by [Armed Forces Act 1976 \(c. 52\), s. 10\(1\)\(2\)](#)

**F7** Figure substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 58, Sch. 8 para. 2\(a\)](#)

**F8** S. 43A(1A)–(1C) inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 58, Sch. 8 para. 2\(b\)](#)

**F9** S. 43(2) repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 78, Sch. 16](#)

**F10** Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 58, Sch. 8 para. 2\(d\)](#)

#### [<sup>F11</sup>43A] Young service offenders: custodial orders.

(1) Where a person who has attained seventeen years of age but is under twenty-one years of age is found guilty by a court-martial of an offence punishable under this Act with imprisonment, the court shall have power, [<sup>F12</sup>subject to subsection (1A) below], to make an order (in this section referred to as a “custodial order”) committing him to be detained in accordance with the provisions of this section for a [<sup>F12</sup>period to be specified in the order not exceeding the maximum period for which he could have been sentenced to imprisonment if he had attained the age of twenty-one years].

[ The court shall not make a custodial order in respect of a person unless it is of the <sup>F13</sup>(1A) opinion that no other method of dealing with him is appropriate.

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(1B) For the purposes of determining whether there is any appropriate method of dealing with a person other than making a custodial order in respect of him the court shall obtain and consider information about the circumstances, and shall take into account any information before the court which is relevant to his character and his physical and mental condition.]

(2) 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.

(3) 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 section.

(4) 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.

[ The following provisions of this Act shall apply in the case of a sentence under a

- <sup>F14</sup>(5) custodial order as they apply in the case of a sentence of imprisonment, that is to say—
- (a) sections 43(3) and (4), 85(1), 86(1) and (3), 89(3) and 92(1); and
  - (b) 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 81, 82, 87, 88, 104, 119 and 130A;

and, accordingly, references in those provisions to a sentence of imprisonment shall include for the purposes of this subsection references to a sentence under a custodial order.]

(6) In this section “appropriate institution” means—

[ where the offender is in or removed to England or Wales, any institution in

<sup>F15</sup>(a) which a person sentenced to detention in a young offender institution could be detained, section 1C of the Criminal Justice Act <sup>M1</sup>1982 having effect in relation to the offender as it has effect in relation to an offender sentenced to detention in a young offender institution;]

[ where the offender is in or removed to Scotland, a young offenders

<sup>F16</sup>(b) institution;]

(c) where the offender is in or removed to Northern Ireland, a young offenders centre.

[ Section 15 of the Criminal Justice Act 1982 (release of young offenders) shall apply

<sup>F17</sup>(6A) to persons released from a term of detention under a custodial order as it applies to persons released from [<sup>F18</sup>a sentence of detention in a young offender institution].]

[ [<sup>F20</sup>Section 32 of the Prisons (Scotland) Act 1989] (supervision of young offenders

<sup>F19</sup>(6B) following release) shall apply to persons released from a term of detention under a custodial order as it applies to those released from a term of detention imposed under section 207 or section 415 of the Criminal Procedure (Scotland) Act <sup>M2</sup>1975.]

(7) This section does not apply to offenders who are civilians (as regards whom similar provision is made by paragraph 10 of Schedule 4A to this Act).]

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#### Textual Amendments

- F11** S. 43AA inserted by [Armed Forces Act 1981 \(c. 55\), s. 2\(2\)](#)
- F12** Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 58, Sch. 8 para. 3\(a\)](#)
- F13** S. 43AA(1A)(1B) inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 58, Sch. 8 para. 3\(b\)](#)
- F14** S. 43AA(5) substituted by [Armed Forces Act 1986 \(c. 21, SIF 7:1\), s. 16\(1\), Sch. 1 para. 5\(5\)](#)
- F15** S. 43AA(6)(a) substituted (E.W.) by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\), s. 123\(6\), Sch. 8 para. 4\(b\)](#)
- F16** S. 43AA(6)(b) substituted (S.) by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\), s. 124\(4\), Sch. 9 para. 2\(b\)](#)
- F17** S. 43AA(6A) inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 58, Sch. 8 para. 3\(d\)](#)
- F18** Words in s. 43AA(6A) substituted (1.10.1988) by virtue of 1988 c. 33, s. 123, Sch. 8 Pt. I paras. 1, 2; S.I. 1988/1408, art. 2(1), [Sch.](#)
- F19** S. 43AA(6B) inserted (S.) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 39:1\), s. 46\(1\)](#)
- F20** Words substituted by [Prisons \(Scotland\) Act 1989 \(c. 45, SIF 39:1\), s. 45\(1\), Sch. 2 para. 5](#)

#### Marginal Citations

- M1** [1982 c.48\(39:1\)](#).
- M2** [1975 c.21\(39:1\)](#).

VALID FROM 01/01/1992

#### [43AB <sup>F21</sup> Reasons to be given where custodial sentence awarded to young offender.

- (1) This section applies where a court—
  - (a) makes a custodial order under section 43AA of this Act, or
  - (b) passes a sentence of custody for life under section 43A(1B) of this Act.
- (2) It shall be the duty of the court—
  - (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 paragraphs of subsection (1F) of section 43A of this Act, 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.
- (3) Where a court makes a custodial order and, in accordance with its duty under subsection (2) above, makes the statement required by paragraph (a) of that subsection, the matters stated shall be specified in the committal order.]

#### Textual Amendments

- F21** S. 43AB inserted (1.1.1992) by [Armed Forces Act 1991 \(c. 62\), s. 4\(2\); S.I. 1991/2719, art. 2](#)

#### [<sup>F22</sup>43B Power to impose imprisonment for default in payment of fines.

- (1) Subject to the provisions of this section, if a court-martial imposes a fine on a person found guilty of any offence—

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- (a) who is sentenced to imprisonment on the same occasion for the same or another offence or,
- (b) who is already serving or otherwise liable to serve a term of imprisonment, <sup>F23</sup>or
- (c) in respect of whom the court makes an order under section 43AA above on the same occasion for the same or another offence, or
- (d) who is already serving or otherwise liable to serve a period of detention under such an order.]

it may make an order fixing a further consecutive term of imprisonment [<sup>F24</sup>or detention] . . . <sup>F25</sup> which the said person is to undergo if any part of the fine is not duly paid or recovered on or before the date on which he could otherwise be released.

[ Subject to subsections (4) and (5) below, the Table in section 31(3A) of the Powers <sup>F26</sup>(2) of Criminal Courts Act <sup>M3</sup>1973 (maximum periods of imprisonment for default in payment of fines etc.), as from time to time amended under section 143 of the Magistrates' Courts Act <sup>M4</sup>1980, shall have effect for the purpose of determining the maximum periods of further imprisonment or detention that may be specified under subsection (1) above for fines of the amounts set out in that Table.]

- (3) Where the whole amount of the said fine is paid or recovered in the prescribed manner the order under subsection (1) above shall cease to have effect, and the person subject to it shall be released unless he is in custody for some other cause.
- (4) Where part of the said amount is paid or recovered in such manner as may be prescribed by regulations of the Defence Council, the period of the further term of imprisonment [<sup>F27</sup>or detention] specified under subsection (1) above shall be reduced by such number of days as bears to the total number of days in that period less one day the same proportion as the amount so paid or recovered bears to the amount of the said fine.
- (5) In calculating the reduction required under the last preceding subsection any fraction of a day shall be left out of account.

[ An order imposing a term of detention under this section shall be given effect as if it <sup>F28</sup>(5A) were a custodial order under section 43AA above.]

- (6) in this section, references to the due recovery of any amount include references to deductions from pay under Part IV of this Act, but do not include references to amounts forfeited under the said Part IV.]

#### Textual Amendments

- F22** S. 43B inserted by Armed Forces Act 1976 (c. 52), s. 13, Sch. 6 paras. 1, 2
- F23** S. 43(B)(1)(c)(d) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, Sch. 8 para. 4(1)(a)(2)
- F24** Words inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, Sch. 8 para. 4(1)(b)(2)
- F25** Words repealed by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(2), Sch. 2
- F26** S. 43B(2) substituted by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 5
- F27** Words inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, Sch. 8 para. 4(1)(b)(2)
- F28** S. 43B(5A) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, Sch. 8 para. 4(1)(c)(2)

#### Marginal Citations

- M3** 1973 c.62(39:1).
- M4** 1980 c.43(82).

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