



# Naval Discipline Act 1957 (repealed)

1957 CHAPTER 53 5 and 6 Eliz 2

## PART II

### TRIAL AND PUNISHMENT OF OFFENCES

#### *Commencement and duration of sentences of imprisonment and detention*

#### 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**F1** Act repealed (prosp.)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

#### 85 Commencement of sentences.

(1) Except as otherwise provided by the following provisions of this Part of this Act, and by [<sup>F1</sup>section 11(2) of the <sup>M1</sup>Courts-Martial (Appeals) Act 1968] (which empowers the court in certain cases to direct that a sentence shall begin to run from the day upon which an application for leave to appeal is dismissed), any term of imprisonment or detention under a sentence awarded [<sup>F2</sup>by a court-martial] shall begin to run from the beginning of the day on which the sentence is awarded.

<sup>F3</sup>(2) . . . . .

(3) . . . <sup>F4</sup>

#### Textual Amendments

**F1** Words substituted by [Courts-Martial \(Appeals\) Act 1968 \(c. 20\)](#), [Sch. 4](#)

**F2** Words in s. 85(1) substituted (2.10.2000) by [2000 c. 4](#), s. 25, [Sch. 3 para. 10\(2\)](#); S.I. 2000/2366, [art. 2](#) (with [Sch. para. 15](#))

**F3** S. 85(2) repealed (2.10.2000) by [2000 c. 4](#), ss. 25, 27, [Sch. 3 para. 10\(3\)](#); S.I. 2000/2366, [art. 2](#) (with [Sch. para. 15](#))

**F4** S. 85(3) repealed by [Armed Forces Act 1971 \(c. 33\)](#), [Sch. 4 Pt. II](#)

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#### Marginal Citations

**M1** 1968 c. 20.

#### [<sup>F5</sup>85A Sentence of detention awarded on summary trial.

- (1) Subject to the following provisions of this Part of this Act, subsections (2) to (5) below apply to a sentence of detention awarded on summary trial.
- (2) If the offender so elects at the time of the award, his sentence shall begin to run from the day on which it is awarded.
- (3) For the purposes of subsection (2) above, a sentence shall be taken to be awarded on the day on which the warrant specifying the sentence, as approved in accordance with regulations made by the Defence Council, is read to the offender or, if the offender has been detained in custody since the signature of that warrant by the officer by whom he was tried, on the first day on which he was so detained.
- (4) If the offender does not make an election under subsection (2) above or, having made such an election, withdraws it during the appeal period, his sentence or, in the case of withdrawal, the remainder of his sentence shall be suspended by virtue of this subsection—
  - (a) until the end of the appeal period, or
  - (b) where an appeal is brought within the appeal period, until the determination of the appeal.
- (5) Where an appeal is brought—
  - (a) within the appeal period, by an offender who has made an election under subsection (2) above which has not been withdrawn, or
  - (b) after the end of the appeal period, by any offender,
 the remainder of his sentence shall be suspended by virtue of this subsection until the determination of the appeal.
- (6) In this section “the appeal period” means the period within which an appeal may be brought under section 52FK(2) of this Act.]

#### Textual Amendments

**F5** S. 85A inserted (2.10.2000) by 2000 c. 4, s. 25, **Sch. 3 para. 11**; S.I. 2000/2366, **art. 2** (with **Sch. para. 15**)

#### 86 Consecutive sentences.

- (1) Where any person who is serving a sentence of imprisonment, whether passed under this Act or otherwise, is sentenced to imprisonment under this Part of this Act, or where a person sentenced to imprisonment under this Part of this Act is further sentenced to imprisonment under subsection (3) of section thirty-eight of this Act, the court or officer by whom the subsequent or further sentence is awarded may order that that sentence shall begin to run from the expiration of the first-mentioned sentence.
- (2) Where any person who is serving a sentence of detention passed on him under this Act or under the <sup>M2</sup>Army Act 1955, or the <sup>M3</sup>Air Force Act 1955, is found guilty under this Act of another offence for which he is sentenced to detention, or where a

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person sentenced to detention under this Act is further sentenced to detention under subsection (3) of section thirty-eight of this Act, the court or officer by whom the subsequent or further sentence is awarded may order that that sentence shall begin to run from the expiration of the first-mentioned sentence.

[<sup>F6</sup>(2A) Where on awarding a sentence of detention (“the subsequent sentence”) the offender’s commanding officer orders under subsection (2) of this section that the subsequent sentence is to begin to run from the expiry of another sentence (“the current sentence”)

- (a) section 85A of this Act shall have effect in relation to the subsequent sentence as if the reference in subsection (2) of that section to the day on which the sentence is awarded were a reference to the expiry of the current sentence, and
- (b) where the suspension of a sentence by virtue of subsection (4) or (5) of that section would end before the expiry of the current sentence, the sentence shall run from the expiry of the current sentence.]

[<sup>F7</sup>(3) Where a person is convicted by a court-martial of two or more offences under section 42 of this Act consisting in the commission of a civil offence for which a civil court in England could award imprisonment, the court-martial may by its sentence award, for any of the said offences, a term of imprisonment which is to run from the expiry of a term awarded by that sentence for any other of those offences.]

#### Textual Amendments

- F6** S. 86(2A) inserted (2.10.2000) by 2000 c. 4, s. 25, **Sch. 3 para. 13**; S.I. 2000/2366, **art. 2** (with **Sch. para. 15**)
- F7** S. 86(3) added by **Armed Forces Act 1971 (c. 33)**, **ss. 39(3), 78(4)**

#### Marginal Citations

- M2** 1955 c. 18.
- M3** 1955 c. 19.

## 87 Periods of compassionate release.

Where any person detained in naval detention quarters or in a military or air-force establishment in pursuance of a sentence of imprisonment or detention passed on him under this Part of this Act is released on compassionate grounds in pursuance of Naval Detention Quarters Rules, or Imprisonment and Detention Rules made under the <sup>M4</sup>Army Act 1955, or the <sup>M5</sup>Air Force Act 1955, as the case may be, no account shall be taken, in calculating the period for which he is liable to be detained under his sentence, of the period beginning with the day after that on which he is so released and ending with the day on which he is required to return to custody.

#### Marginal Citations

- M4** 1955 c. 18.
- M5** 1955 c. 19.

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## 88 Periods of unlawful absence.

- (1) Where any person sentenced under this Part of this Act to imprisonment or detention becomes unlawfully at large during the currency of the sentence, no account shall be taken, in calculating the period for which he is liable to be detained under his sentence, of the period beginning with the day on which he becomes unlawfully at large and ending with the day on which he is taken into naval, military or air force custody or the custody of a civil authority, as being a person unlawfully at large, or, not having been taken into such custody, returns to the place in which he was imprisoned or detained before he became unlawfully at large:

Provided that if it appears to [<sup>F8</sup>the Defence Council] that during any part of that period he was in the custody of a civil authority or of any naval, military or air force authority specified in Imprisonment and Detention Rules made for the purpose of paragraph (b) of the proviso to subsection (2) of section one hundred and nineteen of the <sup>M6</sup>Army Act 1955, or the <sup>M7</sup>Air Force Act 1955, that part of the period shall be disregarded for the purposes of this subsection.

- (2) For the purposes of this section a person temporarily released from custody in pursuance of the appropriate rules or otherwise allowed out of naval, military, air force or civil custody for any period or subject to any condition, shall be treated as unlawfully at large if he fails to return at the expiration of the period, or to comply with the condition, as the case may be, or if an order recalling him has been made in pursuance of the said rules.

- (3) In this section “the appropriate rules” means—

- (a) in relation to a person serving a sentence in naval detention quarters, Naval Detention Quarters Rules;
- (b) in relation to a person serving a sentence in military or air-force custody, Imprisonment and Detention Rules made under the <sup>M8</sup>Army Act 1955, or the <sup>M9</sup>Air Force Act 1955, as the case may be;
- (c) in relation to a person serving a sentence in civil custody, rules made under subsection (5) of section forty-seven of the <sup>M10</sup>Prison Act 1952, subsection (6) of section [<sup>F9</sup>thirty-five of the <sup>M11</sup>Prisons (Scotland) Act 1952][<sup>F9</sup>39 of the Prisons (Scotland) Act 1989], or paragraph (c) of subsection (1) of section thirteen of the <sup>M12</sup>Prison Act (Northern Ireland) 1953, or (in the case of a person serving a sentence outside the United Kingdom) any corresponding provision of the law of the country or territory in which he is serving his sentence;

and “civil authority” means a civil authority (whether of the United Kingdom or of any country or territory outside the United Kingdom) authorised by law to detain persons, and includes a constable.

- (4) In relation to any person committed or transferred to a civil prison in the United Kingdom, this section shall have effect in substitution for section forty-nine of the <sup>M13</sup>Prison Act 1952, section [<sup>F10</sup>thirty-seven of the <sup>M14</sup>Prisons (Scotland) Act 1952][<sup>F10</sup>40 of the Prisons (Scotland) Act 1989], or section thirty-eight of the <sup>M15</sup>Prison Act (Northern Ireland) 1953, as the case may be.

### Textual Amendments

**F8** Words substituted by [S.I. 1964/488](#), [Sch. 1 Pt. I](#)

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- F9** “39 of the Prisons (Scotland) Act 1989” substituted (S.) for words commencing “thirty-five” by Prisons (Scotland) Act 1989 (c. 45, SIF 39:1), s. 45(1), **Sch. 2 para. 6**
- F10** By Prisons (Scotland) Act 1989 (c. 45, SIF 39:1), s. 45(1), **Sch. 2 para. 6** it is provided that the words “40 of Prisons (Scotland) Act 1989” are substituted (S.) for “37 of the Prisons (Scotland) Act 1952”

#### Marginal Citations

- M6** 1955 c. 18.  
**M7** 1955 c. 19.  
**M8** 1955 c. 18.  
**M9** 1955 c. 19.  
**M10** 1952 c. 52.  
**M11** 1952 c. 61.  
**M12** 1953 c. 18 (N.I.)  
**M13** 1952 c. 52.  
**M14** 1952 c. 61.  
**M15** 1953 c. 18 (N.I.)

## 89 Limitation of total period of sentences of detention.

- (1) Notwithstanding anything in this Part of this Act, no offender shall be kept continuously in detention for a period exceeding two years in pursuance of two or more sentences of detention.
- (2) The foregoing subsection shall not affect the validity of any order or direction under this Part of this Act that a sentence of detention shall begin to run from the expiration of another such sentence; but so much of any term of detention to which any such order or direction relates as would prolong the total term of detention beyond two years shall be remitted by virtue of the order or direction.
- [<sup>F11</sup>(2A) Where the whole or part of a sentence of detention is suspended by virtue of section 85A(4) or (5) of this Act, any period of detention ending with the beginning of the suspension shall be taken for the purposes of subsection (1) above to be continuous with any period of detention beginning with the end of the suspension.]
- (3) Where any person sentenced to detention under this Act, the <sup>M16</sup>Army Act 1955, or the <sup>M17</sup>Air Force Act 1955, is subsequently sentenced to imprisonment under this Act, any part of the sentence of detention which has not been served shall be remitted by virtue of the sentence of imprisonment, whether or not that sentence is suspended.

#### Textual Amendments

- F11** S. 89(2A) inserted (2.10.2000) by 2000 c. 4, s. 25, **Sch. 3 para. 15**; S.I. 2000/2366, **art. 2** (with **Sch. para. 15**)

#### Marginal Citations

- M16** 1955 c. 18.  
**M17** 1955 c. 19.

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