

Status: Point in time view as at 01/05/2004.

Changes to legislation: Naval Discipline Act 1957 (repealed), Cross Heading: Special powers of Admiralty. is up to date with all changes known to be in force on or before 05 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)



Naval Discipline Act 1957 (repealed)

1957 CHAPTER 53 5 and 6 Eliz 2

PART II

TRIAL AND PUNISHMENT OF OFFENCES

Special powers of Admiralty.

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F1 Act repealed (prosp.)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

74 Power to dispense with trial of persons confessing to desertion.

- (1) If any rating subject to this Act signs a confession that he is guilty of desertion, [^{F1}the Defence Council] may by order dispense with his trial for that offence and, if they think fit, impose on him any such forfeiture as could be imposed on conviction of that offence under Part I of this Act.
- (2) The powers of [^{F1}the Defence Council] under this section may be exercised by any flag officer authorised by [^{F1}the Defence Council] in that behalf, as well as by [^{F1}the Defence Council.]

Textual Amendments

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

75 Forfeiture of pay and effects of certain absentees.

- (1) If it appears to [^{F2}the Defence Council] that any person subject to this Act is absent without leave . . . ^{F3} (whether or not he appears to be guilty of desertion), then, without prejudice to any proceedings which may be taken against him in the event

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of his apprehension or return, [^{F2}the Defence Council] may by an order containing a statement of his said absence impose on him any such forfeiture as could be imposed on conviction of an offence of desertion under Part I of this Act.

- (2) An order under this section for the forfeiture of any property shall be sufficient authority for the sale of that property and for the disposal of the proceeds of sale in accordance with the directions of [^{F2}the Defence Council]:

Provided that [^{F2}the Defence Council] may, if they think fit on sufficient cause shown at any time after the making of the order—

- (a) remit the forfeiture of any property which has not been sold thereunder; or
- (b) pay or dispose of the proceeds of sale of any property sold thereunder to or for the use of the person to whom it belonged or his representatives.

- [^{F4}(3) The powers conferred by this section on the Defence Council may also be exercised in relation to any person by the Commander-in-Chief or flag officer from whose command that person is absent as aforesaid and by any other officer authorised in that behalf by the Defence Council.]

Textual Amendments

- F2** Words substituted by [S.I. 1964/488, Sch. 1 Pt. I](#)
F3 Words repealed by [Armed Forces Act 1971 \(c. 33\), Sch. 4 Pt. II](#)
F4 S. 75(3) substituted by [Armed Forces Act 1971 \(c. 33\), s. 60](#)

76 Restitution or compensation on conviction of larceny, etc.

- (1) Where any person is convicted under this Part of this Act of unlawfully obtaining any property, whether by stealing it, [^{F5}handling] it, . . . [^{F6} or otherwise, [^{F7}the Defence Council] may—
- (a) if the whole or any part of the property unlawfully obtained is found in the possession of the offender, order the property so found to be repaid or restored to the person appearing to [^{F7}the Defence Council] to be its owner;
 - (b) if any property (other than money) appearing to [^{F7}the Defence Council] to have been obtained by the conversion or exchange of any of the property unlawfully obtained is found as aforesaid, order the property so found to be delivered to the person appearing to [^{F7}the Defence Council] to be the owner of the property unlawfully obtained;
 - (c) if and so far as neither the property unlawfully obtained nor property of equivalent value in respect of which an order is made under paragraph (b) of this subsection is found in the possession of the offender, order that the offender be required to pay to the person appearing to [^{F7}the Defence Council] to be the owner of the property unlawfully obtained such sum as or towards compensation as appears to [^{F7}the Defence Council] to be just.

[^{F8}(1A) The Defence Council may also exercise the powers conferred by subsection (1) above where the court has taken an offence mentioned in that subsection into consideration in determining sentence.]

- (2) Where a person is convicted as aforesaid and it appears to [^{F7}the Defence Council] that any of the property unlawfully obtained was taken in exchange from the offender by any other person who did not then know it to have been unlawfully obtained, [^{F7}the Defence Council] may—

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- (a) if the whole or any part of the property given in exchange by the said other person is found in the possession of the offender, order that on restitution of the property taken in exchange to the person appearing to [F7the Defence Council] to be its owner, the property so found be restored to the said other person;
 - (b) if and so far as the said property is not so found, order that on restitution as aforesaid of the property taken in exchange the offender be required to pay to the said other person such sum as or towards compensation as appears to [F7the Defence Council] to be just.
- (3) Where a person is convicted as aforesaid and it appears to [F7the Defence Council] that any of the property unlawfully obtained was purchased or taken in pawn from the offender by a person who did not then know it to have been unlawfully obtained, [F7the Defence Council] may order that on restitution of that property to the person appearing to [F7the Defence Council] to be its owner the offender be required to pay to the said other person such sum as or towards compensation as appears to [F7the Defence Council] to be just.
- (4) Any sum payable by an offender by way of compensation under this section may be ordered to be paid out of money found in the possession of the offender or by means of deductions from his pay.
- (5) . . . F9
- (6) Subject to regulations made by [F7the Defence Council], the powers conferred on [F7the Defence Council] by the foregoing provisions of this section may be exercised—
 - (a) where the offender is tried by a court-martial F10. . . , by that court, F11. . . ;
 - (b) where the offender is tried summarily under [F12section 52D]of this Act, by the officer in command of the ship or establishment to which he belongs, as well as by [F7the Defence Council], and references in those provisions to [F7the Defence Council] shall be construed accordingly.
- (7) An order under this section shall not bar the right of any person, other than the offender or a person claiming through him, to recover any property delivered or paid in pursuance of such an order from the person to whom it is delivered or paid.

Textual Amendments

- F5** Word substituted by [Theft Act 1968 \(c. 60\), Sch. 2 Pt. II](#)
- F6** Words repealed by [Armed Forces Act 1971 \(c. 33\), s. 78\(4\), Sch. 4 Pt. I](#)
- F7** Words substituted by [S.I. 1964/488, Sch. 1 Pt. I](#)
- F8** S. 76(1A) added by [Armed Forces Act 1976 \(c. 52\), s. 14, Sch. 7 para. 3\(1\)](#)
- F9** S. 76(5) repealed by [Armed Forces Act 1976 \(c. 52\), Sch. 10](#)
- F10** Words in s. 76(6)(a) repealed (28.2.2002) by [2001 c. 19, s. 38, Sch. 7 Pt. 1; S.I. 2002/345, art. 2](#) (subject to [art. 3](#))
- F11** Words in s. 76(6)(a) repealed (1.4.1997 with savings) by [1996 c. 46, ss. 5, 35\(2\), Sch. 1 Pt. IV para. 89\(a\), Sch. 7 Pt. I; S.I. 1997/304, art. 2](#) (with [art. 3](#))
- F12** Words in s. 76(6)(b) substituted (1.4.1997 with savings) by [1996 c. 46, s. 5, Sch. 1 Pt. IV para. 89\(b\); S.I. 1997/304, art. 2](#) (with [art. 3](#))

Modifications etc. (not altering text)

- C1** S. 76 modified by [Courts-Martial \(Appeals\) Act 1968 \(c. 20\), s. 46\(1\)](#)

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77 Effect of appeal against conviction on order for restitution or compensation.

- (1) The operation of any order made under section seventy-six of this Act on conviction by a court-martial ^{F13} . . . shall be suspended—
- (a) in any case, until the expiration of the period prescribed under [^{F14}Part II of the ^{M1}Courts-Martial (Appeals) Act 1968], as the period within which an application for leave to appeal to the Courts-Martial Appeal Court against [^{F15}a relevant conviction] must be lodged; and
 - (b) if such an application is duly lodged, until either the application is finally refused or is withdrawn or the appeal is determined or abandoned;
- and where the operation of any such order is suspended under this subsection, the order shall not take effect if the conviction is quashed on appeal.
- (2) On any appeal to the Courts-Martial Appeal Court the court may by order annul or vary any order made under the said section seventy-six although [^{F15}a relevant conviction] in respect of which it was made is not quashed.
- (3) Rules of court made under [^{F14}Part II of the said Act of 1968] may make provision for securing the safe custody, during the period during which the operation of an order is suspended under this section, of the property ordered to be restored or handed over or the money to which the order relates.
- (4) Notwithstanding anything in this section, an order under the said section seventy-six shall not, so far as it relates to the delivery of property to the person appearing to be the owner thereof, be suspended if it is certified by [^{F16}the Defence Council], or by the court or officer by whom the order is made, that the title to the property is not in dispute.
- ^{F17}(5) In this section “relevant conviction” means—
- (a) where an order under section 76 above was made as a result of a conviction of such an offence of unlawfully obtaining property as is mentioned in subsection (1) of that section, that conviction; or
 - (b) where an order under that section was made as a result of such an offence of unlawfully obtaining property having been taken into consideration in determining sentence, the conviction or, if more than one, each conviction in respect of which the said sentence fell to be determined.]

Textual Amendments

- F13** Words in s. 77(1) repealed (28.2.2002) by 2001 c. 19, s. 38, Sch. 7 Pt. 1; S.I. 2002/345, art. 2 (subject to art. 3)
- F14** Words substituted by Courts-Martial (Appeals) Act 1968 (c. 20), Sch. 4
- F15** Words substituted by Armed Forces Act 1976 (c. 52), s. 14, Sch. 7 para. 4(1)
- F16** Words substituted by S.I. 1964/488, Sch. 1 Pt. I
- F17** S. 77(5) added by Armed Forces Act 1976 (c. 52), s. 14, Sch. 7 para. 4(2)

Marginal Citations

- M1** 1968 c. 20.

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