



Naval Discipline Act 1957

1957 CHAPTER 53

PART II

TRIAL AND PUNISHMENT OF OFFENCES

Special powers of Admiralty

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, the Admiralty 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 the Admiralty under this section may be exercised by any flag officer authorised by the Admiralty in that behalf, as well as by the Admiralty.

75 Forfeiture of pay and effects of certain absentees

- (1) If it appears to the Admiralty that any person subject to this Act is absent without leave and has been so absent for a period of not less than one month (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 of his apprehension or return, the Admiralty 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 the Admiralty:

Provided that the Admiralty 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

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- (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.
- (3) The powers conferred by this section on the Admiralty may be exercised by the Commander-in-Chief or flag officer from whose command a person is absent as aforesaid, as well as by the Admiralty.

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, receiving it knowing it to have been stolen, embezzling it, fraudulently misapplying it or otherwise, the Admiralty 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 the Admiralty to be its owner;
 - (b) if any property (other than money) appearing to the Admiralty 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 the Admiralty 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 the Admiralty to be the owner of the property unlawfully obtained such sum as or towards compensation as appears to the Admiralty to be just.
- (2) Where a person is convicted as aforesaid and it appears to the Admiralty 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, the Admiralty may—
 - (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 the Admiralty 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 the Admiralty to be just.
- (3) Where a person is convicted as aforesaid and it appears to the Admiralty 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, the Admiralty may order that on restitution of that property to the person appearing to the Admiralty to be its owner the offender be required to pay to the said other person such sum as or towards compensation as appears to the Admiralty 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.

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- (5) The amount or aggregate amount of the compensation which an offender may be required to pay by an order or orders under this section otherwise than out of money found in his possession shall not in any case exceed one hundred pounds.
- (6) Subject to regulations made by the Admiralty, the powers conferred on the Admiralty by the foregoing provisions of this section may be exercised—
 - (a) where the offender is tried by a court-martial or disciplinary court, by that court, by the officer who ordered that court or by the Commander-in-Chief or senior naval officer to whom the proceedings are transmitted under section sixty-six of this Act;
 - (b) where the offender is tried summarily under section forty-nine of this Act, by the officer in command of the ship or establishment to which he belongs, as well as by the Admiralty, and references in those provisions to the Admiralty 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.

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 or disciplinary court shall be suspended—
 - (a) in any case, until the expiration of the period prescribed under Part I of the Courts-Martial (Appeals) Act, 1951, as the period within which an application for leave to appeal to the Courts-Martial Appeal Court against the 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 the conviction in respect of which it was made is not quashed.
- (3) Rules of court made under the said Act of 1951 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 the Admiralty, or by the court or officer by whom the order is made, that the title to the property is not in dispute.