



# Naval Discipline Act 1957 (repealed)

1957 CHAPTER 53 5 and 6 Eliz 2

## PART IV

### MISCELLANEOUS AND GENERAL

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- F1** Act repealed (prosp.)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

#### *Persons subject to this Act*

#### **111 Naval forces, volunteers and trainees.**

[<sup>F1</sup>(1) Every officer on the active list, and every rating, of the Royal Navy, [<sup>F2</sup>and Queen Alexandra's Royal Naval Nursing Service] is subject to this Act at all times.

(2) Any officer on any retired or emergency list of officers of the Royal Navy or of Queen Alexandra's Royal Naval Nursing Service <sup>F3</sup>. . . is subject to this Act when ordered on any duty or service for which such an officer is liable, and is so subject from the time appointed to report or attend for that purpose until duly released or discharged.]

(3) Any officer or rating of any of the naval reserve forces is subject to this Act—  
(a) while being trained or exercised in pursuance of any enactment relating to those forces or any regulations made under any such enactment;  
(b) when called, recalled or required to re-enter into actual service under any such enactment or regulation,

and is so subject from the time appointed for him to report or attend for any such purpose until he is duly released or discharged.

(4) Without prejudice to subsection (1) of this section, any naval pensioner who is required to join the Royal Navy under [<sup>F4</sup>section 30(1) of the <sup>M1</sup>Reserve Forces Act 1980], is subject to this Act from the time appointed for him to report or attend for that purpose.

*Status: Point in time view as at 04/11/1996.*

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- (5) Any person not otherwise subject to this Act who volunteers or engages for service, training or exercise with the Royal Navy, not being—
- (a) . . . <sup>F5</sup>
  - (c) a member of the Sea Cadet Corps or the Combined Cadet Force; or
  - (d) a person excepted from this subsection by directions of [<sup>F6</sup>the Defence Council,]
- is subject to this Act during the period of service, training or exercise.
- (6) A person not otherwise subject to this Act, being a member of—
- (a) any of the armed forces of the Crown raised outside the United Kingdom; or
  - (b) any armed forces other than armed forces of the Crown,
- not being in either case forces excepted from this subsection by directions of [<sup>F6</sup>the Defence Council] is subject to this Act when ordered to be trained or exercised on board any of Her Majesty's ships or in any of Her Majesty's naval establishments.
- (7) Where by virtue of this section this Act applies to any person not being a member of the armed forces of the Crown, it shall apply to him (except so far as may be otherwise provided by regulations made by [<sup>F6</sup>the Defence Council])—
- (a) if he holds any rank or rate in any other naval, military or air forces, as it applies to a person holding the corresponding rank or rate in the armed forces of the Crown;
  - (b) in any other case, as it applies to an able seaman.
- (8) This section applies to chaplains in the Royal Navy or in any of the naval reserve forces as it applies to officers of the Royal Navy, or of that force, as the case may be.

#### Textual Amendments

- F1** S. 111(1)(2) substituted by [Armed Forces Act 1976 \(c. 52\)](#), s. 4, [Sch. 2 para. 2](#)
- F2** Words in s. 111(1) substituted (1.10.1996) by 1996 c. 46, s. 35(1), [Sch. 6 para. 10](#); S.I. 1996/2474, [art. 2](#) (with [art. 3](#))
- F3** Words in s. 111(2) repealed (1.10.1996) by 1996 c. 46, s. 35(2), [Sch. 7 Pt. III](#); S.I. 1996/2474, [art. 2](#) (with [art. 3](#))
- F4** Words substituted by [Reserve Forces Act 1980 \(c. 9\)](#), [Sch. 9 para. 7](#)
- F5** S. 111(5)(a)(b) repealed by [Armed Forces Act 1976 \(c. 52\)](#), [Sch. 10](#)
- F6** Words substituted by S.I. 1964/488, [Sch. 1 Pt. I](#)

#### Marginal Citations

- M1** 1980 c. 9.

## 112 Marines.

- (1) An officer, [<sup>F7</sup>warrant officer] non-commissioned officer or marine of the marine forces is subject to this Act when borne on the books of any of Her Majesty's ships or naval establishments.
- (2) The provisions of the First Schedule to this Act shall have effect for the purposes of the application of this Act to any person who is subject thereto by virtue of this section.

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#### Textual Amendments

F7 Words inserted by [Armed Forces Act 1971 \(c. 33\)](#), [Sch. 3 para. 5\(2\)](#)

### 113 Attached military and air forces.

- (1) Subject to the provisions of this section, a member of Her Majesty's military or air forces is subject to this Act when attached to Her Majesty's naval forces under section one hundred and seventy-nine of the <sup>M2</sup>Army Act 1955, or section one hundred and seventy-nine of the <sup>M3</sup>Air Force Act 1955.
- (2) The provisions of the Second Schedule to this Act shall have effect for the purposes of the application of this Act to any person who is subject thereto by virtue of this section.
- (3) . . . <sup>F8</sup>

#### Textual Amendments

F8 [S. 113\(3\)](#) repealed by [Armed Forces Act 1976 \(c. 52\)](#), [Sch. 10](#)

#### Marginal Citations

M2 [1955 c. 18](#).  
M3 [1955 c. 19](#).

### 114 Commonwealth forces.

- (1) Without prejudice to subsection (6) of section one hundred and eleven of this Act, the members of a naval, military or air force of a Commonwealth country are subject to this Act to such extent, and subject to such adaptations and modifications, as may be provided by or under the <sup>M4</sup>Visiting Forces (British Commonwealth) Act 1933, or by the law of that country.
- (2) Where members of a force of any Commonwealth country are subject to this Act as aforesaid by virtue of the law of that country, Her Majesty may by Order in Council make such adaptations and modifications of this Act in relation to other members of Her Majesty's naval forces as may be desirable for the purpose of regulating the relations between those members of Her Majesty's naval forces and members of the force of that country.

#### Marginal Citations

M4 [1933 c. 6](#).

### 115 Colonial naval forces.

- (1) Without prejudice to subsection (6) of section one hundred and eleven of this Act, the members of a force raised for the naval defence of a colony in pursuance of section one of the <sup>M5</sup>Colonial Naval Defence Act 1931, are subject to this Act to such extent, and subject to such adaptations and modifications, as may be provided by the legislature of that colony under subsection (1) of section two of that Act.

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- (2) Without prejudice to the foregoing subsection, any officer or rating of any force raised by a colony as aforesaid is subject to this Act while at the disposal of Her Majesty for general service in the Royal Navy under subsection (2) of the said section two.

#### Marginal Citations

M5 1931 c. 9.

### 116 Application to deserters, etc. from Commonwealth and colonial naval forces.

- (1) Without prejudice to the foregoing provisions of this Part of this Act, Her Majesty may by Order in Council direct that members of any naval force of a Commonwealth country or raised by any colony shall be subject to this Act so far as it relates to the offences of desertion or absence without leave, and to the arrest, trial and punishment of persons who have committed or are suspected of having committed either of the said offences.
- (2) Where any Order in Council is made under this section in relation to members of a naval force, references in section forty-seven and in Part III of this Act to Her Majesty's naval forces shall include references to that force.

### 117 Application to passengers in H.M. ships.

Parts I and II of this Act shall, to such extent and subject to such modifications as may be prescribed by regulations made by [<sup>F9</sup>the Defence Council], apply to persons embarked as passengers on board Her Majesty's ships [<sup>F10</sup>, vessels] or aircraft (not being persons who are subject to this Act by virtue of any of the foregoing provisions of this Act or are subject to military or air-force law), as they apply to persons subject to this Act.

#### Textual Amendments

F9 Words substituted by S.I. 1964/488, Sch. 1 Pt. I

F10 Words inserted by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), Sch. 1 para. 8

### 118 Application to certain civilians.

- (1) Subject to the provisions of this section where any body of Her Majesty's naval forces are on active service Parts I and II of this Act shall (so far as applicable) apply to the following persons, that is to say—
- (a) any person employed in the service of that body of those forces;
  - (b) any person employed in the service of any portion or member of that body of those forces; or
  - (c) any person who accompanies that body of those forces or any portion thereof, as they apply to persons subject to this Act.
- (2) Without prejudice to the foregoing subsection, but subject to the provisions of this section, the following provisions of this Act, that is to say—
- (a) sections fourteen, [<sup>F11</sup>14A,]thirty-eight and thirty-nine;
  - (b) sections forty and forty-one, so far as they relate to the sections aforesaid;

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(c) sections forty-two and forty-three; and

(d) Part II so far as it applies to an offence under any of the said sections,

shall apply to a person of any class described in the Third Schedule to this Act who is within the limits of the command of any officer commanding any of Her Majesty's naval forces outside the United Kingdom . . . <sup>F12</sup>, as they apply to persons subject to this Act.

[<sup>F13</sup>Provided that the said section 39 shall not apply to a person by virtue only of this subsection except at a time when he is on board one of Her Majesty's ships.]

(3) The provisions of the Fourth Schedule to this Act shall have effect for the purposes of the application of this Act to any person to whom it applies by virtue of this section.

[<sup>F14</sup>(3A) A court-martial for the trial of any such person may include in place of the corresponding number of officers not more than two persons who are in the service of the Crown and are persons to whom this Act applies by virtue of this section, but a person who is a member of a court-martial by virtue of this subsection shall not be appointed the president of the court-martial.]

[<sup>F15</sup>(3B) On the trial of such a person a court-martial may make an order authorised by Schedule 4A below, and any such order shall be treated as a punishment for the purposes of this Act.]

(4) This section does not apply to any person to whom section one hundred and seventeen of this Act applies, or who is otherwise subject to this Act apart from this section or is subject to military or air-force law apart from section two hundred and nine of the <sup>M6</sup>Army Act 1955, or the <sup>M7</sup>Air Force Act 1955.

#### Textual Amendments

**F11** Words inserted by [Armed Forces Act 1971 \(c. 33\)](#), s. 78(4), [Sch. 1 para. 2\(3\)](#)

**F12** Words repealed by [Armed Forces Act 1966 \(c. 45\)](#), [Sch. 5](#)

**F13** Proviso added by [Armed Forces Act 1971 \(c. 33\)](#), [ss. 42, 78\(4\)](#)

**F14** [S. 118\(3A\)](#) inserted by [Armed Forces Act 1976 \(c. 52\)](#), [s. 9\(2\)](#)

**F15** [S. 118\(3B\)](#) inserted by [Armed Forces Act 1976 \(c. 52\)](#), [Sch. 9 para. 10](#)

#### Marginal Citations

**M6** 1955 c. 18.

**M7** 1955 c. 19.

## 119 Application to sentenced offenders, etc.

(1) A person sentenced under Part II of this Act to imprisonment or detention shall be subject to this Act until the expiration of the term of his sentence, whether or not he would have ceased to be subject to this Act apart from the provisions of this subsection; and in relation to any such person this Act shall apply as it applies in relation to an able seaman.

(2) If any person not otherwise subject to this Act, being in custody by virtue of section fifty-one or section ninety-five of this Act, commits or is reasonably suspected of having committed an offence which, if he were subject to this Act, would be an offence against any provision of Part I of this Act, he shall be treated for the purposes of that

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provision and of Part II of this Act as having been subject to this Act at the time of the offence or suspected offence, and as continuing to be so subject thereafter.

- (3) Where by virtue of subsection (2) of this section a person who does not hold any naval rank or rate is treated for the purpose of any provisions of this Act as a person subject to this Act, this Act shall apply to him for that purpose—
- (a) if he holds any military or air force rank, as it applies to a person holding the corresponding naval rank or rate;
  - (b) if he held any naval rank or rate or any military or air-force rank when last subject to this Act apart from this section, as it applies to a person holding that or the corresponding naval rank or rate;
  - (c) in any other case, as it applies to an able seaman.

#### *Attachment and powers of command*

### **120 Attachment to military or air forces.**

- (1) Any officer or rating of Her Majesty's naval forces may be attached temporarily to any of Her Majesty's military or air forces.
- (2) Regulations may be made by [<sup>F16</sup>the Defence Council] for prescribing the circumstances in which officers and ratings of Her Majesty's naval forces are to be treated as attached to any of Her Majesty's military or air forces, as the case may be, under this section.
- (3) . . . <sup>F17</sup>
- (4) A person shall not cease to be subject to this Act by reason only of his being attached to any forces in pursuance of this section.

#### **Textual Amendments**

**F16** Words substituted by [S.I. 1964/488, Sch. 1 Pt. I](#)

**F17** [S. 120\(3\)](#) repealed by [S.I. 1964/488, Sch. 1 Pt. I](#)

### **121 Attachment to commonwealth and other forces.**

- (1) Without prejudice to the provisions of section four of the <sup>M8</sup>Visiting Forces (British Commonwealth) Act 1933 (which provides for the attachment of members of home forces to the forces of certain Commonwealth countries), any officer or rating of Her Majesty's naval forces may, by order of [<sup>F18</sup>the Defence Council] or of the Commander-in-Chief or senior naval officer present on a foreign station, be required to serve with any naval, military or air force of a Commonwealth country or of any other country.
- (2) A person shall not cease to be subject to this Act by reason only of his being required to serve with any naval, military or air force in pursuance of this section.

#### **Textual Amendments**

**F18** Words substituted by [S.I. 1964/488, Sch. 1 Pt. I](#)

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#### Marginal Citations

M8 1933 c. 6.

### 122 Powers of command of members of co-operating military or air forces.

- (1) In so far as powers of command depend on rank or rate, an officer, warrant officer or non-commissioned officer of any of Her Majesty’s military or air forces who—
  - (a) is acting with any body of Her Majesty’s naval forces; or
  - (b) is a member of a body of the said military or air forces which is acting with any body of Her Majesty’s naval forces,shall have the like such powers as an officer or rating of Her Majesty’s naval forces of corresponding rank or rate.
- (2) For the purposes of section eleven, . . . <sup>F19</sup> and section forty-five of this Act, any such officer, warrant officer or non-commissioned officer as aforesaid shall be treated as an officer or rating of corresponding rank or rate, and shall have the like powers under the said section forty-five as if he were a person subject to this Act.

#### Textual Amendments

F19 Words repealed by [Armed Forces Act 1971 \(c. 33\), s. 78\(4\), Sch. 4 Pt. I](#)

#### *Application to particular countries and territories*

### 123 Scotland.

- (1) The provisions of this section shall have effect for the purpose of the application of this Act to Scotland.
- (2) . . . <sup>F20</sup>
- (3) In section forty-eight, the expression “manslaughter” means culpable homicide.
- (4) In subsection (2) of section eighty, references to the <sup>M9</sup>Capital Punishment Amendment Act 1868, and to section seven of that Act, shall be construed as references to that Act and that section as they apply to Scotland, and for the reference to the sheriff there shall be substituted a reference to the lord provost or provost, or magistrate or magistrates, charged with seeing the sentence of death carried into effect.
- (5) In section eighty-two, in subsection (1), for the reference to [<sup>F21</sup>the Coroners Acts 1887 to 1926][<sup>F21</sup>the Coroners Act 1988], there shall be substituted a reference to section twenty-five of the <sup>M10</sup>Prisons (Scotland) Act 1952, and in subsection (3) the reference to sections thirty-nine to forty-two of the <sup>M11</sup>Prison Act 1952, shall include a reference to section thirty of the <sup>M12</sup>Prisons (Scotland) Act 1952.
- (6) In section ninety-eight, the expression “chattel” means corporeal moveable.
- (7) In subsection (5) of section one hundred and one, the expression “putative father” means the person proved or admitted to be the father.

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- (8) In subsection (2) of section one hundred and six, for the words from “and that officer” to the end of the subsection there shall be substituted the words “who shall report the matter to the procurator fiscal”.
- (9) In subsection (4) of section one hundred and nine, for the words from the beginning to “such proceedings” there shall be substituted the words “For the purposes of any proceedings under this section”.
- [<sup>F22</sup>(10) Where by virtue of this Act a document is admissible in evidence or is evidence of any matter stated in it in proceedings before a civil court in England, it shall be sufficient evidence of the matter so stated in such proceedings in Scotland.]

#### Textual Amendments

- F20** S. 123(2) repealed by [Armed Forces Act 1966 \(c. 45\)](#), [Sch. 5](#)
- F21** “the Coroners Act 1988” substituted (E.W.) for “the Coroners Acts 1887 to 1926” by [Coroners Act 1988 \(c. 13, SIF 33\)](#), s. 36(1), [Sch. 3 para. 13](#)
- F22** S. 123(10) added by [Armed Forces Act 1971 \(c. 33\)](#), [s. 76](#)

#### Marginal Citations

- M9** 1868 c. 24.
- M10** 1952 c. 61.
- M11** 1952 c. 52.
- M12** 1952 c. 61.

## 124 Northern Ireland.

- (1) The provisions of this section shall have effect for the purposes of the application of this Act to Northern Ireland.
- (2) In subsection (2) of section eighty, references to the <sup>M13</sup>Capital Punishment Amendment Act 1868 . . . <sup>F23</sup>, shall be construed as references to that Act . . . <sup>F23</sup> as in force from time to time in Northern Ireland, . . . <sup>F23</sup>, and accordingly the reference to the sheriff shall be construed as a reference to the under-sheriff.
- (3) In section eighty-two, in subsection (1), for the words “the Coroners Acts 1887 to 1926” there shall be substituted the words “section thirty-nine of the <sup>M14</sup>Prison Act (Northern Ireland) 1953, with any necessary modifications”, and in subsection (3) the reference to sections thirty-nine to forty-two of the <sup>M15</sup>Prison Act 1952, shall include a reference to sections twenty-eight to thirty-six of the <sup>M16</sup>Prison Act (Northern Ireland) 1953.
- (4) Subsection (3) of section one hundred shall not apply; and all fines imposed in proceedings taken before a court of summary jurisdiction in Northern Ireland shall be dealt with in the manner provided by section twenty of the <sup>M17</sup>Administration of Justice Act (Northern Ireland) 1954.
- [<sup>F24</sup>(5) For the purposes of section one hundred and one the expression “maintenance order” shall include an order made under section one of the Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924.]



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- (6) In subsection (4) of section one hundred and nine for the reference to [<sup>F25</sup>the <sup>M18</sup>Magistrates' Courts Act 1980], there shall be substituted a reference to the Summary Jurisdiction Acts (Northern Ireland) and the rules made thereunder.
- [<sup>F26</sup>(6A) Where a financial penalty enforcement order has been registered under section 128F below by a court of summary jurisdiction in Northern Ireland in respect of any person, a justice of the peace may issue a summons to that person requiring him to appear before the court which registered that penalty or a warrant for the arrest of that person.]
- [<sup>F27</sup>(6AA) The reference in section 128E(1) to any judgment or order enforceable by a court in the United Kingdom shall include a reference to a judgment enforceable by the Enforcement of Judgments Office.]
- [<sup>F28</sup>(6B) Where a person appears before a court of summary jurisdiction in Northern Ireland in pursuance of a summons or warrant issued under subsection (6A) above, the court may exercise the like Powers as are conferred on it by [<sup>F29</sup>Part IX of the <sup>M19</sup>Magistrates' Courts (Northern Ireland) Order 1981] (satisfaction and enforcement of orders).
- (6C) A financial penalty enforcement order shall be registered in Northern Ireland under section 128F below in accordance with Magistrates' Courts Rules.]

#### Textual Amendments

- F23** Words repealed by Northern Ireland (Emergency Provisions) Act 1973 (c. 53), **Sch. 5**
- F24** S. 124(5) repealed (N.I.) (4.11.1996) by S.I. 1995/755 (N.I. 2), art. 185(2), **Sch. 10**; S.R. 1996/297, **art. 2(2)**
- F25** Words substituted by virtue of Magistrates' Courts Act 1980 (c. 43), **Sch. 8 para. 5**
- F26** S. 124(6A) inserted by Armed Forces Act 1976 (c. 52), s. 16, **Sch. 8 para. 4(1)(3)**
- F27** S. 124(6AA) inserted by S.I. 1979/298, **art. 2**
- F28** S. 124(6B)(6C) inserted by Armed Forces Act 1976 (c. 52), s. 16, **Sch. 8 para. 4(1)(3)**
- F29** Words substituted by S.I. 1981/1675 (N.I. 26), **Sch. 6 para. 10**

#### Marginal Citations

- M13** 1868 c. 24.
- M14** 1953 c. 18 (N.I.)
- M15** 1952 c. 52.
- M16** 1953 c. 18 (N.I.)
- M17** 1954 c. 9 (N.I.)
- M18** 1980 c. 43.
- M19** S.I. 1981/1675 (N.I. 26)

## 125 Channel Islands and Isle of Man.

- [<sup>F30</sup>(1) This Act extends to the Channel Islands and the Isle of Man subject to subsection (2) below and to such modifications as Her Majesty may by Order in Council specify; and, where any such modification refers to any law for the time being in force in any of the Channel Islands or the Isle of Man, the modification may be expressed to have effect for all purposes of this Act (and not only in the application of this Act to the Channel Islands or the Isle of Man, as the case may be).]
- (2) Any reference in this Act to the United Kingdom (except the references in [<sup>F31</sup>sections 80 and 82A] and in subsections (3) and (4) of section eighty-eight) shall be construed as including a reference to the Channel Islands and the Isle of Man [<sup>F32</sup>and in the said

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section 82A, the reference to a colony shall be construed as including a reference to the Channel Islands and the Isle of Man].

<sup>F33</sup>(3) . . . . .

#### Textual Amendments

- F30** S. 125(1) substituted (1.1.1992) by Armed Forces Act 1991 (c. 62), s. 24(2); S.I. 1991/2719, art. 2  
**F31** Words substituted by Armed Forces Act 1971 (c. 33), s. 52(2)  
**F32** Words added by Armed Forces Act 1971 (c. 33), s. 52(2)  
**F33** S. 125(3) repealed (1.1.1992) by Armed Forces Act 1991 (c. 62), ss. 24(3), 26(2), Sch. 3; S.I. 1991/2719, art.2

#### Modifications etc. (not altering text)

- C1** S. 125 modified (1.1.1992) by Armed Forces Act 1991 (c. 62), s. 24(5); S.I. 1991/2719, art. 2  
 S. 125 applied (*prosp.*) by 1996 c. 46, s. 36(2)(6)

## 126 Colonies.

- (1) This section shall have effect for the purposes of the application of this Act to the colonies.
- (2) Any reference in this Act to a constable shall be construed as or as including a reference to a person having the powers of a constable within a colony.
- (3) Any reference in this Act to a court of summary jurisdiction, . . . <sup>F34</sup> or to summary conviction shall be construed as a reference to a court exercising corresponding jurisdiction within a colony, to a judge or member of such a court or to conviction by such a court, as the case may be; and the reference in subsection (4) of section one hundred and nine of this Act to [<sup>F35</sup>the <sup>M20</sup>Magistrates' Courts Act 1980], shall be construed as a reference to any corresponding law of a colony.
- (4) Any reference in this Act to a civil prison or to the governor of such a prison shall be construed as a reference to a prison or institution in which persons sentenced by a civil court in a colony may be confined, or to the governor, superintendent or other person in charge of such a prison or institution, as the case may be.
- (5) In the application to a colony of any enactment contained in Part III of this Act providing for the imposition of a fine there shall, if the law of the colony so provides, be substituted for the fine specified in that enactment such higher or lower fine as may be provided by that law; and it shall be competent for the law of any colony to declare what amount of the local currency is to be treated as equivalent to the amount of money specified in any such enactment.

#### Textual Amendments

- F34** Words repealed by Armed Forces Act 1966 (c. 45), Sch. 5  
**F35** Words substituted by virtue of Magistrates' Courts Act 1980 (c. 43), Sch. 8 para. 5

#### Modifications etc. (not altering text)

- C2** S. 126 restricted by Federation of Malaya Independence Act 1957 (c. 60), s. 2(1), Sch. 1 para. 2(1)

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**Marginal Citations**

M20 1980 c. 43.

**127 Protectorates, protected states, trust territories and federated territories.**

- (1) This Act shall apply in relation to any of the following, that is to say—
- (a) any territory under Her Majesty’s protection;
  - (b) any territory for the time being administered by Her Majesty’s Government in the United Kingdom under the trusteeship system of the United Nations;
  - (c) any country or territory consisting of two or more of any of the following units, namely colonies, territories under Her Majesty’s protection or territories administered as aforesaid,
- as it applies in relation to a colony; and references in this Act to Her Majesty’s dominions shall be construed as including references to any such territory as is described in paragraph (a) or paragraph (b) of this subsection.
- (2) Any reference in this Act to the law of a colony shall include, in relation to any two or more units described in paragraph (c) of subsection (1) of this section which are under a central legislature, references to law made by that legislature.
- (3) . . . <sup>F36</sup>

**Textual Amendments**

F36 S. 127(3) repealed by [Federation of Malaya Independence Act 1957 \(c. 60\)](#), [Sch. 1 para. 2\(1\)](#)

**128** . . . . . <sup>F37</sup>

**Textual Amendments**

F37 S. 128 repealed by [Armed Forces Act 1966 \(c. 45\)](#), [Sch. 5](#)

*Additional provisions as to forfeiture of pay and deductions from pay*

**[<sup>F38</sup>128A] General provisions.**

- (1) No forfeiture of the pay of any person subject to this Act shall be imposed unless authorised by or under this or some other Act, and no deduction from such pay shall be made unless authorised either by this or some other Act or [<sup>F39</sup>by or under an Order in Council made under the Naval and Marine Pay and Pensions Act 1865].
- (2) [<sup>F40</sup>Such an Order in Council] shall not authorise the making of any penal deduction, that is to say, a deduction to be made by reason of the commission of any offence or other wrongful act or in consequence of any negligence.
- (3) Notwithstanding subsections (1) and (2) above, [<sup>F41</sup>and without prejudice to the power conferred on Her Majesty in Council by section 3 of the said Act of 1865] the Defence Council may by regulation, order or instruction, make provision for the making of any deduction authorised by Act, as to the time at which and the manner in which

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sums may be deducted from pay to give effect to authorised deductions or in which amounts may be so deducted in order to recover any fine imposed in pursuance of this Act, as to the appropriation of any such sum or amount when deducted, and for the determination of questions as to forfeitures and deductions.

- (4) A person subject to this Act shall, notwithstanding any deduction from his pay but subject to any forfeiture, remain in receipt of pay at not less than such minimum rate as may be prescribed by order of the Defence Council.
- (5) Notwithstanding that forfeiture of a person's pay for any period has been imposed in pursuance of this Act, he may remain in receipt of pay at such minimum rate as aforesaid; but the amount received for that period may be recovered from him by deduction from pay.
- (6) Any amount authorised to be deducted from the pay of a person subject to this Act may be deducted from any balance (whether or not representing pay) which may be due to him, and references in this Act to the making of deductions from pay shall be construed accordingly.]

#### Textual Amendments

- F38** Ss. 128A-128E inserted by [Armed Forces Act 1971 \(c. 33\)](#), **ss. 61(1)**, 78(4)(b)(5)
- F39** Words substituted (*retrospectively*) by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), s. 16(1), **Sch. 1 para. 9(1)(a)**
- F40** Words substituted (*retrospectively*) by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), s. 16(1), **Sch. 1 para. 9(1)(b)**
- F41** Words substituted (*retrospectively*) by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), s. 16(1), **Sch. 1 para. 9(1)(c)**

#### Modifications etc. (not altering text)

- C3** [S. 128A\(1\)](#) modified by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), s. 16(1), **Sch. 1 para. 9(3)**

### 128B Deductions for payment of civil penalties.

Where a person sentenced or ordered by a civil court (whether within or without Her Majesty's dominions) to pay a sum by way of fine, penalty, damages, compensation or costs in consequence of his being charged before the court with an offence is at the time of the sentence or order, or subsequently becomes, a person subject to this Act, then, if the whole or any part of that sum is met by a payment made by or on behalf of any naval authority, the amount of the payment may be deducted from his pay.

### 128C Compensation for loss occasioned by wrongful act or negligence.

- (1) Without prejudice to the provisions of this Act as to the imposition of stoppages as a punishment, the following provisions shall have effect where, after such investigation as may be prescribed by regulations of the Defence Council, it appears to the Defence Council or an officer authorised by them that any loss of, or damage to, public or service property, has been occasioned by any wrongful act or negligence of a person subject to this Act (hereafter referred to as "the person responsible").
- (2) The Defence Council or authorised officer, as the case may be, may order the person responsible (whether or not he is subject to this Act at the time when the order is made) to pay, as or towards compensation for the loss or damage, such sum as may be

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specified in the order; and any such sum in so far as not otherwise paid by the person responsible may be deducted from his pay.

- (3) No order shall be made under subsection (2) above if, in proceedings (whether under this Act, the <sup>M21</sup>Army Act 1955 or the <sup>M22</sup>Air Force Act 1955) before a court-martial, the appropriate superior authority or the commanding officer of the person responsible, that person—
- (a) has been acquitted in circumstances involving a finding that he was not guilty of the wrongful act or negligence in question, or
  - (b) has been awarded stoppages in respect of the same loss or damage;
- but save as aforesaid, the fact that any such proceedings have been brought in respect of the wrongful act or negligence in question shall not prevent the making of an order or deductions under that subsection.

#### Marginal Citations

- M21 1955 c. 18.  
M22 1955 c. 19.

### 128D Remission of deductions.

Any deduction imposed under section 128B or 128C above, or [<sup>F42</sup>by or under an Order in Council made under section 3 of the Naval and Marine Pay and Pensions Act 1865], may be remitted by the Defence Council or in such manner and by such authority as may be provided by an Order in Council so made.

#### Textual Amendments

- F42 Words substituted (*retrospectively*) by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), s. 16(1), [Sch. 1 para. 9\(2\)](#)

### 128E Deductions in respect of judgment debts etc.

- (1) Where by any judgment or order enforceable by a court in the United Kingdom any sum is required to be paid by a person who is subject to this Act, the Defence Council or an officer authorised by them may, whether or not that person was subject to this Act at the time when the judgment or order was given or made, order such amount or amounts as the Council or officer think fit to be deducted from the pay of that person, and appropriated in or towards satisfaction of that sum:

Provided that this subsection shall not apply to any such sum as is mentioned in section 128B of this Act, or to any sum in respect of which deductions may be authorised by virtue of section 1(1) of the <sup>M23</sup>Naval Forces (Enforcement of Maintenance Liabilities) Act 1947 or made by virtue of section 32(2)(b) of the <sup>M24</sup>Courts-Martial (Appeals) Act 1968.

- (2) The Defence Council or an officer authorised by them may by order vary or revoke any order previously made under this section.
- (3) The sums deducted from a person's pay by virtue of this section and section 1(1) of the <sup>M25</sup>Naval Forces (Enforcement of Maintenance Liabilities) Act 1947 shall not together exceed such proportion of his pay as the Defence Council may determine.

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#### Marginal Citations

- M23 1947 c. 24.  
 M24 1968 c. 20.  
 M25 1947 c. 24.

### [<sup>F43</sup>128F Financial penalty enforcement orders.

- (1) If—
- (a) a financial penalty has been awarded against any person under this Act, and
    - [ the penalty was—
    - <sup>F44</sup>(b)
      - (i) a fine awarded in respect of a qualifying offence (or in respect of such an offence together with other offences) on the conviction of a qualifying offence either of that person or of the person as whose parent or guardian that person is to pay the penalty; or
      - (ii) stoppages or a compensation order awarded in respect of a qualifying offence, (whether on the conviction of any person of the offence or on a request by any person for the offence to be taken into consideration); and]
    - (c) no term of imprisonment was imposed in default of payment, and
    - (d) no appeal is outstanding and the time provided for the giving of notice of appeal against the award has expired, and
    - (e) the whole or any part of the penalty remains unpaid or unrecovered, and
    - (f) the person against whom the award was made is a person to whom this section applies,

the Defence Council or an officer authorised by them may make an order (in this section referred to as a “financial penalty enforcement order”) for the registration of the penalty by the relevant court.

- (2) This section applies to a person who is, or would be but for section 119 above, neither subject to service law nor a civilian to whom Parts I and II of this Act are applied by section 118 above, Part II of the <sup>M26</sup>Army Act 1955 is applied by section 209 of that Act or Part II of the <sup>M27</sup>Air Force Act 1955 is applied by section 209 of that Act.

- (3) In this section “qualifying offence” means
- (a) an offence under section 14A above committed outside the United Kingdom and consisting of or including acts or omissions that would constitute a comparable foreign offence or a local road traffic offence;
  - (b) an offence under section 42 above;
  - (c) an offence under any provision of this Act other than section 42 above consisting of or including acts or omissions which would also constitute an offence under section 42 above;

and for the purposes of this definition—

“comparable foreign offence” means an offence under the civil law of any place outside the United Kingdom which is comparable to an offence under the law of England and Wales; and

“local road traffic offence” means an offence under the civil law of any place outside the United Kingdom relating to road traffic.

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- (4) A financial penalty enforcement order shall contain a certificate issued on behalf of the Defence Council or by an officer authorised by them and stating—
- (a) that a financial penalty has been awarded against the person named in the order;
  - (b) that the conditions specified in paragraphs (b) to (f) of subsection (1) above are satisfied;
  - (c) the nature and amount of the penalty;
  - (d) the date on which and the [F45 offence or offences] in respect of which it was awarded;
  - (e) if it was awarded against the person named in the order as the parent or guardian of some other person, the fact that it was so awarded and the name of that other person;
  - (f) sufficient particulars of the case (including particulars of any offences taken into consideration at the trial);
  - (g) the date of any payment or recovery of a sum on account of the penalty;
  - (h) the sum outstanding; and
  - (j) the authority to whom and address to which any stoppages or compensation included in the penalty will fall, on recovery, to be remitted under subsection (7) below.
- (5) A document purporting to be a financial penalty enforcement order and to be signed on behalf of the Defence Council or by an officer authorised by them shall be deemed to be such an order unless the contrary is proved, and a certificate under subsection (4) above shall be evidence of the matters stated.
- (6) Subject to subsection (7) below, upon registration of a financial penalty enforcement order—
- (a) service enforcement procedures shall cease to be available for the recovery of the sum certified as outstanding, and
  - (b) that sum shall be treated for all purposes as if it had been a fine imposed upon a conviction by the relevant court.
- (7) Stoppages or compensation recovered under this section shall be remitted to the authority at the address specified in the certificate under subsection (4) above.
- (8) Where it appears from a financial penalty enforcement order that the penalty was imposed in respect of more than one offence, it shall be deemed for the purposes of enforcement to be a single penalty only.
- (9) Where—
- (a) a financial penalty enforcement order has been made against any person, and
  - (b) he ceases to be a person to whom this section applies at a time when the whole or any part of the certified sum is still outstanding,
- service enforcement procedures shall apply to the amount outstanding as if it were a sum payable by way of a fine imposed by a civil court.
- (10) In this section—
- “financial penalty” means—
- (a) a fine, including a fine imposed by virtue of paragraph 13 of Schedule 4A below;
  - (b) stoppages;

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- (c) a compensation order imposed by virtue of paragraph 11 or 13 of Schedule 4A below; . . . <sup>F46</sup>

. . . <sup>F46</sup>

“the relevant court” means—

- (a) the magistrates’ court in England or Wales,  
 (b) the sheriff court in Scotland, or  
 (c) the court of summary jurisdiction in Northern Ireland,

within whose jurisdiction the person against whom a financial penalty enforcement order is made appears to the Defence Council or an officer authorised by them to reside or to be likely to reside;

“service enforcement procedures” means any procedure available by virtue of any of the following enactments, namely—

- (a) section 128A and section 128B above; and  
 (b) sections 144, 146 and 209(4) and (4A) of the <sup>M28</sup>Army Act 1955 and the <sup>M29</sup>Air Force Act 1955;

“stoppages” has the meaning assigned to it by section 43(1)(l) above except that it does not include sums awarded by virtue of section 128C above.]

- [<sup>F47</sup>(11) Where a fine has been awarded together with stoppages or a compensation order, this section shall have effect in relation to the fine and to the stoppages or compensation order as if they were separate penalties.]

#### Textual Amendments

- F43** S. 128F inserted by [Armed Forces Act 1976 \(c. 52\)](#), s. 16, Sch. 8 paras. 1, 3  
**F44** S. 128F(1)(b) substituted by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), s. 16(1), [Sch. 1 para. 7\(2\)](#)  
**F45** Words substituted by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), s. 16(1), [Sch. 1 para. 7\(3\)](#)  
**F46** “or” and paragraph(d) repealed by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), s. 16(2), [Sch. 2](#)  
**F47** S. 128F(11) inserted by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), s. 16(1), [Sch. 1 para. 7\(4\)](#)

#### Marginal Citations

- M26** 1955 c. 18.  
**M27** 1955 c. 19.  
**M28** 1955 c. 18.  
**M29** 1955 c. 19.

#### [128G <sup>F48</sup>Avoidance of assignment of or charge on naval pay and pensions etc.

- (1) Every assignment of or charge on, and every agreement to assign or charge, any pay, pensions, bounty, grants or other allowances in the nature thereof payable to any person in respect of his or any other person’s service in Her Majesty’s naval forces shall be void.
- (2) Save as expressly provided by this Act, no order shall be made by any court the effect of which would be to restrain any person from receiving anything which by virtue of this section he is precluded from assigning and to direct payment thereof to another person.
- (3) Nothing in this section—  
 (a) shall apply to the making or variation of attachment of earnings orders; or



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- (b) shall prejudice any enactment providing for the payment of any sum to a bankrupt's trustee in bankruptcy for distribution among creditors.
- (4) In the application of this section to Northern Ireland at any time before the coming into operation of the Insolvency (Northern Ireland) Order 1989, for the reference in subsection (3) above to a bankrupt's trustee in bankruptcy there shall be substituted a reference to an assignee in bankruptcy.]

#### Textual Amendments

**F48** S. 128G inserted (1.1.1992) by Armed Forces Act 1991 (c. 62), s. 16(1)(2); S.I. 1991/2719, art. 2

#### Modifications etc. (not altering text)

- C4** S. 128G amended (1.1.1992) by Naval Pensions Act 1884 (c. 44), s. 2 (as amended (1.1.1992) by Armed Forces Act 1991 (c. 62), s. 16(3); S.I. 1991/2719, art. 2)
- C5** S. 128G(1) and (2) excluded (1.8.1996) by 1995 c. 26, ss. 166(5)(a), 167(4); S.I. 1996/1675, art. 3  
S. 128G(1) and (2) excluded (1.8.1996) by S.I. 1995/3213 (NI 22), art. 162(4)(5)(a); S.R. 1996/284, art. 3
- C6** S. 128G(1)(2) excluded (11.11.1999 for specified purposes otherwise 1.12.2000) by 1999 c. 30, ss. 44(1)(a), 89(5); S.I. 2000/1047, art. 2(2)(d), Sch. Pt. IV

#### Miscellaneous provisions

### 129 Jurisdiction of civil courts.

- (1) Where a person subject to this Act is acquitted or convicted of an offence on trial by a court-martial or disciplinary court, or on summary trial under section forty-nine of this Act, [<sup>F49</sup>or has had an offence committed by him taken into consideration by a court-martial or disciplinary court in sentencing him] a civil court shall be debarred from trying him subsequently [<sup>F50</sup>for the same, or substantially the same, offence]; but except as aforesaid nothing in this Act shall be construed as restricting the jurisdiction of any civil court to try a person subject to this Act for any offence.
- (2) Where a person subject to this Act is acquitted or convicted of an offence on trial by a civil court [<sup>F51</sup>wherever situated][<sup>F52</sup>or has had an offence committed by him taken into consideration when being sentenced by a civil court in the United Kingdom], he shall not subsequently be tried under this Act [<sup>F50</sup>for the same, or substantially the same, offence]; and no person [<sup>F53</sup>who has been so convicted or has had an offence committed by him so taken into consideration] shall, by reason of the conviction or the offence, be subjected to any loss or forfeiture of seniority or of rate, of privilege in respect of leave, or of pay or service (other than pay and service in respect of time spent in civil custody pending trial, or while attending his trial, or while serving any sentence of imprisonment, <sup>F54</sup> . . . detention in a Borstal institution or other detention awarded by the civil court):

Provided that nothing in this subsection shall affect the power to discharge any person from Her Majesty's service as a person whose services are no longer required; and notwithstanding anything in this subsection a rating who would otherwise be so discharged may, on his own application, be reverted in lieu of being so discharged.

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#### Textual Amendments

- F49** Words inserted by [Armed Forces Act 1971 \(c. 33\), s. 55\(a\)](#)
- F50** Words substituted by [Armed Forces Act 1966 \(c. 45\), s. 35\(1\)](#)
- F51** Words inserted by [Armed Forces Act 1966 \(c. 45\), s. 35\(2\)](#)
- F52** Words inserted by [Armed Forces Act 1971 \(c. 33\), s. 55\(b\)](#)
- F53** Words substituted by [Armed Forces Act 1971 \(c. 33\), s. 55\(b\)](#)
- F54** Words in s. 129(2) repealed (1.1.1992) by [Armed Forces Act 1991 \(c. 62\), s. 26\(1\)\(2\), Sch. 2 para. 11\(3\), Sch. 3; S.I. 1991/2719, art. 2](#)

#### [<sup>F55</sup> 129A] **Exclusion of enactments requiring fiat of Attorney General etc. in connection with proceedings.**

With the exception of [<sup>F56</sup>section 52(3)] of this Act, no enactment requiring the fiat or consent of the Attorney General or the Director of Public Prosecutions in connection with any proceedings shall have effect in relation to proceedings under this Act.]

#### Textual Amendments

- F55** [S. 129A](#) inserted by [Armed Forces Act 1971 \(c. 33\), s. 45\(2\)](#)
- F56** Words in [s. 129A](#) substituted (1.1.1992) by [Armed Forces Act 1991 \(c. 62\), s. 26\(1\), Sch. 2 para. 6\(2\); S.I. 1991/2719, art. 2](#)

#### [<sup>F57</sup> 129B] **Proof of outcome of civil trial.**

- (1) Where a person subject to this Act has been tried before a civil court (whether at the time of the trial he was subject to this Act or not), a certificate signed by the clerk of the court stating all or any of the following matters—
  - (a) that the said person has been tried before the court for the offences specified in that certificate,
  - (b) the result of the trial,
  - (c) what judgment or order was given or made by the court,
  - (d) that other offences specified in the certificate were taken into consideration at the trial,
 shall for the purposes of this Act be evidence of the matters stated in the certificate.
- (2) The clerk of the court shall, if required by the commanding officer of the person in question or any other officer, furnish a certificate under this section, and shall be paid such fee as may be prescribed by regulations made by a Secretary of State.
- (3) A document purporting to be a certificate under this section and to be signed by the clerk of the court shall, unless the contrary is shown, be deemed to be such a certificate.
- (4) References in this section to the clerk of the court include references to his deputy, and to any other person having the custody of the records of the court.]

#### Textual Amendments

- F57** [Ss. 129B, 129C](#) inserted by [Armed Forces Act 1971 \(c. 33\), s. 57\(1\)](#)

*Status: Point in time view as at 04/11/1996.*

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### **129C Evidence of proceedings of court-martial.**

- (1) The original proceedings of a court-martial purporting to be signed by the judge advocate appointed for the purposes of the court and being in the custody of a Secretary of State or of any person having the lawful custody thereof shall be admissible in evidence on production from that custody.
- (2) A document purporting to be a copy of the original proceedings of a court-martial or any part thereof and to be certified by a Secretary of State or any person authorised by him, or by any other person having the lawful custody of the proceedings, to be a true copy shall be evidence of the contents of the proceedings or the part to which the document relates, as the case may be.
- (3) This section applies to evidence given in any court, whether civil or criminal and whether in the United Kingdom or in any colony.

### **[<sup>F58</sup>129D Forfeiture of service for desertion, and restoration of forfeited service.**

- (1) Where a rating of Her Majesty's naval forces other than a reserve force is convicted of desertion, the period of his service as respects which he is convicted of having been a deserter shall be forfeited.
- (2) Where any of a rating's service is forfeited by virtue of subsection (1) above, any provision governing his terms of service other than one relating to discharge by purchase shall apply to him, and he shall be liable to serve, in like manner as if the appropriate date were the date of his entry or, as the case may be, attestation and he had on the appropriate date been duly entered or enlisted to serve for the like term (both as respects duration and as respects liability to serve in Her Majesty's naval forces and any liability to serve in any reserve) as that for which he was in fact serving at the date of his conviction:  
  
Provided that where at the date of his conviction the rating was serving a term ending with the expiration of the period beginning with the date of his attaining the age of eighteen years and he had attained that age when he was convicted (whether or not he had attained it when the offence was committed) the duration of the term for which he is liable to serve shall be equal to that period, and the time for which he is required to serve in Her Majesty's naval forces shall be reduced accordingly.
- (3) In subsection (2) above "the appropriate date" means in relation to any person a date earlier than the date of his conviction for desertion by the length of his service which is not forfeited.
- (4) The Defence Council may by regulations make provision for the restoration in whole or in part of any forfeited service to a rating in consideration of good service or on other grounds justifying the restoration of service forfeited; and any service restored to a rating under this subsection shall be credited to him for the purpose of determining for the purposes of any provision governing his terms of service the amount of service in Her Majesty's naval forces or in any reserve which he has served or is liable to serve.
- (5) Nothing in this section shall apply to a person who deserts at a time when he is, under regulations made in pursuance of section 2 of the <sup>M30</sup>Armed Forces Act 1966 or under any enactment repealed by any such regulations, continued in service after twenty-two years' service.]

*Status: Point in time view as at 04/11/1996.*

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#### Textual Amendments

**F58** S. 129D inserted by [Armed Forces Act 1971 \(c. 33\)](#), **ss. 65, 78(4)(c)**

#### Marginal Citations

**M30** 1966 c. 45.

### [<sup>F59</sup> 129E Provision as to age.

Where the age of any person at any time is material for the purposes of any provision of this Act regulating the powers of a court-martial, his age at the material time shall be deemed to be or to have been that which appears to the court, after considering any available evidence, to be or to have been his age at that time.]

#### Textual Amendments

**F59** S. 129E inserted by [Armed Forces Act 1976 \(c. 52\)](#), **Sch. 9 para. 11**

### [<sup>F60</sup> 130 Redress of complaints.

- (1) If a person subject to this Act thinks that he has suffered any personal oppression, injustice or other ill-treatment, he may make a complaint in accordance with the procedure laid down in Queen's Regulations and, if he does not obtain the redress to which he thinks he is entitled, a complaint to the Defence Council.
- (2) On receiving any complaint made by virtue of subsection (1) above, it shall be the duty of the Defence Council to investigate the complaint and to grant any redress which appears to them to be necessary, or, if the complainant is an officer and so requires, to make a report to Her Majesty through the Secretary of State in order to receive the directions of Her Majesty thereon.]

#### Textual Amendments

**F60** S. 130 substituted by [Armed Forces Act 1971 \(c. 33\)](#), **s. 66(1)**

#### Modifications etc. (not altering text)

**C7** S. 130: power to modify conferred (24.9.1996) by [S.I. 1996/1919](#), **art. 237**

### [<sup>F61</sup> 130A Indemnity for prison officers etc.

No action shall lie in respect of anything done by any person in pursuance of a sentence of imprisonment or detention awarded under this Act if the doing thereof would have been lawful but for a defect in any instrument made for the purposes of that sentence.]

#### Textual Amendments

**F61** S. 130A inserted by [Armed Forces Act 1971 \(c. 33\)](#), **s. 71**

*Status: Point in time view as at 04/11/1996.*

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### 131 Ships under convoy.

- (1) It is the duty of the master or other person for the time being in command of any vessel comprised in a convoy under the command of an officer of Her Majesty's naval forces, or of any person appointed in that behalf with the authority of [<sup>F62</sup>the Defence Council], to obey, in all matters relating to the navigation or security of the convoy, any directions which may be given—
  - (a) where the convoy is escorted by any of Her Majesty's ships or vessels, by the commanding officer of any such ship or vessel;
  - (b) in any case, by the said officer or other person in command of the convoy, and to take such precautions for avoiding the enemy as may be required by any such directions.
- (2) If any such directions are not obeyed, any such commanding officer, or the said officer or other person in command of the convoy, may compel obedience by force of arms, and neither he nor any person acting under his orders shall be liable for any injury or loss of life or any damage to or loss of property resulting therefrom.

#### Textual Amendments

**F62** Words substituted by [S.I. 1964/488](#), [Sch. 1 Pt. I](#)

#### *Interpretation*

### 132 Definitions of Her Majesty's ships, forces, etc.

- (1) In this Act "Her Majesty's ships" means commissioned ships flying the white ensign, and "Her Majesty's vessels" means ships and vessels, other than Her Majesty's ships, engaged in the naval service of Her Majesty, whether belonging to Her Majesty or not; but "Her Majesty's ships" and "Her Majesty's vessels" do not include ships or vessels of a Commonwealth country or maintained by a colony, other than ships or vessels placed at the disposal of [<sup>F63</sup>the Defence Council] or placed at the disposal of Her Majesty for general service in the Royal Navy.
- (2) In this Act "Her Majesty's naval establishments" means establishments [<sup>F63</sup>under the control of the Secretary of State and maintained for any purpose of the naval service], whether within or without Her Majesty's dominions.
- (3) Where persons subject to this Act are appointed or drafted to one of Her Majesty's ships or naval establishments for duty in any or any other of Her Majesty's ships, vessels or naval establishments, those persons shall be treated for the purposes of this Act as belonging to the ship or establishment to which they are appointed or drafted.
- (4) In this Act "Her Majesty's aircraft" means aircraft in the service of Her Majesty, whether belonging to Her Majesty or not, but does not include aircraft belonging to a Commonwealth country or to any colony other than aircraft placed at the disposal of [<sup>F63</sup>the Defence Council] or placed at the disposal of Her Majesty for general service in the Royal Navy.
- (5) In this Act "Her Majesty's naval forces" means the Royal Navy [<sup>F64</sup>, Queen Alexandra's Royal Naval Nursing Service, <sup>F65</sup>. . .] the naval reserve forces (as defined by this section) and such of the marine forces, and of the naval forces of a

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Commonwealth country or raised under the law of any colony, as are for the time being subject to this Act.

- (6) In this Act “Her Majesty’s military forces” and “Her Majesty’s air forces” include forces raised under the law of a colony but do not include the forces of any Commonwealth country.
- [<sup>F66</sup>(7) In this Act “the marine forces” means the Royal Marines, the Royal Marines Reserve and the Royal Fleet Reserve so far as it consists of warrant officers, non-commissioned officers and marines who have served in the Royal Marines.
- (8) In this Act “naval reserve forces” means—
- (a) the Royal Naval Reserve including officers of reserve to the Royal Navy and including the Royal Fleet Reserve except so far as it consists of warrant officers, non-commissioned officers and marines who have served in the Royal Marines, and
  - (b) any reserve of Queen Alexandra’s Royal Naval Nursing Service or the Women’s Royal Naval Service.]

#### Textual Amendments

**F63** Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

**F64** Words inserted by **Armed Forces Act 1976 (c. 52), s. 4, Sch. 2 para. 4**

**F65** Words in s. 132(5) repealed (1.10.1996) by 1996 c. 46, s. 135(2), **Sch. 7 Pt. III**; S.I. 1996/2474, art. 2, **Sch.**

**F66** S. 132(7)(8) substituted by **Armed Forces Act 1981 (c. 55), s. 12**

### 133 Definitions of officer, rating and superior officer.

- (1) In this Act “officer”, in relation to any of Her Majesty’s naval forces, means a person of or above the rank of cadet, and in relation to any other forces means an officer of rank corresponding to the said rank or any superior rank.
- [<sup>F67</sup>(2) In this Act “rating” means a member of Her Majesty’s naval forces of or below the rate of warrant officer; and any reference in this Act to a rating, or to a rating of any particular rate, shall include a reference to any warrant officer who is subject to this Act without being a member of those forces, and to any non-commissioned officer, marine, soldier or airman who is so subject, or, as the case may be, to any such warrant officer or non-commissioned officer of rank corresponding to that rate].
- (3) In this Act “superior officer”, in relation to any person means an officer or a rating not below the rate of [<sup>F68</sup>leading seaman], who is of rank or rate higher than that person, or senior to that person in the same rank or rate.
- (4) Any reference in this Act to a specific rank or rate in Her Majesty’s naval forces includes a reference to any other rank or rate in those forces which is equivalent to that rank or rate.
- (5) In this Act “corresponding rank” in relation to any rank or rate in any of Her Majesty’s naval, military or air forces, means such rank or rate in any other of those forces as may be declared by Queen’s Regulations . . . <sup>F69</sup> for the time being in force to correspond therewith.

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#### Textual Amendments

- F67** S. 133(2) substituted by [Armed Forces Act 1971 \(c. 33\)](#), [Sch. 3 para. 5\(4\)](#)  
**F68** Words substituted by [Armed Forces Act 1971 \(c. 33\)](#), s. 78(4), [Sch. 1 para. 2\(4\)](#)  
**F69** Words repealed by [S.I. 1964/488](#), [Sch. 1 Pt. I](#)

### 134 Definition of active service.

- [<sup>F70</sup>(1)] For the purposes of this Act a force shall be deemed to be on active service when engaged in operations against an enemy, when situated in an area in which such operations are taking place, or when [<sup>F71</sup>engaged elsewhere than in the United Kingdom in operations] for the protection of life or property, and a person shall be deemed to be on active service when serving in or with a force which is on active service.
- [<sup>F72</sup>(2) Where any of Her Majesty's naval forces is serving outside the United Kingdom, and it appears to the appropriate authority that, by reason of the imminence of active service or of the recent existence of active service, it is necessary for the public service that the force should be deemed to be on active service, the appropriate authority may declare that for such period, not exceeding three months, beginning with the coming into force of the declaration as may be specified therein that force shall be deemed to be on active service.
- (3) Where it appears to the appropriate authority that it is necessary for the public service that the period specified in a declaration under subsection (2) above should be prolonged or, if previously prolonged under this subsection, should be further prolonged, the appropriate authority may declare that the said period shall be prolonged by such time, not exceeding three months, as may be specified in the declaration under this subsection.
- (4) If at any time while any force is deemed to be on active service by virtue of the foregoing provisions of this section it appears to the appropriate authority that there is no necessity for the force to continue to be treated as being on active service, the appropriate authority may declare that as from the coming into operation of the declaration the force shall cease to be deemed to be on active service.
- (5) Before any declaration is made under this section, the appropriate authority shall, unless satisfied that it is not possible to communicate with sufficient speed with the Secretary of State, obtain the consent of the Secretary of State to the declaration; and in any case where that consent has not been obtained before the making of a declaration under this section, the appropriate authority shall report the making thereof to the Secretary of State with the utmost practicable speed.
- (6) The Secretary of State may, if he thinks fit, direct that any declaration whereby any force is deemed to be, or to continue, on active service shall cease to have effect as from the coming into force of the direction; but any direction under this subsection shall be without prejudice to anything done by virtue of the declaration before the coming into force of the direction.
- (7) A declaration under this section shall have effect not only as respects the members of the force to which it relates but also as respects other persons the application to whom of any provisions of this Act depends on whether that force is on active service.

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- (8) In this section the expression “the appropriate authority” means, in relation to any force, the Commander-in-Chief or flag officer in operational command of that force.
- (9) Any declaration or direction under this section shall come into operation on being published in local orders.]

#### Textual Amendments

- F70** S. 134 re-numbered as s. 134(1) by [Armed Forces Act 1971 \(c. 33\), s. 74](#)
- F71** Words substituted by [Armed Forces Act 1971 \(c. 33\), s. 74](#)
- F72** S. 134(2)-(9) added by [Armed Forces Act 1971 \(c. 33\), s. 74](#)

### 135 General interpretation.

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“aircraft” means any machine for flying, whether propelled by mechanical means or not, and includes any description of balloon;

“aircraft material” includes—

- (a) parts of, and components of or accessories for, aircraft, whether for the time being in aircraft or not;
- (b) engines, armaments, ammunition and bombs and other missiles of any description in, or for use in, aircraft;
- (c) any other gear, apparatus or instruments in, or for use in, aircraft;
- (d) any apparatus used in connection with the taking-off or landing of aircraft or for detecting the movement of aircraft; and
- (e) any fuel used for the propulsion of aircraft and any material used as a lubricant for aircraft or aircraft material;

“aircraft papers” has the meaning assigned to it by the <sup>M31</sup>Naval Prize Act 1864;

[<sup>F73</sup>“air signal” means any message, signal or indication given, by any means whatsoever, for the guidance of aircraft or a particular aircraft;

“before the enemy”, in relation to a person, means that he is in action against the enemy or about to go into action against the enemy, or is under attack or threat of imminent attack by the enemy;]

“civil court” means a court of ordinary criminal jurisdiction but does not, except where otherwise expressly provided, include any such court outside Her Majesty’s dominions;

“civil prison” means a prison in which a person sentenced by a civil court to imprisonment can be confined;

“committal order” means an order committing a person sentenced under this Act to imprisonment or detention to any establishment in which, by virtue of subsection (1) or (2) of section eighty-one of this Act, he may be confined during the term of the sentence:

[<sup>F74</sup>“Commonwealth country” means Canada, the Commonwealth of Australia, New Zealand, [<sup>F75</sup>South Africa,]India, [<sup>F76</sup>Pakistan,] Ceylon, Ghana, Malaysia, the Republic of Cyprus, Nigeria, Sierra Leone, Tanganyika, Jamaica, Trinidad and Tobago, Uganda, Kenya, Zanzibar, Malawi, Zambia, Malta, The Gambia, Guyana, Botswana, Lesotho, Singapore, Barbados,



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Mauritius, Swaziland, Tonga, Fiji, the Bahamas, Bangladesh, Grenada, Seychelles, Solomon Islands, Tuvalu, Dominica, Saint Lucia, Kiribati, Saint Vincent and the Grenadines, Papua New Guinea, Western Samoa, Nauru, the New Hebrides, Zimbabwe, Belize or Antigua and Barbuda [<sup>F77</sup>or Saint Christopher and Nevis][<sup>F78</sup>or Brunei or Maldives][<sup>F79</sup>or Namibia]

“constable” includes any person having powers corresponding with those of a constable;

“court-martial” means a court-martial under this Act;

[<sup>F73</sup>“damage” includes destruction, and references to damaging shall be construed accordingly;]

“decoration” includes medal, medal ribbon, clasp and good conduct badge;

“desertion” has the meaning assigned to it by section fifteen of this Act, and “desert” shall be construed accordingly;

“enemy” includes all persons engaged in armed operations against Her Majesty’s forces [<sup>F80</sup>or any forces co-operating therewith], and also includes all armed mutineers, armed rebels, armed rioters and pirates;

“Governor”, in relation to any colony, means the Governor-General, Governor or other officer, however styled, who is for the time being administering the government of the colony . . . <sup>F81</sup>, but where two or more colonies or the parts of any colony are under local governments and also under a central government, references to the Governor shall be construed as references to the Governor-General, Governor or other officer, however styled, who is for the time being administering the central government;

[<sup>F82</sup>“handles” has the same meaning as in the <sup>M32</sup>Theft Act 1968]

[<sup>F83</sup>“Her Majesty’s forces” includes forces raised under the law of a colony but does not include a force of any Commonwealth country];

“mutiny” has the meaning assigned to it by section eight of this Act;

“naval detention quarters” means premises or vessels, or parts of premises or vessels, set apart by [<sup>F84</sup>the Defence Council] under subsection (1) of section eighty-two of this Act;

“prize court” means a prize court within the meaning of the <sup>M33</sup>Naval Prize Act 1864;

“property” includes real property in England and Wales or Northern Ireland, heritable property in Scotland and property outside the United Kingdom of the nature of real property;

“provost officer” means a naval provost marshal, an assistant to a naval provost marshal and any other officer being a provost officer within the meaning of the <sup>M34</sup>Army Act 1955, or the <sup>M35</sup>Air Force Act 1955;

“public or service property” means property belonging to any department of Her Majesty’s Government in the United Kingdom or of the Government of Northern Ireland, or held for the purposes of any such department, and property belonging to or connected with Her Majesty’s naval forces, the naval forces of any Commonwealth country or naval forces raised under the law of any colony, or any part of any of those forces;

[<sup>F85</sup>“Queen’s Regulations” means the Queen’s Regulations for the Royal Navy;]

“service law” has the meaning assigned by section eight of this Act;

“ship papers” has the meaning assigned to it by the <sup>M36</sup>Naval Prize Act 1864;

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[<sup>F86</sup>“steals” has the same meaning as in the <sup>M37</sup>Theft Act 1968, and references to “stolen goods” shall be construed as if contained in that Act]

- (2) Any reference in this Act to an offence under Part I thereof includes a reference to a civil offence punishable on conviction thereunder by virtue of section forty-two of this Act.
- [<sup>F87</sup>(2A) References in this Act, in relation to any of the armed forces of the Crown, to an officer holding a commission include references to a person to whom a commission is required to be issued; and for the purposes of this Act, where a commission issued to any person takes effect from a date earlier than the date of its issue, that earlier date shall be conclusively presumed to be the date on which the requirement to issue the commission arose.]
- (3) Any reference in this Act to an enactment is a reference thereto as amended by or under any subsequent enactment.
- (4) Any power conferred by this Act to make an Order in Council or order shall include power to vary or revoke the Order in Council or order by a subsequent Order in Council or order.
- (5) Any Order in Council, order or regulations made under this Act may make different provision for different circumstances or cases, or may make provision for particular circumstances or cases only.

#### Textual Amendments

- F73** Definitions inserted by [Armed Forces Act 1971 \(c. 33\), s. 78\(4\), Sch. 1 para. 2\(5\)](#)
- F74** Definition of “Commonwealth country” printed as amended by enactments listed in [Chronological Table of the Statutes, Belize Act 1981 \(c. 52\), Sch. 2 para. 1](#) and [S.I. 1981/1105, Sch. para. 2\(b\)](#)
- F75** Words in the definition in s. 135(1) inserted (23.3.1995) by [1995 c. 3, s. 1, Sch.](#)
- F76** Words inserted (*retrospectively*: 1.10.1989) by [Pakistan Act 1990 \(c. 14, SIF 26:30\), s. 1, Sch. para. 3](#)
- F77** Words added by [S.I. 1983/882, art. 5, Sch. para. 1](#)
- F78** Words added by [Brunei and Maldives Act 1985 \(c. 3, SIF 26:9A\), s. 1, Sch. para. 4](#)
- F79** Words in s. 135(1) added (*retrospectively*: 21.3.1990) by [Namibia Act 1991 \(c. 4\), ss. 1, 2\(2\), Sch. para. 2](#)
- F80** Words inserted by [Armed Forces Act 1966 \(c. 45\), s. 36\(2\)](#)
- F81** Words repealed by [Zanibar Act 1963 \(c. 55\), Sch. 3](#)
- F82** Definition inserted by [Theft Act 1968 \(c. 60\), Sch. 2 Pt. II](#)
- F83** Definition inserted by [Armed Forces Act 1966 \(c. 45\), s. 36\(1\)](#)
- F84** Words substituted by [S.I. 1964/488, Sch. 1 Pt. I](#)
- F85** Definition in s. 135(1) inserted (1.10.1996) by [1996 c. 46, s. 35\(1\), Sch. 6 para. 12; S.I. 1996/2474, art. 2](#)
- F86** Definition substituted by [Theft Act 1968 \(c. 60\), Sch. 2 Pt. II](#)
- F87** [S. 135\(2A\)](#) inserted (*retrospectively*) by [Armed Forces Act 1986 \(c. 21, SIF 7:1\), s. 16\(1\), Sch. 1 para. 10\(2\)](#)

#### Marginal Citations

- M31** 1864 c. 25.
- M32** 1968 c. 60.
- M33** 1864 c. 25.
- M34** 1955 c. 18.
- M35** 1955 c. 19.
- M36** 1864 c. 25.

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**M37** 1968 c. 60.

### *Supplemental*

#### **136 Minor amendments.** <sup>X1</sup>

The enactments specified in the Fifth Schedule to this Act shall have effect subject to the amendments set out in the second column of that Schedule.

##### **Editorial Information**

**X1** The text of s. 136 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### **137** <sup>X2</sup>**Repeals and transitional provisions.**

(1) . . . <sup>F88</sup>

(2) Without prejudice to the provisions of [<sup>F89</sup>sections 16(1) and 17(2)(a) of the <sup>M38</sup>Interpretation Act 1978] (which relate to the effect of repeals) any reference in any enactment to the Naval Discipline Act or to any provision of that Act shall be construed as, or as including, a reference to this Act or the corresponding provision of this Act.

(3) . . . <sup>F90</sup>

##### **Editorial Information**

**X2** Unreliable marginal note

##### **Textual Amendments**

**F88** S. 137(1) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. Pt. XI**

**F89** Words substituted by virtue of Interpretation Act 1978 (c. 30), **s. 25(2)**

**F90** S. 137(3) repealed by Statute Law (Repeals) Act 1977 (c. 18), **Sch. 1 Pt. I**

##### **Marginal Citations**

**M38** 1978 c. 30.

#### **138 Savings.**

(1) Nothing in this Act shall take away, abridge or prejudicially affect any right, power or prerogative of Her Majesty in right of Her Crown or in right of Her Office of Admiralty.

(2) The provisions of this Act specifying the classes of persons who are subject thereto shall not affect the application of this Act to any person to whom it applies by virtue of the <sup>M39</sup>Coastguard Act 1925.

##### **Marginal Citations**

**M39** 1925 c. 88.

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**139 Short title and commencement.**

- (1) This Act may be cited as the Naval Discipline Act 1957.
- (2) This Act shall come into force on such date as Her Majesty may by Order in Council appoint.

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**Subordinate Legislation Made**

**P1** 1.1.1959 appointed under s. 139(2) by [S.I. 1958/1952](#) (1958 II, p. 2119)

**Status:**

Point in time view as at 04/11/1996.

**Changes to legislation:**

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