



# Naval Discipline Act 1957 (repealed)

1957 CHAPTER 53 5 and 6 Eliz 2

## PART II

TRIAL AND PUNISHMENT OF OFFENCES

*Suspension and reconsideration of sentences of imprisonment and detention*

### [<sup>F1</sup>91A Activation of suspended sentence by court-martial: appeals

- (1) Subsections (2) to (4) apply where a court-martial makes an order under section 91(1) of this Act.
- (2) For the purposes of the Courts-Martial (Appeals) Act 1968 (c. 20) (“the 1968 Act”)—
  - (a) the order is to be treated as a sentence passed on the offender for the offence for which the sentence was passed;
  - (b) if the offender was not convicted by court-martial of that offence, he is to be treated as having been so convicted;
  - (c) any appeal, or application for leave to appeal, against the sentence passed in respect of the new offence is to be treated as also being an appeal or application for leave to appeal against the order; and
  - (d) any appeal, or application for leave to appeal, against the order is to be treated as also being an appeal or application for leave to appeal against the sentence passed in respect of the new offence.
- (3) In relation to any appeal against the order, section 16A of the 1968 Act (powers on appeals against sentence) is to be read as conferring power—
  - (a) to quash the order; or
  - (b) if the court-martial gave a direction under section 91(2) of this Act, to quash the direction.
- (4) Where the Appeal Court quashes the order, or a direction under section 91(2) of this Act, then in relation to any appeal against the sentence passed in respect of the new offence—

*Status: Point in time view as at 18/07/2008. This version of this provision has been superseded.*

*Changes to legislation: Naval Discipline Act 1957 (repealed), Section 91A is up to date with all changes known to be in force on or before 14 July 2024.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)*

- (a) section 16A of the 1968 Act has effect as if the words “and which is not of greater severity than that for which it is substituted” were omitted; but
  - (b) the Appeal Court may not exercise its powers under that section in such a way that, taking the case as a whole, the appellant is dealt with more severely on appeal than he was dealt with by the court-martial.
- (5) Subsections (6) and (7) apply where a court-martial has power to make an order under section 91(1) of this Act in respect of a sentence (“the suspended sentence”) but does not do so.
- (6) On any appeal against the sentence passed in respect of the new offence, the Appeal Court's power under section 16A of the 1968 Act to pass a sentence in substitution for the sentence of the court-martial includes—
- (a) power to make an order under section 91(1) of this Act in respect of the suspended sentence; and
  - (b) if the court makes such an order, power to give a direction under section 91(2) of this Act in relation to the order.
- (7) But the Appeal Court may not exercise its powers under subsection (6) in such a way that, taking the case as a whole, the appellant is dealt with more severely on appeal than he was dealt with by the court-martial.
- (8) In this section—
- (a) “the new offence” means the offence mentioned in section 91(1) of this Act;
  - (b) “the Appeal Court” means the Courts-Martial Appeal Court.]

#### Textual Amendments

- F1** Ss. 91-91D substituted for s. 91 (18.7.2008) by [The Armed Forces \(Alignment of Service Discipline Acts\) Order 2008 \(S.I. 2008/1694\)](#), **art. 31** (with Sch. para. 10)

#### 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

**Status:**

Point in time view as at 18/07/2008. This version of this provision has been superseded.

**Changes to legislation:**

Naval Discipline Act 1957 (repealed), Section 91A is up to date with all changes known to be in force on or before 14 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.