



# Naval Discipline Act 1957 (repealed)

1957 CHAPTER 53 5 and 6 Eliz 2

## PART II U.K.

### TRIAL AND PUNISHMENT OF OFFENCES

#### *Suspension and reconsideration of sentences of imprisonment and detention*

VALID FROM 18/07/2008

#### **[<sup>F1</sup>91D Activation of suspended sentence by commanding officer: appeals etc. U.K.]**

- (1) For the purposes of sections 52FF to 52FR and 71B of this Act (appeals and review) an order under section 91B(1) of this Act is to be treated as a punishment awarded for the offence for which the sentence was passed.
- (2) In relation to any appeal against such an order, section 52FM(4) of this Act (powers of the summary appeal court on an appeal against punishment) has effect as if for paragraphs (a) and (b) there were substituted—
  - “(a) may confirm the order;
  - (b) may quash the order; or
  - (c) if the officer who made the order gave a direction under section 91B(6) of this Act, may confirm the order but quash the direction.”.
- (3) Subsections (4) to (6) apply where an officer makes an order under section 91B(1) of this Act by virtue of paragraph (a) of that subsection.
- (4) Any appeal, or application for leave to appeal, against the finding or the punishment awarded in respect of the offence mentioned in that paragraph (“the new offence”) is for the purposes of sections 52FF to 52FR of this Act to be treated as also being an appeal or application for leave to appeal against the order.

*Status: Point in time view as at 01/02/1991. This version of this provision is not valid for this point in time.*

**Changes to legislation:** Naval Discipline Act 1957 (repealed), Section 91D is up to date with all changes known to be in force on or before 12 July 2024.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)

- (5) Any appeal, or application for leave to appeal, against the order is for those purposes to be treated as also being an appeal or application for leave to appeal against the punishment awarded in respect of the new offence.
- (6) Where the summary appeal court quashes the order, or a direction under section 91B(6) of this Act, then—
- (a) in relation to any appeal against the finding of guilt in respect of the new offence, the references in section 52FM(2)(b)(ii) and (3)(b) of this Act to the punishment originally awarded include the order and any such direction given in relation to it (as well as the punishment awarded in respect of the new offence); and
  - (b) in relation to any appeal against the punishment awarded in respect of the new offence, the reference in section 52FM(4)(b)(ii) of this Act to the punishment originally awarded includes the order and any such direction given in relation to it (as well as the punishment awarded in respect of the new offence).
- (7) Subsections (8) and (9) apply where an officer has power to make an order under section 91B(1) of this Act by virtue of paragraph (a) of that subsection but does not do so.
- (8) On any appeal against the finding of guilt or the punishment awarded in respect of the new offence, the summary appeal court's powers under section 52FM(2)(b), (3) and (4)(b) of this Act to vary the punishment or substitute another punishment include—
- (a) power to make the order under section 91B(1) of this Act which the officer could have made; and
  - (b) power to give any direction under section 91B(6) of this Act which the officer could have given if he had made the order.
- (9) But the court may not exercise its powers under subsection (8) 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 officer who tried him for the new offence.]

#### 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

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