



Armed Forces Act 1966

1966 CHAPTER 45

PART III

OTHER AMENDMENTS OF LAW RELATING TO ARMED FORCES

Amendments applicable alike to Army Act 1955 and Air Force Act 1955

21 Substitution of fine by way of punishment for forfeiture of sums from pay.

- (1) The following provisions of this section shall have effect for the purpose of substituting, for the punishment for which provision was made by section 19 of the Army and Air Force Act 1961 consisting in forfeiture of sums from the pay of persons found guilty under the Army Act 1955 or the Air Force Act 1955 (which Acts are hereafter referred to in this section as " the Acts ") of offences, the punishment of a fine, and of making connected amendments.
- (2) Sections 71 (punishment of officers), 72 (punishment of other ranks), 78 (mode of dealing with charge against non-commissioned officer, soldier or airman on commanding officer's investigation) and 79 (mode of dealing with charge against officer or warrant officer after commanding officer's investigation) of each of the Acts as amended by the said Act of 1961 shall have effect with the substitution, for the words " forfeiture of a sum from pay " , wherever they occur, of the word " fine " .
- (3) The amount of a fine that may be awarded by a court-martial under either of the Acts by way of punishment for an offence—
 - (a) except in the case of an offence against section 70 (civil offences) of either of them, shall not exceed the amount of the offender's pay for twenty-eight days; and
 - (b) in the said excepted case—
 - (i) where the civil offence constituting the offence against that section is punishable by a civil court in England only on summary conviction and is so punishable by a fine, shall not exceed the maximum amount of that fine ;

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- (ii) where the said civil offence is punishable by a civil court in England on indictment (whether or not it is also punishable on summary conviction) by a fine, shall not exceed the maximum amount of that fine.
- (4) The amount of a fine that may be awarded by way of punishment for an offence where, under either of the Acts, a charge is dealt with summarily—
- (a) except in the case of an offence against the said section 70, shall not exceed the amount of the offender's pay for fourteen days ; and
 - (b) in the said excepted case—
 - (i) in any case, shall not exceed the amount mentioned in the foregoing paragraph;
 - (ii) where the civil offence constituting the offence against that section is punishable by a civil court in England only on summary conviction and is so punishable by any fine of a maximum amount less than the amount so mentioned, shall not exceed that maximum ;
 - (iii) where the said civil offence is punishable by a civil court in England on indictment by a fine of a maximum amount less than the amount so mentioned (whether or not it is also punishable on summary conviction) shall not exceed that maximum.
- (5) A warrant officer, non-commissioned officer and soldier shall cease to be liable, as provided by section 43(1) of the Army Act 1955, on conviction by court-martial of drunkenness to a fine in addition to any other punishment, and the limitation of five pounds thereby imposed on the amount of the fine to which he is liable on such conviction shall cease to have effect; and the reference in the foregoing provisions of this subsection to the Army Act 1955 shall be deemed to include a reference to the Air Force Act 1955, but those provisions shall, in their application to the last-mentioned Act, have effect with the substitution, for the word " soldier " , of the word " airman " .
- (6) For the purposes of this section a day's pay shall, as regards a person found guilty of an offence, be deemed to be the gross pay that is, or would (apart from any forfeiture) be, issuable to that person in respect of the day on which punishment is awarded in respect of the offence.
- (7) In accordance with the foregoing provisions of this section, the following enactments shall cease to have effect, that is to say:—
- in each of the Acts, in section 43, the words from " and in the case of a warrant officer " to " five pounds " , and the words " with or without a fine " ;
 - in each of the Acts, in section 72(2), paragraph (k) (by virtue of which the punishment for drunkenness by a fine is authorised);
 - in each of the Acts, in section 78(3), paragraph (d) (by virtue of which the punishment for drunkenness by a fine not exceeding two pounds is authorised);
 - in the said Act of 1961, section 19(6) and (7) (which relate to the amount of the punishment that may be inflicted by way of forfeiture of sums from pay).
- (8) Nothing in the foregoing provisions of this section shall be taken as affecting the amount of the fine that may be awarded by virtue of subsection (3) (a) or (b) of section 209 of the Army Act 1955 to a person to whom Part II of that Act applies by virtue of that section, or that may be awarded by virtue of subsection (3)(a) or (b) of section 209 of the Air Force Act 1955 to a person to whom Part II of that Act applies by virtue of that section.

22 Extension of power to award sentence of dismissal from service and renaming of " discharge with ignominy ".

- (1) A court-martial shall have power under section 72 of the Army Act 1955 and section 72 of the Air Force Act 1955 (punishment of other ranks) to award a sentence of dismissal from Her Majesty's service not only, as provided by subsection (2)(d) of each of those sections, in the case of a warrant officer, but also in the case of a non-commissioned officer and, under the said section 72 of the Army Act 1955, in the case of a soldier and, under section 72 of the Air Force Act 1955, in the case of an airman; and, notwithstanding subsection (4) of each of those sections, such a sentence may be awarded in addition to any sentence the court has power to award by way of imprisonment or detention.
- (2) The punishment described in section 72(2)(c) of each of the said Acts as " discharge with ignominy from Her Majesty's service " shall henceforth be known as " dismissal with disgrace from Her Majesty's service ".
- (3) Accordingly.—
 - (a) the said Acts shall each be amended as follows:—
 - (i) in section 72(2) (scale of punishments), in paragraph (d), the words " in the case of a warrant officer " shall cease to have effect;
 - (ii) for any reference, except in paragraph 1(3) of Schedule 6 (application of military or air-force law to attached members of any forces) to discharge with ignominy from Her Majesty's service there shall be substituted a reference to dismissal with disgrace from Her Majesty's service;
 - (iii) in the said paragraph 1 (3) the words " or discharge with ignominy " shall cease to have effect;
 - (b) the Army Act 1955 shall be amended as follows:—
 - (i) for section 72(5) there shall be substituted the following subsection:
—

“(5) A warrant officer, non-commissioned officer or soldier sentenced by a court-martial to imprisonment may in addition thereto be sentenced to dismissal with disgrace from Her Majesty's service or to dismissal from Her Majesty's service”;
 - (ii) after the said section 72(5) there shall be inserted the following subsection:—

“(5A) A warrant officer, non-commissioned officer or soldier sentenced by a court-martial to dismissal from Her Majesty's service may in addition be sentenced to detention”;
 - (c) the Air Force Act 1955 shall be amended as follows:—
 - (i) for section 72(5) there shall be substituted the following subsection:
—

“(5) A warrant officer, non-commissioned officer or airman sentenced by a court-martial to imprisonment may in addition thereto be sentenced to dismissal with disgrace from Her Majesty's service, or to dismissal from Her Majesty's service”;
 - (ii) after the said section 72(5) there shall be inserted the following subsection:—

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“(5A) A warrant officer, non-commissioned officer or airman sentenced by a court-martial to dismissal from Her Majesty's service may in addition be sentenced to detention”;

- (d) in the Naval Discipline Act 1957, in paragraph 1 of Schedule 2 (application of Act to attached military and air forces) paragraph (b) shall cease to have effect.

23 Power of Defence Council to authorise further officers to deal summarily with charges against certain officers and warrant officers.

- (1) For section 82(2) of the Army Act 1955 (which makes provision as to the authority, therein referred to as the appropriate superior authority, who may deal summarily with charges against officers below the rank of lieutenant-colonel or against warrant officers), except the proviso thereto, there shall be substituted the following words—

“The following persons may act as appropriate superior authority in relation to a person charged with an offence, that is to say.—

- (a) any general officer, flag officer, air officer or brigadier having power to convene general courts-martial ; or
- (b) such other general officer, flag officer, air officer or brigadier, or, where the Defence Council in special circumstances so direct, colonel or naval or air force officer of corresponding rank, as may be specified by or under regulations of the Defence Council”;
- (2) In section 82(2) of the Air Force Act 1955 (which includes, among the persons who may be specified by or under regulations of the Defence Council to act as appropriate superior authority for dealing summarily with charges against certain officers and against warrant officers, a group captain in a case in which the Defence Council in special circumstances direct) after the words " group captain " there shall be inserted the words " or naval or military officer of corresponding rank " .

24 Qualification for membership of court-martial.

- (1) The requirement imposed by each of the following provisions of the Army Act 1955, namely, sections 87(2) (qualification of officer for membership of general court-martial), 88(2) (qualification of officer for membership of district court-martial) and 90(3) (qualification of naval or air force officer in certain circumstances for membership of a court-martial) that, to be a member of a court-martial, an officer must have held a commission in any of the armed forces of the Crown for any period shall be construed as a requirement that he must have held a commission for that period in any of Her Majesty's naval, military or air forces within the meaning of the said Act, and the similar requirement imposed by each of the corresponding provisions of the Air Force Act 1955 shall be similarly construed.
- (2) Accordingly, sections 87(2), 88(2) and 90(3) of each of the said Acts shall have effect with the substitution, for the words " any of the armed forces of the Crown " , wherever they occur, of the words " any of Her Majesty's naval, military or air forces " .

25 Jurisdiction of civil courts.

- (1) The Army Act 1955 shall have effect with the substitution, for section 133, of the following section:—
- (1) Where a person subject to military law—

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- (a) has been tried for an offence by a court-martial or has had an offence committed by him taken into consideration by a court-martial in sentencing him, or
- (b) has been charged with an offence under this Act and has had the charge dealt with summarily by his commanding officer or the appropriate superior authority,

a civil court shall be debarred from trying him subsequently for an offence substantially the same as that 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 an offence.

(2) For the purposes of this section—

- (a) a person shall not be deemed to have been tried by a court-martial if confirmation is withheld of a finding by the court-martial that he is guilty of the offence, or of a finding by the court-martial that he is not guilty of the offence by reason of insanity;
- (b) a person shall not be deemed to have had an offence taken into consideration by a court-martial in sentencing him if confirmation of the sentence is withheld or the sentence is quashed;
- (c) a case shall be deemed to have been dealt with summarily by the commanding officer or appropriate superior authority notwithstanding that the finding of that officer or authority has been quashed, or the award of that officer or authority quashed or varied, on the review thereof”.

(2) The Air Force Act 1955 shall have effect with the substitution, for section 133 thereof, of a section in other respects similar to that set out in subsection (1) above but modified by the substitution, for the words " military law " , of the words " air-force law " .

26 Amendments as to trial under Army Act 1955 and Air Force Act 1955 after trial by civil courts.

(1) In section 134(1) of the Army Act 1955—

- (a) the provision whereby a person subject to military law who has been tried for an offence by a competent civil court shall not be liable in respect of that offence to be tried by court martial or to have the case dealt with summarily under that Act shall be extended so that the reference therein to a civil court shall have effect as a reference to such a court in any country;
- (b) the provision whereby a person subject to military law who has had an offence committed by him taken into consideration by a civil court in sentencing him is not to be liable in respect of that offence to be tried or have the case dealt with as aforesaid shall be restricted so that the reference therein to a civil court shall not include a reference to such a court outside the United Kingdom.

(2) The foregoing subsection shall have effect in relation to section 134(1) of the Air Force Act 1955 as it has effect in relation to section 134(1) of the Army Act 1955 but with the substitution, for the words " military law " , of the words " air-force law " .

(3) Accordingly, in section 134(1) of the Army Act 1955, for paragraph (a) there shall be substituted the following paragraphs :—

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- “(a) has been tried for an offence by a competent civil court, wherever situated, or a court-martial (whether held under this Act, the Air Force Act 1955 or the Naval Discipline Act 1957), or
- (aa) has had an offence committed by him taken into consideration when being sentenced by a competent civil court in the United Kingdom or any such court-martial as is referred to in the foregoing paragraph ;
or”

and in section 134(1) of the Air Force Act 1955, for paragraph (a), there shall be substituted paragraphs similar to those set out above but modified by the substitution, for the words " the Air Force Act 1955 " , of the words " the Army Act 1955 " .

27 Amendments relating to Her Majesty's aircraft, aircraft material and ships.

- (1) In section 24 of the Army Act 1955, and in section 24 of the Air Force Act 1955, subsection (1)(h) (by virtue of which it is an offence cognizable by court-martial to cause, with intent to assist the enemy, the capture or destruction by the enemy of any of Her Majesty's aircraft) and subsection (3) (which makes it an offence so cognizable negligently to cause the capture or destruction by the enemy of any of Her Majesty's aircraft) shall each have effect with the insertion, after the words " Her Majesty's aircraft " , of the words " or the aircraft of any force co-operating with Her Majesty's forces " .
- (2) In section 225 of the Army Act 1955 (interpretation), after subsection (1) and in section 223 of the Air Force Act 1955 (interpretation), after subsection (1), there shall be inserted the following subsections:—
 - “(1A) Any reference in this Act to Her Majesty's aircraft is a reference to aircraft in the service of Her Majesty, whether belonging to Her Majesty or not, but does not include a reference to aircraft of a Commonwealth force other than aircraft placed at the disposal of Her Majesty for service with any of Her Majesty's forces, and any reference to aircraft material shall be construed accordingly.
 - (1B) Any reference in this Act to Her Majesty's ships is a reference to ships in the service of Her Majesty, whether belonging to Her Majesty or not, but does not include a reference to ships of any Commonwealth force other than ships placed at the disposal of Her Majesty for service with any of Her Majesty's forces”.

28 Construction of references to Her Majesty's forces and amendment of definitions of " desertion " and " enemy " .

- (1) Any reference in the Army Act 1955 to Her Majesty's forces shall, except in sections 37(2)(b) (desertion to include joining Her Majesty's forces without release from previous engagement) and 177 (power of Her Majesty to vest command in members of Her Majesty's forces), be construed in accordance with the definition in section 225(1) of that Act of Her Majesty's air forces, military forces, and naval forces, that is to say, except where otherwise provided, as not including a reference to a Commonwealth force as defined in that section.
- (2) In the Army Act 1955, the expression "enemy" shall be extended to include, as well as persons engaged in armed operations against any of Her Majesty's forces, as provided by the said section 225(1), persons so engaged against any forces co-operating with Her Majesty's forces.

- (3) Any reference in the foregoing provisions of this section to the Army Act 1955 shall include a reference to the Air Force Act 1955, but those provisions shall, in their application to the last mentioned Act, have effect with the substitution, for the references to section 225(1), of references to section 223(1), and, for the reference to a soldier, of a reference to an airman.
- (4) Accordingly, in section 225(1) of the Army Act 1955 and section 223(1) of the Air Force Act 1955, in the definition of "enemy ", after the words " any of Her Majesty's forces " there shall be inserted the words " or any forces co-operating therewith " , and at the end of the paragraph beginning with the words " Her Majesty's air forces " there shall be added the words " and references to ' Her Majesty's forces ' , except in sections 37 and 177, shall be construed accordingly " .

29 Additional alternative offences of which an accused may be convicted by court-martial. ' .

- (1) Schedule 3 to the Army Act 1955 (by virtue of which an accused charged with an offence specified in column 1 of the Schedule may be found guilty of an offence specified in relation thereto in column 2 of the Schedule) shall have effect with the following amendments, that is to say, the insertion after the paragraphs numbered 1 therein, of the following:—

“1A. Striking a person on guard duty.

1A. Using force against a person on guard duty, otherwise than by striking him”,

and the addition at the end of the Schedule of the following:—

“13. Being an officer subject to military law, striking a person who is an officer so subject of inferior rank or less seniority or a warrant officer, non-commissioned officer or soldier so subject.

13. Ill-treating such a person otherwise than by striking him.

14. Being a warrant officer or non-commissioned officer subject to military law, striking a person so subject, being a warrant officer or a non-commissioned officer of inferior rank or less seniority or a soldier.

14. Ill-treating such a person otherwise than by striking him”.

- (2) Schedule 3 to the Air Force Act 1955 (which makes provision corresponding to Schedule 3 to the Army Act 1955) shall have effect with amendments in other respects similar to those mentioned in the foregoing subsection, but modified by the substitution, for the words " military law " , wherever occurring, of the words " air-force law " , and for the word " soldier " , wherever occurring, of the word " airman " .
- (3) The foregoing provisions of this section shall not have effect in relation to an offence with which a person is charged if the acts by virtue of which he is so charged occurred before the coming into operation of this section.