



# Armed Forces Act 1971

## 1971 CHAPTER 33

### PART II

#### REVISION OF SERVICE OFFENCES AND PUNISHMENTS

##### *Misconduct in action and other offences arising out of military etc. service*

#### **2 Misconduct in action, assisting the enemy, obstructing operations, etc.**

- (1) The following provisions shall be substituted for sections 24 to 28 of the Army Act 1955:—

##### *“Misconduct in action and other offences arising out of military service*

#### **24 Misconduct in action.**

- (1) A person subject to military law shall be guilty of an offence against this section if, without lawful excuse, he—
- (a) surrenders any place or thing to the enemy, or
  - (b) abandons any place or thing which it is his duty to defend against the enemy or to prevent from falling into the hands of the enemy.
- (2) A person subject to military law shall be guilty of an offence against this section if, being in the presence or vicinity of the enemy, or being engaged in any action or operation against the enemy or under orders to be prepared for any action or operation by or against the enemy, he—
- (a) fails to use his utmost exertions to carry the lawful orders of his superior officers into execution, or
  - (b) while on guard duty and posted or ordered to patrol, or while on watch, sleeps or, without having been regularly relieved, leaves any place where it is his duty to be, or

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- (c) behaves in such a manner as to show cowardice, or induces any other person so to behave at a time when that other person, being a member of Her Majesty's forces or of a force co-operating with Her Majesty's forces, is in the presence or vicinity of the enemy, or is engaged in any action or operation against the enemy or under orders to be prepared for any action or operation by or against the enemy, or
  - (d) uses words likely to cause despondency or unnecessary alarm.
- (3) A person guilty of an offence against this section shall, on conviction by court-martial, be liable—
- (a) if the offence consisted in an act or omission falling within subsection (1) or paragraph (a) of subsection (2) and was committed with intent to assist the enemy, to suffer death or any less punishment provided by this Act;
  - (b) in any other case, to imprisonment or any less punishment provided by this Act.
- (4) The reference in subsection (2)(a) above to superior officers shall be construed in accordance with section 33(2) of this Act.

### **25 Assisting the enemy.**

- (1) A person subject to military law shall be guilty of an offence against this section if, knowingly and without lawful excuse, he—
- (a) communicates with, or gives intelligence to, the enemy, or
  - (b) fails to make known to the proper authorities any information received by him from the enemy, or
  - (c) furnishes the enemy with supplies of any description, or
  - (d) having been captured by the enemy, serves with or aids the enemy in the prosecution of hostilities or of measures likely to influence morale, or in any other manner whatsoever not authorised by international usage, or
  - (e) having been captured by the enemy, fails to take, or prevents or discourages any other person subject to service law who has been captured by the enemy from taking, any reasonable steps to rejoin Her Majesty's service which are available to him or, as the case may be, to that other person, or
  - (f) harbours or protects an enemy not being a prisoner of war.
- (2) A person guilty of an offence against this section shall, on conviction by court-martial, be liable—
- (a) if the offence consisted in an act or omission falling within paragraph (a), (b), (c), (d) or (f) of subsection (1) and was committed with intent to assist the enemy, to suffer death or any less punishment provided by this Act,
  - (b) in any other case, to imprisonment or any less punishment provided by this Act.

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## **26 Obstructing operations, giving false air signals, etc.**

- (1) A person subject to military law shall be guilty of an offence against this section if he does any act likely to imperil the success of any action or operation on the part of any of Her Majesty's forces, or wilfully delays or discourages upon any pretext whatsoever any such action or operation.
  - (2) A person subject to military law shall be guilty of an offence against this section if, knowingly and without lawful excuse, he gives any false air signal, or alters or interferes with any air signal or any apparatus for giving an air signal.
  - (3) A person guilty of an offence against this section shall, on conviction by court-martial, be liable—
    - (a) if the offence was committed with intent to assist the enemy, to suffer death or any less punishment provided by this Act;
    - (b) in any other case, to imprisonment or any less punishment provided by this Act”.
- (2) The provisions set out in subsection (1) above shall also be substituted for sections 24 to 28 of the Air Force Act 1955, but modified for that purpose by the substitution throughout of " air-force service " for " military service " and " air-force law " for " military law ".
- (3) The said provisions shall also be substituted for sections 2 to 5 of the Naval Discipline Act 1957, being numbered respectively as sections 2, 3 and 4 of that Act, and being modified for that purpose—
  - (a) by the substitution throughout of " naval service " for " military service ", of " person subject to this Act ", for " person subject to military law ", and of " punishment authorised by this Act " for " punishment provided by this Act ", and
  - (b) by the omission of subsection (4) of the first of those provisions, and the omission throughout of " on conviction by court-martial ".

## **3 Prize offences**

- (1) The following provisions shall be inserted in the Army Act 1955 as sections 27 and 28:—

### **“27 Prize offences by commanding officers.**

- (1) Any person subject to military law who, being in command of any of Her Majesty's ships or aircraft—
  - (a) having taken any ship or aircraft as prize, fails to send to the High Court, or to some other prize court having jurisdiction in the case, all the ship papers or aircraft papers, as the case may be, found on board, or
  - (b) unlawfully makes any agreement for the ransoming of any ship, aircraft or goods taken as prize, or

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- (c) in pursuance of any such agreement as aforesaid, or otherwise by collusion, restores or abandons any ship, aircraft or goods taken as prize,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

- (2) In this section 'prize court' means a prize court within the meaning of the Naval Prize Act 1864, and 'ship papers' and 'aircraft papers' have the same meanings as in that Act.

### **28 Other prize offences.**

Any person subject to military law who—

- (a) strikes or otherwise ill-treats any person who is on board a ship or aircraft when taken as prize, or unlawfully takes from any such person anything in his possession, or
- (b) removes out of any ship or aircraft taken as prize (otherwise than for safe keeping or for the necessary use and service of any of Her Majesty's forces or any forces co-operating therewith) any goods not previously adjudged by a prize court within the meaning of the Naval Prize Act 1864 to be lawful prize, or
- (c) breaks bulk on board any ship or aircraft taken as prize, or detained in exercise of any belligerent right or under any enactment, with intent to steal anything therein,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act”.

- (2) The provisions set out in subsection (1) above shall also be inserted in the Air Force Act 1955 as sections 27 and 28, but modified for that purpose by the substitution throughout of "air-force law" for "military law".
- (3) Sections 23 and 24 of the Naval Discipline Act 1957 (under which prize offences are punishable by dismissal with disgrace or any less authorised punishment) shall each be amended by substituting the words "imprisonment for a term not exceeding two years" for the words "dismissal with disgrace from Her Majesty's service".

## **4 Offences by or in relation to sentries, persons on watch etc.**

- (1) The following provision shall be substituted for section 29 of the Army Act 1955:—

### **“29 Offences by or in relation to sentries, persons on watch etc.**

Any person subject to military law who—

- (a) while on guard duty and posted or ordered to patrol, or on watch, or under orders to regulate traffic by land, water or air, sleeps or, without having been regularly relieved, leaves any place where it is his duty to be, or
- (b) strikes or otherwise uses force against a member of Her Majesty's forces, or of any forces co-operating therewith, who is on guard duty and posted or ordered to patrol, or on watch, or under orders to regulate traffic by land, water or air, or

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- (c) by the threat of force compels any such person as is mentioned in paragraph (b) above to let him or any other person pass, shall be liable, on conviction by court-martial, to imprisonment for a term not exceeding two years or any less punishment provided by this Act.”
- (2) The provision set out in subsection (1) above shall also be substituted for section 29 of the Air Force Act 1955, but modified for that purpose by the substitution of " air-force law " for " military law " .
- (3) The said provision shall also be substituted for section 6 of the Naval Discipline Act 1957 (including the cross-heading preceding that section), being numbered as section 6 of that Act, and being modified for that purpose by the substitution of " person subject to this Act " for " person subject to military law " and of " punishment authorised by this Act " for " punishment provided by this Act", and by the omission of " on conviction by court-martial " .

## **5 Failure to attend for duty, neglect of duty etc.**

- (1) The following provision shall be inserted in the Army Act 1955 after section 29, and section 41 of that Act (failure to ' perform military duties) shall accordingly cease to have effect:—

### **“29A Failure to attend for duty, neglect of duty etc.**

Any person subject to military law who—

- (a) without reasonable excuse fails to attend for any duty of any description, or leaves any such duty before he is permitted to do so, or
- (b) neglects to perform, or negligently performs, any duty of any description,

shall be liable, on conviction by court-martial, to imprisonment for a term not exceeding two years or any less punishment provided by this Act.”

- (2) The provision set out in subsection (1) above shall also be inserted in the Air Force Act 1955 after section 29, but modified for that purpose by the substitution of " air-force law " for " military law " ; and section 41 of that Act shall also cease to have effect.
- (3) The said provision shall also be substituted for section 7 of the Naval Discipline Act 1957 (neglect of duty), being numbered as section 7 of that Act, and being modified for that purpose by the substitution of " person subject to this Act " for " person subject to military law" and of " punishment authorised by this Act" for " punishment provided by this Act", and by the omission of " on conviction by court-martial " .

## **6 Looting**

- (1) Section 30 of the Army Act 1955 and section 30 of the Air Force Act 1955 (looting) shall each be amended as follows:—
- (a) in paragraph (a) (stealing etc. from the person of anyone killed or wounded in the course of warlike operations), for the words " killed or wounded in the course of warlike operations " there shall be substituted the words " killed, wounded or captured in the course of warlike operations, or killed, injured or detained in the course of operations undertaken by Her Majesty's forces for the preservation of law and order or otherwise in aid of the civil authorities " , and

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- (b) in paragraph (b) (stealing property left exposed or unprotected in consequence of warlike operations), for the words " warlike operations " there shall be substituted the words " any such operations as are mentioned in paragraph (a) above ".
- (2) The following provision (being one corresponding to the provisions referred to in subsection (1) above as amended by that subsection) shall be inserted in the Naval Discipline Act 1957 as section 5:—

**“5 Looting.**

Any person subject to this Act who—

- (a) steals from, or with intent to steal searches, the person of anyone killed, wounded or captured in the course of warlike operations, or killed, injured or detained in the course of operations undertaken by Her Majesty's forces for the preservation of law and order or otherwise in aid of the civil authorities, or
- (b) steals any property which has been left exposed or unprotected in consequence of any such operations as are mentioned in paragraph (a) above, or
- (c) takes otherwise than for the public service any vehicle, equipment or stores abandoned by the enemy,

shall be guilty of looting and liable to imprisonment or any less punishment authorised by this Act.”