



Armed Forces Act 1986

1986 CHAPTER 21

PART I

CONTINUANCE OF SERVICES ACTS

1 Continuance of Services Acts

- (1) The 1955 Acts and the 1957 Act shall, instead of expiring on 31st August 1986, continue in force until 31st August 1987, and shall then expire unless continued in force in accordance with the following provisions of this section.
- (2) Subject to subsection (3) below, Her Majesty may from time to time by Order in Council provide for the 1955 Acts and the 1957 Act to continue in force for a period not exceeding twelve months beyond the day on which they would otherwise expire.
- (3) No Order in Council shall be made under subsection (2) above so as to continue the 1955 Acts and the 1957 Act beyond the end of the year 1991.
- (4) No recommendation shall be made to Her Majesty in Council to make an Order under subsection (2) above unless a draft thereof has been laid before Parliament and approved by resolution of each House of Parliament.

PART II

AMENDMENTS OF SERVICES ACTS ETC.

Offences

2 Interference etc. with equipment, messages or signals

- (1) After section 44A of the Army Act 1955 (damage to and loss of Her Majesty's aircraft or aircraft material) there shall be inserted the following section—

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“44B Interference etc. with equipment, messages or signals.

- (1) Any person subject to military law who by any conduct of his—
 - (a) intentionally impairs the efficiency or effectiveness of any equipment which is public or service property ; or
 - (b) intentionally interferes with or modifies any message or other signal which is being transmitted, by means of a telecommunication system, directly or indirectly to or from any such equipment,
 shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act.

- (2) Any person subject to military law who is guilty of any conduct which is likely to have the effect—
 - (a) of impairing the efficiency or effectiveness of any such equipment; or
 - (b) of interfering with or modifying any such message or signal,
 shall (whether or not that conduct has that effect) be liable, on conviction by court-martial, to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

- (3) It shall be a defence for a person charged with an offence under subsection (2) of this section in respect of any conduct likely to have a particular effect that, in the circumstances, his conduct was in all respects consistent with the exercise of reasonable care to avoid producing that effect.

- (4) For the purposes of this section the efficiency or effectiveness of any equipment is impaired if, whether or not it is damaged, the equipment is made temporarily or permanently less efficient or effective either for all purposes or for a particular purpose for which it has been designed, adapted, adjusted or programmed.

- (5) In this section—
 - 'conduct' includes any act or omission;
 - 'equipment' includes any apparatus, any computer and any vessel, aircraft or vehicle; and
 - 'telecommunication system' has the same meaning as in the Telecommunications Act 1984.”

- (2) The provisions set out in subsection (1) above shall also be inserted after section 44A of the Air Force Act 1955 and, as section 29B, after section 29A of the 1957 Act, but as if—
 - (a) in those provisions, as inserted in the Air Force Act 1955, for the words "military law", in each place where they occur, there were substituted the words "air-force law"; and
 - (b) in those provisions, as inserted in the 1957 Act—
 - (i) for the words "military law", in each place where they occur, there were substituted the words "this Act";
 - (ii) the words "on conviction by court-martial", in each place where they occur, were omitted; and
 - (iii) for the words "punishment provided", in each place where they occur, there were substituted the words "punishment authorised".

3 Offences in relation to official documents

(1) In section 62 of each of the 1955 Acts and in section 35 of the 1957 Act (making of false documents), for paragraphs (a) to (c) there shall be substituted the following paragraphs—

- “(a) makes an official document or official record which is to his knowledge false in a material particular, or
- (b) makes in any official document or official record an entry which is to his knowledge false in a material particular, or
- (c) tampers with the whole or any part of any official document or official record (whether by altering it, destroying it, suppressing it, removing it or otherwise), or
- (d) with intent to deceive, fails to make an entry in any official document or official record.”.

(2) Each of the sections amended by subsection (1) above shall be renumbered subsection (1) of that section and after each of those provisions, as so re-numbered, there shall be inserted the following subsections—

“(2) For the purposes of this section—

- (a) a document or record is official if it is or is likely to be made use of, in connection with the performance of his functions as such, by a person who holds office under, or is in the service of, the Crown; and
- (b) a person who has signed or otherwise adopted as his own a document or record made by another shall be treated, as well as that other, as the maker of the document or record.

(3) In this section—

' document' includes, in addition to a document in writing—

- (a) any map, plan, graph or drawing ;
- (b) any photograph;
- (c) any disc, tape, sound-track or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom ; and
- (d) any film, negative, tape or other device in which one or more visual images are embodied so as to be capable as aforesaid of being reproduced therefrom;

' film ' includes a microfilm ; and

' record' includes any account, any information recorded otherwise than in a document by mechanical, electronic or other means and any program in a computer.”

4 Elimination of distinctions between certain offences

(1) In sections 28(a), 29(6), 33(1)(a), 55(1) and (2) and 65(a) and (b) of each of the 1955 Acts and in sections 6(b), 11(a), 24(a), 33B(1) and (2) and 36A(a) and (b) of the 1957 Act (offences consisting in striking a person or in otherwise ill-treating him or using violence to him or force against him), the words " strikes or otherwise ", wherever occurring, shall be omitted.

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- (2) In section 69 of each of the 1955 acts in section 39 of the 1957 Act (conduct or neglect to the prejudice of good order and military discipline), for the words " of any conduct or neglect" there shall be substituted the words ", whether by any act or omission or otherwise, of conduct ".

Sentence, reconsideration and limitation

5 Maximum periods of imprisonment or detention for default in payment of fines

For subsection (2) of section 71B of each of the 1955 Acts and for subsection (2) of section 43B of the 1957 Act (maximum periods of imprisonment or detention for default in payment of fines) there shall be substituted the following subsection—

“(2) Subject to subsections (4) and (5) below, the Table in section 31(3A) of the Powers of Criminal Courts Act 1973 (maximum periods of imprisonment for default in payment of fines etc.), as from time to time amended under section 143 of the Magistrates' Courts Act 1980, shall have effect for the purpose of determining the maximum periods of further imprisonment or detention that may be specified under subsection (1) above for fines of the amounts set out in that Table.”

6 Repeal of power of reconsideration

Neither section 114 of the Army Act 1955 nor section 114 of the Air Force Act 1955 (reconsideration of sentences of imprisonment or detention) shall apply in the case of a sentence awarded after the coming into force of this section.

7 Removal of three year limit for commencement of certain proceedings

- (1) For subsection (1) of section 132 of each of the 1955 Acts (which, subject to any limit imposed in relation to a corresponding civil offence and to a power of the Attorney General to consent to proceedings in certain cases, imposes a three year limit on the commencement of proceedings for certain offences under the relevant service law) there shall be substituted the following subsection—

“(1) Where by virtue of any enactment proceedings on indictment for any civil offence must be brought within a limited period, no proceedings shall be taken against any person for an offence against section 70 of this Act corresponding to that civil offence unless the trial or proceedings on a summary dealing with the charge is or are begun before the end of that period.”

- (2) For subsection (1) of section 52 of the 1957 Act (which, with subsection (3) of that section, makes provision equivalent to that made by section 132(1) of each of the 1955 Acts) there shall be substituted the following subsection—

“(1) Where by virtue of any enactment proceedings on indictment for any civil offence must be brought within a limited period, a person shall not be tried for that offence under section 42 of this Act unless the trial is begun within that period.”

- (3) In subsection (3) of the said section 52—

(a) for the words " Subsections (1) and (2) " there shall be substituted the words " Subsection (2) " ; and

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- (b) for the words from " and in the case of a civil offence " onwards there shall be substituted the words " or, without prejudice to subsection (1) above, to a civil offence punishable under section 42 of this Act where the civil offence is alleged to have been committed outside the United Kingdom and the Attorney General consents to the trial. "
- (4) Section 7(3) of the Armed Forces Act 1976 (which imposes a three year limit on the commencement of proceedings before a Standing Civilian Court) shall cease to have effect.
- (5) In section 7(4) of the said Act of 1976 (application to trial by Standing Civilian Court of time limit for corresponding civil offence), after the word " proceedings " there shall be inserted the words " on indictment ".
- (6) Nothing in this section shall affect the operation of section 132(1) of either of the 1955 Acts, section 52 of the 1957 Act or section 7(3) or (4) of the said Act of 1976 in relation to an offence if the offence was committed before the date on which this section comes into force and—
 - (a) the period of three years beginning with the commission of the offence expired before that date ; or
 - (b) the offence is an offence under section 70 of either of the 1955 Acts or punishable under section 42 of the 1957 Act and the period between the commission of the offence and that date was longer than the period within which proceedings for the corresponding civil offence must be taken.

Civilians

8 Application of limitation period to civilians ceasing to be subject to service law

- (1) Subsection (3A) of section 209 of each of the 1955 Acts (application of Act to civilians) shall be renumbered subsection (3B) and before that subsection, as so renumbered, there shall be inserted the following subsection—

“(3A) For the purposes of paragraph (g) of subsection (3) of this section a person shall be deemed not to have ceased to be in such circumstances as are mentioned in that paragraph if he has so ceased by reason only of one or both of the following, namely—

 - (a) the fact that he has ceased to be within the limits of a command within whose limits he continues to have his ordinary residence or to serve or to be employed;
 - (b) the fact that there has been an interruption of his residence with a family of persons whose place of residence continues to be his home.”
- (2) In Schedule 4 to the 1957 Act (application of Act to certain civilians), after paragraph 4 there shall be inserted the following paragraph—

“4A For the purposes of section 52(2) of this Act a person shall be deemed not to have ceased to be a person to whom this Act applies by virtue of section 118(2) of this Act if he has so ceased by reason only of one or both of the following, namely—

 - (a) the fact that he has ceased to be within the limits of a command within whose limits he continues to have his ordinary residence or to serve or to be employed;

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- (b) the fact that there has been an interruption of his residence with a family of persons whose place of residence continues to be his home.”
- (3) Nothing in this section shall affect the operation of any of the relevant provisions in relation to proceedings for an offence by a person who ceased, after the commission of the offence and more than the specified period before the coming into force of this section, to be in such circumstances that Part II of either of the 1955 Acts or any provision specified in section 118 of the 1957 Act applied to him.
- (4) In subsection (3) above—
 - " the relevant provisions " means section 132(3) of each of the 1955 Acts and section 52(2) of the 1957 Act; and
 - " the specified period", in relation to any proceedings, means the period specified in relation to those proceedings in the relevant provisions.

9 Power of Standing Civilian Court to defer sentence

- (1) In Schedule 5A to the Army Act 1955 (powers of court on trial of civilian), after paragraph 2 there shall be inserted the following paragraph—

“Deferment of award of sentence

- 2A (1) Subject to the provisions of this paragraph, where a civilian is found guilty of an offence by a Standing Civilian Court, the Standing Civilian Court may defer the award of sentence against him for the purpose of enabling the Standing Civilian Court, or any other court to which it falls to deal with him, to have regard, in dealing with him, to his conduct after conviction (including, where appropriate, the making by him of reparation for his offence) or to any change in his circumstances.
- (2) Any deferment under this paragraph shall be until such date as may be specified by the Standing Civilian Court, being a date not more than six months after the date on which the Standing Civilian Court announces the deferment; and where the award of sentence against an offender has been deferred on one occasion, it shall not be further deferred.
- (3) The power conferred by this paragraph shall be exercisable only if the offender consents and the Standing Civilian Court is satisfied, having regard to the nature of the offence and the character and circumstances of the offender, that it would be in the interests of justice to exercise the power.
- (4) A Standing Civilian Court which has deferred the award of sentence against an offender may deal with him at a time when the period of deferment has not expired if—
 - (a) he is during that period found guilty of an offence by a court-martial under any of the Services Acts or by a Standing Civilian Court; or
 - (b) such conditions as may be specified for the purposes of this paragraph in an order under paragraph 12 of Schedule 3 to the Armed Forces Act 1976 (proceedings in Standing Civilian Courts) are satisfied in relation to him.

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- (5) Without prejudice to sub-paragraph (4) above, where a Standing Civilian Court has deferred the award of sentence against an offender in respect of one or more offences and the offender is, during the period of the deferment, found guilty of an offence ('the subsequent offence') by a court-martial under any of the Services Acts or by a Standing Civilian Court, then, subject to subsection (6) below, the court which (whether during that period or not) deals with the offender for the subsequent offence may also, if this has not already been done, deal with him for the offence or offences in respect of which the award of sentence was deferred.
- (6) Subject to sub-paragraph (7) below, the power of a court under this paragraph to deal with an offender for an offence in respect of which the award of sentence has been deferred shall be a power to deal with him in any way in which the Standing Civilian Court which deferred the award of sentence could have dealt with him for that offence.
- (7) In a case falling within sub-paragraph (5) above a court-martial which awards a sentence of imprisonment or a sentence under a custodial order for the subsequent offence may (subject to the application to the aggregate of the sentences of any limit imposed by, or by any provision corresponding to, section 85 of this Act or paragraph 10(1A) below) order that the sentence shall begin to run from the expiry of any sentence which, being a sentence of imprisonment or a sentence under a custodial order, is awarded for the offence or offences in respect of which the award of sentence was deferred.
- (8) Where a Standing Civilian Court has deferred the award of sentence against an offender, the Court or the directing officer may order the offender's arrest either—
- (a) in order to secure the offender's appearance on the day specified by the Standing Civilian Court as the day on which it proposes to deal with him (including a day before the end of the period of deferment) ; or
 - (b) where the offender has failed to appear on a day so specified.
- (9) Where the arrest of an offender has been ordered under sub-paragraph (8) above, then, whether or not the offender continues to be subject to service law—
- (a) he may be arrested—
 - (i) by a provost officer ; or
 - (ii) by any warrant officer or non-commissioned officer legally exercising authority under or on behalf of a provost officer ; or
 - (iii) by order of any officer of the regular forces or of the regular air force (within the meaning of the Air Force Act 1955); and
 - (b) a warrant for the offender's arrest may be issued to any officer or officers of police by the directing officer or by any superior officer or authority.

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- (10) A warrant under sub-paragraph (9) (b) above shall specify the name of the person for whose arrest it is issued and shall refer to the order of the Standing Civilian Court or directing officer that that person be arrested.
- (11) A person arrested under this paragraph shall be delivered into military or air force custody and may be kept in such custody until his appearance before the Standing Civilian Court which deferred the award of sentence against him.
- (12) Where under this section an officer of police delivers a person into military or air force custody, there shall be handed over with him a certificate which shall—
- (a) be in such form as may be specified by order under paragraph 12 of Schedule 3 to the Armed Forces Act 1976;
 - (b) be signed by that officer of police ; and
 - (c) state the fact, date, time and place of arrest;
- and such a certificate shall for the purposes of this Act be evidence of the matters stated therein.
- (13) In this paragraph ' the directing officer ', in relation to an offender, means the higher authority by whom the offender was sent for trial for the offence in respect of which the award of sentence was deferred, or any officer for the time being discharging the functions of that authority.”
- (2) The provisions set out in subsection (1) above shall also be inserted after paragraph 2 of Schedule 5A to the Air Force Act 1955 but as if in sub-paragraph (9)(a) for the words from " regular forces " to " 1955)" there were substituted the words " regular air force or of the regular forces (within the meaning of the Army Act 1955) ".
- (3) In paragraph 12 of Schedule 3 to the Armed Forces Act 1976 (power to make orders with respect to procedures before Standing Civilian Courts), after sub-paragraph (3) there shall be inserted the following sub-paragraph—
- “(3A) An order under this paragraph may, for the purposes of paragraph 2A of Schedule 5A to the Army Act 1955 and paragraph 2A of Schedule 5A to the Air Force Act 1955, specify the conditions to be satisfied, in relation to an offender, before a Standing Civilian Court that has deferred the award of sentence against the offender may award sentence during the period of deferment.”

10 Extension of power to make community supervision orders in relation to civilians

- (1) In Schedule 5A to each of the 1955 Acts and Schedule 4A to the 1957 Act, in paragraph 4(1) (power to make community supervision order in relation to a civilian under 21 years of age), the words " under 21 years of age" shall be omitted.
- (2) In the first column of the Table in paragraph 15(3) of each of the Schedules amended by subsection (1) above (scale of punishments and orders for offenders of 21 and over), after paragraph 3 there shall be inserted the following paragraph—
- “3A Community supervision order.”

11 Extension of power to make custodial orders in relation to civilians

- (1) In Schedule 5A to each of the 1955 Acts and Schedule 4A to the 1957 Act, in paragraph 10(1) (custodial orders in respect of offender under 21 but not less than 17 years of age)—
- (a) for the words " 17 years of age " there shall be substituted the words " the minimum age " ; and
 - (b) at the end there shall be inserted the words—

“and in this sub-paragraph ' the minimum age', in relation to a male offender, means 15 years of age and, in relation to a female offender, means 17 years of age.”
- (2) In paragraph 10(1A) of each of the Schedules amended by subsection (1) above (restriction on making of custodial orders), at the end there shall be inserted the words " and the court shall not make a custodial order committing an offender under 17 years of age to be detained for a period which exceeds twelve months or for a period such that the continuous period for which he is committed to be detained under that order and any one or more other custodial orders exceeds twelve months."
- (3) In paragraph 10 (6) (b) of each of the said Schedules (appropriate institution in Scotland), for sub-paragraph (i) there shall be substituted the following sub-paragraphs—
- “(i) if the offender is a male person who is under the age of 16 years, such place as the Secretary of State may direct;
 - (ia) subject to sub-paragraph ((b) below, if the offender is a male person who has attained 16 years of age and the period specified in the order is not less than twenty-eight days nor more than four months, a detention centre;
 - (ib) where detention in a detention centre would be required by sub-paragraph (ia) above but the offender has already served such a sentence, a young offenders institution; and”.
- (4) In paragraph 10(6)(c) of each of the said Schedules (appropriate institution in Northern Ireland), for the words " a young offenders centre " there shall be substituted the following sub-paragraphs—
- “(i) if the offender is a male person who is under the age of 17 years, a remand home ; and
 - (ii) in any other case, a young offenders centre ;”.
- (5) In the third column of the Table in paragraph 15(3) of each of the said Schedules (scale of punishments and orders for offenders under 17), after paragraph 1 there shall be inserted the following paragraph—
- “1A Custodial order.”
- (6) This section shall not have effect in relation to offences committed before the coming into force of this section.

Status: This is the original version (as it was originally enacted).

12 Power of court-martial to suspend sentence on appeal from Standing Civilian Court

- (1) In paragraph 18 of Schedule 3 to the Armed Forces Act 1976 (appeals from Standing Civilian Courts), after subparagraph (11) there shall be inserted the following sub-paragraph—

“(12) Where a court-martial passes a sentence on an appeal under this paragraph in a case in which the sentence of the Standing Civilian Court was suspended under paragraph 20(4) below, the court-martial may, if it thinks fit, direct that the suspension shall apply to the sentence of the court-martial in the same way as it would have applied to the sentence of the Standing Civilian Court.”

- (2) Accordingly, in sub-paragraph (8) of that paragraph, after the word " above " there shall be inserted the words " and sub-paragraph (12) below ".

13 Change of place of safety and return to United Kingdom of children in need of care or control

- (1) Section 14 of the Armed Forces Act 1981 (temporary removal to and detention in a place of safety abroad of children of service families in need of care or control) shall be amended as follows.

- (2) For subsection (3) (power to order removal of child to place of safety outside United Kingdom) there shall be substituted the following subsection—

“(3) If an officer having jurisdiction in relation to a child to whom this section applies thinks fit, he may, on being satisfied on one or more of the grounds specified in subsection (4) below that the child is in need of care or control, order the child to be removed to and detained in a place of safety.”

- (3) After subsection (4) there shall be inserted the following subsection—

“(4A) A place of safety in which a child is required to be detained under this section may be situated either in the country or territory where the child resides or elsewhere (including in the United Kingdom); and an officer having jurisdiction in relation to a child detained in a place of safety outside the United Kingdom may make an order (including an order involving the return of the child to the United Kingdom) modifying the order by which the child is detained so as to require the child to be removed to and detained in another place of safety.”

- (4) In subsection (5) (officers having power to make orders)—

- (a) for the words from the beginning to " say " there shall be substituted the words " The officers having jurisdiction in relation to a child to whom this section applies or a child detained in a place of safety are " ; and
- (b) in paragraph (b), after the word " resides " there shall be inserted the words " or, as the case may be, was residing when he was removed to a place of safety ".

- (5) For subsections (7) to (9) (matters to be specified in order and effect and duration of orders) there shall be substituted the following subsections—

- “(7) An order made by virtue of subsection (3) or (4A) above shall specify the place of safety to which the child is to be removed and shall be sufficient authority for—
- (a) the removal of the child to the place specified in the order;
 - (b) the detention of the child for the purpose of that removal in any other place or on board any ship or aircraft; and
 - (c) the detention of the child in the place so specified in accordance with the order.
- (8) An order made by virtue of subsection (3) above in relation to a child shall specify the period for which it is to have effect, being—
- (a) in a case where the order is made by the commanding officer of the person to whose family the child belongs or with whose family the child resides, a period not exceeding the period of eight days beginning with the date of the order ; and
 - (b) in a case where the order is made by an officer superior in command to the commanding officer of either of those persons, a period not exceeding the period of twenty-eight days beginning with that date;
- and, subject to the following provisions of this section, neither that order nor any order under subsection (4A) above modifying that order shall authorise the detention of the child after the end of the specified period.
- (9) Where it at any time appears to an officer having jurisdiction in relation to a child detained by virtue of an order under this section—
- (a) that the period for which the order is to have effect is less than the maximum period applicable under subsection (8) above in relation to an order made by that officer ; and
 - (b) that it is appropriate, for any reason, for the effect of the order to be extended or further extended,
- that officer may order the effect of the order to continue until a time no later after the making of the original order than the end of the said maximum period.
- (9A) Where a child is removed under this section to a place of safety in the United Kingdom—
- (a) the order in pursuance of which he is so removed shall not authorise his detention in that place after the end of the period of twenty-four hours beginning with his arrival in that place ; but
 - (b) the powers conferred by the Children and Young Persons Act 1933, the Children and Young Persons Act 1969, the Social Work (Scotland) Act 1968 and the Children and Young Persons Act (Northern Ireland) 1968 shall be exercisable in relation to the child as if everything which was relevant to the question under this section whether the child was in need of care or control were relevant, notwithstanding that the child is or has been detained in a place of safety, to the question whether the conditions for the exercise of any of those powers are satisfied.”
- (6) In subsection (10) (right of parent to make representations before order made), for the words " for the time being " there shall be substituted the words " or, as the case may be, was residing when he was removed to a place of safety under this section " .

Reserve liability of women

14 Reserve liability of women

Paragraph (a) of section 213 of the Army Act 1955 (so much of Part I of that Act as relates to service in and transfer to the reserve not to apply in relation to women members of the regular forces) shall cease to have effect.

PART III

SUPPLEMENTAL

15 Interpretation

In this Act—

" the 1955 Acts " means the Army Act 1955 and the Air Force Act 1955 ; and
" the 1957 Act " means the Naval Discipline Act 1957.

16 Correction of minor deficiencies, repeals and transitional provision

- (1) Schedule 1 to this Act shall have effect for correcting certain minor deficiencies in the 1955 Acts and in the 1957 Act.
- (2) The enactments mentioned in Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) The repeals made by this Act in Schedule 3 to each of the 1955 Acts and the repeals of section 29 of the Armed Forces Act 1966 and of paragraph 1(12) and (13) of Schedule 1 to the Armed Forces Act 1971 shall not have effect in relation to proceedings for an offence committed before the coming into force of section 4 above.

17 Short title and commencement

- (1) This Act may be cited as the Armed Forces Act 1986.
- (2) Subject to subsection (3) below, Part II of this Act, section 16 above and the provisions of Schedules 1 and 2 to this Act shall come into force on such day as the Secretary of State may, by order made by statutory instrument, appoint; and different days may be so appointed for different provisions and for different purposes.
- (3) The repeal by this Act of section 1 of the Armed Forces Act 1981 shall come into force on 1st September 1986.