



Army Act 1955 (repealed)

1955 CHAPTER 18 3 and 4 Eliz 2

PART VI

APPLICATION OF ACT AND SUPPLEMENTAL PROVISIONS

Persons subject to military law

Textual Amendments applied to the whole legislation

- F1** Act: the provisions of the 1955 Acts providing for findings of courts-martial to be subject to confirmation and to revision at the direction of the confirming officer cease to have effect (1.4.1997 subject to art. 3 of the commencing S.I.) by virtue of 1996 c. 46, s. 15; S.I. 1997/304, arts. 2, 3, **Sch. 2**

205 Persons subject to military law: general provisions.

(1) The following persons are subject to military law:—

- (a) every officer holding a land forces commission (within the meaning of any Order of Her Majesty for the time being regulating the granting of commissions) and for the time being employed, or recalled for employment, in Her Majesty's service in any capacity in which he can be required to be employed as the holder of his commission;
- (b) every officer holding a land forces commission (within the meaning aforesaid) who for the time being is not employed, or not employed as mentioned in paragraph (a) of this subsection, but is liable (otherwise than in specified circumstances only) to be recalled to military service under Her Majesty;
- (c) every officer, not subject to military law under the foregoing provisions of this section, who being the holder of a land forces commission (within the meaning aforesaid) is employed in Her Majesty's service in employment of which it is an express condition that while employed therein he is to be subject to military law;
- (d) every officer, not subject to military law under the foregoing provisions of this section, who, with the approval of [^{F1}the Defence Council] given subject

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to an express condition that while in that employment he is to be subject to military law, is employed otherwise than in Her Majesty's service;

- (e) every officer holding a commission in the Territorial Army who is on the active list (as defined by the regulations for the Territorial Army) or on the permanent staff of the Territorial Army, ^{F2}or who is not on the said list but is called out on permanent service or is otherwise serving (whether in pursuance of an obligation or not) with any body of troops for the time being subject to military law;]
- (f) every warrant officer, non-commissioned officer and soldier of the regular forces;
- (g) every warrant officer, non-commissioned officer and man of the army reserve when called out on permanent service or in aid of the civil power or when undergoing annual or other training (whether in pursuance of an obligation or not), or when otherwise employed in Her Majesty's service as mentioned in paragraph (c) of this subsection;
- (h) every warrant officer, non-commissioned officer and man of the Territorial Army when embodied or called out for home defence service, when undergoing training or attending drills or parades (whether in pursuance of an obligation or not), or when serving on the permanent staff of the Territorial Army;
- (i) every person in receipt of a pension in respect of service in the regular forces, or of such service and other service, who is employed in Her Majesty's service as mentioned in paragraph (c) of this subsection;
- (j) every person not otherwise subject to military law who is serving in any force raised by order of Her Majesty outside the United Kingdom and is under the command of an officer holding a land forces commission or a commission in the Territorial Army;
- (k) every member of the Home Guard when on duty (as defined in the ^{M1}Home Guard Act 1951) or during any period (as so defined) during which the platoon or other part of the Home Guard to which he belongs is mustered (as so defined).

- (2) For the purposes of paragraph (d) of the last foregoing subsection a certificate of ^{F1}the Defence Council] that approval to a person's employment was given subject to the condition mentioned in that paragraph shall be conclusive evidence of the facts stated in the certificate.

(3)^{F3}

Textual Amendments

- F1** Words substituted by S.I. 1964/488, **Sch. 1 Pt. 1**
- F2** Words substituted by Reserve Forces Act 1966 (c. 30), **Sch. 1 para. 32**; continued by Reserve Forces Act 1980 (c. 9), **Sch. 8 para. 5(1)(a)**
- F3** S. 205(3) repealed by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(2), **Sch. 2**

Marginal Citations

- M1** 1951 c. 8 (15 and 16 Geo. 6 & 1 Eliz. 2).

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206 Persons subject to military law: Commonwealth forces.

Members of a naval, military or air force being a Commonwealth force are subject to military law to such extent, and subject to such adaptations and modifications, as may be provided by or under any enactment relating to the attachment of members of such forces.

207 Persons subject to military law: Colonial forces.

(1) Subject to the provisions of this section, where any military force is raised under the law of a colony, any such law—

- (a) may make provision in relation to that force and the officers, warrant officers, non-commissioned officers and soldiers thereof so as to have effect as well when they are outside as when they are within the limits of the colony;
- (b) may apply in relation to the force and the officers, warrant officers, non-commissioned officers and soldiers thereof all or any of the provisions of this Act, either with or without adaptations, modifications or exceptions.

(2) Where any military force raised under the law of a colony is serving with part of the regular forces, the army reserve or the Territorial Army, then in so far as the law of the colony does not provide for the government and discipline of the force and the members thereof this Act shall apply—

- (a) to the officers thereof as it applies to officers holding land forces commissions, and
- (b) to the warrant officers, non-commissioned officers and soldiers thereof as it applies to warrant officers, non-commissioned officers and soldiers of the regular forces,

but subject to such adaptations, modifications or exceptions as may be specified in the general orders of the officer, whether military, naval or air-force but not below the rank of colonel or corresponding rank, commanding the forces with which the force raised in the colony is serving.

(3) While any officer, warrant officer, non-commissioned officer or soldier belonging to a force raised under the law of a colony is attached to, doing duty with, or otherwise acting as part of or with any portion of the regular forces, the army reserve or the Territorial Army [^{F4}outside that colony], the foregoing provisions of this section shall not apply in relation to him, but he shall be subject to military law by virtue of this subsection and this Act shall apply to him as if he were a member of the regular forces.

Textual Amendments

F4 Words substituted by [Army and Air Force Act 1961 \(c. 52\), s. 35](#)

208 Persons subject to military law: attached members of naval and air forces.

Where a member of any of Her Majesty's naval or air forces is attached to any part of the regular forces, the army reserve or the Territorial Army, he shall while so attached be subject to military law; and the provisions of the Sixth Schedule to this Act shall have effect as respects persons subject to military law by virtue of this section.

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[^{F5}208A Application of Act to passengers in H.M. ships and aircraft.

Part II of this Act shall, to such extent and subject to such modifications as may be prescribed by regulations made by the Defence Council, apply to persons embarked as passengers on board Her Majesty's ships or aircraft (not being persons who are subject to military law by virtue of any of the foregoing provisions of this Act, or persons who are subject to air-force law or to the ^{M2}Naval Discipline Act 1957) as it applies to persons subject to military law.]

Textual Amendments

F5 S. 208A inserted by [Armed Forces Act 1971 \(c. 33\)](#), s. [72\(1\)](#)

Marginal Citations

M2 1957 c. 53.

209 Application of Act to civilians.

- (1) Subject to the modifications hereinafter specified, where any body of the regular forces is on active service, Part II of this Act shall apply to any person who is employed in the service of that body of the forces or any part or member thereof, or accompanies the said body or any part thereof, and is not subject to military law, [^{F6}the ^{M3}Naval Discipline Act 1957], or air-force law apart from this section or any corresponding provisions of that Act or the ^{M4}Air Force Act 1955, as the said Part II applies to persons subject to military law.
- (2) Subject to the modifications hereinafter specified, Part II of this Act shall at all times apply to a person of any description specified in the Fifth Schedule to this Act who is within the limits of the command of any officer commanding a body of the regular forces outside the United Kingdom, and is not subject to military law, [^{F6}the ^{M5}Naval Discipline Act 1957], or air-force law apart from this section or any corresponding provisions of that Act or the ^{M6}Air Force Act 1955, as the said Part II applies to persons subject to military law:

Provided that none of the provisions contained in sections twenty-four to sixty-nine of this Act shall apply to a person by virtue only of this subsection [^{F7}except section 29, sections 35 and 36, sections 55 to 57, and section 68 so far as it relates to those sections].

- (3) The said modifications are the following:
 - [^{F8}(a) on a trial—
 - (i) a court-martial may award the punishments specified in paragraphs (a), (b) and (h) of section 71(1) above, except that section 71(5)(a) above shall not apply to the amount of a fine;
 - (ii) a Standing Civilian Court established under the ^{M7}Armed Forces Act 1976 may award any punishment authorised for such courts by section 8 of that Act; and
 - (iii) a court-martial or Standing Civilian Court may make any order authorised by Schedule 5A below;
 - (aa) any such order shall be treated as a punishment for the purposes of this Act;
 - (ab) paragraph 15 of Schedule 5A below shall have effect in substitution for the words in section 71(1) above from “and references in this Act” to the end;]

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- (b) the punishment which may be awarded where a charge is dealt with summarily shall, in the case of any offence, be a fine not exceeding [^{F9}£100], but no other punishment;
 - (c) the following provision shall have effect in substitution for subsections (2) to (4) of section seventy-four, that is to say that a person may be arrested by a provost officer, by any warrant officer or non-commissioned officer legally exercising authority under a provost officer or on his behalf, or by order of any officer of the regular forces;
 - (d) where a charge is being dealt with summarily and it [^{F10}is considered] that the accused is guilty, a finding shall not be recorded until after the accused has been afforded an opportunity of electing to be tried by court-martial, and if the accused so elects a finding shall not be recorded but such steps shall be taken with a view to the charge being tried by court-martial as may be prescribed by Rules of Procedure;
 - (e) the provisions of this Act relating to the investigation of, and summary dealing with, offences shall save as otherwise expressly provided apply as they apply to officers and warrant officers;
 - (f) for the purposes of the provisions of this Act relating to the investigation of offences, the commanding officer shall be such officer as may be determined by or under regulations of [^{F11}the Defence Council] made for the purposes of this section;
- [^{F12}(fa) a court-martial for the trial of any such person as is mentioned in subsection (1) or (2) above may include in place of the corresponding number of officers—
- (i) if it is a general court-martial constituted under section 87 above, not more than two persons who are in the service of the Crown and are persons such as are mentioned in subsection (1) or (2) above, and
 - (ii) if it is a district court-martial constituted under section 88 above, not more than one person who is in the service of the Crown and is himself a person such as is mentioned in either of those subsections,
- but a person who is a member of a court-martial by virtue of this paragraph shall not be appointed the president of the court-martial;]
- (fb)
 - [^{F13}(g) for references in sections one hundred and thirty-one and one hundred and thirty-two of this Act to being, continuing, or ceasing to be subject to military law there shall be substituted references to being, continuing to be or ceasing to be in such circumstances that the said Part II applies, and subsection (3) of the said section one hundred and thirty-one shall not apply.
- [^{F14}(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.]
- [^{F15}(3B) In their application to any area for which Standing Civilian Courts are established under the [^{M18}Armed Forces Act 1976—

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- (a) section 75(2) above shall have effect as if references to the assembling of a court-martial for a person's trial included references to his being brought before a Standing Civilian Court;
- (b) section 103(1) above shall have effect—
 - (i) as if the words “with respect to the hearing by courts-martial of appeals pursuant to paragraph 18 of Schedule 3 to the ^{M9}Armed Forces Act 1976 against findings and sentences of Standing Civilian Courts established under that Act” were inserted after the word “authorities”; and
 - (ii) as if the words “and may prescribe modifications of sections 76, 77, 79 and 80 above in relation to charges which may be tried by Standing Civilian Courts and which are brought against persons whom such courts may try” were added at the end; and
- (c) subsection (3) above shall have effect in relation to charges which may be tried by Standing Civilian Courts and which are brought against persons whom such courts may try, but without prejudice to its effect in relation to other charges, as if the following paragraph were substituted for paragraph (e):—
 - “(e) sections 76, 77, 79 and 80 above shall apply as they apply to officers and warrant officers, subject to such modifications consequential on the establishment of Standing Civilian Courts as may be prescribed by Rules of Procedure and by any order under paragraph 12 of Schedule 3 of the Armed Forces Act 1976;”]

[^{F16}(4) A fine awarded against any person by virtue of this section by a court-martial, a Standing Civilian Court or the appropriate superior authority, and a sum which an order under paragraph 11 of Schedule 5A below requires any person to pay shall be recoverable, in the United Kingdom or any colony, as a debt due to Her Majesty.

(4A) The registration of a financial penalty enforcement order under section 133A above shall not affect the power of recovery in a colony conferred by subsection (4) above.

(4B) Section 199 above shall apply to persons such as are mentioned in subsection (1) or (2) above, as it applies to persons subject to military law.]

[^{F17}(5) This section does not apply to any person to whom section 208A above applies.]

Textual Amendments

- F6** Words substituted by virtue of [Naval Discipline Act 1957 \(c. 53\)](#), **s. 137(2)**
- F7** Words substituted by [Armed Forces Act 1971 \(c. 33\)](#), **s. 78(4)**, **Sch. 1 para. 1(9)(a)**
- F8** [S. 209\(3\)\(a\)\(aa\)\(ab\)](#) substituted for [s. 209\(3\)\(a\)](#) by [Armed Forces Act 1976 \(c. 52\)](#), **Sch. 9 para. 5**
- F9** Words substituted by [Armed Forces Act 1981 \(c. 55\)](#), **Sch. 1 para. 1**
- F10** Words substituted by [Armed Forces Act 1981 \(c. 55\)](#), **Sch. 2 para. 2**
- F11** Words substituted by [S.I. 1964/488](#), **Sch. 1 Pt. I**
- F12** [S. 209\(3\)\(fa\)](#) inserted by [Armed Forces Act 1976 \(c. 52\)](#), **s. 9(1)**
- F13** [S. 209\(3\)\(fb\)](#) repealed by [Armed Forces Act 1981 \(c. 55\)](#), **Sch. 5 Pt. II**
- F14** [S. 209\(3A\)](#) inserted by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), **s. 8(1)**
- F15** [S. 209\(3A\)](#), which was inserted by [Armed Forces Act 1976 \(c. 52\)](#), **Sch. 9 para. 6**, renumbered as subsection (3B) by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), **s. 8(1)**
- F16** [S. 209\(4\)\(4A\)\(4B\)](#) substituted for [s. 209\(4\)](#) by [Armed Forces Act 1976 \(c. 52\)](#), **Sch. 9 para. 7**
- F17** [S. 209\(5\)](#) added by [Armed Forces Act 1971 \(c. 33\)](#), **s. 72(2)**

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Marginal Citations

- M3** [1957 c. 53.](#)
- M4** [1955c. 19.](#)
- M5** [1957 c. 53.](#)
- M6** [1955c. 19.](#)
- M7** [1976 c. 52.](#)
- M8** [1976c. 52.](#)
- M9** [1976 c. 52.](#)

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