

Status: Point in time view as at 01/10/2009.

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Naval Discipline Act 1957 (repealed)

1957 CHAPTER 53 5 and 6 Eliz 2

PART I

ARTICLES OF WAR

Modifications etc. (not altering text)

- C1** Pt. I (ss. 1-44) applied (1.6.1996) by [Armed Forces Act 1991 \(c. 62\)](#), ss. 18(9)(c), 20(10)(c), 27(2); S.I. 1996/1173, [art. 2](#)

Textual Amendments applied to the whole legislation

- F1** Act repealed (1.1.2008 for the repeal of s. 130 only, 28.3.2009 for further specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 17](#); S.I. 2007/2913, [art. 3](#) (with [art. 4\(1\)\(2\)](#)); S.I. 2009/812, [art. 3\(a\)\(b\)](#) (with transitional provisions in S.I. 2009/1059)

Public worship

1 Public worship to be performed.

All officers in command of Her Majesty's ships shall cause public worship of Almighty God to be solemnly, orderly and reverently performed in their respective ships, and shall take care that prayers and preaching, by the chaplains of those ships, be performed diligently and that the Lord's Day be observed.

Misconduct in action and other offences arising out of naval service

[^{F1}2 Misconduct in action.

- (1) A person subject to this Act shall be guilty of an offence against this section if, without lawful excuse, he—

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- (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 this Act 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
 - (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 be [^{F2}liable to imprisonment or any less punishment authorised by this Act]

Textual Amendments

F1 Ss. 2-4 substituted for ss. 2-5 by [Armed Forces Act 1971 \(c. 33\)](#), [ss. 2\(1\)\(3\)](#), 78(4)

F2 Words in [s. 2\(3\)](#) substituted (11.5.2001) for [s. 2\(3\)\(a\)\(b\)](#) and the preceding word "liable" by [2001 c. 19](#), [ss. 34](#), [39\(3\)\(f\)](#), [Sch. 6 Pt. 4 para. 19](#)

3 Assisting the enemy.

- (1) A person subject to this Act 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 be [^{F3}liable to imprisonment or any less punishment authorised by this Act]

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Textual Amendments

- F3** Words in s. 3(2) substituted (11.5.2001) for s. 3(2)(a)(b) and the preceding word “liable” by 2001 c. 19, ss. 34, 39(3)(f), [Sch. 6 Pt. 4 para. 20](#)

4 Obstructing operations, giving false air signals, etc.

- (1) A person subject to this Act 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 this Act 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 be [^{F4}liable to imprisonment or any less punishment authorised by this Act]

Textual Amendments

- F4** Words in s. 4(3) substituted (11.5.2001) for s. 4(3)(a)(b) and the preceding word “liable” by 2001 c. 19, ss. 34, 39(3)(f), [Sch. 6 Pt. 4 para. 21](#)

[^{F5} 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.]

Textual Amendments

- F5** S. 5 inserted by [Armed Forces Act 1971 \(c. 33\)](#), [ss. 6\(2\), 78\(4\)](#)

Modifications etc. (not altering text)

- C2** S. 5 extended (E.W.) (S.) by [Rehabilitation of Offender's Act 1974 \(c. 53\)](#), [s. 2\(3\)\(b\)](#)

[^{F6} Offences by or in relation to sentries, persons on watch etc.

Any person subject to this Act who—

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- (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) . . . ^{F7} 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
- (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 to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.]

Textual Amendments

- F6** S. 6 substituted by [Armed Forces Act 1971 \(c. 33\)](#), ss. **4(1)(3)**, 78(4)
- F7** Words repealed by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), ss. 4(1), 16(2), **Sch. 2**

[^{F8}7 Failure to attend for duty, neglect of duty etc.

Any person subject to this Act 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 to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.]

Textual Amendments

- F8** S. 7 substituted by [Armed Forces Act 1971 \(c. 33\)](#), ss. **5(1)(3)**, 78(4)

Mutiny

8 Definition of “mutiny”.

In this Act “mutiny” means a combination between two or more persons subject to service law, or between persons two at least of whom are subject to service law,—

- (a) to overthrow or resist lawful authority in Her Majesty’s forces or any forces co-operating therewith, or in any part of any of the said forces;
- (b) to disobey such authority in such circumstances as to make the disobedience subversive of discipline, or with the object of avoiding any duty or service against, or in connection with operations against, the enemy; or
- (c) to impede the performance of any duty or service in Her Majesty’s forces or in any forces co-operating therewith, or in any part of any of the said forces;

and “service law” means this Act, military law or air force law.

9 Offences of mutiny.

^{F9}(1)

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- (2) Every person subject to this Act who takes part in a mutiny^{F10} . . . , or incites any other person subject to service law to take part in such a mutiny, whether actual or intended, shall be liable to imprisonment . . .^{F11} or any less punishment authorised by this Act.

Textual Amendments

- F9** S. 9(1) repealed (11.5.2001) by 2001 c. 19, ss. 38, 39(3)(g), Sch. 7 Pt. 4
F10 Words in s. 9(2) repealed (11.5.2001) by 2001 c. 19, ss. 38, 39(3)(g), Sch. 7 Pt. 4
F11 Words repealed by Armed Forces Act 1971 (c. 33), s. 78(4), Sch. 4 Pt. I

10 Failure to suppress mutiny.

Every person subject to this Act who, knowing that a mutiny is taking place or is intended,—

- (a) fails to use his utmost endeavours to suppress or prevent it; or
(b) fails to report without delay that the mutiny is taking place or is intended,
shall be liable^{F12} . . . to imprisonment . . .^{F13} or any less punishment so authorised.

Textual Amendments

- F12** Words in s. 10 repealed (11.5.2001) by 2001 c. 19, ss. 38, 39(3)(g), Sch. 7 Pt. 4
F13 Words repealed by Armed Forces Act 1971 (c. 33), s. 78(4), Sch. 4 Pt. I

Insubordination and similar offences

[^{F14}11 Insubordinate behaviour.

Every person subject to this Act who—

- (a) . . .^{F15} uses violence to, or offers violence to, his superior officer, or
(b) uses threatening or insubordinate language to, or behaves with contempt to, his superior officer,

shall be liable to imprisonment or any less punishment authorised by this Act:

Provided that it shall be a defence for any person charged under this section, to prove that he neither knew nor had reasonable cause to believe that the person in relation to whom the offence is alleged to have been committed was his superior officer.]

Textual Amendments

- F14** Ss. 11, 12 substituted by Armed Forces Act 1971 (c. 33), ss. 8(3), 78(4)
F15 Words repealed by Armed Forces Act 1986 (c. 21, SIF 7:1), ss. 4(1), 16(2), Sch. 2

12 Disobedience to lawful commands.

Any person subject to this Act who, whether wilfully or through neglect, disobeys any lawful command (by whatever means communicated to him) shall be liable to imprisonment or any less punishment authorised by this Act.

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[^{F16}12A Failure to provide a sample for drug testing.

(1) Any person subject to this Act who, when requested to do so by a drug testing officer, fails to provide a sample of his urine for [^{F17}the purpose of ascertaining whether, or to what extent, he has, or has had, drugs in his body] shall,^{F18} . . . , be liable to imprisonment for a term not exceeding six months or any less punishment provided by this Act.

[A drug testing officer may not request a person to provide a sample under ^{F19}(1A) subsection (1) above if—

- (a) he is that person’s commanding officer, or
- (b) the commanding officer of that person is his commanding officer.

(1B) A request under subsection (1) above may not be made if the sample is sought in connection with—

- (a) an investigation under this Act of an offence, or
- (b) an investigation of such an incident as is referred to in section 32(1)(a) of the Armed Forces Act 2001 (powers to test for alcohol or drugs after serious incident).

(1C) The results of tests performed on a sample provided by a person at the request of a drugs testing officer shall not be admissible in evidence against—

- (a) that person, or
- (b) any other person,

in proceedings before a court-martial, commanding officer or appropriate superior authority.

(1D) Nothing in this section—

- (a) limits the powers conferred by—
 - [^{F20}(i) any provision of the Road Traffic Act 1988 (c. 52),]
 - (ii) sections 62 and 63 of the Police and Criminal Evidence Act 1984 (intimate and other samples), as applied by order under section 113(1) of that Act; or
- (b) affects the admissibility in any proceedings of evidence obtained under those powers.]

(2) For the purposes of this section—

“drug” means any drug which is a controlled drug for the purposes of the Misuse of Drugs Act 1971; and

“drug testing officer” means an officer, warrant officer [^{F21}, chief petty officer, petty officer or leading rating] who is authorised by or in accordance with Queen’s Regulations for the purpose of supervising the conduct of tests for the presence of drugs.]

Textual Amendments

F16 S. 12A inserted (1.10.1996 with savings) by 1996 c. 46, s. 32(3); S.I. 1996/2474, art. 2 (with art. 3)

F17 Words in s. 12A(1) substituted (3.2.2006) by 2001 c. 19, ss. 32(9), 39(2), Sch. 5 para. 5(2)(a); S.I. 2006/235, art. 2 (with art. 3)

F18 Words in s. 12A(1) omitted (28.2.2002) by virtue of 2001 c. 19, ss. 32(9), 39(2), Sch. 5 para. 5(2)(b) and repealed (prosp.) by 2001 c. 19, s. 38, Sch. 7 Pt. 7; S.I. 2002/345, art. 2 (subject to art. 3)

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- F19** S. 12A(1A)-(1D) inserted (3.2.2006) by 2001 c. 19, ss. 32(9), 39(2), Sch. 5 para. 5(3); S.I. 2006/235, art. 2 (with art. 3)
- F20** S. 12A(1D)(a)(i) substituted (30.3.2004) by Railways and Transport Safety Act 2003 (c. 20), ss. 107, 120, Sch. 7 para. 11; S.I. 2004/827, art. 3(ii)
- F21** S. 12A(2): words in the definition of "drug testing officer" substituted (28.2.2002) by 2001 c. 19, s. 32(9), Sch. 5 para. 5(4); S.I. 2002/345, art. 2 (subject to art. 3)

[^{F22}12B Failure to provide sample after serious incident

Any person subject to this Act who, without reasonable excuse, fails to comply with a request made under subsection (3) or (4) of section 32 of the Armed Forces Act 2001 (powers to test for alcohol or drugs after serious incident) shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding six months or any less punishment provided by this Act.]

Textual Amendments

- F22** S. 12B inserted (3.2.2006) by 2001 c. 19, ss. 32(9), 39(2), Sch. 5 para. 6; S.I. 2006/235, art. 2 (with art. 3)

13 Fighting and quarrelling.

Every person subject to this Act who [^{F23}without reasonable excuse]—

- (a) fights . . . ^{F24} with any other person, whether subject to this Act or not; or
- (b) uses threatening, abusive, insulting or provocative words or behaviour likely to cause a disturbance,

shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

Textual Amendments

- F23** Words inserted by [Armed Forces Act 1971 \(c. 33\)](#), ss. 16(3), 78(4)
- F24** Words repealed by [Armed Forces Act 1971 \(c. 33\)](#), s. 78(4), [Sch. 4 Pt. I](#)

14 Obstruction of provost officers.

Every person subject to this Act who . . . ^{F25} obstructs, or . . . ^{F25} refuses, when called on, to assist, any provost officer, or any person (whether subject to this Act or not) legally exercising authority under or on behalf of a provost officer, shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act:

[^{F26}Provided that it shall be a defence for any person charged under this section to prove that he neither knew nor had reasonable cause to believe that the person in relation to whom the offence is alleged to have been committed was a provost officer or, as the case may be, a person legally exercising authority under or on behalf of a provost officer.]

Textual Amendments

- F25** Word repealed by [Armed Forces Act 1971 \(c. 33\)](#), s. 78(4), [Sch. 4 Pt. I](#)

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F26 Proviso inserted by [Armed Forces Act 1971 \(c. 33\)](#), **ss. 9(1)(b)(2)**, 78(4)

[^{F27}14A Disobedience to standing orders.

- (1) Every person subject to this Act who contravenes or fails to comply with any provision of orders to which this section applies, being a provision known to him or which he might reasonably be expected to know, shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.
- (2) This section applies to standing orders or other routine orders of a continuing nature made for any formation or unit or body of Her Majesty's forces, or for any command or other area, garrison or place, or for any ship, vessel, train or aircraft.]

Textual Amendments

F27 [S. 14A](#) inserted by [Armed Forces Act 1971 \(c. 33\)](#), **ss. 10(3)**, 78(4)

Desertion and absence without leave

[^{F28}15 Definition of “desertion”.

A person is guilty of desertion within the meaning of this Act if he—

- (a) leaves or fails to attend at his unit, ship or place of duty with the intention of remaining permanently absent from duty without lawful authority, or, having left or failed to attend at his unit, ship or place of duty, thereafter forms the like intention, or
- (b) absents himself without leave with intent to avoid serving at any place overseas, or to avoid service or any particular service when before the enemy.]

Textual Amendments

F28 [S. 15](#) substituted by [Armed Forces Act 1971 \(c. 33\)](#), **ss. 11(3)**, 78(4)

16 Offences of desertion.

- (1) Every person subject to this Act who deserts shall be liable to imprisonment . . . ^{F29} or any less punishment authorised by this Act.
- (2) A person convicted of desertion shall, except so far as the court or officer by whom he is tried or [^{F30}the Defence Council] may otherwise direct, forfeit all pay, bounty, salvage and allowances earned by him, all annuities, pensions and gratuities granted to him, and all clothes and effects left by him on board his ship or at his place of duty.
- (3) . . . ^{F31}

Textual Amendments

F29 Words repealed by [Armed Forces Act 1971 \(c. 33\)](#), s. 78(4), **Sch. 4 Pt. I**

F30 Words substituted by [S.I. 1964/488](#), **Sch. 1 Pt. I**

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F31 Ss. 16(3), 17(2), 26 repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

17 Absence without leave etc.

(1) Every person subject to this Act who, . . . ^{F32},—

- (a) absents himself without leave; or
- (b) improperly leaves his ship . . . ^{F32},

shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act, and to such other punishment by way of forfeiture of pay or other benefits as may be prescribed by regulations made by [^{F33}the Defence Council.]

(2) . . . ^{F34}

Textual Amendments

F32 Words repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

F33 Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**

F34 Ss. 16(3), 17(2), 26 repealed by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 4 Pt. I**

18 Failure to report deserters and absentees.

Every person subject to this Act who, knowing that any other person subject thereto [^{F35}has committed an offence, or is attempting to commit an offence, under section 16(1) or section 17(1) of this Act],—

- (a) fails to report the fact without delay; or
- (b) fails to take any steps within his power to cause that person to be apprehended,

shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

Textual Amendments

F35 Words substituted by Armed Forces Act 1971 (c. 33), **ss. 13(3)**, 78(4)

Navigation and flying offences

19 Loss or hazarding of ship or aircraft.

Every person subject to this Act who, either wilfully or by negligence—

- (a) causes or allows to be lost, stranded or hazarded any of Her Majesty's ships or vessels; . . . ^{F36}
- (b) . . . ^{F37}

shall be liable, if he acts wilfully or with wilful neglect, to imprisonment . . . ^{F38} or any less punishment authorised by this Act, and in any other case to imprisonment for a term not exceeding two years or any less punishment so authorised.

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Textual Amendments

- F36** Words repealed by [Armed Forces Act 1971 \(c. 33\), s. 78\(4\), Sch. 4 Pt. I](#)
F37 [S. 19\(b\)](#) repealed by [Armed Forces Act 1971 \(c. 33\), s. 78\(4\), Sch. 4 Pt. I](#)
F38 Words repealed by [Armed Forces Act 1971 \(c. 33\), s. 78\(4\), Sch. 4 Pt. I](#)

20 Dangerous flying, etc.

Every person subject to this Act who is guilty of any act or neglect in flying, or in the use of any aircraft, or in relation to any aircraft or aircraft material, which causes or is likely to cause loss of life or bodily injury to any person shall be liable—

- (a) if he acts wilfully or with wilful neglect, to imprisonment . . . ^{F39} or any less punishment authorised by this Act;
- (b) in any other case, to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

Textual Amendments

- F39** Words repealed by [Armed Forces Act 1971 \(c. 33\), s. 78\(4\), Sch. 4 Pt. I](#)

21 Low flying.

Every person subject to this Act who, being the pilot of one of Her Majesty's aircraft, flies it at a height less than such height as may be provided by any regulations issued under the authority of [^{F40}the Defence Council], . . . ^{F41}, except—

- (a) while taking off or alighting; or
- (b) in such other circumstances as may be so provided,

shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

[^{F42}Provided that where a pilot flies an aircraft in contravention of this section on the orders of some other person who is in command of the aircraft, that other person shall be treated for the purposes of this section as having been the pilot of, and flying, the aircraft at the material time.]

Textual Amendments

- F40** Words substituted by [S.I. 1964/488, Sch. 1 Pt. I](#)
F41 Words repealed by [S.I. 1964/488, Sch. 1 Pt. I](#)
F42 Proviso inserted by [Armed Forces Act 1971 \(c. 33\), ss. 21\(1\), 78\(4\)](#)

22 Annoyance by flying.

Every person subject to this Act who, being the pilot of one of Her Majesty's aircraft, flies it so as to cause, or to be likely to cause, unnecessary annoyance to any person shall be liable to dismissal from Her Majesty's Service or any less punishment authorised by this Act.

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[^{F43}Provided that where a pilot flies an aircraft in contravention of this section on the orders of some other person who is in command of the aircraft, that other person shall be treated for the purposes of this section as having been the pilot of, and flying, the aircraft at the material time.]

Textual Amendments

F43 Proviso inserted by [Armed Forces Act 1971 \(c. 33\)](#), **ss. 21(1)**, 78(4)

Prize offences

23 Prize offences by commanding officers.

Every person subject to this Act who, being in command of any of Her Majesty's ships, vessels or aircraft,—

- (a) having taken any ship, vessel 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;
- (b) unlawfully makes any agreement for the ransoming of any ship, vessel, aircraft or goods taken as prize; or
- (c) in pursuance of any such agreement as aforesaid, or otherwise by collusion, restores or abandons any ship, vessel, aircraft or goods taken as prize,

shall be liable to [^{F44}imprisonment for a term not exceeding two years] or any less punishment authorised by this Act.

Textual Amendments

F44 Words substituted by [Armed Forces Act 1971 \(c. 33\)](#), **ss. 3(3)**, 78(4)

24 Other prize offences.

Every person subject to this Act who—

- (a) . . . ^{F45}ill-treats any person who is on board a ship, vessel or aircraft when taken as prize, or unlawfully takes from any such person anything in his possession;
- (b) removes out of any ship, vessel or aircraft taken as prize (otherwise than for safe keeping or for the necessary use and service of any of Her Majesty's forces [^{F46}or any forces co-operating therewith]) any goods not previously adjudged by a prize court to be lawful prize; or
- (c) breaks bulk on board any ship, vessel or aircraft taken as prize, or detained in exercise of any belligerent right or under any enactment, with intent to [^{F47}steal] anything therein,

shall be liable to [^{F48}imprisonment for a term not exceeding two years] or any less punishment authorised by this Act.

Textual Amendments

F45 Words repealed by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), **ss. 4(1)**, 16(2), **Sch. 2**

F46 Words inserted by [Armed Forces Act 1966 \(c. 45\)](#), **Sch. 4**

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- F47** Word substituted by [Armed Forces Act 1981 \(c. 55\), s. 15](#) except as to an offence alleged to have been committed before 1.5.1982
- F48** Words substituted by [Armed Forces Act 1971 \(c. 33\), ss. 3\(3\), 78\(4\)](#)

Other offences in respect of ships and aircraft

25 Inaccurate certification.

Every person subject to this Act who makes or signs, without having ensured its accuracy,—

- (a) a certificate relating to any matter affecting the seagoing or fighting efficiency of any of Her Majesty’s ships or vessels; or
- (b) any certificate relating to any of Her Majesty’s aircraft or aircraft material, shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

26 **F49**

Textual Amendments

- F49** Ss. 16(3), 17(2), 26 repealed by [Armed Forces Act 1971 \(c. 33\), s. 78\(4\), Sch. 4 Pt. I](#)

Malingering and drunkenness

27 Malingering.

- (1) A person is guilty of malingering within the meaning of this section if he falsely pretends to be suffering from sickness or disability, if he injures himself with intent thereby to render himself unfit for service, or causes himself to be injured by any person with that intent, [^{F50}if he injures another person subject to service law at the instance of that other person and with intent thereby to render that other person unfit for service] or if, with intent to render or keep himself unfit for service, he does or fails to do anything (whether at the time of the act or omission he is in hospital or not) whereby he produces, or prolongs or aggravates, any sickness or disability; and for the purposes of this subsection the expression “unfit” includes temporarily unfit.
- (2) Every person subject to this Act who malingers shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

Textual Amendments

- F50** Words inserted by [Armed Forces Act 1971 \(c. 33\), ss. 14, 78\(4\)](#)

28 Drunkenness.

- (1) A person is drunk within the meaning of this section if owing to the influence of alcohol or any drug, whether alone or in combination with any other circumstances, he is unfit to be entrusted with his duty or with any duty which he might [^{F51}reasonably

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expect to] be called upon to perform, or behaves in a disorderly manner or in a manner likely to bring discredit on Her Majesty's service.

- (2) Every person subject to this Act who is drunk, whether on duty or not, shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

Textual Amendments

F51 Words inserted by [Armed Forces Act 1971 \(c. 33\)](#), **ss. 15(2), 78(4)**

Offences relating to property

[^{F52}29 **Damage to, and loss of, public or service property etc.**

- (1) Any person subject to this Act who—
- (a) wilfully damages or causes the loss of, or is concerned in the wilful damage or loss of, any public or service property, or any property belonging to another person so subject, or
 - (b) by wilful neglect causes or allows damage to, or the loss of, any public or service property or property so belonging,
- shall be liable to imprisonment or any less punishment authorised by this Act.
- (2) Any person subject to this Act who—
- (a) by any negligent act or omission causes or allows damage to, or the loss of, any public or service property, or
 - (b) is guilty of any wilful or negligent act or omission which is likely to cause damage to, or the loss of, any such property,
- shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.]

Textual Amendments

F52 **Ss. 29, 29A, 30** substituted for ss. 29, 30 by [Armed Forces Act 1971 \(c. 33\)](#), **ss. 17(1)(3), 78(4)**

29A Damage to, and loss of, Her Majesty's aircraft or aircraft material.

- (1) Without prejudice to the generality of section 29 above, a person subject to this Act shall be guilty of an offence against this section if he—
- (a) wilfully damages or causes the loss of, or is concerned in the wilful damage or loss of, any of Her Majesty's aircraft or aircraft material, or
 - (b) by wilful neglect causes or allows damage to, or the loss of, any of Her Majesty's aircraft or aircraft material, or
 - (c) without lawful authority disposes of any of Her Majesty's aircraft or aircraft material, or
 - (d) by any negligent act or omission causes or allows damage to, or the loss of, any of Her Majesty's aircraft or aircraft material, or
 - (e) is guilty of any wilful or negligent act or omission which is likely to cause damage to, or the loss of, any of Her Majesty's aircraft or aircraft material, or

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- (f) during a state of war, wilfully and without proper occasion, or negligently, causes the sequestration by or under the authority of a neutral state, or the destruction in a neutral state, of any of Her Majesty's aircraft.
- (2) A person guilty of an offence against this section shall be liable—
- (a) if his offence consisted in an act or omission falling within paragraph (a), (b) or (c) of subsection (1), or if it consisted in an act or omission falling within paragraph (f) of that subsection and it is proved that he acted wilfully or with wilful neglect, to imprisonment or any less punishment authorised by this Act;
- (b) in any other case, to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

[^{F53}29B Interference etc. with equipment, messages or signals.

- (1) Any person subject to this Act 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 [^{F54}an electronic communications network] , directly or indirectly to or from any such equipment,
- shall be liable to imprisonment or any less punishment authorised by this Act.
- (2) Any person subject to this Act 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 to imprisonment for a term not exceeding two years or any less punishment authorised 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; [^{F55}and]
- [^{F55}“telecommunication system” has the same meaning as in the Telecommunications Act 1984.]]

Textual Amendments

F53 S. 29B inserted by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), s. 2(1)(2)

Status: Point in time view as at 01/10/2009.

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- F54** Words in s. 29B(1)(b) substituted (25.7.2003 for specified purposes and 29.12.2003 for specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 406, 411(2), [Sch. 17 para. 26](#) (with transitional provisions in [Sch. 18](#)); S.I. 2003/1900, art. 1(2), [2\(1\)](#), [Sch. 1](#) (with transitional provisions in arts. 3-6 (as amended by S.I. 2003/3142, art. 1(3)) and S.I. 2003/3142, [art. 3\(2\)](#) (with art. 11)
- F55** S. 29B(5): definition of "telecommunication system" and preceding word repealed (25.7.2003 for specified purposes and 29.12.2003 for specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 406, 411(2), [Sch. 19](#) (with transitional provisions in [Sch. 18](#)); S.I. 2003/1900, arts. 1(2), [2\(1\)](#), [Sch. 1](#) (with transitional provisions in arts. 3-6 (as amended by S.I. 2003/3142, art. 1(3)) and S.I. 2003/3142, [art. 3\(2\)](#) (with art. 11)

30 Misapplication and waste of public or service property.

Any person subject to this Act who misapplies or wastefully expends any public or service property shall be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Modifications etc. (not altering text)

- C3** S. 30 extended (E.W.) (S.) by [Rehabilitation of Offenders Act 1974 \(c. 53\)](#), s. [2\(3\)\(b\)](#)

31 Offences relating to issues and decorations.

- (1) Every person subject to this Act who makes away with (whether by pawning, selling, destroying or in any other way), or loses or by negligence damages or allows to be damaged—
- (a) any clothing, arms, ammunition or other equipment issued to him for his use for naval purposes; or
 - (b) any naval, military or air force decoration granted to him,
- shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.
- (2) It shall be a defence for a person charged under this section with losing any property that he took reasonable steps for its care and preservation.

Modifications etc. (not altering text)

- C4** S. 31 extended (E.W.) (S.) by [Rehabilitation of Offenders Act 1974 \(c. 53\)](#), s. [2\(3\)\(b\)](#)

Offences relating to billeting and requisitioning of vehicles, etc.

32 Billeting offences.

Every person subject to this Act who—

- (a) knowing that no billeting requisition [^{F56}issued under section 67(1) of the ^{M1}Armed Forces Act 1971], is in force authorising him to demand any billets, or that he is otherwise not authorised to demand them, obtains those billets or orders or procures another person to obtain them;
- (b) takes or agrees to take, or demands, from a person on whom he or any other person or any vehicle is or is to be billeted in pursuance of such a requisition

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any money or thing as consideration for not requiring, or ceasing to require, accommodation for himself or the said other person or standing room for the vehicle; or

- (c) wilfully or by wilful neglect destroys or damages, or causes or allows to be destroyed or damaged, any premises in which he is billeted in pursuance of such a requisition, or any property being in such premises,

shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

Textual Amendments

F56 Words substituted by [Armed Forces Act 1971 \(c. 33\), s. 67\(3\)](#)

Marginal Citations

M1 [1971 c. 33.](#)

33 Offences in relation to requisitioning of vehicles, etc.

(1) Every person subject to this Act who—

- (a) knowing that no requisitioning order [^{F57}issued under section 67(1) of the ^{M2}Armed Forces Act 1971], is in force authorising him to give directions for the provision of any vehicle, or that he is otherwise not authorised to give such directions, gives directions for the provision of the vehicle or orders or procures another person to give such directions;
- (b) in purported exercise of powers conferred by such a requisitioning order takes, or orders or procures any other person to take, possession of a vehicle, knowing that no such requisition order is in force under which the taking possession of the vehicle could be authorised, or that the taking possession thereof is otherwise not authorised under such an order; or
- (c) takes or agrees to take, or demands, from any person any money or thing as consideration for directions, or any particular directions, for the provision of a vehicle not being given, or possession of a vehicle not being taken, or not being retained, under such a requisitioning order,

shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

(2) Subsection (1) of this section shall apply in relation to horses, mules, food and forage, and in relation to other chattels required—

- (a) for vehicles, horses or mules furnished or to be furnished in pursuance of a requisitioning order [^{F57}issued under section 67(1) of the ^{M3}Armed Forces Act 1971], or for use in connection with such vehicles, horses or mules; or
- (b) for persons or vehicles billeted in pursuance of a billeting requisition issued as aforesaid, or otherwise temporarily accommodated or to be so accommodated, or for use in connection with such persons or vehicles,

as it applies in relation to vehicles.

Textual Amendments

F57 Words substituted by [Armed Forces Act 1971 \(c. 33\), s. 67\(3\)](#)

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Marginal Citations

M2 1971 c. 33.

M3 1971 c. 33.

Offences relating to, and by, persons in custody [F58 33A.

Textual Amendments

F58 Ss. 33A-33C inserted by Armed Forces Act 1971 (c. 33), ss. 22, 78(4)

33A Permitting escape, and unlawful release of prisoners.

- (1) Every person subject to this Act who wilfully allows to escape any person who is committed to his charge, or whom it is his duty to guard, shall be liable to imprisonment or any less punishment authorised by this Act.
- (2) Every person subject to this Act who—
 - (a) without proper authority releases any person who is committed to his charge, or
 - (b) without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to guard,shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

33B Resistance to arrest.

- (1) Every person subject to this Act who, being concerned in any quarrel or disorder, refuses to obey any officer who orders him into arrest, or . . . F59 uses violence to, or offers violence to, any such officer, shall be guilty of an offence against this section whether or not the officer is his superior officer.
- (2) Every person subject to this Act who . . . F59 uses violence to, or offers violence to, any person, whether subject to this Act or not, whose duty it is to apprehend him or in whose custody he is shall be guilty of an offence against this section.
- (3) Every person guilty of an offence against this section shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.

Textual Amendments

F59 Words repealed by Armed Forces Act 1986 (c. 21, SIF 7:1), ss. 4(1), 16(2), Sch. 2

33C Escape from confinement.

Every person subject to this Act who escapes from arrest, prison or other lawful custody (whether naval or not), shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.]

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Miscellaneous offences

34 Unauthorised disclosure of information.

- (1) Every person subject to this Act who without lawful authority discloses or purports to disclose, whether orally, in writing, by signal or by any other means whatsoever, information relating to any matter upon which information would or might be useful to an enemy shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.
- (2) It shall be a defence for a person charged with an offence under this section that he did not know and had no reasonable cause to believe that the information disclosed related to a matter upon which information would or might be directly or indirectly useful to an enemy.

[^{F60}34A False statements on entry.

Any person who, when offering himself to be entered for service in the Royal Navy, has knowingly made a false answer to any question put to him in connection with his entry into such service by, or by the direction of, an officer or other person authorised under regulations made by the Defence Council to enter persons for such service shall, if he has since become and remains subject to this Act, be liable to imprisonment for a term not exceeding three months or any less punishment authorised by this Act.]

Textual Amendments

F60 S. 34A inserted by [Armed Forces Act 1971 \(c. 33\)](#), **ss. 25**, 78(4)

Modifications etc. (not altering text)

C5 S. 34A extended (E.W.) (S.) by [Rehabilitation of Offenders Act 1974 \(c. 53\)](#), **s. 2(3)(b)**

[^{F61}35 Falsification of documents.

- (1) A person subject to this Act who—
 - (a) makes an official document which is to his knowledge false in a material particular, or
 - (b) makes in any official document an entry which is to his knowledge false in a material particular, or
 - (c) tampers with the whole or any part of an official document (whether by altering it, destroying it, suppressing it, removing it or otherwise), or
 - (d) with intent to deceive, fails to make an entry in an official document,
 is liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.
- (2) For the purposes of this section—
 - (a) a document 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 made by another shall be treated, as well as that other, as the maker of the document.

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(3) In this section “document” means anything in which information of any description is recorded.]

Textual Amendments

F61 S. 35 substituted (31.1.1997) by 1995 c. 38, s. 15(1), **Sch. 1 para. 3** (with ss. 1(3), 6(4)(5) and 14); S.I. 1996/3217, **art. 2**

[^{F62}**35A Offences against civilian population.**

Every person subject to this Act who, in any country or territory outside the United Kingdom, commits any offence against the person or property of any member of the civilian population shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.]

Textual Amendments

F62 S. 35A inserted by **Armed Forces Act 1971 (c. 33), ss. 27, 78(4)**

[^{F63}**35B Offences against morale.**

Any person subject to this Act who spreads (whether orally, in writing, by signal, or otherwise) reports relating to operations of Her Majesty’s forces, of any forces co-operating therewith, or of any part of any of those forces, being reports likely to create despondency or unnecessary alarm, shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.]

Textual Amendments

F63 S. 35B inserted by **Armed Forces Act 1971 (c. 33), ss. 28(1)(3), 78(4)**

36 Cruelty or scandalous conduct by officers.

Every officer subject to this Act who [^{F64}behaves in a scandalous manner] unbecoming the character of an officer shall be liable to dismissal from Her Majesty’s service with or without disgrace.

Textual Amendments

F64 Words substituted by **Armed Forces Act 1971 (c. 33), ss. 29(3), 78(4)**

Modifications etc. (not altering text)

C6 S. 36 extended (E.W.) (S.) by **Rehabilitation of Offenders Act 1974 (c. 53), s. 2(3)(b)**

[^{F65}**36A Ill-treatment of persons of inferior rank etc.**

If—

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- (a) any officer subject to this Act . . . ^{F66} ill-treats any officer subject thereto of inferior rank or less seniority, or any rating so subject, or
 - (b) any rating subject to this Act and of or above the rate of leading seaman . . . ^{F66} ill-treats any rating subject thereto of inferior rate or less seniority,
- he shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.]

Textual Amendments

F65 S. 36A inserted by [Armed Forces Act 1971 \(c. 33\)](#), **ss. 30**, 78(4)

F66 Words repealed by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), **ss. 4(1)**, 16(2), **Sch. 2**

37 Disgraceful conduct.

Every person subject to this Act who is guilty of any [^{F67}disgraceful conduct of a cruel, indecent or unnatural kind] shall be liable to [^{F67}imprisonment for a term not exceeding two years] or any less punishment authorised by this Act.

Textual Amendments

F67 Words substituted by [Armed Forces Act 1971 \(c. 33\)](#), **ss. 31**, 78(4)

Modifications etc. (not altering text)

C7 S. 37 extended (E.W.) (S.) by [Rehabilitation of Offenders Act 1974 \(c. 53\)](#), **s. 2(3)(b)**

38 Offences in relation to courts-martial.

- (1) Every person subject to this Act who—
- (a) having been duly summoned or ordered to attend before a court-martial, fails to comply with the summons or order;
 - (b) refuses to take an oath or make an affirmation when duly required by a court-martial to do so;
 - (c) refuses to produce any [^{F68}document or other thing which is in his custody or under his control and] which a court-martial has lawfully required him to produce;
 - (d) when a witness, refuses to answer any question which a court-martial has lawfully required him to answer;
 - (e) wilfully insults any person, being a member of a court-martial or a witness or any other person whose duty it is to attend on or before the court, while that person is acting as a member thereof or is so attending, or while that person is going to or returning from the proceedings of the court; or
 - (f) wilfully interrupts the proceedings of a court-martial, or otherwise misbehaves before the court,
- shall be liable to imprisonment for a term not exceeding two years or any less punishment authorised by this Act.
- (2) References in subsection (1) of this section to a court-martial shall include references to a court-martial held in pursuance of the ^{M4}Army Act 1955, or the ^{M5}Air Force Act 1955, or the law of any colony ^{F69}

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- (3) Where an offence against subsection (1) of this section is committed in relation to a court-martial and the court is of opinion that it is expedient that the offender should be dealt with summarily by the court instead of being brought to trial under this Act, the court may by order under the hand of the president sentence [^{F70}the offender—
- (a) if he is an officer, to imprisonment for a term not exceeding twenty-one days, or to a fine not exceeding the amount of his pay for twenty-eight days ^{F71} . . . ,
 - (b) in any other case, to imprisonment or detention for such a term as aforesaid, or to such a fine as aforesaid.]
- [^{F72}(3A) If the offender has attained seventeen years of age but is under twenty-one years of age, [^{F73}subsection (3)] above shall have effect in relation to him as if the power to impose a sentence of imprisonment were a power to make an order under section 43AA below.]
- [^{F74}(3B) For the purposes of subsection (3) above, a day’s pay shall be taken to be—
- (a) subject to paragraph (b) below, the gross pay which is, or would apart from any forfeiture be, issuable to the offender in respect of the day on which the order is made;
 - (b) if the offender is a special member of a reserve force, the gross pay which would have been issuable to him in respect of that day if he had been an ordinary member of that reserve force of the same rank.
- (3C) In subsection (3B)(b) above “special member” and “ordinary member” have the same meaning as in the Reserve Forces Act 1996.]
- [^{F75}(4) References in paragraphs (a) to (f) of subsection (1) of this section to a court-martial or to a member of a court-martial include references to a judicial officer or a person appointed under section 75L of the Army Act 1955 or section 75L of the Air Force Act 1955 and, in relation to an offence committed in relation to a judicial officer, subsection (3) of this section shall have effect as if—
- (a) references to a court-martial were references to the judicial officer, and
 - (b) the words “under the hand of the president” were omitted.]
- [^{F76}(5) References in paragraphs (a) to (f) of subsection (1) of this section to a court-martial include references to the summary appeal court, the court established by section 83ZA of the Army Act 1955 or the court established by section 83ZA of the Air Force Act 1955 and, in relation to an offence committed in relation to the summary appeal court, subsection (3) of this section shall have effect as if the reference to a court-martial were a reference to the summary appeal court.]

Textual Amendments

- F68** Words in s. 38(1)(c) substituted (28.2.2002) by 2001 c. 19, s. 24(2)(e); S.I. 2002/345, art. 2 (subject to art. 3)
- F69** Words in s. 38(2) repealed (28.2.2002) by 2001 c. 19, s. 38, Sch. 7 Pt. 1; S.I. 2002/345, art. 2 (subject to art. 3)
- F70** Words substituted by Armed Forces Act 1971 (c. 33), ss. 23(3), 78(4)
- F71** Words in s. 38(3)(a) repealed (1.1.1999) by S.I. 1998/3086, reg. 4(1)(b)
- F72** S. 38(3A) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, Sch. 8 para. 1(1)(2)
- F73** Words substituted (*retrospectively*) by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), Sch. 1 para. 2
- F74** S. 38(3B) and (3C) inserted (1.1.1999) by S.I. 1998/3086, reg. 4(3)
- F75** S. 38(4) inserted (2.10.2000) by 2000 c. 4, s. 10, Sch. 1 para. 6; S.I. 2000/2366, art. 2 (with Sch. para. 15)

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F76 S. 38(5) inserted (2.10.2000) by 2000 c. 4, s. 25, **Sch. 3 para. 3**; S.I. 2000/2366, **art. 2** (with Sch. para. 15)

Marginal Citations

M4 1955 c. 18.

M5 1955 c. 19.

39 Conduct to the prejudice of naval discipline.

Every person subject to this Act who is guilty [^{F77}whether by any act or omission or otherwise, of conduct] to the prejudice of good order and naval discipline . . . ^{F78} shall be liable to [^{F79}imprisonment for a term not exceeding two years] or any less punishment authorised by this Act.

Textual Amendments

F77 Words substituted by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), s. 4(2)

F78 Words repealed by [Armed Forces Act 1971 \(c. 33\)](#), s. 78(4), **Sch. 4 Pt. I**

F79 Words substituted by [Armed Forces Act 1971 \(c. 33\)](#), **ss. 33, 78(4)**

Attempts and aiding and abetting

40 Attempt to commit naval offence.

Every person subject to this Act who attempts to commit an offence against any of the foregoing provisions of this Act shall be liable to the like punishment as for that offence:

F80
 . . .

Textual Amendments

F80 S. 40: proviso repealed (11.5.2001) by 2001 c. 19, ss. 38, 39(3)(g), **Sch. 7 Pt. 4**

[^{F81} 41 Aiding and abetting etc., and inciting.

- (1) Any person subject to this Act who aids, abets, counsels or procures the commission by another person of an offence against any of the foregoing provisions of this Act or who incites another person to commit any such offence, shall himself be guilty of the offence in question, and shall be liable to be charged, tried and punished accordingly.
- (2) A person may be guilty by virtue of subsection (1) above of an offence against section 35 of this Act whether or not he knows the nature of the document in question.]

Textual Amendments

F81 S. 41 substituted by [Armed Forces Act 1971 \(c. 33\)](#), **ss. 32(2)(4), 78(4)**

Status: Point in time view as at 01/10/2009.

Changes to legislation: Naval Discipline Act 1957 (repealed), Part 1 is up to date with all changes known to be in force on or before 18 August 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)

Civil offences

42 Civil offences.

(1) [^{F82}Subject to section 43A below] every person subject to this Act who is guilty of any civil offence (that is to say any act or omission which is punishable by the law of England or would be so punishable if committed in England) shall ^{F83} . . . on conviction under this Act—

^{F84}(a)

[^{F85}(b) in the case of an offence constituted by a civil offence the sentence for which is fixed by law as life imprisonment, be sentenced to imprisonment for life;]

[^{F86}(c) in the case of any other offence, [^{F87}be liable] to such punishment or punishments (being a punishment or punishments authorised by this Act) as could be imposed ^{F88} . . . on conviction by a civil court of the like offence committed in England, or to any punishment so authorised which is less than the maximum punishment which could be so imposed.]

[^{F89}(1A) Where the corresponding civil offence is one to which [^{F90}section 109, 110 or 111 of the Powers of Criminal Courts (Sentencing) Act 2000] would apply, the court-martial shall impose the sentence required by subsection (2) of that section unless it is of the opinion that there are exceptional circumstances which justify its not doing so.]

(2) A person subject to this Act may be charged with an offence under this section notwithstanding that he could on the same facts be charged with an offence under any other provision of this Part of this Act.

[^{F91}(2A) For the purpose of determining under this section whether an attempt to commit an offence is a civil offence, subsection (4) of section 1 of the ^{M6}Criminal Attempts Act 1981 (which relates to the offence of attempt) shall have effect as if for the words “offence which, if it were completed, would be triable in England and Wales as an indictable offence” there were substituted the words “civil offence consisting of an act punishable by the law of England and Wales as an indictable offence or an act which, if committed in England or Wales, would be so punishable by that law”.]

Textual Amendments

F82 Words in s. 42(1) inserted (1.10.2001) by 2001 c. 19, s. 34, **Sch. 6 Pt. 6 para. 34(2)**; S.I. 2001/3234, **art. 2** (subject to transitional provisions in art. 3)

F83 Words in s. 42(1) repealed (1.10.2001) by 2001 c. 19, ss. 34, 38, **Sch. 6 Pt. 6 para. 34(2)**, **Sch. 7 Pt. 7**; S.I. 2001/3234, **art. 2** (subject to transitional provisions in art. 3)

F84 S. 42(1)(a) repealed (11.5.2001) by 2001 c. 19, ss. 38, 39(3)(g), **Sch. 7 Pt. 4**

F85 S. 42(1)(b) substituted (1.10.2001) by 2001 c. 19, s. 34, **Sch. 6 Pt. 6 para. 34(3)**; S.I. 2001/3234, **art. 2** (subject to transitional provisions in art. 3)

F86 S. 42(1)(c) substituted by **Armed Forces Act 1971** (c. 33), ss. **34(3)**, 78(4)

F87 Words in s. 42(1)(c) inserted (1.10.2001) by 2001 c. 19, s. 34, **Sch. 6 Pt. 6 para. 34(4)**; S.I. 2001/3234, **art. 2** (subject to transitional provisions in art. 3)

F88 Words repealed by **Armed Forces Act 1986** (c. 21, SIF 7:1), s. 16(1)(2), Sch. 1 para. 3, **Sch. 2**

F89 S. 42(1A) inserted (1.10.1997) by 1997 c. 43, s. 55, **Sch. 4 para. 3(1)**; S.I. 1997/2200, **art. 2**

F90 Words in s. 42(1A) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 18**

F91 S. 42(2A) inserted by **Criminal Attempts Act 1981** (c. 47), s. **7(1)**

Modifications etc. (not altering text)

C8 S. 42 modified (1.10.1997) by 1997 c. 43, s. **7(1)**; S.I. 1997/2200, **art. 2(1)**

Status: Point in time view as at 01/10/2009.

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Marginal Citations

M6 1981 c. 47.

Punishments

[^{F92}43 Scale of punishments, and supplementary provisions.

(1) The punishments which may be awarded to persons convicted of offences under this Part of this Act are, subject to the following provisions of this section [^{F93}and section 43A below], as follows:—

^{F94}(a)

(b) imprisonment,

[^{F95}(bb) detention by virtue of a custodial order made under section 43AA of this Act;]

[^{F96}(bc) order that the convicted person be disqualified from working with children]

(c) dismissal with disgrace from Her Majesty's service,

(d) dismissal from Her Majesty's service,

(e) detention for a term not exceeding two years,

(f) forfeiture of seniority for a specified term or otherwise,

(g) dismissal from the ship or naval establishment to which the offender belongs,

(h) disrating,

(i) fine,

(j) severe reprimand,

(k) reprimand,

(l) in the case of an offence which has occasioned any expense, [^{F97}personal injury], loss or damage, stoppages, that is to say, the recovery, by deductions from the offender's pay, of a specified sum by way of compensation for the expense, [^{F97}personal injury] loss or damage, and

(m) such minor punishments as may from time to time be authorised by the Defence Council;

and references in this Act to any punishment authorised by this Act are, subject to the limitation imposed in any particular case by the addition of the word "less", references to any one or more of the said punishments.

For the purposes of this Part of this Act a punishment specified in any of the above paragraphs shall be treated as less than the punishments specified in the paragraphs preceding that paragraph and greater than those specified in the paragraphs following it:

[^{F98}Provided that a punishment such as is mentioned in paragraph (e) of this subsection shall not be treated as a less punishment than a punishment such as is mentioned in paragraph (b) or (bb) if the term of detention is longer than the term of imprisonment or, as the case may be, than the term of detention by virtue of the custodial order.]

(2) Subsection (1) above shall have effect—

(a) in relation to a convicted person who is an officer, with the omission of paragraphs (e), (h) and (m),

(b) in relation to a convicted person who is a warrant officer, with the omission of paragraphs (f), (g) and (m), and

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- (c) in relation to a convicted person who is a rating below the rate of warrant officer with the omission of paragraphs (f) and (g) and, if he is below the rate of leading seaman, of paragraphs (h), (j) and (k) also.
- (3) A person [^{F99}who, otherwise than under section 38(3) of this Act, is] sentenced under this Act to imprisonment shall also be sentenced either to dismissal with disgrace from Her Majesty's service or to dismissal from Her Majesty's service:
- Provided that, if the sentencing authority fail to give effect to this subsection, their sentence shall not be invalid, but shall be deemed to include a sentence of dismissal from Her Majesty's service.
- (4) A rating of the rate of leading seaman or above [^{F99}who, otherwise than under section 38(3) of this Act, is] sentenced under this Act to imprisonment, to dismissal from Her Majesty's service (whether or not with disgrace), or to detention, shall also be sentenced to disrating:
- Provided that, if the sentencing authority fail to give effect to this subsection, their sentence shall not be invalid, but shall be deemed to include a sentence of disrating
- (5) A sentence of disrating awarded in compliance with subsection (4) above, or deemed to have been awarded by virtue of the proviso to that subsection, shall be one reducing the offender to such rate as may be prescribed in relation to persons of the class to which he belongs by regulations made by the Defence Council; and any other sentence of disrating under this Act may reduce the offender to any rate not lower than that so prescribed.
- (6) The amount of a fine that may be awarded under this Act by way of punishment for an offence, except in the case of an offence under section 42 thereof, shall not exceed the amount of the offender's pay for twenty-eight days or, where the offence was committed on active service, fifty-six days; and in the said excepted case—
- (a) the amount of a fine that may be so awarded by a court-martial—
- (i) where the civil offence constituting the offence under 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, and
- (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;
- (b) the amount of a fine that may be so awarded where the offence is tried summarily—
- (i) in any case shall not exceed the amount of the offender's pay for twenty-eight days or, where the civil offence constituting the offence was committed on active service, fifty-six days, and
- (ii) where the said civil offence is punishable by a civil court in England only on summary conviction, and is so punishable by a fine of a maximum amount less than the amount mentioned in subparagraph (i) above, shall not exceed that maximum, and
- (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;

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F100

- [For the purposes of subsection (6) above, a day’s pay shall be taken to be—
- F101(6A) (a) subject to paragraph (b) below, the gross pay which is, or would apart from any forfeiture be, issuable to the offender in respect of the day on which the punishment is awarded;
- (b) if the offender is a special member of a reserve force, the gross pay which would have been issuable to him in respect of that day if he had been an ordinary member of that reserve force of the same rank.

(6B) In subsection (6A)(b) above “special member” and “ordinary member” have the same meaning as in the Reserve Forces Act 1996.]

[Unless the Secretary of State by order provides that this subsection shall no longer

F102(7) apply, the stoppages awarded in respect of any offence occasioning personal injury of which a person is convicted or any other such offence which is taken into consideration in determining sentence shall not exceed such sum as is for the time being specified by an order made by the Secretary of State.

F102(8) The power to make an order under subsection (7) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]]

Textual Amendments

- F92 S. 43 substituted for ss. 43, 44 by [Armed Forces Act 1971 \(c. 33\)](#), **ss. 38**, 78(4)
- F93 Words inserted by [Armed Forces Act 1976 \(c. 52\)](#), **s. 10(3)(d)**
- F94 S. 43(1)(a) repealed (11.5.2001) by 2001 c. 19, ss. 38, 39(3)(g), **Sch. 7 Pt. 4**
- F95 S. 43(1)(bb) inserted by [Armed Forces Act 1981 \(c. 55\)](#), **s. 2(3)(b)**
- F96 S. 43(1)(bc) inserted (11.1.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 28**; S.I. 2000/3302, **art. 2(b)**
- F97 Words in s. 43(1)(l) inserted (1.1.1992) by [Armed Forces Act 1991 \(c. 62\)](#), **s. 8(1)(a)**; S.I. 1991/2719, **art. 2**
- F98 Words substituted by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), s. 16(1), **Sch. 1 para. 4**
- F99 Words inserted (*retrospectively*) by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), s. 16(1), **Sch. 1 para. 1(2)**
- F100 Words in s. 43(6) repealed (1.1.1999) by S.I. 1998/3086, **reg. 3(1)**
- F101 S. 43(6A) and (6B) inserted (1.1.1999) by S.I. 1998/3086, **reg. 3(3)**
- F102 S. 43(7)(8) inserted (1.1.1992) by [Armed Forces Act 1991 \(c. 62\)](#), **s. 8(1)(b)**; S.I. 1991/2719, **art. 2**

[^{F103}43A Juveniles

(1) A person under 21 years of age shall not be sentenced to imprisonment.

[Where—

- F104(1A) (a) a person under 21 years of age is convicted of murder or any other civil offence the sentence for which is fixed by law as imprisonment for life; or
- (b) a person under that age is convicted of any civil offence to which [^{F105}section 109 of the Powers of Criminal Courts (Sentencing) Act 2000] would apply and the court is not of the opinion mentioned in subsection (2) of that section,

the court shall sentence him to custody for life unless he is liable to be detained under subsection (3) below.]

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(1B) Where a person aged [^{F106}18 years] or over but under 21 years of age is convicted of any other offence for which a person aged 21 years or over would be liable to imprisonment for life [^{F107}then, subject to subsection (1E) below], the court shall sentence him to custody for life if—

- ^{F108}(a)
(b) it considers that a custodial sentence for life would be appropriate.

(1C) For the purpose of determining whether any method of dealing with a person to whom subsection (1B) of this section applies, other than sentencing him to custody for life, is appropriate, the court shall obtain and consider information about the circumstances, and shall take into account any information before the court which is relevant to his character and his physical and mental condition.

[Subject to subsections (3) and (4) below, the only custodial sentences that a court may
^{F109}(1D) award where a person under 21 years of age is convicted or found guilty of an offence are—

- (a) a custodial order under section 43AA of this Act or under paragraph 10 of Schedule 4A to this Act; and
(b) a sentence of custody for life under subsection (1A) or (1B) above.

(1E) A court may not—

- (a) make a custodial order under section 43AA of this Act; or
(b) pass a sentence of custody for life under subsection (1B) above;

unless it is satisfied—

- (i) that the circumstances, including the nature and the gravity of the offence, are such that if the offender were aged 21 or over the court would pass a sentence of imprisonment; and
(ii) that he qualifies for a custodial sentence.

(1F) An offender qualifies for a custodial sentence if—

- (a) he has a history of failure to respond to non-custodial sentences and is unable or unwilling to respond to them; or
(b) only a custodial sentence would be adequate to protect the public from serious harm from him; or
(c) the offence of which he has been convicted or found guilty was so serious that a non-custodial sentence for it cannot be justified.]

(2) . . . ^{F110}

(3) A person convicted of murder [^{F111}or any other offence the sentence for which is fixed by law as life imprisonment] who was under 18 years of age when the offence was committed shall not be sentenced to imprisonment for life, ^{F112}. . . ; but in lieu thereof the court shall (notwithstanding anything in this or any other Act) sentence him to be detained during Her Majesty's pleasure, and if so sentenced he shall be liable to be detained in such place and under such conditions as the Secretary of State may direct.

(4) [^{F113} In any case where—

- (a) a person aged 14 or over but under [^{F114}18 years] of age is] found guilty of a civil offence (other than one the sentence for which is fixed) which is punishable by a civil court in England or Wales on indictment by, in the case of an adult, a term of imprisonment for 14 years or more, [^{F113}or,

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- (b) a person under 14 years of age is found guilty of manslaughter, and, in either case, the court] is of opinion that none of the other methods in which the case may be legally dealt with is suitable [F115 the court may sentence that person], to be detained for such period, not exceeding the maximum term of imprisonment with which the offence is punishable by such a civil court in the case of an adult, as may be specified in the sentence; and where such a sentence has been passed, the person on whom it is passed shall during that period be liable to be detained in such place and on such conditions as the Secretary of State may direct .
- (5) A sentence of custody for life or detention under subsection (3) or (4) above shall be treated for the purposes of this Part of this Act as a punishment authorised by this Act involving the same degree of punishment as a sentence of imprisonment; and section 43(3) and (4) above shall apply to such a sentence of detention and to a sentence of custody for life as they apply to a sentence of imprisonment.
- (6) A person detained pursuant to the directions of the Secretary of State under this section shall, while so detained, be deemed to be in legal custody.]
- [F116(7) A sentence of detention under section 43(1)(e) of this Act shall be treated for the purposes of this section as a non-custodial sentence and references in this section to a custodial sentence shall be construed accordingly.]

Textual Amendments

- F103** S. 43A inserted by [Armed Forces Act 1976 \(c. 52\)](#), **s. 10(1)(2)**
- F104** S. 43A(1A) substituted (1.10.1997) by 1997 c. 43, s. 55, **Sch. 4 para. 3(2)**; S.I. 1997/2200, **art. 2**
- F105** Words in s. 43A(1A) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 19**
- F106** Words in s. 43A(1B) substituted (1.10.1992 for E.W.) by [Criminal Justice Act 1991 \(c. 53\)](#), ss. 71, 102(2)(8), **Sch. 9 para. 5**; S.I. 1992/333, arts. 2(2), 3(1), **Sch. 2**
- F107** Words in s. 43A(1B) inserted (1.1.1992) by [Armed Forces Act 1991 \(c. 62\)](#), **s. 2(2)(a)(6)**; S.I. 1991/2719, **art. 2**
- F108** S. 43A(1B)(a) repealed (1.1.1992) by [Armed Forces Act 1991 \(c. 62\)](#), ss. 2(2)(b)(6), 26(2), **Sch. 3**; S.I. 1991/2719, **art. 2**
- F109** S. 43A(1D)-(1F) inserted (1.1.1992) by [Armed Forces Act 1991 \(c. 62\)](#), **s. 2(3)(6)**; S.I. 1991/2719, **art. 2**
- F110** S. 43(2) repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 78, **Sch. 16**
- F111** Words in s. 43A(3) inserted (30.11.2000 with effect as mentioned in [Sch. 7 para. 29\(2\)](#) of the amending Act) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 29(1)(e)**
- F112** Words in s. 43A(3) repealed (11.5.2001) by 2001 c. 19, ss. 38, 39(3)(g), **Sch. 7 Pt. 4**
- F113** Words in s. 43A(4) substituted (1.1.1992) by [Armed Forces Act 1991 \(c. 62\)](#), **s. 2(4)(a)(b)(6)**; S.I. 1991/2719
- F114** Words in s. 43A(4)(a) substituted (1.10.1992 for E.W.) by [Criminal Justice Act 1991 \(c. 53\)](#), ss. 71, 102(2)(8), **Sch. 9 para. 5**; S.I. 1992/333, arts. 2(2), 3(1), **Sch. 2**
- F115** Words in s. 43A(4) inserted (1.1.1992) by [Armed Forces Act 1991 \(c. 62\)](#), **s. 2(4)(c)(6)**; S.I. 1991/2719, **art. 2**
- F116** S. 43A(7) inserted (1.1.1992) by [Armed Forces Act 1991 \(c. 62\)](#), **s. 2(5)(6)**; S.I. 1991/2719, **art. 2**

[F117] **43A Young service offenders: custodial orders.**

- (1) Where a person who has attained seventeen years of age but is under twenty-one years of age is found guilty by a court-martial of an offence punishable under this Act with imprisonment, the court shall have power, ^{F118} . . . to make an order (in this section

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referred to as a “custodial order”) committing him to be detained in accordance with the provisions of this section for a ^{F119}period to be specified in the order ^{F120}being not less than 21 days and ^{F121}which—

- (a) shall be not less than the appropriate minimum period, that is to say—
 - (i) in the case of an offender who has attained eighteen years of age, the period of 21 days; or
 - (ii) in the case of an offender who is under that age, the period of two months; and
- (b) shall not exceed] the maximum period for which he could have been sentenced to imprisonment if he had attained the age of twenty-one years]

^{F122}(1A)

^{F123}(1AA) [The court shall not make a custodial order committing an offender aged 17 to be detained for a period exceeding 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.]

(1B) For the purposes of determining whether ^{F124} it is satisfied as mentioned in subparagraphs (i) and (ii) of subsection (1E) of section 43A of this Act with respect to any person] the court shall obtain and consider information about the circumstances, and shall take into account any information before the court which is relevant to his character and his physical and mental condition.]

- (2) If a person is outside the United Kingdom at the time a custodial order is made in respect of him, he shall as soon as practicable be removed to the United Kingdom.
- (3) A person in respect of whom a custodial order has been made shall be detained in such appropriate institution as the Secretary of State may direct, and any enactment applying to persons detained in any such institution shall apply to a person so detained under this section.
- (4) A custodial order shall be sufficient authority for the detention of the person subject to it in service custody until he is received into the institution specified in the Secretary of State’s direction.

^{F125}(5) The following provisions of this Act shall apply in the case of a sentence under a custodial order as they apply in the case of a sentence of imprisonment, that is to say—

- (a) sections 43(3) and (4), 85(1), 86(1) and (3), 89(3) and 92(1); and
- (b) for the period before a person sentenced under a custodial order is received into the institution where he is to be detained (or for the currency of the sentence if its term ends before he is so received), sections 81, 82, 87, 88, 104, 119 and 130A;

and, accordingly, references in those provisions to a sentence of imprisonment shall include for the purposes of this subsection references to a sentence under a custodial order.]

(6) In this section “appropriate institution” means—

- ^{F126}(a) where the offender is in or removed to England or Wales, any institution in which a person sentenced to detention in a young offender institution could be detained, ^{F127}section 98 of the Powers of Criminal Courts (Sentencing) Act 2000] having effect in relation to the offender as it has effect in relation to an offender sentenced to detention in a young offender institution;]

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[^{F128}(b) where the offender is in or removed to Scotland, a young offenders institution;]

(c) where the offender is in or removed to Northern Ireland, a young offenders centre.

[^{F129}(6A) [^{F130}Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act)] (release of young offenders) shall apply to persons released from a term of detention under a custodial order as it applies to persons released from [^{F131}a sentence of detention in a young offender institution].]

[^{F132}(6B)]

(7) This section does not apply to offenders who are civilians (as regards whom similar provision is made by paragraph 10 of Schedule 4A to this Act).

Textual Amendments

F117 S. 43AA inserted by Armed Forces Act 1981 (c. 55), s. 2(2)

F118 Words in s. 43AA(1) repealed (1.1.1992) by Armed Forces Act 1991 (c. 62), ss. 3(1), 26(2), Sch. 3; S.I. 1991/2719, art. 2 and repealed (1.10.1992 for E.W.) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 71, 101(2), 102(2)(8), Sch. 9 para. 6(b), Sch. 13; S.I. 1992/333, arts. 2(2), 3(1), Sch. 2

F119 Words in s. 43AA(1) substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, Sch. 8 para. 3(a)

F120 Words in s. 43AA(1) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62), s. 3(1); S.I. 1991/2719, art. 2 and repealed (1.10.1992 for E.W.) by Criminal Justice Act 1991 (c. 53), ss. 101(2), 102(2)(8), Sch. 13; S.I. 1992/333, arts. 2(2), 3(1), Sch. 2

F121 Words in s. 43AA(1) substituted (1.10.1992 for E.W.) by Criminal Justice Act 1991 (c. 53), ss. 71, 102(2)(8), Sch. 9 para. 6; S.I. 1992/333, arts. 2(2), 3(1), Sch. 2

F122 S. 43AA(1A) repealed (1.1.1992) by Armed Forces Act 1991 (c. 62), ss. 3(2), 26(2), Sch. 3; S.I. 1991/2719, art. 2 and repealed (1.10.1992 for E.W.) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 71, 101(2), 102(2)(8), Sch. 9 para. 6(b), Sch. 13; S.I. 1992/333, arts. 2(2), 3(1), Sch. 2

F123 S. 43AA(1AA) inserted (1.10.1992 for E.W.) by Criminal Justice Act 1991 (c. 53), ss. 71, 102(2)(8), Sch. 9 para. 6(c); S.I. 1992/333, arts. 2(2), 3(1), Sch. 2

F124 Words in s. 43AA(1B) substituted (1.1.1992) by Armed Forces Act 1991 (c. 62), s. 3(3)(4); S.I. 1991/2719, art. 2

F125 S. 43AA(5) substituted by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), Sch. 1 para. 5(5)

F126 S. 43AA(6)(a) substituted (E.W.) by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 123(6), Sch. 8 para. 4(b)

F127 Words in s. 43AA(6)(a) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), Sch. 9 para. 20

F128 S. 43AA(6)(b) substituted (S.) by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 124(4), Sch. 9 para. 2(b)

F129 S. 43AA(6A) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, Sch. 8 para. 3(d)

F130 Words in s. 43AA(6A) substituted (1.12.1999) by 1997 c. 43, s. 55(2), Sch. 4 para. 3(3); S.I. 1999/3096, art. 2(d)

F131 Words in s. 43AA(6A) substituted (1.10.1988) by virtue of 1988 c. 33, s. 123, Sch. 8 Pt. I paras. 1, 2; S.I. 1988/1408, art. 2(1), Sch.

F132 S. 43AA(6B) repealed (1.10.1993) by 1993 c. 9, ss. 47(3), 48(7), Sch. 7 Pt. I (with Sch. 6 paras. 1, 2); S.I. 1993/2050, art. 3(4).

[43AB ^{F133} Reasons to be given where custodial sentence awarded to young offender.

(1) This section applies where a court—

Status: Point in time view as at 01/10/2009.

Changes to legislation: Naval Discipline Act 1957 (repealed), Part I is up to date with all changes known to be in force on or before 18 August 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)

- (a) makes a custodial order under section 43AA of this Act, or
 - (b) passes a sentence of custody for life under section 43A(1B) of this Act.
- (2) It shall be the duty of the court—
- (a) to state in open court and to record in the proceedings that it is satisfied that the offender qualifies for a custodial sentence under one or more of the paragraphs of subsection (1F) of section 43A of this Act, the paragraph or paragraphs in question, and why it is so satisfied; and
 - (b) to explain to the offender in open court and in ordinary language why it is passing a custodial sentence on him.
- (3) Where a court makes a custodial order and, in accordance with its duty under subsection (2) above, makes the statement required by paragraph (a) of that subsection, the matters stated shall be specified in the committal order.]

Textual Amendments

F133 S. 43AB inserted (1.1.1992) by [Armed Forces Act 1991 \(c. 62\), s. 4\(2\)](#); S.I. 1991/2719, [art. 2](#)

[^{F134}43B Power to impose imprisonment for default in payment of fines.

- (1) Subject to the provisions of this section, if a court-martial imposes a fine on a person found guilty of any offence—
- (a) who is sentenced to imprisonment on the same occasion for the same or another offence or,
 - (b) who is already serving or otherwise liable to serve a term of imprisonment, [^{F135}or
 - (c) in respect of whom the court makes an order under section 43AA above on the same occasion for the same or another offence, or
 - (d) who is already serving or otherwise liable to serve a period of detention under such an order.]

it may make an order fixing a further consecutive term of imprisonment [^{F136}or detention] . . . [^{F137}which the said person is to undergo if any part of the fine is not duly paid or recovered on or before the date on which he could otherwise be released.

[^{F138}(2) Subject to subsections (4) and (5) below, the Table in [^{F139}section 139(4) of the Powers of Criminal Courts (Sentencing) Act 2000] (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 ^{M7}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.]

- (3) Where the whole amount of the said fine is paid or recovered in the prescribed manner the order under subsection (1) above shall cease to have effect, and the person subject to it shall be released unless he is in custody for some other cause.
- (4) Where part of the said amount is paid or recovered in such manner as may be prescribed by regulations of the Defence Council, the period of the further term of imprisonment [^{F140}or detention] specified under subsection (1) above shall be reduced by such number of days as bears to the total number of days in that period less one day the same proportion as the amount so paid or recovered bears to the amount of the said fine.

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(5) In calculating the reduction required under the last preceding subsection any fraction of a day shall be left out of account.

[An order imposing a term of detention under this section shall be given effect as if it ^{F141}(5A) were a custodial order under section 43AA above.]

(6) in this section, references to the due recovery of any amount include references to deductions from pay under Part IV of this Act, but do not include references to amounts forfeited under the said Part IV.]

Textual Amendments

F134 S. 43B inserted by [Armed Forces Act 1976 \(c. 52\)](#), s. 13, [Sch. 6 paras. 1, 2](#)

F135 S. 43(B)(1)(c)(d) inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 58, [Sch. 8 para. 4\(1\)\(a\)\(2\)](#)

F136 Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 58, [Sch. 8 para. 4\(1\)\(b\)\(2\)](#)

F137 Words repealed by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), s. 16(2), [Sch. 2](#)

F138 S. 43B(2) substituted by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), [s. 5](#)

F139 Words in [s. 43B\(2\)](#) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), [Sch. 9 para. 21](#)

F140 Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 58, [Sch. 8 para. 4\(1\)\(b\)\(2\)](#)

F141 S. 43B(5A) inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 58, [Sch. 8 para. 4\(1\)\(c\)\(2\)](#)

Marginal Citations

M7 [1980 c.43\(82\)](#).

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