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# Naval Discipline Act 1957 (repealed)

1957 CHAPTER 53 5 and 6 Eliz 2

## PART II

TRIAL AND PUNISHMENT OF OFFENCES

VALID FROM 01/04/1997

*[<sup>F1</sup> Investigation and summary trial]*

### Textual Amendments

**F1** Crossheading before s. 52B inserted (1.4.1997) by [1996 c. 46, s. 5, Sch. 1 Pt. I para. 13](#); [S.I. 1997/304, art. 2](#) (with art. 3)

### Textual Amendments applied to the whole legislation

**F1** Act repealed (prosp.) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 17](#) and the repeal being partly in force, as to which see individual provisions

### **[<sup>F2</sup>52B Investigation of charges by commanding officer**

- (1) An allegation that a person subject to this Act (“the accused”) has committed an offence against any provision of this Act shall be reported, in the form of a charge, to his commanding officer.
- (2) A commanding officer shall investigate a charge reported to him under subsection (1) above.
- (3) If, in the course of investigating a charge, the commanding officer considers it appropriate to do so, he may amend the charge or substitute another charge for it and

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treat the amended or substituted charge as if that charge had been reported to him under subsection (1) above.

- (4) If, in the course of investigating a charge, it appears to the commanding officer that proceedings in respect of the matters to which the charge relates could be, and in the interests of the better administration of justice should be, taken against the accused otherwise than under this Act he may stay further proceedings with respect to the charge.
- (5) After investigating a charge, the commanding officer may, subject to subsection (6) below—
  - (a) dismiss the charge;
  - (b) refer the charge to higher authority; or
  - (c) try the accused summarily.
- (6) The commanding officer may not try summarily—
  - (a) any charge against an officer; or
  - (b) any charge which is not capable of being tried summarily.
- (7) For the purposes of this Act, a charge is capable of being tried summarily if it is for an offence triable by court-martial under this Act, other than an offence punishable by sentence of death or an offence of murder.]

#### Textual Amendments

**F2** Ss. 52B-52G inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. I para. 13**; S.I. 1997/304, **art. 2** (with **art. 3**)

#### [<sup>F3</sup>52C Powers of higher authority.

- (1) Where a charge is referred to higher authority, the higher authority shall refer the case to the prosecuting authority unless he takes one of the steps mentioned in this section in relation to the charge.
- (2) The higher authority may refer the charge back to the commanding officer of the accused with a direction to dismiss it or to stay all further proceedings in relation to it; and the commanding officer shall deal with the charge accordingly.
- (3) If the charge is against a rating and is capable of being tried summarily, the higher authority may, subject to subsection (4) below, refer it back to the commanding officer of the accused to be so tried.
- (4) If the charge has been referred to the higher authority as a result of an election for court-martial trial, and that election has not been withdrawn with leave, he may not refer the charge back to the commanding officer of the accused to be tried summarily.
- (5) This section has effect subject to any power of the higher authority under section 52G(1) below to order a disciplinary court.]

#### Textual Amendments

**F3** Ss. 52B-52G inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. I para. 13**; S.I. 1997/304, **art. 2** (with **art. 3**)

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#### **[<sup>F4</sup>52D Summary trial.**

- (1) This section applies where a charge is to be tried summarily.
- (2) If the commanding officer considers that, if the charge were proved, he would award a punishment—
  - (a) in the case of a warrant officer, of disrating, a fine or stoppages;
  - (b) in the case of any other rating, of dismissal from Her Majesty’s service, detention or disrating,he shall afford the accused an opportunity of electing court-martial trial.
- (3) If the accused so elects and does not withdraw his election with leave, the commanding officer shall refer the charge to higher authority with a view to the trial of the accused by court-martial.
- (4) If a charge has been referred to higher authority as a result of an election for court-martial trial, and that election is withdrawn with leave, the higher authority shall refer the charge back to the commanding officer of the accused to be tried summarily.
- (5) If, in the course of trying the charge, the commanding officer considers that it should not be tried summarily, he may refer the charge to higher authority.
- (6) If the commanding officer determines that the charge has not been proved, he shall acquit the accused.
- (7) If the commanding officer determines that the charge has been proved, he shall record a finding of guilt and award punishment accordingly.
- (8) A commanding officer shall not have power on a summary trial to award a sentence of dismissal with disgrace from Her Majesty’s service, a sentence of imprisonment or a sentence of detention for any term exceeding three months.]

#### **Textual Amendments**

**F4** SS. 52B-52G inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. I para. 13**; S.I. 1997/304, **art. 2** (with **art. 3**)

#### **[<sup>F5</sup>52E Commanding officers.**

- (1) In this Act “the commanding officer”, in relation to a person charged with an offence, means the officer in command of the ship or naval establishment to which he belongs at the time of the commission of the offence or at the time of its investigation or summary trial.
- (2) The Defence Council may by regulations make provision—
  - (a) enabling the powers conferred by this Act on the commanding officer of an accused to be exercised by other persons of such descriptions as may be specified;
  - (b) with respect to the delegation by the commanding officer, or other person exercising the powers of a commanding officer by virtue of regulations under paragraph (a) above, of any of his powers to any officer not below the rank of lieutenant or corresponding rank.

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- (3) An officer to whom any powers are delegated by virtue of subsection (2)(b) above shall not have power to award any punishment other than a fine, stoppages or those described in section 43(1)(m) of this Act.
- (4) The reference in subsection (3) above to stoppages does not include a reference to stoppages for personal injury.]

#### Textual Amendments

**F5** Ss. 52B-52G inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. I para. 13**; S.I. 1997/304, **art. 2** (with art. 3)

VALID FROM 28/02/2002

#### [<sup>F6</sup>52EE Officers who may act as appropriate superior authorities

- (1) A person may act as appropriate superior authority in relation to a person charged with an offence if—
  - (a) he is of or above the rank of commander, and
  - (b) his rank is at least two ranks higher than that of the accused.
- (2) The appropriate superior authority in relation to a person charged with an offence shall be appointed by the higher authority.
- (3) For the purposes of subsection (1) above, the holding by any person of any acting rank other than that of commodore is to be disregarded; and in this subsection “acting rank” means rank of any description (however called) such that under Queen’s Regulations a commanding officer has power to order the holder to revert from that rank.]

#### Textual Amendments

**F6** S. 52EE inserted (28.2.2002) by 2001 c. 19, s. 17, **Sch. 1 para. 12**; S.I. 2002/345, **art. 2** (subject to art. 3)

#### [<sup>F7</sup>52F Regulations as to summary trial etc.

- (1) The Defence Council may make regulations with respect to the investigation of charges by commanding officers and summary trial.
- (2) Regulations under this section may in particular make provision with respect to—
  - (a) the reporting of a charge to a commanding officer;
  - (b) the procedure to be followed by a commanding officer investigating a charge;
  - (c) the amendment or substitution of charges;
  - (d) the procedure on summary trial;
  - (e) limitations on the punishments which may be awarded on summary trial by a specified description of commanding officer;

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- (f) limitations on the punishments which may be so awarded to a specified description of accused;
  - (g) requirements for punishments to be approved before taking effect;
  - (h) the information to be provided to a person afforded an opportunity of electing court-martial trial;
  - (i) the procedure for electing court-martial trial, including any period within which any such election may be made;
  - (j) the procedure for requesting leave to withdraw an election for court-martial trial and for withdrawing any such election;
  - (k) who may act as the higher authority.
- (3) A regulation under this section which is inconsistent with the provisions of this Act shall to the extent of the inconsistency be void.]

#### Textual Amendments

- F7** Ss. 52B-52G inserted (1.4.1997 with savings) by 1996 c. 46, s. 5, **Sch. 1 Pt. I para. 13**; S.I. 1997/304, **art. 2** (with **art. 3**)

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