
Status: Point in time view as at 07/01/2003.

Changes to legislation: Naval Discipline Act 1957 (repealed), Cross Heading: Process and execution in certain civil proceedings is up to date with all changes known to be in force on or before 15 June 2024.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)



Naval Discipline Act 1957 (repealed)

1957 CHAPTER 53 5 and 6 Eliz 2

PART III

PROVISIONS RELATING TO CIVILIANS AND CIVIL AUTHORITIES

Process and execution in certain civil proceedings

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F1 Act repealed (prosp.)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

101 Service of proceedings for maintenance, etc.

- (1) Any process to be served on an officer or rating who is subject to this Act (in this section referred to as “the defendant”) in connection with proceedings for a maintenance order as defined by this section, or for the variation, revocation or revival of such an order, shall be deemed to be duly served on the defendant if served on the commanding officer of the ship or establishment in which the defendant is serving or on the books of which he is borne, and may, without prejudice to any other method of service, be so served within the United Kingdom by registered post.
- (2) . . . ^{F1}
- (3) . . . ^{F2}
- (4) Where any such process is served in the United Kingdom and the defendant will be required to appear in person at the hearing, the service of the process shall be of no effect if [^{F3}his commanding officer certifies] to the court by which the process was issued that the defendant is under orders for service on a foreign station and that [^{F3}in the commanding officer’s opinion] it would not be possible for the defendant to attend the hearing and return in time to embark for that service.

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[^{F4}(4A) Where any such process is to be served in the United Kingdom or elsewhere and the defendant will be required to appear in person at the hearing, the service of that process shall be of no effect if his commanding officer certifies to the court by which the process was issued that the defendant is absent without leave or has deserted and remains in desertion.]

(5) In this section the expression “maintenance order” means an order made by a court in the United Kingdom or registered in or confirmed by such a court under the provisions of the ^{M1}Maintenance Orders (Facilities for Enforcement) Act 1920 [^{F5}or registered in such a court under Part I of the ^{M2}Maintenance Orders (Reciprocal Enforcement) Act 1972 [^{F6}or Part I of the Civil Jurisdiction and Judgments Act 1982]] [^{F7}or Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters], being an order for the payment of any periodical or other sum specified therein for or in respect of—

- [^{F8}(a) the maintenance of the wife of the person against whom the order is made; or
- (b) the maintenance of any child of that person or his wife or of any other child who has been treated by them both as a child of their family; or]
- (c) any costs incurred in obtaining the order; or
- (d) any costs incurred in proceedings on appeal against or for the variation, revocation or revival of any such order;

[^{F9}and includes an affiliation order within the meaning of [^{F10}the Affiliation Proceedings Act 1957]]

[^{F11}(5A) In subsection (5) above—

- (a) references to the wife of a person include, in relation to an order made in proceedings in connection with the dissolution or annulment of a marriage, references to a person who would have been his wife if the marriage had subsisted; and
- (b) without prejudice to any enactment or rule of law relating to adoption or legitimation, references to a child of a person or his wife shall be construed without regard to whether or not the father and mother of the child have or had been married to each other at any time.

(5B) In relation to women members of Her Majesty’s naval forces, references in this section to a wife shall be construed as references to a husband.]

(6) Nothing in this section shall be construed as enabling process to be served in connection with proceedings in a court of summary jurisdiction unless the defendant is within the United Kingdom or is serving in a ship on a home station or a naval establishment within the United Kingdom.

Textual Amendments

- F1** S. 101(2) repealed by [Armed Forces Act 1981 \(c. 55\)](#), **Sch. 5 Pt. II**
- F2** S. 101(3) repealed by [Armed Forces Act 1971 \(c. 33\)](#), **Sch. 4 Pt. II**
- F3** Words substituted by [Armed Forces Act 1981 \(c. 55\)](#), **s. 18(3)(b)**
- F4** S. 101(4A) inserted by [Armed Forces Act 1981 \(c. 55\)](#), **s. 18(3)(c)**
- F5** Words inserted by [Maintenance Orders \(Reciprocal Enforcement\) Act 1972 \(c. 18\)](#), **Sch. para. 3**
- F6** Words inserted by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 45:3\)](#), ss. 15(4), 23(2), 36(6), **Sch. 12 Pt. I para. 2**
- F7** Words in s. 101(5) inserted (1.3.2001) by S.I. 2001/3929, arts. 1(b), 5, **Sch. 3 para. 4**

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- F8** S. 101(5)(a)(b) substituted (1.1.1992) by Armed Forces Act 1991 (c. 62), s. 15(5); S.I. 1991/2719, art. 2
- F9** Words in s. 101(5) repealed (N.I.) (4.11.1996) by S.I. 1995/755 (N.I. 2), art. 185(2), Sch. 10; S.R. 1996/297, art. 2(2)
- F10** Words substituted by virtue of Affiliation Proceedings Act 1957 (C. 55), s. 12(3)
- F11** S. 101(5A)(5B) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62), s. 15(6); S.I. 1991/2719, art. 2

Marginal Citations

- M1** 1920 c. 33.
M2 1972 c. 18.

102 Exemption of naval property from execution.

No judgment or order given or made by any court against a member of any of Her Majesty's naval forces or of any naval force of a Commonwealth country or raised under the law of any colony shall be enforced by the levying of execution on any property of the person against whom it is given or made, being arms, ammunition, equipment, instruments or clothing used by him for naval purposes.

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