



Naval Discipline Act 1957 (repealed)

1957 CHAPTER 53 5 and 6 Eliz 2

PART IV

MISCELLANEOUS AND GENERAL

Miscellaneous provisions

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F1 Act repealed (prosp.)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

129 Jurisdiction of civil courts.

- (1) Where a person subject to this Act is acquitted or convicted of an offence on trial by a court-martial ^{F1} . . . , or on summary trial under [^{F2}section 52D] of this Act, [^{F3}or has had an offence committed by him taken into consideration by a court-martial ^{F4} . . . in sentencing him] a civil court shall be debarred from trying him subsequently [^{F5}for the same, or substantially the same, offence]; but except as aforesaid nothing in this Act shall be construed as restricting the jurisdiction of any civil court to try a person subject to this Act for any offence.
- (2) Where a person subject to this Act is acquitted or convicted of an offence on trial by a civil court [^{F6}wherever situated][^{F7}or has had an offence committed by him taken into consideration when being sentenced by a civil court in the United Kingdom], he shall not subsequently be tried under this Act [^{F5}for the same, or substantially the same, offence]; and no person [^{F8}who has been so convicted or has had an offence committed by him so taken into consideration] shall, by reason of the conviction or the offence, be subjected to any loss or forfeiture of seniority or of rate, of privilege in respect of leave, or of pay or service (other than pay and service in respect of time spent in civil custody pending trial, or while attending his trial, or while serving any sentence of imprisonment, ^{F9} . . .detention in a Borstal institution or other detention awarded by the civil court):

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Provided that nothing in this subsection shall affect the power to discharge any person from Her Majesty's service as a person whose services are no longer required; and notwithstanding anything in this subsection a rating who would otherwise be so discharged may, on his own application, be reverted in lieu of being so discharged.

Textual Amendments

- F1** Words in s. 129(1) repealed (28.2.2002) by 2001 c. 19, s. 38, Sch. 7 Pt. 1; S.I. 2002/345, **art. 2** (subject to **art. 3**)
- F2** Words in s. 129(1) substituted (1.4.1997 with saving) by 1996 c. 46, s. 5, **Sch. 1 Pt. IV para. 93**; S.I. 1997/304, **art. 2** (with **art. 3**)
- F3** Words inserted by **Armed Forces Act 1971 (c. 33), s. 55(a)**
- F4** Words in s. 129(1) repealed (28.2.2002) by 2001 c. 19, s. 38, Sch. 7 Pt. 1; S.I. 2002/345, **art. 2** (subject to **art. 3**)
- F5** Words substituted by **Armed Forces Act 1966 (c. 45), s. 35(1)**
- F6** Words inserted by **Armed Forces Act 1966 (c. 45), s. 35(2)**
- F7** Words inserted by **Armed Forces Act 1971 (c. 33), s. 55(b)**
- F8** Words substituted by **Armed Forces Act 1971 (c. 33), s. 55(b)**
- F9** Words in s. 129(2) repealed (1.1.1992) by **Armed Forces Act 1991 (c. 62), s. 26(1)(2), Sch. 2 para. 11(3), Sch. 3**; S.I. 1991/2719, **art. 2**

[^{F10}129A Exclusion of enactments requiring fiat of Attorney General etc. in connection with proceedings.

With the exception of [^{F11}section 52(3)] of this Act, no enactment requiring the fiat or consent of the Attorney General or the Director of Public Prosecutions in connection with any proceedings shall have effect in relation to proceedings under this Act.]

Textual Amendments

- F10** S. 129A inserted by **Armed Forces Act 1971 (c. 33), s. 45(2)**
- F11** Words in s. 129A substituted (1.1.1992) by **Armed Forces Act 1991 (c. 62), s. 26(1), Sch. 2 para. 6(2)**; S.I. 1991/2719, **art. 2**

[^{F12}129B Proof of outcome of civil trial.

(1) Where a person subject to this Act has been tried before a civil court (whether at the time of the trial he was subject to this Act or not), a certificate signed by the [^{F13}proper officer] of the court stating all or any of the following matters—

- (a) that the said person has been tried before the court for the offences specified in that certificate,
- (b) the result of the trial,
- (c) what judgment or order was given or made by the court,
- (d) that other offences specified in the certificate were taken into consideration at the trial,

shall for the purposes of this Act be evidence of the matters stated in the certificate.

(2) The [proper officer] of the court shall, if required by the commanding officer of the person in question or any other officer, furnish a certificate under this section, and shall be paid such fee as may be prescribed by regulations made by a Secretary of State.

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- (3) A document purporting to be a certificate under this section and to be signed by the [^{F13}proper officer] of the court shall, unless the contrary is shown, be deemed to be such a certificate.

[In this section “proper officer” means—

- ^{F14}(4) (a) in relation to a court of summary jurisdiction in England and Wales, the justices’ chief executive for the court; and
(b) in relation to any other court, the clerk of the court, his deputy or any other person having the custody of the records of the court.]]

Textual Amendments

- F12** Ss. 129B, 129C inserted by [Armed Forces Act 1971 \(c. 33\), s. 57\(1\)](#)
F13 Words in s. 129B(1)(2)(3) substituted (1.4.2001) by [1999 c. 22, s. 98, Sch. 13 paras. 22, 24\(3\)](#) (with [Sch. 14 para. 7\(2\)](#)); [S.I. 2001/916, art. 2\(a\)\(ii\)](#) (with [Sch. 2 para. 2](#))
F14 S. 129B(4) substituted (1.4.2001) by [1999 c. 22, s. 98, Sch. 13 paras. 22, 24\(3\)](#) (with [Sch. 14 para. 7\(2\)](#)); [S.I. 2001/916, art. 2\(a\)\(ii\)](#) (with [Sch. 2 para. 2](#))

129C Evidence of proceedings of court-martial.

- (1) The original proceedings of a court-martial purporting to be signed by the judge advocate appointed for the purposes of the court and being in the custody of a Secretary of State or of any person having the lawful custody thereof shall be admissible in evidence on production from that custody.
- (2) A document purporting to be a copy of the original proceedings of a court-martial or any part thereof and to be certified by a Secretary of State or any person authorised by him, or by any other person having the lawful custody of the proceedings, to be a true copy shall be evidence of the contents of the proceedings or the part to which the document relates, as the case may be.
- (3) This section applies to evidence given in any court, whether civil or criminal and whether in the United Kingdom or in any colony.

[^{F15}129D] Forfeiture of service for desertion, and restoration of forfeited service.

- (1) Where a rating of Her Majesty’s naval forces other than a reserve force is convicted of desertion, the period of his service as respects which he is convicted of having been a deserter shall be forfeited.
- (2) Where any of a rating’s service is forfeited by virtue of subsection (1) above, any provision governing his terms of service other than one relating to discharge by purchase shall apply to him, and he shall be liable to serve, in like manner as if the appropriate date were the date of his entry or, as the case may be, attestation and he had on the appropriate date been duly entered or enlisted to serve for the like term (both as respects duration and as respects liability to serve in Her Majesty’s naval forces and any liability to serve in any reserve) as that for which he was in fact serving at the date of his conviction:

Provided that where at the date of his conviction the rating was serving a term ending with the expiration of the period beginning with the date of his attaining the age of eighteen years and he had attained that age when he was convicted (whether or not he

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had attained it when the offence was committed) the duration of the term for which he is liable to serve shall be equal to that period, and the time for which he is required to serve in Her Majesty's naval forces shall be reduced accordingly.

- (3) In subsection (2) above “the appropriate date” means in relation to any person a date earlier than the date of his conviction for desertion by the length of his service which is not forfeited.
- (4) The Defence Council may by regulations make provision for the restoration in whole or in part of any forfeited service to a rating in consideration of good service or on other grounds justifying the restoration of service forfeited; and any service restored to a rating under this subsection shall be credited to him for the purpose of determining for the purposes of any provision governing his terms of service the amount of service in Her Majesty's naval forces or in any reserve which he has served or is liable to serve.
- (5) Nothing in this section shall apply to a person who deserts at a time when he is, under regulations made in pursuance of section 2 of the ^{M1}Armed Forces Act 1966 or under any enactment repealed by any such regulations, continued in service after twenty-two years' service.]

Textual Amendments

F15 S. 129D inserted by [Armed Forces Act 1971 \(c. 33\)](#), **ss. 65, 78(4)(c)**

Marginal Citations

M1 [1966 c. 45](#).

[^{F16}129E Provision as to age.

Where the age of any person at any time is material for the purposes of any provision of this Act regulating the powers of a court-martial, his age at the material time shall be deemed to be or to have been that which appears to the court, after considering any available evidence, to be or to have been his age at that time.]

Textual Amendments

F16 S. 129E inserted by [Armed Forces Act 1976 \(c. 52\)](#), **Sch. 9 para. 11**

[^{F17}130 Redress of complaints.

- (1) If a person subject to this Act thinks himself wronged in any matter relating to his service he may make a complaint with respect to that matter to such officer as may be prescribed.
- (2) A person may not make a complaint under this section with respect to a matter against which he may present a petition under section 70 of this Act, ask for a review under section 71B of this Act or bring an appeal under the ^{M2}Courts-Martial (Appeals) Act 1968.
- (3) The procedure for making and dealing with a complaint under this section shall be laid down in Queen's Regulations, which may, in particular, provide—

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- (a) for a complaint not to be made after the end of such period as may be prescribed;
 - (b) for any such period to be extended, in the case of a complaint made after the end of the period, in such circumstances as may be prescribed;
 - (c) for a complaint to be referred, for its first consideration, by the officer to whom it was made to a superior officer; and
 - (d) if the complainant does not obtain the redress to which he thinks he is entitled (whether from the officer who first considered the complaint or from a superior officer by virtue of provision made as mentioned in this paragraph), for the complaint to be referred to, and considered by, a superior officer.
- (4) Any period prescribed for the purposes mentioned in subsection (3)(a) above shall not be less than three months beginning with the day on which the matter complained of occurred.
- (5) An officer to whom a complaint is made or referred under provision made by virtue of subsection (3) above shall grant any redress which appears to him necessary.
- (6) If the complainant does not obtain the redress to which he thinks he is entitled by the procedure referred to in subsection (3) above, he may submit his complaint to the Defence Council in accordance with the procedure laid down in Queen's Regulations.
- (7) The Defence Council shall have any complaint submitted to them investigated and shall grant any redress which appears to them necessary.
- (8) Where a complaint by an officer has been submitted to the Defence Council and he does not obtain the redress to which he thinks he is entitled, the Defence Council shall, at his request, make a report on the complaint through the Secretary of State to Her Majesty in order to receive the directions of Her Majesty thereon.
- (9) This section applies to a person who is not subject to this Act, in relation to any matter which took place while he was so subject, as it applies to a person who is subject to this Act.
- (10) In this section "prescribed" means prescribed by Queen's Regulations.]

Textual Amendments

F17 S. 130 substituted (1.10.1997) by 1996 c. 46, ss. 20(3); S.I. 1997/2164, art. 2

Modifications etc. (not altering text)

C1 S. 130: power to modify conferred (23.7.1996) by S.I. 1996/1919, art. 237

Marginal Citations

M2 1968 c. 20.

[^{F18}130A Indemnity for prison officers etc.

No action shall lie in respect of anything done by any person in pursuance of a sentence of imprisonment or detention awarded under this Act if the doing thereof would have been lawful but for a defect in any instrument made for the purposes of that sentence.]

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Textual Amendments

F18 S. 130A inserted by [Armed Forces Act 1971 \(c. 33\), s. 71](#)

131 Ships under convoy.

- (1) It is the duty of the master or other person for the time being in command of any vessel comprised in a convoy under the command of an officer of Her Majesty's naval forces, or of any person appointed in that behalf with the authority of [^{F19}the Defence Council], to obey, in all matters relating to the navigation or security of the convoy, any directions which may be given—
 - (a) where the convoy is escorted by any of Her Majesty's ships or vessels, by the commanding officer of any such ship or vessel;
 - (b) in any case, by the said officer or other person in command of the convoy, and to take such precautions for avoiding the enemy as may be required by any such directions.
- (2) If any such directions are not obeyed, any such commanding officer, or the said officer or other person in command of the convoy, may compel obedience by force of arms, and neither he nor any person acting under his orders shall be liable for any injury or loss of life or any damage to or loss of property resulting therefrom.

Textual Amendments

F19 Words substituted by [S.I. 1964/488, Sch. 1 Pt. I](#)

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