

*Status: Point in time view as at 01/10/2001.*

*Changes to legislation: Naval Discipline Act 1957 (repealed), SCHEDULE 4A is up to date with all changes known to be in force on or before 27 June 2024.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)*

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 4A]

#### POWERS OF COURT ON TRIAL OF CIVILIAN

##### Textual Amendments

**F1** Sch. 4A inserted by [Armed Forces Act 1976 \(c. 52\)](#), Sch. 4 paras. 1, 3

##### Modifications etc. (not altering text)

**C1** Sch. 4A excluded (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), s. **134(1)(d)(2)(3)**; S.I. 2004/874, art. 2; S.S.I. 2004/138, art. 2

##### 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**F1** Act repealed (prosp.)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

#### *General*

- 1 The powers conferred by this Schedule shall be exercisable on the trial of a person (in this Schedule referred to as a “civilian”) to whom Parts I and II of this Act are applied by section 118 above.
- 2 (1) In this Schedule—
  - “community supervision order” has the meaning assigned to it by paragraph 4(2) below;
  - “compensation order” has the meaning assigned to it by paragraph 11(1) below;
  - “the court” means a court-martial;
  - “custodial order” has the meaning assigned to it by paragraph 10(1) below;
  - “local authority in England and Wales” means the council of a non-metropolitan county, a metropolitan district or a London borough or the Common Council of the City of London;
  - “local authority in Scotland” means a regional or islands council;
  - “order for absolute discharge” means an order under paragraph 3 below discharging a person absolutely;
  - “order for conditional discharge” means an order under that paragraph discharging a person subject to a condition;
  - “period of conditional discharge” means the period specified in an order for conditional discharge;
  - “prescribed” means prescribed by regulations under paragraph 17 below;

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“<sup>F2</sup> . . .

“the Services Acts” means this Act, the <sup>M1</sup>Army Act 1955 and the <sup>M2</sup>Air Force Act 1955; and

“Standing Civilian Court” means a Standing Civilian Court established under the <sup>M3</sup>Armed Forces Act 1976;

“supervision period” and “supervisor” have the meanings assigned to them by paragraph 4(2) below.

- (2) A parent or guardian is a service parent or guardian for the purposes of this Schedule if—
- (a) he is subject to service law, or
  - (b) Parts I and II of this Act are applied to him by section 118 above, or
  - (c) Part II of the <sup>M4</sup>Army Act 1955 is applied to him by section 209 of that Act, or
  - (d) Part II of the <sup>M5</sup>Air Force Act 1955 is applied to him by section 209 of that Act.

#### Textual Amendments

- F2** Sch. 4A para. 2 (definition of "reception order") repealed (1.1.1992) by [Armed Forces Act 1991 \(c. 62\)](#), ss. 6(a), 26(2), [Sch. 3](#); S.I. 1991/2719, [art. 2](#) (subject to a saving in art. 3(1) of S.I. 1991/2719 insofar as affecting any reception order made on or before 31.12.1991)

#### Marginal Citations

- M1** 1955 c. 18.  
**M2** 1955 c. 19.  
**M3** 1976 c. 52.  
**M4** 1955 c. 18.  
**M5** 1955 c. 19.

#### *Absolute and conditional discharge*

- 3 (1) The court by which a civilian is found guilty of an offence (not being an offence the sentence for which is fixed by law [<sup>F3</sup> or falls to be imposed under section 42(1A) above]) may make an order discharging him absolutely, or, if the court thinks fit, discharging him subject to the condition that, during such period, not exceeding 3 years from the date of the order, as may be specified in the order, he commits no offence that may be tried by court-martial under any of the Services Acts or by a Standing Civilian Court.
- (2) If a court-martial under any of the Services Acts finds a person in whose case an order for conditional discharge has been made guilty of an offence committed during the period of conditional discharge, the court-martial may deal with him for the offence for which the order was made in any manner in which the court which made the order could deal with him if it had just found him guilty of that offence.
- (3) If a Standing Civilian Court finds such a person guilty of an offence committed during the period of conditional discharge, the Standing Civilian Court may deal with him for the offence for which the order was made in any manner in which such a court could deal with him if it had just found him guilty of that offence.

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- (4) Before making an order for conditional discharge the court shall explain to the offender in ordinary language that if he commits another offence during the period of conditional discharge he will be liable to be sentenced for the original offence.

#### Textual Amendments

- F3** Words in [Sch. 4A para. 3\(1\)](#) inserted (1.10.1997) by [1997 c. 43, s. 55\(2\)](#), [Sch. 4 para. 3\(4\)](#); [S.I. 1997/2200, art. 2](#)

#### *Community supervision orders*

- 4 (1) Subject to sub-paragraph (4) below, where a civilian . . . <sup>F4</sup> is found guilty of an offence and the court is of opinion that, having regard to the circumstances, including the nature of the offence and the character of the offender, it is expedient that he should undergo a period of supervision, the court may make an order directing him to comply during a specified period not exceeding [<sup>F5</sup>three years] with the reasonable requirements of a specified person nominated in the prescribed manner.
- (2) In this Schedule—
- “community supervision order” means an order under this paragraph;
- “supervision period” means the period specified in a community supervision order; and
- “supervisor” means a person with whose requirements a community supervision order for the time being requires compliance on the part of the person subject to it.
- (3) The court making a community supervision order may include in it direction to the person who is to be subject to it to comply during the whole or any specified part of the supervision period with such requirements of any prescribed description as the court, having regard to the circumstances, considers will be beneficial for him.
- (4) Before making a community supervision order the court—
- (a) shall explain in ordinary language to the person who is to be subject to it the effect of such an order and the consequences under sub-paragraphs (6) to (10) below of breach of any requirement imposed by virtue of sub-paragraph (1) or (3) above, and
- (b) shall obtain his consent and, if he is under 17 years of age, the consent of his parent or guardian, to the making of the order and to the inclusion in it of any requirement by virtue of sub-paragraph (3) above.
- (5) If the court makes a community supervision order against any person on finding him guilty of an offence, it may not make any other order except a compensation order in respect of his conviction for that offence.
- (6) If a person subject to a community supervision order fails without reasonable excuse to comply with any requirement reasonably imposed by his supervisor or with any requirement included in the order by virtue of sub-paragraph (3) above, he shall be guilty of an offence triable by court-martial.
- (7) Any such offence shall be treated as if it were an offence against a provision of [<sup>F6</sup>Part I] of this Act.

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- [<sup>F7</sup>(7A) Without prejudice to any other power of arrest, a person found committing an offence under sub-paragraph (6) above or alleged to have committed or reasonably suspected of having committed any such offence, may be arrested by a provost officer, by any officer or person legally exercising authority under a provost officer or on his behalf, or by or on the orders of any officer subject to this Act.
- (7B) The power of arrest given to any person by sub-paragraph (7A) above may be exercised either personally or by ordering into arrest the person to be arrested or by giving orders for that person's arrest.
- (7C) A person shall not be arrested by virtue of sub-paragraph (7A) above after the end of a period of 6 months beginning with the end of the supervision period.
- (7D) No proceedings shall be taken against a person for an offence under sub-paragraph (6) above unless the trial is begun within 6 months after the end of the supervision period.]
- [<sup>F8</sup>(7E) Section 52(2) of this Act (as applied to civilians by section 118 of this Act) does not apply in relation to an offence under sub-paragraph (6) above.]
- (8) If a court-martial under any of the Services Acts finds a person guilty of any offence (including an offence under sub-paragraph (6) above) committed during a supervision period, the court-martial may deal with him for the offence for which the community supervision order was made in any manner in which the court which made the order could deal with him if it had just found him guilty of that offence.
- (9) If a Standing Civilian Court finds a person guilty of any offence (including an offence under sub-paragraph (6) above) committed during a supervision period, the Standing Civilian Court may deal with him for the offence for which the community supervision order was made in any manner in which such a court could deal with him if it had just found him guilty of it.
- (10) If the court finds a person guilty of an offence under sub-paragraph (6) above, it may, instead of dealing with him for the offence for which the community supervision order was made, impose a fine not exceeding [<sup>F9</sup>£1,000] upon him.
- (11) An officer authorised by the Defence Council—
- (a) may discharge a community supervision order or modify such an order in any way which in his opinion does not increase its severity, and
  - (b) may replace a supervisor by specifying a new supervisor nominated in the prescribed manner.
- (12) The powers conferred by sub-paragraph (11)(a) above are without prejudice to any of the powers of a <sup>F10</sup> . . . reviewing authority.

#### Textual Amendments

- F4** Words repealed by [Armed Forces Act 1986](#) (c. 21, SIF 7:1), ss. 10(1), 16(2), [Sch. 2](#)
- F5** Words in [Sch. 4A para. 4\(1\)](#) substituted (1.4.1997 with savings) by [1996 c. 46, s. 10, Sch. 3 para. 3\(2\)](#); [S.I. 1997/304, art. 2](#) (with [art. 3](#))
- F6** Words in [Sch. 4A para. 4\(7\)](#) substituted (1.1.1992) by [Armed Forces Act 1991](#) (c. 62), [s. 12\(2\)](#); [S.I. 1991/2719, art. 2](#)
- F7** [Sch. 4A para. 4\(7A\)-\(7D\)](#) inserted (1.4.1997 with savings) by [1996 c. 46, s. 10, Sch. 3 para. 3\(3\)](#); [S.I. 1997/304, art. 2](#) (with [art. 3](#))

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- F8** Sch. 4A para. 4(7E) inserted (1.10.2001) by 2001 c. 19, s. 34, **Sch. 6 Pt. 6 para. 53**; S.I. 2001/3234, **art. 2** (subject to transitional provisions in **art. 3**)
- F9** Words in Sch. 4A para. 4(10) substituted (1.4.1997 with savings) by 1996 c. 46, s. 10, **Sch. 3 para. 3(4)**; S.I. 1997/304, **art. 2** (with **art. 3**)
- F10** Words in Sch. 4A para. 4(12) repealed (1.4.1997 with savings) by 1996 c. 46, s. 35(2), **Sch. 7 Pt. II**; S.I. 1997/304, **art. 2** (with **art. 3**)

**Modifications etc. (not altering text)**

- C2** Sch. 4A para. 4 power to exclude conferred by **Criminal Justice Act 1988 (c. 33, SIF 39:1)**, **s. 50(4)(a)**

*Absolute and conditional discharge and community supervision orders—supplementary*

- 5 (1) If upon finding a person guilty of an offence the court makes in respect of that offence—
- (a) an order for his absolute discharge, or
  - (b) an order for his conditional discharge, or
  - (c) a community supervision order,
- he shall be deemed not to have been convicted of the offence except—
- (i) where the order was an order for conditional discharge or a community supervision order, for the purposes of paragraph 3(2) or (3) or 4(8) or (9) above, as the case may be, and
  - (ii) in all cases, for the purposes specified in sub-paragraph (2) below.
- (2) The purposes mentioned in sub-paragraph (1)(ii) above are the purposes—
- (a) of the proceedings in which the order is made,
  - (b) of any <sup>F11</sup> . . . review of these proceedings,
  - (c) of any appeal against conviction in those proceedings, and
  - (d) of the <sup>M6</sup>Rehabilitation of Offenders Act 1974 [<sup>F12</sup>or of the <sup>M7</sup>Rehabilitation of Offenders (Northern Ireland) Order 1978].
- (3) Sub-paragraph (1) above shall not affect—
- (a) any right of a person in respect of whom an order for absolute or conditional discharge or a community supervision order was made to rely on his conviction in bar of any subsequent proceedings for the same offence; or
  - (b) the restoration of any property in consequence of the conviction.
- (4) No appeal shall lie against any such order.
- (5) If a person is dealt with for an offence for which an order for conditional discharge or a community supervision order was made, the original order shall cease to have effect.
- (6) The powers conferred by paragraphs 3(2) and (3) and 4(8) and (9) above to deal with an offence for which an order for conditional discharge or a community supervision order has been made are without prejudice to any power of the court to deal with an offence, whenever committed, other than the offence for which the order in question was made.

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**Textual Amendments**

- F11** Words in [Sch. 4A para. 5\(2\)\(b\)](#) repealed (1.4.1997) by [1996 c. 46, s. 35\(2\)](#), [Sch. 7 Pt. II](#); [S.I. 1997/304, art. 2](#) (with [art. 3](#))
- F12** Words added by [S.I. 1978/1908 \(N.I. 27\)](#), [art. 4\(5\)](#)

**Marginal Citations**

- M6** [1974 c. 53](#).
- M7** [1978/1908 \(N.I. 27\)](#).

*Reception orders and committal into care—general*

**F13**<sub>6</sub> .....

**Textual Amendments**

- F13** [Sch. 4A para. 6](#) repealed (1.1.1992) by [Armed Forces Act 1991 \(c. 62\), ss. 6\(b\), 26\(2\)](#), [Sch. 3](#); [S.I. 1991/2719, art. 2](#) (subject to a saving in [art. 3\(1\)](#) of [S.I. 1991/2719](#) insofar as affecting any reception order made on or before 31.12.1991)

*Committal into care—England and Wales*

**F14**<sub>7</sub> .....

**Textual Amendments**

- F14** [Sch. 4A para. 7](#) repealed (1.1.1992) by [Armed Forces Act 1991 \(c. 62\), ss. 6\(b\), 26\(2\)](#), [Sch. 3](#); [S.I. 1991/2719, art. 2](#) (subject to a saving in [art. 3\(1\)](#) of [S.I. 1991/2719](#) insofar as affecting any reception order made on or before 31.12.1991)

*Committal into care—transfer to Scotland*

**F15**<sub>8</sub> .....

**Textual Amendments**

- F15** [Sch. 4A para. 8](#) repealed (1.1.1992) by [Armed Forces Act 1991 \(c. 62\), ss. 6\(b\), 26\(2\)](#), [Sch. 3](#); [S.I. 1991/2719, art. 2](#) (subject to a saving in [art. 3\(1\)](#) of [S.I. 1991/2719](#) insofar as affecting any reception order made on or before 31.12.1991)

*Committal into care—transfer to Northern Ireland*

**F16**<sub>9</sub> .....

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### Textual Amendments

**F16** Sch. 4A para. 9 repealed (1.1.1992) by Armed Forces Act 1991 (c. 62), ss. 6(b), 26(2), Sch. 3; S.I. 1991/2719, art. 2 (subject to saving in art. 3(1) of S.I. 1991/2719 insofar as affecting any reception order made on or before 31.12.1991)

### *Custodial orders*

- 10 (1) Where a civilian who has attained [<sup>F17</sup>the minimum age] but is under 21 years of age is found guilty of an offence punishable under this Act with imprisonment, the court shall have power, [<sup>F18</sup>subject to [<sup>F19</sup>sub-paragraphs (1A) and (1AA) below]], to make an order (in this Schedule referred to as a “custodial order”) committing him to be [<sup>F20</sup>detained for a period, to be specified in the order, 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 the age of 18, the period of 21 days; or
    - (ii) in the case of an offender who is under 18 years of 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 21; and in this sub-paragraph [<sup>F21</sup>“ the minimum age”, in relation to a male offender, means 15 years of age and, in relation to a female offender, means 17 years of age.]
- [<sup>F22</sup>(1A) <sup>F23</sup> . . . [<sup>F24</sup><sup>F23</sup> . . . the court shall not make a custodial order committing an offender under [<sup>F25</sup>18 years] of age to be detained for a period which exceeds 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.]
- [ The court may not make a custodial order unless it is satisfied—
- <sup>F26</sup>(1AA) (a) 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
- (b) that he qualifies for a custodial sentence.
- (1AB) 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.]
- <sup>F22</sup>(1B) For the purposes of determining whether [<sup>F27</sup>it is satisfied as mentioned in paragraphs (a) and (b) of sub-paragraph (1AA) above with respect to an offender] 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 mental and physical condition.]
- (2) Before making a custodial order, the court shall consider any report made in respect of the offender by or on behalf of the Secretary of State.



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- (3) The court shall give a copy of any such report to the offender or any person representing him.
- [<sup>F28</sup>(3A) Where the court makes a custodial order it shall be its duty—
- (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 sub-paragraph (1AB) above, 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.
- (3B) Where the court makes a custodial order and, in accordance with its duty under sub-paragraph (3A) above, makes the statement required by paragraph (a) of that sub-paragraph, the matters stated shall be specified in the committal order]
- [<sup>F29</sup>(4) 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.
- (4A) 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 paragraph.]
- (5) 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.
- [<sup>F30</sup>(5A) 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 85(1), 86(1) and (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 sub-paragraph references to a sentence under a custodial order.]
- (6) In this paragraph “appropriate institution” means—
- [<sup>F31</sup>(a) where the offender is [<sup>F32</sup>in or] removed to England or Wales, any institution in which a person sentenced to detention in a young offender institution could be detained, [<sup>F33</sup>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;]
  - [<sup>F34</sup>(b) where the offender is [<sup>F32</sup>in or] removed to Scotland, a young offenders institution;]
  - [<sup>F35</sup>(c) where the offender is [<sup>F32</sup>in or] removed to Northern Ireland,
    - [ if the offender is a male person who is under the age of 17 years, a <sup>F36</sup>(i) remand home; and
    - (ii) in any other case, a young offenders centre;];]



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and in sub-paragraph (4) above “enactment”, in relation to an offender who is removed to Northern Ireland, includes an enactment of the Parliament of Northern Ireland and a Measure of the Northern Ireland Assembly.

[<sup>F37</sup>(6A) [<sup>F38</sup>Section 65 of the Criminal Justice Act 1991](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 [<sup>F39</sup>a sentence of detention in a young offender institution].]

<sup>F40</sup>(6B) . . . . .

### Textual Amendments

- F17** Words substituted by [Armed Forces Act 1986 \(c. 21, SIF 7:1\), s. 11\(1\)\(a\)\(6\)](#)
- F18** Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 58, Sch. 8 para. 7\(a\)\(i\)](#)
- F19** Words in [Sch. 4A para. 10\(1\)](#) substituted (1.1.1992) by [Armed Forces Act 1991 \(c. 62\), s. 5\(1\)\(2\)\(a\)\(9\)](#); S.I. 1991/2719, [art. 2](#)
- F20** Words in [Sch. 4A para. 10\(1\)](#) substituted (1.10.1992 for E.W.) by [Criminal Justice Act 1991 \(c. 53\), ss. 71, 102\(2\)\(8\), Sch. 9 para. 8\(a\)](#); S.I. 1992/333, arts. 2(2), 3(1), [Sch. 2](#).
- F21** Words inserted by [Armed Forces Act 1986 \(c. 21, SIF 7:1\), s. 11\(1\)\(b\)\(6\)](#)
- F22** [Sch. 4A para. 10\(1A\)\(1B\)](#) inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 58, Sch. 8 para. 7\(b\)](#)
- F23** Words in [Sch. 4A para. 10\(1A\)](#) repealed (1.1.1992) by [Armed Forces Act 1991 \(c. 62\), ss. 5\(1\)\(3\), 26\(2\), Sch. 3](#); S.I. 1991/2719, [art. 2](#)
- F24** Words inserted by [Armed Forces Act 1986 \(c. 21, SIF 7:1\), s. 11\(2\)\(6\)](#)
- F25** Words in [Sch. 4A para. 10\(1A\)](#) substituted (1.10.1992 as regards England and Wales) by [Criminal Justice Act 1991 \(c. 53\), ss. 71, 102\(2\)\(8\), Sch. 9 para. 8\(b\)](#); S.I. 1992/333, arts. 2(2), 3(1), [Sch. 2](#).
- F26** [Sch. 4A para. 10\(1AA\)\(1AB\)](#) inserted (1.1.1992) by [Armed Forces Act 1991 \(c. 62\), s. 5\(1\)\(4\)](#); S.I. 1991/2719, [art. 2](#)
- F27** Words in [Sch. 4A para. 10\(1B\)](#) substituted (1.1.1992) by [Armed Forces Act 1991 \(c. 62\), s. 5\(1\)\(5\)](#); S.I. 1991/2719, [art. 2](#)
- F28** [Sch. 4A para. 10\(3A\)\(3B\)](#) substituted (1.1.1992) by [Armed Forces Act 1991 \(c. 62\), s. 5\(1\)\(6\)\(10\)](#); S.I. 1991/2719, [art. 2](#)
- F29** [Sch. 4A para. 10\(4\)\(4A\)](#) substituted (1.1.1992) for [para. 10\(4\)](#) by [Armed Forces Act 1991 \(c. 62\), s. 5\(1\)\(7\)](#); S.I. 1991/2719, [art. 2](#)
- F30** [Sch. 4A para. 10\(5A\)](#) substituted by [Armed Forces Act 1986 \(c. 21, SIF 7:1\), s. 16\(1\), Sch. 1 para. 5\(6\)](#)
- F31** [Sch. 4A para. 10\(6\)\(a\)](#) commencing “where the offender is removed to England or Wales, any institution” substituted (E.W.) for sub-paragraph (6)(a) commencing “where the offender is removed to England or Wales–(i)” by virtue of [Criminal Justice Act 1988 \(c. 33, SIF 39:1\), s. 123\(6\), Sch. 8 para. 5\(b\)](#)
- F32** Words in [Sch. 4A para. 10\(6\)\(a\)–\(c\)](#) inserted (1.1.1992) by [Armed Forces Act 1991 \(c. 62\), s. 5\(1\)\(8\)](#); S.I. 1991/2719, [art. 2](#)
- F33** Words in [Sch. 4A para. 10\(6\)\(a\)](#) substituted (25.8.2000) by [2000 c. 6, ss. 165, 168\(1\), Sch. 9 para. 22](#)
- F34** [Sch. 4A para. 10\(6\)\(b\)](#) commencing “where the offender is removed to Scotland, a young” substituted (S.) for [para. 10\(6\)\(b\)](#) commencing “where the offender is removed to Scotland–(i)” by virtue of [Criminal Justice Act 1988 \(c. 33, SIF 39:1\), s. 124\(4\), Sch. 9 para. 3\(b\)](#)
- F35** [Para. 10\(6\)\(c\)](#) substituted by S.I. 1980/1088, [art. 3](#)
- F36** Words substituted by [Armed Forces Act 1986 \(c. 21, SIF 7:1\), s. 11\(4\)\(6\)](#)
- F37** [Sch. 4A para. 10\(6A\)](#) inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 58, Sch. 8 para. 7\(e\)](#)
- F38** Words in [Sch. 4A para. 10\(6A\)](#) substituted (1.10.1992 for E.W.) by [Criminal Justice Act 1991 \(c. 53\), ss. 71, 102\(2\)\(8\), Sch. 9 para. 8\(c\)](#); S.I. 1992/333, arts. 2(2), 3(1), [Sch. 2](#)
- F39** Words in [Sch. 4A para. 10\(6A\)](#) substituted (1.10.1988) by [1988 c. 33, s. 123, Sch. 8 Pt. I paras. 1, 2](#); S.I. 1988/1408, [art. 2\(1\), Sch.](#)
- F40** [Sch. 4A para. 10\(6B\)](#) 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\(4\)](#)

*Status: Point in time view as at 01/10/2001.*

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### *Compensation orders*

- 11 (1) The court, on finding a civilian guilty of an offence, may, on application or otherwise (and whether or not it makes any other order), make an order (in this Schedule referred to as a “compensation order”) requiring him to pay such sum as appears to the court to be just as or towards compensation for any [<sup>F41</sup>personal injury, loss or damage] resulting from the offence or any other offence taken into consideration in determining sentence.
- [<sup>F42</sup>(1A) Unless the Secretary of State by order provides that this sub-paragraph shall no longer apply, the sum specified in a compensation order made for any personal injury shall not exceed such sum as is for the time being specified in paragraph 11(2) of Schedule 5A to the Army Act 1955 or such larger sum as may for the time being be specified by an order made by the Secretary of State; and the power to make an order under this sub-paragraph shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]
- (3) In the case of an offence of unlawfully obtaining any property (whether by stealing it, handling it or otherwise), where the property in question is recovered, any damage to the property occurring while it was out of the owner’s possession shall be treated for the purposes of this paragraph as having resulted from the offence, however and by whomsoever the damage was caused.
- (4) No compensation order shall be made in respect of loss suffered by the dependants of a person in consequence of his death <sup>F43</sup> . . . .
- [<sup>F44</sup>(4A) A compensation order may only be made in respect of injury, loss or damage which was due to an accident arising out of the presence of a motor vehicle on a road if—
- (a) it is in respect of damage which is treated by sub-paragraph (3) above as resulting from an offence of unlawfully obtaining any property; or
  - (b) it is in respect of injury, loss or damage as respects which—
    - (i) the offender is uninsured in relation to the use of the vehicle; and
    - (ii) compensation is not payable under any arrangements specified by the Secretary of State for the purposes of this paragraph;
- and, where a compensation order is made in respect of injury, loss or damage due to such an accident, the amount to be paid may include an amount representing the whole or part of any loss of or reduction in preferential rates of insurance attributable to the accident.
- (4B) For the purposes of sub-paragraph (4A) above, a person is not uninsured in relation to the use of a vehicle if—
- (a) the vehicle is in the public service of the Crown; or
  - (b) the use of the vehicle is exempted from insurance by section 144 of the Road Traffic Act 1988 or paragraph (2) or paragraph (3) of Article 90 of the Road Traffic (Northern Ireland) Order 1981.]

(5) In determining whether to make a compensation order against any person, and in determining the amount to be paid by any person under such an order, the court shall have regard to his means so far as they appear or are known to the court.

[<sup>F45</sup>(6) Where the court considers—

    - (a) that it would be appropriate both to impose a fine and to make a compensation order, but

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- (b) that the person concerned has insufficient means to pay both an appropriate fine and appropriate compensation,  
the court shall give preference to compensation (though it may impose a fine as well).]

#### Textual Amendments

- F41** Words in Sch. 4A para. 11(1) substituted (1.1.1992) by Armed Forces Act 1991 (c. 62), s. 9(2); S.I. 1991/2719, art. 2
- F42** Sch. 4A para. 11(1A) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62), s. 9(6); S.I. 1991/2719, art. 2
- F43** Words in Sch. 4A para. 11(4) repealed (1.1.1992) by Armed Forces Act 1991 (c. 62), ss. 9(4), 26(2), Sch. 3; S.I. 1991/2719, art. 2
- F44** Sch. 4A para. 11(4A)(4B) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62), s. 9(4); S.I. 1991/2719, art. 2
- F45** Sch. 4A para. 11(6) inserted (1.1.1992) by Armed Forces Act 1991 (c. 62), s. 9(5), S.I. 1991/2719, art. 2

- 12 (1) The operation of a compensation order made by a court-martial shall be suspended—
- (a) in any case until the end of the period specified under Part II of the <sup>M8</sup>Courts-Martial (Appeals) Act 1968 as the period within which an application for leave to appeal must be lodged; and
- (b) if such an application is duly lodged, until either the application is finally refused or it is withdrawn or the appeal is determined or abandoned.
- (3) Where a compensation order has been made against any person in respect of an offence taken into consideration in determining his sentence—
- (a) the order shall cease to have effect if he successfully petitions or appeals against his conviction of the offence or all the offences of which he was convicted in the proceedings in which the order was made; and
- (b) he may petition or appeal against the order as if it were part of the sentence imposed for the offence in respect of which it was made.

#### Marginal Citations

- M8** 1968 c. 20.

#### *Imposition of fines on and making of compensation orders against parents and guardians*

- 13 [F46(1) Where—
- (a) a civilian under 17 years of age is found guilty of any offence; and
- (b) the court is of the opinion that the case would best be met (whether or not in conjunction with any other punishment) by the exercise of any power of the court to impose a fine in respect of the offence or to make a compensation order in respect of the offence or any other offence taken into consideration in determining sentence,
- it shall be the duty of the court to order that the fine or compensation awarded be paid by any parent or guardian of his who is a service parent or guardian, instead of by the person himself, unless the court is satisfied—
- (i) that the parent or guardian cannot be found; or
- (ii) that it would be unreasonable to make an order for payment, having regard to the circumstances of the case.

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- (2) An order under this paragraph may be made against the parent or guardian if—
- (a) he has been required to attend in the manner prescribed by [F47rules] under section 58 of this Act, and
  - (b) he has failed to do so,
- but, save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.]
- [F48(3) A parent or guardian on or against whom a fine has been imposed or compensation order made under this paragraph may present a petition in accordance with [F49section 70(1)] of this Act against sentence or may appeal against sentence in accordance with section 8 of the M9Courts-Martial (Appeals) Act 1968 as if he had been convicted of and sentenced for the offence by the court-martial.]
- (4) If a parent or guardian against whom a fine is so imposed or an order so made—
- (a) is subject to this Act, or
  - (b) is a member of the regular forces, as defined by section 225(1) of the M10Army Act 1955, or
  - (c) is a member of the regular air force, as defined by section 223(1) of the M11Air Force Act 1955,
- any sum which he is liable to pay, in so far as not otherwise paid by him, may be deducted from his pay.
- [F50(5) In this paragraph “guardian”, in relation to an offender, includes any individual who, in the court’s opinion, had at the time of the offence care or control of the offender.]

#### Textual Amendments

- F46** Sch. 4A para. 13(1)(2) substituted by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), s. 16(1), [Sch. 1 para. 12\(2\)](#)
- F47** Word in Sch. 4A para. 13(2)(a) substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, [Sch. 1 Pt. IV para. 98](#); S.I. 1997/304, [art. 2](#) (with art. 3)
- F48** Para. 13(3) substituted by [Armed Forces Act 1981 \(c. 55\)](#), [Sch. 1 para. 3\(7\)](#)
- F49** Words in Sch. 4A para. 13(3) substituted (1.4.1997 with savings) by 1996 c. 46, s. 35(1), [Sch. 6 para. 8](#); S.I. 1997/304, [art. 2](#) (with art. 3)
- F50** Para. 13(5) inserted by [Armed Forces Act 1981 \(c. 55\)](#), [Sch. 1 para. 3\(8\)](#)

#### Marginal Citations

- M9** 1968 c. 20.
- M10** 1955 c. 18.
- M11** 1955 c. 19.

#### *Orders requiring parents or guardians to enter into recognisance*

- 14 (1) Subject to sub-paragraph (2) below, where a civilian under 17 years of age is found guilty of any offence, the court may make an order requiring any parent or guardian of his who is a service parent or guardian to enter into a recognisance for an amount not exceeding [F51£1,000] for a period not exceeding one year to exercise proper control over him.
- (2) The power conferred by sub-paragraph (1) above shall not be exercisable unless the parent or guardian consents.

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- (3) Before making an order in the exercise of that power the court shall explain to the parent or guardian in ordinary language that if the offender is found guilty by court-martial under any of the Services Acts or by a Standing Civilian Court of another offence committed during the period specified in the order, his recognisance may be forfeited under sub-paragraph (4) below.
- (4) If a person whose parent or guardian has entered into a recognisance under this paragraph is found guilty by court-martial under any of the Services Acts or by a Standing Civilian Court of any offence committed within the period specified in the order, the recognisance or any part of it may in the prescribed manner be declared to be forfeited (without prejudice to any power of the court to punish the offender or to make any other order against him or an order against his parent or guardian under this paragraph or paragraph 13 above) and the person bound by it adjudged, subject to subparagraphs (5) and (6) below, to pay the sum in which he is bound or any lesser sum.
- (5) No declaration may be made except against a person who is a service parent or guardian when it is made.
- (6) No declaration may be made against any person without giving him an opportunity of being heard unless—
  - (a) he has been required in the manner prescribed by [<sup>F52</sup>rules] under section 58 above to attend the court, and
  - (b) he has failed to do so.
- (7) Payment of any sum adjudged to be paid under this paragraph shall be enforceable as if it were a fine imposed for an offence against section 42 above.
- (8) No appeal shall lie from an order or declaration under this paragraph.
- [<sup>F53</sup>(9) In this paragraph “guardian”, in relation to an offender, includes any individual who, in the court’s opinion, has control of the offender.]

#### Textual Amendments

- F51** Words in *Sch. 4A para. 14(1)* substituted (1.1.1992) by *Armed Forces Act 1991 (c. 62), s. 26(1), Sch. 2 para. 7; S.I. 1991/2719, art. 2*
- F52** Word in *Sch. 4A para. 14(6)(a)* substituted (1.4.1997 with savings) by 1996 c. 46, s. 5, *Sch. 1 Pt. IV para. 98; S.I. 1997/304, art. 2* (with art. 3)
- F53** *Para. 14(9)* inserted by *Armed Forces Act 1981 (c. 55), Sch. 1 para. 3(9)*

#### Modifications etc. (not altering text)

- C3** Power to amend para. 14(1) conferred by *Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 143(1)(2)(h)* (as substituted by *Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 48(1)(a)(b)(iii)*)

#### *Scale of punishments and orders*

- 15 (1) In their application to civilians, references in this Act to any punishment authorised by this Act are, subject to sub-paragraphs (4) to (7) below and to the limitation imposed in any particular case by the addition of the word “less”, references to any one or more of the punishments that may be awarded to civilians under this Act or of the orders that may be made against them under it.

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- (2) For the purposes of Part I of this Act—
  - (a) a punishment or order specified in any paragraph of one of the columns in the Table below shall be treated as less than any punishments or orders specified in the paragraphs preceding that paragraph and greater than those specified in the paragraphs following it; and
  - (b) a fine on or compensation order against an offender’s parent or guardian shall be treated as involving the same degree of punishment as a fine of the same amount on the offender or, as the case may be, a compensation order of the same amount against him.
- (3) In the Table—
  - (a) the first column applies in the case of a person who at the date of his conviction had attained 21 years of age;
  - (b) the second column applies in the case of a person who at the date of his conviction had attained 17 years of age but was under 21 years of age; and
  - (c) the third column applies in the case of a person who at the date of his conviction was under 17 years of age.

Table

GRADING OF PUNISHMENTS AND ORDERS

<i>Offender 21 or over</i>	<i>Offender 17 but under 21</i>	<i>Offender under 17</i>
1. F54	1. F54	1. Detention as the Secretary of State may direct.
...	...	[ <sup>F55</sup> 1A. Custodial order.]
2. Imprisonment.	2. Custody for life	2. F56
3. Fine.	3. Custodial order.	3. Fine.
[ <sup>F57</sup> 3A. Community supervision order.]		
4.	4. Fine.	4.
5.	5.	5.
6.	6.	6.
7.	7.	
8.	8.	

Note. In the application of the above Table—

- (a) to a person convicted of murder [<sup>F58</sup>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, <sup>F59</sup> . . .
- <sup>F59</sup>(b) . . . . .

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- <sup>F59</sup> . . . a reference to detention during Her Majesty's pleasure shall be substituted—
- (i) for the reference to [<sup>F60</sup>a custodial order] in the second column, and
  - (ii) for the reference to detention as the Secretary of State may direct in the third column.
- (4) No order requiring the giving of a consent or the making of an explanation may be made on any <sup>F61</sup> . . . , review <sup>F61</sup> . . . of a sentence or any appeal against a sentence without the consent being given or the explanation made.
- (5) If a community supervision order is made on any such <sup>F61</sup> . . . , review, <sup>F61</sup> . . . or appeal, no other order may be made except a compensation order.
- (6) Where an order under paragraph 13 or 14 above was made at the trial, no other order under either of those paragraphs may be substituted for it on any such <sup>F61</sup> . . . , review, <sup>F61</sup> . . . or appeal.
- (7) Where—
- (a) on the trial of any person an order might have been made against his parent or guardian under paragraph 13 or 14 above, and
  - (b) there is power, on <sup>F61</sup> . . . , review, <sup>F61</sup> . . . or appeal, to substitute a fine or compensation order for the order made on the trial,
- that power shall include—
- (i) power to substitute a fine or compensation order of an equal or smaller amount under paragraph 13 above, and
  - (ii) power to make an order under paragraph 14 above which is not of greater severity, in the opinion of the person to whom it falls to exercise the power, than the order made on the trial.

#### Textual Amendments

- F54** Words in [Sch. 4A para. 15](#) Table repealed (11.5.2001) by [2001 c. 19, ss. 38, 39\(3\)\(g\)](#), [Sch. 7 Pt. 4](#)
- F55** Entry inserted by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), [s. 11\(5\)\(6\)](#)
- F56** Words in [Sch. 4A para. 15\(3\)](#), Table, Column 3 para. 2 repealed (1.1.1992) by [Armed Forces Act 1991 \(c. 62\)](#), [s. 26\(2\)](#), [Sch. 3](#); [S.I. 1991/2719](#), [art. 2](#)
- F57** Entry inserted by [Armed Forces Act 1986 \(c. 21, SIF 7:1\)](#), [s. 10\(2\)](#)
- F58** Words in sub-para. (a) of note to table in [Sch. 4A para. 15\(3\)](#) inserted (30.11.2000 with effect as mentioned in [Sch. 7 para. 32\(4\)](#)) by [2000 c. 43, ss. 74, 80\(3\)](#), [Sch. 7 Pt. II para. 32\(3\)\(c\)\(ii\)](#)
- F59** [Sch. 4A para. 15](#): para. (b) and words in the Note to the Table repealed (11.5.2001) by [2001 c. 19, s. 38](#), [Sch. 7 Pt. 4](#)
- F60** Words in sub-para. (b)(i) of note to table in [Sch. 4A para. 15\(3\)](#) substituted (*prosp.*) by [2000 c. 43, ss. 74, 80\(1\)](#), [Sch. 7 Pt. II para. 32\(3\)\(c\)\(ii\)](#)
- F61** Words in [Sch. 4A para. 15\(4\)-\(7\)](#) repealed (1.4.1997 with savings) by [1996 c. 46, s. 35\(2\)](#), [Sch. 7 Pt. II](#); [S.I. 1997/304](#), [art. 2](#) (with [art. 3](#))

#### *Indemnity for persons carrying out orders under Schedule*

- 16 No action shall lie in respect of anything done by any person in pursuance of an order under this Schedule if the doing thereof would have been lawful but for a defect in any instrument made for the purposes of that order.



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### *Regulations*

- 17 (1) The Secretary of State may by regulations make provision supplementary or incidental to the provisions of this Schedule.
- (2) The power to make regulations conferred by this paragraph includes power to make provision for specified cases or classes of cases, and for the purpose of any such orders classes of cases may be defined by reference to any circumstances specified in the regulations.
- (3) The power to make such regulations shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Status:**

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**Changes to legislation:**

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