



Naval Discipline Act 1957 (repealed)

1957 CHAPTER 53 5 and 6 Eliz 2

PART I

ARTICLES OF WAR

Punishments

[^{F1}43AA 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, ^{F2}. . . to make an order (in this section referred to as a “custodial order”) committing him to be detained in accordance with the provisions of this section for a [^{F3}period to be specified in the order [^{F4}being not less than 21 days and][^{F5}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]

^{F6}(1A)

[The court shall not make a custodial order committing an offender aged 17 to be ^{F7}(1AA) 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 [^{F8} 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,

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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.

[^{F9}(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—

- [^{F10}(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, [^{F11}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;]
- [^{F12}(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.

[^{F13}(6A) [^{F14}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 [^{F15}a sentence of detention in a young offender institution].]

[^{F16}(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	
F1	S. 43AA inserted by Armed Forces Act 1981 (c. 55), s. 2(2)
F2	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

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- F3** Words in s. 43AA(1) substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, **Sch. 8 para. 3(a)**
- F4** 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**
- F5** 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**
- F6** 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**
- F7** 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**
- F8** 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**
- F9** S. 43AA(5) substituted by Armed Forces Act 1986 (c. 21, SIF 7:1), s. 16(1), **Sch. 1 para. 5(5)**
- F10** 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)**
- F11** Words in s. 43AA(6)(a) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 20**
- F12** S. 43AA(6)(b) substituted (S.) by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 124(4), **Sch. 9 para. 2(b)**
- F13** S. 43AA(6A) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 58, **Sch. 8 para. 3(d)**
- F14** 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)**
- F15** 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.**
- F16** 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)**.

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

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