

Army Act, 1955

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CHAPTER 18

An Act to make provision with respect to the army.
[6th May, 1955]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

ENLISTMENT AND TERMS OF SERVICE

Enlistment

1. The following persons may enlist recruits in the regular Recruiting forces and are in this Act referred to as recruiting officers, that officers. is to say,—

- (a) whether within or without Her Majesty's dominions, any officer authorised under regulations of the Army Council,
- (b) in a colony, any person authorised by the Governor of the colony,
- (c) outside Her Majesty's dominions, any British consul-general, consul or vice-consul, and any person duly exercising the authority of a British consul.

2.—(1) A person offering to enlist in the regular forces shall Enlistment. be given a notice in the prescribed form setting out the questions to be answered on attestation and stating the general conditions

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of the engagement to be entered into by him ; and a recruiting officer shall not enlist any person in the regular forces unless satisfied by that person that he has been given such a notice, understands it and wishes to be enlisted.

(2) The procedure for enlisting a person in the regular forces shall be that set out in the First Schedule to this Act.

(3) A recruiting officer shall not enlist a person under the minimum age for man's service unless consent to the enlistment has been given in writing—

- (a) if the person offering to enlist is living with both or one of his parents, by the parents or parent ;
- (b) if he is not living with both or one of his parents, but any person (whether a parent or not) whose whereabouts are known or can after reasonable enquiry be ascertained has parental rights and powers in respect of him, by that person ;
- (c) if there is no such person as is mentioned in paragraph (b) of this subsection or if after reasonable enquiry it cannot be ascertained whether there is any such person, by any person in whose care (whether in law or in fact) the person offering to enlist may be.

(4) Where the recruiting officer is satisfied, by the production of a certified copy of an entry in the register of births or by any other evidence appearing to him to be sufficient, that a person offering to enlist has or has not attained the minimum age for man's service, that person shall be deemed for the purposes of this Act to have attained, or as the case may be, not to have attained, that age.

A document purporting to be a certificate signed by the recruiting officer, stating that he is satisfied as aforesaid, shall be sufficient evidence, until the contrary is proved, that he is so satisfied.

(5) In this Part of this Act the expression " minimum age for man's service " means the age of seventeen years and six months, except that in such classes of case as may be prescribed it means the age of seventeen years.

Appointment to corps and transfer from one corps to another

3.—(1) Recruits may, in pursuance of regulations of the Army Council under this Part of this Act, be enlisted for service in particular corps, but save as may be provided by such regulations recruits shall be enlisted for general service.

(2) The competent military authority shall as soon as practicable appoint a recruit, if enlisted for service in a corps, to that corps, and if enlisted for general service, to such corps as the competent military authority may think fit:

Provided that a recruit enlisted for general service before attaining the age of eighteen years need not be appointed to a corps until he attains that age.

(3) A soldier of the regular forces may at any time be transferred by order of the competent military authority from one corps to another:

Provided that except while a state of war exists between Her Majesty and any foreign power, or men of the reserve are called out on permanent service, an order under this subsection shall not be made otherwise than by a member of the Army Council unless the person to whom the order relates consents to the transfer.

(4) Where, in pursuance of the last foregoing subsection, a soldier of the regular forces is transferred to a corps in an arm or branch of the service different from that in which he was previously serving, the competent military authority may by order vary the conditions of his service so as to correspond with the general conditions of service in the arm or branch to which he is transferred.

Terms and conditions of service

4.—(1) The term for which a person enlisting in the regular forces may be enlisted shall be such a term, beginning with the date of his attestation, as is mentioned in the following provisions of this section. Terms of enlistment.

(2) Where the person enlisting has attained the minimum age for man's service the said term shall be—

- (a) a term of twenty-two years of army service; or
- (b) such term, not exceeding twelve years, as may be prescribed, being a term of army service; or
- (c) such term, not exceeding twelve years, as may be prescribed, being as to such part thereof as may be prescribed a term of army service and as to the remainder a term of service in the reserve.

(3) Where the said person has not attained the minimum age for man's service the said term shall be—

- (a) a term ending with the expiration of such period, not exceeding twelve years, beginning with the date on which he attains the age of eighteen years, as may be prescribed, being a term of army service; or

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- (b) a term ending with the expiration of such period as aforesaid, being as to such part thereof as may be prescribed a term of army service and as to the remainder a term of service in the reserve.

Change of conditions of service after enlistment for term of twenty-two years.

5.—(1) A person in army service who enlisted for a term of twenty-two years of such service shall have the right, exercisable as mentioned in subsection (5) of this section,—

- (a) to be transferred to the reserve at the end of the period of three or at the end of the period of six years beginning with the date of his attestation ; or
- (b) to determine his service at the end of the period of nine years beginning with the date of his attestation or of any succeeding period of three years.

(2) A person in army service who enlisted as aforesaid may, on written application in that behalf made by him to the competent military authority and with the consent of that authority, be transferred to the reserve at any time before he has completed nine years' service.

(3) Where a person is transferred to the reserve under subsection (1) or subsection (2) of this section then (subject to the next following subsection)—

- (a) if he is so transferred before completing six years' army service he shall serve in the reserve for a period of four years :
- (b) if he is so transferred after completing six years' army service he shall serve in the reserve for a period of three years.

(4) A person in the reserve by virtue of subsection (1) or subsection (2) of this section may, on written application in that behalf made by him to the competent military authority and with the consent of that authority, at any time re-enter upon army service and, according as may be specified in the application, either—

- (a) be treated for the purposes of this Part of this Act in all respects as if that service had continued while he was in the reserve as aforesaid ; or
- (b) serve in army service for the remainder of the period for which he would have been liable to serve in the reserve if he had not re-entered upon army service ; or
- (c) serve in army service for a specified part of that remainder and thereafter serve in the reserve for the residue thereof.

(5) Subject to the next following subsection the right conferred by subsection (1) of this section shall be exercisable by notice in writing in the prescribed form given by the person in question to his commanding officer not less than six nor more than twelve months before the expiration of the period at the end of which he is to be transferred to the reserve or, as the case may be, his service is to determine.

(6) Where a person, in consideration of his being permitted to undergo a prescribed course of instruction or a course of instruction of a prescribed class, or of the conferring on him of such other benefit or advantage as may be prescribed, has undertaken, in the prescribed form and manner, not to determine his army service before the expiration of such period beginning with the day on which that course of instruction ends as may be prescribed or, as the case may be, before the expiration of such period as may be prescribed in relation to that other benefit or advantage, he shall not give a notice under the last foregoing subsection which would result in his transfer to the reserve or the determination of his service before the end of that period.

(7) A notice given by a person under subsection (5) of this section may be withdrawn by a notice in writing in the prescribed form given by him to his commanding officer at any time before the expiration of the period mentioned in that subsection, but where a notice under this subsection is given in the last six months of that period it shall be of no effect unless approved by the competent military authority.

6.—(1) A person in army service who enlisted after attaining the minimum age for man's service and whose enlistment was not for a term of twenty-two years may, on giving to his commanding officer written notice in the prescribed form and with the consent of the competent military authority, be treated for the purposes of this Act as if his enlistment had been for a term of twenty-two years of army service. Conversion of shorter term into term of twenty-two years.

(2) A person in army service who enlisted before attaining the minimum age for man's service may, on giving to his commanding officer a notice in the prescribed form and with the consent of the competent military authority, be treated for the purposes of this Act at any time after attaining the age of eighteen years as if on the day on which he attained that age he had enlisted for a term of twenty-two years of army service.

A person shall not give a notice under this subsection before attaining the age of seventeen years and six months.

(3) A person who by virtue of this section is treated as if he had been enlisted for a term of twenty-two years of army service shall not exercise his right under subsection (1) of the last foregoing section so as to reduce his army service to less than it would have been if he had not been treated as aforesaid.

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Other changes of conditions of service of persons enlisted for less than twenty-two years.

7.—(1) Where a person in army service enlisted otherwise than for a term of twenty-two years of such service his conditions of service may, on written application in that behalf made by him to the competent military authority and with the consent of that authority, be changed as follows, that is to say:—

- (a) if his enlistment was for a term ending before the expiration of a period of twelve years beginning with the date of his attestation or (if he enlisted before attaining the minimum age for man's service) the date of his attaining the age of eighteen years, that term may be extended so as to end at such time, not later than the expiration of the said period, as may be specified in the application and so as to increase the period of his army service, his service in the reserve, or both, as may be so specified;
- (b) if the term for which he enlisted, or that term as extended under paragraph (a) of this subsection, includes a period of service in the reserve, his period of army service may be increased, according as may be specified in the application, so as to extend to the whole or a specified part of that period;
- (c) he may be transferred to the reserve to serve therein for the residue of the term for which he was enlisted, or if that term has been extended under paragraph (a) of this subsection, for the residue of that term as so extended.

(2) A person in the reserve by virtue either of the terms of his enlistment or of subsection (1) of this section may, on written application in that behalf made by him to the competent military authority and with the consent of that authority, at any time re-enter upon army service and, according as may be specified in the application, either—

- (a) serve in army service for the remainder of the period for which he would have been liable to serve in the reserve if he had not re-entered upon army service, or
- (b) serve in army service for a specified part of that remainder and thereafter serve in the reserve for the residue thereof.

Extension of service

Continuance in service after twenty-two years' service.

8.—(1) A soldier of the regular forces enlisted for a term of twenty-two years of army service who has completed the prescribed period (which shall not be less than fifteen years) of continuous service from the date of his attestation may give notice to his commanding officer of his desire to continue in army service, after the completion of twenty-two years' service, for such period, not exceeding five years, as may be specified in

the notice; and, if the competent military authority approve he may, after the completion of twenty-two years' service, be continued as a soldier of the regular forces for the period specified in the notice, in all respects as if his term of service were still unexpired.

The giving, under the foregoing provisions of this subsection, of a notice by a soldier shall not prejudice the exercise by him of the right conferred by subsection (1) of section five of this Act.

(2) Where a soldier of the regular forces will, at the end of the term for which he was enlisted, have completed not less than twenty-two years' service but will not be entitled to give a notice under the last foregoing subsection, he may, at any time during the last twelve months of that term, give notice to his commanding officer of his desire to continue in army service, after the end of that term, for such period, not exceeding five years, as may be specified in the notice; and, if the competent military authority approve, he may, after the end of that term, be continued as a soldier of the regular forces, for the period specified in the notice, in all respects as if that term were still unexpired.

The references in this subsection to the term for which a soldier was enlisted shall, where the term has been extended under subsection (1) of the last foregoing section, be construed as references to the term as so extended.

(3) A soldier of the regular forces for the time being continued in service under subsection (1) or (2) of this section may, within the prescribed period immediately preceding the date on which the period for which he is so continued will end, give notice to his commanding officer of his desire to continue further in army service after that date for such period, not exceeding five years, as may be specified in the notice; and if the competent military authority approve, he may, after that date, be further continued as a soldier of the regular forces, for the period specified in the notice, in all respects as if the term for which he was previously continued in service were still unexpired.

(4) The last foregoing subsection shall apply to soldiers of the regular forces continued in service thereunder as it applies to such soldiers continued in service under subsection (1) or (2) of this section.

(5) Section five of this Act shall not apply in the case of a soldier who is continued in service under this section; but any such soldier may claim his discharge at the expiration of the period of three months beginning with the date on which he gives to his commanding officer notice of his wish to be discharged.

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(6) References in this section to periods of service shall, except so far as the context otherwise requires, be construed as including references to periods served in the reserve, but as not including—

(a) periods of whole-time or part-time service within the meaning of Part I of the National Service Act, 1948 ;
or

(b) in relation to a soldier who was enlisted for a term ending with the expiration of a period beginning with the date of his attaining the age of eighteen years, any period during which he was under that age.

Postponement
in certain
cases of
discharge or
transfer to
the reserve.

9.—(1) Where at the time at which apart from this section a soldier of the regular forces would be entitled to be discharged, or would fall to be transferred to the reserve, a state of war exists between Her Majesty and any foreign power, or men of the reserve are called out on permanent service, or he is serving outside the United Kingdom, he may be retained in army service for such period as is hereinafter mentioned, and his service may be prolonged accordingly.

(2) No person shall be retained in army service by virtue of this section later than the expiration of twelve months after the date on which apart from this section he would be entitled to be discharged.

(3) Subject to the provisions of the last foregoing subsection, a person who apart from this section would be entitled to be discharged may be retained in army service for such period as the competent military authority may order.

(4) Subject as aforesaid, a person who apart from this section would fall to be transferred to the reserve may be retained in army service for such period, ending not later than twelve months after the date on which apart from this section he would fall to be transferred to the reserve, as the competent military authority may order or for any period or further period during which men of the reserve continue called out on permanent service.

(5) If while a soldier is being retained in army service by virtue of this section it appears to the competent military authority that his services can be dispensed with, he shall be entitled to be discharged or transferred to the reserve as the case may require.

(6) Where, at the time at which under the foregoing provisions of this section a soldier is entitled to be discharged or transferred to the reserve, a state of war exists between Her Majesty and any foreign power, he may, by declaration made in the prescribed form before his commanding officer, agree to continue in army

service while such a state of war exists ; and if the competent military authority approve he may continue accordingly as if the period for which his term of service could be prolonged under the foregoing provisions of this section were a period continuing so long as a state of war exists :

Provided that if it is so specified in the declaration he shall be entitled to be discharged or transferred to the reserve, as the case may require, at the expiration of three months' notice given by him to his commanding officer.

(7) In relation to soldiers serving outside the United Kingdom, references in this section to being entitled to be transferred to the reserve shall be construed as references to being entitled to be sent to the United Kingdom with all convenient speed for the purpose of being transferred to the reserve.

10.—(1) In the case of imminent national danger or of great emergency Her Majesty in Council may by proclamation order that soldiers who would otherwise fall to be transferred to the reserve shall continue in army service ; and thereupon the last foregoing section shall apply to such soldiers as it applies while men of the reserve are called out on permanent service. Continuation of army service in imminent national danger.

(2) Any such proclamation may enable the Army Council from time to time to give, and when given to revoke or vary, such directions as may seem to them necessary or expedient for causing all or any of the soldiers mentioned in the proclamation to continue in army service.

(3) The danger or emergency which is the occasion of a proclamation under this section shall, if Parliament is then sitting, be communicated to Parliament before the proclamation is issued, and shall if Parliament is not then sitting be declared in the proclamation.

Discharge and transfer to reserve

11.—(1) Save as hereinafter provided every soldier of the regular forces, upon becoming entitled to be discharged, shall be discharged with all convenient speed but until discharged shall remain subject to military law. Discharge.

(2) Where a soldier of the regular forces enlisted in the United Kingdom is, when entitled to be discharged, serving out of the United Kingdom, then—

- (a) if he requires to be discharged in the United Kingdom, he shall be sent there free of cost with all convenient speed and shall be discharged on his arrival there or, if he consents to his discharge being delayed, within six months from his arrival ; but

PART I
—cont.

(b) if at his request he is discharged at the place where he is serving he shall have no claim to be sent to the United Kingdom or elsewhere.

(3) Except in pursuance of the sentence of a court-martial (whether under this Act, the Naval Discipline Act or the Air Force Act, 1955), a soldier of the regular forces shall not be discharged unless his discharge has been authorised by order of the competent military authority or by authority direct from Her Majesty; and in any case the discharge of a soldier of the regular forces shall be carried out in accordance with Queen's Regulations.

(4) Every soldier of the regular forces shall on his discharge be given a certificate of discharge containing such particulars as may be prescribed.

(5) A soldier of the regular forces who is discharged in the United Kingdom shall be entitled to be conveyed free of cost from the place where he is discharged to the place stated in his attestation paper to be the place where he was attested or to any place at which he intends to reside and to which he can be conveyed with no greater cost.

Transfer to
the reserve.

12.—(1) Every soldier of the regular forces upon falling to be transferred to the reserve shall be transferred to the reserve but until so transferred shall remain subject to military law.

(2) Where a soldier of the regular forces, when falling to be transferred to the reserve, is serving out of the United Kingdom, he shall be sent to the United Kingdom free of cost with all convenient speed and shall be transferred to the reserve on his arrival there, or if he consents to his transfer being delayed, within six months from his arrival:

Provided that if he so requests he may be transferred to the reserve without being required to return to the United Kingdom.

(3) A soldier who is transferred to the reserve in the United Kingdom shall be entitled to be conveyed free of cost from the place where he is transferred to the place stated in his attestation paper to be the place where he was attested or to any place at which he intends to reside and to which he can be conveyed with no greater cost:

Provided that he shall not be entitled to be conveyed to any place outside the United Kingdom.

Postponement
of discharge
or transfer
pending
proceedings
for offences.

13.—(1) Notwithstanding anything in this Part of this Act, a soldier of the regular forces shall not be entitled to be discharged or transferred to the reserve at a time when he has become liable, as a person subject to military law, the Naval Discipline Act or air-force law, to be proceeded against for an offence against any of the provisions of this Act, the Naval Discipline Act or the Air Force Act, 1955:

Provided that if it is determined that the offence shall not be tried by court-martial this subsection shall cease to apply.

(2) Notwithstanding anything in this Part of this Act, a soldier of the regular forces who is outside the United Kingdom and serving a sentence of imprisonment or detention awarded by a court-martial under this Act, the Naval Discipline Act or the Air Force Act, 1955, shall not be entitled to be discharged or transferred to the reserve during the currency of the sentence.

14.—(1) A recruit shall be entitled to claim his discharge at any time within three months after the date of his attestation, and if he makes such a claim he shall on payment of a sum not exceeding twenty pounds be discharged with all convenient speed: Right of recruit to purchase discharge.

Provided that if the claim is made at a time when soldiers are required by a proclamation under section ten of this Act to continue in army service, he shall not be entitled to be discharged so long as they are so required to continue in army service.

(2) In this section the expression "recruit" means a person enlisted in accordance with the provisions of this Part of this Act who has not been previously so enlisted.

15. A warrant officer of the regular forces who is reduced to the ranks may thereupon claim to be discharged unless a state of war exists between Her Majesty and any foreign power or men of the reserve are called out on permanent service. Right of warrant officer to discharge on reduction to ranks.

16.—(1) Where it appears to the Army Council or any officer deputed by them that a soldier of the regular forces is— Discharge of soldiers of unsound mind.

(a) a dangerous person of unsound mind ; or

(b) a person of unsound mind requiring treatment in a mental hospital and having no relative who claims to take charge of him ; or

(c) a person of unsound mind having no relative willing to take charge of him,

the Army Council or officer deputed by them may if they or he think proper cause the soldier on his discharge to be received in a mental hospital in accordance with the following provisions of this section.

(2) Where the soldier has a home in Great Britain, the Regional Hospital Board for the area in which his home is situated shall, on request made by the Army Council or officer deputed by them, forthwith designate a mental hospital in their area, and the Army Council or officer shall by order direct that the soldier shall be received into that hospital.

PART I
—cont.

(3) Where the soldier has a home in Northern Ireland—

- (a) the secretary or other officer of the Northern Ireland Hospitals Authority shall, on request made by the Army Council or officer deputed by them, forthwith designate a mental hospital in Northern Ireland, and the Army Council or officer deputed by them shall by order direct that the soldier shall be received into that hospital ; and
- (b) the Army Council or officer deputed by them shall, if the case so requires, inform the welfare authority and that authority shall take such steps as may in their opinion be necessary to secure the welfare of the wife and children of the soldier.

(4) An order made under subsection (2) of this section shall have the like effect, and the like proceedings shall be taken thereon, as if it were an order under section sixteen of the Lunacy Act, 1890, or in Scotland an order of the sheriff made under section fourteen, or in the case of a soldier being a dangerous person of unsound mind, section fifteen, of the Lunacy (Scotland) Act, 1862 ; and an order under paragraph (a) of subsection (3) of this section shall have the like effect, and the like proceedings shall be taken thereon, as if it were an order made by a judicial authority under section ten of the Mental Health Act (Northern Ireland), 1948.

(5) Any question arising under this section whether, and if so where, a person has a home in Great Britain or Northern Ireland shall be decided by the Army Council or an officer deputed by them, and for the purposes of this section a person with no home in Great Britain or Northern Ireland may be treated as if he had a home in such area as may be determined by the Army Council or an officer deputed by them.

Miscellaneous and supplementary provisions

Forfeiture
of service for
desertion and
restoration of
forfeited
service.

17.—(1) Where a soldier of the regular forces is convicted of desertion by court-martial, the period of his service as respects which he is convicted of having been a deserter shall be forfeited.

(2) Where any of a soldier's service is forfeited the provisions of this Part of this Act (except those 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 attestation and he had, on the appropriate date, been duly enlisted to serve for the like term (both as respects duration and as respects liability to army service and any liability to serve in the 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 soldier was serving a term ending with the expiration of a 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 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 army service shall be reduced accordingly.

(3) In the last foregoing subsection the expression “ the appropriate date ”—

- (a) if in consequence of subsection (1) of this section and an award of the court-martial under Part II of this Act the whole of his previous service is forfeited, means the date of his conviction ;
- (b) if in consequence of the said subsection (1) or that subsection and an award of the court-martial part only of his previous service is forfeited, means a date earlier than the date of his conviction by the length of service not forfeited.

(4) Notwithstanding anything in the foregoing provisions of this section, the right conferred on a soldier by subsection (1) of section five of this Act shall not be exercisable, in consequence of a forfeiture of service, at a time earlier than that at which it would have been exercisable apart from the forfeiture.

(5) The Army Council may by regulations make provision for the restoration in whole or in part of any forfeited service to a soldier in consideration of good service or on other grounds justifying the restoration of service forfeited.

(6) Where service of any description is restored to a person by virtue of the last foregoing subsection while he is in army service,—

- (a) the amount of the service so restored shall, subject to the provisions of the next following paragraph, be credited to him for the purpose of determining for the purposes of this Act the amount of service, army service or service in the reserve, as the case may require, which he has served or is liable to serve ; but
- (b) in the case of a person who, when his service is restored, is serving, or subsequently serves, on terms which entitle him to the right conferred by subsection (1) of section five of this Act the restoration shall not operate to alter the dates on which, by reason of the operation of subsection (2) of this section, his army service may be determined in pursuance of an exercise of that right.

PART I
—cont.

(7) Nothing in this section shall apply to a person who deserts at a time when he is, under section eight of this Act, continued in service after the completion of twenty-two years' service.

Validity of
attestation and
enlistment.

18.—(1) Where a person has signed the declaration required by the First Schedule to this Act, and has thereafter received pay as a soldier of the regular forces,—

- (a) the validity of his enlistment shall not be called in question on the ground of any error or omission in his attestation paper ;
- (b) if within three months from the date on which he signed the said declaration he claims that his enlistment is invalid by reason of any non-compliance with the requirements of this Act as to enlistment or attestation, or any other ground whatsoever (not being an error or omission in his attestation paper) on which apart from this subsection the validity of his enlistment could have been called in question, the claim shall be submitted as soon as may be to the Army Council, and if the claim is well founded the Army Council shall cause him to be discharged with all convenient speed ;
- (c) subject to the provisions of the last foregoing paragraph, he shall be deemed as from the expiration of the said three months to have been validly enlisted notwithstanding any such non-compliance or other grounds as aforesaid ;
- (d) notwithstanding any such non-compliance or other grounds as aforesaid, or the making of a claim in pursuance of paragraph (b) of this subsection, he shall be deemed to be a soldier of the regular forces until his discharge.

In the case of a person who when he signed the said declaration had not attained the minimum age for man's service, paragraph (b) of this subsection shall have effect as if for the words " he claims " there were substituted the words " he, or any person whose consent to the enlistment was required under subsection (3) of section two of this Act but who did not duly consent, claims ".

(2) Where a person has received pay as a soldier of the regular forces without having previously signed the declaration required by the First Schedule to this Act, then—

- (a) he shall be deemed to be a soldier of the regular forces until discharged ;
- (b) he may claim his discharge at any time, and if he does so the claim shall be submitted as soon as may be to the Army Council, who shall cause him to be discharged with all convenient speed.

(3) Nothing in the foregoing provisions of this section shall be construed as prejudicing the determination of any question as to the term for which a person was enlisted or as preventing the discharge of a person who has not claimed his discharge.

PART I
—cont.

19.—(1) If a person appearing before a recruiting officer for the purpose of being attested knowingly makes a false answer to any question contained in the attestation paper and put to him by or by the direction of the recruiting officer, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding twenty pounds.

False answers
in attestation
paper.

(2) For the avoidance of doubt it is hereby declared that a person may be proceeded against under this section notwithstanding that he has since become subject to military law.

20.—(1) The following provisions of this Part of this Act shall not apply to persons enlisted in pursuance of the National Service Act, 1948, that is to say, the proviso to subsection (3) of section three, sections four to seven, section thirteen, section fifteen, section seventeen and subsection (2) of section eighteen; and section nine of this Act shall not apply to such persons by reason only that they are serving outside the United Kingdom.

Special
provisions as
to National
Service men.

(2) Where a person enlisted in pursuance of the National Service Act, 1948, having been discharged from that enlistment before the end of his term of whole-time service under that Act for the purpose of entering on a regular engagement, enters on such an engagement at a time when he has not attained the age of twenty-one, the competent military authority shall give to the said person's next of kin a notification in the prescribed form stating that the said person has volunteered for a regular engagement and explaining the effect of the next following subsection

(3) Within twenty-eight days of the giving of a notification under the last foregoing subsection, any person entitled under the provisions of the Second Schedule to this Act to object to the said engagement may object thereto by notice in writing given to the prescribed military authority; and if such an objection is duly made the person to whom the objection relates shall be deemed not to have been discharged from his enlistment in pursuance of the National Service Act, 1948, or to have entered on the said regular engagement, but to have continued to serve under that enlistment.

(4) Any notification or notice under this section may be given by post.

(5) In this section the expression "next of kin", in relation to any person, means the person recorded as his next of kin in pursuance of the requirements as to records applying to soldiers

PART I
—cont.

of the regular forces, and references to entry on a regular engagement are references to being enlisted for any such term as is mentioned in paragraph (a), (b) or (c) of subsection (2) of section four of this Act.

Service of
aliens in
regular forces.

21.—(1) Subject to the provisions of the two next following subsections the number of aliens who at any one time are serving (whether as officers or soldiers) in the regular forces shall not exceed one-fiftieth of the aggregate number at that time of those forces.

(2) In reckoning the number of aliens serving as aforesaid there shall be excluded persons enlisted outside the United Kingdom and serving in such units (if any) as may be prescribed, and officers serving in such units.

(3) The Army Council may by regulations provide that at any time at which a state of war exists between Her Majesty and any foreign power or while men of the reserve are called out on permanent service subsection (1) of this section shall have effect with the substitution for one-fiftieth of such other fraction as may be specified in the regulations.

(4) Nothing in section three of the Act of Settlement (which provides among other things that aliens are incapable of holding certain offices or places of trust) shall apply to an office or place of trust in the regular forces so long as the limit having effect under the foregoing provisions of this section is not exceeded.

(5) The Army Council may by regulations provide that in such cases as may be prescribed by the regulations it shall not be necessary to administer the oath of allegiance to an alien on his enlistment; and in relation to cases so prescribed this Act shall have effect with the omission of references to the administration and taking of the oath of allegiance.

Regulations
as to
enlistment.

22. The Army Council may make such regulations as appear to them necessary or expedient for the purposes of, or in connection with, the enlistment of recruits for the regular forces and generally for carrying this Part of this Act into effect.

Interpretation
of Part I.

23.—(1) In this Part of this Act:—

“competent military authority” means the Army Council or any prescribed officer;

“date of attestation”, in relation to any person, means the date on which he signs the declaration and takes the oath mentioned in paragraph 3 of the First Schedule to this Act;

“minimum age for man’s service” has the meaning assigned to it by subsection (5) of section two of this Act;

“prescribed” means prescribed by regulations made under this Part of this Act ;

“recruiting officer” has the meaning assigned to it by section one of this Act ;

“reserve” means the first class of the army reserve.

(2) References in this Part of this Act to soldiers shall include references to warrant officers and to non-commissioned officers.

PART I
—cont.

PART II

DISCIPLINE AND TRIAL AND PUNISHMENT OF MILITARY OFFENCES

Treachery, cowardice and offences arising out of military service

24.—(1) Any person subject to military law who with intent to assist the enemy— Aiding the enemy.

(a) abandons or delivers up any place or post which it is his duty to defend, or induces any person to abandon or deliver up any place or post which it is that person's duty to defend, or

(b) does any act calculated to imperil the success of operations of Her Majesty's forces, of any forces co-operating therewith or of any part of any of those forces, or

(c) having been made a prisoner of war, serves with or aids the enemy in the prosecution of hostilities or of measures calculated to influence morale, or in any other manner whatsoever not authorised by international usage, or

(d) furnishes the enemy with arms or ammunition or with supplies of any description, or

(e) harbours or protects an enemy not being a prisoner of war,

shall, on conviction by court-martial, be liable to suffer death or any other punishment provided by this Act.

(2) Any person subject to military law who knowingly and without lawful excuse does any of the acts specified in paragraphs (a) to (e) of the last foregoing subsection shall, where it is not proved that he acted with intent to assist the enemy, be liable on conviction by court-martial to imprisonment or any less punishment provided by this Act.

25.—(1) Any person subject to military law who with intent to assist the enemy communicates with or gives intelligence to the enemy shall, on conviction by court-martial, be liable to suffer death or any other punishment provided by this Act. Communication with the enemy

(2) Any person subject to military law who without authority communicates with or gives intelligence to the enemy shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act.

PART II
—cont

(3) In this section the expression “intelligence” means information which is or purports to be information as to any matter such that information about it would or might be directly or indirectly useful to an enemy, and in particular (but without prejudice to the generality of the foregoing provisions of this subsection) as to any matter falling within the following paragraphs, being a matter such that information as to it would or might be useful as aforesaid, that is to say:—

- (a) the number, description, armament, equipment, disposition, movement or condition of any of Her Majesty’s forces or of any forces co-operating therewith, or any of Her Majesty’s ships or aircraft or of the ships or aircraft of any such co-operating force;
- (b) any operations or projected operations of any of such forces, ships or aircraft as aforesaid;
- (c) any code, cipher, call sign, password or countersign;
- (d) any measures for the defence or fortification of any place on behalf of Her Majesty;
- (e) the number, description or location of any prisoners of war;
- (f) munitions of war.

Cowardly
behaviour.

26.—(1) Any person subject to military law who when before the enemy—

- (a) leaves the post, position or other place where it is his duty to be, or
- (b) throws away his arms, ammunition or tools,

in such a manner as to show cowardice, or otherwise behaves in such a manner as to show cowardice, shall be guilty of an offence against this section.

(2) Any person subject to military law who when before the enemy induces other persons subject to military law and before the enemy to commit an offence under the last foregoing subsection shall be guilty of an offence against this section.

(3) Any person guilty of an offence against this section shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act.

Offences
against
morale.

27. Any person subject to military law who—

- (a) spreads (whether orally, in writing, by signal, or otherwise) reports relating to operations of Her Majesty’s forces, of any forces co-operating therewith, or of any part of any of those forces, being reports calculated to create despondency or unnecessary alarm, or

(b) when before the enemy uses words calculated to create
despondency or unnecessary alarm,

PART II
—cont.

shall, on conviction by court-martial, be liable to imprisonment
or any less punishment provided by this Act.

28.—(1) Any person subject to military law who, through
disobedience to orders or wilful neglect of his duty, is captured
by the enemy shall be guilty of an offence against this section.

Becoming
prisoner of
war through
disobedience
or wilful
neglect; and
failure to
rejoin forces.

(2) Any person subject to military law who, having been
captured by the enemy, fails to take, or prevents or discourages
any other such person captured by the enemy from taking,
any reasonable steps to rejoin Her Majesty's service which are
available to him or, as the case may be, to that other person
shall be guilty of an offence against this section.

(3) Any person guilty of an offence against this section shall,
on conviction by court-martial, be liable to imprisonment or any
less punishment provided by this Act.

29.—(1) Any person subject to military law who while on
guard duty—

Offences by or
in relation to
sentries, etc.

(a) sleeps at his post, or

(b) when not on duty at a post, is asleep at a time when
he is not allowed to be asleep, or

(c) is drunk, or

(d) leaves his post without having been regularly relieved
or otherwise absents himself from any place where it is
his duty to be,

shall be guilty of an offence against this section.

(2) For the purposes of this section a person shall be treated
as being drunk if owing to the influence of alcohol or any drug,
whether alone or in combination with any other circumstances,
he is unfit to be entrusted with his duty.

(3) Any person subject to military law who strikes or other-
wise uses force against any person on guard duty, being a member
of any of Her Majesty's forces or of any forces co-operating there-
with, or by the threat of force compels any such person to let
him or any other person pass, shall be guilty of an offence
against this section.

(4) Any person guilty of an offence against this section shall,
on conviction by court-martial, be liable to imprisonment or
any less punishment provided by this Act:

Provided that if the offence was not committed on active
service he shall not be liable to be imprisoned for more than
two years.

PART II
—cont.

(5) References in this section to a person on guard duty are references to a person who—

- (a) is posted or ordered to patrol, or
- (b) is a member of a guard or other party mounted or ordered to patrol,

for the purpose of protecting any persons, premises or place.

(6) The foregoing provisions of this section shall apply in relation to persons posted or ordered to patrol, or members of a party mounted or ordered to patrol, for the purpose of preventing or controlling access to or egress from any premises or place, or of regulating traffic by road, by rail or on any inland navigation, as they apply to persons on guard duty.

Looting.

30. Any person subject to military law who—

- (a) steals from, or with intent to steal searches, the person of anyone killed or wounded in the course of warlike operations, or
- (b) steals any property which has been left exposed or unprotected in consequence of warlike operations, or
- (c) takes otherwise than for the public service any vehicle, equipment or stores abandoned by the enemy,

shall be guilty of looting and liable, on conviction by court-martial, to imprisonment or any less punishment provided by this Act.

Mutiny and insubordination

Mutiny.

31.—(1) Any person subject to military law who—

- (a) takes part in a mutiny involving the use of violence or the threat of the use of violence, or having as its object or one of its objects the refusal or avoidance of any duty or service against, or in connection with operations against, the enemy, or the impeding of the performance of any such duty or service, or
- (b) incites any person subject to service law to take part in such a mutiny, whether actual or intended,

shall, on conviction by court-martial, be liable to suffer death or any other punishment provided by this Act.

(2) Any person subject to military law who, in a case not falling within the last foregoing subsection, takes part in a mutiny, or incites any person subject to service law to take part in a mutiny, whether actual or intended, shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act.

(3) In this Act the expression “mutiny” means a combination between two or more persons subject to service law, or between persons two at least of whom are subject to service law—

- (a) to overthrow or resist lawful authority in Her Majesty’s forces or any forces co-operating therewith or in any part of any of the said forces,
- (b) to disobey such authority in such circumstances as to make the disobedience subversive of discipline, or with the object of avoiding any duty or service against, or in connection with operations against, the enemy, or
- (c) to impede the performance of any duty or service in Her Majesty’s forces or in any forces co-operating therewith or in any part of any of the said forces ;

and in this section the expression “service law” means military law, the Naval Discipline Act or air-force law.

32. Any person subject to military law who, knowing that a mutiny is taking place or is intended,—

Failure to suppress mutiny.

- (a) fails to use his utmost endeavours to suppress or prevent it, or
- (b) fails to report without delay that the mutiny is taking place or is intended,

shall on conviction by court-martial,—

- (i) if his offence was committed with intent to assist the enemy, be liable to suffer death or any other punishment provided by this Act,
- (ii) in any other case, be liable to imprisonment or any less punishment provided by this Act.

33.—(1) Any person subject to military law who—

Insubordinate behaviour.

- (a) strikes or otherwise uses violence to, or offers violence to, his superior officer, or
- (b) uses threatening or insubordinate language to his superior officer,

shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act:

Provided that he shall not be liable to be imprisoned for more than two years if the offence was not committed on active service and did not involve the striking or other use of violence, or offering of violence, to a superior officer exercising authority as such.

(2) In the foregoing provisions of this section the expression “superior officer”, in relation to any person, means an officer, warrant officer or non-commissioned officer of the regular forces

PART II
—cont.

of superior rank, and includes an officer, warrant officer or non-commissioned officer of those forces of equal rank but greater seniority while exercising authority as the said person's superior.

Disobedience
to particular
orders.

34.—(1) Any person subject to military law who, in such manner as to show a wilful defiance of authority, disobeys any lawful command given or sent to him personally shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act.

(2) Any person subject to military law who, whether wilfully or through neglect, disobeys any lawful command shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act:

Provided that if the offence was not committed on active service he shall not be liable to be imprisoned for more than two years.

Obstruction
of provost
officers.

35. Any person subject to military law who—

(a) obstructs, or

(b) when called on, refuses to assist,

any person known to him to be a provost officer, or to be a person (whether subject to military law or not) legally exercising authority under or on behalf of a provost officer, shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Disobedience
to standing
orders.

36.—(1) Any person subject to military law who contravenes or fails to comply with any provision of orders to which this section applies, being a provision known to him, or which he might reasonably be expected to know, shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

(2) This section applies to standing orders or other routine orders of a continuing nature made for any formation or unit or body of troops, or for any command or other area, garrison or place, or for any ship, train or aircraft.

Desertion, absence without leave, etc.

Desertion.

37.—(1) Any person subject to military law who—

(a) deserts, or

(b) persuades or procures any person subject to military law to desert,

shall, on conviction by court-martial be liable to imprisonment or any less punishment provided by this Act :

Provided that a person shall not be liable to be imprisoned for more than two years unless—

- (i) if the offence was against paragraph (a) of this subsection he was on active service or under orders for active service at the time when it was committed,
- (ii) if the offence was an offence against paragraph (b) of this subsection, the person in relation to whom it was committed was on active service or under orders for active service at that time.

(2) For the purposes of this Act a person deserts who—

- (a) leaves Her Majesty's service or, when it is his duty to do so, fails to join or rejoin Her Majesty's service, with (in either case) the intention, subsisting at the time of the leaving or failure or formed thereafter, of remaining permanently absent from his duty, or
- (b) being an officer enlists in or enters any of Her Majesty's forces without having resigned his commission, or being a warrant officer, non-commissioned officer or soldier enlists in or enters any of Her Majesty's forces without having been discharged from his previous enlistment, or
- (c) absents himself without leave with intent to avoid serving at any place overseas or to avoid service or any particular service when before the enemy,

and references in this Act to desertion shall be construed accordingly.

(3) In addition to or in lieu of any punishment authorised by subsection (1) of this section, the court-martial by whom a warrant officer, non-commissioned officer or soldier of the regular forces is convicted of desertion may direct that the whole or any part of his service previous to the period as respects which he is convicted of having been a deserter shall be forfeited :

Provided that this subsection shall not apply to a person enlisted in pursuance of the National Service Act, 1948.

38. Any person subject to military law who—

- (a) absents himself without leave, or
- (b) persuades or procures any person subject to military law to absent himself without leave,

Absence
without leave.

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

PART II
—cont.

Assisting and
concealing
desertion and
absence
without leave.

39. Any person subject to military law who—

- (a) knowingly assists any person subject to military law to desert or absent himself without leave, or
- (b) knowing that any person subject to military law has deserted or absented himself without leave, or is attempting to desert or absent himself without leave, fails to report that fact without delay, or fails to take any steps in his power to cause that person to be apprehended,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Falsely
obtaining or
prolonging
leave.

40. Any person subject to military law who for the purpose of obtaining leave or prolonging his leave knowingly makes any false statement to any military authority, to a member of any police force or to any person authorised by or under instructions of the Army Council to act for the purpose of obtaining prolongation of leave shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Failure to
perform
military
duties.

41. Any person subject to military law who without reasonable excuse fails to attend for any parade or other military duty of any description or leaves any such parade or duty as aforesaid before he is permitted to do so shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Malingering and drunkenness

Malingering.

42.—(1) Any person subject to military law who—

- (a) falsely pretends to be suffering from sickness or disability,
or
- (b) injures himself with intent thereby to render himself unfit for service, or causes himself to be injured by any person with that intent, or
- (c) injures another person subject to military law, at the instance of that person, with intent thereby to render that person unfit for service, or
- (d) with intent to render or keep himself unfit for service, does or fails to do any thing (whether at the time of the act or omission he is in hospital or not) whereby he produces, or prolongs or aggravates, any sickness or disability,

shall be guilty of malingering and shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

PART II
—cont.

(2) In this section the expression "unfit" includes temporarily unfit.

43.—(1) Any person subject to military law who is guilty of **Drunkenness**, drunkenness, whether on duty or not, shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act and, in the case of a warrant officer, non-commissioned officer or soldier, either in addition to or without any other punishment to pay a fine not exceeding five pounds:

Provided that where the offence is committed by a warrant officer, non-commissioned officer or soldier neither on active service nor on duty the sentence imposed shall not exceed detention for a period of six months with or without a fine.

(2) For the purposes of this section a person is guilty of drunkenness if owing to the influence of alcohol or any drug, whether alone or in combination with any other circumstances, he is unfit to be entrusted with his duty or with any duty which he may be called upon to perform, or behaves in a disorderly manner or in any manner likely to bring discredit on Her Majesty's service.

Offences relating to property

44. Any person subject to military law who—

Offences in
relation to
public and
service
property.

- (a) steals or fraudulently misapplies any public or service property, or is concerned in or connives at the stealing or fraudulent misapplication of any public or service property, or
- (b) receives any public or service property knowing it to have been stolen or to have been fraudulently misapplied, or
- (c) wilfully damages, or is concerned in the wilful damage of, any public or service property, or
- (d) by wilful neglect causes damage by fire to any public or service property,

shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act.

45. Any person subject to military law who—

Offences in
relation to
property of
members of
forces.

- (a) steals or fraudulently misapplies any property belonging to a person subject to military law, or is concerned in or connives at the stealing or fraudulent misapplication of any such property, or

PART II
—cont.

- (b) receives any such property knowing it to have been stolen or to have been fraudulently misapplied, or
- (c) wilfully damages, or is concerned in the wilful damage of, any property belonging to a person subject to military law,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Miscellaneous
offences
relating to
property.

46. Any person subject to military law who—

- (a) loses, or by negligence damages, any public or service property of which he has the charge or which has been entrusted to his care or which forms part of property of which he has the charge or which has been entrusted to his care, or
- (b) by negligence causes damage by fire to any public or service property, or
- (c) loses, or by negligence damages, any clothing, arms, ammunition or other equipment issued to him for his use for military purposes, or
- (d) fails to take proper care of any animal or bird used in the public service which is in his charge, or
- (e) makes away (whether by pawning, selling, destruction or in any other way) with any military, naval or air-force decoration granted to him or any clothing, arms, ammunition or other equipment issued to him for his use for military purposes,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act:

Provided that it shall be a defence for any person charged under this section with losing any property, clothing, arms, ammunition or other equipment that he took reasonable steps for the care and preservation thereof.

*Offences relating to billeting and requisitioning of vehicles*Billeting
Offences.

47. Any person subject to military law who—

- (a) knowing that no billeting requisition is in force under Part IV of this Act authorising him to demand any billets or that he is otherwise not authorised to demand them, obtains those billets or orders or procures another person to obtain them ;
- (b) takes or agrees to take, or demands, from a person on whom he or any other person or any vehicle is or is to be billeted in pursuance of a billeting requisition

under Part IV of this Act any money or thing as consideration for not requiring, or ceasing to require, accommodation for himself or the said other person or standing room for the vehicle ; or

PART II
—cont.

- (c) commits any offence against the person or property of the occupier of premises in which he is billeted in pursuance of a billeting requisition under Part IV of this Act or of any other person being in those premises, or against any other property in those premises, or wilfully or by wilful neglect damages those premises or any such property as aforesaid,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

48.—(1) Any person subject to military law who—

Offences in
relation to
requisitioning
of vehicles.

- (a) knowing that no requisitioning order is in force under Part IV of this Act authorising him to give directions for the provision of any vehicle, or that he is otherwise not authorised to give such directions, gives directions for the provision of the vehicle or orders or procures another person to give such directions, or
- (b) in purported exercise of powers conferred by a requisitioning order under Part IV of this Act takes, or orders or procures any other person to take, possession of a vehicle, knowing that no requisitioning order is in force under the said Part IV under which the taking possession of the vehicle could be authorised, or that the taking possession thereof is otherwise not authorised under such an order, or
- (c) takes or agrees to take, or demands, from any person any money or thing as consideration for directions, or any particular directions, for the provision of a vehicle not being given, or possession of a vehicle not being taken, or not being retained, under a requisitioning order under Part IV of this Act,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

(2) The last foregoing subsection shall apply in relation to horses, mules, food, forage and stores (within the meaning of Part IV of this Act) as it applies in relation to vehicles.

Flying etc. offences

49. Any person subject to military law who is guilty of any act or neglect in flying, or in the use of any aircraft, or in relation to any aircraft or aircraft material, which causes or is Dangerous flying, etc.

PART II
—cont.

likely to cause loss of life or bodily injury to any person shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act :

Provided that if the offender has not acted wilfully or with wilful neglect he shall not be liable to be imprisoned for more than two years.

Inaccurate
certification of
aircraft, etc.

50. Any person subject to military law who signs any certificate in relation to an aircraft or to aircraft material without ensuring the accuracy of the certificate shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Low flying.

51. Any person subject to military law who, being the pilot of one of Her Majesty's aircraft, flies it at a height less than such height as may be provided by any regulations issued under the authority of the Army Council, the Admiralty or the Air Council, except—

(a) while taking off or alighting, or

(b) in such other circumstances as may be so provided,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Annoyance
by flying.

52. Any person subject to military law who, being the pilot of one of Her Majesty's aircraft, flies it so as to cause, or to be likely to cause, unnecessary annoyance to any person shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

*Offences relating to, and by, persons in custody*Irregular
arrest and
confinement.

53.—(1) Any person subject to military law who, when another person subject thereto is under arrest,—

(a) unnecessarily delays the taking of such steps as it is his duty to take for investigating the allegations against that other person or for having the allegations against that other person investigated by his commanding officer or the appropriate superior authority or, as the case may be, tried by court-martial ; or

(b) fails to release, or effect the release of, that other person when it is his duty to do so,

shall be guilty of an offence against this section.

(2) Any person subject to military law who, having committed a person (hereinafter referred to as "the prisoner") to the custody of any provost officer or other officer, or any warrant

officer or non-commissioned officer, fails without reasonable cause to deliver—

(a) at the time of the committal, or

(b) if it is not practicable so to do at the time of the committal, then within twenty-four hours thereafter,

to the person to whose custody the prisoner was committed a report in writing signed by himself of the offence which the prisoner is alleged to have committed, shall be guilty of an offence against this section.

(3) Where any person (hereinafter referred to as “the prisoner”) is committed to the charge of a person subject to military law who is in command of a guard, then if without reasonable cause that person does not as soon as he is relieved from his guard and any further duty, or, if he is not sooner relieved, within twenty-four hours after the committal, give to the officer to whom it is his duty to report—

(a) a written statement containing so far as known to him, the prisoner’s name and alleged offence and the name and rank or other description of the officer or other person by whom the prisoner is alleged to have committed the offence, and

(b) if he has received it, the report required by the last foregoing subsection,

he shall be guilty of an offence against this section.

(4) Any person guilty of an offence against this section shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

54.—(1) Any person subject to military law who wilfully allows to escape any person who is committed to his charge, or whom it is his duty to guard, shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act. Permitting escape, and unlawful release of prisoners.

(2) Any person subject to military law who—

(a) without proper authority releases any person who is committed to his charge, or

(b) without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to guard,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

PART II
—cont.Resistance
to arrest.

55.—(1) Any person subject to military law who, being concerned in any quarrel or disorder, refuses to obey any officer who orders him into arrest, or strikes or otherwise uses violence to, or offers violence to, any such officer, shall be guilty of an offence against this section whether or not the officer is his superior officer.

(2) Any person subject to military law who strikes or otherwise uses violence to, or offers violence to, any person, whether subject to military law or not, whose duty it is to apprehend him or in whose custody he is shall be guilty of an offence against this section.

(3) Any person guilty of an offence against this section shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Escape from
confinement.

56. Any person subject to military law who escapes from arrest, prison or other lawful custody (whether military or not), shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

*Offences in relation to courts-martial and civil authorities*Offences in
relation to
courts-martial.

57.—(1) Any person subject to military law who—

- (a) having been duly summoned or ordered to attend as a witness before a court-martial, fails to comply with the summons or order, or
- (b) refuses to swear an oath when duly required by a court-martial to do so, or
- (c) refuses to produce any document in his custody or under his control which a court-martial has lawfully required him to produce, or
- (d) when a witness, refuses to answer any question which a court-martial has lawfully required him to answer, or
- (e) wilfully insults any person, being a member of a court-martial or a witness or any other person whose duty it is to attend on or before the court, while that person is acting as a member thereof or is so attending, or wilfully insults any such person as aforesaid while that person is going to or returning from the proceedings of the court, or
- (f) wilfully interrupts the proceedings of a court-martial or otherwise misbehaves before the court,

shall, on conviction by a court-martial, other than the court in relation to which the offence was committed, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

(2) Notwithstanding anything in the last foregoing subsection, where an offence against paragraph (e) or (f) of that subsection is committed in relation to any court-martial held in pursuance of this Act that court, if of opinion that it is expedient that the offender should be dealt with summarily by the court instead of being brought to trial before another court-martial, may by order under the hand of the president order the offender to be imprisoned for a period not exceeding twenty-one days, or, in the case of a warrant officer, non-commissioned officer or soldier, either to be imprisoned for such a period or to undergo detention for such a period.

(3) References in paragraphs (a) to (f) of subsection (1) of this section to a court-martial shall include references to a court-martial held in pursuance of the Naval Discipline Act, the Air Force Act, 1955, or the law of any colony.

58.—(1) Any person subject to military law who, having been lawfully sworn as a witness or as an interpreter in proceedings before a court-martial or before any board or person having power by virtue of this Act to administer oaths, makes a statement material in those proceedings which he knows to be false or does not believe to be true shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act. False evidence.

(2) A person shall not be liable to be convicted of an offence against this section solely upon the evidence of one witness as to the falsity of any statement alleged to be false.

59. Any person subject to military law who at any place in Her Majesty's dominions prevents or obstructs— Obstruction of constable arresting officer or soldier.

- (a) the execution by a constable of a warrant for the arrest of a person subject to military law who has committed or is suspected of having committed an offence punishable on conviction by a civil court, or
- (b) the arrest of a person subject to military law by a constable acting in the exercise of his powers of arrest without warrant,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Miscellaneous offences

60.—(1) Any person subject to military law who without authority discloses, whether orally, in writing, by signal or by any other means whatsoever, any information which is or purports to be information useful to an enemy shall, on conviction Injurious disclosures.

PART II
—cont.

by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

(2) In this section the expression “information useful to an enemy” means information as to any matter such that information as to it would or might be directly or indirectly useful to an enemy, and in particular (but without prejudice to the generality of the foregoing provisions of this subsection) information as to any matter falling within the following paragraphs, being a matter such that information as to it would or might be useful as aforesaid, that is to say:—

- (a) the number, description, armament, equipment, disposition, movement or condition of any of Her Majesty’s forces or of any forces co-operating therewith, or any of Her Majesty’s ships or aircraft or of the ships or aircraft of any such co-operating force ;
- (b) any operations or projected operations of any of such forces, ships or aircraft as aforesaid ;
- (c) any code, cipher, call sign, password or countersign ;
- (d) any measures for the defence or fortification of any place on behalf of Her Majesty ;
- (e) the number, description or location of any prisoners of war ;
- (f) munitions of war.

Making of
false
statements on
enlistment,

61. Any person who, when before a recruiting officer for the purpose of being attested in pursuance of Part I of this Act, has knowingly made a false answer to any question contained in the attestation paper and put to him by or by the direction of the recruiting officer shall if he has since become and remains subject to military law be liable, on conviction by court-martial, to the like imprisonment as on summary conviction of an offence against section nineteen of this Act or to any less punishment provided by this Act.

Making of
false
documents,

62. Any person subject to military law who—

- (a) makes, signs or makes an entry in any service report, return, pay list or certificate or other service document, being a document or entry which is to his knowledge false in a material particular, or
- (b) alters any service report, return, pay list or certificate or other service document, or alters any entry in such a document, so that the document or entry is to his knowledge false in a material particular, or suppresses, defaces or makes away with any such document or entry which it is his duty to preserve or produce, or

(c) with intent to defraud, fails to make an entry in any such document, or

PART II
—cont.

(d) aids, abets, commands, counsels, procures or connives at the commission by another person subject to military law of an offence against this section (whether or not he knows the nature of the document in relation to which that offence will be committed),

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

63. Any person subject to military law who, in any country or territory outside the United Kingdom, commits any offence against the person or property of any member of the civil population shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Offences
against
civilian
population.

64. Every officer subject to military law who behaves in a scandalous manner, unbecoming the character of an officer and a gentleman, shall, on conviction by court-martial, be cashiered.

Scandalous
conduct of
officer.

65. If—

(a) any officer subject to military law strikes or otherwise ill-treats any officer subject thereto of inferior rank or less seniority or any warrant officer, non-commissioned officer or soldier subject to military law, or

Ill-treatment of
officers or men
of inferior
rank.

(b) any warrant officer or non-commissioned officer subject to military law strikes or otherwise ill-treats any person subject to military law, being a warrant officer or non-commissioned officer of inferior rank or less seniority or a soldier,

he shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

66. Any person subject to military law who is guilty of disgraceful conduct of a cruel, indecent or unnatural kind shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Disgraceful
conduct.

67. Any person subject to military law who—

(a) makes an accusation against any officer, warrant officer, non-commissioned officer or soldier subject to military law, which he knows to be false or does not believe to be true, or

False
accusation,
etc.

PART II
—cont.

- (b) in making a complaint where he thinks himself wronged, makes a statement affecting the character of an officer, warrant officer, non-commissioned officer or soldier subject to military law, which he knows to be false or does not believe to be true, or wilfully suppresses any material facts,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Attempts
to commit
military
offences.

68. Any person subject to military law who attempts to commit an offence against any of the foregoing provisions of this Part of this Act shall, on conviction by court-martial, be liable to the like punishment as for that offence:

Provided that if the offence is one punishable by death, he shall not be liable to any greater punishment than imprisonment.

Conduct to
prejudice of
military
discipline.

69. Any person subject to military law who is guilty of any act, conduct or neglect to the prejudice of good order and military discipline shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Civil offences

Civil offences.

70.—(1) Any person subject to military law who commits a civil offence, whether in the United Kingdom or elsewhere, shall be guilty of an offence against this section.

(2) In this Act the expression “civil offence” means any act or omission punishable by the law of England or which, if committed in England, would be punishable by that law; and in this Act the expression “the corresponding civil offence” means the civil offence the commission of which constitutes the offence against this section.

(3) A person convicted by court-martial of an offence against this section shall —

- (a) if the corresponding civil offence is treason or murder, be liable to suffer death;
- (b) in any other case, be liable to suffer any punishment or punishments which a civil court could award for the corresponding civil offence, if committed in England, being a punishment or punishments provided by this Act, or such punishment, less than the maximum punishment which a civil court could so award, as is so provided:

Provided that where a civil court could not so award imprisonment, a person so convicted shall be liable to suffer such punishment, less than cashiering in the case of an officer, or detention in the case of a warrant officer, non-commissioned officer or soldier, as is so provided.

(4) A person shall not be charged with an offence against this section committed in the United Kingdom if the corresponding civil offence is treason, murder, manslaughter, treason-felony or rape.

(5) Where the corresponding civil offence is murder or manslaughter, an offence against this section shall be deemed, for the purposes of the last foregoing subsection, to have been committed at the place of the commission of the act or occurrence of the neglect which caused the death, irrespective of the place of the death.

Punishments

71.—(1) The punishments which may be awarded to an officer by sentence of a court-martial under this Act are, subject to the limitations hereinafter provided on the powers of certain courts-martial, those set out in the following scale; and in relation to an officer references in this Act to punishments provided by this Act are references to those punishments.

(2) The said scale is:—

- (a) death;
- (b) imprisonment;
- (c) cashiering;
- (d) dismissal from Her Majesty's service;
- (e) forfeiture in the prescribed manner of seniority of rank, either in the army or in the corps to which the offender belongs, or in both;
- (f) severe reprimand or reprimand;
- (g) where the offence has occasioned any expense, loss or damage, stoppages.

(3) For the purposes of this Part of this Act a punishment specified in any paragraph of the said scale shall be treated as less than the punishments specified in the preceding paragraphs, and greater than those specified in the following paragraphs, of the scale.

(4) Save as expressly provided in this Act, not more than one punishment shall be awarded by a court-martial for one offence.

(5) Stoppages may be awarded by a court-martial either in addition to or without any other punishment.

PART II
—cont.

(6) A severe reprimand or reprimand may be awarded by a court-martial in addition to forfeiture of seniority of rank.

(7) Where an officer is sentenced by a court-martial to imprisonment he shall also be sentenced to be cashiered :

Provided that if the court-martial fails to sentence him to be cashiered, the sentence of imprisonment shall not be invalid but shall be deemed to include a sentence of cashiering.

Punishment of
other ranks.

72.—(1) The punishments which may be awarded to a warrant officer, non-commissioned officer or soldier by sentence of a court-martial under this Act are, subject to the limitations hereinafter provided on the powers of certain courts-martial, those set out in the following scale ; and in relation to a warrant officer, non-commissioned officer or soldier references in this Act to punishments provided by this Act are references to those punishments.

(2) The said scale is :—

- (a) death ;
- (b) imprisonment ;
- (c) discharge with ignominy from Her Majesty's service ;
- (d) in the case of a warrant officer, dismissal from Her Majesty's service ;
- (e) detention for a term not exceeding two years ;
- (f) in the case of a warrant officer or non-commissioned officer, reduction to the ranks or any less reduction in rank ;
- (g) in the case of a warrant officer or non-commissioned officer, forfeiture in the prescribed manner of seniority of rank ;
- (h) where the offence is desertion, forfeiture of service ;
- (i) in the case of a warrant officer or non-commissioned officer, severe reprimand or reprimand ;
- (j) where the offence was committed on active service, forfeiture of pay for a period beginning with the day of the sentence and not exceeding ninety days ;
- (k) where the offence is drunkenness, a fine ;
- (l) where the offence has occasioned any expense, loss or damage, stoppages.

(3) For the purposes of this Part of this Act a punishment specified in any paragraph of the said scale shall be treated

as less than the punishments specified in the preceding paragraphs, and greater than those specified in the following paragraphs, of the scale :

PART II
—cont.

Provided that detention shall not be deemed to be a less punishment than imprisonment if the term of detention is longer than the term of imprisonment.

(4) Save as expressly provided in this Act, not more than one punishment shall be awarded by a court-martial for one offence.

(5) A warrant officer, non-commissioned officer or soldier sentenced by a court-martial to imprisonment may in addition thereto be sentenced to be discharged with ignominy from Her Majesty's service, and a warrant officer sentenced by a court-martial to imprisonment may in addition thereto be sentenced to dismissal from Her Majesty's service.

(6) Where a warrant officer or non-commissioned officer is sentenced by a court-martial to imprisonment or detention, he shall also be sentenced to be reduced to the ranks :

Provided that if the court-martial fail to sentence him to be so reduced, the sentence shall not be invalid but shall be deemed to include a sentence of reduction to the ranks.

(7) In the case of a warrant officer or non-commissioned officer a severe reprimand or reprimand may be awarded by a court-martial in addition to forfeiture of seniority of rank.

(8) For an offence committed on active service forfeiture of pay may be awarded by a court-martial in addition to field punishment, severe reprimand or reprimand.

(9) Stoppages may be awarded by a court-martial either in addition to or without any other punishment.

(10) Where an offender has been sentenced by a court-martial (whether under this Act, the Naval Discipline Act or the Air Force Act, 1955) to detention, then if he is subsequently sentenced by a court-martial under this Act to imprisonment any part of the sentence of detention which has not been served shall thereupon be remitted by virtue of this subsection.

(11) Without prejudice to the validity of any award, an offender shall not be kept continuously in detention under this Act for more than two years.

73.—(1) In relation to an offence committed by a warrant officer, non-commissioned officer or soldier on active service, the scale set out in subsection (2) of the last foregoing section shall have effect as if after paragraph (e) thereof there were inserted the following paragraph :—

“(e) field punishment for a period not exceeding ninety days”,

and subsection (6) of the last foregoing section shall apply to field punishment as it applies to imprisonment or detention.

PART II
—cont.

(2) Field punishment shall consist of such duties or drills, in addition to those which the offender might be required to perform if he were not undergoing punishment, and such loss of privileges, as may be provided by or under rules to be made by the Secretary of State, and may include confinement in such place and manner as may be so provided and such personal restraint as may be necessary to prevent the escape of the offender and as may be so provided.

(3) Rules under this section may contain such incidental and supplementary provisions as appear to the Secretary of State to be requisite for the purposes of the rules.

(4) The power to make rules under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Arrest*Power to
arrest
offenders.

74.—(1) Any person subject to military law found committing an offence against any provision of this Act, or alleged to have committed or reasonably suspected of having committed any such offence, may be arrested in accordance with the following provisions of this section.

(2) An officer may be arrested by an officer of the regular forces of superior rank, or, if engaged in a quarrel or disorder, by such an officer of any rank.

(3) A warrant officer, non-commissioned officer or soldier may be arrested by any officer, warrant officer or non-commissioned officer of the regular forces:

Provided that a person shall not be arrested by virtue of this subsection except by a person of superior rank.

(4) A provost officer, or any officer, warrant officer, petty officer or non-commissioned officer legally exercising authority under a provost officer or on his behalf, may arrest any officer, warrant officer, non-commissioned officer or soldier:

Provided that an officer shall not be arrested by virtue of this subsection except on the order of another officer.

(5) The power of arrest given to any person by this section may (subject to the provisions of Queen's Regulations) be exercised either personally or by ordering into arrest the person to be arrested or by giving orders for that person's arrest.

Provisions for
avoiding delay
after arrest.

75.—(1) The allegations against any person subject to military law who is under arrest shall be duly investigated without unnecessary delay, and as soon as may be either proceedings shall be taken for punishing his offence or he shall be released from arrest.

(2) Wherever any person subject to military law, having been taken into military custody, remains under arrest for a longer period than eight days without a court-martial for his trial being assembled, a special report on the necessity for further delay shall be made by his commanding officer to the prescribed authority in the prescribed manner, and a similar report shall be made to the like authority and in the like manner every eight days until a court-martial is assembled or the offence is dealt with summarily or he is released from arrest:

Provided that in the case of a person on active service compliance with this subsection shall be excused in so far as it is not reasonably practicable having regard to the exigencies of military operations.

(3) For the purposes of subsection (1) of section fifty-three of this Act the question whether there has been unnecessary delay in the taking of any steps for the investigation of allegations against a person under arrest shall be determined without regard to the provisions of the last foregoing subsection.

Investigation of, and summary dealing with, charges

76. Before an allegation against a person subject to military law (hereinafter referred to as "the accused") that he has committed an offence against any provision of this Part of this Act is further proceeded with, the allegation shall be reported, in the form of a charge, to the accused's commanding officer and the commanding officer shall investigate the charge in the prescribed manner.

Investigation of charges by commanding officer.

77.—(1) After investigation, a charge against an officer below the rank of lieutenant-colonel or against a warrant officer may, if an authority has power under the following provisions of this Part of this Act to deal with it summarily, be so dealt with by that authority (in this Act referred to as "the appropriate superior authority") in accordance with those provisions.

Charges to be dealt with summarily or by court-martial.

(2) After investigation, a charge against a non-commissioned officer or soldier may be dealt with summarily by his commanding officer, subject to and in accordance with the following provisions of this Part of this Act.

(3) Any charge not dealt with summarily as aforesaid shall after investigation be remanded for trial by court-martial.

(4) Notwithstanding anything in the foregoing provisions of this section, where—

(a) the commanding officer has investigated a charge against an officer or warrant officer, or

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(b) the commanding officer has investigated a charge against a non-commissioned officer or soldier which is not one which can be dealt with summarily, the commanding officer may dismiss the charge if he is of opinion that it ought not to be further proceeded with.

(5) References in this Act to dealing summarily with a charge are references to the taking by the appropriate superior authority or the commanding officer of the accused, as the case may require, of the following action, that is to say, determining whether the accused is guilty, dismissing the charge or recording a finding of guilty accordingly, and awarding punishment.

Further
proceedings
on charges
against
N.C.O.s and
soldiers.

78.—(1) The following provisions of this section shall have effect where the commanding officer has investigated a charge against a non-commissioned officer or soldier.

(2) If—

- (a) the charge is not one which can be dealt with summarily and the commanding officer has not dismissed it, or
- (b) the charge is one which can be dealt with summarily but the commanding officer is of opinion that it should not be so dealt with,

he shall take the prescribed steps with a view to the charge being tried by court-martial.

(3) Otherwise, the commanding officer shall proceed to deal with the charge summarily; and if he records a finding of guilty he may award one or more of the following punishments, that is to say:—

- (a) if the accused is a soldier, detention for a period not exceeding twenty-eight days or, if the accused is on active service, field punishment for a period not exceeding twenty-eight days;
- (b) if the accused is a non-commissioned officer, severe reprimand or reprimand;
- (c) if the accused is a soldier and the offence was committed on active service, forfeiture of pay for a period beginning with the day of the sentence and not exceeding twenty-eight days;
- (d) where the accused is a soldier and the offence charged is drunkenness, a fine not exceeding two pounds;
- (e) where the offence has occasioned any expense, loss or damage, stoppages;
- (f) any minor punishment for the time being authorised by Queen's Regulations:

Provided that no forfeiture of pay or minor punishment shall be awarded for an offence for which detention is awarded.

(4) Where the accused is an acting warrant officer or non-commissioned officer, and the commanding officer finds him guilty, the commanding officer may, if he awards no other punishment or no other punishment except stoppages, order the accused to revert to his permanent rank.

(5) Notwithstanding anything in subsection (3) of this section, where the commanding officer has determined that the accused is guilty and if the charge is dealt with summarily will award a punishment other than severe reprimand, reprimand or a minor punishment, or where a finding of guilty (whatever the punishment awarded) will involve a forfeiture of pay, the commanding officer shall not record a finding until after affording the accused an opportunity of electing to be tried by court-martial; and if the accused so elects and does not subsequently in accordance with Queen's Regulations withdraw his election, the commanding officer shall not record a finding but shall take the prescribed steps with a view to the charge being tried by court-martial.

(6) Where a charge is one which can be dealt with summarily, but the commanding officer has taken steps with a view to its being tried by court-martial, any higher authority to whom the charge is referred may refer the charge back to the commanding officer to be dealt with summarily; and on any such reference the three last foregoing subsections shall apply as if the commanding officer had originally been of opinion that the charge should be dealt with summarily:

Provided that a charge shall not be referred back where the accused has elected to be tried by court-martial and has not withdrawn his election.

79.—(1) After investigating a charge against an officer or warrant officer, the commanding officer shall, unless he has dismissed the charge, or the case is one where he has power, and proposes, to direct trial by field general court-martial, submit it in the prescribed manner to higher authority; and thereupon it shall be determined by such authority how the charge is to be proceeded with in accordance with the two next following subsections.

Further proceedings on charges against officers and warrant officers.

(2) If the charge is one which can be dealt with summarily, it may be referred to the appropriate superior authority.

(3) If the charge is not so referred, the prescribed steps shall be taken with a view to its being tried by court-martial.

(4) Where the charge is referred to the appropriate superior authority, that authority shall investigate the charge in the prescribed manner and determine whether the accused is

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—cont.

guilty of the charge and accordingly dismiss the charge or record a finding of guilty:

Provided that if in the course of investigating the charge the authority determines that it is desirable that the charge should be tried by court-martial, the prescribed steps shall be taken with a view to its being so tried.

(5) If the appropriate superior authority records a finding of guilty, the authority may award one or more of the following punishments, that is to say:—

- (a) forfeiture in the prescribed manner of seniority of rank, where the accused is an officer the forfeiture being of seniority of rank either in the army or in the corps to which the accused belongs or in both;
- (b) severe reprimand or reprimand;
- (c) where the offence has occasioned any expense, loss or damage, stoppages.

(6) Notwithstanding anything in subsection (4) of this section, where the appropriate superior authority has determined that the accused is guilty and if the charge is dealt with summarily will award forfeiture of seniority or stoppages, or where a finding of guilty will involve a forfeiture of pay, the authority shall not record a finding until after affording the accused an opportunity of electing to be tried by court-martial; and if the accused so elects the authority shall not record a finding but shall take the prescribed steps with a view to the charge being tried by court-martial.

Dismissal of charges referred to higher authority.

80.—(1) Notwithstanding anything in the two last foregoing sections, where a charge—

- (a) has been referred to higher authority with a view to its being tried by court-martial, or
- (b) has been submitted to higher authority for determination how it is to be proceeded with,

that authority may, subject to the provisions of this section, refer the charge back to the commanding officer of the accused with a direction that it shall be dismissed, and in any such case the commanding officer shall dismiss the charge.

(2) In a case falling within paragraph (a) of the last foregoing subsection, a charge shall not be referred back where the accused has elected to be tried by court-martial and has not withdrawn his election.

(3) The reference back of a charge in pursuance of this section shall be without prejudice to the preferring of another charge if the higher authority has so directed or the commanding officer thinks fit.

81.—(1) Where in accordance with Queen's Regulations a warrant officer, non-commissioned officer or soldier signs a written confession that he has been guilty of desertion, his commanding officer may, notwithstanding anything in the foregoing provisions of this Part of this Act, submit the confession for the consideration of the Army Council or such officer not below the rank of brigadier as may be provided by Queen's Regulations.

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—cont.
Confession of desertion by warrant officer, non-commissioned officer or soldier.

(2) After considering any such confession the Army Council or such officer as aforesaid may direct that the offence shall not be tried by court-martial or dealt with summarily by the appropriate superior authority or commanding officer, and if such a direction is given the period of his service as respects which he confesses to have been a deserter shall be forfeited.

(3) A direction under the last foregoing subsection may further provide that the whole or any part of the offender's service previous to that as respects which he confesses as aforesaid shall also be forfeited.

(4) Subsections (2) to (7) of section seventeen of this Act shall apply in relation to the forfeiture of service by virtue of this section subject to the following modifications:—

- (a) for references to an award of forfeiture of service by the court-martial there shall be substituted references to the direction;
- (b) for references to the date on which the offender was convicted there shall be substituted references to the date on which the direction was given.

82.—(1) In this Act the expression "commanding officer", in relation to a person charged with an offence, means such officer having powers of command over that person as may be determined by or under regulations of the Army Council.

Officers who are to act as commanding officers and appropriate superior authorities.

(2) The following persons may act as appropriate superior authority in relation to a person charged with an offence, that is to say, any general officer, flag officer, air officer or brigadier having power to convene general courts-martial or such other general officer, flag officer, air officer or brigadier as may be specified by or under regulations of the Army Council:

Provided that an officer under such rank as may be specified by regulations under this section shall not act as appropriate superior authority where the accused is above such rank as may be so specified.

(3) Regulations under this section may confer on officers, or any class of officers, who by or under the regulations are authorised to exercise the functions of commanding officer power to delegate those functions, in such cases and to such extent as may be specified in the regulations, to officers of a class so specified.

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—cont.

Limitation on powers of summary dealing with charges.

83.—(1) The charges which may be dealt with summarily by a commanding officer, and the charges which may be dealt with summarily by an appropriate superior authority, shall be such as may be specified by regulations of the Army Council.

(2) In such cases as may be specified in that behalf by regulations of the Army Council, the powers of a commanding officer or appropriate superior authority to award punishment shall be subject to such limitations as may be so specified.

Courts-martial: general provisions

Trial to be by general court-martial, district court-martial or in certain cases field general court-martial.

84.—(1) Subject to the provisions of this section, a charge which is to be tried by court-martial shall be tried either by general court-martial or by district court-martial.

(2) Where the officer commanding a body of the regular forces on active service—

- (a) being an officer (whether military, naval or air-force) to whom under subsection (1) of section seventy-nine of this Act a charge has been submitted for determining how it is to be dealt with, or
- (b) being the accused's commanding officer who has investigated a charge which cannot be dealt with summarily or which in his opinion ought not to be so dealt with, or
- (c) being the accused's commanding officer or the appropriate superior authority who has investigated a charge on which the accused has elected to be tried by court-martial,

is of opinion that it is not possible without serious detriment to the public service that the charge should be tried by a general or district court-martial, the officer may (whether or not he is authorised to convene general courts-martial) direct that the charge shall be tried by a field general court-martial.

Powers of different descriptions of court-martial.

85.—(1) A general court-martial shall have power to try any person subject to military law for any offence which under this Act is triable by court-martial, and to award for any such offence any punishment authorised by this Act for that offence.

(2) A district court-martial shall have the powers of a general court-martial except that it shall not try an officer or sentence a warrant officer to imprisonment, discharge with ignominy, dismissal or detention, and shall not award the punishment of death or of imprisonment for a term exceeding two years.

(3) A field general court-martial shall have the powers of a general court-martial, except that where the court consists of less than three officers the sentence shall not exceed imprisonment for a term of two years.

86.—(1) A general court-martial may be convened by any qualified officer authorised by Her Majesty by warrant under Her sign manual to convene general courts-martial or that court-martial, or by any qualified officer under the command of an officer authorised as aforesaid to whom the last-mentioned officer has, in the exercise of a power conferred by the warrant issued to him, delegated his power to convene general courts-martial.

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—cont.
Officers having
power to
convene
courts-martial.

(2) A district court-martial may be convened by an officer authorised to convene general courts-martial, by any person, not below the rank of captain, under the command of such an officer whom that officer has authorised to convene district courts-martial, by any general officer or brigadier commanding a body of troops or by any officer for the time being acting in the place of such a general officer or brigadier.

(3) A field general court-martial may be convened by the officer who directed that the charge should be tried by field general court-martial.

(4) Notwithstanding anything in subsection (1) or (2) of this section, any power to convene courts-martial delegated under subsection (1) of this section shall be exercisable only for the trial of a person who at the date of the convening order is under or within the territorial limits of the convening officer's command, and an officer, other than one authorised to convene general courts-martial, shall not by virtue of subsection (2) of this section convene a district court-martial except for the trial of a person under his command.

(5) In this section the expression "qualified officer" means any officer not below the rank of field officer or corresponding rank who—

- (a) is in command of a body of the regular forces, or
- (b) is in command of the command within which the person to be tried is serving.

(6) Any warrant under this section, or any authorisation under this section to convene courts-martial—

- (a) may be made subject to restrictions, reservations, exceptions or conditions ;
- (b) may be addressed to officers by name or by designation of their offices, and may be issued or given to a named or designated officer, to a named or designated officer and to the person for the time being performing the duties of his office, to a named or designated officer and his successors in that office or to a named or designated officer and such person and successors ;

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(c) may be varied or may be revoked, either wholly or in part, by a subsequent warrant of Her Majesty or, as the case may be, by the officer by whom it was given or his successor in office.

(7) Where an officer on board ship—

(a) has had power to convene general courts-martial delegated to him by an officer under whose command he was before the departure of the ship, or

(b) has been authorised under subsection (2) of this section to convene district courts-martial by such an officer,

he may convene courts-martial to the like extent as if he had continued under the command of the officer delegating the power or granting the authorisation.

Constitution
of general
courts-martial.

87.—(1) A general court-martial shall consist of the president and not less than four other officers.

(2) Save as hereinafter provided, an officer shall not be appointed a member of a general court-martial unless he belongs to Her Majesty's military forces, is subject to military law and has held a commission in any of the armed forces of the Crown for a period of not less than three years or for periods amounting in the aggregate to not less than three years.

(3) Not less than four of the members of a general court-martial shall be of a rank not below that of captain.

(4) The president of a general court-martial shall be appointed by order of the convening officer and shall not be under the rank of field officer unless in the opinion of the convening officer a field officer having suitable qualifications is not, with due regard to the public service, available; and in any event the president of a general court-martial shall not be under the rank of captain.

(5) The members of a general court-martial, other than the president, shall be appointed by order of the convening officer or in such other manner as may be prescribed.

(6) An officer under the rank of captain shall not be a member of a general court-martial for the trial of an officer above that rank.

Constitution
of district
courts-martial.

88.—(1) A district court-martial shall consist of the president and not less than two other officers.

(2) Save as hereinafter provided, an officer shall not be appointed to be a member of a district court-martial unless he belongs to Her Majesty's military forces, is subject to military law and has held a commission in any of the armed forces of the Crown for a period of not less than two years or for periods amounting in the aggregate to not less than two years.

(3) The president of a district court-martial shall be appointed by order of the convening officer and shall not be under the rank of field officer unless in the opinion of the convening officer a field officer having suitable qualifications is not, with due regard to the public service, available; and in any event the president of a district court-martial shall not be under the rank of captain.

(4) The members of a district court-martial, other than the president, shall be appointed by order of the convening officer or in such other manner as may be prescribed.

89.—(1) A field general court-martial shall consist of the president and not less than two other officers, or, if the convening officer is of opinion that three officers having suitable qualifications are not available without serious detriment to the public service, shall consist of the president and one other officer. Constitution of field general courts-martial.

(2) Save as hereinafter provided, the members of a field general court-martial shall be persons belonging to Her Majesty's military forces and subject to military law.

(3) The president of a field general court-martial shall be an officer appointed by the convening officer and shall not be under the rank of captain.

(4) The members of a field general court-martial, other than the president, shall be appointed by order of the convening officer or in such other manner as may be prescribed.

90.—(1) The officer who convened a court-martial shall not be a member of that court-martial: Supplementary provisions as to constitution of courts-martial.

Provided that if in the case of a field general court-martial it is not practicable in the opinion of the convening officer to appoint another officer as president, he may himself be president of the court-martial.

(2) An officer who at any time between the date on which the accused was charged with the offence and the date of the trial has been the commanding officer of the accused, and any other officer who has investigated the charge against the accused, or who under this Act has held, or has acted as one of the persons holding, an inquiry into matters relating to the subject matter of the charge against the accused, shall not sit as a member of a general or district court-martial or act as judge advocate at such a court-martial.

(3) If any court-martial is required to be convened at any place where in the opinion of the convening officer the necessary number of military officers having suitable qualifications is not available to form the court, and cannot be made available with due regard to the public service, the convening officer may, with

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the consent of the proper naval or air-force authority, appoint any naval or air-force officer as president in lieu of a military officer or as any other member of the court in lieu of or in addition to a military officer or military officers :

Provided that no naval or air-force officer shall be qualified to act in relation to a court-martial unless he is of corresponding rank to that which would have been required in the case of a military officer and has held a commission in any of the armed forces of the Crown for the like period or periods as would have been so required.

(4) Where—

- (a) the officer convening a general or district court-martial appoints a captain to be president, being of opinion that a field officer having suitable qualifications is not with due regard to the public service available ;
- (b) an officer directs that an offender shall be tried by a field general court-martial, being of opinion that it is not possible without serious detriment to the public service that the offender should be tried by a general or district court-martial, or the officer convening a field general court-martial appoints two officers only to be members of the court, being of opinion that three officers having suitable qualifications are not without serious detriment to the public service available, or appoints himself to be president, being of opinion that it is not practicable to appoint another officer as president, or
- (c) the officer convening any court-martial appoints an officer not being a military officer as president or any other member of the court, being of opinion that the necessary number of military officers having suitable qualifications is not available to form the court and cannot be made available with due regard to the public service,

the order convening the court-martial shall contain a statement of the said opinion, and that statement shall be conclusive.

(5) In this section the expression “military officer” means an officer belonging to Her Majesty’s military forces and subject to military law.

91.—(1) Subject to the provisions of this section, a court-martial shall sit at such place (whether within or without Her Majesty’s dominions) as may be specified in the order convening the court ; and the convening officer may convene it to sit at a place outside the limits of his command.

Place for sitting of courts-martial and adjournment to other places.

(2) A court-martial sitting at any place shall if the convening officer directs it to sit at some other place, and may without any such direction if it appears to the court requisite in the interests of justice to sit at some other place, adjourn for the purpose of sitting at that other place.

Courts-martial: provisions relating to trial

92.—(1) An accused about to be tried by any court-martial shall be entitled to object, on any reasonable grounds, to any member of the court, whether appointed originally or in lieu of another officer. Challenges
by accused.

(2) For the purpose of enabling the accused to avail himself of the right conferred by the last foregoing subsection, the names of the members of the court shall be read over in the presence of the accused before they are sworn, and he shall be asked whether he objects to any of those officers.

(3) Every objection made by an accused to any officer shall be considered by the other officers appointed members of the court.

(4) If objection is made to the president and not less than one-third of the other members of the court allow it, the court shall adjourn and the convening officer shall appoint another president.

(5) If objection is made to a member of the court other than the president and not less than one-half of the members entitled to vote allow it, the member objected to shall retire and the vacancy may, and if otherwise the number of members would be reduced below the legal minimum shall, be filled in the prescribed manner by another officer.

93.—(1) An oath shall be administered to every member of a court-martial and to any person in attendance on a court-martial as judge advocate, officer under instruction, shorthand writer or interpreter. Administration
of oaths.

(2) Every witness before a court-martial shall be examined on oath:

Provided that where any child of tender years called as a witness does not in the opinion of the court understand the nature of an oath, his evidence may be received, though not given upon oath, if in the opinion of the court he is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth, so however that where the evidence is given on behalf of the prosecution the accused shall not be liable to be convicted unless it is corroborated by some other material evidence in support thereof implicating the accused.

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(3) An oath required to be administered under this section shall be in the prescribed form and shall be administered at the prescribed time by the prescribed person and in the prescribed manner.

Courts-martial
to sit in open
court.

94.—(1) Subject to the provisions of this section, a court-martial shall sit in open court and in the presence of the accused.

(2) Nothing in the last foregoing subsection shall affect the power of a court-martial to sit in camera on the ground that it is necessary or expedient in the interests of the administration of justice to do so; and without prejudice to that power a court-martial may order that, subject to any exceptions the court may specify, the public shall be excluded from all or any part of the proceedings of the court if it appears to the court that any evidence to be given or statement to be made in the course of the proceedings or that part, as the case may be, might otherwise lead to the disclosure of any information which would or might be directly or indirectly useful to an enemy.

(3) A court-martial shall sit in closed court while deliberating on their finding or sentence on any charge.

(4) A court-martial may sit in closed court on any other deliberation amongst the members.

(5) Where a court-martial sits in closed court no person shall be present except the members of the court and such other persons as may be prescribed.

Dissolution of
courts-martial.

95.—(1) Where, whether before or after the commencement of the trial, it appears to the convening officer necessary or expedient in the interests of the administration of justice that a court-martial should be dissolved, the convening officer may by order dissolve the court-martial.

(2) Without prejudice to the generality of the last foregoing subsection, if after the commencement of the trial a court-martial is, by reason of the death of one of the members or for any other reason, reduced below the legal minimum, it shall be dissolved.

(3) If after the commencement of the trial the president dies or is otherwise unable to attend and the court is not reduced below the legal minimum, then—

(a) if the senior member of the court is of the rank of captain or corresponding rank or is of higher rank, the convening officer may appoint him president and the trial shall proceed accordingly; but

(b) if he is not, the court shall be dissolved.

(4) Without prejudice to the generality of subsection (1) of this section, if after the commencement of the trial it is represented to the convening officer that owing to the sickness or other incapacity of the accused it is impracticable having regard to all the circumstances to continue the trial within a reasonable time, the convening officer may dissolve the court.

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—cont.

(5) Where a court-martial is dissolved under the foregoing provisions of this section the accused may be tried by another court.

96.—(1) Subject to the provisions of this section, every question to be determined on a trial by court-martial shall be determined by a majority of the votes of the members of the court. Decisions of courts-martial.

(2) In the case of an equality of votes on the finding, the court shall acquit the accused.

(3) A finding of guilty where the only punishment which the court can award is death shall not have effect unless it is reached with the concurrence of all the members of the court; and where on such a finding being come to by a majority of the members there is no such concurrence, the court shall be dissolved and the accused may be tried by another court.

(4) Where the accused is found guilty and the court has power to sentence him either to death or to some less punishment, sentence of death shall not be passed without the concurrence of all the members of the court.

(5) In the case of an equality of votes on the sentence, or on any question arising after the commencement of a trial, except the finding, the president shall have a second or casting vote.

97.—(1) Without prejudice to the provisions of section ninety-four of this Act, the finding of a court-martial on each charge shall be announced in open court. Finding and sentence.

(2) Any finding of guilty shall be, and be announced as being, subject to confirmation.

(3) Any sentence of a court-martial, together with any recommendation to mercy, shall be announced in open court, and a sentence of a court-martial shall be, and be announced as being, subject to confirmation.

98.—(1) An accused charged before a court-martial with an offence under this Act may, on failure of proof of the offence having been committed under circumstances involving a higher degree of punishment, be found guilty of the offence as having been committed under circumstances involving a less degree of punishment. Power to convict of offence other than that charged.

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—cont.

(2) An accused charged before a court-martial with any offence may be found guilty of attempting to commit that offence.

(3) An accused charged before a court-martial with attempting to commit an offence may be convicted on that charge notwithstanding that it is proved that he actually committed the offence.

(4) Where an accused is charged before a court-martial under section seventy of this Act in respect of attempting to commit a civil offence, he may be convicted on that charge notwithstanding that it is proved that he actually committed the civil offence.

(5) Where an accused is charged before a court-martial with an offence against section seventy of this Act, and the corresponding civil offence is one in proceedings for which, if he had been tried by a civil court for committing the offence in England, he might have been found guilty of another civil offence, then if the court finds that he has committed that other civil offence he may be convicted of an offence against section seventy of this Act in respect of the commission of that other civil offence.

(6) An accused charged before a court-martial with an offence specified in the first column of the Third Schedule to this Act may be found guilty of an offence specified in relation thereto in the second column of that Schedule.

Rules of
evidence.

99.—(1) The rules as to the admissibility of evidence to be observed in proceedings before courts-martial shall be the same as those observed in civil courts in England, and no person shall be required in proceedings before a court-martial to answer any question or to produce any document which he could not be required to answer or produce in similar proceedings before a civil court in England.

(2) Notwithstanding anything in the last foregoing subsection, a statutory declaration shall, in a trial by court-martial, be admissible as evidence of the facts stated in the declaration in a case where, and to the extent to which, oral evidence to the like effect would be admissible in that trial:

Provided that a statutory declaration shall not be admitted in evidence in any such trial on behalf either of the prosecution or of the defence—

- (a) where the declaration is put forward on behalf of the prosecution, unless a copy of the declaration has, not less than seven days before the commencement of the trial, been served on the accused;
- (b) where the declaration is put forward on behalf of the defence, unless a copy of the declaration has, not less than seven days before the commencement of the trial, been served on the commanding officer of the accused;

(c) in any case, if, not later than three days before the commencement of the trial or within such further time as the court-martial may in special circumstances allow, the accused or, as the case may be, the commanding officer of the accused serves a notice in the prescribed form on the commanding officer or accused requiring that oral evidence shall be given in lieu of the declaration ;

(d) in any case, if the court-martial is of opinion that it is desirable in the interests of justice that oral evidence should be given in lieu of the declaration and declares that it is of that opinion.

(3) A court-martial shall take judicial notice of all matters of notoriety, including all matters within the general service knowledge of the court, and of all other matters of which judicial notice would be taken in a civil court in England.

100. A witness before a court-martial or any other person whose duty it is to attend on or before the court shall be entitled to the same immunities and privileges as a witness before the High Court in England.

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—cont.

Privilege of witnesses and others at courts-martial

101. Where in the United Kingdom or in any colony any person not subject to military law—

Offences by civilians in relation to courts-martial.

- (a) having been duly summoned to attend as a witness before a court-martial, fails to comply with the summons, or
- (b) refuses to swear an oath when duly required by a court-martial to do so, or
- (c) refuses to produce any document in his custody or under his control which a court-martial has lawfully required him to produce, or
- (d) when a witness, refuses to answer any question which a court-martial has lawfully required him to answer, or
- (e) wilfully insults any person, being a member of a court-martial or a witness or any other person whose duty it is to attend on or before the court, while that person is acting as a member thereof or is so attending, or wilfully insults any such person as aforesaid while that person is going to or returning from the proceedings of the court, or
- (f) wilfully interrupts the proceedings of a court-martial or otherwise misbehaves before the court, or
- (g) does any other thing which would, if the court-martial had been a court of law having power to commit for contempt, have been contempt of that court,

the president of the court-martial may certify the offence of that person under his hand to any court of law in the part of the United Kingdom or in the colony, as the case may be, where the

PART II
—cont.

offence is alleged to have been committed, being a court having power to commit for contempt, and that court of law may thereupon inquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court to which the offence is certified:

Provided that where the offence is alleged to have been committed in the United Kingdom and the court-martial was held outside the United Kingdom, the certifying of the offence may be done by the Army Council or any officer authorised by them.

Affirmations.

102. If—

- (a) a person required by virtue of this Act to take an oath for the purposes of proceedings before a court-martial objects to being sworn, and states as the ground of his objection either that he has no religious belief or that the taking of an oath is contrary to his religious belief, or
- (b) it is not reasonably practicable to administer an oath to such a person as aforesaid in the manner appropriate to his religious belief,

he shall be permitted to make a solemn affirmation in the prescribed form instead of taking an oath.

*Offences: procedure*Rules of
Procedure.

103.—(1) Subject to the provisions of this section, the Secretary of State may make rules (hereinafter referred to as Rules of Procedure) with respect to the investigation and trial of, and awarding of punishment for, offences cognizable by courts-martial, commanding officers and appropriate superior authorities and with respect to the confirmation and revision of findings and sentences of courts-martial.

(2) Without prejudice to the generality of the last foregoing subsection, Rules of Procedure may make provision with respect to all or any of the following matters, that is to say—

- (a) the procedure to be observed in the bringing of charges before commanding officers and appropriate superior authorities;
- (b) the manner in which charges so brought are to be investigated, and the taking of evidence (whether orally or in writing, whether or not on oath and whether in full or in summary or abstract form) for the purpose

- of investigating or dealing summarily with such charges or otherwise as a preliminary to the trial thereof by court-martial, so however that the Rules shall make provision for the application of section ninety-three of this Act in any case where the accused requires that evidence shall be taken on oath ;
- (c) the addition to, or substitution for, a charge which has been investigated of a new charge for an offence disclosed by evidence taken on the investigation and the treating of the investigation as the investigation of the new charge ;
 - (d) the convening and constitution of courts-martial ;
 - (e) the sittings, adjournment and dissolution of courts-martial ;
 - (f) the procedure to be observed in trials by court-martial ;
 - (g) the representation of the accused at such trials ;
 - (h) procuring the attendance of witnesses before courts-martial and at the taking of evidence in pursuance of rules made under paragraph (b) of this subsection ;
 - (i) applying in relation to proceedings before commanding officers and appropriate superior authorities and otherwise in relation to proceedings prior to trial by court-martial all or any of the provisions of the four last foregoing sections ;
 - (j) empowering a court-martial or the convening officer, in such cases and to such extent as may be prescribed, to amend a charge which is being tried by the court ;
 - (k) empowering a court-martial, where the particulars proved or admitted at the trial differ from those alleged in the charge but are sufficient to support a finding of guilty of the like offence as that charged, to make a finding of guilty subject to exceptions or variations specified in the finding if it appears to the court that the difference is not so material as to have prejudiced the accused in his defence ;
 - (l) the forms of orders and other documents to be made for the purposes of any provision of this Act or the Rules relating to the investigation or trial of, or award of punishment for, offences cognizable by courts-martial, commanding officers or appropriate superior authorities or to the confirmation and revision of the findings and sentences of courts-martial ; and
 - (m) any matter which by this Part of this Act is required or authorised to be prescribed.

PART II
—cont.

(3) Rules made by virtue of paragraph (j) of the last foregoing subsection shall secure that the power to amend charges shall not be exercisable in circumstances substantially different from those in which indictments are amendable by a civil court in England, or otherwise than subject to the like conditions, as nearly as circumstances admit, as those subject to which indictments are so amendable, and shall not be exercisable by a court-martial (otherwise than for the purpose only of correcting a mistake in the name or description of the accused or a clerical error or omission) unless there is a judge advocate present at the trial.

(4) Rules of Procedure shall not make provision with respect to the carrying out of sentences passed by courts-martial or of other punishments awarded under this Part of this Act.

(5) A Rule of Procedure which is inconsistent with the provisions of this Act shall to the extent of the inconsistency be void.

**Rules as to
exercise of
functions of
judge advocate.**

104.—(1) Rules of Procedure may make provision as to the exercise by a judge advocate of his functions at a trial by court-martial.

(2) Without prejudice to the generality of the foregoing provisions of this section, Rules of Procedure may make provision—

(a) as to the effect of advice or rulings given to the court by a judge advocate on questions of law ;

(b) for requiring or authorising the president of a court-martial, in such cases as may be specified in the Rules, to direct that questions of law shall be determined by a judge advocate in the absence of the president and other members of the court and any officers under instruction, and for applying to the judge advocate and his proceedings on any such determination such of the provisions of this Act relating to the court or its members and the proceedings thereof as may be specified in the Rules.

(3) In the last foregoing subsection references to questions of law include references to questions as to the joinder of charges and as to the trial of persons jointly or separately.

**Taking of
offences into
consideration.**

105.—(1) Rules of Procedure may be made for determining the cases in which and the extent to which courts-martial may, in sentencing an accused for any offence of which he is convicted, at the request of the accused take into consideration other offences against this Act committed by him.

(2) Where Rules of Procedure make such provision as aforesaid, they may also make provision for conferring on the court taking one or more offences into consideration power to direct the making of such deductions from the offender's pay as the court would have had power to direct if he had been found guilty of the offence or offences taken into consideration as well as of the offence of which he was in fact found guilty.

PART II

—cont.

106. The power to make Rules of Procedure shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Rules of Procedure to be subject to annulment.

Confirmation, revision and review of proceedings of courts-martial

107.—(1) Where a court-martial finds the accused guilty on any charge, the record of the proceedings of the court-martial shall be transmitted to a confirming officer for confirmation of the finding and sentence of the court on that charge.

Confirmation of proceedings of courts-martial.

(2) A finding of guilty or sentence of a court-martial shall not be treated as a finding or sentence of the court until confirmed:

Provided that this subsection shall not affect the keeping of the accused in custody pending confirmation or the operation of the two next following sections or the provisions of this Act as to confirmation or approval.

108. At any time after a court-martial has sentenced the accused, but not later than the prescribed time after confirmation is completed, the accused may in the prescribed manner present a petition against finding or sentence or both.

Petitions against finding or sentence.

109.—(1) A confirming officer may direct that a court-martial shall revise any finding of guilty come to by the court in any case where it appears to him—

Revision of findings of courts-martial.

(a) that the finding was against the weight of evidence, or

(b) that some question of law determined at the trial and relevant to the finding was wrongly determined.

(2) Any such direction shall be accompanied by the necessary directions for the re-assembly of the court, and shall contain a statement of the reasons for the direction.

(3) On any revision of a finding the court shall reconsider the finding, and (unless the court adheres thereto) may substitute therefor either a finding of not guilty or any other finding to which the court could originally have come at the trial in lieu of the finding under revision.

(4) On any such revision the court shall not have power to receive further evidence.

(5) Where on any such revision the court either adheres to the original finding or substitutes therefor a finding of guilty of another offence, or of the same offence in different circumstances, the court may substitute a different sentence for the original sentence:

Provided that the court shall not have power to substitute a sentence of a punishment greater than the punishment or greatest

PART II
—cont.

of the punishments awarded by the original sentence, or to substitute a sentence which in the opinion of the court is more severe than the original sentence.

(6) The confirming officer shall not have power to direct the revision of any substituted finding come to by the court on a previous direction of the confirming officer, or the revision of the original finding if adhered to by the court on such a previous direction; but save as aforesaid this Act shall apply to the proceedings of the court on any such revision as it applies to their deliberations on the original finding or sentence, and any substituted finding or sentence shall be treated for all purposes as an original finding or sentence of the court:

Provided that the decision of the court on the revision shall not be required to be announced in open court.

Powers of
confirming
officers.

110.—(1) Subject to the provisions of the last foregoing section and to the following provisions of this section, a confirming officer shall deal with the finding or sentence of a court-martial either by withholding confirmation, if of opinion that the finding of the court is unreasonable or cannot be supported having regard to the evidence or involves a wrong decision on a question of law or that, on any ground, there was a miscarriage of justice, or by confirming the finding or sentence or referring the finding or sentence, or both, for confirmation to a higher confirming officer.

(2) In lieu of withholding confirmation of the finding of a court-martial, a confirming officer may, if—

- (a) some other finding of guilty could have been validly made by the court-martial on the charge before it, and
- (b) he is of opinion that the court-martial must have been satisfied of the facts necessary to justify that other finding,

substitute that other finding, and if he does so he shall consider in what manner, if at all, the powers conferred by subsection (4) of this section should be exercised.

(3) Where it appears to a confirming officer that a sentence of a court-martial is invalid, he may in lieu of withholding confirmation of the sentence substitute therefor a sentence of any punishment or punishments which could have been awarded by the court, not being greater than the punishment or greatest of the punishments awarded by the court and not in his opinion more severe than that punishment or those punishments.

(4) In confirming the sentence of a court-martial, a confirming officer may—

- (a) remit in whole or in part any punishment awarded by the court ; or
- (b) commute any such punishment for one or more punishment or punishments provided by this Act, being less than the punishment commuted.

(5) In confirming any sentence, a confirming officer may postpone the carrying out of the sentence for such time as seems expedient, and a confirming officer may extend or terminate any postponement ordered under this subsection.

(6) A finding or sentence substituted by the confirming officer, or any sentence having effect after the confirming officer has remitted or commuted punishment, shall be treated for all purposes as a finding or sentence of the court duly confirmed.

(7) The confirmation of a finding or sentence shall not be deemed to be completed until the finding or sentence has been promulgated ; and in the event of any such substitution, remission or commutation as aforesaid the finding or sentence shall be promulgated as it has effect after the substitution, remission or commutation.

(8) Where the confirming officer determines to withhold confirmation, the determination shall be promulgated and shall have effect as from the promulgation thereof.

111.—(1) Subject to the provisions of this section, the Confirming following shall have power to confirm the finding and sentence officers. of any court-martial, that is to say :—

- (a) the officer who convened the court-martial or any officer superior in command to that officer ;
- (b) the successor of any such officer or superior officer, or any person for the time being exercising the functions of any such officer or superior officer ;
- (c) failing any such officer as aforesaid, any officer appointed by the Army Council to act as confirming officer, whether for the particular case or for a specified class of cases.

(2) The following shall not have power to confirm the finding or sentence of a court-martial, that is to say :—

- (a) any officer who was a member of the court-martial, or
- (b) any person who as commanding officer of the accused investigated the allegations against him or who is for the time being the commanding officer of the accused, or
- (c) any person who as appropriate superior authority investigated the allegations against the accused :

PART II
—cont.

Provided that a person excluded by the foregoing provisions of this subsection may act as confirming officer for a field general court-martial, if otherwise having power to do so, where he is of opinion that it is not practicable, having due regard to the public service, to delay the case for the purpose of referring it to another confirming officer.

(3) A warrant or authorisation empowering the convening of a general or district court-martial may reserve for confirmation by superior authority findings or sentences or both in such circumstances as may be specified by or under the warrant or authorisation, and the powers conferred by subsection (1) of this section shall be exercisable subject to any such reservation.

(4) Where a person is found guilty by a court-martial held on board any ship and is disembarked before the finding or sentence has been confirmed it may be confirmed by any officer under, or in the area of, whose command he is for the time being, being an officer having power to confirm courts-martial of the like description as that held on board the ship.

Approval as well as confirmation required for certain death sentences.

112.—(1) A sentence of death confirmed by an officer below the rank of general officer shall not be carried into effect unless approved by a general officer or by a naval or air-force officer of corresponding rank, being a naval or air-force officer commanding the command in which the person under sentence was serving at the date of the sentence.

(2) Without prejudice to the provisions of the last foregoing subsection, a sentence of death passed by a court-martial shall not be carried into effect in a colony unless approved by the Governor of the colony.

(3) Notwithstanding anything in the foregoing provisions of this section, sentence of death passed on a person on active service may be carried out without such approval as is mentioned in subsection (1) or subsection (2) of this section where in the opinion of the confirming officer it is essential in the interests of discipline and for the purpose of securing the safety of the force with which the person sentenced is present that the sentence should be carried out forthwith, and the confirming officer states that opinion in the minute confirming the sentence.

Review of findings and sentences of courts-martial.

113.—(1) A finding or sentence which has been confirmed may at any time be reviewed by a reviewing authority, and if after confirmation of a finding or sentence a petition is duly presented under section one hundred and eight of this Act against the finding or sentence then, subject to the provisions of this section, the finding or sentence shall be so reviewed as soon as may be after the presentation of the petition and after consideration of the matters alleged therein.

(2) The reviewing authorities for the purposes of this Act are the following:—

- (a) Her Majesty,
- (b) the Army Council, or (so far as the delegation extends) any officer to whom the powers of the Army Council as reviewing authority, or any of those powers, may be delegated by, or by regulations of, the Army Council,
- (c) any officer superior in command to the confirming officer.

(3) If an application for leave to appeal is received by the registrar of the Courts-Martial Appeal Court or the said registrar receives particulars of such an application furnished in pursuance of paragraph (b) of subsection (3) of section four of the Courts-Martial (Appeals) Act, 1951, so much of subsection (1) of this section as requires the review of a finding or sentence against which a petition has been presented shall thereupon cease to apply to the finding to which the application for leave to appeal relates and the sentence passed in consequence of that finding.

(4) Notwithstanding anything in subsection (1) of this section, a sentence of death passed on a person on active service and the finding of guilty in consequence of which it was passed shall not be required to be reviewed if in the opinion of the confirming officer it is essential in the interests of discipline and for the purpose of securing the safety of the force with which the person sentenced is present that the sentence should be carried out forthwith, and the confirming officer states that opinion in the minute confirming the sentence.

(5) On a review under this section the reviewing authority may—

- (a) in so far as the review is of a finding, quash the finding and, if the sentence relates only to the finding quashed, the sentence;
- (b) in so far as the review is of a sentence, quash the sentence;
- (c) in any case, exercise the like powers of substituting findings, substituting valid for invalid sentences and remitting or commuting punishment as are conferred on a confirming officer by subsections (2) to (4) of section one hundred and ten of this Act;

and any substituted finding or sentence, or sentence having effect after the remission or commutation of punishment, shall be treated for all purposes as a finding or sentence of the court duly confirmed.

PART II
—cont.

(6) Where a reviewing authority exercises any of the powers conferred by the last foregoing subsection, the determination of the authority shall be promulgated and shall have effect as from the promulgation thereof.

Reconsideration of sentences of imprisonment and detention.

114.—(1) Sentences of imprisonment and detention may be reconsidered by such officers (not below the rank of brigadier or corresponding naval or air-force rank) as may be specified by regulations of the Army Council; and if on any such reconsideration it appears that the conduct of the offender since his conviction has been such as to justify remission of the sentence, whether in whole or in part, it shall be remitted accordingly.

(2) The power to reconsider a sentence may be exercised at any time after confirmation, and where after the review of a sentence it is effective it shall be reconsidered not less frequently than at such intervals as may be specified by regulations of the Army Council:

Provided that delay in complying with this subsection shall not invalidate the sentence.

Review of summary findings and awards

Review of summary findings and awards.

115.—(1) Where a charge has been dealt with summarily, otherwise than by the dismissal thereof, the authority hereinafter mentioned may at any time review the finding or award.

(2) The said authority is—

(a) the Army Council, or

(b) any military, naval or air-force officer superior in command to the officer who dealt summarily with the charge, or

(c) any other officer being—

(i) a general officer or brigadier appointed by the Army Council to act for the purposes of this section in any particular case, or

(ii) a general officer or brigadier, or general officer or brigadier of a class, so appointed for any class of cases.

(3) Where on a review under this section it appears to the said authority expedient so to do by reason of any mistake of law in the proceedings on the summary dealing with the charge or of anything occurring in those proceedings which in

the opinion of the authority involved substantial injustice to the accused, the authority may quash the finding; and if the finding is quashed the authority shall also quash the award.

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—cont.

(4) Where on a review under this section it appears to the said authority that a punishment awarded was invalid, or too severe, or (where the award included two or more punishments) that those punishments or some of them could not validly have been awarded in combination or are, taken together, too severe, the authority may vary the award by substituting such punishment or punishments as the authority may think proper, being a punishment or punishments which could have been included in the original award and not being in the opinion of the authority more severe than the punishment or punishments included in the original award.

Findings of insanity

116.—(1) Where, on the trial of a person by court-martial, it appears to the court that the accused is by reason of insanity unfit to stand his trial, the court shall so find; and if the finding is confirmed in accordance with the following provisions of this section the accused shall be kept in custody in such manner as may be provided by or under regulations of the Army Council until the directions of Her Majesty are known or until any earlier time at which the accused is fit to stand his trial.

Provisions
where accused
found insane.

(2) Where, on the trial of a person by court-martial, it appears to the court that the evidence is such as, apart from any question of insanity, to support a finding that the accused was guilty of any offence, but that at the time of the acts or omissions constituting that offence the accused was insane, the court shall find that the accused was guilty of that offence but was insane at the said time, and thereupon the accused shall be kept in custody in such manner as may be provided by or under regulations of the Army Council until the directions of Her Majesty are known.

(3) In the case of any such finding as aforesaid Her Majesty may give orders for the safe custody of the accused during Her pleasure in such place and in such manner as Her Majesty thinks fit.

(4) A finding under subsection (1) of this section shall not have effect unless and until the finding has been confirmed by an officer who would have had power to confirm a finding of guilty come to by the court-martial in question and has been promulgated.

PART II
—cont.

(5) Where the court or the confirming officer comes to or substitutes a finding of guilty but insane the confirming officer or, as the case may be, the reviewing authority shall not have power to substitute for that finding a finding of guilty; but save as aforesaid the provisions of this Act as to revision, confirmation and review (and in particular the provisions of this Act which confer power to substitute for any finding any other finding which could have been come to by the court-martial in question) apply in relation to such findings as are provided for by subsection (2) of this section as those provisions apply in relation to other findings of guilty.

Saving for functions of Judge Advocate General

Saving for
functions of
Judge
Advocate
General.

117. Nothing in the foregoing provisions of this Part of this Act shall prejudice the exercise of the functions conferred (whether by Queen's Regulations or otherwise) on the Judge Advocate General of considering and reporting on the proceedings of courts-martial or any other functions so conferred on him in relation to such courts.

Commencement, suspension and duration of sentences

Commence-
ment of
sentences.

118.—(1) A military sentence of imprisonment or detention or a sentence of field punishment shall, subject to the provisions of this section and of subsection (7) of section four of the Courts-Martial (Appeals) Act, 1951 (which empowers the Court in certain cases to direct that a sentence shall begin to run from the day on which the Court dismisses an application for leave to appeal), begin to run from the beginning of the day on which sentence was originally pronounced by the court-martial trying the offender or, as the case may be, was originally awarded by his commanding officer.

(2) A sentence of imprisonment or detention passed by a court-martial on a warrant officer, non-commissioned officer or soldier which is suspended in pursuance of section one hundred and twenty of this Act before he has been committed to prison or a military establishment shall not begin to run until the beginning of the day on which the suspension is determined:

Provided that where the sentence is suspended by the confirming officer and the reviewing authority determines the suspension, the reviewing authority may direct that the sentence shall run from such earlier date, not earlier than the day on which sentence was originally pronounced by the court-martial, as the reviewing authority may specify.

Duration of
sentences of
imprisonment
and
detention.

119.—(1) Where a warrant officer, non-commissioned officer or soldier has been sentenced to imprisonment or detention by a court-martial, and the sentence is suspended in pursuance of

the next following section after he has been committed to prison or a military establishment, the currency of the sentence shall be suspended from the beginning of the day after the day on which he is released in accordance with the provisions of the next following section until the beginning of the day on which the suspension is determined.

(2) Where any person serving a military sentence of imprisonment or detention becomes unlawfully at large during the currency of the sentence, then, in calculating the period for which he is liable to be imprisoned or detained in pursuance of the sentence, no account shall be taken of time elapsing during the period beginning with the day on which he became at large and ending with the day on which, as a person having become unlawfully at large, he is taken into naval, military or air force custody or the custody of a civil authority or (not having been taken into such custody) returns to the place in which he was imprisoned or detained before he became unlawfully at large:

Provided that if he satisfies such authority as may be specified in that behalf by or under Imprisonment and Detention Rules that during any time during the last-mentioned period he was—

- (a) in the custody of a civil authority, or
- (b) if and in so far as Imprisonment and Detention Rules so provide, in the custody of any military, naval or air-force authority of any country or territory outside the United Kingdom as respects which arrangements have been made under section one hundred and twenty-six of this Act,

the last-mentioned time shall not be disregarded in calculating the period for which he is liable to be imprisoned or detained in pursuance of the military sentence.

(3) In the last foregoing subsection the expression “civil authority” means a civil authority (whether of the United Kingdom or of any country or territory outside the United Kingdom) authorised by law to detain persons, and includes a constable.

(4) Without prejudice to subsection (2) of this section, where any person serving a military sentence of imprisonment or detention has in accordance with Imprisonment and Detention Rules been temporarily released on compassionate grounds, then, in calculating the period for which he is liable to be imprisoned or detained in pursuance of the sentence, no account shall be taken of time elapsing during the period beginning with the day after that on which he is released and ending with the day on which he is required to return to custody.

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—*cont.*

(5) A person who for any period is released as mentioned in the last foregoing subsection or who is otherwise allowed, in pursuance of Imprisonment and Detention Rules, out of any military establishment or otherwise out of military custody for any period or subject to any condition shall, on failure to return at the expiration of the period or to comply with the condition, be treated for the purposes of subsection (2) of this section as being unlawfully at large.

(6) A person serving a military sentence of imprisonment or detention in civil custody who, after being temporarily released under civil law, is at large at any time during the period for which he is liable to be detained in civil custody in pursuance of his sentence shall be deemed to be unlawfully at large if the period for which he was temporarily released has expired or if an order recalling him has been made in pursuance of civil law.

(7) References in the last foregoing subsection to release or recall under civil law are references to release or recall in pursuance of rules made under subsection (5) of section forty-seven of the Prison Act, 1952, subsection (6) of section thirty-five of the Prisons (Scotland) Act, 1952, or paragraph (c) of subsection (1) of section thirteen of the Prisons Act (Northern Ireland) 1953, or (in the case of a person serving his sentence outside the United Kingdom) in pursuance of any corresponding provision of the law of the country or territory in which he is serving his sentence.

**Suspension
of sentences.**

120.—(1) The following provisions of this section shall have effect as respects the suspension of a sentence of imprisonment or detention passed by a court-martial on a warrant officer, non-commissioned officer or soldier.

(2) Without prejudice to subsection (5) of section one hundred and ten of this Act, in confirming such a sentence the confirming officer may order that the sentence shall be suspended.

(3) Any such sentence which is not for the time being suspended may, on the review or reconsideration of the sentence, be suspended by order of the authority reviewing or reconsidering the sentence.

(4) The suspension of any such sentence may (without prejudice to its again being suspended) be determined on the review or reconsideration of the sentence by an order of the said authority committing the person sentenced to imprisonment or detention, as the case may be.

(5) Where, while any such sentence is suspended, the person sentenced is sentenced by court-martial to imprisonment or detention for a fresh offence then (unless the balance of the

earlier sentence is remitted by virtue of subsection (10) of section seventy-two of this Act)—

- (a) the court may determine the suspension of the earlier sentence by an order committing the person sentenced to imprisonment or detention, as the case may be, and if so the court shall direct whether the two sentences are to run concurrently or consecutively ;
- (b) if the court does not exercise the powers conferred by the last foregoing paragraph, the confirming officer may exercise those powers on the confirmation of the later sentence ;
- (c) if neither the court nor the confirming officer exercises the said powers, a reviewing authority may exercise those powers on the review of the later sentence ;
- (d) where the said powers are exercised (whether by the court, the confirming officer or a reviewing authority), any power of suspension or remission exercisable in relation to the later sentence shall be exercisable also in relation to the earlier sentence :

Provided that this subsection has effect subject to the provisions of subsection (11) of section seventy-two of this Act.

(6) Without prejudice to the further suspension of the earlier sentence, an order under the last foregoing subsection directing that the suspension of that sentence shall be determined shall not be affected by the later sentence not being confirmed or by its being quashed.

(7) Where the sentence of a person in custody is suspended, he shall thereupon be released.

(8) The maximum intervals for the reconsideration, under subsection (2) of section one hundred and fourteen of this Act, of a sentence of imprisonment or detention which is suspended shall be three months, and not those specified under the said subsection.

Execution of sentences of death, imprisonment and detention

121.—(1) The Secretary of State may make regulations with respect to the execution of sentences of death under this Act, whether passed in the United Kingdom or elsewhere. Execution of sentences of death.

(2) Without prejudice to the generality of the last foregoing subsection regulations under this section may make provision with respect to all or any of the following matters, that is to say—

- (a) the manner in which, the person by whom and the country or territory, place and kind of establishment (whether military or not) where any such sentence is to be executed ; and

PART II
—cont.

- (b) the custody and treatment of the person under sentence and his removal from one place or establishment to another between the passing and execution of the sentence,

or may authorise such persons as may be specified in or determined by or under the regulations to give directions with respect to all or any of those matters.

(3) Such provost marshal or other provost officer not below field rank as may be specified in or determined under regulations under this section shall be responsible for the due execution of any sentence of death passed under this Act.

Imprisonment
and Detention
Rules.

122.—(1) Subject to the provisions of this Act, the Secretary of State may make rules (in this Part of this Act referred to as Imprisonment and Detention Rules) with respect to all or any of the following matters, that is to say—

- (a) the places in which and the establishments or forms of custody (whether military or not) in which persons may be required to serve the whole or any part of military sentences of imprisonment and detention passed on them ;
- (b) the committal of persons under military sentences of imprisonment or detention to the appropriate establishment or form of custody, their removal from one country or place to another and from one establishment or form of custody to another and their release on the coming to an end of any term of imprisonment or detention ;
- (c) the provision, classification, regulation and management of military establishments ;
- (d) the classification, treatment, employment, discipline and control of persons serving military sentences of imprisonment or detention in military establishments or otherwise in military custody ;
- (e) the temporary release on compassionate grounds of persons serving such sentences in such establishments or custody as aforesaid, the cases in which, periods for which and conditions subject to which they may be allowed out of any such establishment or custody and the remission of part of any such sentence for good conduct and industry ;
- (f) the appointment, powers and duties of inspectors, visitors and governors, and of officers and other members of the staff, of military establishments.

(2) Imprisonment and Detention Rules shall not authorise the infliction of corporal punishment.

(3) Imprisonment and Detention Rules may apply with the necessary modifications all or any of the provisions of sections thirty-nine to forty-two of the Prison Act, 1952 (which relate to offences by persons other than prisoners).

(4) Imprisonment and Detention Rules may, to such extent as may be provided by the Rules, be made so as to apply to persons detained in military establishments while serving sentences of imprisonment or detention awarded under the Naval Discipline Act or the Air Force Act, 1955, notwithstanding that such persons are not for the time being subject to military law.

(5) The Secretary of State may as respects any area in which persons subject to military law are on active service delegate his power to make Imprisonment and Detention Rules to the officer commanding the command within which those persons are serving, subject to such restrictions, reservations, exceptions and conditions as the Secretary of State may think fit.

123.—(1) Regulations made under section one hundred and twenty-one of this Act or Imprisonment and Detention Rules may contain such incidental and supplementary provisions as appear to the Secretary of State to be requisite for the purposes of the regulations or rules.

Supplementary provisions relating to regulations and rules under ss. 121 & 122.

(2) Any such regulations or rules as aforesaid made by the Secretary of State shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

124. A person shall not be required to serve any part of a military sentence of detention in a military or civil prison:

Restrictions on serving of sentences of detention in prisons.

Provided that in such cases and subject to such conditions as may be specified by or under Imprisonment and Detention Rules a person serving such a sentence may be temporarily detained in a military or civil prison for any period not exceeding seven days.

125.—(1) A person sentenced to death or imprisonment and committed or transferred to a civil prison in pursuance of regulations under section one hundred and twenty-one of this Act or of Imprisonment and Detention Rules shall while in that prison be confined and otherwise dealt with in the same manner as a person confined therein under a like sentence of a civil court.

Special provisions as to civil prisons in the United Kingdom.

(2) The Capital Punishment Amendment Act, 1868, and any rules made under section seven of that Act shall apply in relation to the execution in a civil prison of a sentence of death

PART II
—cont.

passed by a court-martial for any offence, but with the substitution in that Act for references to the sheriff of references to the provost marshal or other provost officer responsible for the due execution of the sentence.

Special provisions as to carrying out or serving of sentences outside the United Kingdom otherwise than in military establishments.

126.—(1) A Secretary of State may from time to time make arrangements with the authorities of any country or territory outside the United Kingdom whereby sentences of death passed by courts-martial may in accordance with regulations under section one hundred and twenty-one of this Act be carried out in establishments under the control of those authorities and military sentences of imprisonment or detention may in accordance with Imprisonment and Detention Rules be served wholly or partly in such establishments.

(2) The powers conferred on the Secretary of State by sections one hundred and twenty-one and one hundred and twenty-two of this Act shall extend to the making of such provision as appears to the Secretary of State necessary or expedient for giving effect to any arrangements made under the last foregoing subsection.

(3) The said powers shall be so exercised as to secure that no sentence of death passed by a court-martial shall be executed, and no military sentence of imprisonment or detention shall be served, in an establishment in any country or territory outside the United Kingdom not being a military establishment, except in accordance with arrangements made as respects that country or territory.

Country in which sentence of imprisonment or detention to be served.

127.—(1) A person who is serving a military sentence of imprisonment or detention in the United Kingdom may (in so far as may be specified by or under Imprisonment and Detention Rules) be removed out of the United Kingdom—

- (a) to any colony in which he was enlisted ; or
- (b) to any place out of the United Kingdom where the corps or any part thereof to which for the time being he belongs is serving or is under orders to serve,

but not to any other place.

(2) Subject to the following provisions of this section, a person sentenced under this Act, by a court-martial held out of the United Kingdom, to imprisonment or detention for more than twelve months shall as soon as practicable after the confirmation of the sentence is completed be removed to the United Kingdom.

(3) The last foregoing subsection shall not apply in relation to any person belonging to a class of persons specified by or

under Imprisonment and Detention Rules as persons whose removal to the United Kingdom would for reasons of climate, place of birth or place of enlistment or any other reason not be beneficial.

(4) Where a person has been sentenced under this Act, by a court-martial held out of the United Kingdom, to imprisonment or detention for more than twelve months, the confirming officer or reviewing authority may notwithstanding anything in subsection (2) of this section direct that he shall not be required to be removed to the United Kingdom until he has served such part of his sentence, not exceeding (in the case of a sentence of more than two years' imprisonment) two years, as may be specified in the direction; and in determining whether or not to exercise the powers conferred by this subsection a confirming officer or reviewing authority shall have regard to any recommendation in that behalf made by the court-martial.

(5) Any direction of a confirming officer under this section may at any time be revoked by the confirming officer or by a reviewing authority, or superseded by any direction of the confirming officer or a reviewing authority which the officer or authority could have given under the last foregoing subsection; and any direction of a reviewing authority under this section may at any time be revoked by a reviewing authority or superseded as aforesaid.

(6) Any direction given under this section, and the revocation of any such direction, shall be promulgated.

(7) In ascertaining at any time for the purposes of this section the nature or length of a sentence regard shall be had to any commutation or remission of the sentence previously directed.

128.—(1) Section five of the Capital Punishment Amendment Act, 1868 (which makes special provision for the holding of inquests on the bodies of persons on whom judgment of death has been executed within the jurisdiction of a coroner) shall apply in relation to the execution, in any premises in the United Kingdom under the control of the Secretary of State within such jurisdiction, of a sentence of death passed under this Act by a court-martial as it applies to the execution of a judgment of death passed by a civil court, but with the substitution for the reference to the sheriff of a reference to the provost marshal or other provost officer responsible for the due execution of the sentence.

Application of enactments relating to coroners.

(2) The Coroners Acts, 1887 to 1926 shall apply in relation to any premises in the United Kingdom under the control of the Secretary of State and allocated for the accommodation of persons sentenced by court-martial to imprisonment or detention as those Acts apply in relation to a prison.

PART II
—*cont.*

Duties of
governors of
prisons and
others to
receive
prisoners.

129.—(1) It shall be the duty of the governor of a civil prison, or, in so far as regulations under section one hundred and twenty-one of this Act or Imprisonment and Detention Rules so provide, of the superintendent or other person in charge of a prison (not being a military prison) in a colony, to receive any person duly sent to that prison in pursuance of the regulations or rules and to confine him until execution of the sentence is completed or the prisoner is discharged or delivered over in due course of law.

(2) Where a person is in military custody in pursuance of a military sentence of imprisonment or detention, then on receipt of a written order in that behalf purporting to be signed by that person's commanding officer it shall be the duty of any such governor, superintendent or other person as aforesaid, of the police officer in charge of a police station or of any person in charge of any other place in which prisoners may be lawfully confined (whether the station or place is in the United Kingdom or in a colony) to keep that person in custody for a period not exceeding seven days unless the said person is earlier discharged or delivered over in due course of law.

Application
to air-force
establishments
and custody.

130.—(1) In section one hundred and eighteen of this Act, the reference in subsection (2) to a military establishment shall include a reference to an air-force establishment (within the meaning of the Air Force Act, 1955).

(2) In section one hundred and nineteen of this Act references to a military establishment and to Imprisonment and Detention Rules shall include respectively references to such an air-force establishment as aforesaid and to Imprisonment and Detention Rules made under the Air Force Act, 1955, and the reference in subsection (5) to military custody shall include a reference to air-force custody.

(3) In section one hundred and twenty-four of this Act the reference to a military prison shall include a reference to an air-force prison (within the meaning of the Air Force Act, 1955).

(4) In subsection (3) of section one hundred and twenty-six of this Act the reference to a military establishment shall include a reference to an air-force establishment (within the meaning of the Air Force Act, 1955).

Trial of persons ceasing to be subject to military law and time limits for trials

Trial and
punishment of
offences under
military law
notwithstanding
offender ceasing
to be subject to
military law.

131.—(1) Subject to the provisions of the next following section, where an offence under this Act triable by court-martial has been committed, or is reasonably suspected of having been committed, by any person while subject to military law, then in relation to that offence he shall be treated, for the purposes of the provisions of this Act relating to arrest, keeping in custody, investigation of charges, trial and punishment by

court-martial (including confirmation, review, reconsideration and suspension) and execution of sentences as continuing subject to military law notwithstanding his ceasing at any time to be subject thereto.

(2) Where, while a person is in military or air-force custody by virtue of this section (whether before, during or after trial) he commits, or is reasonably suspected of having committed, an offence which if he were subject to military law would be an offence under this Act triable by court-martial, then in relation to that offence or suspected offence he shall be treated, for the purposes of the provisions of this Act mentioned in the last foregoing subsection and the provisions thereof as to the summary dealing with charges, as having been subject to military law when the offence was committed or is suspected of having been committed and as continuing subject to military law thereafter.

(3) Where by virtue of either of the two last foregoing subsections a person is treated as being at any time subject to military law for the purpose of any provision of this Act, that provision shall apply to him—

- (a) if he holds any military rank, as to a person having that rank ;
- (b) if he holds any naval or air-force rank or rating, as to a person having the corresponding military rank ;
- (c) otherwise as to a person having the rank which he had when last actually subject to military law :

Provided that as respects any time after he has been sentenced for the offence in question and the sentence has been confirmed the said provision shall apply to him (in any case) as to a soldier.

(4) Where apart from this subsection any provision of this Act would under the last foregoing subsection apply to a person, in relation to different offences, as to a person having different ranks, it shall apply to him as to a person having the lower or lowest of those ranks.

132.—(1) No person shall be tried by court-martial for any offence, other than one against section thirty-one or thirty-two of this Act or desertion, unless the trial is begun within three years after the commission of the offence, there being disregarded any time during which he was a prisoner of war and any time during which he was illegally absent :

Limitation of time for trial of offences under military law.

Provided that—

- (a) in the case of an offence against section seventy of this Act where proceedings for the corresponding civil offence must, by virtue of any enactment, be brought within a limited time, that limit of time shall apply to the trial of the offence under the said section seventy in substitution for the foregoing provisions of this subsection ;

PART II
—cont.

(b) subject to any such limit of time as is mentioned in the last foregoing paragraph, a person may be tried by court-martial for a civil offence committed outside the United Kingdom notwithstanding that it was committed more than three years before the beginning of the trial, if the Attorney General consents to the trial.

(2) Where a person who has committed an offence of desertion, other than desertion on active service, has since the offence served as a member of the regular forces continuously in an exemplary manner for not less than three years, he shall not be tried for that offence.

(3) A person shall not be triable by virtue of subsection (1) of the last foregoing section unless his trial is begun within three months after he ceases to be subject to military law, or the trial is for a civil offence committed outside the United Kingdom and the Attorney General consents to the trial:

Provided that this subsection shall not apply to an offence against section thirty-one or thirty-two of this Act or desertion.

(4) A person shall not be arrested or kept in custody by virtue of subsection (1) of the last foregoing section for an offence at any time after he has ceased to be triable for the offence.

*Relations between military law and civil courts and
finality of trials*

133.—(1) Nothing in this Act restricts the offences for which persons may be tried by any civil court, or the jurisdiction of any civil court to try a person subject to military law for any offence.

(2) Where a person is tried by a civil court for any offence, and he has previously been sentenced by court-martial to punishment for any act or omission constituting (whether wholly or in part) that offence, or in pursuance of this Act he has been punished for any such act or omission by his commanding officer or the appropriate superior authority, the civil court shall, in awarding punishment, have regard to his punishment in pursuance of this Act.

134.—(1) Where a person subject to military law—

(a) has been tried for an offence by a competent civil court or a court-martial (whether held under this Act, the Naval Discipline Act or the Air Force Act, 1955), or has had an offence committed by him taken into consideration by any such court in sentencing him, or

(b) has been charged with an offence under this Act, the Naval Discipline Act or the Air Force Act, 1955, and has had the charge dismissed, or has been found guilty on the charge, by his commanding officer or the appropriate superior authority, or

Powers of
civil courts.

Persons not to
be tried under
this Act for
offences
already
disposed of.

- (c) has had an offence condoned by his commanding officer (whether military, naval or air-force),

he shall not be liable in respect of that offence to be tried by court-martial or to have the case dealt with summarily by his commanding officer or the appropriate superior authority.

(2) For the purposes of this section—

- (a) a person shall not be deemed to have been tried by a court-martial if confirmation is withheld of a finding by the court-martial that he is guilty of the offence ;
- (b) a person shall not be deemed to have had an offence taken into consideration by a court-martial in sentencing him if confirmation of the sentence of the court is withheld or the sentence is quashed ;
- (c) a case shall be deemed to have been dealt with summarily by the commanding officer or appropriate superior authority notwithstanding that the finding of that officer or authority has been quashed, or the award of that officer or authority quashed or varied, on the review thereof ;
- (d) an offence shall be deemed to have been condoned by the commanding officer of a person alleged to have committed the offence if, and only if, that officer or any officer authorised by him to act in relation to the alleged offence has with knowledge of all relevant circumstances informed him that he will not be charged therewith ;
- (e) a person ordered under subsection (2) of section fifty-seven of this Act or the corresponding provision of the Air Force Act, 1955, to be imprisoned or to undergo detention for an offence against that section or provision shall be deemed to have been tried by court-martial for the offence.

(3) Where confirmation of a finding of guilty of an offence is withheld the accused shall not be tried again by court-martial for that offence unless the order convening the later court-martial is issued not later than twenty-eight days after the promulgation of the decision to withhold confirmation.

(4) Save as provided in the foregoing provisions of this section, proceedings for an offence against this Act (whether before a commanding officer or appropriate superior authority or before a court-martial) shall not be barred on the ground of condonation.

Inquiries

135.—(1) Subject to and in accordance with the provisions of Boards of rules made under this section (hereinafter referred to as “board inquiry of inquiry rules”), the Army Council or any military, naval or air-force officer empowered by or under such rules so to do may

PART II
—cont.

convene a board of inquiry to investigate and report on the facts relating to—

- (a) the absence of any person subject to military law ;
- (b) the capture of any such person by the enemy ;
- (c) the death of any person in a military establishment, being an establishment in any country or territory outside the United Kingdom where an inquiry into the death is not required to be held by any civil authority ;
- (d) any other matter of a class specified in such rules or referred to such a board by the Army Council or any such officer as aforesaid ;

and a board of inquiry shall, if directed so to do, express their opinion on any question arising out of any matter referred to the board.

(2) A board of inquiry shall consist of not less than three members, who shall be persons subject to military law, the Naval Discipline Act or air-force law, and the president of a board of inquiry shall be an officer not below the rank of captain or corresponding rank.

(3) Subject to the provisions of this section, board of inquiry rules may make provision with respect to the convening, constitution and procedure of boards of inquiry and, without prejudice to the generality of the foregoing, may make provision with respect to all or any of the following matters, that is to say:—

- (a) the rules of evidence to be observed by boards of inquiry and the taking of evidence before such boards, so however that the rules shall provide for the taking of evidence on oath or affirmation except in circumstances such that if the evidence were being taken at a court-martial an oath could be dispensed with ;
- (b) without prejudice to the provisions of the next following section, the making in service books of records of findings of boards of inquiry in such cases as may be provided by the rules ;
- (c) such incidental and supplementary matters as appear requisite for the purposes of the rules.

(4) Board of inquiry rules shall contain provision for securing that any witness or other person who may be affected by the findings of a board of inquiry shall have an opportunity of being present, and represented, at the sittings of the board or such part thereof as may be specified by or under the rules.

(5) Evidence given before a board of inquiry shall not be admissible against any person in proceedings before a court-martial, commanding officer or appropriate superior authority, other than proceedings for an offence against section fifty-eight of this Act or for an offence against section seventy of this Act where the corresponding civil offence is perjury.

(6) The power to make board of inquiry rules shall be exercisable by the Secretary of State by statutory instrument which shall be laid before Parliament.

PART II
—cont.

136.—(1) Where a board of inquiry inquiring into the absence of an officer, warrant officer, non-commissioned officer or soldier reports that he has been absent without leave or other sufficient cause for a period specified in the report, not being less than twenty-one days, a record of the report shall in accordance with Queen's Regulations be entered in the service books. Inquiries into absence.

(2) A record entered in pursuance of the last foregoing subsection shall, unless the absentee subsequently surrenders or is arrested, or the report of the board of inquiry is annulled by the Army Council or a subsequent board of inquiry, have the like effect as a conviction by court-martial for desertion.

137.—(1) An officer of any of Her Majesty's military forces authorised in that behalf by or under regulations of the Army Council may cause an inquiry to be held, in such manner and by such person or persons subject to military law, the Naval Discipline Act or air-force law as may be specified by or determined under such regulations, into any matter so specified or determined: Regimental inquiries.

Provided that an inquiry shall not be held in pursuance of this section into—

- (a) the absence of a person subject to military law, or
- (b) the capture of any such person by the enemy.

(2) Regulations of the Army Council made for the purposes of this section may make provision as to the rules of evidence to be observed at inquiries held in pursuance of this section and the taking of evidence at such inquiries, and may authorise the taking of evidence on oath or affirmation, and the administration of oaths, in such cases as may be specified by or under the regulations.

(3) Subsections (4) and (5) of section one hundred and thirty-five of this Act shall apply in relation to inquiries held in pursuance of this section with the substitution of references to regulations of the Army Council for references to board of inquiry rules and of references to an inquiry held in pursuance of this section for references to a board of inquiry.

Miscellaneous provisions

138.—(1) The following provisions shall have effect where a person has been convicted by court-martial of unlawfully obtaining any property, whether by stealing it, receiving it knowing it to have been stolen, fraudulently misapplying it or otherwise. Restitution or compensation for theft, etc.

PART II
—cont.

(2) If any of the property unlawfully obtained has been found in the possession of the offender, it may be ordered to be delivered or paid to the person appearing to be the owner thereof.

(3) If there has been found in the possession of the offender any property (other than money) appearing to have been obtained by him by the conversion or exchange of any of the property unlawfully obtained, the property may be ordered to be delivered to the person appearing to be the owner of the property unlawfully obtained.

(4) Where money is found in the possession of the offender, then whether or not it appears to have been obtained as aforesaid an order may be made that there shall be paid out of that money to the person appearing to be the owner of the property unlawfully obtained such sum as may be specified in the order as or towards compensation for the loss caused to the said person by the offence, in so far as not otherwise made good under this Act or by the recovery of the property unlawfully obtained.

(5) Where any of the property unlawfully obtained has been sold or given in pawn to some other person who did not then know it to have been unlawfully obtained, an order may be made that, subject to the restitution to the owner thereof of the property sold or given as aforesaid, there shall be paid to the said other person, out of any money found in the possession of the offender (whether or not the money appears to be proceeds of the sale or giving in pawn), such sum as may be specified in the order as or towards compensation for the loss caused to him in consequence of the sale or giving in pawn.

(6) Where any of the property unlawfully obtained has been given in exchange to some other person who did not then know it to have been unlawfully obtained, an order may be made that, subject to the restitution to the owner thereof of the property given as aforesaid, there shall be restored to the said other person the property taken in exchange for the property unlawfully obtained.

(7) An order under this section may be made by the court-martial by whom the offender is convicted, by the confirming officer, or by any reviewing authority; and in this section the expression "appearing" means appearing to the court, officer or authority making the order.

(8) An order under this section made by a court-martial shall not have effect until confirmed by the confirming officer; and the provisions of this Part of this Act as to the confirmation and review of the proceedings of courts-martial shall apply to an order under this section as they apply to a sentence.

(9) The operation of any order under this section shall be suspended—

- (a) in any case, until the expiration of the period prescribed under Part I of the Courts-Martial (Appeals) Act, 1951, as the period within which an application for leave to appeal to the Courts-Martial Appeal Court against the conviction must be lodged ; and
- (b) if such an application is duly lodged, until either the application is finally refused or is withdrawn or the appeal is determined or abandoned ;

and where the operation of such an order as aforesaid is suspended under this section—

- (c) it shall not take effect if the conviction is quashed on appeal ;
- (d) the Courts-Martial Appeal Court may by order annul or vary the order although the conviction is not quashed ;
- (e) such steps shall be taken for the safe custody, during the period during which the operation of the order is suspended, of the property ordered to be restored or handed over or the money to which the order relates as may be provided by rules of court made under the said Act of 1951.

(10) Notwithstanding anything in the last foregoing subsection, an order under this section shall not, so far as it relates to the delivery of property to the person appearing to be the owner thereof, be suspended if the court, officer or authority making the order directs to the contrary in any case in which, in the opinion of the court, officer or authority, the title to the property is not in dispute.

(11) An order under this section shall not bar the right of any person, other than the offender or a person claiming through him, to recover any property delivered or paid in pursuance of such an order from the person to whom it is delivered or paid.

139. Without prejudice to the powers conferred by Her Majesty on the Judge Advocate General, the appointment of a judge advocate to act at any court-martial may, failing the making thereof by or on behalf of the Judge Advocate General, be made by the convening officer. Appointment of judge advocates.

140. Any finding, sentence, determination or other thing required by this Act to be promulgated shall be promulgated either by being communicated to the accused or in such other manner as may be specified by Queen's Regulations or as the confirming officer or reviewing authority, as the case may be, may direct. Promulgation

PART II
—*cont.*

Custody of proceedings of courts-martial and right of accused to a copy thereof.

141.—(1) The record of the proceedings of a court-martial shall be kept in the custody of the Judge Advocate General for not less than the prescribed period, being a period sufficient to ensure that the rights conferred by the two next following subsections shall be capable of being exercised.

(2) Subject to the provisions of this section, any person tried by a court-martial shall be entitled to obtain from the Judge Advocate General on demand at any time within the relevant period and on payment therefor at such rate as may be prescribed a copy of the record of the proceedings of the court.

(3) Where a person tried by court-martial dies within the relevant period, his personal representatives or any person who in the opinion of the Judge Advocate General ought to be treated for the purposes of this subsection as his personal representative shall subject to the provisions of this section be entitled to obtain from the Judge Advocate General on demand at any time within the period of twelve months from the death and on payment therefor at the prescribed rate a copy of the record of the proceedings of the court.

(4) If, on an application in pursuance of either of the two last foregoing subsections for a copy of the record of any proceedings, the Secretary of State certifies that it is requisite for reasons of security that the proceedings or any part thereof should not be disclosed, the applicant shall not be entitled to a copy of the proceedings or part to which the certificate relates.

(5) In this section the expression “the relevant period”, in relation to any person tried by court-martial, means the period of five years beginning with the date of his acquittal or, where he was convicted, of the promulgation of the findings and sentence or, where a finding of guilty was not confirmed, of the promulgation of the withholding of confirmation:

Provided that where the proceedings relate to two or more charges and the person tried was acquitted on one or more of the charges and convicted on another or others, the relevant period shall be the period of five years beginning with the date of the promulgation of the finding or findings of guilty and the sentence thereon or of the withholding of confirmation of that finding or those findings.

(6) Any reference in this section to the record of the proceedings of a court-martial includes a reference to the record of the proceedings with respect to the confirmation or revision of the findings and sentence of the court-martial.

142. No action shall lie in respect of anything done by any person in pursuance of a military sentence of imprisonment or detention if the doing thereof would have been lawful but for a defect in any warrant or other instrument made for the purposes of that sentence.

Indemnity for prison officers, etc.

Interpretation

PART II

—cont.

143.—(1) In this Part of this Act:—

Interpretation
of Part II.

“civil prison” means a prison in the United Kingdom in which a person sentenced by a civil court to imprisonment can for the time being be confined;

“convening officer”, in relation to a court-martial, means the officer convening that court-martial and includes his successor or any person for the time being exercising his or his successor’s functions;

“military establishment” means a military prison or any other establishment under the control of the Secretary of State where persons may be required to serve military sentences of imprisonment or detention;

“military prison” means separate premises under the control of the Secretary of State and primarily allocated for persons serving military sentences of imprisonment;

references to a military sentence of imprisonment are references to a sentence of imprisonment passed by a court-martial;

references to a military sentence of detention are references to a sentence of detention passed by a court-martial or awarded by the offender’s commanding officer;

“prescribed” means prescribed by Rules of Procedure.

(2) References in this Part of this Act to warrant officers do not include references to acting warrant officers.

(3) References in this Part of this Act to non-commissioned officers include references to acting non-commissioned officers and also to acting warrant officers.

PART III

FORFEITURES AND DEDUCTIONS AND ENFORCEMENT OF
MAINTENANCE LIABILITIES

144.—(1) No forfeiture of the pay of an officer, warrant officer, non-commissioned officer or soldier of the regular forces shall be imposed unless authorised by this or some other Act, and no deduction from such pay shall be made unless so authorised or authorised by Royal Warrant.

Forfeitures and
deductions:
general
provisions.

(2) A Royal Warrant shall not authorise the making of any penal deduction, that is to say a deduction to be made by reason of the commission of any offence or other wrongful act or in consequence of any negligence.

(3) The foregoing provisions of this section shall not prevent the making, by Royal Warrant or by any regulation, order or instruction of the Army Council, of provision for the imposition of any forfeiture authorised by Act or the making of any deduction so authorised, or for the time at which and manner in which sums may be deducted from pay to give effect to authorised deductions or in which amounts may be so deducted in order to recover

PART III
—cont.

any fine imposed in pursuance of this Act, or as to the appropriation of any such sum or amount when deducted, or of provision for the determination of questions relating to forfeitures or deductions.

(4) Subsection (2) of this section shall not prevent the making by Royal Warrant of provision for the deduction from a person's pay as an officer, warrant officer, non-commissioned officer or soldier of the regular forces of any sum which has become recoverable from him (whether by deduction from pay or otherwise) under the enactments relating to any of the reserve or auxiliary forces.

(5) Notwithstanding any deduction from the pay of an officer, warrant officer, non-commissioned officer or soldier of the regular forces he shall (subject to any forfeiture) remain in receipt of pay at not less than such minimum rate as may be prescribed by order of the Army Council.

(6) Notwithstanding that forfeiture of a person's pay for any period has been ordered in pursuance of this Act, he may remain in receipt of pay at such minimum rate as aforesaid; but the amount received for that period may be recovered from him by deduction from pay.

(7) Any amount authorised to be deducted from the pay of an officer, warrant officer, non-commissioned officer or soldier of the regular forces may be deducted from any balance (whether or not representing pay) which may be due to him, and references in this Act to the making of deductions from pay shall be construed accordingly.

Forfeiture of
pay for
absence from
duty.

145.—(1) The pay of an officer, warrant officer, non-commissioned officer or soldier of the regular forces may be forfeited:—

- (a) for any day of absence in such circumstances as to constitute an offence under section thirty-seven or thirty-eight of this Act or, if the Army Council or an officer authorised by them so direct, of other absence without leave;
- (b) for any day of imprisonment, detention or field punishment awarded under this Act, the Naval Discipline Act or the Air Force Act, 1955, by a court-martial or commanding officer, or of imprisonment, corrective training, preventive detention, detention in a Borstal institution or detention of any other description to which he is liable in consequence of an order or sentence of a civil court or an order of recall made by the Prison Commissioners, the Secretary of State or the Ministry of Home Affairs for Northern Ireland;
- (c) where he is found guilty (whether by court-martial, the appropriate superior authority or his commanding

officer) of an offence under this Act, the Naval Discipline Act or the Air Force Act, 1955, for any day (whether before or after he is found guilty) on which he is in hospital on account of sickness or injury certified by the proper medical officer to have been occasioned by the offence.

(2) The pay of an officer, warrant officer, non-commissioned officer or soldier of the regular forces may be forfeited for any day of absence by reason of his having been made a prisoner of war if the Army Council or an officer authorised by them are satisfied—

- (a) that he was made a prisoner of war through disobedience to orders or wilful neglect of his duty; or
- (b) that having been made a prisoner of war he failed to take any reasonable steps available to him to rejoin Her Majesty's service; or
- (c) that having been made a prisoner of war he served with or aided the enemy in the prosecution of hostilities or measures calculated to influence morale or in any other manner whatsoever not authorised by international usage,

and nothing in paragraph (a) of the last foregoing subsection shall apply to absence by reason of having been made a prisoner of war.

(3) Regulations or orders of the Army Council may make provision as to the computation of time for the purposes of this section and in particular as to the counting or disregarding of parts of days.

146. Where an officer, warrant officer, non-commissioned officer or soldier of the regular forces charged with an offence before a civil court (whether within or without Her Majesty's dominions) is sentenced or ordered by the court to pay any fine, penalty, damages, compensation or costs, and the whole or part thereof is met by a payment made by or on behalf of any military authority, the amount of the payment may be deducted from his pay.

Deductions for
payment of
civil penalties.

147.—(1) Without prejudice to the provisions of this Act as to the imposition of stoppages as a punishment, the following provisions shall have effect where, after such investigation as may be prescribed by regulations of the Army Council, it appears to the Army Council or an officer authorised by them that any loss of, or damage to, public or service property has been occasioned by any wrongful act or negligence of an officer, warrant officer, non-commissioned officer or soldier of the regular forces (hereinafter referred to as "the person responsible").

Compensation
for loss
occasioned by
wrongful act
or negligence.

(2) The Army Council or authorised officer, as the case may be, may order the person responsible to pay, as or towards compensation for the loss or damage, such sum as may be specified

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in the order; and any such sum, in so far as not otherwise paid by the person responsible, may be deducted from his pay.

(3) No order shall be made under the last foregoing subsection if, in proceedings (whether under this Act, the Naval Discipline Act or the Air Force Act, 1955) before a court-martial, the appropriate superior authority or the commanding officer of the person responsible, that person—

(a) has been acquitted in circumstances involving a finding that he was not guilty of the wrongful act or negligence in question, or

(b) has been awarded stoppages in respect of the same loss or damage;

but save as aforesaid, the fact that any such proceedings have been brought in respect of the wrongful act or negligence in question shall not prevent the making of an order or deductions under the last foregoing subsection.

Deductions for
barrack
damage.

148.—(1) Where damage occurs to any premises in which one or more units of the regular forces or parts of such units are quartered or billeted, or any fixtures, furniture or effects in or belonging to such premises are damaged or lost, then if it appears, on investigation in accordance with the provisions of Queen's Regulations, that the damage or loss was occasioned by the wrongful act or negligence of persons belonging to any of the units or parts of units in occupation of the premises and was so occasioned at a time when they were in occupation thereof, but that the said persons cannot be identified, any person belonging to any of the said units or parts of units may be required to contribute towards compensation for the damage or loss such amount as may in accordance with Queen's Regulations be determined to be just, and the amount may be deducted from his pay.

(2) The last foregoing subsection shall extend to ships, trains and aircraft in which units or parts of units of the regular forces are being transported, and references to premises, quartering and occupation shall be construed accordingly.

Remission of
forfeitures and
deductions.

149. Any forfeiture or deduction imposed under the four last foregoing sections or under Royal Warrant may be remitted by the Army Council or in such manner and by such authority as may be provided by Royal Warrant.

Enforcement
of maintenance
and affiliation
orders by
deduction from
pay.

150.—(1) Where any court in the United Kingdom has made an order against any person (hereinafter referred to as "the defendant") for the payment of any periodical or other sum specified in the order for or in respect of—

(a) the maintenance of his wife or child or of any illegitimate child of whom he is the putative father; or

(b) any costs incurred in obtaining the order; or

(c) any costs incurred in proceedings on appeal against, or

for the variation, revocation or revival of, any such order,

and the defendant is an officer, warrant officer, non-commissioned officer or soldier of the regular forces, then (whether or not he was a member of those forces when the said order was made) the Army Council or an officer authorised by them may order such sum to be deducted from the pay of the defendant and appropriated in or towards satisfaction of the payment due under the order of the court as the Army Council or officer think fit.

(2) Where to the knowledge of the court making any such order as aforesaid, or an order varying, revoking or reviving any such order, the defendant is an officer, warrant officer, non-commissioned officer or soldier of the regular forces the court shall send a copy of the order to the Army Council or an officer authorised by them.

(3) Where such an order as is mentioned in subsection (1) of this section has been made by a court in Her Majesty's dominions outside the United Kingdom, and the Army Council or an officer authorised by them are satisfied that the defendant has had a reasonable opportunity of appearing in person, or has appeared by a duly authorised legal representative, to defend the case before the court by which the order was made, the Army Council or officer shall have the like power under subsection (1) of this section as if the order had been made by such a court as is mentioned in that subsection:

Provided that this subsection shall not apply to an order for payment of a sum for or in respect of the maintenance of an illegitimate child or for the payment of costs incurred in obtaining such an order or in proceedings on appeal against, or for the variation, revocation or revival of, such an order.

(4) The Army Council or an officer authorised by them may by order vary or revoke any order previously made under this section, and may treat any order made under this section as being in suspense at any time while the person against whom the order was made is absent as mentioned in paragraph (a) of subsection (1) of section one hundred and forty-five of this Act.

(5) In this section—

references to an order made by a court in the United Kingdom include references to an order registered in or confirmed by such a court under the provisions of the Maintenance Orders (Facilities for Enforcement) Act, 1920;

references to a wife or child 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 the wife or child of the defendant if the marriage had subsisted;

references to a sum ordered to be paid for or in respect of the maintenance of an illegitimate child include references

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to any sum ordered to be paid by an order under section four of the Bastardy Laws Amendment Act, 1872.

Deductions from pay for maintenance of wife or child.

151.—(1) Where the Army Council or an officer authorised by them are satisfied that an officer, warrant officer, non-commissioned officer or soldier of the regular forces is neglecting, without reasonable cause, to maintain his wife or any child of his under the age of sixteen the Army Council or officer may order such sum to be deducted from his pay and appropriated towards the maintenance of his wife or child as the Army Council or officer think fit.

(2) On an application made to the Army Council or an officer authorised by them for an order under the last foregoing subsection the Army Council or officer, if satisfied that a prima facie case has been made out for the making of such an order, may make an interim order for such deduction and appropriation as is mentioned in the last foregoing subsection to take effect pending the further examination of the case.

(3) Where an order is in force under subsection (1) or subsection (3) of the last foregoing section for the making of deductions in favour of any person from the pay of an officer, warrant officer, non-commissioned officer or soldier of the regular forces, no deductions from his pay in favour of the same person shall be ordered under the foregoing provisions of this section unless the officer, warrant officer, non-commissioned officer or soldier is in a place where process cannot be served on him in connection with proceedings for the variation of the order of the court in consequence of which the order under the last foregoing section was made.

(4) The Army Council or an officer authorised by them may by order vary or revoke any order previously made under this section, and may treat any order made under this section as being in suspense at any time while the person against whom the order was made is absent as mentioned in paragraph (a) of subsection (1) of section one hundred and forty-five of this Act.

(5) The power to make an order under this section for the deduction of any sum and its appropriation towards the maintenance of a child shall include power—

(a) subject to the provisions of subsection (3) of this section, to make such an order after the child has attained the age of sixteen, if an order in favour of the child is in force under subsection (1) or subsection (3) of the last foregoing section ; or

(b) to make such an order after the child has attained the age of sixteen if—

(i) such an order of the court as is mentioned in subsection (1) of the last foregoing section was in force in favour of the child at the time when the child attained that age, and

(ii) the person from whose pay the deductions are ordered is in such a place as is mentioned in subsection (3) of this section, and

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(iii) the child is for the time being engaged in a course of education or training; or

(c) to continue such an order from time to time after the child has attained the age of sixteen, if the child is for the time being engaged in a course of education or training;

but no order so made or continued shall remain in force after the child attains the age of twenty-one or shall, unless continued under paragraph (c) of this subsection, remain in force for more than two years.

152.—(1) The sums deducted under the two last foregoing sections shall not together exceed—

Limit of deductions under ss. 150 and 151 and effect on forfeiture.

(a) in the case of an officer, three-sevenths of his pay;

(b) in the case of a warrant officer or non-commissioned officer not below the rank of sergeant, two-thirds of his pay;

(c) in the case of a soldier or non-commissioned officer below the rank of sergeant, three-fourths of his pay.

(2) Where any deductions have been ordered under either of the two last foregoing sections from a person's pay and (whether before or after the deductions have been ordered) he incurs a forfeiture of pay by or in consequence of the finding or sentence of a court-martial or the finding or award of the appropriate superior authority or his commanding officer, it shall apply only to so much of his pay as remains after the deductions have been made.

(3) For the purposes of paragraphs (b) and (c) of subsection (1) of this section a person having acting rank shall be treated as of that rank.

153.—(1) Any process to be served on an officer, warrant officer, non-commissioned officer or soldier of the regular forces (hereinafter referred to as "the defendant") in connection with proceedings for any such order of a court in the United Kingdom as is mentioned in subsection (1) of section one hundred and fifty of this Act, or for the variation, revocation or revival of such an order, shall be deemed to be duly served on him if served either on him or his commanding officer, and may, without prejudice to any other method of service, be so served by registered post.

Service of process in maintenance proceedings.

(2) Where any such process appoints a hearing at a place more than twenty miles from the place where the defendant is then stationed and his appearance in person will be required at

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the hearing, the service of the process shall not be valid unless there is left with it, in the hands of the person on whom it is served, a sum of money sufficient to enable the defendant to attend the hearing and return.

(3) Where any such process as is mentioned in subsection (1) of this section is served in the United Kingdom and the defendant will be required to appear in person at the hearing, then if his commanding officer certifies to the court by which the process was issued that the defendant is under orders for active service out of the United Kingdom and that 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, the service of the process shall be deemed not to have been effected.

PART IV

BILLETING AND REQUISITIONING OF VEHICLES

*Billeting*Billeting
requisitions.

154. At any time when this section is in operation any general or field officer commanding any part of the regular forces in the United Kingdom may issue a billeting requisition requiring the chief officer of police for any area in the United Kingdom specified in the requisition to provide billets at such places in that area, for such numbers of members of Her Majesty's forces and, if the requisition so provides, for such number of vehicles in use for the purpose of Her Majesty's forces, being vehicles of any class specified in the requisition, as may be so specified.

Premises in
which billets
may be
provided.

155.—(1) Billets, other than for vehicles, may be provided in pursuance of a billeting requisition—

- (a) in any inn or hotel (whether licensed or not) or in any other premises occupied for the purposes of a business consisting of or including the provision of sleeping accommodation for reward ;
- (b) in any building not falling within the last foregoing paragraph, being a building to which the public habitually have access, whether on payment or otherwise, or which is wholly or partly provided or maintained out of rates ;
- (c) in any dwelling, outhouse, warehouse, barn or stables ;

but not in any other premises.

(2) Billets for vehicles may be provided as aforesaid in any building or on any land.

Provision
of billets.

156.—(1) Where a billeting requisition has been produced to the chief officer of police for the area specified in the requisition he shall, on the demand of the officer commanding any portion of the regular forces, or on the demand of an officer or soldier

authorised in writing by such an officer commanding, billet on the occupiers of premises falling within the last foregoing section, being premises at such place in that area as may be specified by the officer or soldier by whom the demand is made, such number of persons or vehicles as may be required by the officer or soldier by whom the demand is made, not exceeding the number specified in the requisition.

(2) Without prejudice to the provisions of the next following section, a chief officer of police shall exercise his functions under this section in such manner as in his opinion will cause least hardship to persons on whom billeting may take place.

(3) A chief officer of police may to such extent and subject to such restrictions as he thinks proper authorise any constable, or constables of any class, to exercise his said functions on his behalf, and the foregoing provisions of this section shall apply accordingly.

157.—(1) A local authority may make a scheme for the provision of billets in their area in pursuance of billeting requisitions; and where such a scheme is in force the chief officer of police shall so far as the scheme extends exercise his functions under the last foregoing section in accordance with the scheme. Billeting schemes.

(2) Any scheme under this section may be revoked by the local authority by whom it was made, or may be varied by that authority by a subsequent scheme under this section.

(3) Where a local authority make a scheme under this section they shall furnish the chief officer of police for the area to which the scheme relates with a copy of the scheme.

(4) A scheme under this section shall not come into force until approved by the Minister of Housing and Local Government; and that Minister may require the local authority to revoke any scheme in force under this section and in substitution therefor to submit for his approval a further scheme under this section.

158.—(1) Where persons are billeted in pursuance of a billeting requisition, the occupier of the premises on which they are billeted shall furnish such accommodation (including meals) as the officer or soldier demanding the billets may require, not exceeding such accommodation as may be prescribed by regulations of the Army Council made with the consent of the Treasury. Accommodation to be provided and payment therefor.

(2) Where vehicles are billeted as aforesaid, the occupier of the premises shall furnish standing room for the vehicles.

(3) Where persons or vehicles have been billeted in pursuance of a billeting requisition they may continue to be billeted, so long as section one hundred and fifty-four of this Act

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continues in operation, for such period as may be required, and the allotment of billets among the persons or vehicles in question may be varied from time to time.

(4) The occupier on whose premises any person or vehicle is billeted as aforesaid shall be entitled to receive for the billeting such payment as may be prescribed by regulations of the Army Council made with the consent of the Treasury :

Provided that no payment shall be required in respect of vehicles billeted otherwise than in a building unless the land on which they are billeted—

- (a) has its surface made up for the passage or parking of vehicles, and
- (b) is not land where vehicles are normally allowed to stand free of charge irrespective of the person by whom they are owned or driven.

(5) Subject to the provisions of the next following subsection payment for billeting—

- (a) shall be made before the persons billeted finally leave, or the vehicles are finally removed from, the premises where they are billeted ; and
- (b) where the billeting continues for more than seven days, shall be made at least once in every seven days.

(6) If for any reason payment for billeting cannot be made, or fully made, as required by paragraph (a) of the last foregoing subsection, there shall be made up with the occupier an account, in such form as may be prescribed by the Army Council, of the amount due to him ; and—

- (a) on presentation of the account the local authority for the area in which the premises are situated shall pay to the occupier the amount stated in the account to be due,
- (b) any sums paid by a local authority under the last foregoing paragraph shall be recoverable by them from the Army Council.

(7) In relation to premises of which there is no occupier the foregoing provisions of this section shall apply as if the person entitled to possession thereof were the occupier thereof.

159.—(1) Any person who—

- (a) is aggrieved by having an undue number of persons billeted upon him in pursuance of a billeting requisition, or

- (b) claims that by reason of special circumstances he should be exempted from having persons so billeted on him, either generally or on a particular occasion,

may apply to a person or persons appointed on behalf of the local authority in accordance with arrangements made by the Minister of Housing and Local Government.

(2) On any application on the grounds mentioned in paragraph (a) of the last foregoing subsection the person or persons to whom the application is made may direct the billeting elsewhere of such number of the persons billeted as may seem just or may dismiss the application.

(3) On any application on the grounds mentioned in paragraph (b) of subsection (1) of this section the person or persons to whom the application is made may grant such exemption as may seem just or may dismiss the application.

(4) An application under this section shall not affect billeting pending the determination of the application.

160.—(1) Where any damage is caused to any premises by the billeting of persons or vehicles in pursuance of a billeting requisition, the occupier of the premises, or if there is no occupier the person entitled to possession thereof, may recover from the Army Council compensation of an amount equal to the depreciation caused by the damage in the value of the premises. Compensation for damage.

(2) Where any person other than the recipient of compensation under the last foregoing subsection has any interest in the premises, being an interest the value of which is depreciated by the damage, he shall be entitled to recover from the recipient such part of the compensation as may be just.

(3) A county court shall have jurisdiction to deal with any claim arising under subsection (1) or (2) of this section irrespective of the amount of the claim.

161. Any person who—

- (a) refuses to receive any person billeted upon him in pursuance of a billeting requisition or without reasonable excuse fails to furnish him with the accommodation properly required for him, or Refusal to receive persons billeted, etc.
- (b) gives or agrees to give to any person billeted upon him in pursuance of a billeting requisition any money or reward in lieu of receiving any person or vehicle or of furnishing accommodation properly required for him, or
- (c) obstructs the billeting in his building or on his land of any vehicle,

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shall be liable on summary conviction to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding three months, or to both such a fine and such imprisonment.

Application to civilians employed with the forces.

162. In relation to persons employed with any body of the regular forces and not entitled under the foregoing provisions of this Part of this Act to be billeted, being persons of such descriptions as may be prescribed by regulations of the Army Council, those provisions shall apply as they apply in relation to members of Her Majesty's forces.

Local authority.

163. For the purposes of this Part of this Act the local authority shall be the council of a county borough, county district or metropolitan borough or the Common Council of the City of London.

Suspension of laws against billeting.

164. While section one hundred and fifty-four of this Act is in operation, so much of any law as prohibits, restricts or regulates quartering or billeting on any inhabitant of the United Kingdom shall not apply to such billeting in pursuance of a billeting requisition.

Requisitioning of vehicles

Requisitioning orders.

165.—(1) At any time when this section is in operation any general or field officer commanding any part of the regular forces in the United Kingdom may issue a requisitioning order authorising the requisitioning, from among vehicles in any area in the United Kingdom specified in the order, of such vehicles, or such number of vehicles of such description, as may be specified in the order.

(2) The purposes for which an order under this section may authorise vehicles to be requisitioned shall be such purposes for meeting the needs of any of Her Majesty's forces as may be specified in the order.

Provision of vehicles.

166.—(1) A requisitioning order may be issued to the officer commanding any portion of the regular forces, and that officer, or any officer or soldier authorised by him in writing, may give directions for the provision—

- (a) in so far as the requisitioning order authorises the requisitioning of particular vehicles, of all or any of those vehicles,
- (b) in so far as the order authorises the requisitioning of vehicles of a specified description, of the number of vehicles of that description specified in the order or any lesser number of such vehicles.

(2) A direction under the last foregoing subsection given as respects any vehicle shall be either—

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- (a) a direction given to the person having possession thereof to furnish it immediately at the place where it is, or
- (b) a direction given to the said person to furnish it at such place within one hundred miles from the premises of the said person and at such time as may be specified by the officer or soldier by whom the direction is given :

Provided that no direction shall be given under paragraph (b) of this subsection as respects a vehicle which is neither mechanically propelled nor a trailer normally drawn by a mechanically-propelled vehicle.

(3) If the officer to whom the requisitioning order was issued, or any officer or soldier authorised by him in writing, is satisfied that the said person has refused or neglected to furnish a vehicle in accordance with a direction under any of the provisions of the last foregoing subsection, or has reasonable ground for believing that it is not practicable without undue delay to give a direction to the said person, he may take, or authorise any officer or soldier to take, possession of the vehicle ; and where possession is taken of a vehicle in pursuance of this subsection this Part of this Act shall with the necessary modifications apply as if the vehicle had been furnished by the person having possession of the vehicle in accordance with a direction to furnish it immediately at the place where it is, and, in particular, payment shall be made therefor as if it had been so furnished.

(4) The chief officer of police for any area specified in a requisitioning order shall, on a request to that effect made by or on behalf of the officer to whom the order is issued, give instructions for securing that so far as practicable constables will be available, if required, for accompanying officers or soldiers requisitioning vehicles in pursuance of the order.

167.—(1) Subject to the provisions of this section, where a vehicle has been furnished in pursuance of a requisitioning order it may be retained, so long as section one hundred and sixty-five of this Act is in operation, for any period for which it is required for the purpose specified in the order or for any other purpose connected with the needs of any of Her Majesty's forces. Period for which vehicles to be furnished.

(2) While men of the army reserve are called out on permanent service, then in so far as a requisitioning order so provides the person by whom any vehicle is to be furnished may be required to furnish it for the purpose of its being purchased on behalf of the Crown.

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—cont.Payment
for vehicles
furnished.

168.—(1) The person by whom a vehicle is furnished in pursuance of a requisitioning order, and is so furnished otherwise than for the purpose of being purchased, shall be entitled to be paid—

- (a) a sum for the use of the vehicle calculated, by reference to the period for which possession of the vehicle is retained, at the rate of payment commonly recognised or generally prevailing in the district at the time at which the vehicle is furnished, or, in default of such a rate, at such rate as may be just,
- (b) a sum equal to the cost of making good any damage to the vehicle, not being damage resulting in a total loss thereof or damage attributable to fair wear and tear, which may have occurred during the period for which possession of the vehicle is retained and which has not been made good during that period by a person acting on behalf of Her Majesty,
- (c) if, during the said period, a total loss of the vehicle occurs, a sum equal to the value of the vehicle immediately before the occurrence of the damage which caused the loss.

In paragraph (b) of this subsection and in the Fourth Schedule to this Act references to fair wear and tear shall be construed as references to such fair wear and tear as might have been expected to occur but for the fact that the vehicle was requisitioned.

(2) The person by whom a vehicle is furnished in pursuance of a requisitioning order for the purpose of being purchased shall be entitled to be paid the value of the vehicle at the time at which it is furnished.

(3) Where a vehicle is furnished in pursuance of a direction under paragraph (b) of subsection (2) of section one hundred and sixty-six of this Act, then—

- (a) for the purposes of paragraphs (a) and (b) of subsection (1) of this section (if that subsection applies) the period for which possession of the vehicle is retained shall be deemed to begin at the time when the direction is given, and for the purposes of subsection (2) of this section (if that subsection applies) the vehicle shall be deemed to have been furnished at that time ;
- (b) in addition to the payments provided for by subsection (1) or (2) of this section, the person by whom the vehicle is furnished shall be entitled to be paid the amount of any expenditure reasonably incurred by him in complying with the direction.

(4) Where a direction to furnish a vehicle is given under the said paragraph (b), and after the giving of the direction any damage occurs to the vehicle (whether or not resulting in a total loss thereof), then if the damage prevents the furnishing of the vehicle in pursuance of the requisitioning order the foregoing provisions of this section shall apply as if the vehicle had been furnished, and (notwithstanding that it may have been required to be furnished for the purpose of being purchased) had been furnished otherwise than for that purpose, subject however to the following modifications, that is to say—

(a) paragraphs (a), (b) and (c) of subsection (1) of this section shall have effect as if for the period therein mentioned there were substituted the period beginning with the giving of the direction and ending immediately after the occurrence of the damage,

(b) paragraph (b) of the last foregoing subsection shall have effect as if for the words “in complying with” there were substituted the words “by reason of anything done for the purpose of complying with”.

(5) Where any person (hereinafter referred to as a person interested) other than the person by whom a vehicle is required to be furnished has an interest in the vehicle,—

(a) the person by whom the vehicle is required to be furnished shall notify any person known to him to be a person interested that the vehicle has been requisitioned,

(b) any person interested shall be entitled to recover from the person by whom the vehicle was required to be furnished such part (if any) of the payment received by him for the vehicle as may be just.

(6) The Fourth Schedule to this Act shall have effect as to the time for the making of payments under this section and as to the determination of disputes arising thereunder.

(7) Where, during the period for which possession of a vehicle is retained, a total loss of the vehicle occurs, then—

(a) for the purposes of paragraphs (a) and (b) of subsection (1) of this section and of the Fourth Schedule to this Act the said period shall be deemed to have come to an end immediately after the occurrence of the loss, and

(b) no claim shall be made for the return of the vehicle (if it still exists) or for payment in respect thereof other than such as is provided for by subsection (1) of this section.

169. In deciding which, of alternative vehicles, is to be specified in an order under section one hundred and sixty-five of this Act, or is to be the subject of a direction under paragraph (b) of subsection (1) of section one hundred and sixty-six thereof, the officer or soldier by whom the order is issued or

Avoidance of hardship in requisitioning of vehicles.

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—cont.

Record and inspection of mechanically propelled vehicles.

direction given shall act in such manner as in his opinion will cause least hardship.

170. The Army Council may by regulations require persons having in their possession in the United Kingdom mechanically-propelled vehicles, or trailers normally drawn by mechanically-propelled vehicles, if required so to do by such authority or person as may be specified in the regulations,—

- (a) to furnish to such authority or person as may be so specified a return containing such particulars as to the vehicles as may be required by or under the regulations, and
- (b) to afford all reasonable facilities for enabling any such vehicles in his possession to be inspected and examined, at such times as may be specified by or under the regulations, by such authority or person as may be so specified.

Enforcement of provisions as to requisitioning.

171.—(1) If any person—

- (a) fails to furnish any vehicle which he is directed to furnish in pursuance of a requisitioning order, or fails to furnish any such vehicle at the time and place at which he is directed to furnish it, or
- (b) fails to comply with any regulations of the Army Council under the last foregoing section, or
- (c) obstructs any officer or other person in the exercise of his functions under this Part of this Act in relation to the inspection or requisitioning of vehicles.

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding three months, or to both such a fine and such imprisonment.

(2) Without prejudice to any penalty under the last foregoing subsection, if any person is obstructed in the exercise of powers of inspection conferred on him by regulations under the last foregoing section, a justice of the peace may, if satisfied by information on oath that the person has been so obstructed, issue a search warrant authorising a constable named therein, accompanied by the said person, to enter the premises in respect of which the obstruction took place at any time between six o'clock in the morning and nine o'clock in the evening and to inspect any vehicles which may be found therein.

Application to horses, food, forage and stores.

172.—(1) Subject to the provisions of this section, the foregoing provisions of this Part of this Act and the provisions of the Fourth Schedule thereto, except such of those provisions as relate only to mechanically-propelled vehicles and trailers normally drawn thereby, shall apply to horses and mules, food, forage and stores as they apply to vehicles.

(2) Where stores are required for, and can be conveyed with, a vehicle with respect to which a direction is given under paragraph (b) of subsection (2) of section one hundred and sixty-six of this Act, such a direction may be given as well in relation to the stores as in relation to the vehicle, and the said foregoing provisions and Schedule shall apply accordingly :

Provided that subsection (4) of section one hundred and sixty-eight of this Act shall not apply, but if after the giving of the direction the furnishing of the stores is prevented by damage to them or to the vehicle such payment (if any) shall be made in respect of the stores as may be just in all the circumstances.

(3) Notwithstanding anything in section one hundred and sixty-seven of this Act, food, forage or stores to be furnished in pursuance of a requisitioning order at any time may be required to be furnished for purchase on behalf of the Crown.

(4) Section one hundred and seventy of this Act shall apply in relation to horses and mules as it applies in relation to mechanically-propelled vehicles.

(5) In this section the expression "stores" means any chattel, other than a horse or mule, a vehicle, food or forage, being a chattel required for, or for use in connection with,—

(a) persons or vehicles billeted or to be billeted in pursuance of a billeting requisition or otherwise temporarily accommodated or to be so accommodated, or

(b) vehicles, horses or mules furnished or to be furnished in pursuance of a requisitioning order.

173. The person using a vehicle for the purpose of its being furnished in pursuance of a direction under paragraph (b) of subsection (2) of section one hundred and sixty-six of this Act shall be deemed, as respects any claim in respect of injury or damage to any other person or property, to be so using the vehicle as a servant of the Crown, and section thirty-five of the Road Traffic Act, 1930 (which relates to insurance against third-party risks) shall not apply to the use of a vehicle for the said purpose.

Liability of Crown for damage by vehicles being delivered for requisitioning.

General

174.—(1) Whenever it appears to the Secretary of State that the public interest so requires, he may by order direct that section one hundred and fifty-four or one hundred and sixty-five of this Act, or both those sections, shall come into operation either generally or as respects such area in the United Kingdom as may be specified in the order; and that section or those sections, as the case may be, shall thereupon come into operation and remain in operation so long as the order has effect.

Bringing into operation of ss. 154 and 165.

PART IV
—cont.

(2) As soon as may be after either of the said sections has been brought into operation on any occasion, the Secretary of State shall report that fact to Parliament.

(3) An order under this section shall, subject to any revocation or variation thereof, continue to have effect for the period of one month from the making thereof:

Provided that where, before the expiration of the period for which the order has effect (whether by virtue of the foregoing provisions of this subsection or of this proviso), it is resolved by each House of Parliament that the public interest requires that the operation of the order should be extended for such further period as may be specified in the resolution, it shall be extended accordingly.

Regulations
and orders.

175.—(1) Any power to make regulations conferred by this Part of this Act shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(2) The power to make orders conferred on the Secretary of State by the last foregoing section shall be exercisable by statutory instrument.

Interpretation
of Part IV.

176. References in this Part of this Act to soldiers shall include references to warrant officers and to non-commissioned officers.

PART V

GENERAL PROVISIONS

*Powers of command*Powers of
command.

177.—(1) It is hereby declared for the avoidance of doubt that Her Majesty may make regulations as to the persons, being members of Her Majesty's forces, in whom command over Her Majesty's military forces, or any part or member thereof, is to be vested and as to the circumstances in which such command as aforesaid is to be exercised.

(2) In relation to members of Her Majesty's military forces when in aircraft, the last foregoing subsection shall have effect as if references to members of Her Majesty's forces included references to any person in command of an aircraft.

(3) Nothing in this section shall affect any power vested in Her Majesty apart from this section.

Powers of
command of
members of
co-operating
naval or
air forces.

178. In so far as powers of command depend on rank, a member of any of Her Majesty's naval or air forces who—

(a) is acting with, or

(b) is a member of a body of any of those forces which is acting with,

any body of the regular forces shall have the like such powers as a member of the regular forces of corresponding rank ; and for the purposes of sections thirty-three and seventy-four of this Act any such member of the said naval or air forces shall be treated as if he were a member of the regular forces of corresponding rank.

PART V
—cont.

Attachment to naval or air forces

179.—(1) An officer, warrant officer, non-commissioned officer or soldier of the regular forces may be attached temporarily to any of Her Majesty's naval or air forces.

Attachment of members of military forces to naval or air forces.

(2) Regulations made by the appropriate service authorities may prescribe circumstances in which officers, warrant officers, non-commissioned officers and soldiers of the regular forces shall be deemed to be attached to any of Her Majesty's naval or air forces, as the case may be, under the last foregoing subsection.

(3) In this section the expression "appropriate service authorities" means—

- (a) in relation to attachment to any of Her Majesty's naval forces, the Admiralty and the Army Council,
- (b) in relation to attachment to any of Her Majesty's air forces, the Army Council and the Air Council.

(4) A person shall not cease to be subject to military law by reason only of attachment in pursuance of this section.

Redress of complaints

180.—(1) If an officer thinks himself wronged in any matter by a superior officer or authority and on application to his commanding officer does not obtain the redress to which he thinks he is entitled, he may make a complaint with respect to that matter to the Army Council.

Complaints by officers.

(2) On receiving any such complaint it shall be the duty of the Army Council to investigate the complaint and to grant any redress which appears to them to be necessary or, if the complainant so requires, the Army Council shall through the Secretary of State make their report on the complaint to Her Majesty in order to receive the directions of Her Majesty thereon.

181.—(1) If a warrant officer, non-commissioned officer or soldier thinks himself wronged in any matter by any officer other than his commanding officer or by any warrant officer, non-commissioned officer or soldier, he may make a complaint with respect to that matter to his commanding officer.

Complaints by warrant officers, non-commissioned officers and soldiers.

PART V
—cont.

(2) If a warrant officer, non-commissioned officer or soldier thinks himself wronged in any matter by his commanding officer, either by reason of redress not being given to his satisfaction on a complaint under the last foregoing subsection or for any other reason, he may make a complaint with respect thereto to any military, naval or air-force officer under whom the complainant is for the time being serving, being an officer not below the rank of brigadier or corresponding rank.

(3) It shall be the duty of a commanding or other officer to have any complaint received by him under this section investigated and to take any steps for redressing the matter complained of which appear to him to be necessary.

Exemptions for members of regular forces

Officers on active list not to be sheriffs.

182. An officer of the regular forces on the active list (as defined by Royal Warrant) shall not be capable of being nominated or elected to be sheriff of any county, borough, or other place.

Exemption from jury service.

183. A warrant officer, non-commissioned officer or soldier of the regular forces shall be exempt from serving on any jury.

Exemptions from tolls, etc.

184.—(1) Duties or tolls for embarking from or disembarking on any pier, wharf, quay or landing place in the United Kingdom or any colony, or for passing over any road or bridge in the United Kingdom or any colony, shall not be payable in respect of—

- (a) members of the regular forces on duty ;
- (b) vehicles in military service, being vehicles belonging to the Crown or other vehicles driven by persons (whether members of Her Majesty's forces or not) in the service of the Crown ;
- (c) goods carried in such vehicles ;
- (d) horses or other animals in military service.

(2) In the last foregoing subsection the expression “ in military service ” means employed under proper military authority for the purposes of any body of the regular forces or accompanying any body of the regular forces.

(3) Members of the regular forces on duty when using ferries in Scotland shall be entitled to be carried at half rate.

Exemption from taking in execution of property used for military purposes.

185. No judgment or order given or made against a member of any of Her Majesty's military forces by any court in the United Kingdom or a 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 military purposes.

*Provisions relating to deserters and absentees without leave*PART V
—cont.

186.—(1) A constable may arrest any person whom he has reasonable cause to suspect of being an officer, warrant officer, non-commissioned officer or soldier of the regular forces who has deserted or is absent without leave.

Arrest
of deserters and
absentees
without leave.

(2) Where no constable is available, any officer, warrant officer, non-commissioned officer or soldier of the regular forces, or any other person, may arrest any person whom he has reasonable cause to suspect as aforesaid.

(3) Any person having authority to issue a warrant for the arrest of a person charged with crime, if satisfied by evidence on oath that there is, or is reasonably suspected of being, within his jurisdiction an officer, warrant officer, non-commissioned officer or soldier of the regular forces who has deserted or is absent without leave or is reasonably suspected of having deserted or of being absent without leave, may issue a warrant authorising his arrest.

(4) Any person in custody in pursuance of this section shall as soon as practicable be brought before a court of summary jurisdiction.

(5) This section shall have effect in the United Kingdom and in any colony.

187.—(1) Where a person who is brought before a court of summary jurisdiction is alleged to be an officer, warrant officer, non-commissioned officer or soldier of the regular forces who has deserted or is absent without leave, the following provisions shall have effect.

Proceedings
before a civil
court where
persons
suspected of
illegal absence.

(2) If he admits that he is illegally absent from the regular forces and the court is satisfied of the truth of the admission, then—

(a) unless he is in custody for some other cause the court shall, and

(b) notwithstanding that he is in custody for some other cause, the court may,

forthwith either cause him to be delivered into military custody in such manner as the court may think fit or commit him to some prison, police station or other place provided for the confinement of persons in custody, to be kept there for such reasonable time as the court may specify (not exceeding such time as appears to the court reasonably necessary for the purpose of enabling him to be delivered into military custody) or until sooner delivered into such custody.

Any time specified by the court may be extended by the court from time to time if it appears to the court reasonably necessary so to do for the purpose aforesaid.

(3) If he does not admit that he is illegally absent as aforesaid, or the court is not satisfied of the truth of the admission, the

PART V
—cont.

court shall consider the evidence and any statement of the accused, and if satisfied that he is subject to military law and if of opinion that there is sufficient evidence to justify his being tried under this Act for an offence of desertion or absence without leave then, unless he is in custody for some other cause, the court shall cause him to be delivered into military custody or commit him as aforesaid, but otherwise shall discharge him:

Provided that if he is in custody for some other cause the court shall have power, but shall not be required, to act in accordance with this subsection.

(4) The following provisions of the Magistrates' Courts Act, 1952, or any corresponding enactment in force as respects the court in question, that is to say the provisions relating to the constitution and procedure of courts of summary jurisdiction acting as examining justices and conferring powers of adjournment and remand on such courts so acting, and the provisions as to evidence and the issue and enforcement of summonses or warrants to secure the attendance of witnesses, shall apply to any proceedings under this section.

(5) This section shall have effect in the United Kingdom and in any colony.

Deserters and
absentees
without leave
surrendering
to police.

188.—(1) Where in the United Kingdom or any colony a person surrenders himself to a constable as being illegally absent from the regular forces, the constable shall (unless he surrenders himself at a police station) bring him to a police station.

(2) The officer of police in charge of a police station at which a person has surrendered himself as aforesaid, or to which a person who has so surrendered himself is brought, shall forthwith inquire into the case, and if it appears to that officer that the said person is illegally absent as aforesaid he may cause him to be delivered into military custody without bringing him before a court of summary jurisdiction or may bring him before such a court.

Certificates of
arrest or
surrender of
deserters and
absentees.

189.—(1) Where a court of summary jurisdiction in pursuance of section one hundred and eighty-seven of this Act deals with a person as illegally absent, then when that person is delivered into military custody there shall be handed over with him a certificate in the prescribed form, signed by a justice of the peace, containing the prescribed particulars as to his arrest or surrender and the proceedings before the court; and for any such certificate there shall be payable to the clerk of the court, by such person as the Army Council may direct, such fee (if any) as may be prescribed.

(2) Where under the last foregoing section a person is delivered into military custody without being brought before a court, there shall be handed over with him a certificate in the

prescribed form, signed by the officer of police who causes him to be delivered into military custody, containing the prescribed particulars relating to his surrender.

(3) In any proceedings for an offence under section thirty-seven or thirty-eight of this Act—

- (a) a document purporting to be a certificate under either of the two last foregoing subsections and to be signed as thereby required, shall be evidence of the matters stated in the document;
- (b) where the proceedings are against a person who has been taken into military, naval or air-force custody on arrest or surrender, a certificate purporting to be signed by a provost officer, or any corresponding officer of a Commonwealth force or a force raised under the law of a colony, or by any other officer in charge of the guardroom or other place where that person was confined on being taken into custody, stating the fact, date, time and place of arrest or surrender shall be evidence of the matters stated in the certificate.

(4) In this section the expression “prescribed” means prescribed by regulations made by a Secretary of State by statutory instrument.

190.—(1) It shall be the duty of the governor of a civil prison in the United Kingdom or of the superintendent or other person in charge of a civil prison in a colony to receive any person duly committed to that prison by a court of summary jurisdiction as illegally absent from the regular forces and to detain him until in accordance with the directions of the court he is delivered into military custody.

Duties of governors of prisons and others to receive deserters and absentees.

(2) The last foregoing subsection shall apply to the person having charge of any police station or other place (not being a prison) provided for the confinement of persons in custody, whether in the United Kingdom or in a colony, as it applies to the governor or superintendent of a prison.

Offences relating to military matters punishable by civil courts

191. Any person who in the United Kingdom or any colony falsely represents himself to any military, naval, air-force or civil authority to be a deserter from the regular forces shall be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such a fine and such imprisonment.

Punishment for pretending to be a deserter.

192.—(1) Any person who, whether within or without Her Majesty’s dominions,—

Punishment for procuring and assisting desertion.

- (a) procures or persuades any officer, warrant officer, non-commissioned officer or soldier of the regular forces to desert or to absent himself without leave; or

PART V
—cont.

- (b) knowing that any such officer, warrant officer, non-commissioned officer or soldier is about to desert or absent himself without leave, assists him in so doing ;
or
- (c) knowing any person to be a deserter or absentee without leave from the regular forces, conceals him or assists him in concealing himself or assists in his rescue from custody,

shall be guilty of an offence against this section.

(2) Any person guilty of an offence against this section shall be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months, or to both such a fine and such imprisonment, or on conviction on indictment to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years or to both such a fine and such imprisonment.

Punishment
for obstructing
members of
regular forces
in execution
of duty.

193. Any person who, in the United Kingdom or any colony, wilfully obstructs or otherwise interferes with any officer, warrant officer, non-commissioned officer or soldier of the regular forces acting in the execution of his duty shall be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such a fine and such imprisonment.

Punishment
for aiding
malingering.

194. Any person who, whether within or without Her Majesty's dominions,—

- (a) produces in an officer, warrant officer, non-commissioned officer or soldier of the regular forces any sickness or disability ; or
- (b) supplies to or for him any drug or preparation calculated or likely to render him, or lead to the belief that he is, permanently or temporarily unfit for service,

with a view to enabling him to avoid military service, whether permanently or temporarily, shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both such a fine and such imprisonment, or on conviction on indictment to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years or to both such a fine and such imprisonment.

Unlawful
purchase, etc.
of military
stores.

195.—(1) Any person who, whether within or without Her Majesty's dominions, acquires any military stores or solicits or procures any person to dispose of any military stores, or acts for any person in the disposing of any military stores, shall be guilty of an offence against this section unless he proves either—

- (a) that he did not know, and could not reasonably be expected to know, that the chattels in question were military stores, or

- (b) that those chattels had (by the transaction with which he is charged or some earlier transaction) been disposed of by order or with the consent of the Army Council or of some person or authority who had, or whom he had reasonable cause to believe to have, power to give the order or consent, or
- (c) that those chattels had become the property of an officer who had retired or ceased to be an officer, or of a warrant officer, non-commissioned officer or soldier who had been discharged, or of the personal representatives of a person who had died.

(2) Any person guilty of an offence against this section shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both such a fine and such imprisonment, or on conviction on indictment to a fine not exceeding five hundred pounds or imprisonment for a term not exceeding two years or to both such a fine and such imprisonment.

(3) A constable may arrest without warrant any person whom he has reasonable grounds for suspecting of having committed an offence against this section, and may seize any property which he has reasonable grounds for suspecting of having been the subject of the offence.

(4) Any person having authority to issue a warrant for the arrest of a person charged with crime may, if satisfied by evidence on oath that a person within his jurisdiction has, or is reasonably suspected of having, in his possession any property which has been the subject of an offence against this section, grant a warrant to search for such property as in the case of stolen goods; and any property suspected of having been the subject of such an offence which is found on such a search shall be seized by the officer charged with the execution of the warrant, and that officer shall bring the person in whose possession or keeping the property is found before a court of summary jurisdiction.

(5) In this section—

- the expression “acquire” means buy, take in exchange, take in pawn or otherwise receive (whether apart from this section the receiving is lawful or not);
- the expression “dispose” means sell, give in exchange, pledge or otherwise hand over (whether apart from this section the handing over is lawful or not);
- the expression “military stores” means any chattel of any description belonging to Her Majesty, which has been issued for use for military purposes or is held in store for the purpose of being so issued when required, and

PART V
—cont.

includes any chattel which had belonged, and had been issued or held, as aforesaid at some past time.

(6) For the purposes of subsection (4) of this section property shall be deemed to be in the possession of a person if he has it under his control, and whether he has it for his own use or benefit or for the use or benefit of another.

196.—(1) Any person who—

(a) as a pledge or a security for a debt, or

(b) with a view to obtaining payment from the person entitled thereto of a debt due either to himself or to any other person,

receives, detains or has in his possession any official document issued in connection with the payment to any person of any pay, pension, allowance, gratuity or other payment payable in respect of his or any other person's military service shall be guilty of an offence against this section.

(2) Any person who has in his possession without lawful authority or excuse (the proof whereof shall lie on him) any such document as aforesaid, or any official document issued in connection with the mobilisation or demobilisation of any of Her Majesty's military forces or any member thereof, shall be guilty of an offence against this section.

(3) Any person guilty of an offence against this section shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both such a fine and such imprisonment.

(4) For the purposes of this section a document shall be deemed to be in the possession of a person if he has it under his control and whether he has it for his own use or benefit or for the use or benefit of another.

(5) This section shall have effect in the United Kingdom and in any colony.

197.—(1) Any person who, in the United Kingdom or in any colony,—

(a) without authority uses or wears any military decoration, or any badge, wound stripe or emblem supplied or authorised by the Army Council, or

(b) uses or wears any decoration, badge, wound stripe, or emblem so nearly resembling any military decoration, or any such badge, stripe or emblem as aforesaid, as to be calculated to deceive, or

(c) falsely represents himself to be a person who is or has been entitled to use or wear any such decoration, badge, stripe or emblem as is mentioned in paragraph (a) of this subsection,

Illegal
dealings in
documents
relating to
pay, pensions,
mobilisation,
etc.

Unauthorised
use of and
dealing in
decorations,
etc.

shall be guilty of an offence against this section :

PART V
—*cont.*

Provided that nothing in this subsection shall prohibit the use or wearing of ordinary regimental badges or of brooches or ornaments representing them.

(2) Any person who purchases or takes in pawn any naval, military or air-force decoration awarded to any member of Her Majesty's military forces, or solicits or procures any person to sell or pledge any such decoration, or acts for any person in the sale or pledging thereof, shall be guilty of an offence against this section unless he proves that at the time of the alleged offence the person to whom the decoration was awarded was dead or had ceased to be a member of those forces.

(3) Any person guilty of an offence against this section shall be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such a fine and such imprisonment.

Provisions as to evidence

198.—(1) The following provisions shall have effect with respect to evidence in proceedings under this Act, whether before a court-martial, a civil court or otherwise.

General
provisions as
to evidence.

(2) A document purporting to be a copy of the attestation paper signed by any person and to be certified to be a true copy by a person stated in the certificate to have the custody of the attestation paper shall be evidence of the enlistment of the person attested.

(3) The attestation paper purporting to be signed by a person on his enlistment shall be evidence of his having given the answers to questions which he is therein recorded as having given.

(4) A letter, return or other document stating that any person—

- (a) was or was not serving at any specified time or during any specified period in any part of Her Majesty's forces or was discharged from any part of those forces at or before any specified time, or
- (b) held or did not hold at any specified time any specified rank or appointment in any of those forces, or had at or before any specified time been attached, posted or transferred to any part of those forces, or at any specified time or during any specified period was or was not serving or held or did not hold any rank or appointment in any particular country or place, or
- (c) was or was not at any specified time authorised to use or wear any decoration, badge, wound stripe or emblem,

PART V
—cont.

shall, if purporting to be issued by or on behalf of the Army Council, the Admiralty or the Air Council, or by a person authorised by any of them, be evidence of the matters stated in the document.

(5) A record made in any service book or other document prescribed by Queen's Regulations for the purposes of this subsection, being a record made in pursuance of any Act or of Queen's Regulations, or otherwise in pursuance of military duty, and purporting to be signed by the commanding officer or by any person whose duty it was to make the record, shall be evidence of the facts stated therein; and a copy of a record (including the signature thereto) in one of the said service books, purporting to be certified to be a true copy by a person stated in the certificate to have the custody of the book, shall be evidence of the record.

(6) A document purporting to be issued by order of the Army Council and to contain instructions or regulations given or made by the Army Council shall be evidence of the giving of the instructions or making of the regulations and of their contents.

(7) A certificate purporting to be issued by or on behalf of the Army Council, the Admiralty or the Air Council, or by a person authorised by any of them, and stating—

- (a) that a decoration of a description specified in or annexed to the certificate is a military, naval or air-force decoration, or
- (b) that a badge, wound stripe or emblem of a description specified in or annexed to the certificate is one supplied or authorised by the Army Council,

shall be evidence of the matters stated in the certificate.

(8) A certificate purporting to be signed by a person's commanding officer or any officer authorised by him to give the certificate, and stating the contents of, or of any part of, standing orders or other routine orders of a continuing nature made for—

- (a) any formation or unit or body of troops, or
- (b) any command or other area, garrison or place, or
- (c) any ship, train or aircraft,

shall in proceedings against the said person be evidence of the matters stated in the certificate.

(9) Any document which would be evidence in any proceedings under the Air Force Act, 1955, by virtue of section one hundred and ninety-eight of that Act shall in like manner, subject to the like conditions, and for the like purpose be evidence in the like proceedings under this Act.

199.—(1) Where a person subject to military law has been tried before a civil court (whether at the time of the trial he was subject to military law or not), a certificate signed by the

Proof of
outcome of
civil trial.

clerk of the court and stating all or any of the following matters,—

- (a) that the said person has been tried before the court for an offence specified in the 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 clerk 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.

(3) A document purporting to be a certificate under this section and to be signed by the clerk of the court shall, unless the contrary is shown, be deemed to be such a certificate.

(4) References in this section to the clerk of the court include references to his deputy and to any other person having the custody of the records of the court.

200.—(1) The original proceedings of a court-martial purporting to be signed by the president of the court and being in the custody of the Judge Advocate General or of any person having the lawful custody thereof shall be admissible in evidence on production from that custody. Evidence of proceedings of court-martial.

(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 the Judge Advocate General 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.

Miscellaneous Provisions

201.—(1) A warrant officer or non-commissioned officer of the regular forces shall not be reduced in rank except by sentence of a court-martial (whether under this Act, the Naval Discipline Act or the Air Force Act, 1955) or by order of the Army Council, or of an officer, not below the rank of brigadier, flag officer or air commodore, authorised by the Army Council to act for the purposes of this section. Restrictions on reduction in rank of warrant officers and non-commissioned officers.

(2) An authorisation under the last foregoing subsection may be given generally or subject to such limitations as may be specified by the Army Council.

PART V
—cont.

(3) For the purposes of subsection (1) of this section reduction in rank does not include reversion from acting rank.

Temporary reception in civil custody of persons under escort.

202.—(1) Where a person is in military custody when charged with, or with a view to his being charged with, an offence against Part II of this Act, it shall be the duty of the governor, superintendent or other person in charge of a prison (not being a military prison), or of the person having charge of any police station or other place in which prisoners may be lawfully detained, upon delivery to him of a written order purporting to be signed by the commanding officer of the person in custody to receive him into his custody for a period not exceeding seven days.

(2) This section shall have effect in the United Kingdom and in any colony.

Avoidance of assignment of or charge on military pay, pensions, etc.

203.—(1) Every assignment of or charge on, and every agreement to assign or charge, any pay, military award, grant, pension or allowance payable to any person in respect of his or any other person's service in Her Majesty's military forces shall be void.

(2) Save as expressly provided by this Act, no order shall be made by any court the effect of which would be to restrain any person from receiving anything which by virtue of this section he is precluded from assigning and to direct payment thereof to another person.

(3) Nothing in this section shall prejudice any enactment providing for the payment of any sum to a bankrupt's trustee in bankruptcy for distribution among creditors.

(4) This section shall have effect in the United Kingdom and in any colony.

Power of certain officers to take affidavits and declarations.

204.—(1) An officer of the regular forces of a rank not below that of major (hereinafter referred to as an "authorised officer") may, at a place outside the United Kingdom, take affidavits and declarations from any of the following persons, that is to say, persons subject to military law and persons not so subject who are of any description specified in the Fifth Schedule to this Act.

(2) A document purporting to have subscribed thereto the signature of an authorised officer in testimony of an affidavit or declaration being taken before him in pursuance of this section and containing in the jurat or attestation a statement of the date on which and the place at which the affidavit or declaration was taken and of the full name and rank of that officer shall be admitted in evidence without proof of the signature being the signature of that officer or of the facts so stated.

PART VI

APPLICATION OF ACT AND SUPPLEMENTAL PROVISIONS

Persons subject to military law

205.—(1) The following persons are subject to military law:—

Persons subject to military law: general provisions.

- (a) every officer holding a land forces commission (within the meaning of any Order of Her Majesty for the time being regulating the granting of commissions) and for the time being employed, or recalled for employment, in Her Majesty's service in any capacity in which he can be required to be employed as the holder of his commission ;
- (b) every officer holding a land forces commission (within the meaning aforesaid) who for the time being is not employed, or not employed as mentioned in paragraph (a) of this subsection, but is liable (otherwise than in specified circumstances only) to be recalled to military service under Her Majesty ;
- (c) every officer, not subject to military law under the foregoing provisions of this section, who being the holder of a land forces commission (within the meaning aforesaid) is employed in Her Majesty's service in employment of which it is an express condition that while employed therein he is to be subject to military law ;
- (d) every officer, not subject to military law under the foregoing provisions of this section, who, with the approval of the Army Council given subject to an express condition that while in that employment he is to be subject to military law, is employed otherwise than in Her Majesty's service ;
- (e) every officer holding a commission in the Territorial Army who is on the active list (as defined by the regulations for the Territorial Army) or on the permanent staff of the Territorial Army, or, being in the Territorial Army reserve, is doing duty with any body of troops for the time being subject to military law or is ordered on any duty or service for which he is liable as an officer of that reserve ;
- (f) every warrant officer, non-commissioned officer and soldier of the regular forces ;
- (g) every warrant officer, non-commissioned officer and man of the army reserve when called out on permanent service or in aid of the civil power or when undergoing annual or other training (whether in pursuance of an obligation or not), or when otherwise employed in Her Majesty's service as mentioned in paragraph (c) of this subsection ;

PART VI
—cont.

- (h) every warrant officer, non-commissioned officer and man of the Territorial Army when embodied or called out for home defence service, when undergoing training or attending drills or parades (whether in pursuance of an obligation or not), or when serving on the permanent staff of the Territorial Army ;
- (i) every person in receipt of a pension in respect of service in the regular forces, or of such service and other service, who is employed in Her Majesty's service as mentioned in paragraph (c) of this subsection ;
- (j) every person not otherwise subject to military law who is serving in any force raised by order of Her Majesty outside the United Kingdom and is under the command of an officer holding a land forces commission or a commission in the Territorial Army ;
- (k) every member of the Home Guard when on duty (as defined in the Home Guard Act, 1951) or during any period (as so defined) during which the platoon or other part of the Home Guard to which he belongs is mustered (as so defined).

(2) For the purposes of paragraph (d) of the last foregoing subsection a certificate of the Army Council that approval to a person's employment was given subject to the condition mentioned in that paragraph shall be conclusive evidence of the facts stated in the certificate.

(3) References in this section to an officer holding a commission include references to a person entitled to have a commission issued to him.

Persons
subject to
military law:
Common-
wealth forces.

206. Members of a naval, military or air force being a Commonwealth force are subject to military law to such extent, and subject to such adaptations and modifications, as may be provided by or under any enactment relating to the attachment of members of such forces.

Persons
subject to
military law:
Colonial
forces.

207.—(1) Subject to the provisions of this section, where any military force is raised under the law of a colony, any such law—

- (a) may make provision in relation to that force and the officers, warrant officers, non-commissioned officers and soldiers thereof so as to have effect as well when they are outside as when they are within the limits of the colony ;
- (b) may apply in relation to the force and the officers, warrant officers, non-commissioned officers and soldiers thereof all or any of the provisions of this Act, either with or without adaptations, modifications or exceptions.

(2) Where any military force raised under the law of a colony is serving with part of the regular forces, the army reserve or the Territorial Army, then in so far as the law of the colony does not provide for the government and discipline of the force and the members thereof this Act shall apply—

- (a) to the officers thereof as it applies to officers holding land forces commissions, and
- (b) to the warrant officers, non-commissioned officers and soldiers thereof as it applies to warrant officers, non-commissioned officers and soldiers of the regular forces,

but subject to such adaptations, modifications or exceptions as may be specified in the general orders of the officer, whether military, naval or air-force but not below the rank of colonel or corresponding rank, commanding the forces with which the force raised in the colony is serving.

(3) While any officer, warrant officer, non-commissioned officer or soldier belonging to a force raised under the law of a colony is attached to, doing duty with, or otherwise acting as part of or with any portion of the regular forces, the army reserve or the Territorial Army in the United Kingdom, the foregoing provisions of this section shall not apply in relation to him, but he shall be subject to military law by virtue of this subsection and this Act shall apply to him as if he were a member of the regular forces.

208. Where a member of any of Her Majesty's naval or air forces is attached to any part of the regular forces, the army reserve or the Territorial Army, he shall while so attached be subject to military law; and the provisions of the Sixth Schedule to this Act shall have effect as respects persons subject to military law by virtue of this section.

Persons subject to military law: attached members of naval and air forces.

209.—(1) Subject to the modifications hereinafter specified, where any body of the regular forces is on active service, Part II of this Act shall apply to any person who is employed in the service of that body of the forces or any part or member thereof, or accompanies the said body or any part thereof, and is not subject to military law, the Naval Discipline Act, or air-force law apart from this section or any corresponding provisions of that Act or the Air Force Act, 1955, as the said Part II applies to persons subject to military law.

Application of Act to civilians.

(2) Subject to the modifications hereinafter specified, Part II of this Act shall at all times apply to a person of any description specified in the Fifth Schedule to this Act who is within the limits of the command of any officer commanding a body of the regular forces outside the United Kingdom, and is not subject to military law, the Naval Discipline Act, or air-force law apart from this section or any corresponding provisions of that Act or the Air Force Act, 1955, as the said Part II applies to persons subject to military law:

PART VI
—cont.

Provided that none of the provisions contained in sections twenty-four to sixty-nine of this Act shall apply to a person by virtue only of this subsection except subsection (3) of section twenty-nine, sections thirty-five and thirty-six, sections fifty-five to fifty-eight, and section sixty-eight so far as it relates to that subsection and those sections.

(3) The said modifications are the following :

- (a) the punishments which may be awarded by a court-martial shall include a fine, but shall not include any other punishment less than imprisonment ;
- (b) the punishment which may be awarded where a charge is dealt with summarily shall, in the case of any offence, be a fine not exceeding ten pounds, but no other punishment ;
- (c) the following provision shall have effect in substitution for subsections (2) to (4) of section seventy-four, that is to say that a person may be arrested by a provost officer, by any warrant officer or non-commissioned officer legally exercising authority under a provost officer or on his behalf, or by order of any officer of the regular forces ;
- (d) where a charge is being dealt with summarily and it has been determined that the accused is guilty, a finding shall not be recorded until after the accused has been afforded an opportunity of electing to be tried by court-martial, and if the accused so elects a finding shall not be recorded but such steps shall be taken with a view to the charge being tried by court-martial as may be prescribed by Rules of Procedure ;
- (e) the provisions of this Act relating to the investigation of, and summary dealing with, offences shall save as otherwise expressly provided apply as they apply to officers and warrant officers ;
- (f) for the purposes of the provisions of this Act relating to the investigation of offences, the commanding officer shall be such officer as may be determined by or under regulations of the Army Council made for the purposes of this section ;
- (g) for references in sections one hundred and thirty-one and one hundred and thirty-two of this Act to being, continuing, or ceasing to be subject to military law there shall be substituted references to being, continuing to be or ceasing to be in such circumstances that the said Part II applies, and subsection (3) of the said section one hundred and thirty-one shall not apply.

(4) Any fine awarded by virtue of this section, whether by a court-martial or the appropriate superior authority, shall be recoverable, in the United Kingdom or any colony, as a debt due to Her Majesty.

Application of Act to particular corps and forces

210.—(1) The Royal Marines shall be a separate corps of the regular forces.

PART VI
—cont.
Provisions
as to Royal
Marines.

(2) In section two hundred and five of this Act—

(a) any reference to a land forces commission shall be construed as including a reference to a commission in the Royal Marines ;

(b) any reference to a non-commissioned officer or man of the army reserve called out on permanent service or undergoing annual or other training shall be construed as including a reference to a non-commissioned officer or marine of the Royal Marine Forces Volunteer Reserve, the Royal Fleet Reserve or the Royal Marine Emergency Reserve called into actual service or being trained or exercised.

(3) An officer, non-commissioned officer or marine of the Royal Marines, the Royal Marine Forces Volunteer Reserve, the Royal Fleet Reserve or the Royal Marine Emergency Reserve, shall continue subject to military law notwithstanding that he may for the time being be subject to the Naval Discipline Act.

(4) In relation to the Royal Marines and the officers, non-commissioned officers and marines thereof, and to officers, non-commissioned officers and marines of the Royal Marine Forces Volunteer Reserve, the Royal Fleet Reserve or the Royal Marine Emergency Reserve, this Act shall have effect subject to the modifications set out in Parts I and II of the Seventh Schedule thereto.

(5) The provisions of Part III of the Seventh Schedule to this Act shall have effect as respects transfers between the Royal Marines and other corps of the regular forces in substitution for the provisions of subsections (3) and (4) of section three of this Act.

211.—(1) Subject to the provisions of this section, references in Parts II to V of this Act to the regular forces shall include references to the following persons, that is to say—

Application
of Act to
reserve and
auxiliary
forces.

(a) officers of any reserve of officers while subject to military law, and officers who have retired (within the meaning of any Royal Warrant) but are for the time being subject to military law, and

(b) officers holding commissions in the Territorial Army while the part of the Territorial Army to which they belong is embodied or while they are called out for home defence service or are undergoing training, and

(c) warrant officers, non-commissioned officers and men of the army reserve and the Territorial Army while subject to military law ;

and references to officers, warrant officers, non-commissioned

PART VI
—cont.

officers or soldiers, or to members or a body, of the regular forces or to illegal absence from those forces shall be construed accordingly.

(2) Subsections (1), (5) and (6) of section seventeen of this Act shall apply to warrant officers, non-commissioned officers and men of the army reserve and the Territorial Army as they apply to warrant officers, non-commissioned officers and soldiers of the regular forces.

(3) The power conferred by subsection (3) of section thirty-seven and subsection (3) of section eighty-one of this Act to direct the forfeiture of an offender's previous service shall not be exercisable in relation to warrant officers, non-commissioned officers or men of the army reserve or the Territorial Army.

(4) Paragraph (b) of subsection (2) of section thirty-seven, sections one hundred and fifty to one hundred and fifty-three of this Act and, except in so far as they may be applied by regulations made under the Army Reserve Act, 1950, or the Auxiliary Forces Act, 1953, the provisions of Part II of this Act relating to the award of stoppages and the provisions of sections one hundred and forty-four to one hundred and forty-nine of this Act, shall not apply—

- (a) to officers of any reserve of officers who are not in actual service,
- (b) to warrant officers, non-commissioned officers or men of the army reserve except when called out on permanent service, or
- (c) to officers, warrant officers, non-commissioned officers or men of the Territorial Army except when the part of the Territorial Army to which they belong is embodied or they are called out for home defence service.

(5) In the last foregoing subsection the expression "actual service", in relation to an officer of any reserve of officers, means that he is serving (otherwise than when undergoing training) with a body of the regular forces, or of the army reserve when called out on permanent service, or with a part of the Territorial Army which is embodied or called out for home defence service.

(6) The provisions of sections one hundred and eighty-two and one hundred and eighty-three of this Act shall not apply at any time to officers holding commissions in the Territorial Army or to warrant officers, non-commissioned officers or men of the Territorial Army; and the provisions of the said section one hundred and eighty-three shall not apply to a warrant officer, non-commissioned officer or man of the army reserve except when he is called out on permanent service.

(7) In the case of a non-commissioned officer or man of the Territorial Army found guilty of an offence by a court-martial or his commanding officer, Part II of this Act shall apply as if in the scale set out in subsection (2) of section seventy-two of

this Act immediately before paragraph (f) thereof there were inserted the following paragraph—

PART VI
—cont.

“(eee) dismissal from the Territorial Army”,
and as if the punishments specified in subsection (3) of section seventy-eight of this Act included dismissal from the Territorial Army:

Provided that if the commanding officer awards such dismissal he shall not award any other punishment.

(8) An officer of any reserve of officers, an officer holding a commission in the Territorial Army, or a warrant officer, non-commissioned officer or man of the army reserve or the Territorial Army may be attached temporarily to any of Her Majesty's naval or air forces whether or not he is subject to military law, but if not subject thereto shall not be so attached except with his consent.

212.—(1) Subject to the provisions of this section references in Parts II to V of this Act to the regular forces shall include references to members of the Home Guard while subject to military law. Provisions as to Home Guard.

(2) A person shall not be charged with an offence against section seventy of this Act if he is subject to military law by reason only of being a member of the Home Guard.

(3) The provisions of Part II of this Act relating to the award of stoppages, of Part III of this Act, and of sections one hundred and eighty-two and one hundred and eighty-three of this Act shall not apply to members of the Home Guard at any time.

(4) Section one hundred and eighty of this Act shall not apply to a person by reason only that he is serving on a commission in the Home Guard.

(5) Notwithstanding anything in regulations under section eighty-two of this Act, where by or under such regulations the functions of a commanding officer are conferred on an officer serving on a commission in the Home Guard, he shall not have power to deal with a charge summarily except during a period during which the platoon or other part of the Home Guard to which the accused belongs is mustered (as defined in the Home Guard Act, 1951).

(6) For the purposes of subsection (2) of section eighty-seven and subsection (2) of section eighty-eight of this Act, and of the proviso to subsection (3) of section ninety thereof, any period of service on a commission in the Home Guard shall be disregarded.

213. In relation to women members of the regular forces this Act shall have effect subject to the following modifications:— Modification of certain provisions in relation to women.

(a) so much of Part I of this Act as relates to service in, and transfer to, the reserve shall not apply;

(b) so much of Part II of this Act as provides for field punishment shall not apply; and

PART VI
—cont.

(c) references in sections one hundred and fifty and one hundred and fifty-one to a wife shall be construed as references to a husband.

Application to different countries

Application
to Scotland.

214.—(1) The provisions of this section shall have effect for the purpose of the application of this Act to Scotland.

(2) For any reference to a county court there shall be substituted a reference to the sheriff; and the powers and duties conferred or imposed on a justice of the peace may be exercised or performed either by such justice or by the sheriff.

(3) References in subsection (2) of section one hundred and twenty-five and in subsection (1) of section one hundred and twenty-eight to the Capital Punishment Amendment Act, 1868, or to any provision of that Act shall respectively be construed as references to that Act as it applies to Scotland or to the corresponding provision of that Act applying to Scotland, and references in the said subsection (2) and subsection (1) to the sheriff shall be construed as references to the lord provost or provost, or magistrate or magistrates, charged with seeing the sentence of death carried into effect.

(4) In subsection (2) of section one hundred and twenty-eight for the reference to the Coroners Acts, 1887 to 1926 there shall be substituted a reference to section twenty-five of the Prisons (Scotland) Act, 1952, and that section as applied in relation to any such premises as are mentioned in the said subsection (2) shall have effect subject to the necessary modifications.

(5) For any reference to the Minister of Housing and Local Government there shall be substituted a reference to the Secretary of State; and the local authority for the purposes of Part IV of this Act shall be a county or town council.

(6) Section one hundred and eighty-seven shall have effect as if subsection (4) were omitted.

(7) Section one hundred and ninety-five shall have effect as if for the obligation imposed by subsection (4) on the officer therein mentioned to bring a person before a court of summary jurisdiction there were substituted an obligation to report to the procurator fiscal.

(8) The expression “putative father” in relation to an illegitimate child means the person proved or admitted to be the father; and the expression “chattel” means corporeal moveable.

Application
to Northern
Ireland.

215.—(1) The provisions of this section shall have effect for the purpose of the application of this Act to Northern Ireland.

(2) The expression “summary conviction” means conviction in accordance with the enactments (including enactments of the Parliament of Northern Ireland) for the time being in force in Northern Ireland relating to summary jurisdiction; and all fines

imposed in proceedings taken before a court of summary jurisdiction in Northern Ireland shall be dealt with in the manner provided by section twenty of the Administration of Justice Act (Northern Ireland), 1954.

(3) The jurisdiction and powers of the Secretary of State under this Act with respect to persons committed to or detained in prisons other than military prisons and other than air-force prisons as defined in the Air Force Act, 1955, and with respect to prisons other than as aforesaid, shall in Northern Ireland be exercisable only subject to the approval of the Ministry of Home Affairs for Northern Ireland.

(4) References in subsection (2) of section one hundred and twenty-five and in subsection (1) of section one hundred and twenty-eight to the Capital Punishment Amendment Act, 1868, or to any provision of that Act and to rules made under that Act shall respectively be construed as references to that Act or provision as in force from time to time in Northern Ireland and to any rules under that Act as in force in Northern Ireland, and, accordingly, references in the said subsections to the sheriff shall be construed as references to the under-sheriff.

(5) References in subsection (2) of section one hundred and twenty-eight to the Coroners Acts, 1887 to 1926, shall be construed as references to section thirty-nine of the Prison Act (Northern Ireland), 1953; and that section as applied in relation to any such premises as are mentioned in the said subsection (2) shall have effect subject to the necessary modifications.

(6) For the reference in subsection (5) of section one hundred and fifty to section four of the Bastardy Laws Amendment Act, 1872, there shall be substituted a reference to section one of the Illegitimate Children (Affiliation Orders) Act (Northern Ireland), 1924.

(7) In Part IV of this Act references to a local authority shall be construed as references to a welfare authority, references to the Minister of Housing and Local Government shall be construed as references to the Minister of Home Affairs for Northern Ireland, and references to a chief officer of police shall be construed as references to a county inspector of the Royal Ulster Constabulary or any other officer having the rank of a county inspector thereof.

(8) For the reference in section one hundred and seventy-three to section thirty-five of the Road Traffic Act, 1930, there shall be substituted a reference to section six of the Motor Vehicles and Road Traffic Act (Northern Ireland), 1930.

(9) For the reference in subsection (4) of section one hundred and eighty-seven to the Magistrates' Courts Act, 1952, there shall be substituted a reference to the Summary Jurisdiction Acts (Northern Ireland) and the rules made thereunder.

PART VI
—cont.

(10) For the reference in subsection (3) of section two hundred and three to a bankrupt's trustee in bankruptcy there shall be substituted a reference to an assignee in bankruptcy.

(11) In paragraphs 3 and 5 of the table set out in the Second Schedule to this Act for the words "the court under section four of the Guardianship of Infants Act, 1925," there shall be substituted the words "a court of competent jurisdiction".

Application
to Channel
Islands and
Isle of Man.

216.—(1) This Act shall apply to the Channel Islands and the Isle of Man in accordance with the following provisions of this section.

(2) Subject as hereinafter provided, references except in Part IV of this Act to the United Kingdom shall be construed as including references to the Channel Islands and the Isle of Man.

(3) References in sections one hundred and nineteen, one hundred and twenty-six, one hundred and twenty-seven and one hundred and forty-three to the United Kingdom shall not include references to the Channel Islands or the Isle of Man, and references in the said section one hundred and twenty-seven to a colony shall include references to the Channel Islands and the Isle of Man.

(4) In relation to an order made by a court in the Isle of Man subsection (5) of section one hundred and fifty of this Act shall have effect with the substitution, for the reference to the Maintenance Orders (Facilities for Enforcement) Act, 1920, of a reference to an Act of Tynwald entitled the Maintenance Orders (Facilities for Enforcement) Act, 1921, and for the reference to section four of the Bastardy Laws Amendment Act, 1872, of a reference to section three of an Act of Tynwald entitled the Bastardy Act Amendment Act, 1924.

Application
to certain
overseas
territories.

217.—(1) This Act shall apply in relation to any territory under Her Majesty's protection, and any territory for the time being administered by Her Majesty's Government in the United Kingdom under the trusteeship system of the United Nations, as it applies in relation to a colony; and accordingly references in this Act to Her Majesty's dominions shall be construed as including references to any such territory.

(2) References in this Act to the law of a colony shall include, in relation to two or more colonies under a central legislature, references to law made by that legislature.

Provisions as
to Federation
of Malaya.

218.—(1) References in this Act to Her Majesty's forces or the armed forces of the Crown shall include references to naval, military or air forces raised in the Federation of Malaya.

(2) References in this Act to Her Majesty's military forces shall include references to military forces raised in the Federation of Malaya.

(3) References in this Act to Her Majesty's service shall include references to the military service of the Federation of Malaya.

(4) References in this Act to Her Majesty's ships and aircraft shall respectively include references to ships and aircraft belonging to the Federation of Malaya.

PART VI
—cont.

219. Notwithstanding anything in the Ireland Act, 1949, this Act shall apply in relation to the Republic of Ireland as it applies in relation to a foreign country and not as it applies in relation to any part of Her Majesty's dominions.

Application
to Republic
of Ireland.

Supplemental provisions

220.—(1) In the United Kingdom or any colony, a civil court of any description having jurisdiction in the place where an offender is for the time being shall have jurisdiction to try him for any offence to which this section applies which is triable by a court of that description notwithstanding that the offence was committed outside the jurisdiction of the court:

Jurisdiction
of courts.

Provided that such an offence committed in any part of the United Kingdom shall not be triable outside that part of the United Kingdom.

(2) The offences to which this section applies are offences against any of the following sections of this Act, that is to say, section nineteen, section one hundred and sixty-one, section one hundred and seventy-one, and sections one hundred and ninety-one to one hundred and ninety-seven; and references in this section to a part of the United Kingdom are references to England and Wales, Scotland or Northern Ireland.

221. Any sum paid to the Secretary of State in pursuance of section twenty-seven of the Justices of the Peace Act, 1949, in respect of a fine recovered under this Act shall be deemed to be Exchequer moneys within the meaning of that section and shall be paid by the Secretary of State into the Exchequer.

Disposal of
summary fines
in England.

222. In the application of this Act to any colony, there shall, if the law of the colony so provides, be substituted for the amount of any fine specified in this Act, being a fine which may be imposed on summary conviction, such amount as may be provided by that law; and it shall be competent for the law of any colony to declare what amount of the local currency is to be treated for the purposes of this Act as equivalent to any amount of money specified in this Act.

Provisions as
to summary
fines in
Colonies.

223. Save as expressly provided by any rules or regulations under this Act, any order or determination required or authorised to be made under this Act by any military, naval or air-force officer or authority may be signified under the hand of any officer authorised in that behalf; and any instrument signifying such an order or determination and purporting to be signed by an officer stated therein to be so authorised shall unless the contrary is proved be deemed to be signed by an officer so authorised.

Execution of
orders,
instruments,
etc.

PART VI
—cont.

Provisions
as to active
service.

224.—(1) In this Act the expression “on active service”, in relation to a force, means that it is engaged in operations against an enemy or is engaged in a foreign country in operations for the protection of life or property or (subject to the provisions of this section) is in military occupation of a foreign country, and in relation to a person means that he is serving in or with a force which is on active service.

(2) Where any of Her Majesty’s military forces is serving outside the United Kingdom, and it appears to the appropriate authority that, by reason of the imminence of active service or of the recent existence of active service, it is necessary for the public service that the force should be deemed to be on active service, the appropriate authority may declare that for such period, not exceeding three months, beginning with the coming into force of the declaration as may be specified therein that force shall be deemed to be on active service.

(3) Where it appears to the appropriate authority that it is necessary for the public service that the period specified in a declaration under the last foregoing subsection should be prolonged or, if previously prolonged under this subsection, should be further prolonged, the appropriate authority may declare that the said period shall be prolonged by such time, not exceeding three months, as may be specified in the declaration under this subsection.

(4) If at any time while any force—

- (a) is on active service by reason only of being in military occupation of a foreign country ; or
- (b) is deemed to be on active service by virtue of the foregoing provisions of this section,

it appears to the appropriate authority that there is no necessity for the force to continue to be treated as being on active service, the appropriate authority may declare that as from the coming into operation of the declaration the force shall cease to be, or to be deemed to be, on active service.

(5) Before any declaration is made under this section, the appropriate authority shall, unless satisfied that it is not possible to communicate with sufficient speed with the Secretary of State, obtain the consent of the Secretary of State to the declaration ; and in any case where that consent has not been obtained before the making of a declaration under this section the appropriate authority shall report the making thereof to the Secretary of State with the utmost practicable speed.

(6) The Secretary of State may, if he thinks fit, direct that any declaration whereby any force is deemed to be, or to continue, on active service shall cease to have effect as from the coming into force of the direction ; but any direction under this subsection shall be without prejudice to anything done by virtue of the declaration before the coming into force of the direction.

(7) A declaration under this section shall have effect not only as respects the members of the force to which it relates but also as respects other persons the application to whom of any provisions of this Act depends on whether that force is on active service.

PART VI
—cont.

(8) In this section the expression “ the appropriate authority ” means—

- (a) in relation to any force in a colony, the Governor of the colony ;
- (b) in relation to any force not in a colony, the general officer or brigadier commanding the force, so however that where the force is under the command of a flag officer or air officer that officer shall be the appropriate authority.

(9) Any declaration under this section made by the Governor of a colony shall be made by proclamation published in the official Gazette of the colony.

(10) Any declaration or direction under this section shall come into operation on being published in general orders.

225.—(1) In this Act :—

“ 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, “ acting warrant officer ” and “ acting non-commissioned officer ” shall be construed accordingly, and references to acting non-commissioned officers shall be construed as including references to lance-corporals and lance-bombardiers ;

General
provisions
as to
interpretation.

“ active service ” shall be construed in accordance with the last foregoing section ;

“ aircraft ” means any machine for flying, whether propelled by mechanical means or not, and includes any description of balloon ;

“ aircraft material ” includes—

(a) parts of, and components of or accessories for, aircraft, whether for the time being in aircraft or not ;

(b) engines, armaments, ammunition and bombs and other missiles of any description in, or for use in, aircraft ;

(c) any other gear, apparatus or instruments in, or for use in, aircraft ;

(d) any apparatus used in connection with the taking-off or landing of aircraft or for detecting the movement of aircraft ; and

(e) any fuel used for the propulsion of aircraft and any material used as a lubricant for aircraft or aircraft material ;

PART VI
—cont.

- “appropriate superior authority” has the meaning assigned to it by subsection (1) of section seventy-seven and subsection (2) of section eighty-two of this Act ;
- “arrest” includes open arrest ;
- “before the enemy”, in relation to a person, means that he is in action against the enemy or about to go into action against the enemy, or is under attack or threat of imminent attack by the enemy ;
- “civil court” means a court of ordinary criminal jurisdiction but does not, except where otherwise expressly provided, include any such court outside Her Majesty’s dominions ;
- “civil offence” has the meaning assigned to it by subsection (2) of section seventy of this Act ;
- “commanding officer” has the meaning assigned to it by subsection (1) of section eighty-two of this Act ;
- “Commonwealth force” means any of the naval, military or air forces of Canada, the Commonwealth of Australia, New Zealand, the Union of South Africa, India, Pakistan or Ceylon ;
- “constable” includes any person (whether within or outside the United Kingdom) having powers corresponding with those of a constable ;
- “corps” means any such body of the regular forces as may from time to time be declared by warrant of Her Majesty to be a corps for the purposes of this Act ;
- “corresponding civil offence” has the meaning assigned to it by subsection (2) of section seventy of this Act ;
- “corresponding rank,” in relation to any rank or rating of any of Her Majesty’s naval, military or air forces, means such rank or rating of any other of those forces as may be declared by Queen’s Regulations to correspond therewith ;
- “court-martial,” except where it is otherwise expressly provided, means a court-martial under this Act ;
- “damage” includes destruction, and references to damaging shall be construed accordingly ;
- “decoration” includes medal, medal ribbon, clasp and good-conduct badge ;
- “desertion” shall be construed in accordance with subsection (2) of section thirty-seven of this Act ;
- “enemy” includes all persons engaged in armed operations against any of Her Majesty’s forces, and also includes all armed mutineers, armed rebels, armed rioters and pirates ;
- “Governor” means, in relation to any colony, the officer, however styled, who is for the time being administer-

- ing the government of the colony and includes the British Resident, Zanzibar, but where two or more colonies or the parts of any colony are under local governments and also under a central government, references to the Governor shall be construed as references to the officer, however styled, who is for the time being administering the central government;
- “Her Majesty’s air forces”, “Her Majesty’s military forces” or “Her Majesty’s naval forces”, except where otherwise expressly provided, does not include any Commonwealth force;
- except where the context otherwise requires “oath” includes affirmation, and references to swearing shall be construed accordingly;
- “property” includes real property in England or Wales or Northern Ireland, heritable property in Scotland, and property outside the United Kingdom of the nature of real property;
- “provost officer” means a provost marshal or officer appointed to exercise the functions conferred by or under this Act on provost officers and includes a naval provost marshal, an assistant to a naval provost marshal, and an officer appointed to exercise functions conferred by or under the Air Force Act, 1955, and corresponding with those of a provost officer under this Act;
- “public property” means any property belonging to any department of Her Majesty’s Government in the United Kingdom or the Government of Northern Ireland or held for the purposes of any such department;
- “Queen’s Regulations” means the Queen’s Regulations for the Army;
- “regular forces” means any of Her Majesty’s military forces other than the army reserve, the Territorial Army and the Home Guard, and other than forces raised under the law of a colony, so however that an officer of any reserve of officers, or an officer who is retired within the meaning of any Royal Warrant, shall not be treated for the purposes of this Act as a member of the regular forces save in so far as is expressly provided by this Act;
- “Royal Warrant” means the warrant or warrants of Her Majesty for the time being in force for regulating the pay and promotion of the army;
- “Rules of Procedure” has the meaning assigned to it by section one hundred and three of this Act;
- “service”, when used adjectivally, means belonging to or connected with Her Majesty’s military forces or any part of Her Majesty’s military forces;

PART VI
—cont.

“service property” includes property belonging to any joint association or territorial army association within the meaning of the Auxiliary Forces Act, 1953, or to the Navy, Army and Air Force Institutes;

“ship” includes any description of vessel;

“steals” has the same meaning as in the Larceny Act, 1916;

“stoppages” means the recovery, by deductions from the pay of the offender, of a specified sum by way of compensation for any expense, loss or damage occasioned by the offence.

(2) References in this Act to warrant officers, non-commissioned officers or men of the army reserve being called out on permanent service are references to their being so called out whether in pursuance of a proclamation or not, but in Part I of this Act and subsection (2) of section one hundred and sixty-seven thereof do not include references to their being called out for overseas service otherwise than in pursuance of a proclamation.

(3) Any power conferred by this Act to make provision by regulations, rules or other instrument shall include power to make that provision for specified cases or classes of cases, and to make different provision for different classes of cases, and for the purposes of any such instrument classes of cases may be defined by reference to any circumstances specified in the instrument.

(4) Any power conferred by the foregoing provisions of this Act to make an order shall be construed as including power, exercisable in the like manner and subject to the like provisions, to vary or revoke the order.

226.—(1) This Act may be cited as the Army Act, 1955.

(2) This Act shall come into operation on such date as Her Majesty may by Order in Council appoint.

(3) This Act shall expire twelve months after the coming into operation thereof unless continued in accordance with the following provisions of this section.

(4) Her Majesty may from time to time by Order in Council provide that this Act shall continue in force for a period of twelve months beyond the date on which it would otherwise expire:

Provided that unless Parliament otherwise determines no Order in Council shall be made under this subsection so as to continue this Act beyond the expiration of five years from the date appointed under subsection (2) of this section.

(5) No recommendation shall be made to Her Majesty in Council to make an Order under the last foregoing subsection unless a draft thereof has been laid before Parliament and approved by resolution of each House of Parliament.

SCHEDULES

FIRST SCHEDULE

Sections 2, 18,
23.

PROCEDURE FOR ATTESTATION

1. The recruiting officer shall warn the person to be enlisted that if he makes any false answer to the questions to be read out to him he will be liable to be punished as provided by this Act.

2. He shall then read, or cause to be read, to that person the questions set out in the attestation paper and satisfy himself that he understands each of those questions and that his answers thereto have been duly recorded in the attestation paper.

3. He shall then ask that person to make and sign the declaration set out in the attestation paper as to the truth of the answers and shall administer to him the oath of allegiance as set out in the attestation paper.

4. Upon signing the declaration and taking the oath the said person shall become a soldier of the regular forces.

5. The recruiting officer shall by signature attest, in the manner required by the attestation paper, that the requirements of this Act as to the attestation of the recruit have been carried out and shall deliver the attestation paper duly dated to such person as may be prescribed by regulations of the Army Council.

6. When in accordance with such regulations the recruit is finally approved for service, the officer by whom he is approved shall at his request furnish him with a certified copy of the attestation paper.

SECOND SCHEDULE

Sections 20, 215.

PERSONS ENTITLED TO OBJECT TO ENLISTMENT OF NATIONAL SERVICE MEN ON REGULAR ENGAGEMENT

An objection under subsection (3) of section twenty of this Act may be made, in any of the circumstances specified in the first column of the following table, by the person or either of the persons specified in relation thereto in the second column of that table.

TABLE

<i>Circumstances</i>	<i>Person or persons entitled to object</i>
1. Where the person enlisted is legitimate, and both his parents are living:	
(a) if his parents are living together;	Both parents.
(b) if his parents are divorced or separated by order of any court or by agreement;	The parent to whom the custody of the person enlisted is committed by order of the court or by the agreement, or, if the custody of the person enlisted is so committed to one parent during part of the year and to the other parent during the rest of the year, both parents.

2ND SCH.
—cont.

<i>Circumstances</i>	<i>Person or persons entitled to object</i>
(c) if one parent has been deserted by the other;	The parent who has been deserted.
(d) if both parents have been deprived of custody of the person enlisted by order of the court.	The person to whose custody the person enlisted is committed by order of the court.
2. Where the person enlisted is legitimate, and one parent is dead:	
(a) if there is no guardian;	The surviving parent.
(b) if a guardian has been appointed by the deceased parent.	The surviving parent and the guardian (if acting) jointly, or the surviving parent or the guardian if the parent or guardian is the sole guardian of the person enlisted.
3. Where the person enlisted is legitimate, and both parents are dead.	The guardian or guardians appointed by the deceased parents or by the court under section four of the Guardianship of Infants Act, 1925.
4. Where the person enlisted is illegitimate, and his mother is alive.	The mother, or if she has by order of any court been deprived of the custody of the person enlisted, the person to whom the custody of the person enlisted has been committed by order of the court.
5. Where the person enlisted is illegitimate, and his mother is dead.	The guardian appointed by his mother or by the court under section four of the Guardianship of Infants Act, 1925.

Section 98.

THIRD SCHEDULE

ALTERNATIVE OFFENCES OF WHICH ACCUSED MAY BE CONVICTED BY COURT-MARTIAL

<i>Offence charged</i>	<i>Alternative offence</i>
1. Communicating with or giving intelligence to the enemy, either with intent to assist the enemy or without authority.	1. Disclosing information without authority.
2. Striking his superior officer.	2. (a) Using violence to his superior officer otherwise than by striking him. (b) Offering violence to his superior officer.
3. Using violence to his superior officer otherwise than by striking him.	3. Offering violence to his superior officer.

Offence charged

4. Using threatening language to his superior officer.
5. Disobeying, in such a manner as to show wilful defiance of authority, a lawful command given or sent to him personally.
6. Desertion.
7. Attempting to desert.
8. Stealing any property.
9. Any offence against section forty-four or forty-five of this Act involving wilfulness.
10. Any offence against subsection (1) of section fifty-four of this Act.
11. Any offence against section fifty-five of this Act involving striking.
12. Any offence against section fifty-five of this Act involving the use of violence other than striking.

Alternative offence

4. Using insubordinate language to his superior officer.
5. Disobeying a lawful command.
6. Absence without leave.
7. Absence without leave.
8. Fraudently misapplying the property.
9. The corresponding offence involving negligence.
10. Any offence against subsection (2) of section fifty-four of this Act.
11. (a) The corresponding offence involving the use of violence other than striking.
(b) The corresponding offence involving the offering of violence.
12. The corresponding offence involving the offering of violence.

FOURTH SCHEDULE

Sections 168,
172.SUPPLEMENTARY PROVISIONS AS TO PAYMENT FOR REQUISITIONED
VEHICLES

1.—(1) Subject to the provisions of this Schedule, any payment under subsection (1) of section one hundred and sixty-eight of this Act shall (without prejudice to any agreement as to payment on account) become due on the expiration of the period for which possession of the vehicle in question is retained.

(2) Subject to the provisions of this Schedule, any payment under subsection (2) of section one hundred and sixty-eight of this Act shall become due on the furnishing of the vehicle.

(3) Any payment under paragraph (b) of subsection (3) of the said section one hundred and sixty-eight shall become due on the furnishing of the vehicle.

2.—(1) As soon as may be after the furnishing of a vehicle there shall be given or sent to the person by whom it was furnished, by such person and in such form and manner as may be specified by instructions of the Army Council, a receipt for the vehicle specifying what payment,

4TH SCH.
—cont.

at what rate or of what amount, is offered in respect of the furnishing thereof under paragraph (a) of subsection (1), or as the case may be under subsection (2), of section one hundred and sixty-eight of this Act.

(2) As soon as may be after the end of the period for which possession of a vehicle is retained, there shall be given or sent to the person by whom the vehicle was furnished, by such person and in such form and manner as aforesaid, a notice stating whether any, and if so what, damage to the vehicle has occurred during the period for which possession of the vehicle was retained, other than damage which has been made good by a person acting on behalf of Her Majesty, or that the total loss of the vehicle has occurred, and specifying what payment is offered in respect of the damage or loss under paragraph (b) or (c) of subsection (1) of section one hundred and sixty-eight of this Act.

3.—(1) A person to whom a receipt or notice under the last foregoing paragraph has been given or sent (hereinafter referred to as “the claimant”) shall be deemed to have accepted the offer contained therein unless within three weeks from the time at which he received the receipt or notice he gives notice to the person by whom the receipt or notice was given or sent that he claims some specified greater amount or rate.

(2) Where a notice under the last foregoing paragraph has been given or sent stating that no damage has occurred to a vehicle during the period for which possession of the vehicle is retained, the claimant shall be deemed to have agreed that no damage has so occurred unless within three weeks from the time at which he received the notice he gives notice to the person by whom the notice was given or sent claiming that damage has so occurred and stating what payment he claims under subsection (1) of section one hundred and sixty-eight of this Act in respect of the damage.

(3) On the making of a claim under either of the two last foregoing sub-paragraphs the Army Council may notify the claimant either that they do not propose to make any further offer or that they make a specified further offer.

4.—(1) Subject to the provisions of the last foregoing paragraph and to the following provisions of this paragraph, a county court shall have jurisdiction to determine any dispute—

(a) as to the amount of any payment due under subsection (1) or (2) of section one hundred and sixty-eight of this Act, or whether any payment is due under any provision of the said subsection (1), or

(b) as to the amount of any payment due under paragraph (b) of subsection (3) of that section,

irrespective of the amount in dispute.

(2) An application to the county court for the determination of any such dispute as is mentioned in head (a) of the last foregoing sub-paragraph shall not be made before the expiration of three weeks from the making of the claim under sub-paragraph (1) or (2) of the last foregoing paragraph unless a notification has been given to the applicant

under sub-paragraph (3) of the last foregoing paragraph; and where such a notification contains a further offer by the Army Council, the person to whom it is given shall be deemed to have accepted the offer unless he makes such an application within three weeks from receipt of the notification.

5. The instructions of the Army Council referred to in paragraph 2 of this Schedule shall secure that any receipt or notice under that paragraph, or any notification under sub-paragraph (2) of the last foregoing paragraph, contains a statement of the effect of paragraph 3 of this Schedule or, as the case may be, of sub-paragraph (2) of the last foregoing paragraph.

6. In the foregoing provisions of this Schedule the expression "damage" does not include damage resulting in a total loss, or damage attributable to fair wear and tear.

7. Nothing in the foregoing provisions of this Schedule shall apply to a case falling within subsection (4) of section one hundred and sixty-eight or the proviso to subsection (2) of section one hundred and seventy-two of this Act, and any sum payable by virtue of that subsection or proviso shall become due on the making, by the person by whom the vehicle is required to be furnished, of a claim therefor to such authority as may have been specified in that behalf in the direction requiring the furnishing of the vehicle (or if no such authority was specified, to the Army Council):

Provided that before making any such payment the said authority or the Army Council, as the case may be, may require reasonable particulars of the damage in question and of the circumstances in which it occurred and may require a reasonable opportunity to be afforded to a person authorised by them to inspect the vehicle in question.

8. A county court shall have jurisdiction to deal with any claim arising under subsection (4) or subsection (5) of section one hundred and sixty-eight of this Act, or under the proviso to subsection (2) of section one hundred and seventy-two thereof, irrespective of the amount of the claim.

FIFTH SCHEDULE

Sections 204,
209.

CIVILIANS OUTSIDE THE UNITED KINGDOM SUBJECT TO PART II WHEN NOT ON ACTIVE SERVICE

1. Persons serving Her Majesty, or otherwise employed, in such capacities connected with Her Majesty's naval, military or air forces as may be specified for the purposes of this Schedule by regulations of the Army Council, being persons serving or employed under Her Majesty's Government in the United Kingdom.

2. Persons who are employed by, or in the service of, any naval, military or air-force organisation so specified to which Her Majesty's Government in the United Kingdom is a party and are employed by or in the service of that organisation by reason of that Government being a party thereto.

3. Persons belonging to or employed by any other organisation so specified which operates in connection with Her Majesty's naval, military or air forces.

5TH SCH.
—cont.

4. Persons who, for the purposes of their profession or employment, are attached to or accompany any of Her Majesty's naval, military or air forces in pursuance of an authorisation granted by or on behalf of the Admiralty, the Army Council or the Air Council.

5. Persons forming part of the family of members of any of Her Majesty's naval, military or air forces and residing with them or about to reside or departing after residing with them.

6. Persons forming part of the family of persons falling within paragraphs 1 to 4 of this Schedule and residing with them or about to reside or departing after residing with them.

7. Persons employed by members of any of Her Majesty's naval, military or air forces.

8. Persons employed by persons falling within paragraphs 1 to 6 of this Schedule.

9. Persons forming part of the family of persons falling within either of the last two foregoing paragraphs and residing with them or about to reside or departing after residing with them.

Section 208.

SIXTH SCHEDULE

APPLICATION OF MILITARY LAW TO ATTACHED MEMBERS OF NAVAL AND AIR FORCES

1.—(1) As respects the punishment of a person subject to military law by virtue of section two hundred and eight of this Act, the following adaptations shall have effect.

(2) References to forfeiture in the prescribed manner of seniority in the army or the corps to which the offender belongs shall be construed as references to forfeiture of seniority in his own service in such manner as may be prescribed by Rules of Procedure.

(3) In relation to members of any of Her Majesty's naval forces references to cashiering or discharge with ignominy shall be construed as references to dismissal with disgrace from Her Majesty's service, references to reduction to the ranks or any less reduction in rank shall be construed as references to disrating to an extent not greater than that which would have been authorised on conviction by a court-martial under the Naval Discipline Act, and paragraph (g) of subsection (2) of section seventy-two of this Act shall not apply.

2. For the purposes of the provisions of this Act relating to the constitution of courts-martial an officer subject to military law as aforesaid shall be treated as an officer belonging to Her Majesty's military forces of corresponding rank.

3. As respects the reconsideration of any sentence of a court-martial under this Act passed on a person subject to military law as aforesaid, the reference to the Army Council shall include a reference to his own Service Authority, and the functions of the authority required by those provisions to reconsider a sentence may be exercised by his own Service Authority.

4. As respects the review of a finding or award made on the summary disposal of a charge against a person subject to military law as aforesaid, references to the Army Council in the provisions of this Act relating to such reviews shall include references to his own Service Authority.

5. In proceedings under this Act against a person subject to military law as aforesaid any document which would have been evidence in the like proceedings under his own service law shall be evidence in like manner, subject to the like conditions and for the like purposes as in the first-mentioned proceedings.

6. In the application of this Act to a person subject to military law as aforesaid references to the regular forces shall include references to his own service, and references to any rank shall include references to the corresponding rank of his own service.

7. In relation to a person subject to military law as aforesaid subsection (3) of section one hundred and thirty-two of this Act shall have effect with the substitution for the period of three months therein mentioned of the period of three months next after the earliest date on which he is no longer subject either to military law or to his own service law.

8. In the application of sections one hundred and forty-four and one hundred and forty-nine of this Act to a person subject to military law as aforesaid references to a Royal Warrant shall include references to an Order in Council (if he is a member of any of Her Majesty's naval forces) or to an order under section two of the Air Force (Constitution) Act, 1917 (if he is a member of any of Her Majesty's air forces).

9. Sections one hundred and fifty to one hundred and fifty-two and one hundred and eighty of this Act shall not apply to a person subject to military law as aforesaid.

10. In this Schedule—

- (a) references to a person's own service shall be construed as references to the naval or air force to which he belongs,
- (b) references to a person's own service law shall be construed as references to the Naval Discipline Act or to air-force law, and
- (c) references to a person's own Service Authority shall be construed as references to the Admiralty or to the Air Council, according as he is a member of Her Majesty's naval forces or Her Majesty's air forces.

SEVENTH SCHEDULE

Section 210.

PROVISIONS AS TO ROYAL MARINES

PART I

ENLISTMENT, SERVICE AND DISCHARGE

1. The provisions of the four following paragraphs shall have effect in substitution for sections four to thirteen.

2.—(1) The terms for which persons may be enlisted to serve Her Majesty as men of the Royal Marines are the following.

7TH SCH.
--cont.

(2) A person who has attained the age of eighteen years may be enlisted either—

(a) for such term not exceeding twelve years, beginning with the date of his attestation, as may be authorised by order of the Admiralty, being a term wholly of service in the Royal Marines; or

(b) for such term beginning as aforesaid, not exceeding twelve years, as may be so authorised, being a term consisting as to so much thereof as may be provided by order of the Admiralty of service in the Royal Marines and as to the residue of service in the Royal Fleet Reserve.

(3) A person who has not attained the age of eighteen years may be enlisted either—

(a) for a term consisting wholly of service in the Royal Marines beginning with the date of his attestation and ending with the expiration of such period, not exceeding twelve years, beginning with the date on which he attains the age of eighteen years as may be authorised by order of the Admiralty; or

(b) for a term ending with the expiration of such period as aforesaid and consisting, as to so much thereof as may be specified by order of the Admiralty, of service in the Royal Marines and, as to the residue thereof, of service in the Royal Fleet Reserve.

(4) A marine enlisted for a term consisting partly of service in the Royal Marines and partly of service in the Royal Fleet Reserve may at any time before the expiration of his service in the Royal Marines elect to continue serving therein for the remainder of the term of his engagement, and thereupon shall be treated as if that engagement had been for service in the Royal Marines for the whole term thereof.

(5) The foregoing provisions of this paragraph shall not apply to persons enlisted in pursuance of the National Service Act, 1948.

3.—(1) Any marine may, if approved by his commanding officer or other competent authority as a fit person to continue in Her Majesty's service as a marine, be re-engaged for any period authorised by order of the Admiralty:

Provided that the aggregate of the terms of the first and second engagements shall not exceed twenty-two years.

(2) A marine shall on his re-engagement make a declaration, in such form as may be provided by regulations of the Admiralty, before a naval officer commanding any ship commissioned by Her Majesty or before the commanding officer of any unit or detachment of Royal Marines.

4.—(1) The following provisions shall have effect as to the prolongation of service of a marine.

(2) If the period for which, under his first or second engagement, a marine is required to serve in the Royal Marines expires while he is serving on any foreign station, that period may be prolonged for such further time, not exceeding two years, as the commanding officer on the station may direct.

(3) A marine completing the period for which, under his second engagement, he is required to serve in the Royal Marines may give notice to his commanding officer that he wishes to continue in Her Majesty's service as a marine, and thereupon, if his commanding officer or other competent authority approves, he may be continued in such service, but may at any time terminate it by not less than three months' notice given by him to his commanding officer.

(4) Her Majesty may by proclamation call upon marines or any class of marines serving in the Royal Marines to extend the period for which they are required to serve therein for five years, and any marine to whom such a proclamation relates may be required to serve for a period of five years from the time at which he would otherwise be entitled to be discharged or (as the case may be) transferred to the Royal Fleet Reserve, if his services are so long required, and while a proclamation under this sub-paragraph is in force no direction shall be given under sub-paragraph (2) of this paragraph as respects any marine to whom the proclamation relates.

5.—(1) The following provisions shall have effect as to the discharge and transfer to the Royal Fleet Reserve of marines serving in the Royal Marines.

(2) Save as hereinafter provided, a marine, upon becoming entitled to be discharged or transferred, shall be discharged or transferred with all convenient speed, but until discharged or transferred shall be treated as if his period of service in the Royal Marines had not come to an end.

(3) Where at the time a marine is entitled to be discharged or transferred he is serving on a foreign station, then subject to the provisions of the next following sub-paragraph he shall be returned with all convenient speed to the United Kingdom and shall there be discharged or transferred.

(4) If at the time at which he is entitled to be discharged a marine is serving in any part of Her Majesty's dominions outside the United Kingdom, then if he so elects and obtains the consent of his commanding officer and, through his commanding officer, the consent of the proper authority of the country where he is, the last foregoing sub-paragraph shall not apply and he shall be discharged in that country and shall not afterwards have any claim to be sent to the United Kingdom or elsewhere.

(5) Where a marine who has, or is reasonably suspected of having, committed an offence under the Naval Discipline Act is entitled to be discharged or transferred at a time before he has been tried and punished for the offence, section one hundred and thirty-one shall with the necessary modifications apply in relation to the offence as if references therein to a court-martial and to military law included references to a naval court-martial and to the Naval Discipline Act.

(6) Except in pursuance of a sentence of a court-martial (whether under this Act, the Naval Discipline Act or the Air Force Act, 1955), a marine shall not be discharged unless his discharge has been authorised by order of an officer appointed by the Admiralty for the purposes of this sub-paragraph or by authority direct from the Admiralty; and in any case the discharge of a marine shall be carried out in accordance with the provisions in that behalf made by order of the Admiralty.

7TH SCH.
—cont.

(7) Every marine shall on his discharge be given a certificate of discharge containing such particulars as may be prescribed by order of the Admiralty.

6. Subsections (1) and (2) of section three, sections fourteen and seventeen, and so much of Part II as relates to forfeiture of service, shall not apply to marines.

7. Section eighteen shall have effect, in relation to men of the Royal Marines, as if references to enlistment included references to re-engagement, and in relation to re-engagement references to the declaration mentioned in that section and to attestation or an attestation paper included references to the declaration required by sub-paragraph (2) of paragraph 3 of this Schedule.

8. References in section twenty to entry on a regular engagement shall be construed as references to being enlisted for any such term as is mentioned in head (a) or (b) of sub-paragraph (2) of paragraph 2 of this Schedule.

9. In the application of Part I of this Act to marines, for any reference to the minimum age for man's service there shall be substituted a reference to the age of seventeen years.

10. In this Part of this Schedule references to a marine include references to a non-commissioned officer.

PART II

MISCELLANEOUS ADAPTATIONS

11. In section forty the reference to the Army Council shall include a reference to the Admiralty.

12. Section seventy-two shall have effect as if in the scale set out in subsection (2) thereof there were inserted, after paragraph (k), the following paragraph:—

“(kk) forfeiture of good-conduct badges, either in addition to or in lieu of any other punishment.”

13. In the provisions of this Act relating to enlistment and attachment, references to the Admiralty shall be substituted for references to the Army Council.

14. In the provisions of this Act relating to the reconsideration of sentences the reference to the Army Council shall include a reference to the Admiralty, and the functions of the authority required by those provisions to reconsider a sentence may be exercised by the Admiralty.

15. In the provisions of this Act relating to the review of summary findings and awards references to the Army Council shall include references to the Admiralty.

16. In the provisions of this Act relating to confessions of desertion, to forfeitures of and deductions from pay, to evidence, and to the execution of orders and instruments, references to the Army Council and to a military authority shall include respectively references to the Admiralty and to a naval authority.

17. In the provisions of this Act relating to boards of inquiry and regimental inquiries references to the Army Council shall include references to the Admiralty.

18. In the provisions of this Act relating to forfeitures of and deductions from pay references to a Royal Warrant shall include references to an Order in Council; and in the provisions of this Act relating to compensation for loss occasioned by wrongful act or negligence the reference to the Army Council shall include a reference to the Admiralty.

19. Sections one hundred and fifty to one hundred and fifty-two shall not apply to officers, non-commissioned officers and men of the Royal Marines, the Royal Marine Forces Volunteer Reserve, the Royal Fleet Reserve or the Royal Marine Emergency Reserve.

20. The following shall be substituted for section one hundred and eighty:—

“If an officer thinks himself wronged in any matter by a superior officer or authority and on application to his commanding officer does not obtain the redress to which he thinks he is entitled he may make a complaint with respect to that matter to the Admiralty, and it shall be the duty of the Admiralty to enquire into the complaint and to grant any redress which appears to them to be necessary.”

21. In the provisions of this Act relating to reduction in rank of non-commissioned officers the references to the Army Council shall include references to the Admiralty.

22. In this Act the expression “the regular forces” does not include officers, non-commissioned officers, or marines of the Royal Marine Forces Volunteer Reserve, the Royal Fleet Reserve or the Royal Marine Emergency Reserve; but the provisions of section two hundred and eleven shall apply—

- (a) to such officers as they apply to officers of any reserve of officers,
- (b) to such non-commissioned officers and marines as they apply to non-commissioned officers and men of the army reserve.

PART III

TRANSFERS

23. A non-commissioned officer or marine of the Royal Marines may, with his consent, at any time be transferred by joint order of the Admiralty and the Army Council to another corps of the regular forces; and a warrant officer, non-commissioned officer or soldier serving in a corps of the regular forces other than the Royal Marines may, with his consent, at any time be transferred by such an order to the Royal Marines.

24. Where a person is in pursuance of the last foregoing paragraph transferred to the Royal Marines, the Admiralty, and where a person is so transferred to another corps, the Army Council, may by order vary the conditions of his service so as to conform to such conditions of service in the corps to which he is transferred as correspond, as nearly as may be, with the conditions of his service immediately before the transfer.

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Act of Settlement	12 & 13 Will. 3. c. 2.
Lunacy (Scotland) Act, 1862... ..	25 & 26 Vict. c. 54.
Naval Discipline Act	29 & 30 Vict. c. 109.
Capital Punishment Amendment Act, 1868... ..	31 & 32 Vict. c. 24.
Bastardy Laws Amendment Act, 1872	35 & 36 Vict. c. 65.
Lunacy Act, 1890	53 & 54 Vict. c. 5.
Larceny Act, 1916	6 & 7 Geo. 5. c. 50.
Air Force (Constitution) Act, 1917	7 & 8 Geo. 5. c. 51.
Maintenance Orders (Facilities for Enforcement) Act, 1920.	10 & 11 Geo. 5. c. 33.
Guardianship of Infants Act, 1925	15 & 16 Geo. 5. c. 45.
Road Traffic Act, 1930	20 & 21 Geo. 5. c. 43.
National Service Act, 1948	11 & 12 Geo. 6. c. 64.
Ireland Act, 1949	12, 13 & 14 Geo. 6. c. 41.
Justices of the Peace Act, 1949	12, 13 & 14 Geo. 6. c. 101.
Army Reserve Act, 1950	14 Geo. 6. c. 32.
Courts-Martial (Appeals) Act, 1951	14 & 15 Geo. 6. c. 46.
Home Guard Act, 1951	15 & 16 Geo. 6. & 1 Eliz. 2. c. 8.
Prisons Act, 1952	15 & 16 Geo. 6. & 1 Eliz. 2. c. 52.
Magistrates' Courts Act, 1952	15 & 16 Geo. 6. & 1 Eliz. 2. c. 55.
Prisons (Scotland) Act, 1952	15 & 16 Geo. 6. & 1 Eliz. 2. c. 61.
Auxiliary Forces Act, 1953	1 & 2 Eliz. 2. c. 50.

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