

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Armed Forces Act 1976, SCHEDULE 9. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 9

Section 22.

#### MISCELLANEOUS AMENDMENTS

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

- C1** The text of ss. 2, 5(1), 9–12, 15, 16, 18, 20, 22(5)(6), Schs. 1, 2, and 4–10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

##### *Criminal Evidence Act 1898*

- 1 In section 6(1) of the <sup>M1</sup> Criminal Evidence Act 1898 after the words “1957” there shall be inserted the words “and in Standing Civilian Courts established under the Armed Forces Act 1976”.

##### Marginal Citations

- M1** 1898 c. 36.

- 2 ..... <sup>F1</sup>

##### Textual Amendments

- F1** Sch. 9 para. 2 repealed by S.I. 1979/1714 (N.I.19), Sch. 2

##### *Army Act 1955 and Air Force Act 1955*

- 3 In section 86 of the <sup>M2</sup> Army Act 1955 and section 86 of the <sup>M3</sup> Air Force Act 1955 (officers having power to convene courts-martial) subsection (4) (which is inconsistent with amendments made to subsection (1) by the <sup>M4</sup> Armed Forces Act 1971) shall cease to have effect.

##### Marginal Citations

- M2** 1955 c. 18.  
**M3** 1955 c.19.  
**M4** 1971 c. 33.

- 4 The following section shall be inserted after section 198 of each of those Acts:—

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**“198A Provision as to age.**

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

5 The following paragraphs shall be substituted for paragraph (a) of subsection (3) of section 209 of each of those Acts (application to civilians):—

“(a) on a trial—

(i) a court-martial may award the punishments specified in paragraphs (a), (b) and (h) of section 71(1) above, except that section 71(5)(a) above shall not apply to the amount of a fine ;

(ii) a Standing Civilian Court established under the Armed Forces Act 1976 may award any punishment authorised for such courts by section 8 of that Act ; and

(iii) a court-martial or Standing Civilian Court may make any order authorised by Schedule 5A below;

(aa) any such order shall be treated as a punishment for the purposes of this Act ;

(ab) paragraph 15 of Schedule 5A below shall have effect in substitution for the words in section 71(1) above from “and references in this Act” to the end ;”.

6 The following subsection shall be inserted after subsection (3) of each of those sections:—

“(3A) In their application to any area for which Standing Civilian Courts are established under the Armed Forces Act 1976—

(a) section 75(2) above shall have effect as if references to the assembling of a court-martial for a person’s trial included references to his being brought before a Standing Civilian Court;

(b) section 103(1) above shall have effect—

(i) as if the words “with respect to the hearing by courts-martial of appeals pursuant to paragraph 18 of Schedule 3 to the Armed Forces Act 1976 against finding and sentences of Standing Civilian Courts established under that Act” were inserted after the word “authorities”; and

(ii) as if the words “and may prescribe modifications of sections 76, 77, 79 and 80 above in relation to charges which may be tried by Standing Civilian Courts and which are brought against persons whom such courts may try” were added at the end; and

(c) subsection (3) above shall have effect in relation to charges which may be tried by Standing Civilian Courts and which are brought against persons whom such courts may try, but without prejudice to its effect in relation to other charges, as if the following paragraph were substituted for paragraph (e):—

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- (e) sections 76, 77, 79 and 80 above shall apply as they apply to officers and warrant officers, subject to such modifications consequential on the establishment of Standing Civilian Courts as may be prescribed by Rules of Procedure and by any order under paragraph 12 of Schedule 3 to the Armed Forces Act 1976 ;”.

7 The following subsections shall be substituted for subsection (4) of each of those sections. -

“(4) A fine awarded against any person by virtue of this section by a court-martial, a Standing Civilian Court or the appropriate superior authority, and a sum which an order under paragraph 11 of Schedule 5A below requires any person to pay shall be recoverable, in the United Kingdom or any colony, as a debt due to Her Majesty.

(4A) The registration of a financial penalty enforcement order under section 133A above shall not affect the power of recovery in a colony conferred by subsection (4) above.

(4B) Section 199 above shall apply to persons such as are mentioned in subsection (1) or (2) above, is it applies to persons subject to military law.”.

8 Section 215 of the <sup>M5</sup> Army Act 1955 and section 213 of the <sup>M6</sup> Air Force Act 1955 (application to Northern Ireland) shall have effect subject to the following amendments:—

(a) in subsection (7), for the words “Minister of Home Affairs” there shall be substituted the words “Department of Health and Social Services” and for the words from “county inspector” onwards there shall be substituted the words “chief superintendent of the Royal Ulster Constabulary or any other officer having a rank equivalent to chief superintendent”; and

(b) in subsection (8) for the words from “six” onwards there shall be substituted the words “75 of the Road Traffic Act (Northern Ireland) 1970 or any corresponding enactment for the time being in force in Northern Ireland”.

#### Marginal Citations

**M5** 1955 c. 18.

**M6** 1955 c. 19.

9 ..... F2

#### Textual Amendments

**F2** Sch. 9 para. 9 repealed (with saving) by Armed Forces Act 1981 (c. 55, SIF 7:1), s. 28(2), Sch. 5 Pt. I

#### Naval Discipline Act 1957

10 The following subsection shall be inserted after section 118(3A) of the <sup>M7</sup> Naval Discipline Act 1957 (application to civilians):—

“(3B) On the trial of such a person a court-martial may make an order authorised by Schedule 4A below, and any such order shall be treated as a punishment for the purposes of this Act.”

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**Marginal Citations**

M7 1957 c. 53.

11 The following section shall be inserted after section 129D of that Act:—

**“129E Provision as to age.**

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

12 ..... F3

**Textual Amendments**

F3 Sch. 9 para. 12 repealed by Armed Forces Act 1981 (c. 55, SIF 7:1), s. 28, Sch. 5 Pt. II

13 In Schedule 3 to that Act (classes of civilians subject to Act) the heading (which is inconsistent with amendments made to section 118(2) by the Armed Forces Act 1966) shall be changed to “Persons subject to Act outside the United Kingdom”.

14 In Schedule 4 to that Act (application of Act to civilians subject to it)—  
(a) in paragraph 1 for the words from “and paragraphs” to the end there shall be substituted the words “and in relation to such persons—  
(i) paragraphs (e) to (m) of section 43(1) above shall be omitted; and  
(ii) paragraph 15 of Schedule 4A below shall have effect in substitution for the words in that subsection from “and references in this Act” to the end ” ; and  
(b) the following paragraph shall be added after paragraph 4:—  
“5 Section 129B above shall apply to a person to whom this Act applies by virtue of section 118 above, as it applies to a person subject to this Act.”

*Criminal Justice Act 1967*

15 In section 89(1) of the <sup>M8</sup> Criminal Justice Act 1967 (false written statements tendered in evidence) after the word “Act” there shall be inserted the words “or in proceedings before a court-martial by virtue of the said section 9 as extended by section 12 above or by section 99A of the Army Act 1955 or section 99A of the Air Force Act 1955”.

**Marginal Citations**

M8 1967 c. 80.

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*Courts-Martial (Appeals) Act 1968*

16 The following subsection shall be inserted after section 8(1) of the<sup>M9</sup> Courts-Martial (Appeals) Act 1968 (right of appeal):—

“(IA) An appeal may also be brought, with the leave of the Appeal Court,—

- (a) by a person convicted by a court-martial, against an order under paragraph 6, 10 or 11 of Schedule 5A to the Army Act, Schedule 5A to the Air Force Act or Schedule 4A to the Naval Discipline Act (reception orders, custodial orders and compensation orders), and
- (b) by a person on whom a fine is imposed or against whom a compensation order is made under paragraph 13 of any of those Schedules (parents and guardians subject to service jurisdiction).”.

**Marginal Citations**

**M9** 1968 c. 20.

17 The following section shall be inserted after section 17 of that Act:—

**“17A Appeals by civilians—supplementary.**

Any reference to a sentence in section 13, 14, 15, 16A or 17 above includes a reference to an order under Schedule 5A to the Army Act, Schedule 5A to the Air Force Act or Schedule 4A to the Naval Discipline Act, but the exercise of the power conferred by sections 13, 14, 15 and 16A above shall be subject to the restrictions contained in paragraph 15 of each of those Schedules.”.

*Treatment of Offenders Act (Northern Ireland) 1968*

18 In section 33(4)(b) of the<sup>M10</sup> Treatment of Offenders Act (Northern Ireland) 1968 after the words “court-martial” there shall be inserted the words “or a Standing Civilian Court established under the Armed Forces Act 1976”.

**Marginal Citations**

**M10** 1968 c. 29 (N.I.).

19 ..... **F4**

**Textual Amendments**

**F4** Sch. 9 para. 19 repealed by Representation of the People Act 1983 (c. 2, SIF 42), s. 206, Sch. 9

*Rehabilitation of Offenders Act 1974*

20 (1) In subsection (1) of section 2 of the Rehabilitation of Offenders Act 1974 after the word “awarded” there shall be inserted the words “or order made by virtue of Schedule 5A to the Army Act 1955 or to the Air Force Act 1955 or Schedule 4A to the Naval Discipline Act 1957”.

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- (2) In subsection (2) of that section after the word “applies” in the first place where it occurs, there shall be inserted the words “, subject to section 17 of the Armed Forces Act 1976 (rehabilitation of civilians),”.
- (3) The following paragraph shall be inserted after subsection (5)(b) of that section:—
- “(bb) any proceedings before a Standing Civilian Court established under the Armed Forces Act 1976 ;”.
- (4) In paragraph (d) of section 5(1) of that Act (sentences excluded from rehabilitation) at the end of the paragraph there shall be inserted the words “or a corresponding court-martial punishment”.
- (5) The following subsection shall be inserted after that subsection:—
- “(IA) In subsection (1)(d) above “corresponding court martial punishment” means a punishment awarded under section 71A(3) or (4) of the Army Act 1955, section 71A(3) or (4) of the Air Force Act 1955 or section 43A(3) or (4) of the Naval Discipline Act 1957.”.
- 21 (1) The following entries shall be made in Table B in subsection (2) of section 5 of that Act (rehabilitation periods for particular sentences):—
- (a) after the entry relating to a sentence of Borstal training—
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- “A custodial order under Schedule 5A to the Army Act 1955 or the Air Force Act 1955, or under Schedule 4A to the Naval Discipline Act 1957, where the maximum period of detention specified in the order is more than six months.      Seven years.”;
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- (b) after the entry relating to an order for detention in a detention centre:—
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- “A custodial order under any of the Schedules to the said Acts of 1955 and 1957 mentioned above, where the maximum period of detention specified in the order is six months or less.      Three years.”.
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- (2) The following paragraphs shall be added after subsection (5)(f) of that section:—
- “(g) a community supervision order under Schedule 5A to the Army Act 1955 or the Air Force Act 1955, or under Schedule 4A to the Naval Discipline Act 1957;
- (h) a reception order under any of those Schedules;”.
- (3) The following subsection shall be inserted after subsection (10) of that section:—
- “(10A) The reference in subsection (5) above to the period during which a reception order has effect includes a reference to any subsequent period during which by virtue of the order having been made the Social Work (Scotland) Act 1968 or the Children and Young Persons Act Northern Ireland) 1968 has effect in relation to the person in respect of whom the order was made and subsection (10) above shall accordingly have effect in relation to any such subsequent period.”

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*Treatment of Offenders (Northern Ireland) Order 1976*

- 22 In Article 2(2) of the <sup>M11</sup> Treatment of Offenders (Northern Ireland) Order 1976, in the definition of “court” after the words “court-martial” there shall be inserted the words “ or a Standing Civilian Court established under the Armed Forces Act 1976”.

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**Marginal Citations**

**M11** Northern S.I. [1976 No. 226](#) (N.I.4).

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