

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Armed Forces Act 1986 (repealed), SCHEDULE 1. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 16(1).

#### CORRECTION OF MINOR DEFICIENCIES IN SERVICES ACTS

##### *References to summary sentence for offence in relation to court-martial*

- 1 (1) Each of the 1955 Acts shall have effect, and shall be deemed always to have had effect, with the following amendments (being amendments relating to the effect of a summary sentence for an offence in relation to a court-martial), namely—
  - (a) in subsections (3) and (4) of section 71 (certain sentences to be accompanied by dismissal or reduction to the ranks), before the word “sentenced”, in the first place where it occurs in each of those subsections, there shall be inserted the words “ who, otherwise than under section 57(2) of this Act, is ”;
  - (b) in the proviso to section 107(2) (which qualifies the provision requiring confirmation of a finding or sentence of a court-martial), after the word “not” there shall be inserted the words “ require a sentence under section 57(2) of this Act to be confirmed or ”;
  - (c) in section 108 (petitions against finding or sentence), after the word “completed” there shall be inserted the words “ or, in the case of a sentence under section 57(2) of this Act, after the award of the sentence ”; and
  - (d) in section 113(1) (review of findings and sentences which have been confirmed—
    - (i) after the word “confirmed” there shall be inserted the words “ or a sentence under subsection (2) of section 57 of this Act ”; and
    - (ii) for the words from “after confirmation” to “against the” there shall be substituted the words “ a petition is duly presented under section 108 of this Act against a ”.
- (2) Subsections (3) and (4) of section 43 of the 1957 Act (certain sentences to be accompanied by dismissal or disrating) shall have effect, and shall be deemed always to have had effect, as if before the word “sentenced”, in the first place where it occurs in each of those subsections, there were inserted the words “ who, otherwise than under section 38(3) of this Act, is ”.
- (3) In section 70 of the 1957 Act (review of finding and sentence)—
  - (a) in subsection (1) after the words “such a finding” there shall be inserted the words “ or under section 38(3) of this Act ”; and
  - (b) in subsection (2), for the words “or found thereunder” there shall be substituted the words “ sentenced under section 38(3) of this Act or found under section 63(1) of this Act ”.

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*Correction of wrong cross-reference in provision relating to custodial orders*

- 2 Subsection (3A) of section 38 of the 1957 Act (which, for the purpose of modifying a reference to a power to impose a sentence of imprisonment, refers to subsection (2) of that section) shall have effect, and shall be deemed always to have had effect, as if for the words “subsection (2)” there were substituted the words “ subsection (3) ”.

*Punishment for civil offences*

- 3 In section 42(1)(c) of the 1957 Act (maximum punishment for civil offence to be same as could be imposed on the offender by a civil court), the words “on the offender” shall be omitted.

*Position of custodial orders in scale of punishments*

- 4 In section 71 of each of the 1955 Acts and in section 43 of the 1957 Act (scale of punishments and supplementary provisions), for the proviso in subsection (1) there shall be substituted the following proviso—

“Provided that a punishment such as is mentioned in paragraph (e) of this subsection shall not be treated as a less punishment than a punishment such as is mentioned in paragraph (b) or (bb) if the term of detention is longer than the term of imprisonment or, as the case may be, than the term of detention by virtue of the custodial order.”

*Consecutive periods of detention under custodial order etc.*

- 5 (1) The 1955 Acts and the 1957 Act shall have effect in relation to the making of a custodial order at any time after the coming into force of this paragraph with the following amendments (being amendments which enable a period of detention under a custodial order to run consecutively with another such period and, except where the order is made under either of the 1955 Acts by a Standing Civilian Court, to exceed two years.
- (2) For subsection (5) of section 71AA of each of the 1955 Acts there shall be substituted the following subsection—
- “(5) The following provisions of this Act shall apply in the case of a sentence under a custodial order as they apply in the case of a sentence of imprisonment, that is to say—
- (a) sections 71(3) and (4), 118(1), 118A(1) and (3), 119A(3) and 145; and
- (b) for the period before a person sentenced under a custodial order is received into the institution where he is to be detained (or for the currency of the sentence if its term ends before he is so received), sections 119(2), (4) and (5), 122, 123, 129, 142 and 190B;
- and, accordingly, references in those provisions to a sentence of imprisonment shall include for the purposes of this subsection references to a sentence under a custodial order.”
- (3) For sub-paragraph (5A) of paragraph 10 of Schedule 5A to each of the 1955 Acts there shall be substituted the following sub-paragraph—

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“(5A) The following provisions shall apply in the case of a sentence under a custodial order as they apply in the case of a sentence of imprisonment by the same court, that is to say—

- (a) where the court is a court-martial, sections 118(1) and 118A(1) and (3) of this Act; and
- (b) where the court is a Standing Civilian Court, section 8(2) of the Armed Forces Act 1976;

and, accordingly, references in those provisions to a sentence of imprisonment shall include for the purposes of this sub-paragraph references to a sentence under a custodial order.”

- (4) In sub-paragraph (5B) of each of the paragraphs amended by sub-paragraph (3) above, for the word “detention” there shall be substituted the word “imprisonment”.
- (5) For subsection (5) of section 43AA of the 1957 Act there shall be substituted the following subsection—

“(5) The following provisions of this Act shall apply in the case of a sentence under a custodial order as they apply in the case of a sentence of imprisonment, that is to say—

- (a) sections 43(3) and (4), 85(1), 86(1) and (3), 89(3) and 92(1); and
- (b) for the period before a person sentenced under a custodial order is received into the institution where he is to be detained (or for the currency of the sentence if its term ends before he is so received), sections 81, 82, 87, 88, 104, 119 and 130A;

and, accordingly, references in those provisions to a sentence of imprisonment shall include for the purposes of this subsection references to a sentence under a custodial order.”

- (6) For sub-paragraph (5A) of paragraph 10 of Schedule 4A to the 1957 Act there shall be substituted the following sub-paragraph—

“(5A) The following provisions of this Act shall apply in the case of a sentence under a custodial order as they apply in the case of a sentence of imprisonment, that is to say—

- (a) sections 85(1), 86(1) and (3) and 92(1); and
- (b) for the period before a person sentenced under a custodial order is received into the institution where he is to be detained (or for the currency of the sentence if its term ends before he is so received), sections 81, 82, 87, 88, 104, 119 and 130A;

and, accordingly, references in those provisions to a sentence of imprisonment shall include for the purposes of this sub-paragraph references to a sentence under a custodial order.”

*Correction of modification of section 132(3) of each of the 1955 Acts*

- 6 (1) In paragraph 7 of Schedule 6 to the <sup>M</sup>Army Act 1955 (which provides for the limitation of time for trial of attached members of Her Majesty’s naval or air forces), for the words from “substitution” onwards there shall be substituted the words “substitution for references to military law of references to service law.”

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- (2) In paragraph 7 of Schedule 6 to the <sup>M2</sup>Air Force Act 1955 (which provides for the limitation of time for trial of attached members of Her Majesty’s naval or military forces), for the words from “substitution” onwards there shall be substituted the words “ substitution for references to air-force law of references to service law. ”

**Marginal Citations**

**M1** 1955 c. 18.

**M2** 1955 c. 19.

*Financial penalties enforcement orders*

- 7 (1) Section 133A of each of the 1955 Acts and section 128F of the 1957 Act (financial penalty enforcement orders) shall be amended as follows.
- (2) For paragraph (b) of subsection (1) there shall be substituted the following paragraph—
- “(b) the penalty was—
- (i) a fine awarded in respect of a qualifying offence (or in respect of such an offence together with other offences) on the conviction of a qualifying offence either of that person or of the person as whose parent or guardian that person is to pay the penalty; or
- (ii) stoppages or a compensation order awarded in respect of a qualifying offence, (whether on the conviction of any person of the offence or on a request by any person for the offence to be taken into consideration); and”
- (3) In subsection (4)(d) (contents of certificate), for the words “charge or charges” there shall be substituted the words “ offence or offences ”.
- (4) After subsection (10) there shall be inserted the following subsection—
- “(11) Where a fine has been awarded together with stoppages or a compensation order, this section shall have effect in relation to the fine and to the stoppages or compensation order as if they were separate penalties.”

*Application of 1957 Act to passengers on board H.M. vessels*

- 8 In section 117 of the 1957 Act (application of Act to passengers on board H.M. ships), after the word “ships” there shall be inserted the word “ ,vessels ”.

*Deductions from naval pay*

- 9 (1) Section 128A of the 1957 Act shall have effect, and shall be deemed always to have had effect, as if—
- (a) in subsection (1) (which limits the deductions that may be made from pay), for the words from “by Her Majesty by an Order in Council made under this section” onwards there were substituted the words “ by or under an Order in Council made under the <sup>M3</sup>Naval and Marine Pay and Pensions Act 1865”; ”

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- (b) in subsection (2) (Orders in Council not to authorise penal deductions), for the words “An Order in Council under this section” there were substituted “Such an Order in Council”; and
  - (c) in subsection (3) (power to make supplemental provision with respect to deductions), for the words “Her Majesty may by Order in Council under this section and” there were substituted the words “and without prejudice to the power conferred on Her Majesty in Council by section 3 of the said Act of 1865”.
- (2) Accordingly, section 128D of the 1957 Act (remission of deductions) shall have effect, and shall be deemed always to have had effect, as if for the words “under an Order in Council made under section 128A above” there were substituted the words “by or under an Order in Council made under section 3 of the Naval and Marine Pay and Pensions Act 1865”.
- (3) For the purposes of deductions made before the coming into force of this paragraph from the pay of persons subject to the 1957 Act the reference in subsection (3) of the said section 128A to a deduction authorised by Act shall be deemed at all relevant times to have included a reference to the deduction of a sum due to the Crown.

#### Marginal Citations

M3 1865 c. 73.

#### *Construction of references to the holding of a commission*

- 10 (1) Section 225 of the <sup>M4</sup>Army Act 1955 and section 223 of the <sup>M5</sup>Air Force Act 1955 (general interpretation) shall each have effect, and be deemed always to have had effect, as if before subsection (2) there were inserted the following subsection—
- “(1C) References in this Act, in relation to any of Her Majesty’s forces, to an officer holding a commission include references to a person to whom a commission is required to be issued; and for the purposes of this Act, where a commission issued to any person takes effect from a date earlier than the date of its issue, that earlier date shall be conclusively presumed to be the date on which the requirement to issue the commission arose.”
- (2) Section 135 of the 1957 Act (general interpretation) shall have effect, and be deemed always to have had effect, as if after subsection (2) there were inserted the following subsection—
- “(2A) References in this Act, in relation to any of the armed forces of the Crown, to an officer holding a commission include references to a person to whom a commission is required to be issued; and for the purposes of this Act, where a commission issued to any person takes effect from a date earlier than the date of its issue, that earlier date shall be conclusively presumed to be the date on which the requirement to issue the commission arose.”

#### Marginal Citations

M4 1955 c. 18.

M5 1955 c. 19.

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*Awards against parents and guardians*

- 11 Sub-paragraph (1) of paragraph 13 of Schedule 5A to each of the 1955 Acts (fines and compensation orders against parents and guardians) shall have effect, and shall be deemed to have had effect since the coming into force of paragraph 9 of Schedule 8 to the <sup>M6</sup>Criminal Justice Act 1982, as if for paragraphs (a) and (b) (which were contained in the amendment of the said paragraph 13 made by the said paragraph 9) there were substituted the following paragraphs—

- “(a) a civilian under 17 years of age is found guilty of an offence; and  
 (b) the court is of the opinion that the case would best be met (whether or not in conjunction with any other punishment) by the exercise of any power of the court to impose a fine in respect of the offence or to make a compensation order in respect of the offence or of any other offence taken into consideration in determining sentence.”

**Marginal Citations**

**M6** 1982 c. 48.

*Application to 1957 Act of Amendments of 1955 Acts made by Criminal Justice Act 1982*

- 12 (1) Schedule 4A to the 1957 Act (powers of court on trial of civilian) shall have effect with the following amendments (being amendments which correspond to those made in Schedule 5A to each of the 1955 Acts by paragraphs 9, 10 and 11 of Schedule 8 to the Criminal Justice Act 1982 and by paragraph 11 above).

- (2) In paragraph 13, for sub-paragraphs (1) and (2) there shall be substituted the following sub-paragraphs—

“(1) Where—

- (a) a civilian under 17 years of age is found guilty of any offence; and  
 (b) the court is of the opinion that the case would best be met (whether or not in conjunction with any other punishment) by the exercise of any power of the court to impose a fine in respect of the offence or to make a compensation order in respect of the offence or any other offence taken into consideration in determining sentence,

it shall be the duty of the court to order that the fine or compensation awarded be paid by any parent or guardian of his who is a service parent or guardian, instead of by the person himself, unless the court is satisfied—

- (i) that the parent or guardian cannot be found; or  
 (ii) that it would be unreasonable to make an order for payment, have regard to the circumstances of the case.

- (2) An order under this paragraph may be made against the parent or guardian if—

- (a) he has been required to attend in the manner prescribed by General Orders under section 58 of this Act, and  
 (b) he has failed to do so,

but, save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.”

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- (3) In paragraph 14(1), for “£50” there shall be substituted “ £500 ”.
- (4) In paragraph 15(3)—
  - (a) in the second column of the Table, in paragraph 2, for the word “Imprisonment” there shall be substituted the words “ Custody for life ”; and
  - (b) in paragraph (i) of the Note following the Table for the word “imprisonment” there shall be substituted the words “ custody for life ”.
- (5) Sub-paragraph (3) above has effect only in relation to offences committed after the coming into force of this paragraph.

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