

Status: Point in time view as at 02/10/2000.

Changes to legislation: There are currently no known outstanding effects for the Armed Forces Discipline Act 2000 (repealed), Cross Heading: Commencement and suspension of sentences. (See end of Document for details)

SCHEDULES

SCHEDULE 3

AMENDMENTS OF 1955 ACTS AND 1957 ACT RELATING TO SUMMARY APPEAL COURTS

Commencement and suspension of sentences

- 8 In section 118 of each of the 1955 Acts (commencement of sentences) in subsection (1)—
- (a) after “detention” there is inserted “ awarded by a court-martial ”, and
 - (b) the words from “or, as the case may be” onwards are omitted.
- 9 After section 118 of each of the 1955 Acts there is inserted—

“118ZA Commencement of sentence of detention awarded by commanding officer.

- (1) Subject to the following provisions of this Part of this Act, subsections (2) to (4) below apply to a sentence of detention awarded by the offender’s commanding officer.
 - (2) If the offender so elects at the time of the award, his sentence shall begin to run from the day on which it is awarded.
 - (3) If the offender does not make an election under subsection (2) above or, having made such an election, withdraws it during the appeal period, his sentence or, in the case of withdrawal, the remainder of his sentence shall be suspended by virtue of this subsection—
 - (a) until the end of the appeal period, or
 - (b) where an appeal is brought within the appeal period, until the determination of the appeal.
 - (4) Where an appeal is brought—
 - (a) within the appeal period, by an offender who has made an election under subsection (2) above which has not been withdrawn, or
 - (b) after the end of the appeal period, by any offender,the remainder of his sentence shall be suspended by virtue of this subsection until the determination of the appeal.
 - (5) In this section “the appeal period” means the period within which an appeal may be brought under section 83ZE(2) of this Act.”
- 10 (1) Section 85 of the 1957 Act (commencement of sentences) is amended as follows.
- (2) In subsection (1) for “under this Act” there is substituted “ by a court-martial ”.
 - (3) Subsection (2) is omitted.
- 11 After section 85 of the 1957 Act there is inserted—

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“85A Sentence of detention awarded on summary trial.

- (1) Subject to the following provisions of this Part of this Act, subsections (2) to (5) below apply to a sentence of detention awarded on summary trial.
- (2) If the offender so elects at the time of the award, his sentence shall begin to run from the day on which it is awarded.
- (3) For the purposes of subsection (2) above, a sentence shall be taken to be awarded on the day on which the warrant specifying the sentence, as approved in accordance with regulations made by the Defence Council, is read to the offender or, if the offender has been detained in custody since the signature of that warrant by the officer by whom he was tried, on the first day on which he was so detained.
- (4) If the offender does not make an election under subsection (2) above or, having made such an election, withdraws it during the appeal period, his sentence or, in the case of withdrawal, the remainder of his sentence shall be suspended by virtue of this subsection—
 - (a) until the end of the appeal period, or
 - (b) where an appeal is brought within the appeal period, until the determination of the appeal.
- (5) Where an appeal is brought—
 - (a) within the appeal period, by an offender who has made an election under subsection (2) above which has not been withdrawn, or
 - (b) after the end of the appeal period, by any offender,the remainder of his sentence shall be suspended by virtue of this subsection until the determination of the appeal.
- (6) In this section “the appeal period” means the period within which an appeal may be brought under section 52FK(2) of this Act.”

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