NAVY

[*See* also EDUCATION, E. & W., p. 1544 above.]

The Criminal Justice Act, 1948 (Adaptation of Naval Discipline Act) Order, 1949

1949 No. 597

Made - - - - 29*th March*, 1949
Coming into Operation 18*th April*, 1949

At the Court at Buckingham Palace, the 29th day of March, 1949

Present,

The King's Most Excellent Majesty in Council

Whereas by Sub-section (1) of Section 1 of the Criminal Justice Act, 1948(a), it is enacted that no person shall be sentenced by a court to penal servitude and that every enactment conferring power on a court to pass a sentence of penal servitude in any case shall be construed as conferring power to pass a sentence of imprisonment for a term not exceeding the maximum term of penal servitude for which a sentence could have been passed in that case immediately before the commencement of that Act:

And Whereas by Sub-section (2) of Section 1 of the said Act it is enacted that no person shall be sentenced by a court to imprisonment with hard labour and that every enactment conferring power on a court to pass a sentence of imprisonment with hard labour in any case shall be construed as conferring power to pass a sentence of imprisonment for a term not exceeding the term for which a sentence of imprisonment with hard labour could have been passed in that case immediately before the commencement of the said Act and that so far as any enactment requires or permits prisoners to be kept to hard labour it shall cease to have effect:

And Whereas by Section 2 of the said Act it is enacted that no person shall be sentenced by a court to whipping and that so far as any enactment confers power on a court to pass a sentence of whipping it shall cease to have effect:

And Whereas by Sub-section (1) of Section 73 of the said Act it is enacted (*inter alia*) that His Majesty may by Order in Council make provision for applying Sections 1 and 2 of the said Act to courts-martial under the Naval Discipline Act and may by Order in Council make such adaptations and modifications of the Naval Discipline Act as His Majesty considers necessary or expedient in consequence of the passing of those Sections:

And Whereas by Sub-section (2) of the said Section 73 it is enacted (*inter alia*) that any Order in Council made under the said Section may specify the date on which such adaptations or modifications shall come into force in any place and that the statutory provisions regarding the construction and printing of amendments to the Naval Discipline Act shall apply to any such adaptations and modifications as if they were amendments made by an Act:

And Whereas by virtue of the Criminal Justice Act, 1948 (Date of Commencement) Order, 1948(b), Section 2 of the Criminal Justice Act, 1948(a), came into operation on the thirteenth day of September, 1948, by virtue of

(a) 11 & 12 Geo. 6. c. 58. (b) S.I. 1948 (No. 1840) I, p. 584.

the Criminal Justice Act, 1948 (Date of Commencement) (No. 2) Order, 1949(a), Section 73 of the said Act came into operation on the fourteenth day of March, 1949, and by virtue of the Criminal Justice Act, 1948 (Date of Commencement) Order, 1949(b), Section 1 of the said Act will come into operation on the eighteenth day of April, 1949 :

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1.—(1) This Order may be cited as the Criminal Justice Act, 1948 (Adaptation of Naval Discipline Act) Order, 1949.

(2) This Order shall come into operation in all places on the eighteenth day of April, 1949.

2. Sections one and two of the Criminal Justice Act, 1948(c), shall apply in relation to courts-martial under the Naval Discipline Act as they apply in relation to other courts ; and accordingly the Naval Discipline Act shall have effect subject to the adaptations and modifications set out in the Schedule to this Order.

3. The provisions of the Eighth Schedule to the Criminal Justice Act, 1948(c) (which contains transitory provisions consequential on that Act), shall, so far as they relate to penal servitude and to hard labour, apply in relation to courts-martial wherever held, as they apply in relation to the courts therein referred to.

SCHEDULE

Section, etc., of Naval Discipline Act.	*Adaptation or Modification.*
10	For the words " penal servitude " there shall be substituted the words " imprisonment exceeding two years ".
11	After the word " imprisonment " there shall be inserted the words " not exceeding two years ".
14, 15 and 16	In each Section, for the words " penal servitude " there shall be substituted the words " imprisonment exceeding two years ".
18	After the word " imprisonment " there shall be inserted the words " not exceeding two years ".
19	In Sub-Section (2), for the words " penal servitude " there shall be substituted the words " imprisonment exceeding two years ".
20 and 22	In each Section, after the word " imprisonment " there shall be inserted the words " not exceeding two years ".

(a) S.I. 1949 No. 372, p. 1256 above. (b) S.I. 1949 No. 139, p. 1249 above.
(c) 11 & 12 Geo. 6. c. 58.

Section, etc., of Naval Discipline Act.	*Adaptation or Modification.*
23	After the word "imprisonment" where it first occurs there shall be inserted the words "not exceeding two years".
33 and 36	After the word "imprisonment" there shall be inserted the words "not exceeding two years".
44	For the words "penal servitude" there shall be substituted the words "imprisonment exceeding two years".
45	For the words "penal servitude" wherever they occur there shall be substituted the words "imprisonment exceeding two years".
46A	In Sub-Section (2) the words "penal servitude" shall be omitted.
51	After the word "imprisonment" there shall be inserted the words "not exceeding two years".
52	In No. (2) of the scale of punishments, for the words "penal servitude" there shall be substituted the words "Imprisonment exceeding two years", and in No. (4) of the said scale, for the words "or corporal punishment" there shall be substituted the words "not exceeding two years".
53	In Regulation (4), for the words "penal servitude" there shall be substituted the words "imprisonment exceeding two years", and for the word "three" there shall be substituted the word "two". In Regulation (5), for the words "penal servitude" there shall be substituted the words "imprisonment of three years or more". In Regulation (7), the words "may be inflicted" and "not exceeding two" and the word "and" shall be omitted, and after the word "term" there shall be inserted the words "of less than three", and for the word "with" there shall be substituted the word "by". Regulations (8) and (9) shall be omitted. In Regulation (10), after the word "imprisonment" where it first occurs there shall be inserted the words "not exceeding two years". In Regulation (11), the words "In any case of corporal punishment not more than 48 lashes shall be inflicted:" and the words "or to corporal punishment: no petty or non-commissioned officer shall be subject to corporal punishment, except in case of mutiny" shall be omitted.

Section, etc., of Naval Discipline Act.	*Adaptation or Modification.*
55	The words "but corporal punishment shall be deemed equal in degree to imprisonment, and may in all cases, subject to the foregoing regulations, be inflicted as a substitute for or in addition to imprisonment" shall be omitted.
56	In Sub-Section (2), the words "to award penal servitude or" shall be omitted.
	Sub-Section (4) shall be omitted.
Part V	In the heading to this Part of the Act, for the words "Penal Servitude and Prisons" there shall be substituted the words "Imprisonment, Detention and Prisons", and the heading "Penal Servitude" immediately above Section 70 shall be omitted.
70 and 72	Sections 70 and 72 shall be omitted.
73	In the first paragraph, the words "or penal servitude" shall be omitted wherever they occur, and after the word "detention" wherever it occurs there shall be inserted the word "or". In the second paragraph, the words "imprisonment or" shall be deleted wherever they occur.
Heading above Section 74	The heading "Prisons" immediately above Section 74 shall be omitted.
74	In Sub-Section (1) the words "penal servitude" shall be omitted.
74A	The words "penal servitude or" shall be omitted wherever they occur.
	In paragraph (*d*), for the words "imprisonment or detention for a period exceeding the aggregate of two consecutive years, and where the sentence for such other offence is a sentence of penal servitude, then, whether or not that sentence is suspended, any previous sentence of imprisonment or detention which has been suspended shall be avoided" there shall be substituted the words "detention for a period exceeding two years, and where the sentence for such other offence is one of imprisonment, whether or not that sentence is suspended, any previous sentence of detention which has been suspended shall be avoided".
82	The words "with or without hard labour, for any term not exceeding two years, or suffer penal servitude" and the words "either with or without hard labour and with or without solitary confinement" shall be omitted.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

Section 1 of the Criminal Justice Act, 1948, abolishes *inter alia* penal servitude and hard labour and makes provision as to the interpretation of enactments conferring powers on civil courts to pass such sentences. This Section is to be brought into force by Order in Council on 18th April, 1949. Section 2 of the same Act abolishes the sentence of whipping. This Section was brought into force by Order in Council on 13th September, 1948. By Section 73 (which was brought into force by Order in Council on 14th March, 1949) the provisions of the above-mentioned Sections may be applied by Order in Council to courts-martial under the Naval Discipline Act and such an Order may adapt and modify the Naval Discipline Act as necessary or expedient. It may also specify the date on which any such adaptations or modifications shall come into force. The schedule to the present Order contains the adaptations and modifications to the Naval Discipline Act which it is considered should be made.

The Naval Discipline (Land and Air Forces in His Majesty's Ships) Order, 1949

1949 No. 1843

Made - - - - 29th September, 1949

At the Court at Buckingham Palace, the 29th day of September, 1949

Present,

The King's Most Excellent Majesty in Council

Whereas there was this day read at the Board a Memorial from the Right Honourable the Lords Commissioners of the Admiralty, dated the 7th day of September, 1949, (N.L. 1173/48) in the words following, viz.:—

"Whereas by Section 88 of the Naval Discipline Act it is enacted that Your Majesty's land and air forces when embarked on board any of Your Majesty's ships shall be subject to the provisions of that Act to such extent and under such regulations as Your Majesty by Order in Council shall direct:

"And Whereas Your Majesty was graciously pleased by Your Order in Council of 13th July, 1942(a) to direct that the regulations and tables of summary punishments previously established by the Orders in Council therein recited should cease to have effect and that there should be substituted therefor the regulations and tables of summary punishments set out therein:

"And Whereas Your Majesty was graciously pleased by Your Order in Council of 20th January, 1944(b) to amend the tables of summary punishments appended to the said Order in Council of 13th July, 1942, so that they might accord more closely with the practice and procedure with regard to the summary punishments which might be awarded to aircraftmen in Your Majesty's air forces:

(a) S.R. & O. 1942 (No. 1428) I, p. 675. (b) S.R. & O. 1944 (No. 95) I, p. 534.