1965 No. 1203

OVERSEAS TERRITORIES

The United Kingdom Forces (Jurisdiction of Colonial Courts) Order 1965

Made - - - -	1*st June* 1965
Laid before Parliament	9*th June* 1965
Coming into Operation	10*th June* 1965

At the Court at Buckingham Palace, the 1st day of June 1965

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers by section 112 of the Government of India Act 1833(**a**), the British Settlements Acts 1887 and 1945(**b**), the Foreign Jurisdiction Act 1890(**c**) or otherwise in Her Majesty vested or reserved to Her in pursuance of the British Guiana Act 1928(**d**) or the West Indies Act 1962(**e**), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

Citation and commencement.

1. This Order may be cited as the United Kingdom Forces (Jurisdiction of Colonial Courts) Order 1965 and shall come into operation on 10th June 1965.

Application and interpretation.

2.—(1) This Order shall apply to each of the territories specified in the Schedule to this Order and in its application to any territory references in this Order to " the Territory " mean that territory.

(2) In this Order—

" coroner " means any person or authority having jurisdiction under the law of the Territory to hold inquests ;

" court of the Territory " means a court exercising jurisdiction in the Territory other than a service court ;

" dependant " in relation to any person means any of the following—

(*a*) the wife or husband of that person ; and

(*b*) any other person wholly or mainly maintained by him or in his custody, charge or care ;

" Governor " in relation to Basutoland means the British Government Representative and in relation to any other territory the officer for the time being administering the government of the territory ;

" Her Majesty's forces " means the naval, military or air forces of Her Majesty in right of Her Government in the United Kingdom

(a) 3 & 4 Will. 4. c. 85. (b) 50 & 51 Vict. c. 54 and 9 & 10 Geo. 6. c. 7.
(c) 53 & 54 Vict. c. 37. (d) 18 & 19 Geo. 5. c. 5. (e) 10 & 11 Eliz. 2. c. 19.

but does not include a force raised under a law enacted by the legislature of the Territory;

"law of the Territory" means law for the time being in force in the Territory or any part thereof;

"service court" means an officer or court exercising jurisdiction under the Naval Discipline Act 1957(**a**), the Army Act 1955(**b**) or the Air Force Act 1955(**c**) and includes a confirming officer or reviewing authority under any of those Acts.

(3) In this Order a reference to the holder of an office by the term designating his office shall be construed as including, to the extent of his authority, a reference to any person for the time being authorised to exercise the functions of that office.

(4) The Interpretation Act 1889(**d**) shall apply, with the necessary adaptations, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting or in relation to Acts of the Parliament of the United Kingdom.

(5) References in this Order to a member of a civilian component of any of Her Majesty's forces are references to persons (being persons subject to the jurisdiction of a service court) of any such description as may be prescribed by order made by the Governor of the Territory.

(6) References in this Order to a person's having at any time a relevant association with Her Majesty's forces are references to his being at that time a person of one or other of the following descriptions, that is to say—

(*a*) a member of Her Majesty's forces or a member of a civilian component of any of those forces;

(*b*) a person who is a dependant of any such member.

(7) References in this Order to any law are references to that law as from time to time amended or extended by or under any other law.

(8) In the exercise of the powers conferred upon him by this Order the Governor shall not be obliged to obtain the advice of or otherwise to consult with any other person or authority in the Territory.

Restriction of trial of service offenders by courts of Territory.

3.—(1) Subject to the provisions of this section, a person charged with an offence against the law of the Territory shall not be liable to be tried for that offence by a court of the Territory if at the time that the offence is alleged to have been committed he was a member of Her Majesty's forces or a member of a civilian component of any of those forces and—

(*a*) the alleged offence, if committed by him, arose out of and in the course of his duty as a member of Her Majesty's forces or a member of that civilian component, as the case may be; or

(*b*) the alleged offence is an offence against the person, and the person or, if more than one, each of the persons in relation to whom it is alleged to have been committed had at the time thereof a relevant association with Her Majesty's forces; or

(*c*) the alleged offence is an offence against property, and the whole of the property in relation to which it was alleged to have been committed (or, in cases where different parts of that property were differently owned, each part of the property) was at the time thereof the property either of a department of the Government of the United Kingdom or of some other authority of the United Kingdom or of Her Majesty's forces or of the Navy, Army and Air Force Institutes or of any other institution or organization operating

(**a**) 5 & 6 Eliz. 2. c. 53.
(**b**) 3 & 4 Eliz. 2. c. 18.
(**c**) 3 & 4 Eliz. 2. c. 19.
(**d**) 52 & 53 Vict. c. 63.

for the benefit of Her Majesty's forces that is prescribed by order of the Governor of the Territory or the property of a person having such an association as aforesaid.

(2) Nothing in subsection (1) of this section—

(*a*) shall prevent a person from being tried by a court of the Territory in any case where a certificate is issued by or on behalf of the Governor, either before or in the course of the trial, that the officer commanding Her Majesty's forces in the Territory has notified the Governor that it is not proposed that the case should be dealt with by a service court; or

(*b*) shall affect anything done or omitted in the course of a trial unless in the course thereof objection has already been made that by reason of that subsection the court is not competent to deal with the case; or

(*c*) shall, after the conclusion of a trial, be treated as having affected the validity thereof if no such objection was made in the proceedings at any stage before the conclusion of the trial.

(3) In relation to cases where the charge (by whatever words expressed) is a charge of attempting or conspiring to commit an offence, or of aiding, abetting, procuring or being accessory to the commission of an offence, paragraphs (*b*) and (*c*) of subsection (1) of this section shall have effect as if references in those paragraphs to the alleged offence were references to the offence which the person charged is alleged to have attempted or conspired to commit or, as the case may be, the offence as respects which it is alleged that he aided, abetted, procured or was accessory to the commission thereof; and references in those paragraphs to persons in relation to whom, or property in relation to which, the offence is alleged to have been committed shall be construed accordingly.

(4) Nothing in this section shall be construed as derogating from the provisions of any law of the Territory restricting the prosecution of any proceedings or requiring the consent of any authority to the prosecution thereof.

(5) The Governor of the Territory may by order prescribe the offences against the law of the Territory which shall respectively be offences against the person and offences against property for the purposes of this section.

(6) Nothing in this section shall be construed as precluding a court of the Territory from trying any person for an offence against the law of the Territory in respect of which he has, before the date on which this Order was made, been charged before a court of the Territory.

Courts of Territory not to try offences tried by service courts.

4. Without prejudice to the provisions of section 3 of this Order, where a person has been tried by a service court he shall not be tried for the same crime by a court of the Territory.

Saving of powers of arrest, etc.

5. Nothing in section 3 or 4 of this Order shall affect—

(*a*) any powers of arrest, search, entry, seizure or custody exercisable under the law of the Territory with respect to offences committed or believed to have been committed against that law; or

(*b*) any obligation of any person in respect of a recognizance or bail bond entered into in consequence of his arrest, or the arrest of any other person, for such an offence; or

(*c*) any power of any court to remand (whether on bail or in custody) a person brought before the court in connection with such an offence.

Coroners' inquests.

6.—(1) If any coroner having jurisdiction to hold an inquest touching a death is satisfied that the deceased person at the time of his death had a relevant association with Her Majesty's forces, then, unless the Governor otherwise directs, the coroner shall not hold the inquest or, if the inquest has been begun but not completed, shall adjourn the inquest.

(2) Subject to the provisions of subsection (1) of this section, if on an inquest touching a death the coroner is satisfied—

(*a*) that a person who is subject to the jurisdiction of a service court has been charged before a service court with the homicide of the deceased person, whether or not that charge has been dealt with; or

(*b*) that such a person is being detained by an authority of the United Kingdom with a view to being so charged,

then, unless the Governor otherwise directs, the coroner shall adjourn the inquest.

(3) Where an inquest is adjourned under this section, the coroner shall not resume it except on the direction of the Governor.

(4) Where an inquest is adjourned under this section, the jury (if any) shall be discharged; and if the inquest is resumed the coroner shall proceed in all respects as if the inquest had not previously been begun except that any requirement to view the body shall not apply.

Evidence.

7.—(1) For the purposes of this Order a certificate issued by or on behalf of the officer commanding Her Majesty's forces in the Territory, stating that at a time specified in the certificate a person so specified either was or was not a member of Her Majesty's forces shall in any proceedings in any court of the Territory be sufficient evidence of the fact so stated unless the contrary is proved.

(2) For the purposes of this Order a certificate issued by or on behalf of the officer commanding Her Majesty's forces in the Territory, stating as respects a person specified in the certificate,—

(*a*) that he has been charged before a service court with the homicide of a deceased person or is detained in custody by an authority of the United Kingdom with a view to being so charged; or

(*b*) that he has been tried, at a time and place specified in the certificate, by a service court for a crime so specified,

shall in any proceedings in any court of the Territory be conclusive evidence of the facts so stated.

(3) Where a person is charged with an offence against the law of the Territory and at the time when the offence is alleged to have been committed he was a member of Her Majesty's forces or a member of a civilian component of any of those forces, a certificate issued by or on behalf of the officer commanding Her Majesty's forces in the Territory, stating that the alleged offence, if committed by him, arose

out of and in the course of his duty as a member of Her Majesty's forces or that component, as the case may be, shall in any such proceedings as aforesaid be sufficient evidence of that fact unless the contrary is proved.

Revocation. **8.** Subsections (3) and (4) of section 2 of the British Guiana (United Kingdom Forces) Order 1964(a) are revoked.

N. E. Leigh.

Section 2.

THE SCHEDULE

Aden
Basutoland
Bechuanaland Protectorate
British Antarctic Territory
British Guiana
British Solomon Islands Protectorate
Cayman Islands
Central and Southern Line Islands
Dominica
Falkland Islands (Colony and Dependencies)
Fiji
Gibraltar
Gilbert and Ellice Islands Colony
Grenada
Hong Kong
Kamaran
Kuria Muria Islands
Mauritius
Perim
Pitcairn, Henderson, Ducie and Oeno
St. Helena
St. Lucia
St. Vincent
Seychelles
Swaziland
Turks and Caicos Islands.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes provision withdrawing the jurisdiction of the civil courts of certain colonial territories to try members of Her Majesty's forces, or of a civilian component of those forces, for offences against the law of the territory committed whilst on duty and for certain offences committed whilst off duty.

(a) S.I. 1964/1193 (1964 II, p. 2771).