

No. 119. THE VISITING FORCES ACT, 1952,
AND
THE VISITING FORCES ACT (APPLICATION TO COLONIES)
ORDER, 1954.

ORDER MADE BY THE GOVERNOR.

JOHN HARDING,
Governor.

In exercise of the powers vested in me by section 8 of the Visiting Forces Act, 1952, as extended to the Colony by the Visiting Forces Act (Application to Colonies) Order, 1954, and as read together with the Visiting Forces (Designation) Order, 1954, the Visiting Forces (Designation) (Colonies) Order, 1954, and the Visiting Forces (Designation) (Colonies) (Amendment) Order, 1956, I, the Governor, do hereby order as follows:—

1. This Order may be cited as the Visiting Forces (Application of Law) (Amendment) Order, 1957, and shall be read as one with the Visiting Forces (Application of Law) Order, 1956 (hereinafter referred to as "the principal Order"), and the principal Order and this Order may together be cited as the Visiting Forces (Application of Law) Orders, 1956 and 1957.

2. The principal Order is hereby amended by the deletion therefrom of the Second and Third Schedules thereto and by the substitution therefor of the following Schedules:—

"SECOND SCHEDULE.

PROVISIONS RELATING TO SERVICE COURTS OF VISITING FORCES.

Civilian Witnesses.

1. Subject to the provisions of this Schedule, any person required as a witness for the purposes of a service court of a visiting force (not being a person subject to the Naval Discipline Act, to military law or to air-force law, or a person subject to the jurisdiction of a service court of a visiting force under sub-section (2) of section 2 of the Visiting Forces Act, 1952) may be summoned or ordered to attend the court by any officer of the home forces who would have power to summon him to attend if the service court were a court-martial held in pursuance of the Naval Discipline Act, the Army Act, 1955, or the Air Force Act, 1955.

2. An officer shall not issue a summons or order for the attendance of any person as a witness under the foregoing paragraph unless it appears to him that it is reasonably practicable to procure that person's attendance and that provision for the reasonable expenses of his attendance has been or will be made.

3. In relation to a person summoned or ordered to attend a service court under paragraph 1 of this Schedule, section 101 of the Army Act, 1955 (which relates to offences by civilians in relation to courts-martial), shall apply as if for any reference to a court-martial there were substituted a reference to the service court.

Service Witnesses.

4. Any person required as a witness for the purposes of a service court of a visiting force, being a person subject to the Naval Discipline Act, to military law or to air-force law, may, in accordance with arrangements made in that behalf between the service authorities of the visiting force and the Admiralty, the Army Council or the Air Council, as the case may be, be ordered to attend that court by the proper naval, military or air-force authority.

Gazettes :
Supplement
No. 3 :
1.9.1956.

5. In relation to a person ordered to attend a service court under the last foregoing paragraph, being a person subject to military law or to air-force law, sub-section (1) of section 57 of the Army Act, 1955, or of the Air Force Act, 1955, as the case may be (which relates to misconduct at courts-martial), shall apply as if for the references in paragraphs (a) to (f) to a court-martial there were substituted references to the service court, and as if the words 'other than the court in relation to which the offence was committed' were omitted.

6. In relation to a person ordered to attend as aforesaid, being a person subject to the Naval Discipline Act, that Act shall have effect as if for section 66 there were substituted the provisions of sub-section (1) of section 57 of the Army Act, 1955, and as if in that sub-section the modifications specified in the last foregoing paragraph had been made and, in addition :—

- (a) for the words 'military law' there were substituted the words 'this Act'; and
- (b) for the words from 'to imprisonment' to 'by this Act' there were substituted the words 'to dismissal from Her Majesty's service, or such other punishment as is mentioned in this Act'.

General Provisions.

7. A witness before a service court of a visiting force or any other person whose duty it is to attend on or before such a court shall be entitled to the same immunities and privileges as a witness before the High Court in England.

8.—(1) For the purposes of sub-section (1) of section 57 of the Army Act, 1955, or the Air Force Act, 1955, and of section 101 of the Army Act, 1955, as applied by virtue of this Schedule to proceedings before a service court of a visiting force, the expressions 'duly required' and 'lawfully required' shall be construed as if the service court were a court-martial held in pursuance of the Naval Discipline Act, the Army Act, 1955, or the Air Force Act, 1955, as the case may be, and subject in particular to any rule of law with respect to Crown privilege.

(2) Without prejudice to the generality of the foregoing sub-paragraph, nothing in this Schedule shall compel any person to give or produce any evidence which he could not lawfully be compelled to give or produce in any court of criminal jurisdiction in England.

9. Any enactment or rule of law with respect to privilege in proceedings for defamation shall apply in relation to a service court of a visiting force as it applies in relation to a court-martial held in pursuance of the Naval Discipline Act, the Army Act, 1955, or the Air Force Act, 1955.

10. Any oath required to be taken for the purposes of a service court of a visiting force may be administered by the person authorised in that behalf under the service law of the sending country.

THIRD SCHEDULE.

CUSTODY, DETENTION AND TREATMENT OF PERSONS SENTENCED BY SERVICE COURTS OF VISITING FORCES.

1. A member of a visiting force who is sentenced by a service court of a visiting force to any form of imprisonment may, under the authority of the Admiralty or a Secretary of State, be detained temporarily, or for the whole or any part of his sentence, in any prison or establishment in which a person sentenced to imprisonment by a court-martial under the Naval Discipline Act, the Army Act, 1955, or the Air Force Act, 1955, may be detained, or in naval, military or air-force custody.