



**BERMUDA
1973:70**

**UNITED KINGDOM FORCES (JURISDICTION OF COURTS) ACT
1973**

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[9 July 1973]

[preamble and words of enactment omitted]

Interpretation

- 1 (1) In this Act, unless the context otherwise requires —
 - "coroner" means a coroner appointed under the Coroners Act 1938 [*title 8 item 81*];
 - "court of Bermuda" means a court exercising jurisdiction in Bermuda other than —
 - (a) a service court, as herein defined;
 - (b) [*repealed*];
 - (c) a service court of Canada exercising jurisdiction under the Canadian Forces (Privileges and Immunities) Act 1965 [*title 7 item 31*];

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"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;

"duty" in relation to a member of Her Majesty's forces or a member of the civilian component of any of these forces includes duty with, or on secondment to, a military force raised under an Act of the Legislature of Bermuda;

"Her Majesty's forces" means the naval, military or air forces of Her Majesty in right of Her Government in the United Kingdom but does not include a force raised under an Act of the Legislature of Bermuda;

"law of Bermuda" means law for the time being in force in Bermuda;

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

(2) References in this Act to a member of a civilian component of any of Her Majesty's forces shall be read and construed as references to persons (being persons subject to the jurisdiction of a service court) of any such description as the Governor may prescribe by order published in the Gazette.

(3) References in this Act 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,—

- (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.

(4) For the purposes of this Act, a member of Her Majesty's forces does not cease to be such a member while on duty with, or on secondment to, a military force raised under an Act of the Legislature of Bermuda.

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

[Section 1 para (b) of "court of Bermuda" definition repealed by 2002:6 s.4 & Sch 3 effective 18 June 2002]

Restriction of trial of service offenders by courts of Bermuda

2 (1) Subject to this section, a person charged with an offence against the law of Bermuda shall not be liable to be tried for that offence by a court of Bermuda 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 Institution or of any other institution or organization operating for the benefit of Her Majesty's forces that the Governor may prescribe by order published in the Gazette or the property of a person having such an association as aforesaid.

(2) Nothing in subsection (1) shall —

- (a) prevent a person from being tried by a court of Bermuda 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 Bermuda has notified the Governor that it is not proposed that the case should be dealt with by a service court; or
- (b) 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) after the conclusion of a trial, be treated as having affected the validity thereof if no such objection was

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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) 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 derogate from the provisions of any law of Bermuda restricting the prosecution of any proceedings or requiring the consent of any authority to the prosecution thereof.

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

(6) The negative resolution procedure shall apply to any order made under this section.

Courts of Bermuda not to try offences tried by service courts

3 Without prejudice to section 2, where a person has been tried by a service court he shall not be tried for the same crime by a court of Bermuda.

Savings

4 Nothing in section 2 or 3 shall affect —

- (a) any powers of arrest, search, entry, seizure or custody exercisable under the law of Bermuda 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.

Coroner's inquest

5 (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 subsection (1), if on an inquest touching a death the coroner is satisfied that —

(a) 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) 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 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

6 (1) For the purposes of this Act a certificate issued by or on behalf of the officer commanding Her Majesty's forces in Bermuda, 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 Bermuda be sufficient evidence of the fact so stated unless the contrary is proved.

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

(a) 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) 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 Bermuda be conclusive evidence of the facts so stated.

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(3) Where a person is charged with an offence against the law of Bermuda 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 Bermuda 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.

[Amended by:

1977 : 35

2002 : 6]