



# Armed Forces Act 1971

## 1971 CHAPTER 33

### PART II

#### REVISION OF SERVICE OFFENCES AND PUNISHMENTS

*Desertion, absence without leave, etc.*

#### 11 Desertion

(1) The following provision shall be substituted for section 37 of the Army Act 1955:—

**“37 Desertion.**

- (1) Any person subject to military law who deserts shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act.
- (2) For the purposes of this Act a person deserts who—
  - (a) leaves or fails to attend at his unit, ship or place of duty with the intention of remaining permanently absent from duty without lawful authority, or, having left or failed to attend at his unit, ship or place of duty, thereafter forms the like intention, or
  - (b) absents himself without leave with intent to avoid serving at any place overseas, or to avoid service or any particular service when before the enemy,

and references in this Act to desertion shall be construed accordingly.”

(2) The provision set out in subsection (1) above shall also be substituted for section 37 of the Air Force Act 1955, but modified for that purpose by the substitution of " air-force law " for " military law " .

(3) The following provision shall be substituted for section 15 of the Naval Discipline Act 1957:—

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**“15 Definition of ' desertion ' .**

A person is guilty of desertion within the meaning of this Act if he—

- (a) leaves or fails to attend at his unit, ship or place of duty with the intention of remaining permanently absent from duty without lawful authority, or, having left or failed to attend at his unit, ship or place of duty, thereafter forms the like intention, or
- (b) absents himself without leave with intent to avoid serving at any place overseas, or to avoid service or any particular service when before the enemy.”;

and section 16 of that Act (subsections (1) and (2) of which penalise desertion by imprisonment or any less punishment authorised by that Act and by forfeiture) shall be amended by omitting subsection (3) (incitement to desert).

**12 Absence without leave**

- (1) The following provision shall be substituted for section 38 of the Army Act 1955:—

**“38 Absence without leave.**

Any person subject to military law who—

- (a) absents himself without leave, or
- (b) improperly leaves his ship,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.”

- (2) The provision set out in subsection (1) above shall also be substituted for section 38 of the Air Force Act 1955, but modified for that purpose by the substitution of " air-force law " for " military law " .
- (3) Section 17 of the Naval Discipline Act 1957 shall be amended by omitting, in subsection (1), the words " without being guilty of desertion " immediately before paragraph (a) and the words " or place of duty " at the end of paragraph (b), and subsection (2) (so that the section corresponds with the provision set out in subsection (1) above except by continuing to provide for forfeiture as an additional punishment).

**13 Failure to report or apprehend deserters or absentees**

- (1) The following provision shall be substituted for section 39 of the Army Act 1955:—

**“39 Failure to report or apprehend deserters or absentees.**

Any person subject to military law who, knowing that any other person so subject has committed an offence, or is attempting to commit an offence, under section 37(1) or section 38 of this Act—

- (a) fails to report the fact without delay, or
- (b) fails to take any steps within his power to cause that other person to be apprehended,

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*Status: This is the original version (as it was originally enacted).*

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shall be liable, on conviction by court-martial, to imprisonment for a term not exceeding two years or any less punishment provided by this Act.”

- (2) The provision set out in subsection (1) above shall also be substituted for section 39 of the Air Force Act 1955, but modified for that purpose by the substitution of " air-force law " for " military law " .
- (3) Section 18 of the Naval Discipline Act 1957 shall be amended so as to correspond with the said provision, that is to say, by substituting for the words from " has deserted " to " place of duty" immediately before paragraph (a) the words " has committed an offence, or is attempting to commit an offence, under section 16(1) or section 17(1) of this Act " .