



# Armed Forces Act 1981

## 1981 CHAPTER 55

### PART III

#### MISCELLANEOUS

#### *Amendments of the Services Acts relating to evidence and proceedings thereunder*

#### **18 Service of process in maintenance proceedings**

- (1) Section 153 of the Army Act 1955 and the Air Force Act 1955 and section 101 of the Naval Discipline Act 1957 (which make provision for the service of process in maintenance proceedings) shall be amended as provided in this section.
- (2) In the said sections 153—
  - (a) in subsection (1), for the words "either on him or" there shall be substituted the word " on ";
  - (b) in subsection (3) for the word " then" there shall be substituted the words " the service of the process shall be of no effect " and the words from " the service of the process " onwards shall be omitted; and
  - (c) after subsection (3), there shall be inserted the following subsection—

“(3A) Where any such process as is mentioned in subsection (1) of this section is to be served in the United Kingdom or elsewhere and the defendant will be required to appear in person at the hearing, the service of the process shall be of no effect if his commanding officer certifies to the court by which the process was issued that the defendant is absent without leave or has deserted and remains in desertion.”.
- (3) In the said section 101—
  - (a) subsection (2) (which permits service on the Secretary of the Defence Council) shall be omitted ;
  - (b) in subsection (4), for the words from " it is certified " to " section " there shall be substituted the words " his commanding officer certifies " and for the words

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*Status: This is the original version (as it was originally enacted).*

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" in the opinion of that officer " there shall be substituted the words " in the commanding officer's opinion "; and

- (c) after subsection (4), there shall be inserted the following subsection—

“(4A) Where any such process is to be served in the United Kingdom or elsewhere and the defendant will be required to appear in person at the hearing, the service of that process shall be of no effect if his commanding officer certifies to the court by which the process was issued that the defendant is absent without leave or has deserted and remains in desertion.”.

## **19 Officers who can take affidavits and declarations abroad**

- (1) The enactments specified in this section (which empower certain officers to take affidavits and declarations outside the United Kingdom) shall be amended as follows.

- (2) In section 10 of the Emergency Laws (Miscellaneous Provisions) Act 1953—

- (a) in subsection (1), after the words "or relative rank" there shall be inserted the words " or is of the rank of lieutenant and is specially appointed for the purposes of this section "; and

- (b) after subsection (1), there shall be inserted the following subsection—

“(1A) An officer of the rank of lieutenant shall not be appointed to take affidavits and declarations under subsection (1) above unless he is a barrister, solicitor or advocate.”.

- (3) In section 204 of the Army Act 1955, in subsection (1), for the words " of a rank not below that of major " there shall be substituted the words " who is of or above the rank of major or is of the rank of captain and is a member of the legal corps of those forces ".

- (4) In section 204 of the Air Force Act 1955, in subsection (1), for the words " of a rank not below that of squadron leader " there shall be substituted the words " who is of or above the rank of squadron leader or is of the rank of flight lieutenant and is a member of the legal branch of that force ".