



Air Force Act 1955 (repealed)

1955 CHAPTER 19 3 and 4 Eliz 2

PART V U.K.

GENERAL PROVISIONS

Provisions relating to deserters and absentees without leave

186 Arrest of deserters and absentees without leave. U.K.

- (1) A constable may arrest any person whom he has reasonable cause to suspect of being an officer, warrant officer, non-commissioned officer or airman of the regular air force who has deserted or is absent without leave.
 - (2) Where no constable is available, any officer, warrant officer, non-commissioned officer or airman of the regular air force, or any other person, may arrest any person whom he has reasonable cause to suspect as aforesaid.
 - (3) Any person having authority to issue a warrant for the arrest of a person charged with crime, if satisfied by evidence on oath that there is, or is reasonably suspected of being, within his jurisdiction an officer, warrant officer, non-commissioned officer or airman of the regular air force who has deserted or is absent without leave or is reasonably suspected of having deserted or of being absent without leave, may issue a warrant authorising his arrest.
 - (4) Any person in custody in pursuance of this section shall as soon as practicable be brought before a court of summary jurisdiction.
- [^{F1}(4A) A person shall also be brought before a court of summary jurisdiction if, having been brought before such a court by virtue of subsection (4) above and discharged by that court by virtue of section 187(3) below—
- (a) he is subsequently arrested as an alleged or suspected deserter or absentee without leave under section 74 of this Act, or under a warrant issued under section 190A thereof, and
 - (b) the question whether he is in fact in desertion or absent without leave raises any issue which was investigated by the court discharging him, and

Status: Point in time view as at 01/02/1991.

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- (c) he does not admit that he is in desertion or absent without leave to the person arresting him under the said section 74 or, as the case may be, to the person into whose custody he is delivered pursuant to the said section 190A.]

- (5) This section shall have effect in the United Kingdom and in any colony.

Textual Amendments

F1 S. 186(4A) inserted by Armed Forces Act 1971 (c. 33), s. 56(1)

Modifications etc. (not altering text)

C1 S. 186 extended by Guyana Independence Act 1966 (c. 14), s. 5(2)

187 Proceedings before a civil court where persons suspected of illegal absence.

U.K.

- (1) Where a person who is brought before a court of summary jurisdiction is alleged to be an officer, warrant officer, non-commissioned officer or airman of the regular air force who has deserted or is absent without leave, the following provisions shall have effect.
- (2) If he admits that he is illegally absent from the regular air force and the court is satisfied of the truth of the admission, then—
- unless he is in custody for some other cause the court shall, and
 - notwithstanding that he is in custody for some other cause, the court may, forthwith either cause him to be delivered into air-force custody in such manner as the court may think fit or commit him to some prison, police station or other place provided for the confinement of persons in custody, to be kept there for such reasonable time as the court may specify (not exceeding such time as appears to the court reasonably necessary for the purpose of enabling him to be delivered into air-force custody) or until sooner delivered into such custody.

Any time specified by the court may be extended by the court from time to time if it appears to the court reasonably necessary so to do for the purpose aforesaid.

- (3) If he does not admit that he is illegally absent as aforesaid, or the court is not satisfied of the truth of the admission, the court shall consider the evidence and any statement of the accused, and if satisfied that he is subject to air-force law and if of opinion that there is sufficient evidence to justify his being tried under this Act for an offence of desertion or absence without leave then, unless he is in custody for some other cause, the court shall cause him to be delivered into air-force custody or commit him as aforesaid, but otherwise shall discharge him:

Provided that if he is in custody for some other cause the court shall have power, but shall not be required, to act in accordance with this subsection.

- (4) The following provisions of [F²the M¹Magistrates' Courts Act 1980] or any corresponding enactment in force as respects the court in question, that is to say the provisions relating to the constitution and procedure of courts of summary jurisdiction acting as examining justices and conferring powers of adjournment and remand on such courts so acting, and the provisions as to evidence and the issue and enforcement of summonses or warrants to secure the attendance of witnesses, shall apply to any proceedings under this section.

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[^{F3}(4A) For the purposes of any proceedings under this section, a certificate which states that a person is a member of, and illegally absent from, the regular air force, and purports to be signed by an officer who, if that person were charged with an offence, would be either his commanding officer or authorised to act as his appropriate superior authority, shall be evidence of the matters so stated.]

(5) This section shall have effect in the United Kingdom and in any colony.

Textual Amendments

F2 Words substituted by [Magistrates' Courts Act 1980 \(c. 43\)](#), [Sch. 7 para. 13](#)

F3 [S. 187\(4A\)](#) inserted by [Armed Forces Act 1971 \(c. 33\)](#), [s. 56\(2\)](#)

Modifications etc. (not altering text)

C2 [S. 187](#) extended by [Guyana Independence Act 1966 \(c. 14\)](#), [s. 5\(2\)](#)

Marginal Citations

M1 [1980 c. 43](#).

188 Deserters and absentees without leave surrendering to police. **U.K.**

- (1) Where in the United Kingdom or any colony a person surrenders himself to a constable as being illegally absent from the regular air force, the constable shall (unless he surrenders himself at a police station) bring him to a police station.
- (2) The officer of police in charge of a police station at which a person has surrendered himself as aforesaid, or to which a person who has so surrendered himself is brought, shall forthwith inquire into the case, and if it appears to that officer that the said person is illegally absent as aforesaid he may cause him to be delivered into air-force custody without bringing him before a court of summary jurisdiction or may bring him before such a court.

Modifications etc. (not altering text)

C3 [S. 188](#) extended by [Guyana Independence Act 1966 \(c. 14\)](#), [s. 5\(2\)](#)

189 Certificates of arrest or surrender of deserters and absentees. **U.K.**

- (1) Where a court of summary jurisdiction in pursuance of section one hundred and eighty-seven of this Act deals with a person as illegally absent, then when that person is delivered into air-force custody there shall be handed over with him a certificate in the prescribed form, signed by a justice of the peace, containing the prescribed particulars as to his arrest or surrender and the proceedings before the court; and for any such certificate there shall be payable to the clerk of the court, by such person as [^{F4}the Defence Council] may direct, such fee (if any) as may be prescribed.
- (2) Where under the last foregoing section a person is delivered into air-force custody without being brought before a court, there shall be handed over with him a certificate in the prescribed form, signed by the officer of police who causes him to be delivered into air-force custody, containing the prescribed particulars relating to his surrender.

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- (3) In any proceedings for an offence under section thirty-seven or thirty-eight of this Act—
- (a) a document purporting to be a certificate under either of the two last foregoing subsections, and to be signed as thereby required, shall be evidence of the matters stated in the document;
- [^{F5}(aa) where the proceedings are against a person who has surrendered himself to a consular officer, a certificate purporting to be signed by that officer and stating the fact, date, time and place of surrender shall be evidence of the matters stated in the certificate;]
- (b) where the proceedings are against a person who has been taken into air-force, naval or military custody on arrest or surrender, a certificate purporting to be signed by a provost officer, or any corresponding officer of a Commonwealth force or a force raised under the law of a colony, or by any other officer in charge of the guardroom or other place where that person was confined on being taken into custody, stating the fact, date, time and place of arrest or surrender shall be evidence of the matters stated in the certificate.
- (4) In this section the expression “prescribed” means prescribed by regulations made by a Secretary of State by statutory instrument.

Textual Amendments

- F4 Words substituted by [S.I. 1964/488, Sch. 1 Pt. I](#)
- F5 [S. 189\(3\)\(aa\)](#) inserted by [Armed Forces Act 1971 \(c. 33\), s. 56\(3\)](#)

Modifications etc. (not altering text)

- C4 [S. 189](#) extended by [Guyana Independence Act 1966 \(c. 14\), s. 5\(2\)](#)
- C5 [S. 189\(1\)](#) amended by [Army and Air Force Act 1961 \(c. 52\), s. 30](#)

190 Duties of governors of prisons and others to receive deserters and absentees.

U.K.

- (1) It shall be the duty of the governor of a civil prison in the United Kingdom or of the superintendent or other person in charge of a civil prison in a colony to receive any person duly committed to that prison by a court of summary jurisdiction as illegally absent from the regular air force and to detain him until in accordance with the directions of the court he is delivered into air-force custody.
- (2) The last foregoing subsection shall apply to the person having charge of any police station or other place (not being a prison) provided for the confinement of persons in custody, whether in the United Kingdom or in a colony, as it applies to the governor or superintendent of a prison.

Modifications etc. (not altering text)

- C6 [S. 190](#) extended by [Guyana Independence Act 1966 \(c. 14\), s. 5\(2\)](#)

Status:

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Changes to legislation:

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