



Armed Forces Act 2006

2006 CHAPTER 52

PART 13

DISCIPLINE: MISCELLANEOUS AND SUPPLEMENTARY

CHAPTER 3

ARREST AND DETENTION BY CIVIL AUTHORITIES

Arrest etc for desertion or absence without leave

314 Arrest by civilian police of deserters and absentees without leave

- (1) [^{F1}A civilian policeman] may arrest without a warrant a person (“a relevant suspect”) who is reasonably suspected of being a person subject to service law who has deserted or is absent without leave.
 - (2) If an authorised person is satisfied by evidence given under oath or affirmation that a relevant suspect is or is reasonably suspected of being within his jurisdiction, he may issue a warrant for the arrest of the relevant suspect.
 - (3) In subsection (2) “authorised person” means a person who has authority in a relevant territory to issue a warrant for the arrest of a person suspected of an offence.
 - (4) A person arrested under this section must as soon as practicable be brought before a court of summary jurisdiction in the relevant territory in which he was arrested.
- [^{F2}(4A) In this section “civilian policeman” means an officer of a UK police force or British overseas territory police force, other than a force or body constituted in Gibraltar.]
- (5) In this section “relevant territory” means—
 - (a) England and Wales;
 - (b) Scotland;
 - (c) Northern Ireland;

Status: Point in time view as at 12/05/2016.

Changes to legislation: Armed Forces Act 2006, Cross Heading: Arrest etc for desertion or absence without leave is up to date with all changes known to be in force on or before 26 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (d) the Isle of Man; or
- (e) a British overseas territory [^{F3}other than Gibraltar].

Textual Amendments

- F1** Words in s. 314(1) substituted (12.5.2016) by [Armed Forces Act 2016 \(c. 21\)](#), s. 19(2)(b), **Sch. para. 7(2)**
- F2** [S. 314\(4A\)](#) inserted (12.5.2016) by [Armed Forces Act 2016 \(c. 21\)](#), s. 19(2)(b), **Sch. para. 7(3)**
- F3** Words in s. 314(5)(e) inserted (12.5.2016) by [Armed Forces Act 2016 \(c. 21\)](#), s. 19(2)(b), **Sch. para. 7(4)**

Modifications etc. (not altering text)

- C1** Ss. 314-317 applied (with modifications) by 1952 c. 67, s. 13 (as amended (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 16 para. 18(2)(a)** (with s. 385); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4)
- C2** S. 314(1)(2) extended by [S.I. 1999/1736](#), Sch. 8 para. 6(1) (as amended) (31.10.2009) by [The Armed Forces Act 2006 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2054\)](#), art. 1(2), **Sch. 1 para. 21(6)(d)**
- C3** S. 314(4) extended by [S.I. 1999/1736](#), Sch. 8 para. 6(3) (as amended) (31.10.2009) by [The Armed Forces Act 2006 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2054\)](#), art. 1(2), **Sch. 1 para. 21(6)(f)**

Commencement Information

- I1** S. 314 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), **art. 3(a)(b)** (with transitional provisions in [S.I. 2009/1059](#))
- I2** S. 314 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), **art. 4**

315 Deserters and absentees without leave surrendering to civilian police

- (1) Where—
 - (a) a person surrenders to a civilian policeman as being a person subject to service law who has deserted or is absent without leave, and
 - (b) the surrender occurs at a place in a relevant territory which is not a police station,
 he must be taken to a police station.
- (2) Subsection (3) applies where a person—
 - (a) is brought to a police station under subsection (1), or
 - (b) surrenders to a civilian policeman, at a police station in a relevant territory, as being a person subject to service law who has deserted or is absent without leave.
- (3) The person in charge of the police station, or a person authorised by him, must consider the case.
- (4) If it appears to the person considering the case that the person who has surrendered is a person subject to service law who has deserted or is absent without leave, he may—
 - (a) arrange for him to be transferred to service custody;

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- (b) arrange for him to be brought, as soon as practicable, before a court of summary jurisdiction in the relevant territory in which the police station is situated; or
- (c) release him subject to a condition that he reports, at or by such time as may be specified in the condition, to such place or person as may be so specified for the purpose of enabling him to be taken into service custody.

^{F4}(5)

(6) In this section [^{F5}“civilian policeman” and “relevant territory” have] the same meaning as in section 314.

Textual Amendments

- F4** S. 315(5) omitted (12.5.2016) by virtue of [Armed Forces Act 2016 \(c. 21\)](#), s. 19(2)(b), [Sch. para. 8\(2\)](#)
- F5** Words in s. 315(6) substituted (12.5.2016) by [Armed Forces Act 2016 \(c. 21\)](#), s. 19(2)(b), [Sch. para. 8\(3\)](#)

Modifications etc. (not altering text)

- C1** Ss. 314-317 applied (with modifications) by 1952 c. 67, s. 13 (as amended (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 18\(2\)\(a\)](#) (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4)
- C4** S. 315 extended by S.I. 1999/1736, Sch. 8 para. 6(2) (as amended (31.10.2009) by [The Armed Forces Act 2006 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2054\)](#), art. 1(2), [Sch. 1 para. 21\(6\)\(e\)](#))

Commencement Information

- I3** S. 315 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- I4** S. 315 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

316 Proceedings before civilian court where person suspected of illegal absence

- (1) This section applies where a person is brought before a court of summary jurisdiction in a relevant territory under section 314(4) or 315(4)(b).
- (2) Subsection (3) applies if—
 - (a) the person admits to the court that he is a person subject to service law who has deserted or is absent without leave; or
 - (b) the court has in its possession evidence of a description prescribed by regulations made by the Secretary of State.
- (3) Where this subsection applies—
 - (a) if the person is not in custody for some other cause, the court must either—
 - (i) arrange for him to be transferred to service custody; or
 - (ii) release him subject to a condition that he reports, at or by such time as may be specified in the condition, to such place or person as may be so specified for the purpose of enabling him to be taken into service custody;
 - (b) if the person is in custody for some other cause, the court may arrange for him to be transferred to service custody.

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- (4) Where subsection (3) does not apply—
- (a) if the person is not in custody for some other cause, the court must release him;
 - (b) if the person is in custody for some other cause, the court may release him.
- (5) If there is likely to be a delay before a person can be transferred to service custody under subsection (3)(a)(i) or (b), the court may commit him to be held in custody pending his transfer—
- (a) in a prison,
 - (b) in a police station, or
 - (c) in any other place provided for the confinement of persons in custody, which is situated in the relevant territory in which the court is situated.
- (6) The release of a person under subsection (4) does not prevent him from being subsequently arrested under section 67, or under a warrant issued under section 313, as a person who is reasonably suspected of having committed an offence under section 8 or 9.
- (7) In this section “relevant territory” has the same meaning as in section 314.

Modifications etc. (not altering text)

- C1** Ss. 314-317 applied (with modifications) by 1952 c. 67, s. 13 (as amended (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 16 para. 18\(2\)\(a\)](#) (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4)
- C5** S. 316 extended by S.I. 1999/1736, Sch. 8 para. 6(3) (as amended (31.10.2009) by [The Armed Forces Act 2006 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2054\), art. 1\(2\), Sch. 1 para. 21\(6\)\(f\)](#))
- C6** S. 316 extended by S.I. 1999/1736, Sch. 8 para. 6(4) (as amended (31.10.2009) by [The Armed Forces Act 2006 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2054\), art. 1\(2\), Sch. 1 para. 21\(6\)\(g\)](#))

Commencement Information

- I5** S. 316 in force at 28.3.2009 for specified purposes by [S.I. 2009/812, art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))
- I6** S. 316 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167, art. 4](#)

317 Warrant for the arrest of persons released under section 315(4)(c) or 316(3)(a)(ii)

- (1) Where a person who is released under section 315(4)(c) or 316(3)(a)(ii) fails to comply with the condition subject to which he was released, a warrant for his arrest may be issued—
- (a) where he was released under section 315(4)(c), by a judge advocate;
 - (b) where he was released under section 316(3)(a)(ii), by a judge advocate or by a person who is authorised to issue the warrant by the court that imposed the condition.
- (2) A warrant issued under this section—
- (a) shall be addressed to an officer or officers of a UK police force or British overseas territory police force; and
 - (b) shall specify the name of the person for whose arrest it is issued.

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- (3) The Secretary of State may make rules with respect to the practice and procedure which is to apply in connection with warrants issued under this section by judge advocates.
- (4) A person arrested under a warrant issued under this section must as soon as practicable be transferred to service custody.

Modifications etc. (not altering text)

- C1** Ss. 314-317 applied (with modifications) by 1952 c. 67, s. 13 (as amended (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 18\(2\)\(a\)](#) (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4)

Commencement Information

- I7** S. 317 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))
- I8** S. 317 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

Status:

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