



# Army Act 1955 (repealed)

1955 CHAPTER 18 3 and 4 Eliz 2

## PART V

### GENERAL PROVISIONS

#### Modifications etc. (not altering text)

**C1** Pt. V extended by [Reserve Forces Act 1980 \(c. 9\), s. 142](#)

#### Textual Amendments applied to the whole legislation

- F1** Act: the provisions of the 1955 Acts providing for findings of courts-martial to be subject to confirmation and to revision at the direction of the confirming officer cease to have effect (1.4.1997 subject to art. 3 of the commencing S.I.) by virtue of [1996 c. 46, s. 15](#); S.I. 1997/304, arts. 2, 3, [Sch. 2](#)
- F3** Act repealed (1.1.2008 for the repeal of s. 180 only, 1.10.2008 for the repeal of ss. 135-137, 28.3.2009 for further specified purposes and 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 17](#); S.I. 2007/2913, [art. 3](#) (with [art. 4\(1\)\(2\)](#)); S.I. 2008/1650, [art. 2\(e\)](#) (with [art. 3](#)); S.I. 2009/812, [art. 3\(a\)\(b\)](#) (with transitional provisions in [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#)); S.I. 2009/1167, art. 4; and ss. 9, 133A, [Sch. 7 para. 4A](#) continued (with modifications) (31.10.2009) by [The Armed Forces \(Discharge and Transfer to the Reserve Forces\) \(No. 2\) Regulations 2009 \(S.I. 2009/1091\), regs. 1, 9, 10, 13](#) (with Sch.) and [The Armed Forces \(Financial Penalty Enforcement Orders\) Regulations 2009 \(S.I. 2009/1212\), regs. 1, 5\(2\)](#)

#### *Powers of command*

#### 177 Powers of command.

- (1) It is hereby declared for the avoidance of doubt that Her Majesty may make regulations as to the persons, being members of Her Majesty's forces, in whom command over Her Majesty's military forces, or any part or member thereof, is to be vested and as to the circumstances in which such command as aforesaid is to be exercised.

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- (2) In relation to members of Her Majesty’s military forces when in aircraft, the last foregoing subsection shall have effect as if references to members of Her Majesty’s forces included references to any person in command of an aircraft.
- (3) Nothing in this section shall affect any power vested in Her Majesty apart from this section.

**178 Powers of command of members of co-operating naval or air forces.**

In so far as powers of command depend on rank, a member of any of Her Majesty’s naval or air forces who—

- (a) is acting with, or
- (b) is a member of a body of any of those forces which is acting with,

any body of the regular forces shall have the like such powers as a member of the regular forces of corresponding rank; and for the purposes of sections thirty-three and seventy-four of this Act any such member of the said naval or air forces shall be treated as if he were a member of the regular forces of corresponding rank.

*Attachment to naval or air forces*

**179 Attachment of members of military forces to naval or air forces.**

- (1) An officer, warrant officer, non-commissioned officer or soldier of the regular forces may be attached temporarily to any of Her Majesty’s naval or air forces.
- (2) Regulations made by [<sup>F1</sup>the Defence Council] may prescribe circumstances in which officers, warrant officers, non-commissioned officers and soldiers of the regular forces shall be deemed to be attached to any of Her Majesty’s naval or air forces, as the case may be, under the last foregoing subsection.
- (3)
- <sup>F2</sup>(4) A person shall not cease to be subject to military law by reason only of attachment in pursuance of this section.

<b>Textual Amendments</b>	
<b>F1</b>	Words substituted by <a href="#">S.I. 1964/488</a> , <a href="#">Sch. 1 Pt. I</a>
<b>F2</b>	<a href="#">S. 179(3)</a> repealed by <a href="#">S.I. 1964/488</a> , <a href="#">Sch. 1 Pt. I</a>
<b>Modifications etc. (not altering text)</b>	
<b>C2</b>	<a href="#">S. 179</a> extended by <a href="#">Naval Discipline Act 1957 (c. 53)</a> , <a href="#">s. 113(1)</a>

*Redress of complaints*

<sup>F3</sup>**180 Redress of complaints.**

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**F4** 181 .....

**Textual Amendments**

**F4** S. 181 repealed (1.5.2001) by 1996 c. 46, s. 35(2), **Sch. 7 Pt. III**; S.I. 2001/1519, **art. 2(1)(b)**

*Exemptions for members of regular forces*

**182 Officers on active list not to be sheriffs.**

An officer of the regular forces on the active list (as defined by Royal Warrant) shall not be capable of being nominated or elected to be sheriff of any county, borough, or other place.

**183** ..... **F5**

**Textual Amendments**

**F5** S. 183 repealed by (E.W) **Criminal Justice Act 1972 (c. 71), Sch. 6 Pt. I**, (N.I.) S.I.1974/2143 (N.I.6), **Sch. 5** and (S.) **Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55), Sch.3**

**184 Exemptions from tolls, etc.**

- (1) Duties or tolls for embarking from or disembarking on any pier, wharf, quay or landing place in the United Kingdom or any colony, or for passing over any road or bridge in the United Kingdom or any colony, shall not be payable in respect of—
  - (a) members of the regular forces on duty;
  - (b) vehicles in military service, being vehicles belonging to the Crown or other vehicles driven by persons (whether members of Her Majesty's forces or not) in the service of the Crown;
  - (c) goods carried in such vehicles;
  - (d) horses or other animals in military service.
- (2) In the last foregoing subsection the expression “in military service” means employed under proper military authority for the purposes of any body of the regular forces or accompanying any body of the regular forces.
- (3) Members of the regular forces on duty when using ferries in Scotland shall be entitled to be carried at half rate.

**Modifications etc. (not altering text)**

**C3** S. 184 extended by S.I. 1965/1536, art. 12(2), **Sch. 3** and Reserve Forces Act 1980 (c.9), **ss. 84(a), 119(a)**

**C4** S. 184 modified (1.4.1997) by 1996 c. 14, s. 124(2); S.I. 1997/305, **art. 2(1)**

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## **185 Exemption from taking in execution of property used for military purposes.**

No judgment or order given or made against a member of any of Her Majesty's military forces by any court in the United Kingdom or a colony shall be enforced by the levying of execution on any property of the person against whom it is given or made, being arms, ammunition, equipment, instruments or clothing used by him for military purposes.

*Provisions relating to deserters and absentees without leave*

## **186 Arrest of deserters and absentees without leave.**

- (1) A constable may arrest any person whom he has reasonable cause to suspect of being an officer, warrant officer, non-commissioned officer or soldier of the regular forces who has deserted or is absent without leave.
  - (2) Where no constable is available, any officer, warrant officer, non-commissioned officer or soldier of the regular forces, 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 soldier of the regular forces 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.
- [<sup>F6</sup>(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
  - (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**

**F6** S. 186(4A) inserted by [Armed Forces Act 1971 \(c. 33\), s. 56\(1\)](#)

### **Modifications etc. (not altering text)**

**C5** S. 186 extended by [Guyana Independence Act 1966 \(c. 14\), s. 5\(2\)](#)

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

- (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 soldier of the regular forces 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 forces and the court is satisfied of the truth of the admission, then—
  - (a) unless he is in custody for some other cause the court shall, and
  - (b) notwithstanding that he is in custody for some other cause, the court may, forthwith either cause him to be delivered into military custody in such manner as the court may think fit or <sup>F7</sup>, where it is unable to do so, adjourn the proceedings and remand him for such time as appears reasonably necessary for the purpose of arranging for him to be delivered into military custody.].
- (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 military 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 military custody or <sup>F7</sup>, where it is unable to do so, adjourn the proceedings and remand him for such time as appears reasonably necessary for the purpose of arranging for him to be delivered into military custody.], 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 <sup>F8</sup>the <sup>M1</sup>Magistrates' 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.

<sup>F9</sup>(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 forces, 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**

- F7** Words in s. 187(2)(3) substituted (2.10.2000) by 2000 c. 4, s. 9(1)(a)(b); S.I. 2000/2366, art. 2 (with transitional provisions and savings)
- F8** Words substituted by Magistrates' Courts Act 1980 (c. 43), Sch. 7 para. 12
- F9** S. 187(4A) inserted by Armed Forces Act 1971 (c. 33), s. 56(2)

### **Modifications etc. (not altering text)**

- C6** S. 187 extended by Guyana Independence Act 1966 (c. 14), s. 5(2)

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#### Marginal Citations

M1 1980 c. 43.

### 188 Deserters and absentees without leave surrendering to police.

- (1) Where in the United Kingdom or any colony a person surrenders himself to a constable as being illegally absent from the regular forces, 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 military custody without bringing him before a court of summary jurisdiction or may bring him before such a court.

#### Modifications etc. (not altering text)

C7 S. 188 extended by *Guyana Independence Act 1966 (c. 14), s. 5(2)*

### 189 Certificates of arrest or surrender of deserters and absentees.

- (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 military custody there shall be handed over with him a certificate in the prescribed form, signed by a justice of the peace [<sup>F10</sup>or (in Northern Ireland) resident magistrate], 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 [<sup>F11</sup>proper officer] of the court, by such person as [<sup>F12</sup>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 military 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 military custody, containing the prescribed particulars relating to his surrender.
- (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;
  - [<sup>F13</sup>(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 military, naval or air-force 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

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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.

[<sup>F14</sup>(3A) In subsection (1) of this section “proper officer” means—

- (a) in relation to a court of summary jurisdiction in England and Wales, the [<sup>F15</sup>designated officer] for the court; and
- (b) in relation to a court of summary jurisdiction elsewhere, the clerk of the court.]

(4) In this section the expression “prescribed” means prescribed by regulations made by a Secretary of State by statutory instrument.

#### Textual Amendments

- F10** Words in s. 189(1) inserted (1.4.2005) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), **Sch. 4 para. 10**; S.R. 2005/109, art. 2, Sch.
- F11** Words in s. 189(1) substituted (1.4.2001) by 1999 c. 22, s. 90(1), **Sch. 13 para. 17(1)(2)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, art. 2(a)(ii)
- F12** Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**
- F13** S. 189(3)(aa) inserted by Armed Forces Act 1971 (c. 33), s. 56(3)
- F14** S. 189(3A) inserted (1.4.2001) by 1999 c. 22, s. 90(1), **Sch. 13 para. 17(1)(3)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, art. 2(a)(ii)
- F15** Words in s. 189(3A)(a) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 95(a)**; S.I. 2005/910, art. 3(y)

#### Modifications etc. (not altering text)

- C8** S. 189 extended by Guyana Independence Act 1966 (c. 14), s. 5(2)
- C9** 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.

- (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 forces and to detain him until in accordance with the directions of the court he is delivered into military 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)

- C10** S. 190 extended by Guyana Independence Act 1966 (c. 14), s. 5(2)

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*Further powers of arrest of civil authorities*

**[<sup>F16</sup>190A Arrest under warrants of commanding officers.**

- (1) A warrant for the arrest of a person suspected of any offence under Part II of this Act may be issued by his commanding officer (determined for the purposes of this subsection as if that person had been charged with the offence).
- (2) A warrant issued under this section shall be addressed to an officer or officers of police, and shall specify the name of the person for whose arrest it is issued and the offences which he is alleged to have committed; and any such warrant may be issued in respect of two or more persons alleged to have committed the same offence, or offences of the same class.
- (3) A person arrested under a warrant issued under this section shall as soon as practicable be delivered into military custody; and there shall be handed over with him a certificate signed by the officer of police who causes him to be delivered into military custody stating the fact, date, time and place of arrest, and whether or not the person arrested was at the time of arrest wearing the uniform of any of Her Majesty's military forces.
- (4) A certificate under subsection (3) above shall be in such form as may be prescribed by regulations made by a Secretary of State by statutory instrument and shall for the purposes of this Act be evidence of the matters stated therein.]

**Textual Amendments**

**F16** Ss. 190A, 190B inserted by [Armed Forces Act 1971 \(c. 33\), s. 44\(2\)](#)

**190B Arrest of persons unlawfully at large.**

- (1) A constable may arrest without warrant any person who, having been sentenced under Part II of this Act to imprisonment or detention, is unlawfully at large during the currency of the sentence, and may take him to any place in which he may be required in accordance with law to be detained.
- (2) The provisions of subsections (5) to (7) of section 119 of this Act shall have effect for the purposes of subsection (1) above as they have effect for the purposes of the said section 119.

*Offences relating to military matters punishable by civil courts*

**191 Punishment for pretending to be a deserter.**

Any person who in the United Kingdom or any colony falsely represents himself to any military, naval, air-force or civil authority to be a deserter from the regular forces shall be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such a fine and such imprisonment.

**192 Punishment for procuring and assisting desertion.**

- (1) Any person who, whether within or without Her Majesty's dominions,—



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- (a) procures or persuades any officer, warrant officer, non-commissioned officer or soldier of the regular forces to desert or to absent himself without leave; or
  - (b) knowing that any such officer, warrant officer, non-commissioned officer or soldier is about to desert or absent himself without leave, assists him in so doing; or
  - [<sup>F17</sup>(c) knowing any person to be a deserter or absentee without leave from the regular forces, procures or persuades or assists him to remain such a deserter or absentee, or assists in his rescue from custody],
- shall be guilty of an offence against this section.
- (2) Any person guilty of an offence against this section shall be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months, or to both such a fine and such imprisonment, or on conviction on indictment to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years or to both such a fine and such imprisonment.

#### Textual Amendments

**F17** S. 192(1)(c) substituted by Armed Forces Act 1966 (c. 45), s. 18(1)

#### Modifications etc. (not altering text)

**C11** s. 192 modified (23.6.1999) by S.I. 1999/1736, art. 18

### 193 Punishment for obstructing members of regular forces in execution of duty.

Any person who, in the United Kingdom or any colony, wilfully obstructs or otherwise interferes with any officer, warrant officer, non-commissioned officer or soldier of the regular forces acting in the execution of his duty shall be liable on summary conviction to a fine not exceeding [<sup>F18</sup>level 3 on the standard scale] or to imprisonment for a term not exceeding three months or to both such a fine and such imprisonment.

#### Textual Amendments

**F18** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss.38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and (N.I.) S.I.1984/703 (N.I.3), arts. 5, 6

### 194 Punishment for aiding malingering.

Any person who, whether within or without Her Majesty's dominions,—

- (a) produces in an officer, warrant officer, non-commissioned officer or soldier of the regular forces any sickness or disability; or
- (b) supplies to or for him any drug or preparation calculated or likely to render him, or lead to the belief that he is, permanently or temporarily unfit for service,

with a view to enabling him to avoid military service, whether permanently or temporarily, shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both such a fine and such imprisonment, or on conviction on indictment to a fine not exceeding

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five hundred pounds or to imprisonment for a term not exceeding two years or to both such a fine and such imprisonment.

## **195 Unlawful purchase, etc. of military stores.**

- (1) Any person who, whether within or without Her Majesty's dominions, acquires any military stores or solicits or procures any person to dispose of any military stores, or acts for any person in the disposing of any military stores, shall be guilty of an offence against this section unless he proves either—
  - (a) that he did not know, and could not reasonably be expected to know, that the chattels in question were military stores, or
  - (b) that those chattels had (by the transaction with which he is charged or some earlier transaction) been disposed of by order or with the consent of <sup>[F19]</sup>the Defence Council] or of some person or authority who had, or whom he had reasonable cause to believe to have, power to give the order or consent, or
  - (c) that those chattels had become the property of an officer who had retired or ceased to be an officer, or of a warrant officer, non-commissioned officer or soldier who had been discharged, or of the personal representatives of a person who had died.
- (2) Any person guilty of an offence against this section shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both such a fine and such imprisonment, or on conviction on indictment to a fine not exceeding five hundred pounds or imprisonment for a term not exceeding two years or to both such a fine and such imprisonment.
- <sup>[F20]</sup>(3) A constable may seize any property which he has reasonable grounds for suspecting of having been the subject of an offence against this section.]
- (4) Any person having authority to issue a warrant for the arrest of a person charged with crime may, if satisfied by evidence on oath that a person within his jurisdiction has, or is reasonably suspected of having, in his possession any property which has been the subject of an offence against this section, grant a warrant to search for such property as in the case of stolen goods; and any property suspected of having been the subject of such an offence which is found on such a search shall be seized by the officer charged with the execution of the warrant, and that officer shall bring the person in whose possession or keeping the property is found before a court of summary jurisdiction.
- (5) In this section—
 

the expression “acquire” means buy, take in exchange, take in pawn or otherwise receive (whether apart from this section the receiving is lawful or not);

the expression “dispose” means sell, give in exchange, pledge or otherwise hand over (whether apart from this section the handing over is lawful or not);

the expression “military stores” means any chattel of any description belonging to Her Majesty, which has been issued for use for military purposes or is held in store for the purpose of being so issued when required, and includes any chattel which had belonged, and had been issued or held, as aforesaid at some past time.

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- (6) For the purposes of subsection (4) of this section property shall be deemed to be in the possession of a person if he has it under his control, and whether he has it for his own use or benefit or for the use or benefit of another.

#### Textual Amendments

- F19** Words substituted by [S.I. 1964/488](#), **Sch. 1 Pt. I**
- F20** [S. 195\(3\)](#) substituted by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), s. 119(1), Sch. 6 Pt. I para. 8 (E.W.) and by [S.I. 1989/1341 \(N.I.12\)](#), art. 90(1), **Sch. 6 para. 4**

### 196 Illegal dealings in documents relating to pay, pensions, mobilisation, etc.

- (1) Any person who—
- as a pledge or a security for a debt, or
  - with a view to obtaining payment from the person entitled thereto of a debt due either to himself or to any other person,
- receives, detains or has in his possession any official document issued in connection with the payment to any person of any pay, pension, allowance, gratuity or other payment payable in respect of his or any other person's military service shall be guilty of an offence against this section.
- (2) Any person who has in his possession without lawful authority or excuse (the proof whereof shall lie on him) any such document as aforesaid, or any official document issued in connection with the mobilisation or demobilisation of any of Her Majesty's military forces or any member thereof, shall be guilty of an offence against this section.
- (3) Any person guilty of an offence against this section shall be liable on summary conviction to a fine not exceeding [<sup>F21</sup>level 3 on the standard scale] or to imprisonment for a term not exceeding three months or to both such a fine and such imprisonment.
- (4) For the purposes of this section a document shall be deemed to be in the possession of a person if he has it under his control and whether he has it for his own use or benefit or for the use or benefit of another.
- (5) This section shall have effect in the United Kingdom and in any colony.

#### Textual Amendments

- F21** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss.38, 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G** and (N.I.) [S.I.1984/703 \(N.I.3\)](#), **arts. 5, 6**

### 197 Unauthorised use of and dealing in decorations, etc.

- (1) Any person who, in the United Kingdom or in any colony,—
- without authority uses or wears any military decoration, or any badge, wound stripe or emblem supplied or authorised by [<sup>F22</sup>the Defence Council], or
  - uses or wears any decoration, badge, wound stripe, or emblem so nearly resembling any military decoration, or any such badge, stripe or emblem as aforesaid, as to be calculated to deceive, or

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- (c) falsely represents himself to be a person who is or has been entitled to use or wear any such decoration, badge, stripe or emblem as is mentioned in paragraph (a) of this subsection,

shall be guilty of an offence against this section:

Provided that nothing in this subsection shall prohibit the use or wearing of ordinary regimental badges or of brooches or ornaments representing them.

- (2) Any person who purchases or takes in pawn any naval, military or air-force decoration awarded to any member of Her Majesty's military forces, or solicits or procures any person to sell or pledge any such decoration, or acts for any person in the sale or pledging thereof, shall be guilty of an offence against this section unless he proves that at the time of the alleged offence the person to whom the decoration was awarded was dead or had ceased to be a member of those forces.
- (3) Any person guilty of an offence against this section shall be liable on summary conviction to a fine not exceeding [<sup>F23</sup>level 3 on the standard scale] or to imprisonment for a term not exceeding three months or to both such a fine and such imprisonment.

#### **Textual Amendments**

**F22** Words substituted by S.I. 1964/488, Sch. 1 Pt. I

**F23** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss.38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G and (N.I.) S.I.1984/703 (N.I.3), arts. 5, 6

### *Provisions as to evidence*

#### **198 General provisions as to evidence.**

- (1) The following provisions <sup>F24</sup> shall have effect with respect to evidence in proceedings under this Act, whether before a court-martial, a civil court or otherwise.
- (2) A document purporting to be a copy of the attestation paper signed by any person and to be certified to be a true copy by a person stated in the certificate to have the custody of the attestation paper shall be evidence of the enlistment of the person attested.
- (3) The attestation paper purporting to be signed by a person on his enlistment shall be evidence of his having given the answers to questions which he is therein recorded as having given.
- (4) A letter, return or other document stating that any person—
- (a) was or was not serving at any specified time or during any specified period in any part of Her Majesty's forces or was discharged from any part of those forces at or before any specified time, or
  - (b) held or did not hold at any specified time any specified rank or appointment in any of those forces, or had at or before any specified time been attached, posted or transferred to any part of those forces, or at any specified time or during any specified period was or was not serving or held or did not hold any rank or appointment in any particular country or place, or
  - (c) was or was not at any specified time authorised to use or wear any decoration, badge, wound stripe or emblem,

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shall, if purporting to be issued by or on behalf of [F25the Defence Council], F26, or by a person authorised by F26 them, be evidence of the matters stated in the document.

- (5) A record made in any service book or other document prescribed by Queen's Regulations for the purposes of this subsection, being a record made in pursuance of any Act or of Queen's Regulations, or otherwise in pursuance of military duty, and purporting to be signed by the commanding officer or by any person whose duty it was to make the record, shall be evidence of the facts stated therein; and a copy of a record (including the signature thereto) in [F27any such book or other document as aforesaid], purporting to be certified to be a true copy by a person stated in the certificate to have the custody of the book [F28or other document], shall be evidence of the record.
- (6) A document purporting to be issued by order of [F25the Defence Council] and to contain instructions or regulations given or made by [F25the Defence Council] shall be evidence of the giving of the instructions or making of the regulations and of their contents.
- (7) A certificate purporting to be issued by or on behalf of [F25the Defence Council], or by a person authorised by F26 them, and stating—
- that a decoration of a description specified in or annexed to the certificate is a military, naval or air-force decoration, or
  - that a badge, wound stripe or emblem of a description specified in or annexed to the certificate is one supplied or authorised by [F25the Defence Council],
- shall be evidence of the matters stated in the certificate.
- (8) A certificate purporting to be signed by a person's commanding officer or any officer authorised by him to give the certificate, and stating the contents of, or of any part of, standing orders or other routine orders of a continuing nature made for—
- any formation or unit or [F29body of Her Majesty's forces], or
  - any command or other area, garrison or place, or
  - any ship, train or aircraft,
- shall in proceedings against the said person be evidence of the matters stated in the certificate.
- (9) Any document which would be evidence in any proceedings under the M2 Air Force Act 1955, by virtue of section one hundred and ninety-eight of that Act [F30], or in any proceedings under the M3 Naval Discipline Act 1957, by virtue of section 64C of that Act, shall in like manner, subject to the like conditions, and for the like purpose be evidence in the like proceedings under this Act.

#### Textual Amendments

- F24** Words repealed by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), s. 119(2), **Sch. 7 Pt. III**
- F25** Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**
- F26** Words repealed by S.I. 1964/488, **Sch. 1 Pt. I**
- F27** Words substituted by Army and Air Force Act 1961 (c. 52), **Sch. 2**
- F28** Words inserted by Army and Air Force Act 1961 (c. 52), **Sch. 2**
- F29** Words substituted by Armed Forces Act 1971 (c. 33), s. 78(4), **Sch. 1 para. 1(8)**
- F30** Words in s. 198(9) inserted (1.4.1997 subject to art. 3 of the commencing S.I.) by 1996 c. 46, s. 5, **Sch. 1 Pt. IV para. 70**; S.I. 1997/304, **arts. 2, 3** (with transitional provisions in **Sch. 2**)

#### Modifications etc. (not altering text)

- C12** S. 198(8)(c) extended by S.I. 1972/971, art. 4, **Sch. 1**

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#### Marginal Citations

- M2 1955 c. 19.  
M3 1957 c. 53.

198A, ..... F31  
198B.

#### Textual Amendments

- F31 Ss. 198A, 198B repealed by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), s.119(2), Sch. 7 Pt. III

#### [<sup>F32</sup>198C] Provision as to age.

Where the age of any person at any time is material for the purposes of any provision of this Act regulating the powers of a court-martial, his age at the material time shall be deemed to be or to have been that which appears to the court, after considering any available evidence, to be or to have been his age at that time.]

#### Textual Amendments

- F32 S. 198C inserted by Armed Forces Act 1976 (c. 52) Sch. 9 para. 4; renumbered as s. 198C by Armed Forces Act 1981 (c. 55), s. 9(2)

#### 199 Proof of outcome of civil trial.

- (1) Where a person subject to military law has been tried before a civil court (whether at the time of the trial he was subject to military law or not), a certificate signed by the [<sup>F33</sup>proper officer] of the court and stating all or any of the following matters,—
  - (a) that the said person has been tried before the court for an offence specified in the certificate,
  - (b) the result of the trial,
  - (c) what judgment or order was given or made by the court,
  - (d) that other offences specified in the certificate were taken into consideration at the trial,
 shall for the purposes of this Act be evidence of the matters stated in the certificate.
- (2) The [<sup>F33</sup>proper officer] of the court shall, if required by the commanding officer of the person in question or any other officer, furnish a certificate under this section and shall be paid such fee as may be prescribed by regulations made by a Secretary of State.
- (3) A document purporting to be a certificate under this section and to be signed by the [<sup>F33</sup>proper officer] of the court shall, unless the contrary is shown, be deemed to be such a certificate.

[<sup>F34</sup>(4) In this section “proper officer” means—

- (a) in relation to a court of summary jurisdiction in England and Wales, the [<sup>F35</sup>designated officer] for the court; and

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- (b) in relation to any other court, the clerk of the court, his deputy or any other person having the custody of the records of the court.]

#### Textual Amendments

- F33** Words in s. 199(1)(2)(3) substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 18(2)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)**
- F34** S. 199(4) substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 18(3)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)**
- F35** Words in s. 199(4)(a) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 95(b)**; S.I. 2005/910, art. 3(y)

<sup>F36</sup>**200A**.....

#### Textual Amendments

- F36** S. 200A repealed (11.5.2001) by 2001 c. 19, s. 38, **Sch. 7 Pt. 5**

### Miscellaneous Provisions

#### **201 Restrictions on reduction in rank of warrant officers and non-commissioned officers.**

- (1) A warrant officer or non-commissioned officer of the regular forces [<sup>F37</sup>(other than a lance-corporal or lance-bombardier)] shall not be reduced in rank except by sentence of a court-martial (whether under this Act, [<sup>F38</sup>the <sup>M4</sup>Naval Discipline Act 1957] or the <sup>M5</sup>Air Force Act 1955) or by order of [<sup>F39</sup>the Defence Council] or of an officer, not below the rank of [<sup>F40</sup>colonel, or captain in the Royal Navy or of group captain], authorised by [<sup>F39</sup>the Defence Council] to act for the purposes of this section.
- (2) An authorisation under the last foregoing subsection may be given generally or subject to such limitations as may be specified by [<sup>F39</sup>the Defence Council].
- (3) For the purposes of subsection (1) of this section reduction in rank does not include reversion from acting rank.

#### Textual Amendments

- F37** Words inserted by **Army and Air Force Act 1961 (c. 52), s. 37(1)(2)(c)**
- F38** Words substituted by virtue of **Naval Discipline Act 1957 (c. 53), s. 137(2)**
- F39** Words substituted by **S.I. 1964/488, Sch. 1 Pt. I**
- F40** Words substituted by **Armed Forces Act 1971 (c. 33), s. 68**

#### Modifications etc. (not altering text)

- C13** S. 201 excluded by **Naval Discipline Act 1957 (c. 53), ss. 112(2), 113(2), Sch. 1 para. 3, Sch. 2 para. 6**

#### Marginal Citations

- M4** 1957 c. 53.

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M5 1955 c. 19.

## 202 Temporary reception in civil custody of persons under escort.

- (1) Where a person is in military custody when charged with, or with a view to his being charged with, an offence against Part II of this Act, it shall be the duty of the governor, superintendent or other person in charge of a prison (not being a military prison), or of the person having charge of any police station or other place in which prisoners may be lawfully detained, upon delivery to him of a written order purporting to be signed by the commanding officer of the person in custody to receive him into his custody for a period not exceeding seven days.
- (2) This section shall have effect in the United Kingdom and in any colony.

## 203 Avoidance of assignment of or charge on military pay, pensions, etc.

- (1) Every assignment of or charge on, and every agreement to assign or charge, any pay, military award, grant, pension or allowance payable to any person in respect of his or any other person's service in Her Majesty's military forces shall be void.
- (2) Save as expressly provided by this Act, no order shall be made by any court the effect of which would be to restrain any person from receiving anything which by virtue of this section he is precluded from assigning and to direct payment thereof to another person.
- (3) Nothing in this section shall prejudice any enactment providing for the payment of any sum to a bankrupt's trustee in bankruptcy for distribution among creditors.
- (4) This section shall have effect in the United Kingdom and in any colony.

### Modifications etc. (not altering text)

- C14** S. 203(1)(2) excluded (1.8.1996 subject to arts. 4, 5 of the commencing S.I.) by 1995 c. 26, s. 166(5) (a) (with s. 167(4)); S.I. 1996/1675, arts. 3(b), 4, 5  
S. 203(1)(2) excluded (1.8.1996 subject to arts. 4, 5 of the commencing S.R.) by 1995/3213(N.I. 22), art. 162(5)(a); S.R. 1996/284, arts. 3(1)(b), 4, 5  
S. 203(1)(2) excluded (11.11.1999 for certain purposes otherwise 1.12.2000) by 1999 c. 30, s. 44(1) (a); S.I. 2000/1047, art. 2(2)(d), Sch. Pt. IV

## 204 Power of certain officers to take affidavits and declarations.

- (1) An officer of the regular forces [<sup>F41</sup>who is of or above the rank of major or is of the rank of captain and is a member of the legal [<sup>F42</sup>services branch of any] corps of those forces] (hereinafter referred to as an "authorised officer") may, at a place outside the United Kingdom, take affidavits and declarations from any of the following persons, that is to say, persons subject to military law and persons not so subject who are of any description specified in the Fifth Schedule to this Act.
- (2) A document purporting to have subscribed thereto the signature of an authorised officer in testimony of an affidavit or declaration being taken before him in pursuance of this section and containing in the jurat or attestation a statement of the date on which and the place at which the affidavit or declaration was taken and of the full name and



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rank of that officer shall be admitted in evidence without proof of the signature being the signature of that officer or of the facts so stated.

[<sup>F43</sup>(3) The power conferred by subsection (1) above may also be exercised by any officer empowered to take affidavits and declarations by section 204(1) of the <sup>M6</sup>Air Force Act 1955 or section 10(1) of the <sup>M7</sup>Emergency Laws (Miscellaneous Provisions) Act 1953.]

#### Textual Amendments

- F41** Words substituted by [Armed Forces Act 1981 \(c. 55\), s. 19\(3\)](#)
- F42** Words in s. 204(1) inserted (1.10.1996 subject to art. 3 of the commencing S.I.) by [1996 c. 46, s. 35\(1\), Sch. 6 para. 2; S.I. 1996/2474, art. 2](#)
- F43** S. 204(3) added by [Armed Forces Act 1971 \(c. 33\), s. 70\(2\)](#)

#### Marginal Citations

- M6** 1955 c. 19.
- M7** 1953 c. 47.

[<sup>F44</sup>**204A Exclusion of enactments requiring fiat of Attorney General etc., in connection with proceedings.**

With the exception of [<sup>F45</sup> subsection (3A)] of section 132 of this Act, no enactment requiring the fiat or consent of the Attorney General or the Director of Public Prosecutions in connection with any proceedings shall have effect in relation to proceedings under this Act.]

#### Textual Amendments

- F44** S. 204A inserted by [Armed Forces Act 1971 \(c. 33\), s. 45\(1\)](#)
- F45** Words in s. 204A substituted (1.1.1992) by [Armed Forces Act 1991 \(c. 62, SIF 7:1\), s. 26\(1\), Sch. 2 para. 6; S.I. 1991/2719, art. 2](#)

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**Changes to legislation:**

There are currently no known outstanding effects for the Army Act 1955 (repealed), Part V.