



# Air Force Act 1955

1955 CHAPTER 19 3 4 Eliz2

## PART II

### DISCIPLINE AND TRIAL AND PUNISHMENT OF AIR-FORCE OFFENCES

*Desertion, absence without leave, etc.*

#### 37 Desertion

- (1) Any person subject to air-force law who—
- (a) deserts, or
  - (b) persuades or procures any person subject to air-force law to desert,
- shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act:

Provided that a person shall not be liable to be imprisoned for more than two years unless—

- (i) if the offence was against paragraph (a) of this subsection, he was on active service or under orders for active service at the time when it was committed,
  - (ii) if the offence was an offence against paragraph (b) of this subsection, the person in relation to whom it was committed was on active service or under orders for active service at that time.
- (2) For the purposes of this Act a person deserts who—
- (a) leaves Her Majesty's service or, when it is his duty to do so, fails to join or rejoin Her Majesty's service, with (in either case) the intention, subsisting at the time of the leaving or failure or formed thereafter, of remaining permanently absent from his duty, or
  - (b) being an officer enlists in or enters any of Her Majesty's forces without having resigned his commission, or being a warrant officer, non-commissioned officer or airman enlists in or enters any of Her Majesty's forces without having been discharged from his previous enlistment, or

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*Status: This is the original version (as it was originally enacted).*

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(c) 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.

- (3) In addition to or in lieu of any punishment authorised by subsection (1) of this section, the court-martial by whom a warrant officer, non-commissioned officer or airman of the regular air force is convicted of desertion may direct that the whole or any part of his service previous to the period as respects which he is convicted of having been a deserter shall be forfeited:

Provided that this subsection shall not apply to a person enlisted in pursuance of the National Service Act, 1948.

### **38 Absence without leave**

Any person subject to air-force law who—

- (a) absents himself without leave, or
- (b) persuades or procures any person subject to air-force law to absent himself without leave,

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.

### **39 Assisting and concealing desertion and absence without leave**

Any person subject to air-force law who—

- (a) knowingly assists any person subject to air-force law to desert or absent himself without leave, or
- (b) knowing that any person subject to air-force law has deserted or absented himself without leave, or is attempting to desert or absent himself without leave, fails to report that fact without delay, or fails to take any steps in his power to cause that person to be apprehended,

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.

### **40 Falsely obtaining or prolonging leave**

Any person subject to air-force law who for the purpose of obtaining leave or prolonging his leave knowingly makes any false statement to any air-force authority, to a member of any police force or to any person authorised by or under instructions of the Air Council to act for the purpose of obtaining prolongation of leave 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.

### **41 Failure to perform air-force duties**

Any person subject to air-force law who without reasonable excuse fails to attend for any parade or other air-force duty of any description or leaves any such parade or duty as aforesaid before he is permitted to do so 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.