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# Naval Discipline Act 1957 (repealed)

1957 CHAPTER 53:5 and 6:2

## PART III

PROVISIONS RELATING TO CIVILIANS AND CIVIL AUTHORITIES

*Powers of civil courts and authorities as to deserters and absentees*

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### Textual Amendments applied to the whole legislation

- F1** Act repealed (prosp.) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 17](#) and the repeal being partly in force, as to which see individual provisions

### 108 Deserters and absentees surrendering to police.

- (1) Where a person surrenders himself to a constable as being a person who is illegally absent from any of Her Majesty's naval forces, the constable shall, unless that person 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 naval custody without bringing him before a court of summary jurisdiction or may bring him before such a court.

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### Modifications etc. (not altering text)

- C1** [S. 108](#) as read with s. 126 extended by [Guyana Independence Act 1966 \(c. 14\)](#), s. 5(2)

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## 109 Proceedings before summary courts.

(1) Where a person who is brought before a court of summary jurisdiction as being illegally absent from any of Her Majesty's naval forces admits that he is so absent and the court is satisfied of the truth of the admission, the court may in any case, and shall unless he is in custody for some other cause, forthwith either—

(a) cause him to be delivered into naval custody in such manner as the court may think fit; or

[<sup>F1</sup>(b) 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 naval custody.]

<sup>F2</sup>(2) . . . . .

(3) Where a person who is brought as aforesaid does not admit that he is illegally absent as aforesaid, or does so admit but the court is not satisfied of the truth of the admission, the court shall consider the evidence and any statement of the accused, and thereupon—

(a) if the court is satisfied that he is subject to this Act and is of opinion that there is sufficient evidence to justify his being tried under Part II of this Act for an offence of desertion, absence without leave or improperly leaving his ship . . . <sup>F3</sup>, the court may in any case, and shall unless he is in custody for some other cause, either cause him to be delivered into naval custody or [<sup>F4</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 naval custody];

(b) in any other case the court shall, unless he is in custody for some other cause, discharge him.

(4) The following provisions of [<sup>F5</sup>the <sup>M1</sup>Magistrates' Courts Act 1980], 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; and for the purposes of any such proceedings, a certificate purporting to be signed by the officer in command of any of Her Majesty's ships or naval establishments and stating that a person is subject to this Act and is illegally absent as aforesaid shall be evidence of the matters so stated.

### Textual Amendments

**F1** S. 109(1)(b) substituted (2.10.2000) by 2000 c. 4, s. 9(3)(a); S.I. 2000/2366, art. 2

**F2** S. 109(2) repealed (2.10.2000) by 2000 c. 4, ss. 9(3)(b), 27, Sch. 4; S.I. 2000/2366, art. 2

**F3** Words repealed by Armed Forces Act 1971 (c. 33), s. 78(4), Sch. 4 Pt. I

**F4** Words in s. 109(3)(a) substituted (2.10.2000) by 2000 c. 4, ss. 9(3)(c), 27, Sch. 4; S.I. 2000/2366, art. 2

**F5** Words substituted by virtue of Magistrates' Courts Act 1980 (c. 43), Sch. 8 para. 5

### Modifications etc. (not altering text)

**C2** S. 109 as read with s. 126 extended by Guyana Independence Act 1966 (c. 14), s. 5(2)

### Marginal Citations

**M1** 1980 c. 43.

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## 110 Certificates of arrest or surrender.

- (1) Where an officer of police causes any person to be delivered into naval custody under section one hundred and eight of this Act without being brought before a court of summary jurisdiction, there shall be handed over with that person a certificate in the prescribed form signed by the officer of police, containing a statement of the fact, date, time and place of surrender and whether or not the said person was at the time of surrender wearing the uniform of any of Her Majesty's naval forces.
  - (2) Where a court of summary jurisdiction causes any person to be delivered into naval custody under section one hundred and nine of this Act, or any person is so delivered after having been committed under that section, there shall be handed over with him a certificate in the prescribed form, signed by a justice of the peace [<sup>F6</sup>or (in Northern Ireland) resident magistrate] , containing—
    - (a) a statement of the fact, date, time and place of arrest or surrender, and whether or not the said person was, at the time of arrest or surrender, wearing the uniform of any of Her Majesty's naval forces; and
    - (b) such particulars of the proceedings before the court as may be prescribed;and for any such certificate there shall be payable to the [<sup>F7</sup>proper officer] of the court, by such person as [<sup>F8</sup>the Defence Council] may direct, such fee (if any) as may be prescribed.
- [<sup>F9</sup>(2A) In subsection (2) of this section “proper officer” means—
- (a) in relation to a court of summary jurisdiction in England and Wales, the [<sup>F10</sup>designated officer] for the court; and
  - (b) in relation to a court of summary jurisdiction elsewhere, the clerk of the court.]
- (3) In this section “prescribed” means prescribed by regulations made by [<sup>F8</sup>the Secretary of State] by statutory instrument.

### Textual Amendments

- F6** Words in s. 110(2) inserted (N.I.) (1.4.2005) by [Justice \(Northern Ireland\) Act 2002 \(c. 26\)](#), ss. 10, 87, [Sch. 4 para. 12](#); SR 2005/109, {art. 2} Sch.
- F7** Words in s. 110(2) substituted (1.4.2001) by 1999 c. 22, s. 98, Sch. 13 paras. 22, [23\(2\)](#) (with Sch. 14 para. 7(2)); S.I. 2001/916, [art. 2\(a\)\(ii\)](#) (with Sch. 2 para. 2)
- F8** Words substituted by S.I. 1964/488, [Sch. 1 Pt. I](#)
- F9** S. 110(2A) inserted (1.4.2001) by 1999 c. 22, s. 98, Sch. 13 paras. 22, [23\(3\)](#) (with Sch. 14 para. 7(2)); S.I. 2001/916, [art. 2\(a\)\(ii\)](#) (with Sch. 2 para. 2)
- F10** Words in s. 110(2A)(a) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), ss. 109(1), 110, [Sch. 8 para. 97\(a\)](#); S.I. 2005/910, [art. 3\(y\)](#)

### Modifications etc. (not altering text)

- C3** S. 110 as read with s. 126 extended by [Guyana Independence Act 1966 \(c. 14\)](#), s. 5(2)
- C4** S. 110(2) modified by [Armed Forces Act 1966 \(c. 45\)](#), s. 33

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