

SCHEDULES

SCHEDULE 2

DESERTERS AND ABSENTEES WITHOUT LEAVE

Proceedings before a civil court where persons suspected of illegal absence

- 3 (1) Paragraphs 4 and 5 apply in the case of a person (“the accused”) who is brought before a magistrates' court and alleged to be a member of a reserve force who has deserted or is absent without leave.
- (2) The provisions of the Magistrates' Courts Act 1980—
- (a) relating to the constitution and procedure of magistrates' courts acting as examining justices and conferring powers of adjournment and remand on such courts so acting; and
 - (b) as to evidence and the issue and enforcement of summonses or warrants to secure the attendance of witnesses,
- shall apply to proceedings to which paragraph 4 or 5 applies.
- (3) In the application of this Schedule to Scotland and Northern Ireland, the reference in sub-paragraph (2) to provisions of the Magistrates' Courts Act 1980 shall be construed as a reference to any corresponding enactment in force as respects courts of summary jurisdiction.
- 4 (1) This paragraph applies where the accused admits that he is illegally absent from a reserve force and the court is satisfied of the truth of the admission.
- (2) If the accused is not in custody for some cause other than illegal absence from his reserve force, the court shall—
- (a) cause him to be delivered into military, air-force or naval custody (as the case may require) in such manner as the court may think fit; or
 - (b) commit him to a prison, police station or other place provided for the confinement of persons in custody, to be kept there for such reasonable period as the court may specify or until sooner delivered into military, air-force or naval custody (as the case may require).
- (3) If the accused is in custody for some other cause, the court may act as mentioned in sub-paragraph (2).
- (4) Any period specified as mentioned in sub-paragraph (2)(b)—
- (a) shall not exceed such time as appears to the court reasonably necessary to enable the accused to be delivered into military, air-force or naval custody; and
 - (b) may be extended by the court from time to time if it appears to the court reasonably necessary to do so for that purpose.
- 5 (1) This paragraph applies where—
- (a) the accused does not admit that he is illegally absent from a reserve force; or

Status: This is the original version (as it was originally enacted).

- (b) the court is not satisfied of the truth of any such admission.
- (2) The court shall consider the evidence with a view to determining whether there is sufficient evidence to justify his being tried under this Act for an offence of desertion or absence without leave.
- (3) Where the court considers that there is sufficient evidence to justify his being tried under this Act for an offence of desertion or absence without leave, the court shall (unless he is in custody for some other cause) cause him to be delivered into military, air-force or naval custody (as the case may require) or commit him as mentioned in paragraph 4(2)(b).

If the accused is in custody for some other cause, the court may act as mentioned in this paragraph.

- (4) If the court does not consider that there is sufficient evidence to justify the trial of the accused for an offence of desertion or absence without leave, he shall be discharged.