



Naval Discipline Act 1957

1957 CHAPTER 53

PART III

PROVISIONS RELATING TO CIVILIANS AND CIVIL AUTHORITIES

Offences by civilians triable by court-martial

93 Spying in ships or in naval establishments abroad

Every person not subject to this Act who, being on board any of Her Majesty's ships or vessels, or being within any of Her Majesty's naval establishments outside Her Majesty's dominions, acts as a spy for the enemy shall be liable on conviction by court-martial to death or to imprisonment for any term.

94 Seduction from duty in ships or in naval establishments abroad

Every person not subject to this Act who, being on board any of Her Majesty's ships or vessels, or being within any of Her Majesty's naval establishments outside Her Majesty's dominions, endeavours to seduce any person subject to this Act from his duty or allegiance to Her Majesty shall be liable on conviction by court-martial to imprisonment for any term.

95 Arrest and jurisdiction

- (1) Any person found committing an offence under section ninety-three or section ninety-four of this Act, or alleged to have committed or reasonably suspected of having committed such an offence, may be arrested by any officer or rating subject to this Act, or by any provost officer or person legally exercising authority under a provost officer or on his behalf.
- (2) Any such offence may be tried and punished by court-martial under Part II of this Act; and the provisions of the said Part II (except provisions relating to summary trial and to disciplinary courts) shall apply accordingly as they apply in relation to offences under Part I of this Act.

Offences punishable by civil courts

96 False pretence of desertion or absence without leave

Every person who, whether within or without Her Majesty's dominions, falsely represents himself to any naval, military, air force or civil authority to be a person who is illegally 'absent from any of Her Majesty's naval 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.

97 Procuring or assisting desertion or absence without leave

- (1) Every person who, whether within or without Her Majesty's dominions.—
- (a) procures or persuades any person subject to this Act to commit an offence of desertion, of absenting himself without leave or of improperly leaving his ship or place of duty; or
 - (b) knowing that any such person is about to commit such an offence as aforesaid, assists him in so doing; or
 - (c) knowing any such person to have committed such an offence as aforesaid, conceals him or assists in concealing him or assists in his rescue from custody, shall be guilty of an offence against this section.
- (2) A 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.

98 Unlawful purchase of naval property

- (1) Every person who, whether within or without Her Majesty's dominions, acquires any naval property, or solicits or procures any person to dispose of any naval property, or acts for any person in the disposing of any naval property, 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 naval property; or
 - (b) that those chattels had (by the transaction with which he is charged or some earlier transaction) been disposed of by order of or with the consent of the Admiralty or of some person in 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 rating who had been discharged, or of the personal representatives of a person who had died.
- (2) A 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.
- (3) In this section the following expressions have the meanings hereby respectively assigned to them—

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

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

"naval property" means any chattel of any description belonging to Her Majesty, which has been issued for use for naval 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.

99 Illegal dealings in official documents

- (1) Every person who receives, detains or has in his possession—
 - (a) as a pledge or as security for a debt; or
 - (b) with a view to obtaining payment from the person entitled thereto of a debt due either to himself or to any other person,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 service in Her Majesty's naval forces shall be guilty of an offence against this section.
- (2) Every 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 naval forces or any member thereof, shall be guilty of an offence against this section.
- (3) A 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.
- (4) For the purpose 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) References in this section to Her Majesty's naval forces include references to the naval forces of any Commonwealth country or raised under the law of any colony.

100 Jurisdiction and application of summary fines

- (1) A person alleged to have committed an offence under any provision of sections ninety-six to ninety-nine of this Act may, subject to the provisions of this section, be tried by a civil court having jurisdiction in the place where he is for the time being, notwithstanding that the offence was committed outside the jurisdiction of that court.
- (2) Notwithstanding anything in the foregoing subsection, an offence committed in England and Wales, in Scotland or in Northern Ireland, shall not be triable outside England or Wales, Scotland or Northern Ireland, as the case may be.
- (3) Any sum paid to the Secretary of State in pursuance of section twenty-seven of the Justices of the Peace Act, 1949, in respect of a fine recovered under this Part of this Act shall be deemed to be Exchequer moneys within the meaning of that section and shall be paid by the Secretary of State into the Exchequer.

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

Process and execution in certain civil proceedings

101 Service of proceedings for maintenance, etc.

- (1) Any process to be served on an officer or rating who is subject to this Act (in this section referred to as "the defendant") in connection with proceedings for a maintenance order as defined by this section, or for the variation, revocation or revival of such an order, shall be deemed to be duly served on the defendant if served on the commanding officer of the ship or establishment in which the defendant is serving or on the books of which he is borne, and may, without prejudice to any other method of service, be so served within the United Kingdom by registered post.
- (2) If, by reason of the ship in which the defendant is serving being at sea or for any other reason, it is impracticable to serve any such process on the said commanding officer, the process shall be deemed to be duly served on the defendant if, not less than three weeks after notice thereof has been given in writing to the Admiralty, it is served on the Secretary of the Admiralty.
- (3) Where any such process appoints a hearing at a place more than twenty miles distant from the place where the defendant is serving and his appearance in person will be required at the hearing, the service of the process shall be of no effect unless there is left with it, in the hands of the person on whom it is served, a sum of money sufficient to enable the defendant to attend the hearing and return to that place.
- (4) Where any such process is served in the United Kingdom and the defendant will be required to appear in person at the hearing, the service of the process shall be of no effect if it is certified by the commanding officer referred to in subsection (1) of this section to the court by which the process was issued that the defendant is under orders for service on a foreign station and that in the opinion of that officer it would not be possible for the defendant to attend the hearing and return in time to embark for that service.
- (5) In this section the expression "maintenance order" means an order made by a court in the United Kingdom or registered in or confirmed by such a court under the provisions of the Maintenance Orders (Facilities for Enforcement) Act, 1920, being an order for the payment of any periodical or other sum specified therein for or in respect of—
 - (a) the maintenance of any person who is or, where the order is made in proceedings in connection with the dissolution or annulment of a marriage, would if the marriage had subsisted have been, the wife or child of the person against whom the order is made; or
 - (b) the maintenance of any illegitimate child of whom the person against whom the order is made is the putative father; or
 - (c) any costs incurred in obtaining the order; or
 - (d) any costs incurred in proceedings on appeal against or for the variation, revocation or revival of any such order;
 and includes an affiliation order within the meaning of the Affiliation Orders Act, 1914.
- (6) Nothing in this section shall be construed as enabling process to be served in connection with proceedings in a court of summary jurisdiction unless the defendant is within the United Kingdom or is serving in a ship on a home station or a naval establishment within the United Kingdom.

102 Exemption of naval property from execution

No judgment or order given or made by any court against a member of any of Her Majesty's naval forces or of any naval force of a Commonwealth country or raised under the law of any 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 naval purposes.

Arrest and detention of offenders by civil authorities

103 Arrest under warrants of naval authorities

- (1) A warrant for the arrest of a person suspected of any offence under Part I of this Act may be issued by any Commander-in-Chief, by the senior naval officer present at any port, by any officer in command of any of Her Majesty's ships or naval establishments, or by any officer who by virtue of subsection (4) of section forty-nine of this Act has power to try that person for that 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 offence 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 naval custody ; and there shall be handed over with him a certificate signed by the officer of police who causes him to be delivered into naval 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 naval forces.

104 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 (2) and (3) of section eighty-eight of this Act shall have effect for the purposes of the foregoing subsection as they have effect for the purposes of that section.

105 Arrest of deserters and absentees

- (1) A constable may arrest without warrant any person whom he has reasonable cause to suspect of being an officer or rating of any of Her Majesty's naval forces who has deserted or is absent without leave.
- (2) Where no constable is available, any officer or rating who is subject to this Act, 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 or rating of any of Her Majesty's naval forces who

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has deserted or is absent without leave, or is reasonably suspected of having deserted or being absent without leave, may issue a warrant authorising his arrest.

- (4) Any person taken into custody in pursuance of this section shall as soon as practicable be brought before a court of summary jurisdiction.

106 Arrest of persons suspected of offences punishable by civil courts

- (1) A constable may arrest without warrant any person whom he has reasonable grounds for suspecting of having committed an offence punishable under this Part of this Act on summary conviction, and may seize any property which he has reasonable grounds for suspecting of having been the subject of an offence against section ninety-eight of this Act.
- (2) 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 the said section ninety-eight, 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.
- (3) For the purposes 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.

107 Duties of governors of civil prisons, etc.

- (1) It shall be the duty of the governor of a civil prison—
- (a) to receive and confine until discharged in due court of law any person sentenced under this Act to imprisonment who is committed, transferred or returned to that prison in pursuance of a committal order or an order made under section eighty-four of this Act, and to deliver over or discharge any such person in accordance with any order under this Act or on the expiration of his sentence;
 - (b) to receive and confine for a period not exceeding seven days any person who is for the time being in naval custody upon delivery of an order in that behalf purporting to be signed by a flag officer or by the officer in command of any of Her Majesty's ships or naval establishments, or upon production of a committal order or an order made under the said section eighty-four relating to that person ;
 - (c) to receive any person duly committed to that prison by a court of summary jurisdiction under this Part of this Act as being illegally absent from any of Her Majesty's naval forces, and to detain him until, in accordance with the directions of the court, he is delivered into naval custody.
- (2) Subsection (1) of this section, except paragraph (a), 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 as it applies to the governor of a prison.

Powers of civil courts and authorities as to deserters and absentees

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.

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
 - (b) commit him to some prison, police station or other place provided for the confinement of persons in custody, to be kept there for such reasonable time as the court may specify (not exceeding such time as appears to the court reasonably necessary for the purpose of enabling him to be delivered into naval custody) or until sooner delivered into naval custody.
- (2) Any time specified by the court under the foregoing subsection may be extended by the court from time to time if it appears to the court reasonably necessary so to do for the purpose mentioned in that subsection.
- (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 or place of duty, 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 commit him as provided by subsection (1) of this section;
 - (b) in any other case the court shall, unless he is in custody for some other cause, discharge him.
- (4) The following provisions of the Magistrates' Courts Act, 1952, 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.

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, 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 clerk of the court, by such person as the Admiralty may direct, such fee (if any) as may be prescribed.
- (3) In this section " prescribed " means prescribed by regulations made by the Admiralty by statutory instrument.