STATUTORY INSTRUMENTS

1972 No. 318

DEFENCE

The Certificates of Arrest and Surrender (Army) Regulations 1972

Made - - - - 1*st March* 1972

Coming into Operation—in accordance with Regulation 1.

The Secretary of State for Defence, in exercise of the powers conferred upon him by section 189(4) of the Army Act 1955**(a)** and, by virtue of section 44(2) of the Armed Forces Act 1971**(b)**, by section 190A(4) of the Army Act 1955, and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

1.—(1) These Regulations may be cited as the Certificates of Arrest and Surrender (Army) Regulations 1972 and shall come into operation on such date as the Armed Forces Act 1971 comes into force.

(2) The Interpretation Act 1889**(c)** shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

2. Where, in pursuance of section 187 of the Army Act 1955, a court of summary jurisdiction has dealt with a person as illegally absent, the certificate which is required by section 189(1) of that Act to be handed over with that person when he is delivered into military custody shall be in the form specified in Part I of the Schedule to these Regulations and shall contain the particulars therein set out as to his arrest or surrender and the proceedings before the court.

3. Where, under section 188 of the Army Act 1955, a person is delivered into military custody without being brought before a court the certificate which is required by section 189(2) of that Act to be handed over with him shall be in the form specified in Part II of the Schedule to these Regulations and shall contain the particulars therein set out relating to his surrender.

4. Where, in pursuance of section 190A of the Army Act 1955, a person suspected of any offence under Part II of that Act has been arrested under a warrant issued by his commanding officer, the certificate which is required by subsection (3) of that section to be handed over with that person when he is delivered into military custody shall be in the form specified in Part III of the Schedule to these Regulations and shall contain the particulars therein set out relating to his arrest and state whether or not the person arrested was at the time of arrest wearing the uniform of any of Her Majesty's military forces.

(a) 1955 c. 18. (b) 1971 c. 33. (c) 1889 c. 63

5. The Certificates of Arrest and Surrender of Deserters and Absentees (Army) Regulations 1956**(a)** and the Certificates of Arrest and Surrender of Deserters and Absentees (Army) (Amendment) Regulations 1961**(b)** are hereby revoked.

Carrington,
One of Her Majesty's Principal Secretaries of State.

Dated 1st March 1972.

SCHEDULE

PART I

CERTIFICATE IN ACCORDANCE WITH SECTION 189(1) OF THE ARMY ACT 1955

I CERTIFY that on the.....day of.....19.....,

there was brought before the.....
(*name and description of court*)

Court at....., being a court of summary jurisdiction,
(*place*)

Number .....

Rank .....

Name .....

Unit or corps.....

a member of the regular forces alleged to be an illegal absentee who had

.....
(*insert as appropriate "been arrested by" or "surrendered to"*)

.....
(*insert the name of the person who effected the arrest or to whom surrender was made*)

at..... at.....on the.....19...
(*place*) (*time*) (*date*)

and that he was dealt with in accordance with the provisions of section 187 of the Army Act 1955.

Delete this paragraph if no admission made } The said member of the regular forces admitted that he had been illegally absent from the said unit or corps at .....
(*place from which he absented himself if known*)

Dated this day of 19 .

..... (Signature)

..... (Description)
(*As to the persons qualified to sign, see note*)

(a) S.I. 1956/657 (1956 I, p. 363). (b) S.I. 1961/2009 (1961 III, p. 3681).

NOTE

The following persons are authorised to sign under section 30 of the Army and Air Force Act 1961:—

(1) in England, Wales and the Isle of Man, a justice of the peace or the clerk of the court;

(2) in Scotland, the clerk of the court;

(3) in Northern Ireland, a resident magistrate or the clerk of petty sessions for the petty sessions district in which the court sat;

(4) in Jersey and Guernsey, a magistrate or a person for the time being authorised to act as a magistrate;

(5) in Alderney, the chairman of the Court of Alderney or the person for the time being authorised to act as chairman of that court;

(6) in Sark, the Seneschal or the Deputy Seneschal; and

(7) in a colony, protectorate or trusteeship territory under the United Nations, a magistrate or the official (by whatever designation known) who exercises in the court functions similar to those exercised in England by the clerk of a court of summary jurisdiction.

PART II

CERTIFICATE IN ACCORDANCE WITH SECTION 189(2) OF THE ARMY ACT 1955

I certify that.....(*full names*)

surrendered himself at.....(*place*), at

.....(*hour*), on the.....day of.....19...

as being illegally absent from.....(*unit*)

at.....(*place*) on.....(*date*)

and gave the following particulars:—

No. .....

Rank .....

Name .....

Unit.....

Dated this.....day of.....19...

Signature of officer of police in charge of police station where the above-named person surrendered or was taken on surrender. .....

PART III

CERTIFICATE IN ACCORDANCE WITH SECTION 190A(3) OF THE ARMY ACT 1955

I certify that:

Number .....

Rank .....

Full Names.....

Unit or corps.....

was arrested at.....(*place*)

at.....(*time*) on the.....day of.....

19... under a warrant issued by his commanding officer pursuant to section 190A of the Army Act 1955.

He was/was not (*delete as appropriate*) at the time of arrest wearing the uniform of one of Her Majesty's military forces.

Dated this.....day of.....19....

Signature of officer of police who causes the above-named person to be delivered into military custody. .....

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations, which replace the Certificates of Arrest and Surrender of Deserters and Absentees (Army) Regulations 1956, prescribe the forms of certificate which must be handed over with a person who is delivered into military custody, being a deserter or absentee from the Army who has been brought before a court of summary jurisdiction or who has surrendered himself to the police or a person suspected of any offence under Part II of the Army Act, 1955 who has been arrested under a warrant issued by his commanding officer.

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