



MINISTRY OF DEFENCE

CERTIFICATE OF TRANSFER TO SERVICE CUSTODY

T-SL-AD05

In accordance with The Armed Forces (Evidence of Illegal Absence and Transfer to Service Custody) Regulations 2009 Regulation 4.

Notes for completion:

This form is to be completed on the following occasions:

By the civil police where

- A person arrested under a warrant (pursuant to either section 313(1) or section 317(1)) is transferred into service custody in accordance with the Armed Forces Act 2006 section 313(4) or section 317(4); or
- A person who has surrendered himself to the civilian police as an absentee/deserter is transferred to service custody in accordance with the Armed Forces Act 2006 section 315(4)(a).

By the civilian court in the UK or British overseas territory where

- The court arranges for a person arrested by the civilian police without a warrant (or a person who has surrendered himself to the civil police) to be transferred to service custody in accordance with the Armed Forces Act 2006 section 316(3)(a)(i) or (b).

Part A (to be completed in all cases) – Details of person being transferred:

Service Number

Rank/Rate

First Name

Family name

Ship/unit/establishment

Part B (To be completed in cases of arrest only) – Details of Arrest:

Number of person making arrest

Rank/Rate of person making arrest

First Name of person making arrest

Family name of person making arrest

Date of arrest

Time of arrest

Place of arrest

Number and date of warrant (if applicable)

Part C (To be completed in cases of surrender only) – Details of Surrender:

Number of person to whom the person surrendered

Rank/Rate of person to whom the person surrendered

First Name of person to whom the person surrendered

Family name of person to whom the person surrendered

Date of surrender

Time of surrender

Place of surrender

Part D (To be completed in cases of arrest or surrender) – Uniform and Identity

Details of whether or not at the time of arrest/surrender the person was wearing uniform

Details of whether or not at the time of arrest/surrender the person was in possession of Forces Identity Card

Part E (To be completed only where the person is brought before a civilian court of summary jurisdiction):

Name of court

Territory

State whether England and Wales, Scotland, Northern Ireland, Isle of Man, or British overseas territory (Anguilla; Bermuda; British Antarctic Territory; British Indian Ocean Territory; Cayman Islands; Falkland Islands; Gibraltar; Montserrat; Pitcairn, Henderson, Ducie and Oeno Islands; St Helena, Ascension and Tristan da Cunha; South Georgia and the South Sandwich Islands; The Sovereign Base Areas of Akrotiri and Dhekelia; Turks and Caicos Islands; and Virgin Islands)

Details of whether the person admitted to the court that he was a person subject to service law who had deserted or was absent without leave

Details of whether the court had in its possession any of the following (delete those not in the courts possession):

- a) a certificate (or copy) signed by the person's commanding officer detailing the information described in Regulation 3(2) and containing a statement that the person is suspected of being illegally absent (See Regulation 3(2) printed at the back of this form for the required information);
- b) a copy of any signalled declaration of absence relating to the person containing the information described in Regulation 3(2); or
- c) any document appearing to be the result of a search of the Police National Computer showing the person is wanted for being illegally absent.

Part F (To be completed in all cases if applicable) - Custody Records:

Details of any custody records raised and maintained for the person whilst he was under arrest or after he had surrendered (copies to be attached)

Part G (to be completed in all cases) – Details of Authorised Person

(For the definition of authorised person see Regulation 7 printed at the back of this form)

First Name

Family Name

State capacity as per footnote 3

Signature

Date

This certificate is to be handed over to the person receiving the suspect into service custody at the time of transfer

The person receiving the suspect into service custody must make a report to the suspect's Commanding Officer as soon as practicable and pass copies of the form to the Commanding Officer and the service police crime bureau (fax: 023 9228 5179 (civilian) or 93835 5179 (military))

Part H (To be completed in all cases) - Details of person receiving person into service custody:

Service Number

Rank/Rate

First Name

Family name

Ship/Unit/Establishment

Date of surrender

Part J - List of Attachments

List below all attachments to this form (e.g. custody records, proof of absence, etc.)

ARMED FORCES ACT 2006 PART 13 CHAPTER 3 – ARREST AND DETENTION BY CIVIL AUTHORITIES

313 Arrest by civilian police under warrant of judge advocate

- (1) Where a judge advocate is satisfied by evidence given under oath or affirmation that there are reasonable grounds for doing so, he may issue a warrant for the arrest of a person who is reasonably suspected of having committed a service offence.
- (2) A warrant issued under this section–
 - (a) shall be addressed to an officer or officers of a UK police force or British overseas territory police force; and
 - (b) shall specify the name of the person for whose arrest it is issued and the offence which he is alleged to have committed.
- (3) The Secretary of State may make rules with respect to the practice and procedure which is to apply in connection with warrants issued under this section.
- (4) A person arrested under a warrant issued under this section must as soon as practicable be transferred to service custody.

314 Arrest by civilian police of deserters and absentees without leave

- (1) An officer of a UK police force or British overseas territory police force may arrest without a warrant a person (“ a relevant suspect”) who is reasonably suspected of being a person subject to service law who has deserted or is absent without leave.
- (2) If an authorised person is satisfied by evidence given under oath or affirmation that a relevant suspect is or is reasonably suspected of being within his jurisdiction, he may issue a warrant for the arrest of the relevant suspect.
- (3) In subsection (2) “ authorised person” means a person who has authority in a relevant territory to issue a warrant for the arrest of a person suspected of an offence.
- (4) A person arrested under this section must as soon as practicable be brought before a court of summary jurisdiction in the relevant territory in which he was arrested.
- (5) In this section “ relevant territory” means–
 - (a) England and Wales;
 - (b) Scotland;
 - (c) Northern Ireland;
 - (d) the Isle of Man; or
 - (e) a British overseas territory.

315 Deserters and absentees without leave surrendering to civilian police

- (1) Where–
 - (a) a person surrenders to a civilian policeman as being a person subject to service law who has deserted or is absent without leave, and
 - (b) the surrender occurs at a place in a relevant territory which is not a police station, he must be taken to a police station.
- (2) Subsection (3) applies where a person–
 - (a) is brought to a police station under subsection (1), or
 - (b) surrenders to a civilian policeman, at a police station in a relevant territory, as being a person subject to service law who has deserted or is absent without leave.
- (3) The person in charge of the police station, or a person authorised by him, must consider the case.
- (4) If it appears to the person considering the case that the person who has surrendered is a person subject to service law who has deserted or is absent without leave, he may–
 - (a) arrange for him to be transferred to service custody;
 - (b) arrange for him to be brought, as soon as practicable, before a court of summary jurisdiction in the relevant territory in which the police station is situated; or
 - (c) release him subject to a condition that he reports, at or by such time as may be specified in the condition, to such place or person as may be so specified for the purpose of enabling him to be taken into service custody.
- (5) In this section “ civilian policeman” means an officer of a UK police force or British overseas territory police force.
- (6) In this section “ relevant territory” has the same meaning as in section 314.

316 Proceedings before civilian court where person suspected of illegal absence

- (1) This section applies where a person is brought before a court of summary jurisdiction in a relevant territory under section 314(4) or 315(4)(b).
- (2) Subsection (3) applies if–
 - (a) the person admits to the court that he is a person subject to service law who has deserted or is absent without leave; or
 - (b) the court has in its possession evidence of a description prescribed by regulations made by the Secretary of State.
- (3) Where this subsection applies–
 - (a) if the person is not in custody for some other cause, the court must either–
 - (i) arrange for him to be transferred to service custody; or
 - (ii) release him subject to a condition that he reports, at or by such time as may be specified in the condition, to such place or person as may be so specified for the purpose of enabling him to be taken into service custody;
 - (b) if the person is in custody for some other cause, the court may arrange for him to be transferred to service custody.
- (4) Where subsection (3) does not apply–
 - (a) if the person is not in custody for some other cause, the court must release him;
 - (b) if the person is in custody for some other cause, the court may release him.
- (5) If there is likely to be a delay before a person can be transferred to service custody under subsection (3)(a)(i) or (b), the court may commit him to be held in custody pending his transfer–
 - (a) in a prison,
 - (b) in a police station, or (c) in any other place provided for the confinement of persons in custody, which is situated in the relevant territory in which the court is situated.
- (6) The release of a person under subsection (4) does not prevent him from being subsequently arrested under section 67, or under a warrant issued under section 313, as a person who is reasonably suspected of having committed an offence under section 8 or 9.
- (7) In this section “ relevant territory” has the same meaning as in section 314.

317 Warrant for the arrest of persons released under section 315(4)(c) or 316(3)(a)(ii)

- (1) Where a person who is released under section 315(4)(c) or 316(3)(a)(ii) fails to comply with the condition subject to which he was released, a warrant for his arrest may be issued–
 - (a) where he was released under section 315(4)(c), by a judge advocate;
 - (b) where he was released under section 316(3)(a)(ii), by a judge advocate or by a person who is authorised to issue the warrant by the court that imposed the condition.
- (2) A warrant issued under this section–
 - (a) shall be addressed to an officer or officers of a UK police force or British overseas territory police force; and
 - (b) shall specify the name of the person for whose arrest it is issued.
- (3) The Secretary of State may make rules with respect to the practice and procedure which is to apply in connection with warrants issued under this section by judge advocates.
- (4) A person arrested under a warrant issued under this section must as soon as practicable be transferred to service custody.

318 Arrest by civilian police of persons unlawfully at large

- (1) A person who has been sentenced to service detention and who is unlawfully at large–
 - (a) may be arrested without a warrant by an officer of a UK police force or British overseas territory police force; and
 - (b) may be taken to the place in which he is required in accordance with law to be detained.
- (2) Section 301(4) (cases where persons temporarily released from service detention are unlawfully at large) applies for the purposes of this section.

319 Certificates in connection with transfer to service custody etc

- (1) The Secretary of State may by regulations make provision requiring a certificate to be supplied when a person—
- (a) is transferred to service custody under this Chapter; or
 - (b) is released under section 315(4)(c) or 316(3)(a)(ii).
- (2) Regulations under this section may in particular make provision with respect to—
- (a) the information to be included in a certificate;
 - (b) the person who is to sign a certificate;
 - (c) the person to whom a certificate is to be supplied;
 - (d) the payment of a fee for the supply of a certificate.

320 Power to use reasonable force

Where a power of arrest is conferred on any person by virtue of this Chapter, he may use reasonable force, if necessary, in the exercise of the power.

The Armed Forces Act (Evidence of Illegal Absence and Transfer to Service Custody) Regulations 2009 (2009 No. 1108) Parts 2 and 3

3.— Applicability of section 316

- (1) For the purposes of section 316(2)(b) of the Act, the following documents shall be evidence of the matters stated—
- (a) a certificate (or copy of such a certificate) signed by the relevant person's commanding officer detailing the information required in paragraph (2) and containing a statement that the relevant person is suspected of being illegally absent;
 - (b) a copy of any signalled declaration of absence relating to the relevant person containing the information required in paragraph (2); or
 - (c) any document appearing to be the results of a search of the Police National Computer which shows that the relevant person is wanted for being illegally absent.
- (2) The information required is—
- (a) the name, rank or rate, service, unit, and service number of the relevant person;
 - (b) the relevant person's date and place of birth;
 - (c) the address of the relevant person's unit;
 - (d) the first know date of illegal absence;
 - (e) the relevant person's home address;
 - (f) the relevant person's last known location;
 - (g) a physical description of the relevant person.

4.— Certificate of transfer to service custody

- (1) Where—
- (a) a civilian policeman has arrested a relevant person under a warrant of a judge advocate and, under section 313(4) of the Act, the relevant person is delivered into service custody, or
 - (b) a relevant person has surrendered to a civilian policeman and under section 315(4)(a) of the Act, the relevant person is transferred to service custody without being brought before a court,
- a certificate containing the required information is to be handed over with the relevant person to the person receiving the relevant person into service custody.
- (2) Where a court arranges for the relevant person to be transferred to service custody under section 316(3)(a)(i) or (b) of the Act, it shall provide a certificate containing the required information and—
- (a) details of whether the relevant person admitted to the court that he was a person subject to service law who had deserted or was absent without leave; or
 - (b) details of whether the court had in its possession evidence of the type provided for in regulation 3.
- (3) Where they are available, a certified copy of any custody records raised and maintained for the relevant person whilst he was under arrest or after he had surrendered, shall be provided with the certificate issued under this regulation.

5.— Certificate of release subject to conditions

- (1) Where the relevant person has been released under section 315(4)(c) or 316(3)(a)(ii) of the Act a certificate must be passed as soon as practicable to the Service Police Crime Bureau containing—
- (a) the required information; and
 - (b) details of the conditions specified.
- (2) A copy of that certificate is to be provided to the relevant person when he is released, with the instruction that it be handed to the commanding officer at the place of report.
- (3) Where they are available, a certified copy of any custody records raised and maintained for the relevant person whilst he was under arrest or after he had surrendered, shall be provided with the certificate issued under this regulation.

6. Meaning of "required information"

For the purposes of this Part, the "required information" means—

- (a) the name and position of the authorised person;
- (b) the name and, if known, the unit, service, rank or rate, and service number of the relevant person;
- (c) details of whether the relevant person was arrested, surrendered or appeared before a court of summary jurisdiction;
- (d) if the relevant person was arrested—
 - (i) the name, rank and number of the person making the arrest;
 - (ii) the date, time and place of arrest; and
 - (iii) if the arrest was in execution of a warrant, the number and date of the warrant;
- (e) if the relevant person surrendered himself—
 - (i) the name, rank and number of the person to whom the relevant person surrendered;
 - (ii) the date, time and place of surrender;
- (f) details of whether or not at the time of the arrest or surrender of the relevant person, he was wearing the uniform of any of Her Majesty's forces; and
- (g) details of whether or not at the time of the arrest or surrender of the relevant person, he was in possession of an identity card issued by any of Her Majesty's forces.

7.— Certificates to be signed and authorised persons

- (1) A certificate made under this Part shall be signed by an authorised person.
- (2) The following persons are authorised to sign certificates required to be issued by civilian police officers—
- (a) the person in charge of the police station to which the relevant person is brought after arrest or to where the relevant person surrendered; or
 - (b) a person authorised by the person in charge of that police station to act on his behalf.
- (3) The following persons are authorised to sign certificates required to be issued by a court of summary jurisdiction—
- (a) in England, Wales and the Isle of Man, a Justice of the Peace or the Clerk of the Court;
 - (b) in Scotland, the Clerk of the Court;
 - (c) in Northern Ireland, a resident Magistrate or the Clerk of Petty Sessions for the Petty Sessions district in which the court sat;
 - (d) in Jersey and Guernsey, a Magistrate or a person for the time being authorised to act as a Magistrate;
 - (e) in Alderney, the Chairman of the Court of Alderney or the person for the time being authorised to act as Chairman of that Court;
 - (f) in Sark, the Seneschal or the Deputy Seneschal; and
 - (g) in a British overseas territory, 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.