

50. Irregularity in connection With arrest or confinement. —Any person subject to this Act who commits any of the following offences, that is to say,-

(a) Unnecessarily detains a person in arrest or confinement without bringing him to trial, or fails to bring his case before the proper authority for investigation; or

(b) having committed a person to military custody fails without reasonable cause to deliver at the time of such committal, or as soon as practicable, and in any case within forty-eight hours thereafter, to the officer or other person into whose custody the person arrested is committed, an account in writing signed by himself of the offence with which the person so committed is charged; shall on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

NOTES

1. *Clause (a): —In support of a charge laid under this clause for either of the offences therein created the prosecutor will have to prove the facts which either show or enable the court to infer that the accused could have brought the person under arrest or in confinement to trial or brought his case before the proper authority for investigation. If these are proved the court may infer that it was unnecessary to keep the person, in question, in custody in the absence of an explanation by the accused. As to "the proper Authority" see [AR2\(d\)](#). See also [Regs Army para 408\(b\)](#).*

2. *[AR 27\(3\)](#) prohibits an accused being detained in military custody which includes open arrest for longer than 2 months without the sanction of the COAS and for longer than 3 months without the approval of the Central Government.*

3. *Clause (b): —For definition of military custody, see [AA.s.3\(xiii\)](#).*

4. *When a guard etc., commander wilfully or without reasonable excuse refuses to receive a person committed to his charge, he commits an offence under [AA.s.49\(a\)](#) in respect of his improper refusal. The fact that no account in writing of the type required in this clause was received by the guard etc., commander from the person committing the person at the time of committal or within 48 hours thereafter would not entitle the guard commander to refuse custody or charge or to effect the subsequent release of any such person,*

5. *As regards powers of arrest and confinement and ancillary matters see [AA.s.101](#) and [107](#) and [Regs Army paras391](#) to [397](#). Also see [Regs Army para 401](#).*