

51 .Escape from Custody

Any person subject to this Act who, being in lawful custody, escapes or attempts to escape, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

NOTES

1. *The term 'lawful custody' in this section means not only military custody as defined in [AA.s.3\(xiii\)](#) but any lawful custody; so that a person subject to AA may be convicted under this section when escaping or attempting to escape from a police officer who has under [AA.s.105\(2\)](#) arrested him as a suspected deserter. Similarly when a person is held by the Provost Marshal or a person legally exercising authority under him or on his behalf under [AA.107](#), he may be charged with an offence under this section.*
2. *(a) As military custody includes open arrest, a person escaping or attempting to escape while in open arrest could be charged under this section.
(b) A person undergoing field punishment is in lawful custody within the meaning of this section although he is not in arrest. Care therefore must be taken, when framing a charge under this section to ensure that the particulars alleged correspond with the statement of offence.
(c) Confinement to the lines is not lawful custody for the purposes of this section.*
3. *A person subject to AA, who escapes from arrest and absents himself without leave, may be charged with, and convicted of, both under this section, and of the subsequent desertion or absence without leave; under [AA.s.38\(1\)](#) or [39\(a\)](#).*
4. *A prisoner is said to 'escape' when he unlawfully goes out of sight beyond the control of the person in whose custody he is placed.*
5. *Attempt to escape is itself made a substantive offence and a charge for the same should be preferred under this section.*