



# Reserve Forces Act 1980

## 1980 CHAPTER 9

### PART I

#### THE RESERVE AND AUXILIARY FORCES

##### *Naval and marine reserves*

#### **1 Royal Naval Reserve**

- (1) The Secretary of State may as provided by Part III of this Act maintain the force known as the Royal Naval Reserve.
- (2) The Royal Naval Reserve (together with its division, the Royal Fleet Reserve, mentioned in section 2 below) shall consist of seafaring men and others deemed suitable, entering voluntarily—
  - (a) in such manner as the Secretary of State shall direct, and
  - (b) in such number as he may determine.

#### **2 Royal Fleet Reserve and its special class**

- (1) The Secretary of State may, in addition to the persons of the Royal Naval Reserve, and as provided by Part III of this Act, maintain the division of the Royal Naval Reserve known as the Royal Fleet Reserve, consisting of such number of persons as he may determine.
- (2) The Royal Fleet Reserve shall consist of—
  - (a) persons—
    - (i) who are in receipt of pensions in respect of service in the navy or marines, and
    - (ii) who are entitled to their pensions subject to a condition of service in the Royal Fleet Reserve, and
  - (b) persons—
    - (i) who have served in the navy or marines, and

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(ii) who have enlisted in the Royal Fleet Reserve.

(3) The special class of the Royal Fleet Reserve (consisting of such number of men as the Secretary of State may determine) shall continue in being as provided by Part III.

### **3 Royal Marines Reserve**

The Secretary of State may as provided by Part III of this Act maintain the reserve volunteer force of marines known as the Royal Marines Reserve.

#### *Army reserves and auxiliaries*

### **4 Army Reserve**

(1) Her Majesty may as provided by Part IV of this Act maintain the force in the United Kingdom known as the Army Reserve.

(2) That reserve shall consist of such number of men as may from time to time be determined by Parliament being—

- (a) men transferred (whether before or after the commencement of this Act) to the Army Reserve in pursuance of the Army Act 1955 ; or
- (b) men enlisted or re-engaged in the Army Reserve in pursuance of Part IV.

### **5 Territorial Army**

(1) Her Majesty may as provided by Part V of this Act maintain the Territorial and Army Volunteer Reserve (the force in this Act called the Territorial Army).

(2) The Territorial Army shall consist of such number of officers, warrant officers, non-commissioned officers and men as may from time to time be determined by Parliament.

### **6 Home Service Force of the Territorial Army**

(1) The Home Service Force shall continue in being—

- (a) as part of the Territorial Army ; and
- (b) as a force for home service.

(2) That force shall consist of—

- (a) persons who on 2nd April 1967 were members of any unit of the Territorial Army designated by warrant of Her Majesty as a unit of the Home Service Force;
- (b) persons who become officers of, or enlist or re-engage in, the Territorial Army for service with the Home Service Force;
- (c) members of the Territorial Army—
  - (i) who are not members of the Home Service Force by virtue of paragraphs (a) and (b) above; and
  - (ii) who are transferred to the Home Service Force with their consent.

(3) Notwithstanding anything in this Act or any other enactment, a member of the Home Service Force shall not—

- (a) be required to serve, either on permanent service or otherwise, outside the United Kingdom, the Channel Islands and the Isle of Man, or
- (b) except in the case of the holder of a land forces commission (including one entitled to the issue of such a commission), be transferred to any other part of the military forces without his consent,

but a member of the Home Service Force who is transferred to another part of the military forces shall cease to be a member of that force.

## **7 Ulster Defence Regiment**

- (1) Her Majesty may as provided by Part VII of this Act maintain the force known as the Ulster Defence Regiment.
- (2) The Ulster Defence Regiment shall consist of the number from time to time determined by Parliament of those persons—
  - (a) who voluntarily undertake to serve in that force, and
  - (b) who may be accepted for such service.

### *Air force reserves and auxiliaries*

## **8 Air Force Reserve**

- (1) Her Majesty may as provided by Part IV of this Act maintain the force known as the Air Force Reserve.
- (2) That reserve shall consist of such number of officers as may from time to time be determined by Parliament, and of such number of men as may be so determined.
- (3) Those men shall be either—
  - (a) men transferred (whether before or after the commencement of this Act) to the Air Force Reserve in pursuance of the Air Force Act 1955 ; or
  - (b) men enlisted or re-engaged in the Air Force Reserve in pursuance of Part IV.

## **9 Royal Auxiliary Air Force**

- (1) Her Majesty may as provided by Part V of this Act maintain the force known as the Royal Auxiliary Air Force.
- (2) The Royal Auxiliary Air Force shall consist of such number of officers, warrant officers, non-commissioned officers and men as may from time to time be determined by Parliament.

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## PART II

### CALL OUT AND RECALL

#### *General provisions as to call out for permanent service*

#### **10 Call out for national danger**

- (1) If it appears to Her Majesty that national danger is imminent or that a great emergency has arisen She may by order signified under the hand of the Secretary of State authorise the calling out of any reserve force for permanent service in any part of the world.
- (2) The occasion of the making of any order under subsection (1) above shall forthwith be communicated to Parliament; and if Parliament is then separated by such adjournment or prorogation as will not expire within 5 days—
  - (a) a proclamation shall be issued for the meeting of Parliament within 5 days; and
  - (b) Parliament shall accordingly meet and sit upon the day appointed by the proclamation ; and
  - (c) Parliament shall continue to sit and act in like manner as if it had stood adjourned or prorogued to the same day.
- (3) An order in force under subsection (1) may be revoked by an order of Her Majesty signified as there mentioned, but the revocation shall not affect the liability for service of any person called out for service by virtue of the order at the time of its revocation.
- (4) In this section " reserve force " means any of the following bodies—
  - (a) the Army Reserve;
  - (b) the Territorial Army;
  - (c) the Air Force Reserve;
  - (d) the Royal Auxiliary Air Force;
  - (e) the Royal Naval Reserve including the Royal Fleet Reserve and the special class of the Royal Fleet Reserve; and
  - (f) the Royal Marines Reserve.
- (5) An order under subsection (1) may authorise the calling out of the Ulster Defence Regiment for permanent service in Northern Ireland, and section 26 below applies for the purposes of this subsection as if the Ulster Defence Regiment were a reserve force within the meaning of subsection (4) above.
- (6) In relation to a man of the Royal Auxiliary Air Force in whose case it was agreed at the time of his enlistment that he was accepted for home service only, subsection (1) has effect as if for the reference to any part of the world there were a reference to the United Kingdom, the Channel Islands and the Isle of Man.

#### **11 Call out for warlike operations**

- (1) A person to whom this section applies shall be liable to be called out for permanent service in any part of the world when warlike operations are in preparation or progress, subject to sections 12 and 13(1) below.
- (2) The persons to whom this section applies are—

- (a) any member of the Army Reserve or the Air Force Reserve who became such a member on or after 1st April 1967 otherwise than in consequence of his having enlisted in the regular army or the regular air force before that day ;
  - (b) any member of the Territorial Army who became such a member on or after 1st April 1967 by enlisting or re-engaging in the Territorial Army or by becoming an officer of the Territorial Army ;
  - (c) any member of the special class of the Royal Fleet Reserve who became such a member on or after 1st April 1967 otherwise than in consequence of his having, before that day, been entered for non-continuous service in the naval service of Her Majesty or enlisted to serve in the royal marine forces ; and
  - (d) any other member of a reserve or class mentioned in paragraphs (a) to (c) above who has elected in pursuance of subsections (4) and (5) below to be a person to whom this section applies and has been notified in the prescribed manner that he has been accepted as such a person.
- (3) In subsection (2) above
- (a) the references in paragraphs (a) and (c) to becoming a member of a reserve or class include references to remaining a member of it by virtue of a new engagement or other agreement; and
  - (b) a notification in pursuance of paragraph (d) may be made to take effect on a day determined by the notification.
- (4) A member of a reserve or class mentioned in subsection (2) who is not a person to whom this section applies may (subject to section 13(1) below) elect irrevocably in the prescribed manner to be such a person.
- (5) A person who immediately before 1st April 1967—
- (a) was a man of the regular army or the regular air force, or
  - (b) was serving by reason of his having been entered or enlisted as mentioned in paragraph (c) of subsection (2),
- may (subject to section 13(1)) elect irrevocably in the prescribed manner that, on his becoming a member of such a reserve or class, he shall be a person to whom this section applies.
- (6) In relation to the calling out of persons by virtue of this section—
- (a) any such calling out shall be reported to Parliament forthwith;
  - (b) the number of persons for the time being called out shall not be reckoned in the numbers for the time being authorised by Parliament for the regular army and the regular air force.

## **12 Call out of Territorial Army under s. 11**

- (1) A member of the Territorial Army shall not be liable to be called out under section 11(1) above unless there is in force an order of Her Majesty, signified under the hand of the Secretary of State, authorising the calling out under that section of members of the Territorial Army.
- (2) An order in force under subsection (1) above may be revoked by an order of Her Majesty signified as there mentioned, but the revocation shall not affect the liability for service of any person called out for service by virtue of the order at the time of its revocation.

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### 13 Provisions supplemental to ss. 10 to 12

- (1) A member of the Home Service Force shall not be a person to whom section 11 above applies, and the Secretary of State may by regulations provide—
- (a) for securing that persons of such descriptions as may be prescribed who but for the regulations would be persons to whom that section applies shall not be such persons;
  - (b) for relaxing, in such cases as may be prescribed, the liability imposed by subsection (1) of that section on persons to whom that section applies.
- (2) A man of the Territorial Army or the Royal Auxiliary Air Force who is called out for permanent service shall, subject to subsections (3) and (4) below, be liable to serve—
- (a) until Her Majesty no longer requires his services, or
  - (b) until the expiry of his term of service in that reserve or force,
- whichever first occurs, and a member of the special class of the Royal Fleet Reserve who is called out for permanent service by virtue of section 11(1) shall be under a like liability to serve.
- (3) The period or aggregate of the periods during which a man is called out for service by virtue of section 11(1) during the term of his current engagement shall not without his consent exceed 12 months.
- (4) Where the time at which (apart from this subsection)—
- (a) the term of service in the special class of the Royal Fleet Reserve of a man of that class would expire, or
  - (b) a man of the Territorial Army would be entitled to discharge,
- occurs while he is called out for service by virtue of section 11(1), he may be required to continue in service under that subsection for such further period as may be ordered by—
- (i) the Defence Council, or
  - (ii) an officer designated for the purposes of this subsection by the Defence Council,
- but the period so ordered (together with the period or aggregate of the periods of the man's service under section 11(1) apart from this subsection during the term of his current engagement) shall not exceed 12 months.

#### *Call out under special agreement*

### 14 Call out under special agreement

- (1) Where any person who is a member of—
- (a) any reserve of army officers,
  - (b) the Army Reserve, or
  - (c) the Territorial Army,
- has entered into a written agreement to that effect, the Secretary of State may, at any time during the period specified in the agreement, by written notice call out that person for army service.
- (2) Schedule 1 to this Act (additional provisions in relation to call out under special agreement) has effect for the purposes of this section.

- (3) Where any person has been called out by such a notice as is mentioned in subsection (1) above, then at all times during the period beginning with the date and time specified in the notice and ending with the completion of his service by virtue of that notice—
- (a) until Her Majesty no longer requires his services, or United Kingdom or elsewhere; and
  - (b) the Army Act 1955 shall (subject to paragraph 10 of Schedule 1) apply to him as if he were an officer holding a land forces commission, warrant officer, noncommissioned officer or soldier, as the case may be, of the regular forces, and not a member of the Territorial Army, the Army Reserve or a reserve of officers, as the case may be.
- (4) The number of persons who for the time being are—
- (a) liable to be called out by agreements made in pursuance of this section, shall not in aggregate exceed such number as may from time to time be provided by Parliament;
  - (b) called out as mentioned in paragraph (a), shall not be reckoned in the numbers for the time being authorised by Parliament for the regular forces.
- (5) The Secretary of State shall from time to time report to Parliament with respect to the exercise of his powers to call out persons under this section, and any such report may be made, as the Secretary of State thinks fit, either with respect to any use made, or with respect to any use proposed to be made, of those powers.

## **15 Regular army agreements under s. 14**

An officer or soldier of the regular army may enter into such an agreement as is mentioned in section 14 above, and where he does so—

- (a) the agreement shall not come into force until he becomes a member of a reserve of army officers or the Army Reserve or until such later date, if any, during his membership of that reserve as is provided by the agreement; and
- (b) the power conferred by paragraph 1(2) of Schedule 1 to this Act to give notice of revocation of the agreement shall be exercisable both before and after the agreement comes into force ; and
- (c) when the agreement comes into force it shall be deemed to have been made in pursuance of section 14.

*Other provisions as to call out for service*

## **16 Permanent service call out of naval and marine reserves**

- (1) Every officer and man serving in—
- (a) the Royal Naval Reserve and the Royal Fleet Reserve, except a man of the special class of the Royal Fleet Reserve to whom section 11 above applies,
  - (b) the Royal Marines Reserve,
- is liable, during the whole of that service, to be called out for permanent service in the event of actual or apprehended attack on the United Kingdom.

The reference in this subsection to the United Kingdom shall be construed as if that expression included the Channel Islands and the Isle of Man.

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- (2) The provisions of subsection (1) above are in addition to, and not in substitution for, the provisions of any other enactment under which officers or men of the reserves mentioned in that subsection are liable to be called into permanent service.

#### **17 Naval and marine reserve service under ss. 10 and 16**

- (1) Every officer and man of the Royal Naval Reserve, the Royal Fleet Reserve and the Royal Marines Reserve called out for permanent service by virtue of section 10 or section 16 above shall be—
- (a) liable to that service for a term of 3 years from the time of his coming into such service ;
  - (b) entitled to be discharged from that service at the expiry of that term.
- (2) If in any emergency Her Majesty sees fit She may, by order signified under the hand of the Secretary of State, provide that at the date of the order the officers and men of the Royal Naval Reserve and the Royal Fleet Reserve in permanent service by virtue of section 10 or section 16 shall continue in that service for a period of 5 years from the date of their respectively coming into that service, if their services be so long required.
- (3) The officers and men mentioned in subsection (2) above shall at the date of the order—
- (a) be liable to such permanent service accordingly ; and
  - (b) not be entitled to claim their discharge during that period.
- (4) Where any officer or man of the Royal Naval Reserve and the Royal Fleet Reserve—
- (a) is called into permanent service by virtue of section 10 or section 16, and
  - (b) is detained in that service for a period of less than 5 years,
- he shall, during the period of 5 years from the date of his joining the reserve be liable from time to time to be again called into that service, and to serve accordingly for such period as with his former such service will make up a period of 5 years in that service.

#### **18 Permanent service call out of Army Reserve**

- (1) Any man of the Army Reserve (whether he entered the reserve on transfer or re-engagement or on being enlisted or on being deemed to be enlisted) shall during the whole of his service in that reserve be liable to be called out for permanent service on home defence service.
- (2) Where a man of the Army Reserve is called out for permanent service—
- (a) he may be appointed to any corps ;
  - (b) subsection (3) of section 3 of the Army Act 1955 shall apply to him as it applies to a soldier of the regular forces.
- (3) The number of men for the time being called out under this section shall not be reckoned in the numbers for the time being authorised by Parliament for the regular forces.

#### **19 Duration of Army Reserve permanent service**

- (1) Subject to this section and section 13(3) above, a man of the Army Reserve when called out for permanent service shall be liable to serve until Her Majesty no longer requires his services.

- (2) No man called out for permanent service shall be required to serve for a period exceeding in the whole the remainder unexpired of his term of service in the Army Reserve.
- (3) Sections 9 and 13 of the Army Act 1955, so far as they relate to discharge, shall apply to men of the Army Reserve called out for permanent service as they apply to soldiers of the regular forces, and nothing in subsection (2) above shall prejudice the operation of sections 9 and 13 as applied by this subsection.

## **20 Permanent service call out of Air Force Reserve**

- (1) Any man of the Air Force Reserve (whether he entered the reserve on transfer or re-engagement or on being enlisted or on being deemed to be enlisted) shall during the whole of his service in that reserve be liable to be called out for permanent service on home defence service.
- (2) The number of men for the time being called out under this section shall not be reckoned in the numbers for the time being authorised by Parliament for the regular air force.

## **21 Duration of Air Force Reserve permanent service**

- (1) Subject to this section and section 13(3) above, a man of the Air Force Reserve when called out for permanent service shall be liable to serve until Her Majesty no longer requires his services.
- (2) No man called out for permanent service shall be required to serve for a period exceeding in the whole the remainder unexpired of his term of service in the Air Force Reserve, subject to section 69 below.
- (3) Sections 9 and 13 of the Air Force Act 1955, so far as they relate to discharge, shall apply to men of the Air Force Reserve called out for permanent service as they apply to airmen of the regular air force, and nothing in subsection (2) above and section 69 shall prejudice the operation of sections 9 and 13 as applied by this subsection.

## **22 Call out of Territorial Army and Royal Auxiliary Air Force for home defence service**

Every officer and man of the Territorial Army and of the Royal Auxiliary Air Force is liable to be called out for home defence service notwithstanding that—

- (a) the Territorial Army or that part to which he belongs has not been called out for permanent service by virtue of section 10(1) or section 11(1) above, or
- (b) the Royal Auxiliary Air Force or that part to which he belongs has not been called out for permanent service by virtue of section 10(1).

## **23 Army and air force reserves in aid of civil power**

- (1) The Secretary of State may, at any time when occasion appears to require, call out the whole or so many as he thinks necessary of the men of the Army Reserve or the Air Force Reserve to aid the civil power in the preservation of the public peace.
- (2) For the purpose mentioned in subsection (1) above, and on the requisition in writing of any justice of the peace—

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- (a) any officer commanding Her Majesty's forces in any town or district may call out the men of the Army Reserve who are resident in the town or district, or so many of them as he thinks necessary ; or
- (b) any officer commanding the regular air force in any town or district may call out the men of the Air Force Reserve who are resident in the town or district, or so many of them as he thinks necessary.

#### **24 Permanent service call out of Ulster Defence Regiment**

The Ulster Defence Regiment is liable to be called out for permanent service in Northern Ireland in defence of the United Kingdom against actual or apprehended attack.

#### **25 Emergency service call out of Ulster Defence Regiment**

- (1) Any officer authorised in accordance with this section to exercise the powers conferred by this subsection may (subject to that authority) call out the Ulster Defence Regiment or any part of it for emergency service in Northern Ireland if, and for so long as, it appears to that officer to be necessary or expedient for the defence of life or property in Northern Ireland against armed attack or sabotage, whether actual or apprehended.
- (2) The Secretary of State may—
  - (a) grant authority in writing to any designated officer of the regular forces within the meaning of the Army Act 1955 of a rank not lower than major to exercise the powers conferred by subsection (1) above, and
  - (b) by that authority authorise that officer in turn to authorise any other officer designated by him (being an officer of the regular forces within the meaning of that Act of 1955 of a rank not lower than major) to exercise those powers,
 and any authorisation in pursuance of this subsection may be given either in general terms or subject to specified limitations.

#### *Call-out notices under certain enactments*

#### **26 Call-out notices under s. 10(1) and other enactments**

- (1) In any case where—
  - (a) an order is in force under section 10(1) above authorising the calling out of a reserve force within the meaning of that section, or
  - (b) persons are liable to be called into service by virtue of any of the enactments mentioned below,

any person who is a member of that force or any person so liable may be called into service by the Secretary of State by notice in writing.

The enactments referred to in paragraph (b) above are—

- (i) section 10(1);
- (ii) section 11(1) above ;
- (iii) section 16(1) above ;
- (iv) section 18(1) above ;
- (v) section 20(1) above ;
- (vi) section 22 above ;

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- (vii) section 24 above ;
  - (viii) section 30 below ;
  - (ix) paragraph 15(1) of Schedule 8 to this Act; and
  - (x) sub-paragraphs (1) to (6) of paragraph 16 of that Schedule.
- (2) A call-out notice under subsection (1) above shall—
- (a) specify the time and place at which the person is to present himself for service, and
  - (b) specify under which of the enactments mentioned in subsection (1) the person is called into service,
- and a call-out notice shall be deemed to be served on the person if it is delivered to him personally or sent by registered post or the recorded delivery service to him at his latest address known to the appropriate service authorities.
- (3) A call-out notice under subsection (1) may be revoked or varied by the Secretary of State by a subsequent notice in writing, and subsection (2) above applies to the service of such a notice as it applies to the service of a call-out notice under subsection (1).
- (4) Subject to section 28 below, a person shall be deemed to be called into service by virtue of the enactment specified in a call-out notice served on him in pursuance of this section during the period—
- (a) beginning with the time so specified, and
  - (b) ending with—
    - (i) the date on which he is released from service in pursuance of section 29 below ; or
    - (ii) any earlier date on which his service is terminated by the appropriate service authorities.

## **27 Call-out notices deemed on personal attendance**

Where a person who is liable to be called into service by a call-out notice under section 26(1) above—

- (a) attends in person at such place as may be prescribed, and
- (b) presents himself for service to such authority as may be prescribed, and
- (c) is informed by that authority that by virtue of this section he is accepted for service,

he shall be deemed to have been served with a call-out notice specifying as the time, place and enactment mentioned in section 26(2)—

- (i) the time at which he is informed and the place at which he attends, and
- (ii) such of the enactments mentioned in section 26(1) as is determined in the prescribed manner,

and any call-out notice under section 26(1) previously issued for him shall cease to have effect, without prejudice to any liability arising from his failure to comply with the notice before he attends as described above.

## **28 Differing service liabilities of those called out**

- (1) Where a person—

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- (a) is in service in pursuance of a notice under section 14(1) above or in pursuance of a call-out notice under section 26(1) above specifying an enactment mentioned in section 26(1), and
- (b) if he were not in service he would be liable to be called into service by a call-out notice under section 26(1) or, as the case may be, by such a call-out notice specifying a different enactment so mentioned,

the Secretary of State may direct that, on the date of the direction or a later date specified in the direction, that person shall be deemed to be called into service by a call-out notice under section 26(1) specifying such of those enactments applicable to him as is specified in the direction.

- (2) Where a person is deemed in pursuance of subsection (1) above to be called into service by virtue of an enactment specified in a direction under that subsection, his service under any other enactment by virtue of which he was previously serving shall cease.
- (3) The power to give a direction under this section includes power—
  - (a) to make provision for persons of such descriptions as are specified in the direction or in respect of an individual; and
  - (b) to make different provision for different circumstances.

## **29 End of service under call-out notices**

- (1) In any case where—
  - (a) the services of a person called into service by a call-out notice under section 26(1) above are no longer required, or
  - (b) a person is in service in pursuance of such a call-out notice at the expiry of the period of his liability for service in pursuance of the enactment specified by the notice,
 he shall be entitled to be released from whole-time service in the prescribed manner with all convenient speed.
- (2) The reference in paragraph (b) of subsection (1) above to a period of liability for service in pursuance of a particular enactment includes a reference to such a period as extended under any other enactment.

*Recall of service pensioners and former soldiers*

## **30 Liability of naval and marine pensioners to recall**

- (1) Whenever any emergency arises which in the Secretary of State's opinion renders it advisable to require the services in the Royal Navy of any persons who—
  - (a) have served as petty officers or seamen in the navy, and
  - (b) are in receipt of pensions in respect of such service,
 he may order any of those persons to join the navy, and those so ordered shall serve in the navy during such time as the emergency in the Secretary of State's opinion continues, and while so serving they shall continue to receive their pensions.
- (2) The enactments concerning the discharge of seamen serving; in the Royal Navy and becoming entitled to be discharged shall be applicable to and for the discharge of any of those serving under subsection (1) above, and becoming entitled to be discharged.

- (3) Subsection (1) above applies to persons who—
- (a) have served as non-commissioned officers and men of the Royal Marines, and
  - (b) are in receipt of pensions in respect of such service,
- as it applies to petty officers or seamen of the Royal Navy, but those required to serve under this subsection shall serve as noncommissioned officers and marines in the Royal Marines, and not as petty officers and seamen.
- (4) If any person who—
- (a) has served as a non-commissioned officer or marine of the Royal Marines, and
  - (b) is one to whom subsection (1) above applies by virtue of subsection (3) above, and
  - (c) has been required to serve in the Royal Navy under subsection (1) at the time and place specified in a call-out notice—
    - (i) which is served on him in pursuance of section 26(1) above, and
    - (ii) which specifies subsection (1) as the enactment by virtue of which he is called into service,
- does not appear for the purpose of entering into permanent service (or join any of Her Majesty's ships or vessels which he may be required to join for that purpose) he shall be liable to be apprehended and punished in the same manner as any person belonging to the Royal Navy and deserting or improperly absenting himself from duty.

### **31 Liability of army and air force pensioners to recall**

- (1) An army or air force pensioner to whom this section applies shall be liable under this section to be recalled for service in such circumstances and for such period as are specified in this section and in sections 32 and 33 below.
- (2) This section applies to army and air force pensioners whose service pensions have been assessed or re-assessed in accordance with pension provisions made on or after 16th December 1948, other than—
- (a) pensioners whose service pensions were originally granted before 3rd September 1939 ;
  - (b) pensioners being those of any description mentioned in Schedule 2 to this Act.
- (3) In subsection (2) above the expression " pension provisions made on or after 16th December 1948 " means—
- (a) in the case of army pensioners, the provisions of a Royal Warrant issued on or after 16th December 1948,
  - (b) in the case of air force pensioners, the provisions of an Order by Her Majesty so issued,
- not being provisions as to which the Warrant or Order directs that they shall be disregarded for the purposes of this section.
- (4) A person shall cease to be liable under this section to be recalled for service when he attains the age of 60 years.
- (5) A person recalled for service under this section shall not suffer—
- (a) any reduction in pay or other emoluments in respect of his service while recalled by reason of being in receipt of a service pension ; or
  - (b) the withholding or reduction of his service pension by reason of his being in receipt of any such pay or emoluments.

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(6) In this section—

" army pensioner " and " air force pensioner " mean persons who have been discharged from service as soldiers and as airmen respectively and are in receipt of service pensions,

" service pension " means a pension granted in respect of service as a soldier of the regular forces or an airman of the regular air force or in respect of that service and other service, but does not include a pension awarded in respect of disablement,

and other expressions used in this section and in sections 32 and 33 below have in relation to army pensioners the same meanings as in the Army Act 1955, and in relation to air force pensioners the same meanings as in the Air Force Act 1955.

(7) For the purposes of those sections, a person shall be deemed to be in receipt of a pension if the pension has been granted to him and has not been wholly forfeited, notwithstanding—

(a) that any part of the pension has been commuted for a sum of money in lieu of the pension ; or

(b) that the pension or any part of it is for the time being administered or otherwise applied for any purpose or paid to some other person ; or

(c) that the pension or any part of it has not been paid for any period.

For the purposes of this subsection the forfeiture of a pension shall be disregarded if the whole or any part of the pension has been restored since the forfeiture was incurred.

## **32 Occasion for and period of recall under s. 31**

(1) An army pensioner liable under section 31 above to be recalled for service may be recalled at any time when persons of the Army Reserve are called out for permanent service.

In this subsection the expression " called out for permanent service " means called out for permanent service under section 10 above, or under section 18(1) above.

(2) An air force pensioner liable under section 31 to be recalled for service may be recalled at any time when persons of the Air Force Reserve are called out for permanent service.

In this subsection the expression " called out for permanent service " means called out for permanent service under section 10, or under section 20(1) above.

(3) A person recalled for service under section 31—

(a) shall be deemed to be enlisted in the regular forces or the regular air force, according as he was an army pensioner or an air force pensioner, for the period mentioned in subsection (4) below, unless

(b) on his recall he requires to be enlisted for that period in accordance with section 2 of the Army Act 1955, or section 2 of the Air Force Act 1955, as the case may require, and upon such enlistment he shall not be deemed to have been enlisted by virtue of paragraph (a) above.

(4) The period referred to in subsection (3) above is one—

(a) beginning with the time as from which a person is recalled for service under section 31, and

- (b) ending with such date as Her Majesty may by Order in Council declare to be the end of the emergency which was the occasion of the calling out for permanent service of persons of the reserve in question.
- (5) Nothing in the following provisions shall prejudice the operation of the provisions of this section—
- (a) the provisions of the Army Act 1955 or the Air Force Act 1955 as to the term for which a person may be enlisted;
  - (b) the provisions of the Army and Air Force Act 1961 corresponding to the provisions mentioned in paragraph (a) above; and
  - (c) the provisions of section 2 of the Armed Forces Act 1966 and regulations made under that section corresponding to the provisions mentioned in paragraph (a).

### **33 Recall notices under s. 31**

- (1) The Defence Council may cause to be served on any person liable to be recalled for service under section 31 above a notice stating that he is recalled for service and requiring him to present himself—
- (a) at such place and at such time (not earlier than the third day after the service of the notice), and
  - (b) to such authority,
- as may be specified in the notice, and that person shall be deemed to be so recalled as from that time (in this section referred to as "the time of recall").
- (2) A notice under this section may, before the time of recall, be—
- (a) cancelled by a subsequent notice under this section; or
  - (b) varied by altering the place at which or authority to whom the person is by a notice under this section required to present himself at the time of recall.
- (3) A notice under this section shall cease to have effect if before the time of recall the person on whom it is served ceases to be liable under section 31 to be recalled for service.
- (4) Any notice under this section shall be deemed to be duly served on a person if it is sent to him by post addressed to his last known address.
- (5) No steps shall be taken against a person in respect of failure to comply with a notice under this section unless either—
- (a) it is proved that the notice was received by him, or
  - (b) the notice was sent addressed to his last known address by registered post or the recorded delivery service,
- and where in the case of a notice not so sent it appears to the Defence Council that the person to whom the notice relates may not have received the notice the Defence Council may serve on him by registered post or the recorded delivery service a subsequent notice superseding the original notice.

### **34 Liability of certain former soldiers to recall**

- (1) Any former soldier to whom this section applies may be recalled for service by the Secretary of State by notice in writing at any time when men of the Army Reserve are called out for permanent service under section 10 or section 18(1) above.

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- (2) This section applies to any person who is not a woman and who is for the time being under the age of 45, and—
- (a) who is not—
    - (i) a member of the armed forces of the Crown apart from this section ;
    - (ii) liable to be recalled to service under section 31 above;
    - (iii) such a person as is mentioned in Schedule 2 to this Act;
  - (b) who enlisted in pursuance of regulations made under section 2 of the Armed Forces Act 1966 ;
  - (c) who has not been discharged in respect of that enlistment under section 14 of the Army Act 1955, or under any regulations made by virtue of section 2 of the Armed Forces Act 1966 conferring a right to discharge by purchase;
  - (d) who has not been granted a commission.
- (3) A person recalled for service by such a notice as is referred to in subsection (1) shall be deemed to be enlisted in the regular forces within the meaning of the Army Act 1955 for the period—
- (a) beginning with the time specified in the notice, and
  - (b) ending (unless he is previously discharged) with such date as Her Majesty may by Order in Council declare to be the end of the emergency which was the occasion of the calling out of the Army Reserve.
- (4) To enable service of any notice under subsection (1) above, every person to whom this section applies shall from time to time furnish such information in such manner and within such period as the Secretary of State may by regulations made by statutory instrument require, and—
- (a) any person who without reasonable excuse fails to comply with any such regulations shall be liable on summary conviction to a fine not exceeding £10,
  - (b) any person who, in giving any information required by any such regulations, knowingly or recklessly makes a statement false in any material particular shall be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding £50 or to both,
- and proceedings against any person for an offence under paragraph (a) or (b) above may be taken at any place at which he is for the time being.
- (5) A person who on 27th February 1964 was—
- (a) a warrant officer, non-commissioned officer or man of the regular forces within the meaning of the Army Act 1955 (not being a person serving in the Royal Marines), or
  - (b) a member of the first class of the army reserve in consequence of his transfer to that reserve under the Army Act 1955 or the Army and Air Force Act 1961,
- may consent in writing to be subject to this section, and that consent may be revoked at any time by 3 months' written notice but shall not cease to be in force until the expiry of that notice.
- (6) While that consent remains in force this section shall have effect in relation to that person as if—
- (a) paragraphs (b) and (c) of subsection (2) above did not apply to him ; and
  - (b) he were subject (instead of by virtue of those paragraphs) to this section by his consent under subsection (5) above.

### **35 Recall notices under s. 34**

- (1) A notice to any person under section 34(1) above shall specify the time and place at which that person is to present himself for service in accordance with the notice, and the notice may be revoked or varied by a subsequent notice under that section.
- (2) Any such notice shall be deemed to have been duly served on the person to whom it is directed if—
  - (a) it is delivered to him personally, or
  - (b) it is sent by registered post or the recorded delivery service addressed to him at his latest address known to the military authorities,but any such notice shall cease to have effect if before the time so specified he ceases to be a person to whom this section applies.

### **36 Recall notices deemed served on personal attendance**

- (1) Where a person who is liable to be recalled into service under section 31 or section 34 above—
  - (a) attends in person at such place as may be prescribed, and
  - (b) presents himself for service to such authority as may be prescribed, and
  - (c) is informed by that authority that by virtue of this subsection he is accepted for service,he shall be deemed to have been served with a notice under section 33 above or section 35 above, as the case may be, specifying the time at which he is informed and the place at which he attends.
- (2) Where subsection (1) above takes effect—
  - (a) so much of section 33(1) above as—
    - (i) provides for a notice under that section to specify the authority to whom a person is to present himself, and
    - (ii) requires the time of recall specified by such a notice to be not earlier than the third day after the service of the notice,shall not apply to a notice which is deemed to be served on that person under subsection (1); and
  - (b) any notice previously issued for that person under section 33 or 35, as the case may be, shall cease to have effect, but without prejudice to any liability arising from his failure to comply with the notice before he attends as described in subsection (1).

#### *Call out for training*

### **37 Training and exercise of Royal Naval Reserve and Royal Fleet Reserve**

- (1) The Defence Council may cause all or any of the men of the Royal Naval Reserve and the Royal Fleet Reserve to be trained on shore or on board any ships or vessels, or partly on shore and partly on board any ships or vessels.
- (2) All or any of the men of the Royal Naval Reserve and the Royal Fleet Reserve may be called out for the purpose of such training, and may be required to attend at such times and places, and may be placed under the command of such officers, as the Defence Council think fit.

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

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- (3) No man of the Royal Naval Reserve or the Royal Fleet Reserve shall under this section be required to attend training more than 92 days in the whole in any one year.
- (4) The Secretary of State may make regulations as to the manner in which notices may be given of the times and places at which men of the Royal Naval Reserve and the Royal Fleet Reserve may be required to attend training.

### **38 Army Reserve, Air Force Reserve and Territorial Army training**

A person to whom this section applies by virtue of section 39 below may, in accordance with regulations made by the Secretary of State, be called out in any year for training in the United Kingdom or elsewhere—

- (a) for one period not exceeding 15 days, and
- (b) for such other periods as may be prescribed, none of which shall exceed 36 hours without the consent of the person in question,

and may while so called out be attached to and trained with any body of Her Majesty's forces.

### **39 Application of s. 38**

- (1) The persons to whom section 38 above applies are (subject to subsection (3) below)—
  - (a) any member of the Army Reserve or the Air Force Reserve who became such a member on or after 1st April 1967 otherwise than in consequence of his having enlisted in the regular army or the regular air force before that day;
  - (b) any member of the Territorial Army who became such a member on or after 1st April 1967 by enlistment or re-engagement or by becoming an officer ; and
  - (c) any other person—
    - (i) who has elected in pursuance of subsection (2) below to be a person to whom section 38 applies, and
    - (ii) who has been notified in the prescribed manner that he has been accepted as such a person.
- (2) A member of—
  - (a) the Army Reserve,
  - (b) the Air Force Reserve, or
  - (c) the Territorial Army,
 who is not a person to whom section 38 applies may (subject to subsection (3) below) elect irrevocably in the prescribed manner to be such a person.
- (3) The Secretary of State may by regulations provide—
  - (a) for securing that persons of such descriptions as may be prescribed who but for the regulations would be persons to whom section 38 applies shall not be such persons;
  - (b) for relaxing, in such cases as may be prescribed, the liability imposed by section 38 on persons to whom that section applies.

### **40 Preliminary training of Royal Auxiliary Air Force**

- (1) Every man of the Royal Auxiliary Air Force shall, by way of preliminary training during the first year of his original enlistment—

- (a) if so provided by Order in Council, and
- (b) for such periods not exceeding in the whole the number of days specified by the Order in Council,

be trained at such places within the United Kingdom and at such times as may be prescribed, and for that purpose may be called out once or more often.

- (2) Whether or not such an Order in Council has been made he shall attend the number of drills and instructional parades and fulfil the other conditions prescribed for a recruit in the Royal Auxiliary Air Force.
- (3) The requirements of this section are in addition to the requirements of this Act relating to annual training.

#### **41 Annual training of Royal Auxiliary Air Force**

- (1) Every man of the Royal Auxiliary Air Force shall by way of annual training be trained for not less than 8 or more than 15 days in every year at such times and at such places within the United Kingdom as may be prescribed, and may for that purpose be called out once or more often in every year.
- (2) Every such man shall attend the number of drills and instructional parades and fulfil the other conditions relating to training prescribed for the Royal Auxiliary Air Force.
- (3) The requirements of this section may be dispensed with in whole or in part—
  - (a) as respects any unit of the Royal Auxiliary Air Force by the prescribed air officer, and
  - (b) as respects an individual man of the Royal Auxiliary Air Force, by his commanding officer subject to any general directions of the prescribed air officer.

#### **42 Variation and cancellation of training periods for Royal Auxiliary Air Force**

Her Majesty may by Order in Council made in relation to all or any part of the Royal Auxiliary Air Force direct—

- (a) that the period of annual training in any year shall be extended to such period not exceeding 30 days as may be specified in the Order ; or
- (b) that the period of annual training in any year shall be reduced to such period as to Her Majesty may seem fit; or
- (c) that the annual training in any year shall be dispensed with.

#### **43 Voluntary training**

Nothing in sections 38 to 42 above shall be construed as preventing a man with his own consent, in addition to any other training, being called out for the purpose of duty or instruction in accordance with orders and regulations under the provisions of this Act relating to the Territorial Army and the Royal Auxiliary Air Force.

#### **44 Requirement as to training of Ulster Defence Regiment in Northern Ireland,**

- (1) Any member of the Ulster Defence Regiment may, in accordance with regulations under Part VII of this Act, be required to undergo training in Northern Ireland in any year—

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- (a) for one or more periods which shall not exceed 12 days in the aggregate and of which—
    - (i) none shall exceed 8 consecutive days, and
    - (ii) except with his consent, not more than 2 shall exceed 36 consecutive hours, and
  - (b) for such other periods as may be prescribed, none of which shall except with his consent exceed 2 hours,
- and may while so undergoing training be attached to and trained with any body of Her Majesty's forces which is for the time being in Northern Ireland.
- (2) Regulations under that Part may provide—
- (a) for securing that subsection (1) above shall not apply to persons of such descriptions as may be prescribed to whom but for the regulations that subsection would apply; and
  - (b) for relaxing, in such cases as may be prescribed, the liability imposed by subsection (1) on members of the force.

### PART III

#### NAVAL AND MARINE RESERVES

##### *Officers of reserve to the Royal Navy*

#### 45 Offers to serve as officers of reserve

Her Majesty may, upon such terms and conditions as She thinks fit, accept the offers to serve as officers of reserve to the Royal Navy of—

- (a) any persons who have been or are masters, mates, or engineers of ships in the merchant service of the United Kingdom, or of other British ships not belonging to Her Majesty ; and
- (b) any other persons whom the Secretary of State may recommend.

#### 46 Enrolment of officers

- (1) The Secretary of State may enrol as officers of reserve to the Royal Navy so many of such persons as are referred to in section 45 above as he thinks fit, under such rules, orders and regulations as he may from time to time make.
- (2) The persons so enrolled shall have such rank as respects the officers of the Royal Navy as the Secretary of State shall direct.

##### *General provisions as to the naval and marine reserves*

#### 47 False answers on enlistment

If a person offering himself to be entered for service in any of the naval reserve forces—

- (a) knowingly makes a false answer in connection with his entry into such service, and

- (b) that answer is to a question put to him in that connection by, or by the direction of, any officer or other person authorised by regulations made by the Defence Council to enter persons for such service,

he shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding £20.

#### **48 Void enlistment in regular forces**

Where any officer or other person enlists a man to serve in Her Majesty's regular forces who at the time of such enlisting is entered to serve as a man of the Royal Naval Reserve, Royal Fleet Reserve or Royal Marines Reserve that enlisting shall be null and void.

#### **49 Enlistment outside British Islands**

The powers under this Act to enter men to serve in the Royal Naval Reserve, the Royal Fleet Reserve and the Royal Marines Reserve may, subject to the Secretary of State's regulations, be exercised outside the British Islands, but only in the case of a Commonwealth citizen or a citizen of the Republic of Ireland.

#### **50 Term of service in Royal Naval Reserve and Royal Fleet Reserve**

- (1) Every man joining the Royal Naval Reserve shall be entered for a term of 5 years, and shall continue subject to this Act as a man of that reserve during and for no longer than that term, except as otherwise provided by this Act.
- (2) A man entitled to claim his discharge under subsection (1) above shall continue subject to the provisions of this Act as a man of the Royal Naval Reserve until actually discharged from that reserve by the Defence Council, or by some officer duly appointed by the Defence Council to give such discharges.
- (3) The term of service of a man joining the Royal Fleet Reserve shall be regulated—
- (a) in the case of a pensioner entitled to his pension subject to a condition of service in the Royal Fleet Reserve, by the conditions attached to the pension; and
  - (b) in any other case, by the terms of his enlistment

#### **51 Naval and marine reserves called into permanent service**

Every man of the Royal Naval Reserve, the Royal Fleet Reserve and the Royal Marines Reserve called out for permanent service—

- (a) shall be placed under the command of such officers as the Defence Council may direct;
- (b) shall be liable to serve on shore or on board any ship or vessel, or partly on shore and partly on board any ship or vessel, as the Defence Council may direct.

#### **52 Marines serving in Royal Fleet Reserve**

Men who have served in the Royal Marines and who have enlisted in the Royal Fleet Reserve shall—

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- (a) when called out for permanent service, and
- (b) when being trained or exercised,

be liable to serve, subject to the same conditions, as other non-commissioned officers and men of the marines and not as petty officers and seamen.

### **53 Billeting**

- (1) All provisions for the time being in force in relation to the billeting of the Royal Marines shall be applicable to the men of the Royal Naval Reserve, the Royal Fleet Reserve and the Royal Marines Reserve during such time as they attend training, or be in permanent service.
- (2) All powers and authorities in relation to the billeting of the Royal Marines which may be exercised by any colonel, commandant, or commanding officer of any division of Royal Marines, may, for the purpose of billeting the men of the Royal Naval Reserve, the Royal Fleet Reserve or the Royal Marines Reserve, be exercised by any officer in the Royal Navy holding the rank of commander, or any higher rank authorised in this behalf by the regulations made under section 56 below.

### **54 Discharge**

- (1) The Defence Council may in their discretion at any time discharge any man of the Royal Naval Reserve, the Royal Fleet Reserve and the Royal Marines Reserve.
- (2) The enactments concerning the discharge of ratings (which in this subsection means a member of the Royal Navy of or below the rank of warrant officer) becoming entitled to be discharged shall be applicable to and for the discharge of men of the Royal Naval Reserve, the Royal Fleet Reserve and the Royal Marines Reserve where those men are in permanent service.

### **55 Admission to Greenwich Hospital**

- (1) Every man of the Royal Naval Reserve, the Royal Fleet Reserve and the Royal Marines Reserve, under such regulations as may be made by the Secretary of State, shall be—
  - (a) eligible for admission to the Royal Hospital at Greenwich ; and
  - (b) thereupon entitled to the same privileges and advantages as those who are or have been in Her Majesty's navy.
- (2) The Greenwich Hospital Acts 1865 to 1967 have effect as if references in those Acts to any naval reserve force included references to the Royal Marines Reserve.

### **56 Regulations for naval and marine reserves**

The Secretary of State may—

- (a) in relation to the Royal Marines Reserve, make regulations for the purpose of carrying section 3 above into effect, and
- (b) in relation to the Royal Naval Reserve and the Royal Fleet Reserve, and (without prejudice to the power conferred by paragraph (a) above) the Royal Marines Reserve, make regulations—
  - (i) as to the manner or form in which men of those reserves shall be entered to serve, and generally as to the entry and re-entry of such persons;

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- (ii) as to the arms, clothing and accoutrements with which such men are to be provided;
- (iii) for forming such men into divisions or classes, or other bodies, and assigning numbers to them;
- (iv) for the purpose of calling out such men for permanent service under this Act;
- (v) for securing and enforcing the attendance, good conduct and discipline of and among such men;
- (vi) for imposing fines or forfeitures of pay, allowances or pensions for misconduct and breach of discipline or of any of the regulations made under this section and section 37(4) above; and
- (vii) generally as to all other matters and proceedings.

*Special class of Royal Fleet Reserve*

**57 Special class of Royal Fleet Reserve**

- (1) The special class of the Royal Fleet Reserve shall consist of—
- (a) men who, on engaging or re-engaging in the Royal Fleet Reserve or during a term of engagement or re-engagement in that reserve agree in writing—
    - (i) to be entered in or transferred to that class, and
    - (ii) to undertake the liability for service in that class specified in this Act;or
  - (b) men who, having before 16th December 1949 been entered for non-continuous service in the naval service of Her Majesty or enlisted to serve in the royal marine forces, on transfer to the Royal Fleet Reserve or during their service in that reserve pursuant to such transfer agree in writing—
    - (i) to be entered in or transferred to that class, and
    - (ii) to undertake the liability for service in that class specified in this Act;or
  - (c) men entered in that class in accordance with the following provisions of this section.
- (2) Any man who—
- (a) having been entered for non-continuous service in the naval service of Her Majesty on or after 16th December 1949, or
  - (b) having been enlisted to serve in the royal marine forces on or after that date, is transferred to the Royal Fleet Reserve shall, if on his transfer he was designated by the Defence Council or an officer designated by the Defence Council as a man to whom this subsection applies, be entered in that class of the reserve and shall be liable to serve in that class as specified by this Act.
- (3) The following provisions shall have effect as to the duration of service in the special class of the Royal Fleet Reserve—
- (a) a man entered in that class or transferred to it in pursuance of an agreement under paragraph (a) of subsection (1) above shall be liable to serve in that class until the end of his term of engagement or re-engagement referred to in that paragraph;
  - (b) a man entered in or transferred to the special class in pursuance of an agreement under paragraph (b) of subsection (1) shall be liable to serve in the

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special class until the end of his term of service in the Royal Fleet Reserve in pursuance of his transfer to that reserve referred to in that paragraph (b); and

- (c) a man entered in the special class by virtue of the provisions of subsection (2) above shall be liable to serve in that class until the expiry of the first 12 months of his service in the Royal Fleet Reserve and shall then be transferred from the special class to the general body of the reserve.
- (4) If a man to whom paragraph (c) of subsection (3) above applies agrees in writing to continue to serve in the special class during the residue of the term for which he is transferred to the Royal Fleet Reserve, he shall be liable to serve in that class in accordance with the agreement.
- (5) An agreement made for the purposes of subsection (1) or subsection (4) above may be revoked by 3 months' written notice.

## **58 Transfers to Royal Fleet Reserve**

References in section 57 above to transfer to the Royal Fleet Reserve shall be construed—

- (a) in relation to a man entered for non-continuous service in the naval service of Her Majesty, as references to being entered in the Royal Fleet Reserve in pursuance of a liability incurred under the terms of his engagement, in accordance with regulations made by the Defence Council under section 2 of the Armed Forces Act 1966 to serve in the Royal Fleet Reserve after the completion of his term of service in the navy; and
- (b) in relation to a man enlisted to serve in the royal marine forces, as references to being entered in the Royal Fleet Reserve in pursuance of a liability incurred under the terms of his engagement to serve in the Royal Fleet Reserve after the completion of his term of service in the Royal Marines.

*Pay, pensions and other payments in respect of naval and marine reserves*

## **59 Rates of pay and allowances**

- (1) Her Majesty may by Order in Council fix the rates of pay, bounty and allowances payable to the persons described in subsection (2) below, and in relation to Orders in Council under this section—
- (a) section 12 of the Naval and Marine Pay and Pensions Act 1865 (which provides for the publication and laying before Parliament of Orders in Council under that Act) shall apply ; and
  - (b) the Statutory Instruments Act 1946 shall not apply.
- (2) The persons referred to in subsection (1) above are—
- (a) Officers of reserve to the Royal Navy;
  - (b) men of the Royal Naval Reserve including the Royal Fleet Reserve;
  - (c) Officers and men of the Royal Marines Reserve ;
  - (d) persons in receipt of pensions in respect of service as men in the Royal Navy or the Royal Marines, being persons called out for permanent service or undergoing training.
- (3) Sections 3 and 5 of the Naval and Marine Pay and Pensions Act 1865 (which respectively provide for regulating the payment of naval and marine pay, pensions,

bounty and other allowances, and prohibit their assignment) apply in relation to pay, bounty and allowances payable to any person described in subsection (2) above as they apply in relation to pay, bounty and allowances payable in respect of services in Her Majesty's naval or marine force to a person being an officer or subordinate officer, seaman or marine.

- (4) The Naval Forces (Enforcement of Maintenance Liabilities) Act 1947 has effect as if any reference in that Act to an officer, seaman or marine included a reference to any person so described.

## **60 Allowances and pensions for officers of reserve**

- (1) Where any officer of reserve to the Royal Navy sustains any disability of mind or body which is attributable to the conditions of naval service he may be granted an allowance or pension in respect of that disability at such rate and subject to such conditions as the Secretary of State with the consent of Her Majesty in Council may appoint.
- (2) Where any such officer is killed or dies as the result of any wound, accident, injury or disease attributable to the conditions of naval service, his widow, children or other dependent relatives may be granted such pension, allowances or gratuity as the Secretary of State with the like consent may appoint.

## **61 Pensions for persons of Royal Naval Reserve and Royal Fleet Reserve**

- (1) The Secretary of State, with the consent of the Minister for the Civil Service, may grant pensions to men of the Royal Naval Reserve and the Royal Fleet Reserve.
- (2) The Secretary of State may, in relation to any such pension, make regulations as to—
- (a) the amount;
  - (b) the time or respective times and the manner of payment ; and
  - (c) the ages at which it shall be payable.
- (3) Any pension conferred under this section shall be paid to the pensioner himself only, and not to his agent, attorney or assignee.

# **PART IV**

## **ARMY RESERVE AND AIR FORCE RESERVE**

### *Army Reserve*

## **62 Government, discipline and pay of Army Reserve**

- (1) Orders or regulations under this Act may provide with respect to the government, discipline and pay of the Army Reserve, and with respect to other matters and things relating to the Army Reserve.
- (2) No such order or regulation shall render a man who entered the Army Reserve before the date of the order or regulation liable without his consent to be appointed, transferred or attached to any military body to which he could not, without his consent, have been appointed, transferred or attached if the order or regulation had not been made.

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

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### **63 Exercise of powers vested in military office holder**

- (1) Any power or jurisdiction given to, and any act or thing to be done by, to, or before, any person holding any military office may, in relation to the Army Reserve, be exercised by or done by, to, or before any other person for the time being authorised in that behalf according to the custom of the service.
- (2) Where by this Act, or by any order or regulation under this Act, any order is authorised to be made by any military authority, the order may be signified by an order, instruction or letter under the hand of any officer authorised to issue orders on behalf of that military authority, and an order, instruction or letter purporting to be signed by any officer who appears from it to be so authorised shall be evidence of his being so authorised.

### **64 Payment and management of Army Reserve pensions**

Where (either before or after the passing of this Act) a man of the Army Reserve—

- (a) has been called out for permanent service and continued as a man of the Army Reserve after the termination of that service, and
  - (b) has become entitled to pension under any order or regulation under this Act,
- all powers exercisable for the award and payment of the pension and otherwise in relation to the pension shall be exercisable by the like authority as if he were a man discharged from the army on reduction.

### **65 Transfer to Territorial Army**

- (1) A man of the Army Reserve may, with the consent of the prescribed authority, enlist in the Territorial Army and shall on so enlisting cease to be a man of the Army Reserve.
- (2) If a man who has enlisted into the Territorial Army in pursuance of subsection (1) above—
  - (a) ceases to be a member of that reserve before the date on which his term of service in the Army Reserve would have expired if he had not so enlisted, then,
  - (b) he shall, unless the prescribed authority otherwise directs (and that power of direction includes power to make different provision for different circumstances), again be a man of the Army Reserve by virtue of this subsection for the residue of that term, without prejudice to the operation of any enactment under which that term may be extended.

#### *Air Force Reserve*

### **66 Government, discipline and pay of Air Force Reserve**

Orders or regulations under this Act may provide with respect to the government, discipline and pay of the Air Force Reserve, and with respect to other matters and things relating to the Air Force Reserve.

### **67 Exercise of powers vested in air force office holder**

- (1) Any power or jurisdiction given to, and any act or thing to be done by, to, or before, any person holding any air force office may, in relation to the Air Force Reserve, be

exercised by or done by, to, or before any other person for the time being authorised in that behalf according to the custom of the service.

- (2) Where by this Act, or by any order or regulation under this Act, any order is authorised to be made by any air force authority, the order may be signified by an order, instruction or letter under the hand of any officer authorised to issue orders on behalf of that air force authority, and an order, instruction or letter purporting to be signed by any officer who appears from it to be so authorised shall be evidence of his being so authorised.

## **68 Service in Air Force Reserve as special reservist**

- (1) A man enlisted into the Air Force Reserve may, whether or not he has previously served in the regular air force, be enlisted in the Air Force Reserve for service as a special reservist.
- (2) A special reservist may be re-engaged, and when re-engaged shall continue subject to the terms of service applicable to special reservists.
- (3) A man may be enlisted in the Air Force Reserve for service as a special reservist with a liability to serve only within the limits of the United Kingdom, the Channel Islands and the Isle of Man.
- (4) Orders and regulations under this Act may provide—
- (a) for the formation of special reservists into squadrons or other air force units, and for the formation of such squadrons or other air force units into wings, groups or other formations, either alone or jointly with any other part of Her Majesty's air force; and
  - (b) for appointing, transferring or attaching special reservists to such units or formations ; and
  - (c) for posting, attaching or otherwise dealing with special reservists within such units or formations.
- (5) A special reservist who enlists into the regular air force shall upon such enlistment be deemed to be discharged from the Air Force Reserve.

## **69 Special reservist called out for permanent service**

- (1) The Secretary of State may, by regulations under this Act, authorise any special reservist having the qualifications prescribed by those regulations to agree in writing that—
- (a) if the time at which he would otherwise be entitled to be discharged from the Air Force Reserve occurs when he is called out for permanent service, then
  - (b) he will continue to serve in the Air Force Reserve until the expiry of such period, whether definite or indefinite, as may be specified in the agreement.
- (2) If any man who enters into such an agreement is called out for permanent service, he shall be liable to be detained in service for the period specified in his agreement in the same manner in all respects as if his term of service were still unexpired.

## **70 Special reservist called out for special courses, etc.**

- (1) A special reservist may, in addition to being called out for annual training, be called out for a special course or special courses of training—

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- (a) at such place or places in the United Kingdom or the Isle of Man,
  - (b) at such time or times, and
  - (c) for such period or periods, not exceeding in the whole 6 months,
- as may be prescribed, in like manner and subject to the like conditions as if he were called out for annual training.
- (2) Where one of the conditions on which a special reservist was enlisted or re-engaged is that he shall not be called out for training, whether special or annual, for a longer period than the period specified in his attestation paper, he shall not be liable under this section to be called out for any longer period.

#### *Enlistment in Army Reserve and Air Force Reserve*

### **71 Procedure and term of service on enlistment or reengagement**

- (1) Every man who becomes a man of the Army Reserve or of the Air Force Reserve by being enlisted or re-engaged in pursuance of this Act shall be enlisted or re-engaged, as the case may be, in such manner, and for a term of such length and to begin on such date, as may be prescribed.
- (2) Where a man enlists in the Army Reserve or the Air Force Reserve—
- (a) he shall be attested in the same manner as a recruit in the regular forces or the regular air force, as the case may be, subject to the provisions of this Part of this Act, and save as is otherwise prescribed; and
  - (b) the provisions of Schedule 3 to this Act shall apply in relation to enlistment in the Army Reserve or the Air Force Reserve, as the case may be.
- (3) A man enlisting in the Army Reserve or the Air Force Reserve may be attested by a regular officer, and the provisions of Schedule 3 shall in their application to the Army Reserve or to the Air Force Reserve, as the case may be, be construed as if the expression "recruiting officer" included any regular officer.

### **72 Enlistment and residence outside United Kingdom**

- (1) Men may be enlisted into the Army Reserve or the Air Force Reserve in any part of Her Majesty's dominions outside the United Kingdom and in any British protectorate—
- (a) not being territories specified in Schedule 4 to this Act, and
  - (b) subject to such conditions as may be prescribed by regulations under this Act, and the power conferred by this subsection to enlist men into the Army Reserve or the Air Force Reserve includes power to enlist or re-engage British subjects and British protected persons into either of those reserves in any country or territory outside the United Kingdom.
- (2) A man of the Army Reserve or the Air Force Reserve may reside outside the United Kingdom—
- (a) if so authorised by or under the directions of the Secretary of State, and
  - (b) subject to such conditions as may be prescribed under subsection (1) above.
- (3) This Part of this Act applies—
- (a) to any enlistment under subsection (1) above, and

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- (b) to a man of the Army Reserve or the Air Force Reserve during such time as he resides outside the United Kingdom in pursuance of an authorisation of the Secretary of State under subsection (2) above,  
subject to such adaptations as may be prescribed.
- (4) Her Majesty may by Order in Council provide for the inclusion among the territories specified in Schedule 4 any part of Her dominions outside the United Kingdom, the Channel Islands and the Isle of Man, being a part of Her dominions to which responsible government has been granted since 20th July 1906 and not being a Dominion other than Sri Lanka.
- (5) The provisions of this section corresponding to enactments repealed and re-enacted by this Act have in relation to Her Majesty's dominions and any British protectorate the same effect as those enactments had immediately before their repeal and re-enactment.

### *Offences*

#### **73 Failure to attend for permanent service, training etc.**

- (1) Any man of the Army Reserve or of the Air Force Reserve who—
  - (a) being called out for permanent service or in aid of the civil power,
  - (b) fails—
    - (i) without leave lawfully granted, or
    - (ii) without such reasonable excuse (including sickness) as may be allowed in the prescribed manner,to appear at any time and place at which he is required on being so called out to attend,  
shall be guilty, according to the circumstances, of desertion or absence without leave, and on conviction by court-martial shall be punishable as provided by subsection (2) below.
- (2) On conviction under subsection (1) above a man—
  - (a) of the Army Reserve shall be punishable as for an offence under section 37 (desertion) or, as the case may be, section 38 (absence without leave) of the Army Act 1955.
  - (b) of the Air Force Reserve shall be punishable as for an offence under section 37 (desertion) or, as the case may be, section 38 (absence without leave) of the Air Force Act 1955,  
but without prejudice to his liability apart from this subsection and subsection (1) in respect of such an offence.
- (3) Any man of the Army Reserve or of the Air Force Reserve who, being called out for training, fails without such leave or excuse as is referred to in subsection (1) to appear at any time and place at which he is required on being so called out to attend, shall be guilty of absence without leave, and on conviction by court-martial that person—
  - (a) being a man of the Army Reserve, shall be punishable as for an offence under section 38 of the Army Act 1955;
  - (b) being a man of the Air Force Reserve, shall be punishable as for an offence under section 38 of the Air Force Act 1955.
- (4) Any man—

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- (a) being a man of the Army Reserve who commits an offence under section 37 or section 38 of the Army Act 1955 may be tried, convicted and punished under that Act whether or not otherwise subject to military law;
  - (b) being a man of the Air Force Reserve who commits an offence under section 37 or section 38 of the Air Force Act 1955 may be tried, convicted and punished under that Act whether or not otherwise subject to air-force law.
- (5) Without prejudice to subsections (1) to (4) above, any man—
- (a) of the Army Reserve who commits an offence contrary to subsection (1) or subsection (3) above, or section 37 or section 38 of the Army Act 1955,
  - (b) of the Air Force Reserve who commits an offence contrary to subsection (1) or subsection (3) above, or section 37 or section 38 of the Air Force Act 1955,
- shall be liable on summary conviction to a fine of not less than £2 and not more than £50, and in default of payment of the fine to imprisonment for any term not less than 7 days and not more than the maximum term allowed by law for non-payment of the fine, and may in any case be taken into military custody or into air-force custody, as the case may be.
- (6) The provisions of Schedule 5 to this Act, in relation to the Army Reserve or the Air Force Reserve, as the case may be, shall apply to a deserter or absentee without leave.
- (7) The delivery under those provisions of a man—
- (a) of the Army Reserve into military custody, or
  - (b) of the Air Force Reserve into air-force custody,
- or the committal of any such man for the purpose of being so delivered, shall not prevent his subsequently being tried as provided by subsection (5) above.

#### **74 Inducing a person to desert or absent himself**

- (1) Any person who, in the United Kingdom or elsewhere, by any means whatsoever—
- (a) procures or persuades any man of the Army Reserve or of the Air Force Reserve to commit an offence of desertion or attempts to procure or persuade any man of those reserves to commit such an offence, or
  - (b) knowing that any man of those reserves is about to commit such an offence aids or assists him in so doing, or
  - (c) knowing any man of those reserves to be a deserter, procures or persuades or assists him to remain a deserter, or assists in his rescue from custody,
- shall be liable on summary conviction to a fine not exceeding £50 or to imprisonment for a term not exceeding 6 months.
- (2) Subsection (1) above shall apply to absence without leave and absentees without leave as it applies to desertion and deserters, but with the substitution for the reference to such fine or imprisonment as is mentioned in that subsection of a reference to a fine not exceeding £50.

#### **75 False pretence of desertion or absence without leave**

Any person who falsely represents himself to be a deserter or absentee without leave from the Army Reserve or the Air Force Reserve shall be liable on summary conviction to imprisonment for a term not exceeding 3 months.

## 76 Offences against orders and regulations

- (1) Any man of the Army Reserve or of the Air Force Reserve is guilty of an offence under this section if he—
- (a) fails without reasonable excuse on two consecutive occasions to comply with the orders or regulations made under this Act respecting the payment of the Army Reserve or the Air Force Reserve, as the case may be; or
  - (b) when required by or in pursuance of the orders or regulations made under this Act or by a call-out notice served on him in pursuance of this Act to attend at any place, fails without reasonable excuse to attend in accordance with the requirement; or
  - (c) uses threatening or insulting language or behaves in an insubordinate manner to any officer or warrant officer or non-commissioned officer who in pursuance of the orders or regulations made under this Act is acting in the execution of his office, and who would be the superior officer of the offender if he were subject to military law or air-force law, as the case may be; or
  - (d) by any fraudulent means obtains or is an accessory to the obtaining of any pay or other sum contrary to the orders or regulations made under this Act; or
  - (e) fails without reasonable excuse to comply with the orders and regulations made under this Act.
- (2) Any man of the Army Reserve or the Air Force Reserve who commits an offence under this section, whether otherwise subject to military law or air-force law, as the case may be, or not, shall be liable—
- (a) on conviction by court-martial to suffer imprisonment, or such less punishment as is mentioned in the Army Act 1955 or the Air Force Act 1955, as the case may be, or
  - (b) on summary conviction to a fine of not less than £2 and not more than £50, and in default of payment of the fine to imprisonment for any term not less than 7 days and not more than the maximum term allowed by law for non-payment of the fine,
- and may in any case be taken into military custody or air-force custody, as the case may be.
- (3) A certificate—
- (a) purporting to be signed by an officer who is mentioned in it as an officer appointed to pay a man of the Army Reserve or the Air Force Reserve, and
  - (b) stating that the man has failed on two consecutive occasions to comply with the orders or regulations made under this Act respecting the payment of the Army Reserve or the Air Force Reserve, as the case may be,
- shall without proof of the signature or appointment of the officer be evidence of the failure.
- Where a person other than an officer is appointed to pay men of the Army Reserve or the Air Force Reserve, as the case may be, this subsection shall apply to certificates purporting to be signed by him as it applies to certificates purporting to be signed by an officer in the like behalf.
- (4) Where a man of the Army Reserve or the Air Force Reserve is required—
- (a) by or in pursuance of the orders or regulations made under this Act, or
  - (b) by a call-out notice served on him in pursuance of this Act,

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to attend at any place, a certificate purporting to be signed by any officer or person who is mentioned in it as being appointed to be present at that place for the purpose of inspecting men of the Army Reserve or the Air Force Reserve, as the case may be, or for any other purpose connected with the Army Reserve or the Air Force Reserve, and stating that the man failed to attend in accordance with that requirement shall without proof of the signature or appointment of the officer or person be evidence of the failure.

- (5) Where a man of the Army Reserve or of the Air Force Reserve, as the case may be, commits in the presence of an officer of that reserve an offence under this section, that officer may, if he thinks fit, order the offender, in lieu of being taken into military custody or air-force custody, as the case may be, to be taken into custody by any constable and to be brought before a magistrates' court for the purpose of being dealt with by that court.

## **77 Trial of offences**

- (1) Any offence which under this Part of this Act is punishable on conviction by court-martial shall for all purposes of and incidental to the arrest, trial and punishment of the offender, including the summary disposal of the case by his commanding officer, be deemed to be an offence under the Army Act 1955 or the Air Force Act 1955, as the case may be.

References in those Acts to forfeitures and stoppages shall be construed in relation to any such offence as references to such forfeitures and stoppages as may be prescribed.

- (2) For all purposes in relation to the arrest, trial and punishment of a person for any offence punishable under this Part, including the summary disposal of the case by the commanding officer, this Part shall extend to the Channel Islands.

## **78 Jurisdiction of courts**

- (1) In the United Kingdom or any colony, a civil court of any description having jurisdiction in the place where an offender is for the time being shall have jurisdiction to try him for any offence under this Part of this Act which is triable by a court of that description.
- (2) Subsection (1) above applies notwithstanding that the offence was committed outside the jurisdiction of the court, except that where the offence was committed in any part of the United Kingdom it shall not be triable outside that part of the United Kingdom.
- (3) Notwithstanding anything contained in any other Act—
- (a) the minimum fixed by this Part for the amount of any fine or the term of any imprisonment shall be duly observed by a magistrates' court and shall not be reduced by way of mitigation or otherwise, but
  - (b) where that minimum exceeds the maximum which such a court has power to inflict (whether by reason of its constitution or by reason of the place where it is sitting) that maximum shall be deemed in proceedings before that court to be substituted for the minimum fixed by this Part.

## **79 Offences triable by court-martial or magistrates' court**

The following provisions shall have effect as respects the trial and punishment of men charged with offences which in pursuance of this Part of this Act are cognisable both by a court-martial and by a magistrates' court—

- (a) a man so charged shall not be liable to be tried in both of the following ways, that is to say, on the one hand by court-martial or by the case being disposed of summarily by his commanding officer and on the other hand by a magistrates' court, but shall be proceeded against in one or other of those ways according as may be prescribed ;
- (b) proceedings against a man so charged, before either a court-martial, or his commanding officer or a magistrates' court may be instituted whether or not the term of the man's service in the Army Reserve or the Air Force Reserve, as the case may be, has expired;
- (c) any such proceedings may, notwithstanding anything in any other Act, be instituted within 2 months after whichever of the following times is the later—
  - (i) the time at which the offence becomes known to an officer who by orders or regulations under this Act has power to direct the way in which the offender is to be tried ; or
  - (ii) the time at which the offender is apprehended, whether by a civil or a military or an air force authority, as the case may be;
- (d) nothing in any other Act which provides for a period of limitation respecting the time for hearing and determining offences shall apply in the case of any proceedings so instituted.

## **80 Record of illegal absence**

- (1) Where a man of the Army Reserve is subject to military law, or a man of the Air Force Reserve is subject to air-force law, as the case may be, and is unlawfully absent from his duty—
  - (a) a board of inquiry under section 135 of the Army Act 1955, or under section 135 of the Air Force Act 1955, as the case may be, may be assembled after the expiry of 21 days from the date of the man's absence, notwithstanding that the period during which the man was subject to military law or air-force law is less than 21 days, or has expired before the expiry of 21 days; and
  - (b) the record mentioned in section 136 of the Army Act 1955, or in section 136 of the Air Force Act 1955, as the case may be, may be entered in the manner there provided, or in such regimental or service books and by such officer as may be prescribed.
- (2) Where a man of the Army Reserve or the Air Force Reserve, as the case may be—
  - (a) fails to appear at the time and place at which he is required upon being called out for training or on permanent service to attend, and
  - (b) his absence continues for not less than 14 days,an entry of the man's absence shall be made by the prescribed officer in the prescribed manner and in the prescribed regimental or service books and the entry shall be conclusive evidence of the fact of the man's absence.

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## **81 Evidence generally under Part IV**

- (1) Paragraph 1 of Schedule 6 to this Act has effect in relation to all proceedings under this Part of this Act.
- (2) Paragraph 2 of Schedule 6 shall have effect in the case of a man of the Army Reserve or the Air Force Reserve, as the case may be, who is tried by a civil court, whether or not he is at the time of the trial subject to military law or air-force law.
- (3) Where by virtue of this Part a document is admissible in evidence or is evidence of any matter stated in it in proceedings before a civil court in England, it shall be sufficient evidence of the matter so stated in such proceedings in Scotland.

### *Miscellaneous*

## **82 Transfer outside United Kingdom**

- (1) Where in pursuance of—
  - (a) the proviso to subsection (2) of section 12 of the Army Act 1955, a soldier of the regular forces, or
  - (b) the proviso to subsection (2) of section 12 of the Air Force Act 1955, an airman of the regular air force,
 is transferred to the reserve outside the United Kingdom he shall serve in that reserve subject to such conditions as to residence, as to liability to be called out for training or for permanent service or in aid of the civil power, or as to any other matters, as may be prescribed by regulations under this Act.
- (2) The provisions of this Act relating to the Army Reserve or to the Air Force Reserve shall apply to a man transferred in pursuance of this section subject to such adaptations as may be so prescribed.

## **83 Postponement of discharge or transfer to reserve**

- (1) In the application to a man to whom this subsection applies of—
  - (a) section 9 of the Army Act 1955, and
  - (b) section 9 of the Air Force Act 1955,
 (which among other things provide for postponement of discharge or transfer to the reserve when men of the reserve are called out for permanent service), the references to men of the reserve being called out for permanent service shall (notwithstanding anything in section 225(2) of the Army Act 1955 or section 223(2) of the Air Force Act 1955) include references to such men being called out under section 11 above or paragraph 16(1) to (6) of Schedule 8 to this Act.
- (2) Subsection (1) above applies to a man of the regular army, the Army Reserve, the regular air force or the Air Force Reserve who—
  - (a) is such a man in consequence of his having enlisted or re-engaged in one of those forces on or after 1st April 1967; or
  - (b) has elected irrevocably in the prescribed manner that subsection (1) shall apply to him.
- (3) In section 9 of the Army Act 1955, in its application to a man who enters into an agreement on or after 1st January 1967 in pursuance of section 14(1) above and

is called into service in pursuance of the agreement, the references to men of the reserve being called out for permanent service shall (notwithstanding anything in section 225(2) of that Act of 1955) include references to such men being called out under section 11 or paragraph 16 (1) to (3) of Schedule 8.

#### **84 Exemption from tolls, etc.**

For the purposes of—

- (a) section 184 of the Army Act 1955,
- (b) section 184 of the Air Force Act 1955, and
- (c) all other enactments relating to the duties, tolls and ferries which are mentioned in those sections,

officers and men of the Army Reserve or the Air Force Reserve, when going to or returning from any place at which they are required to attend, and for non-attendance at which they are liable to be punished, shall be deemed to be officers and soldiers of the regular military forces on duty, or officers and airmen of the regular air force on duty, as the case may be.

#### **85 Service of notices for Army Reserve and Air Force Reserve**

The following provisions have effect with respect to notices required in pursuance of orders or regulations made under this Act to be given to men of the Army Reserve or the Air Force Reserve—

- (a) a notice may be served on any such man either by being sent by post to his last registered place of abode or by being served in the prescribed manner;
- (b) evidence of the delivery at the last registered place of abode of a man of the Army Reserve or of the Air Force Reserve, as the case may be, of a notice, or of a letter addressed to the man containing a notice, shall be evidence that the notice was brought to his knowledge;
- (c) the publication of a notice in the prescribed manner in the parish in which the last registered place of abode of a man of the Army Reserve, or of the Air Force Reserve, as the case may be, is situate shall be sufficient notice to him, notwithstanding that a copy of the notice is not served on him.

#### **86 Orders and regulations for Army Reserve and Air Force Reserve**

- (1) Where by this Part of this Act or paragraph 17 of Schedule 8 to this Act, power is conferred to provide for any matter relating to the Army Reserve or the Air Force Reserve by orders or regulations under this Act—
  - (a) Her Majesty may, by order signified under the hand of the Secretary of State, make orders, and
  - (b) subject to the provisions of any such order, the Secretary of State may make general or special regulations,with respect to the matter in question.
- (2) Where by those provisions power is conferred to provide for any matter by regulations under this Act, the Secretary of State may make general or special regulations with respect to that matter.
- (3) All orders and general regulations made under this section shall be laid before Parliament after being made.

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## 87 Interpretation of Part IV

In this Part of this Act, except where the context otherwise requires.—

"absence without leave" and "desertion" mean respectively absence without leave contrary to subsection (1) or (3) of section 73 above and desertion contrary to subsection (1) of that section, and "absentee without leave" and "deserter" shall be construed accordingly ;

"airman" includes a warrant officer and a non-commissioned officer;

"soldier" includes a warrant officer and a non-commissioned officer; and

"special reservist" means a man of the Air Force Reserve who is serving in that reserve as a special reservist pursuant to section 68 above.

## PART V

### TERRITORIAL ARMY AND ROYAL AUXILIARY AIR FORCE

#### *Government, discipline and pay of Territorial Army and Royal Auxiliary Air Force*

## 88 Her Majesty's orders as to Territorial Army and Royal Auxiliary Air Force

Her Majesty may by order signified under the hand of the Secretary of State, make orders—

- (a) with respect to the government, discipline, and pay and allowances of the Territorial Army and of the Royal Auxiliary Air Force, and
- (b) with respect to all other matters and things relating to the Territorial Army or to the Royal Auxiliary Air Force,

and including any matter authorised to be prescribed or expressed to be subject to orders or regulations by—

- (i) sections 40, 41 and 43 above ;
- (ii) the following provisions of this Part of this Act;
- (iii) paragraph 18 of Schedule 8 to this Act. All orders under this section shall be laid before Parliament after being made.

## 89 Her Majesty's orders as to Territorial Army

Orders made under section 88 above as respects the Territorial Army may—

- (a) provide for the formation of men of the Territorial Army into regiments, battalions, or other military bodies;
- (b) provide for appointing, transferring or attaching men of the Territorial Army to corps and for posting, attaching, or otherwise dealing with such men within the corps;
- (c) provide for the constitution of a permanent staff, including adjutants and staff sergeants who shall, except in special circumstances certified by the general officer commanding, be members of Her Majesty's regular military forces; and
- (d) regulate the appointment, rank, duties and numbers of the officers, warrant officers and non-commissioned officers of the Territorial Army.

## **90 Her Majesty's orders as to Royal Auxiliary Air Force**

Orders made under section 88 above as respects the Royal Auxiliary Air Force may—

- (a) provide for the formation of men of the Royal Auxiliary Air Force into wings, squadrons or other air force bodies and for the formation of such wings, squadrons or other air force bodies into higher formations, either alone or jointly with any other part of Her Majesty's air forces;
- (b) provide for posting, transferring, or attaching men of the Royal Auxiliary Air Force to units ;
- (c) provide for the constitution of a permanent staff, including adjutants and non-commissioned officers who shall, except in special circumstances certified by the air officer commanding, be members of Her Majesty's regular air force ; and
- (d) regulate the appointment, rank, duties and numbers of the officers, warrant officers and non-commissioned officers of the Royal Auxiliary Air Force.

## **91 Regulations as to matters under ss. 88 to 90**

Subject to sections 88 to 90 above, and to any order made under them, the Defence Council may make general or special regulations—

- (a) with respect to any matters relating to the Territorial Army, and
- (b) with respect to any matters relating to the Royal Auxiliary Air Force,

being matters with respect to which Her Majesty may make orders under those sections. All regulations under this section shall be laid before Parliament after being made.

## **92 Matters not to be within orders or regulations under ss. 88 to 91**

Orders or regulations made under sections 88 to 91 shall not affect or extend the term for which, or the area within which, a man of the Territorial Army or the Royal Auxiliary Air Force is liable to serve or, except as expressly provided by this Part of this Act—

- (a) authorise a man of the Territorial Army when belonging to one corps to be transferred, without his consent, to another corps; or
- (b) where the corps of a man of the Territorial Army includes more than one unit, authorise him when not called out for permanent service by virtue of section 10(1) or section 11(1) above to be posted, without his consent, to any unit other than that to which he was posted on enlistment; or
- (c) where the corps of a man of the Territorial Army includes any battalion or other body of the regular forces, authorise him to be posted, without his consent, to that battalion or body; or
- (d) authorise a man of the Royal Auxiliary Air Force when not called out for permanent service by virtue of section 10(1) above to be posted, without his consent, to any unit other than that to which he was posted on enlistment; or
- (e) authorise a man of the Royal Auxiliary Air Force to be posted, without his consent, to a unit of the regular air force.

## **93 Exercise of powers of military and air force office holders**

- (1) Any power or jurisdiction given to, and act or thing to be done by, to or before any person holding any military or air force office, may—

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- (a) in relation to the Territorial Army, or
  - (b) in relation to the Royal Auxiliary Air Force,
- as the case may be, be exercised by or done by, to or before any other person for the time being authorised in that behalf according to the custom of the service.
- (2) Where by this Part of this Act, or by any order or regulation in force under it, any order is authorised to be made by any military or air force authority—
- (a) the order may be signified by an order, instruction or letter under the hand of any officer authorised to issue orders on behalf of that authority ; and
  - (b) an order, instruction or letter purporting to be signed by any officer who appears from it to be so authorised shall be evidence of his being so authorised.

### *Enlistment*

#### **94 Procedure for enlistment**

- (1) Where, a man enlists in the Territorial Army or the Royal Auxiliary Air Force—
- (a) he shall be enlisted by such persons and in such manner and subject to such regulations as may be prescribed ; and
  - (b) the provisions of Schedule 3 to this Act shall apply.
- (2) A recruit may be attested by a lord-lieutenant or deputy lieutenant of any county or, in Scotland, of any area, or—
- (a) in the case of a recruit to the Territorial Army, by an officer of the regular military forces or of the Territorial Army, or
  - (b) in the case of a recruit to the Royal Auxiliary Air Force, by an officer of the regular air force or of the Royal Auxiliary Air Force,
- and the provisions of Schedule 3, as applied to the Territorial Army or the Royal Auxiliary Air Force, as the case may be, shall be construed as if references in those provisions to a recruiting officer included references to any such lord-lieutenant, deputy lieutenant or officer.
- (3) The attestation paper to be used for the purpose of attesting recruits to the Territorial Army shall be in such form as may be prescribed.

#### **95 Conditions of enlistment**

- (1) British subjects and British protected persons may enlist or re-engage as men of the Territorial Army or the Royal Auxiliary Air Force in any country or territory outside the United Kingdom as well as in the United Kingdom.
- (2) Every man enlisted under this Part of this Act shall—
- (a) if enlisted into the Territorial Army be enlisted for service in such corps and be posted to such unit in that corps as he may select; or
  - (b) if enlisted into the Royal Auxiliary Air Force be enlisted for service in such unit as he may select.

## **96 Term and area of service**

- (1) Every man enlisted under this Part of this Act shall be enlisted to serve for such a period as may be prescribed, not exceeding 4 years, reckoned from the date of his attestation.
- (2) A man of the Territorial Army or the Royal Auxiliary Air Force shall, until duly discharged in the prescribed manner, remain subject to this Part as a man of that reserve or that force, as the case may be.
- (3) Officers and men of the Territorial Army and of the Royal Auxiliary Air Force are liable to serve in any part of the United Kingdom, the Channel Islands, the Isle of Man and, subject to section 6 above and in so far as is provided in this Part, elsewhere.

## **97 Re-engagement for service**

A man enlisted under this Part of this Act in the Territorial Army or in the Royal Auxiliary Air Force—

- (a) may be re-engaged within the period of 12 months expiring with the end of his current term of service for such a period as may be prescribed, not exceeding 4 years from the end of that term, and
  - (b) on that re-engagement shall make the prescribed declaration before a justice of the peace or an officer,
- and so from time to time.

### *Discharge*

## **98 Entitlement to discharge**

- (1) A man of the Territorial Army or of the Royal Auxiliary Air Force shall (save as is provided in this Act) be entitled to be discharged before the end of his current term of service on complying with the following conditions—
  - (a) giving to his commanding officer 3 months' notice in writing, or such less notice as may be prescribed, of his desire to be discharged ; and
  - (b) paying for the use of the association administering the unit in which he is serving, or, if the unit is administered by more than one association, the association administering the part of that unit in which he is serving, such sum as may be prescribed not exceeding £5 ; and
  - (c) delivering up in good order, fair wear and tear only excepted, all arms, clothing and appointments, being public property issued to him, or, in cases where for any good or sufficient cause the delivery of that property is impossible, paying its value.
- (2) The association, or any officer authorised by the association may, in any case in which it appears that the reasons for which the discharge is claimed are of sufficient urgency or weight, dispense either wholly or in part with all or any of the above conditions.

## **99 Liability to discharge**

- (1) A man of the Territorial Army or of the Royal Auxiliary Air Force may be discharged by his commanding officer—

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- (a) for disobedience to orders by him while doing any military or air force duty, as the case may be; or
  - (b) for neglect of such duty, or for misconduct by him as a man of the Territorial Army or of the Royal Auxiliary Air Force, as the case may be; or
  - (c) for other sufficient cause, the existence and sufficiency of such cause to be judged by the commanding officer.
- (2) A man so discharged shall be entitled to appeal to the Defence Council, who may give such directions in any such case as they may think just and proper.

### **100 Postponement of discharge: Territorial Army and Royal Auxiliary Air Force**

- (1) Where the time at which a man of the Territorial Army or the Royal Auxiliary Air Force would otherwise be entitled to be discharged occurs during a period of emergency, he may be required to prolong his service for such further term, not exceeding 12 months, as the Defence Council or an officer designated by them may order.
- (2) A man shall not during a period of emergency be entitled to be discharged under section 98 above.
- (3) In this section the expression " period of emergency" means—
- (a) in relation to a man of the Territorial Army, any period while an order under section 10(1) above is in force ordering the Army Reserve to be called out for permanent service;
  - (b) in relation to a man of the Royal Auxiliary Air Force, any period—
    - (i) while an order under section 10(1) is in force ordering the Air Force Reserve to be called out for permanent service; or
    - (ii) while the man in question is called out for home defence service.

### **101 Postponement of discharge: Territorial Army**

- (1) A man of the Territorial Army who is a person to whom section 11 above applies shall not be entitled to be discharged under section 98 above during any period while an order is in force under section 12(1) above.
- (2) Subsections (1) and (2) of section 100 above shall have effect, in relation to a man who enlists or re-engages in the Territorial Army on or after 1st April 1967, as if the period of emergency within the meaning of that section included any period while he is called out for home defence service.

### **102 Enlistment into other reserves**

If a man—

- (a) of the Territorial Army enlists into the Army Reserve without being discharged from the Territorial Army, or
- (b) of the Royal Auxiliary Air Force enlists into the Air Force Reserve without being discharged from the Royal Auxiliary Air Force,

the terms and conditions of service applicable to men of the Territorial Army or of the Royal Auxiliary Air Force shall cease to apply to him while he remains in the Army Reserve or in the Air Force Reserve, as the case may be.

*Additional provisions as to call-out*

**103 Transfer and posting on call-out of Territorial Army**

A man of the Territorial Army may, by order of the Defence Council or an officer designated by them—

- (a) at any time while the part of the Territorial Army to which he belongs is called out for permanent service by virtue of section 10(1) or section 11(1) above, be posted without his consent to any unit within his corps or be transferred without his consent to any corps, and
- (b) at any time while he is serving under section 22 above, be posted without his consent to any unit within his corps.

**104 Transfer and posting on call-out of Royal Auxiliary Air Force**

A man of the Royal Auxiliary Air Force may, by order of the Defence Council or an officer designated by them—

- (a) at any time while the part of the Royal Auxiliary Air Force to which he belongs is called out for permanent service by virtue of section 10(1) above, or
- (b) at any time while he is serving under section 22 above, be posted without his consent to any unit of Her Majesty's air forces.

**105 Rights after service under ss. 103 and 104**

Where a man—

- (a) has been transferred or posted by virtue of section 103 or section 104 above, and
- (b) continues in Territorial Army or Royal Auxiliary Air Force service, as the case may be,

then, if he so desires there shall, as soon as may be convenient after the end of the period of call-out or, as the case may be, of the period of his service under section 22 above, be taken all such steps as are necessary to enable him to serve again—

- (i) in the case of the Territorial Army, in the corps or unit, or
- (ii) in the case of the Royal Auxiliary Air Force, in the unit,

in which he was serving at the time when he was first so transferred or posted.

*Offences*

**106 Failure to attend on call-out**

- (1) Any man of the Territorial Army or of the Royal Auxiliary Air Force who without leave lawfully granted, or without such reasonable excuse (including sickness) as may be allowed in the prescribed manner, fails to appear at the time and place specified by a call-out notice served on him in pursuance of this Act, specifying—
  - (a) in any case, section 10(1) above or section 22 above,
  - (b) in the case of a man of the Territorial Army to whom section 11 above applies, section 11(1),

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as the enactment by virtue of which he is called into service, shall be guilty, according to the circumstances, of desertion or absence without leave, and on conviction by court-martial shall be punishable as provided by subsection (2) below.

- (2) On conviction under subsection (1) above a man shall be punishable—
- (a) as for an offence under section 37 or, as the case may be, section 38, of the Army Act 1955, or
  - (b) as for an offence under section 37, or, as the case may be, section 38, of the Air Force Act 1955,
- without prejudice to his liability apart from this section in respect of such an offence, and he may be taken into military or air-force custody, as the case may be.
- (3) Where a man of the Territorial Army or of the Royal Auxiliary Air Force deserts contrary to this section the time which elapsed between the time of his desertion and the time of his apprehension or voluntary surrender shall not be taken into account in reckoning his service for the purpose of discharge.
- (4) The provisions of Schedule 5 to this Act, in relation to the Territorial Army or the Royal Auxiliary Air Force, as the case may be, shall apply to a deserter or absentee without leave.

#### **107 Assistance in desertion**

Any person who, in the United Kingdom or elsewhere, by any means whatsoever—

- (a) procures or persuades any man of the Territorial Army or of the Royal Auxiliary Air Force to commit an offence of desertion contrary to section 106 above, or attempts to procure or persuade any such man to commit such an offence, or
- (b) knowing that any such man is about to commit such an offence aids or assists him in so doing, or
- (c) knowing any such man to be a deserter contrary to section 106 above, procures or persuades or assists him to remain such a deserter, or assists in his rescue from custody,

shall be liable on summary conviction to a fine not exceeding £50 or to imprisonment for a term not exceeding 6 months.

#### **108 Failure to fulfil training conditions**

Where a man of the Territorial Army or of the Royal Auxiliary Air Force, without leave lawfully granted, or such reasonable excuse (including sickness) as may be allowed in the prescribed manner—

- (a) fails to appear at the time and place appointed for training, or
- (b) fails to attend the number of drills or instructional parades or to fulfil the other conditions relating to training which may be prescribed,

he shall be liable on summary conviction to a fine not exceeding £25, except for Northern Ireland, where the fine shall not exceed £5.

#### **109 Wrongful sale, etc., of public property**

Where any person—

- (a) designedly makes away with, sells, or pawns, or wrongfully destroys or damages, or negligently loses, anything issued to him as an officer or man of the Territorial Army or of the Royal Auxiliary Air Force, or
- (b) wrongfully refuses or neglects to deliver upon demand anything issued to him as an officer or man of the Territorial Army or of the Royal Auxiliary Air Force,

the value of that thing shall be recoverable from him on complaint to a magistrates' court (or, in Scotland, on proceedings in any competent court) by such authority as may be prescribed.

#### **110 Trial of offences by magistrates' court**

- (1) Any offence to which this subsection applies which is cognisable by a court-martial shall also be cognisable by a magistrates' court and on conviction by such court shall be punishable with imprisonment for a term not exceeding 3 months, or with a fine not exceeding £50, or with both such imprisonment and fine.
- (2) Subsection (1) above applies—
  - (a) to any offence under the Army Act 1955 if committed by a man of the Territorial Army when not called out for permanent service by virtue of section 10(1) or section 11(1) above;
  - (b) to any offence under the Air Force Act 1955 if committed by a man of the Royal Auxiliary Air Force when not called out for home defence service and when not called out for permanent service by virtue of section 10(1); and
  - (c) to any offence under this Part of this Act.
- (3) Nothing in subsection (1) affects the liability of a person charged with any offence to which that subsection applies to be taken into military or air-force custody.

#### **111 Offences punishable by court-martial**

Any offence which under this Part of this Act is punishable on conviction by court-martial shall for all purposes of and incidental to the arrest, trial and punishment of the offender, including the summary dealing with the case by any officer having power so to deal with the case—

- (a) be deemed to be an offence under the Army Act 1955, if the offence relates to a man of the Territorial Army, or
- (b) be deemed to be an offence under the Air Force Act 1955, if the offence relates to a man of the Royal Auxiliary Air Force,

but those Acts in their application for the purposes of this section shall have effect with the substitution for any reference to forfeiture and stoppages of a reference to such forfeitures and stoppages as may be prescribed.

#### **112 Jurisdiction of courts**

- (1) In the United Kingdom or any colony, a civil court of any description having jurisdiction in the place where an offender is for the time being shall have jurisdiction to try an officer or man of the Territorial Army or the Royal Auxiliary Air Force for any offence under this Part of this Act which is triable by a court of that description.

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- (2) Subsection (1) above applies notwithstanding that the offence was committed outside the jurisdiction of the court, except that where the offence was committed in any part of the United Kingdom it shall not be triable outside that part of the United Kingdom.
- (3) Every fine—
- (a) imposed under this Part on a man of the Territorial Army or the Royal Auxiliary Air Force otherwise than by a court in England or Wales, and
  - (b) recovered on a prosecution instituted under this Part otherwise than in such a court,

shall, notwithstanding anything in any Act or charter to the contrary, be paid to the prescribed authority, except that all fines imposed in proceedings taken before a magistrates' court in Northern Ireland shall, notwithstanding anything in paragraph (ii) of subsection (5) of section 20 of the Administration of Justice Act (Northern Ireland) 1954, be dealt with in the manner provided by that section.

### **113 Time for institution of proceedings**

Proceedings against an offender before either—

- (a) a court-martial, or
- (b) an officer having power to deal with the case summarily, or
- (c) a magistrates' court,

in respect of an offence punishable under this Part of this Act and alleged to have been committed by him during his period of service in the Territorial Army or the Royal Auxiliary Air Force may be instituted whether the term of his service has or has not expired, and may, notwithstanding anything in any other Act, be instituted—

- (i) at any time within 2 months after the time at which the offence becomes known to his commanding officer, if the alleged offender is then apprehended, or,
- (ii) if he is not then apprehended, then within 2 months after the time at which he is apprehended.

### **114 Courts of inquiry**

Where a man of the Territorial Army or of the Royal Auxiliary Air Force—

- (a) is subject to military law or air-force law, as the case may be, and
- (b) is illegally absent from his duty,

a board of inquiry under section 135 of the Army Act 1955, or section 135 of the Air Force Act 1955, as the case may be, may be assembled after the expiry of 21 days from the date of his absence, notwithstanding that the period during which the man was subject to military law or air-force law is less than 21 days or has expired before the expiry of 21 days.

### **115 Offences triable both by court-martial and summarily**

- (1) A person charged with an offence which under this Part of this Act is cognisable both by a court-martial and by a magistrates' court shall not be liable to be tried both by a court-martial and by a magistrates' court, but may be tried by either of them, as may be prescribed.

- (2) For the purposes of subsection (1) above a man who has been dealt with summarily by any officer having power so to deal with the case shall be deemed to have been tried by court-martial.

## **116 Evidence generally under Part V**

- (1) Paragraph 1 of Schedule 6 to this Act has effect in relation to all proceedings under this Part of this Act.
- (2) Paragraph 2 of that Schedule shall have effect in the case of a man of the Territorial Army or the Royal Auxiliary Air Force, as the case may be, who is tried by a civil court, whether or not he is at the time of the trial subject to military law or to air-force law.
- (3) Where by virtue of this Part a document is admissible in evidence or is evidence of any matter stated in it in proceedings before a civil court in England, it shall be sufficient evidence of the matter so stated in such proceedings in Scotland.

### *Miscellaneous*

## **117 Certain provisions as to commissions in Territorial Army**

- (1) All officers in the Territorial Army shall hold commissions from Her Majesty, and such commissions shall be prepared, authenticated and issued in the manner in which commissions of officers in Her Majesty's land forces are prepared, authenticated and issued, according to any law or custom for the time being in force.
- (2) The holder of a land forces commission (including a person entitled to the issue of one) may be placed on the active list of officers of the Territorial Army, and while on that list shall be an officer of that reserve.

For the purposes of this subsection "active list" has such meaning as may be prescribed.

- (3) Any reference—
  - (a) in the Army Act 1955, and
  - (b) in such other enactment (if any) as may be prescribed for the purposes of this subsection,to an officer holding a commission in the Territorial Army shall be construed as including a reference to a person who is an officer of that reserve by virtue of subsection (2) above. The power to make regulations under this subsection shall be exercisable by statutory instrument.

## **118 Civil rights and exemptions**

- (1) An officer or man of the Territorial Army or the Royal Auxiliary Air Force shall not be liable to any penalty or punishment for or on account of his absence—
  - (a) during the time he is voting at any election of a member to serve in Parliament;  
or
  - (b) during the time he is going to or returning from such voting.
- (2) While a sheriff—

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- (a) is an officer of the Territorial Army and is called out for permanent service under section 10(1) or section 11(1) above, or
- (b) is an officer of the Royal Auxiliary Air Force and is called out for permanent service under section 10(1) above or called out for home defence service,

he shall be discharged from personally performing the office of sheriff, and the under-sheriff shall be answerable for the execution of that office in the name of the high sheriff, and the security given by the under-sheriff and his pledges to the high sheriff shall stand as a security to the Queen and to all persons whomsoever for the due performance of the office of sheriff during that time.

- (3) A field officer of the Territorial Army or an officer of the Royal Auxiliary Air Force not below the rank of squadron leader shall not be required to serve in the office of high sheriff.
- (4) Subsections (2) and (3) above do not apply to Scotland.

### **119 Exemption from tolls, etc.**

For the purposes of—

- (a) section 184 of the Army Act 1955,
- (b) section 184 of the Air Force Act 1955, and
- (c) other enactments relating to the duties, tolls and ferries as are mentioned in those sections,

officers and men belonging to the Territorial Army or the Royal Auxiliary Air Force, when going to or returning from any place at which they are required to attend, and for non-attendance at which they are liable to be punished, shall be deemed to be officers and soldiers of the regular military forces on duty, or officers and airmen of the regular air force on duty, as the case may be.

### **120 Service of notices for Territorial Army and Royal Auxiliary Air Force**

Notices required in pursuance of—

- (a) this Part of this Act, or
- (b) the orders and regulations in force under this Part,

to be given to men of the Territorial Army or of the Royal Auxiliary Air Force shall be served or published in such manner as may be prescribed and, if so served or published, shall be deemed to be sufficient notice.

## **PART VI**

### TERRITORIAL, AUXILIARY AND VOLUNTEER RESERVE ASSOCIATIONS, AND THE LIEUTENANCIES

#### *Army and air force associations*

### **121 Associations**

- (1) In this Part of this Act—

the expression "joint association" means an association established for any area in the United Kingdom, being an area determined by the Defence Council, for the purposes of the organisation and administration of Her Majesty's military and air forces other than the regulars and their reserves and for such other purposes of the establishment of associations as are mentioned in this Part;

the expression "territorial and army volunteer reserve association" means an association established for any such area for the like purposes in relation to Her Majesty's military forces;

the expression "auxiliary air force association" means an association established for any such area for the like purposes in relation to Her Majesty's air forces.

- (2) An association of any of the kinds mentioned in subsection (1) above—
- (a) may be established for any such area as is mentioned in that subsection for which an association of that kind is not for the time being in existence, but
  - (b) in the case of an auxiliary air force association the area shall be one which in the opinion of the Defence Council cannot be suitably administered through a joint association.

## **122 Constitution of associations**

- (1) Such an association as is mentioned in section 121 above shall be constituted, and the members of that association shall be appointed and hold office, in accordance with a scheme—
  - (a) made by the Defence Council, and
  - (b) as to which the provisions of Schedule 7 to this Act shall have effect.
- (2) The scheme under subsection (1) above by which a joint association is established for any area shall provide—
  - (a) for the winding-up, as from the date of the establishment of the joint association, of any territorial and army volunteer reserve association or auxiliary air force association previously established for that area, and
  - (b) for any matter incidental to or consequential on the winding-up, whether as respects the transfer of property, rights and liabilities, financial adjustment or otherwise, as the Defence Council may think necessary.
- (3) The Secretary of State may by order make such changes in the provisions of Schedule 7 as he considers appropriate, and the order may contain such supplemental, incidental and transitional provisions as the Secretary of State considers expedient.
- (4) The Defence Council may make an order for the winding-up of any such association as is mentioned in section 121 and the order shall provide for any matter incidental to or consequential on the winding-up, whether as respects the transfer of property, rights and liabilities, financial adjustment or otherwise, as the Defence Council may think necessary.
- (5) The power to make an order under subsection (3) above shall be exercisable by statutory instrument, and any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **123 General duties of associations**

- (1) It shall be the duty of each association—
- (a) to make itself acquainted with and conform to the plan of the Defence Council—
    - (i) for the organisation of all Her Majesty's military forces within the area for which the association is established, and
    - (ii) for the organisation of all Her Majesty's air forces within that area ;
  - (b) to ascertain the military and air force resources and capabilities of the area for which the association is established and to render advice and assistance to the Defence Council and to such officers as the Defence Council may direct;
  - (c) to make itself acquainted with and conform to the plan of the Defence Council for the organisation within the area for which the association is established of the reserves of the Royal Navy and of the reserves of the Royal Marines in so far as that plan relates to matters with respect to which functions are conferred on the association under subsection (1) of section 124 below.
- (2) The provisions of this section and sections 124 to 127 below apply (save as they otherwise expressly provide) to all such associations as are mentioned in section 121 above, but with the following modifications in their application to an association other than a joint association—
- (a) in their application to a territorial and army volunteer reserve association they shall be read with the omission of all references to Her Majesty's air forces, and also of references to the Royal Auxiliary Air Force, air force authorities, air force resources and capabilities, actual air force service, the Air Training Corps, aviation clubs and aerodromes, landing grounds and hangars;
  - (b) in their application to an auxiliary air force association they shall be read with the omission of all references to Her Majesty's military forces, and also of references to the Territorial Army, military authorities, military resources and capabilities, actual military service, and the Army Cadet Force.

### **124 Powers and duties assignable to associations**

- (1) An association shall have, exercise and discharge such powers and duties connected with the organisation and administration of Her Majesty's military and air forces as may for the time being be transferred or assigned to it by order of Her Majesty signified under the hand of the Secretary of State or, subject to such an order, by regulations under this Part of this Act, and also such powers and duties as may be transferred or assigned to it as mentioned above connected with the organisation and administration of—
- (a) the reserves of the Royal Navy and the reserves of the Royal Marines, or
  - (b) the Army Cadet Force, the Air Training Corps, the Combined Cadet Force and the Sea Cadet Corps,
- but an association shall not have any powers of command or training over any part of Her Majesty's forces.
- (2) The powers and duties so transferred or assigned to an association may include any powers conferred on or vested in Her Majesty, and any powers or duties conferred or imposed on the Defence Council or the Secretary of State, by statute or otherwise, and in particular respecting the following matters—
- (a) the organisation of the units of the Territorial Army and the Royal Auxiliary Air Force and their administration (including maintenance) at all times other

than when they are called out for training or permanent military or air force service, or other than when—

- (i) the Territorial Army is called out for permanent service by virtue of section 10(1) or 11(1) above, or
- (ii) the Royal Auxiliary Air Force is called out for permanent service by virtue of section 10(1);
- (b) the recruiting for the Territorial Army and the Royal Auxiliary Air Force both in peace and in war, and defining the limits of recruiting areas ;
- (c) the provision and maintenance of rifle ranges, buildings, magazines, sites of camps, aerodromes, landing grounds and hangars for the Territorial Army and the Royal Auxiliary Air Force;
- (d) facilitating the provision of areas to be used for manoeuvres;
- (e) arranging with employers of labour as to holidays for training, and ascertaining, after consultation with the representatives of employers in and of persons employed in the principal industries of the area for which the association is established, the times of training which having regard to those industries are best suited to the circumstances of civil life ;
- (f) establishing or assisting cadet units and also rifle and aviation clubs;
- (g) the provision of mechanical transport and horses for the peace requirements of the Territorial Army and the Royal Auxiliary Air Force ;
- (h) providing accommodation for the safe custody of arms and equipment;
- (i) the supply of the requirements on mobilisation of the units of the Territorial Army and the Royal Auxiliary Air Force within the area for which the association is established in so far as those requirements are directed by the Defence Council to be met locally ;
- (j) the registration in conjunction with the military and air force authorities of vehicles, horses, stores and equipment for any of Her Majesty's military or air forces (or, in the case of a territorial and army volunteer reserve association, any of Her Majesty's forces);
- (k) the welfare of members and former members of Her Majesty's military and air forces and of members and former members of the reserves of the Royal Navy and of the reserves of the Royal Marines ;
- (l) in the case of a joint association and of an auxiliary air force association, the undertaking in relation to the Air Force Reserve of any functions undertaken in relation to the Royal Auxiliary Air Force.

For the purposes of paragraph (i) of this subsection the Defence Council shall from time to time make and issue to associations regulations specifying, so far as practicable, the requirements mentioned in that paragraph which are to be met locally.

- (3) The members of an association shall not be under any pecuniary liability for any act done by them in their capacity as members of the association in carrying out the provisions of this Part of this Act.

## **125 Expenses of associations**

- (1) The Defence Council shall pay to an association, out of money provided by Parliament, such sums as in the opinion of the Defence Council are required to meet the necessary expenditure incurred by the association.
- (2) An association—

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- (a) shall annually at the prescribed time, and
  - (b) may at any other time for any special purpose,
- submit in the prescribed form and manner a statement of its necessary requirements to the Defence Council; and all payments under this section to an association shall be made upon the basis of such a statement, so far as approved by the Defence Council.
- (3) Subject to regulations under this Part of this Act, any money paid to an association by the Defence Council shall be applicable to any of the purposes specified in the approved statements in accordance with which money has been granted and, except with the written consent of the Defence Council shall not be applicable otherwise.
  - (4) Nothing in this section shall be construed as enabling the Defence Council to give their consent to the application of money to any purpose to which, apart from this section, it could not lawfully be applied, or to give their consent without the authority of the Treasury in any case in which, apart from this section, the authority of the Treasury would be required.
  - (5) All money received by an association otherwise than from the Defence Council (except such money, if any, as may be received by the association for specified purposes) shall be available for the purposes of any of the powers and duties of the association.
  - (6) In the case of a joint association, the income from investments representing money originally received for the purpose of the Territorial Army or of the Royal Auxiliary Air Force shall be applied only to that purpose, unless the Defence Council otherwise direct.

#### **126 Accounts of associations**

- (1) An association shall cause its accounts to be made up annually and audited in such a manner as may be prescribed.
- (2) An association shall send copies of its accounts, together with any report of the auditors on them, to—
  - (a) the Defence Council, or
  - (b) such authority or person as may be directed by regulations under this Part of this Act.

#### **127 Joint committees of associations**

- (1) Associations may from time to time join in appointing out of their respective bodies a joint committee for any purpose in respect of which they are jointly interested.
- (2) An association joining in appointing a joint committee under this section may delegate to it any power which such an association may exercise for the purpose for which the committee is appointed.
- (3) Subject to the terms of delegation a joint committee appointed under this section shall in respect of any matter delegated to it have the same power in all respects as the associations appointing it.
- (4) The costs of such joint committee shall be defrayed by the associations by whom it has been appointed in such proportion as may be agreed between them, and the accounts of such joint committees and their officers shall for the purposes of the provisions of

this Part of this Act be deemed to be accounts of the associations appointing them and of their officers.

## **128 Regulations as to associations**

- (1) Regulations for carrying into effect the foregoing provisions of this Part of this Act as respects joint associations may be made by the Defence Council and such regulations may, among other things, provide for the following matters—
- (a) for regulating the manner in which powers are to be exercised and duties performed by such associations, and for specifying the services to which money paid by the Defence Council is to be applicable ;
  - (b) for authorising and regulating the acquisition by or on behalf of such an association of land for the purposes of this Part and the disposal of any land so acquired ;
  - (c) for authorising and regulating the borrowing of money by such an association ;
  - (d) for authorising the acceptance of any money or other property, and the taking over of any liability, by such an association, and for regulating the administration of any money or property so acquired and the discharge of any liability so taken over ;
  - (e) for facilitating the co-operation of such an association with any other association such as is mentioned in section 121 above or with any local authority or other body, and for providing by the constitution of joint committees or otherwise for co-operative action in the organisation and administration of divisions, brigades and other military bodies and of groups, wings, squadrons and other air force bodies, and for the provision of assistance by one association to another;
  - (f) for affiliating cadet units, rifle and aviation clubs and other bodies to the Territorial Army or to the Royal Auxiliary Air Force or to any part of them ;
  - (g) for or in respect of anything by the foregoing provisions of this Part directed or authorised to be done or provided for by regulations or to be done in the prescribed manner;
  - (h) for the application for the purposes of the foregoing provisions of this Part, as respects any matters to be dealt with by regulations, of any provision in any Act of Parliament dealing with the like matters, with the necessary modifications or adaptations, and in particular of any provisions as to the acquisition of land by or on behalf of volunteer corps.
- (2) Regulations for carrying into effect the foregoing provisions of this Part as respects territorial and army volunteer reserve associations and auxiliary air force associations respectively may be made by the Defence Council, and such regulations may, among other things, provide for the matters mentioned in paragraphs (a) to (h) of subsection (1) above read with the following modifications—
- (a) for references to joint associations there shall be substituted references to territorial and army volunteer reserve associations or to auxiliary air force associations, as the case may be ;
  - (b) as respects territorial and army volunteer reserve associations there shall be omitted the references to the Royal Auxiliary Air Force, to groups, wings, squadrons, and other air force bodies, and to aviation clubs ;
  - (c) as respects auxiliary air force associations there shall be omitted the references to the Territorial Army, to divisions, brigades and other military bodies.

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- (3) All regulations under this section as respects joint, territorial and army volunteer reserve and auxiliary air force associations respectively shall be applicable to all joint, territorial and army volunteer reserve and auxiliary air force associations respectively, except in so far as may be otherwise provided by the regulations or by any scheme made under this Part.
- (4) In relation to this section—
- (a) regulations made for the purposes of section 125 or of section 126 above shall be subject to the Treasury's consent; and
  - (b) all regulations shall be laid before Parliament after being made.

### **129 Compensation of displaced employees**

- (1) The Secretary of State may, with the consent of the Minister for the Civil Service, make regulations providing for the payment by the Secretary of State, out of moneys provided by Parliament, of compensation to or in respect of any person who in the Secretary of State's opinion—
- (a) has ceased to be employed by an association established for the purposes of this Part of this Act, or has suffered a diminution in the emoluments of his employment by such an association, in consequence of the winding-up of the association or any change in its activities or of any proposal to wind up the association or change its activities ; or
  - (b) has ceased to be employed by the body commonly known as the Council of Territorial, Auxiliary and Volunteer Reserve Associations (formerly the Council of Territorial and Auxiliary Forces Associations), or has suffered a diminution in the emoluments of his employment by that body, in consequence of the winding-up of associations so established or of changes in their activities.
- (2) The power to make regulations under subsection (1) above shall be exercisable by statutory instrument, and any such regulation shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### *The lieutenancies*

### **130 Lieutenancies in England and Wales**

- (1) Her Majesty—
- (a) shall appoint a lord-lieutenant for each county in England and Wales and for Greater London ; and
  - (b) may appoint lieutenants for each county and for Greater London.
- (2) For the purposes of the provisions of this Act relating to the lieutenancies—
- (a) " Greater London" in subsection (1) above does not include the City of London, or the Inner Temple and the Middle Temple, but otherwise shall be treated as a county; and
  - (b) the Isles of Scilly shall be deemed to form part of the county of Cornwall.
- (3) Paragraph (a) of subsection (2) above—
- (a) so far as it provides that Greater London other than the City shall be treated as a county, and

(b) so far as it relates to Schedule 7 to this Act,  
has effect subject to any order made by virtue of section 84(3) of the London Government Act 1963.

### **131 Lieutenancies in Scotland**

- (1) Her Majesty—
  - (a) shall appoint for each region of Scotland such number of lord-lieutenants as She thinks fit;
  - (b) shall appoint a lord-lieutenant for each islands area of Scotland; and
  - (c) may appoint lieutenants for each region and islands area.
- (2) The Lord Provost of the cities of Aberdeen, Dundee, Edinburgh and Glasgow shall by virtue of his office be lord-lieutenant for the district of the city concerned and Her Majesty may appoint lieutenants for each such district.
- (3) The lord-lieutenants and lieutenants appointed for a region under subsection (1) above shall discharge their functions in such parts of the region as may be determined by Order in Council made by Her Majesty.
- (4) Where an Order in Council is made in pursuance of subsection (3) above, any deputy lieutenant holding office immediately before the date on which the Order in Council is made shall (without prejudice to any power of removal or of directing removal from any office) continue to hold office on and after the date as deputy lieutenant of the part of the region in which he resides or of such other part as may be specified in the Order in Council.
- (5) In this section " region " does not include the districts of the cities of Aberdeen, Dundee, Edinburgh and Glasgow.

### **132 Lieutenancies in Northern Ireland**

The provisions of this Part of this Act relating to the lieutenancies do not affect the provisions of the Northern Ireland (Lieutenancy) Order 1975, made under section 36(5) of the Northern Ireland Constitution Act 1973.

### **133 Deputy lieutenants**

- (1) A lord-lieutenant appointed under section 130 or section 131 above shall from time to time appoint such persons as he thinks fit to be his deputy lieutenants.
- (2) A person may be appointed to be a deputy lieutenant for a county in England and Wales, or for an area in Scotland, if—
  - (a) he has a place of residence in the county or area, or within 7 miles from the boundary of the county or area; and
  - (b) he is shown to the satisfaction of the Secretary of State to have rendered either—
    - (i) worthy service as a member of, or in a civil capacity in connection with, Her Majesty's naval, military or air forces, or
    - (ii) such other service as, in the Secretary of State's opinion, makes him suitable for appointment as a deputy lieutenant.
- (3) The lord-lieutenant—

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- (a) shall certify to Her Majesty the name of every person whom he proposes to appoint deputy lieutenant; and
  - (b) shall not grant a commission as deputy lieutenant to any person until informed by the Secretary of State that Her Majesty does not disapprove of the granting of such a commission.
- (4) The commission of a deputy lieutenant shall not be vacated by the lord-lieutenant who granted it ceasing to be a lord-lieutenant.
- (5) The clerk of the lieutenancy shall (at the cost of the county rate, or, in Scotland, the regional or general rate) arrange for the publication in the London Gazette of the names of the persons appointed deputy lieutenants, with the dates of their commissions, in like manner as commissions of officers of Her Majesty's land forces are published.

#### **134 Absence or disability of lord-lieutenant**

Where—

- (a) the lord-lieutenant of a county or, in Scotland, an area, is absent from the United Kingdom, or by reason of sickness or otherwise is unable to act, or
- (b) there is no lord-lieutenant of a county or an area,

Her Majesty may authorise any three deputy lieutenants, or lieutenants appointed under section 130(1) or section 131(1) above, of that county or area to act as its lord-lieutenant, and such deputy lieutenants or lieutenants while so authorised—

- (i) may do all acts which might be done by the lord-lieutenant; and
- (ii) shall for all purposes stand in the lord-lieutenant's place.

#### **135 Appointment of vice lord-lieutenant**

- (1) The lord-lieutenant of a county, or, in Scotland, an area, with Her Majesty's approbation, may appoint any deputy lieutenant, or any lieutenant appointed under section 130(1) or section 131(1) above, of that county or area as vice lord-lieutenant to act for him during his absence from the county or area, sickness or other inability to act.
- (2) Every such vice lord-lieutenant, until his appointment is revoked or he is removed by Her Majesty (and without prejudice to Her Majesty's authority to make other provision under section 134 above)—
- (a) may from time to time, whenever such absence, sickness or inability occurs, do all acts which might be done by the lord-lieutenant; and
  - (b) shall for all purposes stand in his place.

#### **136 Removal of vice lord-lieutenant and deputy lieutenants**

Whenever Her Majesty may think fit to signify her pleasure to the lord-lieutenant of any county, or, in Scotland, of any area, that any vice lord-lieutenant or deputy lieutenants of the county or area be removed, that lord-lieutenant shall—

- (a) forthwith remove them; and
- (b) appoint others in their place, subject to the provisions of this Part of this Act.

### **137 Statutory functions of lord-lieutenant and deputy lieutenants**

- (1) The lord-lieutenant and deputy lieutenants appointed under this Part of this Act for any county, or, in Scotland, for any area, shall respectively have such jurisdiction, duties, powers, and privileges as are vested in the lord-lieutenant and the deputy lieutenants respectively for that county or area under any Act for the time being in force.
- (2) The lord-lieutenant of every county, or, in Scotland, of every area, shall appoint a clerk of the lieutenancy, and he may remove that clerk if he thinks fit, and appoint another in his place.

### **138 Commissioners of lieutenancy for City of London**

- (1) Her Majesty may issue commissions of lieutenancy in respect of the City of London to such persons as She thinks fit to be such lieutenants.
- (2) The City of London continues to be a separate county for the purposes of the lieutenancies and the militia, and so far as is consistent with the special enactments relating to the City the provisions of this Part of this Act relating to the lieutenancies apply accordingly.
- (3) Her Majesty's Commissioners of Lieutenancy for the City of London are for the purposes of those special enactments and those provisions the lieutenant of the county, but the provisions of this Part with respect to deputy lieutenants do not apply to the City.
- (4) Nothing in this Part affects the raising and levying of the Trophy Tax in the City.
- (5) The proceeds of that tax may be applied by the Commissioners of Lieutenancy for the City of London (if in their discretion they see fit) for the purposes of any of the powers and duties of an association established under this Part for the City.

## **PART VII**

### **ULSTER DEFENCE REGIMENT**

#### *Membership of Ulster Defence Regiment*

### **139 Enrolment, re-engagement and resignation**

- (1) The provisions as to the enrolment, re-engagement and resignation of members of the Ulster Defence Regiment (otherwise than as officers) are—
  - (a) a person volunteering and accepted for service in that force shall be enrolled for a prescribed period not exceeding 3 years;
  - (b) a member of that force may, if he so desires and is accepted for re-engagement, re-engage from time to time for a further such period ;
  - (c) a member of that force may if he so desires cease to be a member of it upon the expiry of one month's notice of his desire so to cease given in writing to his commanding officer.
- (2) A person shall not cease to be a member of the Ulster Defence Regiment by virtue of paragraph (a), (b) or (c) of subsection (1) above if immediately before the expiry—
  - (a) of the period for which he was enrolled, or

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- (b) of the period for which he was re-engaged, or
  - (c) of the period of his notice,
- as the case may be, he is on permanent service in pursuance of section 10 or section 24 above.

#### **140 Orders and regulations as to acceptance and service**

- (1) The conditions for the acceptance of persons as members of the Ulster Defence Regiment and the conditions of service of members of that force (including conditions as to pay, allowances and pensions or other grants in respect of death or disablement) shall be such as may be prescribed.
- (2) Orders or regulations shall provide for the organisation, administration, government and duties of the Ulster Defence Regiment, but shall not require members of that force to give whole-time service except—
  - (a) during any period in which that force or the part of it to which they belong is called out under section 10, or section 24 or section 25 above, or
  - (b) while they are undergoing training under paragraph (a) of section 44(1) above, and those orders or regulations shall not require members of that force to serve or train outside Northern Ireland.
- (3) In this Part of this Act
  - (a) references to orders are to orders of Her Majesty signified under the hand of the Secretary of State, and
  - (b) references to regulations are to regulations made by the Secretary of State, and any orders or regulations under this Part shall be laid before Parliament after being made.

#### *Military status of members of Ulster Defence Regiment*

#### **141 Membership of armed forces and application of military law**

Persons of the Ulster Defence Regiment shall be members of the armed forces of the Crown, and—

- (a) any holder of a land forces commission who is for the time being assigned for duty with the Ulster Defence Regiment, and any other member of that force when serving on its permanent staff, shall be subject to military law;
- (b) any member of the Ulster Defence Regiment to whom paragraph (a) above does not apply shall be subject to military law—
  - (i) at all times when called out for service under sections 10, 24, 25 and 44 above or when undergoing training whether in pursuance of an obligation under those sections or not; and
  - (ii) at any other time when he is in possession, or when, in pursuance of any order given or permission granted by a superior officer of his, he is required or authorised to be in possession, of any arms or ammunition or of any prescribed description of equipment, being arms, ammunition or equipment belonging to Her Majesty.

## **142 Application of Army Act 1955 c. 18**

References in Parts II to V of the Army Act 1955 to the regular forces shall include references to persons of the Ulster Defence Regiment while subject to military law, but any other references in that Act to the regular forces shall not include references to the Ulster Defence Regiment.

### *Offences*

## **143 Failure to attend or comply**

- (1) Any member of the Ulster Defence Regiment who—
- (a) when required by or in pursuance of regulations making any such provision as is mentioned in section 44 above to attend at any place fails without reasonable excuse to attend in accordance with the requirement, or
  - (b) fails without reasonable excuse to comply with orders or regulations under this Part of this Act,
- shall, whether otherwise subject to military law or not, be guilty of an offence and liable on conviction by court-martial to a fine not exceeding £5,
- (2) That offence shall, for all purposes of and incidental to the trial of the offender, including the summary disposal of the case otherwise than by court-martial, be deemed to be an offence under the Army Act 1955.

## **144 Assistance in desertion, etc.**

- (1) Any person who, in Northern Ireland or elsewhere—
- (a) procures or persuades any member of the Ulster Defence Regiment to desert within the meaning of section 37 of the Army Act 1955 or to absent himself without leave, or
  - (b) knowing that any member of that force is about to desert as mentioned in paragraph (a) above or to absent himself without leave, assists him in so doing, or
  - (c) knowing any person to be a deserter within the meaning of that section 37 or an absentee without leave from that force, procures or persuades or assists him to remain such a deserter or absentee, or assists in his rescue from custody,
- shall be liable—
- (i) on summary conviction to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 3 months or to both;
  - (ii) on conviction on indictment in Northern Ireland to a fine not exceeding £500 or to imprisonment for a term not exceeding 2 years or to both ;
  - (iii) on conviction on indictment elsewhere in the United Kingdom to a fine or to imprisonment for a term not exceeding 2 years or to both.
- (2) In subsection (1) above "the statutory maximum", in relation to a fine on summary conviction, means—
- (a) in England and Wales, the prescribed sum within the meaning of section 28 of the Criminal Law Act 1977 (at the passing of this Act £1,000);
  - (b) in Scotland, the prescribed sum within the meaning of section 289B of the Criminal Procedure (Scotland) Act 1975 (at the passing of this Act £1,000);
- and

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- (c) in Northern Ireland, £50.

## PART VIII

### MISCELLANEOUS AND SUPPLEMENTAL

#### *Reinstatement in civil employment, and protection of other civil interests*

#### **145 Reinstatement in civil employment**

- (1) Where any person is, or is liable to be—
- (a) called out under section 14(1) above, or
  - (b) recalled under section 34 above,

the provisions of the Reinstatement in Civil Employment Act 1950 shall apply to that person as they apply to a person who has entered, or, (as the case may be), may be required to enter, upon a period of whole-time service in the armed forces of the Crown in the circumstances mentioned in paragraph (a) of section 1 of that Act.

- (2) Where any person is, or is liable to be, called out under—
- (a) section 10(5) above, or
  - (b) section 24 above, or
  - (c) section 25(1) above,

the provisions of that Act of 1950 applicable to Northern Ireland shall apply to that person as they apply to a person who has entered, or, (as the case may be), may be required to enter, upon a period of whole-time service in the armed forces of the Crown in the circumstances mentioned in paragraph (a) of section 1 of that Act of 1950.

- (3) It is declared—
- (a) that for the purposes of that Act of 1950 service for which a person is accepted—
    - (i) by virtue of section 27 above is service in pursuance of a call-out notice under section 26(1) above, ,
    - (ii) by virtue of section 36 above is service in pursuance of a notice under section 33 above or section 35 above, as the case may be ; and
  - (b) that nothing in this Act shall be taken as prejudicing the application of that Act of 1950.

#### **146 Protection of other civil interests**

- (1) Any service rendered by virtue of—
- (a) section 14(1) above, or
  - (b) section 34 above,

shall be relevant service within the meaning of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.

- (2) Any service rendered by virtue of—
- (a) section 10(5) above, or
  - (b) section 24 above, or
  - (c) section 25(1) above, or

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(d) any continuous period of training of 7 days or longer performed as a member of the Ulster Defence Regiment, whether in pursuance of an obligation under section 44(1) above or under voluntary arrangements,  
shall be relevant service within the meaning of the provisions of that Act of 1951 applicable to Northern Ireland.

(3) It is declared—

- (a) that for the purposes of that Act of 1951 service for which a person is accepted—
  - (i) by virtue of section 27 above is service in pursuance of a call-out notice under section 26(1) above,
  - (ii) by virtue of section 36 above is service in pursuance of a notice under section 33 above or section 35 above, as the case may be; and
- (b) that nothing in this Act shall be taken as prejudicing the application of that Act of 1951.

*Charitable property on disbanding of units*

**147 Charities in England and Wales on disbanding of units**

(1) Where by warrant of Her Majesty—

- (a) a unit of the Territorial Army or the Army Reserve is designated as the successor of a body of either of those reserves which has been or is to be disbanded, or
- (b) a unit of the Royal Auxiliary Air Force is designated as the successor of a body of that force which has been or is to be disbanded,

any charitable property held for the purposes of the body in question shall (subject to the provisions of this section), as from the time at which the warrant comes into force, be held for the corresponding purposes of the unit so designated.

(2) The Secretary of State shall, as soon as may be after it is made, deliver a copy of any such warrant by post or otherwise to the Charity Commissioners and to a trustee of the charity in question.

(3) If the Commissioners consider that subsection (1) above should not apply to all or part of the property affected by the warrant they may at any time within the period—

- (a) beginning with the date on which the warrant is made, and
- (b) ending with the expiry of 6 months beginning with the date on which the warrant comes into force,

make an order providing that that subsection shall not apply or shall cease to apply to the property or part.

(4) If—

- (a) a charity affected by such a warrant as is mentioned in subsection (1), or
- (b) any trustee of or person interested in such a charity,

considers that subsection (1) should not apply to all or part of any property which belongs to the charity and is affected by the warrant, then the charity, trustee or person interested, as the case may be, may, at any time within the period of 6 months beginning with the date on which the warrant comes into force, apply to the court for an order providing that subsection (1) shall cease to apply to the property or part.

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An application under this subsection is subject to subsections (2) to (5) of section 28 of the Charities Act 1960 (which provide that charity proceedings may not be begun without the consent of the Charity Commissioners or leave of a judge of the High Court).

- (5) For the purposes of section 28(5) of that Act of 1960 in its application to proceedings under subsection (4) above an application for an order of the Charity Commissioners authorising such proceedings shall be deemed to be refused if it is not granted during the period of one month beginning with the day on which the application is received by the Commissioners.
- (6) No such warrant or order as mentioned above shall affect the validity of anything done or omitted with respect to any property affected by the warrant or order before a copy of it is served on a trustee of the charity in question.
- (7) In any case where—
- (a) an order is made under the foregoing provisions of this section, or
  - (b) the Secretary of State requests the Commissioners to make provision with respect to any charitable property held for the purposes of a body of the Territorial Army, the Army Reserve or the Royal Auxiliary Air Force which has been or is to be disbanded,
- the Commissioners may, notwithstanding anything in subsection (4) of section 18 of the Charities Act 1960, exercise their jurisdiction under that section with respect to the property to which the order or request relates.
- (8) The foregoing provisions of this section shall not apply to any charitable property held for the purposes of such a body as is mentioned in subsection (1) if, under the terms on which the property is so held—
- (a) any interest of the charity in question in the property is determined on the disbanding of that body, and
  - (b) any person or charity other than the charity in question has an interest in the property contingent upon the determination of the interest of the charity in question.
- (9) Where subsection (1) applies to any charitable property, the same jurisdiction and powers shall be exercisable in relation to the charity in question as would be exercisable if that subsection were not a provision of an Act of Parliament regulating the charity.
- (10) In this section—
- (a) " charitable property " means property belonging to a charity, and
  - (b) " the court " and " charity " mean the same as in the Charities Act 1960,
- and references to disbandment of a body include references to its amalgamation with another body.

#### **148 Charities in Scotland on disbanding of units**

- (1) Where by warrant of Her Majesty—
- (a) a unit of the Territorial Army or the Army Reserve is designated as the successor of a body of either of those reserves which has been or is to be disbanded, or

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- (b) a unit of the Royal Auxiliary Air Force is designated as the successor of a body of that force which has been or is to be disbanded, any property which is held for charitable purposes for the body in question and which is administered for those purposes according to the law of Scotland shall (subject to the provisions of this section), as from the time at which the warrant comes into force, be held for the corresponding purposes of the unit so designated.
- (2) The Secretary of State shall, as soon as may be after it is made, deliver a copy of any such warrant by post or otherwise to a trustee of the trust in question.
- (3) Where the Secretary of State considers that subsection (1) above should not apply to all or part of the property affected by the warrant he may at any time within the period—
- (a) beginning with the date on which the warrant is made, and
  - (b) ending with the expiry of 6 months beginning with the date on which the warrant comes into force,
- make a direction that that subsection shall not apply or shall cease to apply to the property or part.
- (4) If any trustee of or person interested in any property held for charitable purposes affected by such a warrant as is mentioned in subsection (1) considers that that subsection should not apply to all or part of such property, that person may, at any time within the period of 6 months beginning with the date on which the warrant comes into force, apply by petition to the Court of Session—
- (a) for the court to make such a direction as is mentioned in subsection (3) above in relation to that property or part, and
  - (b) to exercise, with respect to that property or part, any of the court's powers relating to a charitable or other permanent endowment,
- and the court, if it is satisfied that on the making of such a direction it would be entitled to exercise its powers in the manner craved and that it is necessary for these purposes to make that direction, may itself make such a direction.
- (5) No such warrant or direction as mentioned above shall affect the validity of anything done or omitted with respect to any property affected by the warrant or direction before a copy of the warrant or direction is served on a trustee of the trust in question.
- (6) The foregoing provisions of this section shall not apply to any property held for charitable purposes for such a body as is mentioned in subsection (1) if, under the terms on which the property is so held, any person has an interest charitable or otherwise in the property contingent upon the determination of the charitable interest therein of that body.
- (7) Where a body of the Territorial Army, the Army Reserve or the Royal Auxiliary Air Force has been or is to be disbanded, the Secretary of State may apply by petition to the Court of Session for the court to exercise, with respect to any property held for charitable purposes for the body in question, any of the court's powers relating to a charitable or other permanent endowment.
- (8) In this section—
- (a) references to disbandment of a body include references to its amalgamation with another body ; and
  - (b) the power to give directions includes power to make different provision for different circumstances.

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## 149 Charities in Northern Ireland on disbanding of units

- (1) Where by warrant of Her Majesty—
- (a) a unit of the Territorial Army or the Army Reserve is designated as the successor of a body of either of those reserves which has been or is to be disbanded, or
  - (b) a unit of the Royal Auxiliary Air Force is designated as the successor of a body of that force which has been or is to be disbanded,
- any charitable property held for the purposes of the body in question and which is administered for those purposes according to the law of Northern Ireland shall (subject to the provisions of this section), as from the time at which the warrant comes into force, be held for the corresponding purposes of the unit so designated.
- (2) The Secretary of State shall, as soon as may be after it is made, deliver a copy of any such warrant by post or otherwise to the Department of Finance for Northern Ireland and to a trustee of the charity in question.
- (3) If the Department considers that subsection (1) above should not apply to all or part of the property affected by the warrant it may at any time within the period—
- (a) beginning with the date on which the warrant is made, and
  - (b) ending with the expiry of 6 months beginning with the date on which the warrant comes into force,
- make an order providing that that subsection shall not apply or shall cease to apply to the property or part.
- (4) If—
- (a) charity affected by such a warrant as is mentioned in subsection (1), or
  - (b) any trustee of or person interested in such a charity,
- considers that subsection (1) should not apply to all or part of any property which belongs to the charity and is affected by the warrant, then the charity, trustee or person interested, as the case may be, may, at any time within the period of 6 months beginning with the date on which the warrant comes into force, apply to the court for an order providing that subsection (1) shall cease to apply to the property or part.
- An application under this subsection is subject to section 29(3) of the Charities Act (Northern Ireland) 1964 (under which an application for an order of the court in connection with the administration of a charity may not be made without the consent of the Attorney General for Northern Ireland).
- (5) No such warrant or order as mentioned above shall affect the validity of anything done or omitted with respect to any property affected by the warrant or order before a copy of it is served on a trustee of the charity in question.
- (6) In any case where—
- (a) an order is made under the foregoing provisions of this section, or
  - (b) the Secretary of State requests the Department of Finance for Northern Ireland to make provision with respect to any charitable property held for the purposes of a body of the Territorial Army, the Army Reserve or the Royal Auxiliary Air Force which has been or is to be disbanded,
- the Department may, notwithstanding anything in subsection (1) of section 13 of the Charities Act (Northern Ireland) 1964 and irrespective of the value of the property in question exercise its jurisdiction under that section with respect to the property to which the order or request relates.

- (7) The foregoing provisions of this section shall not apply to any charitable property held for the purposes of such a body as is mentioned in subsection (1) if, under the terms on which the property is so held—
- (a) any interest of the charity in question in the property is determined on the disbanding, of that body, and
  - (b) any person or charity other than the charity in question has an interest in the property contingent upon the determination of the interest of the charity in question.
- (8) Where subsection (1) applies to any charitable property, the same jurisdiction and powers shall be exercisable in relation to the charity in question as would be exercisable if that subsection were not a provision of an Act of Parliament regulating the charity.
- (9) In this section—
- (a) "charitable property" means property belonging to a charity,
  - (b) " the court" and " charity " mean the same as in the Charities Act (Northern Ireland) 1964,
- and references to disbandment of a body include references to its amalgamation with another body.

*Further powers as to orders and regulations*

**150 Further power for Secretary of State to make regulations**

- (1) The Secretary of State may make regulations for prescribing anything falling to be prescribed under the following provisions of this Act—
- (a) subsections (2), (4) and (5) of section 11,
  - (b) section 13(1),
  - (c) section 27,
  - (d) section 29(1),
  - (e) section 38,
  - (f) section 39,
  - (g) section 65,
  - (h) section 83(2).
  - (i) subsections (2) and (3) of section 117, and
  - (j) paragraph 19 of Schedule 8,
- and any regulations under this subsection shall be laid before Parliament after being made.
- (2) The power to make regulations—
- (a) under subsection (1) above, and
  - (b) under section 129(1) above,
- includes power (without prejudice to any other power in this Act to make regulations) to make different provision for different circumstances.

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## 151 Pensions and other grants under **Home Guard Act 1951 c. 8**

The conditions as to pensions and other grants in respect of death or disablement from service in the Home Guard under the Home Guard Act 1951 shall be such as may be prescribed—

- (a) by orders of Her Majesty signified under the hand of the Secretary of State, or
- (b) by regulations made by the Defence Council,

and any such orders or regulations shall be laid before Parliament as soon as may be after they are made.

## 152 Application and modification of enactments

(1) Her Majesty may by Order in Council apply, with the necessary adaptations—

- (a) to the Territorial Army or the Royal Auxiliary Air Force, or
- (b) to the officers or men of that reserve or that force,

any enactment passed before 2nd August 1907 and in force at that date relating to the Militia or Volunteers, or officers or men of the Militia or Volunteers, other than enactments with respect to the raising, service, pay, discipline or government of the Militia or Volunteers.

An Order in Council under this subsection shall be laid before Parliament after being made.

(2) Her Majesty may by Order in Council make such modifications of any enactment relating to any of the armed forces of the Crown as She considers expedient in consequence of the passing of the Reserve Forces Act 1966, including any enactment as amended by that Act.

A draft of any Order in Council proposed to be made under this subsection shall be laid before Parliament.

*Other provisions as to orders, schemes and regulations*

## 153 Provisions as to **Statutory Instruments Act 1946 c. 36**

For the purposes of the Statutory Instruments Act 1946 the provisions of this Act—

- (a) relating to the Army Reserve, in sections 4, 18, 19 and 23, in Part IV and in paragraphs 16 and 17 of Schedule 8,
- (b) relating to the Air Force Reserve, in sections 8, 20, 21 and 23, in Part IV and in paragraphs 16 and 17 of Schedule 8,
- (c) relating to the Territorial Army and the Royal Auxiliary Air Force, as the case may be, in sections 5, 9, 22, 40 to 43, in Part V, in section 152(1), and in paragraph 18 of Schedule 8,
- (d) relating to territorial, auxiliary and volunteer reserve associations, in sections 121 to 129,

shall be deemed to be provisions of an Act passed before the commencement of that Act of 1946, and any reference in regulations under section 8(1) of that Act of 1946 to—

- (i) any provision of the Reserve Forces Act 1882,
- (ii) any provision of that Act of 1882 as applied to the Air Force Reserve by the Air Force Reserve Order 1924,

(iii) any provision of the Territorial and Reserve Forces Act 1907, shall, without prejudice to any power to vary the regulations under that Act of 1946, be construed as a reference to the corresponding provision of this Act.

#### **154 Additional provisions as to Orders in Council and schemes**

- (1) In relation to any Order in Council under section 40 above, or paragraph (a) of section 42 above, or paragraph 18(4)(a) of Schedule 8 to this Act—
- (a) before any such Order is made the draft of the Order shall be laid before each House of Parliament for a period of not less than 40 days during the session of Parliament, and
  - (b) if either of those Houses before the expiry of those 40 days presents an address to Her Majesty against the draft Order or any part of it, no further proceedings shall be taken in respect of the Order, without prejudice to the laying of a new draft Order. (2) In relation to any scheme under section 122(1) above or any Order in Council under section 152(1) above—
  - (a) every such scheme or Order in Council shall be laid before Parliament within 40 days after it is made, or, if Parliament is not then sitting, within 40 days after the beginning of the next session of Parliament, and
  - (b) if an address is presented to Her Majesty by either House of Parliament within the next following 40 days, praying that any such scheme or Order may be annulled, Her Majesty may thereupon by Order in Council annul it, and the scheme or Order so annulled shall thenceforth become void and of no effect, but without prejudice to the validity of any proceedings which may in the meantime have been taken under it.

#### **155 Amendment of subordinate legislation**

Section 14 of the Interpretation Act 1978 applies to this Act as if in paragraph (b) of that section there were no requirement that Orders in Council, orders or other subordinate legislation should be made by statutory instrument.

#### *Other supplemental provisions*

#### **156 Interpretation**

- (1) In this Act, except where the context otherwise requires—
- " home defence service " means military or air force service in any place in the United Kingdom, the Channel Islands or the Isle of Man in defence of the United Kingdom or those islands against actual or apprehended attack;
  - " man in relation to—
  - (a) the naval forces, means a person of or below the rate of warrant officer;
  - (b) the military or air forces, includes a warrant officer and non-commissioned officer;
  - " permanent service " includes actual service;
  - "prescribed" means prescribed, by orders or regulations made under this Act;
  - "regular air force" has the same meaning as in the Air Force Act 1955;

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"regular army" means the regular forces within the meaning of the Army Act 1955, but in sections 11(4) and (5), 15, 39(2), 83(1) and (2) above, and paragraph 19 of Schedule 8 to this Act, does not include the Royal Marines;

"Territorial Army" means the Territorial and Army Volunteer Reserve.

- (2) Except where the context otherwise requires, other expressions in this Act—
- (a) relating to the Army Reserve and the Territorial Army, have the same meanings as in the Army Act 1955 ;
  - (b) relating to the Air Force Reserve and the Royal Auxiliary Air Force, have the same meanings as in the Air Force Act 1955.
- (3) This Act, so far as it relates to the military and air forces, applies to women as it applies to men.
- (4) In this Act—
- (a) in relation to the definition of "home defence service" in subsection (1) above, and
  - (b) for the purposes of sections 10(6), 68(3) and 96(3) above,
- service on any flight of which the points of departure and intended return are within the boundaries of the United Kingdom, the Channel Islands, and the Isle of Man, or of the territorial waters of the United Kingdom and those islands, shall be deemed to be service within the United Kingdom notwithstanding that the flight may in its course extend beyond those boundaries.
- (5) The expression "magistrates' court", in the application of this Act—
- (a) to Scotland, shall be construed as a reference to the sheriff sitting as a court of summary jurisdiction ;
  - (b) to Northern Ireland, shall be construed as a reference to a court of summary jurisdiction.

## **157 Saving and transitional provisions, consequential amendments and repeals**

- (1) Subject to the saving and transitional provisions contained in Schedule 8 to this Act—
- (a) the enactments specified in Schedule 9 to this Act have effect subject to the amendments (being amendments consequent on this Act) specified in that Schedule, and
  - (b) the enactments specified in Part I of Schedule 10 to this Act (repeal of obsolete enactments) and those specified in Part II of that Schedule (consequential repeals) are repealed to the extent specified in the third column of that Schedule,
- but nothing in Schedule 8 or in Schedule 9 shall be taken as prejudicing the operation of sections 15 to 17 of the Interpretation Act 1978 (which relate to the effect of repeals).
- (2) Paragraphs 15 to 19 of Schedule 8 contain provisions made transitory by operation of the Reserve Forces Act 1966.

## **158 Citation, extent and commencement**

- (1) This Act may be cited as the Reserve Forces Act 1980.
- (2) This Act extends to Northern Ireland.

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- (3) Her Majesty may by Order in Council direct that any of the provisions of this Act shall extend to the Isle of Man, subject to such exceptions and modifications, if any, as may be specified in the Order.
- (4) This Act shall commence on the expiry of the period of one month beginning on the date of its passing.