



# Reserve Forces Act 1980

## 1980 CHAPTER 9

### 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;

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- (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—
  - (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

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- (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—
  - (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,

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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),  
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.

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### **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.



(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.

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- (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—

- (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.