



# Reserve Forces Act 1996

## 1996 CHAPTER 14

### PART VIII

#### SCHEMES FOR EXEMPTION AND FINANCIAL ASSISTANCE

##### *Individual exemptions etc. from call out or recall*

#### **78 Individual exemptions etc. from call out**

- (1) The Secretary of State may by regulations make provision enabling a person liable to be called out, or any employer of such a person, to apply for any deferral, revocation, entitlement to release or exemption which, under the regulations, may be granted to the person by or in respect of whom such an application is made.
- (2) The regulations may provide for applications to be made by or in respect of a person—
  - (a) after the service on him of a call-out notice (“the original notice”) but before he is accepted into service;
  - (b) after he has been accepted into service.
- (3) The regulations may provide, in relation to an application made before a person is accepted into service, for the following to be available—
  - (a) the deferral of his obligation to present himself for service in pursuance of the original notice;
  - (b) the revocation of the original notice;
  - (c) if the original notice was served under Part IV, an exemption from liability to be called out under that Part or Part VI;
  - (d) if the original notice was served under Part V, an exemption from liability to be called out under that Part;
  - (e) if the original notice was served under Part VI, an exemption from liability to be called out on the authority of—
    - (i) the call-out order specified in that notice,
    - (ii) any other call-out order made under the provision of Part VI so specified,

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- (iii) any call-out order made under any provision of Part VI;
  - (f) if the original notice was served under Part VI and the person concerned has entered into a special agreement, an exemption from liability to be called out under Part IV.
- (4) The regulations may provide, in relation to an application made after a person has been accepted into service, for the following to be available—
- (a) a determination that he is entitled to be released from his current period of service;
  - (b) if he is serving under Part IV, an exemption from liability to be called out under that Part or Part VI;
  - (c) if he is serving under Part V, an exemption from liability to be called out under that Part;
  - (d) if he is serving under Part VI, an exemption from any liability to be called out on the authority of—
    - (i) the call-out order under which he is currently serving,
    - (ii) any other call-out order made under the same provision of Part VI as the order under which he is currently serving,
    - (iii) any call-out order made under any provision of Part VI; or
  - (e) if a determination is given that he is entitled to be released from service under Part VI and provision such as is mentioned in section 80(2)(f) applies in his case, an exemption from liability to be called out under Part IV.

## **79 Individual exemptions etc. from recall**

- (1) The Secretary of State may by regulations make provision enabling any person liable to be recalled, or any employer of such a person, to apply for any deferral, revocation, entitlement to release or discharge or exemption which, under the regulations, may be granted to the person by or in respect of whom such an application is made.
- (2) Regulations under this section may provide for applications to be made by or in respect of a person—
  - (a) after the service on him of a recall notice (“the original notice”) but before he is accepted into service; or
  - (b) after he has been accepted into service.
- (3) The regulations may provide, in relation to an application made before a person is accepted into service, for the following to be available—
  - (a) the deferral of his obligation to present himself for service in pursuance of the original notice;
  - (b) the revocation of the original notice;
  - (c) an exemption from liability to be recalled on the authority of the recall order specified in the original notice or any other recall order.
- (4) The regulations may provide, in relation to an application made after a person has been accepted into service, for the following to be available—
  - (a) a determination that he is entitled to be released from service or discharged;
  - (b) an exemption from liability to be recalled on the authority of the recall order under which he is currently serving or any other recall order.
- (5) Regulations under this section may also make provision in relation to—

- (a) persons liable to be recalled under the Reserve Forces Act 1980, or
  - (b) officers liable to be recalled otherwise than under this Act,
- corresponding to the provision which may be made in relation to persons liable to be recalled under Part VII.

## **80 Effect of exemptions etc**

- (1) The regulations may provide for an application for deferral or revocation which is not determined before the person concerned is accepted into service to be treated as an application for a determination that he is entitled to be released or discharged.
- (2) The regulations may provide—
  - (a) for the terms on which deferrals, revocations, determinations of entitlement to release or discharge and exemptions may be granted (including any limitations or conditions subject to which they may be granted);
  - (b) for determinations of entitlement to release or discharge and exemptions to take effect immediately or at such other time as may be specified in the determination or exemption;
  - (c) for deferrals or exemptions to lapse at such time, at the end of such period or on the occurrence of such event as may be specified in the deferral or exemption;
  - (d) for determinations of entitlement to release or discharge which do not take effect immediately to lapse as mentioned in paragraph (c);
  - (e) for persons released from service under Part IV in pursuance of a determination of entitlement to release to be treated for the purposes of section 31(3) as if they had not been in that service and released;
  - (f) for persons released from service under Part VI in pursuance of a determination of entitlement to release to be treated for the purposes of section 31(1)(d) as if they had not been in that service;
  - (g) for waiver of deferrals, determinations of entitlement to release or discharge and exemptions.
- (3) The regulations shall secure that deferrals or exemptions, or any determinations mentioned in subsection (2)(d), do not remain in force for more than 12 months from the day on which they take effect.

## **81 Regulations under section 78 or 79: supplementary**

- (1) The regulations may, without prejudice to the generality of sections 78 to 80, make provision with respect to—
  - (a) the persons by whom applications of any description may be made and the grounds on which applications may be made;
  - (b) the persons who are to be regarded as employers for any purpose of the regulations;
  - (c) the procedure for making applications (including the times when they may be made and any information to be provided by the applicant);
  - (d) the determination of applications by any person or body identified by, or of a description specified in, the regulations;
  - (e) any matters to be taken into account in determining applications;

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- (f) the provision of information, in connection with any matter relevant to the lapse of a deferral, determination of entitlement to release or discharge or an exemption, by the person on whose application it was granted; and
  - (g) any incidental or supplementary matters.
- (2) The persons who may be regarded under the regulations as the employer of a person in permanent service may include a former employer of that person who is, by virtue of the Reserve Forces (Safeguard of Employment) Act 1985, under an obligation to reinstate him at the end of his current period of permanent service.
- (3) The regulations may make different provision for different cases and may, in particular, make different provision for cases where the regulations enable an application to be made by or in respect of a person who is in permanent service on call-out or recall—
- (a) if he is serving under Part IV or a call-out order, after the making of an order under section 61 which extends the time at which he would (apart from the order) become entitled to be released from permanent service;
  - (b) if he is serving under a call-out order—
    - (i) after the making of an order under section 53(11) or 55(11) which extends the time at which he would (apart from the order) become entitled to be released from permanent service;
    - (ii) after the postponement under section 53(3), 55(3) or 57(3) of his entitlement to be released;
  - (c) if he is serving under a recall order, after the making of an order under section 69(6) which extends the time at which he would (apart from the order) become entitled to be released or discharged;
  - (d) after he has agreed under any provision of this Act to extend (or further extend) his period of permanent service;
- but the regulations need not enable applications to be made in every case where a person is served with a call-out or recall notice or is in permanent service.
- (4) Any person making an application under the regulations who is aggrieved by the determination of his application may appeal to a reserve forces appeal tribunal.
- (5) Before making any regulations, the Secretary of State shall consult such bodies or persons as he considers appropriate, including—
- (a) a body appearing to him to represent the interests of employers, a body appearing to him to represent the interests of employees and a body appearing to him to represent the interests of the self-employed; and
  - (b) the associations established under Part XI or a body appearing to him to represent those associations.
- (6) The regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section and section 80 “regulations” means any regulations made under section 78 or 79.

## **82 Offences in connection with regulations under section 78 or 79**

- (1) Any person who fails without reasonable excuse to provide information, in connection with the lapse of a deferral, entitlement to be released or discharged or an exemption, which he is required to provide under regulations under section 78 or 79 is guilty of an

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offence and liable, on summary conviction, to imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 on the standard scale (or both).

- (2) Any person who—
- (a) in connection with an application under regulations under section 78 or 79, or
  - (b) in connection with the lapse of a deferral, determination of entitlement to release or discharge or an exemption granted under those regulations,
- knowingly or recklessly provides information which is false or misleading in a material particular is guilty of an offence and liable, on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).

*Financial assistance in respect of call out or recall*

**83 Payments to individuals in respect of call out or recall**

- (1) The Secretary of State may by regulations provide for the making of payments by him to any persons in respect of any financial loss of a description prescribed by the regulations which is suffered by them and attributable to their being in permanent service under Part IV or Part V or under a call-out or recall order.
- (2) The regulations may provide for payments to be made, in relation to any description of financial loss, towards the provision of pensions, allowances or gratuities to or in respect of a person making a claim.
- (3) The regulations may, in relation to any payments to be made as mentioned in subsection (2)—
- (a) provide for any such payments to be made to any person of a prescribed description;
  - (b) require such a person to accept such payments (notwithstanding anything which would otherwise prevent him from doing so) on such terms as may be determined by or under the regulations; and
  - (c) require persons of any such description to provide information in connection with claims for such payments or, where payments have been made to them, in connection with the use made of the money.
- (4) A person making a claim under the regulations who is dissatisfied with the determination of his claim may appeal against the determination to a reserve forces appeal tribunal.

**84 Payments to employers etc. in respect of call out or recall**

- (1) The Secretary of State may by regulations provide for the making of payments by him to employers (including employers who are self-employed) in respect of any financial loss of a description prescribed by the regulations which is suffered by them and attributable to any of their employees being in permanent service under Part IV or Part V or under a call-out or recall order.
- (2) Regulations under this section may also provide for the making of payments by the Secretary of State to the partners of a person carrying on business in partnership in respect of any financial loss of a description prescribed by the regulations which is suffered by them and attributable to that person being in permanent service under Part IV or Part V or under a call-out or recall order.

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- (3) A person making a claim under regulations under this section who is dissatisfied with the determination of his claim may appeal against the determination to a reserve forces appeal tribunal.

## **85 Regulations under section 83 or 84: supplementary**

- (1) Regulations under section 83 or 84 (“the regulations”) may, in particular, make provision with respect to—
- (a) the descriptions of persons who are entitled to claim payments and of the kinds of financial loss for which claims can be made;
  - (b) the matters in respect of which, and any circumstances in which, persons are or are not entitled to any payment;
  - (c) the sums, or the method of determining the sums, to be paid;
  - (d) the procedure for making claims (including the time within which claims must be made and the information to be provided by persons making claims);
  - (e) in the case of regulations under section 83, the provision of information by persons in connection with claims made by their employees or former employees;
  - (f) in the case of regulations under section 84, the provision of information by persons in respect of whom claims are made;
  - (g) the determination of claims by any person or body identified by, or of a description specified in, the regulations;
  - (h) any incidental or supplementary matters.
- (2) The regulations may make different provision for different cases (but need not require payments to be made in all cases or for all losses).
- (3) Before making any regulations under section 83 or 84 the Secretary of State shall consult such persons or bodies as he considers to be appropriate, including—
- (a) a body appearing to him to represent the interests of employers, a body appearing to him to represent the interests of employees and a body appearing to him to represent the interests of the self-employed; and
  - (b) the associations established under Part XI or a body appearing to him to represent those associations.
- (4) The regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) The regulations may also make provision for claims by or in respect of—
- (a) persons recalled under the Reserve Forces Act 1980, or
  - (b) officers recalled otherwise than under this Act,
- corresponding to the provision which may be made for claims by or in respect of persons recalled under Part VII.

## **86 Power to suspend payments due to national danger or great emergency**

- (1) Where a call-out order under section 52 or a recall order under section 68 is in force, the Secretary of State may by order suspend the operation of any regulations under section 83 or 84.

- (2) An order under subsection (1) may suspend the application of the regulations concerned in all cases or in such cases as may be specified in the order; and the effect of such an order is—
  - (a) to prevent any right to payments arising or (in relation to people who have already been called out or recalled) accruing further under the suspended regulations in respect of the period during which the order is in force; and
  - (b) to suspend for that period any obligation of the Secretary of State to make payments under the suspended regulations in respect of earlier periods.
- (3) An order under subsection (1)—
  - (a) shall be made for such period not exceeding 12 months as may be specified in the order; and
  - (b) may (if it has not otherwise expired) be revoked by the Secretary of State by order.
- (4) An order under subsection (1) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) An order revoking an order under subsection (1) shall be made by statutory instrument and shall be laid before each House of Parliament after being made.

## **87 Offences in connection with claims for payments**

- (1) Any person who, in connection with a claim by another person under regulations under section 83 or 84, fails without reasonable excuse to provide information which he is required to provide by the regulations is guilty of an offence and liable, on summary conviction, to imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 on the standard scale (or both).
- (2) Any person who, in connection with a claim under regulations under section 83 or 84, knowingly or recklessly provides information which is false or misleading in a material particular is guilty of an offence and liable, on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).