



Reserve Forces Act 1996

1996 CHAPTER 14

PART X

GENERAL OFFENCES

Desertion and absence without leave from service, duty or training

96 Failure to attend for service on call out or recall

- (1) A member of a reserve force served with a call-out notice under any provision of this Act who, without leave lawfully granted or reasonable excuse—
- (a) fails to present himself for service at the time and place specified in the call-out notice under section 32(3)(b), 43(4)(b) or 58(3)(c) (as the case may be);
 - (b) having so presented himself, fails to remain there until accepted into service or informed that he is not to be accepted into service in pursuance of that notice; or
 - (c) where he has for any reason failed to present himself at the time and place so specified or to remain there, fails —
 - (i) to present himself to a person specified in the call-out notice or to any other authorised officer; or
 - (ii) having so presented himself, to remain until accepted into service or informed that he is not to be accepted into service in pursuance of that notice,
- is guilty, according to the circumstances, of desertion or absence without leave.
- (2) Subsection (1) applies to a person liable to recall as it applies to a member of a reserve force—
- (a) with the substitution for references to a call-out notice of references to a recall notice; and
 - (b) as if paragraph (a) of that subsection referred to the time and place specified in the recall notice under section 70(3)(c).
- (3) An offence under this section is triable by court-martial or summarily by a civil court.

97 Failure to attend for duty or training

- (1) A member of a reserve force who has entered into a full-time service commitment or an additional duties commitment and, without leave lawfully granted or reasonable excuse, fails to appear at the time and place at which he is required to attend—
 - (a) in the case of a full-time service commitment, to begin the period of full-time service contemplated by the commitment;
 - (b) in the case of an additional duties commitment, to begin a period of service under the commitment,is guilty, according to the circumstances, of desertion or absence without leave.
- (2) A member of a reserve force who—
 - (a) is required to undergo a period of training in accordance with section 22, a special agreement or an employee agreement (or any other requirement applicable to special members), and
 - (b) fails, without leave lawfully granted or reasonable excuse, to appear at any time and place at which he is required to attend,is guilty of absence without leave.
- (3) An offence under this section is triable by court-martial or summarily by a civil court.

98 Punishment etc. of offences of desertion or absence without leave

- (1) An offence under section 37 or 38 of the Army Act 1955 or the Air Force Act 1955 or section 16 or 17 of the Naval Discipline Act 1957 (offences under service law of desertion or absence without leave) committed by a member of a reserve force is triable summarily by a civil court as well as by court-martial.
- (2) A member of a reserve force convicted by court-martial of an offence under section 96(1) or 97(1) is punishable as for an offence under service law of desertion or absence without leave (as the case may be).
- (3) A member of a reserve force convicted by a civil court of—
 - (a) an offence under section 96(1) or 97(1), or
 - (b) an offence under service law of desertion or absence without leave,is liable to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).
- (4) A person convicted of an offence under section 97(2) is liable—
 - (a) if convicted by court-martial, to the same punishment as for an offence under service law of absence without leave;
 - (b) if convicted by a civil court, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).
- (5) A person convicted by a civil court of an offence mentioned in this section, if sentenced to a term of imprisonment or if such a term is imposed in default of payment of any fine, is liable to be taken into military, air-force or naval custody (as the case may require).
- (6) Where a member of a reserve force or a person liable to recall is convicted of an offence of desertion, 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 release from permanent service or discharge.

99 False pretence of illegal absence

Any person who falsely represents himself to be a deserter or absentee without leave from any reserve force 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).

100 Treatment of deserters etc

- (1) Schedule 2 (arrest and subsequent treatment of suspected deserters or absentees without leave from the reserve forces) shall have effect.
- (2) Schedule 2 shall apply to a person liable to recall who is a suspected deserter or absentee without leave by virtue of this Part and is not otherwise subject to service law as it applies to a member of a reserve force.
- (3) The delivery under that Schedule of a member of a reserve force or a person liable to recall into military, air-force or naval custody, or the committal of any such person for the purpose of being so delivered, shall not prevent his subsequently being tried summarily in accordance with this Part.

101 Inducing a person to desert or absent himself

- (1) A person who, in the United Kingdom or elsewhere, by any means—
 - (a) procures or persuades, or attempts to procure or persuade, a member of a reserve force to commit an offence of desertion or absence without leave;
 - (b) knowing that a member of a reserve force is about to commit such an offence, aids or assists him in so doing; or
 - (c) knowing a member of a reserve force to be a deserter or an absentee without leave, procures or persuades or assists him to remain a deserter or absentee, or assists in his rescue from custody,is guilty of an offence.
- (2) A person who—
 - (a) procures or persuades, or attempts to procure or persuade, a person liable to recall to commit an offence of desertion or absence without leave;
 - (b) knowing that such a person is about to commit such an offence, aids or assists him in so doing; or
 - (c) knowing a person liable to recall to be a deserter or absentee without leave, procures or persuades or assists him to remain a deserter or absentee, or assists in his rescue from custody,is guilty of an offence.
- (3) A person guilty of an offence under subsection (1) or (2) is liable on summary conviction—
 - (a) in the case of an offence involving an offence of desertion or a deserter, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both); and
 - (b) in the case of an offence of absence without leave or an absentee without leave, to a fine not exceeding level 5 on the standard scale.

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

102 Record of illegal absence

- (1) Where a member of a reserve land, air or marine force is subject to service law and is unlawfully absent from his duty—
- (a) a board of inquiry under section 135 of the Army Act 1955 or 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 he was subject to service 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 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 member of a reserve land, air or marine force—
- (a) having been served with a call-out notice under any provision of this Act, fails, without leave lawfully granted, to do anything mentioned in section 96(1)(a), (b) or (c);
 - (b) having entered into a full-time service commitment fails, without leave lawfully granted, to appear at any time or place at which he is required to attend to begin the period of full-time service contemplated by the commitment;
 - (c) having entered into an additional duties commitment fails, without leave lawfully granted, to appear at any time or place at which he is required to begin a period of duty under the commitment;
 - (d) having been required to undergo a period of training as mentioned in section 97(2) fails, without leave lawfully granted, to appear at any time or place at which he is required to appear,
- and his absence continues for not less than 14 days, an entry of his absence shall be made by such officer as may be prescribed in such manner, and in such regimental or service books, as may be prescribed.