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STATUTORY INSTRUMENTS

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**1998 No. 3086**

**The Reserve Forces Act 1996 (Consequential Provisions etc.) Regulations 1998**

*Introductory*

**Citation and commencement**

- 1.—(1) These Regulations may be cited as the Reserve Forces Act 1996 (Consequential Provisions etc.) Regulations 1998.
- (2) These Regulations shall come into force on 1st January 1999.

**Interpretation**

2. In these Regulations—
- “the 1955 Acts” means the Army Act 1955(1) and the Air Force Act 1955(2); and
- “the 1957 Act” means the Naval Discipline Act 1957(3).

*Amendments in connection with special members of reserve forces*

**Fines for service offences**

- 3.—(1) In subsection (5) of section 71 of the 1955 Acts and subsection (6) of section 43 of the 1957 Act (fines for service offences) the words from “and for the purposes of this subsection” to the end of the subsection shall be omitted.
- (2) After subsection (5) of section 71 of the 1955 Acts there shall be inserted—
- “(5A) For the purposes of subsection (5) above, a day’s pay shall be taken to be—
- (a) subject to paragraph (b) below, the gross pay which is, or would apart from any forfeiture be, issuable to the offender in respect of the day on which the punishment is awarded;
- (b) if the offender is a special member of a reserve force, the gross pay which would have been issuable to him in respect of that day if he had been an ordinary member of that reserve force of the same rank.
- (5B) In subsection (5A)(b) above “special member” and “ordinary member” have the same meaning as in the Reserve Forces Act 1996.”.
- (3) After subsection (6) of section 43 of the 1957 Act there shall be inserted—
- “(6A) For the purposes of subsection (6) above, a day’s pay shall be taken to be—

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(1) 1955 c. 18.  
(2) 1955 c. 19.  
(3) 1957 c. 53.

- (a) subject to paragraph (b) below, the gross pay which is, or would apart from any forfeiture be, issuable to the offender in respect of the day on which the punishment is awarded;
- (b) if the offender is a special member of a reserve force, the gross pay which would have been issuable to him in respect of that day if he had been an ordinary member of that reserve force of the same rank.

(6B) In subsection (6A)(b) above “special member” and “ordinary member” have the same meaning as in the Reserve Forces Act 1996.”.

(4) In section 76C of the 1955 Acts (punishments available on summary dealings) for subsection (9) there shall be substituted—

“(9) For the purposes of subsections (6) to (8) above, a day’s pay shall be taken to be—

- (a) subject to paragraph (b) below, the gross pay which is, or would apart from any forfeiture be, issuable to the offender in respect of the day on which the punishment is awarded;
- (b) if the offender is a special member of a reserve force, the gross pay which would have been issuable to him in respect of that day if he had been an ordinary member of that reserve force of the same rank.

(9A) In subsection (9)(b) above “special member” and “ordinary member” have the same meaning as in the Reserve Forces Act 1996.”.

#### **Summary fines for contempt**

4.—(1) In—

- (a) section 57(2)(a) of the 1955 Acts, and
- (b) section 38(3)(a) of the 1957 Act,

(limit on amount of fine where contempt of court-martial dealt with summarily, etc.), the words “(a day’s pay being taken for this purpose as the gross amount which is, or would apart from any forfeiture be, issuable to the offender in respect of the day on which the order is made)” shall be omitted.

(2) After subsection (2A) of section 57 of the 1955 Acts there shall be inserted—

“(2B) For the purposes of subsection (2) above, a day’s pay shall be taken to be—

- (a) subject to paragraph (b) below, the gross pay which is, or would apart from any forfeiture be, issuable to the offender in respect of the day on which the order is made;
- (b) if the offender is a special member of a reserve force, the gross pay which would have been issuable to him in respect of that day if he had been an ordinary member of that reserve force of the same rank.

(2C) In subsection (2B)(b) above “special member” and “ordinary member” have the same meaning as in the Reserve Forces Act 1996.”.

(3) After subsection (3A) of section 38 of the 1957 Act there shall be inserted—

“(3B) For the purposes of subsection (3) above, a day’s pay shall be taken to be—

- (a) subject to paragraph (b) below, the gross pay which is, or would apart from any forfeiture be, issuable to the offender in respect of the day on which the order is made;
- (b) if the offender is a special member of a reserve force, the gross pay which would have been issuable to him in respect of that day if he had been an ordinary member of that reserve force of the same rank.

(3C) In subsection (3B)(b) above “special member” and “ordinary member” have the same meaning as in the Reserve Forces Act 1996.”.

### **Enforcement of financial penalties**

5.—(1) In section 133A of the 1955 Acts and section 128F of the 1957 Act (financial penalty enforcement orders), in subsection (2), after “applies to a person who” there shall be inserted “(a)” and at the end of that subsection there shall be inserted—

“; or

(b) is subject to service law because he is a special member of a reserve force within the meaning of the Reserve Forces Act 1996.”.

### **Attachment of earnings etc.**

6.—(1) In section 24(2) of the Attachment of Earnings Act 1971(4) (amounts not to be treated as “earnings”), at the end of paragraph (b) there shall be inserted “other than pay or allowances payable by his employer to him as a special member of a reserve force (within the meaning of the Reserve Forces Act 1996)”.

(2) In section 73(3) of the Debtors (Scotland) Act 1987(5) (amounts not to be treated as earnings), at the end of paragraph (b) there shall be inserted “unless it is a sum consisting of pay or allowances payable by his employer to him as a special member of a reserve force (within the meaning of the Reserve Forces Act 1996)”.

### *Other consequential amendments*

### **Meaning of “service property” in the 1955 Acts**

7. In section 225(1) of the Army Act 1955 and section 223(1) of the Air Force Act 1955 (interpretation), for the definition of “service property” there shall be substituted—

““service property” includes property belonging to an association established, or having effect as if established, under section 110 of the Reserve Forces Act 1996 or to the Navy, Army and Air Force Institutes.”.

### **Postponement of discharge—QARNNS**

8.—(1) For paragraph 12 of Schedule 3 to the Armed Forces Act 1981(6) (which applies section 4 of the Armed Forces Act 1966(7) with modifications in relation to ratings of Queen Alexandra’s Royal Naval Nursing Service) there shall be substituted—

“12. Section 4 (postponement of discharge or transfer to the reserve) shall have effect in relation to ratings of Queen Alexandra’s Royal Naval Nursing Service as if it provided—

### **Postponement of discharge—QARNNS.**

4.—(1) This section applies to a rating if, on the relevant date, a call-out order under section 52, 54 or 56 of the Reserve Forces Act 1996 is in force authorising the call out for permanent service of members of the Royal Fleet Reserve.

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(4) 1971 c. 32.  
(5) 1987 c. 18.  
(6) 1981 c. 55.  
(7) 1966 c. 45.

For the purposes of this section, “the relevant date”, in relation to a rating, means the date on which he would, apart from this section, be entitled to be discharged.

(2) A rating to whom this section applies may be retained in service in Queen Alexandra’s Royal Naval Nursing Service after the relevant date in accordance with this section for such period as the competent authority may order, and his service may be prolonged accordingly.

(3) A rating may not be retained in Queen Alexandra’s Royal Naval Nursing Service after the relevant date for longer than twelve months.

(4) A rating who is so retained is (if not discharged sooner) entitled to be discharged at the end of those twelve months.

(5) If, while a person is being retained in service in Queen Alexandra’s Royal Naval Nursing Service by virtue of this section, it appears to the competent authority that his service can be dispensed with, he shall be entitled to be discharged.

(6) Where, at the time at which under subsections (1) to (5) above a person is entitled to be discharged, a state of war exists between Her Majesty and a foreign power—

(a) he may, by declaration made before his commanding officer in a form prescribed by regulations of the Defence Council, agree to continue in service in Queen Alexandra’s Royal Naval Nursing Service while such a state of war exists, and

(b) if the competent authority approve, he may continue accordingly as if the period for which his term of service could be prolonged under subsections (1) to (5) above were a period continuing so long as a state of war exists;

but this is subject to subsection (7) below.

(7) If it is so specified in the declaration, he shall be entitled to be discharged at the end of three months’ notice given by him to his commanding officer.”

(2) Paragraph (1) does not apply in relation to a rating of Queen Alexandra’s Royal Naval Nursing Service who is in service immediately before 1st January 1999 unless—

(a) he re-enters, re-engages or extends his service in Queen Alexandra’s Royal Naval Nursing Service after that day, or

(b) he has elected irrevocably in such manner as may be prescribed by orders or regulations under section 4 of the Reserve Forces Act 1996 to be a person to whom paragraph (1) shall apply.

### **Construction of references to persons called out on permanent service**

9.—(1) In section 225 of the Army Act 1955 and section 223 of the Air Force Act 1955, subsection (2) (which requires references in the Acts to persons being called out on permanent service to be construed by reference to certain provisions of the Reserve Forces Act 1980<sup>(8)</sup> now of effect for transitional cases only) shall cease to have effect.

(2) In section 3(3) of the Army Act 1955 (circumstances in which order for transfer between corps may be made otherwise than by a member of the Army Board), for “men of the reserve are called out on permanent service” there shall be substituted “a call-out order under section 52 of the Reserve Forces Act 1996 is in force authorising the call out for permanent service of members of the reserve”.

(3) In section 15 of the 1955 Acts (right of warrant officer to discharge on reduction to ranks) for “men of the reserve are called out on permanent service” there shall be substituted “a call-out order under section 52 of the Reserve Forces Act 1996 is in force authorising the call out for permanent service of members of the reserve”.

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<sup>(8)</sup> 1980 c. 9. The 1980 Act is restricted in its application by section 129(2) of the Reserve Forces Act 1996 and has been amended by the Reserve Forces Act 1996 (Transitional, Consequential and Saving Provisions) Regulations 1997 (S.I.1997/306).

(4) In section 21(3) of the 1955 Acts (circumstances in which number of aliens serving may be altered) for “men of the reserve are called out on permanent service” there shall be substituted “a call-out order under section 52 of the Reserve Forces Act 1996 is in force authorising the call out for permanent service of members of the reserve”.

(5) In section 167(2) of the Army Act 1955 (circumstances in which a vehicle may be requisitioned for purchase on behalf of the Crown) for “men of the army reserve are called out on permanent service” there shall be substituted “a call-out order under section 52 of the Reserve Forces Act 1996 is in force authorising the call out for permanent service of members of the army reserve”.

(6) In section 167(2) of the Air Force Act 1955 (circumstances in which a vehicle may be requisitioned for purchase on behalf of the Crown) for “men of the air force reserve are called out on permanent service” there shall be substituted “a call-out order under section 52 of the Reserve Forces Act 1996 is in force authorising the call out for permanent service of members of the air force reserve”.

### **Repeal of references to persons being called into actual service**

**10.**—(1) In paragraph 1(i) of Schedule 1 to the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(**9**) (service relevant for the purposes of the Act) the words “or the calling into actual service” shall be omitted.

(2) In section 7A(1) of the Marine, &c., Broadcasting (Offences) Act 1967(**10**) (powers of enforcement in relation to marine offences) the words “or called into actual service” shall be omitted.

(3) In section 1(1) of the Customs and Excise Management Act 1979(**11**) (interpretation) in the definition of “armed forces” the words “or called into actual service” shall be omitted.

(4) In section 20(1) of the Reserve Forces (Safeguard of Employment) Act 1985(**12**) (interpretation) the definition of “permanent service” shall be omitted.

(5) In section 127(1) of the Reserve Forces Act 1996 (interpretation) the definition of “permanent service” shall be omitted.

### *Transitional provisions*

### **Postponement of discharge or transfer to reserve: transitional cases**

**11.** The Schedule (postponement of discharge or transfer to the reserve: transitional cases) shall have effect.

### **Minor correction**

**12.** In section 36(3)(b) of the Reserve Forces Act 1980(**13**), the words “of the Reserve Forces Act 1996” shall be omitted.

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(9) 1951 c. 65.

(10) 1967 c. 41.

(11) 1979 c. 2.

(12) 1985 c. 17.

(13) Section 36 was substituted by regulation 19 of the Reserve Forces Act 1996 (Transitional, Consequential and Saving Provisions) Regulations 1997 (S.I. 1997/306).