



Reserve Forces Act 1980

1980 CHAPTER 9

PART IV

ARMY RESERVE AND AIR FORCE RESERVE

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 ^{M1}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 ^{M2}Air Force Act 1955,
- but without prejudice to his liability apart from this subsection and subsection (1) in respect of such an offence.

Status: Point in time view as at 01/02/1991.

Changes to legislation: Reserve Forces Act 1980, Cross Heading: Offences is up to date with all changes known to be in force on or before 07 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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 ^{M3}Air Force Act 1955.
- (4) Any man—
- (a) being a man of the Army Reserve who commits an offence under section 37 or section 38 of the ^{M4}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 ^{M5}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 [^{F1}level 3 on the standard scale], 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.

Textual Amendments

- F1** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#) and (N.I.) [S.I. 1984/703 \(N.I. 3\)](#), [arts. 5, 6](#)

Marginal Citations

- M1** 1955 c. 18.
M2 1955 c. 19.
M3 1955 c. 19.
M4 1955 c. 18.
M5 1955 c. 19.

Status: Point in time view as at 01/02/1991.

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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 these 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 [^{F2}level 3 on the standard scale] 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 [^{F2}level 3 on the standard scale].

Textual Amendments

- F2** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#) and (N.I.) [S.I. 1984/703 \(N.I. 3\)](#), [arts. 5, 6](#)

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.

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- (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 ^{M6}Army Act 1955 or the ^{M7}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 [^{F3}level 3 on the standard scale], 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,
- 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.

Textual Amendments

- F3** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#) and (N.I.) [S.I. 1984/703 \(N.I. 3\)](#), [arts. 5, 6](#)

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Marginal Citations

M6 1955 c. 18.

M7 1955 c. 19.

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 ^{M8}Army Act 1955 or the ^{M9}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.

Marginal Citations

M8 1955 c. 18.

M9 1955 c. 19.

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—
- 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
 - 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 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

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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 ^{M10}Army Act 1955, or under section 135 of the ^{M11}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.

Marginal Citations

M10 1955 c. 18.

M11 1955 c. 19.

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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.

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