



Reserve Forces Act 1996

1996 CHAPTER 14

PART IV

SPECIAL AGREEMENTS FOR CALL OUT

Modifications etc. (not altering text)

- C1** Ss. 28-77 (Pts. IV-VII) modified (1.4.1997) by Army Act 1955 c. 18, s. 9(6A) (as inserted (1.4.1997) by 1996 c. 14, s. 126, Sch. 7 paras. 1(3), 3(2)(3)(with s. 72(5), Sch. 7 para. 2); S.I. 1997/305, art. 2(1))
- Ss. 28-77 (Pts. IV-VII) modified (1.4.1997) by Army Act 1955 c. 18, s. 210, Sch. 7 para. 4A(6)(as inserted (1.4.1997) by 1996 c. 14, s. 126, Sch. 7 para. 3(3)(with s. 72(5), Sch. 7 para. 4); S.I. 1997/305, art. 2(1))
- Ss. 28-77 (Pts. IV-VII) modified (1.4.1997) by Armed Forces Act 1966 c. 45, s. 4(6A) (as inserted (1.4.1997) by 1996 c. 14, s. 126, Sch. 7 para. 7(3)(with s. 72(5), Sch. 7 para. 8); S.I. 1997/305, art. 2(1))

Special agreements

28 Special agreements.

- (1) A member of a reserve force who has entered into a special agreement is liable, while the agreement is in force—
 - (a) to be called out for permanent service anywhere in the world; and
 - (b) to fulfil any training obligations specified in the agreement.
- (2) A person in qualifying employment shall, before entering into a special agreement, obtain the consent of his employer in such form as may be prescribed.
- (3) A special agreement—
 - (a) shall specify a period not exceeding 9 months as the maximum period for which the person concerned may be required to serve on being accepted into service under this Part; and

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- (b) may specify other terms relating to the obligations undertaken by the person entering into it.
- (4) A person who has entered into a special agreement—
 - (a) shall fulfil any training obligations specified in the agreement;
 - (b) if accepted into service under this Part, shall serve, in accordance with the terms of the agreement and (subject to those terms), on such other terms and conditions as may be prescribed and are applicable in his case.
- (5) The obligations undertaken by a person who has entered into a special agreement are in addition to any other obligations he may have as a member of a reserve force.

29 Employers' consent before entering agreements.

- (1) Before entering into a special agreement, a person shall—
 - (a) submit a declaration to an authorised person in the prescribed form stating whether he is in employment and, if so, giving the name of his employer and such other particulars as may be prescribed;
 - (b) where the person concerned is in employment with an employer which is qualifying employment, produce to an authorised person a document recording the consent of that employer to his entering into the agreement.
- (2) Where an authorised person is satisfied at the time a person enters into a special agreement that—
 - (a) he is not in qualifying employment; or
 - (b) he is in qualifying employment and the employer has consented to his entering into the agreement,
 the validity of the agreement shall not be affected by any failure to comply with section 28(2); and a document purporting to be a certificate signed by the authorised person stating that he is satisfied of those matters shall be evidence of that fact.
- (3) Where a person has more than one qualifying employment, subsections (1) and (2) apply separately in relation to each employer of his.
- (4) In this section and section 30 “authorised person” means a person authorised by or in accordance with directions of the Defence Council for the purpose of exercising the functions concerned.

30 New employer's consent to continuation of agreements.

- (1) Where a person who has entered into a special agreement begins a new qualifying employment he shall, within 7 days of beginning that employment, submit a declaration to an authorised person in the prescribed form stating that he has begun a new qualifying employment and giving the name of his employer and such other particulars as may be prescribed.
- (2) Subject to subsections (3) and (4), where a person has begun a new qualifying employment with an employer and submitted the declaration required by subsection (1), he is not liable to be called out under this Part or required to fulfil any training obligations specified in his special agreement unless and until—
 - (a) the employer gives his written consent in the prescribed form to the continuation in force of the agreement; and

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- (b) an authorised person certifies under subsection (5) that the employer has given that consent.
- (3) Subsection (2) does not apply if the declaration is submitted by a person who is in service under this Part.
- (4) If the declaration is submitted after the person concerned has been served with a call-out notice under section 32 but before the notice has ceased to have effect, the person concerned shall remain liable to be accepted into service until the notice ceases to have effect.
- (5) Where, after a declaration under subsection (1) has been submitted, an authorised person is satisfied that the person concerned has begun a new qualifying employment and that his employer has given the requisite consent, he shall certify that fact in the prescribed form.
- (6) For the purposes of subsection (2)(a), such a certificate shall be conclusive evidence that the employer has consented to the continuation in force of the special agreement in question.
- (7) For the purposes of this section a person begins a new qualifying employment when, at any time after entering into a special agreement—
 - (a) he begins a qualifying employment with a person who was not already his employer; or
 - (b) where the hours for which he is employed, by a person who has not previously been required to give consent under this section or section 29, change so as to cause his employment by that person to become qualifying employment.

31 Termination of agreements.

- (1) A special agreement shall terminate when, before the person concerned has been accepted into service under this Part, any of the following events occurs—
 - (a) the expiry of the period of 12 months beginning with the day on which the agreement was entered into;
 - (b) the expiry of such period as may be prescribed after the giving in the prescribed manner of notice to terminate the agreement by the person concerned;
 - (c) the giving by the Secretary of State of a direction that the agreement be terminated;
 - (d) the acceptance of the person into permanent service under Part VI;
 - (e) the coming into force of another special agreement; and
 - (f) any other event specified in the agreement as an event which terminates the agreement.
- (2) A direction under subsection (1)(c) may be given on the application of the person concerned or any employer of his or without any such application.
- (3) A special agreement shall terminate on the release of the person concerned from a period of service under this Part.
- (4) On the termination of a special agreement the obligations undertaken by the person concerned by entering the agreement shall cease and, accordingly, he may not be accepted into service under this Part.

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- (5) Any reference in this Part to a person who has entered into a special agreement does not include a reference to any person whose agreement has terminated.

Call out for permanent service under Part IV

32 Call out of persons who have entered into special agreements.

- (1) The Secretary of State may, if he considers it appropriate to do so, call out for service any person who has entered into a special agreement by serving a notice on him requiring him—
- (a) to present himself for service at a specified time and place; and
 - (b) to remain at that place until he is either accepted into service or informed that he is not to be accepted into service in pursuance of the notice.
- (2) A call-out notice shall also require the person concerned, if he fails to comply with the requirements mentioned in subsection (1)—
- (a) to present himself for service to any person specified in the notice or to any other authorised officer; and
 - (b) having so presented himself, to remain until he is either accepted into service or informed that he is not to be accepted into service in pursuance of the notice.
- (3) A call-out notice shall specify—
- (a) the person to whom the notice applies and the special agreement concerned; and
 - (b) the time and place at which he is to present himself for service;
- and it may also specify places and times at which and persons to whom the person may present himself for service if he fails to present himself at the time and place specified under paragraph (b) of this subsection.
- (4) A call-out notice shall (without affecting any liability arising from a failure to comply with the notice) cease to have effect, if not revoked sooner, when—
- (a) the special agreement specified in the notice terminates under section 31(1); or
 - (b) the person concerned is either accepted into service or informed that he is not to be accepted into service in pursuance of the notice.
- (5) A call-out notice served on a person may—
- (a) be varied by the Secretary of State by serving a variation notice on him;
 - (b) be revoked by the Secretary of State by serving a revocation notice or a subsequent call-out notice on him.
- (6) A notice under this section may be served on a person by delivering it to him or by leaving it at, or sending it by post to, his last known address; and any call-out or variation notice delivered to that address by registered post or recorded delivery shall be deemed to have been served on him.
- (7) No steps may be taken against a person in respect of failure to comply with a call-out notice under this section unless the notice or, as the case may be, any variation notice was received by him or is deemed to have been served on him by virtue of subsection (6).

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33 Acceptance into service under Part IV.

- (1) A person served with a call-out notice who—
 - (a) presents himself for service to an authorised officer at the time and place specified in the notice under section 32(3)(b);
 - (b) presents himself for service to an authorised officer at any other time or place; or
 - (c) is brought before an authorised officer after the time so specified,may be accepted into service by that officer.
- (2) Where such a person is accepted into service, he shall be informed by the authorised officer in the prescribed manner that he has been accepted into service by virtue of subsection (1).
- (3) If an authorised officer decides that such a person should not be accepted into service, he shall inform that person in the prescribed manner that he is not to be accepted into service in pursuance of the call-out notice concerned.
- (4) Any liability of such a person arising from a failure to comply with a call-out notice is not affected by his acceptance into service or by a decision not to accept him into service.
- (5) A person liable to be called out under this Part who—
 - (a) is of a description for the time being specified in directions of the Secretary of State;
 - (b) has not been served with a call-out notice; and
 - (c) presents himself for service to an authorised officer,may be accepted into service by that officer.
- (6) Where a person is accepted into service by virtue of subsection (5)—
 - (a) the authorised officer shall inform him in the prescribed manner that he has been accepted into service by virtue of that subsection; and
 - (b) he shall be deemed to have been called out under this Part.

34 Release from service under Part IV.

- (1) A person who has been accepted into service under this Part shall remain in that service until released under subsection (2).
- (2) A person who is in service under this Part shall be released from that service with all convenient speed in such manner as may be prescribed when he is no longer required by Her Majesty to be in that service or (if not released sooner) when he is entitled to be released under subsection (3).
- (3) A person is entitled to be released from service under this Part—
 - (a) at the end of the period specified under section 28(3)(a); or
 - (b) when, on an application under section 78, it is determined that he is entitled to be released.
- (4) Orders or regulations under section 4 may make provision enabling or requiring a person who has been accepted into service under this Part to be treated—
 - (a) if the circumstances of his call out or acceptance into service are of a prescribed description, and

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- (b) for the purpose of calculating when he is entitled to be released by virtue of subsection (3)(a),
as having been accepted into service on an earlier day than that on which he was actually accepted.
- (5) Provision made for the purposes of subsection (4) shall secure—
- (a) that any earlier day applicable for the purpose of calculating when a person is entitled to be released from service is to be notified to him as soon as is practicable after the day on which he was actually accepted into service; and
- (b) that the period beginning with the earlier day is reckoned as part of his relevant service for the purposes of sections 53(13), 55(13), 57(11) and 69(8).

Supplementary

35 Exercise of certain functions under section 32 or 33.

- (1) The Secretary of State may authorise—
- (a) the Defence Council;
- (b) any particular officers; or
- (c) any officers of a description specified in the authorisation,
- to exercise any function of his under section [F131,] 32 or 33, subject to such limitations and conditions as may be so specified.
- (2) An authorisation under subsection (1) relating to the exercise of any function of the Secretary of State by the Defence Council shall (unless the authorisation provides otherwise) be deemed to permit the Defence Council to authorise—
- (a) any particular officers; or
- (b) any officers of a description determined by the Defence Council,
- to exercise the function, subject to such limitations and conditions as may be so specified.
- (3) Arrangements made under subsection (1) or (2) for the discharge of any function shall not prevent the exercise of the function by the Secretary of State or (in the case of arrangements under subsection (2)) the Defence Council.

Textual Amendments

- F1** Words in s. 35(1) inserted (1.10.2001 subject to art. 3 of the commencing S.I.) by 2001 c. 19, s. 34, Sch. 6 Pt. 3 para. 11; S.I. 2001/3234, arts. 2, 3

36 Parliamentary control of numbers and reports.

- (1) The number of persons in a reserve force who are liable to be called out under this Part shall not exceed the number for that force for the time being authorised by Parliament.
- (2) Any persons who are in service under this Part shall not be reckoned in any numbers for the time being authorised by Parliament for any of the regular services.
- (3) The Secretary of State shall from time to time lay before each House of Parliament a report with respect to the exercise of his powers to call out persons under this Part.

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- (4) Any such report may be made either with respect to any use made, or with respect to any use proposed to be made, of those powers.

37 Interpretation of Part IV.

- (1) In this Part—

“authorised officer” means an officer authorised by or in accordance with directions of the Defence Council for the purposes of this Part;

“call-out notice” means a notice under section 32(1);

“service under this Part” and “service” mean permanent service on being called out under this Part;

“qualifying employment” means employment under a contract of service which normally involves employment for 14 hours or more weekly (and “new qualifying employment” shall be construed in accordance with section 30(7)); and

“special agreement” means a written agreement by which a person accepts the obligations mentioned in section 28(1).

- (2) This Part shall have effect in relation to any member of a reserve force who is a Crown servant as if he were employed under a contract of service with such person as may be specified in directions of the Secretary of State as his employer for the purposes of this Part.
- (3) The Secretary of State may by regulations make provision as to when a contract of service is to be treated for the purposes of this Part as normally involving or not involving employment for 14 hours or more weekly.
- (4) Regulations under subsection (3) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) The Secretary of State may by order amend the definition of “qualifying employment” and subsection (3) so as to substitute, for the number of hours for the time being specified, such number (not being more than 14) as is specified in the order.
- (6) An order under subsection (5) shall be made by statutory instrument; but no such instrument shall be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.

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