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STATUTORY INSTRUMENTS

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**2005 No. 859**

**The Reserve Forces (Call-out and Recall)  
(Financial Assistance) Regulations 2005**

**PART 1**

**PRELIMINARY**

**Citation and commencement**

1. These Regulations may be cited as the Reserve Forces (Call-out and Recall) (Financial Assistance) Regulations 2005 and shall come into force on the 14th April 2005.

**General interpretation**

2.—(1) In these Regulations—

“the 1996 Act” means the Reserve Forces Act 1996;

“the 1997 Regulations” means the Reserve Forces (Call-out and Recall) (Financial Assistance) Regulations 1997(1);

“accredited medical consultant” means a person who is on the Specialist Register of the General Medical Council;

“adjudication officer” means a person appointed by or in accordance with directions of the Secretary of State or the Defence Council to determine claims under these Regulations;

“company car” means a car or van—

(a) that is made available (without any transfer of the property in it by an employer) to an employee, his spouse or partner or any dependants ; and

(b) is so made available by reason of the employment; and

(c) is available for the private use of the employee, his spouse or partner or any dependants;

“continuing earnings” means the average daily earnings which an adjudication officer is satisfied that the reservist is continuing to receive from his employer during his relevant service;

“earnings” includes—

(a) salary, wages, fees, drawings, gratuities and commission; and

(b) service pay payable to a reservist for service other than for relevant service;

but does not include—

(i) any allowance or grant payable to the reservist in connection with his service as a member of the armed forces;

- (ii) any sums paid or payable by way of bounty to the reservist in respect of his undertaking prescribed training as a reservist and attaining a prescribed standard of efficiency;
- (iii) any payments made for the benefit of the reservist, his spouse or partner, or any dependants for accommodation or educational fees, or premiums in relation to pension schemes, health or medical insurance or life insurance or such other benefits as may be the subject of an award under paragraph (3)(f) of regulation 3;
- (iv) the value of any payments in respect of any company car provided by the reservist's employer and available for private use by him, his spouse or partner, or any dependants;

“employer” means a person with whom the reservist has—

- (a) a contract of service;
  - (b) a contract of apprenticeship;
  - (c) a contract for employment in the service of the Crown; or
- a person who is self-employed;

“partner” means any cohabitating partner (including a partner of the same sex);

“relevant date” means either the day on which a reservist reports for service (when he is subsequently accepted into permanent service) or the date on which he is accepted for permanent service, whichever is the earlier;

“relevant earnings” means in relation to a reservist, the average daily earnings which in the opinion of an adjudication officer the reservist might reasonably have expected to earn, but for performing relevant service, in the service of the employer over the 365 days immediately following the relevant date;

“relevant period” is the period beginning on the “relevant date” and ending on the termination of the “relevant service” of the reservist;

“relevant service” means permanent service on or after the 14th April 2005—

- (a) under Part IV of the 1996 Act;
- (b) under a call-out or recall order;
- (c) by a person called out or recalled under the Reserve Forces Act 1980(2) or under any other call-out or recall obligations of an officer;

but shall not include any period in which the reservist is serving a term of imprisonment or detention under the sentence of a court-martial or a court of law in the British Islands or any colony;

“replacement costs” means the daily rate of—

- (a) pay to any replacement of the reservist;
- (b) any—
  - (i) overtime payments to existing employees;
  - (ii) increases in salary of existing employees;

where an adjudication officer is satisfied that they are attributable to the absence of the reservist;

“reservist” means a person called out or recalled for relevant service;

“service pay” means any pay payable to a reservist for service in the armed forces excluding any bounty, allowance or grant.

(2) Where a person is performing relevant service and the date on which he is entitled to be released or discharged has been postponed under sections 45(6), 53(3), (7) or (11), 57(3) or (7), 61 or 69(3) or (6) (as the case may be) of the 1996 Act, the termination of relevant service means the day on which the reservist actually ceases the relevant service after the period of extension, and not the date on which he would otherwise have been entitled to be released or discharged from that service.