



Reserve Forces Act 1980

1980 CHAPTER 9

PART II

CALL OUT AND RECALL

Recall of service pensioners and former soldiers

30 Liability of naval and marine pensioners to recall

- (1) Whenever any emergency arises which in the Secretary of State's opinion renders it advisable to require the services in the Royal Navy of any persons who—
 - (a) have served as petty officers or seamen in the navy, and
 - (b) are in receipt of pensions in respect of such service,he may order any of those persons to join the navy, and those so ordered shall serve in the navy during such time as the emergency in the Secretary of State's opinion continues, and while so serving they shall continue to receive their pensions.
- (2) The enactments concerning the discharge of seamen serving; in the Royal Navy and becoming entitled to be discharged shall be applicable to and for the discharge of any of those serving under subsection (1) above, and becoming entitled to be discharged.
- (3) Subsection (1) above applies to persons who—
 - (a) have served as non-commissioned officers and men of the Royal Marines, and
 - (b) are in receipt of pensions in respect of such service,as it applies to petty officers or seamen of the Royal Navy, but those required to serve under this subsection shall serve as noncommissioned officers and marines in the Royal Marines, and not as petty officers and seamen.
- (4) If any person who—
 - (a) has served as a non-commissioned officer or marine of the Royal Marines, and
 - (b) is one to whom subsection (1) above applies by virtue of subsection (3) above, and

Status: This is the original version (as it was originally enacted).

- (c) has been required to serve in the Royal Navy under subsection (1) at the time and place specified in a call-out notice—
- (i) which is served on him in pursuance of section 26(1) above, and
 - (ii) which specifies subsection (1) as the enactment by virtue of which he is called into service,

does not appear for the purpose of entering into permanent service (or join any of Her Majesty's ships or vessels which he may be required to join for that purpose) he shall be liable to be apprehended and punished in the same manner as any person belonging to the Royal Navy and deserting or improperly absenting himself from duty.

31 Liability of army and air force pensioners to recall

- (1) An army or air force pensioner to whom this section applies shall be liable under this section to be recalled for service in such circumstances and for such period as are specified in this section and in sections 32 and 33 below.
- (2) This section applies to army and air force pensioners whose service pensions have been assessed or re-assessed in accordance with pension provisions made on or after 16th December 1948, other than—
- (a) pensioners whose service pensions were originally granted before 3rd September 1939 ;
 - (b) pensioners being those of any description mentioned in Schedule 2 to this Act.
- (3) In subsection (2) above the expression " pension provisions made on or after 16th December 1948 " means—
- (a) in the case of army pensioners, the provisions of a Royal Warrant issued on or after 16th December 1948,
 - (b) in the case of air force pensioners, the provisions of an Order by Her Majesty so issued,
- not being provisions as to which the Warrant or Order directs that they shall be disregarded for the purposes of this section.
- (4) A person shall cease to be liable under this section to be recalled for service when he attains the age of 60 years.
- (5) A person recalled for service under this section shall not suffer—
- (a) any reduction in pay or other emoluments in respect of his service while recalled by reason of being in receipt of a service pension ; or
 - (b) the withholding or reduction of his service pension by reason of his being in receipt of any such pay or emoluments.
- (6) In this section—

" army pensioner " and " air force pensioner " mean persons who have been discharged from service as soldiers and as airmen respectively and are in receipt of service pensions,

" service pension " means a pension granted in respect of service as a soldier of the regular forces or an airman of the regular air force or in respect of that service and other service, but does not include a pension awarded in respect of disablement,

and other expressions used in this section and in sections 32 and 33 below have in relation to army pensioners the same meanings as in the Army Act 1955, and in relation to air force pensioners the same meanings as in the Air Force Act 1955.

- (7) For the purposes of those sections, a person shall be deemed to be in receipt of a pension if the pension has been granted to him and has not been wholly forfeited, notwithstanding—
- (a) that any part of the pension has been commuted for a sum of money in lieu of the pension ; or
 - (b) that the pension or any part of it is for the time being administered or otherwise applied for any purpose or paid to some other person ; or
 - (c) that the pension or any part of it has not been paid for any period.

For the purposes of this subsection the forfeiture of a pension shall be disregarded if the whole or any part of the pension has been restored since the forfeiture was incurred.

32 Occasion for and period of recall under s. 31

- (1) An army pensioner liable under section 31 above to be recalled for service may be recalled at any time when persons of the Army Reserve are called out for permanent service.

In this subsection the expression " called out for permanent service " means called out for permanent service under section 10 above, or under section 18(1) above.

- (2) An air force pensioner liable under section 31 to be recalled for service may be recalled at any time when persons of the Air Force Reserve are called out for permanent service.

In this subsection the expression " called out for permanent service " means called out for permanent service under section 10, or under section 20(1) above.

- (3) A person recalled for service under section 31—
- (a) shall be deemed to be enlisted in the regular forces or the regular air force, according as he was an army pensioner or an air force pensioner, for the period mentioned in subsection (4) below, unless
 - (b) on his recall he requires to be enlisted for that period in accordance with section 2 of the Army Act 1955, or section 2 of the Air Force Act 1955, as the case may require, and upon such enlistment he shall not be deemed to have been enlisted by virtue of paragraph (a) above.
- (4) The period referred to in subsection (3) above is one—
- (a) beginning with the time as from which a person is recalled for service under section 31, and
 - (b) ending with such date as Her Majesty may by Order in Council declare to be the end of the emergency which was the occasion of the calling out for permanent service of persons of the reserve in question.
- (5) Nothing in the following provisions shall prejudice the operation of the provisions of this section—
- (a) the provisions of the Army Act 1955 or the Air Force Act 1955 as to the term for which a person may be enlisted;
 - (b) the provisions of the Army and Air Force Act 1961 corresponding to the provisions mentioned in paragraph (a) above; and
 - (c) the provisions of section 2 of the Armed Forces Act 1966 and regulations made under that section corresponding to the provisions mentioned in paragraph (a).

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

33 Recall notices under s. 31

- (1) The Defence Council may cause to be served on any person liable to be recalled for service under section 31 above a notice stating that he is recalled for service and requiring him to present himself—
 - (a) at such place and at such time (not earlier than the third day after the service of the notice), and
 - (b) to such authority,
 as may be specified in the notice, and that person shall be deemed to be so recalled as from that time (in this section referred to as "the time of recall").
- (2) A notice under this section may, before the time of recall, be—
 - (a) cancelled by a subsequent notice under this section; or
 - (b) varied by altering the place at which or authority to whom the person is by a notice under this section required to present himself at the time of recall.
- (3) A notice under this section shall cease to have effect if before the time of recall the person on whom it is served ceases to be liable under section 31 to be recalled for service.
- (4) Any notice under this section shall be deemed to be duly served on a person if it is sent to him by post addressed to his last known address.
- (5) No steps shall be taken against a person in respect of failure to comply with a notice under this section unless either—
 - (a) it is proved that the notice was received by him, or
 - (b) the notice was sent addressed to his last known address by registered post or the recorded delivery service,
 and where in the case of a notice not so sent it appears to the Defence Council that the person to whom the notice relates may not have received the notice the Defence Council may serve on him by registered post or the recorded delivery service a subsequent notice superseding the original notice.

34 Liability of certain former soldiers to recall

- (1) Any former soldier to whom this section applies may be recalled for service by the Secretary of State by notice in writing at any time when men of the Army Reserve are called out for permanent service under section 10 or section 18(1) above.
- (2) This section applies to any person who is not a woman and who is for the time being under the age of 45, and—
 - (a) who is not—
 - (i) a member of the armed forces of the Crown apart from this section ;
 - (ii) liable to be recalled to service under section 31 above;
 - (iii) such a person as is mentioned in Schedule 2 to this Act;
 - (b) who enlisted in pursuance of regulations made under section 2 of the Armed Forces Act 1966 ;
 - (c) who has not been discharged in respect of that enlistment under section 14 of the Army Act 1955, or under any regulations made by virtue of section 2 of the Armed Forces Act 1966 conferring a right to discharge by purchase;
 - (d) who has not been granted a commission.

- (3) A person recalled for service by such a notice as is referred to in subsection (1) shall be deemed to be enlisted in the regular forces within the meaning of the Army Act 1955 for the period—
- (a) beginning with the time specified in the notice, and
 - (b) ending (unless he is previously discharged) with such date as Her Majesty may by Order in Council declare to be the end of the emergency which was the occasion of the calling out of the Army Reserve.
- (4) To enable service of any notice under subsection (1) above, every person to whom this section applies shall from time to time furnish such information in such manner and within such period as the Secretary of State may by regulations made by statutory instrument require, and—
- (a) any person who without reasonable excuse fails to comply with any such regulations shall be liable on summary conviction to a fine not exceeding £10,
 - (b) any person who, in giving any information required by any such regulations, knowingly or recklessly makes a statement false in any material particular shall be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding £50 or to both,
- and proceedings against any person for an offence under paragraph (a) or (b) above may be taken at any place at which he is for the time being.
- (5) A person who on 27th February 1964 was—
- (a) a warrant officer, non-commissioned officer or man of the regular forces within the meaning of the Army Act 1955 (not being a person serving in the Royal Marines), or
 - (b) a member of the first class of the army reserve in consequence of his transfer to that reserve under the Army Act 1955 or the Army and Air Force Act 1961,
- may consent in writing to be subject to this section, and that consent may be revoked at any time by 3 months' written notice but shall not cease to be in force until the expiry of that notice.
- (6) While that consent remains in force this section shall have effect in relation to that person as if—
- (a) paragraphs (b) and (c) of subsection (2) above did not apply to him ; and
 - (b) he were subject (instead of by virtue of those paragraphs) to this section by his consent under subsection (5) above.

35 Recall notices under s. 34

- (1) A notice to any person under section 34(1) above shall specify the time and place at which that person is to present himself for service in accordance with the notice, and the notice may be revoked or varied by a subsequent notice under that section.
- (2) Any such notice shall be deemed to have been duly served on the person to whom it is directed if—
- (a) it is delivered to him personally, or
 - (b) it is sent by registered post or the recorded delivery service addressed to him at his latest address known to the military authorities,
- but any such notice shall cease to have effect if before the time so specified he ceases to be a person to whom this section applies.

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

36 Recall notices deemed served on personal attendance

(1) Where a person who is liable to be recalled into service under section 31 or section 34 above—

- (a) attends in person at such place as may be prescribed, and
- (b) presents himself for service to such authority as may be prescribed, and
- (c) is informed by that authority that by virtue of this subsection he is accepted for service,

he shall be deemed to have been served with a notice under section 33 above or section 35 above, as the case may be, specifying the time at which he is informed and the place at which he attends.

(2) Where subsection (1) above takes effect—

- (a) so much of section 33(1) above as—
 - (i) provides for a notice under that section to specify the authority to whom a person is to present himself, and
 - (ii) requires the time of recall specified by such a notice to be not earlier than the third day after the service of the notice,

shall not apply to a notice which is deemed to be served on that person under subsection (1); and

- (b) any notice previously issued for that person under section 33 or 35, as the case may be, shall cease to have effect, but without prejudice to any liability arising from his failure to comply with the notice before he attends as described in subsection (1).