



# Reserve Forces Act 1980

## 1980 CHAPTER 9

### PART IV

#### ARMY RESERVE AND AIR FORCE RESERVE

##### *Army Reserve*

#### **62 Government, discipline and pay of Army Reserve**

- (1) Orders or regulations under this Act may provide with respect to the government, discipline and pay of the Army Reserve, and with respect to other matters and things relating to the Army Reserve.
- (2) No such order or regulation shall render a man who entered the Army Reserve before the date of the order or regulation liable without his consent to be appointed, transferred or attached to any military body to which he could not, without his consent, have been appointed, transferred or attached if the order or regulation had not been made.

#### **63 Exercise of powers vested in military office holder**

- (1) Any power or jurisdiction given to, and any act or thing to be done by, to, or before, any person holding any military office may, in relation to the Army Reserve, be exercised by or done by, to, or before any other person for the time being authorised in that behalf according to the custom of the service.
- (2) Where by this Act, or by any order or regulation under this Act, any order is authorised to be made by any military authority, the order may be signified by an order, instruction or letter under the hand of any officer authorised to issue orders on behalf of that military authority, and an order, instruction or letter purporting to be signed by any officer who appears from it to be so authorised shall be evidence of his being so authorised.

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#### **64 Payment and management of Army Reserve pensions**

Where (either before or after the passing of this Act) a man of the Army Reserve—

- (a) has been called out for permanent service and continued as a man of the Army Reserve after the termination of that service, and
  - (b) has become entitled to pension under any order or regulation under this Act,
- all powers exercisable for the award and payment of the pension and otherwise in relation to the pension shall be exercisable by the like authority as if he were a man discharged from the army on reduction.

#### **65 Transfer to Territorial Army**

- (1) A man of the Army Reserve may, with the consent of the prescribed authority, enlist in the Territorial Army and shall on so enlisting cease to be a man of the Army Reserve.
- (2) If a man who has enlisted into the Territorial Army in pursuance of subsection (1) above—
  - (a) ceases to be a member of that reserve before the date on which his term of service in the Army Reserve would have expired if he had not so enlisted, then,
  - (b) he shall, unless the prescribed authority otherwise directs (and that power of direction includes power to make different provision for different circumstances), again be a man of the Army Reserve by virtue of this subsection for the residue of that term, without prejudice to the operation of any enactment under which that term may be extended.

#### *Air Force Reserve*

#### **66 Government, discipline and pay of Air Force Reserve**

Orders or regulations under this Act may provide with respect to the government, discipline and pay of the Air Force Reserve, and with respect to other matters and things relating to the Air Force Reserve.

#### **67 Exercise of powers vested in air force office holder**

- (1) Any power or jurisdiction given to, and any act or thing to be done by, to, or before, any person holding any air force office may, in relation to the Air Force Reserve, be exercised by or done by, to, or before any other person for the time being authorised in that behalf according to the custom of the service.
- (2) Where by this Act, or by any order or regulation under this Act, any order is authorised to be made by any air force authority, the order may be signified by an order, instruction or letter under the hand of any officer authorised to issue orders on behalf of that air force authority, and an order, instruction or letter purporting to be signed by any officer who appears from it to be so authorised shall be evidence of his being so authorised.

#### **68 Service in Air Force Reserve as special reservist**

- (1) A man enlisted into the Air Force Reserve may, whether or not he has previously served in the regular air force, be enlisted in the Air Force Reserve for service as a special reservist.

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- (2) A special reservist may be re-engaged, and when re-engaged shall continue subject to the terms of service applicable to special reservists.
- (3) A man may be enlisted in the Air Force Reserve for service as a special reservist with a liability to serve only within the limits of the United Kingdom, the Channel Islands and the Isle of Man.
- (4) Orders and regulations under this Act may provide—
  - (a) for the formation of special reservists into squadrons or other air force units, and for the formation of such squadrons or other air force units into wings, groups or other formations, either alone or jointly with any other part of Her Majesty's air force; and
  - (b) for appointing, transferring or attaching special reservists to such units or formations ; and
  - (c) for posting, attaching or otherwise dealing with special reservists within such units or formations.
- (5) A special reservist who enlists into the regular air force shall upon such enlistment be deemed to be discharged from the Air Force Reserve.

#### **69 Special reservist called out for permanent service**

- (1) The Secretary of State may, by regulations under this Act, authorise any special reservist having the qualifications prescribed by those regulations to agree in writing that—
  - (a) if the time at which he would otherwise be entitled to be discharged from the Air Force Reserve occurs when he is called out for permanent service, then
  - (b) he will continue to serve in the Air Force Reserve until the expiry of such period, whether definite or indefinite, as may be specified in the agreement.
- (2) If any man who enters into such an agreement is called out for permanent service, he shall be liable to be detained in service for the period specified in his agreement in the same manner in all respects as if his term of service were still unexpired.

#### **70 Special reservist called out for special courses, etc.**

- (1) A special reservist may, in addition to being called out for annual training, be called out for a special course or special courses of training—
  - (a) at such place or places in the United Kingdom or the Isle of Man,
  - (b) at such time or times, and
  - (c) for such period or periods, not exceeding in the whole 6 months,as may be prescribed, in like manner and subject to the like conditions as if he were called out for annual training.
- (2) Where one of the conditions on which a special reservist was enlisted or re-engaged is that he shall not be called out for training, whether special or annual, for a longer period than the period specified in his attestation paper, he shall not be liable under this section to be called out for any longer period.

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### *Enlistment in Army Reserve and Air Force Reserve*

#### **71 Procedure and term of service on enlistment or reengagement**

- (1) Every man who becomes a man of the Army Reserve or of the Air Force Reserve by being enlisted or re-engaged in pursuance of this Act shall be enlisted or re-engaged, as the case may be, in such manner, and for a term of such length and to begin on such date, as may be prescribed.
- (2) Where a man enlists in the Army Reserve or the Air Force Reserve—
  - (a) he shall be attested in the same manner as a recruit in the regular forces or the regular air force, as the case may be, subject to the provisions of this Part of this Act, and save as is otherwise prescribed; and
  - (b) the provisions of Schedule 3 to this Act shall apply in relation to enlistment in the Army Reserve or the Air Force Reserve, as the case may be.
- (3) A man enlisting in the Army Reserve or the Air Force Reserve may be attested by a regular officer, and the provisions of Schedule 3 shall in their application to the Army Reserve or to the Air Force Reserve, as the case may be, be construed as if the expression "recruiting officer" included any regular officer.

#### **72 Enlistment and residence outside United Kingdom**

- (1) Men may be enlisted into the Army Reserve or the Air Force Reserve in any part of Her Majesty's dominions outside the United Kingdom and in any British protectorate—
  - (a) not being territories specified in Schedule 4 to this Act, and
  - (b) subject to such conditions as may be prescribed by regulations under this Act, and the power conferred by this subsection to enlist men into the Army Reserve or the Air Force Reserve includes power to enlist or re-engage British subjects and British protected persons into either of those reserves in any country or territory outside the United Kingdom.
- (2) A man of the Army Reserve or the Air Force Reserve may reside outside the United Kingdom—
  - (a) if so authorised by or under the directions of the Secretary of State, and
  - (b) subject to such conditions as may be prescribed under subsection (1) above.
- (3) This Part of this Act applies—
  - (a) to any enlistment under subsection (1) above, and
  - (b) to a man of the Army Reserve or the Air Force Reserve during such time as he resides outside the United Kingdom in pursuance of an authorisation of the Secretary of State under subsection (2) above,
 subject to such adaptations as may be prescribed.
- (4) Her Majesty may by Order in Council provide for the inclusion among the territories specified in Schedule 4 any part of Her dominions outside the United Kingdom, the Channel Islands and the Isle of Man, being a part of Her dominions to which responsible government has been granted since 20th July 1906 and not being a Dominion other than Sri Lanka.
- (5) The provisions of this section corresponding to enactments repealed and re-enacted by this Act have in relation to Her Majesty's dominions and any British protectorate the same effect as those enactments had immediately before their repeal and re-enactment.

## 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 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 Air Force Act 1955,
- but without prejudice to his liability apart from this subsection and subsection (1) in respect of such an offence.
- (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 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 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 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 £50, 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

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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.

#### **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 those 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 £50 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 £50.

#### **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

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- 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.
- (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 Army Act 1955 or the 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 £50, 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.

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## 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 Army Act 1955 or the 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.

## 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—
- (a) 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
  - (b) 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) 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 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—



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- (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 Army Act 1955, or under section 135 of the 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.

## **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.

### *Miscellaneous*

## **82 Transfer outside United Kingdom**

- (1) Where in pursuance of—

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- (a) the proviso to subsection (2) of section 12 of the Army Act 1955, a soldier of the regular forces, or
- (b) the proviso to subsection (2) of section 12 of the Air Force Act 1955, an airman of the regular air force,

is transferred to the reserve outside the United Kingdom he shall serve in that reserve subject to such conditions as to residence, as to liability to be called out for training or for permanent service or in aid of the civil power, or as to any other matters, as may be prescribed by regulations under this Act.

- (2) The provisions of this Act relating to the Army Reserve or to the Air Force Reserve shall apply to a man transferred in pursuance of this section subject to such adaptations as may be so prescribed.

### **83 Postponement of discharge or transfer to reserve**

- (1) In the application to a man to whom this subsection applies of—
  - (a) section 9 of the Army Act 1955, and
  - (b) section 9 of the Air Force Act 1955,
 (which among other things provide for postponement of discharge or transfer to the reserve when men of the reserve are called out for permanent service), the references to men of the reserve being called out for permanent service shall (notwithstanding anything in section 225(2) of the Army Act 1955 or section 223(2) of the Air Force Act 1955) include references to such men being called out under section 11 above or paragraph 16(1) to (6) of Schedule 8 to this Act.
- (2) Subsection (1) above applies to a man of the regular army, the Army Reserve, the regular air force or the Air Force Reserve who—
  - (a) is such a man in consequence of his having enlisted or re-engaged in one of those forces on or after 1st April 1967; or
  - (b) has elected irrevocably in the prescribed manner that subsection (1) shall apply to him.
- (3) In section 9 of the Army Act 1955, in its application to a man who enters into an agreement on or after 1st January 1967 in pursuance of section 14(1) above and is called into service in pursuance of the agreement, the references to men of the reserve being called out for permanent service shall (notwithstanding anything in section 225(2) of that Act of 1955) include references to such men being called out under section 11 or paragraph 16 (1) to (3) of Schedule 8.

### **84 Exemption from tolls, etc.**

For the purposes of—

- (a) section 184 of the Army Act 1955,
- (b) section 184 of the Air Force Act 1955, and
- (c) all other enactments relating to the duties, tolls and ferries which are mentioned in those sections,

officers and men of the Army Reserve or the Air Force Reserve, when going to or returning from any place at which they are required to attend, and for non-attendance at which they are liable to be punished, shall be deemed to be officers and soldiers of the regular military forces on duty, or officers and airmen of the regular air force on duty, as the case may be.

## **85 Service of notices for Army Reserve and Air Force Reserve**

The following provisions have effect with respect to notices required in pursuance of orders or regulations made under this Act to be given to men of the Army Reserve or the Air Force Reserve—

- (a) a notice may be served on any such man either by being sent by post to his last registered place of abode or by being served in the prescribed manner;
- (b) evidence of the delivery at the last registered place of abode of a man of the Army Reserve or of the Air Force Reserve, as the case may be, of a notice, or of a letter addressed to the man containing a notice, shall be evidence that the notice was brought to his knowledge;
- (c) the publication of a notice in the prescribed manner in the parish in which the last registered place of abode of a man of the Army Reserve, or of the Air Force Reserve, as the case may be, is situate shall be sufficient notice to him, notwithstanding that a copy of the notice is not served on him.

## **86 Orders and regulations for Army Reserve and Air Force Reserve**

- (1) Where by this Part of this Act or paragraph 17 of Schedule 8 to this Act, power is conferred to provide for any matter relating to the Army Reserve or the Air Force Reserve by orders or regulations under this Act—
  - (a) Her Majesty may, by order signified under the hand of the Secretary of State, make orders, and
  - (b) subject to the provisions of any such order, the Secretary of State may make general or special regulations,with respect to the matter in question.
- (2) Where by those provisions power is conferred to provide for any matter by regulations under this Act, the Secretary of State may make general or special regulations with respect to that matter.
- (3) All orders and general regulations made under this section shall be laid before Parliament after being made.

## **87 Interpretation of Part IV**

In this Part of this Act, except where the context otherwise requires.—

"absence without leave" and "desertion" mean respectively absence without leave contrary to subsection (1) or (3) of section 73 above and desertion contrary to subsection (1) of that section, and "absentee without leave" and "deserter" shall be construed accordingly ;

"airman" includes a warrant officer and a non-commissioned officer;

"soldier" includes a warrant officer and a non-commissioned officer; and

"special reservist" means a man of the Air Force Reserve who is serving in that reserve as a special reservist pursuant to section 68 above.