



# Reserve Forces Act 1980

## 1980 CHAPTER 9

### PART V

#### TERRITORIAL ARMY AND ROYAL AUXILIARY AIR FORCE

##### *Offences*

#### **106 Failure to attend on call-out.**

- (1) Any man of the Territorial Army or of the Royal Auxiliary Air Force who without leave lawfully granted, or without such reasonable excuse (including sickness) as may be allowed in the prescribed manner, fails to appear at the time and place specified by a call-out notice served on him in pursuance of this Act, specifying—

- (a) in any case, section 10(1) above or section 22 above,
- (b) in the case of a man of the Territorial Army to whom section 11 above applies, section 11(1),

as the enactment by virtue of which he is called into service, 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 shall be punishable—
- (a) as for an offence under section 37 or, as the case may be, section 38, of the <sup>M1</sup>Army Act 1955, or
  - (b) as for an offence under section 37, or, as the case may be, section 38, of the <sup>M2</sup>Air Force Act 1955,

without prejudice to his liability apart from this section in respect of such an offence, and he may be taken into military or air-force custody, as the case may be.

- (3) Where a man of the Territorial Army or of the Royal Auxiliary Air Force deserts contrary to this section the time which elapsed between the time of his desertion and the time of his apprehension or voluntary surrender shall not be taken into account in reckoning his service for the purpose of discharge.

*Status: Point in time view as at 01/02/1991.*

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- (4) The provisions of Schedule 5 to this Act, in relation to the Territorial Army or the Royal Auxiliary Air Force, as the case may be, shall apply to a deserter or absentee without leave.

#### Marginal Citations

- M1** 1955 c. 18.  
**M2** 1955 c. 19.

### 107 Assistance in desertion.

Any person who, in the United Kingdom or elsewhere, by any means whatsoever—

- (a) procures or persuades any man of the Territorial Army or of the Royal Auxiliary Air Force to commit an offence of desertion contrary to section 106 above, or attempts to procure or persuade any such man to commit such an offence, or
- (b) knowing that any such man is about to commit such an offence aids or assists him in so doing, or
- (c) knowing any such man to be a deserter contrary to section 106 above, procures or persuades or assists him to remain such a deserter, or assists in his rescue from custody,

shall be liable on summary conviction to a fine not exceeding [<sup>F1</sup>level 3 on the standard scale] or to imprisonment for a term not exceeding 6 months.

#### 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

### 108 Failure to fulfil training conditions.

Where a man of the Territorial Army or of the Royal Auxiliary Air Force, without leave lawfully granted, or such reasonable excuse (including sickness) as may be allowed in the prescribed manner—

- (a) fails to appear at the time and place appointed for training, or
- (b) fails to attend the number of drills or instructional parades or to fulfil the other conditions relating to training which may be prescribed,

he shall be liable on summary conviction to a fine not exceeding [<sup>F2</sup>level 1 on the standard scale], except for Northern Ireland, where the fine shall not exceed [<sup>F3</sup>level 1 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  
**F3** Words substituted by virtue of S.I. 1984/703 (N.I. 3), arts. 5, 6

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## 109 Wrongful sale, etc., of public property.

Where any person—

- (a) designedly makes away with, sells, or pawns, or wrongfully destroys or damages, or negligently loses, anything issued to him as an officer or man of the Territorial Army or of the Royal Auxiliary Air Force, or
- (b) wrongfully refuses or neglects to deliver upon demand anything issued to him as an officer or man of the Territorial Army or of the Royal Auxiliary Air Force,

the value of that thing shall be recoverable from him on complaint to a magistrates' court (or, in Scotland, on proceedings in any competent court) by such authority as may be prescribed.

## 110 Trial of offences by magistrates' court.

- (1) Any offence to which this subsection applies which is cognisable by a court-martial shall also be cognisable by a magistrates' court and on conviction by such court shall be punishable with imprisonment for a term not exceeding 3 months, or with a fine not exceeding [<sup>F4</sup>level 3 on the standard scale], or with both such imprisonment and fine.
- (2) Subsection (1) above applies—
  - (a) to any offence under the <sup>M3</sup>Army Act 1955 if committed by a man of the Territorial Army when not called out for permanent service by virtue of section 10(1) or section 11(1) above;
  - (b) to any offence under the <sup>M4</sup>Air Force Act 1955 if committed by a man of the Royal Auxiliary Air Force when not called out for home defence service and when not called out for permanent service by virtue of section 10(1); and
  - (c) to any offence under this Part of this Act.
- (3) Nothing in subsection (1) affects the liability of a person charged with any offence to which that subsection applies to be taken into military or air-force custody.

### Textual Amendments

- F4** 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

- M3** 1955 c. 18.  
**M4** 1955 c. 19.

## 111 Offences punishable by court-martial.

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 dealing with the case by any officer having power so to deal with the case—

- (a) be deemed to be an offence under the <sup>M5</sup>Army Act 1955, if the offence relates to a man of the Territorial Army, or

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- (b) be deemed to be an offence under the <sup>M6</sup>Air Force Act 1955, if the offence relates to a man of the Royal Auxiliary Air Force, but those Acts in their application for the purposes of this section shall have effect with the substitution for any reference to forfeiture and stoppages of a reference to such forfeitures and stoppages as may be prescribed.

#### Marginal Citations

M5 1955 c. 18.

M6 1955 c. 19.

### 112 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 an officer or man of the Territorial Army or the Royal Auxiliary Air Force 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) Every fine—
- (a) imposed under this Part on a man of the Territorial Army or the Royal Auxiliary Air Force otherwise than by a court in England or Wales, and
  - (b) recovered on a prosecution instituted under this Part otherwise than in such a court,

shall, notwithstanding anything in any Act or charter to the contrary, be paid to the prescribed authority, except that all fines imposed in proceedings taken before a magistrates' court in Northern Ireland shall, notwithstanding anything in paragraph (ii) of subsection (5) of section 20 of the <sup>M7</sup>Administration of Justice Act (Northern Ireland) 1954, be dealt with in the manner provided by that section.

#### Marginal Citations

M7 1954 c. 9 (N.I.)

### 113 Time for institution of proceedings.

Proceedings against an offender before either—

- (a) a court-martial or
- (b) an officer having power to deal with the case summarily, or
- (c) a magistrates' court,

in respect of an offence punishable under this Part of this Act and alleged to have been committed by him during his period of service in the Territorial Army or the Royal Auxiliary Air Force may be instituted whether the term of his service has or has not expired, and may, notwithstanding anything in any other Act, be instituted—

- (i) at any time within 2 months after the time at which the offence becomes known to his commanding officer, if the alleged offender is then apprehended, or

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- (ii) if he is not then apprehended, then within 2 months after the time at which he is apprehended.

#### **114 Courts of inquiry.**

Where a man of the Territorial Army or of the Royal Auxiliary Air Force—

- (a) is subject to military law or air-force law, as the case may be, and
- (b) is illegally absent from his duty,

a board of inquiry under section 135 of the <sup>M8</sup>Army Act 1955, or section 135 of the <sup>M9</sup>Air Force Act 1955, as the case may be, may be assembled after the expiry of 21 days from the date of his 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.

#### **Marginal Citations**

**M8** 1955 c. 18.

**M9** 1955 c. 19.

#### **115 Offences triable both by court-martial and summarily.**

- (1) A person charged with an offence which under this Part of this Act is cognisable both by a court-martial and by a magistrates' court shall not be liable to be tried both by a court-martial and by a magistrates' court, but may be tried by either of them, as may be prescribed.
- (2) For the purposes of subsection (1) above a man who has been dealt with summarily by any officer having power so to deal with the case shall be deemed to have been tried by court-martial.

#### **116 Evidence generally under Part V.**

- (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 that Schedule shall have effect in the case of a man of the Territorial Army or the Royal Auxiliary Air Force, 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 to 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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