Reserve Forces (Safeguard of Employment) Act 1985

1985 CHAPTER 17

Enforcement and recovery

10 Enforcement.

(1) Where—

(a) an order has been made by a Reinstatement Committee, or by the umpire or a deputy umpire on appeal, that employment shall be made available to a person on a specified day, and

(b) employment is not made available to him on that day in accordance with the order,

the person against whom the order was made is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Where a person is found guilty under subsection (1)—

(a) the court by whom he is found guilty may order him to pay to the person to whom the employment should have been made available, by way of compensation for any loss suffered or likely to be suffered by him by reason of the offence, a sum specified in the order; and

(b) that sum shall not exceed in any event the amount of the remuneration which, in the court's opinion, that person would have been entitled to receive from his former employer if there had been compliance with the order referred to in paragraph (a) of subsection (1), and the obligation as to subsequent employment resulting from that order.

11 Summary recovery.

(1) Where an order has been made by a Reinstatement Committee or by the umpire or a deputy umpire on appeal for the payment to a person of any sum, that sum may, without prejudice to any other means for its recovery, be recovered from the person

against whom the order is made summarily as a civil debt; but proceedings shall not be brought, whether summarily or otherwise, for the recovery of any such sum—

(a) until the time allowed for appealing against the order has expired; or,

(b) where an appeal is brought, until the appeal is decided or withdrawn.

(2) Any officer authorised in that behalf by special or general directions of the Secretary of State—

(a) may institute on behalf of and in the name of any person who has entered upon a period of whole-time service civil proceedings for the recovery of any such sum as is mentioned in subsection (1), and

(b) in any such proceedings the court may make an order for the payment of costs by the officer as if he were a party to the proceedings,

but the powers conferred by this subsection are not in derogation of any right of that person himself to recover such sums by civil proceedings.

12 Restrictions on proceedings.

(1) Proceedings shall not be brought against any person for failure to comply with an order of a Reinstatement Committee—

(a) until the time allowed for appealing against the order has expired; or

(b) where an appeal is brought, until the appeal is decided or withdrawn.

(2) Where the person against whom the order was made is no longer the applicant's former employer at the date of the failure to comply with the order, it is a defence for him to prove that he took all reasonable steps to secure compliance with the order.

(3) Except as provided in sections 10 and 11, no proceedings, whether civil or criminal, shall be brought against any person in respect of a failure to discharge an obligation imposed on him by or under the foregoing provisions of this Act.

[[F1]13 Employer's bankruptcy.

There shall be included among the debts which under—

(a) section 33 of the [M1]Bankruptcy Act 1914 are to be paid in priority to all other debts in the distribution of the property of a bankrupt or person dying insolvent, or,

(b) in Scotland, section 118 of the [M2]Bankruptcy (Scotland) Act 1913 are to be paid in priority to all other debts in the division of a bankrupt's estate,

any sum ordered under the foregoing provisions of this Act to be paid by way of compensation where the default by reason of which the order for compensation was made occurred—

(i) before the receiving order or death, or,

(ii) in Scotland, before the date mentioned in section 118(4) of the Act of 1913,

whether or not the order for compensation was made before that receiving order or death or, as the case may be, before that date; but the sum to which priority is to be given under this section shall not in the case of any one claimant exceed £50.**]**

Textual Amendments

F1 S. 13 repealed (E.W.S.) by Insolvency Act 1985 (c. 65, SIF 66), s. 235, Sch. 9 para. 11(2), **Sch. 10 Pt. IV**

Marginal Citations

M1 1914 c. 59

M2 1913 c. 20.

Changes to legislation:
There are currently no known outstanding effects for the Reserve Forces (Safeguard of Employment) Act 1985, Cross Heading: Enforcement and recovery.