



# Reserve Forces Act 1996

## 1996 CHAPTER 14

### PART X

#### GENERAL OFFENCES

##### *Desertion and absence without leave from service, duty or training*

#### **96 Failure to attend for service on call out or recall.**

- (1) A member of a reserve force served with a call-out notice under any provision of this Act who, without leave lawfully granted or reasonable excuse—
- (a) fails to present himself for service at the time and place specified in the call-out notice under section 32(3)(b), 43(4)(b) or 58(3)(c) (as the case may be);
  - (b) having so presented himself, fails to remain there until accepted into service or informed that he is not to be accepted into service in pursuance of that notice; or
  - (c) where he has for any reason failed to present himself at the time and place so specified or to remain there, fails —
    - (i) to present himself to a person specified in the call-out notice or to any other authorised officer; or
    - (ii) having so presented himself, to remain until accepted into service or informed that he is not to be accepted into service in pursuance of that notice,
- [<sup>F1</sup>is guilty, according to the circumstances, of desertion or absence without leave.] [<sup>F1</sup>is guilty of desertion (if section 8(2)(a) or (b) of the Armed Forces Act 2006 applies to him) or absence without leave (if neither of those provisions applies to him).]
- (2) Subsection (1) applies to a person liable to recall as it applies to a member of a reserve force—
- (a) with the substitution for references to a call-out notice of references to a recall notice; and

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- (b) as if paragraph (a) of that subsection referred to the time and place specified in the recall notice under section 70(3)(c).
- (3) An offence under this section is triable [<sup>F2</sup>by court-martial or summarily by a civil court.][<sup>F2</sup>summarily by a civil court (as well as being triable by the Court Martial).]

#### Textual Amendments

- F1** Words in s. 96(1) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 14 para. 40\(2\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- F2** Words in s. 96(3) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 14 para. 40\(3\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

## 97 Failure to attend for duty or training.

- (1) A member of a reserve force who has entered into a full-time service commitment or an additional duties commitment and, without leave lawfully granted or reasonable excuse, fails to appear at the time and place at which he is required to attend—
- (a) in the case of a full-time service commitment, to begin the period of full-time service contemplated by the commitment;
- (b) in the case of an additional duties commitment, to begin a period of service under the commitment,
- [<sup>F3</sup>is guilty, according to the circumstances, of desertion or absence without leave.][<sup>F3</sup>is guilty of desertion (if section 8(2)(a) or (b) of the Armed Forces Act 2006 applies to him) or absence without leave (if neither of those provisions applies to him).]
- (2) A member of a reserve force who—
- (a) is required to undergo a period of training in accordance with section 22, a special agreement or an employee agreement (or any other requirement applicable to special members), and
- (b) fails, without leave lawfully granted or reasonable excuse, to appear at any time and place at which he is required to attend,
- is guilty of absence without leave.
- (3) An offence under this section is triable [<sup>F4</sup>by court-martial or summarily by a civil court.][<sup>F4</sup>summarily by a civil court (as well as being triable by the Court Martial).]

#### Textual Amendments

- F3** Words in s. 97(1) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 14 para. 41\(2\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- F4** Words in s. 97(3) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 14 para. 41\(3\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

## 98 Punishment etc. of offences of desertion or absence without leave.

- (1) An offence under [<sup>F5</sup>section 37 or 38 of the <sup>M1</sup>Army Act 1955 or the <sup>M2</sup>Air Force Act 1955 or section 16 or 17 of the <sup>M3</sup>Naval Discipline Act 1957][<sup>F5</sup>section 8 or 9 of the Armed Forces Act 2006] (offences under service law of desertion or absence without

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- leave) committed by a member of a reserve force is triable summarily by a civil court [F6as well as by court-martial][F6(as well as being triable by the Court Martial)].
- (2) A member of a reserve force convicted by [F7court-martial][F7the Court Martial] of an offence under section 96(1) or 97(1) is punishable as for an offence under [F8service law of desertion or absence without leave (as the case may be).][F8section 8 or 9 (as the case may be) of the Armed Forces Act 2006.]
- (3) A member of a reserve force convicted by a civil court of—
- (a) an offence under section 96(1) or 97(1), or
  - (b) an offence under [F9service law of desertion or absence without leave][F9section 8 or 9 of the Armed Forces Act 2006],
- is liable to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).
- (4) A person convicted of an offence under section 97(2) is liable—
- (a) if convicted by [F10court-martial][F10the Court Martial], to the same punishment as for an offence under [F11service law of absence without leave][F11section 9 of the Armed Forces Act 2006];
  - (b) if convicted by a civil court, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).
- (5) [F12A person convicted by a civil court of an offence mentioned in this section, if sentenced to a term of imprisonment or if such a term is imposed in default of payment of any fine, is liable to be taken into military, air-force or naval custody (as the case may require).]
- (6) Where a member of a reserve force or a person liable to recall is convicted of an offence of desertion, 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 release from permanent service or discharge.
- [F13(7) Orders or regulations under section 4 may include provision for enabling a determination to be made in prescribed circumstances that subsection (6) is to cease to have effect in relation to a period of time or a part of a period of time.]

#### Textual Amendments

- F5** Words in s. 98(1) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 14 para. 42\(2\)\(a\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- F6** Words in s. 98(1) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 14 para. 42\(2\)\(b\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- F7** Words in s. 98(2) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 14 para. 42\(3\)\(a\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- F8** Words in s. 98(2) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 14 para. 42\(3\)\(b\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- F9** Words in s. 98(3)(b) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 14 para. 42\(4\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

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- F10** Words in s. 98(4)(a) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 14 para. 42\(5\)\(a\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- F11** Words in s. 98(4)(a) substituted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 14 para. 42\(5\)\(b\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- F12** S. 98(5) repealed (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 14 para. 42\(6\), Sch. 17](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- F13** S. 98(7) inserted (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 14 para. 42\(7\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

#### Modifications etc. (not altering text)

- C1** S. 98(1) modified (24.4.2009 for specified purposes) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\), arts. 1\(3\), 201\(3\)](#)
- C2** S. 98(3) modified (24.4.2009 for specified purposes) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\), arts. 1\(3\), 201\(3\)](#)

#### Marginal Citations

- M1** 1955 c. 18.
- M2** 1955 c. 19.
- M3** 1957 c. 53.

## 99 False pretence of illegal absence.

[<sup>F14</sup>Any person who falsely represents himself to be a deserter or absentee without leave from any reserve force is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 on the standard scale (or both).]

#### Textual Amendments

- F14** S. 99 repealed (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 14 para. 43, Sch. 17](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

## [<sup>F15</sup>100A Arrest by civilian police of deserters and absentees without leave

- (1) An officer of a UK police force may arrest without warrant a person who is reasonably suspected of being a member of a reserve force, or a person liable to recall, who has deserted or is absent without leave.
- (2) If an authorised person is satisfied by evidence given under oath or affirmation that a relevant suspect is or is reasonably suspected of being within his jurisdiction, he may issue a warrant for the arrest of the relevant suspect.
- (3) In subsection (2)—

“authorised person” means a person who has authority in England and Wales, Scotland or Northern Ireland to issue a warrant for the arrest of a person suspected of an offence;

“relevant suspect” means a person reasonably suspected of being a member of a reserve force, or a person liable to recall, who has deserted, is absent without leave or has committed an offence under section 95.

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- (4) In this section “UK police force” has the meaning given by section 375 of the Armed Forces Act 2006.]

#### Textual Amendments

**F15** S. 100A substituted (28.3.2009 for specified purposes) for s. 100 by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 14 para. 44](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

### 101 Inducing a person to desert or absent himself.

- (1) A person who, in the United Kingdom or elsewhere, by any means—
- (a) procures or persuades, or attempts to procure or persuade, a member of a reserve force to commit an offence of desertion or absence without leave;
  - (b) knowing that a member of a reserve force is about to commit such an offence, aids or assists him in so doing; or
  - (c) knowing a member of a reserve force to be a deserter or an absentee without leave, procures or persuades or assists him to remain a deserter or absentee, or assists in his rescue from custody,
- is guilty of an offence.
- (2) A person who—
- (a) procures or persuades, or attempts to procure or persuade, a person liable to recall to commit an offence of desertion or absence without leave;
  - (b) knowing that such a person is about to commit such an offence, aids or assists him in so doing; or
  - (c) knowing a person liable to recall to be a deserter or absentee without leave, procures or persuades or assists him to remain a deserter or absentee, or assists in his rescue from custody,
- is guilty of an offence.
- (3) A person guilty of an offence under subsection (1) or (2) is liable on summary conviction—
- (a) in the case of an offence involving an offence of desertion or a deserter, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both); and
  - (b) in the case of an offence of absence without leave or an absentee without leave, to a fine not exceeding level 5 on the standard scale.

### 102 Record of illegal absence.

- [<sup>F16</sup>(1) Where a member of a reserve land, air or marine force is subject to service law and is unlawfully absent from his duty—
- (a) a board of inquiry under section 135 of the <sup>M4</sup>Army Act 1955 or the <sup>M5</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 he was subject to service law is less than 21 days, or has expired before the expiry of 21 days; and

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- (b) the record mentioned in section 136 of the Army Act 1955 or 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 member of a reserve land, air or marine force—
- (a) having been served with a call-out notice under any provision of this Act, fails, without leave lawfully granted, to do anything mentioned in section 96(1)(a), (b) or (c);
  - (b) having entered into a full-time service commitment fails, without leave lawfully granted, to appear at any time or place at which he is required to attend to begin the period of full-time service contemplated by the commitment;
  - (c) having entered into an additional duties commitment fails, without leave lawfully granted, to appear at any time or place at which he is required to begin a period of duty under the commitment;
  - (d) having been required to undergo a period of training as mentioned in section 97(2) fails, without leave lawfully granted, to appear at any time or place at which he is required to appear,
- and his absence continues for not less than 14 days, an entry of his absence shall be made by such officer as may be prescribed in such manner, and in such regimental or service books, as may be prescribed.]

#### Textual Amendments

- F16** S. 102 repealed (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 14 para. 45](#), [Sch. 17](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

#### Marginal Citations

- M4** 1955 c. 18.  
**M5** 1955 c. 19.

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