

SCHEDULES

SCHEDULE 7

Section 126.

POSTPONEMENT OF TRANSFER TO THE RESERVE OR DISCHARGE FROM THE REGULAR SERVICES

The Army

- 1 (1) Sections 9 (postponement of transfer to the reserve or discharge) and 10 (continuation of army service in imminent national danger) of the Army Act 1955 shall be amended as follows.
- (2) For subsections (1) to (4) of section 9 there shall be substituted the following subsections—
- “(1) This section applies to a soldier of the regular forces if, on the relevant date, a call-out order under section 52, 54 or 56 of the Reserve Forces Act 1996 is in force authorising the call out for permanent service of members of the reserve.
- For the purposes of this section, “the relevant date”, in relation to a soldier, means the date on which he would, apart from this section, fall to be transferred to the reserve or he would be entitled to be discharged, as the case may be.
- (1A) A soldier to whom this section applies may be retained in army service after the relevant date in accordance with this section for such period as the competent military authority may order, and his service may be prolonged accordingly.
- (1B) The period for which a soldier may be retained in service after the relevant date by virtue of this section shall be limited as follows, that is to say—
- (a) a soldier who would otherwise have fallen to be transferred to the reserve may not be retained for longer than the period for which, if the assumptions mentioned in subsection (1C) below are made in relation to him, he could have been required to serve on being called out under Part VI of the Reserve Forces Act 1996; or
- (b) a soldier who would otherwise have been discharged may not be retained for longer than twelve months;
- and a soldier who is retained in service is (if not transferred or discharged sooner) entitled to be transferred to the reserve or discharged, as the case may require, at the end of whichever of the above periods applies to him.
- (1C) The assumptions to be made in relation to a soldier for the purposes of subsection (1B)(a) above are that—
- (a) he was transferred to the reserve in time to be called out for permanent service starting on the relevant date; and

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(b) he was so called out on the authority of the call-out order which justified his retention in service. ”

(3) After subsection (6) of section 9 there shall be inserted the following subsection—

“(6A) Where a soldier is retained in service by virtue of this section but would otherwise have fallen to be transferred to the reserve—

- (a) any period for which he is liable to serve in the reserve after the completion of his army service shall be reduced by the period for which he is so retained; and
- (b) the period for which he is so retained shall be treated as a period of relevant service for the purposes of any provision of Part IV, V, VI or VII of the Reserve Forces Act 1996. ”

(4) In subsection (1) of section 10, for the words from “men” to the end there shall be substituted the words “a call-out order under section 52 of the Reserve Forces Act 1996 authorising the call out of members of the reserve is in force”.

2 The Army Act 1955 shall continue to apply without the amendments made by paragraph 1 in relation to any soldier who is in service immediately before the date on which that paragraph comes into force unless—

- (a) he re-enters, re-engages or extends his army service after that day; or
- (b) he elects irrevocably in such manner as may be prescribed to be a person to whom that Act shall apply with those amendments.

The Royal Marines

3 (1) Paragraphs 4A (postponement of transfer to Royal Fleet Reserve or discharge) and 4B (continuation of service in Royal Marines in imminent national danger) of Schedule 7 to the Army Act 1955 (provisions as to Royal Marines) shall be amended as follows.

(2) For sub-paragraphs (1) to (4) of paragraph 4A there shall be substituted the following sub-paragraphs—

“(1) This paragraph applies to a marine serving in the Royal Marines if, on the relevant date, a call-out order under section 52, 54 or 56 of the Reserve Forces Act 1996 is in force authorising the call out for permanent service of members of the Royal Fleet Reserve.

For the purposes of this paragraph, “the relevant date”, in relation to a marine, means the date on which he would, apart from this paragraph, fall to be transferred to the Royal Fleet Reserve or he would be entitled to be discharged, as the case may be.

(1A) A marine to whom this paragraph applies may be retained in service in the Royal Marines after the relevant date in accordance with this paragraph for such period as the competent authority may order, and his service may be prolonged accordingly.

(1B) The period for which a marine may be retained in service after the relevant date by virtue of this paragraph shall be limited as follows, that is to say—

- (a) a marine who would otherwise have fallen to be transferred to the Royal Fleet Reserve may not be retained for longer than the period for which, if the assumptions mentioned in sub-

paragraph (1C) below are made in relation to him, he could have been required to serve on being called out under Part VI of the Reserve Forces Act 1996; or

- (b) a marine who would otherwise have been discharged may not be retained for longer than twelve months;

and a marine who is retained in service is (if not transferred or discharged sooner) entitled to be transferred to the Royal Fleet Reserve or discharged, as the case may require, at the end of whichever of the above periods applies to him.

(1C) The assumptions to be made in relation to a marine for the purposes of sub-paragraph (1B)(a) above are that—

- (a) he was transferred to the Royal Fleet Reserve in time to be called out for permanent service starting on the relevant date; and
- (b) he was so called out on the authority of the call-out order which justified his retention in service.”

(3) After sub-paragraph (6) of paragraph 4A there shall be inserted the following sub-paragraph—

“(6A) Where a marine is retained in service by virtue of this paragraph but would otherwise have fallen to be transferred to the Royal Fleet Reserve—

- (a) any period for which he is liable to serve in the Royal Fleet Reserve after the completion of his service in the Royal Marines shall be reduced by the period for which he is so retained; and
- (b) the period for which he is so retained shall be treated as a period of relevant service for the purposes of any provision of Part IV, V, VI or VII of the Reserve Forces Act 1996.”

(4) Sub-paragraph (8) of paragraph 4A shall cease to have effect.

(5) In sub-paragraph (1) of paragraph 4B, for the words from “men” to the end there shall be substituted the words “a call-out order under section 52 of the Reserve Forces Act 1996 authorising the call out of members of the Royal Fleet Reserve is in force”.

4 The Army Act 1955 shall continue to apply without the amendments made by paragraph 3 in relation to any marine who is in service immediately before the date on which that paragraph comes into force unless—

- (a) he re-enters, re-engages or extends his service in the Royal Marines after that day; or
- (b) he elects irrevocably in such manner as may be prescribed to be a person to whom that Act shall apply with those amendments.

The Royal Air Force

5 (1) Sections 9 (postponement of transfer to the reserve or discharge) and 10 (continuation of air-force service in imminent national danger) of the Air Force Act 1955 shall be amended as follows.

(2) For subsections (1) to (4) of section 9 there shall be substituted the following subsections—

“(1) This section applies to an airman of the regular air force if, on the relevant date, a call-out order under section 52, 54 or 56 of the Reserve Forces Act

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1996 is in force authorising the call out for permanent service of members of the reserve.

For the purposes of this section, “the relevant date”, in relation to an airman, means the date on which he would, apart from this section, fall to be transferred to the reserve or he would be entitled to be discharged, as the case may be.

(1A) An airman to whom this section applies may be retained in air-force service after the relevant date in accordance with this section for such period as the competent air-force authority may order, and his service may be prolonged accordingly.

(1B) The period for which an airman may be retained in service after the relevant date by virtue of this section shall be limited as follows, that is to say—

- (a) an airman who would otherwise have fallen to be transferred to the reserve may not be retained for longer than the period for which, if the assumptions mentioned in subsection (1C) below are made in relation to him, he could have been required to serve on being called out under Part VI of the Reserve Forces Act 1996; or
- (b) an airman who would otherwise have been discharged may not be retained for longer than twelve months;

and an airman who is retained in service is (if not transferred or discharged sooner) entitled to be transferred to the reserve or discharged, as the case may require, at the end of whichever of the above periods applies to him.

(1C) The assumptions to be made in relation to an airman for the purposes of subsection (1B)(a) above are that—

- (a) he was transferred to the reserve in time to be called out for permanent service starting on the relevant date; and
- (b) he was so called out on the authority of the call-out order which justified his retention in service. ”

(3) After subsection (6) of section 9 there shall be inserted the following subsection—

“(6A) Where an airman is retained in service by virtue of this section but would otherwise have fallen to be transferred to the reserve—

- (a) any period for which he is liable to serve in the reserve after the completion of his air-force service shall be reduced by the period for which he is so retained; and
- (b) the period for which he is so retained shall be treated as a period of relevant service for the purposes of any provision of Part IV, V, VI or VII of the Reserve Forces Act 1996. ”

(4) In subsection (1) of section 10, for the words from “men” to the end there shall be substituted the words “a call-out order under section 52 of the Reserve Forces Act 1996 authorising the call out of members of the reserve is in force”.

6 The Air Force Act 1955 shall continue to apply without the amendments made by paragraph 5 in relation to any airman who is in service immediately before the date on which that paragraph comes into force unless—

- (a) he re-enters, re-engages or extends his air-force service after that day; or
- (b) he elects irrevocably in such manner as may be prescribed to be a person to whom that Act shall apply with those amendments.

The Royal Navy

7 (1) Sections 4 (postponement of transfer to Royal Fleet Reserve or discharge) and 5 (continuation of service in Royal Navy in imminent national danger) of the Armed Forces Act 1966 shall be amended as follows.

(2) For subsections (1) to (4) of section 4 there shall be substituted the following subsections—

“(1) This section applies to a rating if, on the relevant date, a call-out order under section 52, 54 or 56 of the Reserve Forces Act 1996 is in force authorising the call out for permanent service of members of the Royal Fleet Reserve.

For the purposes of this section, “the relevant date”, in relation to a rating, means the date on which he would, apart from this section, fall to be transferred to the Royal Fleet Reserve or he would be entitled to be discharged, as the case may be.

(1A) A rating to whom this section applies may be retained in service in the Royal Navy after the relevant date in accordance with this section for such period as the competent authority may order, and his service may be prolonged accordingly.

(1B) The period for which a rating may be retained in service after the relevant date by virtue of this section shall be limited as follows, that is to say—

- (a) a rating who would otherwise have fallen to be transferred to the Royal Fleet Reserve may not be retained for longer than the period for which, if the assumptions mentioned in subsection (1C) below are made in relation to him, he could have been required to serve on being called out under Part VI of the Reserve Forces Act 1996; or
- (b) a rating who would otherwise have been discharged may not be retained for longer than twelve months;

and a rating who is retained in service is (if not transferred or discharged sooner) entitled to be transferred to the Royal Fleet Reserve or discharged, as the case may require, at the end of whichever of the above periods applies to him.

(1C) The assumptions to be made in relation to a rating for the purposes of subsection (1B)(a) above are that—

- (a) he was transferred to the Royal Fleet Reserve in time to be called out for permanent service starting on the relevant date; and
- (b) he was so called out on the authority of the call-out order which justified his retention in service.”

(3) After subsection (6) of section 4 there shall be inserted the following subsection—

“(6A) Where a rating is retained in service by virtue of this section but would otherwise have fallen to be transferred to the Royal Fleet Reserve—

- (a) any period for which he is liable to serve in the Royal Fleet Reserve after the completion of his service in the Royal Navy shall be reduced by the period for which he is so retained; and
- (b) the period for which he is so retained shall be treated as a period of relevant service for the purposes of any provision of Part IV, V, VI or VII of the Reserve Forces Act 1996.”

- (4) Subsection (9) of section 4 shall cease to have effect.
- (5) In subsection (1) of section 5, for the words from “men” to the end there shall be substituted the words “a call-out order under section 52 of the Reserve Forces Act 1996 authorising the call out of members of the Royal Fleet Reserve is in force”.
- 8 The Armed Forces Act 1966 shall continue to apply without the amendments made by paragraph 7 in relation to any rating who is in service immediately before the date on which that paragraph comes into force unless—
- (a) he re-enters, re-engages or extends his service in the Royal Navy after that day; or
 - (b) he elects irrevocably in such manner as may be prescribed to be a person to whom that Act shall apply with those amendments.