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## SCHEDULES

### SCHEDULE 14

Section 358

#### AMENDMENTS RELATING TO RESERVE FORCES

VALID FROM 28/03/2009

#### *Reserve Forces Act 1980 (c. 9)*

- 1 In section 10 of the Reserve Forces Act 1980 (call out for national danger) omit subsection (5).
- 2 In section 11(2)(a) of that Act (call out for warlike operations), for “regular air force” substitute “ Royal Air Force ”.
- 3 In section 18(2) of that Act (permanent service call out of Army Reserve) omit paragraph (b).
- 4 In section 19 of that Act (duration of Army Reserve permanent service)—
  - (a) omit subsection (4);
  - (b) in subsection (5) for “subsections (3) and (4) above” substitute “ subsection (3) ”.
- 5 In section 19A of that Act (postponement of discharge of members of Army Reserve during call out), for subsection (7) substitute—

“(7) In subsections (3) to (5)—  
“the competent military authority” means the Defence Council or any officer of a description prescribed by regulations of the Defence Council;  
“prescribed” means prescribed by regulations of the Defence Council.”
- 6 In section 21 of that Act (duration of Air Force Reserve permanent service)—
  - (a) omit subsection (4);
  - (b) in subsection (5) for “subsections (3) and (4) above” substitute “ subsection (3) ”.
- 7 In section 21A of that Act (postponement of discharge of members of Royal Air Force Reserve during call out), for subsection (7) substitute—

“(7) In subsections (3) to (5)—  
“the competent air force authority” means the Defence Council or any officer of a description prescribed by regulations of the Defence Council;  
“prescribed” means prescribed by regulations of the Defence Council.”

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- |    |   |
|----|---|
| 8  | Omit section 24 of that Act (permanent service call out of Ulster Defence Regiment).  |
| 9  | Omit section 25 of that Act (emergency service call out of Ulster Defence Regiment).  |
| 10 | In section 26(2) of that Act (call out notices), omit paragraph (g).  |
| 11 | In section 30(2) of that Act (liability of naval and marine pensioners to recall), for “The enactments concerning” substitute “ Provision made under section 331 of the Armed Forces Act 2006 that applies in relation to ”.  |
| 12 | <p>(1) Section 31 of that Act (liability of army and air force pensioners to recall) is amended as follows.</p> <p>(2) In subsection (6)—</p> <p style="padding-left: 20px;">(a) in the definition of “service pension”—</p> <p style="padding-left: 40px;">(i) for “regular forces” substitute “ regular army ”;</p> <p style="padding-left: 40px;">(ii) for “regular air force” substitute “ Royal Air Force ”;</p> <p style="padding-left: 20px;">(b) for the words from “and other expressions” to the end substitute—</p> <p style="padding-left: 40px;">““soldier” and “airman” include a warrant officer and a non-commissioned officer.”</p> <p>(3) In subsection (7) for “those sections” substitute “ this section and section 32 ”.</p>  |
| 13 | <p>(1) Section 32 of that Act (occasion for and period of recall under section 31) is amended as follows.</p> <p>(2) In subsection (3)—</p> <p style="padding-left: 20px;">(a) in paragraph (a) for “regular forces or the regular air force” substitute “ regular army or the Royal Air Force ”;</p> <p style="padding-left: 20px;">(b) in paragraph (b) for the words from “section 2 of the Army” to “require” substitute “ regulations under section 328 of the Armed Forces Act 2006 ”.</p> <p>(3) In subsection (4)(a) for “as from which a person is recalled for” substitute “ the person is accepted (by virtue of section 36) into ”.</p> <p>(4) For subsection (5) substitute—</p> <p style="padding-left: 20px;">“(5) No regulation under section 329 of the Armed Forces Act 2006 as to the term for which a person may be enlisted affects the operation of subsections (3) and (4) of this section.”</p> |
| 14 | <p>In section 34(3) of that Act (liability of certain former soldiers to recall)—</p> <p style="padding-left: 20px;">(a) for “regular forces within the meaning of the Army Act 1955” substitute “ regular army ”;</p> <p style="padding-left: 20px;">(b) in paragraph (a) for “specified in the notice” substitute “ he is accepted into service ”.</p>  |
| 15 | In section 39(1)(a) of that Act (application of section 38) for “regular air force” substitute “ Royal Air Force ”.   |
| 16 | Omit section 44 of that Act (requirement as to training of Ulster Defence Regiment).  |
| 17 | In section 48 of that Act (void enlistment in the regular forces)—  |

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- (a) in the sidenote, for “regular forces” substitute “ Royal Marines or regular army ”;
- (b) for “Her Majesty's regular forces” substitute “ the Royal Marines or the regular army ”.
- 18 Omit section 139 of that Act (enrolment etc of members of Ulster Defence Regiment).
- 19 In section 140 of that Act (orders and regulations as to service in Ulster Defence Regiment)—
- (a) in the sidenote, for “acceptance and service” substitute “ pensions and other grants ”;
- (b) for subsections (1) and (2) substitute—
- “(1) The conditions as to pensions and other grants in respect of death or disablement arising out of service in the Ulster Defence Regiment shall be such as may be prescribed by orders or regulations.
- (1A) The reference in subsection (1) to service in the Ulster Defence Regiment includes service in the regular army by a relevant person during the relevant period.
- (1B) In subsection (1A)—
- “regular army” has the meaning given by section 374 of the Armed Forces Act 2006;
- “relevant person” means a person who, immediately before 1 July 1992, was a member of the Ulster Defence Regiment;
- “relevant period”, in relation to a relevant person, means the period beginning with 1 July 1992 and ending at the end of his term of service which was current on that date.”;
- (c) in subsection (3)—
- (i) for “Part of this Act” substitute “ section ”;
- (ii) in the words after paragraph (b) for “Part” substitute “ section ”.
- 20 Omit sections 141 to 144 of that Act (provisions relating to Ulster Defence Regiment).
- 21 In section 145 of that Act (reinstatement in civil employment) omit subsection (2).
- 22 In section 146 of that Act (protection of other civil interests) omit subsection (2).
- 23 (1) Section 156 (interpretation) is amended as follows.
- (2) In subsection (1)—
- (a) in the definition of “prescribed” after “ “prescribed”” insert “ (except in subsections (3) to (5) and (7) of sections 19A and 21A and in section 140) ”;
- (b) omit the definition of “regular air force”;
- (c) for the definition of “regular army” substitute—
- ““the regular army” has the meaning given by section 374 of the Armed Forces Act 2006.”
- (3) Omit subsection (2).

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- 24 (1) Schedule 8 to that Act (saving and transitional provisions) is amended as follows.
- (2) Omit paragraph 5(3).
- (3) Omit paragraph 10.
- (4) In paragraph 16—
- (a) omit sub-paragraph (2);
  - (b) omit sub-paragraph (5);
  - (c) in sub-paragraph (9) for “regular forces or for the regular air force” substitute “regular army or for the Royal Air Force”.
- (5) Omit paragraph 19.

*Reserve Forces Act 1996 (c. 14)*

VALID FROM 28/03/2009

- 25 In section 2(2)(a) of the Reserve Forces Act 1996 (membership of the reserve forces), for the words from “the Army Act 1955” to the end substitute “regulations made under section 331 of the Armed Forces Act 2006;”.

VALID FROM 28/03/2009

- 26 In section 4(1)(b) of that Act (orders and regulations concerning reserve forces), after “force” insert “ (except pay, bounty and allowances) ”.

VALID FROM 28/03/2009

- 27 Omit section 7 of that Act (provision with respect to pay, bounty and allowances).

VALID FROM 28/03/2009

- 28 In section 13(7) of that Act (transfer of non-officers between reserve forces), for the words from “by or under” to the end substitute “ under the Armed Forces Act 2006. ”

VALID FROM 28/03/2009

- 29 In section 15(1) of that Act (discharge by commanding officer) for the words “A commanding officer” to “his command,” substitute “ A man of a reserve force may be discharged by his commanding officer ”.

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VALID FROM 28/03/2009

30 In section 24(2) of that Act (commitment to a period of full-time service) omit paragraph (b).

VALID FROM 28/03/2009

31 In section 25(2) of that Act (additional duties commitments)—  
(a) omit paragraph (a);  
(b) in paragraph (b), for “while subject to service law, shall” substitute “shall, from any time specified in the commitment as the time at which he is to begin that period of duty until released from duty, ”.

VALID FROM 28/03/2009

32 In section 27 of that Act (voluntary training and other duties) omit subsection (3).

33 In each of sections 53, 55 and 57 of that Act (maximum duration of service on call-out), in subsection (8)—  
(a) at the end of paragraph (a) insert “ or ”;  
(b) omit paragraph (b).

#### Commencement Information

**II** Sch. 14 para. 33 in force at 15.10.2007 by S.I. 2007/2913, art. 2

34 After section 53 of that Act insert—

#### “53A Agreement to alter limits in section 53

- (1) This section applies to a person if—
  - (a) he is not in service under a call-out order under section 52; and
  - (b) if accepted into service under such a call-out order, he would be immediately entitled to release under section 53(6) or (10).
- (2) The person may agree in writing that, if he is accepted into service under a call-out order under section 52, in calculating when he is entitled to be released by virtue of section 53(6) or (10) any service of his under this Part or Part 4, 5 or 7 that occurred before he entered into the agreement is to be treated as not having occurred.
- (3) An agreement under subsection (2) may also provide that, if the person is accepted into service under a call-out order under section 52, section 53 shall apply in his case as if for the period of 3 years specified in subsection (6) there were substituted a shorter period specified in the agreement.
- (4) If an order under section 53(11) applies in relation to the person, subsection (3) above has effect as if the reference to the period of 3 years were to the period of 5 years.”

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**Commencement Information**

**I2** Sch. 14 para. 34 in force at 15.10.2007 by S.I. 2007/2913, art. 2

35 After section 55 of that Act insert—

**“55A Agreement to alter limits in section 55**

- (1) This section applies to a person if—
  - (a) he is not in service under a call-out order under section 54; and
  - (b) if accepted into service under such a call-out order, he would be immediately entitled to release under section 55(6) or (10).
- (2) The person may agree in writing that, if he is accepted into service under a call-out order under section 54, in calculating when he is entitled to be released by virtue of section 55(6) or (10) any service of his under this Part or Part 4, 5 or 7 that occurred before he entered into the agreement is to be treated as not having occurred.
- (3) An agreement under subsection (2) may also provide that, if the person is accepted into service under a call-out order under section 54, section 55 shall apply in his case as if for the period of 12 months specified in subsection (6) there were substituted a shorter period specified in the agreement.
- (4) If an order under section 55(11) applies in relation to the person, subsection (3) above has effect as if the reference to the period of 12 months were to the period of 2 years.”

**Commencement Information**

**I3** Sch. 14 para. 35 in force at 15.10.2007 by S.I. 2007/2913, art. 2

36 After section 57 of that Act insert—

**“57A Agreement to alter limits in section 57**

- (1) This section applies to a person if—
  - (a) he is not in service under a call-out order under section 56; and
  - (b) if accepted into service under such a call-out order, he would be immediately entitled to release under section 57(6) or (10).
- (2) The person may agree in writing that, if he is accepted into service under a call-out order under section 56, in calculating when he is entitled to be released by virtue of section 57(6) or (10) any service of his under this Part or Part 4, 5 or 7 that occurred before he entered into the agreement is to be treated as not having occurred.
- (3) An agreement under subsection (2) may also provide that, if the person is accepted into service under a call-out order under section 56, section 57 shall apply in his case as if for the period of 9 months specified in subsection (6) there were substituted a shorter period specified in the agreement.”

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#### Commencement Information

**14** Sch. 14 para. 36 in force at 15.10.2007 by S.I. 2007/2913, art. 2

VALID FROM 28/03/2009

37 In section 66(2)(b) of that Act (persons who may be recalled) for “regular air force” substitute “ Royal Air Force ”.

VALID FROM 28/03/2009

38 In section 72 of that Act (release and discharge from service under recall order) omit subsections (5) and (6).

VALID FROM 28/03/2009

39 (1) Section 95 of that Act (offences against orders and regulations under section 4) is amended as follows.

(2) In subsection (1)—

- (a) omit paragraph (b);
- (b) in the words after paragraph (e), omit “triable by court-martial or summarily by a civil court”.

(3) After that subsection insert—

“(1A) A member of a reserve force (“A”) commits an offence if—

- (a) a superior officer (“B”), in pursuance of orders or regulations under section 4, is acting in the execution of his office;
- (b) A's behaviour towards B is threatening or disrespectful; and
- (c) A knows or has reasonable cause to believe that B is a superior officer.

(1B) For the purposes of subsection (1A)—

- (a) “superior officer” has the same meaning as in the Armed Forces Act 2006;
- (b) section 11(3) of that Act (meaning of “behaviour” and “threatening”) applies.

(1C) An offence under this section is triable summarily by a civil court (as well as being triable by the Court Martial).”

(4) In subsection (2)—

- (a) in paragraph (a) for the words from “court-martial” to the end substitute “the Court Martial—
  - (i) in the case of an offence under subsection (1)(a) or (e) or (1A), to any punishment mentioned in rows 5 to 12 of the Table in section 164 of the Armed Forces Act 2006;



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(ii) in the case of an offence under subsection (1)(c) or (d), to any punishment mentioned in that Table, but any sentence of imprisonment or service detention imposed in respect of the offence must not exceed 51 weeks;”;

(b) in paragraph (b)(i)—

(i) omit “, (b),”;

(ii) after “(e)” insert “ or (1A) ”.

(5) For subsection (3) substitute—

“(2A) For the purposes of determining the Court Martial's powers when sentencing an offender to whom Part 2 of Schedule 3 to the Armed Forces Act 2006 applies (ex-servicemen etc) for an offence under subsection (1) (a) or (e) or (1A), subsection (2)(a)(i) has effect as if the reference to rows 5 to 12 were to rows 5 to 10.”

VALID FROM 28/03/2009

- 40 (1) Section 96 of that Act (failure to attend for service on call out or recall) is amended as follows.
- (2) In subsection (1), for the words (after paragraph (c)) from “is guilty” to the end substitute “ 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). ”
- (3) In subsection (3) for the words from “by court-martial” to the end substitute “ summarily by a civil court (as well as being triable by the Court Martial). ”

VALID FROM 28/03/2009

- 41 (1) Section 97 of that Act (failure to attend for duty or training) is amended as follows.
- (2) In subsection (1), for the words (after paragraph (b)) from “is guilty” to the end substitute “ 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). ”
- (3) In subsection (3) for the words from “by court-martial” to the end substitute “ summarily by a civil court (as well as being triable by the Court Martial). ”

VALID FROM 28/03/2009

- 42 (1) Section 98 of that Act (trial and punishment of offences of desertion or absence without leave) is amended as follows.
- (2) In subsection (1)—
- (a) for the words from “section 37” to “1957” substitute “ section 8 or 9 of the Armed Forces Act 2006 ”;



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(b) for “as well as by court-martial” substitute “ (as well as being triable by the Court Martial) ”.

(3) In subsection (2)—

(a) for “court-martial” substitute “ the Court Martial ”;

(b) for the words from “service law” to the end substitute “ section 8 or 9 (as the case may be) of the Armed Forces Act 2006. ”

(4) In subsection (3)(b) for “service law of desertion or absence without leave” substitute “ section 8 or 9 of the Armed Forces Act 2006 ”.

(5) In subsection (4)(a)—

(a) for “court-martial” substitute “ the Court Martial ”;

(b) for “service law of absence without leave” substitute “ section 9 of the Armed Forces Act 2006 ”.

(6) Omit subsection (5).

(7) After subsection (6) insert—

“(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.”

VALID FROM 28/03/2009

43

Omit section 99 of that Act (false pretence of illegal absence).

VALID FROM 28/03/2009

44

For section 100 of that Act (arrest of deserters etc) substitute—

**“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.”

VALID FROM 28/03/2009

45 Omit section 102 of that Act (record of illegal absence).

VALID FROM 28/03/2009

46 In section 104 of that Act, omit subsection (3).

VALID FROM 28/03/2009

47 (1) Section 105 of that Act (trial of offences by civil court) is amended as follows.

(2) In subsection (1) for “which is triable by court-martial is also” substitute “ is (as well as being triable by the Court Martial) ”.

(3) Omit subsection (2).

(4) In subsection (3) for “an offence under service law (other than an offence of desertion or absence without leave)” substitute “ any service offence (other than an offence under this Act or an offence mentioned in section 98(1)) ”.

VALID FROM 28/03/2009

48 Omit section 106 of that Act.

VALID FROM 28/03/2009

49 In section 107 of that Act (time for institution of proceedings)—

(a) in subsection (1)—

(i) omit the words from “either—” to the end of paragraph (a);

(ii) for “under service law” substitute “ a service offence ”;

(b) after subsection (2) add—

“(3) Subsection (2) applies to proceedings for an offence under section 96(1) committed by a person liable to recall as it applies to proceedings mentioned in subsection (1) of this section.”

VALID FROM 28/03/2009

50 In section 108 of that Act (evidence) for subsections (1) and (2) substitute—

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“(1A) The Secretary of State may by regulations make provision with respect to evidence, including the admissibility of evidence, in proceedings before a civil court for an offence under this Act.

(1B) Regulations under subsection (1A) shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

VALID FROM 28/03/2009

51 Omit section 124 of that Act (exemption from tolls etc).

VALID FROM 28/03/2009

52 Omit section 126 of that Act (amendments relating to transfers to reserves etc).

VALID FROM 28/03/2009

53 (1) Section 127 of that Act (interpretation) is amended as follows.

(2) In subsection (1)—

- (a) omit the definition of “regular air force”;
- (b) for the definition of “regular army” substitute—

““the regular army” has the meaning given by section 374 of the Armed Forces Act 2006;”;

- (c) in the definition of “regular services” for “regular air force” substitute “Royal Air Force ”;
- (d) for the definition of “service law” substitute—

““service offence” has the meaning given by section 50 of the Armed Forces Act 2006;”.

(3) After subsection (2) add—

“(3) The officer who is the “commanding officer” of a person for the purposes of any provision of this Act shall be determined by or under regulations made by the Defence Council under this subsection.

(4) Section 164(2) and (3) of the Armed Forces Act 2006 apply in relation to section 95(2)(a) of, and paragraph 5(3) of Schedule 1 to, this Act.”

VALID FROM 28/03/2009

54 (1) Schedule 1 to that Act (enlistment) is amended as follows.

(2) For paragraph 2(1) substitute—

“(1) An enlisting officer shall not enlist a person under the age of 18 unless consent to the enlistment has been given in writing by—

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- (a) an appropriate person; or
  - (b) if the person offering to enlist is living with more than one appropriate person, each of those appropriate persons.
- (1A) In this paragraph “appropriate person” means, in relation to a person offering to enlist, a person with—
- (a) parental responsibility (within the meaning of the Children Act 1989 or the Children (Northern Ireland) Order 1995) for him; or
  - (b) parental responsibilities (within the meaning of section 1(3) of the Children (Scotland) Act 1995) in relation to him.”
- (3) In paragraph 2(2) for “appropriate minimum age” substitute “ age of 18 ”.
- (4) In paragraph 4(4) for “appropriate minimum age” substitute “ age of 18 ”.
- (5) In paragraph 5—
- (a) in sub-paragraph (1) omit “or recklessly”;
  - (b) in sub-paragraph (2) for “subject to service law” substitute “ a member of the reserve forces ”;
  - (c) in sub-paragraph (3) for the words from “has since” to the end substitute “ becomes a member of the reserve forces is liable on conviction by the Court Martial to any punishment mentioned in rows 2 to 12 of the Table in section 164 of the Armed Forces Act 2006. ”;
  - (d) after that sub-paragraph add—
    - “(4) For the purposes of determining the Court Martial's powers when sentencing an offender to whom Part 2 of Schedule 3 to the Armed Forces Act 2006 (ex-servicemen etc) applies for an offence under sub-paragraph (1), sub-paragraph (3) has effect as if the reference to rows 2 to 12 were to rows 2 to 10.
    - (5) Where an offence under sub-paragraph (1) is committed by a person within sub-paragraph (3), the time for which he is for the purposes of section 62 of the Armed Forces Act 2006 (time limits for charging) to be regarded as being a relevant reservist (within the meaning of that section) includes the period from (and including) the time he committed the offence to the time he became a member of the reserve forces.”
- (6) In paragraph 6(1) for “a court-martial” substitute “ the Court Martial ”.
- (7) Omit paragraph 7 and the heading before it.

VALID FROM 28/03/2009

55 Omit Schedule 2 to that Act (deserters and absentees without leave).

VALID FROM 28/03/2009

56 Omit Schedule 3 to that Act (evidence).

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VALID FROM 28/03/2009

57 Omit Schedule 7 to that Act (postponement of transfer to the reserves or discharge from the reserves).

VALID FROM 28/03/2009

58 In Part 2 of Schedule 9 to that Act (transitional provisions) omit paragraphs 22 and 23.

VALID FROM 28/03/2009

59 In Schedule 10 to that Act (minor and consequential amendments) omit paragraphs 1 to 13 and 23.

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