



# Police and Firemen (War Service) Act 1939

## 1939 CHAPTER 103

An Act to make provision with respect to constables I and firemen serving in His Majesty's forces during the period of the present emergency, to suspend the right of constables and firemen to retire on pension during that period, to provide that war injuries shall be deemed to be non-accidental injuries for the purpose of enactments and other instruments relating to the pensions of constables and firemen, to amend section sixteen of the Fire Brigade Pensions Act, 1925, and for purposes connected with the matters aforesaid. [7th September 1939.]

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

### *Civil Remuneration and Superannuation*

#### **1 Payments to make up amount of civil remuneration**

- (1) Where during the period of the present emergency a person serving as a constable or fireman ceases so to serve in order to serve in His Majesty's forces, the appropriate authority shall have power to make to or in respect of him such payments as are hereafter in this section provided.

Any such person is hereafter in this Act referred to as a person to whom this section applies.

- (2) While a person to whom this section applies is serving during the said period in His Majesty's forces, the appropriate authority may pay to him or to or for the benefit of his wife or other dependants nominated by him, a sum which shall not exceed the pay and allowances he would have received if he had continued to serve as a constable or fireman, after deducting therefrom the amount of his service pay.

- (3) On any such person ceasing to serve in His Majesty's forces, the appropriate authority may, for such period as the authority may determine having regard to all the circumstances of the case, but not in any case expiring later than one year after the end of the period of the present emergency, pay to him or to or for the benefit of his wife or other dependants nominated by him, a sum not greater than the pay and allowances he would have received if he had been serving as a constable or fireman.
- (4) Any payment made under this section to any person shall—
- (a) in the case of a constable, be made out of the fund out of which his pension would have been payable if he had continued to serve as a constable in the police force to which he belonged immediately before he ceased so to serve; and
  - (b) in the case of a fireman, be made out of the fund out of which there are paid the expenses of the fire brigade to which he belonged immediately before he ceased to serve as a fireman.

## 2 Reckoning of war service for purposes of superannuation

- (1) For the purposes of the appropriate pension enactment—
- (a) any period for which a person to whom section one of this Act applies serves in His Majesty's forces during the period of the present emergency; and
  - (b) any period for which payments are made to or in respect of any such person under subsection (3) of the said section one;

shall be treated as a period of approved service in the police force or fire brigade to which he belonged immediately before he ceased to serve as a constable or fireman in order to serve in His Majesty's forces :

Provided that no period before any such person attains the minimum age for approved service under the appropriate pension enactment shall be treated as a period of approved service.

- (2) For the purposes of sections nine and twenty of the Police Pensions Act, 1921, and sections seven and eighteen of the Fire Brigade Pensions Act, 1925 (which relate to discontinuous service and to a return of rateable deductions on retirement), a person to whom section one of this Act applies shall be deemed to have retired from or left the police force or fire brigade to which he belonged immediately before he ceased to serve as a constable or fireman, if and when, but not before, he fails to resume service as a constable or fireman at the end of the period which by virtue of subsection (1) of this section is treated as a period of approved service in his case, or within such further time from the end of that period as the appropriate authority may fix with the approval of the Secretary of State.

## 3 Rateable deductions

- (1) For any period for which—
- (a) payments are made to or in respect of any person to whom section one of this Act applies under subsection (2) or subsection (3) of that section; or
  - (b) the service pay of any such person is equal to or greater than the pay he would have received if he had continued to serve as a constable or fireman;

sums equal to the rateable deductions that would have been made from his pay under the appropriate pension enactment if he had continued to serve as a constable or

fireman shall be payable by him to the appropriate authority at the time when the deductions would in that event have been made.

- (2) For the purposes of paragraph (b) of the last foregoing subsection, the pay which any person would have received if he had continued to serve as a constable or fireman shall include—
  - (a) such of the allowances which he would have received in that event as the Secretary of State may by regulations prescribe; and
  - (b) in a case where, immediately before he ceased so to serve, he was in occupation of any premises by virtue of his service, the value of those premises assessed in such manner as may be so prescribed.
- (3) The sums payable under subsection (1) of this section by a person to whom section one of this Act applies shall be recovered by the appropriate authority either—
  - (a) by way of deduction from the sums which they are authorised under section one of this Act to pay to or in respect of him; or
  - (b) if and so far as they are not recovered by way of deduction as aforesaid, as a simple contract debt in any court of competent jurisdiction or by way of deduction from any grant payable to or in respect of him under the appropriate pension enactment or under that enactment as applied by this Act.

#### **4 Grants in case of death or incapacity**

- (1) If a person to whom section one of this Act applies (being a person who, in order to serve in His Majesty's forces, ceased to serve as a constable) dies either—
  - (a) while serving in His Majesty's forces during the period of the present emergency; or
  - (b) in consequence of wounds or disease received or contracted while so serving which prevented him from resuming his service as a constable;the appropriate pension enactment shall apply in relation to him as if he—
  - (i) had been serving at the time of his death in the police force to which he belonged immediately before he ceased to serve as a constable; and
  - (ii) had died otherwise than from the effects of an injury received in the execution of his duty :

Provided that where by virtue of the foregoing provisions of this subsection a pension or allowance is payable to any person, the appropriate authority may increase the amount thereof up to such amount as they think fit, not exceeding the maximum amount hereafter provided.

- (2) If a person to whom section one of this Act applies (being a person who, in order to serve in His Majesty's forces, ceased to serve as a fireman) dies either—
  - (a) while serving in His Majesty's forces during the period of the present emergency; or
  - (b) in consequence of wounds or disease received or contracted while so serving which prevented him from resuming his service as a fireman;the appropriate authority may if they think fit pay—
  - (i) a pension to his widow;
  - (ii) allowances to his children under sixteen years of age until they severally reach the age of sixteen years;

(iii) a gratuity to any relative of his who has been wholly or mainly dependent upon him;

of an amount not exceeding the maximum amount hereafter provided, and subject to the provisions of this section the provisions of the appropriate pensions enactment shall apply to any pension, allowance or gratuity granted under this subsection as they apply to any pension, allowance or gratuity granted under that enactment.

- (3) If a person to whom section one of this Act applies, after ceasing to serve in His Majesty's forces, is prevented, in consequence of wounds or disease received or contracted while so serving, from resuming his service as a constable or fireman, the appropriate pension enactment shall apply in relation to him as if he—
- (a) had become, while serving as a constable or fireman in the police force or fire brigade to which he belonged immediately before he ceased to serve as a constable or fireman, incapacitated for the performance of his duty by infirmity of mind or body otherwise than in consequence of an injury received in the execution of his duty; and
  - (b) had retired on a medical certificate, at the time when he ceased to serve in His Majesty's forces, from that police force or fire brigade :

Provided that—

- (i) where by virtue of the foregoing provisions of this subsection a gratuity is payable to any such person, the appropriate authority may, if they think fit, in lieu of paying him a gratuity, pay to him, under and subject to the provisions of the appropriate pension enactment, a pension of an amount not less than one-twelfth of his annual pay and not greater than the maximum amount hereafter provided; and
  - (ii) where by virtue of the said provisions of this subsection a pension is payable to any such person, the appropriate authority may, if they think fit, increase the amount of the pension up to such amount as they think fit, not exceeding the maximum amount hereafter provided.
- (4) The amount of any pension or allowance payable to any person for any period at the discretion of the appropriate authority by virtue of this section shall not, when aggregated with the amount of any grant which is also payable for that period to that person out of any naval, military or air force fund in pursuance of any royal warrant or other instrument, exceed—
- (a) in a case to which subsection (1) or (2) of this section applies, the amount which would have been payable to that person for that period under the appropriate pension enactment if the deceased had died from the effects of a non-accidental injury received in the execution of his duty as a constable or fireman without his own default; and
  - (b) in a case to which subsection (3) of this section applies, the amount which would have been payable to that person for that period if he had been incapacitated for the performance of his duty as a constable or fireman by infirmity of mind or body occasioned by an injury received in the execution of his duty without his own default.
- (5) Where the grant, the amount whereof for any period is to be aggregated for the purpose of the last foregoing subsection with the amount of a pension or allowance payable to any person for that period, is a gratuity, the amount of the grant for that period shall be taken to be the amount which would be payable for that period under Part I of the Government Annuities Act, 1929, if the gratuity had been laid out at the date when

it became payable in the purchase of an immediate annuity dependent on the life of that person.

- (6) For the purpose of this section, the appropriate authority may require such evidence as they think fit of the fact that a person to whom section one of this Act applies—
- (a) has died while serving in His Majesty's forces during the period of the present emergency; or
  - (b) has been prevented, in consequence of wounds or disease received or contracted while so serving, from resuming his service as a constable or fireman; or
  - (c) has died in consequence of such wounds or disease..
- (7) Where by virtue of any of the foregoing provisions of this section the amount of any pension, allowance or gratuity is to be determined, whether wholly or in part, at the discretion of the appropriate authority, that authority may from time to time revise their determination.

## **5 Reckoning of pay during war service**

For the purpose of calculating the amount of any grant or rateable deduction payable or deductible under the appropriate pension enactment in the case of a person to whom section one of this Act applies, he shall be deemed to have received as a constable or fireman, for any period for which—

- (a) he is serving in His Majesty's forces during the period of the present emergency; or
- (b) payments are made to or in respect of him under subsection (3) of section one of this Act;

the amount of the pay which he would have received for that period if he had continued to serve as a constable or fireman.

## **6 Act to be substituted for certain provisions relating to constables and firemen in the reserves**

- (1) In the case of a constable belonging to the naval reserves, the army reserve or the air force reserve, the foregoing provisions of this Act shall, in relation to his service as a member of that reserve during the period of the present emergency, have effect in lieu of—
- (a) the provisions of the Police Reservists (Allowances) Act, 1914, as amended by any subsequent enactment; and
  - (b) the provisions of section eleven of the Police Pensions Act, 1921.
- (2) In the case of a fireman belonging to any such reserve, the provisions of sections two to five of this Act shall, in relation to his service as a member of that reserve during the period of the present emergency, have effect in lieu of the provisions of section nine of the Fire Brigade Pensions Act, 1925.

## **7 Exception of certain firemen**

- (1) Nothing in the foregoing provisions of this Act shall apply to a fireman who, under subsection (2) of section twenty-four of the Fire Brigade Pensions Act, 1925, or under section seventeen of the Fire Brigades Act, 1938, gave a written notice that he desired

that the provisions of any scheme, or the provisions of the Local Government and Other Officers' Superannuation Act, 1922, should continue to apply to him.

- (2) Nothing in sections two to six of this Act shall apply to a fireman being—
- (a) a member of the London fire brigade; or
  - (b) a member of a fire brigade on whose death or retirement a grant is payable by virtue of a local Act containing provisions relating to that brigade; or
  - (c) a fireman as respects whom a scheme is in operation by virtue of paragraph (b) of subsection (1) of section twenty-four of the Fire Brigade Pensions Act, 1925;

but the following provisions of this subsection shall have effect as respects any such fireman who ceases to serve in any fire brigade in order to serve in His Majesty's forces—

- (i) the local authority maintaining that fire brigade shall, as soon as may be after the commencement of this Act, submit to the Secretary of State a scheme containing such amendments of the regulations, Act or scheme regulating the superannuation rights of members of that brigade as will secure that any such fireman shall, as nearly as may be, have the same rights and be under the same obligations as are conferred or imposed by the said sections of this Act on a fireman to whom the Fire Brigade Pensions Act, 1925, applies;
- (ii) the Secretary of State may by order approve, either with or without modifications, any scheme so submitted and when so approved the scheme shall be deemed to have had effect as from the commencement of this Act;
- (iii) any scheme approved under this subsection may be varied by a subsequent scheme submitted and approved in like manner.

### *Miscellaneous and General*

## **8 Constables on probation**

Where a person, having ceased during the period of the present emergency to serve as a constable on probation in order to serve in His Majesty's forces, resumes service as a constable during that period or within two months from the end of that period, he shall serve on probation for so much of his period of probation as was unexpired at the time when he ceased so to serve.

## **9 Constables need not be re-attested on resuming service**

Where a person, having ceased during the period of the present emergency to serve as a constable in order to serve in His Majesty's forces, resumes service as a constable during that period or within two months from the end of that period, it shall not be necessary for him, notwithstanding anything in any enactment, to make any declaration required to be made by him on accepting office as a constable.

## **10 Suspension of right to retire on pension**

- (1) Notwithstanding the provisions of any enactment, during the period of the present emergency—
- (a) no chief officer of a police force or fire brigade shall be entitled to retire on pension except with the consent of the appropriate authority; and

- (b) no other constable or fireman shall be entitled to retire on pension except with the consent of the chief officer of the police force or fire brigade to which he belongs.
- (2) Where before the commencement of this Act or during the period of the present emergency—
- (a) the chief officer of a police force or fire brigade has given or gives written notice to the appropriate authority of his desire to retire on pension in circumstances which, but for the provisions of this section, would entitle him so to retire; or
  - (b) any other constable or fireman has given or gives written notice to the chief officer of the police force or fire brigade to which he belongs of his desire to retire on pension in such circumstances as aforesaid;
- his right to retire at the end of the said period on a pension not less in amount than that to which he would have been entitled, had he retired on pension at the date when the notice was given, shall not be liable to forfeiture, except for such misconduct as would, had he been in receipt of a pension, have rendered the pension liable to forfeiture.
- (3) In this section—
- (a) the expressions " chief officer of a police force " and " chief officer of a fire brigade " have respectively the same meanings as in the Police Pensions Act, 1921, and the Fire Brigade Pensions Act, 1925; and
  - (b) the expression " retire on pension " means to retire without a medical certificate and receive a pension for life.

## **11 War injuries to be deemed non-accidental injuries**

For the purpose of the Police Pensions Act, 1921, and the Fire Brigade Pensions Act, 1925, and any other Act or any rules or scheme providing for the pensions of firemen, a war injury within the meaning of the Personal Injuries (Emergency Provisions) Act, 1939, shall be deemed to be a non-accidental injury.

## **12 Relief of firemen from suspension of pensions**

Notwithstanding anything in section sixteen of the Fire Brigade Pensions Act, 1925, a pension receivable by a person under that Act shall not be suspended for any period for which he takes temporary service in any capacity under a local authority during the period of the present emergency.

## **13 Provisions as to persons called out or under training**

- (1) The provisions of Articles 13, 15 and 27 of the Reserve and Auxiliary Forces (Consequential Provisions) Order, 1939, shall not apply with respect to any part of any person's period of service as a person called out which falls within the period of the present emergency.
- (2) The provisions of Articles 7 and 15 of the Military Training (Consequential Provisions) Order, 1939, shall not apply with respect to any part of any person's period of training which falls within the period of the present emergency.
- (3) Where any person at the beginning of the period of the present emergency is serving as a person called out or as a person under training, and immediately before he was

called out or immediately before the beginning of his period of training, as the case may be, he was serving as a constable or fireman, then—

- (a) he shall be deemed for the purposes of this Act to have ceased to serve as a constable or fireman immediately after the beginning of the period of the present emergency in order to serve in His Majesty's forces,- and
  - (b) in the case of a person who at the beginning of the period of the present emergency is serving as a person under training—
    - (i) if and when, but not before, he fails to resume service as a constable or fireman before the expiration of two months from the end of the period which by virtue of subsection (1) of section two of this Act is treated as a period of approved service in his case, he shall be deemed for the purposes of Article 7 of the Military Training (Consequential Provisions) Order, 1939, not to have resumed duty as a constable or fireman at the end of his period of training; and
    - (ii) in any other case he shall be deemed for the purposes of that Article to have resumed such duty at the end of his period of training.
- (4) In this section the expression " called out " has the same meaning as in the Reserve and Auxiliary Forces (Consequential Provisions) Order, 1939, and the expressions " person under training " and " period of training " have respectively the same meanings as in the Military Training (Consequential Provisions) Order, 1939.

## 14 Interpretation

In this Act the following expressions have the meanings hereby respectively assigned to them:—

" appropriate authority " means—

- (a) in relation to a person who is serving or has ceased to serve as a constable, the police authority within the meaning of the Police Pensions Act, 1921, for the police force of which he is or was a member; and
- (b) in relation to a person who is serving or has ceased to serve as a member of the London Fire Brigade, the London County Council; and
- (c) in relation to any other person who is serving or has ceased to serve as a fireman, the fire authority within the meaning of the Fire Brigades Act, 1938, for the fire brigade of which he is or was a member;

" appropriate pension enactment ", in relation to a person who has ceased to serve as a constable, means the Police Pensions Act, 1921, as amended by any subsequent enactment and, in relation to a person who has ceased to serve as a fireman, means the Fire Brigade Pensions Act, 1925, as amended by any subsequent enactment;

" constable " means a member of a police force within the meaning of the Police Pensions Act, 1921:

" fireman " means a professional fireman as defined by paragraph (2) of section twenty-three of the Fire Brigade Pensions Act, 1925, as amended by any subsequent enactment;

" grant ", unless the context otherwise requires, means a pension, allowance or gratuity;

" period of the present emergency " means the period beginning with the first day of September nineteen hundred and thirty-nine and ending with such day as His Majesty may by Order in Council declare to be the date on which the emergency that was the occasion of the passing of this Act came to an end;



" service pay ", in relation to any person, means his pay (including marriage, family and other similar allowances) in respect of his service in or with His Majesty's forces during the period of the present emergency.

**15 Provision as to Northern Ireland**

Notwithstanding anything in the Government of Ireland Act, 1920, the Parliament of Northern Ireland shall have power to make laws in respect of members of a police force or fire brigade in Northern Ireland for purposes similar to the purposes of this Act.

**16 Short title, commencement and extent**

- (1) This Act may be cited as the Police and Firemen (War Service) Act, 1939.
- (2) This Act shall be deemed to have come into operation at the commencement of the period of the present emergency.
- (3) No provision of this Act except the provisions of the last foregoing section shall extend to Northern Ireland.