



# Reserve Forces Act 1996

## 1996 CHAPTER 14

### PART VII

#### RECALL FOR SERVICE OF OFFICERS AND FORMER SERVICEMEN

##### *Liability to be recalled for service*

#### **65 Liability of officers and former servicemen to be recalled**

- (1) Persons to whom section 66 applies are liable, in accordance with this Part, to be recalled for service when any recall order which authorises their recall is in force.
- (2) A person who is recalled for service as a man of any of the regular services shall, while in service under the recall order concerned, be deemed to be enlisted in the regular service concerned.
- (3) A person who has been released or discharged from a period of service under a recall order may, subject to the provisions of this Act, be recalled again on the authority of the same or any other recall order.
- (4) Any question whether a person may be recalled on the authority of a recall order shall be determined by reference to the circumstances at the time he is served with a recall notice or, if he is accepted into service under section 71(5), when he is accepted into service.
- (5) The numbers of persons who are recalled for service under a recall order shall not be reckoned in any numbers for the time being authorised by Parliament for any of the regular services.

#### **66 Persons who may be recalled under Part VII**

- (1) This section applies to any person not serving in the regular services or the reserve forces who—
  - (a) holds a commission as an officer; or

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- (b) has served as a man in the regular services and has not become an officer since being discharged or transferred to the reserve from the regular services, unless he is excluded (whether permanently or temporarily) by any provision of this section.
- (2) This section does not apply to any person falling within subsection (1)(b)—
- (a) after he has attained the age of 55;
  - (b) in the case of a person who was discharged or transferred to the reserve from the regular army or the regular air force, after the end of the period of 18 years beginning with the day on which he was so discharged or transferred; or
  - (c) in the case of a person who was discharged or transferred to the reserve from the Royal Navy or the Royal Marines, after the end of the period of 6 years beginning with the day on which he was so discharged or transferred.
- (3) The re-enlistment of a person falling within subsection (1)(b) in the regular services shall prevent or, as the case may be, shall terminate any application of this section to him by reference to an earlier discharge or transfer to the reserve.
- (4) References to discharge or transfer to the reserve in subsections (1) and (2)—
- (a) do not include discharge from a period of permanent service under a recall order; and
  - (b) in relation to a man who has been discharged or transferred to the reserve more than once, refer to his most recent discharge or transfer.
- (5) This section does not apply to any person who is permanently exempted, or to any person while he is temporarily exempted, from all liability to be recalled under this Part—
- (a) by regulations made by virtue of section 73; or
  - (b) by an exemption granted on an application made under regulations under section 79.
- (6) Subject to any election made under subsection (7), this section does not apply to any person who—
- (a) became an officer before the day on which this Part comes into force, or
  - (b) enlisted in the regular services before that day and has not re-enlisted, re-engaged or extended his service in the regular services, or become an officer, on or after that day.
- (7) A person falling within paragraph (a) or (b) of subsection (6) may, with the consent of an authorised officer, irrevocably elect in such manner as may be prescribed not to be excluded from the operation of this section by virtue of that subsection.
- (8) An election under subsection (7) may be made by a person who is serving in the regular forces or the reserve forces as well as a person who is not so serving; and any election is without prejudice to the subsequent operation of subsections (1) to (5) in relation to the person concerned.

## **67 Geographical extent of liability to service on recall**

- (1) A person who is recalled shall, subject to the following provisions of this section, be liable to serve anywhere in the world.

- (2) A person who, when he was last discharged or transferred to the reserve from the regular services, was liable only for service within the United Kingdom or any area of the United Kingdom, shall not be liable to serve outside the United Kingdom or, as the case may be, that area on being recalled.
- (3) A person whose liability for service on recall is restricted as mentioned in subsection (2) may elect irrevocably in such manner as may be prescribed to be liable for worldwide service—
  - (a) whenever he is recalled for service;
  - (b) during any period of service (including a current period of service) under a recall order specified in the election.
- (4) Subsection (2) shall not apply—
  - (a) to any person who makes an election under subsection (3)(a), or
  - (b) in relation to a period of service covered by the election, to a person who makes an election under subsection (3)(b).
- (5) A person who is serving in the regular services or the reserve forces may make an election under subsection (3) before that service ceases.

*Power to authorise recall*

**68 Recall for national danger, great emergency or attack on the UK**

- (1) Her Majesty may make an order authorising the recall under this Part of persons to whom section 66 applies—
  - (a) if it appears to Her that national danger is imminent or that a great emergency has arisen; or
  - (b) in the event of an actual or apprehended attack on the United Kingdom.
- (2) A recall order authorises, subject to subsection (3), the recall of any person to whom section 66 applies or, if the order is so limited, any such person who is of a description specified in the order.
- (3) A recall order does not authorise the recall of any person to whom section 66 applies who is not liable to be recalled under the order by virtue of regulations made by virtue of section 73 or an exemption granted on an application under regulations under section 79.
- (4) A recall order shall have effect (subject to any order under subsection (5)) until it is revoked.
- (5) Her Majesty may make an order providing that any recall order shall cease to authorise the recall of any person who is not in service under the order.
- (6) An order under subsection (5) shall not affect the operation of any recall notice which is served on any person on the authority of the recall order concerned before the day on which the order under that subsection is made.
- (7) Her Majesty may make an order revoking any recall order (whether or not its effect has already been limited by an order under subsection (5)).
- (8) Where an order under subsection (7) revoking a recall order is made—

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- (a) the recall order shall cease to authorise the recall of anyone who could otherwise be recalled on the authority of the recall order (including anyone served with a recall notice before the order under subsection (7) is made who has not been accepted into service); and
  - (b) anyone in service under the recall order shall be entitled to be released or discharged from that service.
- (9) A recall order, or an order under subsection (5) or (7), shall be signified under the hand of the Secretary of State and the making of any such order shall be reported forthwith to each House of Parliament.
- (10) If, when a recall order is made, Parliament is separated by an adjournment or prorogation which will not expire within 5 days—
- (a) a proclamation shall be issued for the meeting of Parliament within 5 days; and
  - (b) Parliament shall meet and sit upon the day appointed by the proclamation and shall continue to sit and act as if it had stood adjourned or prorogued to that day.

## **69 Maximum duration of service on recall**

- (1) This section applies for the purpose of determining when persons in service under a recall order (“the recall order”) are entitled to be released from service (in the case of officers) or discharged (in the case of men).
- (2) A person is (if not released or discharged sooner) entitled to be released from service or discharged when his current service under the recall order, or his current service and any relevant service in aggregate, exceeds 3 years.
- (3) A person in service under the recall order may enter into a written agreement consenting to the extension of his period of service—
- (a) beyond the day on which he is entitled to be released or discharged by virtue of subsection (2); or
  - (b) beyond the day on which, by virtue of a subsisting agreement under this subsection, he is entitled to be released or discharged by virtue of subsection (5),
- until the end of such period, not exceeding 12 months, as may be specified in the agreement.
- (4) An agreement under subsection (3) may not be entered into at any time—
- (a) when the person concerned could not be served with a recall notice on the authority of the order or any other recall order; or
  - (b) more than 12 months before the day on which (apart from the agreement) he is entitled to be released or discharged by virtue of subsection (2) or subsection (5).
- (5) A person who has entered into an agreement under subsection (3)—
- (a) shall no longer be entitled to be released or discharged on the day on which, apart from the agreement, he is so entitled by virtue of subsection (2) or, as the case may be, paragraph (b) of this subsection; and
  - (b) is entitled to be released from service or discharged at the end of the period specified in the agreement as the period for which his service is being extended.

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- (6) Her Majesty may by order signified under the hand of the Secretary of State provide that, in the case of such descriptions of person as may be specified in the order, subsection (2) shall apply as if for the words “3 years” there were substituted “5 years”.
- (7) The making of an order under subsection (6) shall be reported forthwith to each House of Parliament.
- (8) In this section “relevant service” means any service under this Part, or under Part IV, V or VI, within the 6 years immediately preceding the day on which a person’s current service under the recall order began.

### *Recall for permanent service*

## **70 Recall of persons on authority of recall order**

- (1) Where a recall order is in force, the Secretary of State may recall any person who is liable to be recalled on the authority of that order by serving a notice on him requiring him—
  - (a) to present himself for service at a specified time and place; and
  - (b) to remain at that place until he is either accepted into service or informed that he is not to be accepted into service in pursuance of the notice.
- (2) A recall notice shall also require the person concerned, if he fails to comply with the requirements mentioned in subsection (1)—
  - (a) to present himself for service to any person specified in the notice or to any other authorised officer; and
  - (b) having so presented himself, to remain until he is either accepted into service or informed that he is not to be accepted into service in pursuance of the notice.
- (3) A recall notice served on a person shall specify—
  - (a) the person to whom it applies;
  - (b) the recall order which authorises his recall; and
  - (c) the time and place at which the person is to present himself for service under that order;and it may also specify places and times at which and persons to whom that person may present himself for service if he fails to comply with the requirement to present himself at the time and place specified in paragraph (c) of this subsection.
- (4) A recall notice served on a person may—
  - (a) be varied by the Secretary of State by serving a variation notice on him;
  - (b) be revoked by the Secretary of State by serving a revocation notice or a subsequent recall notice on him.
- (5) A recall notice served on any person shall (without affecting any liability arising from a failure to comply with the notice) cease to have effect, if not revoked sooner, when—
  - (a) an order under section 68(7) is made; or
  - (b) the person concerned is either accepted into service or informed that he is not to be accepted into service in pursuance of the notice.
- (6) The making of an order under section 68(5) shall not affect the power of the Secretary of State to vary a recall notice served before the order is made.

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- (7) A notice under this section may be served on a person by delivering it to him or by leaving it at, or sending it by post to, his last known address; and any recall or variation notice delivered to that address by registered post or recorded delivery shall be deemed to have been served on him.
- (8) No steps may be taken against a person in respect of failure to comply with a recall notice under this section unless the notice or, as the case may be, any variation notice, was received by him or is deemed to have been served on him by virtue of subsection (7).

## **71 Acceptance into service under recall order**

- (1) A person served with a recall notice who—
- (a) presents himself for service to an authorised officer at the time and place specified in the notice under section 70(3)(c);
  - (b) presents himself for service to an authorised officer at any other time or place; or
  - (c) is brought before an authorised officer after the time so specified,
- may be accepted into service by that officer.
- (2) Where such a person is accepted into service, he shall be informed by the authorised officer in the prescribed manner that he has been accepted into service by virtue of subsection (1).
- (3) If an authorised officer decides that such a person should not be accepted into service, he shall inform that person in the prescribed manner that he is not to be accepted into service in pursuance of the recall notice concerned.
- (4) Any liability of such a person arising from a failure to comply with a recall notice is not affected by his acceptance into service or by a decision not to accept him into service.
- (5) Where a recall order is in force, any person who is liable to be called out on the authority of the order who—
- (a) has not been served with a recall notice; and
  - (b) presents himself for service to an authorised officer,
- may be accepted into service under that recall order by that officer.
- (6) Where a person is accepted into service under a recall order by virtue of subsection (5) —
- (a) the authorised officer shall inform him in the prescribed manner that he has been accepted into service under that order by virtue of that subsection; and
  - (b) he shall be deemed to have been recalled for service under that order.

## **72 Release and discharge from service under recall order**

- (1) A person who has been accepted into service under a recall order shall remain in service until released from service or discharged.
- (2) A person in service under a recall order shall be released or discharged with all convenient speed in such manner as may be prescribed when he is no longer required by Her Majesty to be in that service or (if not released or discharged sooner) when he is entitled to be released or discharged—

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- (a) by virtue of section 68(8) or 69; or
  - (b) by virtue of a determination granted on an application made under regulations under section 79.
- (3) The Defence Council may by regulations make provision enabling or requiring a person in service under a recall order—
- (a) if the circumstances of his recall or acceptance into service are of a prescribed description, and
  - (b) for the purpose of calculating when he is entitled to be released or discharged by virtue of section 69,
- to be treated as having been accepted into service on an earlier day than that on which he was actually accepted.
- (4) Provision made for the purposes of subsection (3) shall secure—
- (a) that any earlier day applicable for the purpose of calculating when a person is entitled to be released or discharged is to be notified to him as soon as is practicable after the day on which he was actually accepted into service; and
  - (b) that the period beginning with the earlier day is reckoned as part of his relevant service for the purposes of sections 53(13), 55(13), 57(11) and 69(8).
- (5) Notwithstanding anything in this Act, a person who is in service under a recall order shall not be entitled to be released from service or discharged at a time when he has become liable, as a person subject to service law, to be proceeded against for an offence under service law.
- (6) Subsection (5) shall not apply or, as the case may be, shall cease to apply to any person in relation to an offence if it has been determined that the offence will not be tried by court-martial.

### *Supplementary*

#### **73 Power to exempt persons from or relax recall liability**

The Defence Council may by regulations make provision—

- (a) securing that, in such cases as may be prescribed, persons otherwise liable to be recalled are exempt from that liability; and
- (b) relaxing, in such cases as may be prescribed, the liability of any persons to be recalled.

#### **74 Exercise of certain functions under section 70**

- (1) The Secretary of State may authorise—
- (a) the Defence Council;
  - (b) any particular officers; or
  - (c) any officers of a description specified in the authorisation,
- to exercise any function of his under section 70, subject to such limitations and conditions as may be so specified.
- (2) An authorisation under subsection (1) relating to the exercise of any function of the Secretary of State by the Defence Council shall (unless the authorisation provides otherwise) be deemed to permit the Defence Council to authorise—

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(a) any particular officers; or  
(b) any officers of a description determined by the Defence Council,  
to exercise the function, subject to such limitations and conditions as may be so specified.

(3) Arrangements made under subsection (1) or (2) for the discharge of any function shall not prevent the exercise of the function by the Secretary of State or (in the case of arrangements under subsection (2)) the Defence Council.

## **75 Power to require information**

- (1) The Secretary of State may, for the purposes of carrying this Part into effect, make regulations requiring any person not serving in the regular services or the reserve forces who falls within paragraph (a) or (b) of section 66(1), to provide such information as may be specified in the regulations.
- (2) The regulations shall secure that a person who falls within subsection (1)(b) of section 66 is under no obligation to provide information after he ceases to be a person to whom that section applies by virtue of subsection (2) of that section.
- (3) Without prejudice to the generality of subsection (1), regulations under this section may include provision as to the manner in which, the times when and any person to whom specified information is to be provided.
- (4) Any person who fails without reasonable excuse to comply with regulations under this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) Any person who, in providing information required by regulations under this section, knowingly or recklessly makes a statement false in any material particular 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).
- (6) Proceedings against any person for an offence under this section may be taken at any place at which he is for the time being.
- (7) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **76 Recall not to affect service pensions**

Where a person to or in respect of whom a service pension is payable has been accepted into service under a recall order—

- (a) any pay or other emoluments to which he is entitled in respect of his service on recall shall not be reduced by reason of the service pension;
- (b) the service pension shall not be withheld or reduced by reason of any such pay or emoluments.

## **77 Interpretation of Part VII**

- (1) In this Part—

“authorised officer” means an officer authorised by or in accordance with directions of the Defence Council for the purposes of this Part;



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“man” means a person of either sex who is of or below the rank or rate of warrant officer;

“prescribed” means prescribed in regulations made by the Defence Council;

“recall order” means an order under section 68 and “recall” means recall for permanent service under such an order;

“service”, in relation to service under a recall order, means permanent service; and

“the United Kingdom” includes the Channel Islands and the Isle of Man.

- (2) Regulations made by the Defence Council under this Part may include incidental or supplementary provision and shall be laid before each House of Parliament after being made.