



Army Act 1955 (repealed)

1955 CHAPTER 18 3 and 4 Eliz 2

PART I

ENLISTMENT AND TERMS OF SERVICE

Miscellaneous and supplementary provisions

Textual Amendments applied to the whole legislation

- F1** Act: the provisions of the 1955 Acts providing for findings of courts-martial to be subject to confirmation and to revision at the direction of the confirming officer cease to have effect (1.4.1997 subject to art. 3 of the commencing S.I.) by virtue of 1996 c. 46, s. 15; S.I. 1997/304, arts. 2, 3, Sch. 2

17 Forfeiture of service for desertion and restoration of forfeited service.

- (1) Where a soldier of the regular forces is convicted of desertion by court-martial, the period of his service as respects which he is convicted of having been a deserter shall be forfeited.
- (2) Where any of a soldier's service is forfeited the provisions of this Part of this Act . . .^{F1} shall apply to him, and he shall be liable to serve, in like manner as if the appropriate date were the date of his attestation and he had, on the appropriate date, been duly enlisted to serve for the like term (both as respects duration and as respects liability to army service and any liability to serve in the reserve) as that for which he was in fact serving at the date of his conviction:

Provided that where at the date of his conviction the soldier was serving a term ending with the expiration of a period beginning with the date of his attaining the age of eighteen years and he had attained that age when he was convicted (whether or not he had attained it when the offence was committed) the duration of the term for which he is liable to serve shall be equal to that period and the time for which he is required to serve in army service shall be reduced accordingly.

Status: Point in time view as at 19/08/2004.

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- [^{F2}(3) In subsection (2) above “the appropriate date” means in relation to any person a date earlier than the date of his conviction for desertion by the length of his service which is not forfeited.]
- (4) Notwithstanding anything in the foregoing provisions of this section, the right conferred on a soldier by [^{F3}regulations made in pursuance of section 2(1)(c) of the ^{M1}Armed Forces Act 1966] shall not be exercisable, in consequence of a forfeiture of service, at a time earlier than that at which it would have been exercisable apart from the forfeiture.
- (5) [^{F4}The Defence Council] may by regulations make provision for the restoration in whole or in part of any forfeited service to a soldier in consideration of good service or on other grounds justifying the restoration of service forfeited.
- (6) Where service of any description is restored to a person by virtue of the last foregoing subsection while he is in army service,—
- (a) the amount of the service so restored shall, subject to the provisions of the next following paragraph, be credited to him for the purpose of determining for the purposes of this Act the amount of service, army service or service in the reserve, as the case may require, which he has served or is liable to serve; but
 - (b) in the case of a person who, when his service is restored, is serving, or subsequently serves, on terms which entitle him to the right conferred by [^{F3}regulations made in pursuance of section 2(1)(c) of the ^{M2}Armed Forces Act 1966] the restoration shall not operate to alter the dates on which, by reason of the operation of subsection (2) of this section, his army service may be determined in pursuance of an exercise of that right.
- (7) Nothing in this section shall apply to a person who deserts at a time when he is, under [^{F3}regulations made in pursuance of section 2 of the ^{M3}Armed Forces Act 1966 or under any enactment repealed by such regulations], continued in service after the completion of twenty-two years’ service.

Textual Amendments

- F1** Words repealed by [Armed Forces Act 1976 \(c. 52\)](#), **Sch. 10**
- F2** [S. 17\(3\)](#) substituted by [Armed Forces Act 1971 \(c. 33\)](#), s. 78(4), **Sch. 1 para. 1(2)**
- F3** Words substituted by [S.I. 1967/1018](#), **Sch. 3 Pt. 3**
- F4** Words substituted by [S.I. 1964/488](#), **Sch. 1 Pt. 1**

Modifications etc. (not altering text)

- C1** [S. 17\(2\)](#) amended by [S.I. 1967/1018](#), **Sch. 3 Pt. 3**

Marginal Citations

- M1** 1966 c. 45.
- M2** 1966 c. 45.
- M3** 1966 c. 45.

18 Validity of attestation and enlistment.

- (1) Where a person has signed the declaration required by the First Schedule to this Act, and has thereafter received pay as a soldier of the regular forces,—

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- (a) the validity of his enlistment shall not be called in question on the ground of any error or omission in his attestation paper;
- (b) if within three months from the date on which he signed the said declaration he claims that his enlistment is invalid by reason of any non-compliance with the requirements of this Act as to enlistment or attestation, or any other ground whatsoever (not being an error or omission in his attestation paper) on which apart from this subsection the validity of his enlistment could have been called in question, the claim shall be submitted as soon as may be to ^[F5]the Defence Council], and if the claim is well founded ^[F5]the Defence Council] shall cause him to be discharged with all convenient speed;
- (c) subject to the provisions of the last foregoing paragraph, he shall be deemed as from the expiration of the said three months to have been validly enlisted notwithstanding any such non-compliance or other grounds as aforesaid;
- (d) notwithstanding any such non-compliance or other grounds as aforesaid, or the making of a claim in pursuance of paragraph (b) of this subsection, he shall be deemed to be a soldier of the regular forces until his discharge.

In the case of a person who when he signed the said declaration had not attained the ^[F6]appropriate minimum age], paragraph (b) of this subsection shall have effect as if for the words "he claims" there were substituted the words "he, or any person whose consent to the enlistment was required under subsection (3) of section two of this Act but who did not duly consent, claims".

- (2) Where a person has received pay as a soldier of the regular forces without having previously signed the declaration required by the First Schedule to this Act, then—
 - (a) he shall be deemed to be a soldier of the regular forces until discharged;
 - (b) he may claim his discharge at any time, and if he does so the claim shall be submitted as soon as may be to ^[F5]the Defence Council], who shall cause him to be discharged with all convenient speed.
- (3) Nothing in the foregoing provisions of this section shall be construed as prejudicing the determination of any question as to the term for which a person was enlisted or as preventing the discharge of a person who has not claimed his discharge.

Textual Amendments

F5 Words substituted by [S.I. 1964/488](#), [Sch. 1 Pt. 1](#)

F6 Words substituted by [Armed Forces Act 1966 \(c. 45\)](#), [Sch. 4](#)

19 False answers in attestation paper.

- (1) If a person appearing before a recruiting officer for the purpose of being attested knowingly makes a false answer to any question contained in the attestation paper and put to him by or by the direction of the recruiting officer, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding ^[F7]level 1 on the standard scale].
- (2) For the avoidance of doubt it is hereby declared that a person may be proceeded against under this section notwithstanding that he has since become subject to military law.

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Textual Amendments

- F7** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss.38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#) and (N.I.) [S.I.1984/703 \(N.I. 3\)](#), [arts. 5, 6](#)

20 ^{F8}

Textual Amendments

- F8** [S. 20](#) repealed by [Statute Law \(Repeals\) Act 1977 \(c. 18\)](#), [Sch. 1 Pt. I](#)

21 **Service of aliens in regular forces.**

- (1) Subject to the provisions of the two next following subsections the number of aliens who at any one time are serving (whether as officers or soldiers) in the regular forces shall not exceed one-fiftieth of the aggregate number at that time of those forces.
- (2) In reckoning the number of aliens serving as aforesaid there shall be excluded persons enlisted outside the United Kingdom and serving in such units (if any) as may be prescribed, and officers serving in such units.
- (3) [^{F9}The Defence Council] may by regulations provide that at any time at which a state of war exists between Her Majesty and any foreign power or while [^{F10}a call-out order under section 52 of the Reserve Forces Act 1996 is in force authorising the call out for permanent service of members of the reserve] subsection (1) of this section shall have effect with the substitution for one-fiftieth of such other fraction as may be specified in the regulations.
- (4) Nothing in section three of the Act of Settlement (which provides among other things that aliens are incapable of holding certain offices or places of trust) shall apply to an office or place of trust in the regular forces so long as the limit having effect under the foregoing provisions of this section is not exceeded.
- (5) [^{F9}The Defence Council] may by regulations provide that in such cases as may be prescribed by the regulations it shall not be necessary to administer the oath of allegiance to an alien on his enlistment; and in relation to cases so prescribed this Act shall have effect with the omission of references to the administration and taking of the oath of allegiance.

Textual Amendments

- F9** Words substituted by [S.I. 1964/488](#), [Sch. 1 Pt. I](#)
- F10** Words in [s. 21\(3\)](#) substituted (1.1.1999) by [S.I. 1998/3086](#), [reg. 9\(4\)](#) (with [reg. 11](#), [Sch.](#))

22 **Regulations as to enlistment.**

- [^{F11}^{F12}(1) [^{F13}The Defence Council]] may make such regulations as appear to them necessary or expedient for the purposes of, or in connection with, the enlistment of recruits for the regular forces and generally for carrying this Part of this Act into effect.

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[^{F11}(2) Any power conferred by this Part of this Act to make regulations (including the power under paragraph 5 of Schedule 1 to this Act) shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

- F11** S. 22(2) inserted (1.5.2001) by 1996 c. 46, s. 4(1) (with s. 4(4)); S.I. 2001/1519, art. 2
F12 S. 22 renumbered (1.5.2001) as s. 22(1) by 1996 c. 46, s. 4(1) (with s. 4(4)); S.I. 2001/1519, art. 2
F13 Words substituted by S.I. 1964/488, Sch. 1 Pt. I

23 Interpretation of Part I.

(1) In this Part of this Act:—

“competent military authority” means [^{F14}the Defence Council] or any prescribed officer;

“date of attestation”, in relation to any person, means the date on which he signs the declaration and takes the oath mentioned in paragraph 3 of the First Schedule to this Act;

[^{F15}“appropriate minimum age”] has the meaning assigned to it by subsection (5) of section two of this Act;

“prescribed” means prescribed by regulations made under this Part of this Act;

“recruiting officer” has the meaning assigned to it by section one of this Act;

“reserve” means . . . ^{F16} the army reserve.

(2) References in this Part of this Act to soldiers shall include references to warrant officers and non-commissioned officers.

Textual Amendments

- F14** Words substituted by S.I. 1964/488, Sch. 1 Pt. I
F15 Words substituted by Armed Forces Act 1966 (c. 45), Sch. 4
F16 Words repealed by Reserve Forces Act 1966 (c. 30), Sch. 2

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