



# Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

## 1951 CHAPTER 65

### PART VII

#### MISCELLANEOUS AND GENERAL

#### 60 Evidence as to performance of relevant service

- (1) A certificate stating that a person has performed or is performing or is to perform a period of relevant service or of relevant service of any particular description, or the duration or the date of the beginning or ending of such a period, or whether such a period which has been or is being or is to be performed by any person is or is not a short period of training, being a certificate which is signed by a person authorised in that behalf—
- (a) by the Admiralty, the Army Council or the Air Council (except in the case of such service being work or training in pursuance of an order made or direction given under Part I of the National Service Act, 1948, as respects a conditionally registered conscientious objector), or
  - (b) in the case of such work or training, by the Minister of Labour and National Service,

shall in all legal proceedings be sufficient evidence of the facts stated therein for the purposes of this Act except to any extent to which it is shown to be incorrect.

- (2) A certificate signed by a person authorised in that behalf by the Admiralty, the Army Council or the Air Council stating that a person is not performing, and has not within a specified previous time performed, a period of relevant service in a specified force or forces (being a force or forces in respect of which the Admiralty, the Army Council or the Air Council, as the case may be, keep records), and any like certificate signed by a person authorised in that behalf by the Minister of Labour and National Service in relation to such work or training as is mentioned in the preceding subsection, shall in all legal proceedings be sufficient evidence of the facts stated therein for the purposes of this Act except to any extent to which it is shown to be incorrect.

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- (3) A certificate signed by a person authorised in that behalf by the Admiralty, the Army Council, the Air Council or the Minister of Labour and National Service, referring to an inquiry as to a person therein described and being to the effect that no person answering to that description is identifiable in the relevant records kept by the authority on whose behalf the certificate is signed, shall be sufficient evidence for the purposes of this Act that no such person is so identifiable.
- (4) A certificate signed as aforesaid stating any matter as a matter appearing from records shall be treated for the purposes of subsection (1), and of subsection (2), of this section as stating it as a fact.
- (5) A document purporting to be a certificate signed as aforesaid shall be deemed to be such unless the contrary is proved.
- (6) The Admiralty, the Army Council, the Air Council and the Minister of Labour and National Service shall respectively be under obligation to secure that, on inquiry made to them for the purposes of this Act as to a person therein described, if the information appearing from records kept by them is such as to enable a certificate falling within subsection (1) or subsection (2) of this section to be given as to a person appearing to answer that description, or is such as to justify the giving of a certificate falling within subsection (3) of this section, such a certificate shall be given:

Provided that no certificate the giving of which would in the opinion of the authority to whom the inquiry is made be against the interests of national security shall be given.

## **61 Presumption of death of persons serving in the forces**

- (1) The question whether any person has died while performing relevant service in His Majesty's forces shall, for the purposes of—
  - (a) Part V of this Act;
  - (b) the Local Government Superannuation Acts, 1937 and 1939, and the Local Government Superannuation (Scotland) Acts, 1937 and 1939, or any local Act scheme;
  - (c) any regulations made under subsection (1) of section sixty-seven of the National Health Service Act, 1946, or subsection (1) of section sixty-six of the National Health Service (Scotland) Act, 1947 (which relate to the superannuation of National Health Service officers);
  - (d) the Firemen's Pension Scheme made under the Fire Services Act, 1947;
  - (e) any regulations made under the Police Pensions Act, 1948;
 be determined in accordance with the rules set out in the next following subsection.
- (2) The said rules are—
  - (i) no person shall be treated as having died while performing relevant service in His Majesty's forces unless and until the appropriate authority are satisfied that he has been officially reported as dead, or as missing;
  - (ii) where the appropriate authority are satisfied that a person has been officially reported as dead, or as missing and presumed dead, he shall be treated as having died while performing relevant service in His Majesty's forces unless and until the authority are satisfied that he has subsequently been officially reported as alive;
  - (iii) subject to the last foregoing paragraph, where the appropriate authority are satisfied that a person has been officially reported as missing, the authority

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may, if they think fit, treat him as having died while performing relevant service in His Majesty's forces unless and until they are satisfied that he has subsequently been officially reported as alive.

- (3) Where the appropriate authority determine in accordance with the rules set out in subsection (2) of this section that a person is to be treated as having died, the date of his death shall be taken to be such date as the authority may fix on the evidence available to them.
- (4) The Third Schedule to this Act shall have effect as respects the financial provisions consequent on the adoption of the rules set out in subsection (2) of this section.
- (5) In this section and in the said Schedule the expression " the appropriate authority " means the authority specified in subsection (1) or, as the case may be, subsection (2) of section forty-seven of this Act as the authority having power to determine whether any, and if so what, payment is to be made under section forty-six of this Act, or, in a case where the service pay of the person in question is of such amount that no payment is permissible under the said section forty-six, the authority who would have that power if that person's service pay were of such smaller amount as would permit of a payment being made under that section; and where, in the case of any person, there are several such authorities, the expression " the appropriate authority " means all those authorities acting jointly :

Provided that where the person in question was, immediately before entering on his relevant service an officer of a Regional Hospital Board, Board of Governors of a teaching hospital, Executive Council or other body constituted under the National Health Service Act, 1946, or the National Health Service (Scotland) Act, 1947, the appropriate authority shall be the Minister of Health or, as respects Scotland, the Secretary of State, and not the Board, Council or other body.

- (6) In this section the expression " officially reported " means reported (whether before or after the passing of this Act) by or on behalf of the Admiralty, the Army Council or the Air Council.

## **62 Pension rights of justices' clerks, collecting officers and their staff**

- (1) Subsections (2) and (3) of this section shall apply to a person who at the date of the coming into force of section nineteen of the Justices of the Peace Act, 1949 (which relates to justices of the peace, collecting officers and their staffs), is performing relevant service and who, on the termination of that service, or within six months thereafter, becomes superannuable in accordance with section twenty-two of the said Act, and subsection (4) of this section shall apply both to such a person as aforesaid and to a person who has completed a period of relevant service before the said date and who at the said date becomes superannuable as aforesaid by virtue of section twenty-three of the said Act.
- (2) The reference in paragraph (b) of subsection (8) of the said section twenty-three to a person who at the said date is transferred to the employment of a magistrates' courts committee by subsection (5) or (6) of the said section twenty-three shall include a reference to a person to whom this subsection applies and who, if he had continued to be occupied as he was occupied immediately before entering on relevant service, would at that date have been so transferred; and the said Act, and, in particular, subsection (10) of the said section twenty-three and the definition of " existing or former clerk or employee " in paragraph 18 of Part II of the Fifth Schedule to that Act, shall be construed accordingly.

- (3) The reference in proviso (ii) to sub-paragraph (1) of paragraph 13 of the said Part II to an existing clerk or employee shall include a reference to a person to whom this subsection applies and who, immediately before entering on relevant service, was occupied in a transferable capacity.
- (4) Where a person to whom this subsection applies was, immediately before entering on relevant service, occupied in a transferable capacity under such conditions that rules under section one of the Superannuation (Miscellaneous Provisions) Act, 1948, could not be made to apply as respects his relevant service, the Local Government Superannuation Act, 1937, and any local Act scheme shall apply in relation to him as if during the period of his relevant service he had continued to be occupied in the capacity in which he was occupied immediately before entering on relevant service and had been entitled to remuneration in that capacity.
- (5) For the purposes of this section a person shall be treated as occupied in a transferable capacity at any time if he would then have been transferred to the employment of, or deemed to be appointed by, a magistrates' courts committee by virtue of subsection (1), (5) or (6) of the said section twenty-three if the said section nineteen had then come into force.

### **63 Dispensation with declaration on ending of service of constable**

Where a person, having ceased to serve as a constable in order to undertake service of a description specified in the First Schedule to this Act, resumes service as a constable during any period which, by virtue of any regulations made under section one of the Police Pensions Act, 1948, as extended by section forty-three of this Act, is to be treated in his case as a period of service as a member of a police force, 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.

### **64 Interpretation**

- (1) In this Act, unless the context otherwise requires, the following expressions have the meaning hereby assigned to them respectively, that is to say.—

" compulsory national service " means service undertaken by virtue of an enlistment notice or a training notice served under Part I of the National Service Act, 1948, or work or training in pursuance of an order made or direction given under the said Part I as respects a conditionally registered conscientious objector;

" local authority " and " local Act scheme " have the same meanings as in the Local Government Superannuation Act, 1937, or, as respects Scotland, the Local Government Superannuation (Scotland) Act, 1937 ;

" relevant service " means service after the fifteenth day of July, nineteen hundred and fifty, of a description specified in the First Schedule to this Act;

" Rent Restrictions Acts " means the Rent and Mortgage Interest (Restrictions) Acts, 1920 to 1925; and references to the Rent Acts of 1920, 1933, 1939 and 1949 are respectively to the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, to the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933, to the Rent and Mortgage Interest Restrictions Act, 1939, and to the Landlord and Tenant (Rent Control) Act, 1949;

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" service " means the discharge of naval, military or air force duties, and includes training for the discharge of such duties, and includes also work or training in pursuance of an order made or direction given under Part I of the National Service Act, 1948, as respects a conditionally registered conscientious objector;

" service man " means a man who performs a period of relevant service;

" short period of training " means a period of relevant service of a description specified in paragraph 2 of the First Schedule to this Act to which a maximum period of fifteen days is attached, of a description specified in paragraph 6 thereof, or of a description specified in paragraph 7 thereof performed under an obligation or voluntary arrangements under which its continuous duration is limited to less than three months.

- (2) In this Act references to a service man include references to a woman who performs a period of relevant service, references to an officer of any reserve or force include references to a woman who is a member of that reserve or force as an officer and references to a man of any reserve or force include references to a woman who is a member of that reserve or force otherwise than as an officer, and any reference to a service man's wife includes a reference to the husband of a woman who performs a period of relevant service.
- (3) If any Order in Council is made under section fourteen of the Reserve and Auxiliary Forces (Training) Act, 1951, directing that Part I of that Act shall apply in relation to all or any of the years nineteen hundred and fifty-two, nineteen hundred and fifty-three and nineteen hundred and fifty-four, any reference in this Act to section one of that Act shall include a reference to that section as extended by the Order.
- (4) In this Act, unless the context otherwise requires, references to any enactment shall be construed as references to that enactment as amended by or under any other enactment.

## **65 Provisions as to Northern Ireland**

- (1) The preceding provisions of this Act shall not extend to Northern Ireland.
- (2) His Majesty may by Order in Council provide for extending this Act to Northern Ireland with such additions, exceptions and modifications as appear to His Majesty to be expedient.
- (3) An Order in Council under this section—
  - (a) may be varied or revoked by a further Order in Council made thereunder;
  - (b) may include such incidental, consequential and supplemental provisions as appear to His Majesty to be expedient.
- (4) Provision made by an Order in Council under this section may be made so as to have effect from the time (whether before, at or after the commencement of this Act), from which any corresponding provision made by this Act has effect.
- (5) So far as any provision contained in an Order in Council under this section deals with a matter with respect to which the Parliament of Northern Ireland has power to make laws it shall, for the purposes of section six of the Government of Ireland Act, 1920 (which relates to the power of that Parliament), be deemed to be a provision of an Act passed before the appointed day.

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- (6) An Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**66 Short title**

This Act may be cited as the Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951.