



# Reserve Forces Act 1996

## 1996 CHAPTER 14

### PART X

#### GENERAL OFFENCES

##### *Offences against good order and discipline*

#### **95 Offences against orders and regulations under section 4.**

- (1) A member of a reserve force who—
- (a) when required by or in pursuance of orders or regulations under section 4 to attend at any place, fails without reasonable excuse to attend in accordance with the requirement;
  - (b) uses threatening or insulting language or behaves in an insubordinate manner to any officer, warrant officer, non-commissioned officer or petty officer who in pursuance of orders or regulations under section 4 is acting in the execution of his office, and who would be the superior officer of the offender if he were subject to service law;
  - (c) by any fraudulent means obtains or is an accessory to the obtaining of any pay or other sum contrary to orders or regulations under section 4;
  - (d) knowingly or recklessly makes a statement false in any material particular in giving any information required by orders or regulations under section 4; or
  - (e) fails without reasonable excuse to comply with orders or regulations under section 4,
- is guilty of an offence triable by court-martial or summarily by a civil court.
- (2) A person guilty of an offence under this section is liable—
- (a) on conviction by court-martial to suffer imprisonment, or such less punishment provided for by service law;
  - (b) on summary conviction by a civil court—
    - (i) in the case of an offence under subsection (1)(a), (b), or (e), to a fine not exceeding level 3 on the standard scale; and

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- (ii) in the case of an offence under subsection (1)(c) or (d), to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).
- (3) A person convicted of an offence under this section is liable, if sentenced to a term of imprisonment or if such a term is imposed in default of payment of any fine, to be taken into military custody, air-force custody or naval custody (as the case may be).

*Desertion and absence without leave from service, duty or training*

**96 Failure to attend for service on call out or recall.**

- (1) A member of a reserve force served with a call-out notice under any provision of this Act who, without leave lawfully granted or reasonable excuse—
  - (a) fails to present himself for service at the time and place specified in the call-out notice under section 32(3)(b), 43(4)(b) or 58(3)(c) (as the case may be);
  - (b) having so presented himself, fails to remain there until accepted into service or informed that he is not to be accepted into service in pursuance of that notice; or
  - (c) where he has for any reason failed to present himself at the time and place so specified or to remain there, fails —
    - (i) to present himself to a person specified in the call-out notice or to any other authorised officer; or
    - (ii) having so presented himself, to remain until accepted into service or informed that he is not to be accepted into service in pursuance of that notice,
 is guilty, according to the circumstances, of desertion or absence without leave.
- (2) Subsection (1) applies to a person liable to recall as it applies to a member of a reserve force—
  - (a) with the substitution for references to a call-out notice of references to a recall notice; and
  - (b) as if paragraph (a) of that subsection referred to the time and place specified in the recall notice under section 70(3)(c).
- (3) An offence under this section is triable by court-martial or summarily by a civil court.

**97 Failure to attend for duty or training.**

- (1) A member of a reserve force who has entered into a full-time service commitment or an additional duties commitment and, without leave lawfully granted or reasonable excuse, fails to appear at the time and place at which he is required to attend—
  - (a) in the case of a full-time service commitment, to begin the period of full-time service contemplated by the commitment;
  - (b) in the case of an additional duties commitment, to begin a period of service under the commitment,
 is guilty, according to the circumstances, of desertion or absence without leave.
- (2) A member of a reserve force who—

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- (a) is required to undergo a period of training in accordance with section 22, a special agreement or an employee agreement (or any other requirement applicable to special members), and
  - (b) fails, without leave lawfully granted or reasonable excuse, to appear at any time and place at which he is required to attend,
- is guilty of absence without leave.
- (3) An offence under this section is triable by court-martial or summarily by a civil court.

## **98 Punishment etc. of offences of desertion or absence without leave.**

- (1) An offence under section 37 or 38 of the <sup>M1</sup>Army Act 1955 or the <sup>M2</sup>Air Force Act 1955 or section 16 or 17 of the <sup>M3</sup>Naval Discipline Act 1957 (offences under service law of desertion or absence without leave) committed by a member of a reserve force is triable summarily by a civil court as well as by court-martial.
- (2) A member of a reserve force convicted by court-martial of an offence under section 96(1) or 97(1) is punishable as for an offence under service law of desertion or absence without leave (as the case may be).
- (3) A member of a reserve force convicted by a civil court of—
- (a) an offence under section 96(1) or 97(1), or
  - (b) an offence under service law of desertion or absence without leave,
- is liable to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).
- (4) A person convicted of an offence under section 97(2) is liable—
- (a) if convicted by court-martial, to the same punishment as for an offence under service law of absence without leave;
  - (b) if convicted by a civil court, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).
- (5) A person convicted by a civil court of an offence mentioned in this section, if sentenced to a term of imprisonment or if such a term is imposed in default of payment of any fine, is liable to be taken into military, air-force or naval custody (as the case may require).
- (6) Where a member of a reserve force or a person liable to recall is convicted of an offence of desertion, the time which elapsed between the time of his desertion and the time of his apprehension or voluntary surrender shall not be taken into account in reckoning his service for the purpose of release from permanent service or discharge.

### **Marginal Citations**

- M1** 1955 c. 18.  
**M2** 1955 c. 19.  
**M3** 1957 c. 53.

## **99 False pretence of illegal absence.**

Any person who falsely represents himself to be a deserter or absentee without leave from any reserve force is guilty of an offence and liable on summary conviction to

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imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 on the standard scale (or both).

#### **100 Treatment of deserters etc.**

- (1) Schedule 2 (arrest and subsequent treatment of suspected deserters or absentees without leave from the reserve forces) shall have effect.
- (2) Schedule 2 shall apply to a person liable to recall who is a suspected deserter or absentee without leave by virtue of this Part and is not otherwise subject to service law as it applies to a member of a reserve force.
- (3) The delivery under that Schedule of a member of a reserve force or a person liable to recall into military, air-force or naval custody, or the committal of any such person for the purpose of being so delivered, shall not prevent his subsequently being tried summarily in accordance with this Part.

#### **101 Inducing a person to desert or absent himself.**

- (1) A person who, in the United Kingdom or elsewhere, by any means—
  - (a) procures or persuades, or attempts to procure or persuade, a member of a reserve force to commit an offence of desertion or absence without leave;
  - (b) knowing that a member of a reserve force is about to commit such an offence, aids or assists him in so doing; or
  - (c) knowing a member of a reserve force to be a deserter or an absentee without leave, procures or persuades or assists him to remain a deserter or absentee, or assists in his rescue from custody,
 is guilty of an offence.
- (2) A person who—
  - (a) procures or persuades, or attempts to procure or persuade, a person liable to recall to commit an offence of desertion or absence without leave;
  - (b) knowing that such a person is about to commit such an offence, aids or assists him in so doing; or
  - (c) knowing a person liable to recall to be a deserter or absentee without leave, procures or persuades or assists him to remain a deserter or absentee, or assists in his rescue from custody,
 is guilty of an offence.
- (3) A person guilty of an offence under subsection (1) or (2) is liable on summary conviction—
  - (a) in the case of an offence involving an offence of desertion or a deserter, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both); and
  - (b) in the case of an offence of absence without leave or an absentee without leave, to a fine not exceeding level 5 on the standard scale.

#### **102 Record of illegal absence.**

- (1) Where a member of a reserve land, air or marine force is subject to service law and is unlawfully absent from his duty—

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- (a) a board of inquiry under section 135 of the <sup>M4</sup>Army Act 1955 or the <sup>M5</sup>Air Force Act 1955, as the case may be, may be assembled after the expiry of 21 days from the date of his absence, notwithstanding that the period during which he was subject to service law is less than 21 days, or has expired before the expiry of 21 days; and
  - (b) the record mentioned in section 136 of the Army Act 1955 or the Air Force Act 1955, as the case may be, may be entered in the manner there provided, or in such regimental or service books and by such officer as may be prescribed.
- (2) Where a member of a reserve land, air or marine force—
- (a) having been served with a call-out notice under any provision of this Act, fails, without leave lawfully granted, to do anything mentioned in section 96(1)(a), (b) or (c);
  - (b) having entered into a full-time service commitment fails, without leave lawfully granted, to appear at any time or place at which he is required to attend to begin the period of full-time service contemplated by the commitment;
  - (c) having entered into an additional duties commitment fails, without leave lawfully granted, to appear at any time or place at which he is required to begin a period of duty under the commitment;
  - (d) having been required to undergo a period of training as mentioned in section 97(2) fails, without leave lawfully granted, to appear at any time or place at which he is required to appear,
- and his absence continues for not less than 14 days, an entry of his absence shall be made by such officer as may be prescribed in such manner, and in such regimental or service books, as may be prescribed.

**Marginal Citations**

**M4** 1955 c. 18.

**M5** 1955 c. 19.

*General*

**103 Trial of offences as offences under service law.**

- (1) Any offence which is by virtue of this Part triable by court-martial shall for all purposes of and incidental to the arrest, trial and punishment of the offender (including the summary disposal of the case by an officer having power to deal with the case) be deemed to be an offence under the <sup>M6</sup>Army Act 1955, the <sup>M7</sup>Air Force Act 1955 or the <sup>M8</sup>Naval Discipline Act 1957, as the case may require.
- (2) References in those Acts to forfeitures and stoppages shall be construed in relation to any such offence as references to such forfeitures and stoppages as may be prescribed.

**Marginal Citations**

**M6** 1955 c. 18.

**M7** 1955 c. 19.

**M8** 1957 c. 53.

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#### **104 Jurisdiction of civil courts.**

- (1) A civil court in the United Kingdom with jurisdiction in the place where a person is for the time being shall have jurisdiction to try him for any offence under this Part which is triable by such a court.
- (2) Subsection (1) applies notwithstanding that the alleged offence was committed outside the jurisdiction of the court, except that where it was committed in any part of the United Kingdom it shall be triable only by a court in that part of the United Kingdom.
- (3) Every fine imposed under this Part by a court-martial shall be paid to such authority as may be prescribed.

#### **105 Trial of offences by civil court.**

- (1) Any offence to which this section applies which is triable by a court-martial is also triable summarily by a civil court and punishable with imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 on the standard scale (or both).
- (2) Nothing in this section affects the liability of a person charged with an offence to which this section applies to be taken into military, air-force or naval custody.
- (3) This section applies to an offence under service law (other than an offence of desertion or absence without leave) committed by a member of a reserve force when not in permanent service under Part IV or Part V or under a call-out order.

#### **106 Offences triable by court-martial or civil court.**

- (1) A person charged with an offence which under this Part is triable both by a court-martial and by a civil court may be tried either by a court-martial (or by an officer having power to deal summarily with the case) or by a civil court but not by both of them.
- (2) It is immaterial, for the purposes of any provision of this Part making an offence triable by court-martial, whether the person concerned is otherwise subject to service law.

#### **107 Time for institution of proceedings.**

- (1) Proceedings against a person before either—
  - (a) a court-martial or an officer having power to deal with the case summarily; or
  - (b) a civil court,
 in respect of an offence under this Act or under service law and alleged to have been committed by him during his period of service in a reserve force may be instituted whether or not he has ceased to be a member of that reserve force.
- (2) Such proceedings may, notwithstanding anything in any other enactment, be instituted at any time within 2 months after—
  - (a) the time at which the offence becomes known to his commanding officer; or
  - (b) the time at which he is apprehended,
 whichever is later.

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**108 Evidence.**

- (1) Schedule 3 (evidence) shall have effect in relation to proceedings under this Part and any other proceedings for an offence under any other Part of this Act.
- (2) Paragraphs 2 to 8 of that Schedule apply to a member of a reserve force who is tried by a civil court, whether or not he is at the time of the trial subject to service law.
- (3) Where by virtue of any provision of this Act a document is admissible in evidence or is evidence of any matter stated in it in proceedings before a civil court in England and Wales, it shall be sufficient evidence of the matter so stated in such proceedings in Scotland.

**109 Meaning of “civil court”.**

In this Part a reference to a civil court shall be construed as a reference—

- (a) in England and Wales, to a magistrates’ court;
- (b) in Scotland, to the sheriff sitting as a court of summary jurisdiction; and
- (c) in Northern Ireland, to a court of summary jurisdiction.

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