

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: Reserve Forces Act 1996 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 9.

#### ENLISTMENT

##### *Conditions for enlistment*

- 1 (1) An enlisting officer shall not enlist any person as a man in a reserve force unless he is satisfied that the person concerned has been given a notice under sub-paragraph (2), understands it and wishes to be enlisted.
- (2) A person offering to enlist shall be given a notice in such form as may be prescribed setting out the questions to be answered on attestation and stating the general conditions of the engagement to be entered into by him and such other matters as may be prescribed.
- (3) The attestation paper to be used for the purpose of attesting recruits to a reserve force shall be in such form as may be prescribed.
- 2 (1) An enlisting officer shall not enlist a person under the appropriate minimum age unless consent to the enlistment has been given in writing by a person with—
- (a) parental responsibility (within the meaning of the <sup>M1</sup>Children Act 1989 or the <sup>M2</sup>Children (Northern Ireland) Order 1995) for the person offering to enlist; or
- (b) parental responsibilities (within the meaning of section 1(3) of the <sup>M3</sup>Children (Scotland) Act 1995) in relation to that person.
- (2) Where the enlisting officer is satisfied, by the production of a certified copy of an entry in the register of births or by any other evidence appearing to him to be sufficient, that a person offering to enlist has or has not attained the appropriate minimum age, that person shall be deemed for the purposes of this Act to have attained, or as the case may be, not to have attained, that age.
- (3) A document purporting to be a certificate signed by the enlisting officer, stating that he is satisfied as mentioned in sub-paragraph (2), shall be sufficient evidence, until the contrary is proved, that he was so satisfied.

#### **Marginal Citations**

- M1** 1989 c. 41.  
**M2** S.I. 1995/755 (N.I.2)  
**M3** 1995 c. 36.

##### *Procedure on attestation*

- 3 (1) The procedure for enlisting a person (in this paragraph referred to as “the recruit”) in a reserve force is as follows.

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- (2) The enlisting officer shall warn the recruit that if he makes any false answers to the questions to be read out to him he will be liable to be punished as provided by this Act.
- (3) He shall then read, or cause to be read, to the recruit the questions set out in the attestation paper and satisfy himself that he understands each of those questions and that his answers have been duly recorded in the attestation paper.
- (4) He shall then ask the recruit to make and sign the declaration set out in the attestation paper as to the truth of the answers and shall administer to him the oath of allegiance as set out in the attestation paper.
- (5) Upon signing the declaration and taking the oath the recruit shall become a man of the reserve force in question.
- (6) The enlisting officer shall by signature attest, in the manner required by the attestation paper, that the requirements of this Act as to the attestation of the recruit have been carried out and deliver the attestation paper duly dated to such person as may be prescribed.
- (7) When, in accordance with orders or regulations under section 4, the recruit is finally approved for service, the officer by whom he is approved shall at his request furnish him with a certified copy of the attestation paper.

*Validity of attestation and enlistment*

- 4 (1) This paragraph applies where a person has signed the declaration required by paragraph 3.
- (2) The validity of the person's enlistment shall not be called in question on the ground of any error or omission in his attestation paper.
- (3) If within 3 months from the date on which the person signed the declaration he claims that his enlistment is invalid—
  - (a) by reason of any non-compliance with the requirements of this Act as to enlistment or attestation; or
  - (b) on any other ground whatsoever (not being an error or omission in his attestation paper) on which apart from this sub-paragraph the validity of his enlistment could have been called in question,
 the claim shall be submitted as soon as may be to the Defence Council, and, if the claim is well founded, the Defence Council shall cause him to be discharged with all convenient speed.
- (4) If when the person signed the declaration he had not attained the appropriate minimum age, and within 3 months from the date on which he signed the declaration he, or any person whose consent to the enlistment was required under paragraph 2(1) but who did not duly consent, claims that his enlistment is invalid—
  - (a) by reason of any non-compliance with the requirements of this Act as to enlistment or attestation; or
  - (b) on any other ground whatsoever (not being an error or omission in his attestation paper) on which apart from this sub-paragraph the validity of his enlistment could have been called in question,

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the claim shall be submitted as soon as may be to the Defence Council, and, if the claim is well founded, the Defence Council shall cause him to be discharged with all convenient speed.

- (5) If no claim under sub-paragraph (3) or (4) is made within 3 months from the date on which he signed the declaration, the person shall be deemed to have been validly enlisted notwithstanding any such non-compliance or other grounds as aforesaid.
- (6) Notwithstanding any such non-compliance or other grounds as aforesaid, or the making of a claim under sub-paragraph (3) or (4), the person shall be deemed to be a man of the reserve force in question until his discharge.
- (7) Nothing in this paragraph 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.

*False answers in attestation papers*

- 5 (1) Any person appearing before an enlisting officer for the purpose of being attested who knowingly or recklessly makes a false answer to any question contained in the attestation paper and put to him by or by the direction of the enlisting officer is guilty of an offence.
- (2) A person guilty of an offence under sub-paragraph (1) is 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); and he may be proceeded against summarily notwithstanding that he has since become subject to service law.
- (3) A person guilty of an offence under sub-paragraph (1) who has since become and remains subject to service law is liable on conviction by court-martial to imprisonment for a term not exceeding 3 months or to any less punishment provided by service law.

*Evidence as to attestation papers*

- 6 (1) With respect to evidence in proceedings under Part X, whether before a court-martial, a civil court or otherwise—
  - (a) a document purporting—
    - (i) to be a copy of the attestation paper signed by any person; and
    - (ii) to be certified to be a true copy by a person stated in the certificate to have the custody of the attestation paper,shall be evidence of the enlistment of the person attested; and
  - (b) the attestation paper purporting to be signed by a person on his enlistment shall be evidence of his having given the answers to questions which he is recorded in that paper as having given.
- (2) In this paragraph “civil court” has the same meaning as in Part X.

*Meaning of “appropriate minimum age”*

- 7 In this Schedule “appropriate minimum age” means the age of 17 years and 6 months, except that in such classes of case as may be prescribed it means the age of 17 years.

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## SCHEDULE 2

Section 100.

### DESERTERS AND ABSENTEES WITHOUT LEAVE

#### *Preliminary*

- 1 (1) This Schedule applies in relation to anyone who is, or is suspected of being, a deserter or absentee without leave from a reserve force.
- (2) In the application of this Schedule to Scotland and Northern Ireland, for references to a magistrates' court there shall be substituted—
- (a) in Scotland, references to the sheriff sitting as a court of summary jurisdiction; and
  - (b) in Northern Ireland, references to a court of summary jurisdiction.

#### *Arrest*

- 2 <sup>F1</sup>(1) . . . . .
- (2) Where no constable is available, any person may arrest a person he has reasonable grounds for suspecting is a member of a reserve force who has deserted or is absent without leave.
- (3) Any person having authority to issue a warrant for the arrest of a person charged with a criminal offence, if satisfied by evidence on oath that there is, or is reasonably suspected of being, within his jurisdiction a member of a reserve force who—
- (a) has deserted or is absent without leave; or
  - (b) is reasonably suspected of having deserted or being absent without leave,
- may issue a warrant authorising his arrest.
- (4) Any person arrested as a deserter or absentee without leave from a reserve force shall as soon as practicable be brought before a magistrates' court.

#### **Textual Amendments**

**F1** Sch. 2 para. 2(1) repealed: (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\), s. 178\(8\), Sch. 7 para. 32, Sch. 17 Pt. 2; S.I. 2005/3495, art. 2\(1\)\(m\)\(u\); and \(N.I.\) \(1.3.2007\) by The Police and Criminal Evidence \(Amendment\) \(Northern Ireland\) Order 2007 \(S.I. 2007/288\), art. 1\(2\), Sch. 1 para. 31, Sch. 2](#)

#### *Proceedings before a civil court where persons suspected of illegal absence*

- 3 (1) Paragraphs 4 and 5 apply in the case of a person (“the accused”) who is brought before a magistrates' court and alleged to be a member of a reserve force who has deserted or is absent without leave.
- (2) The provisions of the <sup>M4</sup>Magistrates' Courts Act 1980—
- (a) relating to the constitution and procedure of magistrates' courts acting as examining justices and conferring powers of adjournment and remand on such courts so acting; and
  - (b) as to evidence and the issue and enforcement of summonses or warrants to secure the attendance of witnesses,

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shall apply to proceedings to which paragraph 4 or 5 applies.

- (3) In the application of this Schedule to Scotland and Northern Ireland, the reference in sub-paragraph (2) to provisions of the Magistrates' Courts Act 1980 shall be construed as a reference to any corresponding enactment in force as respects courts of summary jurisdiction.

#### Marginal Citations

**M4** 1980 c. 43.

- 4 (1) This paragraph applies where the accused admits that he is illegally absent from a reserve force and the court is satisfied of the truth of the admission.
- (2) If the accused is not in custody for some cause other than illegal absence from his reserve force, the court shall—
- (a) cause him to be delivered into military, air-force or naval custody (as the case may require) in such manner as the court may think fit; or
  - [<sup>F2</sup>(b) where it is unable to do so, adjourn the proceedings and remand him for such time as appears reasonably necessary for the purpose of arranging for him to be delivered into such custody.]
- (3) If the accused is in custody for some other cause, the court may act as mentioned in sub-paragraph (2).
- (4) Any period specified as mentioned in sub-paragraph (2)(b)—
- (a) shall not exceed such time as appears to the court reasonably necessary to enable the accused to be delivered into military, air-force or naval custody; and
  - (b) may be extended by the court from time to time if it appears to the court reasonably necessary to do so for that purpose.

#### Textual Amendments

**F2** Sch. 2 para. 4(2)(b) substituted (2.10.2000) by 2000 c. 4, s. 9(4)(a); S.I. 2000/2366, art. 2

- 5 (1) This paragraph applies where—
- (a) the accused does not admit that he is illegally absent from a reserve force; or
  - (b) the court is not satisfied of the truth of any such admission.
- (2) The court shall consider the evidence with a view to determining whether there is sufficient evidence to justify his being tried under this Act for an offence of desertion or absence without leave.
- (3) Where the court considers that there is sufficient evidence to justify his being tried under this Act for an offence of desertion or absence without leave, the court shall (unless he is in custody for some other cause) cause him to be delivered into military, air-force or naval custody (as the case may require) or [<sup>F3</sup>, where it is unable to do so, adjourn the proceedings and remand him for such time as appears reasonably necessary for the purpose of arranging for him to be delivered into such custody].

If the accused is in custody for some other cause, the court may act as mentioned in this paragraph.

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- (4) If the court does not consider that there is sufficient evidence to justify the trial of the accused for an offence of desertion or absence without leave, he shall be discharged.

#### Textual Amendments

**F3** Words in Sch. 2 para. 5(3) substituted (2.10.2000) by 2000 c. 4, s. 9(4)(b); S.I. 2000/2366, art. 2

#### *Surrender to police*

- 6 (1) Where a person surrenders himself to a constable as being illegally absent from a reserve force—
- (a) the constable shall, unless the person concerned surrenders himself at a police station, bring him to a police station; and
  - (b) the police officer in charge of the police station to which that person is brought, or at which he surrendered himself, shall forthwith inquire into his case.
- (2) If it appears to that police officer that the person concerned is illegally absent from a reserve force, he may—
- (a) cause him to be delivered into military, air-force or naval custody (as the case may require) without bringing him before a magistrates' court; or
  - (b) bring him before a magistrates' court.

#### *Certificates of arrest or surrender*

- 7 (1) Where a person is delivered into military, air-force or naval custody under this Schedule, there shall be handed over with him a certificate in such form as may be prescribed signed by a justice of the peace.
- (2) The certificate shall contain such particulars as may be prescribed as to the arrest or surrender of the person concerned and the proceedings before the court.
- (3) For any such certificate there shall be payable to the [<sup>F4</sup>proper officer] of the court, by such person as the Defence Council may direct, such fee (if any) as may be prescribed.

<sup>F5</sup>[(3A) In sub-paragraph (3) “proper officer” means—

- (a) in relation to a magistrates' court in England and Wales, the [<sup>F6</sup>designated officer] for the court; and
- (b) in relation to any other court, the clerk of the court.]

- (4) In this paragraph and paragraph 8, “prescribed” means prescribed by regulations made by the Secretary of State by statutory instrument under section 189 of the <sup>M5</sup>Army Act 1955 (for a person delivered into military custody), section 189 of the <sup>M6</sup>Air Force Act 1955 (for a person delivered into air-force custody) or section 110 of the <sup>M7</sup>Naval Discipline Act 1957 (for a person delivered into naval custody).

#### Textual Amendments

**F4** Words in Sch. 2 para. 7(3) substituted (1.4.2001) by 1999 c. 22, s. 90, Sch. 13 paras. 176, 177(2) (with Sch. 14 para. 7(2)); S.I. 2001/916, art. 2(a)(ii) (with Sch. 2 para. 2)

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**F5** Sch. 2 para. 7(3A) inserted (1.4.2001) by 1999 c. 22, s. 90, Sch. 13 paras. 176, **177(3)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)

**F6** Words in Sch. 2 para. 7(3A) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 369**; S.I. 2005/910, art. 3(y)

#### Marginal Citations

**M5** 1955 c. 18.

**M6** 1955 c. 19.

**M7** 1957 c. 53.

8 (1) Where a person is delivered into military, air-force or naval custody under this Schedule without being brought before a court, there shall be handed over with him a certificate in such form as may be prescribed signed by the police officer who caused him to be delivered into custody.

(2) The certificate shall contain such particulars as may be prescribed relating to the surrender of the person concerned.

9 (1) In proceedings for an offence under section 96 a document purporting to be a duly signed certificate under paragraph 7 or 8 shall be evidence of the matters stated in the document.

(2) In proceedings for such an offence against a person who was taken into military, air-force or naval custody on arrest or surrender, a certificate—

(a) purporting to be signed by a provost officer or by any other officer in charge of the guardroom or other place where that person was confined on being taken into custody; and

(b) stating the fact, date, time and place of arrest or surrender,

shall be evidence of the matters stated in the certificate.

#### *Duties of governors of prisons and others to receive deserters and absentees*

10 (1) It shall be the duty of the governor of a civil prison—

(a) to receive any person duly committed to that prison by a magistrates' court as being illegally absent from a reserve force; and

(b) to detain him until (in accordance with the directions of the court) he is delivered into military, air-force or naval custody.

(2) Sub-paragraph (1) shall apply to the person having charge of any police station or other place (not being a prison) provided for the confinement of persons in custody as it applies to the governor of a prison.

## SCHEDULE 3

Section 108.

### EVIDENCE

#### *General provisions as to evidence*

1 This Schedule has effect with respect to evidence in proceedings under Part X and proceedings for an offence under any other Part of this Act, whether before a court-martial, a civil court or otherwise.

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- 2 A letter, return or other document stating that any person—
- (a) was or was not serving at any specified time or during any specified period in any part of Her Majesty’s forces or was discharged from any part of those forces at or before any specified time;
  - (b) held or did not hold at any specified time any specified rank or appointment in any of those forces, or had at or before any specified time been attached, posted or transferred to any part of those forces;
  - (c) at any specified time or during any specified period was or was not serving or held or did not hold any rank or appointment in any particular country or place; or
  - (d) was or was not at any specified time authorised to use or wear any decoration, badge, wound stripe or emblem,
- shall, if it purports to be issued by or on behalf of the Defence Council or by a person authorised by them, be evidence of the matters stated in the document.
- 3 (1) A record made in any service book or other document prescribed by Queen’s Regulations for the purposes of this paragraph, being a record—
- (a) made in pursuance of any Act or of Queen’s Regulations, or otherwise in pursuance of military, air-force or naval duty, as the case may be; and
  - (b) purporting to be signed by the commanding officer or by any person whose duty it was to make the record,
- shall be evidence of the facts stated therein.
- (2) A copy of a record (including the signature thereto) in any book or other document to which sub-paragraph (1) applies, if it purports to be certified to be a true copy by a person stated in the certificate to have the custody of the book or other document, shall be evidence of the record.
- 4 A document purporting to be issued by order of the Defence Council and to contain instructions or regulations given or made by the Defence Council shall be evidence of the giving of the instructions or making of the regulations and of their contents.
- 5 A certificate purporting to be issued by or on behalf of the Defence Council or by a person authorised by them, and stating—
- (a) that a decoration of a description specified in or annexed to the certificate is or is not a military, naval or air-force decoration; or
  - (b) that a badge, wound stripe or emblem of a description specified in or annexed to the certificate is or is not one supplied or authorised by the Defence Council,
- shall be evidence of the matters stated in the certificate.
- 6 A certificate purporting to be signed by a person’s commanding officer or any officer authorised by him to give the certificate, and stating the contents of, or of any part of, standing orders or other routine orders of a continuing nature made for—
- (a) any formation, unit or body of—
    - (i) the regular army or any reserve land force;
    - (ii) the Royal Marines or the Royal Marines Reserve; or
    - (iii) the regular air force or any reserve air force;
  - (b) any division, class or other body of the Royal Navy, the Royal Fleet Reserve or the Royal Naval Reserve;
  - (c) any command or other area, garrison or place; or
  - (d) any ship, submarine, train or aircraft,



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shall in proceedings against the person concerned be evidence of the matters stated in the certificate.

- 7 Where, in relation to one reserve force, any document would be evidence in any proceedings under Part X by virtue of this Schedule, or paragraph 6 of Schedule 1, that document shall in like manner, subject to the same conditions and for the like purpose be evidence in the like proceedings in relation to any other reserve force.

*Proceedings for offences under section 95*

- 8 Where a man of any reserve force is required by or in pursuance of orders or regulations under section 4 to attend at any place, a certificate—
- (a) purporting to be signed by any officer or person who is mentioned in it as being appointed to be present at that place for the purpose of inspecting men of the force in question or for any other purpose connected with that force; and
  - (b) stating that the man failed to attend in accordance with that requirement,
- shall without proof of the signature or appointment of the officer or person be evidence of the failure in any proceedings relating to such a failure under section 95.

*Proof of outcome of civil trial*

- 9 (1) Where a person subject to service law has been tried before a civil court (whether at the time of the trial he was or was not subject to service law), a certificate signed by the [F7proper officer] of the court and stating all or any of the following matters—
- (a) that the person concerned was tried before the court for an offence specified in the certificate;
  - (b) the result of the trial;
  - (c) what judgment or order was given or made by the court; and
  - (d) that other offences specified in the certificate were taken into consideration at the trial,
- shall be evidence of the matters stated in the certificate.
- (2) The [F7proper officer] of the court shall, if required by the commanding officer of the person in question or any other officer, furnish a certificate under this paragraph and shall be paid such fee as may be prescribed by regulations made by the Secretary of State under section 199 of the <sup>M8</sup>Army Act 1955, section 199 of the <sup>M9</sup>Air Force Act 1955 or section 129B of the <sup>M10</sup>Naval Discipline Act 1957, as the case may be.
- (3) A document purporting to be a certificate under this paragraph and to be signed by the [F7proper officer] of the court shall, unless the contrary is shown, be deemed to be such a certificate.
- <sup>F8</sup>(4) In this paragraph “proper officer” means—
- (a) in relation to a court of summary jurisdiction in England and Wales, the [F9designated officer] for the court; and
  - (b) in relation to any other court, the clerk of the court, his deputy or any other person having the custody of the records of the court.]

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#### Textual Amendments

- F7** Words in Sch. 3 para. 9(1)(2)(3) substituted (1.4.2001) by 1999 c. 22, s. 90, Sch. 13 paras. 176, **178(2)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F8** Sch. 3 para. 9(4) substituted (1.4.2001) by 1999 c. 22, s. 90, Sch. 13 paras. 176, **178(3)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F9** Words in Sch. 3 para. 9(4) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 370**; S.I. 2005/910, art. 3(y)

#### Marginal Citations

- M8** 1955 c. 18.  
**M9** 1955 c. 19.  
**M10** 1957 c. 53.

## SCHEDULE 4

Section 111.

### PROVISIONS OF SCHEMES FOR THE CONSTITUTION OF ASSOCIATIONS

- 1 (1) A scheme for the constitution of an association (“a scheme”) shall provide—
- (a) for the date of the establishment of the association;
  - (b) for the incorporation of the association by an appropriate name;
  - (c) for appointment as members of the association of naval members, marine members, military members and air force members;
  - (d) for the appointment as members of the association by the Defence Council, after consultation with, and on the recommendation of, the bodies to be represented, of representatives of such of the local authorities wholly or partly within the area for which the association is established as the Defence Council may from time to time determine;
  - (e) for the mode of appointment, dismissal, term of office and rotation of members of the association and the filling of casual vacancies;
  - (f) for the election of a chairman and a vice-chairman or vice-chairmen by the association and for defining their powers and duties;
  - (g) for the appointment by the association, subject to the approval of the Defence Council, of a secretary and other officers and members of the staff of the association;
  - (h) for the procedure to be adopted, including the appointment of committees and the delegation to committees of any of the powers or duties of the association;
  - (i) for enabling flag, general or air officers of any part of Her Majesty’s forces, or officers deputed by them, to attend the meetings of the association, and to speak but not to vote.
- (2) A scheme shall secure that the aggregate number of naval members, marine members, military members and air force members are not less than half of the whole number of members of the association.
- (3) A secretary or other officer or member of the staff who is in the employment of the association by virtue of the provisions of an order made by the Defence Council in exercise of the powers conferred upon the Defence Council by section 119 shall

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- be deemed for the purposes of sub-paragraph (1)(g) above (and the corresponding purposes of the scheme concerned) to have been appointed by the association.
- 2 A scheme for an association in England and Wales or Northern Ireland (but not for an association established for an area that includes Greater London) shall provide—
- (a) for constituting as president of the association the lord-lieutenant of one of the counties or parts of counties for which the association is established, as the Defence Council may from time to time think fit, or, failing any of those lord-lieutenants, such other person as the Defence Council may think fit; and
  - (b) for constituting as vice-presidents of the association the lord-lieutenants of any of those counties or parts of counties (if they are willing to act) and such other persons (if any) as the Defence Council may think fit.
- 3 A scheme for an association in Scotland shall provide—
- (a) in the case where an association area coincides with a local government area or where a local government area contains two or more association areas, for the selection by the Defence Council of the president and vice-presidents of the association from the lord-lieutenants residing in the local government area or from such other persons as the Defence Council may think fit; or
  - (b) in the case where an association area falls within two or more local government areas, for the selection by the Defence Council of the president and vice-presidents of the association from the lord-lieutenants residing in those local government areas or from such other persons as the Defence Council may think fit.
- 4 A scheme for an association established for an area including Greater London shall provide for constituting the lord-lieutenant of Greater London or, failing him, such other person as the Defence Council may think fit, president of the association.
- 5 A scheme may provide—
- (a) for the appointment as members of the association by the Defence Council, of representatives of universities whose activities are carried on wholly or partly within the area for which the association is established;
  - (b) for the appointment as members of the association by the Defence Council, of persons representing the Army Cadet Force, the Air Training Corps, the Combined Cadet Force and the Sea Cadet Corps;
  - (c) for the appointment as members of the association by the Defence Council, of persons representing employers, and persons employed, in the area for which the association is established;
  - (d) for the appointment of co-opted members;
  - (e) for dividing the area for which the association is established into two or more parts and for establishing sub-associations for any of the parts; and
  - (f) for delegating to a sub-association such of the powers and duties of the association as may be approved by the Defence Council and regulating the relations of a sub-association to the association and, where any association has established more than one sub-association, regulating the relations of one sub-association to another.
- 6 A scheme shall provide that of the chairman and the vice-chairman or vice-chairmen at least one shall be a naval or marine member of the association and at least one shall be a military member of the association and at least one an air force member of the association.

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: Reserve Forces Act 1996 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 7 A scheme may contain any consequential, supplemental or transitory provisions which may appear to be necessary or expedient for the purposes of the scheme, and also as respects any matter for which provision may be made by regulations under Part XI and for which it appears desirable to make special provision affecting the association established by the scheme.
- 8 (1) A scheme for an association established for an area including or including any part of the counties of Kent, East Sussex and West Sussex may provide that the Lord Warden of the Cinque Ports shall ex-officio be a member of the association.
- (2) A scheme for an association established for an area including or including any part of the counties of Devon and Cornwall may provide that the Warden of the Stannaries shall ex-officio be a member of the association.
- 9 (1) The Governor of the Isle of Wight shall ex-officio be a member of an association established for an area including the Isle of Wight.
- (2) The Lieutenant-Governor of the Isle of Man shall ex-officio be a member of an association established for an area including the Isle of Man.
- (3) The Lord Mayor of the City of London shall ex-officio be president of a sub-association established for the City of London.
- 10 In this Schedule—
- “air force member” means one who is a member or former member of Her Majesty’s air forces or who is specially qualified by his interest in and knowledge of matters relating to aviation;
- “county” means, in relation to Wales, a preserved county (as defined by section 64 of the <sup>M11</sup>Local Government (Wales) Act 1994);
- “marine member” means one who is a member or former member of the Royal Marines or the Royal Marines Reserve or who is specially qualified by his interest in and knowledge of matters affecting marine forces;
- “military member” means one who is a member or former member of Her Majesty’s military forces or who is specially qualified by his interest in and knowledge of military matters;
- “naval member” means one who is a member or former member of the Royal Navy or the Royal Naval Reserve or who is specially qualified by his interest in and knowledge of naval matters.

#### Marginal Citations

M11 1994 c. 19.

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: Reserve Forces Act 1996 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULE 5

Section 120.

### CHARITABLE PROPERTY ON DISBANDING OF UNITS

#### PART I

##### PRELIMINARY

###### *Designation of successor to disbanded unit*

- 1 (1) A warrant of Her Majesty may designate, for the purposes of this Schedule, any unit of a reserve force as the successor to any unit or other body of the same or any other reserve force which has been or is to be disbanded.
- (2) The Secretary of State shall send a copy of any such warrant to—
- (a) the Charity Commissioners;
  - <sup>F10</sup>(b) .....
  - (c) the Department of Health and Social Services for Northern Ireland; and
  - (d) a trustee of each charity in England and Wales or Northern Ireland, or a person concerned in the management or control of each recognised body, affected by the warrant by virtue of the following provisions of this Schedule.
- (3) A copy of a warrant required to be sent under this paragraph may be sent by post; and any such copy shall be sent so as to arrive on or before the day on which the warrant comes into force and, in any event, not more than 14 days from the day on which the warrant is made.

#### **Textual Amendments**

**F10** Sch. 5 para. 1(2)(b) repealed (19.5.1999) by [S.I. 1999/678](#), [art. 5](#) (with [art. 7](#))

#### **Modifications etc. (not altering text)**

**C1** Sch. 5 para. 1: Functions of the Lord Advocate transferred to the Secretary of State, and all property, rights and liabilities to which the Lord Advocate is entitled or subject in connection with any such function transferred to the Secretary of State for Scotland (19.5.1999) by [S.I. 1999/678](#), [arts. 2, 3](#), [Sch.](#) (with [art. 7](#))

#### *General interpretation*

- 2 In this Schedule—
- “disbanded unit” means a unit for which a successor is designated under paragraph 1;
  - “charity” has the <sup>M12</sup>same meaning (in relation to England and Wales) as in the Charities Act 1993 and (in relation to Northern Ireland) as in the <sup>M13</sup>Charities Act (Northern Ireland) 1964;
  - “recognised body” has the same meaning as in Part I of the <sup>M14</sup>Law Reform (Miscellaneous Provisions) (Scotland) Act 1990;
  - “warrant” means a warrant making such a designation,

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and references to disbandment of a body of a reserve force (however expressed) include references to its amalgamation with another unit or body.

#### Marginal Citations

- M12 1993 c. 10.  
M13 1964 c. 33 (N.I.).  
M14 1990 c. 40.

## PART II

### SUCCESSION TO CHARITABLE PROPERTY: ENGLAND AND WALES

#### *Effect of designation of successor to disbanded unit*

- 3 (1) On and after the day on which a warrant comes into force, any charitable property which is held for the purposes of the disbanded unit in question shall (subject to the provisions of this Part of this Schedule) be held for the corresponding purposes, or most nearly corresponding purposes, of the successor unit designated by the warrant.
- (2) In this Part of this Schedule “charitable property” means any property belonging to a charity.
- (3) The same jurisdiction and powers shall be exercisable in relation to any charity owning property to which sub-paragraph (1) applies as would be exercisable if that sub-paragraph were not a provision of an Act of Parliament regulating that charity.

#### *Exclusion of charitable property from paragraph 3*

- 4 (1) If the Charity Commissioners consider that paragraph 3(1) should not apply to all or any of the charitable property held for the purposes of a disbanded unit, they may make an order providing that paragraph 3(1) shall not apply or shall cease to apply to that property or part.
- (2) An order under this paragraph may be made at any time within the period of 6 months beginning with the day on which the warrant is made.
- 5 (1) If a charity affected by a warrant or any trustee of, or person interested in, such a charity considers that paragraph 3(1) should not apply to all or any of the property held by the charity for the purposes of the disbanded unit in question, then the charity, trustee or person interested, as the case may be, may apply to the court for an order providing that paragraph 3(1) shall cease to apply to that property or part.
- (2) An application under this paragraph—
- (a) may be made at any time within the period of 6 months beginning with the day on which the warrant comes into force; and
  - (b) is subject to subsections (2) to (5) of section 33 of the <sup>M15</sup>Charities Act 1993 (proceedings not to be begun without the consent of the Charity Commissioners or leave of a judge of the High Court),
- and for the purposes of subsection (5) of that section an application for an order of the Commissioners authorising proceedings under this paragraph shall be deemed to

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be refused if it is not granted during the period of one month beginning with the day on which the application is received by the Commissioners.

(3) In this paragraph “the court” has the same meaning as in the Charities Act 1993.

**Marginal Citations**

**M15** 1993 c. 10.

*Application of property otherwise than under paragraph 3*

- 6 In any case where—
- (a) the Secretary of State requests the Charity Commissioners to make provision with respect to any charitable property which is held for the purposes of a unit of a reserve force that has been or is to be disbanded; or
  - (b) an order is made under paragraph 4 or 5 excluding any charitable property so held from the operation of paragraph 3(1),
- the Commissioners may, notwithstanding anything in subsection (4) of section 16 of the Charities Act 1993 (limit on jurisdiction to make schemes etc. for the protection of charities), exercise their jurisdiction under that section with respect to the property to which the request or order relates.

*Validity of certain acts by trustees*

- 7 Neither a warrant nor any order under paragraph 4 or 5 shall affect the validity of anything done or omitted with respect to any property affected by the warrant or order before a copy of the warrant or order is received by a trustee of the charity in question.

*Saving for interests in property contingent on disbandment of unit*

- 8 Nothing in this Part of this Schedule applies to any property held by a charity for the purposes of a unit that has been or is to be disbanded if, under the terms on which the property is so held—
- (a) any interest of the charity in the property is determined on the disbanding of that unit; and
  - (b) any other person or charity has an interest in the property contingent upon the determination of the interest of the charity.

**PART III**

SUCCESSION TO CHARITABLE PROPERTY: SCOTLAND

*Effect of designation of successor to disbanded unit*

- 9 (1) On and after the day on which a warrant comes into force, any charitable property which is held for the purposes of the disbanded unit in question shall (subject to the provisions of this Part of this Schedule) be held for the corresponding purposes, or most nearly corresponding purposes, of the successor unit designated by the warrant.

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- (2) In this Part of this Schedule “charitable property” means any property belonging to a recognised body.

*Exclusion of charitable property from paragraph 9*

- 10 (1) If the Lord Advocate considers that paragraph 9 should not apply to all or any of the charitable property held for the purposes of a disbanded unit, he may give a direction providing that paragraph 9 shall not apply or shall cease to apply to that property or part.
- (2) A direction under this paragraph may be given at any time during the period of 6 months beginning with the day on which the warrant is made.

**Modifications etc. (not altering text)**

- C2** Sch. 5 para. 10: Functions of the Lord Advocate transferred to the Secretary of State, and all property, rights and liabilities to which the Lord Advocate is entitled or subject in connection with any such function transferred to the Secretary of State for Scotland (19.5.1999) by [S.I. 1999/678](#), arts. 2, 3, [Sch. 1](#) (with art. 7)
- Sch. 5 para. 10: Transfer of certain functions (1.7.1999) by [S.I. 1999/1750](#), arts. 1, 2, [Sch. 1](#) (with art. 7)

- 11 (1) If a recognised body affected by a warrant or any person concerned in the management or control of, or interested in, such a body considers that paragraph 9 should not apply to all or any of the charitable property held by the recognised body for the purposes of the disbanded unit in question, then the recognised body, person concerned in its management or control or person interested, as the case may be, may apply by petition to the Court of Session for the court to make an order—
- providing that paragraph 9 shall cease to apply to that property or part; and
  - exercising, with respect to that property or part, any of the court’s powers relating to a charitable or other permanent endowment.
- (2) On an application under sub-paragraph (1), the court may exercise any such power as is mentioned in sub-paragraph (1)(b) to make such order as it considers to be appropriate, whether or not that power would normally be exercisable at the instance of such a petitioner.
- (3) An application under this paragraph may be made at any time within the period of 6 months beginning with the day on which the warrant comes into force.

*Power of Lord Advocate to apply to Court of Session*

- 12 (1) Where a body of a reserve force has been or is to be disbanded, the Lord Advocate —
- if he has not given a direction under paragraph 9, may; and
  - if he has given such a direction, shall,
- apply by petition to the Court of Session for the court to make an order exercising, with respect to any charitable property which is held for the purposes of the disbanded unit, any of the court’s powers relating to a charitable or other permanent endowment.
- (2) On an application under sub-paragraph (1), the court may, subject to any such direction, exercise any such power to make such order as it considers to be appropriate, whether or not that power would normally be exercisable at the instance of the Lord Advocate.



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**Modifications etc. (not altering text)**

- C3** Sch. 5 para. 12: Functions of the Lord Advocate transferred to the Secretary of State, and all property, rights and liabilities to which the Lord Advocate is entitled or subject in connection with any such function transferred to the Secretary of State for Scotland (19.5.1999) by S.I. 1999/678, arts. 2, 3, **Sch.** (with art. 7)  
Sch. 5 para. 12: Transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1, 2, **Sch. 1** (with art. 7)

*Validity of certain acts*

- 13 None of the following, that is to say, a warrant, a direction under paragraph 10 or an order under paragraph 11 or 12 shall affect the validity of anything done or omitted with respect to any property affected by the warrant, direction or order before a copy of the warrant, direction or order is received by a person concerned in the management or control of the recognised body in question.

*Saving for interests in property contingent on disbandment of unit*

- 14 Nothing in this Part of this Schedule applies to any property held by a recognised body for the purposes of a unit that has been or is to be disbanded if, under the terms on which the property is so held—
- (a) any interest of the recognised body in the property is determined on the disbanding of that unit; and
  - (b) any other person or recognised body has an interest in the property contingent upon the determination of the interest of the recognised body.

**PART IV**

SUCCESSION TO CHARITABLE PROPERTY: NORTHERN IRELAND

*Effect of designation of successor to disbanded unit*

- 15 (1) On and after the day on which a warrant comes into force, any charitable property which is held for the purposes of the disbanded unit in question and administered for those purposes according to the law of Northern Ireland shall (subject to the provisions of this Part of this Schedule) be held for the corresponding purposes, or most nearly corresponding purposes, of the successor unit designated by the warrant.
- (2) In this Part of this Schedule “charitable property” means any property belonging to a charity.
- (3) The same jurisdiction and powers shall be exercisable in relation to any charity owning property to which sub-paragraph (1) applies as would be exercisable if that sub-paragraph were not a provision of an Act of Parliament regulating the charity.

*Exclusion of charitable property from paragraph 15*

- 16 (1) If the Department of Health and Social Services for Northern Ireland considers that paragraph 15(1) should not apply to all or any of the charitable property held for the purposes of a disbanded unit, that Department may make an order providing that paragraph 15(1) shall not apply or shall cease to apply to that property.

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- (2) An order under this paragraph may be made at any time during the period of 6 months beginning with the day on which the warrant is made.
- 17 (1) If a charity affected by a warrant or any trustee of, or person interested in, such a charity considers that paragraph 15(1) should not apply to all or any of the property held by the charity for the purposes of the disbanded unit in question, then the charity, trustee or person interested, as the case may be, may apply to the court for an order providing that paragraph 15(1) shall cease to apply to that property or part.
- (2) An application under this paragraph—
- (a) may be made at any time within the period of 6 months beginning with the day on which the warrant comes into force; and
  - (b) is subject to section 29(3) of the <sup>M16</sup>Charities Act (Northern Ireland) 1964 (under which an application for an order of the court in connection with the administration of a charity may not be made without the consent of the Attorney General for Northern Ireland).
- (3) In this paragraph “the court” has the same meaning as in the <sup>M17</sup>Charities Act (Northern Ireland) 1964.

#### Marginal Citations

**M16** 1964 c. 33 (N.I.).

**M17** 1964 c. 33 (N.I.).

#### *Application of property otherwise than under paragraph 15*

- 18 In any case where—
- (a) the Secretary of State requests the Department of Health and Social Services for Northern Ireland to make provision with respect to any charitable property held for the purposes of a unit of a reserve force which has been or is to be disbanded; or
  - (b) an order is made under paragraph 16 or 17 excluding any charitable property so held from the operation of paragraph 15(1),
- the Department may, notwithstanding anything in subsection (1) of section 13 of the <sup>M18</sup>Charities Act (Northern Ireland) 1964 and irrespective of the value of the property in question, exercise its jurisdiction under that section with respect to the property to which the request or order relates.

#### Marginal Citations

**M18** 1964 c. 33 (N.I.).

#### *Validity of certain acts by trustees*

- 19 Neither a warrant nor any order under paragraph 16 or 17 shall affect the validity of anything done or omitted with respect to any property affected by the warrant or order before a copy of the warrant or order is received by a trustee of the charity in question.

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*Saving for interests in property contingent on disbandment of unit*

- 20 Nothing in this Part of this Schedule applies to any property held by a charity for the purposes of a unit which has been or is to be disbanded if, under the terms on which the property is so held—
- (a) any interest of the charity in the property is determined on the disbanding of that unit; and
  - (b) any other person or charity has an interest in the property contingent upon the determination of the interest of the charity.

F11 SCHEDULE 6

**Textual Amendments**

F11 Sch. 6 repealed (1.7.1997) by 1997 c. 23, ss. 8(4), 9(2), Sch. 3 (with s. 7(3), Sch. 2 para. 6)

SCHEDULE 7

Section 126.

POSTPONEMENT OF TRANSFER TO THE RESERVE  
OR DISCHARGE FROM THE REGULAR SERVICES

*The Army*

- 1 (1) Sections 9 (postponement of transfer to the reserve or discharge) and 10 (continuation of army service in imminent national danger) of the <sup>M20</sup>Army Act 1955 shall be amended as follows.
- (2) For subsections (1) to (4) of section 9 there shall be substituted the following subsections—
- “(1) This section applies to a soldier of the regular forces if, on the relevant date, a call-out order under section 52, 54 or 56 of the Reserve Forces Act 1996 is in force authorising the call out for permanent service of members of the reserve.
- For the purposes of this section, “the relevant date”, in relation to a soldier, means the date on which he would, apart from this section, fall to be transferred to the reserve or he would be entitled to be discharged, as the case may be.
- (1A) A soldier to whom this section applies may be retained in army service after the relevant date in accordance with this section for such period as the competent military authority may order, and his service may be prolonged accordingly.
- (1B) The period for which a soldier may be retained in service after the relevant date by virtue of this section shall be limited as follows, that is to say—

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- (a) a soldier who would otherwise have fallen to be transferred to the reserve may not be retained for longer than the period for which, if the assumptions mentioned in subsection (1C) below are made in relation to him, he could have been required to serve on being called out under Part VI of the Reserve Forces Act 1996; or
  - (b) a soldier who would otherwise have been discharged may not be retained for longer than twelve months;
- and a soldier who is retained in service is (if not transferred or discharged sooner) entitled to be transferred to the reserve or discharged, as the case may require, at the end of whichever of the above periods applies to him.
- (1C) The assumptions to be made in relation to a soldier for the purposes of subsection (1B)(a) above are that—
- (a) he was transferred to the reserve in time to be called out for permanent service starting on the relevant date; and
  - (b) he was so called out on the authority of the call-out order which justified his retention in service.”
- (3) After subsection (6) of section 9 there shall be inserted the following subsection—
- “(6A) Where a soldier is retained in service by virtue of this section but would otherwise have fallen to be transferred to the reserve—
- (a) any period for which he is liable to serve in the reserve after the completion of his army service shall be reduced by the period for which he is so retained; and
  - (b) the period for which he is so retained shall be treated as a period of relevant service for the purposes of any provision of Part IV, V, VI or VII of the Reserve Forces Act 1996.”
- (4) In subsection (1) of section 10, for the words from “men” to the end there shall be substituted the words “ a call-out order under section 52 of the Reserve Forces Act 1996 authorising the call out of members of the reserve is in force ”.

**Marginal Citations**

**M20** 1955 c. 18.

- 2 The <sup>M21</sup>Army Act 1955 shall continue to apply without the amendments made by paragraph 1 in relation to any soldier who is in service immediately before the date on which that paragraph comes into force unless—
- (a) he re-enters, re-engages or extends his army service after that day; or
  - (b) he elects irrevocably in such manner as may be prescribed to be a person to whom that Act shall apply with those amendments.

**Marginal Citations**

**M21** 1955 c. 18.

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### *The Royal Marines*

- 3 (1) Paragraphs 4A (postponement of transfer to Royal Fleet Reserve or discharge) and 4B (continuation of service in Royal Marines in imminent national danger) of Schedule 7 to the Army Act 1955 (provisions as to Royal Marines) shall be amended as follows.
- (2) For sub-paragraphs (1) to (4) of paragraph 4A there shall be substituted the following sub-paragraphs—
- “(1) This paragraph applies to a marine serving in the Royal Marines if, on the relevant date, a call-out order under section 52, 54 or 56 of the Reserve Forces Act 1996 is in force authorising the call out for permanent service of members of the Royal Fleet Reserve.
- For the purposes of this paragraph, “the relevant date”, in relation to a marine, means the date on which he would, apart from this paragraph, fall to be transferred to the Royal Fleet Reserve or he would be entitled to be discharged, as the case may be.
- (1A) A marine to whom this paragraph applies may be retained in service in the Royal Marines after the relevant date in accordance with this paragraph for such period as the competent authority may order, and his service may be prolonged accordingly.
- (1B) The period for which a marine may be retained in service after the relevant date by virtue of this paragraph shall be limited as follows, that is to say—
- (a) a marine who would otherwise have fallen to be transferred to the Royal Fleet Reserve may not be retained for longer than the period for which, if the assumptions mentioned in sub-paragraph (1C) below are made in relation to him, he could have been required to serve on being called out under Part VI of the Reserve Forces Act 1996; or
- (b) a marine who would otherwise have been discharged may not be retained for longer than twelve months;
- and a marine who is retained in service is (if not transferred or discharged sooner) entitled to be transferred to the Royal Fleet Reserve or discharged, as the case may require, at the end of whichever of the above periods applies to him.
- (1C) The assumptions to be made in relation to a marine for the purposes of sub-paragraph (1B)(a) above are that—
- (a) he was transferred to the Royal Fleet Reserve in time to be called out for permanent service starting on the relevant date; and
- (b) he was so called out on the authority of the call-out order which justified his retention in service.”
- (3) After sub-paragraph (6) of paragraph 4A there shall be inserted the following sub-paragraph—
- “(6A) Where a marine is retained in service by virtue of this paragraph but would otherwise have fallen to be transferred to the Royal Fleet Reserve—
- (a) any period for which he is liable to serve in the Royal Fleet Reserve after the completion of his service in the Royal Marines shall be reduced by the period for which he is so retained; and

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- (b) the period for which he is so retained shall be treated as a period of relevant service for the purposes of any provision of Part IV, V, VI or VII of the Reserve Forces Act 1996.”
- (4) Sub-paragraph (8) of paragraph 4A shall cease to have effect.
- (5) In sub-paragraph (1) of paragraph 4B, for the words from “men” to the end there shall be substituted the words “ a call-out order under section 52 of the Reserve Forces Act 1996 authorising the call out of members of the Royal Fleet Reserve is in force ”.
- 4 The <sup>M22</sup>Army Act 1955 shall continue to apply without the amendments made by paragraph 3 in relation to any marine who is in service immediately before the date on which that paragraph comes into force unless—
- (a) he re-enters, re-engages or extends his service in the Royal Marines after that day; or
- (b) he elects irrevocably in such manner as may be prescribed to be a person to whom that Act shall apply with those amendments.

**Marginal Citations**

**M22** 1955 c. 18.

*The Royal Air Force*

- 5 (1) Sections 9 (postponement of transfer to the reserve or discharge) and 10 (continuation of air-force service in imminent national danger) of the <sup>M23</sup>Air Force Act 1955 shall be amended as follows.
- (2) For subsections (1) to (4) of section 9 there shall be substituted the following subsections—
- “(1) This section applies to an airman of the regular air force if, on the relevant date, a call-out order under section 52, 54 or 56 of the Reserve Forces Act 1996 is in force authorising the call out for permanent service of members of the reserve.
- For the purposes of this section, “the relevant date”, in relation to an airman, means the date on which he would, apart from this section, fall to be transferred to the reserve or he would be entitled to be discharged, as the case may be.
- (1A) An airman to whom this section applies may be retained in air-force service after the relevant date in accordance with this section for such period as the competent air-force authority may order, and his service may be prolonged accordingly.
- (1B) The period for which an airman may be retained in service after the relevant date by virtue of this section shall be limited as follows, that is to say—
- (a) an airman who would otherwise have fallen to be transferred to the reserve may not be retained for longer than the period for which, if the assumptions mentioned in subsection (1C) below are made in relation to him, he could have been required to serve on being called out under Part VI of the Reserve Forces Act 1996; or

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- (b) an airman who would otherwise have been discharged may not be retained for longer than twelve months;
- and an airman who is retained in service is (if not transferred or discharged sooner) entitled to be transferred to the reserve or discharged, as the case may require, at the end of whichever of the above periods applies to him.
- (1C) The assumptions to be made in relation to an airman for the purposes of subsection (1B)(a) above are that—
- (a) he was transferred to the reserve in time to be called out for permanent service starting on the relevant date; and
- (b) he was so called out on the authority of the call-out order which justified his retention in service.”
- (3) After subsection (6) of section 9 there shall be inserted the following subsection—
- “(6A) Where an airman is retained in service by virtue of this section but would otherwise have fallen to be transferred to the reserve—
- (a) any period for which he is liable to serve in the reserve after the completion of his air-force service shall be reduced by the period for which he is so retained; and
- (b) the period for which he is so retained shall be treated as a period of relevant service for the purposes of any provision of Part IV, V, VI or VII of the Reserve Forces Act 1996.”
- (4) In subsection (1) of section 10, for the words from “men” to the end there shall be substituted the words “ a call-out order under section 52 of the Reserve Forces Act 1996 authorising the call out of members of the reserve is in force ”.

**Marginal Citations**

**M23** 1955 c. 19.

- 6 The <sup>M24</sup>Air Force Act 1955 shall continue to apply without the amendments made by paragraph 5 in relation to any airman who is in service immediately before the date on which that paragraph comes into force unless—
- (a) he re-enters, re-engages or extends his air-force service after that day; or
- (b) he elects irrevocably in such manner as may be prescribed to be a person to whom that Act shall apply with those amendments.

**Marginal Citations**

**M24** 1955 c. 19.

*The Royal Navy*

- 7 (1) Sections 4 (postponement of transfer to Royal Fleet Reserve or discharge) and 5 (continuation of service in Royal Navy in imminent national danger) of the <sup>M25</sup>Armed Forces Act 1966 shall be amended as follows.
- (2) For subsections (1) to (4) of section 4 there shall be substituted the following subsections—

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“(1) This section applies to a rating if, on the relevant date, a call-out order under section 52, 54 or 56 of the Reserve Forces Act 1996 is in force authorising the call out for permanent service of members of the Royal Fleet Reserve.

For the purposes of this section, “the relevant date”, in relation to a rating, means the date on which he would, apart from this section, fall to be transferred to the Royal Fleet Reserve or he would be entitled to be discharged, as the case may be.

(1A) A rating to whom this section applies may be retained in service in the Royal Navy after the relevant date in accordance with this section for such period as the competent authority may order, and his service may be prolonged accordingly.

(1B) The period for which a rating may be retained in service after the relevant date by virtue of this section shall be limited as follows, that is to say—

- (a) a rating who would otherwise have fallen to be transferred to the Royal Fleet Reserve may not be retained for longer than the period for which, if the assumptions mentioned in subsection (1C) below are made in relation to him, he could have been required to serve on being called out under Part VI of the Reserve Forces Act 1996; or
- (b) a rating who would otherwise have been discharged may not be retained for longer than twelve months;

and a rating who is retained in service is (if not transferred or discharged sooner) entitled to be transferred to the Royal Fleet Reserve or discharged, as the case may require, at the end of whichever of the above periods applies to him.

(1C) The assumptions to be made in relation to a rating for the purposes of subsection (1B)(a) above are that—

- (a) he was transferred to the Royal Fleet Reserve in time to be called out for permanent service starting on the relevant date; and
- (b) he was so called out on the authority of the call-out order which justified his retention in service.”

(3) After subsection (6) of section 4 there shall be inserted the following subsection—

“(6A) Where a rating is retained in service by virtue of this section but would otherwise have fallen to be transferred to the Royal Fleet Reserve—

- (a) any period for which he is liable to serve in the Royal Fleet Reserve after the completion of his service in the Royal Navy shall be reduced by the period for which he is so retained; and
- (b) the period for which he is so retained shall be treated as a period of relevant service for the purposes of any provision of Part IV, V, VI or VII of the Reserve Forces Act 1996.”

(4) Subsection (9) of section 4 shall cease to have effect.

(5) In subsection (1) of section 5, for the words from “men” to the end there shall be substituted the words “ a call-out order under section 52 of the Reserve Forces Act 1996 authorising the call out of members of the Royal Fleet Reserve is in force ”.



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**Marginal Citations**

**M25** 1966 c. 45.

- 8 The <sup>M26</sup>Armed Forces Act 1966 shall continue to apply without the amendments made by paragraph 7 in relation to any rating who is in service immediately before the date on which that paragraph comes into force unless—
- (a) he re-enters, re-engages or extends his service in the Royal Navy after that day; or
  - (b) he elects irrevocably in such manner as may be prescribed to be a person to whom that Act shall apply with those amendments.

**Marginal Citations**

**M26** 1966 c. 45.

SCHEDULE 8

Section 128.

TRANSITORY AND TRANSITIONAL PROVISIONS

*Existing members of the reserve forces*

- 1 (1) Nothing in section 2 shall prevent a person who, immediately before the day on which that section comes into force, is a man of a reserve force from continuing as a man of that force.
- (2) If men of the Air Force Reserve are transferred to the Royal Auxiliary Air Force under paragraph 7(2) after the day on which section 2 comes into force, nothing in that section shall prevent them continuing as men of the Royal Auxiliary Air Force.

*Royal Fleet Reserve*

- 2 (1) The Royal Fleet Reserve shall cease to be maintained as a division of the Royal Naval Reserve and shall, accordingly, be a separate reserve force.
- (2) Sub-paragraph (1) does not affect the continuity of membership of the Royal Fleet Reserve.
- 3 Any reference in any enactment or other instrument to the Royal Naval Reserve which, immediately before the commencement of paragraph 2(1), included a reference to the Royal Fleet Reserve shall continue to have effect as if it included a reference to the Royal Fleet Reserve.

*The special class of the Royal Fleet Reserve*

- 4 (1) The special class of the Royal Fleet Reserve existing by virtue of sections 2 and 57 of the <sup>M27</sup>Reserve Forces Act 1980 may continue in existence subject to sub-paragraphs (2) and (3) of this paragraph.
- (2) No man, after the commencement of this paragraph—

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- (a) may on entering or re-engaging in the Royal Fleet Reserve or during a term of service in that force, be entered in or transferred to the special class or undertake the liability for service in that class; or
  - (b) may be transferred to that class otherwise than as mentioned in section 57(2) and section 58 of the Reserve Forces Act 1980.
- (3) Persons in the special class immediately before the commencement of this paragraph shall continue in that class (subject to the provisions of the <sup>M28</sup>Reserve Forces Act 1980) until the end of their terms of service as mentioned in section 57(3) of that Act.
- (4) A member of the special class who elects to be subject to Part VI of this Act shall cease to be a member of that class and shall become subject to the provisions of that Part.
- (5) A person liable under the Reserve Forces Act 1980 to serve in the special class on transfer to the reserve who elects to be subject to Part VI of this Act shall cease to be liable to serve in that class.

#### Marginal Citations

M27 1980 c. 9.

M28 1980 c. 9.

- 5 If it appears to the Secretary of State that—
- (a) the special class of the Royal Fleet Reserve has no members; and
  - (b) no person remains liable to serve in that class on transfer to the reserve,
- the Secretary of State may by order made by statutory instrument repeal section 2(3) and (4), section 57 and section 58 of the Reserve Forces Act 1980.

#### *Home Service Force*

- 6 Section 6 of the Reserve Forces Act 1980 shall cease to have effect.

#### *Royal Air Force Volunteer Reserve*

- 7 (1) Her Majesty may continue to maintain a force known as the Royal Air Force Volunteer Reserve as a division of the Air Force Reserve.
- (2) On a day appointed by the Secretary of State by order, any officers or men of the Royal Air Force Volunteer Reserve who, immediately before that day, fall within any description of member specified in the order shall cease to be members of the Air Force Reserve and become members of the Royal Auxiliary Air Force.
- (3) An order under sub-paragraph (2) may describe the members who are to be transferred by reference to the unit or part of the Royal Air Force Volunteer Reserve to which they belong or by reference to any other criterion.

#### *Reserves of Officers*

- 8 (1) On a day appointed by the Secretary of State by order officers of the retired list of the Royal Navy and officers of the emergency list of the Royal Navy shall become members of the Royal Fleet Reserve.

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- (2) On a day appointed by the Secretary of State by order officers of the retired list of the Royal Marines and officers of the emergency list of the Royal Marines shall become members of the Royal Fleet Reserve.
- 9 On a day appointed by the Secretary of State by order, the members of the Regular Army Reserve of Officers shall become members of the Army Reserve.

*Training of existing members of the Royal Auxiliary Air Force*

- 10 Section 41(1) of the <sup>M29</sup>Reserve Forces Act 1980 shall apply, in relation to any person who may be required to undergo training under that section, with the omission of the words “within the United Kingdom”.

**Marginal Citations**

**M29** 1980 c 9.

*Effect of transfers under this Schedule*

- 11 (1) Any officers transferred to a reserve force under paragraph 7(2), 8 or 9 shall continue to serve in that force on the same conditions as they served immediately before their transfer.
- (2) Any men transferred to the Royal Auxiliary Air Force under paragraph 7(2) shall serve for the same term and on the same conditions as they served in the Air Force Reserve.
- (3) Anything done by or to any such officer or man before his transfer shall be treated so far as is necessary on and after that day as if it had been done by or to a member of the reserve force to which he was transferred.
- (4) If any such officer or man is transferred to a reserve force on or after the day appointed for the purposes of Part I of Schedule 9—
- (a) he shall be regarded for the purposes of paragraph 2 of that Schedule as if he had been a member of that force since immediately before the appointed day;
- (b) the references in that paragraph to “that time” shall be taken to refer to the time at which he was transferred to the reserve force.

*Parliamentary control*

- 12 A determination by Parliament of the permitted numbers of officers or men for any reserve force under any provision of Part I of the <sup>M30</sup>Reserve Forces Act 1980 shall have effect as a determination under section 3 of this Act.

**Marginal Citations**

**M30** 1980 c. 9.

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## SCHEDULE 9

Section 129.

## APPLICATION OF ACT TO TRANSITIONAL MEMBERS

## PART I

## THE TRANSITIONAL CLASS OF MEMBERS OF THE RESERVE FORCES

- 1 (1) The transitional class consists of persons who—
- (a) are members of a reserve force;
  - (b) for the time being fall within paragraph 2 or 3; and
  - (c) have not made an election under paragraph 4.
- (2) In this Schedule “transitional member” means a member of a reserve force who for the time being is a member of the transitional class; and “transitional officer” and “transitional man” shall be construed accordingly.
- (3) In this Part of this Schedule “the appointed day” means such day as the Secretary of State may by order made by statutory instrument appoint for the purposes of this Part of this Schedule.
- 2 A person who, immediately before the appointed day, was an officer or man of a reserve force falls within this paragraph if—
- (a) he has remained a member of that force without interruption since that time; and
  - (b) he has not extended his service in, or become an officer of, that force since that time.
- 3 An officer or man who becomes a member of a reserve force on or after the appointed day, on transfer to the reserve from the regular services, falls within this paragraph if—
- (a) he joined the regular services before the appointed day and did not re-enlist, re-engage or extend his service, or become an officer, in the regular services on or after that day;
  - (b) he has remained a member of the reserve force concerned without interruption since being transferred from the regular services; and
  - (c) he has not extended his service in, or become an officer of, that force since being so transferred.
- 4 (1) A person who is a transitional member of a reserve force by virtue of paragraph 2 or 3 may elect to cease being a transitional member.
- (2) An officer or man serving in the regular services who—
- (a) joined those services before the appointed day; and
  - (b) has not re-enlisted, re-engaged or extended his service, or become an officer, on or after that day,
- may elect not to be a transitional member on his transfer to the reserve.
- (3) An election under this paragraph is irrevocable and must be made in the prescribed manner.
- (4) A person who has made an election under this paragraph shall cease to be or, as the case may be, shall not become a transitional member of the reserve force concerned.

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- 5 (1) In this Part of this Schedule “man”, in relation to the regular services, means a person of or below the rank or rate of warrant officer.
- (2) A person in permanent service on recall (whether under the <sup>M31</sup>Reserve Forces Act 1980 or, in the case of an officer, otherwise than under this Act) shall not be regarded for the purposes of this Part of this Schedule as serving in the regular services.

#### Marginal Citations

M31 1980 c.9.

## PART II

### APPLICATION OF ACT TO MEMBERS OF THE TRANSITIONAL CLASS

- 6 The provisions of this Act (other than section 129 and this Schedule) apply in relation to members of the transitional class in accordance with this Part of this Schedule.
- 7 (1) Any reference in this Act to a reserve force, to two or more of the reserve forces or to all the reserve forces shall, unless the context otherwise requires, be construed as a reference to the whole of the force, or of each force, concerned, including any transitional members.
- (2) Any reference in this Act to members, officers or men of a reserve force includes, unless the context otherwise requires, a reference to members, officers or men who are transitional members.
- (3) This paragraph has effect subject to the exceptions and modifications in the following provisions of this Part of this Schedule.
- 8 (1) In the application of section 17(1) to a transitional man, the reference to permanent service includes a reference to permanent service under the Reserve Forces Act 1980.
- (2) Section 17(2), (3) and (4) do not apply to transitional men.
- 9 (1) In the application of sections 18, 20 and 21 to a transitional man, the reference to permanent service includes a reference to permanent service under the Reserve Forces Act 1980.
- (2) In the application of section 21 to a transitional man of the Royal Fleet Reserve, the reference to training and other duties includes a reference to training or other duties in pursuance of any provision of the Reserve Forces Act 1980.
- 10 Section 22 does not apply to transitional members of a reserve land, air or marine force.
- 11 In the application of section 24 to a transitional member who has entered into a full-time service commitment—
- (a) for the reference in subsection (7) to permanent service under Part VI there shall be substituted a reference to permanent service on call out under the <sup>M32</sup>Reserve Forces Act 1980 or, as the case may be, under any other call-out obligations of an officer; and
- (b) for the reference in subsection (8) to training under section 22 there shall (except in the case of a member of a reserve naval force) be substituted a

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reference to training required under the Reserve Forces Act 1980 or, as the case may be, under any other training obligations of an officer.

#### Marginal Citations

**M32** 1980 c. 9.

- 12 (1) Transitional members may (subject to the provisions of this Act) enter into a special agreement or an employee agreement; and Parts IV and V apply accordingly.
- (2) Transitional members of a reserve force do not lose their status as transitional members by virtue of either becoming special members of the force or (where they continue as ordinary members under section 42) ceasing to be special members of the force.
- 13 In the application of section 31(1) to a special agreement entered into by a transitional member, for the reference in paragraph (d) to permanent service under Part VI there shall be substituted a reference to permanent service under the Reserve Forces Act 1980 or, as the case may be, under any other call-out obligations of an officer.
- 14 In the application of section 34(5) to transitional members, the reference in paragraph (b) to section 57(11) shall be omitted.
- 15 In the application of section 40(5) to a transitional special member—
- (a) for the reference to section 22 there shall (except in the case of a member of a reserve naval force) be substituted a reference to the corresponding provision of the Reserve Forces Act 1980 or, as the case may be, of any other training obligations of an officer;
  - (b) for the reference to Part VI there shall be substituted a reference to the corresponding provisions of the Reserve Forces Act 1980 or, as the case may be, of any other call-out obligations of an officer.
- 16 An order may be made under section 41(6) suspending the operation of section 41(1)(c) in relation to transitional special members, notwithstanding that Part VI does not apply to transitional members.
- 17 In the application of section 45(5) to transitional members, the reference in paragraph (b) to section 57(11) shall be omitted.
- 18 Part VI does not apply to transitional members.
- 19 Regulations under section 78, 83 or 84 may make provision, in relation to transitional members liable to be called out under—
- (a) the Reserve Forces Act 1980, or
  - (b) any other call-out obligations of officers,
- corresponding to the provision which may be made in regulations under that section in relation to members of the reserve forces liable to be called out under Part VI of this Act.
- 20 In the application of section 96(1) to a transitional member—
- (a) the reference to any provision of this Act includes a reference to any provision of the <sup>M33</sup> Reserve Forces Act 1980 or, as the case may be, of any other call-out obligations of an officer; and

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- (b) for the reference in paragraph (a) to section 58(3)(c) there shall be substituted a reference to the corresponding provision of that Act or those obligations.

**Marginal Citations**

**M33** 1980 c. 9

- 21 In the application of section 97(2) to a transitional member, for the reference to section 22 there shall (except in the case of a member of a reserve naval force) be substituted a reference to the corresponding provision of the Reserve Forces Act 1980 or, as the case may be, of any other training obligations of an officer.
- 22 In the application of section 102(2) to transitional members—
- (a) the reference in paragraph (a) to any provision of this Act includes a reference to the corresponding provision of the Reserve Forces Act 1980 or, as the case may be, of any other call-out obligations of an officer;
- (b) the reference in paragraph (d) to training includes (except in the case of members of a reserve naval force) a reference to the corresponding training required under the Reserve Forces Act 1980 or, as the case may be, under any other training obligations of an officer.
- 23 In the application of section 123(1) to a transitional man, the reference to permanent service includes a reference to permanent service under the Reserve Forces Act 1980.
- 24 In the application of section 125 to a transitional member, the reference to permanent service includes a reference to permanent service under the Reserve Forces Act 1980 or, as the case may be, under any other call-out obligations of an officer.

SCHEDULE 10

Section 131(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

*Army Act 1955 (c.18)*

- 1 (1) Section 205(1) (persons subject to military law) of the Army Act 1955 shall be amended as follows.
- (2) For paragraph (e) there shall be substituted the following paragraphs—
- “(e) every officer of the Territorial Army who is not a special member;
- (ea) every officer of the Territorial Army who is a special member when in permanent service, in full-time service or undertaking any training or duty (whether in pursuance of an obligation or not);
- (eb) every officer of the army reserve when in permanent service, in full-time service or undertaking any training or duty (whether in pursuance of an obligation or not) or when serving on the permanent staff of the army reserve;”.
- (3) In paragraph (g) for the words from “called” to the end there shall be substituted the words “in permanent service, in full-time service or undertaking any training or duty

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(whether in pursuance of an obligation or not) or when serving on the permanent staff of the army reserve;”.

- (4) In paragraph (h) for the words from “embodied” to “parades” there shall be substituted the words “in permanent service, in full-time service, called out for home defence service or undertaking any training or duty”.

- 2 At the end of section 205 of that Act there shall be inserted the following subsection—

“(4) In this section—

“full-time service” means service under a commitment entered into under section 24 of the Reserve Forces Act 1996;

“permanent service” means permanent service on call out under any provision of the Reserve Forces Act 1980, the Reserve Forces Act 1996 or any other call-out obligations of an officer; and

“special member” has the same meaning as in the Reserve Forces Act 1996.”

- 3 (1) Section 210(2) (application of section 205 to Royal Marines) of that Act shall be amended as follows.

- (2) After paragraph (a) there shall be inserted the following paragraph—

“(aa) any reference to an officer of the army reserve shall be construed as including a reference to an officer of the Royal Marines Reserve or a marine officer of the Royal Fleet Reserve;”.

- (3) For paragraph (b) there shall be substituted the following paragraphs—

“(b) any reference to a warrant officer, non-commissioned officer or man of the army reserve shall be construed as including a reference to a warrant officer, non-commissioned officer or a marine of the Royal Marines Reserve and to a marine warrant officer or non-commissioned officer or a marine of the Royal Fleet Reserve; and

(ba) any reference to the permanent staff of the army reserve shall be construed as including a reference to the permanent staff of the Royal Marines Reserve or the Royal Fleet Reserve.”

- 4 In section 210(3) of that Act, for the words “the Royal Marines Reserve or” there shall be substituted the words “or the Royal Marines Reserve and a marine officer, marine warrant officer or non-commissioned officer or a marine of”.

- 5 In section 210(4) of that Act, for the word “or” there shall be substituted the words “and to marine officers, marine warrant officers or non-commissioned officers and marines of”.

- 6 After subsection (5) of section 210 of that Act there shall be inserted the following subsection—

“(6) For the purposes of this section references to marine warrant officers or non-commissioned officers and marines of the Royal Fleet Reserve shall be construed as references to persons who were transferred to that force from the Royal Marines or who enlisted in that force as marines.”

- 7 (1) Section 211 (application of Act to reserve forces) of that Act shall be amended as follows.



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- (2) In subsection (1)—
- (a) in paragraph (a), for the words “any reserve of officers” there shall be substituted the words “the army reserve”; and
  - (b) for paragraph (b) there shall be substituted the following paragraph—
    - “(b) officers of the Territorial Army when in permanent service, in full-time service, called out for home defence service or undertaking any training or duty (whether in pursuance of an obligation or not) or when serving on the permanent staff of the Territorial Army.”
- (3) For subsection (2) there shall be substituted the following subsection—
- “(2) Subsections (5) and (6) of section 17 shall apply to warrant officers, non-commissioned officers and men of the army reserve and the Territorial Army as if the references to forfeited service were references to a period of permanent service or, as the case may be, of service as a member of the force concerned, which is to be disregarded under section 98(6) of the Reserve Forces Act 1996.”
- (4) For subsections (4) and (5) there shall be substituted the following subsections—
- “(4) The provisions of this Act mentioned in subsection (4A) below shall apply to officers, warrant officers, non-commissioned officers and men of the army reserve and the Territorial Army only when they are in permanent service, in full-time service, called out for home defence service or serving on the permanent staff of the army reserve or the Territorial Army.
- (4A) The provisions referred to in subsection (4) above are—
- (a) sections 150 to 153 of this Act;
  - (b) except insofar as they may be applied by regulations made under section 103(2) of the Reserve Forces Act 1996, the provisions of Part II of this Act relating to the award of stoppages and sections 144 to 149 of this Act.”
- (5) For subsection (6) there shall be substituted the following subsection—
- “(6) Section 182 of this Act shall not apply at any time to officers, warrant officers, non-commissioned officers or men of the Territorial Army.”
- (6) For subsection (8) there shall be substituted the following subsection—
- “(8) An officer of the army reserve or the Territorial Army may be attached temporarily to any of Her Majesty’s naval or air forces whether or not he is in permanent service but, if not in permanent service, shall not be so attached except with his consent.”
- (7) After subsection (8) there shall be inserted the following subsection—
- “(9) In this section—
- “full-time service” means service under a commitment entered into under section 24 of the Reserve Forces Act 1996; and
- “permanent service” means permanent service on call-out under any provision of the Reserve Forces Act 1980, the Reserve Forces Act 1996 or any other call-out obligations of an officer.”

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- 8 In paragraph 22 of Schedule 7 (provisions as to Royal Marines: application of section 211) to that Act—
- (a) after the words “Royal Marines Reserve” there shall be inserted the words “or marine officers, marine warrant officers or non-commissioned officers or marines of”; and
  - (b) for the words “any reserve of officers” there shall be substituted the words “the army reserve”.

*Air Force Act 1955 (c.19)*

- 9 (1) Section 205(1) (persons subject to air-force law) of the Air Force Act 1955 shall be amended as follows.

(2) Paragraph (c) shall cease to have effect.

(3) For paragraph (f) there shall be substituted the following paragraphs—

- “(f) every officer of the air force reserve or Royal Auxiliary Air Force who is not a special member;
- (ff) every officer of the air force reserve or Royal Auxiliary Air Force who is a special member, when in permanent service, in full-time service or undertaking any training or duty (whether in pursuance of an obligation or not);”.

(4) In paragraph (h), for the words from “called” to the end there shall be substituted the words “in permanent service, in full-time service or undertaking any training or duty (whether in pursuance of an obligation or not) or when serving on the permanent staff of the air force reserve;”.

(5) In paragraph (i), for the words from “embodied” to “parades” there shall be substituted the words “in permanent service, in full-time service, called out for home defence service or undertaking any training or duty”.

- 10 For subsection (3) of section 205 of that Act there shall be substituted the following subsection—

“(3) In this section—

“air forces commission” means a commission in the Royal Air Force, the air force reserve or the Royal Auxiliary Air Force;

“full-time service” means service under a commitment entered into under section 24 of the Reserve Forces Act 1996;

“permanent service” means permanent service on call out under any provision of the Reserve Forces Act 1980, the Reserve Forces Act 1996 or any other call-out obligations of an officer;

“special member” has the same meaning as in the Reserve Forces Act 1996.”

- 11 (1) Section 210 (application of Act to reserve forces) of that Act shall be amended as follows.

(2) In subsection (1)—

(a) for paragraph (a) there shall be substituted the following paragraph—

“(a) officers of the air force reserve when in permanent service, in full-time service or undertaking any training or duty

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- (whether in pursuance of an obligation or not) or when serving on the permanent staff of the air force reserve,”; and
- (b) for paragraph (c) there shall be substituted the following paragraph—
- “(c) officers of the Royal Auxiliary Air Force when in permanent service, in full-time service, called out for home defence service or undertaking any training or duty (whether in pursuance of an obligation or not) or when serving on the permanent staff of the Royal Auxiliary Air Force,”.
- (3) For subsection (2) there shall be substituted the following subsection—
- “(2) Subsection (4) of section 17 shall apply to warrant officers, non-commissioned officers and men of the air force reserve and the Royal Auxiliary Air Force as if the references to forfeited service were references to a period of permanent service or, as the case may be, of service as a member of the force concerned, which is to be disregarded under section 98(6) of the Reserve Forces Act 1996.”
- (4) For subsections (4) and (5) there shall be substituted the following subsections—
- “(4) The provisions of this Act mentioned in subsection (4A) below shall apply to officers, warrant officers, non-commissioned officers and men of the air force reserve and the Royal Auxiliary Air Force only when they are in permanent service, in full-time service, called out for home defence service or serving on the permanent staff of the air force reserve or the Royal Auxiliary Air Force.
- (4A) The provisions referred to in subsection (4) above are—
- (a) sections 150 to 153 of this Act;
- (b) except insofar as they may be applied by regulations made under section 103(2) of the Reserve Forces Act 1996, the provisions of Part II of this Act relating to the award of stoppages and sections 144 to 149 of this Act.”
- (5) For subsection (6) there shall be substituted the following subsection—
- “(6) Section 182 of this Act shall not apply at any time to officers, warrant officers, non-commissioned officers or men of the Royal Auxiliary Air Force.”
- (6) For subsection (8) there shall be substituted the following subsection—
- “(8) An officer of the air force reserve or the Royal Auxiliary Air Force may be attached temporarily to any of Her Majesty’s naval or military forces whether or not he is in permanent service but, if not in permanent service, shall not be so attached except with his consent.”
- (7) After subsection (8) there shall be inserted the following subsection—
- “(9) In this section—
- “full-time service” means service under a commitment entered into under section 24 of the Reserve Forces Act 1996;

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“permanent service” means permanent service on call out under any provision of the Reserve Forces Act 1980, the Reserve Forces Act 1996 or any other call-out obligations of an officer.”

*Naval Discipline Act 1957 (c.53)*

12 (1) Section 111 (application of Act to naval forces etc.) of the Naval Discipline Act 1957 shall be amended as follows.

(2) For subsection (3) there shall be substituted the following subsection—

“(3) Any officer or rating of any of the naval reserve forces is subject to this Act while—

- (a) in permanent service on call out under any provision of the Reserve Forces Act 1980, the Reserve Forces Act 1996 or any other call-out obligations of an officer;
- (b) in full-time service under a commitment entered into under section 24 of the Reserve Forces Act 1996;
- (c) undertaking any training or duty (whether in pursuance of an obligation or not); or
- (d) serving on the permanent staff of the Royal Fleet Reserve or the Royal Naval Reserve.”

(3) In subsection (4), for the words from “naval” to the end there shall be substituted the words “ person recalled to the Royal Navy under section 30 of the Reserve Forces Act 1980 or Part VII of the Reserve Forces Act 1996 is subject to this Act from the time he is accepted into service until duly released or discharged. ”

13 In section 132 (definitions of Her Majesty’s forces, etc.) of that Act—

- (a) in subsection (7), for the words from “warrant” to the end there shall be substituted the words “ marine officers and persons who were transferred to that force from the Royal Marines or who enlisted as marines. ”;
- (b) for subsection (8) there shall be substituted the following subsection—

“(8) In this Act “naval reserve forces” means the Royal Fleet Reserve (except so far as it consists of marine officers and persons who were transferred from the Royal Marines or who enlisted as marines) and the Royal Naval Reserve.”

*Reserve Forces Act 1966 (c.30): old references to RMFVR*

14 Any reference to the Royal Marine Forces Volunteer Reserve in any Act or instrument shall continue to be construed as may be necessary in consequence of the change of name made by section 1 of the Reserve Forces Act 1966 as a reference to the Royal Marines Reserve.

*House of Commons Disqualification Act 1975 (c.24)*

15 In section 3 (certain reserve officers and persons liable to recall not to be regarded as members of regular services) of the House of Commons Disqualification Act 1975, in subsection (1)(b), after the word “pensioner” there shall be inserted the words “ , or former soldier, ”.

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*Northern Ireland Assembly Disqualification Act 1975 (c.25)*

- 16 In section 2 (certain reserve officers and persons liable to recall not to be regarded as members of regular services) of the Northern Ireland Assembly Disqualification Act 1975, in subsection (1)(b), after the word “pensioner” there shall be inserted the words “, or former soldier,”.

*Employment Protection (Consolidation) Act 1978 (c.44)*

F12 17 .....

**Textual Amendments**

**F12** Sch. 10 para. 17 repealed (22.8.1996) by 1996 c. 18, ss. 242, 243, Sch. 3 Pt. I (with ss. 191-200, 202)

*Magistrates’ Courts Act 1980 (c.43)*

F13 18 .....

**Textual Amendments**

**F13** Sch. 10 para. 18 repealed (19.2.2001) by 1999 c. 22, s. 106, Sch. 15 Pt. V(8) (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/168, art. 2

*Reserve Forces Act 1982 (c.14): old references to TAVR*

- 19 Any reference to the Territorial and Army Volunteer Reserve in any Act or instrument shall continue to be construed as may be necessary in consequence of the change of name made by section 1 of the Reserve Forces Act 1982 as a reference to the Territorial Army.

*Wages Act 1986 (c.48)*

- 20 In section 9(4) (exclusion of service as a member of the armed forces) of the Wages Act 1986, for the words “Part VI of the Reserve Forces Act 1980” there shall be substituted the words “ Part XI of the Reserve Forces Act 1996 ”.

*Wages (Northern Ireland) Order 1988 (S.I. 1988/796 (N.I.7))*

- 21 In Article 11(3) (exclusion of service as a member of the armed forces) of the Wages (Northern Ireland) Order 1988 for the words “Part VI of the Reserve Forces Act 1980” there shall be substituted the words “ Part XI of the Reserve Forces Act 1996 ”.

*Official Secrets Act 1989 (c.6)*

- 22 In section 12(1) (meaning of “Crown servant”) of the Official Secrets Act 1989, in paragraph (d), for the words “the Reserve Forces Act 1980” there shall be substituted the words “ Part XI of the Reserve Forces Act 1996 ”.

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*Army Act 1992 (c.39)*

- 23 In section 2(3) of the Army Act 1992 (application of Reserve Forces (Safeguard of Employment) Act 1985) for the words “in the circumstances mentioned in section 1(1)(a)” there shall be substituted the words “ within the meaning ”.

*Trade Union and Labour Relations (Consolidation) Act 1992 (c.52)*

- 24 In section 274 (armed forces) of the Trade Union and Labour Relations (Consolidation) Act 1992, in subsection (2), for the words “Part VI of the Reserve Forces Act 1980” there shall be substituted the words “ Part XI of the Reserve Forces Act 1996 ”.

*Tribunals and Inquiries Act 1992 (c.53)*

- 25 In Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under the supervision of the Council on Tribunals), in paragraph 38 (the Reserve Forces) at the end there shall be inserted—  
“ (c) the appeal tribunals constituted under Part IX of the Reserve Forces Act 1996.”

*Judicial Pensions and Retirement Act 1993 (c.8)*

- 26 In Schedule 5 to the Judicial Pensions and Retirement Act 1993 (offices to which retirement provisions apply), at the end there shall be added the following entry—  
“Chairman or other member of a reserve forces appeal tribunal constituted under Part IX of the Reserve Forces Act 1996”.

*Industrial Relations (Northern Ireland) Order 1993 (S.I. 1993/2668 (N.I.11))*

- 27 In Article 9 (application of industrial relations legislation to the Crown) of the Industrial Relations (Northern Ireland) Order 1993, for the words “Part VI of the Reserve Forces Act 1980” there shall be substituted the words “ Part XI of the Reserve Forces Act 1996 ”.

SCHEDULE 11

Section 131(2).

REPEALS

**Modifications etc. (not altering text)**

C4 Sch. 11 restricted (1.4.1997) by [S.I. 1997/306, reg. 29](#)

**Commencement Information**

II [Sch. 11](#) in force at 1.4.1997 (subject to savings for the repeal of provisions in [1980 c. 9](#) as mentioned in [S.I. 1997/305, art. 2\(2\)](#); also subject to savings for the repeal of Sch. 11 in relation to s. 128 of the 1980 Act as mentioned in [S.I. 1997/306, reg. 29](#)) by [S.I. 1997/305, art. 2\(1\)](#)

Chapter	Short title	Extent of repeal
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1951 c. 8.	Home Guard Act 1951.	The whole Act.
1955 c. 18.	Army Act 1955.	Section 205(1)(k). Section 212. In section 225(1), in the definition of “regular forces” the words “or the Home Guard”.
1955 c. 19.	Air Force Act 1955.	Section 205(1)(c).
1966 c. 45.	Armed Forces Act 1966.	In section 3, the words from “the provisions so” to the end. Section 4(9) and (10).
1980 c. 9.	Reserve Forces Act 1980.	The whole Act, except sections 48, 55, 130 to 138, 140, 151, 156, 157 and 158.
1982 c. 14.	Reserve Forces Act 1982.	The whole Act.
1984 c. 60.	Police and Criminal Evidence Act 1984.	In Schedule 2, the entry relating to the Reserve Forces Act 1980.
1985 c. 17.	Reserve Forces (Safeguard of Employment) Act 1985.	In section 20(1), the definitions of “regular forces”, “reserve or auxiliary force” and “service in the armed forces of the Crown” and, in the definition of “permanent service”, the words from “and” to the end. In Schedule 4, paragraph 7.
1991 c. 62.	Armed Forces Act 1991.	In Schedule 2, paragraph 11(4).
1992 c. 39.	Army Act 1992.	Section 3(1).
1993 c. 10.	Charities Act 1993.	In Schedule 6, paragraph 16.
1994 c. 19.	Local Government (Wales) Act 1994.	Section 61(4) and (6).
1994 c. 39.	Local Government etc. (Scotland) Act 1994.	In Schedule 13, paragraph 116(3) and (5).

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**Status:**

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**Changes to legislation:**

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