



# Police and Firemen (War Service) Act 1939

1939 CHAPTER 103 2 and 3 Geo 6

An Act to make provision with respect to constables and firemen serving in His Majesty's forces during the period of the present emergency, to suspend the right of constables and firemen to retire on pension during that period, to provide that war injuries shall be deemed to be non-accidental injuries for the purpose of enactments and other instruments relating to the pensions of constables and firemen, to amend section sixteen of the Fire Brigade Pensions Act 1925, and for purposes connected with the matters aforesaid. [7th September 1939]

## *Civil Remuneration and Superannuation*

### **1 Payments to make up amount of civil remuneration.**

- (1) Where during the period of the present emergency a person serving as a constable or fireman ceases so to serve in order to serve in His Majesty's forces, . . . <sup>F1</sup>

Any such person is hereafter in this Act referred to as a person to whom this section applies.

- (2) . . . . . <sup>F2</sup>

- (4) Any payment made under this section to any person shall—
- (a) in the case of a constable, be made out of the fund out of which his pension would have been payable if he had continued to serve as a constable in the police force to which he belonged immediately before he ceased so to serve; and
  - (b) in the case of a fireman, be made out of the fund out of which there are paid the expenses of the fire brigade to which he belonged immediately before he ceased to serve as a fireman.

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Police and Firemen (War Service) Act 1939 (repealed). (See end of Document for details)*

**Textual Amendments**

- F1** Words repealed by Statute Law (Repeals) Act 1975 (c. 10), **Sch. Pt. V**
- F2** Ss. 1(2)(3), 3, 6(2), 8, 9, 10(1), 12, 13(1)(2) repealed by Statute Law (Repeals) Act 1975 (c. 10), **Sch. Pt. V**

**2 Reckoning of war service for purposes of superannuation.**

- (1) For the purposes of the appropriate pension enactment—
  - (a) any period for which a person to whom section one of this Act applies serves in His Majesty’s forces during [<sup>F3</sup>the period of the present emergency and one year after the end thereof, or, if the Secretary of State on the application of the appropriate authority so directs in his case, such longer period as may be specified in the direction]; and
  - (b) any period for which payments are made to or in respect of any such person under subsection (3) of the said section one;

shall be treated as a period of approved service in the . . . <sup>F4</sup>fire brigade to which he belonged immediately before he ceased to serve as a . . . <sup>F4</sup>fireman in order to serve in His Majesty’s forces:

Provided that no period before any such person attains the minimum age for approved service under the appropriate pension enactment shall be treated as a period of approved service.

- (2) For the purposes of . . . <sup>F4</sup>sections seven and eighteen of the <sup>M1</sup>Fire Brigade Pensions Act 1925 (which relate to discontinuous service and to a return of rateable deductions on retirement), a person to whom section one of this Act applies shall be deemed to have retired from or left the . . . <sup>F4</sup>fire brigade to which he belonged immediately before he ceased to serve as a . . . <sup>F4</sup>fireman, if and when, but not before, he fails to resume service as a . . . <sup>F4</sup>fireman at the end of the period which by virtue of subsection (1) of this section is treated as a period of approved service in his case, . . . <sup>F5</sup>

**Textual Amendments**

- F3** Words substituted by Police and Firemen (War Service) Act 1944 (c. 22), **s. 4(1)**
- F4** Words repealed by Police Pensions Act 1948 (c. 24), s. 3, **Sch. 1 Pt. I para. 14**
- F5** Words repealed by Police and Firemen (War Service) Act 1944 (c. 22), **s. 4(1)**

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

- C1** S. 2(1) amended by Police and Firemen (War Service) Act 1944 (c. 22), **s. 3**

**Marginal Citations**

- M1** 1925 c. 47.

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Police and Firemen (War Service) Act 1939 (repealed). (See end of Document for details)*

**Textual Amendments**

**F6** Ss. 1(2)(3), 3, 6(2), 8, 9, 10(1), 12, 13(1)(2) repealed by Statute Law (Repeals) Act 1975 (c. 10), Sch. Pt. V

[<sup>F7</sup>4] **Grants in case of death or incapacity.**

- (1) . . . . . <sup>F8</sup>
- (2) If a person to whom section one of this Act applies (being a person who, in order to serve in His Majesty's forces, ceased to serve as a fireman) dies either—
- (a) while serving in His Majesty's forces during the period of the present emergency and one year after the end thereof, or, if the Secretary of State on the application of the appropriate authority so directs in his case, such longer period as may be specified in the direction; or
  - (b) in consequence of infirmity of mind or body which prevented him from resuming his service as a fireman, whether the infirmity was occasioned while serving in those forces or before he began so to serve;

the appropriate authority may, if they think fit, pay—

- (i) a pension to his widow, of an amount not exceeding the amount provided in subsection (5) of this section;
- (ii) allowances to his children under sixteen years of age until they severally reach the age of sixteen years, of an amount not exceeding the amount so provided;
- (iii) a gratuity to any relative of his who has been wholly or mainly dependent upon him, of an amount not exceeding the amount which would have been payable to such a relative if the deceased had died while serving in the fire brigade from the effects of an injury received in the execution of his duty without his own default;

and the provisions of the appropriate pension enactment shall apply to any pension, allowance or gratuity granted under this subsection as they apply to any pension, allowance or gratuity granted under that enactment:

Provided that the appropriate authority shall not exercise the powers conferred by this subsection, in a case where the deceased died in consequence of infirmity of mind or body which prevented him from resuming his service as a fireman but was occasioned before he began to serve in His Majesty's forces, unless they are satisfied that the infirmity was occasioned by an injury received in, or disease resulting from, the execution of his duty as a fireman without his own default.

- (3) If a person to whom section one of this Act applies, after ceasing to serve in His Majesty's forces, is prevented, in consequence of infirmity of mind or body (whether occasioned while so serving or before he began so to serve), from resuming his service as a . . . <sup>F9</sup>fireman, the appropriate pension enactment shall apply in relation to him as if he—
- (a) had become, while serving as a . . . <sup>F9</sup>fireman in the . . . <sup>F9</sup>fire brigade to which he belonged immediately before he ceased to serve as a . . . <sup>F9</sup>fireman, incapacitated for the performance of his duty by infirmity of mind or body otherwise than in consequence of an injury received in the execution of his duty; and

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- (b) had retired on a medical certificate at the expiration of the period (or last period, if more than one) which by virtue of subsection (1) of section two of this Act is treated as a period of approved service in his case;  
and the appropriate authority, if they think fit—
- (i) where, by virtue of the foregoing provisions of this subsection, a gratuity is payable to any such person, may, in lieu of paying him a gratuity, pay to him, under and subject to the provisions of the appropriate pension enactment, a pension of such amount as is provided in subsection (5) of this section;
- (ii) where by virtue of the said provisions of this subsection a pension is payable to any such person, may increase the amount thereof up to such amount as they think fit, not exceeding the amount so provided.
- Provided that the appropriate authority shall not exercise the powers conferred by paragraphs (i) and (ii) of this subsection, in the case of a person prevented from resuming his service in consequence of infirmity of mind or body occasioned before he began to serve in His Majesty's forces, unless they are satisfied that the infirmity was occasioned, . . . <sup>F9</sup> in the case of a fireman, by an injury received in or disease resulting from the execution of his duty as a fireman without his own default.
- (4) If a person to whom section one of this Act applies, after ceasing to serve in His Majesty's forces, resumes his service as a . . . <sup>F9</sup> fireman, then—
- (a) if he dies in consequence of an injury or disease received or contracted while serving in those forces and either is at the time of his death serving as a . . . <sup>F9</sup> fireman or in receipt of a pension from the appropriate authority or has retired on account of that injury or disease, the appropriate authority may, if they think fit—
- (i) . . . . . <sup>F10</sup>
- (ii) in the case of a fireman, exercise the powers conferred by paragraphs (i), (ii) and (iii) of subsection (2) of this section;
- (b) if he becomes incapacitated for the performance of his duty in consequence of any such injury or disease and retires on a medical certificate, the appropriate authority may, if they think fit, exercise the powers conferred by paragraphs (i) and (ii) of subsection (3) of this section as if any gratuity or pension payable to him under the appropriate pension enactment were payable by virtue of the said subsection (3).
- (5) Subject to the provisions of this subsection, the amount of any pension or allowance payable to any person for any period at the discretion of the appropriate authority by virtue of this section shall not, when aggregated with the amount of any grant which is also payable for that period to that person out of any naval, military or air force fund in pursuance of any royal warrant or other instrument, exceed—
- (a) in a case to which subsection . . . <sup>F9</sup>(2) or paragraph (a) of subsection (4) of this section applies, the amount which would have been payable to that person for that period under the appropriate pension enactment if the deceased had died from the effects of a non-accidental injury received in the execution of his duty as a . . . <sup>F9</sup> fireman without his own default; and
- (b) in a case to which subsection (3) or paragraph (b) of subsection (4) applies, the amount which would have been payable to that person for that period under the appropriate pension enactment if he had been incapacitated for the performance of his duty as a . . . <sup>F9</sup> fireman by infirmity of mind or body occasioned by an injury received in the execution of his duty without his own default:

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Provided that—

- (i) where by virtue of . . . <sup>F9</sup>paragraph (a) of subsection (4) of this section a pension is paid in lieu of a gratuity to a widow, the pension shall be at a rate not less than thirty pounds a year; and
  - (ii) where by virtue of subsection (3) or paragraph (b) of subsection (4) of this section a pension is paid in lieu of a gratuity to a person to whom section one of this Act applies, the amount of the pension shall be at a rate not less than one-twelfth of his annual pay.
- (6) Where the grant, the amount whereof for any period is to be aggregated for the purpose of the last foregoing subsection with the amount of a pension or allowance payable to any person for that period, is a gratuity, the amount of the grant for that period shall be taken to be the amount which would be payable for that period under Part I of the <sup>M2</sup>Government Annuities Act 1929, if the gratuity had been laid out at the date when it became payable in the purchase of an annuity dependent on the life of that person.
- (7) Where by virtue of any of the foregoing provisions of this section the amount of any pension, allowance or gratuity is to be determined, whether wholly or in part, at the discretion of the appropriate authority, that authority may from time to time revise their determination.]

#### Textual Amendments

- F7** S. 4 substituted by [Police and Firemen \(War Service\) Act 1944 \(c. 22\), s. 1\(1\)](#)
- F8** Ss. 4(1), 6(1) repealed by [Police Pensions Act 1948 \(c. 24\), s. 3, Sch. 1 Pt. I para. 14](#)
- F9** Words repealed by [Police Pensions Act 1948 \(c. 24\), s. 3, Sch. 1 Pt. I para. 14](#)
- F10** S. 4(4)(a)(i) repealed with savings by [Police Pensions Act 1948 \(c. 24\), s. 3, Sch. 1 Pt. I para. 14](#)

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

- C2** S. 4(2)-(4) amended by [Police and Firemen \(War Service\) Act 1944 \(c. 22\), s. 2](#)
- C3** S. 4(2) amended by [Police and Firemen \(War Service\) Act 1944 \(c. 22\), s. 3](#)

#### Marginal Citations

- M2** 1929 c. 29.

## 5 Reckoning of pay during war service.

For the purpose of calculating the amount of any grant or rateable deduction payable or deductible under the appropriate pension enactment in the case of a person to whom section one of this Act applies, he shall be deemed to have received as a . . . <sup>F11</sup>fireman, for any period for which—

- (a) he is serving in His Majesty's forces during [<sup>F12</sup>the period of the present emergency and one year after the end thereof, or, if the Secretary of State on the application of the appropriate authority so directs in his case, such longer period as may be specified in the direction]; or
- (b) payments are made to or in respect of him under subsection (3) of section one of this Act;

the amount of the pay which he would have received for that period if he had continued to serve as a . . . <sup>F11</sup>fireman.

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#### Textual Amendments

- F11** Words repealed by [Police Pensions Act 1948 \(c. 24\)](#), s. 3, **Sch. 1 Pt. I para. 14**  
**F12** Words substituted by [Police and Firemen \(War Service\) Act 1944 \(c. 22\)](#), s. 4(1)

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- (1) ..... **F13**  
 (2) ..... **F14**

#### Textual Amendments

- F13** Ss. 4(1), 6(1) repealed by [Police Pensions Act 1948 \(c. 24\)](#), s. 3, **Sch. 1 Pt. I para. 14**  
**F14** Ss. 1(2)(3), 3, 6(2), 8, 9, 10(1), 12, 13(1)(2) repealed by [Statute Law \(Repeals\) Act 1975 \(c. 10\)](#), **Sch. Pt. V**

### 7 Exception of certain firemen.

- (1) Nothing in the foregoing provisions of this Act shall apply to a fireman who, under subsection (2) of section twenty-four of the <sup>M3</sup>Fire Brigade Pensions Act 1925, or under section seventeen of the <sup>M4</sup>Fire Brigades Act 1938, gave a written notice that he desired that the provisions of any scheme, or the provisions of the <sup>M5</sup>Local Government and Other Officers' Superannuation Act 1922, should continue to apply to him.
- (2) Nothing in sections two to six of this Act shall apply to a fireman being—
- a member of the London fire brigade; or
  - a member of a fire brigade on whose death or retirement a grant is payable by virtue of a local Act containing provisions relating to that brigade; or
  - a fireman as respects whom a scheme is in operation by virtue of paragraph (b) of subsection (1) of section twenty-four of the <sup>M6</sup>Fire Brigade Pensions Act 1925;

but the following provisions of this subsection shall have effect as respects any such fireman who ceases to serve in any fire brigade in order to serve in His Majesty's forces—

- the local authority maintaining that fire brigade shall, as soon as may be after the commencement of this Act, submit to the Secretary of State a scheme containing such amendments of the regulations, Act or scheme regulating the superannuation rights of members of that brigade as will secure that any such fireman shall, as nearly as may be, have the same rights and be under the same obligations as are conferred or imposed by the said sections of this Act on a fireman to whom the <sup>M7</sup>Fire Brigade Pensions Act 1925, applies;
- the Secretary of State may by order approve, either with or without modifications, any scheme so submitted and when so approved the scheme shall be deemed to have had effect as from the commencement of this Act;
- any scheme approved under this subsection may be varied by a subsequent scheme submitted and approved in like manner.

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

- C4** [S. 7\(2\)](#) restricted by [Police and Fireman \(War Service\) Act 1944 \(c. 22\)](#), s. 6(5)

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Police and Firemen (War Service) Act 1939 (repealed). (See end of Document for details)*

**Marginal Citations**

- M3** 1925 c. 47.
- M4** 1938 c. 72.
- M5** 1922 c. 59.
- M6** 1925 c. 47.
- M7** 1925 c. 47.

*Miscellaneous and General*

**8, 9.** ..... <sup>F15</sup>

**Textual Amendments**

**F15** Ss. 1(2)(3), 3, 6(2), 8, 9, 10(1), 12, 13(1)(2) repealed by Statute Law (Repeals) Act 1975 (c. 10), Sch. Pt. V

**10 Suspension of right to retire on pension.**

(1) ..... <sup>F16</sup>

[<sup>F17</sup>(2) Where before the commencement of this Act or during the period of the present emergency written notice has been or is given—

- (a) by the chief officer of a . . . <sup>F18</sup>fire brigade to the appropriate authority; or
- (b) by any other . . . <sup>F18</sup>fireman to the chief officer of the . . . <sup>F18</sup>fire brigade to which he belongs;

of his intention to retire on pension on a date on which he would have been entitled so to retire if the appropriate authority or chief officer consented thereto (hereafter referred to as "the relevant date"), then if such consent is withheld and he continues to serve in the . . . <sup>F18</sup>fire brigade after the relevant date, the following provisions shall have effect:—

- (i) if he retires while serving in a lower rank or at a lower rate of pay than his rank or rate of pay at the relevant date, not having been required to retire as an alternative to dismissal, the amount of his pension shall not be less than it would have been if he had retired on the relevant date;
- (ii) if he is dismissed, or required to retire as an alternative to dismissal, on grounds other than grounds on which his pension, had he been in receipt of a pension, would have been liable to forfeiture, he shall be entitled, as from the expiration of the period of the present emergency, to a pension of the same amount as that to which he would have been entitled if he had retired on the relevant date;
- (iii) if he dies while serving in such lower rank or at such lower rate of pay as aforesaid, or while in receipt of a pension granted to him on his retirement while so serving, the amount of any pension or allowances payable to his widow or children shall not be less than it would have been if he had retired on the relevant date and been granted a pension as from that date;
- (iv) if he dies before the expiration of the period of the present emergency, being entitled as from the expiration of that period to a pension by virtue of

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paragraph (ii) of this subsection, his widow and children shall be entitled, as from the date of his death, to a pension or allowances of the same amount as the pension or allowances (if any) to which they would have been entitled if he had retired on the relevant date and been granted a pension as from that date.]

(3) In this section—

- (a) the expressions “chief officer of a police force” and “chief officer of a fire brigade” have respectively the same meanings as in the <sup>M8</sup>Police Pensions Act 1921, and the <sup>M9</sup>Fire Brigade Pensions Act 1925; and
- (b) the expression “retire on pension” means to retire without a medical certificate and receive a pension for life.

**Textual Amendments**

- F16** Ss. 1(2)(3), 3, 6(2), 8, 9, 10(1), 12, 13(1)(2) repealed by Statute Law (Repeals) Act 1975 (c. 10), **Sch. Pt. V**
- F17** S. 10(2) substituted by Police and Firemen (War Service) Act 1944 (c. 22), **s. 5**
- F18** Words repealed by Police Pensions Act 1948 (c. 24), s. 3, **Sch. 1 Pt. I para. 14**

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

- C5** Definition of "chief officer of a police force" repealed by (E.W.) Police Act 1964 (c. 48), **Sch. 10 Pt. I** and (S.) Police (Scotland) Act 1967 (c. 77), **Sch. 5 Pt. I**

**Marginal Citations**

- M8** 1921 c. 31.
- M9** 1925 c. 47.

**11 War injuries to be deemed non-accidental injuries.**

For the purpose of . . . <sup>F19</sup>the <sup>M10</sup>Fire Brigade Pensions Act 1925, and any other Act or any rules or scheme providing for the pensions of firemen, a war injury within the meaning of the <sup>M11</sup>Personal Injuries (Emergency Provisions) Act 1939, shall be deemed to be a non-accidental injury.

**Textual Amendments**

- F19** Words repealed by Police Pensions Act 1948 (c. 24), s. 3, **Sch. 1 Pt. I para. 14**

**Marginal Citations**

- M10** 1925 c. 47.
- M11** 1939 c. 82.

**12** . . . . . <sup>F20</sup>

**Textual Amendments**

- F20** Ss. 1(2)(3), 3, 6(2), 8, 9, 10(1), 12, 13(1)(2) repealed by Statute Law (Repeals) Act 1975 (c. 10), **Sch. Pt. V**



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### 13 Provision as to persons called out or under training.

- (1) . . . . . <sup>F21</sup>
- (3) Where any person at the beginning of the period of the present emergency is serving as a person called out or as a person under training, and immediately before he was called out or immediately before the beginning of his period of training, as the case may be, he was serving as a . . . <sup>F22</sup>fireman, then—
- (a) he shall be deemed for the purposes of this Act to have ceased to serve as a . . . <sup>F22</sup>fireman immediately after the beginning of the period of the present emergency in order to serve in His Majesty's forces; and
  - (b) in the case of a person who at the beginning of the period of the present emergency is serving as a person under training—
    - (i) if and when, but not before, he fails to resume service as a . . . <sup>F22</sup>fireman before the expiration of two months from the end of the period which by virtue of subsection (1) of section two of this Act is treated as a period of approved service in his case, he shall be deemed for the purposes of Article 7 of the Military Training (Consequential Provisions) Order, 1939, not to have resumed duty as a . . . <sup>F22</sup>fireman at the end of his period of training; and
    - (ii) in any other case he shall be deemed for the purposes of that Article to have resumed such duty at the end of his period of training.
- (4) In this section the expression “called out” has the same meaning as in the Reserve and Auxiliary Forces (Consequential Provisions) Order 1939, and the expressions “person under training” and “period of training” have respectively the same meanings as in the Military Training (Consequential Provisions) Order 1939.

#### Textual Amendments

- F21** Ss. 1(2)(3), 3, 6(2), 8, 9, 10(1), 12, 13(1)(2) repealed by Statute Law (Repeals) Act 1975 (c. 10), **Sch. Pt. V**
- F22** Words repealed by Police Pensions Act 1948 (c. 24), s. 3, **Sch. 1 Pt. I para. 14**

### 14 Interpretation.

In this Act the following expressions have the meanings hereby respectively assigned to them:—

“appropriate authority” means—

- (a) in relation to a person who is serving or has ceased to serve as a constable, the police authority . . . <sup>F23</sup>, for the police force of which he is or was a member; and
- (b) in relation to a person who is serving or has ceased to serve as a member of the London Fire Brigade, the London County Council; and
- (c) in relation to any other person who is serving or has ceased to serve as a fireman, the fire authority within the meaning of the [<sup>F24</sup><sup>M12</sup>Fire Services Act 1947], for the fire brigade of which he is or was a member;

“appropriate pension enactment,” . . . <sup>F25</sup>; in relation to a person who has ceased to serve as a fireman, means the <sup>M13</sup>Fire Brigade Pensions Act 1925, as amended by any subsequent enactment;

“constable” means a member of a police force . . . <sup>F26</sup>;

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“fireman” means a professional fireman as defined by paragraph (2) of section twenty-three of the <sup>M14</sup>Fire Brigade Pensions Act 1925, as amended by any subsequent enactment;

“grant,” unless the context otherwise requires, means a pension, allowance or gratuity;

“period of the present emergency” means the period beginning with the first day of September nineteen hundred and thirty-nine and ending with such day as His Majesty may by Order in Council declare to be the date on which the emergency that was the occasion of the passing of this Act came to an end;

“service pay,” in relation to any person, means his pay (including marriage, family and other similar allowances) in respect of his service in or with His Majesty’s forces during the period of the present emergency.

**Textual Amendments**

**F23** Words repealed by (E.W.) [Police Act 1964 \(c. 48\)](#), [Sch. 10 Pt. I](#) and (S.) [Police \(Scotland\) Act 1967 \(c. 77\)](#), [Sch. 5 Pt. II](#)

**F24** Words substituted by virtue of [Interpretation Act 1889 \(c. 63\)](#), [s. 38\(1\)](#)

**F25** Words repealed by [Police Pensions Act 1948 \(c. 24\)](#), [s. 3](#), [Sch. 1 Pt. I para. 14](#)

**F26** Words repealed by (E.W.) [Police Act 1964 \(c. 48\)](#), [Sch. 10 Pt. I](#) and (S.) [Police \(Scotland\) Act 1967 \(c. 77\)](#), [Sch. 5 Pt. I](#)

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

**C6** 31.12.1946 declared to be date on which emergency came to an end: S.R. & O. 1947/152 (1947 I, p. 1686)

**Marginal Citations**

**M12** [1947 c. 41](#).

**M13** [1925 c. 47](#).

**M14** [1925 c. 47](#).

15 ..... <sup>F27</sup>

**Textual Amendments**

**F27** [S. 15](#) repealed by [Northern Ireland Constitution Act 1973 \(c. 36\)](#), [s. 42\(1\)](#), [Sch. 6 Pt. I](#)

16 <sup>X1†</sup>**Short title, commencement and extent.**

(1) This Act may be cited as the Police and Firemen (War Service) Act 1939.

(2) ..... <sup>F28</sup>

(3) No provision of this Act . . . <sup>F29</sup>shall extend to Northern Ireland.

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**Changes to legislation:** There are currently no known outstanding effects for the Police and Firemen (War Service) Act 1939 (repealed). (See end of Document for details)

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**Editorial Information**

**X1** Unreliable marginal note.

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**Textual Amendments**

**F28** S. 16(2) repealed by Statute Law Revision Act 1950 (c. 6)

**F29** Words repealed by Northern Ireland Constitution Act 1973 (c. 36), s. 42(1), **Sch. 6 Pt. I**

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Police and Firemen (War Service) Act 1939 (repealed).