
STATUTORY INSTRUMENTS

1997 No. 306

DEFENCE

**The Reserve Forces Act 1996 (Transitional,
Consequential and Saving Provisions) Regulations 1997**

<i>Made</i>	- - - -	<i>19th February 1997</i>
<i>Laid before Parliament</i>		<i>19th February 1997</i>
<i>Coming into force</i>	- -	<i>1st April 1997</i>

The Secretary of State, in exercise of the powers conferred on him by section 130 of the Reserve Forces Act 1996⁽¹⁾, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Reserve Forces Act 1996 (Transitional, Consequential and Saving Provisions) Regulations 1997 and shall come into force on 1st April 1997.

(2) In these Regulations “the 1980 Act” means the Reserve Forces Act 1980⁽²⁾.

Amendment of provisions of the 1980 Act

2. In section 10 of the 1980 Act—

(a) for subsections (1) to (3) there shall be substituted—

“(1) Any member of any reserve force other than an officer of the Royal Fleet Reserve may be called out for permanent service in any part of the world whenever an order of Her Majesty made under section 52(1)(a) of the Reserve Forces Act 1996 is in force.

(2) Sections 50(6) and 52(3) to (6) of the Reserve Forces Act 1996 shall apply to persons subject to this section as if they were persons to whom section 52 of that Act applied.”;

(b) in subsection (4)(e) the words “including the Royal Fleet Reserve and the special class of the Royal Fleet Reserve; and” shall be omitted;

(c) after subsection (4)(e) there shall be inserted—

“(ea) the Royal Fleet Reserve including its special class; and”.

3. For section 11 of the 1980 Act there shall be substituted—

(1) 1996 c. 14.
(2) 1980 c. 9.

(1) A person to whom this section applies shall be liable to be called out for permanent service in any part of the world whenever an order under section 54(1) of the Reserve Forces Act 1996 is in force.

(1A) Sections 50(6) and 54(3) to (6) of the Reserve Forces Act 1996 shall apply to persons subject to this section as if they were persons to whom section 54 of that Act applied.

(2) The persons to whom this section applies are—

(a) any member of the Army Reserve or the Air Force Reserve who became such a member on or after 1st April 1967 otherwise than in consequence of his having enlisted in the regular army or the regular air force before that day;

(b) any member of the Territorial Army who became such a member on or after 1st April 1967 by enlisting or re-engaging in the Territorial Army or by becoming an officer of the Territorial Army;

(ba) any officer of the Royal Fleet Reserve;

(c) any member of the special class of the Royal Fleet Reserve who became such a member on or after 1st April 1967 otherwise than in consequence of his having, before that day, been entered for non-continuous service in the naval service of Her Majesty or enlisted to serve in the royal marine forces;

(3) In subsection (2) above the references in paragraphs (a) and (c) to becoming a member of a reserve or class include references to remaining a member of it by virtue of a new engagement or other agreement.”.

4. In section 16 of the 1980 Act—

(a) for the words in subsection (1) from “in the event” to the end of the subsection there shall be substituted—

“whenever an order under section 52(1)(b) of the Reserve Forces Act 1996 is in force.”;

(b) after subsection (1) there shall be inserted—

“(1A) Sections 50(6), and 52(3) to (6) of the Reserve Forces Act 1996 shall apply to persons subject to this section as if they were persons to whom section 52 of that Act applied.”.

5. In section 18 of the 1980 Act—

(a) for subsection (1) there shall be substituted—

“(1) Any officer or man of the Army Reserve shall be liable to be called out for permanent service on home defence service whenever an order under section 52(1)(b) of the Reserve Forces Act 1996 is in force.”;

(b) after subsection (1) there shall be inserted—

“(1A) Sections 50(6), and 52(3) to (6) of the Reserve Forces Act 1996 shall apply to persons subject to this section as if they were persons to whom section 52 of that Act applied.”.

6. In section 19(3) of the 1980 Act after the words “Sections 9” in the first line there shall be inserted—

“(without the amendments made by paragraph 1 of Schedule 7 to the Reserve Forces Act 1996)”.

7. In section 20 of the 1980 Act—

(a) for subsection (1) there shall be substituted—

“(1) Any man of the Air Force Reserve shall be liable to be called out for permanent service on home defence service whenever an order under section 52(1)(b) of the Reserve Forces Act 1996 authorising his call-out is in force.”;

(b) after subsection (1) there shall be inserted—

“(1A) Sections 50(6) and 52(3) to (6) of the Reserve Forces Act 1996 shall apply to persons subject to this section as if they were persons to whom section 52 of that Act applied.”.

8. In section 21(3) of the 1980 Act after the words “Sections 9” in the first line there shall be inserted—

“(without the amendments made by paragraph 5 of Schedule 7 to the Reserve Forces Act 1996)”.

9. For section 22 of the 1980 Act there shall be substituted—

(1) Every officer and man of the Territorial Army and of the Royal Auxiliary Air Force shall be liable to be called out for home defence service whenever an order under section 52(1)(b) of the Reserve Forces Act 1996 authorising his call-out is in force notwithstanding that—

(a) the Territorial Army or that part to which he belongs has not been called out for permanent service by virtue of section 10(1) or 11(1) above, or

(b) the Royal Auxiliary Air Force or that part to which he belongs has not been called out for permanent service by virtue of section 10(1).

(2) Sections 50(6) and 52(3) to (6) of the Reserve Forces Act 1996 shall apply to persons subject to this section as if they were persons to whom section 52 of that Act applied.”.

10. After section 25 of the 1980 Act there shall be inserted—

“Application of section 62 of the Reserve Forces Act 1996

25A. Section 62 of the Reserve Forces Act 1996 (power to exempt persons from or relax call-out liability) shall apply to persons liable to be called out by virtue of the enactments mentioned in section 26(2) below as if in section 62 for the words “this Part” in both places in which they appear there were substituted the words “the Reserve Forces Act 1980”.

11. For section 26 of the 1980 Act there shall be substituted—

(1) The power of the Secretary of State under section 58(1) of the Reserve Forces Act 1996 to call out a person liable to be called out under an order made under section 52 or 54 of that Act shall include a power to call out a person liable to be called out by virtue of the enactments mentioned in subsection (2) below.

(2) The enactments referred to in subsection (1) above are—

(a) section 10(1) above;

(b) section 11(1) above;

(c) section 16(1) above;

(d) section 18(1) above;

(e) section 20(1) above;

(f) section 22 above;

(g) section 24 above;

(h) paragraph 15(1) of Schedule 8 to this Act; and

- (i) sub-paragraphs (2), (3), (5) and (6) of paragraph 16 of that Schedule.
- (3) Sections 58 and 59 shall have effect in relation to any person called out by virtue of the enactments mentioned in subsection (2) above with the following modifications—
 - (a) section 58(3) shall have effect as if—
 - (i) paragraph (b) provided for the call-out notice to specify the provision of this Act by virtue of which the person concerned is liable to be called out; and
 - (ii) in paragraph (c), the words “under that order” were omitted;
 - (b) section 58(5) shall have effect as if—
 - (i) the words “on the authority of a call-out order” were omitted; and
 - (ii) in paragraph (a), the reference to the call-out order was a reference to the order made under Part VI of the Reserve Forces Act 1996 by virtue of which the person concerned is liable to be called out;
 - (c) section 59(5) shall have effect as if—
 - (i) for the word “under”, where it appears for the first time, there were substituted the words “by virtue of”; and
 - (ii) the words “under that call-out order” were omitted; and
 - (d) section 59(6) shall have effect as if—
 - (i) the words “under a call-out order” and “under that order” were omitted; and
 - (ii) paragraph (b) provided for the person concerned to be deemed to have been called out for service in accordance with this Act.
- (4) In the application of sections 58 and 59 of the Reserve Forces Act 1996 and of section 28 below—
 - (a) section 63 of the Reserve Forces Act 1996 shall apply in relation to this Act as it applies in relation to Part VI of that Act; and
 - (b) “authorised officer” means an officer authorised by or in accordance with directions of the Defence Council for the purposes of Part VI of the Reserve Forces Act 1996, and any officer so authorised shall be deemed to be authorised for the same purposes in connection with any corresponding provision of this Act.”.

12.—(1) In section 28(1) of the 1980 Act—

- (a) for paragraph (a) there shall be substituted—
 - “(a) is in service in pursuance of a call-out notice under section 58 of the Reserve Forces Act 1996 specifying an enactment mentioned in section 26(2) above;”;
- (b) for the words “section 26(1)” in both places where they appear there shall be substituted “section 58 of the Reserve Forces Act 1996”.

13. In section 29(1) of the 1980 Act, for the words—

- (a) “section 26(1)” there shall be substituted “section 58 of the Reserve Forces Act 1996 specifying an enactment in section 26(2) above”;
- (b) “whole-time” there shall be substituted “permanent”.

14. After section 29 of the 1980 Act there shall be inserted—

“Application of provisions relating to recall

29A. The provisions of this Act relating to recall shall not apply to any person to whom section 66 of the Reserve Forces Act 1996 applies.”.

15.—(1) Section 30 of the 1980 Act shall be amended as follows.

(2) For subsection (1) there shall be substituted—

“(1) Whenever a recall order under section 68 of the Reserve Forces Act 1996 authorising the recall of persons who have served in the Royal Navy or Royal Marines is in force, persons to whom this section applies are liable—

(a) by virtue of subsection (1A)(a) below, to be ordered to join the Royal Navy;

(b) by virtue of subsection (1A)(b) below, to be ordered to join the Royal Marines,

and those so ordered shall serve while the recall order remains in force (unless released sooner) and while so serving section 76 of the Reserve Forces Act 1996 shall apply to them as it applies to persons described in that section.”.

(3) After subsection (1) there shall be inserted—

“(1A) This section applies to any persons who—

(a) have served as warrant officers, petty officers or seamen in the navy; or

(b) have served as warrant officers, non-commissioned officers or men of the Royal Marines,

and are in receipt of pensions in respect of such service.”.

16.—(1) Section 32 of the 1980 Act shall be amended as follows.

(2) In subsection (1), for the words “section 10 above, or under section 18(1) above” there shall be substituted “a call-out order under section 52 of the Reserve Forces Act 1996”.

(3) In subsection (2), for the words “section 10, or under section 20(1) above” there shall be substituted “a call-out order under section 52 of the Reserve Forces Act 1996”.

(4) For subsection (4)(b) there shall be substituted—

“(b) ending with the date on which there is no longer a call-out order under section 52 of the Reserve Forces Act 1996 in force authorising the call-out of persons of the Army Reserve or the Air Force Reserve, as the case may be.”.

17.—(1) Section 34 of the 1980 Act shall be amended as follows.

(2) In subsection (1), for the words—

(a) “notice in writing” there shall be substituted “notice under section 35 below”;

(b) “section 10 or section 18(1) above” there shall be substituted “a call-out order under section 52 of the Reserve Forces Act 1996”.

(3) In subsection (3), for paragraph (b) there shall be substituted—

“(b) ending (unless he is previously discharged) with the date on which there is no longer a call-out order under section 52 of the Reserve Forces Act 1996 in force.”.

18. For section 35 of the 1980 Act there shall be substituted—

“35 Recall notices

(1) The Secretary of State may recall any person who is liable to be recalled under section 30, 31 or 34 above by serving a notice on him requiring him—

- (a) to present himself for service at a specified time and place; and
- (b) to remain at that place until he is either accepted into service or informed that he is not to be accepted into service in pursuance of the notice.

(2) In the case of those liable to recall under section 31 above, the time specified in accordance with subsection (1)(a) shall be not earlier than the third day after the service of the notice.

(3) Section 65(5) of the Reserve Forces Act 1996 shall have effect as if the reference to persons recalled for service under an order made under section 68 of that Act included a reference to persons recalled under section 30, 31 or 34 above.

(4) Section 70(2) to (5), (7) and (8) of the Reserve Forces Act 1996 shall apply to a person subject to this section as if he were a person to whom section 70 of that Act applied, except that section 70(5)(a) shall not apply to a person to whom section 31 or 34 above applies.”.

19. For section 36 of the 1980 Act there shall be substituted—

“36 Application of sections 71, 73 to 75 and 77 of the Reserve Forces Act 1996 to persons recalled under section 30, 31 or 34

(1) Section 71 of the Reserve Forces Act 1996 shall apply to those liable to be recalled under section 30, 31 or 34 above as it applies to those to whom section 66 of that Act applies, but with the following amendments—

- (a) section 71(5) of that Act shall apply to persons liable to be recalled under section 31 or 34 above as if for the first two lines there were substituted—

“When a call-out order under section 52 of the Reserve Forces Act 1996 is in force, and men of the Army Reserve or the Air Force Reserve, as the case may be, are in permanent service under it, any person who is thereby liable to be recalled under section 31 or 34 above who—”;

- (b) section 71(6) shall apply as if for paragraph (b) of that subsection there were substituted—

“(b) he shall be deemed to have been recalled for service under section 30, 31 or 34 as the case may be.”.

(2) Sections 73 and 74 of the Reserve Forces Act 1996 shall apply to those liable to recall under section 30, 31 or 34 above as they apply to those liable to recall under Part VII of that Act.

(3) Section 75 of the Reserve Forces Act 1996 shall apply to those liable to recall under section 30, 31 or 34 above as if—

- (a) the reference in subsection (1) to section 66(1) of the Reserve Forces Act 1996 were a reference to sections 30, 31 and 34 above;
- (b) for subsection (2) there were substituted—

“(2) The regulations shall secure that a person liable to provide information by virtue of this section shall cease to be liable to provide such information after he ceases to be a person liable to recall by virtue of section 31(4) of the Reserve Forces Act 1980 or, if section 34 applies to him, he reaches the age mentioned in section 34(2) of that Act or on such other grounds as may be prescribed by regulations made under section 73(a) of the Reserve Forces Act 1996).”.

(4) Section 77 of the Reserve Forces Act 1996 shall have effect in relation to persons liable to recall under section 30, 31 or 34 as if the words “this Part” included a reference to sections 30 to 36A inclusive of the Reserve Forces Act 1980.”.

20. After section 36 of the 1980 Act there shall be inserted—

“Application of Part X of the Reserve Forces Act 1996 to persons liable to recall under section 30, 31 or 34

36A. For the avoidance of doubt, it is declared that Part X of the Reserve Forces Act 1996 (general offences) applies to a person liable to recall under section 30, 31 or 34 above as it applies to a person liable to recall under the Reserve Forces Act 1996.”

21. After section 42 of the 1980 Act there shall be inserted—

“Application of section 23 of the Reserve Forces Act 1996

42A. Section 23 of the Reserve Forces Act 1996 (power to exempt persons from or relax training obligations) shall apply to persons to whom this Act applies other than members of the Royal Naval Reserve or the Royal Fleet Reserve as if in section 23 for the words “section 22” wherever they appear there were substituted the words “the Reserve Forces Act 1980”.”

22. In section 50 of the 1980 Act after subsection (3) there shall be inserted—

“(4) For the avoidance of doubt, it is declared that subsections (1) and (3) above do not apply to any man being entered or re-entered for service in the Royal Naval Reserve or the Royal Fleet Reserve if, after being so entered or re-entered for service, he would not be a transitional member as defined in paragraph 3 of Schedule 9 to the Reserve Forces Act 1996.”

23. In section 83 of the 1980 Act, for subsection (1) there shall be substituted—

“(1) In the application to a man to whom this subsection applies of section 9 of the Army Act 1955, or section 9 of the Air Force Act 1955 (which in either case provides, among other things, for postponement of discharge or transfer to the reserve where men of the reserve are called out for permanent service)—

- (a) the amendments made by paragraphs 2 and 5 of Schedule 7 to the Reserve Forces Act 1996 shall not apply;
- (b) the references to men of the reserve being called out for permanent service shall (notwithstanding anything in section 225(2) of the Army Act 1955 or section 223(2) of the Air Force Act 1955) include references to such men being called out under section 11 above or paragraph 16 of Schedule 8 to this Act.”

24.—(1) Section 100 of the 1980 Act shall be amended as follows.

(2) In subsection (2), for the words “section 98 above” there shall be substituted “section 16(2)(a) of the Reserve Forces Act 1996”.

(3) In subsection (3)—

- (a) for the words “section 10(1) above” in both places in which they appear there shall be substituted “section 52(1)(a) of the Reserve Forces Act 1996”;
- (b) for the word “ordering” in both places in which it appears there shall be substituted “authorising members of”.

25.—(1) Section 101(1) of the 1980 Act shall be amended as follows.

(2) For the words “section 98 above” there shall be substituted “section 16(2)(a) of the Reserve Forces Act 1996”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(3) For the words “section 12(1) above” there shall be substituted “section 54 of the Reserve Forces Act 1996 authorising the call-out of members of the Territorial Army”.

26. Section 154(1) of the 1980 Act shall be amended by omitting the words “, or paragraph 18(4) (a) of Schedule 8 to this Act”.

27. In section 156(1) of the 1980 Act, in the definition of “prescribed”, for the words “this Act” there shall be substituted “the Reserve Forces Act 1996”.

28. In paragraph 16(6) of Schedule 8 to the 1980 Act, in the last line, for the words “sub-paragraphs (1) and” there shall be substituted “sub-paragraph”.

Savings

29. The coming into force of Schedule 11 to the Reserve Forces Act 1996 shall not have the effect of revoking any regulations made under section 128 of the 1980 Act which provide for the matters mentioned in subsection (1)(h) of that section.

19th February 1997

Nicholas Soames
Minister of State, Ministry of Defence

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Reserve Forces Act 1980 in consequence of the coming into force of the Reserve Forces Act 1996 to make provision for persons who remain subject to the 1980 Act.

Regulation 2 ensures that persons to whom section 10 of the 1980 Act applies continue to be liable to be called out under the authority of an order of Her Majesty if it appears to Her that national danger is imminent or that a great emergency has arisen. In order to avoid the need for two call-out orders in the same circumstances, however, this regulation makes persons to whom section 10 applies liable to be called out whenever an order of Her Majesty under section 52(1)(a) of the 1996 Act is in force.

Regulation 2 also applies to persons subject to section 10 the provisions of subsections (3) to (6) of section 52 of the 1996 Act under which Her Majesty may order that a call-out order under section 52 shall cease to authorise further call-out or shall be revoked.

The amendment to section 10(4) is consequential on the statutory recognition in section 1(2) of the 1996 Act of the Royal Fleet Reserve and its special class as a separate reserve force rather than a part of the Royal Naval Reserve.

Regulation 3 makes changes to section 11 of the 1980 Act corresponding to the changes to section 10 described above. Persons to whom section 11 applies are liable to be called out whenever the Secretary of State makes an order under section 54(1) of the 1996 Act on the grounds that warlike operations are in preparation or progress.

Regulation 4 makes the like changes to section 16 of the 1980 Act under which members of the Royal Naval Reserve, the Royal Fleet Reserve and the Royal Marines Reserve may be called out in the event of an actual or apprehended attack on the United Kingdom. They may be called out whenever an order under section 52(1)(b) of the 1996 Act is in force.

Regulation 5, which amends section 18 of the 1980 Act, makes provision for calling out the Army Reserve equivalent to regulation 4.

Regulation 6 amends section 19(3) of the 1980 Act to make it clear that the amendments to sections 9 and 10 of the Army Act 1955 effected by Schedule 7 to the 1996 Act do not apply to members of the Army Reserve who are subject to the 1980 Act.

Regulation 7, which amends section 20 of the 1980 Act, makes provision for calling out the Air Force Reserve equivalent to regulation 4.

Regulation 8 amends section 21(3) of the 1980 Act to make it clear that the amendments to sections 9 and 10 of the Air Force Act 1955 effected by Schedule 7 to the 1996 Act do not apply to members of the Air Force Reserve who are subject to the 1980 Act.

Regulation 9 provides new subsections (1) and (1A) in section 22 of the 1980 Act to the same effect as regulation 4 in relation to members of the Territorial Army and Royal Auxiliary Air Force who are liable to be called out for home defence service.

Regulation 10 inserts a new section 25A to the 1980 Act enabling orders and regulations under section 4 of the 1996 Act to provide, by virtue of section 62 of that Act, for exemption from or relaxation of the call-out liability of persons subject to the 1980 Act.

Regulation 11 substitutes a new section 26(1) in the 1980 Act applying the provisions of section 58 of the 1996 Act so that there are uniform provisions for serving call-out notices, whether call-out is under the 1980 Act or 1996 Act.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulations 12 and 13 amend sections 28 and 29 respectively of the 1980 Act to reflect the application of section 58 of the 1996 Act.

Regulation 14 inserts a new section 29A to make it clear that the 1980 Act only applies to persons liable to recall who enlisted or became officers in the armed forces before Part VII of the 1996 Act came into force and have not subsequently become liable to recall under Part VII of the 1996 Act. Section 129(2) of the 1996 Act achieves a similar effect for members of the reserve forces.

Regulation 15 amends section 30 of the 1980 Act to enable naval and marine pensioners to be recalled whenever an order under section 68 of the 1996 Act is in force. Such an order may be made by Her Majesty if it appears to Her that national danger is imminent or that a great emergency has arisen, or in the event of an actual or apprehended attack on the United Kingdom.

Regulation 16 amends section 32 of the 1980 Act to enable army and air force pensioners to be recalled whenever men of the Army Reserve or Air Force Reserve respectively are in permanent service under an order of Her Majesty under section 52 of the 1996 Act.

Regulation 17 amends section 34 of the 1980 Act to the same effect as the amendments to section 32 in regulation 16 in relation to former soldiers liable to recall.

Regulation 18 substitutes a new section 35 applying the provisions of section 65(5) and 70(2) of the 1996 Act to persons recalled under section 30, 31, or 34 of the 1980 Act.

Regulation 19 extends the provisions of sections 71, 73 to 75 and 77 of the 1996 Act to those liable to be recalled under section 30, 31 or 34 of the 1980 Act.

Regulation 20 substitutes a new section 37 of the 1980 Act which declares that the general offences provisions in Part X of the 1996 Act also apply to persons liable to recall under the 1980 Act.

Regulation 21 inserts a new section 42A into the 1980 Act extending the power in section 23 of the 1996 Act to exempt persons from training or relax their training obligations to persons subject to the 1980 Act. Regulation 21 does not apply to members of the Royal Naval Reserve or Royal Fleet Reserve to whom section 23 of the 1996 Act already applies.

Regulation 22 adds a new subsection (4) to section 50 of the 1980 Act to make clear that the provisions of subsections (1) and (3) as to terms of service for persons joining the Royal Naval Reserve or Royal Fleet Reserve do not apply to persons entered or re-entered in those forces after the 1996 Act came into force.

Regulation 23 substitutes a new subsection (1) in section 83 of the 1980 Act. This ensures that the amendments made to section 9 of the Army Act 1955 and the Air Force Act 1955 by the 1996 Act do not apply to transitional members of the Army Reserve or Air Force Reserve, and men of the regular army or regular air force who are capable of becoming transitional members on their transfer to the reserve.

Regulations 24 and 25 amend sections 100 and 101 respectively of the 1980 Act in relation to postponement of discharge of members of the Territorial Army and Royal Auxiliary Air Force by substituting references to the 1996 Act.

Regulation 26 amends section 154(1) of the 1980 Act by deleting the reference to paragraph 18(4) of Schedule 8 which is repealed by the 1996 Act.

Regulation 27 amends the definition of “prescribed” in section 156(1) of the 1980 Act so that anything which is to be “prescribed” in the 1980 Act may be prescribed by orders or regulations under section 4 or Part VII of the 1996 Act.

Regulation 29 saves any regulations made under section 128 of the 1980 Act which would otherwise have been revoked by the repeal of section 128.

These Regulations do not impose any costs on business.