

SCHEDULE

Regulation 11

POSTPONEMENT OF DISCHARGE OR TRANSFER  
TO RESERVE: TRANSITIONAL CASES

*The regular forces (apart from the Royal Marines)*

1.—(1) Section 9 of the Army Act 1955 (postponement of discharge or transfer to reserve), in so far as it continues to have effect under paragraph 2 of Schedule 7 to the Reserve Forces Act 1996 without the amendments made by paragraph 1 of that Schedule, shall have effect in accordance with sub-paragraph (2).

(2) After subsection (7) there shall be inserted—

“(8) Subject to subsection (9) below, in this section references to men of the reserve being called out on permanent service are references to their being called out under an order made under—

- (a) section 52 of the Reserve Forces Act 1996 (call out in the event of a national emergency, great danger or an actual or apprehended attack on the United Kingdom, the Channel Islands or the Isle of Man), or
- (b) section 54 of the 1996 Act (call out because warlike operations are in preparation or in progress).

(9) In relation to a soldier who enlisted in the regular air force before 1st April 1967, references to men of the reserve being called out on permanent service include references to their being called out under an order under section 54 of the 1996 Act only if—

- (a) he re-engaged in the regular army on or after that date, or
- (b) he has made an irrevocable election to that effect in the manner prescribed by orders or regulations under section 4 of the Reserve Forces Act 1996 (or regulations having effect as if made under that section).

(10) In subsection (9) above “the regular army” means the regular forces apart from the Royal Marines”.

*The regular air force*

2.—(1) Section 9 of the Air Force Act 1955 (postponement of discharge or transfer to reserve), in so far as it continues to have effect under paragraph 6 of Schedule 7 to the Reserve Forces Act 1996 without the amendments made by paragraph 5 of that Schedule, shall have effect in accordance with sub-paragraph (2).

(2) After subsection (7) there shall be inserted—

“(8) Subject to subsection (9) below, in this section references to men of the reserve being called out on permanent service are references to their being called out under an order made under—

- (a) section 52 of the Reserve Forces Act 1996 (call out in the event of a national emergency, great danger or an actual or apprehended attack on the United Kingdom, the Channel Islands or the Isle of Man), or
- (b) section 54 of the 1996 Act (call out because warlike operations are in preparation or in progress).

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(9) In relation to an airman who enlisted in the regular air force before 1st April 1967, references to men of the reserve being called out on permanent service include references to their being called out under an order under section 54 of the 1996 Act only if—

- (a) he re-engaged in the regular air force on or after that date, or
- (b) he has made an irrevocable election to that effect in the manner prescribed by orders or regulations under section 4 of the Reserve Forces Act 1996 (or regulations having effect as if made under that section).”.

#### *The Royal Navy*

**3.—**(1) Sections 4 and 5 of the Armed Forces Act 1966, in so far as they continue to have effect under paragraph 8 of Schedule 7 to the Reserve Forces Act 1996 without the amendments made by paragraph 7 of that Schedule, shall have effect in accordance with sub-paragraphs (2) and (3).

(2) In sections 4(1)(c) and (4) and 5(1), for “called into actual service” there shall be substituted “called out on permanent service”.

(3) In section 4, for subsection (9) there shall be substituted—

“(9) References in this section to men of the Royal Naval Reserve being called out on permanent service are references to their being called out under an order made under section 52 of the Reserve Forces Act 1996 (call out in the event of a national emergency, great danger or an actual or apprehended attack on the United Kingdom, the Channel Islands or the Isle of Man).”.

#### *The Royal Marines*

**4.—**(1) Paragraphs 4A and 4B of Schedule 7 to the Army Act 1955, in so far as they continue to have effect under paragraph 4 of Schedule 7 to the Reserve Forces Act 1996 without the amendments made by paragraph 3 of that Schedule, shall have effect in accordance with sub-paragraphs (2) and (3).

(2) In paragraphs 4A(1)(c) and (4) and 4B(1), for “called into actual service” there shall be substituted “called out on permanent service”.

(3) In paragraph 4A, for sub-paragraph (8) there shall be substituted—

“(8) References in this paragraph to men of the Royal Fleet Reserve being called out on permanent service are references to their being called out under an order made under section 52 of the Reserve Forces Act 1996 (call out in the event of a national emergency, great danger or an actual or apprehended attack on the United Kingdom, the Channel Islands or the Isle of Man).”.

#### *QARNNS*

**5.—**(1) Sub-paragraph (2) applies in relation to any rating of Queen Alexandra’s Royal Naval Nursing Service who is in service immediately before 1st January 1999 unless—

- (a) he re-enters, re-engages or extends his service in Queen Alexandra’s Royal Naval Nursing Service after that day, or
- (b) he elects irrevocably in such manner as may be prescribed by orders or regulations under section 4 of the Reserve Forces Act 1996 to be a person to whom regulation 8(1) shall apply.

(2) For paragraph 12 of Schedule 3 to the Armed Forces Act 1981 (which applies section 4 of the Armed Forces Act 1966 with modifications in relation to ratings of Queen Alexandra's Royal Naval Nursing Service) there shall be substituted—

“12. Section 4 of the Armed Forces Act 1966 (postponement of discharge or transfer to the reserve) shall have effect in relation to ratings of Queen Alexandra's Royal Naval Nursing Service as if it provided—

**Postponement of discharge—QARNNS.**

4.—(1) Where at the time at which apart from this section a rating would be entitled to be discharged—

- (a) a state of war exists between Her Majesty and any foreign power, or
- (b) warlike operations are in preparation or in progress, or
- (c) men of the reserve are called out on permanent service,

he may be retained in service in Queen Alexandra's Royal Naval Nursing Service for such period as is hereinafter mentioned, and his service may be prolonged accordingly.

An exercise, by virtue of paragraph (b) above, of the power conferred by this subsection shall be reported to Parliament forthwith.

(2) No person shall be retained in service in Queen Alexandra's Royal Naval Nursing Service by virtue of this section later than the end of twelve months after the date on which, apart from this section, he would be entitled to be discharged.

(3) Subject to subsection (2) above, any person who, apart from this section, would be entitled to be discharged may be retained in service in Queen Alexandra's Royal Naval Nursing Service for such period as the competent authority may order.

(4) If, while a person is being retained in service in Queen Alexandra's Royal Naval Nursing Service by virtue of this section it appears to the competent authority that his service can be dispensed with, he shall be entitled to be discharged.

(5) Where, at the time at which under subsections (1) to (4) above a person is entitled to be discharged, a state of war exists between Her Majesty and any foreign power—

- (a) he may, by declaration made before his commanding officer in a form prescribed by regulations of the Defence Council, agree to continue in service in Queen Alexandra's Royal Naval Nursing Service while such a state of war exists, and
- (b) if the competent authority approve, he may continue accordingly as if the period for which his term of service could be prolonged under subsections (1) to (4) above were a period continuing so long as a state of war exists;

but this is subject to subsection (6) below.

(6) If it is so specified in the declaration, he shall be entitled to be discharged at the end of three months' notice given by him to his commanding officer.

(7) The reference in subsection (1) above to men of the reserve being called out on permanent service is a reference to their being called out under an order made under section 52 of the Reserve Forces Act 1996 (call out in the event of a national emergency, great danger or an actual or apprehended attack on the United Kingdom, the Channel Islands or the Isle of Man).”.

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*Postponement of discharge of men of the Army Reserve*

6.—(1) In section 19 of the Reserve Forces Act 1980, for subsection (3) (application to reservists of sections 9 and 13 of the Army Act 1955, so far as relating to discharge) there shall be substituted—

“(3) Section 19A below shall apply to men of the Army Reserve called out for permanent service.

(4) Section 13 of the Army Act 1955 so far as it relates to discharge shall apply to men of the Army Reserve called out for permanent service as it applies to soldiers of the regular forces.

(5) Nothing in subsection (2) above shall prejudice the operation of subsections (3) and (4) above.”.

(2) After section 19 of the 1980 Act there shall be inserted—

**“Postponement of discharge of members of Army Reserve during call out.**

**19A.—**(1) Where a man of the Army Reserve is called out on permanent service at a time when he would apart from this section be entitled to be discharged he may be retained in service for such period as is mentioned below, and his service may be prolonged accordingly.

(2) No person shall be retained in service by virtue of this section later than the end of twelve months after the date on which apart from this section he would be entitled to be discharged.

(3) Subject to subsection (2) above, a person who apart from this section would be entitled to be discharged may be retained in service for such period as the competent military authority may order.

(4) If while a man of the Army Reserve is being retained in service by virtue of this section it appears to the competent military authority that his services can be dispensed with, he is entitled to be discharged.

(5) Where, at the time at which under subsections (1) to (4) above a man of the Army Reserve is entitled to be discharged, a state of war exists between Her Majesty and a foreign power—

- (a) he may, by declaration made in the prescribed form before his commanding officer, agree to continue in service while such a state of war exists, and
- (b) if the competent military authority approve, he may continue accordingly as if the period for which his term of service could be prolonged under subsections (1) to (4) above were a period continuing so long as a state of war exists;

but this is subject to subsection (6) below.

(6) If it is so specified in the declaration, he is entitled to be discharged at the end of three months' notice given by him to his commanding officer.

(7) In subsections (3) to (5) above “the competent military authority” and “prescribed” have the same meaning as in Part I of the Army Act 1955.

(8) Subject to subsection (9) below, in subsection (1) above the reference to a man of the Army Reserve being called out on permanent service is a reference to his being called out under an order made under—

- (a) section 52 of the Reserve Forces Act 1996 (call out in the event of a national emergency, great danger or an actual or apprehended attack on the United Kingdom, the Channel Islands or the Isle of Man), or
- (b) section 54 of the 1996 Act (call out because warlike operations are in preparation or in progress).

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(9) In relation to a man of the Army Reserve who enlisted in the Army Reserve before 1st April 1967, the reference to a man of the Army Reserve being called out on permanent service includes a reference to his being called out under an order under section 54 of the 1996 Act only if—

- (a) he re-engaged in the Army Reserve on or after that date, or
- (b) he has made an irrevocable election to that effect in the prescribed manner.”.

*Postponement of discharge of men of the Air Force Reserve*

7.—(1) In section 21 of the Reserve Forces Act 1980, for subsection (3) (application to reservists of sections 9 and 13 of the Air Force Act 1955, so far as relating to discharge) there shall be substituted—

“(3) Section 21A below shall apply to men of the Air Force Reserve called out for permanent service.

(4) Section 13 of the Air Force Act 1955 so far as it relates to discharge shall apply to men of the Air Force Reserve called out for permanent service as it applies to airmen of the regular air force.

(5) Nothing in subsection (2) above shall prejudice the operation of subsections (3) and (4) above.”.

(2) After section 21 of the 1980 Act there shall be inserted—

**“Postponement of discharge of members of Air Force Reserve during call out.**

**21A.—**(1) Where a man of the Air Force Reserve is called out on permanent service at a time when he would apart from this section be entitled to be discharged he may be retained in service for such period as is mentioned below, and his service may be prolonged accordingly.

(2) No person shall be retained in service by virtue of this section later than the end of twelve months after the date on which apart from this section he would be entitled to be discharged.

(3) Subject to subsection (2) above, a person who apart from this section would be entitled to be discharged may be retained in service for such period as the competent air force authority may order.

(4) If while a man of the Air Force Reserve is being retained in service by virtue of this section it appears to the competent air force authority that his services can be dispensed with, he is entitled to be discharged.

(5) Where, at the time at which under subsections (1) to (4) above a man of the Air Force Reserve is entitled to be discharged, a state of war exists between Her Majesty and a foreign power—

- (a) he may, by declaration made in the prescribed form before his commanding officer, agree to continue in service while such a state of war exists, and
- (b) if the competent air force authority approve, he may continue accordingly as if the period for which his term of service could be prolonged under subsections (1) to (4) above were a period continuing so long as a state of war exists;

but this is subject to subsection (6) below.

(6) If it is so specified in the declaration, he is entitled to be discharged at the end of three months' notice given by him to his commanding officer.

(7) In subsections (3) to (5) above “the competent air force authority” and “prescribed” have the same meaning as in Part I of the Air Force Act 1955.

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(8) Subject to subsection (9) below, in subsection (1) above the reference to a man of the Air Force Reserve being called out on permanent service is a reference to his being called out under an order made under—

- (a) section 52 of the Reserve Forces Act 1996 (call out in the event of a national emergency, great danger or an actual or apprehended attack on the United Kingdom, the Channel Islands or the Isle of Man), or
- (b) section 54 of the 1996 Act (call out because warlike operations are in preparation or in progress).

(9) In relation to a man of the Air Force Reserve who enlisted in the Air Force Reserve before 1st April 1967, the reference to a man of the Air Force Reserve being called out on permanent service includes a reference to his being called out under an order under section 54 of the 1996 Act only if—

- (a) he re-engaged in the Air Force Reserve on or after that date, or
- (b) he has made an irrevocable election to that effect in the prescribed manner.”.

#### *Repeals and revocations*

**8.—**(1) In the Reserve Forces Act 1980—

- (a) section 83 (postponement of discharge or transfer to reserve), and
- (b) in section 156(1), the definition of “permanent service”,

shall be omitted.

(2) In the Reserve Forces Act 1996 (Transitional, Consequential and Saving Provisions) Regulations 1997, regulations 6 and 8 shall be revoked.