

## SCHEDULE

Regulation 15

### TRANSITIONAL PROVISIONS

#### **Authority to discharge or transfer**

**16.** In regulation 3 the reference to a person authorised by the competent authority includes a person authorised before commencement by a person who would at that time have been the competent authority if these Regulations had been in force.

#### **Entitlement to be discharged or transferred**

**17.—(1)** For the purposes of regulation 4 a person who was entitled to be discharged or transferred to a reserve force immediately before commencement is to be regarded as having become so entitled immediately after commencement.

(2) Where under section 11(2) of either of the 1955 Acts, paragraph 5(2A)(1) of Schedule 7 to the Army Act 1955 or section 6(2) of the 1966 Act a person has required to be discharged in the United Kingdom, he shall be regarded for the purposes of regulation 4(2) as having elected under that paragraph to be discharged in the United Kingdom.

(3) Where under section 11(2) of either of the 1955 Acts, paragraph 5(2A) of Schedule 7 to the Army Act 1955 or section 6(2) of the 1966 Act a person has been sent to the United Kingdom in pursuance of a requirement by him to be discharged there, he shall be regarded for the purposes of regulation 4(2) as having been conveyed there under that paragraph in pursuance of an election by him to be discharged there.

(4) Where under section 11(2) of either of the 1955 Acts, paragraph 5(2A) of Schedule 7 to the Army Act 1955 or section 6(2) of the 1966 Act a person has consented to his discharge being delayed, he shall be regarded for the purposes of regulation 4(2) as having so consented under that paragraph.

(5) Where section 12(2) of either of the 1955 Acts, paragraph 5(2C) of Schedule 7 to the Army Act 1955 or section 7(2) of the 1966 Act required a person to be sent to the United Kingdom for transfer to a reserve force and he has not been so sent, he shall be regarded for the purposes of regulation 4(3) as having elected under that paragraph to be transferred in the United Kingdom.

(6) Where a person has been sent to the United Kingdom for transfer to a reserve force under section 12(2) of either of the 1955 Acts, paragraph 5(2C) of Schedule 7 to the Army Act 1955 or section 7(2) of the 1966 Act, he shall be regarded for the purposes of regulation 4(3) as having been conveyed to the United Kingdom under that paragraph in pursuance of an election by him to be transferred there.

(7) Where under section 12(2) of either of the 1955 Acts, paragraph 5(2C) of Schedule 7 to the Army Act 1955 or section 7(2) of the 1966 Act a person has consented to his transfer to a reserve force being delayed, he shall be regarded for the purposes of regulation 4(3) as having so consented under that paragraph.

#### **Conveyance to place of residence**

**18.** In regulation 5, references to a person's discharge or transfer to a reserve force include his discharge or transfer before commencement.

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(1) Paragraph 5(2A) to (2D) of Schedule 7 to the Army Act 1955 were inserted by the Armed Forces Act 1976 (c. 52), section 3(2) and Schedule 1, Part 2, paragraph 3.

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

### **Right of warrant officer to discharge following reduction to the ranks or disrating under sentence of a court-martial**

**19.**—(1) This paragraph applies to a warrant officer of the regular army, the Royal Marines or the Royal Air Force if—

- (a) he was sentenced by a court-martial to detention or reduction to the ranks, or
- (b) he was so sentenced by the Appeal Court, and was not so sentenced by the court-martial in the proceedings to which the appeal relates,

and (in either case) the period that has elapsed since the sentence was passed is less than 28 days.

(2) This paragraph applies to a warrant officer of the Royal Navy if—

- (a) he was sentenced by a court-martial to detention, or to be reduced to such rate as was at that time prescribed, in relation to persons of the class to which he belongs, by regulations made by the Defence Council for the purposes of section 43(5) of the 1957 Act, or
- (b) he was so sentenced by the Appeal Court, and was not so sentenced by the court-martial in the proceedings to which the appeal relates,

and (in either case) the period that has elapsed since the sentence was passed is less than 28 days.

(3) A warrant officer to whom this paragraph applies may give notice in writing to his commanding officer, within 28 days of the day on which the sentence was passed, that he wishes to be discharged from the regular forces.

(4) A warrant officer who has given notice under sub-paragraph (3) shall be entitled to be discharged.

(5) For the purposes of regulation 7(2)(b), regulation 7 shall be regarded as having previously applied to a person by virtue of a sentence passed by the Court Martial in the proceedings to which an appeal relates if this paragraph has previously applied to him by virtue of a sentence passed by a court-martial in the proceedings to which the appeal relates.

(6) In this paragraph “the Appeal Court” means the Courts-Martial Appeal Court.

### **Postponement of discharge or transfer**

**20.**—(1) Where—

- (a) immediately before commencement, an enlisted person was retained in service by virtue of section 9 of either of the 1955 Acts, paragraph 4A of Schedule 7 to the Army Act 1955 or section 4 of the 1966 Act, and
- (b) none of regulations 9 to 12 applies to him,

he shall be regarded as having been retained in service by virtue of regulation 8 for the period for which it was ordered by the competent military authority, the competent authority or the competent air-force authority (as the case may be) that he be retained in service.

(2) Where a person has made a declaration under section 9(6) of either of the 1955 Acts, paragraph 4A(6) of Schedule 7 to the Army Act 1955 or section 4(6) of the 1966 Act and continues to serve in the regular forces—

- (a) the declaration shall have effect as if it were a declaration under regulation 8(7); and
- (b) any notice given by the person in accordance with the declaration shall have effect as if it had been given in accordance with a declaration under regulation 8(7).