
INTRODUCTION

The UK's Reserve Forces are authorised by Acts of Parliament. These provide the legal framework within which the Reserve Forces are formed and disciplined, and the legal mechanism for training and call-out for permanent service.

The Reserve Forces Act 1996 (RFA 96) came into force on 1 April 1997. It brought the law governing Reserves into line with the requirements of the 21st century. It allows greater flexibility in the use of our Reserve Forces, while offering the Reservist and the employer new safeguards.

Whilst this leaflet is a guide to RFA 96 and related regulations, it does not amend or supersede them; nor is this leaflet an authoritative statement of law.

Throughout this leaflet the term 'man', 'men' or 'he' relates equally to both males and females.



RESERVE FORCES ACT 1996

1. RFA 96 updated the previous reserve forces legislation (the Reserve Forces Act 1980), and introduced:

- new call-out powers;
- new forms and categories of reserve service:
 - Full Time Reserve Service and Additional Duties Commitments (i.e. part-time reserve service),
 - High Readiness Reserve service, and
 - Sponsored Reserve service; and
- new safeguards for Reservists and their employers.

RFA 96 sets out the main points. Many details though are set out in regulations. The Act in its original form can be found on the Internet at:

<http://www.opsi.gov.uk/acts/acts1996/1996014.htm>

THE RESERVE FORCES

2. The Reserve Forces now consist of the following Volunteer Reserve Forces and Regular Reserve Forces:

Volunteer Reserve Forces (essentially civilians who accept an annual training commitment and a liability to call-out for permanent (that is 'mobilised') service).

Royal Naval Reserve, Royal Marines Reserve, Territorial Army and Royal Auxiliary Air Force.

Regular Reserve Forces (essentially ex-Regular personnel who, on leaving the Regular Forces, retain a liability to call-out. In some limited and specific circumstances, volunteer civilians also serve in these Regular Reserve Forces).

Royal Fleet Reserve, Army Reserve and Royal Air Force Reserve (including some elements of the Royal Air Force Volunteer Reserve - see paragraph 9).

3. In addition, there are ex-Regulars not in a Reserve Force who have a liability to recall to the Regular Services in a serious crisis (see paragraph 16).



HOW RFA 96 AFFECTS RESERVISTS

4. The new call-out powers apply only to those who joined on or after 1 April 1997. Consequently those who were already Reservists on that date had, and may still have, a special status, and are known as transitional members. Certain transfers to and between forces took effect on that date, and those affected became transitional members of their new forces. Members of the Regular Forces in service on 31 March 1997 who are subsequently transferred compulsorily to a Reserve Force will also be transitional members.
5. Transitional members continue to be subject to the call-out powers of the Reserve Forces Act 1980. However, the 1980 Act has been amended so that a Call-Out Order under RFA 96 also authorises call-out under the appropriate Section of the 1980 Act. Also, Reservist officers who were previously not subject to call-out under the 1980 Act but were called-out under separate powers, have been formally transferred to the Reserve Forces and are now subject to the same call-out provisions as non-commissioned personnel. This means that the 1980 Act and the 1996 Act will be in force together for some years to come, but transitional members will immediately receive the benefits of the new safeguard provisions in the 1996 Act (see paragraphs 34 to 46).

CEASING TO BE A TRANSITIONAL MEMBER

6. A Reservist who is a transitional member remains in the transitional class until:
- he elects to cease to be a transitional member; or
 - he leaves and rejoins, re-engages, extends his service or subsequently becomes an officer, when he will automatically cease to be a member of the transitional class.

He will then become fully subject to the RFA 96.

7. All ratings and other ranks in the Volunteer Reserve Forces will have ceased to be transitional members by 31 March 2002, because their current engagements will have expired, and they will either have re-engaged on the new terms or left the Reserves. In theory, officers could continue as transitional members until reaching the specified retirement age, or in some cases, death. However, as indicated in the Strategic Defence Review, in future operations Reserve Forces will be more useable, integrated and relevant, and all officers are positively encouraged to elect to cease to be transitional members and take on the changed liabilities detailed in paragraphs 10 to 15 below.



8. Any Reservist who wishes to accept the full liabilities of the 1996 Act does so by electing to cease to be a transitional member. The election must be made on a special form. A sample form is provided in Service regulations, and may be copied by units or individuals. In case of difficulty, contact the appropriate Service addressee listed at the back of this leaflet.

ORGANISATIONAL CHANGES

9. Generally, officers and other ranks who were serving in the Reserve Forces when the 1996 Act took effect remained in the same Force. However, a number of organisational changes were made under the Act, namely:

- officers of the Retired or Emergency Lists of the Royal Navy and Royal Marines became members of the Royal Fleet Reserve;
- members of the Regular Army Reserve of Officers became members of the Army Reserve; and
- officers and other ranks of the Royal Air Force Volunteer Reserve became members of the Royal Auxiliary Air Force other than members of the Royal Air Force Volunteer Reserve (Training), the Royal Air Force Volunteer Reserve (University Air Squadrons) and the Royal Air Force Volunteer Reserve (Civilian component) all of whom remained members of the Royal Air Force Reserve.

Those transferred did so as transitional members and retained their existing liabilities.

CALL-OUT POWERS

10. RFA 96 restates the existing call-out powers, but within a new framework of call-out orders.

11. Thus Her Majesty may make an order authorising call-out:

"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 UK"
(Section 52).

12. The Secretary of State may make an order authorising call-out:

"if it appears to him that warlike operations are in preparation or progress" (Section 54).

13. The making of an order also activates the corresponding power under the Reserve Forces Act 1980 as amended. The warlike operations power has been extended for the first



time to all Reserve Forces. (Under the 1980 Act, it did not apply to ratings of the Royal Naval Reserve, members of the Royal Marines Reserve or to the Royal Auxiliary Air Force).

14. There is a new power, under which the Secretary of State may authorise call-out;

"if it appears to him that it is necessary or desirable to use Armed Forces on operations outside the UK for the protection of life or property; or on operations anywhere in the world for the alleviation of distress or the preservation of life or property in time of disaster or apprehended disaster" (Section 56).

15. This new power is intended to cover peacekeeping, humanitarian and disaster relief operations. The wording is specifically designed to exclude the call-out of Reservists in the event of civil disorder in the UK. Transitional members of the Reserve Forces cannot be called out under this power.

RECALL OF FORMER REGULAR PERSONNEL

16. Section 68 of the RFA 96 permits Her Majesty to make an order authorising the recall to the Regular Services of certain persons in the circumstances described in paragraph 11. An individual is subject to this power if he is not a member of a Regular Service or a Reserve Force, and he either:

- holds a commission as an officer; or
- has served as a rating, or other rank in the Regular Services, and
 - has not subsequently become an officer, and
 - is under the age of 55, and
 - he left the regular service less than eighteen years (six years in the case of the Royal Navy or Royal Marines) previously.

17. This power does not apply to a person who joined the Regular Services before 1 April

- become an officer on or after that date; or
- left and re-enlisted, re-engaged or extended his regular service on or after that date, or been permitted to elect to be liable to the new power.



18. Service pensioners and members of the Army's Long Term Reserve who are not subject to the new power will continue to be liable to recall under the Reserve Forces Act 1980. The recall powers in the Act will be activated by orders of Her Majesty made under the 1996 Act.

DURATION OF CALL-OUT

19. The 1996 Act includes new provisions to protect the Reservist by limiting the maximum obligatory period of permanent service under each of the call-out powers. The limits take into account any permanent service in a specified period before the current call-out. The limits are:

- three years in any six, extendable by Order of Her Majesty to five years in any six, for callout under Section 52¹;
- twelve months in any three years, extendable by order of Her Majesty to two years in any three, for call-out under Section 54; and
- nine months in any twenty seven months, with no provision for extension, for call-out under Section 56.

20. A Reservist may, in certain cases, consent to extend his current service beyond the obligatory maximum period, for a period of up to 12 months at a time.

21. A rating or other rank will normally be entitled to be released from permanent service at the end of his term of service as a Reservist. However, that entitlement may be postponed for up to 12 months if he has been called out under Sections 52 or 54, and for up to 9 months if he has been called out under Section 56. In addition, Section 17 allows the discharge from the Reserve Forces of ratings or other ranks to be postponed for up to 12 months, if an order under Section 52 is in force.

CALL-OUT NOTICES

22. Once an order authorising the call-out of members of the Reserve Forces has been made, call-out notices may be sent to Reservists requiring them to report for service at a specified time and place, and to remain there until either accepted into service or informed that they are not required. A notice can be served by giving it to the Reservist, or by delivering it to his last known address. Failure to comply with a call-out notice may result in the Reservist being charged with absence without leave or desertion.

1. This limit also applies to recall under section 68 of the Reserve Forces Act 1996.



TRAINING AND ADDITIONAL VOLUNTARY RESERVE SERVICE

23. The training patterns of the Volunteer Reserve Forces have not been altered by the introduction of RFA 96. However, the maximum continuous obligatory training commitment is set at 16 days, an increase from the 15 days for most Reservists under the 1980 Act. The liability extends to all Regular Reservists, although currently it is not enforced. The 1980 Act arrangements continue to apply to transitional members (except those in the Royal Naval Reserve and Royal Fleet Reserve for whom the 16 days represent a reduction rather than an increase).

24. Reservists have always been able to volunteer to undertake additional training. The 1996 Act extended these informal arrangements to cover duties of all sorts, and also provided two new, but flexible, forms of service: Full Time Reserve Service Commitments and Additional Duties Commitments (i.e. part-time reserve service). These are aimed at allowing Reservists to participate more widely in the day-to-day activities of the Armed Forces. Reservists are able to volunteer to undertake more challenging and rewarding tasks without being called out or having to leave the Reserve Forces temporarily to join the Regular Forces. Such service does not attract the safeguards available to a Reservist who is called out. Those involved retain their liabilities for call-out as members of the Reserve Forces.

25. The essential element of these new forms of service is a commitment in which the Services undertake to make duties available for a specified period, and the individual agrees to perform those duties. As a minimum, the commitment must specify its duration, whether it is for full-time (continuous) or part-time duty, any restrictions on the places of duty and the duties to be performed. Full-time service anywhere in the world for any duties (known as Full Commitment) is equivalent to the existing special short service regular arrangements and attracts full regular rates of pay. Increasing restrictions (as Limited or Home Commitment) attract reduced rates of pay.

HIGH READINESS RESERVE

26. High Readiness Reservists (HRR) are members of any of the Reserve Forces who have specialist skills and who accept an increased liability for call-out. The HRR meets the need for skills that are in short supply in the Regular and Reserve Forces and which might be needed early in a crisis.

27. **HRR Commitment.** Reservists who volunteer to become HRR accept an enhanced liability for call-out for permanent service anywhere in the world. They are required to be available to report for duty, in the majority of cases, at a minimum of 7 days notice. They sign an agreement defining the liability they are accepting, including any changes to their terms of service for the period of the agreement. They are entitled to an additional bounty on the anniversary of the HRR agreement.



28. The maximum duration of an agreement is 12 months but it is possible to sign up for successive agreements. This process is intended to make HRRs review whether their circumstances at the time of renewal still allow them to undertake that HRR commitment.

29. **HRR and Employers.** An HRR agreement will require the consent of any employer for whom the Reservist works for 14 hours a week or more. This consent represents the strong commitment by the employer to release the HRR without protest on his call-out. It will be possible for employers to seek termination of the agreement or exemption from call-out as a result of any unforeseen change in circumstances. Renewal of the agreement will also require renewed employer's consent, providing the latter with an opportunity to review the commitment to release the HRR. If the Reservist enters into new employment of 14 hours a week or more, his HRR liabilities will be suspended unless and until the new employer gives consent.

30. **HRR Call-Out.** The maximum period of permanent service an HRR can be required to complete after call-out is 9 months. This service can continue beyond the end of the HRR agreement, so if an HRR is called out on even the last day of his or her agreement, he will be expected to serve for 9 months from that date. However, an HRR can be called out only once under each HRR agreement. A wish to continue as an HRR after release from permanent service means making a fresh agreement (see paragraph 28 above). In addition to their special liability, HRRs will remain subject to ordinary call-out powers. The schemes for payments to HRR after call-out are the same as those applicable to other Reservists. (See paragraphs 35 - 39.)

THE SPONSORED RESERVES

31. Sponsored Reservists are employees of employers who have an arrangement (usually a contract) with the Ministry of Defence (MoD) for the provision of support services and who have become members of a Reserve Force in a special sponsored reserve category. Sponsored Reservists have, under Part V of RFA 96, special liabilities for reserve service, training and call-out so that they can be called out to continue to support MoD on operations as servicemen or women utilising the skills their employers have been contracted to provide. The contractor will be responsible, as part of the MoD contract, for employing sufficient employees who have become Sponsored Reservists to meet MoD's requirements.

32. Sponsored Reservist terms and conditions of service are based on those for conventional Volunteer Reservists but they have been modified to take account of the special liabilities and commercial relationships involved.

33. The concept will affect existing conventional Reservists only if they are or become employed by an employer who is a contractor within the scheme, and only then if the contractor requests that they become Sponsored Reservists and they are willing to do so. Full details will be available to them, and indeed to those who are not already Reservists, at that time.



SAFEGUARDS IN THE EVENT OF CALL-OUT OR RECALL

34. The effectiveness of the Reserves ultimately depends on the visible three-way relationship between MoD, the Reservists themselves and their employers. A Reservist who is willing, and confident of the employer's support, will be more effective and better motivated than one who feels his employer is hostile to his commitment. The importance of this relationship was acknowledged in the 1996 Act as it created safeguards for both Reservists and their employers. All of these safeguards, which are outlined below, are available whether the Reservist is willing to be considered for call-out or is compulsorily mobilised by his Service.

35 **Financial Assistance for the Reservist.** It is important that Reservists feel that they and their families are financially secure during any period of permanent service following call-out.

36. Payments will be made to Reservists whose military salary when called out for operations is less than their earnings in civilian life. Reservists can also claim for replacing certain benefits in kind suspended or withdrawn by their employers while they are mobilised. The benefits covered include, but are not limited to: health or medical insurance; life insurance; accommodation; educational fees for dependent children; and loss of a company car used by the Reservist's dependants. All such payments are subject to an upper limit or cap (less service pay), which is different for certain medical officers.

37. Without financial limit, Reservists can also claim for certain allowable expenses arising from their mobilisation. These expenses are limited to: additional payments for the care of a dependent child or relative; additional expenses for the care of a pet; additional home insurance premiums; and payments for the essential maintenance of the Reservist's main residence and garden.

38. When, on mobilised service, if a Reservist elects to remain in his occupational pension scheme and continues to pay his employee contributions, any contributions withdrawn by his employer will be made up by the MoD.

39. There may well be occasions when the Service authorities decide that the cost involved in accepting into service an individual is disproportionate to the skills or expertise the Reservist can bring to the operation.

40. **Financial Assistance for the Employer.** An employer also has the right to claim for financial assistance when an employee is called out. These awards, some of which are subject to a cap, cover certain additional recurring and one-off costs arising from the call-out of the Reservist, who can, in certain circumstances, be re-trained at public expense on his return to work.

41. **Financial Assistance for Self-employed Reservists.** Depending on his personal circumstances, a self-employed Reservist may claim as a Reservist, an employer or both.



42. **Suspension of Financial Assistance for Reservists and Employers.** These financial safeguards apply for all called out and recalled service on operations. However, there is provision for payment to be suspended in the event of national danger, great emergency or attack on the UK. In such circumstances, everyone in the country could be experiencing hardship, and special assistance for Reservists might no longer be justifiable.

43. **Deferral or Exemption Applications by the Reservist.** The Reservist has a formal right to seek exemption from, or deferral of, call-out or recall. Grounds for exemption or deferral include: special family circumstances, involving, for example the care of children or the disabled; interruption of a course of education; possible serious harm to a family business; or other reasons of a compassionate nature. Such an exemption or deferral would be more likely to be granted in the case of humanitarian operations than when the call-out arose because the UK was under imminent threat.

44. **Deferral or Exemption Applications by the Employer.** Employers also have a right to apply for the exemption or deferral of an employee from call-out or recall if they believe the absence of the Reservist would cause serious harm to the business or undertaking in which the Reservist is employed (or to a partner, proprietor or employee of that business or other undertaking), which could not be prevented by the granting of financial assistance. If an employer's application for exemption or deferral is granted, the Reservist will not be able to change that decision.

45. **Applications and Appeals.** Adjudication Officers have been appointed for each Service to determine claims by Reservists and/or employers for financial assistance and applications for deferral or exemption from call-out or recall. Reservists and employers who are dissatisfied with an Adjudication Officer's decision may appeal to a Reserve Forces Appeal Tribunal (RFAT), whose independent members will re-hear their original application or claim. Details of how to appeal are available from the Assistant RFAT Secretary, whose contact details are given at the end of this leaflet.

46. **Civilian Employment Protection.** All Reservists who are called out or recalled, whether it be under the 1980 Act or the 1996 Act, continue to receive civilian employment protection under the Reserve Forces (Safeguard of Employment) Act 1985 and have the protection of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951. For the Reservist, details are given in Booklet REL1 available from the appropriate Service authority detailed below. Alternatively employers may obtain details from their local Reserve Forces' and Cadets' Association.



FURTHER INFORMATION

ROYAL NAVY/ROYAL MARINES

- For members of the Royal Naval Reserve: From their parent Reserve Training Centre
- For members of the Royal Marines Reserve: From their parent Reserve Unit
- For ex-regular officers and ratings of the Royal Navy and ex-regular officers and other ranks of the Royal Marines: DNCM, AD Res, West Battery, Whale Island, PORTSMOUTH, Hampshire PO2 8DX

ARMY

- For members of the Territorial Army: From their parent Reserve Unit
- For members of the Army Reserve: The Army Personnel Centre, TA & Reserves MCM Div (Mail Point 295), Kentigern House, 65 Brown Street, GLASGOW G2 5EX

ROYAL AIR FORCE

- For members of the Reserve Air Forces (RAFR and RAuxAF): From their parent Reserve Unit
- For ex-regular members of the RAF, transferred to the Reserve: SO1 Reserves Support, Room 20, Building 6, HQ Air, HIGH WYCOMBE, Buckinghamshire, HP14 4UE

RESERVE FORCES APPEAL TRIBUNALS (RFAT)

- Assistant Secretary of the Reserve Forces Appeal Tribunals

DRFC
Level 8, Zone E, Desk 17
MoD Main Building
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