



# Reserve Forces Act 1996

## 1996 CHAPTER 14

### PART X

#### GENERAL OFFENCES

##### *Desertion and absence without leave from service, duty or training*

#### **96 Failure to attend for service on call out or recall.**

- (1) A member of a reserve force served with a call-out notice under any provision of this Act who, without leave lawfully granted or reasonable excuse—
- (a) fails to present himself for service at the time and place specified in the call-out notice under section 32(3)(b), 43(4)(b) or 58(3)(c) (as the case may be);
  - (b) having so presented himself, fails to remain there until accepted into service or informed that he is not to be accepted into service in pursuance of that notice; or
  - (c) where he has for any reason failed to present himself at the time and place so specified or to remain there, fails —
    - (i) to present himself to a person specified in the call-out notice or to any other authorised officer; or
    - (ii) having so presented himself, to remain until accepted into service or informed that he is not to be accepted into service in pursuance of that notice,
- [<sup>F1</sup>is guilty of desertion (if section 8(2)(a) or (b) of the Armed Forces Act 2006 applies to him) or absence without leave (if neither of those provisions applies to him).]
- (2) Subsection (1) applies to a person liable to recall as it applies to a member of a reserve force—
- (a) with the substitution for references to a call-out notice of references to a recall notice; and
  - (b) as if paragraph (a) of that subsection referred to the time and place specified in the recall notice under section 70(3)(c).

*Changes to legislation: Reserve Forces Act 1996, Cross Heading: Desertion and absence without leave from service, duty or training is up to date with all changes known to be in force on or before 15 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (3) An offence under this section is triable [<sup>F2</sup>summarily by a civil court (as well as being triable by the Court Martial).]

#### Textual Amendments

- F1** Words in s. 96(1) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 14 para. 40\(2\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F2** Words in s. 96(3) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 14 para. 40\(3\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

## 97 Failure to attend for duty or training.

- (1) A member of a reserve force who has entered into a [<sup>F3</sup>full-time service][<sup>F3</sup>section 24] commitment or an additional duties commitment and, without leave lawfully granted or reasonable excuse, fails to appear at the time and place at which he is required to attend—
- in the case of a [<sup>F4</sup>full-time service][<sup>F4</sup>section 24] commitment, to begin the period of [<sup>F5</sup>full-time] service contemplated by the commitment;
  - in the case of an additional duties commitment, to begin a period of service under the commitment,
- [<sup>F6</sup>is guilty of desertion (if section 8(2)(a) or (b) of the Armed Forces Act 2006 applies to him) or absence without leave (if neither of those provisions applies to him).]
- (2) A member of a reserve force who—
- is required to undergo a period of training in accordance with section 22, a special agreement or an employee agreement (or any other requirement applicable to special members), and
  - fails, without leave lawfully granted or reasonable excuse, to appear at any time and place at which he is required to attend,
- is guilty of absence without leave.
- (3) An offence under this section is triable [<sup>F7</sup>summarily by a civil court (as well as being triable by the Court Martial).]

#### Textual Amendments

- F3** Words in s. 97(1) substituted (1.5.2022 for specified purposes) by [Armed Forces Act 2021 \(c. 35\)](#), s. 24(1), [Sch. 2 para. 4\(2\)\(a\)](#) (with [Sch. 2 para. 10](#)); S.I. 2022/471, reg. 2(c)
- F4** Words in s. 97(1)(a) substituted (1.5.2022 for specified purposes) by [Armed Forces Act 2021 \(c. 35\)](#), s. 24(1), [Sch. 2 para. 4\(2\)\(b\)](#) (with [Sch. 2 para. 10](#)); S.I. 2022/471, reg. 2(c)
- F5** Word in s. 97(1)(a) omitted (1.5.2022 for specified purposes) by virtue of [Armed Forces Act 2021 \(c. 35\)](#), s. 24(1), [Sch. 2 para. 4\(2\)\(b\)](#) (with [Sch. 2 para. 10](#)); S.I. 2022/471, reg. 2(c)
- F6** Words in s. 97(1) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 14 para. 41\(2\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F7** Words in s. 97(3) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 14 para. 41\(3\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

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## 98 Punishment etc. of offences of desertion or absence without leave.

- (1) An offence under [<sup>F8</sup>section 8 or 9 of the Armed Forces Act 2006] (offences under service law of desertion or absence without leave) committed by a member of a reserve force is triable summarily by a civil court [<sup>F9</sup>(as well as being triable by the Court Martial)].
- (2) A member of a reserve force convicted by [<sup>F10</sup>the Court Martial] of an offence under section 96(1) or 97(1) is punishable as for an offence under [<sup>F11</sup>section 8 or 9 (as the case may be) of the Armed Forces Act 2006.]
- (3) A member of a reserve force convicted by a civil court of—
  - (a) an offence under section 96(1) or 97(1), or
  - (b) an offence under [<sup>F12</sup>section 8 or 9 of the Armed Forces Act 2006],is liable to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).
- (4) A person convicted of an offence under section 97(2) is liable—
  - (a) if convicted by [<sup>F13</sup>the Court Martial], to the same punishment as for an offence under [<sup>F14</sup>section 9 of the Armed Forces Act 2006];
  - (b) if convicted by a civil court, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).
- <sup>F15</sup>(5) .....
- (6) Where a member of a reserve force or a person liable to recall is convicted of an offence of desertion, the time which elapsed between the time of his desertion and the time of his apprehension or voluntary surrender shall not be taken into account in reckoning his service for the purpose of release from permanent service or discharge.
- [<sup>F16</sup>(7) Orders or regulations under section 4 may include provision for enabling a determination to be made in prescribed circumstances that subsection (6) is to cease to have effect in relation to a period of time or a part of a period of time.]

### Textual Amendments

- F8** Words in s. 98(1) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 14 para. 42\(2\)\(a\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F9** Words in s. 98(1) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 14 para. 42\(2\)\(b\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F10** Words in s. 98(2) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 14 para. 42\(3\)\(a\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F11** Words in s. 98(2) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 14 para. 42\(3\)\(b\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F12** Words in s. 98(3)(b) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 14 para. 42\(4\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F13** Words in s. 98(4)(a) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 14 para. 42\(5\)\(a\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

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- F14** Words in s. 98(4)(a) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 14 para. 42\(5\)\(b\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F15** S. 98(5) repealed (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 14 para. 42\(6\), Sch. 17](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F16** S. 98(7) inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 14 para. 42\(7\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

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

- C1** S. 98(1) modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\), arts. 1\(3\), 201\(3\)](#)
- C2** S. 98(3) modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\), arts. 1\(3\), 201\(3\)](#)

#### <sup>F17</sup>99 **False pretence of illegal absence.**

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#### Textual Amendments

- F17** S. 99 repealed (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 14 para. 43, Sch. 17](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

#### <sup>F18</sup>100A **Arrest by civilian police of deserters and absentees without leave**

- (1) An officer of a UK police force may arrest without warrant a person who is reasonably suspected of being a member of a reserve force, or a person liable to recall, who has deserted or is absent without leave.
- (2) If an authorised person is satisfied by evidence given under oath or affirmation that a relevant suspect is or is reasonably suspected of being within his jurisdiction, he may issue a warrant for the arrest of the relevant suspect.
- (3) In subsection (2)—
  - “authorised person” means a person who has authority in England and Wales, Scotland or Northern Ireland to issue a warrant for the arrest of a person suspected of an offence;
  - “relevant suspect” means a person reasonably suspected of being a member of a reserve force, or a person liable to recall, who has deserted, is absent without leave or has committed an offence under section 95.
- (4) In this section “UK police force” has the meaning given by section 375 of the Armed Forces Act 2006.]

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### Textual Amendments

**F18** S. 100A substituted for s. 100 (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 14 para. 44](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

## 101 Inducing a person to desert or absent himself.

- (1) A person who, in the United Kingdom or elsewhere, by any means—
- (a) procures or persuades, or attempts to procure or persuade, a member of a reserve force to commit an offence of desertion or absence without leave;
  - (b) knowing that a member of a reserve force is about to commit such an offence, aids or assists him in so doing; or
  - (c) knowing a member of a reserve force to be a deserter or an absentee without leave, procures or persuades or assists him to remain a deserter or absentee, or assists in his rescue from custody,
- is guilty of an offence.
- (2) A person who—
- (a) procures or persuades, or attempts to procure or persuade, a person liable to recall to commit an offence of desertion or absence without leave;
  - (b) knowing that such a person is about to commit such an offence, aids or assists him in so doing; or
  - (c) knowing a person liable to recall to be a deserter or absentee without leave, procures or persuades or assists him to remain a deserter or absentee, or assists in his rescue from custody,
- is guilty of an offence.
- (3) A person guilty of an offence under subsection (1) or (2) is liable on summary conviction—
- (a) in the case of an offence involving an offence of desertion or a deserter, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both); and
  - (b) in the case of an offence of absence without leave or an absentee without leave, to a fine not exceeding level 5 on the standard scale.

## <sup>F19</sup>102 Record of illegal absence.

### Textual Amendments

**F19** S. 102 repealed (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 14 para. 45](#), [Sch. 17](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 2 para. 3(2A) inserted by [2003 c. 44 Sch. 3 para. 65](#)