NATIONAL SERVICE

[*See* EDUCATION, E. & W., and EDUCATION, S., pp. 1497 and 1549 above.]

1. *Adaptation of Enactments.*
2. *Extension to Isle of Man*, p. 2797.
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1. ADAPTATION OF ENACTMENTS

(1) *Military and Air Forces.*
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(1) MILITARY AND AIR FORCES

The National Service (Adaptation of Enactments) (Military and Air Forces) Order, 1949

1949 No. 1844

Made - - - - 29*th September*, 1949
Coming into Operation 1*st October*, 1949

At the Court at Buckingham Palace, the 29th day of September, 1949

Present,

The King's Most Excellent Majesty in Council

Whereas by subsection (1) of section twenty-six of the National Service Act, 1948(a), His Majesty is empowered by Order in Council to direct that any enactment relating to the length or conditions of service of persons serving in the armed forces of the Crown shall, in its application to persons serving or who have served in those forces in pursuance of the requirements of Part I of the said Act (including persons performing service as volunteers in lieu of part-time service), have effect subject to such adaptations and modifications as may appear to him to be necessary or expedient having regard to the provisions of Part I of the said Act:

And Whereas by section thirty-two of the said Act, His Majesty is also empowered by Order in Council to make provision for such consequential matters as it appears to him to be expedient to provide for by reason of the coming into force of Part I of the said Act and by any such Order to modify any enactment relating to such matters:

And Whereas it appears to His Majesty to be necessary or expedient having regard to the provisions of Part I of the said Act to direct that such of the enactments specified in the Schedule to this Order as relate to the length or conditions of service of persons serving in the armed forces of the Crown shall, in their application to persons serving or who have served in those forces in pursuance of the requirements of Part I of the said Act (including persons performing service as volunteers in lieu of part-time service), have effect subject to the adaptations and modifications hereinafter provided:

(a) 11 & 12 Geo. 6. c. 64.

And Whereas it appears to His Majesty to be expedient to make such provision as is hereinafter contained for consequential matters by reason of the coming into force of Part I of the said Act and to make such modifications of enactments relating to those matters as is hereinafter provided :

And Whereas a draft of this Order has been laid before Parliament in accordance with the provisions of subsection (3) of section thirty-two of the said Act and an address has been presented to His Majesty by each House of Parliament praying that an Order may be made in the terms of the said draft :

Now, therefore, His Majesty in the exercise of the said powers and of all other powers enabling him in that behalf is pleased by and with the advice of his Privy Council to order, and it is hereby ordered, as follows :—

1. This Order may be cited as The National Service (Adaptation of Enactments) (Military and Air Forces) Order, 1949 and shall come into operation on the 1st day of October, 1949.

2. The Interpretation Act, 1889(a), shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

3. The enactments referred to in the Schedule to this Order shall have effect subject to the adaptations and modifications specified in the said Schedule.

E. C. E. Leadbitter.

SCHEDULE

PART I

THE ARMY ACT AND THE AIR FORCE ACT

The Army Act

1. The Army Act shall be amended in accordance with the following provisions of this Part of this Schedule.

2. After section eighty-one there shall be inserted the following section :—

"Foregoing provisions not to apply to National Service recruits.

81A. Nothing in the provisions of the seven last foregoing sections shall apply to persons enlisted in pursuance of the National Service Act, 1948 ".

3. In section eighty-three, at the end of paragraph (2), there shall be added the words " or he was enlisted in pursuance of the National Service Act, 1948 ".

4. In section eighty-four at the end of subsection (1), and at the end of section eighty-five, there shall be added :—

" Provided that any period of whole-time or part-time service within the meaning of Part I of the National Service Act, 1948, shall be disregarded ".

5. In section eighty-seven, in subsection (1), after the words " United Kingdom " there shall be inserted the words " other than whole-time service within the meaning of Part I of the National Service Act, 1948 ".

6. At the end of section eighty-nine there shall be added the following subsection :—

" (2) This section shall not apply to a soldier who is serving in pursuance of the National Service Act, 1948 ".

7. In section ninety at the end of subsection (1) there shall be added :—

" Provided that the time of the discharge of a soldier who is serving in pursuance of the National Service Act, 1948, shall be determined in accordance with the provisions of that Act ".

(a) 52 & 53 Vict. c. 63.

The Air Force Act

8. The foregoing provisions of this Schedule shall apply to the Air Force Act as they apply to the Army Act, but subject to the following modifications:—

(*a*) in the section eighty-one A set out in paragraph 2 for the word "seven" there shall be substituted the word "six";

(*b*) paragraph 3 shall not apply;

(*c*) in paragraphs 6 and 7 for the references to a soldier there shall be substituted references to an airman.

PART II

OTHER ENACTMENTS

The Reserve Forces Act, 1882
(45 & 46 Vic. c. 48)

1. In section three, after the words "in pursuance of this Act" where they first occur there shall be added the words "and of men serving therein for a term of part-time service".

2. In section four, in paragraph (*a*) after the words "in pursuance of the Army Act, 1881," there shall be inserted the words "or to serve for a term of part-time service".

3. In section eleven, in subsection (1) after the words "belonging to the army reserve" there shall be inserted the words "(other than men serving therein for a term of part-time service)", and after subsection (1) there shall be inserted the following subsection:—

"(1A) Men serving in the army reserve for a term of part-time service shall perform such training as they may from time to time be required to undergo under Part I of the National Service Act, 1948,"

and in subsection (2) for the words "so called out may during his annual training" there shall be substituted the words "may during any training for which he may be called out or which he may be required to undergo as aforesaid".

4. At the end of section fifteen, there shall be added the following subsection:—

"(3) A man serving in the army reserve for a term of part-time service who fails without reasonable excuse to attend at any time and place appointed for training under Part I of the National Service Act, 1948, or to perform such training for the period, and in accordance with the other conditions, laid down in respect thereof under the said Part I, shall be guilty of an offence under this section and may be convicted and sentenced as provided by paragraph (*b*) of subsection (2) of this section:

Provided that where such a man fails to comply with a training notice served upon him under section five of the National Service Act, 1948, he shall in respect of such failure be liable to be apprehended and punished as provided by subsection (4) of the said section five and accordingly the foregoing provisions of this subsection shall not apply to any such failure".

5. In section twenty-eight in subsection (1) after the words "the Army Act 1881" there shall be inserted the following paragraph:—

"The expression 'part-time service' means part-time service within the meaning of Part I of the National Service Act, 1948".

The Reserve Forces Act, 1882, *as applied with modifications to the Air Force Reserve by the Air Force Reserve Order,* 1924

6. At the end of section three there shall be inserted the words "and

(*c*) of men serving therein for a term of part-time service".

7. In section four, in paragraph (*a*) after the words "in pursuance of the Air Force Act" there shall be inserted the words "or to serve for a term of part-time service".

8. In section eleven, in subsection (1) after the words "belonging to the air force reserve" there shall be inserted the words "(other than men serving therein for a term of part-time service)"; after subsection (1) there shall be inserted the following subsection:—

"(1A) Men serving in the air force reserve for a term of part-time service shall perform such training as they may from time to time be required to undergo under Part I of the National Service Act, 1948,"

and in subsection (2) for the words "so called out may, during his annual training" there shall be substituted the words "may during any training for which he may be called out or which he may be required to undergo as aforesaid".

9. At the end of section fifteen, there shall be added the following subsection:—

"(3) A man serving in the air force reserve for a term of part-time service who fails without reasonable excuse to attend at any time and place appointed for training under Part I of the National Service Act, 1948, or to perform such training for the period, and in accordance with the other conditions, laid down in respect thereof under the said Part I, shall be guilty of an offence under this section and may be convicted and sentenced as provided by paragraph (*b*) of subsection (2) of this section:

Provided that where such a man fails to comply with a training notice served upon him under section five of the National Service Act, 1948, he shall in respect of such failure be liable to be apprehended and punished as provided by subsection (4) of the said section five and accordingly the foregoing provisions of this subsection shall not apply to any such failure".

10. In section twenty-eight, after the words "the Air Force Act" where they first occur, the following paragraph shall be inserted:—

"The expression 'part-time service' means part-time service within the meaning of Part I of the National Service Act, 1948".

The Territorial & Reserve Forces Act, 1907

(7 Edw. 7 c. 9)

11. In section seven, in paragraph (*a*) of subsection (4) after the words "under this Part of this Act" there shall be inserted the words "or under the National Service Act, 1948", and in paragraphs (*b*), (*c*) and (*d*), after the words "man of the Territorial Army" there shall be inserted the words "(other than a man serving therein for a term of part-time service)".

12. In section nine, in subsection (1) after the words "men of the Territorial Army" there shall be inserted the words "(other than men serving therein for a term of part-time service)" and for paragraph (*b*) of the proviso there shall be substituted the following paragraph:—

"(*b*) Shall—

(i) in the case of a man who has entered into an engagement such as is mentioned in subsection (1) of section two of the National Service Act, 1948, to be enlisted in the Territorial Army or who, during his service in pursuance of a similar engagement to be entered or enlisted in some other auxiliary force, is transferred to the Territorial Army under section three of the National Service Act, 1948, be enlisted for the term for which he so engaged to be entered or enlisted or, if that term is partly expired, for the unexpired part thereof, and

(ii) in the case of any other man, be enlisted to serve for such a period as may be prescribed, not exceeding four years, reckoned from the date of his attestation",

and in subsection (3) after the words "man of the Territorial Army" there shall be inserted the words "(not being a man serving therein for a term of part-time service)" and in subsection (4) after the words "man of the Territorial Army" where they first occur there shall be inserted the words "(not being a man serving therein for a term of part-time service)".

13. In section ten, at the end of subsection (1), the following words shall be added—

"Provided that in the application of this subsection to persons serving in the Territorial Army for a term of part-time service, the reference therein to section ninety-six of the Army Act shall be omitted".

14. In section fourteen, in subsection (1) after the words "man of the Territorial Army" there shall be inserted the words "(not being a man serving therein for a term of part-time service)".

15. In section fifteen, in subsection (1) after the words "man of the Territorial Army" there shall be inserted the words "(not being a man serving therein for a term of part-time service)" in subsection (2) after the words "annual training" in each place where they occur there shall be inserted the words "under the last foregoing subsection", after subsection (2) the following subsection shall be inserted

"(2A) A man serving in the Territorial Army for a term of part-time service shall perform such training as he may from time to time be required to undergo under Part I of the National Service Act, 1948",

and in subsection (3) for the word "annual" there shall be substituted the word "any".

16. In section twenty-one, after the words "arm or branch of the service" there shall be inserted the words "or, being a man serving in the Territorial Army for a term of part-time service, fails to appear at the time and place appointed for any training which he is required to undergo under Part I of the National Service Act, 1948, or to perform such training for the period and in accordance with the other conditions laid down in respect thereof under the said Part I" and at the end of the said section twenty-one there shall be added the words "Provided that where a man serving in the Territorial Army for a term of part-time service fails to comply with a training notice served upon him under section five of the National Service Act, 1948, he shall in respect of such failure be liable to be apprehended and punished as provided by subsection (4) of the said section five and accordingly the foregoing provisions of this section shall not apply to any such failure".

17. In section thirty-eight, after the words "prescribed by orders or regulations" there shall be inserted the following paragraph—

"The expression 'part-time service' means part-time service within the meaning of Part I of the National Service Act, 1948".

The Territorial and Reserve Forces Act, 1907, *as applied with Modifications to the Auxiliary Air Force by the Auxiliary Air Force Orders,* 1924 *and* 1927

18. In section nine, for paragraph (*b*) of the proviso to subsection (1) there shall be substituted the following paragraph:—

"(*b*) Shall,—

(i) in the case of a man who has entered into an engagement such as is mentioned in subsection (1) of section two of the National Service Act, 1948, to be enlisted in the auxiliary air force or who, during his service in pursuance of a similar engagement to be entered or enlisted in some

other auxiliary force, is transferred to the auxiliary air force under section three of the National Service Act, 1948, be enlisted for the term for which he so engaged to be entered or enlisted or, if that term is partly expired, for the unexpired part thereof, and

(ii) in the case of any other man, be enlisted to serve for such a period as may be prescribed, not exceeding four years, reckoned from the date of his attestation ".

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

In exercise of the powers conferred by Sections 26 and 32 of the National Service Act, 1948, provision is made by this Order for the adaptation and modification of Part II of the Army and Air Force Acts (which relate to the enlistment of persons enlisted into the Army and Air Force under those Acts) and for the adaptation and modification of the Reserve Forces Act, 1882, and the Territorial and Reserve Forces Act, 1907, both as enacted and as applied by Orders in Council to the Air Force Reserve and the Auxiliary Air Force.

By the adaptations and modifications of Part II of the Army Act, contained in Part I of the Schedule to the Order, Sections 76 to 81 of the Army Act (which relate to the period of service and enlistment of persons enlisted under that Act) are not to apply to persons enlisted under the National Service Act; Section 83 (2) (which relates to the transfer of soldiers to any Corps) is modified so as to enable persons enlisted under the National Service Act, 1948, to be transferred to any Corps without their consent; Sections 84 and 85 of the Army Act (which relate to re-engagement and prolongation of service) are modified by a provision that whole-time or part-time service under the National Service Act, 1948, shall be disregarded; the provision in Section 87 which enables the service of a soldier who is out of the United Kingdom at the time when he is entitled to be discharged to be prolonged is modified so as not to apply to persons serving in the Army under the National Service Act, 1948; Section 89 of the Army Act (which relates to the transfer of soldiers to the reserve in certain conditions) is not to apply to persons serving in the Army under the National Service Act; and Section 90 (1) (which requires soldiers whose terms of service have been completed to be discharged with all convenient speed) is modified by providing that the time of discharge of soldiers serving in pursuance of the National Service Act, 1948, is to be in accordance with that Act.

Corresponding adaptations and modifications are made in Part II of the Air Force Act.

In the Reserve Forces Act, 1882, Section 3 is modified so as to include within the classes of persons of which the Army Reserve is by that Section stated to consist, persons serving therein a term of part-time service under the National Service Act, 1948; Section 4 is modified so as to exclude the procedure and length of term of enlistment from applying to men enlisted in the Army Reserve for a term of part-time service under the National Service Act, 1948; Section 11 (which relates to the annual training of men of the Army Reserve) is modified so as to apply to men serving in the Army Reserve for a term of part-time service under the National Service Act, 1948, the training obligations imposed by that Act; Section 15 (which provides for

punishment for non-attendance for training) is modified so as to apply to a failure to attend for or to perform the required amount of training under the National Service Acts the civil process and punishment laid down in Section 15 for non-attendance for training, subject to the provision that in respect of failure to comply with a training notice under Section 5 of the National Service Act, 1948, a man of the army reserve is to be liable under that section.

Corresponding adaptations and modifications are made in the Reserve Forces Act, 1882, as applied to the Air Force Reserve by the Air Force Reserve Order, 1924.

By the adaptations of the Territorial and Reserve Forces Act, 1907, Section 7 is modified so as to include in paragraph (*a*) of subsection (4) (which provides that Orders or Regulations made under Section 7 shall not affect the term or area within which a man of the Territorial Army is liable to serve) the man serving a term of part-time service in the Territorial Army and so as to exclude such a man from paragraphs (*b*), (*c*) and (*d*) of that subsection (which impose limits on the powers of transferring or posting men serving in the Territorial Army without their consent); Subsection (1) of Section 9 is modified so as to exclude from the requirement of enlistment men serving for a term of part-time service under the National Service Act, 1948, and the proviso to that subsection is modified so as to enable persons volunteering for service under Section 2 of the National Service Act, 1948, to be enlisted into the Territorial Army for the term of their engagement under Section 2; and subsections (3) and (4) of Section 9 (which provide for the discharge of persons from the Territorial Army either on their giving notice or by their Commanding Officer for disobedience to orders, neglect of duty or misconduct) are modified so as not to apply to a person serving in the Territorial Army for a term of part-time service under the National Service Act, 1948; Section 10 (which provides that certain Sections of the Army Act shall apply to the Territorial Army) is modified so as to exclude Section 96 of the Army Act (relating to the claims of masters to apprentices) from applying to men serving in the Territorial Army for a term of part-time service under the National Service Act, 1948; Section 14 (which relates to the preliminary training of recruits of the Territorial Army) is made not applicable to persons performing part-time service in the Territorial Army; Section 15 (which relates to the annual training of men of the Territorial Army) is modified so as to apply to men serving in the Territorial Army for a term of part-time service under the National Service Act, 1948, the training obligations imposed by that Act; and Section 21 (which provides for the punishment to be imposed for failure to fulfil the training conditions) is made applicable to any training which a person may be required to undergo under Part I of the National Service Act, 1948, subject to the provision that in respect of failure to comply with a training notice under Section 5 of the National Service Act a man of the Territorial Army is to be liable under that section.

The modification of the proviso to subsection (1) of Section 9 of the Territorial and Reserve Forces Act, 1907, as applied to the Auxiliary Air Force by the Auxiliary Air Force Orders, 1924 and 1927, corresponds to that referred to above in connection with the same proviso in the Territorial and Reserve Forces Act, 1907, as it applies to the Territorial Army.