

Redundancy & Army Reservists

Since 2003, in the region of 20,000 army reservists have been mobilised with very few employment disputes being raised. The Reserve Forces (Safeguard of Employment) Act 1985 (“the Act”) is designed to protect reservist soldiers and ensure that they should not be treated more or less favourably than other employees. Except in ‘limited circumstances’ reservists must, on their application, be taken into their former employer’s employment after a period of mobilisation, on terms and conditions no less favourable than those they would have had, had they not been mobilised.

It is possible for an employer to seek exemption from or deferral of mobilisation if it will cause serious harm to their business. If a reservist soldier is mobilised, the Ministry of Defence will pay their wages from the date of mobilisation up to a maximum £200,000 and will cover the costs for finding a replacement capped at a maximum of £110 per day. Reservists must inform their employer of potential employer of the fact that they are liable to be mobilised.

Under the Act, it is an offence to terminate the employment of an employee mainly by reason of the reservist’s duties or liabilities which they may be obliged to perform. If the employer is guilty of this offence they will be liable on summary conviction to a fine not exceeding £1,000.

A decision in a recent employment case which involved a reservist soldier may affect the method by which some employers select staff for redundancy. The case was heard by the Employment Reinstatement Committee which was established under the Act to determine questions relating to the rights of such reservists.

In the case, TA infantryman Simon Sunderland returned from a 12 month tour of Afghanistan to be informed that he had been made redundant from his post as a production operative at an engine manufacturing company. Mr Sunderland successfully challenged this decision under the 1985 Act.

Employers should be aware of the rules in relation to dismissing reservists, in particular the criteria that must be applied in selection for redundancy.

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