

LEAFLET FOR MEN AND WOMEN LEAVING THE FORCES

REINSTATEMENT IN CIVIL EMPLOYMENT

Note.—In so far as these explanatory notes interpret the law they are subject to the fact that, in the event of a dispute, an authoritative interpretation can be given only by a Reinstatement Committee, or the Umpire, in relation to particular cases that may come before them (see para. 8).

1. If you want to return to your old employer when your war service ends, read this leaflet carefully because a special law has been passed giving certain rights to reinstatement, and these paragraphs explain the rights and show how to claim them. If, however, you want to enter some new employment, either because you prefer a change or because your old employer is no longer able to employ you, the Employment Exchange or other Local Office of the Ministry of Labour will do their best to help you. If your previous employment was in a Government Department, the Police Service or the Fire Service (whether before or since the Service was nationalised), you should note para. 10 of this leaflet.

2. Employers' obligations are limited to what is reasonable and practicable in any particular case and you will notice that these words occur frequently in the leaflet. In some cases, *e.g.*, where several men or women have passed through the same job immediately before going into the Forces, it will never become possible to reinstate all of them. A preference will be given to the senior employees, see para. 5. There will be some cases where factories and shops have been destroyed and reinstatement will not be possible. In other cases, for example, where a factory has turned over to war work, or has been closed, or has been damaged, it may be some time before reorganisation will make it reasonable and practicable for you to be reinstated, and you must renew your application at intervals to keep it alive, see para. 6. It is left to Reinstatement Committees (see para. 8) to decide disputed cases.

Have you these Legal Rights?

3. It is open, of course, to any man or woman leaving the Forces to apply to return to his or her old employer, but, in order to have a *legal claim* to reinstatement you must satisfy the two following conditions:—

- (1) You must have started your whole-time service in the Armed Forces (or corresponding Women's Services) after 25th May, 1939; and
- (2) You must have had an employer within the four weeks before you started your whole-time service in the Forces. (If you had more than one employer in those four weeks, any liability for reinstatement falls on the last employer.)

If you satisfy both these conditions, your old employer has to take you back provided it is reasonable and practicable for him to do so, and provided application is made to him in accordance with the rules explained in the next paragraph.

R.E.L.2. (Revised)

How to claim the Legal Rights

4. This is what you must do to claim the legal right to reinstatement—

- (1) Forward an application in writing *not later than the fifth Monday after your last day of whole-time service in the Forces*. If you are granted *flexi leave* (e.g., *reinstatement leave* or *leave pending discharge*) you need not wait until your *leave ends*. You need *count the fifth Monday from the day you go on leave*. If you are not granted such *flexi leave*, the period for application begins *from the day your full pay ends*. Unless you do this you may lose your legal right to reinstatement (that see (2) below). Use *post* (not *air mail*) and special *air mail*, so that you can get the receipt and to give it or post it to your former employer. If you wish, you can have the form or post it to an Employment Exchange of the Ministry of Labour and they will then pass it on to your former employer, provided they can get into touch with him. If you should be uncertain about the employer's present address it, could be better always to send the application through an Employment Exchange.
- (2) If, however, you are prevented by sickness or other reasonable cause from applying within this time limit, you will not lose your legal right provided that you do in fact apply as soon as you possibly can.
- (3) At the same time as you forward your application or as soon as possible afterwards, tell your employer (or writing on what date you will be ready to start work—the special form has a space for this. *The date you plan for starting work must be not later than the sixth Monday after your last day of whole-time service in the Forces*. If you are granted *flexi leave* you must count the sixth Monday from the day you go on leave. Unless you do this you may lose any legal right to reinstatement (see (4) below).
- (4) If, however, owing to sickness or other reasonable cause, you are not available for work until after this time limit, you will not lose your legal right provided that you do in fact notify the employer immediately you are available for work.
- (5) If you do not hear from the employer within about a fortnight, write to him again, and if you still do not get a reply by the date you said you were ready to start work, you had better then apply to the Reinstatement Committee (see para. 5 below).
- (6) Keep a separate note of the date or dates on which you communicate with your employer as above.

What the Employer has to do on getting a Legal Application from You

5. The employer must offer you, if he can, work in your old occupation on terms and conditions not less favourable than what you would have had in that occupation if you had never joined the Forces. If it is not reasonable and practicable for him to do that, he must offer the next best alternative, if any, that is reasonable and practicable.

The employer must offer to start you, if he can, on the day you have notified as the day you are available to start work. He may, however, not be able to employ you as soon as that and, in such a case, he must offer to start you at the first opportunity (if any) when it becomes reasonable and practicable.

The employer does not have to reinstate you if that could only be done by dismissing another worker who satisfies all three of the following—

- (1) he was in the employment before you joined the Forces; and
- (2) he had been employed longer than you had been; and
- (3) his employment was at least as permanent as yours.

He must, however, claim a worker who does not satisfy these three conditions if that is the only way in which he can make room for you and there is nothing else that makes it unreasonable or impracticable for him to reinstate you. The employer does not have to claim a job that would not otherwise exist solely because you have made a claim for reinstatement.

What to do when you get the Employer's Reply

6. If the employer offers to start you on a certain day you must begin work on that day, or you will lose your legal right to reinstatement, unless you have good or best other good reason for not then starting work. If you have good reason for not starting work on the day notified by your employer you must write to him at once to explain the reason or you will lose your legal rights: if the reason is a temporary one you must get in touch with him again as soon as you are available. If your reason is that the employer has not offered you the work to which you are entitled under the Act, or that the terms and conditions are unsatisfactory, you should also write to your employer at once explaining the facts on which you rely to support your view.

If, after you have started work, you consider that you are being employed in a less favourable occupation than you should be, or in your old occupation but on worse terms and conditions than you should be, and your employer does not agree, you can go on doing the work and still will not stop you applying to the Reinstatement Committee to decide whether you should have something better.

If the employer says he cannot at present take you back but you think that it would be reasonable and practicable for him to do so, or if the employer offers you work in an occupation different from that in which you were last employed before going into the Forces, and you think that he is under an obligation to offer you work in your old occupation, or if you think that you are entitled to better terms and conditions; then, if the employer does not agree, you should make an application to the Reinstatement Committee for this to decide it (see para. 8).

If it is not possible for you to be reinstated for the present, and you wish to keep your claim alive, you must cause your application to be made not later than 13 weeks after you first made it (see para. 4 (6) above) and then, if necessary, at further intervals of not more than 13 weeks.

How Long is the Employer bound to Employ You?

7. Many of those who are taken back into work by their old employers will no doubt be kept on, quite apart from any question of legal obligation. If, however, you have a legal claim and are reinstated by your old employer he is bound to keep you for at least 26 weeks or, in some cases, 82 weeks, from the date of starting work or he so much of that period as is reasonable and practicable. The minimum period of 26 weeks is extended to 82 weeks if you were in the employment of your old employer for 82 weeks or more before you joined the Forces.

You should be kept on in an occupation and on terms and conditions not less favourable than at the start of your reinstatement, or, if that seems to be reasonable and practicable, then in the next best alternative.

If the employer dismisses you or changes your occupation or terms and conditions for the worse before the minimum period of 26 weeks or 82 weeks has run out, and you think he has acted unreasonably, you should apply to the Reinstatement Committee (see para. 8).

How to Apply to a Reinstatement Committee

8. So long as you are satisfied that it is unreasonable or impracticable for the employer to reinstate you there is nothing to be gained by applying to a Committee. If, however, you have made a legal claim for reinstatement and either the employer denies that you will ever have any right at all, or you consider that he is not doing what is reasonable and practicable, or he has failed altogether to reply, then you should apply to the Reinstatement Committee as follows:—

Ask the Employment Exchange for a form of application, fill it up and let the same office have it back. All this must be done as soon as possible after you first had reason to complain (*see*, however, para. 4 (5) above).

The Committee consists of a chairman, an employers' representative and an employed persons' representative. You will have an opportunity of appearing and of being represented, if you wish, by any association of employed persons, *e.g.*, a Trade Union, of which you were a member when your application was made to the Committee, or any personal friend, or counsel or a solicitor.

There are certain rights of appeal from Reinstatement Committees to the Umpire that will be explained to you, if necessary, at the time.

What can the Reinstatement Committee do?

9. Subject to any appeal, the Reinstatement Committee will decide any dispute that has arisen between you and the employer on a claim for reinstatement.

If they decide that the employer has not carried out his obligation, they may order him to reinstate you and may specify the occupation and terms and conditions. They may also order compensation to be paid you for any loss you may have suffered as the result of the employer's default, *i.e.*, when he has failed to do what is reasonable and practicable.

An employer who fails to obey an order for reinstatement will be liable to heavy penalties under the Act.

Special classes of pre-service employment

10. Special arrangements are being made for the reinstatement of ex-Service men and women who before their war service were in the employment of a Government Department. If you are such a person you should, if you want to be reinstated, apply to the Establishment Officer of the Government Department in which you were employed, addressing your application to the appropriate local office if you were employed in a local, as distinct from a headquarters, office. If you are in any difficulty you should apply to the local office of the Ministry of Labour which will advise you how to proceed. Similarly, if before service in the armed forces, you were employed in the Police Service or the Fire Service, and desire to be reinstated in that employment you should apply, in the case of the Police to the Chief Officer of Police, or in the case of the Fire Service to the Fire Force Commander of the Fire Force Area where you were employed.

Further Information

11. You will appreciate that it has not been possible in this leaflet to give more than a summary, and anyone who wishes to have more detailed particulars of the rights under the Reinstatement in Civil Employment Act can obtain a copy of the Act from H.M. Stationery Office, price 4d., and Employment Exchanges will provide free a leaflet giving a more detailed explanation than this leaflet.