



MINISTRY OF DEFENCE

Ministry of Defence

JSP 532

Guidance for reservists returning to civilian employment following a period of mobilised service



Contents

Introduction	2
Return to work flowchart	3
How to reclaim your civilian job	4
Applying to a Reinstatement Committee	6
What happens if I don't agree with the decision of the Reinstatement Committee?	8
Q&A	9
Who can help?	11
Where can I get legal advice?	13
Sample letter	14
Annex A Application to be taken into employment	15
Annex B Renewal of application to be taken into employment	17
Annex C Notification of availability for employment	19
Annex D Application to a Reinstatement Committee under Section 8 of the Reserve Forces (Safeguard of Employment) Act 1985	21
Annex E Application to Reinstatement Committee for leave to appeal	23
Annex F Application to Umpire for leave to appeal	25

Introduction

The purpose of this guide is to explain what your rights as a reservist returning from a period of mobilised service are, how to protect those rights and how to exercise your rights should you need to.

These rights are laid out in the Safeguard of Employment Act 1985 (SOE 85) which applies to all reservists.

Your rights

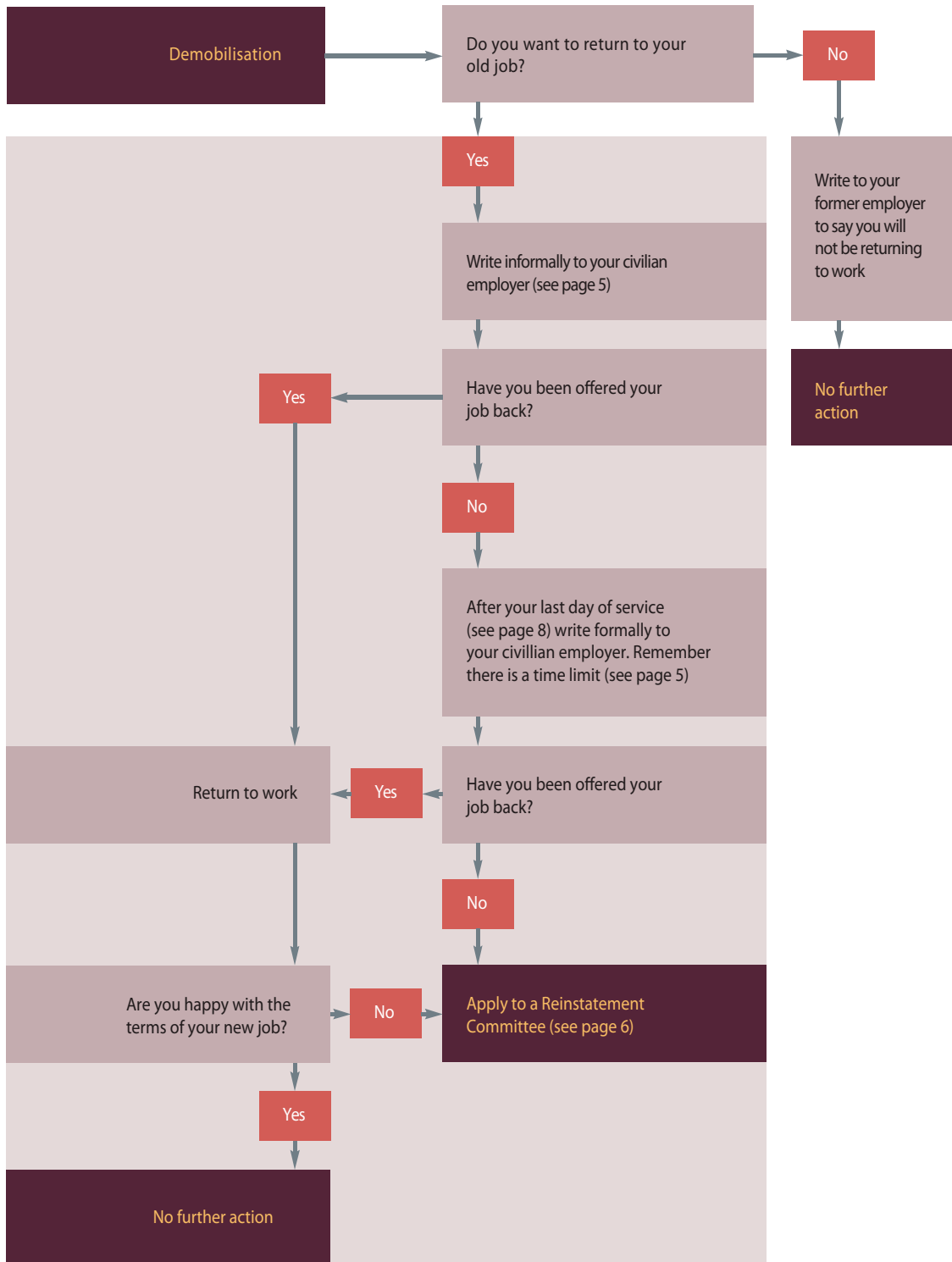
- You have a right to be re-employed in the type of job in which you were last employed on terms and conditions no less favourable to you than previously; or
- if this is not reasonable and practicable, to be re-employed in the most favourable job and on the most favourable terms and conditions which are reasonable and practicable in your case.
- As long as your application is in force, your former employer must re-employ you as soon as he/she is reasonably able to do so from the date you said you would be ready for work.

Five golden rules

- 1 Communicate with your former employer as soon as possible after demobilisation. **Don't leave it till later.**
- 2 Make sure you **keep a copy of everything** you send to your employer and everything he/she sends you (keep notes of telephone conversations, etc).
- 3 Make sure that your former employer has received the letters which you send. (such as using Royal Mail Special Delivery to ensure receipt and tracking).
- 4 **Remember to write formally to your employer no later than the third Monday after your last day of full-time military service (see page 8) if you have not already been given your job back.**
- 5 If you are not sure about anything ask SaBRE for help on 0800 389 5459.



Return to work flowchart



How to reclaim your civilian job

At the demobilisation centre (or parent unit for RAuxAF) ensure that you are told when your last day of military service will be (usually your last day of leave).

You should write informally to your employer to notify them of your last day of service and to indicate when you will be available to return to work.

It is likely that you will have a period of leave to take after your demobilisation. If you wish to you may return to work during your leave but you must first obtain permission from the Commanding Officer of your unit or the demobilisation centre or as per Single Service procedures. You cannot, however, be forced by your employer to return to work before your leave finishes.

If you agree a date for your return to work with your former employer and you are happy with the terms of this employment then you need take no further action.

However, if by the end of your mobilised service you have not been offered a job which you are happy with, you must formally write to your former employer stating when (in the next 21 days) you are available to return to work. You must write to your employer no later than the third Monday after your last day of full-time military service. See pages 5 and 7 for more details.

If you then agree a date for you to return to work with your former employer, and you are happy with the terms of this employment, you need take no further action.

However, if you:

- are offered a job which you are not happy with; or
- are told by your former employer that he/she will not re-employ you; or
- hear nothing for three weeks after you wrote to your employer,

you should apply to a Reinstatement Committee to secure re-employment with your former employer (see page 6). If you are not sure if this applies to you ask for advice (see page 9).



How to write informally to your former employer

To minimise any difficulties there may be in returning to your former civilian job you should give your last employer as much warning as possible.

To do this you should write informally towards the end of your operational tour or as soon as possible after your demobilisation. In fact you may wish to do this at the demobilisation centre.

This letter is not part of the formal reinstatement process but is a good way to identify any problems quickly and, hopefully, resolve them without the need to go to a Reinstatement Tribunal. An example of a suitable letter to use is on page 14 (you may also wish to use Annex C).

- Make sure you follow up the letter with a phone call to ensure that it has been received and to discuss any issues (keep a note of what is discussed).

How to write formally to your former employer

- You must use the format shown at Annex A to write to your former employer.
- You must write no later than the third Monday after your last day of full-time military service (see page 8).

Make a photocopy of the letter you send and post the original by special delivery. Make sure you get confirmation of the letter being received within seven working days of your sending it.

Your application for your old job lapses 13 weeks from the day it was made. If you have not got your job back, and want to keep your rights, you must make a new application to your former employer in writing before the end of the 13 weeks. Better still, renew your application every 21 days as a reminder to your employer. Use the form at Annex B and keep a photocopy for your records.



Applying to a Reinstatement Committee

A Reinstatement Committee is an independent tribunal (similar to an employment tribunal) and it consists of three people: a legally-qualified Chairman and two other members. It has the power to instruct your former employer to re-employ you or to award financial compensation. To make an application to the Reinstatement Committee, use the form at Annex D.

You **must** post this form to the relevant Administrator of the Reinstatement Committee at the address below (remember to photocopy all correspondence).

For England, Scotland and Wales

Reinstatement Committees
Employment Policy team
3rd Floor
Alexandra House
14-22 The Parsonage
MANCHESTER
M3 2JA

Tel: 0161 833 6316

For Northern Ireland

The Secretary
Office of the Industrial tribunals
Killymeal House
2 Cromac Quay
BELFAST
BT7 2JD

Tel: 02890 327666

In a few days your application will be acknowledged by the Reinstatement Committee Administrator, who will also supply you with a contact address and reference number for future communications. Contact the Reinstatement Committee Administrator if you have not received these details within 10 days of submitting your application. You may withdraw your application at any time by giving written notice to the Administrator.

There are strict **time limits** for submitting an application to the Reinstatement Committee. You must observe these – otherwise your application might be ruled ‘out of time’ and your case would not be heard:

- a) If you have **not yet been reinstated – you must apply within 13 weeks** from the date of your formal letter to your former employer or any renewal of that application.
- b) If you have **already been reinstated**, but you have been unable to agree with your employer about whether your new job is the most favourable alternative job and/or on the most favourable terms and conditions that are practical in this case – **you must apply within 52 weeks after the date of reinstatement.**

The time limits may be extended if the Chairman of the Reinstatement Committee considers there is good cause to do so.

What happens next?

A Reinstatement Committee will be convened. The Administrator will acknowledge your application and later send details of the date on which the Committee intends to first hear the case. You will receive at least seven days' notice of a hearing. The hearing will normally be held in the offices of the Employment Tribunals Service and will be open to the public.

Your employer will be sent a copy of your application. Within 10 days of receiving that copy, he/she may comment on the claim to the Reinstatement Committee. (You will be sent a copy of this response.)

The Reinstatement Committees is a formal hearing, though you do not have to be represented by a lawyer, you can be represented if you wish (though this will normally be at your own expense). If you are represented, further communications will be sent to your lawyer and not to you. Keep yourself fully informed and insist on having your own copy of guidance literature.

The Reinstatement Committee will come to a decision on the dispute. If the Committee decides that your former employer has failed in his/her obligations it may order him/her to make a job available to you, specifying the type of work, terms and conditions. It may also order you to be paid for loss of wages suffered or likely to be suffered by you.

The Reinstatement Committee will keep a record of its proceedings, including a statement of the facts found by the Committee and its decision. A copy of the record will be supplied if you, or your lawyer, request it. The Act also provides the means for enforcement and recovery where an employer fails to obey an order for reinstatement and/or costs. You should ask the Administrator for details.



What happens if I don't agree with the decision of the Reinstatement Committee?

You can appeal to an Umpire against a decision or an order of the Reinstatement Committee. If you wish to appeal you, or your lawyer, may do so, verbally, immediately after the Committee has given its decision. If you do not appeal at the Tribunal, you have 14 days from the date of the Committee's decision in which to appeal in writing. Use the form at Annex E to make your appeal and remember to keep a photocopy. Use the form at Annex F to formally make a request to the Umpire for leave to appeal.

Definitions

- References to **'the Act'** are to the Reserve Forces (Safeguard of Employment) Act 1985.
- **Former employer** – The person or organisation you worked for within the four weeks immediately before the beginning of your mobilised service. The Act does not apply to any other 'former employer' you may have had. If you were unemployed for four weeks or more immediately before you entered whole-time service, you have no rights under the 1985 Act.

If, while you were mobilised, your last employer's business was taken over by another company or person, you will need to find out who is the new owner. He/she will be the 'former employer' for the purposes of the Act.

- **Start of whole-time service** – This is the date your call-out notice ordered you to report for duty. If you are not able to find the date you should write, or telephone, and ask your Service Personnel Centre (see page 11).

- **Last day of whole-time service** – The last day of your paid full-time military service; in most cases, this will be the last day of any post-tour leave. If you are not certain of the date of your 'last day', you should write or telephone your Service Personnel Centre for confirmation of the correct date.

Time limits

Remember that, if your case has not yet been accepted for hearing by a Reinstatement Committee and you have not got your job back within 12 weeks after making your original application, you must renew your application to your former employer in writing before the end of the 13th week. Use the form at Annex B and keep a photocopy for your records.

Third Monday

You do not count the day on which the end date falls. For example, if you left whole-time service on a Monday, this means you count from the following Monday and not the day you left (21 days in all). If, on the other hand, you left on a Sunday, you count from the following day (15 days in all).

Q&A

What must your former employer do?

Take you back in the type of job in which you were last employed on terms and conditions no less favourable to you than previously; or if this is not reasonable and practicable, take you back in the most favourable job and on the most favourable terms and conditions which are reasonable and practicable in your case.

As long as your application is in force, your former employer must employ you as soon as he/she is reasonably able to do so from the date you said you would be ready for work.

He/she must employ you for at least the number of weeks prescribed by section 7 of the Act – see below:

- If you worked for him/her for up to 13 weeks, he/she should employ you for no less than 13 weeks.
- If you worked for him/her for at least 13 but less than 52 weeks, he/she should employ you for no less than 26 weeks.
- If you worked for him/her for 52 weeks or more, he/she should employ you for no less than 52 weeks.

BUT,

Your former employer does not have to give you a job:

- if this can only be done by dismissing someone else who was employed before you with that employer and who had a job no less permanent than yours; or
- if another reservist applies for a job and it is only practicable to reinstate one person, and the other reservist had been in the employment for a longer period at the time he or she was mobilised.
- If these conditions do not apply to the other person and it would otherwise be possible to employ you, then you must be given a job, or allowed to stay in the job, even though the other person might have to be dismissed to allow you to be re-employed.

Once your former employer offers you a job, and gives you reasonable notice that the job is there for you, his/her duty is then over unless you have good reason for not taking the job. If that is the case, then you must write immediately and let him/her know your reasons. It is important that you keep a photocopy of this letter.

What if my civilian job ended within the four weeks before I was mobilised?

- You can still make application for reinstatement. However, your former employer may seek to deny your right to reinstatement if, for instance, you lost your job because you knowingly broke the agreed terms and conditions of that employment.

What if I have not resumed work within 12 weeks of making my first application or submitting a renewal of application?

- Each application remains in force for a maximum of 13 weeks only. To retain your right to reinstatement, you must renew your written application within 13 weeks from the date of your previous application.

What if I can't make the application myself because I am ill, or for some good reason?

- The forms can be submitted by somebody else as long as that person has your authority to act on your behalf, preferably given or confirmed in writing. Keep a photocopy of your written authorisation for someone else to act on your behalf.

What if I think my employer has not received my application form?

- Complete a second set of forms (Annexes A and B, remembering to keep copies) remembering to keep proof of having sent the application(s)

What if I haven't been able to submit the application form by the third Monday because I have been ill, or for some other reason?

- You must apply as soon as possible after that date. You should explain the reason for the delay. Keep a copy for your records.

What if I think my employer has not met his obligations in respect of reinstatement or the offer of a suitable job, or its associated terms and conditions?

- You may take the problem to a Reinstatement Committee. Your application will remain in force until 14 days after the end of the proceedings.

- The Reinstatement Committee may order your employer to take you back into his/her employment, and/or it may order your former employer to pay compensation for any loss you have suffered because of his/her failure to offer you employment.

What if my former employer still refuses to offer me employment after a reinstatement hearing?

- Your former employer may be subject to a fine and/or he/she may be ordered to pay you compensation.

What if my employer takes me back without making me go through the formal application process?

- If you do not believe your new job is the same or the most favourable alternative occupation and on the most favourable terms and conditions that are practical in this case, you still have the same right to make a written representation to your employer, and, if he/she does not agree your claim, to make formal application for a Reinstatement Committee to determine the matter.

What if I won't be available for work within six months of leaving permanent service?

- Your former employer is not obliged to take you back

What if my employer is downsizing or re-organising while I am mobilised?

- You should not be disadvantaged by any period of mobilisation. You should be allowed the same notice and opportunities and other employees prior to organisational change. You are not protected from organisational changes but must be treated fairly.

Is my entitlement to a redundancy payment/package affected by my time on mobilisation?

- You may find that periods of mobilisation do not count towards reckonable service, however they should not count as break in service.

Who can help?

This leaflet can only provide a general guide; it has no legal force. You are encouraged to seek further advice both from within the Armed Forces as well as from a legal adviser. The contact details listed below cover the organisations that may be able to help you, but in the first instance you should call:

The SaBRE Support Team

SaBRE – Supporting Britain’s Reservists and Employers – is a Ministry of Defence campaign, designed to communicate with the employers of reservists. It runs a help line, website and gives detailed advice to reservists returning to civilian employment following a period of mobilisation, and there are 13 Regional SaBRE Company Directors (RSCDs) who can provide assistance.

Holderness House
51-61 Clifton Street
London
EC2A 4EY

Tel: 0800 389 5459

www.sabre.mod.uk
and
www.sabre.mod.uk/support-available-to-you.aspx

Service Personnel Centres

Each of the Services has a dedicated Personnel Centre where your record of military service is held. If you are unsure as to the exact dates of your mobilisation, you should contact your Service Personnel Centre using the telephone numbers listed below.

Royal Navy & Royal Marines:

Directorate of Naval Personnel (NPT Reserves)
HMS Excellent
Whale Island
Portsmouth
PO2 8ER

Tel: 02392 623565
Fax: 02392 625625

Army

TA and Reserves Manning and Career Management Division (Mail Point 295)
Army Personnel Centre
65 Brown Street Glasgow
G2 8EX

Tel: 0800 389 6585

Reserves Training and Mobilisation Centre
Chetwynd Barracks
Chilwell
Nottingham
NG9 5HA

Tel: 0800 028 5533

Royal Air Force

OC Reserve Forces
Manning cell (RFMC)
HQ Air Command
A1 Reserves Room 19
Gladiator Block
RAF High Wycombe
Bucks,
HP14 4UE

Tel: 01491 493948
Fax: 01491 496541



Find your local Employment Tribunals Service For England, Scotland and Wales

Reinstatement Committees
Employment Policy team
3rd Floor
Alexandra House
14-22 The Parsonage
MANCHESTER
M3 2JA

Tel: 0161 833 6316

For Northern Ireland

The Secretary
Office of the Industrial tribunals
Killymeal House
2 Cromac Quay
BELFAST, BT7 2JD
Tel: 02890 327666

www.employmenttribunals.gov.uk

Where can I get legal advice and who will pay for it?

There are a variety of sources of legal help which you may have access to. You may have taken out legal insurance as part of a household, car or travel insurance policy – check with your insurer to see what you are entitled to. If you do not have appropriate legal insurance, costs will likely be incurred at your own expense. If you have retained membership of your Trade Union, support may be available through your Union's regional office.

How to find a solicitor

You can find a suitable solicitor from a variety of sources: the telephone directory, internet (www.solicitors-online.com) or by contacting the Law Society on 020 7242 1222.

The Forces Law network of solicitors exists to provide an easy way of contacting a firm with the relevant experience. They can be contacted via www.forceslaw.com

It would be sensible to use a solicitor who is familiar with employment law as this is likely to save you time and money.



Sample letter

Suggested informal letter to an employer

123 Any Street
Anytown
A45 6EC
dd/mm/yyyy

Dear (insert name of employer/Sir/Madam),

As you may already know, I have recently returned to the UK and am now going through the process of demobilisation. My military service has been both testing and challenging and I am very grateful for the support you have given me during this period. I am now looking forward to getting back to work.

I will be available to return to work on (insert date) and I am writing to you now so that we can make the necessary arrangements. I would be most grateful if you could confirm in writing the details of my re-employment as soon as you are able. You can contact me using the address or telephone number above. If you would like to find out more about the financial assistance you may be entitled to, as well as your obligation to re-employ me, you can contact the SaBRE Support Team on 0800 389 5459 or visit their website (www.sabre.mod.uk).

Yours Faithfully

Adam Neil Other

Annex A

Application to be taken into employment

To: Name and address of former employer

.....

.....

I have finished a period of whole-time service, having been called-out under the provisions of the Reserve Forces Act 1996, and I wish to return to my former employment. I therefore make an application under the Reserve Forces (Safeguard of Employment) Act 1985 to be taken into your employment.

1. Surname of applicant (in BLOCK LETTERS)

Forename(s) in full

2. Address and telephone number for reply

.....

.....

3. Details of last employment in the four weeks before beginning whole-time service

(a) Name of employer

(b) Place of employment

(c) Nature of employment

(d) Identifying particulars

(Branch, Department, Works/Staff No. (if known), etc)

4. Particulars of whole-time service

(a) Nature and circumstances of call-out

(b) Date whole-time service began

(c) Service entered (Navy, Army, Royal Air Force)

(d) Date whole-time service ended

5. Notification of availability for employment

I can start work on [insert date] and would be glad to hear from you whether you can offer me employment, and, if so, when, and on what terms and conditions. or I will notify you in writing when I can start work.

6. Other remarks

.....

.....

Date of application Signature

NB. This form may be completed and signed either by the applicant or by someone acting with his or her authority.



Annex B

Renewal of application to be taken into employment

To: Name and address of former employer

Surname of applicant (in BLOCK LETTERS)

Forename(s) in full

Address and telephone number for reply

With reference to my application/renewal application¹ under the Reserve Forces (Safeguard of Employment) Act 1985 to be taken into your employment made on², I hereby renew my application and should be glad to hear from you whether you can offer me employment and, if so, when, and on what terms and conditions.

Other remarks

Date of application Signature

NB. This form may be completed and signed either by the applicant or by someone acting with his or her authority.

1 Delete whichever is not applicable

2 Insert date



Annex C

Notification of availability for employment

To: Name and address of former employer

Surname of applicant (in BLOCK LETTERS)

Forename(s) in full

Address and telephone number for reply

With reference to my application under the Reserve Forces (Safeguard of Employment) Act 1985, to be taken into your employment made on 1, I hereby notify you that I can start work on¹ and should be glad to hear from you whether you can offer me employment and, if so, when, and on what terms and conditions.

Other remarks

Date of application Signature

NB. This form may be completed and signed either by the applicant or by someone acting with his or her authority.

¹ Insert date



Annex D

Application to a Reinstatement Committee under Section 8 of the Reserve Forces (Safeguard of Employment) Act 1985

Send this form to the Reinstatement Committee (address as per page 6).

Surname of applicant (in BLOCK LETTERS)

Forename(s) in full

Address and telephone number for reply

.....

.....

Name of employer concerned in the application.....

Address of employer

.....

I claim to be a person to whom the Act applies and that I have rights under the Act which are being, or have been, denied me. In support of this claim I submit the information furnished below. I understand that this information may be communicated to the employer to whom I refer.

1. Last employment in the four weeks before officially beginning whole-time service

(a) Name of employer

(b) Place of employment

(c) Nature of employment

2. Particulars of whole-time service

(a) Nature and circumstances of call-out

(b) Date whole-time service began

(c) Service entered

(d) Circumstances in which service was undertaken

(e) Date whole-time service ended

3. Statement by applicant

State here the grounds of your complaint and the facts on which you rely in support of your complaint, including particulars of any applications or notifications made to the employer and relevant statements made by him/her.

.....

Continued on a separate sheet attached

I certify that the above particulars are correct to the best of my knowledge and belief.

* I have not previously made an application to a Reinstatement Committee.

* My last application to a Reinstatement Committee was considered by a Committee sitting at:

..... [insert place] on[insert date]

*Delete if statement is not applicable

Date of application Signature



Annex E

Application to Reinstatement Committee for leave to appeal

Full name of applicant for reinstatement (in BLOCK LETTERS)

Name of employer concerned

Application is hereby made to the Reinstatement Committee for leave to appeal to the Umpire against the decision dated¹ of the Committee sitting at² on¹

The grounds of the application are

Date Signature.....

Address

¹ Insert date
² Insert place at which Reinstatement Committee considered your case



Annex F

Application to Umpire for leave to appeal

Full name of applicant for reinstatement (in BLOCK LETTERS)

Name of employer concerned

Application is hereby made to the Umpire for leave to appeal to him/her from the decision dated¹ of the Committee sitting at² on¹

The grounds of the application are

Application for leave to appeal in the above case was made to the above Reinstatement Committee, but was refused by them on¹

Date Signature.....

Address

¹ Insert date

² Insert place at which Reinstatement Committee considered your case



