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RIRBT/2

28 January 1992

APS/Secretary of State

Copy to:

PS/Minister (AF)
PS/US of S (AF)
PS/PUS
PS/2nd PUS
AUS(A)
Legal Adviser - Miss Dewhurst

*Copy to: NIO (L) - Mr Rickard
- please also pass
to NIO (B) (Mr Leach)
and to DED*

ARMY (NORTHERN IRELAND) BILL

As you know, work has been continuing on the draft Bill today, and Parliamentary Counsel (Mr Jenkins) hopes that a draft will be available for presentation to LG Committee during the course of tomorrow.

Meanwhile, as discussed, it may be helpful for the Secretary of State to consider the attached draft letter to the Lord President and draft Memorandum for LG Committee. I have discussed these drafts with NIO colleagues (who believe that Mr Brooke would be content), and with the LG Secretariat. The latter were pessimistic about the Bill's chances of finding an immediate place in the programme, while accepting that we had a strong case.

D. C. Kirk

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DRAFT LETTER TO LORD PRESIDENT

The Rt Hon John MacGregor OBE MP
Lord President of the Council
68 Whitehall
LONDON
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ARMY (NORTHERN IRELAND) BILL

You will recall that you agreed last month that a short Bill, narrow in scope, should be drafted, to enable us to proceed with the planned merger of the Ulster Defence Regiment with the Royal Irish Rangers by 1 July. You were not able to give the go-ahead immediately to the inclusion of this Bill (which should be basically uncontroversial) in the legislative programme. A Bill has now been drafted.

Peter Brooke and I believe that enactment in time to achieve the merger on 1 July - in effect, by the end of this Parliament - is essential to our political and security policies in Northern Ireland, and to the success of the new Royal Irish Regiment.

In view of the urgency, I am forwarding the draft Bill to you direct, with a covering Memorandum for L G Committee. I hope that it might be possible to agree quickly, by correspondence, to the Bill's inclusion in the legislative programme.

As regards handling, Peter Brooke and I continue to believe that a rapid passage for the Bill is feasible, perhaps taking all Commons stages in one day.

I hope that you and colleagues can now agree that this Bill should proceed to First Reading as soon as possible. The Bill has been drafted in some haste and may therefore need a little further amendment before its introduction, but I would of course consult you about any substantial changes.

I am copying this letter, and the accompanying Memorandum and draft Bill, to L G Committee colleagues.

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LG(92)[]

COPY NO OF

January 1992

CABINET

LEGISLATION COMMITTEE

Memorandum by the Secretary of State for Defence

1. A short Army (Northern Ireland) Bill has been drafted to enable the planned merger to take place of the Ulster Defence Regiment (UDR) with the Royal Irish Rangers, to form the Royal Irish Regiment. I seek colleagues' agreement to the Bill's inclusion in the current legislative programme.

The Need for Legislation

2. Our decision on the merger was announced in Cm.1595 (Britain's Army for the 90s), following correspondence between colleagues, and subsequent discussion in Cabinet.¹ The need for primary legislation arises because the UDR, uniquely, is a regiment created by statute. I had initially hoped that an early Bill would not be required, but advice from the Attorney General convinced me otherwise. The Northern Ireland Secretary and I then discussed the problems with the Lord President, who gave drafting authority for this Bill.²

3. The aims of the merger are of great political and military importance to Northern Ireland. We are seeking to take the present UDR out of local and Anglo-Irish politics; remove its sectarian stigma and try to recruit more Catholics; improve training, career opportunities and personal horizons; and thus enhance the professionalism and effectiveness of the local security forces in countering terrorism. Recent events re-emphasise the importance of these objectives.

1. CM(91) 26th meeting.

2. PS/Lord President to PS/Secretary of State for Defence of 5 December 1991.

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Content of the Bill

4. Essentially, the Bill will enable us to transfer all UDR personnel to a regular regiment, on existing terms and conditions. (The formation of the new Royal Irish Regiment itself is a matter for the Royal Prerogative.)

5. The Bill's provisions for new regulation-making powers would enable the Defence Council to limit to Northern Ireland the service required from Royal Irish personnel in the "home service" battalions (ex-UDR), and to provide for a part-time "call-out" capability as exists at present in the UDR. The seven home service battalions will only be required within Northern Ireland, in the same internal security roles as the UDR now perform; and many ex-UDR personnel and new recruits will wish to serve only within Northern Ireland. However, we shall encourage suitable ex-UDR volunteers to undertake periods of service with the "general service" battalion (ex-Rangers), which will have a worldwide capability and role. The UDR's part-time element will be retained within the new Regiment. This is essential to achieve UDR support for the merger, although we would expect the proportion of part-timers to continue to decline, as has been the trend since the UDR's creation.

Other Aspects of the Bill

6. The Bill has no significant implications for financial provision or manpower numbers. There is no EC aspect.

Timing and Handling

7. Announcement of the merger caused less local controversy than expected, although the DUP have been mounting an emotional campaign to "save our regiment". The announced date for the merger is 1 July 1992 (anniversary of the Battle of the Somme).

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Failure to achieve this target would encourage local opposition to the merger, and represent a serious set-back for both regiments. The Northern Ireland Secretary and I believe that early enactment is essential to the success of the Government's policies in Northern Ireland.

8. All parties should support the intent of the Bill, except for the DUP. After initial hesitation, Mr Maginnis has publicly expressed support for the merger. There could be wider interest in the retention of the UDR part-time element, but the Bill limits the application of the proposed new regulations to Northern Ireland. Our own publicity about the Bill would be low-key.

9. The Bill would be more appropriately introduced in the Commons.

Recommendation

10. I invite my colleagues to agree that the Army (Northern Ireland) Bill should be given a place in the current legislative programme, with a view to its enactment before the end of this Parliament.

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TO

To provide for members of the Ulster Defence Regiment to cease to be members of that Regiment at the end of June 1992; to provide for the amendment of section 2 of the Armed Forces Act 1966 in relation to service in Northern Ireland; and for connected purposes.

A.D. 1992.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

5 1.—(1) Any person who is a member of the Ulster Defence Regiment at the commencement of this Act shall cease to be a member at that time and, if his term of service with the Regiment would have continued after that time,—

Serving members of Ulster Defence Regiment.

- 10 (a) he shall continue to be a member of the armed forces for the remainder of the term of service current at that time, and
(b) he may be transferred to another corps in the same way as a member of the regular forces serving in a corps other than the Ulster Defence Regiment.

15 (2) Except so far as they are altered by virtue of subsection (1) above (and without prejudice to any alteration made otherwise than by virtue of that subsection) the conditions of service of a person within paragraph (a) of that subsection shall be the same after the commencement of this Act as they are before that time, except that they shall not include conditions restricting to Northern Ireland any requirement as to training.

20 2.—(1) In subsection (1) of section 2 of the Armed Forces Act 1966 (power of the Defence Council to make regulations as to engagement of persons in regular forces), after paragraph (h) there shall be inserted—

Regulations as to terms and conditions of service, etc. 1966 c.45.

25 “(i) providing for service in the army (or service in the army otherwise than for the purposes of training) to be restricted to service in Northern Ireland”.

2

Army (Northern Ireland)

(2) After that subsection there shall be inserted—

"(1A) In the case of persons whose service (or service otherwise than for the purposes of training) is restricted to service in Northern Ireland, subsection (1) above shall have effect as if references to full-time service included references to part-time service (or to a combination of full-time and part-time service). 5

(1B) In subsection (1A) above references to part-time service include references to service by a person who is required to serve only at such times as he may be called out in accordance with the regulations." 10

1985 c. 17.

(3) The provisions of the Reserve Forces (Safeguard of Employment) Act 1985 applicable in Northern Ireland shall apply to a person who is, or is liable to be, called out—

1966 c.45.

(a) in accordance with regulations made by virtue of section 2(1A) of the Armed Forces Act 1966, or 15

(b) in accordance with any Royal Warrant regulating the conditions of service of officers,

as they apply to a person who has entered, or (as the case may be) may be required to enter, upon a period of whole-time service in the circumstances mentioned in section 1(a) of that Act. 20

1951 c. 65.

(4) Any service rendered by a person called out as mentioned in subsection (3) above, and any continuous period of training of seven days or longer performed by a person liable to be called out as mentioned there, shall be relevant service within the meaning of the provisions of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 applicable in Northern Ireland. 25

Enactments
relating to the
Ulster Defence
Regiment.
1980 c. 9.

3.—(1) Sections 7 and 139(2) of the Reserve Forces Act 1980 are hereby repealed.

(2) Sections 10(5), 24, 25, 44, 139(1) and 140 to 144 of that Act shall apply with the necessary modifications in relation to any person within section 1(1)(a) above for the remainder of his term of service current at the commencement of this Act. 30

(3) In section 44 of that Act, as it has effect by virtue of subsection (2) above, the words "in Northern Ireland" and the words "which is for the time being in Northern Ireland" shall be omitted. 35

1975 c. 24.

1975 c. 25.

(4) Section 1(1)(c) of the House of Commons Disqualification Act 1975 and section 1(1)(c) of the Northern Ireland Assembly Disqualification Act 1975 shall have effect as if the references to persons who are for the time being members of the Ulster Defence Regiment were references to persons for the time being within section 1(1)(a) above. 40

Expenses.

4. There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums paid out of money so provided under any other enactment.

Commencement.

5. This Act shall come into force on 1st July 1992.

Army (Northern Ireland)

3

6. This Act may be cited as the Army (Northern Ireland) Act 1992. Short title

ss. 144, 145

RESERVE FORCES ACT 1980

S.I.
1984/705

(c) in Northern Ireland, the prescribed sum within the meaning of Article 4 of the Fines and Penalties (Northern Ireland) Order 1984.

1. If the person is subject to military law he may also be charged under A.A. 1955, s. 39 or s. 68A.

PART VIII

MISCELLANEOUS AND SUPPLEMENTAL

*Reinstatement in civil employment,
and protection of other civil interests*

Reinstatement
in civil
employment
1985
c. 17.

145.¹—(1) Where any person is, or is liable to be:—

- (a) called out under section 14(1) above; or
- (b) recalled under section 34 above;

the provisions of the *Reserve Forces (Safeguard of Employment) Act 1985* shall apply to that person as they apply to a person who has entered, or, (as the case may be), may be required to enter, upon a period of whole-time service in the armed forces of the Crown in the circumstances mentioned in paragraph (a) of section 1(1) of that Act.

(2) Where any person is, or is liable to be, called out under:—

- (a) section 10(5) above; or
- (b) section 24 above; or
- (c) section 25(1) above;

the provisions of that Act of 1985 applicable to Northern Ireland shall apply to that person as they apply to a person who has entered, or, (as the case may be), may be required to enter, upon a period of whole-time service in the armed forces of the Crown in the circumstances mentioned in paragraph (a) of section 1(1) of that Act of 1985.

(3) It is declared:—

- (a) that for the purposes of that Act of 1985 service for which a person is accepted:—
 - (i) by virtue of section 27 above is service in pursuance of a call-out notice under section 26(1) above;
 - (ii) by virtue of section 36 above is service in pursuance of a notice under section 33 above or section 35 above, as the case may be; and
- (b) that nothing in this Act shall be taken as prejudicing the application of that Act of 1985.

1. (a) The effect of this is to confirm an employer's obligation to reinstate an employee who is called out under s. 14(1) or recalled under s. 34.

(b) The provisions of the Reinstatement in Civil Employment Act 1950 are extended to the Isle of Man by the Reinstatement in Civil Employment (Isle of Man) Order 1951 (S.I. 1951 No. 433). No new orders have been made under the Reserve Forces (Safeguard of Employment) Act 1985, s. 22. See, however, Interpretation Act 1978, s. 17(2)(b).

RESERVE FORCES ACT 1980

ss. 146, 147

146.—(1) Any service rendered by virtue of:—

- (a) section 14(1) above; or
- (b) section 34 above;

Protection of
other civil
interests.

shall be relevant service within the meaning of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.

(2) Any service rendered by virtue of:—

- (a) section 10(5) above; or
- (b) section 24 above; or
- (c) section 25(f) above; or
- (d) any continuous period of training of 7 days or longer performed as a member of the Ulster Defence Regiment, whether in pursuance of an obligation under section 44(i) above or under voluntary arrangements;

shall be relevant service within the meaning of the provisions of that Act of 1951 applicable to Northern Ireland.

(3) It is declared:—

(a) that for the purposes of that Act of 1951 service for which a person is accepted:—

- (i) by virtue of section 27 above is service in pursuance of a call-out notice under section 26(1) above;
- (ii) by virtue of section 36 above is service in pursuance of a notice under section 33 above or section 35 above, as the case may be; and

(b) that nothing in this Act shall be taken as prejudicing the application of that Act of 1951.

1. The effect of this s. is to protect anyone called out under the provisions of this Act from any disadvantage accruing by reason of such call-out. Examples of interests that are protected are—
(a) preservation of rights to defend against legal remedies brought against the members of the reserve forces such as affidavits, orders or orders for the seizure of property under hire-purchase agreements;
(b) the preservation of a tenancy of home or place of business;
(c) the preservation of superannuation rights;
(d) preservation of rights arising under insurance policies.

Charitable property on disbanding of units

147.—(1) Where by warrant of Her Majesty:—

(a) a unit of the Territorial Army or the Army Reserve is designated as the successor of a body of either of those reserves which has been or is to be disbanded; or

(b) [R.A.F. only - not printed];

Charities in
England and
Wales on
disbanding of
units.

any charitable property held for the purposes of the body in question shall (subject to the provisions of this section), as from the time at which the warrant comes into force, be held for the corresponding purposes of the unit so designated.

(2) The Secretary of State shall, as soon as may be after it is made, deliver a copy of any such warrant by post or otherwise to the Charity Commissioners and to a trustee of the charity in question.