



Armed Forces Act 2006

2006 CHAPTER 52

PART 14

ENLISTMENT, TERMS OF SERVICE ETC

Enlistment, terms of service etc

328 Enlistment

- (1) The Defence Council may by regulations make provision with respect to the enlistment of persons in the regular forces (including enlistment outside the United Kingdom).
- (2) The regulations may in particular make provision—
 - (a) requiring the enlistment of persons in the regular forces to be undertaken by recruiting officers;
 - (b) as to the persons, whether or not members of the regular forces, who may be appointed as recruiting officers;
 - (c) prohibiting the enlistment of persons under the age of 18 without the consent of prescribed persons;
 - (d) deeming a person, in prescribed circumstances, to have attained (or not to have attained) that age;
 - (e) as to the procedure for enlistment (including requiring a recruiting officer to attest the enlistment);
 - (f) creating offences relating to knowingly giving false answers during the enlistment procedure;
 - (g) as to the approval for service of persons who have enlisted.
- (3) The regulations may also in particular make provision in connection with the validity of a person's enlistment, including provision—
 - (a) as to when, how and on what basis the validity of a person's enlistment may be challenged;
 - (b) deeming a person, in prescribed circumstances, to have been validly enlisted;
 - (c) conferring on a person a right to discharge in prescribed circumstances;

Status: Point in time view as at 28/03/2009.

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- (d) as to the status of a person until he is discharged.
- (4) Where the regulations create an offence they may provide—
 - (a) that the offence is a service offence and is punishable by any punishment mentioned in rows 2 to 12 of the Table in section 164; or
 - (b) that the offence is an offence triable summarily by a civilian court in the United Kingdom and is punishable by a fine not exceeding level 1 on the standard scale.
- (5) In this section and sections 329 to 331 “prescribed” means prescribed by regulations made by the Defence Council.

Commencement Information

- II** S. 328 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

329 Terms and conditions of enlistment and service

- (1) The Defence Council may by regulations make provision with respect to the terms and conditions of enlistment and service of persons enlisting, or who have enlisted, in the regular forces.
- (2) The regulations may in particular make provision for the purposes of—
 - (a) specifying the duration of the term for which a person is enlisted (whether by reference to a number of years or another criterion or both);
 - (b) requiring any such term to be one of service with a regular force, or to be in part service with a regular force and in part service with a reserve force;
 - (c) enabling a person to end his service with a regular force at a prescribed time, or to transfer at a prescribed time to a reserve force;
 - (d) restricting a person, in consideration of the acceptance by him of any benefit or advantage, from exercising any right referred to in paragraph (c);
 - (e) enabling a person enlisted for a term of service of a prescribed description to be treated as if he had enlisted for a term of service of a different description;
 - (f) enabling a person to extend or reduce the term of his service (whether with a regular force or a reserve force, or both);
 - (g) enabling a person to continue in service after completion of the term of his service;
 - (h) enabling a person in a reserve force to re-enter service with a regular force;
 - (i) enabling a person to restrict his service to service in a particular area;
 - (j) requiring a person who has restricted his service to service in a particular area to serve outside that area for a number of days in any year not exceeding a prescribed maximum.
- (3) The exercise of any right conferred on a person by virtue of subsection (2) may be made subject to prescribed conditions.
- (4) The Defence Council may also by regulations make provision enabling—
 - (a) a member of the regular army of or below the rank of warrant officer, or

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- (b) a member of the Army Reserve of or below the rank of warrant officer who is in permanent service on call-out under any provision of the Reserve Forces Act 1980 (c. 9) or the Reserve Forces Act 1996 (c. 14),
to be transferred between corps without his consent in prescribed circumstances.
- (5) Regulations under subsection (4) may in particular make provision for varying the terms and conditions of service of a person transferred between corps.
- (6) In this section “corps” means any body of the regular army that may from time to time be declared by Royal Warrant to be a corps.

Commencement Information

- I2** [S. 329](#) in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))

330 Desertion and absence without leave: forfeiture of service etc

- (1) The Defence Council may by regulations make provision—
 - (a) with respect to the making of a confession by a member of the regular forces that he is guilty of an offence under section 8 (desertion);
 - (b) for the making of a determination as to whether a trial may be dispensed with in the case of a person who makes such a confession;
 - (c) for the forfeiture of a period of service of such a person where a trial is so dispensed with.
- (2) The Defence Council may also by regulations make provision for the forfeiture of a period of service of a member of the regular forces who is convicted of an offence under section 8.
- (3) Regulations under subsection (1) or (2) may include provision for enabling a determination to be made in prescribed circumstances restoring (in whole or in part) a forfeited period of service.
- (4) The Defence Council may also by regulations make provision with respect to—
 - (a) the issue of a certificate of absence in respect of a member of the regular forces absent without leave for more than a prescribed period;
 - (b) the effects of such a certificate (in particular in connection with the pay and allowances of the person in respect of whom it is issued).

Commencement Information

- I3** [S. 330](#) in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))

331 Discharge etc from the regular forces and transfer to the reserve forces

- (1) The Defence Council may by regulations make provision with respect to—
 - (a) the discharge of members of the regular forces of or below the rank or rate of warrant officer;
 - (b) the transfer of such persons to the reserve forces.

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- (2) The regulations may in particular make provision with respect to—
 - (a) authorisation of a person's discharge or transfer to a reserve force;
 - (b) the status of a person who is entitled to be, but has not yet been, discharged or transferred to a reserve force.
- (3) The regulations may also in particular make provision conferring on a warrant officer (other than an acting warrant officer) a right to be discharged—
 - (a) following his reduction in rank or rate; or
 - (b) following his reduction in rank or rate in prescribed circumstances.
- (4) The regulations may also in particular make provision enabling—
 - (a) the discharge of a person from the regular forces (including by virtue of subsection (3)), or
 - (b) the transfer of a person to a reserve force, to be postponed in prescribed circumstances.

Commencement Information

- I4** S. 331 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

332 Restriction on administrative reduction in rank or rate

- (1) The rank or rate of a warrant officer or non-commissioned officer (“the relevant person”) may be reduced only by an order within subsection (2).
- (2) An order is within this subsection if—
 - (a) it is made by the relevant person's commanding officer; and
 - (b) it reduces the rank or rate of the relevant person—
 - (i) by one acting rank or rate; or
 - (ii) if he has no acting rank or rate, by one substantive rank or rate.
- (3) An order reducing the rank of a person who is a corporal in any of Her Majesty's air forces is within subsection (2)(b)(i) (if he is an acting corporal) or (2)(b)(ii) (if he is not) if, and only if, it reduces his rank to the highest rank he has held in that force as an airman.
- (4) A commanding officer who is of or below the rank of commodore, brigadier or air commodore may make an order within subsection (2) only with the permission of higher authority; but this does not apply if the relevant person is a lance corporal or lance bombardier.
- (5) Nothing in this section applies to a reduction in rank or rate by virtue of a sentence.
- (6) Nothing in this section applies in relation to the reversion of a person, otherwise than on account of his conduct, from his acting rank or rate to his substantive rank or rate.

Commencement Information

- I5** S. 332 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)

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333 Pay, bounty and allowances

- (1) Her Majesty may by warrant make provision with respect to pay, bounty and allowances for members of the regular or reserve forces.
- (2) A Royal Warrant made under this section may in particular—
 - (a) provide for the way in which pay, bounty and allowances are to be paid;
 - (b) impose conditions or restrictions on the making of such payments;
 - (c) confer a discretion on any person.
- (3) Provision that may be made by virtue of subsection (2)(b) includes in particular provision authorising the making of a deduction from a payment to a person—
 - (a) in respect of anything (including any service) supplied to him;
 - (b) in order to recover any overpayment or advance; or
 - (c) in order to reclaim any relevant payment.
- (4) For the purposes of subsection (3)(c) a payment is “relevant” if—
 - (a) it was made on condition that it would or might be repayable in specified circumstances; and
 - (b) any such circumstance has occurred.
- (5) A Royal Warrant under this section may not authorise the forfeiture of pay.
- (6) A Royal Warrant under this section may not make provision about money distributable under the Naval Agency and Distribution Act 1864 (c. 24).
- (7) Section 373(5) (power to make supplementary provision etc) applies in relation to Royal Warrants under this section.
- (8) A Royal Warrant under this section may be amended or revoked by a further Royal Warrant under this section.
- (9) Nothing in this section prevents provision as to rates of allowances from being made otherwise than under this section.

Commencement Information

16 [S. 333](#) in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))

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