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STATUTORY INSTRUMENTS

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**1992 No. 1365**

**DEFENCE**

**The Army Terms of Service Regulations 1992**

<i>Made</i>	- - - -	<i>9th June 1992</i>
<i>Laid before Parliament</i>		<i>9th June 1992</i>
<i>Coming into force</i>	- -	<i>1st July 1992</i>

The Defence Council, in exercise of the powers conferred upon them by section 2 of the Armed Forces Act 1966<sup>(1)</sup>, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Army Terms of Service Regulations 1992 and shall come into force on 1st July 1992.

**Application and interpretation**

2.—(1) Subject to paragraph (2), these Regulations shall apply to enlistment in the regular army and to the terms and conditions of service of persons who have so enlisted.

(2) These Regulations shall not apply to enlistment in the Royal Marines or for part-time service in Northern Ireland.

(3) In these Regulations—

“the 1955 Act” means the Army Act 1955<sup>(2)</sup>;

“competent military authority” shall be interpreted in accordance with regulation 16;

“home service” means army service which, otherwise than for the purposes of training, is restricted to Northern Ireland;

“recruit” means—

(a) a person enlisted in the regular army who has not previously so enlisted, otherwise than for part-time service;

(b) a person who has been discharged by a competent military authority in accordance with regulations made under Part I of the 1955 Act as not finally approved for service and who has subsequently been re-enlisted in the regular army;

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(1) 1966 c. 45; section 2 was amended by the Armed Forces Act 1976 (c. 52), section 2, and by the Army Act 1992 (c. 39), section 2.

(2) 1955 c. 18.

“relevant date” means—

- (a) in the case of a person who enlisted after attaining the age of 18, the date of his attestation;
- (b) in the case of a person who enlisted before attaining that age, the date of his attaining that age;

“reserve” means the Army Reserve.

(4) In these Regulations, any reference to a numbered regulation or paragraph is a reference to the regulation or paragraph so numbered in these Regulations.

### **Terms of enlistment**

**3.—**(1) A person may be enlisted in the regular army for such a term as is specified in paragraph (2) beginning with the date of his attestation.

(2) The term referred to in paragraph (1) shall be a term expiring 22 years after the relevant date, or expiring on a date falling between 6 months and 12 years after the relevant date, or a term as provided for in regulation 4.

(3) Subject to regulation 4, the term for which a person may be enlisted may be a term wholly of full-time service or may be a term partly of full-time service and partly of service with the reserve.

**4.—**(1) This regulation applies to enlistment in the regular army otherwise than for home service.

(2) A person to whom this regulation applies and who has attained the age of 16 but has not attained the age of 19 years 7 months may be enlisted for a special term of service in the regular army which shall be a term—

- (a) of full-time service;
- (b) expiring either 12 months or 2 years from the date he first reports for duty following his enlistment;
- (c) to which regulations 5 to 9 shall not apply.

(3) A person enlisted for such a special term of service may determine his service at any time by a notice in writing given to his commanding officer not less than 14 days before the date on which it is to take effect.

(4) Paragraph (3) shall not apply to any term of service extended under regulation 14.

(5) Paragraph (6) applies to a person whose term of service has not been extended under regulation 13 of the Army Terms of Service Regulations 1986((3)) or regulation 14 of these Regulations.

(6) A person to whom this paragraph applies may apply in writing to his commanding officer to continue in army service after completion of his term of service until the expiration of 2 years from the date he first reported for duty following his enlistment; and if the competent military authority signify in writing their approval of such application he may after completion of his term of service be continued as a person in army service for such period in all respects as if his term of service were still unexpired.

### **Right to transfer to the reserve**

**5.—**(1) A person other than a person—

- (a) enlisted for home service;
- (b) continued in service under regulation 15;

who has enlisted for a term of 22 years in the regular army shall have the right to be transferred to the reserve at the end of the notice period or at any time thereafter.

(2) The “notice period” for the purposes of paragraph (1) shall be calculated in accordance with paragraphs (3) and (4).

(3) Subject to paragraph (4)—

- (a) in the case of a person who has enlisted in Queen Alexandra’s Royal Army Nursing Corps, the notice period shall be one of 4 years;
- (b) in any other case, the notice period shall be one of 3 years.

(4) The notice period shall begin—

- (a) in the case of a person who enlisted under the age of 17 years 6 months, on the date he attains the age of 18;
- (b) in the case of a person who enlisted before 1st January 1991 having attained the age of 17 years 6 months, on the date he attains the age of 18;
- (c) in the case of a person who enlisted after 1st January 1991 having attained the age of 17 years 6 months, on the date he attains the age of 18 or 3 months after the date of his attestation, whichever is the later.

(5) The right conferred by paragraph (1) shall be exercised by notice in writing given by the person in question to his commanding officer not less than 12 months before the date when he is to be transferred to the reserve.

(6) The exercise of the right conferred by paragraph (1) is subject to the restriction set out in regulation 11.

#### **Transfer to the reserve with consent**

**6.** In addition to the right conferred by regulation 5, a person in army service other than a person enlisted for home service whose application to his commanding officer for transfer to the reserve is approved by the competent military authority shall be transferred to the reserve.

#### **Right of recruit to determine service**

**7.—(1)** A recruit who at the date of his attestation had not attained the age of 17 years 6 months shall have the right to determine his service by giving not less than 14 days' notice in writing to his commanding officer subject to the following provisions of this regulation.

(2) The notice referred to in paragraph (1) shall not have effect unless it is given after the person concerned has completed 28 days' service excluding leave and before the expiration of 6 months from the date he first reported for duty following his enlistment.

(3) If such notice expires at a time when soldiers are required by an order under section 10 of the 1955 Act((4)) (continuation of army service in imminent national danger) to continue in army service, that recruit’s service shall not determine for so long as that order remains in force.

(4) This regulation shall not apply to a recruit enlisted—

- (a) in the Brigade of Gurkhas;
- (b) for local service outside the United Kingdom.

**8.—(1)** A recruit who at the date of his attestation had attained the age of 17 years 6 months but had not attained the age of 17 years 9 months shall have the right, at any time after the expiration of 28 days excluding leave and before the expiration of 6 months from the date he first reported for duty

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(4) 1955 c. 18; section 10 was substituted by the Armed Forces Act 1966 (c. 45), section 12.

following his enlistment, to determine his service on payment of a sum equivalent to 7 days' gross pay, and having made such payment his service shall determine on the completion of the appropriate discharge procedures.

(2) A recruit who at the date of his attestation had attained the age of 17 years 9 months but had not attained the age of 18 shall have the right, at any time after the expiration of 28 days excluding leave from the date that he first reported for duty following his enlistment and before he attains the age of 18 years 3 months, to determine his service on payment of a sum equivalent to 7 days' gross pay, and having made such payment his service shall determine on the completion of the appropriate discharge procedures.

(3) A recruit who at the date of his attestation had attained the age of 18 years shall have the right, at any time after the expiration of 8 weeks and before the expiration of 3 months from the date he first reported for duty following his enlistment, to determine his service on payment of a sum equivalent to 7 days' gross pay, and having made such payment his service shall determine on the completion of the appropriate discharge procedures.

(4) If a recruit seeks to exercise a right conferred by this regulation at a time when soldiers are required by an order under section 10 of the 1955 Act (continuation of army service in imminent national danger) to continue in army service, that recruit's service shall not determine for so long as that order remains in force.

(5) This regulation shall not apply to a recruit enlisted—

- (a) in the Brigade of Gurkhas;
- (b) for local service outside the United Kingdom.

**9.—(1)** A recruit enlisted in the Brigade of Gurkhas who at the date of his attestation had not attained the age of 17 shall have the right, at any time before the expiration of 3 months from the date that he first reported for duty following his enlistment, to determine his service on payment of a sum equivalent to 7 days' gross pay, and having made such payment his service shall determine on the completion of the appropriate discharge procedures.

(2) A recruit enlisted in the Brigade of Gurkhas who at the date of his attestation had attained the age of 17 shall have the right, at any time after the expiration of 8 weeks and before the expiration of 3 months from the date he first reported for duty following his enlistment, to determine his service on payment of a sum equivalent to 7 days' gross pay, and having made such payment his service shall determine on the completion of the appropriate discharge procedures.

(3) A recruit who enlisted for local service in Hong Kong shall have the right, at any time after the expiration of 8 weeks and before the expiration of 3 months from the date of his attestation, to determine his service on payment of a sum equivalent to 7 days' gross pay, and having made such payment his service shall determine on the completion of the appropriate discharge procedures.

(4) If a recruit seeks to exercise a right conferred by this regulation at a time when soldiers are required by an order under section 10 of the 1955 Act~~(5)~~ (continuation of army service in imminent national danger) to continue in army service, that recruit's service shall not determine for so long as that order remains in force.

### **Right of home service personnel to determine service**

**10.—(1)** A person enlisted for home service shall have the right to determine his service at the end of the notice period or at any time thereafter.

(2) The “notice period” for the purposes of paragraph (1) shall be one of 3 years and shall begin on the date when a person attains the age of 18, or 3 months after the date of his attestation, whichever is the later.

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(5) 1955 c. 18; section 10 was substituted by the Armed Forces Act 1966 (c. 45), section 12.

(3) The right conferred by paragraph (1) shall be exercised by notice in writing given by the person in question to his commanding officer not less than 12 months before the date on which he wishes to determine his service, and his service shall determine on that date.

(4) In addition to the right conferred by paragraph (1), a person enlisted for home service may apply to his commanding officer to determine his service, and if that application is approved by the competent military authority his service shall determine on the date specified in the application.

(5) The exercise of the right conferred by paragraph (1) is subject to the restriction set out in regulation 11.

### **Restriction on the exercise of a right conferred by regulation 5(1), 10(1) or 15(6)**

**11.**—(1) A person who, in consideration of—

- (a) being permitted to undergo a course of instruction of a duration of not less than 2 weeks;
- (b) being permitted to transfer to a corps different from the one in which he was previously serving; or
- (c) being permitted to receive any other benefit or advantage, consents in writing to be restricted in the exercise of any right conferred by regulation 5(1), regulation 10(1) or regulation 15(6), shall not have the right to be transferred to the reserve or to determine his service pursuant to those regulations before the expiration of the appropriate period which shall be specified in such consent and shall begin with the date on which he completes such course of instruction or such transfer takes effect or such other date as is specified in such consent.

(2) For the purpose of paragraph (1) “the appropriate period” shall be—

- (a) in relation to permission to undergo a course of instruction the duration of which is not more than 3 months, a period of not more than 1 year;
- (b) in relation to permission to undergo a course of instruction of longer duration, a period of not more than 6 years;
- (c) in relation to permission to transfer to another corps, a period of not more than 4 years;
- (d) in relation to the receipt of any other benefit or advantage, a period of not more than 6 years.

(3) Any consent given under paragraph (1) by a person at a time when he had not attained the age of 17 years 6 months may be revoked by notice in writing given by that person to his commanding officer not more than 28 days after he attains the age of 18.

(4) A person who has given his consent under paragraph (1) may, if the competent military authority approve in writing, revoke that consent.

(5) A person enlisted for a term of 22 years who has given an undertaking pursuant to any previous enactment not to determine his service before the expiration of the period specified in that undertaking, shall not have the right before the expiration of that period to be transferred to the reserve under regulation 5 or to determine his service under regulation 15(6).

### **Service in the reserve**

**12.** A person transferred to the reserve in consequence of the exercise of a right conferred by regulation 5 or under regulation 6 shall serve in the reserve for a period beginning on the date of his transfer and ending—

- (a) 6 years later; or
- (b) 22 years after the relevant date;

whichever is the sooner, or for such shorter period as the competent military authority may approve.

### **Re-entry into army service**

**13.** A person serving in the reserve by virtue of these Regulations or any previous enactment or by virtue of having been enlisted for a term partly of army service and partly of service in the reserve, whose application in that behalf made by him to the competent military authority has been approved by that authority may at any time re-enter army service and according as may be specified in that application—

- (a) be treated for the purpose of these Regulations and Part I of the 1955 Act((6)) as if he had not been serving in the reserve and as if his army service had continued while he was serving in the reserve;
- (b) serve in army service for the remainder of the period for which he would have been liable to serve in the reserve if he had not re-entered on army service; or
- (c) serve in army service for a specified part of that remainder and thereafter serve in the reserve for the residue thereof.

### **Conversion of terms of service**

**14.—(1)** A person in army service enlisted for a term expiring less than 22 years after the relevant date may, after giving notice in writing to the competent military authority and if the competent military authority signify their approval in writing, be treated as if he had enlisted for an extended term (which may include service in the reserve) being a term provided for by these Regulations and specified in the notice.

**2)** A person who has been so treated shall not exercise any right under regulation 5 or under regulation 10 so as to reduce his army service to less than it would have been if he had not been so treated.

### **Continuance in service after completion of the term of service**

**15.—(1)** A person in army service enlisted for a term of 22 years who has completed 18 years' continuous service from the relevant date may apply in writing to his commanding officer to continue in army service after the completion of his term of service for such period not exceeding 5 years as may be specified in the application, and if the competent military authority signify in writing their approval of such application he may after the completion of his term of service be continued as a person in army service for the period specified in the application in all respects as if his term of service were still unexpired.

**(2)** The making of an application under paragraph (1) shall not prejudice the exercise by the person making the application of any right conferred by regulation 5 or under regulation 10.

**(3)** Where a person in army service will at the end of the term for which he enlisted have completed not less than 22 years' service but would not be entitled to make an application under paragraph (1), he may at any time during the last 12 months of that term apply in writing to his commanding officer to continue in army service at the end of that term for such period not exceeding 5 years as may be specified in the application; and if the competent military authority signify in writing their approval of such application he may at the end of that term be continued as a person

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(6) 1955 c. 18; relevant amendments to Part I were made by the Armed Forces Act 1966 (c. 45), section 12, section 37(1) and Schedule 4; the Army Terms of Service Regulations 1967, S.I. 1967/1018, regulation 14 and Schedule 3; the Army Terms of Service (Second Amendment) Regulations 1972, S.I. 1972/1955, regulation 3 and Schedule 1; the Armed Forces Act 1976 (c. 52), section 22(6) and Schedule 10; the Armed Forces Act 1971 (c. 33), section 43 and Schedule 1, paragraph 1(2), and the Statute Law (Repeals) Act 1977 (c. 18), section 1 and Schedule 1.

in army service for the period specified in that application in all respects as if that term were still unexpired.

(4) A person in army service for the time being continued in service under paragraph (1) or (3) may within the relevant period apply in writing to his commanding officer to continue further in army service after that date for such period not exceeding 5 years as may be specified in the application; and if the competent military authority signify in writing their approval of such application he may after that date be further continued as a person in army service for the period specified in the notice in all respects as if the term for which he was previously continued in service were still unexpired.

(5) Paragraph (4) shall apply to persons in army service continued in service thereunder as it applies to such persons continued in service under paragraph (1) or (3).

(6) A person continued in service under paragraph (1), (3) or (4) or under regulation 14 of the Army Terms of Service Regulations 1986((7)) shall have the right to determine his service by a notice in writing given to his commanding officer not less than 6 months before the date on which it is to take effect.

(7) The exercise of the right conferred by paragraph (6) is subject to the restriction set out in regulation 11.

(8) For the purpose of paragraph (4) “the relevant period” shall be—

- (a) where the period for which he was last continued in service was one of 2 years or more, a period of 2 years; or
- (b) where the period for which he was last continued in service was one of less than 2 years, the whole of that period;

and in each case shall end on the date on which the period for which he is so continued will end.

9) The references in paragraph (3) to the term for which a person enlisted shall, where the term has been extended under regulation 14(1), be construed as references to the term so extended.

(10) References in this regulation to periods of service shall be construed as including references to periods served in the reserve but as not including, in relation to a person enlisted for a term ending with the expiration of a period beginning with the date of his attaining the age of 18, any period during which he was under that age.

### **Competent military authorities**

16.—(1) In relation to the provisions of these Regulations specified in the first column of the Schedule to these Regulations and for the purposes specified opposite thereto in the second column of that Schedule, the officers specified in relation thereto in the third column of that Schedule shall, in addition to the Defence Council and Army Board, be competent military authorities.

(2) For the purposes of the Schedule references to the Officer in Charge of Records of a Corps, in relation to persons enlisted for local service overseas, shall have effect as if they referred to the officer charged with administering the records of such persons and every reference to a specified officer shall have effect as if it included a reference to any member of the staff of that officer who has been duly authorised by him to act on his behalf.

### **Revocation**

17. The Army Terms of Service Regulations 1986((8)) are revoked.

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(7) S.I. 1986/2072.

(8) S.I. 1986/2072.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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On behalf of the Defence Council

*A. Hamilton*

Members of the Defence Council

Dated 9th June 1992

*P.A. Inge*



## SCHEDULE

Regulation 16

## COMPETENT MILITARY AUTHORITIES

Column 1	Column 2	Column 3
Regulation 4(6)	For the purpose of approving the continuation in service of a person enlisted for a special term of service	The Officer in Charge of Records of the Corps in which the person is serving
Regulation 6	For the purpose of approving an application to transfer to the reserve by a person in army service (a) on payment (b) (b) in any other case	The person's commanding officer or in cases involving the remission of purchase costs, the General Officer Commanding  The Director of Manning (Army)
Regulation 10(4)	For the purpose of approving an application to determine service by a person in home service (a) on payment (b) (b) in any other case	The person's commanding officer or in cases involving the remission of purchase costs, the General Officer Commanding  The Director of Manning (Army)
Regulation 11(4)	For the purpose of approving the revocation of consent to the restriction of a right	The Office in Charge of Records of the Corps in which the person is serving
Regulation 12	For the purpose of approving a shorter term of service in the reserve	
Regulation 13	For the purpose of receiving a written application for and approving re-entry into army service by a person in the reserve	The Officer in Charge of Records of the Corps in which the applicant was serving immediately before he was transferred to the reserve
Regulation 14(1)	For the purpose of approving the conversion of terms of service of a person in army service	The Officer in Charge of Records of the Corps in which the person is serving
Regulation 15	For the purpose of approving the continuance in service after 22 years' service	

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## EXPLANATORY NOTE

(This Note is not part of the Regulations)

These Regulations, together with the Army Terms of Service (Part-time Service in Northern Ireland) Regulations 1992 (S.I.1992/1366), re-enact with amendments the Army Terms of Service Regulations 1986 (S.I. 1986/2072) as amended (the 1986 Regulations). Apart from minor and drafting amendments, these Regulations make the following changes of substance in respect of enlistment in the regular army other than for part-time service in Northern Ireland.

The provision in regulation 5 of the 1986 Regulations (right to transfer to the reserve) for a soldier to consent to serve for a period of 6 or 9 years before he may give notice of his wish to transfer to the reserve is removed. Regulation 5 is also amended as a consequence of enlistment in Queen Alexandra's Royal Army Nursing Corps being open to men as well as women.

Regulation 8 (right of recruit to determine service) is amended in order that a female recruit's right to determine service should be the same as that of a man.

Regulation 10 introduces a right for personnel whose service is restricted to Northern Ireland (home service) to determine their service in similar manner to the rest of the regular army, other than by way of transfer to the reserve.

Regulation 11 re-enacts regulation 10 of the 1986 Regulations and provides that, in consideration of specified matters, a person other than in home service may be restricted in the exercise of the right to transfer to the reserve, and a person in home service may be restricted in the exercise of the right to determine his service. The duration of a course of instruction, one such matter specified, is reduced from 10 to 2 weeks. The regulation further provides that a person continued in service after the completion of his term may be restricted both in the exercise of the right to be transferred to the reserve and in the right to determine his service.

The provision in the 1986 Regulations relating to women giving consent under previous enactments to be restricted in the exercise of rights to determine service has been removed as no longer applicable to any serving woman.