STATUTORY INSTRUMENTS

2008 No.1585

DEFENCE

The Air Force Act 1955 (Part 1) (Amendment) Regulations 2008

Made - - - -	*18th June 2008*
Laid before Parliament	*20th June 2008*
Coming into force - -	*14th July 2008*

The Defence Council make the following Regulations in exercise of the powers conferred by sections 22 and 23 of the Air Force Act 1955(**a**):

Citation and commencement

1. These Regulations may be cited as the Air Force Act 1955 (Part 1) (Amendment) Regulations 2008 and come into force on 14 July 2008.

Amendment of the Air Force Act 1955 (Part 1) Regulations 2007

2. The Air Force Act 1955 (Part 1) Regulations 2007(**b**) are amended as follows.

Amendment to regulation 3

3. For regulation 3 substitute—

"Competent air-force authority

3.—(1) In addition to the Defence Council and the Air Force Board, the competent air-force authority shall be—

(a) for the purpose of section 9 of the 1955 Act(**c**) (postponement of discharge or transfer to the reserve), the Air Secretary;

(b) subject to paragraph (2), for the purpose of section 11(3) of the 1955 Act (discharge of an airman), the officer specified in column (b) of Schedule 1 to these Regulations;

(**a**) 1955 c.19; the power to make regulations under section 22 was vested in the Defence Council by virtue of an amendment to section 22 by S.I. 1964/488. Section 22(2) (which provides for such regulations to be made by statutory instrument) was inserted by the Armed Forces Act 1996 (c.46), section 4(1), and came into force on 1 May 2001.

(**b**) S.I. 2007/651.

(**c**) Section 9 was amended by section 126 of, and Schedule 7 to, the Reserve Forces Act 1996 c.14 "the 1996 Act". Section 9(1A) was inserted by section 126 of, and paragraph 5 of Schedule 7 to "the 1996 Act". It applies to airmen (principally those enlisting on or after 1st April 1997) to whom section 9(3) and 9(4) do not apply. Section 9(3) and 9(4), which were repealed and replaced by section 126 of and Schedule 7 to the 1996 Act, continue to apply by virtue of those provisions to the category of airmen defined in paragraph 6 of Schedule 7, principally those who were in service immediately before 1st April 1997.

(c) for the purpose of designating a person on his transfer to the Air Force Reserve as a person to whom paragraph 16 of Schedule 8 to the Reserve Forces Act 1980(**a**) (permanent call out of air force reserve) applies, the Air Secretary.

(2) The officer specified in column (b) of Schedule 1 may only give an order authorising the discharge of an airman for the corresponding reason or in the corresponding circumstances specified in column (a).

(3) Where section 18(1)(b) of the 1955 Act (invalid attestation or enlistment) applies, the Air Secretary is authorised to discharge an airman.

(4) Subject to paragraph (5), every reference in this regulation and in Schedule 1 to—

(a) the Commander-in-Chief shall have effect as if it also included a reference to an Air Officer Commanding a Group or other Formation or, if authorised in writing by the Commander-in-Chief, to a Commanding Officer not below the rank of Group Captain;

(b) the Air Secretary, the Commandant RAF College and Director of Recruitment (RAF) or a Commanding 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.

(5) The reference to the Commander-in-Chief authorising the discharge of an airman for the reason specified at item 5(d) of Schedule 1 shall have effect as if it included a reference to any member of the staff of the Commander-in-Chief who has been duly authorised by him to act on his behalf.".

Amendment to Schedule 1

4.—(1) For Schedule 1 substitute—

"SCHEDULE 1 Regulation 3(1)

COMPETENT AIR-FORCE AUTHORITY TO AUTHORISE DISCHARGE					
Item No.	*Column (a)*	*Column (b)*			
	Reason for or Circumstances of Discharge	*Competent Air Force Authority*			
		Airman in a Ground Trade other than Warrant Officer	*Non-Commissioned Aircrew other than Master Aircrew*	*Warrant Officer*	*Master Aircrew*
1	Having completed non-pensionable engagement.	The Air Secretary	The Air Secretary	The Air Secretary	The Air Secretary
2	With a view to Service pension, having completed time for pension or having requested discharge within 3 months of the end of engagement in order to take up civil employment.	The Air Secretary	The Air Secretary	The Air Secretary	The Air Secretary
3	Having requested discharge following an	The Air Secretary	The Air Secretary	The Air Secretary	The Air Secretary

(**a**) 1980 c.9.

COMPETENT AIR-FORCE AUTHORITY TO AUTHORISE DISCHARGE					
Item No.	*Column (a)*	*Column (b)*			
	Reason for or Circumstances of Discharge	*Competent Air Force Authority*			
		Airman in a Ground Trade other than Warrant Officer	*Non-Commissioned Aircrew other than Master Aircrew*	*Warrant Officer*	*Master Aircrew*
	application for premature voluntary release or having given 18 months' notice.				
4	For misconduct or following civil conviction.	Commander-in-Chief	Air Force Board	Air Force Board	Air Force Board
5	At the discretion of the officer specified in column (b) in the following circumstances:–				
	(a) in the case of voluntary withdrawal from training by:–				
	(i) officer cadet undergoing initial officer training	Commandant RAF College and Director of Recruitment (RAF)			
	(ii) trainee non-commissioned aircrew prior to the award of a flying badge.		Commanding Officer		
	(b) in the case of an airwoman having requested discharge because of pregnancy.	The Air Secretary	The Air Secretary	The Air Secretary	The Air Secretary
	(c) in the case of an airman who cannot be discharged under any other heading.	The Air Secretary	The Air Secretary	Air Force Board	Air Force Board
	(d) in the case of a directly entered List 1 medical trainee or a directly entered technician who is withdrawn from training, or who fails on passing	(i) Commander-in-Chief or (ii) The Air Secretary			

COMPETENT AIR-FORCE AUTHORITY TO AUTHORISE DISCHARGE					
Item No.	*Column (a)*	*Column (b)*			
	Reason for or Circumstances of Discharge	*Competent Air Force Authority*			
		Airman in a Ground Trade other than Warrant Officer	*Non-Commissioned Aircrew other than Master Aircrew*	*Warrant Officer*	*Master Aircrew*
	out and is unwilling to be remustered to, or trained for, another trade.				
	(e) in the case of an airman who is withdrawn from, or fails, trade training and cannot be offered training in another trade because he is unsuitable for trades in which there are vacancies, or there are no vacancies in trades for which he is suitable.	The Air Secretary			
	(f) in the case of an airman who elects to be discharged in lieu of compulsory transfer or remustering from a sensitive trade, or who applies for discharge after failing to qualify for remustering at his rank level.	The Air Secretary		Air Force Board	
	(g) in the case of an airman who is medically unfit for his present trade and has declined an offer of employment in a suitable alternative trade.	The Air Secretary		The Air Secretary	
	(h) in the case of an airman who, through circumstances beyond his control, is medically unfit for the full range of duties in his trade or category, and who considers that the resultant effect on his career prospects is unacceptable.	The Air Secretary	The Air Secretary	The Air Secretary	The Air Secretary
	(i) in the case of an	Commanding			

COMPETENT AIR-FORCE AUTHORITY TO AUTHORISE DISCHARGE					
Item No.	*Column (a)*	*Column (b)*			
	Reason for or Circumstances of Discharge	*Competent Air Force Authority*			
		Airman in a Ground Trade other than Warrant Officer	*Non-Commissioned Aircrew other than Master Aircrew*	*Warrant Officer*	*Master Aircrew*
	airman who is withdrawn from recruit training.	Officer			
6	Compassionate grounds.	The Air Secretary	The Air Secretary	The Air Secretary	The Air Secretary
7	Having been appointed to a commission.	Commanding Officer	Commanding Officer	Commanding Officer	Commanding Officer
8	Invalided:– (a) below current air force medical standards; (b) physically unfit for air force service as aircrew.	 The Air Secretary	 The Air Secretary The Air Secretary	 The Air Secretary	 The Air Secretary The Air Secretary
9	Not likely to maintain the required air force medical standard:– (a) in the case of an airman whose disabilities are discovered on medical examination within 21 days of attestation; (b) in the case of an airman discharged within 6 months of attestation.	 Commanding Officer Commanding Officer	 Commanding Officer Commanding Officer		
10	In the case of an airman found medically unsuitable for air force service as aircrew, but not physically unfit for ground duties.		(i) The Air Secretary (ii) Commanding Officer in the case of directly entered aircrew cadets		The Air Secretary
11	In the case of an airman found to be unsuited to a Service environment.	The Air Secretary	The Air Secretary	Air Force Board	Air Force Board
12	Having given a false answer on attestation or having made a misstatement on enlistment.	The Air Secretary	The Air Secretary		

COMPETENT AIR-FORCE AUTHORITY TO AUTHORISE DISCHARGE					
Item No.	*Column (a)*	*Column (b)*			
	Reason for or Circumstances of Discharge	*Competent Air Force Authority*			
		Airman in a Ground Trade other than Warrant Officer	*Non-Commissioned Aircrew other than Master Aircrew*	*Warrant Officer*	*Master Aircrew*
13	For inefficiency.	Commander-in-Chief	Air Force Board	Air Force Board	Air Force Board
14	Services no longer required:–				
	(a) in the case of an airman found to be unsuitable during recruit training;	Commanding Officer	Commanding Officer		
	(b) in the case of an airman found to be unsuitable in trade, category or rank.;	Commander-in-Chief	Air Force Board	Air Force Board	Air Force Board
	(c) in the case of an airman who cannot be allowed to remain in the Service because he is unable to meet Service obligations through circumstances beyond his control, or because of a permanently reduced medical employment standard for whom a medical discharge would not be ppropriate.	The Air Secretary	The Air Secretary	The Air Secretary	The Air Secretary
15	Not likely to reach the standard required for air force service:–				
	(a) in the case of an officer cadet who fails initial officer training;	Commandant RAF College and Director of Recruitment (RAF)			
	(b) in the case of non-commissioned aircrew who fail training prior to the award of a flying badge.		Commanding Officer		
16	In the case of aircrew found to be below the		The Air Secretary		

COMPETENT AIR-FORCE AUTHORITY TO AUTHORISE DISCHARGE					
Item No.	*Column (a)*	*Column (b)*			
	Reason for or Circumstances of Discharge	*Competent Air Force Authority*			
		Airman in a Ground Trade other than Warrant Officer	*Non-Commissioned Aircrew other than Master Aircrew*	*Warrant Officer*	*Master Aircrew*
	required standard for air force service other than those under item 17.				
17	In the case of non-commissioned aircrew who fail OCU training prior to giving productive aircrew service.		The Air Secretary		
18	In the case of a Warrant Officer or Master Aircrew who is reduced to the ranks and claims discharge under section 15 of the 1955 Act.			The Air Secretary	The Air Secretary
19	In the case of an airman discharged prematurely due to redundancy.	The Air Secretary	The Air Secretary	The Air Secretary	The Air Secretary
21	In the case of an airman who is surplus to requirements in a specific trade and rank.	The Air Secretary	The Air Secretary	The Air Secretary	The Air Secretary
22	Statutory right of a recruit under regulation 8(1) of the Royal Air Force Terms of Service Regulations 2007(**a**).	Commanding Officer	Commanding Officer".		

Amendment to Schedule 4

5. For Schedule 4 substitute—

"SCHEDULE 4 Regulation 9

PARTICULARS TO BE CONTAINED IN CERTIFICATE OF DISCHARGE

Surname .....

Forenames .....

Service Number .....

(**a**) S.I. 2007/650.

Rank on Discharge/Transfer .....

Date of Enlistment .....

Date of Discharge/Transfer .....

Reason for or Circumstances of Discharge/Transfer .....

Character on Discharge/Transfer.....

(To be assessed as “Exemplary”, “Very Good”, “Good”, “Fair” or “Unsatisfactory”)

Date of Birth .....

Station Stamp

Signature of Issuing Officer

Rank .....

Appointment .....”.

On behalf of the Defence Council

Derek Twigg
Glenn Torpy
Members of the Defence Council

18th June 2008

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations substitute regulation 3 of the Air Force Act 1955 (Part 1) Regulations 2007 ("the 2007 Regulations") and amend Schedules 1 and 4 to those Regulations.

Regulations 3(1) and (2) specify the competent air force authority for the purpose of authorising the discharge of an airman, the postponement of discharge and call out from the reserve. Regulation 3(3) provides that where section 18(1)(b) (validity of attestation and enlistment) of the Air Force Act 1955 applies, the Air Secretary is authorised to discharge an airman. Regulation 3(4) and 3(5) maintains the existing position, that a duly authorised officer is also authorised to discharge an airman.

Regulation 4 replaces Schedule 1, and specifies the reasons for or circumstances in which an airman may be discharged, and the competent air-force authority for each ground.

Regulation 5 substitutes a new Schedule 4. It sets out the particulars to be contained in the certificate of discharge. The amendment removes the requirement for a physical description of the airman to be included.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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