STATUTORY INSTRUMENTS

2009 No. 2057

DEFENCE

The Armed Forces (Enlistment) Regulations 2009

Made - - - -	*20th July 2009*
Coming into force - -	*31st October 2009*

The Defence Council make the following Regulations in exercise of the powers conferred by section 328 of the Armed Forces Act 2006(**a**):

In accordance with section 373(3) of the Armed Forces Act 2006 a draft of this instrument was laid before, and approved by resolution of, each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Armed Forces (Enlistment) Regulations 2009 and shall come into force on 31st October 2009.

Interpretation

2.—(1) In these Regulations—

(a) except in the Schedule, references to a recruiting officer are to a person appointed under regulation 3; and

(b) references to an approving officer, in relation to a recruiting officer, are to any other recruiting officer.

(2) References in these Regulations to an enlistment paper are to a document which contains, in a form from time to time approved by or on behalf of the Defence Council—

(a) the questions to be put, by or on the direction of a recruiting officer, to a person offering to enlist in the regular forces;

(b) the terms of the declaration to be signed by such a person; and

(c) the terms in which the recruiting officer enlisting a person is to attest his enlistment.

(3) References in these Regulations to the terms on which a person enlists or offers to enlist in the regular forces are to the term and type of service for which, and any conditions on which, he so enlists or offers so to enlist.

(4) A person enlists in the regular forces when—

(a) an enlistment paper prepared in relation to him states the terms on which he offers so to enlist, and

(b) at the request of and in the presence of a recruiting officer, he signs the declaration in the enlistment paper,

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(**a**) 2006 c. 52.

and references in these Regulations to a person's enlistment, and to an enlisted person, are to be construed accordingly.

Recruiting officers

3.—(1) Enlistment of persons in the regular forces shall be undertaken by recruiting officers.

(2) The Defence Council may appoint—

(a) any British consul-general, consul or vice-consul, or

(b) any person duly exercising the authority of a British consul,

in a country or territory of which Her Majesty is not head of state, to be a recruiting officer.

(3) The Naval Secretary, the Director of Manning (Army) or the Air Secretary, or any officer on any of their staffs not below the rank of naval captain, colonel or group captain, may appoint an officer to be a recruiting officer.

(4) A recruiting officer shall hold and vacate office in accordance with the terms of his appointment.

Minimum age for enlistment

4.—(1) A recruiting officer shall not enlist a person under the age of 16.

(2) Any purported enlistment of a person under the age of 16 shall be void; but this is subject to paragraph (3).

(3) Paragraph (2) does not apply in relation to a person's enlistment if the recruiting officer enlisting him is satisfied, by the production of a certified copy of an entry in the register of births or by any other evidence appearing to him to be sufficient, that the person has reached the age of 16.

(4) Where a recruiting officer has attested a person's enlistment in accordance with regulation 7(5), his attestation shall for the purposes of paragraph (3) be sufficient evidence that he was satisfied that the person had reached the age of 16, unless the contrary is proved.

Consent to enlistment of persons under 18

5.—(1) Where a person under the age of 18 ("the young person") offers to enlist in the regular forces and an appropriate person can be identified in relation to him, he shall not be enlisted unless written consent to the enlistment has been given—

(a) where he is living with one or more appropriate persons, by each such person;

(b) where he is not living with any appropriate person, by such a person.

(2) In this regulation references to an appropriate person are to—

(a) a person with parental responsibility (within the meaning of the Children Act 1989(**a**) or the Children (Northern Ireland) Order 1995(**b**)) for the young person;

(b) a person with parental responsibilities (within the meaning of section 1(3) of the Children (Scotland) Act 1995(**c**)) in relation to the young person; or

(c) where there is no such person as is mentioned in sub-paragraph (a) or (b), or after reasonable enquiry it cannot be ascertained whether there is any such person, any person in whose care the young person may be.

Enlistment for general or corps service in the regular army

6.—(1) A person offering to enlist in the regular army may be enlisted—

(**a**) 1989 c. 41.
(**b**) S.I. 1995/755 (N.I.2).
(**c**) 1995 c. 36.

(a) for service in a particular corps; or

(b) for general service (but without prejudice to any power to assign him to a corps).

(2) In this regulation "corps" means any such body of the regular army as may from time to time be declared to be a corps by warrant of Her Majesty.

Procedure for enlistment

7.—(1) This regulation applies where a person ("the recruit") appears before a recruiting officer and offers to enlist in the regular forces.

(2) The recruiting officer shall warn the recruit that if he knowingly gives a false answer to any question put to him he will be liable to proceedings for an offence under regulation 12.

(3) The recruiting officer shall then—

(a) read, or cause to be read, to the recruit the questions approved by or on behalf of the Defence Council for inclusion in an enlistment paper;

(b) satisfy himself that the recruit understands each such question; and

(c) record, or cause to be recorded, in an enlistment paper prepared in relation to the recruit, the recruit's answer to each such question.

(4) If—

(a) the enlistment paper states the terms on which the recruit offers to enlist, and

(b) the recruiting officer is satisfied that the recruit—

(i) understands those terms and wishes to enlist in accordance with them, and

(ii) is fit to be so enlisted,

the recruiting officer shall then request the recruit to sign the declaration in the enlistment paper.

(5) If the recruit signs the declaration, the recruiting officer shall sign the form of attestation in the enlistment paper.

(6) The recruiting officer shall then deliver the enlistment paper to an approving officer.

(7) Unless the approving officer determines under regulation 8 that the enlistment is invalid, he shall provide the recruit with a certified copy of the enlistment paper on request.

Validity of enlistment

8.—(1) This regulation applies where a person has enlisted in the regular forces and the recruiting officer has delivered the person's enlistment paper to an approving officer in accordance with regulation 7(6).

(2) The approving officer may determine, on any ground he sees fit, that the person's enlistment is invalid.

9.—(1) A person who has enlisted in the regular forces may apply to the Defence Council for a determination that his enlistment is invalid.

(2) Where an enlisted person was aged under 18 at the time of his enlistment, any person who—

(a) is an appropriate person in relation to the enlisted person, or, where the enlisted person has reached the age of 18, was an appropriate person in relation to him immediately before his 18th birthday, and

(b) did not give written consent to the enlistment (whether or not his consent was required under regulation 5),

may apply to the Defence Council for a determination that the enlistment is invalid.

(3) In paragraph (2) "appropriate person" has the same meaning as in regulation 5.

(4) An application may not be made under this regulation after the later of—

(a) the expiry of three months since the enlistment; and

(b) the beginning of the enlisted person's 16th birthday.

(5) Where an application is made under this regulation the Defence Council may determine, on any ground they see fit, that the enlistment is invalid.

10.—(1) This regulation applies where a person's enlistment is determined under regulation 8 or 9 to be invalid.

(2) The person shall be discharged as soon as is practicable, and released from any liability to serve in a reserve force.

(3) The person shall be deemed to have been a member of the regular forces since his enlistment, and to be a member of the regular forces until discharged.

(4) This regulation is without prejudice to regulation 4(2).

11.—(1) Unless determined under regulation 8 or 9 to be invalid, or void by virtue of regulation 4(2) or any other enactment, a person's enlistment shall be deemed valid notwithstanding—

(a) any error or omission in the enlistment paper;

(b) any failure to comply with any requirement of these Regulations;

(c) the making of an application under regulation 9; or

(d) any other ground on which, apart from this regulation, the validity of the enlistment could have been challenged.

(2) This regulation is without prejudice to the determination of any question as to the terms on which the person was enlisted.

False answers on enlistment

12.—(1) A person commits an offence if, on appearing before a recruiting officer and offering to enlist in the regular forces, he knowingly gives a false answer to any question approved by or on behalf of the Defence Council for inclusion in an enlistment paper and put to him by or on the direction of the recruiting officer.

(2) A person who commits an offence under paragraph (1) shall be liable on conviction by a court of summary jurisdiction in the United Kingdom to a fine not exceeding level 1 on the standard scale.

(3) A person who commits an offence under paragraph (1) and enlists in the regular forces is guilty of a service offence and shall be liable to any punishment mentioned in rows 2 to 12 of the Table in section 164 of the Armed Forces Act 2006.

(4) If a person is guilty of a service offence by virtue of paragraph (3) but ceases to be subject to service law, he shall not, after the end of six months beginning with the date he ceased to be subject to service law, be charged with that service offence; but this is without prejudice to paragraph (2).

(5) Paragraph (4) applies even if the person (again) becomes subject to service law within those six months.

Transitional provisions

13. The Schedule shall have effect.

Kevan Jones
Ursula Brennan
Members of the Defence Council
Ministry of Defence

20th July 2009

SCHEDULE

Regulation 13

TRANSITIONAL PROVISIONS

Interpretation

1. In this Schedule—

"the 1966 Act" means the Armed Forces Act 1966(**a**);

"attestation" and "attestation paper" have the meanings given by the Army Act 1955(**b**) or the Air Force Act 1955(**c**) (as the case may be);

"commencement" means the date on which these Regulations come into force;

"Form S3049" means Royal Navy Form S3049 (Notice Form for Entry/Re-Entry into Naval Service);

"a person enlisted before commencement" means a person who, before commencement, made and signed the declaration set out in an attestation paper.

Recruiting officers

2. Any person who, immediately before commencement—

(a) was a recruiting officer within the meaning of the Army Act 1955 and the Air Force Act 1955, or

(b) was authorised under regulations made by the Defence Council to enter persons for service in the Royal Navy,

shall be deemed to have been appointed under regulation 3 to be a recruiting officer.

Minimum age for enlistment

3.—(1) For the purpose of determining whether (notwithstanding section 2(4) of the Army Act 1955 or the Air Force Act 1955, as the case may be) any person's enlistment in the regular army, the Royal Marines or the regular air force before commencement was invalid by virtue of his being aged under 16, his attestation by a recruiting officer (within the meaning of the Act in question) in accordance with paragraph 5 of Schedule 1 to that Act shall be sufficient evidence that the recruiting officer was satisfied that the person had reached the age of 16, unless the contrary is proved.

(2) Where an officer or other person authorised under regulations made by the Defence Council to enter persons for service in the Royal Navy has signed a copy of Form S3049 in relation to a person, for the purpose of determining whether (notwithstanding section 9(2) of the 1966 Act) the person's entry into service was invalid by virtue of his being aged under 16 the signature shall be sufficient evidence that the officer or other person was satisfied that the person had reached the age of 16, unless the contrary is proved.

Consent to enlistment of persons under 18

4. In regulation 5(1) the reference to consent to the enlistment includes a consent given before commencement.

Procedure for enlistment

5. Where an attestation paper—

(**a**) 1966 c. 45.
(**b**) 1955 c. 18.
(**c**) 1955 c. 19.

(a) has been signed by a recruiting officer within the meaning of the Army Act 1955 or the Air Force Act 1955, in accordance with paragraph 5 of Schedule 1 to that Act, but

(b) has not been delivered in accordance with that paragraph to the person prescribed by regulations of the Defence Council,

paragraphs (6) and (7) of regulation 7 apply as if the attestation paper were an enlistment paper completed in accordance with paragraphs (3) to (5) of that regulation.

Validity of enlistment in regular army, Royal Marines or regular air force

6. In regulations 8 to 11, references to an enlisted person include a person enlisted before commencement, and references to a person's enlistment are to be construed accordingly.

7.—(1) In relation to a person enlisted before commencement, regulation 8 is modified as follows.

(2) The reference in paragraph (1) to the delivery of a person's enlistment paper to an approving officer in accordance with regulation 7(6) includes the delivery of the person's attestation paper to a person prescribed by regulations of the Defence Council in accordance with paragraph 5 of Schedule 1 to the Army Act 1955 or the Air Force Act 1955 (as the case may be).

(3) Where a person's attestation paper was so delivered but he has not been finally approved for service in accordance with regulations of the Defence Council, the reference in paragraph (2) to the approving officer is to be read as a reference to the person to whom the attestation paper was so delivered.

8.—(1) In relation to a person enlisted before commencement, regulation 9 is modified as follows.

(2) Paragraph (2) has effect as if in sub-paragraph (b) for "whether or not his consent was required under regulation 5" there were substituted "whether or not his consent was required under section 2(3) of the Army Act 1955 or the Air Force Act 1955, as the case may be".

(3) Paragraph (5) applies where a claim has been made under section 18(1)(b) of the Army Act 1955 or the Air Force Act 1955.

9.—(1) In relation to a person enlisted before commencement, regulation 11(1) is modified as follows.

(2) The reference to any error or omission in the enlistment paper is to be read as a reference to any error or omission in the attestation paper.

(3) The reference to any failure to comply with any requirement of these Regulations includes any failure to comply with any requirement of the Army Act 1955 or the Air Force Act 1955 (as the case may be), or regulations made by the Defence Council under that Act, as to enlistment or attestation.

(4) The reference to the making of an application under regulation 9 includes the making of a claim under section 18(1)(b) of the Army Act 1955 or the Air Force Act 1955 (as the case may be).

10. Regulations 10 and 11 do not validate a person's enlistment if it occurred before commencement and (notwithstanding section 2(4) of the Army Act 1955 or the Air Force Act 1955, as the case may be) was invalid by virtue of the person's being under the age of 16.

Validity of entry for service in the Royal Navy

11. In regulations 8 to 11, references to an enlisted person include a person entered for service in the Royal Navy before commencement, and references to a person's enlistment are to be construed accordingly.

12.—(1) In relation to a person entered for service in the Royal Navy before commencement, regulation 9 is modified as follows.

(2) Paragraph (2) has effect as if in sub-paragraph (b) for "whether or not his consent was required under regulation 5" there were substituted "whether or not his consent was required under section 9(1) of the 1966 Act".

(3) Paragraph (5) applies where a claim has been made under section 10(1)(a) of the 1966 Act.

13.—(1) In relation to a person entered for service in the Royal Navy before commencement, regulation 11(1) is modified as follows.

(2) The reference to any error or omission in the enlistment paper is to be read as a reference to any error or omission in the copy of Form S3049 signed by the person.

(3) The reference to any failure to comply with any requirement of these Regulations includes any failure to comply with any requirement of the 1966 Act, or regulations made by the Defence Council, as to the entry of persons for service in the Royal Navy.

(4) The reference to the making of an application under regulation 9 includes the making of a claim under section 10(1)(a) of the 1966 Act.

14. Regulations 10 and 11 do not validate a person's entry for service in the Royal Navy if (notwithstanding section 9(2) of the 1966 Act) it was invalid by virtue of the person's being under the age of 16.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision with respect to the enlistment of persons in the regular forces.

Regulation 3 requires enlistment to be undertaken by recruiting officers, and provides for the appointment of such officers.

Regulation 4 prohibits the enlistment of persons under the age of 16, and makes the purported enlistment of such a person void unless the recruiting officer is satisfied that the person is at least 16; but the recruiting officer's signature on the enlistment paper is sufficient evidence that he was so satisfied unless the contrary is proved.

Regulation 5 requires the written consent of a parent or other appropriate person (if such a person can be identified), or in some cases more than one such person, before a person under the age of 18 may be enlisted.

Regulation 6 enables a person enlisted into the regular army to be enlisted for service in a corps or for general service.

Regulation 7 sets out the procedure for enlistment, including the attestation of the enlistment by the recruiting officer and delivery of the completed enlistment paper to an approving officer.

Regulations 8 to 11 make provision as to the validity of an enlistment. Regulations 8 and 9 allow the enlistment to be declared invalid by the approving officer or, on application, the Defence Council. The recruit may make an application to the Defence Council within three months of the enlistment (or before his 16th birthday, if later). If he was aged under 18 at the time of the enlistment, his parent or other appropriate person may also apply. Where his enlistment is declared invalid, regulation 10 requires him to be discharged, but he is deemed to be a member of the regular forces until discharged. Regulation 11 deems an enlistment to be valid unless it has been declared invalid under regulation 8 or 9 or is void under regulation 4 or any other enactment.

Regulation 12 creates an offence of knowingly giving a false answer to any question in the enlistment paper put to the recruit by the recruiting officer. The offence may be tried by a civilian court, but is also a service offence if the recruit is enlisted and thus becomes subject to service law.

The Schedule contains transitional provisions.

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