STATUTORY INSTRUMENTS

2009 No. 1112

DEFENCE

The Armed Forces (Evidence in Proceedings before Civilian Courts) Regulations 2009

Made - - - -	*24th April 2009*
Laid before Parliament	*1st May 2009*
Coming into force - -	*31st October 2009*

The Secretary of State, in exercise of the power conferred by section 372 of the Armed Forces Act 2006(**a**), makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Armed Forces (Evidence in Proceedings before Civilian Courts) Regulations 2009 and come into force on 31st October 2009.

Interpretation

2. In these Regulations—

"the Act" means the Armed Forces Act 2006;

"enlistment paper" has the same meaning as in regulations made under section 328 of the Act;

"recruiting officer" has the same meaning as in regulations made under section 328 of the Act.

Application

3. These Regulations apply with respect to evidence in proceedings for an offence created by or under the Act before a civilian court in—

(a) the United Kingdom;

(b) the Isle of Man; or

(c) a British overseas territory.

Enlistment

4. A document purporting to be an enlistment paper used to enlist a person in accordance with regulations made under section 328 of the Act shall be evidence that—

(a) that person was enlisted, on the date on which the declaration in the enlistment paper purports to have been signed by him, and on the terms set out in the document; and

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

(b) anything recorded in the document as the answer given by him to a question in the document was given by him in answer to that question when it was put to him by or on the direction of the recruiting officer who enlisted him.

5. A document purporting to be a copy of such a document as is mentioned in regulation 4 and purporting to be certified to be a true copy by a person stated in the certificate to have custody of the document shall be evidence of the matters mentioned in paragraphs (a) and (b) of that regulation.

Evidence as to service etc

6. A document stating that a person—

(a) was or was not serving at any specified time or during any specified period in any part of Her Majesty's forces,

(b) was discharged from any of Her Majesty's forces at or before any specified time,

(c) held or did not hold at any specified time any specified rank, rate or appointment in any of Her Majesty's forces,

(d) had at or before any specified time been attached, posted or transferred to any part of Her Majesty's forces,

(e) at any specified time or during any specified period was or was not serving or held or did not hold any rank, rate or appointment in any particular country or place, or

(f) was or was not at any specified time authorised to use or wear any decoration, badge or emblem,

shall, if it purports to be issued by or on behalf of the Defence Council or by a person authorised by them, be evidence of the matters stated in the document.

Service record

7. A record purporting to be—

(a) made in any service record in pursuance of any Act or of Queen's Regulations, or otherwise in pursuance of naval, military, or air force duty, and

(b) signed by the commanding officer of the person to whom the record relates or by a person whose duty it was to make or keep the record,

shall be evidence of the matters stated in the record.

8. A document purporting to be a copy of such a record (including the signature) as is mentioned in regulation 7 and purporting to be certified to be a true copy by a person stated in the certificate to have custody of the record shall be evidence of the matters stated in the document.

Defence Council instructions or regulations

9. A document purporting to be issued by order of the Defence Council and to contain instructions or regulations given or made by the Defence Council shall be evidence of the giving of the instructions or the making of the regulations and of their contents.

Defence Council certificate

10. A certificate purporting to be issued by or on behalf of the Defence Council or by a person authorised by them and stating—

(a) that a decoration of a description specified in, or as annexed to, the certificate is or is not a naval, military or air force decoration, or

(b) that a badge or emblem of a description specified in, or as annexed to, the certificate is or is not one supplied or authorised by the Defence Council,

shall be evidence of the matters stated in the certificate.

Standing or routine orders

11. A certificate purporting to be signed by a person's commanding officer or an officer authorised by the commanding officer to give the certificate, and stating the contents of, or of any part of, standing orders, or other routine orders of a continuing nature, of any of Her Majesty's forces, made for any—

(a) part of Her Majesty's forces,

(b) area or place, or

(c) ship, train or aircraft,

shall in proceedings against the person concerned be evidence of the matters stated in the certificate.

Transitional Provisions

12. Subject to regulation 13, regulations 4 to 11 shall apply to proceedings under the Army Act 1955(**a**) or under the Air Force Act 1955(**b**) before a civilian court in—

(a) the United Kingdom,

(b) the Isle of Man, or

(c) a British overseas territory,

where the proceedings commence after the coming into force of these Regulations.

13. Where regulation 4 applies by virtue of regulation 12 the reference to "A document purporting to be an enlistment paper used to enlist a person in accordance with regulations made under section 328 of the Act" is to be read as a reference to a document purporting to be an attestation paper under the Army Act 1955 or the Air Force Act 1955 and the reference in regulation 4(a) to an "enlistment paper" is to be read accordingly.

14. For the purposes of regulation 12 proceedings before a civilian court shall be taken to commence when the first hearing (or, in Scotland, the first calling) in those proceedings takes place in a civilian court.

Signed by authority of the Secretary of State for Defence.

Kevan Jones
Parliamentary Under Secretary of State
Ministry of Defence

24th April 2009

(**a**) 1955 c. 18; section 198(1) was amended by the Armed Forces Act 1981 c. 55, section 9(1), the Police and Criminal Evidence Act 1984 c. 60, section 119(2), Schedule 7, Part III; section 198(4), (6) and (7) were amended by the Defence (Transfer of Functions) (No 1) Order 1964, SI 1964/488, article 2, Schedule 1, Part I; section 198(5) was amended by the Army and Air Force Act 1961 c. 52, section 38(1), Schedule 2; section 198(8) was amended by the Armed Forces Act 1971 c. 33, section 43, Schedule 1, paragraph 1(8); section 198(9) was amended by the Armed Forces Act 1996 c. 46, section 5, Schedule 1, Part IV, paragraphs 66, 70. Section 198 was repealed by the Armed Forces Act 2006 c. 52, section 378(2), Schedule 17.

(**b**) 1955 c. 19; section 198(1) was amended by the Armed Forces Act 1981 c. 55, section 9(1), the Police and Criminal Evidence Act 1984 c. 60, section 119(2), Schedule 7, Part III; section 198(4), (6) and (7) were amended by the Defence (Transfer of Functions) (No 1) Order 1964, SI 1964/488, article 2, Schedule 1, Part I; section 198(5) was amended by the Army and Air Force Act 1961 c. 52, section 38(1), Schedule 2; section 198(8) was amended by the Armed Forces Act 1971 c. 33, section 43, Schedule 1, paragraph 1(8); section 198(9) was amended by the Armed Forces Act 1996 c. 46, section 5, Schedule 1, Part IV, paragraphs 76, 80. Section 198 was repealed by the Armed Forces Act 2006 c. 52, section 378(2), Schedule 17.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 372 of the Armed Forces Act 2006 ("the Act") provides that the Secretary of State may make provision with respect to evidence in proceedings for an offence created by or under the Act before a court of ordinary criminal jurisdiction in the United Kingdom, the Isle of Man or a British overseas territory.

These Regulations make provision in respect of evidence of enlistment, evidence as to service, evidence of standing or routine orders and the admissibility of service records, Defence Council instructions or regulations and Defence Council certificates.

Regulations 12 to 14 make transitional provision.

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