EXPLANATORY MEMORANDUM TO

THE ARMED FORCES (TERMS OF SERVICE) (AMENDMENT) REGULATIONS 2014

2014 No. 3068

1. This explanatory memorandum has been prepared by the Ministry of Defence.

2. Purpose of the instrument

This instrument amends the Terms of Service Regulations for the Armed Forces in respect of non-commissioned ranks. The amendment made under this instrument changes, and aligns, the maximum duration of an initial term to 12 years Regular Service from the date of joining.

3. Matters of special interest to the Joint committee on Statutory Instruments

None

4. Legislative Context

4.1 There are currently 4 separate statutory instruments pertaining to the terms and conditions of service in the Armed Forces. This is because the needs of each Service are different and thus, bespoke instruments are required for the Royal Navy (RN), Royal Marines (RM), Army and Royal Air Force (RAF).

4.2 All 4 statutory instruments were made under section 2 of the Armed Forces Act 1966 but following repeal of section 2 of the 1966 Act, the instruments now have effect as if made under section 329 of the Armed Forces Act 2006 (AFA 06). Amendments to the 4 instruments must now be made by Regulations made under sections 328 and 329 AFA 06. This single instrument amends all 4 terms of service instruments.

5. Territorial Extent and Application

This instrument extends to the United Kingdom, the Isle of Man and British overseas territories and applies to persons subject to Service law wherever they are in the world.

6. European Convention on Human rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The terms under which sailors, marines, soldiers and airmen serve have been reviewed following the last Strategic Defence and Security Review. These amendments are intended to allow each Service to more efficiently manage their manpower needs. Each Service will offer three distinct lengths of engagement. The Armed Forces will select those individuals they would wish to retain into a second or subsequent career stage. This will be particularly useful, in the third stage of a career (beyond aged 40) with each Service determining the length of service that meets their needs and the aspirations of the individual. This will result, in some cases, the Service wishing to offer engagement to age 60.

7.2 From 1 Apr 15, this instrument will allow the Services to offer a maximum initial term of 12 years as a matter of routine. This will simplify processes to select individuals whom the Service would wish to retain.

7.3 The timing of when each of the Services offer transfer from an initial engagement to a subsequent will be based on Service need. This instrument will allow the Naval Service and Royal Air Force to align the second engagements to end around the 20 years length of engagement. This is the point at which a service person will earn an Early Departure Payment (through the Early Departure Payment Scheme 2014). In order to recognise the higher proportion of younger joiners and ensure there is sufficient population that reach the rank of Warrant Officer Class 1, the instrument will allow the Army to end the second engagement after 24 years.

7.4 Finally, further service beyond this second stage will be similarly based on Service need. This instrument will permit incremental extensions, ranging from two to five years, being offered allowing some to serve to age 60. Not all will be offered such service as the Armed Forces need to provide sufficient head room to allow promotion from the lower ranks. This will ensure retention of personnel whose skills and experience are of continued value to the Service into a third stage of employment –ie between age 40 and 60.

7.5 The effect of the changes made by this instrument can only be achieved through secondary legislation. This instrument amends the 4 Terms and Conditions of Service Regulations. It is imperative that each Service retains their own bespoke terms and conditions. Accordingly, there would be no benefit in producing a single consolidated instrument for the Armed Forces.

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8. Consultation outcome

The Chief of Defence Personnel New Employment Model Programme has led on the development of the policies connected to this instrument. Each Service

has been consulted, made contributions and has confirmed their agreement to their effect. A public consultation has not been undertaken.

9. Guidance

Guidance on these amendments to Terms of Service will be issued promptly to the Services in a Defence Instruction and Notice. Each Service will then amend their own Queen's Regulations, administrative instructions and references so that those administering the new arrangements and all Service personnel are properly informed.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring and review

In order to ensure that combat efficiency is not adversely affected by the amendments made through this instrument, the Services will monitor the new arrangements. Additionally, the Armed Forces Act 2006 is subject to quinquennial review.

13. Contact

Contact Tracy Sexton, Ministry of Defence, 0207 218 0564, or email CLS-Sec1@mod.uk if you have any queries regarding this instrument.