STATUTORY INSTRUMENTS

1981 No. 404

DEFENCE

The Army Terms of Service Regulations 1981

Made - - - -	16*th March* 1981
Laid before Parliament	24*th March* 1981
Coming into Operation	1*st May* 1981

The Defence Council, in exercise of the powers conferred upon them by section 2 of the Armed Forces Act 1966(a), and all other powers enabling them in that behalf, hereby make the following regulations:—

Citation and commencement

1. These Regulations may be cited as the Army Terms of Service Regulations 1981 and shall come into operation on 1st May 1981.

Interpretation and application

2.—(1) In these Regulations, unless the context otherwise requires—

"the Act of 1955" means the Army Act 1955(b);

"the relevant date" means in relation to a person, the date of his attestation, except in relation to—

(*a*) a man who enlists after 1st January 1962;

(*b*) a woman who enlisted after 1st January 1962 and before the 1st August 1967;

(*c*) a woman who enlisted on or after 1st August 1967 and before 1st April 1975 for a term of more than 12 years; and

(*d*) a woman who enlists on or after 1st April 1965 before attaining the age of 18 years;

in which excepted cases "the relevant date" means the date of that person's attaining the age of 18 years;

"previous enactment" means any enactment repealed by the previous regulations;

"previous regulations" means any regulations revoked by these regulations and any regulations revoked by such revoked regulations.

(2) Expressions used in these regulations have, unless the contrary intention appears, the meaning which they bear in the Act of 1955.

(3) These Regulations shall not apply to enlistment in the Royal Marines.

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

Duration of terms of enlistment

3.—(1) A person may be enlisted in the regular army for such a term as is specifiied in paragraph (2) of this Regulation 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.

(3) The term for which a person may be enlisted may be a term wholly of army service or may be, except in the case of women, a term partly of army service and partly of service with the army reserve.

Right to determine army service and transfer to the reserve

4.—(1) Subject to Regulations 8, 11(2) and 13(6), a man, but not a woman, who enlists in the regular army for a term of more than 12 years army service shall have the right exercisable in accordance with Regulation 7—

(*a*) to be transferred to the reserve at the end of the period of 3 years beginning with the relevant date, or, if he enlists under the age of 17 years 6 months, the date of his attaining the age of 18 years or the date of the expiration of his period of training, whichever is the later, or at any time thereafter; and

(*b*) to determine his service at the end of the period of 12 years beginning with the relevant date or at any time thereafter.

(2) Subject to Regulations 4(3), 8, 11(2) and 13(6), a woman who enlists in the regular army for a term of more than 12 years army service shall have the right to determine her service in accordance with Regulation 7 at the end of the period of 3 years beginning with the relevant date or, if she enlists under the age of 17 years 6 months and revokes any consent given under Regulation 8 pursuant to paragraph (4) thereof, the date of her attaining the age of 18 years or the date of the expiration of her period of training, whichever is the later, or at any time thereafter.

(3) A woman may, after the commencement of these Regulations, be enlisted in army service with the right to determine her service, subject to Regulations 8, 11(2) and 13(6) and in accordance with the provisions of Regulation 7 at the end of the period of 4 years beginning with the relevant date or at any time thereafter and a woman so enlisted shall have the right conferred by Regulation 4(2).

Right of recruit to claim discharge

5.—(1) A recruit shall have the right to claim his discharge before the expiration of the period of 3 months beginning with the date of his attestation;

provided that such right shall not be exercisable by a male recruit who, on the date of his attestation, had attained the age of 18 years (or, in the case of a recruit of the Brigade of Gurkhas, 17 years) before the expiration of a period of 8 weeks beginning with that date.

(2) Subject to paragraph (5) a recruit who had not attained the age of 18 years on the date of his attestation shall also have the right to claim his discharge—

(*a*) if he had not attained the age of 17 years and 9 months on the said date, at any time before the expiration of the period of 6 months beginning with that date, or

(*b*) if he had attained the age of 17 years and 9 months on the said date, at any time before he attains the age of 18 years and 3 months.

(3) A person claiming his discharge by virtue of paragraphs (1) or (2) above shall, if he had attained the age of 17 years and 6 months on the date of his attestation, on payment of a sum not exceeding 7 days' gross pay, and if he had not attained such age on the said date, at the end of 14 days after giving notice in writing to his commanding officer, be entitled to be discharged:

Provided that if any such claim is made by a recruit at a time when soldiers are required by an order under section 10 of the Army Act 1955 (continuation of army service in imminent national danger) to continue in army service, he shall not be entitled to be discharged so long as soliders are so required to continue in army service.

(4) In this Regulation the expression "recruit" means a person enlisted in the regular army who has not been previously so enlisted:

Provided that a person who has been discharged by the competent military authority in accordance with Regulations made by the Defence Council under Part I of the Army Act 1955 as being not finally approved for service and who has subsequently been re-enlisted for service in the regular army shall be deemed to be a recruit for the purposes of this Regulation.

(5) Paragraph (2) of this Regulation shall not apply to a person enlisted in the Brigade of Gurkhas or for local service outside the United Kingdom.

Transfer to the reserve with consent

6. A man, but not a woman, in army service who has not completed 12 years' service beginning with the relevant date whose application to his commanding officer for transfer to the reserve is approved by the competent military authority may be transferred to the reserve.

Exercise of rights conferred by Regulation 4

7.—(1) A right to determine army service and a right to be transferred to the reserve conferred by Regulation 4 shall in the case of a man, but not a woman, be exercised by notice in writing given by the man in question to his commanding officer not less than 12 months before the expiration of the period at the end of which his service is to be determined or, as the case may be, he is to be transferred to the reserve.

(2) A right to determine army service conferred by Regulation 4 shall, in the case of a woman, be exercised by notice in writing given by the woman in question to her commanding officer not less than 18 months before the expiration of the period at the end of which her service is to be determined.

Restrictions on the exercise of rights conferred by Regulations 4 and 13(5)

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

(*a*) being permitted to undergo a course of instruction of a duration of not less than 10 weeks, or

(*b*) being permitted to transfer to a corps different from the one in which he was previously serving, or

(*c*) receiving any other benefit or advantage,

consents in writing to be restricted in the exercise of the rights conferred by Regulations 4 and 13 shall not exercise such rights 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 mentioned in such consent.

(2) For the purpose of paragraph (1) of this Regulation "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 and, in relation to permission to undergo a course of instruction of longer duration, a period of not more than 6 years,

(*b*) in relation to permission to transfer to another corps, a period of not more than 4 years,

(*c*) in relation to the receipt of any other benefit or advantage, a period of not more than 6 years.

(3) The rights conferred by Regulation 4 and Regulation 13(6) shall not be exercisable by a person in army service enlisted on or after the 1st day of October 1957 for 22 years who has given an undertaking pursuant to the previous regulations not to determine his army service, before the expiration of the period specified in such undertaking.

(4) Any consent given under this Regulation by a person who has 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 the attaining by that person of the age of 18 years.

Service in the reserve

9.—(1) A man tranferred to the reserve in consequence of the exercise of the right conferred by Regulation 4(1)(*a*) shall serve in the reserve until the expiration of 7 years from the relevant date, unless he has, at the date of his being transferred, completed 6 years army service, when he shall serve in the reserve until the expiration of 12 years from the relevant date.

(2) A man transferred to the reserve under Regulation 6 with the approval of the competent military authority shall serve in the reserve until the expiration of 12 years from the relevant date.

Re-entry into army service

10. A man in the reserve either in consequence of the exercise of any rights, including rights exercisable only with the approval or consent of the competent military authority, conferred by these Regulations or by a previous enactment or reguations or by virtue of having enlisted for a term partly of army service and partly of service in the reserve may on written application in that behalf made by him to the competent military authority and with the approval of that authority at any time re-enter upon army service and according as may be specified in that application—

(*a*) be treated for the purposes of these Regulations and Part I of the Act of 1955 as if he had not been transferred to the reserve and as if his army service had continued while he was serving in the reserve, or

(*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

11.—(1) A person in army service enlisted for a term of shorter duration than the longest term provided for in these Regulations may, after giving notice to the competent military authority and with the approval of that authority, which approval shall be notified to such person, be treated as if he had enlisted for an extended term (which may include service in the reserve) being a term of a duration provided for by these Regulations and specified in the notice and notification of approval.

(2) A person who has been treated as having enlisted for a longer term than that for which he was previously enlisted shall not exercise his rights under Regulation 4 so as to reduce his army service to less than it would have been if he had not been treated as aforesaid.

Revocation of consent under Regulation 8

12. A person who has given consent under Regulation 8 to be restricted in the exercise of the rights conferred by Regulations 4 and 13(6) may, if the competent military authority approve, revoke that consent.

Continuance in service after completion of the term of service

13.—(1) A soldier of the regular forces enlisted on an enlistment for 22 years who has completed 18 years' continuous service from the relevant date may give notice to his commanding officer of his desire 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 notice; and if the competent military authority approve he may after the completion of his term of service be continued as a soldier of the regular forces for the period specified in the notice in all respects as if his term of service were still unexpired.

(2) The giving under paragraph (1) of this Regulation of a notice by a soldier shall not prejudice the exercise by him of any right conferred by Regulation 4.

(3) Where a soldier of the regular forces 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 give a notice under paragraph (1) of this Regulation he may at any time during the last twelve months of that term give notice to his commanding officer of his desire to continue in army service at the end of that term for such period not exceeding 5 years as may be specified in the notice; and if the competent military authority approve he may at the end of that term be continued as a soldier of the regular forces for the period specified in that notice in all respects as if that term were still unexpired.

(4) A soldier of the regular forces for the time being continued in service under paragraph (1) or (2) of this Regulation may within the relevant period give notice to his commanding officer of his desire to continue further in army service after that date for such period not exceeding 5 years as may be specified in the notice; and if the competent military authority approve he may after that date be further continued as a soldier of the regular forces 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) of this Regulation shall apply to soldiers of the regular forces continued in service thereunder as it applies to such soldiers continued in service under paragraphs (1) or (3) of this Regulation.

(6) Regulation 4 shall not apply in the case of a soldier who is continued in service under this Regulation or any previous regulation; but subject to Regulation 8 any soldier may, if continued in service under this Regulation, claim his discharge at the expiration of the period of 6 months or, if continued in service under any enactment repealed by these Regulations, claim his discharge at the expiration of the period of 3 months, beginning in each case with the date on which he gives his commanding officer notice of his wish to be discharged.

(7) For the purpose of paragraph (4) of this Regulation "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.

(8) The references in paragraph (3) of this Regulation to the term for which a soldier enlisted shall, where the term has been extended under Regulation 11(1) be construed as references to the term so extended.

(9) References in this Regulation to periods of service shall, except so far as the context otherwise requires be construed as including references to periods served in the reserve but as not including

(*a*) periods of whole time or part time service within the meaning of Part I of the National Service Act 1948(**a**), or

(*b*) in relation to a soldier who enlisted for a term ending with the expiration of a period beginning with the date of his attaining the age of 18 years any period during which he was under that age.

(10) References in this Regulation to soldiers shall include references to warrant officers and to non-commissioned officers.

Competent Military Authorities

14.—(1) In relation to the provisions of these Regulations specified in the first column of Schedule 1 to these Regulations and for the purposes specified opposite thereto in the second column of that Schedule, the officers specified opposite 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 Schedule 1 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 the persons in that Corps so enlisted 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.

Forfeiture of service for desertion

15.—(1) Where any of a soldier's service is forfeited upon conviction for desertion the provisions of these Regulations shall apply to him, and he shall be liable to service, in like manner as if the appropriate date were the date of his

(**a**) 1948 c. 64.

attestation and he had, on the appropriate date, been duly enlisted to serve for the like term (both as respects duration and as respects liability to army service and any liability to serve in the reserve) as that for which he was in fact serving on the date of his conviction:

Provided that where at the date of his conviction the soldier was serving a term ending with the expiration of a period beginning with the date of his attaining the age of eighteen years and he had attained that age when he was convicted (whether or not he had attained it when the offence was committed) the duration of the term for which he is liable to serve shall be equal to that period and the time for which he is required to serve in army service shall be reduced accordingly.

(2) In paragraph (1) of this Regulation "the appropriate date" means in relation to any person a date earlier than the date of his conviction for desertion by the length of his service which is not forfeited.

(3) Nothing in this Regulation shall apply to a person who deserts at a time when he is under these Regulations continued in service after the completion of twenty-two years service.

(4) Notwithstanding anything in this Regulation, the right conferred on a soldier by these regulations shall not be exercisable, in consequence of a forfeiture of service, at a time earlier than that at which it would have been exercisable apart from the forfeiture.

Forms

16. The Defence Council shall publish and provide forms of application, consents and notices for the purposes of these Regulations and references in these Regulations to applications, consents or notices shall be construed as referring to such forms or to forms substantially to the like effect.

Revocations and Savings

17—(1) The Regulations specified in Column 1 to Schedule 2 hereto are hereby revoked to the extent specified in Column 3 thereof.

(2) The repeal and revocation effected by this Regulation shall not affect the term of service (either as respects duration, or as respects liability to army service or any liability to serve in the reserve) for which any person who is in army service immediately before the commencement of these Regulations is serving immediately before such commencement.

On behalf of the Defence Council.

Philip C. Goodhart,
E. N. W. Bramall,
Members of the Defence Council.

Dated 16th March 1981.

SCHEDULE 1

Regulation 14

COMPETENT MILITARY AUTHORITIES

Column 1	Column 2	Column 3
Regulation 5 . . .	For the purpose of approving an application to transfer to the reserve by a man in army service.	
	(*a*) on payment	Commanding Officer or in cases involving the remission of purchase costs GOC
	(*b*) other case	The Director of Manning (Army), Ministry of Defence.
Regulation 10 . .	For the purpose of receiving a written application for and approving re-entry upon army service by a man 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 11 . .	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 12 . .	For the purpose of approving the revocation of consent to the restriction of rights.	The Officer in Charge of Records of the Corps in which the person is serving.
Regulation 13 . .	For the purpose of approving the continuance in service after 22 years' service of a soldier.	The Officer in Charge of Records of the Corps in which the soldier is serving.

Regulation 17(1) SCHEDULE 2

Column 1 Regulations revoked	Column 2 References	Column 3 Extent of revocation
The Army Terms of Service Regulations 1967	S.I. 1967/1018	The whole except Regulation 14(4) and Schedule 3 Part 3.
The Army Terms of Service (Amendment) Regulations 1969	S.I. 1969/245	The whole
The Army Terms of Service (Amendment) Regulations 1971	S.I. 1971/502	,,
The Army Terms of Service (Second Amendment) Regulations 1971	S.I. 1971/1585	,,
The Army Terms of Service (Amendment) Regulations 1972	S.I. 1972/517	,,
The Army Terms of Service (Second Amendment) Regulations 1972	S.I. 1972/1955	,,
The Army Terms of Service (Amendment) Regulations 1975	S.I. 1975/281	,,
The Army Terms of Service (Amendment) Regulations 1977	S.I. 1977/701	,,
The Army Terms of Service (Amendment) Regulations 1980	S.I. 1980/746	,,
The Army Terms of Service (Second Amendment) Regulations 1980	S.I. 1980/1494	,,

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations, which come into operation on 1st May 1981, revoke and replace the provisions of the Army Terms of Service Regulations 1967 and the subsequent amending Regulations.

Rgulation 3 provides for terms of enlistment to be of a duration of between 6 months and 12 years or 22 years.

Regulation 4 confers on persons enlisted for more than 12 years rights to determine service and transfer to the reserve and enables women on special enlistment to determine their service after 4 years.

Regulation 5 enables recruits to claim their discharge within the first 6 months of their service provided that their services are not required in time of imminent national danger.

Regulation 6 provides that a man may be transferred to the reserve before 12 years service if his request is approved by the competent military authority.

Regulation 8 provides that persons who consent, in consideration of "benefits or advantages" eg, being permitted to undergo courses of instruction or transfer to another corps, shall be restricted in the exercise of their rights to transfer to the reserve or to determine service.

Regulation 9 provides for the length of time to be served by a man who tranfers to the reserve.

Regulation 10 enables men transferred to the reserve by the exercise of rights, or by reason of having enlisted for a period partly of army service and partly of reserve service, to re-enter army service with the approval of the competent military authority, and they may then either be treated as if they had not been transferred to the reserve (and so go back to army service for the period for which they originally enlisted) or re-enter army service and serve for the whole or part of the remainder of the period for which they would have been liable to serve in the reserve.

Regulation 11 enables persons in army service to extend their service with the approval of the competent military authority up to the longest period provided by these regulations. Provision is made to prevent the use of this Regulation by persons to exercise rights to determine service or transfer to the reserve which they would not otherwise be entitled to.

Regulation 13 enables soldiers who have completed 22 years of army service to remain in army service for periods not exceeding 5 years at a time with the consent of the competent military authority.

Regulation 14 and Schedule 1 state the officers who, in addition to the Defence Council and Army Board are the competent military authorities for giving approvals under these Regulations.

Regulation 15 provides for the liability of service of a soldier whose service has been forfeited upon conviction for desertion.

Regulation 17 besides providing for revocations, provides that the term of service of persons enlisted under the old law shall not be thereby prejudiced.

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