STATUTORY INSTRUMENTS

2009 No. 1111

DEFENCE

The Reserve Forces (Evidence in Proceedings before Civil 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 108 of the Reserve Forces Act 1996(**a**), makes the following Regulations:

Citation and commencement

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

Interpretation

2. In these Regulations "the Act" means the Reserve Forces Act 1996.

Application

3. These Regulations apply with respect to evidence in proceedings before a civil court in the United Kingdom for an offence under the Act.

Evidence as to service etc

4. 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,

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(**a**) 1996 c. 14. section 108 was amended by paragraph 50 of Schedule 14 to the Armed Forces Act 2006 c. 52.

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

5. 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.

6. A document purporting to be a copy of such a record (including the signature) as is mentioned in regulation 5 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

7. 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

8. 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

9. 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.

Proceedings for offences under section 95 of the Act

10. Where a member of a reserve force is required by or in pursuance of orders or regulations made under section 4 of the Act to attend any place, a certificate—

(a) purporting to be signed by an officer or person who is mentioned in it as being appointed to be present at that place for the purpose of inspecting members of the force in question or for any other purpose connected with that force, and

(b) stating that the member of the reserve force failed to attend in accordance with that requirement,

shall without proof of the signature or appointment of the officer or person be evidence of the failure in any proceedings relating to such a failure under section 95 of the Act(**a**).

Signed by authority of the Secretary of State for Defence.

Kevan Jones
Parliamentary Under Secretary of State
Ministry of Defence

24th April 2009

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 108 of the Reserve Forces Act 1996 ("the Act"), which was amended by paragraph 50 of Schedule 14 to the Armed Forces Act 2006 to create the vires for these regulations, provides that the Secretary of State may make provision with respect to evidence in proceedings for an offence under the Act before a civil court, namely, a magistrates' court in England and Wales, a sheriff sitting as a court of summary jurisdiction in Scotland and a court of summary jurisdiction in Northern Ireland.

These Regulations make provision in respect of 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. They also make provision in respect of evidence for proceedings for offences under section 95 of the Act (offences against orders and regulations under section 4).

(**a**) Section 95 was amended by the Armed Forces Act 2006, section 358, Schedule 14, paragraph 39, and section 378(2), Schedule 17.

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