

## Chapter 18

### Terms and conditions of enlistment and service

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# Chapter 18

## Terms and conditions of enlistment and service

### Introduction

1. **General.** This chapter covers: enlistment; restrictions on aliens; terms and conditions of service; forfeiture of service for desertion and absence without leave<sup>1</sup>; discharge from the regular forces and transfer to the reserve forces. The primary statutory provisions relating to these areas are in the Armed Forces Act 2006 (the Act), sections 328 to 331 and 340<sup>2</sup>. The applicable secondary legislation<sup>3</sup> is contained in the Armed Forces (Enlistment) Regulations 2009 and the Armed Forces (Forfeiture of Service) (No.2) Regulations 2009, the Armed Forces (Aliens) Regulations 2009, the Armed Forces (Terms of Service) (Amendment) (No.2) Regulations 2009, the Army Terms of Service Regulations 2007, the Royal Air Force Terms of Service Regulations 2007, the Royal Navy Terms of Service (Ratings) Regulations 2006 and the Royal Marines Terms of Service Regulations 2006.

2. **Reserves.** The primary statutory provisions relating to the Reserve Forces are contained in Schedule 1 to the Reserve Forces Act 1996 and in regulations and orders made under section 4 to that Act. Although the recruiting and selection procedures for enlistment into the Reserve Forces are similar to those for regular Service personnel, those involved in recruiting and enlisting reservists should follow the appropriate single-Service procedures<sup>4</sup>. The terms and conditions of enlistment and service for the Reserve Forces are published in: BR 64 for the RN and RM Reserves; The Regular Reserve Regulations 1997 for the TA; and APs 3391 Volume 3 (RAF Manual of Recruiting) and 3392 Volume 7 (Regulations for the Reserve Air Forces) for the RAF Reserve and the RAuxAF.

### Enlistment

3. Although the fundamental procedures for enlistment under the Act do not differ markedly from previous procedures, the Act has introduced a number of important changes to the system and produced a common, tri-Service process.

4. **Recruiting.** Recruiting is the process through which recruiting and selection staffs enable a member of the public to progress from an initial enquiry to enlistment as a member of the armed forces. Following initial enquiry (where the candidate is uncommitted), an information seeker will be advised to contact an armed forces careers office for an armed forces careers enquiry interview, following which an application form is completed<sup>5</sup>. Applicants must be informed before the application form is completed that if accepted for service in the armed forces, they will be required to swear an oath of allegiance to Her Majesty the Queen, see paragraph 8 below, and will become subject to Service law. The Applicant undergoes various recruiting tests and a selection interview; each Service has different procedures<sup>6</sup>, all are lengthy and involve many stages. At the culmination of the recruiting process, the candidate will be issued with an enlistment notice and paper and asked to provide written answers to the questions in the enlistment paper, having been warned by the recruiting officer that it is an offence to provide false answers.

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<sup>1</sup> See sections 8 and 9 of the Act and [Chapter 7](#) (Non-criminal conduct (disciplinary) offences) for offences of desertion and absence without leave.

<sup>2</sup> MSL Volume 3.

<sup>3</sup> MSL Volume 3.

<sup>4</sup> RN BR689, Army TA Regulation 1978 chapter 5, RAF AP3391

<sup>5</sup> AFCO Form 4.

<sup>6</sup> RN BR689, Army Recruiting Group Instructions 1978 chapter 5, RAF AP3391.

5. **Recruiting officer.** 'Recruiting officer' means a person who is appointed in accordance with regulations<sup>7</sup> for the purpose of enlisting persons in the regular forces. A recruiting officer enlists a recruit into the armed forces by conducting the procedure leading to his attestation<sup>8</sup> as to the validity of the enlistment. Recruiting officers are appointed by the Naval Secretary, Military Secretary and Air Secretary or any officer on their staffs not below the rank of naval captain, colonel or group captain<sup>9</sup>. Recruiting officers will be appointed by the appropriate Service secretary. Recruiting officers will relinquish their status as recruiting officers on being appointed to another post or on leaving the Service, which ever is applicable. No Service person other than a recruiting officer as defined in the regulations may enlist an individual in the armed forces.

6. **Enlistment procedure.** On successful completion of the recruitment process, a candidate undergoes the enlistment<sup>10</sup> procedure. The point of enlistment alters the legal status of the recruit, making the person subject to Service law and is therefore a significant step in a person's life. A recruiting officer will conduct this procedure and attest<sup>11</sup> to its validity. The candidate will have been issued with the enlistment notice and paper during the recruiting process and asked to provide written answers to the questions in the enlistment paper, having been warned by the recruiting officer that it is an offence to provide false answers. The enlistment notice sets down the general terms and conditions of enlistment and service and the enlistment paper contains the questions to be answered, the declaration by the person offering to enlist, and the attestation by the recruiting officer. As terms of engagement vary within and between the Services, the enlistment notice and paper provide for additional details to be added, particular to the recruit and to the engagement for which he is offering to enlist. At enlistment, the following procedure is to be followed:

- a. The recruiting officer must warn the person who is to be enlisted that if any false answer is made to the questions put to him during the enlistment procedure, the person will be liable to proceedings for an offence (see paragraph 7 below).
- b. The recruiting officer must read (or cause to be read) to the person wishing to be enlisted, the questions that are set out in the enlistment paper. Recruiting officers must satisfy themselves that the person understands each question and ensure that the person's answer to each question is recorded<sup>12</sup>.
- c. The recruiting officer must then ask the person to make and sign the declaration in the enlistment paper that the answers given are true.
- d. The person will be enlisted into the relevant Service once he has signed the declaration.
- e. The recruiting officer must then attest to the validity of the enlistment of the person and confirm that all required procedures have been complied with, by signing the attestation in the enlistment paper. The recruiting officer must then deliver the duly completed enlistment paper to the approving officer, who is a recruiting officer

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<sup>7</sup> The Armed Forces (Enlistment) Regulations 2009, Regulations 2 and 3.

<sup>8</sup> 'Attestation' is the evidencing of the validity of the process leading to the recruit's enlistment by the recruiting officer, and in particular, the genuineness of the recruit's answers on the form.

<sup>9</sup> The Defence Council may also appoint any British consul-general, consul or vice-consul and 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.

<sup>10</sup> "Enlistment" denotes the point at which a recruit becomes a member of the armed forces; that is, when the declaration is made and signed on the enlistment paper.

<sup>11</sup> "Attestation" is the evidencing of the validity of the process leading to the recruit's enlistment by the recruiting officer, and in particular, the genuineness of the recruit's answers on the form.

<sup>12</sup> The enlistment notice and paper having been issued and completed at the AFCO, with appropriate caution about making false answers, the policy at enlistment is that the person offering to enlist will be asked to review the answers provided and reminded of the previous caution before being asked to sign the declaration.

within the regulations<sup>13</sup>, but not the same recruiting officer who enlisted the person in the regular forces.

f. When the person is finally approved for service, the approving officer must provide the person with a certified copy of the enlistment paper, if the person requests it.

7. **False answers on enlistment.** It is an offence punishable by the civil or Service justice system if an individual knowingly makes a false statement to a question put to him by a recruiting officer during the enlistment procedure. This provision applies whether or not the individual has become subject to Service law. The maximum punishment in a civil court is a fine not exceeding level 1 on the standard scale<sup>14</sup>. At a Court Martial (CM) trial, any of the punishments may be awarded that are listed in rows 2 to 12 of the table at section 164 of the Act. This dual provision enables an individual to be dealt with by the more appropriate justice system depending on whether the individual is enlisted for service or whether he remains in service at the time of any proceedings.

8. **Oath of allegiance.** Whilst the signed declaration made at enlistment is a legal matter, the oath of allegiance<sup>15</sup> has an educational, symbolic and solemn purpose. The swearing may be conducted during the first day of training or if considered more appropriate, at another suitable point, at the convenience of the single-Service. Swearing the oath of allegiance is a requirement of the Services for service in Her Majesty's forces (this is a new provision for the RN because people offering to enter RN service have historically not sworn an oath of allegiance). Swearing the oath of allegiance is viewed as a mark of the individual's loyalty to the Crown and therefore, their willingness faithfully to serve as a member of the armed forces.

9. **Minimum age for enlistment.** The minimum age for enlistment into the armed forces is 16 years. A recruit will be deemed to have (or have not) attained the minimum age when the recruiting officer is so satisfied by the production of a certified copy of an entry in the register of births (birth certificate) or such other evidence as appears to him to be sufficient for these purposes<sup>16</sup>. Additionally, a person under the age of 18 years can only be enlisted for regular service if written consent<sup>17</sup> is obtained from all appropriate persons (i.e. people with parental responsibility for him<sup>18</sup>), with whom he is living, or if he is not living with an appropriate person, by any appropriate person. Finally, a recruit over the age of 16 years and under the age of 18 years may be enlisted without anyone's consent if no appropriate person exists.

10. **Enlistment for general or corps service (Army).** Although recruits entering service with the RN, RM and the RAF are enlisted into general service, those entering service in the Army will be enlisted into a specific Corps<sup>19</sup>. In the event that a soldier is recruited into general service he should be appointed to a corps as soon as reasonably practicable. Soldiers may also be transferred between corps, at their own request, to meet the Army's manning requirements or when a call-out order under sections 52 and 54 of RFA 96 (call out for national danger, etc; call out for warlike operations) is in force<sup>20</sup>. A variation in the

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<sup>13</sup> The Armed Forces (Enlistment) Regulations 2009.

<sup>14</sup> Section 328(4)(b) of the Act.

<sup>15</sup> Those who, for whatever reason, are unable to swear an oath of allegiance may make a solemn affirmation to the same effect.

<sup>16</sup> This provision allows for the enlistment of UK citizens and other persons born outside the UK from whose country of birth such documentary evidence may not be available.

<sup>17</sup> MOD Form 486, Consent of Parent(s) or Guardian to Enlistment Under the Age of 18 is used for this purpose during the recruiting process.

<sup>18</sup> Within the meaning of the Children Act 1989, the Children (Northern Ireland) Order 1995 or the Children (Scotland) Act 1995.

<sup>19</sup> For the Brigade of Gurkhas, a military recruiting team is permanently stationed overseas and enlistment is carried out by an authorised officer in Nepal.

<sup>20</sup> In peace time, a soldier can be transferred compulsorily from one corps to another only by order of a member of the Army Board.

conditions of service of the individual may be made to correspond with the corps to which the individual is transferred. Details of the corps are included in the enlistment paper and this provides protection for the recruit in that he knows in what area he will be employed. The recruit is to be advised that remaining in the corps/trade/branch is subject to certain conditions.

11. **Validity of enlistment.** Where an individual offering to enlist in one of the Services has signed the declaration on the enlistment paper:

- a. Enlistment will not be questioned on the grounds of any error or omission in the enlistment paper.
- b. If the individual shows within 3 months of enlistment that there was an error in the enlistment paper that should deny entry under the Act or on any other grounds except a. above, the individual will be discharged without reserve service liability.
- c. If an error or omission is discovered after that 3-month period the enlistment will be valid, regardless of any non-compliance with enlistment requirements in the Act or on any other grounds.
- d. The individual will be deemed to be a rating, marine, soldier or airman until discharge is effected.
- e. Where an individual has not attained the age of 18 years and he or persons who would have been required to consent to enlistment show that enlistment is invalid, the individual will be discharged on application to the Defence Council, without reserve service liability. This provision is limited to within 3 months of enlistment.
- f. Where an individual has not attained the age of 16 years and he, or persons with parental responsibility, or in whose care he is, show that the enlistment is therefore invalid, the individual will be discharged on application to the Defence Council, without reserve service liability. This provision is limited to within 3 months of enlistment or the day before the individual's 16<sup>th</sup> birthday, whichever is the later.

An individual who has received pay yet has failed to sign the declaration on the enlistment paper is deemed to be a rating, marine, soldier, or airman until discharged. Discharge on this ground may be claimed at any time.

## Restrictions on aliens

12. **Legal provision.** Section 340 of the Act provides that an alien (see paragraph 13 below) may not be a member of the regular forces<sup>21</sup> nor a member of any of HM forces raised under the law of a British overseas territory, unless he/she satisfies certain prescribed conditions (see paragraph 14 below)<sup>22</sup>.

13. **Definition of an alien.** An alien is defined, in the British Nationality Act 1981, as a person who is not within one of the following categories:

- a. A British citizen.

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<sup>21</sup> That is to say the Royal Navy, the Royal Marines, the regular army or the Royal Air Force (see section 374 of the Act).

<sup>22</sup> An alien is also not permitted to become a member of the reserve forces because an alien is not a British citizen residing in the UK – see s.10 Reserve Forces Act 1996 – although Regulations made under s.4 of that Act can make exceptions to this (e.g. Territorial Army Regulations 1978).

- b. A Commonwealth citizen.
- c. A British protected person.
- d. A citizen of the Republic of Ireland.

14. **Prescribed conditions.** Enlistment to the regular forces is carried out overseas only in restricted circumstances. In such circumstances governors, consul-generals, consuls, vice-consuls or those authorised to act on behalf of a British consul may carry out the enlistment process for individuals from countries outside the dominions. The prescribed conditions by which aliens<sup>23</sup> may be enlisted into the regular forces or a British overseas territory force are laid down in the Armed Forces (Aliens) Regulations 2008, which are made pursuant to section 340 of the Act<sup>24</sup>. The regulations provide that the exclusion in section 340(1) of the Act do not apply to citizens or nationals of Nepal who:

- a. Serve in the Brigade of Gurkhas; or
- b. having served five or more years in the Brigade of Gurkhas, subsequently transfer to serve in another unit of the regular forces or the forces of a British overseas territory<sup>25</sup>.

## Terms and conditions of service

15. Although pre-existing primary legislation<sup>26</sup> has been repealed because the provisions in the Act that replace it are almost identical in scope, the existing single-Service secondary legislation<sup>27</sup> has been deemed to have been made under the Act. However, aspects of the existing secondary legislation required updating in light of provisions and policy under the Act; therefore, a further statutory instrument, the Armed Forces Terms of Service (Amendment) Regulations 2008, has been made to make the necessary amendments.

## Discharge and transfer to the reserve forces

16. **Discharge.** Members of the regular forces entitled to discharge are to be discharged with all convenient speed, but will remain subject to Service law until such time as the discharge is effected. Discharge must be authorised by the competent Service authority (see [Annex A](#)). Those discharged in the UK are entitled to free travel to the place of residence within the UK. Those serving outside the UK may request free return to the UK for discharge. If a Service person serving outside the UK consents to a delayed discharge, this must be effected within 6 months after arrival in the UK. The 6-month clause provides flexibility for the Services and the individual where it is convenient for the individual to remain in the Service for a short period. Service personnel serving overseas can request to be discharged at the place where they are serving, but no claim can be made thereafter to be returned to the UK or elsewhere.

17. **Right of warrant officers to discharge after reduction in rank.** A warrant officer who has been reduced to the lowest rank or rate<sup>28</sup> as a result of a sentence in Service proceedings, has a right to claim discharge unless warlike operations exist or a call-out order

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<sup>24</sup> See Section 340(2), (3) and (5) of the Act.

<sup>25</sup> Gurkha Terms and Conditions of Service (TACOS) are by and large the same TACOS as those of their counterparts in the wider Army. Upon transferring outside the Brigade of Gurkhas, their TACOS are identical to those of their British counterparts.

<sup>26</sup> AA and AFA 55 and AFA 66.

<sup>27</sup> Royal Navy (Ratings) Terms of Service Regulations 2006, Royal Marines Terms of Service Regulations 2006, Army Terms of Service Regulations 2007, Royal Air Force Terms of Service Regulations 2007.

<sup>28</sup> See the Armed Forces (Minor Punishments and Limitation on Power to Reduce in Rank) Regulations 2009/1215; certain trades and branches have a minimum rank imposed that is higher than the minimum rank for the Service.

is in force under RFA 96, sections 52, 54 or 56. A claim for discharge should be made within one month of the reduction in rank and discharge must be effected as soon as reasonably practicable. This allows former warrant officers to leave the Service promptly following conviction or administrative reduction in rank or rate if he does not wish to remain in the Service. Details are at [Annex B](#).

18. **Discharge certificate.** All Service personnel of or below the rank of warrant officer are to be given a discharge certificate<sup>29</sup> to show prospective employers that they have been legally discharged. The discharge certificate must contain the following information<sup>30</sup>:

- a. Full name, rank or rate and Service number.
- b. Date and place of enlistment or of commencement of service.
- c. If being discharged having performed duties as a member of the regular forces, a signed assessment by an officer as to conduct and character.
- d. The date of discharge and the Service or corps from which discharged.
- e. Liability, if any, to service in the reserve forces.
- f. The signature of the officer authorising the discharge or of another officer acting on his behalf.

19. **Transfer to the reserve.** Members of the regular forces who are due to be transferred to the reserve remain subject to Service law until that transfer is effected. Transfer to the reserve must be authorised by the competent Service authority (see [Annex A](#)). Those transferred to the reserve in the UK are entitled to free travel to the place of residence in the UK. Personnel serving outside the UK will be returned free of cost and at all convenient speed to the UK for transfer to the reserve; or if an individual consents to a delayed transfer, within 6 months of arrival in the UK. Alternatively, an individual may be transferred to the reserve without being required to return to the UK. The 6-month clause provides the same flexibility as outlined at paragraph 16 above.

20. **Postponement of discharge and transfer to the reserve.** Members of the regular forces may be retained beyond their discharge date or transfer to the reserve date. The maximum extension period that can be authorised for an individual who would have transferred to the reserve is the same as he could have been required to serve if called out as part of his regular reserve liability<sup>31</sup>. For those who would have been discharged, the period for retention is a maximum of 12 months. This period accords with the time that a member of the reserve forces could be retained beyond the end of his current term if call out was authorised under RFA 96, section 52<sup>32</sup>. Individuals retained may be transferred to the reserve or discharged by the competent authority when services are no longer required. A person entitled to be transferred to the reserve or discharged may by declaration to his CO<sup>33</sup>, (see Annexes [C](#) and [D](#)), remain in the Service if warlike operations exist and a call-out order is in force under RFA 96, section 54. He is entitled to give 3 months' notice of this extension to his CO. Periods of extended service count towards reserve service. Individuals on extended service outside the UK are entitled to be discharged or transferred to the reserve in

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<sup>29</sup> The JPA-generated discharge certificate may be accompanied by a number of separate documents containing the salient information. This information and any valedictory letter that may be provided may vary in format between the Services.

<sup>30</sup> The Armed Forces (Discharge and Transfer to the Reserve Forces) (No.2) Regulations 2009, regulation 6.

<sup>31</sup> Under RFA 96: s.53(6), national danger etc – 3 years; s.55(6), warlike operations – 12 months; s.57(6), certain operations - 9 months.

<sup>32</sup> In accordance with the powers under RFA 96, section 17(2).

<sup>33</sup> The Armed Forces (Discharge and Transfer to the Reserve Forces) (No.2) Regulations 2009/1091, regulation 8.

the UK, according with the provisions for individuals serving overseas under normal conditions of engagement.

## **Forfeiture of service for desertion and absence without leave**

21. **Certificate of absence.** The CO of a Service person who is absent without leave is to issue a certificate of absence<sup>34</sup> by the eighth day of absence, see [Chapter 10](#) (Absence and desertion). The certificate of absence will remain in force until the Service person who is the subject of the certificate surrenders, is arrested or the certificate is cancelled. The issue of a certificate of absence has the effect on the person in respect of whom it is issued of cessation of entitlement to pay and allowances from the first day of absence until the day of surrender, arrest or cancellation.

22. **Confession of desertion.** If a Service person makes a confession of desertion<sup>35</sup>, the CO may decide with the consent of the Director Service Prosecutions to dispense with Service proceedings, having taken into account the circumstances of the case and of the person who made the confession. In such cases, the CO must inform the person who made the confession of his decision and of the period of service to be forfeited. Confessions of desertion must be made in writing, to a Service policeman<sup>36</sup> during an interview conducted in accordance with the Service Police Code of Practice for the Treatment and Questioning of Persons by the Service Police<sup>37</sup>. The confession must be written, signed and dated and must include:

- a. The date on which the person deserted.
- b. The place from which desertion occurred.
- c. The date on which and the place at which the person surrendered or was arrested.

23. **Forfeiture of service following conviction for desertion<sup>38</sup>.** If a Service person is convicted of desertion, the period of service for which he was convicted as a deserter will be forfeited. If service is forfeited, the following rules apply:

- a. The date of enlistment will be deemed to have been the date which precedes the date of conviction by the period of service that has not been forfeited. (i.e. the enlistment date will effectively be moved forward by a period equal to the amount of service forfeited.)
- b. The Service person convicted will be liable to serve for an additional period that is equal to the period in respect of which he was convicted of desertion.
- c. The date on which the Service person convicted will be entitled to be discharged from the regular forces, to end service with the regular forces or to be transferred to a reserve force, will be postponed by an equal period.
- d. If the Service person convicted had previously extended the term of service so as to end at a specified time, the forfeiture will not have the effect of requiring the

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<sup>34</sup> Section 330(4) of the Act and The Armed Forces (Evidence of Illegal Absence and Transfer to Service Custody) Regulations 2009/1108, regulation 3.

<sup>35</sup> A confession to being guilty of an offence of desertion under Section 8 of the Act.

<sup>36</sup> Where a reservist fails to report under a call-out notice, the civil police will normally be requested to make an arrest and bring the accused before the local magistrates' court. The confession may therefore be made to a constable and would be admissible in both civil and Service courts.

<sup>37</sup> Code C made under section 113(3) and (4) of the Police and Criminal Evidence Act 1984, 1984 c.60. See JSP 397.

<sup>38</sup> The Armed Forces (Forfeiture of Service) (No.2) Regulations 2009/1090, regulation 4(2).

person to serve for any period after that time provided that the original term of service for which a person enlisted has been completed before the desertion occurred.

In effect, the Service person's date of enlistment and the date on which he is entitled to be discharged will be deemed to be postponed by a period of additional service equal to the period of desertion.

24. **Forfeiture of service following confession of desertion**<sup>39</sup>. If a Service person makes a confession of desertion and the CO decides to dispense with Service proceedings, service is forfeited according to the following rules:

- a. The date of enlistment will be deemed to have been the date which precedes the date of the CO's decision by the period of service that has not been forfeited. (i.e. the enlistment date will effectively be moved forward by a period equal to the amount of service forfeited.)
- b. The Service person who confessed will be liable to serve for an additional period equal to the period admitted as desertion.
- c. The date of entitlement to discharge from the regular forces, to end service with the regular forces or to be transferred to a reserve force, will be postponed by an equal period.
- d. The CO may decide that the person who confessed is not required to serve for an additional period under sub-paragraph b or that only a specified part of the period on absence is to be forfeited.

In effect, service is forfeited in the same way as after a conviction for desertion, although at the CO's discretion, the requirement to forfeit all or part of the period of absence may be waived.

25. **Restoration of forfeited service.** Where service has been forfeited for desertion, the Defence Council may restore the whole or part of the forfeited service if they consider it expedient or desirable to do so because of any circumstances which they consider to be relevant, for example, the person's distinguished, gallant or other conspicuous conduct during the period since the desertion ended. If the forfeited service is restored by the Defence Council, the following rules apply:

- a. The additional period of service equal to the period of desertion will be reduced by the period of restored service.
- b. The date of entitlement to discharge from the regular forces or transferred to the reserve will be adjusted accordingly.
- c. The date on which regular service ends or of transfer to the reserve force in accordance with the person's engagement will not be affected by the restoration of service.

In effect, the period of forfeited service will be reduced by the period of service deemed to have been restored by the Defence Council. The date on which regular service ends or of transfer to the reserve forces in accordance with the Service person's engagement will not be affected by the restoration of service.

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<sup>39</sup> The Armed Forces (Forfeiture of Service) (No.2) Regulations 2009/1090, regulation 4(3).

## **Transitional guidance**

26. Although the primary and secondary legislation concerning terms and conditions of enlistment and service largely replicate the provisions under the single Service Discipline Acts, there are some important changes made under the Armed Forces Act 2006. Regulations and therefore procedures have been harmonised in some areas, as well as having been updated. Transitional provisions will exist in some areas. For example, attestation or entry papers completed before implementation of the 2006 Act (ie before 31 October 2009) will be deemed to have been completed after implementation where the papers were completed before implementation, but the act of enlistment took place after implementation. Recruiting officers who were in post as authorised recruiting officers before implementation will be recruiting officers under the 2006 Act, if they remain in post after implementation. These are simple examples of where transitional provisions occur; there are others in the areas of enlistment, terms and conditions of service, discharge and transfer to the reserve, and forfeiture of service. Staff legal advice should be sought where an action or event occurs immediately before or after implementation, or spans the period immediately before and after implementation.

## COMPETENT SERVICE AUTHORITIES

### 1. RN and RM competent authorities.

<b>RN AND RM COMPETENT AUTHORITIES FOR TCOES (RN RATINGS AND RM OTHER RANKS)</b>		
Item No	Column 1	Column 2
	Reason	Competent Naval Authority (as delegated by the Naval Secretary)
1	Determining the length of service in the reserve	NPT(Res) Team Leader (TL)
2	Approving the continuance in service in the Naval Service	DNPS, NPT TLs, NPT Career Managers, NPT Requirement Managers
3	Approving the re-entry of personnel to the Naval Service	CNR
4	Publishing and providing forms of consent and notices under TCOES regulations	DNPers, DNPS, NPT TLs

<b>DISCHARGE AND TRANSFER TO THE RESERVE (RN RATINGS AND RM OTHER RANKS)</b>		
Item No	Column 1	Column 2
	Reason	Competent Naval Authority (as delegated by the Naval Secretary)
1	Discharge Service No Longer Required (SNLR) - Unruly Behaviour, CDT, Drug Abuse	DNPers, DDNPers
2	Discharge Shore – Medical	DNPers, DDNPers
3	Discharge Shore – Best interests of the Service	DNPers, DDNPers
4	Discharge Shore – Inadequacy	DNPers, DDNPers
5	Discharge Shore – Alcohol	DNPers, DDNPers
6	Discharge Shore – TU (Remediable)	DNPers, DDNPers
7	Discharge Shore – Failure of NAPWT	DNPers, DDNPers, NPT TLs
8	Discharge Shore – Financial Irresponsibility	DNPers, DDNPers, NPT TLs
9	Discharge Shore – Persistent RNFT failure	DNPers, DDNPers, NPT TLs
10	Discharge Shore – Unsuitable During Training	DNPers, DDNPers, NPT TLs
11	Discharge Shore – TU (Irremediable)	DNPers, DDNPers, NPT TLs, COs of Captain rank (in certain circumstances)
12	Discharge Shore – Unhappy Under 18 year olds	DNPers, DDNPers, NPT TLs, COs of Captain rank (in certain circumstances)
13	Discharge Shore - Obesity	DNPers, DDNPers, NPT TLs, COs of Captain rank (in certain circumstances)

14	Compassionate Discharge	DNPers, DDNPers, NPT TLs, COs of Captain rank (in certain circumstances)
15	Conscientious Objection	DNPers, DDNPers
16	Approve transfer to the Reserve	NPT Career Managers
17	Postponement of an individual's discharge or transfer to the Reserve	DNPS, NPT TLs
18	Landing of ratings	DNPers, DDNPers, NPT TLs
19	SNLR, Shore & Reversion of ratings as a result of Service Penalty	DNPers, DDNPers, NPT(LM)TL

## 2. Army competent authorities.

COMPETENT ARMY AUTHORITIES FOR TCOES AND TO AUTHORISE DISCHARGE		
Item No	Column 1	Column 2
	Reason or Grounds for Discharge	Competent Army Authority
1	Transfer to the regular reserve - by right, having given appropriate notice.	CO
2	Transfer to the regular reserve - on payment.	CO
3	Transfer to the regular reserve - on compassionate grounds	GOC
COMPETENT ARMY AUTHORITIES TO AUTHORISE DISCHARGE		
Item No	Column 1	Column 2
	Reason or Grounds for Discharge	Competent Army Authority
4	Transfer to the regular reserve – at soldier's request.	DM(A)
5	Transfer to the regular reserve – after 16 years service	CO
6	Not finally approved for service.	Recruiting Officer
7	Defective enlistment	CO
8	False answer on enlistment	CO
9	Unsuitable for service	CO
10	On medical grounds.	DG APC/CO
11	Temporarily medically unfit	DG APC
12	Permanently medically unfit	DG APC
13	Reached age limit for service	CO
14	By right having given notice	CO
15	From extended Service, having given notice	CO
16	From recruit training	CO
17	After reduction in rank	CO
18	Completion of engagement	CO
19	On family grounds	CO
20	On sentence of dismissal by a CM	CO
21	On sentence of dismissal with disgrace by a	CO

	CM	
22	Termination of extended service - WO1 - WO2 - SNCO  - JNCOs and Privates	DM(A) GOC Bde/Garrison Commander CO
23	At soldier's request – on payment	CO
24	At soldier's request – after completion of 16 year's Service	CO
25	At SOLDIER'S REQUEST - more than 22 year's service	CO
26	At soldier's request – on compassionate grounds.	GOC
27	No longer required – after civil conviction.	Bde/Garrison Commander
28	No longer required - misconduct	Bde/Garrison Commander
29	Retention undesirable	Bde/Garrison Commander
30	Unsuitable for further service – psychopathic delinquent	GOC
31	Appointment to a commission	DG APC
<b>COMPETENT ARMY AUTHORITIES TO AUTHORISE DISCHARGE</b>		
Item No	Column 1	Column 2
	Reason or Grounds for Discharge	Competent Army Authority
32	Re-enlisting on another engagement	DG APC
33	On reduction in establishment	DG APC
34	Change in Corps requirement	DG APC
35	Not required for further army service – failing to reach standard	Bde/Garrison Commander
36	Not required for army service – below physical entry standard	CO
37	Not required for full army career.	DG APC
38	Services no longer required	DM(A)
39	All transfers to the reserve or discharge	DM(A) is the competent Army authority to authorise any transfer to the Reserve or discharge under any of the relevant headings and may exceptionally do so even if the terms, as laid down in Queen's Regulations for the Army applicable to any particular cause of transfer to the Reserve or discharge concerned have not been complied with fully.

3. **Competent RAF authorities.**

a.

COMPETENT AIR FORCE AUTHORITIES FOR TCOES		
Item No	Column 1	Column 2
	Reason or Grounds for Discharge	Competent Air Force Authority
1	For the purpose of approving an application to change engagement.	Air Sec
2	For the purpose of approving an application to transfer to the reserve by a person in air force service.	Air Sec
3	For the purpose of approving the revocation of consent to the restriction of rights.	Air Sec
4	For the purpose of approving a shorter term of service in the reserve.	Air Sec
5	For the purpose of consenting to the conversion of terms of service of a person in air force service.	Air Sec
6	For the purpose of consenting to the continuance of service of a person in air force service.	Air Sec
7	For the purpose of consenting to the continuance of service of a person in air force service on an open engagement in the Princess Mary's Royal Air Force Nursing Service who is unable to complete 22 years' service before the date of his 55th birthday	Air Sec

b.

COMPETENT AIR FORCE AUTHORITIES TO AUTHORISE DISCHARGE					
Item No	Column 1	Column 2			
		Competent Air Force Authority			
	Reason or Grounds for Discharge	Ground Trades other than Warrant Officer	Non Commissioned Aircrew other than MACR	Warrant Officers	MACR
1	On expiration of a non-pensionable engagement or at own request having given 18 months' notice or on application for premature voluntary release before completing time for pension.	Air Sec	Air Sec	Air Sec	Air Sec
2	With a view to Service pension,	Air Sec	Air Sec	Air Sec	Air Sec

COMPETENT AIR FORCE AUTHORITIES TO AUTHORISE DISCHARGE					
Item No	Column 1	Column 2			
		Competent Air Force Authority			
	Reason or Grounds for Discharge	Ground Trades other than Warrant Officer	Non Commissioned Aircrew other than MACR	Warrant Officers	MACR
	having completed time for pension.				
3	At own request with a view to Service pension or within 3 months of the end of engagement in order to take up civil employment.	Air Sec	Air Sec	Air Sec	Air Sec
4	For misconduct or following civil conviction.	CINC	AFB	AFB	AFB
5	At the discretion of the competent authority in the following circumstances:				
	(a) in the case of voluntary withdrawal from training by:				
	1. officer cadets undergoing initial officer training	Commandant RAF College & Director of Recruitment(RAF)			
	2. trainee non-commissioned aircrew prior to the award of a flying badge.		CO		
	(b) in the case of an airwoman because of pregnancy.	Air Sec	Air Sec	Air Sec	Air Sec
	(c) in the case of an airman who cannot be discharged under any other heading.	Air Sec	Air Sec	AFB	AFB
	(d) in the case of a directly entered List 1 medical trainee or a directly	(i) The Deputy CINC Air Command (ii) Air Sec			

COMPETENT AIR FORCE AUTHORITIES TO AUTHORISE DISCHARGE					
Item No	Column 1	Column 2			
		Competent Air Force Authority			
	Reason or Grounds for Discharge	Ground Trades other than Warrant Officer	Non Commissioned Aircrew other than MACR	Warrant Officers	MACR
	entered technician who is withdrawn from training or who fails on passing out and is unwilling to be remustered to, or trained for, another trade.				
	(e) in the case of an airman who is withdrawn from, or fails, trade training and cannot be offered training in another trade because he is unsuitable for trades in which there are vacancies or there are no vacancies in trades for which he is suitable.	Air Sec			
	(f) in the case of an airman who elects to be discharged in lieu of compulsory transfer/ remustering from a sensitive trade or who applies for discharge after failing to qualify for remustering at his rank level.	Air Sec		AFB	
	(g) in the case of an airman who is medically unfit for his present trade and has declined an offer of employment in a suitable	Air Sec		Air Sec	

COMPETENT AIR FORCE AUTHORITIES TO AUTHORISE DISCHARGE					
Item No	Column 1	Column 2			
		Competent Air Force Authority			
	Reason or Grounds for Discharge	Ground Trades other than Warrant Officer	Non Commissioned Aircrew other than MACR	Warrant Officers	MACR
	alternative trade.				
	(h) in the case of an airman who, through circumstances beyond his control is medically unfit for the full range of duties in his trade or category and the individual considers that the resultant effect on his career prospects is unacceptable.	Air Sec	Air Sec	Air Sec	Air Sec
	(i) in the case of an airman who is withdrawn from recruit training.	CO			
6	Compassionate grounds.	Air Sec	Air Sec	Air Sec	Air Sec
7	On appointment to a commission.	CO	CO	CO	CO
8	Invalidated				
	(a) below current air force medical standards.	Air Sec	Air Sec	Air Sec	Air Sec
	(b) physically unfit for air force service as aircrew.		Air Sec		Air Sec
9	Not likely to maintain the required air force medical standard				
	(a) in the case of an airman whose disabilities are discovered on medical examination within 21 days of enlistment.	CO	CO		

COMPETENT AIR FORCE AUTHORITIES TO AUTHORISE DISCHARGE					
Item No	Column 1	Column 2			
		Competent Air Force Authority			
	Reason or Grounds for Discharge	Ground Trades other than Warrant Officer	Non Commissioned Aircrew other than MACR	Warrant Officers	MACR
	(b) in the case of an airman discharged within 6 months of enlistment.	CO	CO		
10	In the case of a non-commissioned aircrew found medically unsuitable for air force service as aircrew but not physically unfit for ground duties.		(i) Air Sec (ii) CO in the case of directly entered aircrew cadets		Air Sec
11	In the case of an airman found to be unsuited to a Service environment.	Air Sec	Air Sec	AFB	AFB
12	Having given a false answer on attestation or having made a misstatement on enlistment.	Air Sec	Air Sec		
13	For inefficiency.	CINC	AFB	AFB	AFB
14	Services no longer required				
	(a) in the case of an airman found to be unsuitable during recruit training.	CO	CO		
	(b) in the case of an airman found to be unsuitable in trade, category or rank.	CINC	AFB	AFB	AFB
	(c) in the case of an airman who cannot be allowed to remain in the Service because he is unable to meet Service obligations	Air Sec	Air Sec	Air Sec	Air Sec

COMPETENT AIR FORCE AUTHORITIES TO AUTHORISE DISCHARGE					
Item No	Column 1	Column 2			
		Competent Air Force Authority			
	Reason or Grounds for Discharge	Ground Trades other than Warrant Officer	Non Commissioned Aircrew other than MACR	Warrant Officers	MACR
	through circumstances beyond his control or because of a permanently reduced medical employment standard for whom a medical discharge would not be appropriate.				
15	Not likely to reach the standard required for air force service				
	(a) in the case of officer cadets who fail initial officer training.	Commandant RAF College and Director of Recruitment (RAF)			
	(b) in the case of non-commissioned aircrew who fail training prior to the award of a flying badge.		CO		
16	In the case of non-commissioned aircrew found to be below the required standard for air force service other than those under item 19.		Air Sec		
17	In the case of non-commissioned aircrew who fail OCU training prior to giving productive aircrew service.		Air Sec		
18	In the case of a Warrant			Air Sec	Air Sec

COMPETENT AIR FORCE AUTHORITIES TO AUTHORISE DISCHARGE					
Item No	Column 1	Column 2			
		Competent Air Force Authority			
	Reason or Grounds for Discharge	Ground Trades other than Warrant Officer	Non Commissioned Aircrew other than MACR	Warrant Officers	MACR
	Officer/MACR who is reduced to the ranks and claims discharge.				
19	On redundancy.	Air Sec	Air Sec	Air Sec	Air Sec
20	In the case of an airman who is surplus to requirements in a specific trade and rank.	Air Sec	Air Sec	Air Sec	Air Sec
21	Statutory right of recruits in phase 1 training.	CO	CO		

## **WARRANT OFFICER'S RIGHT TO DISCHARGE ON REDUCTION IN RANK**

1. A warrant officer (WO) who has been reduced to the lowest rank or rate<sup>40</sup> as a result of a sentence in Service proceedings, has a right to claim discharge unless warlike operations exist or a call-out order is in force under RFA 96, sections 52, 54 or 56. A claim for discharge should be made within 28 days of the reduction in rank and discharge must be effected as soon as reasonably practicable. This allows a former WO to leave the Service promptly following conviction or administrative reduction in rank or rate if he does not wish to remain in the Service.
2. Where a CM sentence is suspended, the 28 days do not begin to run unless the sentence is activated. If the sentence is activated, the 28 days will run from the date of the activation.
3. Where the CM's sentence is one of immediate custody, but the CM grants bail when passing sentence, the WO does not (yet) have a right to claim discharge because the effect will be to prevent the sentence from taking effect. If bail is withdrawn before the appeal is heard, or the appeal is abandoned, or the CMAC confirms the sentence, the 28 days will begin to run. If the CMAC substitutes another sentence involving reduction to the ranks (without bail being previously withdrawn), the WO gains the right to claim discharge and the 28 days begin to run. If the CMAC quashes the conviction (without bail being previously withdrawn), or substitutes another sentence not involving reduction to the ranks, the WO does not acquire the right to claim discharge.
4. Where the CM's sentence is one of immediate custody and bail is granted after the WO has begun to serve the sentence, the WO may not claim discharge if he has not already done so. It does not matter for this purpose whether the grant of bail in these circumstances will have the effect of restoring the WO's rank/rate. If the 28 days do not start to run because bail is granted, it starts to apply again if bail is withdrawn, or the CMAC confirms the sentence, or the CMAC substitutes another custodial sentence or sentence of detention (unless it is suspended), or the CMAC substitutes a sentence of reduction to the ranks. If the CM granted bail and it was not withdrawn before the appeal was heard and the 28 days did not therefore begin to run (the right to discharge did not yet occur), the WO can claim the right to discharge if the CM's sentence was not such as to involve reduction to the ranks but the CMAC's sentence was or the CM's sentence was such a sentence and so is the sentence substituted by the CMAC.
5. A WO may not claim discharge (if he has not already done so) where, within the 28 days, the Court Martial Appeal Court (CMAC) quashes the conviction. Similarly, a WO may not claim discharge (if he has not already done so) where, within the 28 days, the CMAC substitutes another sentence which would not itself involve immediate reduction to the ranks (if such reduction had not already occurred). However, there may be exceptions to this general rule as demonstrated in the case studies below.

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<sup>40</sup> See the Armed Forces (Minor Punishments and Limitation on Power to Reduce in Rank) Regulations 2009/1215; certain trades and branches have a minimum rank imposed that is higher than the minimum rank for the Service.

### **Case Studies**

1. A WO is convicted of offences A and B and awarded detention for A and a fine for B. The CMAC quashes the conviction of A, but (under CMAA68 s.13) substitutes a sentence of reduction to the ranks for B. In this case the WO does not lose the right to claim and the 28 days continues to run.

2. The CMAC quashes a conviction but orders a retrial. At the retrial, the WO is sentenced to reduction to the ranks or an immediate custodial sentence or an immediate sentence of detention. The 28 days start to run afresh. Likewise, if at the retrial, the WO is given a suspended sentence and that sentence is later activated, the 28 days start to run on activation.

6. If a sentence substituted by the CMAC would itself involve immediate reduction to the ranks (for example, the CM's sentence was immediate detention and the CMAC substituted reduction to the ranks) the 28 days continue to run. If the sentence substituted by the CMAC is a suspended sentence, the WO loses the right to claim discharge because the WO rank/rate will be restored. If the suspended sentence is later activated, the 28 days start to run afresh.