

EXPLANATORY MEMORANDUM TO
THE AIR FORCE ACT 1955 (PART 1) (AMENDMENT) REGULATIONS
2008

2008 No. 1585

1. This explanatory memorandum has been prepared by the Ministry of Defence and is laid before Parliament by Command of Her Majesty.

2. Description

These Regulations substitute a revised regulation 3, schedule 1 and schedule 4 in the Air Force Act 1955(Part 1) Regulations 2007 S.I. 2007/651 (“the 2007 Regulations”). Regulations 3 and 4 specify the competent air force authority for the discharge of an airman or his transfer to the reserves. Regulation 5 specifies the particulars to be included in the certificate of discharge. It removes the requirement for a physical description of the airman to be included, reflecting current practice. The definition of an airman includes all ranks up to warrant officer including non-commissioned officers.

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

The 2007 Regulations were reported in the 16th Report of the JCSI (2006/7 session) for defective drafting. These Regulations amend the provisions which were criticised in that Report.

4. Legislative Background

The 2007 Regulations make provision in respect of enlistment of recruits and generally for the carrying into effect of Part 1 of the Air Force Act 1955. Section 22 of the Air Force Act 1955 governs the procedural requirements for regulations made under Part 1 of that Act. Section 22(2) was inserted into the Air Force Act 1955 by section 4(1) of the Armed Forces Act 1996. Section 22(2) came into force on 1st May 2001 by virtue of S.I. 2001/1519 and states that “any power conferred by this Part of this Act to make regulations (including the power under paragraph 5 of Schedule 1 to this Act) shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament”. Therefore the 2007 Regulations, and these Regulations, are subject to the procedural requirements set out in section 22(2) and have been made in the form of a statutory instrument and are now laid before Parliament.

5. Territorial Extent and Application

These instruments apply to all of the United Kingdom.

6. European Convention on Human Rights

As the instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

7.1 Consultation has not been necessary because there have been no substantive changes to the arrangements for the discharge or transfer to the reserves of airmen. Although the 2007 Regulations have been amended, the amendments have not affected the process as such.

7.2 The amendments to the 2007 Regulations do not introduce any new policy.

7.3 The references in the Regulations to the Commander-in-Chief reflect the fact that RAF Strike Command and RAF Personnel and Training Command have now been amalgamated to form a single command known as Air Command.

8. Impact

A Regulatory Impact Assessment has not been prepared for these instruments as they have no impact on business, charities or voluntary bodies.

9. Contact

Mrs S J McIntosh at the Ministry of Defence Tel: 0202 7218 0564 can answer any queries regarding these instruments.