

2008 No. 1651

DEFENCE

The Armed Forces (Service Inquiries) Regulations 2008

<i>Made</i>	- - - -	<i>25th June 2008</i>
<i>Laid before Parliament</i>		<i>27th June 2008</i>
<i>Coming into force</i>	- -	<i>1st October 2008</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 343 of the Armed Forces Act 2006 Act(a):

Citation and commencement

1. These Regulations may be cited as the Armed Forces (Service Inquiries) Regulations 2008 and shall come into force on 1st October 2008.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Armed Forces Act 2006;

“convening authority” means a person appointed in accordance with regulation 3 as convening authority in relation to a matter or a category of matters;

“convening order” means an order given by the convening authority to convene a service inquiry panel;

“Crown servant” means a person employed by or in the service of the Government of the United Kingdom;

“document” includes information recorded in any form, and see paragraph (2);

“legal representative” means a person who—

- (a) has a general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990(b);
- (b) is an advocate or solicitor in Scotland;
- (c) is a member of the Bar of Northern Ireland or a solicitor of the Supreme Court of Northern Ireland; or
- (d) has in any of the Channel Islands, the Isle of Man, a Commonwealth country or a British overseas territory rights and duties similar to those of a barrister or solicitor in England and Wales, and is subject to punishment or disability for breach of professional rules;

“live television link” means arrangement by which a person (when not in the place where the proceedings of a service inquiry panel are being conducted) is able to see and hear, and to be

(a) 2006 c.52.
(b) 1990 c.41

seen and be heard by, the panel (and for this purpose any impairment of eyesight or hearing is to be disregarded;

“president” means, in relation to a service inquiry panel, the president of the panel;

“senior non-commissioned officer” means a non-commissioned officer who is of or above the rate or rank of petty officer, sergeant or equivalent rank;

“service court” means, subject to regulation 20 and paragraph 4 of Schedule 3, any of the Summary Appeal Court, the Court Martial, the Service Civilian Court and the Court Martial Appeal Court;

“service inquiry” means an inquiry referred to in section 343 of the Act;

“service inquiry panel” has the same meaning as in section 343 of the Act, and “panel” shall be construed accordingly;

“summary hearing” means, subject to regulation 20 and paragraph 5 of Schedule 3, a summary hearing under section 131 of the Act;

“terms of reference” means, in relation to a service inquiry, its terms of reference, as provided for it under regulation 7(2) or as subsequently amended under regulation 7(3); and

“witness notice” means a witness notice issued under regulation 13(1).

(2) References in these Regulations to producing or providing a document, in relation to information recorded otherwise than in legible form, are to be read as producing or providing a copy of the information in a legible form.

The convening authority

3.—(1) Subject to paragraph (2), the convening authority in relation to any matter connected with any of Her Majesty’s forces, or any category of such matters stated in the terms of his appointment, shall be the person appointed as such by the Defence Council or by an officer authorised by the Defence Council.

(2) A convening authority must be an officer of or above the rank of naval captain, colonel or group captain subject to service law.

Matters for reference to a service inquiry panel

4.—(1) In the event of the death on or after 1st October 2008 of a person while subject to service law—

- (a) a convening authority must have been appointed, or as soon as reasonably practicable be appointed, in relation to that event or to a category of matters which includes that event; and
- (b) the convening authority must cause a service inquiry to be held, if he considers that anything of consequence to any of the regular or reserve forces which is not in his opinion apparent from the death may be learned by any of those forces by means of such an inquiry.

(2) Paragraph (1) shall not apply if a service, UK, British overseas territory or overseas police force is conducting, has conducted, or informs the convening authority that it will conduct, an investigation into the events which caused the death.

(3) Subject to paragraph (1)(b), where a convening authority is appointed in relation to a matter or a category of matters, he may cause a service inquiry to be held in relation to that matter or into any matter within that category.

(4) Notwithstanding anything in paragraphs (1) to (3), the Defence Council may cause a service inquiry to be held in relation to any matter connected with any of Her Majesty’s forces, and for that purpose may carry out, or appoint a person to carry out, any of a convening authority’s functions under these Regulations.

Convening of a service inquiry panel

5. In order to cause a service inquiry to be held in relation to any matter, the convening authority shall convene a service inquiry panel by order specifying—

- (a) that a service inquiry is to be held;
- (b) the president and the other members of the panel; and
- (c) the date on which, and the time and place at which, the panel shall first assemble.

Composition of a service inquiry panel

6.—(1) Subject to the following paragraphs of this Regulation, a service inquiry panel must consist of a president and at least two other members.

(2) If in the opinion of the convening authority the president is unable to continue as president the convening authority must as soon as practicable appoint an existing member or a new member to replace him as president.

(3) Subject to paragraphs (4), if in the opinion of the convening authority any other member is unable to continue as a member, the convening authority may appoint a replacement.

(4) If the membership of a service inquiry panel falls below the requirements of paragraph (1), the convening authority must as soon as practicable appoint one or more new members as necessary to meet those requirements.

(5) Subject to paragraph (6), a member of a service inquiry panel must be—

- (a) an officer, warrant officer or senior non-commissioned officer of any of Her Majesty's forces; or
- (b) a Crown servant.

(6) A person who is a member of an armed force other than any of Her Majesty's forces may be appointed a member of a service inquiry panel, if—

- (a) he is of a rank equivalent to that of a senior non-commissioned officer or above; and
- (b) in the opinion of the convening authority the terms of reference under regulation 7 will require the service inquiry panel to investigate a matter which is likely to be connected with that force as well as with any of Her Majesty's forces.

(7) The president must be an officer—

- (a) subject to service law; and
- (b) of or above the rank of lieutenant commander, major or squadron leader.

(8) Notwithstanding paragraph (1), but subject to any provision of these Regulations expressly requiring any action to be taken by all the members of a service inquiry panel, any function under these Regulations of a service inquiry panel may be performed by such one or more of the members of the panel as the president may decide.

Functions of a service inquiry panel

7.—(1) Subject to regulation 19, the functions of a service inquiry panel shall be to investigate and report on the facts relating to the matters specified in its terms of reference provided under paragraph (2) and otherwise to comply with those terms of reference.

(2) The convening authority must provide the panel with terms of reference on or before the date on which the panel is required to assemble.

(3) The convening authority may, by notice in writing to the president amend the terms of reference at any time until it has taken action under regulation 19(4)(a).

(4) The terms of reference of a service inquiry panel must specify—

- (a) the matters, the facts relating to which the panel is to investigate and report upon; and
- (b) any matter about which the panel is required to make recommendations or on which it is required to express an opinion;

and may include such other terms as the convening authority considers appropriate.

Power to defer or suspend service inquiry

8.—(1) The convening authority in relation to a matter may at any time defer the convening of a service inquiry panel, or, at any time after making a convening order, issue a suspension notice to the president to suspend the proceedings of the panel. A deferment or suspension must only be for such period as the convening authority considers necessary to allow for—

- (a) the carrying out of any other investigation, whether in the United Kingdom or abroad, relating to any of the matters to which the service inquiry relates or would relate, or
- (b) the determination of any—
 - (i) civil proceedings whether in the United Kingdom or abroad;
 - (ii) proceedings for any criminal offence in any court whether in the United Kingdom or abroad;
 - (iii) proceedings in a service court; or
 - (iv) a summary hearing.

(2) The power conferred by paragraph (1) may be exercised whether or not the investigation or proceedings have begun.

(3) A suspension notice under paragraph (1) may suspend the proceedings of the service inquiry panel until a specified day, until the happening of a specified event or until the giving by the convening authority of a further notice to the president to end the suspension.

(4) A suspension notice under paragraph (1) must state the convening authority's reasons for suspending the proceedings of the service inquiry panel.

Termination of a service inquiry

9.—(1) The convening authority in relation to a service inquiry may at any time issue a notice to the president terminating the inquiry from such date as is specified in the notice. The date specified may be the date of issue of the notice or any later date.

(2) For the purposes of these Regulations a service inquiry comes to an end on—

- (a) the date on which, in accordance with regulation 19, the convening authority declares a provisional report to be the final report; or
- (b) any earlier date specified in a notice under paragraph (1) terminating the service inquiry.

(3) A notice given under paragraph (1) must state the convening authority's reasons for terminating the service inquiry.

(4) The termination of a service inquiry by a notice under paragraph (1) shall be—

- (a) subject to a duty to complete a service inquiry where there is a duty to hold a service inquiry under regulation 4(1); and
- (b) without prejudice to the power of the convening authority under regulation 4(3) and the power of the Defence Council under regulation 4(4) to cause a further service inquiry to be held in relation to the same matter.

Procedure and record of proceedings

10.—(1) Subject to any other provision of these Regulations, the procedure of the panel is to be such as the president may direct.

(2) The panel shall sit on such occasions and in such places as the president may direct.

(3) The president may adjourn the proceedings of the panel.

(4) The president must ensure that a record of the proceedings of the panel is made.

(5) The president must ensure that the convening order and the terms of reference are entered in the record of the proceedings on the date the panel first assembles.

- (6) The record of the proceedings under paragraph (4) shall also include—
- (a) a transcript of any oral evidence given to the panel;
 - (b) a copy of any written evidence given to the panel; and
 - (c) a copy of any other document which the president decides should form part of the record.

Evidence and witnesses

11.—(1) The president shall decide—

- (a) subject to paragraph (9), the persons from whom written or oral evidence is to be requested; and
- (b) whether a person is to be requested to produce any document or other thing,

and the president may so decide at any time before or during the proceedings of the service inquiry panel.

(2) Where the president makes a decision under paragraph (1) that a person be requested to provide written evidence or to produce any document or other thing, the panel must send a written request to the person—

- (a) to provide written evidence; or
- (b) to produce the document or other thing.

(3) The president may allow a witness to give evidence through a live television link or by other means.

(4) Any document or other thing produced to the panel by a witness for use as evidence shall be made an exhibit.

(5) Each exhibit must be attached to or kept with the record of the proceedings unless the president decides that it is not practicable or convenient to do so.

(6) If in accordance with paragraph (5) an exhibit is not attached to or kept with the record of the proceedings, the president shall ensure that such steps as he considers appropriate are taken for its safekeeping until the service inquiry has come to an end in accordance with regulation 9.

(7) Subject to paragraphs (8) and (9), every witness who gives oral evidence may be required by the president to do so on oath.

(8) Where the president would, apart from this paragraph, require a witness to give oral evidence on oath and—

- (a) the witness objects to taking an oath; or
- (b) it is not reasonably practicable without inconvenience to, or without delaying the proceedings of, the panel to administer an oath to a witness in the manner appropriate to his religious belief,

he must be required to make a solemn affirmation instead of taking an oath.

(9) A witness under the age of fourteen who does not in the opinion of the president understand the nature of an oath or solemn affirmation—

- (a) may give evidence to the panel, if in the opinion of the president he understands that he should tell the truth when giving evidence to them; and
- (b) must not give evidence to the panel on oath or having solemnly affirmed.

(10) An oath must be administered, or a solemn affirmation made, before the panel and in the form and manner set out in Schedule 1.

Restrictions on admissibility of evidence

12.—(1) Subject to paragraph (2), evidence given by a person to a service inquiry panel shall not be admissible against a person at a summary hearing or in proceedings before a civilian court or a service court.

(2) Evidence given before a service inquiry panel may be admissible in proceedings referred to in paragraph (1) for—

- (a) an offence against section 42 of the Act where the corresponding offence under the law of England and Wales is an offence mentioned in sub-paragraph (b);
- (b) an offence under section 2 or 5 of the Perjury Act 1911^(a).

Issue of witness notice on application to a judge advocate

13.—(1) Subject to paragraph (5), a judge advocate may issue a witness notice if he is satisfied that a person—

- (a) is likely to be able to give or provide material evidence, or to produce or provide any document or other thing likely to be material evidence, for the purpose of a service inquiry,
- (b) will not voluntarily attend the proceedings of the service inquiry panel or voluntarily produce or provide that document or other thing, and
- (c) is a civilian subject to service discipline, or a person in the United Kingdom, the Isle of Man or a British overseas territory.

(2) A witness notice must require the person referred to in paragraph (1) to—

- (a) attend the proceedings of the panel at a time and place stated in the witness notice, and give the evidence, or produce the document or other thing, or
- (b) provide the document or other thing to the panel within a specified period.

(3) A witness notice may only be issued on an application by the president in accordance with paragraph 1 of Schedule 2, and paragraph 2 of that Schedule shall apply to the consideration of such an application.

(4) The judge advocate who decides whether to issue a witness notice may refuse to issue the witness notice if any requirement of paragraph 1 of Schedule 2 relating to the application is not met.

(5) A person may not be required to produce or provide any evidence or document if he could not be required to do so if the proceedings of the service inquiry were civil proceedings in a court in England and Wales.

Service of witness notice

14. Where a judge advocate issues a witness notice, the court administration officer shall serve it on the person to whom it is addressed by—

- (a) delivering it to him;
- (b) leaving it at his usual or last known place of residence;
- (c) sending it by post to that address; or
- (d) transmitting it to him by fax or other electronic means, but only if he has agreed to accept service by that method.

Application to vary or revoke witness notice

15.—(1) If a witness notice has been issued, and the person to whom it is addressed applies in accordance with paragraph 3 of Schedule 2 and satisfies a judge advocate that—

- (a) he is unable to comply with the witness notice; or
- (b) it is not reasonable in all the circumstances to require him to comply with it,

the judge advocate must vary or revoke the witness notice.

^(a) 1 & 2 Geo 5 c.6

(2) Where the judge advocate varies or revokes a witness notice, the judge advocate may order that the person to whom the witness notice was addressed shall be paid by the relevant authority the whole or a specified part of his costs of the application under paragraph (1).

(3) In paragraph (2) the “relevant authority” means the convening authority or (where the Defence Council has caused an inquiry to be held under regulation 4(4) the Defence Council or a person appointed by the Defence Council to carry out any function of a convening authority.

Offences

16.—(1) A person is guilty of an offence if he fails without reasonable excuse to do anything that he is required to do by a witness notice served upon him in accordance with regulation 14.

(2) A person is guilty of an offence if, during a service inquiry, he does anything that is intended to have the effect of—

- (a) distorting or otherwise altering any evidence, document or other thing that is given, produced or provided to a service inquiry panel, or
- (b) preventing any evidence, document or other thing from being given, produced or provided to a service inquiry panel,

or does anything that he knows or believes is likely to have such effect.

(3) A person is guilty of an offence if, during a service inquiry —

- (a) he intentionally suppresses or conceals a document that is, and that he knows or believes to be, a relevant document, or
- (b) he intentionally alters or destroys any such document.

(4) For the purposes of paragraph (3) a document is a “relevant document” if it is likely that the service inquiry panel would (if aware of its existence) wish to be provided with it.

(5) A person does not commit an offence under paragraph (2) or (3) by doing anything that he is authorised to do by the president or by virtue of regulation 13(5).

(6) An offence under any of paragraphs (1) to (3) is triable summarily by a civilian court in the United Kingdom, the Isle of Man or in a British overseas territory, and shall be punishable by a fine not exceeding level 3 on the standard scale.

Persons who may be permitted to attend

17.—(1) Subject to regulation 18, the president must obtain the consent of the convening authority before permitting a person to be present at the proceedings of the panel, other than as a witness.

(2) Where the president permits a person to be present at the proceedings of the panel, that permission shall—

- (a) apply only to such part, or the whole, of those proceedings as the convening authority has agreed before the permission is given; and
- (b) be subject to such conditions as the convening authority may reasonably impose when he gives his consent under paragraph (1).

Persons entitled to attend

18.—(1) Subject to paragraph (2), a potentially affected person shall be entitled to be present at the proceedings of a service inquiry panel.

(2) A potentially affected person’s entitlement under paragraph (1) shall be subject to such conditions and exclusions as the president, after consulting the convening authority, may reasonably impose from time to time. Such exclusions may—

- (a) include an exclusion from being present at such part of the proceedings of the panel as the president may specify; and
- (b) be imposed before or at any time during the proceedings of the panel.

(3) Where under paragraph (1) a potentially affected person is entitled to be present at any part of the proceedings of the panel—

- (a) he may be represented at that part by a legal representative or, with the consent of the president, he may be represented by a person other than a legal representative;
- (b) he may give evidence, question witnesses or produce any witness to give evidence, in each case as to any other matter as to which, in the opinion of the president, the potentially affected person may be affected in relation to his character or professional reputation by the findings of the panel;
- (c) where he is represented, his representative may question witnesses and may, with the permission of the president, address the panel; and
- (d) the president shall provide him with a copy of any part of the record of the proceedings of the panel, if the president considers it appropriate to do so.

(4) In this regulation “potentially affected person” means a person who in the opinion of the president may be affected in relation to his character or professional reputation by the findings of the panel.

Submission of reports

19.—(1) When the president considers that the panel has fulfilled the terms of reference, he shall ensure that a provisional report is prepared, that the report is signed by all the members of the panel and that the report is provided, as soon as practicable, to the convening authority.

(2) The provisional report may also contain anything that the president considers to be relevant to the terms of reference, including any recommendations or the expression of any opinion which the president considers it appropriate to make whether or not required to do so by the terms of reference.

(3) The president shall ensure that the provisional report reflects any points of disagreement between the members of the panel.

(4) After considering the provisional report, the convening authority may—

- (a) declare the provisional report as the final report; or
- (b) require the panel (whether by amending the terms of reference or otherwise) to undertake such further work as he considers appropriate, having regard to the matters which the panel was to investigate under the terms of reference.

(5) If the convening authority requires the panel to undertake further work in accordance with paragraph (4), the panel shall, on completing that work, submit a revised provisional report. Paragraphs (1) to (4) shall then apply to that provisional report.

Transitory provisions

20. Schedule 3 shall have effect for the purposes of these Regulations.

25th June 2008

Derek Twigg
Parliamentary Under Secretary of State
Ministry of Defence

OATHS AND AFFIRMATIONS*Manner of Administering Oaths and Affirmations*

1. The person taking the oath shall hold the New Testament, or if a Jew the Old Testament, in his uplifted hand and shall say, or repeat after the person administering it, the oath provided in this Schedule for that category of person.

2. If any person to whom an oath is administered desires to swear in the form and manner in which an oath is usually administered in Scotland, he may do so with uplifted hand and saying, or repeating after the person administering it, the Scottish oath provided in this Schedule for that category of person.

3. If none of the forms of oath provided in this Schedule is appropriate to the religious beliefs of the person taking the oath, an oath may be administered in such form and manner as the person taking the oath declares to be binding on his conscience in accordance with his religious beliefs.

4. A person making a solemn affirmation instead of taking an oath shall say, or repeat after the person administering it, the affirmation provided in this Schedule for that category of person.

*Forms of Oath***Witness aged 18 years or over**

5. I swear by Almighty God that the evidence which I shall give shall be the truth, the whole truth, and nothing but the truth.

Witness under the age of 18 years

6. I promise before Almighty God that the evidence which I shall give shall be the truth, the whole truth, and nothing but the truth.

Form of Scottish oaths

7. The form of Scottish oath shall in each case be the same as the form of oath set out in paragraph 5 or 6 (as appropriate to the age of the person taking the oath), except that:

- (a) for the words “I swear by Almighty God” there shall be substituted the words “I swear by Almighty God and as I shall answer to God at the Great Day of Judgement”; and
- (b) for the words “I promise before Almighty God” there shall be substituted the words “I promise before Almighty God and as I shall answer to God at the Great Day of Judgement”.

Form of solemn affirmations

8. The form of solemn affirmation shall in each case be the same as the form of oath set out in paragraph 5 or 6 (as appropriate to the age of the person taking this oath), except that for the words “I swear by Almighty God” and “I promise before Almighty God” there shall be substituted the words “I solemnly, sincerely and truly declare and affirm”.

FURTHER PROVISION ABOUT WITNESS NOTICES

Application for and issue of witness notice

1.—(1) An application under regulation 13(3) for the issue of a witness notice must be made by the president, must identify the proposed witness, and must state—

- (a) (i) the matters about which the proposed witness is likely to be able to give or provide evidence, or
- (ii) the document or other thing which the proposed witness is likely to be able to produce or provide, and
- (b) why the evidence, document or other thing is likely to be material evidence for the purpose of the service inquiry.

(2) The application may be made orally unless the judge advocate otherwise directs.

(3) An application in writing must contain a statement that the president believes that the facts stated in the application are true.

(4) The president must serve the application in every case on the court administration officer and on such other persons as the judge advocate may direct.

(5) The judge advocate may issue a witness notice with or without a hearing.

Application for witness notice to produce a document, etc: judge advocate's assessment of objection

2.—(1) This paragraph applies where a person served under paragraph 1(4) with an application for a witness notice requiring a person to produce in evidence a document or thing objects to its production on the grounds that—

- (a) it is not likely to be material evidence; or
- (b) even if it is likely to be material evidence, it is evidence or a document referred to in regulation 13(5).

(2) The judge advocate may require the proposed witness to make the document or thing available for the objection to be assessed.

(3) The judge advocate may invite—

- (a) the proposed witness or any representative of the proposed witness; or
- (b) a person to whom the document or thing relates or any representative of such a person,

to help the judge advocate assess the objection.

Application to vary or revoke witness notice

3.—(1) An application under regulation 15 (application to vary or revoke witness notice) must be made in writing to the court administration officer and must set out—

- (a) why the applicant is unable to comply with the witness notice; or
- (b) why the applicant considers that it is not reasonable in all the circumstances to require him to comply with the witness notice.

(2) On receiving the application, the court administration officer shall serve notice of the application on the president.

(3) A judge advocate shall neither grant nor refuse the application unless the applicant and the president have been given an opportunity of making representations, whether at a hearing or (where they agree to do so) in writing without a hearing.

(4) Paragraph 2 shall apply to an application under regulation 15 where the witness notice requires the applicant to produce in evidence a document or thing and the applicant seeks to satisfy the judge advocate that—

- (a) it is not likely to be material evidence; or
- (b) even if it is likely to be material evidence, it is evidence or a document referred to in regulation 13(5).

(5) The court administration officer shall notify the applicant and the president of the decision of the judge advocate in relation to the application.

SCHEDULE 3

Regulation 20

TRANSITORY PROVISIONS

1. Before the definition of “civilian subject to service discipline” in section 370 of the Act comes in to force, that expression shall mean civilians to whom—

- (a) Part 2 of the Army Act 1955(a) is applied by section 209 of that Act, or
- (b) Part 2 of the Air Force 1955(b) is applied by section 209 of that Act, or
- (c) Parts 1 and 2 of the Naval Discipline Act 1957(c) are applied by section 118 of that Act.

2. Before the definition of “court administration officer” in section 374 of the Act comes into force “court administration officer”—

- (a) has the same meaning as in section 84A of the Army Act 1955 in relation to a service inquiry the president of which is a person subject to military law within the meaning of the Army Act 1955;
- (b) has the same meaning as in section 84A of the Air Force 1955 in relation to a service inquiry the president of which is subject to air force law within the meaning of that Act; and
- (c) has the same meaning as in section 53A of the Naval Discipline Act 1957 in relation to a service inquiry the president of which is a person who, within the meaning of the Naval Discipline Act 1957, is subject to that Act.

3. Before the definition of “judge advocate” in section 362 of the Act comes into force, “judge advocate”—

- (a) in relation to a service inquiry the president of which is a person subject to military law within the meaning of the Army Act 1955, means a judicial officer appointed under section 75L of that Act;
- (b) in relation to a service inquiry the president of which is a person subject to air force law within the meaning of the Air Force 1955, means a judicial officer appointed under section 75L of that Act; and
- (c) in relation to a service inquiry the president of which is a person who, within the meaning of the Naval Discipline Act 1957, is subject to that Act, means a judicial officer appointed under section 47M of that Act.

4. “Service court” includes—

- (a) a summary appeal court constituted under section 83ZA of the Army Act 1955, section 83ZA of the Air Force Act 1955 or section 52FF of the Naval Discipline Act 1957;
- (b) a court-martial constituted under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957;

(a) 1955 c.18
(b) 1955 c.19
(c) 1957 c.53

- (c) a Standing Civilian Court, established under section 6 of the Armed Forces Act 1976^(a); and
- (d) the Courts-Martial Appeal Court.

5. “Summary hearing” includes summary dealing under section 76B of the Army Act 1955 or of the Air Force Act 1955 and summary trial under section 52D of the Naval Discipline Act 1957.

^(a) 1976 c.52

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the holding of inquiries by the armed forces under the Armed Forces Act 2006. Regulation 3 provides for the appointment of convening authorities in relation to particular matters or categories of matter. Under regulation 4 the convening authority in relation to a matter may cause a service inquiry to be held into the matter. This is subject to a duty to hold a service inquiry into deaths of persons while subject to service law, if the convening authority considers that any lesson which is not apparent from the death may be learned by means of a service inquiry. Under regulation 4 the Defence Council may also cause a service inquiry to be held into any matter.

Regulation 5 provides for the convening of a service inquiry by order of the convening authority.

Regulations 6 and 7 deal with the membership of the panel conducting a service inquiry and with the provision of terms of reference by the convening authority to the service inquiry panel.

Under regulation 8 the convening authority may defer convening a service inquiry, or suspend such an inquiry to allow other investigations to be carried out or legal proceedings to be completed.

Regulation 9 provides for a service inquiry to end on the making of the final report or to be ended by the issue by the convening authority of a notice. Such a notice must give reasons for ending the inquiry. Regulation 9 also provides that termination by notice does not prevent the holding of another inquiry into the same matter.

Regulation 10 deals with procedure, adjournments and the recording of the proceedings and evidence.

Regulation 11 and Schedule 1 provides for the calling of witnesses, evidence by live television link and the giving of evidence under oath.

Regulation 12 deals with the exclusion of evidence given to a service inquiry from use as evidence in service disciplinary proceedings or in criminal proceedings before civilian courts.

Regulation 13, 14 and 15 and Schedule 2 provide for the application for, and the issue, service and revocation of, notices requiring witnesses to attend a service inquiry or to provide evidence.

Regulation 16 creates offences in relation to non-compliance with a witness notice and intentional interference with or suppression of evidence.

Regulation 17 requires the president of a service inquiry to obtain the convening authority's consent before allowing a person other than a witness to attend the proceedings. Under the regulation, such attendance may be subject to reasonable conditions, imposed by the convening authority when giving his consent.

Under regulation 18 persons who, in the president's opinion, may be affected as to their character or professional reputation by the inquiry's findings are entitled to attend the inquiry. Attendance is subject to such conditions as the president, after consulting the convening authority, may reasonably impose. Where a person is entitled to be present, he has under regulation 18 rights to be represented, to give evidence and to question witnesses.

Regulation 19 deals with the presentation by a service inquiry of a provisional report or reports and the declaration by the convening authority of the final report.

Regulation 20 and Schedule 3 make transitory provision so that references to certain terms and expressions in the Regulations which are defined in the Armed Forces Act 2006 are interpreted as references to equivalent provisions in the Army Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957, until replaced by the relevant provisions of the Armed Forces Act 2006.

STATUTORY INSTRUMENTS

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DEFENCE

The Armed Forces (Service Inquiries) Regulations 2008

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