
STATUTORY INSTRUMENTS

2009 No. 1059

**The Armed Forces Act 2006
(Transitional Provisions etc) Order 2009**

PART 19

ENLISTMENT, TERMS OF SERVICE ETC

Interpretation

189. References in this Part to a person's enlistment before commencement are to—

- (a) his enlistment in the regular army, the Royal Marines or the regular air force before commencement, or
- (b) his entry for service in the Royal Navy before commencement,

and references to persons enlisted before commencement are to be read accordingly.

Enlistment

190. In section 328 of AFA 2006 (power to make regulations with respect to the enlistment of persons in the regular forces)—

- (a) subsection (1) is to be read as including power to make provision deeming a person to have been appointed as a recruiting officer if immediately before commencement he was—
 - (i) a recruiting officer within the meaning given by section 1 of AA 1955 or AFA 1955; or
 - (ii) authorised under regulations made by the Defence Council to enter persons for service in the Royal Navy;
- (b) in subsection (2)(g) (approval for service) the reference to persons who have enlisted includes persons enlisted before commencement;
- (c) in subsection (3) (validity of enlistment) references to a person's enlistment include a person's enlistment before commencement, and "enlisted" is to be read accordingly.

Terms and conditions of enlistment and service

191.—(1) In section 329(1) of AFA 2006 (power to make regulations with respect to terms and conditions of enlistment and service) the reference to persons who have enlisted in the regular forces includes persons enlisted before commencement.

(2) Each of the following have effect as if made under that subsection—

- (a) the Royal Marines Terms of Service Regulations 2006(1);
- (b) the Royal Navy Terms of Service (Ratings) Regulations 2006(2);

- (c) the Royal Air Force Terms of Service Regulations 2007(3);
- (d) the Army Terms of Service Regulations 2007(4).

Desertion and absence without leave: forfeiture of service etc

192.—(1) In section 330(1) of AFA 2006 (power to make regulations with respect to a confession of desertion) references to a confession that a person is guilty of an offence under section 8 of that Act include a confession, whether made before or after commencement, that he is guilty of an offence under section 37 of AA 1955 or AFA 1955 or section 16 of NDA 1957.

(2) In section 330(2) of AFA 2006 (power to make regulations providing for forfeiture of service by a person convicted of desertion) the reference to an offence under section 8 of that Act includes an offence under section 37 of AA 1955 or AFA 1955 or section 16 of NDA 1957.

(3) Section 330(1) to (3) of AFA 2006 are to be read as including power to make provision as to the effect of—

- (a) a direction given under section 81(2) of AA 1955 or AFA 1955,
- (b) an order made under section 74(1) of NDA 1957, or
- (c) the forfeiture of a period of service by virtue of section 17(1) or 81(2) of AA 1955 or AFA 1955, or section 74(1) or 129D(1) of NDA 1957,

and enabling a determination to be made in prescribed circumstances restoring (in whole or in part) a period of service forfeited by virtue of such a direction or order or of any provision mentioned in sub-paragraph (c).

Discharge etc from the regular forces and transfer to the reserve forces

193.—(1) In section 331(3) of AFA 2006 (power to make regulations conferring on a warrant officer a right to be discharged following his reduction in rank or rate) references to a warrant officer's reduction in rank or rate include a reduction imposed before commencement.

(2) Section 331(4) of that Act (power to make regulations enabling a person's discharge or transfer to the reserve forces to be postponed) is to be read as including power to make provision as to the effect of—

- (a) a person's retention in service by virtue of section 9 of AA 1955 or AFA 1955, paragraph 4A of Schedule 7 to AA 1955 or section 4 of AFA 1966;
- (b) a declaration made by a person under section 9(6) of AA 1955 or AFA 1955, paragraph 4A(6) of Schedule 7 to AA 1955 or section 4(6) of AFA 1966; and
- (c) any notice given by a person in accordance with such a declaration.

Membership of reserve force

194. Paragraph 25 of Schedule 14 to AFA 2006 (amendment of section 2(2)(a) of RFA 1996) does not prevent a person who, immediately before commencement, was a member of a reserve force from continuing to be a member of that force.

(3) [S.I. 2007/650](#).

(4) [S.I. 2007/3382](#). The Regulations are amended by the Army Terms of Service (Amendment etc) Regulations 2008, [S.I. 2008/1849](#), regulation 2.

Term of compulsory service

195. In section 13(7) of RFA 1996 (definition of “term of compulsory service”) the reference to a requirement imposed under AFA 2006 includes a requirement imposed by or under AA 1955, AFA 1955 or AFA 1966.

Complaints to employment tribunals etc

196.—(1) In the following provisions, references to a service complaint include a complaint made under the service redress procedures—

- (a) sections 7A(5), 7AB and 7AC of the Equal Pay Act 1970⁽⁵⁾;
- (b) sections 6A(5) and 6AB of the Equal Pay Act (Northern Ireland) 1970⁽⁶⁾;
- (c) section 85(9B) of the Sex Discrimination Act 1975⁽⁷⁾;
- (d) section 75(9) of the Race Relations Act 1976⁽⁸⁾;
- (e) article 82(9B) of the Sex Discrimination (Northern Ireland) Order 1976⁽⁹⁾;
- (f) section 192(4) of the Employment Rights Act 1996⁽¹⁰⁾;
- (g) article 71(8) of the Race Relations (Northern Ireland) Order 1997⁽¹¹⁾.

(2) In the following provisions, references to the service complaint procedures include the service redress procedures—

- (a) section 7A(7) of the Equal Pay Act 1970;
- (b) section 6A(7) of the Equal Pay Act (Northern Ireland) 1970;
- (c) section 85(9D) of the Sex Discrimination Act 1975;
- (d) section 75(9B) of the Race Relations Act 1976;
- (e) article 82(9D) of the Sex Discrimination (Northern Ireland) Order 1976;
- (f) section 192(5) of the Employment Rights Act 1996;
- (g) article 71(10) of the Race Relations (Northern Ireland) Order 1997;

but nothing in this paragraph authorises the making, after 31st December 2007, of a complaint under the service redress procedures.

(3) In this article “the service redress procedures” means the procedures, excluding those which relate to the making of a report on a complaint to Her Majesty, referred to in section 180 of AA 1955 or AFA 1955 or section 130 of NDA 1957.

⁽⁵⁾ 1970 c. 41.

⁽⁶⁾ 1970 c. 32.

⁽⁷⁾ 1975 c. 65.

⁽⁸⁾ 1976 c. 74.

⁽⁹⁾ S.I. 1976/1042 (N.I. 15).

⁽¹⁰⁾ 1996 c. 18.

⁽¹¹⁾ S.I. 1997/869 (N.I. 6).