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## STATUTORY INSTRUMENTS

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**2018 No. 1166**

### **DEFENCE**

#### **The Armed Forces (Terms of Service) (Amendments Relating to Flexible Working) Regulations 2018**

*Made* - - - - *7th November 2018*

*Coming into force* - - *1st April 2019*

The Defence Council makes the following Regulations in exercise of the powers conferred by sections 328(5), 329 and 373(5)(b) of the Armed Forces Act 2006<sup>(1)</sup>.

A draft of this instrument was laid before Parliament in accordance with section 373(3) of that Act<sup>(2)</sup> and approved by resolution of each House of Parliament.

#### **Citation and commencement**

1. These Regulations may be cited as the Armed Forces (Terms of Service) (Amendments Relating to Flexible Working) Regulations 2018 and come into force on 1st April 2019.

#### **Interpretation**

2. In these Regulations—

“the RN Regulations” means the Royal Navy Terms of Service (Ratings) Regulations 2006<sup>(3)</sup>;

“the RM Regulations” means the Royal Marines Terms of Service Regulations 2006<sup>(4)</sup>;

“the Army Regulations” means the Army Terms of Service Regulations 2007<sup>(5)</sup>;

“the RAF Regulations” means the Royal Air Force Terms of Service Regulations 2007<sup>(6)</sup>.

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(1) 2006 c. 52; section 329 was amended by section 1 of the Armed Forces (Flexible Working) Act 2018 (c. 2). Section 328(5) is cited because of the meaning given to the word “prescribed”. The Armed Forces Act 2006 was due to expire on account of section 382 of that Act (as amended by section 1 of the Armed Forces Act 2016 (c. 21)) but has been continued most recently by S.I. 2018/519. The Defence Council is treated as if it were a Minister of the Crown for the purposes of the Statutory Instruments Act 1946 (c. 36) by virtue of section 373(2) of the Armed Forces Act 2006.

(2) Section 373(3) was amended by section 1 of the Armed Forces (Flexible Working) Act 2018 (c. 2).

(3) S.I. 2006/2918 as amended by S.I. 2009/831, 2009/1089, 2011/1523 and 2014/3068.

(4) S.I. 2006/2917 as amended by S.I. 2009/831, 2009/1089, 2011/1523 and 2014/3068.

(5) S.I. 2007/3382 as amended by S.I. 2008/1849, 2009/831, 2009/1089, 2011/1523 and 2014/3068.

(6) S.I. 2007/650 as amended by S.I. 2009/831, 2009/1089, 2011/1523 and 2014/3068.

## The RN Regulations

3. The RN Regulations are amended as follows.

4. In regulation 2 (application and interpretation)—

(a) in paragraph (2)(7), insert in the appropriate places in the alphabetical order the following definitions—

““duty station” means a PSF’s duty station set out in the terms of a PSF’s flexible service arrangement;

“flexible service arrangement” means a flexible service arrangement under which a PSF may serve—

- (a) on a part-time basis;
- (b) on a restricted separation basis; or
- (c) on both of those bases;

“part-time basis” means service which is subject to restrictions on the times at which the PSF can be required to perform the duties the PSF would, or could, be required to perform if the PSF were serving on a full-time basis and “part-time day” is to be construed accordingly;

“PSF” means a person serving in accordance with a flexible service arrangement;

“residence” means a PSF’s residence set out in the terms of a PSF’s flexible service arrangement;

“restricted separation basis” means service on the basis that, on each day that the PSF is required to perform duties—

- (a) the PSF spends at least part of the day at the PSF’s duty station or the PSF’s residence; or
- (b) the day is one of a maximum number of separation days in a restricted separation year;

“restricted separation year” means the period of 12 months beginning with the date on which the PSF begins service on a restricted separation basis or, where appropriate, the anniversary of that date;

“separation day” is a day on which a PSF serving on a restricted separation basis does not spend at least part of the day at the PSF’s duty station or the PSF’s residence.”;

(b) after paragraph (2), insert—

“(2A) The maximum number of separation days in a restricted separation year is calculated by applying the following formula (rounding the result down to the nearest day)

—

$$\left( \frac{A}{B} \right) \times 35$$

Where—

A is the number of days in the restricted separation year when the PSF is serving on a restricted separation basis and which are not—

- (i) part-time days, or
- (ii) days in respect of which the flexible service arrangement has been suspended under regulation 6D;

B is the number of days in the restricted separation year.

(2B) A PSF serving on a restricted separation basis may, notwithstanding the PSF's flexible service arrangement, volunteer to serve away from the PSF's duty station and the PSF's residence.

(2C) Where a PSF volunteers as referred to in paragraph (2B), any day of service away from the PSF's duty station and the PSF's residence does not count towards the PSF's maximum number of separation days."

**5. After regulation 6 (service in the reserve) insert—**

**“Flexible service arrangements: general**

**6A.—**(1) A person serving in the Royal Navy may serve in accordance with a flexible service arrangement.

(2) No person may serve in accordance with a flexible service arrangement—

- (a) for more than 1,095 consecutive days; or
- (b) for more than a total of 1,460 days in any 12 year period.

(3) For the purposes of paragraph (2), where a PSF's flexible service arrangement is suspended under regulation 6D, any day on which that suspension is in effect is not treated as a day on which the PSF is serving in accordance with a flexible service arrangement.

(4) The terms of a flexible service arrangement must specify—

- (a) whether the PSF is to serve (i) on a part-time basis, (ii) on a restricted separation basis; or (iii) on both of those bases;
- (b) if the PSF is to serve on a part-time basis—
  - (i) the restrictions (whether by reference to a weekly pattern, a percentage of the PSF's full-time service or otherwise) on the times at which the PSF can be required to perform the duties the PSF would, or could, be required to perform if the PSF were serving on a full-time basis;
  - (ii) the date on which the PSF is to begin serving on a part-time basis, the date on which that service is to end and the duration of that service in days;
- (c) if the PSF is to serve on a restricted separation basis—
  - (i) the PSF's duty station and the PSF's residence (which may be the same);
  - (ii) the date on which the PSF is to begin serving on a restricted separation basis, the date on which that service is to end and the duration of that service in days;
- (d) if the PSF is to serve on both of the bases referred to in sub-paragraphs (b) and (c), the matters referred to in those sub-paragraphs.

(5) Where a PSF's flexible service arrangement is suspended under regulation 6D, that suspension does not affect the terms of that arrangement which specify the end date of the PSF's service on a part-time basis or the end date of the PSF's service on a restricted separation basis (as applicable).

**Application for a flexible service arrangement**

**6B.—**(1) A person (“the applicant”) may make an application in writing to the competent naval authority to serve in accordance with a flexible service arrangement.

(2) The application must set out—

- (a) whether the applicant proposes to serve (i) on a part-time basis, (ii) on a restricted separation basis; or (iii) on both of those bases;
  - (b) if the applicant proposes to serve on a part-time basis, the matters referred to in regulation 6A(4)(b);
  - (c) if the applicant proposes to serve on a restricted separation basis, the matters referred to in regulation 6A(4)(c);
  - (d) if the applicant proposes to serve on both a part-time basis and a restricted separation basis, the matters referred to in regulation 6A(4)(b) and (c).
- (3) On receipt of the application, the competent naval authority must—
- (a) approve the application on the terms proposed under paragraph (2);
  - (b) offer the applicant a flexible service arrangement on terms that are different to those set out in the application referred to in paragraph (2); or
  - (c) refuse the application and notify the applicant of that refusal in writing.
- (4) If the competent naval authority offers the applicant different terms in accordance with paragraph (3)(b), it must notify the applicant in writing of that decision and of those different terms.
- (5) An applicant who receives notification in writing in accordance with paragraph (4) must notify the competent naval authority in writing whether the applicant—
- (a) wishes to serve on the different terms offered by the authority; or
  - (b) does not wish to serve on those terms.
- (6) Where the applicant notifies the competent naval authority in accordance with paragraph (5)(a) that the applicant wishes to serve on the terms offered by it, the authority must approve the application on those terms.

### **Variation of a flexible service arrangement**

**6C.—**(1) The competent naval authority may vary the terms of a PSF's flexible service arrangement where—

- (a) the authority considers it necessary to do so on the grounds of the operational effectiveness of any of Her Majesty's forces; or
  - (b) the authority and the PSF agree to do so.
- (2) If the competent naval authority varies the terms of an arrangement under paragraph (1)—
- (a) the authority must give notice in writing to the PSF of its decision and of the terms of the varied arrangement; and
  - (b) where the PSF is serving on a restricted separation basis, the maximum number of separation days must be recalculated using the formula set out in regulation 2(2A) and the recalculated number of days is to apply in respect of the arrangement as varied.
- (3) Where the PSF has already served away from the PSF's duty station and the PSF's residence for more than the maximum number of separation days in the restricted separation year as recalculated in accordance with paragraph (2)(b), the maximum number of separation days in the restricted separation year is to be treated as having been reached.
- (4) A variation under paragraph (1) takes effect on a date set out in the notice under paragraph (2)(a).

### **Suspension of a flexible service arrangement**

**6D.—**(1) The competent naval authority may suspend a PSF's flexible service arrangement where—

- (a) the authority considers it necessary to do so on the grounds of the operational effectiveness of any of Her Majesty's forces; or
- (b) the authority and the PSF agree to do so.

(2) Where the competent naval authority decides to suspend an arrangement under paragraph (1), the authority must—

- (a) notify the PSF of its decision by notice in writing; and
- (b) set out in that notice the date on which the suspension begins and the duration of the suspension in days.

(3) A PSF's flexible service arrangement is suspended where the competent naval authority has given notice in writing to the PSF and the period specified in the notice, which must not be less than 90 days beginning with the date on which the notice is given, has ended.

(4) The competent naval authority must set out in the notice referred to in paragraph (3) the duration of the suspension in days.

(5) Before the date that the suspension is due to begin in accordance with a notice referred to in paragraph (2) or (3), the competent naval authority and the PSF may agree in writing to vary the date on which the suspension begins or the duration of the suspension in days.

(6) The competent naval authority and the PSF may agree in writing to end the suspension earlier than it is due to end under paragraph (2), (4) or (5).

(7) The PSF's commanding officer may suspend the PSF's flexible service arrangement on any day—

- (a) in order to give full effect to any punishment under the Armed Forces Act 2006; or
- (b) where the PSF is absent without leave.

(8) Where the PSF's commanding officer suspends an arrangement under paragraph (7), the PSF's commanding officer must provide the PSF with notice in writing setting out the date on which the suspension begins and the duration of the suspension in days.

(9) The PSF's commanding officer may end the suspension earlier than it is due to end under paragraph (8).

(10) A PSF's flexible service arrangement is suspended on any day on which the PSF is in service custody.

(11) On any day that the PSF's flexible service arrangement is suspended, the PSF's terms of service are treated as if the PSF was not serving in accordance with a flexible service arrangement.

(12) Where the PSF is serving on a restricted separation basis, upon the ending of a period of suspension the maximum number of separation days must be recalculated using the formula set out in regulation 2(2A) and the recalculated number of days is to apply in respect of the arrangement.

(13) Where the PSF has already served away from the PSF's duty station and the PSF's residence for more than the maximum number of separation days in the restricted separation year as recalculated in accordance with paragraph (12), the maximum number of separation days in the restricted separation year is to be treated as having been reached.

### **Termination of a flexible service arrangement**

**6E.—**(1) A PSF's flexible service arrangement is terminated where—

- (a) the competent naval authority considers it necessary to do so on the grounds of the operational effectiveness of any of Her Majesty's forces;
- (b) the competent naval authority has given notice in writing to the PSF and the period specified in the notice, which must not be less than 90 days beginning with the date on which the notice is given, has ended; or
- (c) the PSF has given notice in writing to the competent naval authority and the period specified in the notice, which must not be less than 90 days beginning with the date on which the notice is given, has ended.

(2) Where the competent naval authority considers it necessary to terminate a PSF's flexible service arrangement under paragraph (1)(a), that termination may take effect immediately.

(3) Where the competent naval authority acts under paragraph (1)(a), it must, as soon as reasonably practicable, provide notice in writing to the PSF specifying its decision.

(4) Before the date that the termination is due to take effect in consequence of the notice referred to in paragraph (1)(b) or (c) (as the case may be), the competent naval authority and the PSF may agree in writing to vary the date on which the termination has effect.

### **Reconsideration of decisions by the competent naval authority**

**6F.—**(1) This regulation applies to any of the following decisions of the competent naval authority ("the decision")—

- (a) to offer an applicant a flexible service arrangement on terms different to those set out in the application made by the applicant under regulation 6B(1);
- (b) to refuse an application for a flexible service arrangement under regulation 6B;
- (c) to vary any of the terms of a flexible service arrangement under regulation 6C;
- (d) to suspend a flexible service arrangement under regulation 6D(1);
- (e) to suspend a flexible service arrangement on conclusion of a period of notice given under regulation 6D(3);
- (f) to terminate a flexible service arrangement under regulation 6E(1)(a);
- (g) to terminate a flexible service arrangement on conclusion of a period of notice given under regulation 6E(1)(b).

(2) Where this regulation applies, the applicant under regulation 6B or the PSF (as the case may be) to whom the decision relates may apply to the competent naval authority for the decision to be reconsidered.

(3) An application under paragraph (2) must be—

- (a) in writing; and
- (b) made within the period of 14 days beginning with the date on which the competent naval authority notified the applicant or the PSF (as the case may be) of its decision in writing.

(4) The competent naval authority may extend the period in paragraph (3)(b) where it considers it appropriate to do so.

(5) An application for reconsideration under paragraph (2) does not prevent the decision from taking effect.

(6) Where an application for reconsideration under paragraph (2) has been brought in accordance with the conditions in paragraph (3), the competent naval authority must—

- (a) reconsider the decision; and
- (b) uphold the decision or make a new decision.

(7) In making a new decision, the competent naval authority may exercise any power it has under regulations 6B to 6E.”.

## **The RM Regulations**

6. The RM Regulations are amended as follows.

7. In regulation 2 (application and interpretation)—

- (a) in paragraph (2)(8), insert in the appropriate places in the alphabetical order the following definitions—

““duty station” means a PSF’s duty station set out in the terms of a PSF’s flexible service arrangement;

“flexible service arrangement” means a flexible service arrangement under which a PSF may serve—

- (a) on a part-time basis;
- (b) on a restricted separation basis; or
- (c) on both of those bases;

“part-time basis” means service which is subject to restrictions on the times at which the PSF can be required to perform the duties the PSF would, or could, be required to perform if the PSF were serving on a full-time basis and “part-time day” is to be construed accordingly;

“PSF” means a person serving in accordance with a flexible service arrangement;

“residence” means a PSF’s residence set out in the terms of a PSF’s flexible service arrangement;

“restricted separation basis” means service on the basis that, on each day that the PSF is required to perform duties—

- (a) the PSF spends at least part of the day at the PSF’s duty station or the PSF’s residence; or
- (b) the day is one of a maximum number of separation days in a restricted separation year;

“restricted separation year” means the period of 12 months beginning with the date on which the PSF begins service on a restricted separation basis or, where appropriate, the anniversary of that date;

“separation day” is a day on which a PSF serving on a restricted separation basis does not spend at least part of the day at the PSF’s duty station or the PSF’s residence.”;

- (b) after paragraph (2), insert—

“(2A) The maximum number of separation days in a restricted separation year is calculated by applying the following formula (rounding the result down to the nearest day)

—

$$\left(\frac{A}{B}\right) \times 35$$

Where—

A is the number of days in the restricted separation year when the PSF is serving on a restricted separation basis and which are not—

- (i) part-time days, or
- (ii) days in respect of which the flexible service arrangement has been suspended under regulation 6D;

B is the number of days in the restricted separation year.

(2B) A PSF serving on a restricted separation basis may, notwithstanding the PSF's flexible service arrangement, volunteer to serve away from the PSF's duty station and the PSF's residence.

(2C) Where a PSF volunteers as referred to in paragraph (2B), any day of service away from the PSF's duty station and the PSF's residence does not count towards the PSF's maximum number of separation days.”

**8. After regulation 6 (service in the reserve) insert—**

**“Flexible service arrangements: general**

**6A.—**(1) A person serving in the Royal Marines may serve in accordance with a flexible service arrangement.

(2) No person may serve in accordance with a flexible service arrangement—

- (a) for more than 1,095 consecutive days; or
- (b) for more than a total of 1,460 days in any 12 year period.

(3) For the purposes of paragraph (2), where a PSF's flexible service arrangement is suspended under regulation 6D, any day on which that suspension is in effect is not treated as a day on which the PSF is serving in accordance with a flexible service arrangement.

(4) The terms of a flexible service arrangement must specify—

- (a) whether the PSF is to serve (i) on a part-time basis, (ii) on a restricted separation basis; or (iii) on both of those bases;
- (b) if the PSF is to serve on a part-time basis—
  - (i) the restrictions (whether by reference to a weekly pattern, a percentage of the PSF's full-time service or otherwise) on the times at which the PSF can be required to perform the duties the PSF would, or could, be required to perform if the PSF were serving on a full-time basis;
  - (ii) the date on which the PSF is to begin serving on a part-time basis, the date on which that service is to end and the duration of that service in days;
- (c) if the PSF is to serve on a restricted separation basis—
  - (i) the PSF's duty station and the PSF's residence (which may be the same);
  - (ii) the date on which the PSF is to begin serving on a restricted separation basis, the date on which that service is to end and the duration of that service in days;
- (d) if the PSF is to serve on both of the bases referred to in sub-paragraphs (b) and (c), the matters referred to in those sub-paragraphs.

(5) Where a PSF's flexible service arrangement is suspended under regulation 6D, that suspension does not affect the terms of that arrangement which specify the end date of the PSF's service on a part-time basis or the end date of the PSF's service on a restricted separation basis (as applicable).

### **Application for a flexible service arrangement**

**6B.**—(1) A person ("the applicant") may make an application in writing to the competent authority to serve in accordance with a flexible service arrangement.

(2) The application must set out—

- (a) whether the applicant proposes to serve (i) on a part-time basis, (ii) on a restricted separation basis; or (iii) on both of those bases;
- (b) if the applicant proposes to serve on a part-time basis, the matters referred to in regulation 6A(4)(b);
- (c) if the applicant proposes to serve on a restricted separation basis, the matters referred to in regulation 6A(4)(c);
- (d) if the applicant proposes to serve on both a part-time basis and a restricted separation basis, the matters referred to in regulation 6A(4)(b) and (c).

(3) On receipt of the application, the competent authority must—

- (a) approve the application on the terms proposed under paragraph (2);
- (b) offer the applicant a flexible service arrangement on terms that are different to those set out in the application referred to in paragraph (2); or
- (c) refuse the application and notify the applicant of that refusal in writing.

(4) If the competent authority offers the applicant different terms in accordance with paragraph (3)(b), it must notify the applicant in writing of that decision and of those different terms.

(5) An applicant who receives notification in writing in accordance with paragraph (4) must notify the competent authority in writing whether the applicant—

- (a) wishes to serve on the different terms offered by the authority; or
- (b) does not wish to serve on those terms.

(6) Where the applicant notifies the competent authority in accordance with paragraph (5)(a) that the applicant wishes to serve on the terms offered by it, the authority must approve the application on those terms.

### **Variation of a flexible service arrangement**

**6C.**—(1) The competent authority may vary the terms of a PSF's flexible service arrangement where—

- (a) the authority considers it necessary to do so on the grounds of the operational effectiveness of any of Her Majesty's forces; or
- (b) the authority and the PSF agree to do so.

(2) If the competent authority varies the terms of an arrangement under paragraph (1)—

- (a) the authority must give notice in writing to the PSF of its decision and of the terms of the varied arrangement; and
- (b) where the PSF is serving on a restricted separation basis, the maximum number of separation days must be recalculated using the formula set out in regulation 2(2A)

and the recalculated number of days is to apply in respect of the arrangement as varied.

(3) Where the PSF has already served away from the PSF's duty station and the PSF's residence for more than the maximum number of separation days in the restricted separation year as recalculated in accordance with paragraph (2)(b), the maximum number of separation days in the restricted separation year is to be treated as having been reached.

(4) A variation under paragraph (1) takes effect on a date set out in the notice under paragraph (2)(a).

### **Suspension of a flexible service arrangement**

**6D.**—(1) The competent authority may suspend a PSF's flexible service arrangement where—

- (a) the authority considers it necessary to do so on the grounds of the operational effectiveness of any of Her Majesty's forces; or
- (b) the authority and the PSF agree to do so.

(2) Where the competent authority decides to suspend an arrangement under paragraph (1), the authority must—

- (a) notify the PSF of its decision by notice in writing; and
- (b) set out in that notice the date on which the suspension begins and the duration of the suspension in days.

(3) A PSF's flexible service arrangement is suspended where the competent authority has given notice in writing to the PSF and the period specified in the notice, which must not be less than 90 days beginning with the date on which the notice is given, has ended.

(4) The competent authority must set out in the notice referred to in paragraph (3) the duration of the suspension in days.

(5) Before the date that the suspension is due to begin in accordance with a notice referred to in paragraph (2) or (3), the competent authority and the PSF may agree in writing to vary the date on which the suspension begins or the duration of the suspension in days.

(6) The competent authority and the PSF may agree in writing to end the suspension earlier than it is due to end under paragraph (2), (4) or (5).

(7) The PSF's commanding officer may suspend the PSF's flexible service arrangement on any day—

- (a) in order to give full effect to any punishment under the Armed Forces Act 2006; or
- (b) where the PSF is absent without leave.

(8) Where the PSF's commanding officer suspends an arrangement under paragraph (7), the PSF's commanding officer must provide the PSF with notice in writing setting out the date on which the suspension begins and the duration of the suspension in days.

(9) The PSF's commanding officer may end the suspension earlier than it is due to end under paragraph (8).

(10) A PSF's flexible service arrangement is suspended on any day on which the PSF is in service custody.

(11) On any day that the PSF's flexible service arrangement is suspended, the PSF's terms of service are treated as if the PSF was not serving in accordance with a flexible service arrangement.

(12) Where the PSF is serving on a restricted separation basis, upon the ending of a period of suspension the maximum number of separation days must be recalculated using

the formula set out in regulation 2(2A) and the recalculated number of days is to apply in respect of the arrangement.

(13) Where the PSF has already served away from the PSF's duty station and the PSF's residence for more than the maximum number of separation days in the restricted separation year as recalculated in accordance with paragraph (12), the maximum number of separation days in the restricted separation year is to be treated as having been reached.

### **Termination of a flexible service arrangement**

**6E.—**(1) A PSF's flexible service arrangement is terminated where—

- (a) the competent authority considers it necessary to do so on the grounds of the operational effectiveness of any of Her Majesty's forces;
- (b) the competent authority has given notice in writing to the PSF and the period specified in the notice, which must not be less than 90 days beginning with the date on which the notice is given, has ended; or
- (c) the PSF has given notice in writing to the competent authority and the period specified in the notice, which must not be less than 90 days beginning with the date on which the notice is given, has ended.

(2) Where the competent authority considers it necessary to terminate a PSF's flexible service arrangement under paragraph (1)(a), that termination may take effect immediately.

(3) Where the competent authority acts under paragraph (1)(a), it must, as soon as reasonably practicable, provide notice in writing to the PSF specifying its decision.

(4) Before the date that the termination is due to take effect in consequence of the notice referred to in paragraph (1)(b) or (c) (as the case may be), the competent authority and the PSF may agree in writing to vary the date on which the termination has effect.

### **Reconsideration of decisions by the competent authority**

**6F.—**(1) This regulation applies to any of the following decisions of the competent authority ("the decision")—

- (a) to offer an applicant a flexible service arrangement on terms different to those set out in the application made by the applicant under regulation 6B(1);
- (b) to refuse an application for a flexible service arrangement under regulation 6B;
- (c) to vary any of the terms of a flexible service arrangement under regulation 6C;
- (d) to suspend a flexible service arrangement under regulation 6D(1);
- (e) to suspend a flexible service arrangement on conclusion of a period of notice given under regulation 6D(3);
- (f) to terminate a flexible service arrangement under regulation 6E(1)(a);
- (g) to terminate a flexible service arrangement on conclusion of a period of notice given under regulation 6E(1)(b).

(2) Where this regulation applies, the applicant under regulation 6B or the PSF (as the case may be) to whom the decision relates may apply to the competent authority for the decision to be reconsidered.

(3) An application under paragraph (2) must be—

- (a) in writing; and

- (b) made within the period of 14 days beginning with the date on which the competent authority notified the applicant or the PSF (as the case may be) of its decision in writing.
- (4) The competent authority may extend the period in paragraph (3)(b) where it considers it appropriate to do so.
- (5) An application for reconsideration under paragraph (2) does not prevent the decision from taking effect.
- (6) Where an application for reconsideration under paragraph (2) has been brought in accordance with the conditions in paragraph (3), the competent authority must—
  - (a) reconsider the decision; and
  - (b) uphold the decision or make a new decision.
- (7) In making a new decision, the competent authority may exercise any power it has under regulations 6B to 6E.”.

### **The Army Regulations**

9. The Army Regulations are amended as follows.

10. In regulation 2 (application and interpretation)—

- (a) in paragraph (3)(9), insert in the appropriate places in the alphabetical order the following definitions—

““duty station” means a PSF’s duty station set out in the terms of a PSF’s flexible service arrangement;

“flexible service arrangement” means a flexible service arrangement under which a PSF may serve—

- (a) on a part-time basis;
- (b) on a restricted separation basis; or
- (c) on both of those bases;

“part-time basis” means service which is subject to restrictions on the times at which the PSF can be required to perform the duties the PSF would, or could, be required to perform if the PSF were serving on a full-time basis and “part-time day” is to be construed accordingly;

“PSF” means a person serving in accordance with a flexible service arrangement;

“residence” means a PSF’s residence set out in the terms of a PSF’s flexible service arrangement;

“restricted separation basis” means service on the basis that, on each day that the PSF is required to perform duties—

- (a) the PSF spends at least part of the day at the PSF’s duty station or the PSF’s residence; or
- (b) the day is one of a maximum number of separation days in a restricted separation year;

“restricted separation year” means the period of 12 months beginning with the date on which the PSF begins service on a restricted separation basis or, where appropriate, the anniversary of that date;

“separation day” is a day on which a PSF serving on a restricted separation basis does not spend at least part of the day at the PSF’s duty station or the PSF’s residence.”;

(b) after paragraph (3), insert—

“(3A) The local service day limit in the case of a person enlisted for local service is to be calculated by applying the following formula (rounding the result down to the nearest day)—

$$\left(\frac{A}{B}\right) \times 30$$

Where—

A is the number of days in any year (beginning on 1st January) or in any part of a year when the person’s term of service has effect and which are not part-time days;

B is the number of days in the year or part of the year.

(3B) The maximum number of separation days in a restricted separation year is calculated by applying the following formula (rounding the result down to the nearest day)

$$\left(\frac{A}{B}\right) \times 35$$

Where—

A is the number of days in the restricted separation year when the PSF is serving on a restricted separation basis and which are not—

- (i) part-time days, or
- (ii) days in respect of which the flexible service arrangement has been suspended under regulation 8D;

B is the number of days in the restricted separation year.

(3C) A PSF serving on a restricted separation basis may, notwithstanding the PSF’s flexible service arrangement, volunteer to serve away from the PSF’s duty station and the PSF’s residence.

(3D) Where a PSF volunteers as referred to in paragraph (3C), any day of service away from the PSF’s duty station and the PSF’s residence does not count towards the PSF’s maximum number of separation days.”.

**11.** In regulation 7 (local service engagement)—

- (a) in paragraph (2), omit the words “full-time”;
- (b) in paragraph (5), for “30 days” substitute “the local service day limit”.

**12.** After regulation 8 insert—

**“Flexible service arrangements: general**

**8A.**—(1) Subject to paragraph (2), a person serving in the regular Army may serve in accordance with a flexible service arrangement.

(2) A person enlisted for local service may not serve on a restricted separation basis.

(3) No person may serve in accordance with a flexible service arrangement—

- (a) for more than 1,095 consecutive days; or
- (b) for more than a total of 1,460 days in any 12 year period.

(4) For the purposes of paragraph (3), where a PSF's flexible service arrangement is suspended under regulation 8D, any day on which that suspension is in effect is not treated as a day on which the PSF is serving in accordance with a flexible service arrangement.

(5) The terms of a flexible service arrangement must specify—

- (a) whether the PSF is to serve (i) on a part-time basis, (ii) on a restricted separation basis; or (iii) on both of those bases;
- (b) if the PSF is to serve on a part-time basis—
  - (i) the restrictions (whether by reference to a weekly pattern, a percentage of the PSF's full-time service or otherwise) on the times at which the PSF can be required to perform the duties the PSF would, or could, be required to perform if the PSF were serving on a full-time basis;
  - (ii) the date on which the PSF is to begin serving on a part-time basis, the date on which that service is to end and the duration of that service in days;
- (c) if the PSF is to serve on a restricted separation basis—
  - (i) the PSF's duty station and the PSF's residence (which may be the same);
  - (ii) the date on which the PSF is to begin serving on a restricted separation basis, the date on which that service is to end and the duration of that service in days;
- (d) if the PSF is to serve on both of the bases referred to in sub-paragraphs (b) and (c), the matters referred to in those sub-paragraphs.

(6) Where a PSF's flexible service arrangement is suspended under regulation 8D, that suspension does not affect the terms of that arrangement which specify the end date of the PSF's service on a part-time basis or the end date of the PSF's service on a restricted separation basis (as applicable).

### **Application for a flexible service arrangement**

**8B.**—(1) A person ("the applicant") may make an application in writing to the competent military authority to serve in accordance with a flexible service arrangement.

(2) The application must set out—

- (a) whether the applicant proposes to serve (i) on a part-time basis, (ii) on a restricted separation basis; or (iii) on both of those bases;
- (b) if the applicant proposes to serve on a part-time basis, the matters referred to in regulation 8A(5)(b);
- (c) if the applicant proposes to serve on a restricted separation basis, the matters referred to in regulation 8A(5)(c);
- (d) if the applicant proposes to serve on both a part-time basis and a restricted separation basis, the matters referred to in regulation 8A(5)(b) and (c).

(3) On receipt of the application, the competent military authority must—

- (a) approve the application on the terms proposed under paragraph (2);
- (b) offer the applicant a flexible service arrangement on terms that are different to those set out in the application referred to in paragraph (2); or
- (c) refuse the application and notify the applicant of that refusal in writing.

(4) If the competent military authority offers the applicant different terms in accordance with paragraph (3)(b), it must notify the applicant in writing of that decision and of those different terms.

(5) An applicant who receives notification in writing in accordance with paragraph (4) must notify the competent military authority in writing whether the applicant—

- (a) wishes to serve on the different terms offered by the authority; or
- (b) does not wish to serve on those terms.

(6) Where the applicant notifies the competent military authority in accordance with paragraph (5)(a) that the applicant wishes to serve on the terms offered by it, the authority must approve the application on those terms.

### **Variation of a flexible service arrangement**

**8C.—**(1) The competent military authority may vary the terms of a PSF's flexible service arrangement where—

- (a) the authority considers it necessary to do so on the grounds of the operational effectiveness of any of Her Majesty's forces; or
- (b) the authority and the PSF agree to do so.

(2) If the competent military authority varies the terms of an arrangement under paragraph (1)—

- (a) the authority must give notice in writing to the PSF of its decision and of the terms of the varied arrangement;
- (b) where the PSF is enlisted for local service, the local service day limit must be recalculated using the formula set out in regulation 2(3A) and the recalculated number of days is to apply in respect of that service; and
- (c) where the PSF is serving on a restricted separation basis, the maximum number of separation days must be recalculated using the formula set out in regulation 2(3B) and the recalculated number of days is to apply in respect of the arrangement as varied.

(3) Where the PSF is enlisted for local service and has already served outside the PSF's area of service for more than the local service day limit for any year or any part of a year as recalculated in accordance with paragraph (2)(b), the local service day limit in the year or part of the year is to be treated as having been reached.

(4) Where the PSF has already served away from the PSF's duty station and the PSF's residence for more than the maximum number of separation days in the restricted separation year as recalculated in accordance with paragraph (2)(c), the maximum number of separation days in the restricted separation year is to be treated as having been reached.

(5) A variation under paragraph (1) takes effect on a date set out in the notice under paragraph (2)(a).

### **Suspension of a flexible service arrangement**

**8D.—**(1) The competent military authority may suspend a PSF's flexible service arrangement where—

- (a) the authority considers it necessary to do so on the grounds of the operational effectiveness of any of Her Majesty's forces; or
- (b) the authority and the PSF agree to do so.

(2) Where the competent military authority decides to suspend an arrangement under paragraph (1), the authority must—

- (a) notify the PSF of its decision by notice in writing; and

- (b) set out in that notice the date on which the suspension begins and the duration of the suspension in days.
- (3) A PSF's flexible service arrangement is suspended where the competent military authority has given notice in writing to the PSF and the period specified in the notice, which must not be less than 90 days beginning with the date on which the notice is given, has ended.
- (4) The competent military authority must set out in the notice referred to in paragraph (3) the duration of the suspension in days.
- (5) Before the date that the suspension is due to begin in accordance with a notice referred to in paragraph (2) or (3), the competent military authority and the PSF may agree in writing to vary the date on which the suspension begins or the duration of the suspension in days.
- (6) The competent military authority and the PSF may agree in writing to end the suspension earlier than it is due to end under paragraph (2), (4) or (5).
- (7) The PSF's commanding officer may suspend the PSF's flexible service arrangement on any day—
  - (a) in order to give full effect to any punishment under the Armed Forces Act 2006; or
  - (b) where the PSF is absent without leave.
- (8) Where the PSF's commanding officer suspends an arrangement under paragraph (7), the PSF's commanding officer must provide the PSF with notice in writing setting out the date on which the suspension begins and the duration of the suspension in days.
- (9) The PSF's commanding officer may end the suspension earlier than it is due to end under paragraph (8).
- (10) A PSF's flexible service arrangement is suspended on any day on which the PSF is in service custody.
- (11) On any day that the PSF's flexible service arrangement is suspended, the PSF's terms of service are treated as if the PSF was not serving in accordance with a flexible service arrangement.
- (12) Where the PSF is enlisted for local service, upon the ending of a period of suspension the local service day limit must be recalculated using the formula set out in regulation 2(3A) and the recalculated number of days is to apply in respect of that service.
- (13) Where the PSF is enlisted for local service and has already served outside the PSF's area of service for more than the local service day limit for any year or any part of a year as recalculated in accordance with paragraph (12), the local service day limit in the year or part of the year is to be treated as having been reached.
- (14) Where the PSF is serving on a restricted separation basis, upon the ending of a period of suspension the maximum number of separation days must be recalculated using the formula set out in regulation 2(3B) and the recalculated number of days is to apply in respect of the arrangement.
- (15) Where the PSF has already served away from the PSF's duty station and the PSF's residence for more than the maximum number of separation days in the restricted separation year as recalculated in accordance with paragraph (14), the maximum number of separation days in the restricted separation year is to be treated as having been reached.

#### **Termination of a flexible service arrangement**

- 8E.—**(1) A PSF's flexible service arrangement is terminated where—
  - (a) the competent military authority considers it necessary to do so on the grounds of the operational effectiveness of any of Her Majesty's forces;

- (b) the competent military authority has given notice in writing to the PSF and the period specified in the notice, which must not be less than 90 days beginning with the date on which the notice is given, has ended; or
  - (c) the PSF has given notice in writing to the competent military authority and the period specified in the notice, which must not be less than 90 days beginning with the date on which the notice is given, has ended.
- (2) Where the competent military authority considers it necessary to terminate a PSF's flexible service arrangement under paragraph (1)(a), that termination may take effect immediately.
- (3) Where the competent military authority acts under paragraph (1)(a), it must, as soon as reasonably practicable, provide notice in writing to the PSF specifying its decision.
- (4) Before the date that the termination is due to take effect in consequence of the notice referred to in paragraph (1)(b) or (c) (as the case may be), the competent military authority and the PSF may agree in writing to vary the date on which the termination has effect.

#### **Reconsideration of decisions by the competent military authority**

**8F.**—(1) This regulation applies to any of the following decisions of the competent military authority (“the decision”)—

- (a) to offer an applicant a flexible service arrangement on terms different to those set out in the application made by the applicant under regulation 8B(1);
  - (b) to refuse an application for a flexible service arrangement under regulation 8B;
  - (c) to vary any of the terms of a flexible service arrangement under regulation 8C;
  - (d) to suspend a flexible service arrangement under regulation 8D(1);
  - (e) to suspend a flexible service arrangement on conclusion of a period of notice given under regulation 8D(3);
  - (f) to terminate a flexible service arrangement under regulation 8E(1)(a);
  - (g) to terminate a flexible service arrangement on conclusion of a period of notice given under regulation 8E(1)(b).
- (2) Where this regulation applies, the applicant under regulation 8B or the PSF (as the case may be) to whom the decision relates may apply to the competent military authority for the decision to be reconsidered.
- (3) An application under paragraph (2) must be—
- (a) in writing; and
  - (b) made within the period of 14 days beginning with the date on which the competent military authority notified the applicant or the PSF (as the case may be) of its decision in writing.
- (4) The competent military authority may extend the period in paragraph (3)(b) where it considers it appropriate to do so.
- (5) An application for reconsideration under paragraph (2) does not prevent the decision from taking effect.
- (6) Where an application for reconsideration under paragraph (2) has been brought in accordance with the conditions in paragraph (3), the competent military authority must—
- (a) reconsider the decision; and
  - (b) uphold the decision or make a new decision.

(7) In making a new decision, the competent military authority may exercise any power it has under regulations 8B to 8E.”.

### The RAF Regulations

13. The RAF Regulations are amended as follows.

14. In regulation 2 (interpretation)—

(a) in paragraph (1)(10), insert in the appropriate places in the alphabetical order the following definitions—

““duty station” means a PSF’s duty station set out in the terms of a PSF’s flexible service arrangement;

“flexible service arrangement” means a flexible service arrangement under which a PSF may serve—

- (a) on a part-time basis;
- (b) on a restricted separation basis; or
- (c) on both of those bases;

“part-time basis” means service which is subject to restrictions on the times at which the PSF can be required to perform the duties the PSF would, or could, be required to perform if the PSF were serving on a full-time basis and “part-time day” is to be construed accordingly;

“PSF” means a person serving in accordance with a flexible service arrangement;

“residence” means a PSF’s residence set out in the terms of a PSF’s flexible service arrangement;

“restricted separation basis” means service on the basis that, on each day that the PSF is required to perform duties—

- (a) the PSF spends at least part of the day at the PSF’s duty station or the PSF’s residence; or
- (b) the day is one of a maximum number of separation days in a restricted separation year;

“restricted separation year” means the period of 12 months beginning with the date on which the PSF begins service on a restricted separation basis or, where appropriate, the anniversary of that date;

“separation day” is a day on which a PSF serving on a restricted separation basis does not spend at least part of the day at the PSF’s duty station or the PSF’s residence.”;

(b) after paragraph (1), insert—

“(1A) The maximum number of separation days in a restricted separation year is calculated by applying the following formula (rounding the result down to the nearest day)

$$\left\lfloor \frac{A}{B} \right\rfloor \times 35$$

Where—

A is the number of days in the restricted separation year when the PSF is serving on a restricted separation basis and which are not—

- (i) part-time days, or
- (ii) days in respect of which the flexible service arrangement has been suspended under regulation 4D;

B is the number of days in the restricted separation year.

(1B) A PSF serving on a restricted separation basis may, notwithstanding the PSF's flexible service arrangement, volunteer to serve away from the PSF's duty station and the PSF's residence.

(1C) Where a PSF volunteers as referred to in paragraph (1B), any day of service away from the PSF's duty station and the PSF's residence does not count towards the PSF's maximum number of separation days.”.

**15.** After regulation 4 (engagement with right to transfer to the reserve, on notice (the notice engagement)) insert—

**“Flexible service arrangements: general**

**4A.—**(1) A person serving in the Royal Air Force may serve in accordance with a flexible service arrangement.

(2) No person may serve in accordance with a flexible service arrangement—

- (a) for more than 1,095 consecutive days; or
- (b) for more than a total of 1,460 days in any 12 year period.

(3) For the purposes of paragraph (2), where a PSF's flexible service arrangement is suspended under regulation 4D, any day on which that suspension is in effect is not treated as a day on which the PSF is serving in accordance with a flexible service arrangement.

(4) The terms of a flexible service arrangement must specify—

- (a) whether the PSF is to serve (i) on a part-time basis, (ii) on a restricted separation basis; or (iii) on both of those bases;
- (b) if the PSF is to serve on a part-time basis—
  - (i) the restrictions (whether by reference to a weekly pattern, a percentage of the PSF's full-time service or otherwise) on the times at which the PSF can be required to perform the duties the PSF would, or could, be required to perform if the PSF were serving on a full-time basis;
  - (ii) the date on which the PSF is to begin serving on a part-time basis, the date on which that service is to end and the duration of that service in days;
- (c) if the PSF is to serve on a restricted separation basis—
  - (i) the PSF's duty station and the PSF's residence (which may be the same);
  - (ii) the date on which the PSF is to begin serving on a restricted separation basis, the date on which that service is to end and the duration of that service in days;
- (d) if the PSF is to serve on both of the bases referred to in sub-paragraphs (b) and (c), the matters referred to in those sub-paragraphs.

(5) Where a PSF's flexible service arrangement is suspended under regulation 4D, that suspension does not affect the terms of that arrangement which specify the end date of the PSF's service on a part-time basis or the end date of the PSF's service on a restricted separation basis (as applicable).

### **Application for a flexible service arrangement**

**4B.**—(1) A person (“the applicant”) may make an application in writing to the competent air force authority to serve in accordance with a flexible service arrangement.

(2) The application must set out—

- (a) whether the applicant proposes to serve (i) on a part-time basis, (ii) on a restricted separation basis; or (iii) on both of those bases;
- (b) if the applicant proposes to serve on a part-time basis, the matters referred to in regulation 4A(4)(b);
- (c) if the applicant proposes to serve on a restricted separation basis, the matters referred to in regulation 4A(4)(c);
- (d) if the applicant proposes to serve on both a part-time basis and a restricted separation basis, the matters referred to in regulation 4A(4)(b) and (c).

(3) On receipt of the application, the competent air force authority must—

- (a) approve the application on the terms proposed under paragraph (2);
- (b) offer the applicant a flexible service arrangement on terms that are different to those set out in the application referred to in paragraph (2); or
- (c) refuse the application and notify the applicant of that refusal in writing.

(4) If the competent air force authority offers the applicant different terms in accordance with paragraph (3)(b), it must notify the applicant in writing of that decision and of those different terms.

(5) An applicant who receives notification in writing in accordance with paragraph (4) must notify the competent air force authority in writing whether the applicant—

- (a) wishes to serve on the different terms offered by the authority; or
- (b) does not wish to serve on those terms.

(6) Where the applicant notifies the competent air force authority in accordance with paragraph (5)(a) that the applicant wishes to serve on the terms offered by it, the authority must approve the application on those terms.

### **Variation of a flexible service arrangement**

**4C.**—(1) The competent air force authority may vary the terms of a PSF’s flexible service arrangement where—

- (a) the authority considers it necessary to do so on the grounds of the operational effectiveness of any of Her Majesty’s forces; or
- (b) the authority and the PSF agree to do so.

(2) If the competent air force authority varies the terms of an arrangement under paragraph (1)—

- (a) the authority must give notice in writing to the PSF of its decision and of the terms of the varied arrangement; and
- (b) where the PSF is serving on a restricted separation basis, the maximum number of separation days must be recalculated using the formula set out in regulation 2(1A) and the recalculated number of days is to apply in respect of the arrangement as varied.

(3) Where the PSF has already served away from the PSF’s duty station and the PSF’s residence for more than the maximum number of separation days in the restricted

separation year as recalculated in accordance with paragraph (2)(b), the maximum number of separation days in the restricted separation year is to be treated as having been reached.

(4) A variation under paragraph (1) takes effect on a date set out in the notice under paragraph (2)(a).

### **Suspension of a flexible service arrangement**

**4D.**—(1) The competent air force authority may suspend a PSF's flexible service arrangement where—

- (a) the authority considers it necessary to do so on the grounds of the operational effectiveness of any of Her Majesty's forces; or
- (b) the authority and the PSF agree to do so.

(2) Where the competent air force authority decides to suspend an arrangement under paragraph (1), the authority must—

- (a) notify the PSF of its decision by notice in writing; and
- (b) set out in that notice the date on which the suspension begins and the duration of the suspension in days.

(3) A PSF's flexible service arrangement is suspended where the competent air force authority has given notice in writing to the PSF and the period specified in the notice, which must not be less than 90 days beginning with the date on which the notice is given, has ended.

(4) The competent air force authority must set out in the notice referred to in paragraph (3) the duration of the suspension in days.

(5) Before the date that the suspension is due to begin in accordance with a notice referred to in paragraph (2) or (3), the competent air force authority and the PSF may agree in writing to vary the date on which the suspension begins or the duration of the suspension in days.

(6) The competent air force authority and the PSF may agree in writing to end the suspension earlier than it is due to end under paragraph (2), (4) or (5).

(7) The PSF's commanding officer may suspend the PSF's flexible service arrangement on any day—

- (a) in order to give full effect to any punishment under the Armed Forces Act 2006; or
- (b) where the PSF is absent without leave.

(8) Where the PSF's commanding officer suspends an arrangement under paragraph (7), the PSF's commanding officer must provide the PSF with notice in writing setting out the date on which the suspension begins and the duration of the suspension in days.

(9) The PSF's commanding officer may end the suspension earlier than it is due to end under paragraph (8).

(10) A PSF's flexible service arrangement is suspended on any day on which the PSF is in service custody.

(11) On any day that the PSF's flexible service arrangement is suspended, the PSF's terms of service are treated as if the PSF was not serving in accordance with a flexible service arrangement.

(12) Where the PSF is serving on a restricted separation basis, upon the ending of a period of suspension the maximum number of separation days must be recalculated using the formula set out in regulation 2(1A) and the recalculated number of days is to apply in respect of the arrangement.

(13) Where the PSF has already served away from the PSF's duty station and the PSF's residence for more than the maximum number of separation days in the restricted separation year as recalculated in accordance with paragraph (12), the maximum number of separation days in the restricted separation year is to be treated as having been reached.

#### **Termination of a flexible service arrangement**

**4E.—**(1) A PSF's flexible service arrangement is terminated where—

- (a) the competent air force authority considers it necessary to do so on the grounds of the operational effectiveness of any of Her Majesty's forces;
- (b) the competent air force authority has given notice in writing to the PSF and the period specified in the notice, which must not be less than 90 days beginning with the date on which the notice is given, has ended; or
- (c) the PSF has given notice in writing to the competent air force authority and the period specified in the notice, which must not be less than 90 days beginning with the date on which the notice is given, has ended.

(2) Where the competent air force authority considers it necessary to terminate a PSF's flexible service arrangement under paragraph (1)(a), that termination may take effect immediately.

(3) Where the competent air force authority acts under paragraph (1)(a), it must, as soon as reasonably practicable, provide notice in writing to the PSF specifying its decision.

(4) Before the date that the termination is due to take effect in consequence of the notice referred to in paragraph (1)(b) or (c) (as the case may be), the competent air force authority and the PSF may agree in writing to vary the date on which the termination has effect.

#### **Reconsideration of decisions by the competent air force authority**

**4F.—**(1) This regulation applies to any of the following decisions of the competent air force authority ("the decision")—

- (a) to offer an applicant a flexible service arrangement on terms different to those set out in the application made by the applicant under regulation 4B(1);
- (b) to refuse an application for a flexible service arrangement under regulation 4B;
- (c) to vary any of the terms of a flexible service arrangement under regulation 4C;
- (d) to suspend a flexible service arrangement under regulation 4D(1);
- (e) to suspend a flexible service arrangement on conclusion of a period of notice given under regulation 4D(3);
- (f) to terminate a flexible service arrangement under regulation 4E(1)(a);
- (g) to terminate a flexible service arrangement on conclusion of a period of notice given under regulation 4E(1)(b).

(2) Where this regulation applies, the applicant under regulation 4B or the PSF (as the case may be) to whom the decision relates may apply to the competent air force authority for the decision to be reconsidered.

(3) An application under paragraph (2) must be—

- (a) in writing; and
- (b) made within the period of 14 days beginning with the date on which the competent air force authority notified the applicant or the PSF (as the case may be) of its decision in writing.

(4) The competent air force authority may extend the period in paragraph (3)(b) where it considers it appropriate to do so.

(5) An application for reconsideration under paragraph (2) does not prevent the decision from taking effect.

(6) Where an application for reconsideration under paragraph (2) has been brought in accordance with the conditions in paragraph (3), the competent air force authority must—

(a) reconsider the decision; and

(b) uphold the decision or make a new decision.

(7) In making a new decision, the competent air force authority may exercise any power it has under regulations 4B to 4E.”

On behalf of the Defence Council

7th November 2018

*Nick Carter*  
*Tobias Ellwood*  
Members of the Defence Council  
Ministry of Defence

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the regulations (“Terms of Service Regulations”) which provide for the terms of service for enlisted members of the regular forces (the Royal Navy, the Royal Marines, the regular Army and the Royal Air Force). These amendments are made in consequence of the Armed Forces (Flexible Working) Act 2018 (c. 2).

These Regulations amend the Terms of Service Regulations to introduce two new types of flexible working. They enable enlisted regulars to serve on a part-time basis. They also enable enlisted regulars to serve on a “restricted separation basis” so that, save for a limited number of days (up to 35 in any 12-month period), they spend at least part of every day that they are required to perform duties at their duty station or residence. The amendments—

- provide that an enlisted regular may serve on a flexible service arrangement which enables service on a part-time or on a restricted separation basis (or both at the same time);
  - set out the maximum number of days in a given period that an enlisted regular who is serving on a restricted separation basis may be required to perform duties away from their duty station or residence. The amendments also provide that the regular can volunteer to serve away from their duty station or residence for additional periods;
  - provide for the process under which an enlisted regular may apply for a flexible service arrangement and under which the arrangement may be varied, suspended or terminated;
  - enable the enlisted regular to apply for reconsideration of decisions relating to an application or the regular’s flexible service arrangement.

The amendments to the regulations which make provision as to the terms of service for members of the regular army provide that a person who is enlisted to serve on a local service engagement (an existing form of geographically restricted service) may not serve on a restricted separation basis. Regulation 11 makes consequential changes to enable a person enlisted to serve on a local service engagement to also serve on a part-time basis.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.