
STATUTORY INSTRUMENTS

2018 No. 1166

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

The Army Regulations

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.”.