Draft Regulations laid before Parliament under section 373(3) of the Armed Forces Act 2006 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No. XXX

DEFENCE

The Armed Forces (Enlistment) Regulations 2009

Made - - - -	*2009*
Coming into force - -	*31st October 2009*

The Defence Council make the following Regulations in exercise of the powers conferred by section 328 of the Armed Forces Act 2006(**1**):

In accordance with section 373(3) of the Armed Forces Act 2006 a draft of this instrument was laid before, and approved by resolution of, each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Armed Forces (Enlistment) Regulations 2009 and shall come into force on 31st October 2009.

Interpretation

2.—(1) In these Regulations—

(a) except in the Schedule, references to a recruiting officer are to a person appointed under regulation 3; and

(b) references to an approving officer, in relation to a recruiting officer, are to any other recruiting officer.

(2) References in these Regulations to an enlistment paper are to a document which contains, in a form from time to time approved by or on behalf of the Defence Council—

(a) the questions to be put, by or on the direction of a recruiting officer, to a person offering to enlist in the regular forces;

(b) the terms of the declaration to be signed by such a person; and

(c) the terms in which the recruiting officer enlisting a person is to attest his enlistment.

(**1**) 2006 c. 52.

(3) References in these Regulations to the terms on which a person enlists or offers to enlist in the regular forces are to the term and type of service for which, and any conditions on which, he so enlists or offers so to enlist.

(4) A person enlists in the regular forces when—

(a) an enlistment paper prepared in relation to him states the terms on which he offers so to enlist, and

(b) at the request of and in the presence of a recruiting officer, he signs the declaration in the enlistment paper,

and references in these Regulations to a person's enlistment, and to an enlisted person, are to be construed accordingly.

Recruiting officers

3.—(1) Enlistment of persons in the regular forces shall be undertaken by recruiting officers.

(2) The Defence Council may appoint—

(a) any British consul-general, consul or vice-consul, or

(b) any person duly exercising the authority of a British consul,

in a country or territory of which Her Majesty is not head of state, to be a recruiting officer.

(3) The Naval Secretary, the Director of Manning (Army) or the Air Secretary, or any officer on any of their staffs not below the rank of naval captain, colonel or group captain, may appoint an officer to be a recruiting officer.

(4) A recruiting officer shall hold and vacate office in accordance with the terms of his appointment.

Minimum age for enlistment

4.—(1) A recruiting officer shall not enlist a person under the age of 16.

(2) Any purported enlistment of a person under the age of 16 shall be void; but this is subject to paragraph (3).

(3) Paragraph (2) does not apply in relation to a person's enlistment if the recruiting officer enlisting him is satisfied, by the production of a certified copy of an entry in the register of births or by any other evidence appearing to him to be sufficient, that the person has reached the age of 16.

(4) Where a recruiting officer has attested a person's enlistment in accordance with regulation 7(5), his attestation shall for the purposes of paragraph (3) be sufficient evidence that he was satisfied that the person had reached the age of 16, unless the contrary is proved.

Consent to enlistment of persons under 18

5.—(1) Where a person under the age of 18 ("the young person") offers to enlist in the regular forces and an appropriate person can be identified in relation to him, he shall not be enlisted unless written consent to the enlistment has been given—

(a) where he is living with one or more appropriate persons, by each such person;

(b) where he is not living with any appropriate person, by such a person.

(2) In this regulation references to an appropriate person are to—

(a) a person with parental responsibility (within the meaning of the Children Act 1989(**2**) or the Children (Northern Ireland) Order 1995(**3**)) for the young person;

(**2**) 1989 c. 41.

(b) a person with parental responsibilities (within the meaning of section 1(3) of the Children (Scotland) Act 1995(**4**)) in relation to the young person; or

(c) where there is no such person as is mentioned in sub-paragraph (a) or (b), or after reasonable enquiry it cannot be ascertained whether there is any such person, any person in whose care the young person may be.

Enlistment for general or corps service in the regular army

6.—(1) A person offering to enlist in the regular army may be enlisted—

(a) for service in a particular corps; or

(b) for general service (but without prejudice to any power to assign him to a corps).

(2) In this regulation "corps" means any such body of the regular army as may from time to time be declared to be a corps by warrant of Her Majesty.

Procedure for enlistment

7.—(1) This regulation applies where a person ("the recruit") appears before a recruiting officer and offers to enlist in the regular forces.

(2) The recruiting officer shall warn the recruit that if he knowingly gives a false answer to any question put to him he will be liable to proceedings for an offence under regulation 12.

(3) The recruiting officer shall then—

(a) read, or cause to be read, to the recruit the questions approved by or on behalf of the Defence Council for inclusion in an enlistment paper;

(b) satisfy himself that the recruit understands each such question; and

(c) record, or cause to be recorded, in an enlistment paper prepared in relation to the recruit, the recruit's answer to each such question.

(4) If—

(a) the enlistment paper states the terms on which the recruit offers to enlist, and

(b) the recruiting officer is satisfied that the recruit—

(i) understands those terms and wishes to enlist in accordance with them, and

(ii) is fit to be so enlisted,

the recruiting officer shall then request the recruit to sign the declaration in the enlistment paper.

(5) If the recruit signs the declaration, the recruiting officer shall sign the form of attestation in the enlistment paper.

(6) The recruiting officer shall then deliver the enlistment paper to an approving officer.

(7) Unless the approving officer determines under regulation 8 that the enlistment is invalid, he shall provide the recruit with a certified copy of the enlistment paper on request.

Validity of enlistment

8.—(1) This regulation applies where a person has enlisted in the regular forces and the recruiting officer has delivered the person's enlistment paper to an approving officer in accordance with regulation 7(6).

(**3**) S.I. 1995/755 (N.I.2).
(**4**) 1995 c. 36.

(2) The approving officer may determine, on any ground he sees fit, that the person's enlistment is invalid.

9.—(1) A person who has enlisted in the regular forces may apply to the Defence Council for a determination that his enlistment is invalid.

(2) Where an enlisted person was aged under 18 at the time of his enlistment, any person who—

(a) is an appropriate person in relation to the enlisted person, or, where the enlisted person has reached the age of 18, was an appropriate person in relation to him immediately before his 18th birthday, and

(b) did not give written consent to the enlistment (whether or not his consent was required under regulation 5),

may apply to the Defence Council for a determination that the enlistment is invalid.

(3) In paragraph (2) "appropriate person" has the same meaning as in regulation 5.

(4) An application may not be made under this regulation after the later of—

(a) the expiry of three months since the enlistment; and

(b) the beginning of the enlisted person's 16th birthday.

(5) Where an application is made under this regulation the Defence Council may determine, on any ground they see fit, that the enlistment is invalid.

10.—(1) This regulation applies where a person's enlistment is determined under regulation 8 or 9 to be invalid.

(2) The person shall be discharged as soon as is practicable, and released from any liability to serve in a reserve force.

(3) The person shall be deemed to have been a member of the regular forces since his enlistment, and to be a member of the regular forces until discharged.

(4) This regulation is without prejudice to regulation 4(2).

11.—(1) Unless determined under regulation 8 or 9 to be invalid, or void by virtue of regulation 4(2) or any other enactment, a person's enlistment shall be deemed valid notwithstanding —

(a) any error or omission in the enlistment paper;

(b) any failure to comply with any requirement of these Regulations;

(c) the making of an application under regulation 9; or

(d) any other ground on which, apart from this regulation, the validity of the enlistment could have been challenged.

(2) This regulation is without prejudice to the determination of any question as to the terms on which the person was enlisted.

False answers on enlistment

12.—(1) A person commits an offence if, on appearing before a recruiting officer and offering to enlist in the regular forces, he knowingly gives a false answer to any question approved by or on behalf of the Defence Council for inclusion in an enlistment paper and put to him by or on the direction of the recruiting officer.

(2) A person who commits an offence under paragraph (1) shall be liable on conviction by a court of summary jurisdiction in the United Kingdom to a fine not exceeding level 1 on the standard scale.