Australian Military Amendment Regulations 2001 (No. 1)

Statutory Rules 2001 No. 1

I, WILLIAM PATRICK DEANE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the Defence Act 1903.

Dated 28 JUN 2001 2001

WILLIAM DEANE
Governor-General

By His Excellency’s Command

BRUCE SCOTT
Minister for Veterans’ Affairs
1 Name of Regulations

These Regulations are the *Australian Military Amendment Regulations 2001 (No. 1)*.

2 Commencement

These Regulations commence on gazettal.

3 Amendment of *Australian Military Regulations 1927*

Schedule 1 amends the *Australian Military Regulations 1927*.

**Schedule 1 Amendments**

(regulation 3)

[1] **After regulation 143**

*insert*

**143A Limited-tenure promotion of soldiers**

(1) The Chief of Army may, by instrument, promote a soldier to the rank of Warrant Officer Class 1 for the period specified in the instrument.

(2) The Chief of Army may extend the period.

(3) Subject to this regulation, at the end of the period (including any extension), the soldier is taken to be discharged from the Army.

(4) At any time before the end of the period (including any extension), the Chief of Army may give written permission for the soldier, at the end of that period, to revert to the rank he or she held immediately before promotion.
(5) If permission is given under subregulation (4), then at the end of the period:
   (a) the soldier is not taken to be discharged from the Army under subregulation (3); and
   (b) the soldier reverts to the rank that he or she held immediately before promotion.

(6) At any time before the end of the period (including any extension), the soldier may notify the Chief of Army in writing that the soldier wishes to transfer to the Army Reserve at the end of the period.

(7) If the soldier notifies the Chief of Army under subregulation (6), then at the end of the period:
   (a) the soldier is not taken to be discharged from the Army under subregulation (3); and
   (b) the soldier is transferred to the Army Reserve.

(8) A soldier may decline promotion under this regulation.

[2] Subregulation 176 (3), at the foot

insert

Note A soldier may also be discharged as a result of the operation of regulation 143A.


insert

179 Offer of special benefits to soldiers

(1) Subject to regulation 180, the Chief of Army may give a soldier who holds the rank of Warrant Officer Class 1 or Warrant Officer Class 2 a written notice stating that if, within a specified period, the soldier:
   (a) discharges from the Army; or

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(b) notifies the Chief of Army in writing that the soldier wishes to transfer to the Army Reserve; the soldier will be entitled to a special benefit in accordance with a determination under section 58B or 58H of the Defence Act.

(2) The period to be specified in the notice is a period of 1 month commencing not earlier than the day on which the notice is given to the soldier.

(3) If a soldier is given a notice under subregulation (1):
(a) the soldier may discharge from the Army within the period specified in the notice even though he or she would not otherwise be entitled to discharge; and
(b) if the soldier discharges under paragraph (a):
(i) the discharge takes effect on the day specified in writing by the Chief of Army, being a day not later than 28 days after the day on which the soldier notified his or her acceptance of the special benefit; and
(ii) the soldier is taken for all purposes to have been compulsorily discharged from the Army.

(4) If a soldier:
(a) is given a notice under subregulation (1); and
(b) notifies the Chief of Army under paragraph (1) (b);
the soldier may transfer to the Army Reserve in the period specified in the notice.
180  Notice of intention to begin discharge or transfer procedures

(1) The Chief of Army must not give a soldier a notice under subregulation 179 (1) unless the soldier has been given a written notice setting out the matters referred to in subregulation (2) and:

(a) the soldier has not given the Chief of Army the statement of reasons referred to in paragraph (2)(c); or

(b) having considered a statement of those reasons by the soldier, the Chief of Army is of the opinion that the notice under subregulation 179 (1) should be given.

(2) The written notice must:

(a) inform the soldier that the Chief of Army is considering giving a notice under subregulation 179 (1) to the soldier; and

(b) state the reasons why the Chief of Army is considering giving that notice to the soldier; and

(c) invite the soldier, within the period specified in the notice, to give to the Chief of Army a written statement of reasons why the soldier should not be discharged from the Army or transferred to the Army Reserve.

(3) The period specified for the purpose of paragraph (2)(c) must:

(a) be a period of at least 14 days; and

(b) commence not earlier than the day on which the notice is given to the soldier.

181  Discharge or transfer of soldiers without special benefits

(1) This regulation applies to a soldier:

(a) to whom a notice has been given under subregulation 179 (1); and
(b) who does not, within the period specified in the notice:
   (i) discharge from the Army; or
   (ii) transfer to the Army Reserve; and

(c) in respect of whom the Chief of Army considers it is necessary to take action under this regulation in the interests of the organisational effectiveness of the Army.

(2) The Chief of Army may, at any time after the period specified in the notice given to the soldier under subregulation 179 (1), give notice to the soldier in accordance with subregulation (3).

(3) The notice is to the effect that the Chief of Army proposes to discharge the soldier at the end of a period (the relevant period) unless the soldier notifies the Chief of Army in writing in the relevant period that the soldier wishes to transfer to the Army Reserve at or before the end of that period.

(4) The relevant period must be not less than 13 months starting on the day on which the notice is given to the soldier.

(5) If the soldier does not notify the Chief of Army in accordance with subregulation (3), the Chief of Army may discharge the soldier at the end of the relevant period.

(6) For the purposes of subregulation (5), the Chief of Army discharges a soldier by giving notice to the soldier that the soldier is discharged from the Army at the end of the relevant period.

(7) A soldier to whom notice is given under subregulation (6) is discharged from the Army at the end of the relevant period.

(8) A soldier who is discharged under subregulation (7) is taken for all purposes to have been compulsorily discharged from the Army.
182 Time not to run during certain periods

(1) In ascertaining when a period referred to in this Division ends in relation to a soldier, any period during which a complaint made by the soldier is being investigated is not to be taken into account.

(2) Subregulation (1) applies only to a complaint that:
   (a) is made by the soldier:
      (i) under the Defence Force Regulations 1952; or
      (ii) to the Defence Force Ombudsman under the Ombudsman Act 1976; and
   (b) concerns action taken under regulation 179, 180 or 181 in relation to the soldier.
Notes


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