

EXPLANATORY STATEMENT

STATUTORY RULES 1983 NO 61

ISSUED BY THE AUTHORITY OF THE MINISTER FOR DEFENCE

AUSTRALIAN MILITARY REGULATIONS (AMENDMENT)

The Australian Military Regulations ("the Regulations"), made under the Defence Act 1903 ("the Act"), provide for various matters relating to the administration and organisation of the Army.

This Statutory Rule makes various amendments to the Regulations to prescribe for the purposes of section 33 of the Act a structure of career divisions for the Army, to amend certain compulsory retirement ages prescribed for the purposes of section 27 of the Act, and to provide for a more flexible system of promotion for Army officers.

The amendments will be dealt with in turn.

Establishment of Divisions

Regulation 2 of this Statutory Rule inserts new provisions in the Regulations to establish three divisions in the Army for officers: Specialist Service; Prescribed Service; and General Service.

In broad terms, the General Service Officer Division will consist of the mainstream of the officer corps, the Specialist Service Officer Division will consist of officers making a career in specialist fields, the Prescribed Service Officer Division will consist of former warrant officers other than those appointed to serve in Specialist Service categories or selected for inclusion in the General Service Officer Division.

A new regulation 22 establishes the three divisions.

A new regulation 23 prescribes the categories of officer to be included in the Specialist Service Officer Division.

Paragraph 23(2)(e) enables the Chief of the General Staff to designate an officer of the Royal Australian Survey Corps or the Australian Army Catering Corps (who would otherwise be in the Specialist Service Officer Division) for inclusion in the General Service Officer Division. Sub-regulation 23(3) prohibits such inclusion without the consent in writing of the officer concerned.

A new regulation 24 prescribes the categories of officer to be included in the Prescribed Service Officer Division. Under sub-regulation 24(2) these are former warrant officers and officers previously included on the Administrative and Technical Officers List, other than those designated by, or under the authority of, the Chief of the General Staff for inclusion in the General Service Officer Division. Sub-regulation 24(4) prohibits such inclusion without the consent in writing of the officer concerned.

Sub-regulation 24(3) excludes an officer in a Specialist Service category from the Prescribed Service Officer Division.

A new regulation 25 defines the General Service Officer Division to consist of officers who are not included in the Specialist Service or Prescribed Service Officer Divisions.

A new regulation 26 ensures that a member's inclusion in a Division does not affect his inclusion in, or membership of, any part of the Army other than another such Division.

Amendments Associated with Establishment of Divisions

Regulation 68 of the Regulations provides for precedence between Army Corps.

Regulation 3 of this Statutory Rule amends sub-regulation 68(1) by omitting reference to "The Australian Staff Corps", which is to be abolished, and by correcting the reference "The Royal Corps of Australian Electrical and Mechanical Engineers" to "The Royal Australian Electrical and Mechanical Engineers".

Regulation 72 of the Regulations prescribes qualifications for the purpose of officer appointments. Sub-regulation 72(1) prescribes parts of the Army which require appointees to be graduates of officer training institutions, unless otherwise determined by the Chief of the General Staff.

Regulation 4 of this Statutory Rule substitutes a re-drafted sub-regulation 72(1) which omits reference to "The Australian Staff Corps" and "The Women's Royal Australian Army Corps", both of which are to be abolished, and corrects the reference "The Royal Corps of Australian Electrical and Mechanical Engineers" to "The Royal Australian Electrical and Mechanical Engineers".

The new sub-regulation 72(1) also omits reference to "The Royal Australian Army Educational Corps", "The Royal Australian Army Pay Corps", and "The Australian Army Band Corps". Reference to the Educational Corps and the Pay Corps are included in paragraph 72(2)(ea) which already provides for the Band Corps. Under paragraph 72(2)(ea), the qualification for appointment as an officer is a recommendation by officers appointed by the Army Chief of Personnel to make such recommendations.

Regulation 73 of the Regulations prescribed the qualification for appointment as an officer included on the Administrative and Technical Officers List of a Corps. Such lists have been abolished. Regulation 5 of this Statutory Rule accordingly repeals regulation 73.

Regulation 76 of the Regulations provides for transfer of officers between corps. Regulation 6 of this Statutory Rule amends paragraph 76(1)(e) and omits sub-regulation 76(2A) to remove references to corps lists.

Regulation 96 of the Regulations provides for the appointment of aides-de-camp to State governors. Regulation 8 of this Statutory Rule amends sub-regulation 96(2) to remove reference to the Australian Staff Corps which has been abolished.

Regulation 98 of the Regulations provides for the appointment of honorary colonels. Regulation 9 of this Statutory Rule amends paragraph 98(2)(c) by correcting "The Royal Corps of Australian Electrical and Mechanical Engineers" to "The Royal Australian Electrical and Mechanical Engineers".

Regulation 122 of the Regulations provided for Corps Special Lists. Such lists have been abolished. Regulation 10 of this Statutory Rule accordingly repeals regulation 122.

Regulation 302 of the Regulations makes provision for the purpose of Rule 20(A) of the courts martial Rules of Procedure (which provides for general or district courts martial to be composed of officers of different corps).

Regulation 13 of this Statutory Rule substitutes an amended regulation 302 to omit reference to the Australian Staff Corps (now abolished) and to redraft an evidentiary provision for a statement in an order convening a court martial of the appointment held by the president, or a member, on the staff of Headquarters or of a formation to be evidence that he is not an officer of a regiment or other similar unit.

Regulation 536 of the Regulations provides for staff cadets to be appointed as officers.

Regulation 14 of this Statutory Rule amends regulation 536 to omit reference to the Australian Staff Corps (now abolished).

Regulations 537 and 538 of the Regulations provided respectively for seniority and allotment for duty of Australian Staff Corps officers.

Regulations 15 and 16 of this Statutory Rule repeal regulations 537 and 538.

Promotion of Officers

Regulation 79 of the Regulations provides for the promotion of officers.

Sub-regulations 79(3) to (9) (the sub-regulations affected by this Statutory Rule) prescribed various qualifications for promotion, including the periods of service which were pre-requisites for promotion.

This Statutory Rule inserts a new provision to enable the Chief of the General Staff to determine the periods of service which will be pre-requisites for promotion. The revised scheme provides a less rigid framework and enables the Army more easily to match the skills and career progression of officers with the requirements of the Army.

The following is an outline of the sub-regulations which have been repealed and the new provision.

Sub-regulations 79(3) and (4) prescribed minimum periods to be served by lieutenants in the Permanent Military Forces before they were eligible for promotion to captain or major.

Sub-regulation 79(5) prescribed minimum periods to be served by officers holding the rank of captain or lower in the Citizen Military Forces before they were eligible for promotion to a higher rank.

Sub-regulation 79(6) enabled the Chief of the General Staff to deem prior service in another part of the Defence Force or in the Defence Force of another Commonwealth country to be service for the purpose of regulation 79.

Sub-regulation 79(7) enabled the Chief of the General Staff to approve that sub-regulations 79(3), (4) and (5) did not apply to the promotion of certain categories of officer.

Sub-regulation 79(8) provided for officers appointed for the purpose by the Army Chief of Personnel to approve promotion of an officer serving in the Australian Army Band Corps or included on the Administrative and Technical Officers List of a Corps.

Sub-regulation 79(9) prohibited the permanent promotion of an officer included on the Special List for a Corps or whose age for retirement had been extended under section 27 of the Act.

Regulation 7 of this Statutory Rule repeals sub-regulations 79(3) to (9) and substitutes new sub-regulations 79(3) to (6).

The substituted sub-regulation 79(3) enables the Chief of the General Staff to determine by instrument in writing that:

- (a) all officers; or
 - (b) officers included in a specified class of officers,
- are not eligible for promotion -
- (c) to specified ranks;
 - (d) in specified parts of the Army; or
 - (e) of a specified kind,
- unless they have served for a specified period -

- (f) in a specified rank; or
- (g) in a specified rank in a specified part of the Army.

Sub-regulation 79(4) requires any specification, for the purpose of an instrument determined under sub-regulation (3), to be included in that instrument.

Sub-regulation 79(5) requires the Chief of the General Staff, in making a determination under sub-regulation (3), to have regard to the following factors:

- (a) the time required for officers to gain sufficient skill, experience or other qualification to be suitable for promotion;
- (b) the career advancement needs of officers; and
- (c) the need to ensure the availability of an adequate supply of officers suitable for promotion to particular ranks or in particular parts of the Army.

Sub-regulation 79(6) enables the Chief of the General Staff, having regard to the factors specified in sub-regulation (5), to exempt a particular officer from compliance with a determination under sub-regulation (3).

It is envisaged that the general rules for time to be served before promotion will be established by determinations under sub-regulation 79(3) but that sub-regulation 79(6) will allow for accelerated promotions where the Army has a requirement matched by the skills of a particular officer or particular officers.

Compulsory Retirement Ages

Regulation 124 of the Regulations prescribes, for the purposes of section 27 of the Act, compulsory retirement ages for Army officers.

Regulation 11 of this Statutory Rule amends regulation 124 to replace some of the existing provisions with provisions related more closely to the new divisional structure and to alter some compulsory retirement ages.

The following sub-regulations are repealed:

- . sub-regulation 124(1), which prescribed compulsory retirement ages, for officers up to the rank of lieutenant-general, on a corps, service or department basis;
- . sub-regulation 124(1AA) which prescribed a compulsory retirement age of 63 for generals;
- . sub-regulation 124(1A) which prescribed a compulsory retirement age of 55 for an officer included on the Administrative and Technical Officers List of a Corps;
- . sub-regulation 124(2) which prescribed a compulsory retirement age of 53 for an officer included on a Special List; and

- . sub-regulation 124(4) which deemed chaplains to have rank for the purpose of attracting a retirement age under sub-regulation (1).

Officers mentioned in the former sub-regulations (1) and (1AA), other than chaplains, have the following compulsory retirement ages prescribed in the new sub-regulation (1):

- (a) Specialist Service Officer Division:
 - (i) Second lieutenant to brigadier - 55
 - (ii) Major-general - 57
- (b) Prescribed Service Officer Division - 57
- (c) General Service Officer Division:
 - (i) Second lieutenant to major - 47
 - (ii) Lieutenant colonel - 50
 - (iii) Colonel or brigadier - 55
 - (iv) Major-general - 57
 - (v) Lieutenant-general - 60
 - (vi) General - 63

Chaplains have the following compulsory retirement ages prescribed in the new sub-regulation (2):

(a) Chaplain 4th, 3rd or 2nd class - 55

(b) Chaplain 1st class or Principal
Chaplain - 57

A new sub-regulation 124(8) ensures that an officer's division for the purpose of section 124 is the division in which he performs his normal duties.

Regulation 12 of this Statutory Rule inserts a new regulation 124A in the Regulations.

The new sub-regulation 124A(2) enables an officer to elect to retain his former compulsory retirement age if that were greater than the new age applicable to him. The benefit of sub-regulation 124A(2) will not apply to an officer who has consented to be designated under paragraph 23(2)(e) or 24(2)(a) or (b) for inclusion in the General Service Officer Division. In the case of an officer who has already passed the new, lower, retirement age for his rank, the prescribed retirement age continues to be the present, higher, retirement age.

Commencement

The amendments have effect from the date of gazettal of the Statutory Rule.

S.R. 159/81