



# **Defence (Personnel) Regulations 2002**

**Statutory Rules 2002 No. 51 as amended**

made under the

*Defence Act 1903*

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## Contents

<b>Chapter 1</b>	<b>Preliminary</b>	
1	Name of Regulations [see Note 1]	10
2	Commencement [see Note 1]	10
3	Definitions	10
<b>Chapter 2</b>	<b>General arrangements for the Defence Force</b>	
4	Ranks	12
5	Reserves	12
<b>Chapter 3</b>	<b>Arrangements for service in the Defence Force</b>	
<b>Part 1</b>	<b>Overview</b>	
6	Service	13
<b>Part 2</b>	<b>Criteria for making determinations</b>	
7	Criteria	15
<b>Part 3</b>	<b>Retirement age</b>	
8	Compulsory retirement age	16
9	Alteration of compulsory retirement age — members	16
10	Alteration of compulsory retirement age — chaplains	17
11	Extension of compulsory retirement age — officers	18
12	Extension of compulsory retirement age — enlisted members	18
<b>Chapter 4</b>	<b>Appointment and enlistment</b>	
<b>Part 1</b>	<b>Appointment of officers</b>	
<b>Division 1</b>	<b>Appointment — general</b>	
13	Application of Division 1	20
14	Eligibility for appointment	20
15	Appointment	20

		Page
<b>Division 2</b>	<b>Determination of seniority</b>	
16	Seniority	21
<b>Division 3</b>	<b>Appointment on provisional basis</b>	
17	Provisional appointment	21
18	Extension of period of provisional appointment	22
<b>Division 4</b>	<b>Appointment on probation</b>	
19	Probation	22
20	Extension of period of probation	22
<b>Division 5</b>	<b>Temporary appointment of officers</b>	
21	Temporary appointment	23
<b>Division 6</b>	<b>Confirmation of appointment</b>	
22	Confirmation	23
<b>Part 2</b>	<b>Enlistment</b>	
<b>Division 1</b>	<b>Enlistment — general</b>	
23	Eligibility for enlistment	25
24	Oath or affirmation on enlistment	25
25	Acceptance of enlistment	25
<b>Division 2</b>	<b>Determination of seniority</b>	
26	Seniority	26
<b>Division 3</b>	<b>Enlistment on provisional basis</b>	
27	Provisional enlistment	26
28	Extension of period of provisional enlistment	27
<b>Division 4</b>	<b>Confirmation of enlistment</b>	
29	Confirmation	27
<b>Chapter 5</b>	<b>Promotion</b>	
<b>Part 1</b>	<b>Promotion — officers</b>	
<b>Division 1</b>	<b>Promotion — general</b>	
30	No right to promotion	28
31	Eligibility for promotion	28

		Page
	32 Promotion	28
<b>Division 2</b>	<b>Provisional, temporary and limited-tenure promotion</b>	
	33 Provisional promotion	29
	34 Temporary promotion	30
	35 Limited-tenure promotion	30
<b>Part 2</b>	<b>Promotion — enlisted members</b>	
<b>Division 1</b>	<b>Promotion — general</b>	
	36 No right to promotion	31
	37 Eligibility for promotion	31
	38 Promotion of enlisted member	31
<b>Division 2</b>	<b>Provisional, temporary and limited-tenure promotion</b>	
	39 Provisional promotion	32
	40 Temporary promotion	33
	41 Limited-tenure promotion	33
<b>Chapter 6</b>	<b>Posting of members</b>	
	42 Posting	34
<b>Chapter 7</b>	<b>Reduction in rank</b>	
	43 Reduction — general	35
	44 Reduction in rank — officers	35
	45 Cancellation of reduction in rank — officers	36
	46 Reduction in rank — enlisted members	36
	47 Cancellation of reduction in rank	37
	48 Voluntary reduction in rank	37
<b>Chapter 8</b>	<b>Alteration of the service obligation</b>	
<b>Part 1</b>	<b>Voluntary alteration of the service obligation</b>	
<b>Division 1</b>	<b>Voluntary alteration of period of service</b>	
	49 Extension and conversion of appointments	39
	50 Extension and conversion of enlistments	40
	51 Fixed tenure appointment	40

		Page
<b>Division 2</b>	<b>Voluntary transfer of members</b>	
<b>Subdivision 1</b>	<b>Transfer between Services</b>	
52	Transfer	41
53	Obligations of transferred member — completion of specified service	42
54	Prior service of transferred member	42
<b>Subdivision 2</b>	<b>Transfer within Service (other than senior officer)</b>	
55	Application of Subdivision 2	42
56	Application for transfer	42
57	Withdrawal of application for transfer	43
58	Decision on application for transfer	43
<b>Subdivision 3</b>	<b>Transfer within Service (senior officer)</b>	
59	Application of Subdivision 3	45
60	Application for transfer — senior officer	45
61	Withdrawal of application for transfer — senior officer	45
62	Decision on application for transfer — senior officer	45
<b>Part 2</b>	<b>Compulsory alteration of the service obligation</b>	
<b>Division 1</b>	<b>Compulsory transfer of members — general</b>	
63	Transfer between parts and categories	47
<b>Division 2</b>	<b>Transfer to Standby Reserve at end of period of service</b>	
64	Transfer to Standby Reserve	47
<b>Division 3</b>	<b>Other transfers to Standby Reserve</b>	
65	Transfer to Standby Reserve of senior officers appointed under Part II of Defence Act	49
66	Transfer to Standby Reserve after limited-tenure promotion	50
67	Transfer to Standby Reserve after fixed tenure appointment	51
68	Transfer to Standby Reserve during redundancy	53
69	Transfer within Reserves for non-performance of training obligation	54

	Page
<b>Division 4</b>	<b>Other arrangements</b>
70	Termination of service in Standby Reserve 55
<b>Part 3</b>	<b>Alteration of the service obligation by payment of special benefit</b>
<b>Division 1</b>	<b>General</b>
71	Application of Part 3 56
<b>Division 2</b>	<b>Offer of special benefit</b>
<b>Subdivision 1</b>	<b>Offer of special benefit (other than senior officer)</b>
72	Application of Subdivision 1 56
73	Preliminary notice for special benefit 57
74	Offer of special benefit to eligible member 57
<b>Subdivision 2</b>	<b>Offer of special benefit (senior officer)</b>
75	Application of Subdivision 2 58
76	Preliminary notice for special benefit 58
77	Offer of special benefit to senior officer 58
<b>Division 3</b>	<b>Declining special benefit</b>
78	Arrangements after declining special benefit (other than senior officer) 59
79	Arrangements after declining special benefit (senior officer) 61
<b>Division 4</b>	<b>Other arrangements</b>
80	Time not to run during certain periods 62
<b>Chapter 9</b>	<b>Completion of the service obligation</b>
<b>Part 1</b>	<b>Completion of service</b>
81	Retirement age or end of period of service 63
<b>Part 2</b>	<b>Compulsory termination of service</b>
<b>Division 1</b>	<b>Arrangements for members</b>
82	Termination of service of member who becomes permanent resident of another country 65
83	Termination of service during redundancy 65

		Page
<b>Division 2</b>	<b>Additional arrangements for officers</b>	
84	Termination of appointment of officer for absence without leave	66
85	Termination of service of officer for other reasons	66
<b>Division 3</b>	<b>Additional arrangements for enlisted members</b>	
86	Termination of enlisted member's enlistment for absence without leave	68
87	Termination of service of enlisted member for other reasons	68
<b>Part 3</b>	<b>Voluntary termination of service</b>	
<b>Division 1</b>	<b>Officers other than Senior officers</b>	
88	Application to resign from Defence Force	71
89	Withdrawal of application	71
90	Refusal of application	71
91	Grant of application	73
<b>Division 2</b>	<b>Senior officers</b>	
92	Application to resign from Defence Force	73
93	Withdrawal of application	74
94	Dealing with application by senior officer	74
<b>Division 3</b>	<b>Enlisted members</b>	
95	Application to resign from Defence Force	76
96	Withdrawal of application	76
97	Refusal of application	76
98	Grant of application	78
<b>Part 4</b>	<b>Other matters about termination of service of member</b>	
99	Change of reason for termination	79
<b>Chapter 10</b>	<b>Other matters relating to appointment, promotion, transfer etc</b>	
<b>Part 1</b>	<b>Training periods</b>	
100	Training	80

		Page
<b>Part 2</b>	<b>Uniforms</b>	
101	Determination of uniforms	81
<b>Part 3</b>	<b>The Retired List</b>	
102	Retired List	82
<b>Part 4</b>	<b>Honorary rank</b>	
103	Appointment to honorary rank — officers	83
104	Appointment to honorary non-commissioned rank — enlisted members	83
<b>Part 5</b>	<b>Privileges after end of service</b>	
105	Title after end of service	84
106	Wearing of uniform after end of service	84
107	Withdrawal of privileges after end of service	84
<b>Part 6</b>	<b>Service of foreign country</b>	
108	Service	85
<b>Chapter 11</b>	<b>Chaplains</b>	
<b>Part 1</b>	<b>Administrative arrangements</b>	
109	Divisions of Branch, Department or Specialisation	86
<b>Part 2</b>	<b>Appointment of Chaplains and Principal Chaplains</b>	
110	Appointment as chaplain	87
111	Appointment as Principal Chaplain	88
<b>Part 3</b>	<b>Status of chaplains</b>	
112	Rank of chaplains	89
113	Command and functions	90
114	Change in the notional rank of a chaplain	90



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	Page
<b>Part 4</b>	
<b>Alteration of chaplain's service obligation</b>	
115 Recommendation to act under Chapter 8 or 9	92
116 Retirement age	92
<b>Chapter 12</b>	
<b>General</b>	
117 No civil contract	94
118 Service for a period of less than one day	94
119 Delegation	95
<b>Chapter 13</b>	
<b>Transitional arrangements</b>	
120 Transitional arrangements for Australian Navy	97
121 Transitional arrangements for Australian Army	98
122 Transitional arrangements for Australian Air Force	99
123 Transitional arrangements for chaplains	101
124 Transfer to Standby Reserve for members serving at commencement of Chapter 13	101
125 Transfer to Standby Reserve for members appointed or enlisted before 1 July 2003	101
<b>Schedule 1</b>	
<b>Ranks and compulsory retirement ages (not including chaplains)</b>	103
<b>Schedule 2</b>	
<b>Oath or affirmation for enlistment of member</b>	106
Part 1 Form of oath	106
Part 2 Form of affirmation	107
<b>Notes</b>	108

Regulation 1

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# Chapter 1 Preliminary

## 1 Name of Regulations [see Note 1]

These Regulations are the *Defence (Personnel) Regulations 2002*.

## 2 Commencement [see Note 1]

These Regulations commence on the commencement of item 14 of Schedule 2 to the *Defence Legislation Amendment (Enhancement of the Reserves and Modernisation) Act 2001*.

## 3 Definitions

In these Regulations:

*Air Force Act* means the *Air Force Act 1923*.

*Chief* means:

- (a) in relation to the Australian Navy — the Chief of Navy;  
and
- (b) in relation to the Australian Army — the Chief of Army;  
and
- (c) in relation to the Australian Air Force — the Chief of Air Force.

*compulsory retirement age* means:

- (a) for a member other than a chaplain — the age worked out in accordance with Part 3 of Chapter 3; and
- (b) for a chaplain — the age worked out in accordance with Chapter 11 and Part 3 of Chapter 3.

*Defence Act* means the *Defence Act 1903*.

*enlisted member* means a member other than an officer.

*Naval Defence Act* means the *Naval Defence Act 1910*.

*non-commissioned rank* means:

- (a) in relation to the Australian Navy — a rank:

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**Regulation 3**

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- (i) above the rank of Seaman; and
  - (ii) below the rank of Midshipman; and
- (b) in relation to the Australian Army — a rank:
  - (i) above the rank of Private; and
  - (ii) below the rank of Officer Cadet; and
- (c) in relation to the Australian Air Force — a rank:
  - (i) above the rank of Aircraftman or Aircraftwoman; and
  - (ii) below the rank of Officer Cadet.

***senior officer*** means an officer who holds any of the following ranks as a substantive rank:

- (a) Rear-Admiral or higher;
- (b) Major-General or higher;
- (c) Air Vice-Marshal or higher.

***Service*** means any of the arms of the Defence Force.

***substantive rank***, in relation to a member, means:

- (a) the rank to which the member is appointed, or at which the member is enlisted; or
- (b) if regulation 32 or 38 applies to the member — the substantive rank worked out in accordance with that regulation.

**Regulation 4**

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## **Chapter 2      General arrangements for the Defence Force**

### **4           Ranks**

The ranks of members of the Defence Force (other than chaplains) are set out in Schedule 1.

### **5           Reserves**

- (1) A Service includes the following categories of the Reserves:
  - (a) the High Readiness Active Reserve;
  - (b) the High Readiness Specialist Reserve;
  - (c) the Active Reserve;
  - (d) the Specialist Reserve;
  - (e) the Standby Reserve;
  - (f) any other categories that the Chief establishes for the Chief's Service.
- (2) A Chief must ensure that the Standby Reserve in the Chief's Service is raised at all times.
- (3) A Chief is not required to ensure that all of the categories of the Reserves for the Chief's Service, other than the Standby Reserve, are raised at a particular time.

# **Chapter 3 Arrangements for service in the Defence Force**

## **Part 1 Overview**

### **6 Service**

- (1) An officer serves in the Defence Force in accordance with the following requirements:
  - (a) the officer may be appointed provisionally;
  - (b) the officer may be appointed on probation;
  - (c) the officer is expected to serve for a period specified as part of the officer's appointment;
  - (d) the officer's period of service may include service in the Standby Reserve;
  - (e) the officer's service in the Defence Force ends if the officer reaches compulsory retirement age, unless special arrangements are made in accordance with these Regulations;
  - (f) the officer's service in the Defence Force ends at the end of the officer's period of service, unless special arrangements are made, in accordance with these Regulations, that affect the officer's service;
  - (g) the officer's service in the Defence Force may be terminated;
  - (h) the officer's service in the Defence Force ends in other circumstances specified in these Regulations.
- (2) An enlisted member serves in the Defence Force in accordance with the following requirements:
  - (a) the enlisted member's enlistment may be accepted provisionally;

## **Regulation 6**

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- (b) the enlisted member is expected to serve for a period specified as part of the acceptance of the enlistment;
- (c) the enlisted member's period of service may include service in the Standby Reserve;
- (d) the enlisted member's service in the Defence Force ends if the enlisted member reaches compulsory retirement age, unless special arrangements are made in accordance with these Regulations;
- (e) the enlisted member's service in the Defence Force ends at the end of the enlisted member's period of service, unless special arrangements are made, in accordance with these Regulations, that affect the enlisted member's service;
- (f) the enlisted member's service in the Defence Force may be terminated;
- (g) the enlisted member's service in the Defence Force ends in other circumstances specified in these Regulations.

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**Regulation 7**

## **Part 2                      Criteria for making determinations**

### **7                      Criteria**

- (1) This regulation applies to a person who is required to make a determination or decision under these Regulations.

*Examples*

- 1 A determination of conditions under regulation 14 or 23.
- 2 A determination of seniority under regulation 16 or 26.

- (2) The person must have regard to the following matters when determining the matter or making the decision:
- (a) the ability of the relevant Service to carry out operations that it is carrying out or may be required to carry out;
  - (b) the size and composition of the relevant Service;
  - (c) the organisational effectiveness of the relevant Service;
  - (d) the training of the relevant Service;
  - (e) the need to ensure the availability of an adequate supply of suitable officers and enlisted members in the relevant Service;
  - (f) the skills and experience required for the proper performance of duties in the relevant Service;
  - (g) the management of officers and enlisted members in the relevant Service;
  - (h) the career advancement needs of officers and enlisted members in the relevant Service.

## Regulation 8

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# Part 3 Retirement age

## 8 Compulsory retirement age

The compulsory retirement age for each rank of member (other than a chaplain) is set out in Schedule 1.

*Note* The compulsory retirement age for a chaplain is set out in regulation 116.

## 9 Alteration of compulsory retirement age — members

- (1) This regulation applies to a member if Schedule 1 specifies a retirement age (the ***new retirement age***) for the member that is not the same as the retirement age that was applicable to the member immediately before this regulation commences (the ***former retirement age***).
- (2) The member may elect to retain the former retirement age.
- (3) The election must be given to the Chief of the member's Service before the member reaches the earlier of the old and new retirement ages.
- (4) If the member makes an election in accordance with subregulations (2) and (3), the member's compulsory retirement age is taken to be:
  - (a) the former retirement age; or
  - (b) a greater retirement age imposed in accordance with these Regulations before the member reaches the former retirement age.
- (5) If the member:
  - (a) was offered the opportunity, before this regulation commences, to elect to serve until reaching the retirement age specified in Schedule 1; and
  - (b) did not elect to serve until reaching the retirement age specified in Schedule 1 before this regulation commences;the member's retirement age is taken to be the former retirement age (or a greater retirement age imposed in



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**Regulation 10**

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accordance with these Regulations before the member reaches the former retirement age) unless the Chief of the member's Service allows the member to elect to serve until reaching the new retirement age.

**10 Alteration of compulsory retirement age — chaplains**

- (1) This regulation applies to a chaplain if regulation 116 specifies a retirement age (the *new retirement age*) for the chaplain that is not the same as the retirement age that was applicable to the chaplain immediately before this regulation commences (the *former retirement age*).
- (2) The chaplain may elect to retain the former retirement age.
- (3) The election must be given to the Chief of the Service in which the chaplain is serving before the chaplain reaches the earlier of the old and new retirement ages.
- (4) If the chaplain makes an election in accordance with subregulations (2) and (3), the chaplain's compulsory retirement age is taken to be:
  - (a) the former retirement age; or
  - (b) a greater retirement age imposed in accordance with these Regulations before the chaplain reaches the former retirement age.
- (5) If the chaplain:
  - (a) was offered the opportunity, before this regulation commences, to elect to serve until reaching the retirement age specified in regulation 116; and
  - (b) did not elect to serve until reaching the retirement age specified in regulation 116 before this regulation commences;the chaplain's retirement age is taken to be the former retirement age (or a greater retirement age imposed in accordance with these Regulations before the chaplain reaches the former retirement age) unless the Chief of the Service in which the chaplain is serving allows the chaplain to elect to serve until reaching the new retirement age.

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**Regulation 11**

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**11 Extension of compulsory retirement age — officers**

- (1) The Minister may, on 1 or more occasions, extend the compulsory retirement age for a specified officer, or for a class of officers:
  - (a) to an age not greater than 65 years; or
  - (b) for a specified period.
- (2) If:
  - (a) a period is specified under paragraph (1) (b) in relation to a class of officers; and
  - (b) the effect of the period is that the compulsory retirement age for an officer in the class would be more than 65 years;the compulsory retirement age for that officer is taken to be 65 years.
- (3) If a person is appointed in accordance with subregulation 15 (2) for a specified period, or until a specified age, the compulsory retirement age for that officer is taken to be the end of the period, or the specified age.
- (4) If the compulsory retirement age for an officer is extended under subregulation (1), or altered under subregulation (3), a reference in these Regulations to the officer's compulsory retirement is taken to be the extended or altered age.

**12 Extension of compulsory retirement age — enlisted members**

- (1) A Chief may, on 1 or more occasions, extend the compulsory retirement age for a specified enlisted member of the Chief's Service, or for a class of enlisted members:
  - (a) to an age not greater than 65 years; or
  - (b) for a specified period.
- (2) If:
  - (a) a period is specified under paragraph (1) (b) in relation to a class of enlisted members; and

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**Regulation 11**

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- (b) the effect of the period is that the compulsory retirement age for an enlisted member in the class would be more than 65 years;

the compulsory retirement age for that enlisted member is taken to be 65 years.

- (3) If a person is appointed in accordance with subregulation 25 (3) for a specified period, or until a specified age, the compulsory retirement age for that enlisted member is taken to be the end of the period, or the specified age.
- (4) If the compulsory retirement age for an enlisted member is extended under subregulation (1), or altered under subregulation (3), a reference in these Regulations to the enlisted member's compulsory retirement is taken to be the extended or altered age.

## **Chapter 4      Appointment and enlistment**

### **Part 1            Appointment of officers**

#### **Division 1        Appointment — general**

##### **13            Application of Division 1**

This Division does not apply in relation to the appointment of a chaplain.

*Note* Chaplains are formally appointed in accordance with Chapter 11. However, the arrangements in Divisions 2, 3, 4 and 6 apply to the appointment of chaplains: see Chapter 11.

##### **14            Eligibility for appointment**

- (1) A Chief may determine conditions with which a person must comply to be eligible for appointment as an officer of the Chief's Service.
- (2) A Chief may determine that a person is not required to comply with a specified condition determined under subregulation (1).

##### **15            Appointment**

- (1) The Governor-General may:
  - (a) appoint a person to be an officer of a specified rank of the Australian Navy, the Australian Army or the Australian Air Force; and
  - (b) issue a commission to the person.
- (2) If it is proposed to appoint a person whose age:
  - (a) is greater than the maximum retirement age for the rank to which the person would be appointed; and
  - (b) does not exceed 65 years;

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**Regulation 17**

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the Governor-General must not appoint the person to be an officer unless the Governor-General is of the opinion that the person has a particular skill that is required in the Service to which the person is to be appointed.

- (3) The Governor-General must:
  - (a) specify the person's period of service:
    - (i) as an indefinite or fixed period; or
    - (ii) in terms of reaching a particular age; and
  - (b) specify the part of the Service in which the person is to commence service.
- (4) A person appointed in the circumstances mentioned in subregulation (2) must commence service in a category of the Reserves.
- (5) The period of service may include a period of service in the Standby Reserve.

## **Division 2                      Determination of seniority**

### **16                      Seniority**

A Chief may determine the seniority of a person appointed as an officer of the Chief's Service.

## **Division 3                      Appointment on provisional basis**

### **17                      Provisional appointment**

- (1) The Governor-General may appoint a person to be an officer provisionally.
- (2) A provisional appointment is subject to compliance by the officer with a specified condition determined under regulation 14.

**Regulation 18**

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- (3) The Chief of the officer's Service may terminate the officer's service in the Defence Force at any time during the period of provisional appointment at which the officer does not comply with a condition mentioned in subregulation (2).

*Note* The termination of an officer's period of service is not followed by transfer to the Standby Reserve.

- (4) The officer's period of service in the Defence Force includes the period of provisional appointment.

**18            Extension of period of provisional appointment**

The Chief of an officer's Service may extend the period of the officer's provisional appointment.

**Division 4                    Appointment on probation**

**19            Probation**

- (1) The appointment of an officer may include a period of probation specified by the Governor-General.
- (2) The Chief of the officer's Service may terminate the officer's service in the Defence Force at any time during the period of probation.

*Note* The termination of an officer's period of service is not followed by transfer to the Standby Reserve.

- (3) The officer's period of service in the Defence Force includes the period of probation.

**20            Extension of period of probation**

The Chief of an officer's Service may extend the period of probation in relation to the officer's appointment.

## **Division 5                      Temporary appointment of officers**

### **21                      Temporary appointment**

- (1) A Chief may appoint temporarily an enlisted member of the Chief's Service to be an officer of a specified rank of the Chief's Service.
- (2) The Chief of the enlisted member's Service may extend the period of the appointment.
- (3) The Chief of the enlisted member's Service may terminate an appointment under subregulation (1) at any time.

## **Division 6                      Confirmation of appointment**

### **22                      Confirmation**

- (1) If:
  - (a) an officer is appointed provisionally; and
  - (b) the officer complies with all conditions mentioned in subregulation 17 (2); and
  - (c) the officer's service in the Defence Force has not been terminated;the Chief of the officer's Service must, as soon as practicable, confirm the appointment.
- (2) If:
  - (a) an officer is appointed on probation; and
  - (b) the officer's period of probation ends without the officer's service in the Defence Force being terminated;the Chief of the officer's Service must, as soon as practicable, confirm the appointment.
- (3) If:
  - (a) an officer is appointed provisionally and on probation; and
  - (b) subregulations (1) and (2) apply;

**Regulation 22**

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the Chief of the officer's Service must confirm the appointment as soon as practicable after the later of the events mentioned in paragraphs (1) (b) and (2) (b).



## **Part 2                      Enlistment**

### **Division 1                Enlistment — general**

#### **23            Eligibility for enlistment**

- (1) A Chief may determine conditions with which a person must comply to be eligible to enlist as a member of the Chief's Service.
- (2) A Chief may determine that a person is not required to comply with a specified condition determined under subregulation (1).

#### **24            Oath or affirmation on enlistment**

A person must, before being accepted for enlistment:

- (a) take the oath set out in Part 1 of Schedule 2; or
- (b) make the affirmation set out in Part 2 of Schedule 2.

#### **25            Acceptance of enlistment**

- (1) A person is enlisted in a Service by:
  - (a) taking the oath set out in Part 1 of Schedule 2; or
  - (b) making the affirmation set out in Part 2 of Schedule 2.
- (2) The person may be enlisted at a non-commissioned rank of that Service.
- (3) If it is proposed to enlist a person whose age:
  - (a) is greater than the maximum retirement age for the rank at which the person would be enlisted; and
  - (b) does not exceed 65 years;the person must not be enlisted unless the Chief of the Service in which the person would be enlisted is of the opinion that the person has a particular skill that is required in that Service.

**Regulation 26**

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- (4) The Chief of the person's Service must:
  - (a) specify the person's period of service:
    - (i) as an indefinite or fixed period; or
    - (ii) in terms of reaching a particular age; and
  - (b) specify the part of the Service in which the person is to commence service.
- (5) The period of service may include a period of service in the Standby Reserve.
- (6) A person enlisted in the circumstances mentioned in subregulation (3) must commence service in a category of the Reserves.
- (7) If the person is enlisted at a rank of that Service that may be held by a warrant officer, the Chief must issue a warrant to the person.

**Division 2                      Determination of seniority**

**26                      Seniority**

A Chief may determine the seniority of a person enlisted in the Chief's Service.

**Division 3                      Enlistment on provisional basis**

**27                      Provisional enlistment**

- (1) A Chief may enlist a person provisionally.
- (2) A provisional enlistment is subject to compliance by the enlisted member with a specified condition determined under regulation 23.
- (3) The Chief of the enlisted member's Service may terminate the enlisted member's service in the Defence Force at any time during the period of provisional enlistment at which the enlisted member does not comply with a condition mentioned in subregulation (2).

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**Regulation 29**

*Note* The termination of an enlisted member's period of service is not followed by transfer to the Standby Reserve.

- (4) The enlisted member's period of service in the Defence Force includes the period of provisional enlistment.

## **28 Extension of period of provisional enlistment**

The Chief of an enlisted member's Service may extend the period of the member's provisional enlistment.

## **Division 4 Confirmation of enlistment**

### **29 Confirmation**

If:

- (a) an enlisted member is enlisted provisionally; and
  - (b) the enlisted member complies with all conditions mentioned in subregulation 27 (2); and
  - (c) the enlisted member's enlistment has not been terminated;
- the Chief of the enlisted member's Service must, as soon as practicable, confirm the enlistment.

**Regulation 30**

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## **Chapter 5      Promotion**

### **Part 1                      Promotion — officers**

#### **Division 1                Promotion — general**

##### **30              No right to promotion**

An officer is not entitled as a right to be promoted.

##### **31              Eligibility for promotion**

- (1) A Chief may determine conditions with which an officer must comply to be eligible for:
  - (a) promotion to a rank of officer of the Chief's Service; or
  - (b) provisional promotion.

*Note* An enlisted member is appointed to an officer's rank in accordance with Part 1 of Chapter 4, not promoted to the rank under this Part.

- (2) A Chief may determine that an officer is not required to comply with a specified condition determined under subregulation (1).

##### **32              Promotion**

- (1) The Governor-General may promote an officer.
- (2) The rank to which an officer is promoted (including the rank to which an officer is promoted provisionally under regulation 33 or to which an officer is promoted for a specified period under regulation 35) is the officer's *substantive rank*.
- (3) However, the rank to which an officer is promoted temporarily under regulation 34 is not the officer's substantive rank.

## **Division 2                      Provisional, temporary and limited-tenure promotion**

### **33                      Provisional promotion**

- (1) The Governor-General may promote an officer provisionally.
- (2) A provisional promotion is subject to compliance by the officer with a specified condition determined under regulation 31.  
*Note* Under subregulation 31 (2), a Chief may determine that an officer is not required to comply with a specified condition.
- (3) A provisional promotion may be confirmed at any time within:
  - (a) the period specified as part of the promotion; or
  - (b) if no period is specified — 3 years after the provisional promotion.
- (4) If the officer complies with the conditions determined for promotion to the rank within:
  - (a) the period specified as part of the promotion; or
  - (b) if no period is specified — 3 years after the provisional promotion;the Chief of the officer's Service must confirm the promotion.
- (5) If the officer does not comply with the conditions determined for promotion to the rank within the period specified as part of the promotion, the Chief of the officer's Service may extend the period of provisional promotion to a period not exceeding 3 years in total.
- (6) If, during a period of provisional promotion, an officer fails to make satisfactory progress towards complying with the conditions determined for promotion to the rank, the Governor-General may revoke the provisional promotion.
- (7) If the officer does not comply with the conditions determined for promotion to the rank within the relevant period under subregulation (4), the officer reverts to the officer's previous rank at the end of that period.

**Regulation 34**

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**34            Temporary promotion**

- (1) The Governor-General may promote an officer to a rank temporarily.
- (2) The Chief of the officer's Service may extend the period during which the officer holds the rank.
- (3) The Governor-General may revoke a temporary promotion under this regulation at any time.

**35            Limited-tenure promotion**

- (1) The Governor-General may promote an officer to any of the following ranks for a specified period:
  - (a) Commander or a higher rank;
  - (b) Lieutenant-Colonel or a higher rank;
  - (c) Wing Commander or a higher rank.
- (2) The Chief of the officer's Service may extend the period.

*Note 1* An officer may decline to be promoted under this regulation.

*Note 2* An officer who has been promoted under this regulation is affected by regulation 66.

## **Part 2                      Promotion — enlisted members**

### **Division 1                Promotion — general**

#### **36                      No right to promotion**

An enlisted member is not entitled as a right to be promoted.

#### **37                      Eligibility for promotion**

- (1) A Chief may determine conditions with which an enlisted member must comply to be eligible for:
  - (a) promotion to a non-commissioned rank of the Chief's Service; or
  - (b) provisional promotion.
- (2) A Chief may determine that an enlisted member is not required to comply with a specified condition determined under subregulation (1).

#### **38                      Promotion of enlisted member**

- (1) A Chief may promote an enlisted member of the Chief's Service to a non-commissioned rank of that Service.

*Note* An enlisted member is appointed to an officer's rank in accordance with Part 1 of Chapter 4, not promoted to the rank under Part 1 of this Chapter.

- (2) If the person is promoted to a rank of that Service that may be held by a warrant officer, the Chief must issue a warrant to the person.
- (3) The rank to which an enlisted member is promoted (including the rank to which the enlisted member is promoted provisionally under regulation 39 or to which the enlisted member is promoted for a specified period under regulation 41) is the enlisted member's *substantive rank*.

**Regulation 39          Provisional promotion**

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- (4) However, the rank to which an enlisted member is promoted temporarily under regulation 40 is not the enlisted member's substantive rank.

**Division 2                      Provisional, temporary and  
limited-tenure promotion**

**39                      Provisional promotion**

- (1) A Chief may promote an enlisted member of the Chief's Service provisionally.
- (2) A provisional promotion is subject to compliance by the enlisted member with a specified condition determined under regulation 37.

*Note* Under subregulation 37 (2), a Chief may determine that an enlisted member is not required to comply with a specified condition.

- (3) A provisional promotion may be confirmed at any time within:
- (a) the period specified as part of the promotion; or
  - (b) if no period is specified — 3 years after the provisional promotion.
- (4) If the enlisted member complies with the conditions determined for promotion to the rank within:
- (a) the period specified as part of the promotion; or
  - (b) if no period is specified — 3 years after the provisional promotion;
- the Chief of the enlisted member's Service must confirm the promotion.
- (5) If the enlisted member does not comply with the conditions determined for promotion to the rank within the period specified as part of the promotion, the Chief of the enlisted member's Service may extend the period of provisional promotion to a period not exceeding 3 years in total.



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**Regulation 41**

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- (6) If, during a period of provisional promotion, an enlisted member fails to make satisfactory progress towards complying with the conditions determined for promotion to the rank, the Chief of the enlisted member's Service may revoke the provisional promotion.
- (7) If the enlisted member does not comply with the conditions determined for promotion to the rank within the relevant period under subregulation (4), the enlisted member reverts to the enlisted member's previous rank at the end of that period.

**40 Temporary promotion**

- (1) A Chief may promote an enlisted member of the Chief's Service to a rank temporarily.
- (2) The Chief of the enlisted member's Service may extend the period during which the enlisted member holds the rank.
- (3) The Chief of an enlisted member's Service may revoke a temporary promotion under this regulation at any time.

**41 Limited-tenure promotion**

- (1) A Chief may promote an enlisted member to any of the following non-commissioned ranks for a specified period:
  - (a) Warrant Officer (in the Australian Navy);
  - (b) Warrant Officer Class 1;
  - (c) Warrant Officer (in the Australian Air Force).
- (2) The Chief must issue a warrant to the enlisted member.
- (3) The Chief may extend the period.

*Note 1* An enlisted member may decline to be promoted under this regulation.

*Note 2* An enlisted member who has been promoted under this regulation is affected by regulation 66.

**Regulation 42**

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## **Chapter 6      Posting of members**

### **42            Posting**

A Chief may post a member of the Chief's Service:

- (a) to a place in or outside Australia; or
- (b) to a position in or outside the Service.

## Chapter 7 Reduction in rank

### 43 Reduction — general

A member's rank may be reduced under this Chapter because of the member's inefficiency, unsuitability or unsatisfactory performance.

### 44 Reduction in rank — officers

- (1) The Governor-General may give an officer a notice:
  - (a) stating that it is proposed to reduce the officer's rank to a rank specified in the notice; and
  - (b) stating the reason for reducing the officer's rank; and
  - (c) setting out particulars of the facts and circumstances relating to the reason for reducing the officer's rank that is sufficient to allow the officer to prepare a statement of reasons why the officer's rank should not be reduced; and
  - (d) inviting the officer to give the Governor-General a statement of reasons why the officer's rank should not be reduced; and
  - (e) specifying a period of at least 28 days after the date of the notice as the period in which the officer may give the statement of reasons.
- (2) If:
  - (a) the officer does not give the Governor-General a statement of reasons in the specified period; and
  - (b) the Governor-General is of the opinion that the reason for reducing the officer's rank has not been affected by a change in circumstances since the notice was given to the officer;the Governor-General must reduce the officer's rank.

**Regulation 45**

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- (3) If:
  - (a) the officer gives the Governor-General a statement of reasons in the specified period; and
  - (b) having considered the statement, the Governor-General is of the opinion that the reason for reducing the officer's rank:
    - (i) has been established; and
    - (ii) has not been affected by a change in circumstances since the notice was given to the officer;the Governor-General must reduce the officer's rank.
- (4) The Governor-General must not reduce the officer's rank under this regulation in any other circumstances.

**45 Cancellation of reduction in rank — officers**

- (1) The Governor-General may cancel the reduction of an officer's rank.
- (2) If a reduction in rank is cancelled, the officer is restored to the rank and seniority that he or she held immediately before the reduction.

**46 Reduction in rank — enlisted members**

- (1) The Chief of an enlisted member's Service may give the enlisted member a notice:
  - (a) stating that it is proposed to reduce the enlisted member's rank to a rank specified in the notice; and
  - (b) stating the reason for reducing the enlisted member's rank; and
  - (c) setting out particulars of the facts and circumstances relating to the reason for reducing the enlisted member's rank that is sufficient to allow the enlisted member to prepare a statement of reasons why the enlisted member's rank should not be reduced; and
  - (d) inviting the enlisted member to give the Chief a statement of reasons why the enlisted member's rank should not be reduced; and

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**Regulation 48**

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- (e) specifying a period of at least 28 days after the date of the notice as the period in which the enlisted member may give the statement of reasons.
- (2) If:
- (a) the enlisted member does not give the Chief a statement of reasons in the specified period; and
  - (b) the Chief is of the opinion that the reason for reducing the enlisted member's rank has not been affected by a change in circumstances since the notice was given to the enlisted member;
- the Chief must reduce the enlisted member's rank.
- (3) If:
- (a) the enlisted member gives the Chief a statement of reasons in the specified period; and
  - (b) having considered the statement, the Chief is of the opinion that the reason for reducing the enlisted member's rank:
    - (i) has been established; and
    - (ii) has not been affected by a change in circumstances since the notice was given to the enlisted member;
- the Chief must reduce the enlisted member's rank.
- (4) The Chief must not reduce the enlisted member's rank under this regulation in any other circumstances.

**47 Cancellation of reduction in rank**

- (1) A Chief may cancel the reduction of an enlisted member's rank.
- (2) If a reduction in rank is cancelled, the enlisted member is restored to the rank and seniority that he or she held immediately before the reduction.

**48 Voluntary reduction in rank**

- (1) An officer may apply to the Governor-General to be reduced in rank to a rank specified in the application.

**Regulation 48**

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- (2) The Governor-General must:
  - (a) reduce the officer's rank to the rank specified in the application; or
  - (b) refuse the application.
- (3) An enlisted member may apply to the Chief of the enlisted member's Service to be reduced in rank to a rank specified in the application.
- (4) The Chief must:
  - (a) reduce the enlisted member's rank to the rank specified in the application; or
  - (b) refuse the application.

## **Chapter 8      Alteration of the service obligation**

### **Part 1              Voluntary alteration of the service obligation**

#### **Division 1          Voluntary alteration of period of service**

##### **49              Extension and conversion of appointments**

- (1) An officer who has been appointed for a limited period may, on or before the end of the period, apply to the Chief of the officer's Service:
  - (a) to serve for another limited period; or
  - (b) to convert the officer's appointment to appointment for an indefinite period.
- (2) The Chief of the officer's Service may:
  - (a) extend the officer's appointment for a specified period in accordance with the application; or
  - (b) convert the officer's appointment to appointment for an indefinite period in accordance with the application; or
  - (c) refuse the application.
- (3) An officer who has been appointed for an indefinite period may apply to the Chief of the officer's Service to convert the officer's appointment to an appointment for a limited period.
- (4) The Chief of the officer's Service may:
  - (a) convert the appointment in accordance with the application under subregulation (3); or
  - (b) refuse the application.

## **Regulation 50**

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- (5) An extension or conversion of an officer's appointment must not exceed the officer's compulsory retirement age.

## **50 Extension and conversion of enlistments**

- (1) An enlisted member who has been enlisted for a limited period may, on or before the end of the period, apply to the Chief of the enlisted member's Service:
- (a) to serve for another limited period; or
  - (b) to convert the enlisted member's enlistment to enlistment for an indefinite period.
- (2) The Chief of the enlisted member's Service may:
- (a) extend the enlisted member's enlistment for a specified period in accordance with the application; or
  - (b) convert the enlisted member's enlistment to enlistment for an indefinite period in accordance with the application; or
  - (c) refuse the application.
- (3) An enlisted member who has been enlisted for an indefinite period may apply to the Chief of the enlisted member's Service to convert the enlisted member's enlistment to enlistment for a limited period.
- (4) The Chief of the enlisted member's Service may:
- (a) convert the enlisted member's enlistment in accordance with the application under subregulation (3); or
  - (b) refuse the application.
- (5) An extension or conversion of an enlisted member's period of service must not exceed the enlisted member's compulsory retirement age.

## **51 Fixed tenure appointment**

- (1) This regulation applies in relation to the following persons (*eligible members*):
- (a) an officer who holds any of the following ranks:
    - (i) Lieutenant Commander or higher;
    - (ii) Major or higher;



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**Regulation 52**

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- (iii) Squadron Leader or higher;
- (b) an enlisted member who holds any of the following non-commissioned ranks:
  - (i) Chief Petty Officer or higher;
  - (ii) Warrant Officer Class 2 or higher;
  - (iii) Flight Sergeant or higher.
- (2) A Chief may offer an eligible member appointment to a position, not involving promotion, for a specified period on the condition that the member's appointment or enlistment is converted to an appointment or enlistment for a fixed period.

*Note 1* An eligible member may decline to be appointed under this regulation.

*Note 2* An eligible member who has been appointed under this regulation is affected by regulation 67.
- (3) If the eligible member accepts the offer:
  - (a) the Chief must appoint the eligible member to the position; and
  - (b) the eligible member's appointment or enlistment is converted to appointment or enlistment for a fixed period, by force of this subregulation, when the eligible member is appointed to the position.
- (4) The Chief may extend the period of the appointment or enlistment.

## **Division 2                      Voluntary transfer of members**

### **Subdivision 1                  Transfer between Services**

#### **52                      Transfer**

- (1) A Chief may transfer a member of the Chief's Service to another Service.
- (2) A transfer has no effect unless:
  - (a) the member has consented to the transfer; and
  - (b) the Chief of the other Service has approved the transfer.

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**Regulation 53**

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- (3) The Chief of the other Service must specify the conditions in accordance with which the transfer is to take place.

**53 Obligations of transferred member — completion of specified service**

- (1) This regulation applies if a member:
- (a) is transferred under regulation 52; and
  - (b) is subject to a condition or obligation in relation to the member's service.
- (2) The member must, after the transfer takes effect, comply with the condition or obligation as if it had been imposed by the Chief of the Service to which the member has been transferred.
- (3) The Chief of the Service to which the member has been transferred may determine that the member is not required to comply with the condition or obligation.

**54 Prior service of transferred member**

For all purposes connected with the appointment or service of a member who has been transferred under regulation 52, service by the member in the Service from which the member has been transferred is taken to have been rendered in the Service to which the member has been transferred.

**Subdivision 2 Transfer within Service (other than senior officer)**

**55 Application of Subdivision 2**

This Subdivision applies in relation to a member other than a senior officer.

**56 Application for transfer**

A member may apply to the Chief of the member's Service for permission to transfer:

- (a) from one part of the Permanent Force of that Service to another part of the Permanent Force of that Service; or

- (b) from the Permanent Force of that Service to a category of the Reserves of that Service; or
- (c) from a category of the Reserves of that Service to another category of the Reserves of that Service; or
- (d) from a category of the Reserves of that Service to the Permanent Force of that Service.

**57 Withdrawal of application for transfer**

- (1) A member may apply to the Chief of the member's Service to withdraw an application for permission to transfer as mentioned in regulation 56.
- (2) The Chief may accept or refuse the application.
- (3) For subregulation (2), the Chief must have regard to the effect of withdrawing the application on:
  - (a) the ability of the Chief's Service to carry out its current and possible future military operations; and
  - (b) the management of personnel in the Chief's Service.

**58 Decision on application for transfer**

- (1) If an application for transfer is made to a Chief in accordance with regulation 56, the Chief may:
  - (a) grant the application and give permission for the transfer; or
  - (b) refuse the application.
- (2) If the Chief grants the application, the Chief may determine terms of the transfer (including terms relating to the member's rank and seniority after the transfer).
- (3) The Chief may refuse the application if the application is made in time of war or in time of defence emergency.
- (4) The Chief may refuse the application if the Chief believes that accepting the application would seriously prejudice the ability of the Chief's Service to carry out operations that it is carrying out or may be required to carry out.

### **Regulation 58**

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- (5) The Chief may refuse the application if the member:
  - (a) holds any of the following ranks as a substantive rank:
    - (i) Lieutenant-Commander or higher;
    - (ii) Major or higher;
    - (iii) Squadron Leader or higher; and
  - (b) has not completed at least 12 months service in that substantive rank after the day on which the member was promoted to that rank.
- (6) The Chief may refuse the application if:
  - (a) the member is engaged in, or has completed, in whole or in part:
    - (i) a course of training; or
    - (ii) a period of employment on special duties; or
    - (iii) a period of service outside Australia; and
  - (b) the Chief has determined that the member is required to complete a specified period of service; and
  - (c) the member has not completed the period of service.
- (7) The Chief may refuse the application if:
  - (a) the member was appointed or enlisted outside Australia; and
  - (b) the member's transport, or family's transport, to Australia was at the expense of the Commonwealth; and
  - (c) the Chief has determined that the member is required to complete a specified period of service; and
  - (d) the member has not completed the period of service.
- (8) The Chief may refuse the application if:
  - (a) the member is serving in a category of the Reserves; and
  - (b) the application would be granted at a time at which the member has been called out for continuous full-time service.
- (9) The Chief may refuse the application if the member has not completed a period of service that, under a determination of the Chief, the member is required to complete in respect of the member's initial appointment or enlistment.

- (10) The Chief may refuse the application for any other reason that relates to the interests of the Chief's Service.

### **Subdivision 3                      Transfer within Service (senior officer)**

#### **59                      Application of Subdivision 3**

This Subdivision applies in relation to a senior officer.

#### **60                      Application for transfer — senior officer**

A senior officer may apply to the Governor-General for permission to transfer:

- (a) from one part of the Permanent Force of that Service to another part of the Permanent Force of that Service; or
- (b) from the Permanent Force of that Service to a category of the Reserves of that Service; or
- (c) from a category of the Reserves of that Service to another category of the Reserves of that Service; or
- (d) from a category of the Reserves of that Service to the Permanent Force of that Service.

#### **61                      Withdrawal of application for transfer — senior officer**

- (1) A senior officer may apply to the Governor-General to withdraw an application for permission to transfer as mentioned in regulation 60.
- (2) The Governor-General may accept or refuse the application.

#### **62                      Decision on application for transfer — senior officer**

- (1) If an application for transfer is made to a Governor-General in accordance with regulation 60, the Governor-General may:
  - (a) grant the application and give permission for the transfer; or
  - (b) refuse the application.

## **Regulation 62**

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- (2) If the Governor-General grants the application, the Governor-General may determine terms of the transfer (including terms relating to the member's rank and seniority after the transfer).
- (3) The Governor-General may refuse the application if the application is made in time of war or in time of defence emergency.
- (4) The Governor-General may refuse the application if the Governor-General believes that accepting the application would seriously prejudice the ability of the senior officer's Service to carry out operations that it is carrying out or may be required to carry out.
- (5) The Governor-General may refuse the application if the senior officer has not completed at least 12 months service in the senior officer's substantive rank after the day on which the senior officer was promoted to that rank.
- (6) The Governor-General may refuse the application if:
  - (a) the senior officer is engaged in, or has completed, in whole or in part:
    - (i) a course of training; or
    - (ii) a period of employment on special duties; or
    - (iii) a period of service outside Australia; and
  - (b) the senior officer's Chief has determined that the senior officer is required to complete a specified period of service; and
  - (c) the senior officer has not completed the period of service.
- (7) The Governor-General may refuse the application if:
  - (a) the senior officer is serving in a category of the Reserves; and
  - (b) the application would be granted at a time at which the senior officer has been called out for continuous full-time service.
- (8) The Governor-General may refuse the application for any other reason that relates to the interests of the senior officer's Service.

## **Part 2                      Compulsory alteration of the service obligation**

### **Division 1                Compulsory transfer of members — general**

#### **63                      Transfer between parts and categories**

A Chief may transfer a member of the Chief's Service:

- (a) from one part of the Permanent Force of that Service to another part of the Permanent Force of that Service; or
- (b) from a category of the Reserves of that Service (other than from the Standby Reserve) to the Active Reserve or Specialist Reserve of that Service; or
- (c) from a category of the Reserves of that Service to the Standby Reserve of that Service.

### **Division 2                Transfer to Standby Reserve at end of period of service**

#### **64                      Transfer to Standby Reserve**

- (1) This regulation applies in relation to a member who has completed a period of service in:
  - (a) the Permanent Forces; or
  - (b) a category of the Reserves other than the Standby Reserve.
- (2) The member is transferred to the Standby Reserve at the end of the period of service unless:
  - (a) the member has reached his or her compulsory retirement age for service in the Standby Reserve; or
  - (b) the member has agreed under regulation 49 or 50 to extend the member's period of service; or
  - (c) subregulation (3) applies.

#### **Regulation 64**

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- (3) At any time before the end of a member's period of service in the Permanent Forces:
  - (a) the member may apply to the Chief of the member's Service to transfer to a category of the Reserves of the member's Service other than the Standby Reserve; and
  - (b) if the Chief approves the application:
    - (i) the member is not transferred to the Standby Reserve at the end of the period of service; and
    - (ii) the member is transferred to the category of the Reserves mentioned in the application.
- (4) If a member is transferred to the Standby Reserve under subregulation (2):
  - (a) the member's period of service in the Standby Reserve ends at the earliest of the following events:
    - (i) when the member reaches his or her compulsory retirement age;
    - (ii) if the member is allowed to resign from the Defence Force — when the resignation is accepted;
    - (iii) if the member's service in the Defence Force is terminated — when the service is terminated; and
  - (b) for a member who has completed 5 years service in the Standby Reserve — the Chief of the member's Service must accept an application from the member to resign from the Standby Reserve unless the application:
    - (i) is made in time of war or in time of defence emergency; or
    - (ii) would be granted at a time at which the member has been called out for continuous full-time service; and
  - (c) the transfer is taken to be a retirement from the Defence Force, with effect from the transfer, for all purposes relating to the payment of benefits; and
  - (d) the transfer is not taken to be a retirement from the Defence Force for any other purpose.



## **Division 3                      Other transfers to Standby Reserve**

### **65                      Transfer to Standby Reserve of senior officers appointed under Part II of Defence Act**

- (1) This regulation applies in relation to a senior officer who has been appointed under Part II of the Defence Act.

*Note* Part II of the Defence Act deals with the appointment of Chiefs and related positions.

- (2) If the senior officer:
- (a) completes the period of the appointment; and
  - (b) has not been reappointed to the officer's position; and
  - (c) has not been appointed to another position under Part II of the Defence Act (whether or not the appointment takes effect immediately after the end of the term of the previous appointment); and
  - (d) has not reached his or her compulsory retirement age;
- the Governor-General must transfer the senior officer to the Standby Reserve.
- (3) If the senior officer is transferred to the Standby Reserve:
- (a) the senior officer's period of service in the Standby Reserve ends at the earliest of the following events:
    - (i) when the senior officer reaches his or her compulsory retirement age;
    - (ii) if the senior officer is allowed to resign from the Defence Force — when the resignation is accepted;
    - (iii) if the senior officer's service in the Defence Force is terminated — when the service is terminated; and
  - (b) for a senior officer who has completed 5 years service in the Standby Reserve — the Governor-General must accept an application from the senior officer to resign from the Standby Reserve unless the application:
    - (i) is made in time of war or in time of defence emergency; or

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**Regulation 66**

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- (ii) would be granted at a time at which the senior officer has been called out for continuous full-time service; and
- (c) the transfer is taken to be a retirement from the Defence Force, with effect from the transfer, for all purposes relating to the payment of benefits; and
- (d) the transfer is not taken to be a retirement from the Defence Force for any other purpose.

**66 Transfer to Standby Reserve after limited-tenure promotion**

- (1) This regulation applies in relation to a member who has been promoted in accordance with regulation 35 or 41.
- (2) The member is transferred to the Standby Reserve at the end of the period of the promotion unless:
  - (a) the member has reached the member's compulsory retirement age for service in the Standby Reserve; or
  - (b) subregulation (4) or (5) applies.
- (3) The member is transferred to the Standby Reserve at the rank to which the member was promoted in accordance with regulation 35 or 41.
- (4) At any time before the end of the period of the promotion:
  - (a) the Chief of the member's Service may authorise the member to revert, at the end of the period of the promotion, to the rank the member held immediately before the promotion; and
  - (b) if paragraph (a) applies, the member:
    - (i) is not transferred to the Standby Reserve at the end of the period of the promotion; and
    - (ii) reverts at the end of the period to the rank the member held immediately before the promotion.
- (5) At any time before the end of the period of the promotion for a member who is serving in the Permanent Forces:
  - (a) the member may notify the Chief of the member's Service that the member wishes to transfer to a category of the

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**Regulation 67**

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- Reserves of the member's Service, other than the Standby Reserve, at the end of the period of the promotion; and
- (b) if the Chief approves the request, the member:
    - (i) is not transferred to the Standby Reserve at the end of the period of the promotion; and
    - (ii) is transferred at that time to the category of the Reserves that the member nominated.
  - (6) If the member is transferred to the Standby Reserve:
    - (a) the member's period of service in the Standby Reserve ends at the earliest of the following events:
      - (i) when the member reaches his or her compulsory retirement age for service in the Standby Reserve;
      - (ii) if the member is allowed to resign from the Defence Force — when the resignation is accepted;
      - (iii) if the member's service in the Defence Force is terminated — when the service is terminated; and
    - (b) for a member who has completed 5 years service in the Standby Reserve — the Chief of the member's Service must accept an application from the member to resign from the Standby Reserve unless the application:
      - (i) is made in time of war or in time of defence emergency; or
      - (ii) would be granted at a time at which the member has been called out for continuous full-time service; and
    - (c) the transfer is taken to be a retirement from the Defence Force, with effect from the transfer, for all purposes relating to the payment of benefits; and
    - (d) the transfer is not taken to be a retirement from the Defence Force for any other purpose.

**67      Transfer to Standby Reserve after fixed tenure appointment**

- (1) This regulation applies in relation to a member who has been appointed to a position in accordance with regulation 51.

### **Regulation 67**

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- (2) The member is transferred to the Standby Reserve at the end of the period of the appointment unless:
  - (a) the member has reached the member's compulsory retirement age for service in the Standby Reserve; or
  - (b) subregulation (3) applies.
- (3) At any time before the end of the period of the appointment:
  - (a) a member who is serving in the Permanent Forces may notify the Chief of the member's Service that the member wishes to transfer to a category of the Reserves of the member's Service, other than the Standby Reserve, at the end of the period of the appointment; and
  - (b) if the Chief approves the request, the member:
    - (i) is not transferred to the Standby Reserve at the end of the period of the appointment; and
    - (ii) is transferred at that time to the category of the Reserves that the member nominated.
- (4) If the member is transferred to the Standby Reserve:
  - (a) the member's period of service in the Standby Reserve ends at the earliest of the following events:
    - (i) when the member reaches his or her compulsory retirement age for service in the Standby Reserve;
    - (ii) if the member is allowed to resign from the Defence Force — when the resignation is accepted;
    - (iii) if the member's service in the Defence Force is terminated — when the service is terminated; and
  - (b) for a member who has completed 5 years service in the Standby Reserve — the Chief of the member's Service must accept an application from the member to resign from the Standby Reserve unless the application:
    - (i) is made in time of war or in time of defence emergency; or
    - (ii) would be granted at a time at which the member has been called out for continuous full-time service; and
  - (c) the transfer is taken to be a retirement from the Defence Force, with effect from the transfer, for all purposes relating to the payment of benefits; and

- (d) the transfer is not taken to be a retirement from the Defence Force for any other purpose.

## **68 Transfer to Standby Reserve during redundancy**

- (1) A Chief may:
  - (a) declare that a member serving in the Permanent Forces cannot be usefully employed in the Permanent Force of the Chief's Service because of redundancy in that Service; and
  - (b) transfer the member to the Standby Reserve.
- (2) Subregulation (1) does not apply in relation to a member unless:
  - (a) redundancy in the Service is the subject of a document that:
    - (i) is issued by or with the authority of the Chief; and
    - (ii) identifies transfer to the Standby Reserve as a way in which redundancy is to be carried out; and
  - (b) the member:
    - (i) is given at least 12 months notice that it is intended to transfer the member to the Standby Reserve because of that redundancy; or
    - (ii) has consented to redundancy at a time agreed with the Chief; and
  - (c) redundancy is effected substantially in accordance with the document.
- (3) If the member is transferred to the Standby Reserve in accordance with the document mentioned in paragraph (2) (a):
  - (a) the member's period of service in the Standby Reserve ends at the earliest of the following events:
    - (i) when the member reaches his or her compulsory retirement age for service in the Standby Reserve;
    - (ii) if the member is allowed to resign from the Defence Force — when the resignation is accepted;
    - (iii) if the member's service in the Defence Force is terminated — when the service is terminated; and

## **Regulation 69**

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- (b) for a member who has completed 5 years service in the Standby Reserve — the Chief of the member's Service must accept an application from the member to resign from the Standby Reserve unless the application:
  - (i) is made in time of war or in time of defence emergency; or
  - (ii) would be granted at a time at which the member has been called out for continuous full-time service; and
- (c) the transfer is taken to be a retirement from the Defence Force, with effect from the transfer, for all purposes relating to the payment of benefits; and
- (d) the transfer is not taken to be a retirement from the Defence Force for any other purpose.

### **69 Transfer within Reserves for non-performance of training obligation**

- (1) If a member who is serving in a category of the Reserves has failed to carry out the member's training or other obligations, the Chief of the member's Service may transfer the member to another category of the Reserves with a lesser level of training obligations.

*Note* See regulation 100.

- (2) If a member is transferred to the Standby Reserve under subregulation (1):
  - (a) the member's period of service in the Standby Reserve ends at the earliest of the following events:
    - (i) when the member reaches his or her compulsory retirement age for service in the Standby Reserve;
    - (ii) if the member is allowed to resign from the Defence Force — when the resignation is accepted;
    - (iii) if the member's service in the Defence Force is terminated — when the service is terminated; and

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**Regulation 70**

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- (b) for a member who has completed 5 years service in the Standby Reserve — the Chief of the member's Service must accept an application from the member to resign from the Standby Reserve unless the application:
  - (i) is made in time of war or in time of defence emergency; or
  - (ii) would be granted at a time at which the member has been called out for continuous full-time service.

## **Division 4                      Other arrangements**

### **70                      Termination of service in Standby Reserve**

If a member is serving in the Standby Reserve of a Service, the Chief of the member's Service may terminate the member's service in the Defence Force at any time for a reason that relates to the interests of the Chief's Service.

**Regulation 71**

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**Part 3                      Alteration of the service  
obligation by payment of  
special benefit**

**Division 1                General**

**71                      Application of Part 3**

This Part applies in relation to the following persons (*eligible members*):

- (a)    an officer of the Permanent Forces who holds any of the following ranks:**
  - (i)   Lieutenant Commander or higher;
  - (ii)   Major or higher;
  - (iii)   Squadron Leader or higher;
- (b)   an enlisted member of the Permanent Forces who holds any of the following non-commissioned ranks:**
  - (i)   Chief Petty Officer or higher;
  - (ii)   Warrant Officer Class 2 or higher;
  - (iii)   Flight Sergeant or higher.

**Division 2                Offer of special benefit**

**Subdivision 1           Offer of special benefit (other than  
senior officer)**

**72                      Application of Subdivision 1**

This Subdivision applies in relation to an eligible member other than a senior officer.



**73 Preliminary notice for special benefit**

- (1) The Chief of an eligible member's Service may give the eligible member a notice:
  - (a) informing the eligible member that the Chief is considering giving the eligible member a notice, making an offer of special benefit, in accordance with regulation 74; and
  - (b) stating the reasons why the Chief is considering giving the notice; and
  - (c) inviting the eligible member, in a specified period, to give the Chief written reasons why the eligible member should not be transferred to a category of the Reserves.
- (2) The period must be at least 1 month, starting not earlier than the day on which the notice is given to the eligible member.

**74 Offer of special benefit to eligible member**

- (1) This regulation applies if:
  - (a) a Chief of an eligible member's Service has complied with regulation 73; and
  - (b) either:
    - (i) the eligible member has not given the Chief a statement of reasons; or
    - (ii) the eligible member has given the statement, and the Chief has considered the reasons.
- (2) The Chief may give the eligible member a notice stating that:
  - (a) if the eligible member agrees to be transferred to a category of the Reserves in the initial period specified in the notice, the eligible member will be entitled to a special benefit in accordance with a determination under section 58B or 58H of the Defence Act; and
  - (b) if the eligible member declines to be transferred in accordance with paragraph (a):
    - (i) the eligible member may be transferred to the Standby Reserve without a special benefit; or

## **Regulation 75**

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- (ii) the eligible member's service in the Defence Force may be terminated.

*Note* The notice will also include arrangements for a *subsequent period*, which is mentioned in regulation 78.

- (3) The initial period must be at least 1 month, starting not earlier than the day on which the notice is given to the eligible member.

## **Subdivision 2            Offer of special benefit (senior officer)**

### **75            Application of Subdivision 2**

This Subdivision applies in relation to an eligible member who is a senior officer.

### **76            Preliminary notice for special benefit**

- (1) The Governor-General may give the senior officer a notice:
  - (a) informing the eligible member that the Governor-General is considering giving the senior officer a notice, making an offer of special benefit, in accordance with regulation 77; and
  - (b) stating the reasons why the Governor-General is considering giving the notice; and
  - (c) inviting the senior officer, in a specified period, to give the Governor-General written reasons why the senior officer should not be transferred to a category of the Reserves.
- (2) The period must be at least 1 month, starting not earlier than the day on which the notice is given to the senior officer.

### **77            Offer of special benefit to senior officer**

- (1) This regulation applies if:
  - (a) the Governor-General has complied with regulation 76; and
  - (b) either:
    - (i) the senior officer has not given the Governor-General a statement of reasons; or

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**Regulation 78**

- (ii) the senior officer has given the statement, and the Governor-General has considered the reasons.
  - (2) The Governor-General may give the senior officer a notice stating that:
    - (a) if the senior officer agrees to be transferred to a category of the Reserves in the initial period specified in the notice, the senior officer will be entitled to a special benefit in accordance with a determination under section 58B or 58H of the Defence Act; and
    - (b) if the senior officer declines to be transferred in accordance with paragraph (a):
      - (i) the senior officer may be transferred to the Standby Reserve without a special benefit; or
      - (ii) the senior officer's service in the Defence Force may be terminated.
- Note* The notice will also include arrangements for a *subsequent period*, which is mentioned in regulation 79.
- (3) The initial period must be at least 1 month, starting not earlier than the day on which the notice is given to the senior officer.

## **Division 3                      Declining special benefit**

### **78                      Arrangements after declining special benefit (other than senior officer)**

- (1) This regulation applies if:
  - (a) an eligible member has been given a notice under subregulation 74 (2); and
  - (b) the eligible member does not agree to be transferred to a category of the Reserves in accordance with that subregulation; and
  - (c) the Chief of the eligible member's Service considers it is necessary to take action in the interests of the organisational effectiveness of the Service.

### **Regulation 78**

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- (2) The Chief may, at any time after the end of the subsequent period specified in the notice:
  - (a) transfer the eligible member to the Standby Reserve; or
  - (b) terminate the eligible member's service in the Defence Force.
- (3) The eligible member is not entitled to a special benefit in accordance with a determination under section 58B or 58H of the Defence Act.
- (4) If the eligible member is transferred to the Standby Reserve:
  - (a) the eligible member's period of service in the Standby Reserve ends at the earliest of the following events:
    - (i) when the eligible member reaches his or her compulsory retirement age for service in the Standby Reserve;
    - (ii) if the eligible member is allowed to resign from the Defence Force — when the resignation is accepted;
    - (iii) if the eligible member's service in the Defence Force is terminated — when the service is terminated; and
  - (b) for a member who has completed 5 years service in the Standby Reserve — the Chief of the member's Service must accept an application from the member to resign from the Standby Reserve unless the application:
    - (i) is made in time of war or in time of defence emergency; or
    - (ii) would be granted at a time at which the member has been called out for continuous full-time service; and
  - (c) the transfer is taken to be a retirement from the Defence Force, with effect from the transfer, for all purposes relating to the payment of benefits; and
  - (d) the transfer is not taken to be a retirement from the Defence Force for any other purpose.
- (5) The subsequent period must be at least 13 months, starting not earlier than the day on which the notice under subregulation 74 (2) is given to the eligible member.

**79 Arrangements after declining special benefit (senior officer)**

- (1) This regulation applies if:
  - (a) a senior officer has been given a notice under subregulation 77 (2); and
  - (b) the senior officer does not agree to be transferred to a category of the Reserves in accordance with that subregulation; and
  - (c) the Governor-General considers it is necessary to take action in the interests of the organisational effectiveness of the Service.
- (2) The Governor-General may, at any time after the end of the subsequent period specified in the notice:
  - (a) transfer the senior officer to the Standby Reserve; or
  - (b) terminate the senior officer's service in the Defence Force.
- (3) The senior officer is not entitled to a special benefit in accordance with a determination under section 58B or 58H of the Defence Act.
- (4) If the senior officer is transferred to the Standby Reserve:
  - (a) the senior officer's period of service in the Standby Reserve ends at the earliest of the following events:
    - (i) when the senior officer reaches his or her compulsory retirement age for service in the Standby Reserve;
    - (ii) if the senior officer is allowed to resign from the Defence Force — when the resignation is accepted;
    - (iii) if the senior officer's service in the Defence Force is terminated — when the service is terminated; and
  - (b) for a senior officer who has completed 5 years service in the Standby Reserve — the Governor-General must accept an application from the senior officer to resign from the Standby Reserve unless the application:
    - (i) is made in time of war or in time of defence emergency; or

### **Regulation 80**

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- (ii) would be granted at a time at which the senior officer has been called out for continuous full-time service; and
  - (c) the transfer is taken to be a retirement from the Defence Force, with effect from the transfer, for all purposes relating to the payment of benefits; and
  - (d) the transfer is not taken to be a retirement from the Defence Force for any other purpose.
- (5) The subsequent period must be at least 13 months, starting not earlier than the day on which the notice under subregulation 77 (2) is given to the senior officer.

## **Division 4                      Other arrangements**

### **80                      Time not to run during certain periods**

- (1) This regulation applies if an eligible member makes a complaint:
  - (a) to the Minister or the Chief of the eligible member's Service; or
  - (b) to the Defence Force Ombudsman under the *Ombudsman Act 1976*;in relation to action taken under this Part.
- (2) An initial or subsequent period mentioned in this Part in relation to the eligible member does not include any period during which the complaint is being investigated.

## **Chapter 9      Completion of the service obligation**

### **Part 1              Completion of service**

#### **81              Retirement age or end of period of service**

- (1) This regulation applies if:
- (a) a member reaches his or her compulsory retirement age; or
  - (b) a member:
    - (i) completes his or her period of service; and
    - (ii) has not reached his or her compulsory retirement age at that time.

*Note* The member's period of service is established by regulation 15 or 25, and may include a period of service in the Standby Reserve. The member may also alter that period of service in any of the ways explained in these Regulations.

- (2) Subject to subregulations (3), (4) and (5):
- (a) the member's period of service in the Defence Force ends; and
  - (b) the member is retired from the Defence Force.
- (3) If the member's period of service would end during a time of war:
- (a) the period of service is taken to be extended until the end of the time of war; and
  - (b) the member is retired from the Defence Force as soon as practicable after the end of the time of war; and
  - (c) the member is bound to render service until the member is retired from the Defence Force.

### **Regulation 81**

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- (4) If the member's period of service would end during a time of defence emergency:
  - (a) the period of service is taken to be extended until the end of the defence emergency; and
  - (b) the member is retired from the Defence Force as soon as practicable after the end of the defence emergency; and
  - (c) the member is bound to render service until the member is retired from the Defence Force.
- (5) If the member is serving in a category of the Reserves, and the member's period of service would end at a time at which the member has been called out for continuous full-time service;
  - (a) the period of service is taken to be extended until the call out of the member for continuous full-time service ends; and
  - (b) the member is retired from the Defence Force as soon as practicable after the call out of the member for continuous full-time service ends; and
  - (c) the member is bound to render service until the member is retired from the Defence Force.
- (6) This regulation does not affect any power expressly or impliedly conferred by an Act or these Regulations:
  - (a) to transfer a member from one Service to another Service; or
  - (b) to terminate a member's service in the Defence Force before the end of the period of service; or
  - (c) to allow a member to resign from the Defence Force before the end of the period of service in the Defence Force.



## **Part 2                      Compulsory termination of service**

### **Division 1                      Arrangements for members**

#### **82                      Termination of service of member who becomes permanent resident of another country**

- (1) This regulation applies in relation to a member who proposes to become, or has become, a permanent resident in another country.
- (2) The member must notify the Chief of the member's Service as soon as practicable.
- (3) The Chief may terminate the member's service in the Defence Force.

#### **83                      Termination of service during redundancy**

- (1) A Chief may:
  - (a) declare that a member serving in the Permanent Forces cannot be usefully employed in the Chief's Service because of redundancy in that Service; and
  - (b) terminate the member's service in the Defence Force.
- (2) Subregulation (1) does not apply in relation to a member unless:
  - (a) redundancy in the Service is the subject of a document that:
    - (i) is issued by or with the authority of the Chief; and
    - (ii) identifies the termination of service as a way in which redundancy is to be carried out; and
  - (b) the member:
    - (i) is given at least 12 months written notice that it is intended to terminate the member's service because of that redundancy; or

#### **Regulation 84**

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- (ii) has consented to redundancy at a time agreed with the Chief; and
- (c) redundancy is effected substantially in accordance with the document.

## **Division 2                      Additional arrangements for officers**

### **84                      Termination of appointment of officer for absence without leave**

The Governor-General may terminate an officer's service in the Defence Force if the officer has been absent without leave for a continuous period of more than 3 months.

### **85                      Termination of service of officer for other reasons**

- (1) The service in the Defence Force of an officer may be terminated, in accordance with this regulation, for any of the following reasons:
  - (a) the officer is incapable of rendering effective service as a result of physical or mental incapacity, and it is not within the officer's power to control the incapacity;
  - (b) the officer is medically unfit (including unfitness because of mental incapacity);
  - (c) the officer is inefficient or incompetent for a reason that is within the officer's control;
  - (d) the officer has been convicted of an offence or a service offence, and the Chief of the officer's Service has certified that, having regard to the nature and seriousness of the offence, the retention of the officer is not in the interests of the Defence Force;
  - (e) the retention of the officer is not in the interests of the Defence Force because of the officer's behaviour;
  - (f) the retention of the officer is not in the interests of the Defence Force because of the officer's performance, and it is within the officer's power to control the reason for, or cause of, the officer's performance.

**Regulation 85**

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- (2) The Governor-General may give the officer a termination notice:
- (a) stating that it is proposed to terminate the officer's service in the Defence Force; and
  - (b) stating the reason for terminating the service; and
  - (c) setting out particulars of the facts and circumstances relating to the reason for terminating the service that is sufficient to allow the officer to prepare a statement of reasons why the service should not be terminated; and
  - (d) inviting the officer to give the Governor-General a written statement of reasons why the service should not be terminated; and
  - (e) specifying a period of at least 28 days after the date of the notice as the period in which the officer may give the statement of reasons.
- (3) If:
- (a) the officer does not give the Governor-General a statement of reasons in the specified period; and
  - (b) the Governor-General is of the opinion that the reason for terminating the officer's service has not been affected by a change in circumstances since the termination notice was given to the officer;
- the Governor-General must terminate the officer's service in the Defence Force.
- (4) If:
- (a) the officer gives the Governor-General a statement of reasons in the specified period; and
  - (b) having considered the statement, the Governor-General is of the opinion that the reason for terminating the officer's service:
    - (i) has been established; and
    - (ii) has not been affected by a change in circumstances since the termination notice was given to the officer;
- the Governor-General must terminate the officer's service in the Defence Force.

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**Regulation 86**

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- (5) The Governor-General must not terminate the officer's service under this regulation in any other circumstances.

## **Division 3                      Additional arrangements for enlisted members**

### **86                      Termination of enlisted member's enlistment for absence without leave**

The Chief of an enlisted member's Service may terminate the enlisted member's service in the Defence Force if the enlisted member has been absent without leave for a continuous period of more than 3 months.

### **87                      Termination of service of enlisted member for other reasons**

- (1) The service in the Defence Force of an enlisted member may be terminated, in accordance with this regulation, for any of the following reasons:
- (a) if the enlisted member is less than 18 years old — the enlisted member's father, mother or guardian has requested the termination of the enlistment;
  - (b) the enlisted member will, on termination, be appointed as an officer;
  - (c) the enlisted member is medically unfit (including unfitness because of mental incapacity);
  - (d) the enlisted member does not comply with the medical standard for the trade or employment in which the enlisted member is engaged;
  - (e) the Chief of the enlisted member's Service is satisfied that the enlisted member is not suited to be an enlisted member of the Defence Force;
  - (f) if the enlisted member is undergoing:
    - (i) recruit training; or
    - (ii) initial employment training; or
    - (iii) apprentice training; or

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**Regulation 87**

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- (iv) trade training;  
the Chief of the enlisted member's Service is satisfied that the enlisted member is unsuitable for further training;
  - (g) the Chief of the enlisted member's Service is satisfied that the retention of the enlisted member is not in the interest of:
    - (i) Australia; or
    - (ii) the Defence Force; or
    - (iii) the Chief's Service;
  - (h) the enlisted member gave false or misleading information to a person to whom the enlisted member was required to give information in relation to the enlisted member's enlistment;
  - (i) the enlisted member has not been granted, or has not accepted, Australian citizenship;
  - (j) the enlisted member has failed to render service that the enlisted member was required to render.
- (2) The Chief of an enlisted member's Service may give the enlisted member a termination notice:
- (a) stating that it is proposed to terminate the enlisted member's service in the Defence Force; and
  - (b) stating the reason for terminating the service; and
  - (c) setting out particulars of the facts and circumstances relating to the reason for terminating the service that is sufficient to allow the enlisted member to prepare a statement of reasons why the service should not be terminated; and
  - (d) inviting the enlisted member to give the Chief a written statement of reasons why the service should not be terminated; and
  - (e) specifying a period of at least 28 days after the date of the notice as the period in which the enlisted member may give the statement of reasons.
- (3) If:
- (a) the enlisted member does not give the Chief a statement of reasons in the specified period; and

**Regulation 87**

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- (b) the Chief is of the opinion that the reason for terminating the enlisted member's service has not been affected by a change in circumstances since the termination notice was given to the enlisted member;

the Chief must terminate the enlisted member's service in the Defence Force.

- (4) If:

- (a) the enlisted member gives the Chief a statement of reasons in the specified period; and
- (b) having considered the statement, the Chief is of the opinion that the reason for terminating the enlisted member's service:
  - (i) has been established; and
  - (ii) has not been affected by a change in circumstances since the termination notice was given to the enlisted member;

the Chief must terminate the enlisted member's service in the Defence Force.

- (5) The Chief must not terminate the enlisted member's service under this regulation in any other circumstances.

## **Part 3                      Voluntary termination of service**

### **Division 1                      Officers other than Senior officers**

#### **88                      Application to resign from Defence Force**

- (1) An officer to whom Division 2 does not apply may apply to the Chief of the officer's Service to resign from the Defence Force.
- (2) The Chief of the officer's Service must:
  - (a) refuse the application in accordance with regulation 90; or
  - (b) grant the application under regulation 91.

#### **89                      Withdrawal of application**

- (1) An officer may apply to the Chief of the officer's Service to withdraw an application to resign from the Defence Force.
- (2) The Chief may accept or refuse the application.
- (3) For subregulation (2), the Chief must have regard to the effect of a decision to withdraw the application on:
  - (a) the ability of the Chief's Service to carry out its current and possible future military operations; and
  - (b) the management of personnel in the Chief's Service.

#### **90                      Refusal of application**

- (1) A Chief may refuse an officer's application to resign from the Defence Force if it is made in time of war or in time of defence emergency.
- (2) A Chief may refuse an officer's application to resign from the Defence Force if the Chief believes that accepting the application would seriously prejudice the ability of the Chief's Service to carry out operations that it is carrying out or may be required to carry out.

#### **Regulation 90**

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- (3) A Chief may refuse an officer's application to resign from the Defence Force if the officer:
  - (a) holds any of the following ranks as a substantive rank:
    - (i) Lieutenant-Commander or higher;
    - (ii) Major or higher;
    - (iii) Squadron Leader or higher; and
  - (b) has not completed 12 months service in that substantive rank, being a period commencing on the day on which the officer was promoted to that rank.
- (4) A Chief may refuse an officer's application to resign from the Defence Force if:
  - (a) the officer is serving in a category of the Reserves; and
  - (b) the resignation would be accepted at a time at which the officer has been called out for continuous full-time service.
- (5) A Chief may refuse an officer's application to resign from the Defence Force if:
  - (a) the officer is engaged in, or has completed, in whole or in part:
    - (i) a course of training; or
    - (ii) a period of employment on special duties; or
    - (iii) a period of service outside Australia; and
  - (b) the Chief has determined that the officer is required to complete a specified period of service; and
  - (c) the officer has not completed the period of service.
- (6) A Chief may refuse an officer's application to resign from the Defence Force if:
  - (a) the officer was appointed outside Australia; and
  - (b) the officer's transport, or family's transport, to Australia was at the expense of the Commonwealth; and
  - (c) the Chief has determined that the officer is required to complete a specified period of service; and
  - (d) the officer has not completed the period of service.



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**Regulation 92**

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- (7) A Chief may refuse an officer's application to resign from the Defence Force if the officer has not completed a period of service that, under a determination of the Chief, the officer is required to complete in respect of the officer's initial appointment.
- (8) A Chief may refuse an officer's application to resign from the Defence Force for any other reason that relates to the interests of the Chief's Service.
- (9) The Chief is not required to advise the Governor-General before refusing an officer's application under this regulation.

**91 Grant of application**

- (1) If:
  - (a) an officer applies under regulation 88 to resign from the Defence Force; and
  - (b) the application is not refused under regulation 90;  
the Chief of the officer's Service must grant the application.
- (2) If the Chief considers that the application should be refused until the officer has complied with a condition, the Chief:
  - (a) must specify the condition; and
  - (b) must not grant the application until:
    - (i) the officer has complied with the condition; or
    - (ii) the Chief considers that it is no longer necessary for the officer to comply with the condition.
- (3) The resignation takes effect:
  - (a) on the seventh day after the date on which the application is granted; or
  - (b) if the Chief specifies another date — on that date.

**Division 2 Senior officers**

**92 Application to resign from Defence Force**

- (1) A senior officer may apply to the Chief of the senior officer's Service to resign from the Defence Force.

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**Regulation 93**

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- (2) The Chief of the senior officer's Service must deal with the application in accordance with regulation 94.

**93 Withdrawal of application**

- (1) A senior officer may apply to the Chief of the officer's Service to withdraw an application to resign from the Defence Force.
- (2) The Chief may accept or refuse the application.
- (3) For subregulation (2), the Chief must have regard to the effect of a decision to withdraw the application on:
- (a) the ability of the Chief's Service to carry out its current and possible future military operations; and
  - (b) the management of personnel in the Chief's Service.

**94 Dealing with application by senior officer**

- (1) If a senior officer applies under regulation 92 to resign from the Defence Force, the Chief must give the application to the Minister for submission to the Governor-General.
- (2) If the Minister considers that the application should be refused until the senior officer has complied with a condition, the Minister:
- (a) must specify the condition; and
  - (b) must notify the Chief of the condition; and
  - (c) must not submit the application to the Governor-General until:
    - (i) the senior officer has complied with the condition; or
    - (ii) the Minister considers that it is no longer necessary for the senior officer to comply with the condition.
- (3) The Governor-General may:
- (a) grant the application; or
  - (b) refuse the application.
- (4) The Governor-General may refuse the application if it is made in time of war or in time of defence emergency.

**Regulation 94**

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- (5) The Governor-General may refuse the application if the Governor-General believes that accepting the application would seriously prejudice the ability of the senior officer's Service to carry out operations that it is carrying out or may be required to carry out.
- (6) The Governor-General may refuse the application if the senior officer has not completed 12 months service in that substantive rank, being a period commencing on the day on which the senior officer was promoted to that rank.
- (7) The Governor-General may refuse the application if:
  - (a) the senior officer is serving in a category of the Reserves; and
  - (b) the resignation would be accepted at a time at which the senior officer has been called out for continuous full-time service.
- (8) The Governor-General may refuse the application if:
  - (a) the senior officer is engaged in, or has completed, in whole or in part:
    - (i) a course of training; or
    - (ii) a period of employment on special duties; or
    - (iii) a period of service outside Australia; and
  - (b) the Chief of the senior officer's Service has determined that the senior officer is required to complete a specified period of service; and
  - (c) the senior officer has not completed the period of service.
- (9) The Governor-General may refuse the application for any other reason that relates to the interests of the senior officer's Service.
- (10) If the Governor-General grants the application, the resignation takes effect:
  - (a) on the seventh day after the date on which the application is granted; or
  - (b) if the Governor-General specifies another date — on that date.

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**Regulation 95**

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## **Division 3                      Enlisted members**

### **95                      Application to resign from Defence Force**

- (1) An enlisted member may apply to the Chief of the enlisted member's Service to resign from the Defence Force.
- (2) The enlisted member must make the application:
  - (a) not less than 12 months before the proposed date of effect of the resignation; or
  - (b) within a lesser period determined by the Chief of the enlisted member's Service in relation to:
    - (i) the enlisted member; or
    - (ii) a specified class of enlisted members in the Chief's Service that includes the enlisted member.
- (3) The Chief of the enlisted member's Service must:
  - (a) refuse the application in accordance with regulation 97; or
  - (b) grant the application under regulation 98.

### **96                      Withdrawal of application**

- (1) An enlisted member may apply to the Chief of the enlisted member's Service to withdraw an application to resign from the Defence Force.
- (2) The Chief may accept or refuse the application.
- (3) For subregulation (2), the Chief must have regard to the effect of a decision to withdraw the application on:
  - (a) the ability of the Chief's Service to carry out its current and possible future military operations; and
  - (b) the management of personnel in the Chief's Service.

### **97                      Refusal of application**

- (1) A Chief may refuse an enlisted member's application to resign from the Defence Force if it is made in time of war or in time of defence emergency.

**Regulation 97**

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- (2) A Chief may refuse an enlisted member's application to resign from the Defence Force if the Chief believes that accepting the application would seriously prejudice the ability of the Chief's Service to carry out operations that it is carrying out or may be required to carry out.
- (3) A Chief may refuse an enlisted member's application to resign from the Defence Force if the enlisted member:
  - (a) is serving in the Permanent Forces; and
  - (b) has not completed the enlisted member's initial minimum period of service in the Permanent Forces.
- (4) A Chief may refuse an enlisted member's application to resign from the Defence Force if:
  - (a) the enlisted member is serving in a category of the Reserves; and
  - (b) the resignation would be accepted at a time at which the enlisted member has been called out for continuous full-time service.
- (5) A Chief may refuse an enlisted member's application to resign from the Defence Force if:
  - (a) the enlisted member is engaged in, or has completed, in whole or in part:
    - (i) a course of training; or
    - (ii) a period of employment on special duties; or
    - (iii) a period of service outside Australia; and
  - (b) the Chief has determined that the enlisted member is required to complete a specified period of service; and
  - (c) the enlisted member has not completed the period of service.
- (6) A Chief may refuse an enlisted member's application to resign from the Defence Force if:
  - (a) the enlisted member was enlisted outside Australia; and
  - (b) the enlisted member's transport, or family's transport, to Australia was at the expense of the Commonwealth; and
  - (c) the Chief has determined that the enlisted member is required to complete a specified period of service; and

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**Regulation 98**

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- (d) the enlisted member has not completed the period of service.
- (7) A Chief may refuse an enlisted member's application to resign from the Defence Force for any other reason that relates to the interests of the Chief's Service.

**98 Grant of application**

- (1) If:
  - (a) an enlisted member applies under regulation 95 to resign from the Defence Force; and
  - (b) the application is not refused under regulation 97;  
the Chief of the enlisted member's Service must grant the application.
- (2) If the Chief of the enlisted member's Service considers that the application should be refused until the enlisted member has complied with a condition, the Chief:
  - (a) must specify the condition; and
  - (b) must not grant the application until:
    - (i) the enlisted member has complied with the condition; or
    - (ii) the Chief considers that it is no longer necessary for the enlisted member to comply with the condition.
- (3) The resignation takes effect:
  - (a) on the seventh day after the date on which the application is granted; or
  - (b) if the Chief specifies another date — on that date.

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**Regulation 99**

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## **Part 4                      Other matters about termination of service of member**

### **99            Change of reason for termination**

- (1) This regulation applies if:
  - (a) the service of a member has been terminated; and
  - (b) the Chief of the member's Service is satisfied that the member's service could properly have been terminated for a reason other than the reason for which the service was terminated; and
  - (c) treating the service as having been terminated for the other reason would not change the status of the member.
- (2) The Chief may:
  - (a) at the request of the member; or
  - (b) with the member's consent;ensure that the member's service is treated as having been terminated for the other reason.

**Regulation 100**

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## **Chapter 10 Other matters relating to appointment, promotion, transfer etc**

### **Part 1 Training periods**

#### **100 Training**

- (1) A Chief may determine a training period for each category of the Reserves in the Chief's Service.
- (2) A Chief may determine requirements for the training that is to be carried out during a training period.
- (3) A Chief may determine that a member is not required to comply with a requirement determined under subregulation (2).
- (4) A member is bound to render, in each training period, service for the required period.

*Note 1* See regulation 69.

*Note 2* Different training periods, or training requirements, may be determined for:

- (a) different parts of the categories of the Reserves; or
- (b) different classes of members of the Reserves; or
- (c) different periods.

See *Acts Interpretation Act 1901*, subsection 33 (3A).



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**Regulation 101**

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## **Part 2                      Uniforms**

### **101            Determination of uniforms**

A Chief must determine:

- (a) the uniforms to be worn by members of the Chief's Service; and
- (b) the circumstances in which members of the Chief's Service are required or permitted to wear uniforms.

**Regulation 102**

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## **Part 3                      The Retired List**

### **102        Retired List**

The Retired List that was in force immediately before this regulation commences continues in force.

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**Regulation 104**

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## **Part 4                      Honorary rank**

### **103            Appointment to honorary rank — officers**

- (1) The Governor-General may appoint an officer or another person to a rank that is to be held as an honorary rank.
- (2) An honorary rank does not confer or imply a right to command, other than any right to command which a Chief confers on the officer or person.

### **104            Appointment to honorary non-commissioned rank — enlisted members**

- (1) A Chief may appoint an enlisted member or another person to a non-commissioned rank of:
  - (a) Chief Petty Officer or higher; or
  - (b) Warrant Officer Class 2 or higher; or
  - (c) Flight Sergeant or higher;that is to be held as an honorary rank.
- (2) An honorary rank does not confer or imply a right to command, other than any right to command which a Chief confers on the enlisted member or person.

**Regulation 105**

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## **Part 5                      Privileges after end of service**

### **105            Title after end of service**

- (1) If an officer's service in the Defence Force has ended, the Chief of the officer's Service may grant to the former officer an honorary title relating to the officer's former appointment.
- (2) An honorary title does not confer or imply:
  - (a) a right to command; or
  - (b) a position in, or membership of, the Defence Force.

### **106            Wearing of uniform after end of service**

If a member's service in the Defence Force has ended, the Chief of the former member's Service may:

- (a) permit the former member to wear a uniform relating to the former member's service; and
- (b) specify conditions to which a permission is subject.

### **107            Withdrawal of privileges after end of service**

A Chief may, at any time:

- (a) revoke the grant of an honorary title to a former officer; or
- (b) revoke permission for a former member to wear a particular uniform.

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**Regulation 108**

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## **Part 6                      Service of foreign country**

### **108              Service**

- (1) A member must not enter the service of a foreign country unless the Chief of the member's Service has approved the entry to that service.
- (2) A Chief may specify conditions to which an approval is subject.

**Regulation 109**

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# **Chapter 11   Chaplains**

## **Part 1                      Administrative arrangements**

### **109          Divisions of Branch, Department or Specialisation**

The Chaplains' Branch of the Australian Navy, the Royal Australian Army Chaplains' Department and the Chaplains' Specialisation of the Australian Air Force have the following Divisions:

- (a) Division 1;
- (b) Division 2;
- (c) Division 3;
- (d) Division 4;
- (e) Division 5.

**Regulation 110**

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## **Part 2                      Appointment of Chaplains and Principal Chaplains**

### **110           Appointment as chaplain**

- (1) The Governor-General may appoint a person to be a chaplain in the Chaplains' Branch of the Australian Navy, the Royal Australian Army Chaplains' Department or the Chaplains' Specialisation of the Australian Air Force.
- (2) However, the Governor-General must not appoint the person unless:
  - (a) the person is a member of a church or faith group approved by the Religious Advisory Committee to the Services; and
  - (b) the Religious Advisory Committee to the Services has recommended the appointment; and
  - (c) if there is a Principal Chaplain for that church or faith group — the Principal Chaplain has recommended the appointment.
- (3) The Governor-General must:
  - (a) specify the person's period of service:
    - (i) as an indefinite or fixed period; or
    - (ii) in terms of reaching a particular age; and
  - (b) specify the part of the Service in which the person is to commence service; and
  - (c) appoint the person to a Division of the Branch, Department or Specialisation.
- (4) The Chief of the Service to which the appointment relates may determine the seniority of the chaplain in accordance with Division 2 of Part 1 of Chapter 4.
- (5) The appointment of the person may be made provisionally in accordance with Divisions 3 and 6 of Part 1 of Chapter 4.

**Regulation 111**

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- (6) The appointment of the person may include a period of probation in accordance with Divisions 4 and 6 of Part 1 of Chapter 4.
- (7) If the person is to be appointed as a Principal Chaplain, regulation 111 also applies.

**111      Appointment as Principal Chaplain**

- (1) The Governor-General may, on the recommendation of the Chief of a Service, appoint 1 minister of a church or faith group as Principal Chaplain in the Service for that church or faith group.
- (2) The Religious Advisory Committee to the Services must make a recommendation to the Chief in relation to the appointment of a Principal Chaplain in that Service.
- (3) The Chief must take the recommendation of the Religious Advisory Committee to the Services into account when making a recommendation to the Governor-General.
- (4) A Principal Chaplain is an officer who:
  - (a) holds the rank of chaplain; and
  - (b) has the notional rank of:
    - (i) Commodore; or
    - (ii) Brigadier; or
    - (iii) Air Commodore.
- (5) A Principal Chaplain has precedence over all other chaplains of his or her church or faith group in the Principal Chaplain's Branch, Department or Specialisation.



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**Regulation 112**

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## **Part 3                      Status of chaplains**

### **112            Rank of chaplains**

- (1) For all purposes relating to appointment, transfer, resignation, retirement and termination of appointment, the notional rank of a chaplain set out in this regulation is to be used.
- (2) A chaplain in Division 1 of a Branch, Department or Specialisation is an officer who:
  - (a) holds the rank of chaplain; and
  - (b) has the notional rank of:
    - (i) Lieutenant in the Australian Navy; or
    - (ii) Captain in the Australian Army; or
    - (iii) Flight Lieutenant.
- (3) A chaplain in Division 2 of a Branch, Department or Specialisation is an officer who:
  - (a) holds the rank of chaplain; and
  - (b) has the notional rank of:
    - (i) Lieutenant-Commander; or
    - (ii) Major; or
    - (iii) Squadron Leader.
- (4) A chaplain in Division 3 of a Branch, Department or Specialisation is an officer who:
  - (a) holds the rank of chaplain; and
  - (b) has the notional rank of:
    - (i) Commander; or
    - (ii) Lieutenant-Colonel; or
    - (iii) Wing Commander.
- (5) A chaplain in Division 4 of a Branch, Department or Specialisation is an officer who:
  - (a) holds the rank of chaplain; and

### **Regulation 113**

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- (b) if the chaplain is a Principal Chaplain — has the notional rank of:
    - (i) Commodore; or
    - (ii) Brigadier; or
    - (iii) Air Commodore; and
  - (c) if the chaplain is not a Principal Chaplain — has the notional rank of:
    - (i) Captain in the Australian Navy; or
    - (ii) Colonel; or
    - (iii) Group Captain.
- (6) A chaplain in Division 5 of a Branch, Department or Specialisation is an officer who:
- (a) holds the rank of chaplain; and
  - (b) has the notional rank of:
    - (i) Commodore; or
    - (ii) Brigadier; or
    - (iii) Air Commodore.

*Note* A Principal Chaplain may be appointed to Division 4 or 5 of a Branch, Department or Specialisation.

- (7) The Chief of a Service may authorise a chaplain in that Service to wear badges of rank appropriate to the chaplain's notional rank.

### **113      Command and functions**

- (1) A chaplain does not have, and must not exercise, military executive command.
- (2) A chaplain must not be appointed as a member of a court martial, a court or a board of inquiry.

### **114      Change in the notional rank of a chaplain**

- (1) A chaplain may be advanced to a notional rank in accordance with Part 1 of Chapter 5 as if the advancement were a promotion.

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**Regulation 114**

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- (2) A chaplain's notional rank may be reduced in accordance with Chapter 7.
- (3) The advancement of a chaplain, or the reduction of a chaplain's notional rank, includes a move to the Division of the Branch, Department or Specialisation to which the new notional rank relates.
- (4) If there is a Principal Chaplain in relation to a chaplain, the Principal Chaplain must make a recommendation in relation to the advancement of the chaplain or the reduction of the chaplain's notional rank.

*Note* A chaplain may not have a Principal Chaplain because the chaplain is a Principal Chaplain, or because there is no Principal Chaplain for the chaplain's church or faith.

- (5) The Chief of a Service must take a recommendation of a Principal Chaplain into account when making:
  - (a) a recommendation to the Governor-General under Part 1 of Chapter 5 or under Chapter 7 in relation to a chaplain; or
  - (b) a decision or determination under Part 1 of Chapter 5 in relation to a chaplain.

**Regulation 115**

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## **Part 4                      Alteration of chaplain's service obligation**

### **115           Recommendation to act under Chapter 8 or 9**

- (1) A chaplain's service may be affected in accordance with Chapters 8 and 9.
- (2) If there is a Principal Chaplain in relation to a chaplain, the Principal Chaplain must make a recommendation in relation to a matter mentioned in Chapter 8 or 9.

*Note* A chaplain may not have a Principal Chaplain because the chaplain is a Principal Chaplain, or because there is no Principal Chaplain for the chaplain's church or faith.

- (3) The Chief of a Service must take a recommendation of a Principal Chaplain into account when making:
  - (a) a recommendation to the Governor-General under Chapter 9 in relation to a chaplain; or
  - (b) a decision or determination under Chapter 8 or 9 in relation to a chaplain.

### **116           Retirement age**

- (1) Subject to this regulation, the compulsory retirement age for a chaplain is 60 years.
- (2) The Minister may, on 1 or more occasions, extend a chaplain's compulsory retirement age to an age not exceeding 65 years.
- (3) Before a chaplain reaches his or her compulsory retirement age:
  - (a) the Chief of the Service in which the chaplain is serving may apply to the Minister for approval to retain the chaplain's services in the Reserves for a period not exceeding 2 years; and

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**Regulation 116**

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- (b) the Minister may approve the application if:
    - (i) the chaplain has agreed to the retention of the chaplain's services; and
    - (ii) the chaplain's Principal Chaplain (if any) has agreed to the retention of the chaplain's services; and
  - (c) if the Minister approves the application, the Minister must specify the category of the Reserves in which the chaplain will serve.
- (4) If the Minister approves an application:
- (a) the Minister may approve 1 or more further applications to retain the chaplain's services after the end of the period if the chaplain and the chaplain's Principal Chaplain (if any) have agreed to the retention of the chaplain's services; and
  - (b) paragraph (3) (c) applies to each approval; and
  - (c) each period specified by the Minister must not exceed 2 years; and
  - (d) the chaplain's services must not be retained after the chaplain has reached 75 years.

**Regulation 117**

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## **Chapter 12    General**

### **117      No civil contract**

No civil contract of any kind is created with the Crown or the Commonwealth as a result of:

- (a) the appointment of an officer; or
- (b) the enlistment of an enlisted member; or
- (c) the promotion of a member; or
- (d) the transfer of a member; or
- (e) the posting of a member.

### **118      Service for a period of less than one day**

- (1) This regulation applies if a member:
  - (a) serves in a category of the Reserves; and
  - (b) is not rendering continuous full-time service; and
  - (c) renders service for a period of less than 1 day.
- (2) For the purposes of calculating the period of service rendered by the member:
  - (a) if the member rendered service for at least 6 hours, the member's period of service is taken to be 1 day; and
  - (b) if the member rendered service for at least 3 hours, but less than 6 hours, the member's period of service is taken to be one-half of a day; and
  - (c) if the member rendered service for at least 2 hours, but less than 3 hours, the member's period of service is taken to be one-third of a day.

**Regulation 119****119 Delegation**

- (1) The Governor-General may delegate any of the Governor-General's powers (other than this power of delegation) to the following officers:
  - (a) an officer of the Navy who holds the substantive rank of Commander or a higher rank;
  - (b) an officer of the Army who holds the substantive rank of Lieutenant-Colonel or a higher rank;
  - (c) an officer of the Air Force who holds the substantive rank of Wing Commander or a higher rank.
- (2) The Minister may delegate any of the Minister's powers (other than this power of delegation) to the following officers:
  - (a) an officer of the Navy who holds the substantive rank of Lieutenant-Commander or a higher rank;
  - (b) an officer of the Army who holds the substantive rank of Major or a higher rank;
  - (c) an officer of the Air Force who holds the substantive rank of Squadron Leader or a higher rank.
- (3) A Chief may delegate any of the Chief's powers (other than this power of delegation) to:
  - (a) the following officers:
    - (i) an officer of the Navy who holds the substantive rank of Lieutenant or a higher rank;
    - (ii) an officer of the Army who holds the substantive rank of Captain or a higher rank;
    - (iii) an officer of the Air Force who holds the substantive rank of Flight Lieutenant or a higher rank; or
  - (b) an SES employee performing duty in the Department; or
  - (c) an APS employee with a classification level of at least APS Level 6 or an equivalent classification.
- (4) A Chief may delegate any of the Chief's powers under regulations 42, 95, 96 and 97 to a non-commissioned officer of the Chief's Service who holds the substantive rank of:
  - (a) Warrant Officer in the Navy; or
  - (b) Warrant Officer, Class 1, in the Army; or

**Regulation 119**

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- (c) Warrant Officer in the Air Force.



## Chapter 13 Transitional arrangements

### 120 Transitional arrangements for Australian Navy

On the commencement of this Chapter (the *commencement day*), the following arrangements apply:

- (a) each member of the Permanent Navy is taken to be a member of the Permanent Navy, with the same rank and seniority as the member held immediately before the commencement day;
- (b) each member of the Australian Naval Reserve who is serving on special conditions is taken to be:
  - (i) a member of the Naval Reserve; and
  - (ii) in the Active Reserve;with the same rank and seniority as the member held immediately before the commencement day, and on the same special conditions;
- (c) each member of the Australian Naval Reserve who is not serving on special conditions is taken to be:
  - (i) a member of the Naval Reserve; and
  - (ii) in the Active Reserve;with the same rank and seniority as the member held immediately before the commencement day;
- (d) each member of the Naval Emergency Reserve Forces is taken to be:
  - (i) a member of the Naval Reserve; and
  - (ii) in the Standby Reserve;with the same rank and seniority as the member held immediately before the commencement day;
- (e) each member of the Royal Australian Fleet Reserve is taken to be:
  - (i) a member of the Naval Reserve; and

**Regulation 121**

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- (ii) in the Standby Reserve;  
with the same rank and seniority as the member held immediately before the commencement day;
- (f) each member on the Emergency List of Officers of the Navy is taken to be:
  - (i) a member of the Naval Reserve; and
  - (ii) in the Standby Reserve;  
with the same rank and seniority as the member held immediately before the commencement day;
- (g) each former member who is on the Retired List of the Navy continues to be on the Retired List of the Australian Navy.

**121 Transitional arrangements for Australian Army**

On the commencement of this Chapter (the *commencement day*), the following arrangements apply:

- (a) each member of the Australian Regular Army is taken to be a member of the Regular Army, with the same rank and seniority as the member held immediately before the commencement day;
- (b) each member of the Australian Individual Emergency Force is taken to be:
  - (i) a member of the Australian Army; and
  - (ii) in the Active Reserve;  
with the same rank and seniority as the member held immediately before the commencement day, and is taken to be subject to the same conditions as applied to the member immediately before the commencement day;
- (c) each member of the General Reserve of the Army is taken to be:
  - (i) a member of the Australian Army; and
  - (ii) in the Active Reserve;  
with the same rank and seniority as the member held immediately before the commencement day, and is taken to be subject to the same conditions as applied to the member immediately before the commencement day;

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**Regulation 122**

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- (d) each member of the Regular Army Emergency Reserve is taken to be:
  - (i) a member of the Australian Army; and
  - (ii) in the Standby Reserve;with the same rank and seniority as the member held immediately before the commencement day;
- (e) each member of the Regular Army Supplement is taken to be:
  - (i) a member of the Australian Army; and
  - (ii) in the Standby Reserve;with the same rank and seniority as the member held immediately before the commencement day;
- (f) each member of the Inactive Reserve of the Army is taken to be:
  - (i) a member of the Australian Army; and
  - (ii) in the Standby Reserve;with the same rank and seniority as the member held immediately before the commencement day;
- (g) each former member who is on the Retired List of the Army continues to be on the Retired List of the Army;
- (h) any arrangement in force immediately before the commencement day relating to the conditions of service, remuneration or similar matters of a member of the Australian Army continues in force on and after the commencement day as if the arrangement applied to, and referred to, the member's status under this regulation.

**122 Transitional arrangements for Australian Air Force**

On the commencement of this Chapter (the *commencement day*), the following arrangements apply:

- (a) each member of the Permanent Air Force is taken to be a member of the Permanent Air Force, with the same rank and seniority as the member held immediately before the commencement day;

**Regulation 122**

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- (b) each member of the Air Force Active Reserve who is serving on special conditions is taken to be:
  - (i) a member of the Australian Air Force; and
  - (ii) in the same specialisation of the Active Reserve; with the same rank and seniority as the member held immediately before the commencement day, and on the same special conditions;
- (c) each member of the Air Force Active Reserve who is not serving on special conditions is taken to be:
  - (i) a member of the Australian Air Force; and
  - (ii) in the same specialisation of the Active Reserve; with the same rank and seniority as the member held immediately before the commencement day;
- (d) each member of the Air Force Emergency Force is taken to be:
  - (i) a member of the Australian Air Force; and
  - (ii) in the Standby Reserve; with the same rank and seniority as the member held immediately before the commencement day;
- (e) each member of the Air Force Specialist Reserve is taken to be:
  - (i) a member of the Australian Air Force; and
  - (ii) in the same specialisation of the Specialist Reserve; with the same rank and seniority as the member held immediately before the commencement day;
- (f) each member of the Air Force General Reserve is taken to be:
  - (i) a member of the Australian Air Force; and
  - (ii) in the Standby Reserve; with the same rank and seniority as the member held immediately before the commencement day;
- (g) each former member who is on the Retired List of the Air Force continues to be on the Retired List of the Australian Air Force.

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**Regulation 125**

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**123 Transitional arrangements for chaplains**

On the commencement of this Chapter, each chaplain in a Division of the Chaplains' Branch of the Australian Navy, the Royal Australian Army Chaplains' Department or the Chaplains' Specialisation of the Australian Air Force is taken to continue to be a chaplain in the same Division of the same Branch, Department or Specialisation.

**124 Transfer to Standby Reserve for members serving at commencement of Chapter 13**

- (1) The following provisions of these Regulations do not apply to a member who is serving when this Chapter commences:
  - (a) regulation 64;
  - (b) regulation 65;
  - (c) regulation 66;
  - (d) regulation 67;
  - (e) regulation 68.
- (2) However, a provision mentioned in subregulation (1) applies to the member if:
  - (a) the member was an enlisted member of the Permanent Air Force who was enlisted on or after 1 January 1996; or
  - (b) the member agrees to have the provision apply to the member; or
  - (c) the member has:
    - (i) retired from the Defence Force after this Chapter commences; and
    - (ii) subsequently been appointed as an officer, or enlisted, in the Defence Force.

**125 Transfer to Standby Reserve for members appointed or enlisted before 1 July 2003**

- (1) The following provisions of these Regulations do not apply to a member who is appointed or enlisted after this Chapter commences and before 1 July 2003:
  - (a) regulation 64;

**Regulation 125**

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- (b) regulation 65;
  - (c) regulation 66;
  - (d) regulation 67;
  - (e) regulation 68.
- (2) However, a provision mentioned in subregulation (1) applies to the member if:
- (a) the member is enlisted as an enlisted member of the Permanent Air Force after this Chapter commences and before 1 July 2003; or
  - (b) the member agrees to have the provision apply to the member; or
  - (c) the member:
    - (i) retires from the Defence Force after this Chapter commences; and
    - (ii) is subsequently appointed as an officer, or enlisted, in the Defence Force.

## Schedule 1 Ranks and compulsory retirement ages (not including chaplains)

(regulations 4 and 8)

Item	Rank	Compulsory retirement age (Permanent Force)	Compulsory retirement age (Reserves)
1	Admiral of the Fleet	There is no compulsory retirement age	There is no compulsory retirement age
2	Field Marshal	There is no compulsory retirement age	There is no compulsory retirement age
3	Marshal of the Royal Australian Air Force	There is no compulsory retirement age	There is no compulsory retirement age
4	Admiral	63	63
5	General	63	63
6	Air Chief Marshal	63	63
7	Vice-Admiral	60	60
8	Lieutenant-General	60	60
9	Air Marshal	60	60
10	Rear-Admiral	57	60
11	Major-General	57	60
12	Air Vice-Marshal	57	60
13	Commodore	55	60
14	Brigadier	55	60
15	Air Commodore	55	60
16	Captain (in the Australian Navy)	55	60

<b>Item</b>	<b>Rank</b>	<b>Compulsory retirement age (Permanent Force)</b>	<b>Compulsory retirement age (Reserves)</b>
17	Colonel	55	60
18	Group Captain	55	60
19	Commander	55	60
20	Lieutenant-Colonel	55	60
21	Wing Commander	55	60
22	Lieutenant Commander	55	60
23	Major	55	60
24	Squadron Leader	55	60
25	Lieutenant (in the Australian Navy)	55	60
26	Captain (in the Australian Army)	55	60
27	Flight Lieutenant	55	60
28	Sub-Lieutenant	55	60
29	Lieutenant (in the Australian Army)	55	60
30	Flying Officer	55	60
31	Acting Sub-Lieutenant	55	60
32	Second Lieutenant	55	60
33	Pilot Officer	55	60
34	Midshipman	55	60
35	Officer Cadet (in the Australian Army)	55	60
36	Officer Cadet (in the Australian Air Force)	55	60
37	Warrant Officer (in the Australian Navy)	55	60
38	Warrant Officer, Class 1	55	60
39	Warrant Officer (in the Australian Air Force)	55	60
40	Chief Petty Officer	55	60



<b>Item</b>	<b>Rank</b>	<b>Compulsory retirement age (Permanent Force)</b>	<b>Compulsory retirement age (Reserves)</b>
41	Warrant Officer, Class 2	55	60
42	Flight Sergeant	55	60
43	Staff Sergeant	55	60
44	Petty Officer	55	60
45	Sergeant (in the Australian Army)	55	60
46	Sergeant (in the Australian Air Force)	55	60
47	Leading Seaman	55	60
48	Corporal (in the Australian Army)	55	60
49	Corporal (in the Australian Air Force)	55	60
50	Lance Corporal	55	60
51	Able Seaman	55	60
52	Leading Aircraftman	55	60
53	Seaman	55	60
54	Private	55	60
55	Aircraftman	55	60

## **Schedule 2      Oath or affirmation for enlistment of member**

(regulation 24)

### **Part 1          Form of oath**

I, *(insert full name of person)* swear that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law, as a member of the

*(insert Australian Navy, Australian Army, or Australian Air Force)*

*(insert*

for the period of *(number of years)*, and any extensions of that period,

*or*

until retiring age,)

and that I will resist her enemies and faithfully discharge my duty according to law.

SO HELP ME GOD!

*(person's signature)*

Taken and subscribed before me on *(insert date)*

*(insert signature, name and title of the person before whom the oath is taken and subscribed)*

*Note* The oath may be taken before an officer of the Navy, Army or Air Force, a Warrant Officer of the Navy or Air Force, a Warrant Officer Class 1 of the Army, a Justice of the Peace, a Commissioner for Affidavits or a Commissioner for Declarations.

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## Part 2      Form of affirmation

I, *(insert full name of person)* promise that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law, as a member of the

*(insert Australian Navy, Australian Army, or Australian Air Force)*

*(insert*

for the period of *(number of years)*, and any extensions of that period,

*or*

until retiring age,)

and that I will resist Her enemies and faithfully discharge my duty according to law.

*(person's signature)*

Made and subscribed before me on *(insert date)*

*(insert signature, name and title of the person before whom the affirmation is made and subscribed)*

*Note* The affirmation may be made before an officer of the Navy, Army or Air Force, a Warrant Officer of the Navy or Air Force, a Warrant Officer Class 1 of the Army, a Justice of the Peace, a Commissioner for Affidavits or a Commissioner for Declarations.

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**Table of Statutory Rules**

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**Notes to the *Defence (Personnel) Regulations 2002***

**Note 1**

The *Defence (Personnel) Regulations 2002* (in force under the *Defence Act 1903*) as shown in this compilation comprise Statutory Rules 2002 No. 51 amended as indicated in the Tables below.

**Table of Statutory Rules**

<b>Year and number</b>	<b>Date of notification in <i>Gazette</i></b>	<b>Date of commencement</b>	<b>Application, saving or transitional provisions</b>
2002 No. 51	22 Mar 2002	22 Mar 2002	
2002 No. 279	21 Nov 2002	1 Dec 2002	—

**Table of Amendments****Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
<b>Chapter 1</b>	
R. 3 .....	am. 2002 No. 279
<b>Chapter 2</b>	
Heading to Chapt. 2 .....	rs. 2002 No. 279
Rr. 4, 5 .....	rs. 2002 No. 279
<b>Chapter 3</b>	
Heading to Chapt. 3 .....	rs. 2002 No. 279
<b>Part 1</b>	
Heading to Part 1 .....	ad. 2002 No. 279
of Chapt. 3	
R. 6 .....	rs. 2002 No. 279
<b>Part 2</b>	
Heading to Part 2 .....	ad. 2002 No. 279
of Chapt. 3	
R. 7 .....	rs. 2002 No. 279
<b>Part 3</b>	
Heading to Part 3 .....	ad. 2002 No. 279
of Chapt. 3	
Rr. 8–12 .....	rs. 2002 No. 279
<b>Chapter 4</b>	
Chapter 4 .....	ad. 2002 No. 279
<b>Part 1</b>	
<b>Division 1</b>	
Rr. 13–15 .....	ad. 2002 No. 279
<b>Division 2</b>	
R. 16 .....	ad. 2002 No. 279
<b>Division 3</b>	
Rr. 17, 18 .....	ad. 2002 No. 279
<b>Division 4</b>	
Rr. 19, 20 .....	ad. 2002 No. 279
<b>Division 5</b>	
R. 21 .....	ad. 2002 No. 279
<b>Division 6</b>	
R. 22 .....	ad. 2002 No. 279

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
<b>Part 2</b>	
<b>Division 1</b>	
Rr. 23–25 .....	ad. 2002 No. 279
<b>Division 2</b>	
R. 26 .....	ad. 2002 No. 279
<b>Division 3</b>	
Rr. 27, 28 .....	ad. 2002 No. 279
<b>Division 4</b>	
R. 29 .....	ad. 2002 No. 279
<b>Chapter 5</b>	
Chapter 5 .....	ad. 2002 No. 279
<b>Part 1</b>	
<b>Division 1</b>	
Rr. 30–32 .....	ad. 2002 No. 279
<b>Division 2</b>	
Rr. 33–35 .....	ad. 2002 No. 279
<b>Part 2</b>	
<b>Division 1</b>	
Rr. 36–38 .....	ad. 2002 No. 279
<b>Division 2</b>	
Rr. 39–41 .....	ad. 2002 No. 279
<b>Chapter 6</b>	
Chapter 6 .....	ad. 2002 No. 279
R. 42 .....	ad. 2002 No. 279
<b>Chapter 7</b>	
Chapter 7 .....	ad. 2002 No. 279
Rr. 43–48 .....	ad. 2002 No. 279
<b>Chapter 8</b>	
Chapter 8 .....	ad. 2002 No. 279
<b>Part 1</b>	
<b>Division 1</b>	
Rr. 49–51 .....	ad. 2002 No. 279
<b>Division 2</b>	
Rr. 52–62 .....	ad. 2002 No. 279

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
<b>Part 2</b>	
<b>Division 1</b>	
R. 63 .....	ad. 2002 No. 279
<b>Division 2</b>	
R. 64 .....	ad. 2002 No. 279
<b>Division 3</b>	
Rr. 65–69 .....	ad. 2002 No. 279
<b>Division 4</b>	
R. 70 .....	ad. 2002 No. 279
<b>Part 3</b>	
<b>Division 1</b>	
R. 71 .....	ad. 2002 No. 279
<b>Division 2</b>	
Rr. 72–77 .....	ad. 2002 No. 279
<b>Division 3</b>	
Rr. 78, 79 .....	ad. 2002 No. 279
<b>Division 4</b>	
R. 80 .....	ad. 2002 No. 279
<b>Chapter 9</b>	
Chapter 9 .....	ad. 2002 No. 279
<b>Part 1</b>	
R. 81 .....	ad. 2002 No. 279
<b>Part 2</b>	
<b>Division 1</b>	
Rr. 82, 83 .....	ad. 2002 No. 279
<b>Division 2</b>	
Rr. 84, 85 .....	ad. 2002 No. 279
<b>Division 3</b>	
Rr. 86, 87 .....	ad. 2002 No. 279
<b>Part 3</b>	
<b>Division 1</b>	
Rr. 88–91 .....	ad. 2002 No. 279
<b>Division 2</b>	
Rr. 92–94 .....	ad. 2002 No. 279
<b>Division 3</b>	
Rr. 95–98 .....	ad. 2002 No. 279

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
<b>Part 4</b>	
R. 99 .....	ad. 2002 No. 279
<b>Chapter 10</b>	
Chapter 10 .....	ad. 2002 No. 279
<b>Part 1</b> .....	
R. 100 .....	ad. 2002 No. 279
<b>Part 2</b>	
R. 101 .....	ad. 2002 No. 279
<b>Part 3</b>	
R. 102 .....	ad. 2002 No. 279
<b>Part 4</b>	
Rr. 103, 104 .....	ad. 2002 No. 279
<b>Part 5</b>	
Rr. 105–107 .....	ad. 2002 No. 279
<b>Part 6</b>	
R. 108 .....	ad. 2002 No. 279
<b>Chapter 11</b>	
Chapter 11 .....	ad. 2002 No. 279
<b>Part 1</b>	
R. 109 .....	ad. 2002 No. 279
<b>Part 2</b>	
Rr. 110, 111 .....	ad. 2002 No. 279
<b>Part 3</b>	
Rr. 112–114 .....	ad. 2002 No. 279
<b>Part 4</b>	
Rr. 115, 116 .....	ad. 2002 No. 279
<b>Chapter 12</b>	
Chapter 12 .....	ad. 2002 No. 279
Rr. 117–119 .....	ad. 2002 No. 279
<b>Chapter 13</b>	
Chapter 13 .....	ad. 2002 No. 279
Rr. 120–125 .....	ad. 2002 No. 279
<b>Schedule 1</b>	
Schedule 1 .....	ad. 2002 No. 279