



Cadet Forces Amendment Regulations 2006 (No. 1)¹

Select Legislative Instrument 2006 No. 141

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Defence Act 1903*, the *Naval Defence Act 1910* and the *Air Force Act 1923*.

Dated 22 June 2006

P. M. JEFFERY
Governor-General

By His Excellency's Command

SANDY MACDONALD
Parliamentary Secretary to the Minister for Defence

1 Name of Regulations

These Regulations are the *Cadet Forces Amendment Regulations 2006 (No. 1)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Cadet Forces Regulations 1977*

Schedule 1 amends the *Cadet Forces Regulations 1977*.

Schedule 1 Amendments

(regulation 3)

[1] Part I, heading

substitute

Part 1 Preliminary

[2] Regulation 2, after definition of *cadet force*

insert

Code means the Code of Conduct mentioned in regulation 16.

[3] Subregulation 3 (1)

substitute

- (1) A service chief may delegate to a person, either generally or otherwise as provided in the instrument of delegation, all or any of his or her powers and functions under these Regulations, except this power of delegation.

- (1A) An instrument of delegation mentioned in subregulation (1) may contain directions to be complied with by the delegate in exercising the delegation.

[4] Part II, heading

substitute

**Part 2 Organisation of and service in
a cadet force**

[5] Regulation 4, heading

substitute

4 Organisation of cadet forces

[6] After subregulation 5 (3)

insert

- (4) An officer or instructor may be appointed, or reappointed, for a period specified in the instrument of appointment or reappointment.
- (5) A service chief must not appoint or reappoint a person as an officer or instructor under subregulation 5 (1) unless the person states, in writing, that the person:
- (a) has read the Code; and
 - (b) agrees to abide by it.

[7] Regulation 7*substitute***7 Minimum and maximum ages for cadets**

For a provision of an Act mentioned in an item in the table, for a purpose mentioned in the item, the age mentioned in the item is prescribed.

Item	Provision	Purpose	Age
1	paragraph 62 (5) (a) of the <i>Defence Act 1903</i>	minimum age	12 years and 6 months
2	subsection 62 (6) of the <i>Defence Act 1903</i>	maximum age	1 day before turning 20 years
3	paragraph 38 (5) (a) of the <i>Naval Defence Act 1910</i>	minimum age	12 years and 6 months
4	subsection 38 (6) of the <i>Naval Defence Act 1910</i>	maximum age	1 day before turning 20 years
5	paragraph 8 (5) (a) of the <i>Air Force Act 1923</i>	minimum age	13 years
6	subsection 8 (6) of the <i>Air Force Act 1923</i>	maximum age	1 day before turning 20 years

[8] Subregulation 8 (3)*substitute*

- (3) When the service chief accepts a person as a cadet under subregulation (2), the service chief shall enrol that person as a cadet in a unit.
- (4) A service chief must not accept a person as a cadet under subregulation 8 (2) unless the person states, in writing, that the person:
- (a) has read the Code; and
 - (b) agrees to abide by it.

[9] Regulation 9

omit

A cadet

insert

Subject to regulation 17, a cadet

[10] Regulation 12

omit

[11] Subregulation 13 (1)

substitute

- (1) A cadet may furnish to the service chief a request in writing to be discharged under subregulation 14 (1) from the cadet force to which he or she belongs.

[12] Regulation 14

substitute

14 Discharge or termination of appointment

- (1) If the service chief receives from a cadet a request in writing under subregulation 13 (1), he or she must discharge the cadet.
- (2) Subject to subregulation (3), a cadet may, at any time, be discharged, or the appointment of an instructor or officer may be terminated, by the service chief, for any of the following reasons:
 - (a) that the member's attendance at the activities and training programme of his or her unit has been unsatisfactory;
 - (b) that the unit in which the member is enrolled or in which he or she is serving is to be or has been disbanded;
 - (c) in the case of a cadet — if the unit in which the cadet is enrolled is located at a school, and membership is restricted to students of that school, that the cadet has ceased to attend that school;

- (d) that the member has breached the Code;
 - (e) that, in the opinion of a service chief, the member is in excess to the requirements of the cadet force;
 - (f) that the member has failed to renew, or has allowed to expire, personal qualifications that the service chief has determined to be essential for his or her position;
 - (g) that the member has failed to comply with mandatory child protection procedures:
 - (i) in any law of a State or Territory, including any instrument made under such a law; or
 - (ii) as directed by a service chief.
- (3) A member must not be discharged or have his or her appointment terminated for a reason specified in paragraph (2) (a), (d), (e), (f) or (g) unless he or she has been notified of that reason for the intended discharge or termination of appointment and been given an opportunity to contest it.
- (4) A member who decides to contest his or her discharge or the termination of his or her appointment must give notice of the grounds on which he or she will do so to the service chief:
- (a) not later than 28 days after he or she is notified of the reasons for the intended discharge or termination; or
 - (b) within any further period that may be allowed by the service chief.

[13] After regulation 15

insert

Part 3 The Code of Conduct

16 Members must comply with Code of Conduct

A member of a cadet force must comply with the Code of Conduct mentioned in Schedule 4.

17 Sanctions for breach of Code

A service chief may impose 1 or more of the following sanctions for a breach of the Code by a member:

- (a) formal counselling;
- (b) reprimand;
- (c) official warning;
- (d) reduction in rank;
- (e) reassignment of duties;
- (f) suspension of duties;
- (g) discharge or termination.

[14] Part IV, heading

substitute

Part 4 Miscellaneous**[15] After regulation 24**

insert

25 Procedural fairness in reviews etc

- (1) If, under these Regulations, a decision is made or is to be made that affects the rights of a person (*person affected*), the decision-maker must make the decision having regard to the principles mentioned in subregulation (2).
- (2) The principles are as follows:
 - (a) the decision-maker must make a decision without undue delay;
 - (b) the decision-maker must promptly advise the person affected of relevant matters arising during the process of making the decision;

- (c) if the decision involves misconduct or alleged misconduct by a person affected — the decision-maker must advise the person affected, in writing, of the following matters concerning the misconduct:
 - (i) all details known to the decision-maker;
 - (ii) any finding made by the decision-maker;
- (d) if the decision involves misconduct or alleged misconduct by a person affected — the decision-maker must give a person affected the opportunity to be heard before the decision is made;
- (e) after a decision is made, the decision-maker must give the affected person:
 - (i) written notice of the decision; and
 - (ii) written notice of the review rights available to the affected person;
- (f) if the person affected is a cadet who has not turned 18 — the decision-maker must advise the cadet that the cadet must be represented by a parent or other adult person of the cadet's choosing;
- (g) if the person affected is a cadet who has turned 18 — the decision-maker must advise the cadet that the cadet is entitled to be represented by a parent or other adult person of the cadet's choosing;
- (h) if, in the opinion of the decision-maker, it appears that the matter requiring decision could be resolved by an informal dispute resolution or mediation process — the decision-maker may take steps to facilitate that process.

[16] Schedule 1, table, column 1

omit

Cadet Officer

insert

Midshipman

[17] Schedule 1, after the table*insert**Note* The above table must be read together with regulation 10.**[18] Schedule 2, table***substitute*

Column 1 Ranks of cadets	Column 2 Ranks of instructors	Column 3 Ranks of officers
Recruit	Recruit	Second Lieutenant
Cadet	Private	Lieutenant
Lance Corporal	Lance Corporal	Captain
Corporal	Corporal	Major
Sergeant	Sergeant	Lieutenant-Colonel
Staff Sergeant	Staff Sergeant	Colonel
Warrant Officer Class 2	Warrant Officer Class 2	
Warrant Officer Class 1	Warrant Officer Class 1	
Cadet Under Officer		

Note The above table must be read together with regulation 10.**[19] Schedule 3, table, column 2***omit*

Aircraftman

insert

Aircraftman or Aircraftwoman

[20] Schedule 3, table, column 2

omit

Leading Aircraftman

insert

Leading Aircraftman or Leading Aircraftwoman

[21] Schedule 3, after the table

insert

Note The above table must be read together with regulation 10.

[22] After Schedule 3

insert

Schedule 4 The Code of Conduct

(regulation 16)

- (1) A member of a cadet force must behave honestly and with integrity while undertaking cadet force activities.
- (2) A member of a cadet force must act with care and diligence while undertaking cadet force activities.
- (3) A member of a cadet force must treat everyone with respect and courtesy, and without harassment.
- (4) A member of the cadet force must undertake cadet force activities in a safe, skilful and competent manner.
- (5) A member of the cadet force must not make unauthorised use of confidential information, or reveal it to persons not authorised to receive it.
- (6) A member of a cadet force, while undertaking cadet force activities, must comply with all applicable Australian laws, as follows:
 - (a) any Act or any instrument made under an Act;

- (b) any law of a State or Territory, including any instrument made under such a law.
- (7) A member of a cadet force must, while undertaking cadet force activities, comply with any lawful and reasonable direction given by an authorised person.
- (8) A member of a cadet force must use Commonwealth resources in a proper manner.
- (9) A member of a cadet force must not provide false or misleading information in response to a request for information that is made for official purposes in connection with the member's cadet force activities.
- (10) A member of a cadet force must comply with any other conduct requirement that is prescribed by these regulations.

[23] Further amendments — modernisation to non-sexist language

<i>Provision</i>	<i>omit each mention of</i>	<i>insert</i>
Subregulation 3 (1)	his	his or her
Subregulation 5 (2)	he	he or she
Subregulation 5 (3)	he	he or she
Regulation 9	he	he or she
Subregulation 11 (2)	his	his or her
Subregulation 13 (2)	his	his or her
Regulation 24	his	his or her
Regulation 24	he	he or she

[24] Further amendments — commanding officer

<i>Provision</i>	<i>omit</i>	<i>insert</i>
Subregulation 8 (1)	commanding officer	service chief
Subregulation 8 (2)	commanding officer	service chief

<i>Provision</i>	<i>omit</i>	<i>insert</i>
Subregulation 10 (4)	commanding officer.	service chief.
Subregulation 13 (2)	an officer of the Defence Force authorized in writing by the service chief for the purpose of this regulation	the service chief
Subregulation 13 (3)	officer authorized for the purpose of this regulation	service chief

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au.