



Cadet Forces Regulation 2013

Select Legislative Instrument No. 112, 2013

I, Professor Marie Bashir AC CVO, Administrator of the Government of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the Acts mentioned in section 3.

Dated 13 June 2013

Marie Bashir
Administrator

By Her Excellency's Command

David Feeney
Parliamentary Secretary for Defence

OPC50255 - A

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Part 1—Preliminary

1 Name of regulation

This regulation is the *Cadet Forces Regulation 2013*.

2 Commencement

This regulation commences on the day after it is registered.

3 Authority

This regulation is made under:

- (a) the *Defence Act 1903*; and
- (b) the *Naval Defence Act 1910*; and
- (c) the *Air Force Act 1923*.

4 Definitions

In this regulation:

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

cadet means a person accepted as a cadet under subsection 6(5).

cadet force means the Australian Navy Cadets, the Australian Army Cadets or the Australian Air Force Cadets.

Defence Act means the *Defence Act 1903*.

instructor means an instructor in a cadet force.

member means an officer, instructor or cadet in a cadet force.

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

officer means an officer in a cadet force.

service chief, in relation to a cadet force or a member of a cadet force, means the service chief administering the cadet force under:

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- (a) section 62 of the Defence Act; or
- (b) section 39 of the Naval Defence Act; or
- (c) section 8 of the Air Force Act.

unit means one of the units into which a cadet force is divided.

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

5 Organisation

Subject to these Regulations, a service chief is responsible for the organisation, maintenance, regulation, control and discipline of members.

Note: These Regulations deal with cases where the service chief will undertake particular measures in the course of exercising his or her responsibilities. The overall administration of the cadet forces by the service chiefs is subject to direction by the Minister and the Chief of the Defence Force under the Defence Act, the Naval Forces Act and the Air Force Act.

6 Cadets

- (1) This regulation is made for:
 - (a) paragraphs 62(2)(b) and (5)(a), and subsection 62(6), of the Defence Act; and
 - (b) paragraphs 38(2)(c) and (5)(a), and subsection 38(6), of the Naval Defence Act; and
 - (c) paragraphs 8(2)(c) and (5)(a), and subsection 8(6), of the Air Force Act.

Age requirements

- (2) The minimum age requirement for a cadet is:
 - (a) 12 if the cadet would turn 13 in the calendar year in which the cadet would be accepted; or
 - (b) 13 if paragraph (a) does not apply.

- (3) The maximum age requirement for a cadet is one day before the cadet turns 20.

Volunteering

- (4) A person may volunteer to become a cadet by giving the service chief an application in accordance with a form approved by the service chief.

Note: The approved form will include a statement that the person understands that the person will serve as a volunteer.

- (5) The service chief may accept the person as a cadet in the cadet force if the person gives the service chief a completed application.

Note: The person is not entitled to volunteer, or to be accepted, as a cadet if the person does not meet the age requirement in subsection (2).

- (6) If the service chief accepts a person as a cadet, the service chief must enrol the person as a cadet.

7 Officers and instructors

- (1) This regulation is made for:
- (a) paragraphs 62(2)(a) and (aa) of the Defence Act; and
 - (b) paragraphs 38(2)(a) and (b) of the Naval Defence Act; and
 - (c) paragraphs 8(2)(a) and (b) of the Air Force Act.
- (2) A person may volunteer to be appointed as an officer or instructor in a cadet force by giving the service chief an application in accordance with a form approved by the service chief.

Note: The approved form will include a statement that the person understands that the person will serve as a volunteer.

- (3) The service chief may appoint the person as an officer in the cadet force if:
- (a) the person:
 - (i) gives the service chief a completed application; and
 - (ii) is at least 19; and
 - (b) the service chief is satisfied that:
 - (i) the person has a commitment to youth leadership, experience in youth leadership, or both; and

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- (ii) the person has a commitment to undertaking the training programme as an officer; and
- (iii) the person is suitable to supervise, and control or support, the training programme for, and the activities of, cadets in a unit; and
- (iv) there is no reason to suspect that the person is unsuitable to supervise, or otherwise work with, children; and
- (v) there is an operational need or use for the person as an officer.

Note: The assessment of the person will include background checks relating to working with children:

- (a) if there are mandatory requirements for eligibility to work with children in the State or Territory where the officer's appointment or unit is located, the checks will follow those mandatory requirements; or
- (b) if there are no mandatory requirements in the State or Territory, the checks will follow the requirements of the National Police Check.

- (4) The service chief may appoint the person as an instructor in the cadet force if:
- (a) the person:
 - (i) gives the service chief a completed application; and
 - (ii) is at least 18; and
 - (b) the service chief is satisfied that:
 - (i) the person has a commitment to youth leadership, experience in youth leadership, or both; and
 - (ii) the person has a commitment to undertaking the training programme as an instructor; and
 - (iii) the person is suitable to supervise, and control or support, the training programme for, and the activities of, cadets in a unit; and
 - (iv) there is no reason to suspect that the person is unsuitable to supervise, or otherwise work with, children; and
 - (v) there is an operational need or use for the person as an instructor.

Note: The assessment of the person will include background checks relating to working with children:

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- (a) if there are mandatory requirements for eligibility to work with children in the State or Territory where the instructor's appointment or unit is located, the checks will follow those mandatory requirements; or
 - (b) if there are no mandatory requirements in the State or Territory, the checks will follow the requirements of the National Police Check.
- (5) The service chief may appoint the person as an officer or instructor:
- (a) on an ongoing basis; or
 - (b) for a period specified in the instrument of appointment.
- (6) The service chief may reappoint a person as an officer or instructor if:
- (a) the person volunteers for reappointment; and
 - (b) the service chief is satisfied that the person is still suitable to supervise, and control or support, the training programme for, and the activities of, cadets enrolled in a unit; and
 - (c) there is still no reason to suspect that the person is unsuitable to supervise, or otherwise work with, children; and
 - (d) there is still an operational need or use for the person as an officer or instructor.
- Note: The assessment of the person will include background checks relating to working with children:
- (a) if there are mandatory requirements for eligibility to work with children in the State or Territory where the officer's or instructor's appointment or unit is located, the checks will follow those mandatory requirements; or
 - (b) if there are no mandatory requirements in the State or Territory, the checks will follow the requirements of the National Police Check.
- (7) The service chief may reappoint the person as an officer or instructor:
- (a) on an ongoing basis; or
 - (b) for a period specified in the instrument of appointment.

8 Request for discharge

- (1) A member may give the service chief a request in writing to be discharged from his or her cadet force.

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- (2) A request to be discharged takes effect on:
 - (a) the day after the day the request is received by the service chief; or
 - (b) a later day specified in the request.

9 Other arrangements for members

- (1) A member must maintain any qualification that relates to his or her activities as a member.
- (2) A member who is charged with a criminal offence under a law of the Commonwealth, a State or a Territory must notify the service chief as soon as practicable.
- (3) The service chief may suspend or terminate a cadet's membership of the cadet force at the service chief's discretion.
- (4) The service chief may suspend or terminate the appointment of an officer or instructor at the service chief's discretion.
- (5) The service chief must not act under subsection (3) or (4) unless:
 - (a) the service chief has acted in accordance with the principles of natural justice in relation to the proposed suspension or termination; and
 - (b) the cadet, officer or instructor has been accorded procedural fairness in relation to the proposed suspension or termination.
- (6) The service chief must determine:
 - (a) the uniforms to be worn by members; and
 - (b) the circumstances in which members are required or permitted to wear uniforms.

10 Ongoing supervision and assessment

- (1) The service chief must make arrangements to:
 - (a) ensure that information about working with children is made available to all members; and
 - (b) ensure that all members are suitable to work with children; and

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- (c) identify whether each officer and instructor is suitable to control or support the training programme for, and the activities of, cadets in a unit; and
 - (d) identify each member who has a particular qualification or specialty and identify whether the member still has the qualification or specialty.
- (2) The service chief may make other arrangements to ensure that:
- (a) the cadet force is administered efficiently; and
 - (b) the conduct of the cadet force, and each member of the cadet force, is satisfactory.

Part 3—Offences and related matters

11 Liquor

Prescribed age

- (1) For paragraph 123AA(1)(b) of the Defence Act and paragraph 44E(1)(b) of the Naval Defence Act, the prescribed age is 18 years.

Note: The prescribed age relates to offences in those Acts about the sale or supply of intoxicating liquor.

Offence—sale or supply of liquor (Australian Air Force Cadets)

- (2) A person commits an offence if:
- (a) the person sells or supplies liquor to another person; and
 - (b) the other person is:
 - (i) a member of the Australian Air Force Cadets; and
 - (ii) under 18 years; and
 - (iii) in uniform.

Penalty: 10 penalty units.

- (3) It is a defence to a prosecution under subsection (2) that the liquor was sold or supplied at the direction of a qualified medical practitioner.

Part 5 Transitional provisions**Section 12**

Note: A defendant bears an evidential burden in relation to the matter mentioned in subsection (3) (see section 13.3 of the Criminal Code).

12 Laws relating to equipment

- (1) A member is not to be required, under a law of a State or a Territory, to obtain or hold a licence or other permission to possess, use or transport an item of equipment that is:
 - (a) the property of the Commonwealth; and
 - (b) used for the performance of the member's duties as a member.

Examples: A firearm, ammunition or a ceremonial sword.

- (2) Subsection (1) does not apply in relation to a licence or permission to operate a vehicle or equipment.

Part 4 Miscellaneous**13 Delegation**

- (1) A service chief may delegate his or her powers and functions under this regulation, other than this power of delegation.
- (2) A service chief may issue directions, in writing, to delegates about the performance of powers and functions delegated under subsection (1).

Part 5—Transitional provisions**14 Arrangements relating to the Cadet Forces Regulation 2013***Repeals*

- (1) The *Cadet Forces Regulations 1977* are repealed.

Transitional arrangements

- (2) An acceptance of a person as a cadet that was in effect, under the *Cadet Forces Regulations 1977*, immediately before the day this regulation commences is taken to continue in force, on and after that day, as if the person had been accepted under subsection 6(5).
- (3) An appointment of a person as an officer or instructor that was in effect, under the *Cadet Forces Regulations 1977*, immediately before the day this regulation commences is taken to continue in force, on and after that day, as if the person had been appointed under subsection 7(3).
- (4) A delegation that:
 - (a) was made by a service chief under regulation 3 of the *Cadet Forces Regulations 1977*; and
 - (b) was in force immediately before the day this regulation commences;is taken to have been repealed on that day.