



# Army and Air Force Canteen Service Regulations 1959

**Statutory Rules 1959 No. 40 as amended**

made under the

*Defence Act 1903*

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**1 Name of regulations** [see Note 1]

These regulations are the *Army and Air Force Canteen Service Regulations 1959*.

**3 Interpretation**

- (1) In these regulations, unless the contrary intention appears:

***Army or Air Force installation*** means any Army or Air Force unit, area, camp, barracks, fort, post, base or Command Headquarters.

***Board*** means the Army and Air Force Canteen Service Board of Management established by regulation 9.

***Canteen Service*** means the Army and Air Force Canteen Service referred to in subregulation 4 (1).

***Chairman*** means the Chairman of the Board.

***Finance Minister*** means the Minister who administers the *Financial Management and Accountability Act 1997*.

***the Managing Director*** means the Managing Director of the Canteen Service.

**3A Delegations**

- (1) The Minister may, by writing signed by him, delegate to:

- (a) an officer of the Navy who holds a rank not below the rank of Commodore;
  - (b) an officer of the Army who holds a rank not below the rank of Brigadier;
  - (c) an officer of the Air Force who holds a rank not below the rank of Air Commodore; or
  - (d) a person who for the time being is an SES employee;
- any of his powers under these regulations, other than this power of delegation.

- (2) A delegation under subregulation (1) shall be revocable at will and no delegation shall prevent the exercise of any power by the Minister.

**4 Army and Air Force Canteen Service**

- (1) There shall be a canteen service to be known as the Army and Air Force Canteen Service.
- (2) The Canteen Service shall be controlled and conducted by the Board in accordance with these regulations.
- (3) The purposes of the Canteen Service shall be:
  - (a) the supply of goods, facilities and services to, or for the entertainment and recreation of:
    - (i) members of the Army or the Air Force;
    - (ii) persons employed in or in connection with Army or Air Force installations;
    - (iii) dependants of those members or persons;
    - (iv) visitors to Army or Air Force installations; and
    - (v) members of the Australian Army Cadets or the Australian Air Force Cadets; and
  - (b) such other purposes of a similar nature as the Minister approves after taking into consideration the recommendations of the Board.
- (4) The Board shall conduct the Canteen Service in accordance with the following policy guidelines:
  - (a) the Canteen Service shall operate to enhance the living conditions and social environment of the persons referred to in paragraph (3) (a);
  - (b) the operations of the Canteen Service shall be conducted on a commercial and self-supporting basis, with the aim of providing profits sufficient to permit distribution of surplus funds for the benefit of members of the Army or the Air Force;
  - (c) the operations of the Canteen Service at each Army or Air Force installation shall be conducted in such manner as to make those operations:
    - (i) self-supporting;
    - (ii) commercially viable; and
    - (iii) sufficiently profitable so as to ensure, in conjunction with the operation of the Canteen Service at other Army or Air Force installations, the financial

self-sufficiency of the Canteen Service as a whole;  
and

- (d) policy guidelines approved by the Minister by instrument in writing.
- (5) The Board may conduct the operations of the Canteen Service under a name registered under the legislation, relating to business names, of a State or Territory in which the operations of the Canteen Service are being conducted.

## **9 Board of Management**

- (1) For the purposes of these regulations, there shall be a board of management which shall be known as the Army and Air Force Canteen Service Board of Management.

*Note* The *Commonwealth Authorities and Companies Act 1997* applies to the Board. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of officers.

- (2) Subject to these regulations, the Board has and may exercise the rights, powers, authorities and functions conferred upon it by these regulations and is charged with and shall perform the duties and obligations imposed upon it by these regulations.
- (3) The Board:
  - (a) is a body corporate with perpetual succession and a common seal; and
  - (b) is capable, in its corporate name and in Australia or elsewhere, of acquiring, holding and disposing of real and personal property and of suing and being sued.
- (4) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Board affixed to any document and shall presume that it was duly affixed.
- (5) The exercise of the rights, powers, authorities or functions, or the performance of the duties or obligations, of the Board is not affected by reason only of there being a vacancy in the office of a member of the Board.

**10 Constitution of Board**

- (1) The Board shall consist of:
  - (a) 1 officer of the Army not below the rank of Brigadier appointed by the Chief of Army;
  - (b) 1 officer of the Air Force not below the rank of Air Commodore appointed by the Chief of Air Force;
  - (d) 3 persons appointed by the Minister, at least 2 of whom have had extensive business or commercial experience; and
  - (e) the Managing Director.
- (2) The Minister shall appoint one of the persons referred to in paragraph (1) (d) to be the Chairman of the Board.
- (3) The Chief of Army and the Chief of Air Force shall jointly appoint one of the officers referred to in paragraph (1) (a) or (b) to be the Deputy Chairman of the Board.
- (4) A member of the Board, other than the Managing Director:
  - (a) shall be appointed to be a part-time member; and
  - (b) in the case of a person referred to in paragraph (1) (d), holds office for such term, not exceeding 3 years, as is fixed by the Minister in the instrument of his appointment and is eligible for re-appointment.
- (5) The Minister may terminate the appointment of a person referred to in paragraph (1) (d) by reason of the misbehaviour or physical or mental incapacity of that person.
- (6) If a person referred to in paragraph (1) (d):
  - (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
  - (b) is absent, except on leave granted by the Board, from 3 consecutive meetings of the Board otherwise than on business of the Board undertaken with the approval of the Board; or

- (c) fails, without reasonable excuse, to comply with his or her obligations under section 27F or 27J of the *Commonwealth Authorities and Companies Act 1997*; the Minister shall terminate the appointment of that person.
- (7) A person referred to in paragraph (1) (d) may resign his office by writing signed by him and delivered to the Minister.
- (8) Power under subregulation (1) to appoint a member of the Board includes power to appoint a person to be the deputy of that member.
- (9) In the absence of a member from a meeting of the Board, the deputy of the member may attend the meeting and shall be deemed while so attending to have all the powers and functions of a member other than the Chairman or the Deputy Chairman.

## **12 Meetings of the Board**

- (1) Meetings of the Board shall be convened by the Chairman of the Board and notice of each meeting shall be given and posted to each member of the Board.
- (2) A meeting of the Board shall be held as soon as practicable after the Chairman has been appointed and, subsequent to the quarter in which that first meeting is held, there shall be at least one meeting in each quarter of the calendar year.
- (3) The Chairman of the Board, or, in his absence, the Deputy Chairman of the Board, shall preside at meetings of the Board.
- (4) At a meeting of the Board 3 members, of whom at least 1 shall be a member of the Board referred to in paragraph 10 (1) (a) or (b), shall constitute a quorum.
- (5) All questions before the Board shall be decided by a majority of votes.

- (6) Each member present at a meeting of the Board has a deliberative vote and, in the event of an equality of votes on any question, the person presiding at the meeting has, in addition, a casting vote.

**13 General powers, duties and functions of the Board**

- (1) In furtherance of the purposes of the Canteen Service referred to in subregulation 4 (3), the Board may:
- (a) purchase, lease, hire or otherwise acquire property;
  - (b) sell goods and merchandise;
  - (c) supply and provide services, entertainment and other amenities, either directly or through committees;
  - (d) accept gifts and donations of money and other property;
  - (e) open, conduct and close canteens or other facilities;
  - (f) dispose of any land, buildings, stock, plant, equipment and other property acquired by, or vested in, the Board;
  - (g) in consultation with officers commanding relevant Army or Air Force installations, establish such State, area, base, unit or local canteen committees as the Board thinks fit, having such membership and functions (not being inconsistent with these regulations) as the Board determines;
  - (h) issue, or authorize the issue of, orders or instructions in relation to the management, control or administration of the Canteen Service;
  - (j) establish and maintain schemes for the provision of superannuation or retirement benefits for persons appointed or employed under these regulations and appoint trustees for the purposes of such schemes;
  - (k) enter into contracts; and
  - (l) do such other things as are incidental to the purposes of the Canteen Service.
- (2) Without limiting the generality of paragraph (1) (k), the power of the Board under that paragraph includes the power to enter into contracts for other persons:
- (a) to sell goods and merchandise; or

- (b) to supply and provide services, entertainment and other amenities; or
- (c) to conduct canteens and other facilities.

**14 Managing Director of the Canteen Service**

- (1) The Board shall appoint a person to be the Managing Director of the Canteen Service.
- (2) The Managing Director shall be the executive member of the Board in relation to the management of the Canteen Service in accordance with the policy guidelines referred to in subregulation 4 (4) and shall perform such other duties in relation to the Canteen Service as the Board directs.
- (3) Subject to subregulation (4), the Minister shall determine the terms and conditions of service of the Managing Director.
- (4) The Managing Director shall be paid such remuneration as is determined by the Remuneration Tribunal or, in the absence of a determination by the Remuneration Tribunal, by the Minister.

**19 Delegation of powers by the Board**

- (1) The Board may, either generally or as otherwise provided by the instrument of delegation, by writing under its seal, delegate to:
  - (a) the Chairman;
  - (b) the Deputy Chairman;
  - (c) the Managing Director; or
  - (d) an employee of the Board;any of its powers under these regulations, other than this power of delegation.
- (2) A power so delegated, when exercised by the delegate, shall, for the purposes of these regulations, be deemed to have been exercised by the Board.
- (3) A delegation under this regulation does not prevent the exercise of a power by the Board.

**20 Staff of Canteen Service**

- (1) The Board may employ such persons as it considers necessary for the purpose of these regulations.
- (2) The terms and conditions of employment, in respect of matters not provided for by these regulations, of persons employed under subregulation (1) are such as are determined by the Board, subject to directions in writing issued by the Minister.

**21 Finance**

- (1) Subject to these regulations, the Board shall control the finances of the Canteen Service.
- (2) The Board may from time to time allocate to the Managing Director or an employee of the Board so much of the funds of the Canteen Service as the Board, in its discretion, considers necessary for the administration and conduct of the part of the Canteen Service for which he is the agent of the Board.
- (3) For the purpose of subregulation (2), *funds* means:
  - (a) moneys deposited with or otherwise owing by the Commonwealth or by a Department of the Australian Public Service;
  - (b) moneys in hand or at credit in any fixed deposit or current account with a bank; or
  - (c) drafts, bills of exchange and other negotiable instruments; but does not include investments made by the Board, stock-in-trade, plant, machinery, other property, book debts, rights of action, claims or demands, appertaining to or arising out of the conduct of the Canteen Service, unless and until they are converted into money.

**22 Borrowing**

- (1) The Board may, with the approval in writing of the Finance Minister, borrow moneys (otherwise than from the Commonwealth) that are from time to time necessary for the conduct of the Canteen Service under these regulations.

*Note* The Finance Minister's powers under this subregulation may be delegated to an official under regulation 29.

- (2) The Board may give security over the whole or any part of its assets for the repayment of amounts borrowed under this regulation and the payment of interest on amounts so borrowed.
- (3) The Board shall not borrow moneys except in accordance with this regulation.

**23A Application and investment of moneys**

- (1) The money of the Board shall be applied only:
  - (a) in payment or discharge of the costs, expenses and other obligations of the Board in relation to the conduct of the Canteen Service under these regulations;
  - (b) in payment of remuneration, allowances and other benefits payable to any person appointed or employed under these regulations; and
  - (c) in making payments in accordance with regulation 24.

**23B Restrictions on contracts**

The Board shall not, except with the approval of the Minister, enter into any contract involving the payment or receipt of an amount exceeding:

- (a) in respect of a contract entered into for the purposes of subregulation 23A (2) — \$500,000; and
- (b) in any other case — \$250,000.

**23E Annual report**

An annual report prepared by the Board under section 9 of the *Commonwealth Authorities and Companies Act 1997* must set out, for the period to which the report relates:

- (a) each policy guideline approved by the Minister by instrument under paragraph 4 (4) (d); and
- (b) each direction issued by the Minister under subregulation 20 (2).

**24 Distribution of profits**

- (1) For the purposes of this regulation, the profits of the Board for a trading period are the amount (if any) remaining after deducting from the revenue received or receivable in respect of that trading period the expenditure and provision for expenditure properly chargeable against that revenue.
- (2) After such provision as the Board considers proper has been made in relation to the Canteen Service for:
  - (a) repayment of moneys borrowed by the Board under regulation 22;
  - (b) other liabilities of the Board, accrued or contingent;
  - (c) reserves; and
  - (d) amounts required for allocation under subregulation 21 (2);the Board shall, at least once in each financial year, in accordance with principles approved by the Minister, distribute or cause to be distributed its profits and other surplus funds not required for the future maintenance and operation of the Canteen Service.
- (3) The principles approved by the Minister under subregulation (2) shall include the following principles:
  - (a) the profits and other surplus funds distributed or caused to be distributed under subregulation (2) are to be distributed or caused to be distributed to Army or Air Force units or bases and are to be applied for the provision of amenities, services and facilities at those units and bases for the benefit of members of the Army and the Air Force;
  - (b) the amount of the profits distributed to an Army or Air Force unit or base in respect of a trading period is to be related, in the manner specified by the Minister, to the contribution that the trading profits of the canteens at that unit or base made to the total trading profits of the Canteen Service during that period; and
  - (c) the amount of the surplus funds, other than profits, distributed to an Army or Air Force unit or base in respect of a trading period is to be related, in the manner specified by the Minister, to:

- (i) the contribution that the trading profits of the canteens at that unit or base made to the total trading profits of the Canteen Service during that trading period; or
  - (ii) the contribution that the sales of the canteens at that unit or base made to the sales of the Canteen Service during that trading period.
- (4) In this regulation *trading period* means such period as the Board determines having regard to principles approved by the Minister.

## **25 Remuneration**

- (1) Except as provided by this regulation, a member of the Board or of a committee established under paragraph 13 (g) is not entitled to be paid in respect of any services performed by him under these regulations.
- (2) The Chairman and the other members of the Board referred to in paragraph 10 (1) (d) shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, they shall be paid such remuneration as the Minister determines.
- (4) Nothing in this regulation:
  - (a) prevents the reimbursement from the funds of the Board of a member of the Board or of a committee established under paragraph 13 (g) for any out of pocket expenses which he has reasonably incurred in respect of any services performed by him under these regulations; or
  - (b) affects the right of any member of the Defence Force to receive any salary, pay or allowances due to him in his capacity as a member of the Defence Force.

## **26 Loss, damage or destruction of property of the Board by a member**

Where, in consequence of a sentence or award of the Australian Military Court or of an officer dealing summarily

with a charge, a sum is required to be paid by a member of the Defence Force:

- (a) to or towards the making good any loss, damage or destruction of property of the Board; or
- (b) as compensation for any loss, damage or destruction of property of the Board;

occasioned by the commission of an offence by the member, that sum shall be deemed to be a debt due and owing by the member to the Board and, without prejudice to any other means of recovery, may be deducted from moneys which are, or which become, due and payable by the Commonwealth to the member and may be paid to the Board in such instalments, and in such manner, as a service chief directs.

## **26A Taxation**

- (1) The Board is subject to taxation, other than income tax, under the laws of the Commonwealth, the States and the Territories.
- (2) Subregulation (1) does not in any way affect the operation of regulation 27.

## **27 Exemption from certain laws**

It is not necessary, under or by reason of any law of a State or Territory, to obtain or have any licence or permission for:

- (a) keeping;
- (b) supplying, on sale or otherwise; or
- (c) permitting the consumption of;

intoxicating liquor at a canteen or other facility established, conducted, maintained or operated in pursuance of these regulations (including a canteen or facility established, conducted, maintained or operated by a person pursuant to a licence granted by the Board under regulation 28).

## **28 Licences**

The Board may, with the approval of the Commanding Officer of an Army or Air Force installation, grant, upon such terms and conditions as the Board determines, to any person a licence

to trade in an Army or Air Force installation for the purpose of rendering a service not catered for in that installation by the Canteen Service.

**29 Delegation by Finance Minister**

- (1) The Finance Minister may, by written instrument, delegate any of the Finance Minister's powers or functions under subregulation 22 (1) to an official (within the meaning of the *Financial Management and Accountability Act 1997*).
- (2) In exercising powers or functions under a delegation, the official must comply with any directions of the Finance Minister.

**30 Repeal**

The Australian Army (Canteens Service) Regulations, comprising Statutory Rules 1957, No. 24 and Statutory Rules 1958, No. 83, are repealed.

**Table of Instruments**

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**Notes to the *Army and Air Force Canteen Service Regulations 1959*****Note 1**

The *Army and Air Force Canteen Service Regulations 1959* (in force under the *Defence Act 1903*) as shown in this compilation comprise Statutory Rules 1959 No. 40 amended as indicated in the Tables below.

Under the *Legislative Instruments Act 2003*, which came into force on 1 January 2005, it is a requirement for all non-exempt legislative instruments to be registered on the Federal Register of Legislative Instruments. From 1 January 2005 the Statutory Rules series ceased to exist and was replaced with Select Legislative Instruments (SLI series). Numbering conventions remain the same, ie Year and Number.

**Table of Instruments**

<b>Year and number</b>	<b>Date of notification in Gazette or FRLI registration</b>	<b>Date of commencement</b>	<b>Application, saving or transitional provisions</b>
1959 No. 40	25 June 1959	1 July 1959	
1972 No. 58	4 May 1972	4 May 1972	—
1974 No. 140	8 Aug 1974	8 Aug 1974	R. 3
1976 No. 49	6 Feb 1976	9 Feb 1976	—
1976 No. 107	1 June 1976	1 June 1976	—
1981 No. 206	28 July 1981	28 July 1981	Rr. 24–28
1982 No. 110	20 May 1982	20 May 1982	—
1982 No. 275	20 Oct 1982	20 Oct 1982	—
1985 No. 210	5 Sept 1985	5 Sept 1985	—
1988 No. 352	21 Dec 1988	21 Dec 1988	—
1995 No. 188	4 July 1995	4 July 1995	—
1997 No. 5	12 Feb 1997	12 Feb 1997	—
1997 No. 37	12 Mar 1997	12 Mar 1997	—
1997 No. 389	24 Dec 1997	1 Jan 1998	—
1999 No. 56	9 Apr 1999	9 Apr 1999	—
2001 No. 32	1 Mar 2001	1 Mar 2001	—
2001 No. 42	16 Mar 2001	16 Mar 2001	—
2004 No. 173	1 July 2004	1 July 2004	—
2005 No. 169	22 July 2005 (see F2005L02021)	23 July 2005	—

**Table of Instruments**

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<b>Year and number</b>	<b>Date of notification in <i>Gazette</i> or FRLI registration</b>	<b>Date of commencement</b>	<b>Application, saving or transitional provisions</b>
2007 No. 54	3 Apr 2007 (see F2007L00855)	Rr. 1–3 and Schedule 1: 4 Apr 2007 Remainder: 1 Oct 2007 (see r. 2 (b))	—

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**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>
Title .....	rs. 1981 No. 206
R. 1 .....	am. 1981 No. 206 rs. 1999 No. 56
R. 2 .....	am. 1976 No. 49 rep. 1981 No. 206
R. 3 .....	am. 1976 No. 49; 1981 No. 206; 1988 No. 352; 1997 No. 389; 2005 No. 169
R. 3A.....	ad. 1976 No. 49 am. 1976 No. 107; 1981 No. 206; 1982 No. 275; 1988 No. 352; 2001 No. 42
R. 4 .....	am. 1976 No. 49 rs. 1981 No. 206 am. 1988 No. 352; 1997 No. 5; 2004 No. 173
R. 4A.....	ad. 1976 No. 49 rep. 1981 No. 206
R. 5 .....	am. 1972 No. 58; 1974 No. 140; 1976 No. 49 rep. 1981 No. 206
R. 6 .....	am. 1976 No. 49 rep. 1981 No. 206
R. 7 .....	rs. 1976 No. 49 rep. 1981 No. 206
R. 8 .....	am. 1976 No. 49 rep. 1981 No. 206
R. 9 .....	am. 1981 No. 206
Note to r. 9 (1).....	ad. 1997 No. 389
R. 10 .....	am. 1974 No. 140; 1976 No. 49 rs. 1981 No. 206 am. 1995 No. 188; 1997 Nos. 5 and 37; 1997 No. 389; 1999 No. 56; 2001 No. 32; 2007 No. 54
R. 11 .....	rs. 1981 No. 206 rep. 1997 No. 389
R. 12 .....	am. 1976 No. 49; 1981 No. 206; 1999 No. 56; 2007 No. 54
R. 13 .....	am. 1976 Nos. 49 and 107; 1981 No. 206; 1988 No. 352; 1997 Nos. 5 and 389
R. 14.....	am. 1976 No. 49 rs. 1981 No. 206
Rr. 15–18.....	am. 1976 No. 49 rep. 1981 No. 206
R. 19.....	rs. 1981 No. 206

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<b>Provision affected</b>	<b>How affected</b>
Rr. 20, 21 .....	am. 1976 Nos. 49 and 107; 1981 No. 206
R. 22 .....	rs. 1981 No. 206 am. 2005 No. 169
Note to r. 22 (1).....	ad. 2005 No. 169
R. 23 .....	am. 1976 No. 49 rs. 1981 No. 206 rep. 1997 No. 389
Heading to r. 23A.....	am. 1997 No. 389
R. 23A.....	ad. 1981 No. 206 am. 1997 No. 389
R. 23B.....	ad. 1981 No. 206 am. 1988 No. 352
Rr. 23C, 23D.....	ad. 1981 No. 206 rep. 1997 No. 389
R. 23E.....	ad. 1981 No. 206 rs. 1997 No. 389
R. 24 .....	am. 1976 No. 49 rs. 1981 No. 206 am. 1985 No. 210; 1988 No. 352; 1997 No. 37
R. 25 .....	am. 1976 No. 49; 1981 No. 206; 1995 No. 188
R. 26 .....	am. 1976 Nos. 49 and 107; 1981 No. 206; 1997 No. 37; 2007 No. 54
R. 26A.....	ad. 1982 No. 110
R. 27 .....	am. 1976 No. 49 rs. 1981 No. 206
R. 28 .....	am. 1981 No. 206; 1988 No. 352; 1997 No. 37
R. 29 .....	rep. 1976 No. 49 ad. 2005 No. 169

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