

VOLUME 3
CHAPTER 109

Care for Soldiers under the Age of 18

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Introduction

109.001. This Instruction is to be read in conjunction with DIN **2009DIN01-024**. It supplements the instructions in that DIN.

Arming/Guarding

109.002. Recruits and trainees in Phase 1 training, regardless of their age, are allowed to handle weapons containing live¹ rounds only under the supervision of a qualified member of staff on an authorized range.

109.003. Under 18s may be employed on unarmed guard duties.

The Right to Leave

109.004. Generally, U18s have a statutory right to discharge during their first six months of service. Details are given in **QR(Army) para 9.292**. Those who do not exercise this statutory right are committed to serve for four years from their 18th birthday or four years and three months after attestation, whichever is the later.

109.005. Specific provision for “Unhappy Juniors” under 18 to be discharged exists under **QR(Army) para 9.414**, notwithstanding that their six month statutory period of discharge has passed. Regardless of the means of discharge, Commanding Officers should comply with **QR(Army) para 9.340**.

109.006. **Regulation 5 of The Armed Forces (Enlistment) Regulations 2009** (The Regulations) states that a person under 18 may not normally be enlisted without the written permission of an appropriate person². From time to time an appropriate person may seek to withdraw their permission as a way of forcing the discharge of a soldier who does not wish to exercise his right under **QR(Army) para 9.292**. **Regulation 9** allows any appropriate person (not just the one who gave permission) to apply within three months of the enlistment to the Defence Council for a ruling that the enlistment was invalid. **Regulation 11** states that unless and until the Defence Council rule the enlistment invalid then it is valid and thus the soldier must serve in his engagement unless he himself makes a valid application for discharge. Retention in the Army is not reliant on continued parental permission³.

- a. The U18 has contacted his or her parent(s)/guardian(s)⁴ and will return to them, or has their permission to return to a different address. If the parent(s)/guardian(s) will not accept the U18 back into the home, or the U18 does not wish to return then the Commanding Officer should liaise with the Social Services, and with the Army Welfare Service if appropriate.
- b. The U18 has been provided with flight tickets if necessary, a rail warrant, departure times that will allow return home by 23:59, and provided with transport (or fare) to the nearest railway station/airport. Where arrival by 23:59 is not possible the U18 should be provided with accommodation overnight;
- c. The U18 has sufficient funds for incidental expenses. This should be related to the prevailing rate of either Personal Incidental Expenses (PIE) or Essential Expenditure (EE) Allowance, as appropriate; and the parent(s)/guardian(s) have been contacted by letter and provided with arrival details. The discharging unit should contact the arrival address the following day to ensure the individual has arrived. If he or she has not arrived any follow-up action should be agreed with the parent(s)/guardian(s).

¹ In this context “live” rounds does not include blanks.

² Often that person is a parent but see ‘The Regulations’ for other people who may fulfil the role.

³ This AGAI can only give an outline of the legal position of an enlistment under 18. Should a question arise from either the recruit or an appropriate person advice should be sought from the Divisional legal advisor.

⁴ The term “parent(s)/guardian(s)” includes any person who has a parental responsibility order under **section 8 of the Children’s Act 1989**

Custody and Detention

109.007. General Principles. Soldiers U18 can be placed in detention if no other option is appropriate. This will be an unusual step and Commanding Officers should bear in mind the advice contained in this AGAI. Soldiers U18 who are held in custody or detention are to be considered vulnerable and Commanding Officers are to take steps to minimize risk. Steps should include:

- a. Soldiers under 17 should not normally share custody or detention facilities with soldiers over 18.
- b. Soldiers between 17 and 18 may be detained in mixed age facilities but the CO/Comdt should carry out a risk assessment.

109.008. Custody Without Charge. All decisions to place soldiers in custody without charge are only taken if the circumstances demand it. Soldiers U18 can be placed in custody without charge in unit detention facilities.

109.009. Custody After Charge. Custody after charge is to be carried out at MCTC.

109.010. Sentences of Detention. Sentences of detention for soldiers U18 should only be given if no other sentence is appropriate. Sentences of detention should ideally be carried out at MCTC, however it is appreciated that this may not always be practicable. Sentences of over six days are always to be carried out in MCTC.

- a. Given their vulnerability, soldiers U18 who are still in training, are not normally to be awarded detention if it is the CO's intention to discharge them, the risks to the soldier and the Army's reputation outweighs the deterrent value. Furthermore, the preparation for civil life that can be given at MCTC is limited and it would be best that soldiers with such a short military service are returned to civil life with as little delay as possible.
- b. Soldiers U18 who have completed training may be sentenced to detention with a view to providing a deterrent effect but the CO should be aware of the circumstances of the individual as well as that of the offence. Thus detention followed by discharge should still be an unusual step and one in which other punishment options have been considered inappropriate.

109.011. In all instances of custody and prior to a sentence of detention involving soldiers U18 Commanding Officers should seek advice from their Higher Authority.