

CHAPTER 84**BUSINESS ACTIVITIES AND PRIVATE INTERESTS**

(MOD Sponsor: NAVY NPS-STRATPOL EMPLOY POL SO1)

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CHAPTER 84

BUSINESS ACTIVITIES AND PRIVATE INTERESTS

SECTION I - BUSINESS ACTIVITIES

J.8401. Business Activities and Off-Duty Employment

1. **General.** Serving personnel must at all times guard against being placed in such a position as may leave them open to the suspicion of being influenced in the discharge of their duty by other than purely public considerations. They must be scrupulously careful in their relationships and in any private dealings with Government contractors and their agents or employees. They are forbidden to furnish testimonials to any company, firm or person in respect of the quality of commodities supplied for Service purposes.

2. If a member of the regular forces, has, in the course of their duty, to come into contact with any matter concerning a business organisation in which they have an interest they are to disclose that interest to their superior officer and to ask that some other person may deal with the case. They should not be permitted to deal with the case without the approval of the Ministry of Defence. (*Navy only*: NAVY NPS-STRATPOL EMPLOY POL SO1)

J.8402. Acceptance of Business Appointments and Off-Duty Employment during Service

1. A member of the regular forces may not, without authority, accept any continuous employment of profit during their full-time service. Subject to [Para J.8403](#) and to any provisions elsewhere in these regulations (see Chapter 96 for Royal Marines Bandsmen and Chapter 15 for Medical and Dental Officers) or in separate instructions, they may not, without Ministry of Defence (*Navy only*: NAVY NPS-STRATPOL EMPLOY POL SO1) approval:

- a. Carry on any profession, engage in trade or accept any profitable employment.
- b. Be a member of a governing body (including a director) of any corporation, company, or undertaking, or of any partnership engaged in any trade or carrying on any profession.
- c. Assist, advise or act directly or indirectly as agent for any corporation, company, partnership, undertaking or individual which or who is carrying on any profession or is engaged in trade or is profitably employed.

2. An application for approval under **Para J.8402 sub para 1** must contain an undertaking that:

- a. The applicant's private business will in no way interfere with their Service duties.
- b. They will take no part in activities connected with the firm which could give rise to suspicion that they have used or could use their Service knowledge to further their own business interests or those of their firm.
- c. They will take no part in transactions between the firm and the Services or any departments or branches of the Government or any semi-public organisation brought into being by the Government.

d. They will inform their new Commanding Officer of the nature and extent of their business activities each time they are posted or attached.

e. They will inform their Commanding Officer of any significant change to their duties which may impact on their ability to serve as a member of Her Majesty's forces.

f. Applicants must also confirm that they understand that no special facilities such as leave of absence will be granted to them and that approval will not debar them being required to serve, whether afloat or ashore, at home or abroad.

3. This provision does not include serving as a member of a charitable trust or school governor.

J.8403. Employment During Leave or Off-Duty Hours

1. The Services will only restrict the off-duty activities of its personnel where necessary and justifiable. The Services have a responsibility to the nation to provide immediate and constant operational capability. Such unique responsibilities require Service personnel to work and operate in a way that may be different from those in civilian employment. In some circumstances, therefore, it is necessary for the Service to place restrictions on the private lives of its members. This is to ensure that they can properly exercise their functions as Service personnel and to protect the efficiency and/or operational effectiveness of the Service as a whole.

2. All personnel wishing to seek external off-duty employment, including unpaid voluntary work which may impact on their Service, during service are, for the reasons stated above, required to seek approval from their CO. Each application is to be considered fairly, impartially and separately by the CO of the applicant. COs are to give full weight to the unique nature and demands of the Service when assessing an application and may approve or reject the application. To assist in the decision the key principles and considerations are outlined below and advice may be sought from Service Legal Advisers or relevant policy advisers (*Navy: NAVY NPS-STRATPOL EMPLOY POL SO1*).

3. **Guiding Principles.** Service duty takes precedence over all other forms of employment and Service personnel are required to be available for service on demand. To ensure that the interests of the Services are protected, Service personnel may not, without authority, accept any form of employment during full-time service. Certain types of employment may be barred to Service personnel because of the potential for the duties of the employment to conflict with Service duty. However, personnel may be authorised by their CO to take up external off duty employment to carry out a profession or trade, or undertake employment where:

a. the activity does not include the use of official time or affect the individual's efficiency as a member of their Service or in any way interfere with any of their Service duties; and,

b. the activity does not involve the use of official information or resources; and,

c. Service uniform is not worn and the individual must not represent themselves as a member of the Armed Forces; and,

- d. the activity will not bring the Service into disrepute (see further [Para 4](#) below); and,
 - e. the activity cannot be misconstrued as Service endorsement of a commercial activity.
 - f. Where it is known that a trade dispute is in progress, off-duty employment with a civilian organisation affected by the dispute should not be approved without the specific permission of the MOD (NAVY NPS-STRATPOL EMPLOY POL SO1).
 - g. In cases involving participation in a commercial advertisement approval may not be given unless permission is granted by the MOD (NAVY NPS-STRATPOL EMPLOY POL SO1).
 - h. Commanding Officers are to maintain a central record of all approved applications to undertake off-duty employment. The record of an individual's approved application is to be retained as long as they remain in the ship/establishment.
4. Requests to undertake civilian employment during off-duty periods will not be authorised where the activity will bring the Service into disrepute. In considering requests for such employment, Commanding Officers must take into account not only whether such employment complies with the specific requirements of QRs but also how such employment may be perceived by the public and the media. In particular, they should consider:

Nature of the Employment

For example, some private security roles require the regular deployment of physical force which may be adversely portrayed if it becomes apparent that serving members of the Armed Forces are involved.

Ethos of the Organisation

For example, some organisations may be perceived as having a 'political' agenda because they adopt a campaigning stance on certain controversial issues. Care must be taken that a formal employment relationship with such an organisation does not appear to compromise the political neutrality of the Armed Forces.

Conflict of Interest

There must be no conflict of interest between the individual's Service duties and those required by his/her civilian employer.

Remuneration

Service personnel will already be drawing a salary from the Armed Forces. Care must be taken to avoid the perception that civil employment during off-duty periods detracts from availability for military duties.

At the more senior levels (1* level and above), including during Terminal Leave, an officer drawing significant remuneration from a civilian employer while still in receipt of a substantial salary from the Armed Forces may attract criticism.

The perception may be compounded if his or her new employer is another public sector organisation, or defence industry partner.

In the latter circumstances, the presumption is that permission will not be granted.

Other Benefits

Care should be taken to ensure that there are no non-financial benefits resulting from a formal relationship with a civilian employer that could attract criticism.

If a Commanding Officer judges that any of the factors above are likely to bring the Service into disrepute he should decline the request. (*Navy only* - Advice can be sought from NAVY NPS-STRATPOL EMPLOY POL SO1, through the chain of command where there are any doubts about the acceptability of any form of off-duty employment).

J.8404. Employment During Terminal Leave

1. Where a post is covered by the Business Appointment Rules further guidance is available at [Para J.8407](#).

2. Service personnel leaving the Regular Forces may accept paid permanent or temporary civilian employment during their terminal leave subject to the requirements set out above. These requirements apply equally to Service personnel who wish to commence civil employment during Terminal Leave or other Annual Leave added to it. In addition, Service personnel may not take up civil employment during:

- a. Terminal Leave in an operational theatre; or
- b. A resettlement course or Civilian Working Attachment; or
- c. Whilst on duty undertaking Graduated Resettlement activities - see JSP 534 0392.

J.8405. Insurance Covering Civil Employment

1. The Ministry of Defence will under no circumstances accept any responsibility for injury, loss or damage sustained by Service personnel or for injury, loss or damage to other parties or to property arising in the course of or out of the activities of such personnel during employment outside their official duties. The Commanding Officer should therefore advise them to ensure that they are adequately covered by insurance.

J.8406. Payments for Broadcasting, Lecturing or Writing for Publication

1. Payments for broadcasts, speeches and lectures on official subjects by serving personnel are dealt with in Chapter 68 and in 2016DIN03-029.

J.8407. Acceptance of Business Appointments after Leaving the Service

1. The Business Appointment Rules apply to Service personnel (Warrant Officer equivalent and above) who intend to take up an outside appointment or employment after leaving the Services.

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The operation of these rules is overseen by the Independent Advisory Committee on Business Appointments (ACOBA) (<http://acoba.independent.gov.uk>).

2. This is necessary to ensure that when an officer accepts outside employment there should be no cause for suspicion of impropriety. In particular the procedure is designed to allay public concern that the advice and decisions of an officer in Crown Service might be influenced by the hope or expectation of future employment with a particular firm or organisation, and to avoid the risk that such employers might be gaining an unfair advantage over competitors by employing an officer who has had access to commercial, technical or other information which those competitors could legitimately regard as their trade secrets. Each application will be considered individually and on its own merits, and a decision made accordingly. Applications may be approved without condition, or may be subject to conditions which will apply for a maximum of two years from the last day of **paid** service (i.e. at the end of Terminal Leave), for instance waiting periods or other conditions may be imposed on those applications where there has been a close link between the applicant (when serving in the Armed Forces) and the proposed employer, or that company's competitors.

3. Defence Business Services (DBS) Civilian HR advise and administer the Business Appointments application policy and process on behalf of the Services. Before accepting any new appointment or employment (including unpaid appointments in the voluntary/charity sectors) whether in the UK or overseas, after leaving the Services all serving/former Military Officers (including Warrant Officers) must consider whether an application is required under the Business Appointment Rules. If it is, they must not accept a new paid or unpaid job offer before their application has been approved. This policy applies for two years after their last day of paid service including the Terminal leave period. An application must be submitted under the Business Appointment Rules if the serving/former Military Officer is at or above the rank of Major General, Rear Admiral, or Air Vice Marshal.

4. All serving/former Military Officers at or below the rank of Brigadier, Commodore or Air Commodore must submit an application if their circumstances match one or more of the following criteria:

- a. Have been involved in developing policy affecting the prospective employer, or have had access to unannounced Government policy or other privileged information affecting the prospective employer at any time in their last two years in the Services;
- b. Have been responsible for regulatory or any other decisions; affecting their prospective employer, at any time in their last two years of service;
- c. Have had any official dealings with their prospective employer at any time in the last two years of service in the Armed Forces;
- d. Have had official dealings of a continued or repeated nature with their prospective employer at any time during their service career;
- e. Have had access to commercially sensitive information of competitors of their prospective employer in the course of their official duties;
- f. The proposed appointment or employment would involve them making representations to, or lobbying the Government on behalf of their new employer;

g. The proposed appointment or employment is consultancy work, either self-employed or as a member of a firm, and they have had official dealings with outside bodies or organisations in their last two years of service that are involved in the proposed area of consultancy work

5. Applications may be approved unconditionally, or approved subject to conditions which may apply up to a maximum two years from the last day of **paid** service (which includes the Terminal Leave period). Such conditions may include:

- a. a waiting period before taking up the appointment or employment and/or;
- b. a behavioural condition that for a specified period the former Military Officer (including Warrant Officer) should stand aside from involvement in certain activities, for example, commercial dealings with the MOD, or involvement in particular areas of the new employer's business.

6. A default lobbying ban of 12 months will be imposed on all applications. This may be reduced or extended up to 2 years. Lobbying in this context mean that the former Military Officer (including Warrant Officer) should not engage in communications with Government (including Ministers; special advisors and officials) with a view to influencing a Government decision or policy in relation to their interests or the organisation by which they are employed or to whom they are contracted.

7. Any condition, including a waiting period, imposed on the proposed appointment will run from the last day of **paid** service, i.e. at the end of Terminal Leave.

8. Further advice can be sought from Defence Business Services (DBS) Civilian HR by calling the People Service Centre on 93345 7772 (Mil) or 0800 345 772 (STD) and if overseas +44 1225 829572 or by using the Contact Us link on the People Service Channel (Contact/Email). Applications should be made on DBS Form 038 which can be obtained from DBS. **It is essential that no appointments are accepted until formal approval has been obtained from the Ministry of Defence.** (When completed, DBS Form 038 should be sent to DBS with a copy to the Naval Secretary).

J.8408. Retired or Reserve Officers in Civil, Commonwealth or Foreign Employment

1. An officer on retirement, or at any time following retirement, who wishes to accept employment with:

- a. The government of any country, including a Commonwealth country, whose nationals do not owe common allegiance to the Crown; or
- b. Any organisation owned, controlled or sponsored by such a government; or
- c. Any overseas police force, however it may be controlled,

will, in all but the most exceptional circumstances, be required to resign his commission.

2. Before accepting any such employment, the officer must notify the Ministry of Defence, Naval Secretary, MS(Coord)b or AMP(F and S) as appropriate.

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3. On termination of such employment, it is normal for an officer's commission to be reinstated on request. Where the reinstatement of a commission is refused, the individual retains the right to state a Service Complaint in accordance with JSP 831.
4. Receipt of Service retired pay between the time of resignation and reinstatement is normally unaffected.

SECTION II - CROWN SERVICE AND PRIVATE INTERESTS

J.8409. General

1. This instruction sets out the rules governing the way in which individuals are required to order their affairs so that no conflict arises, or may be perceived to arise, between their private interests and their public duties. These rules apply to all MOD civilian staff and Service personnel, described collectively as 'Crown Servants'.

J.8410. Criminal Offences

1. It is a criminal offence under section 52 of the Criminal Justice Act 1993 for a person, who has information about securities as an insider, to deal in securities whose price may be affected by that information. In this context, a person is an insider if they or their source (whether direct or indirect) has access to the inside information by virtue of their office or employment, and they know this to be the case.

J.8411. Principles

1. Crown servants must not be involved in taking or contributing to any official decision that would affect the value of their private investments or private interests, or the private interests of others to whom they may give advice. Nor should they use information acquired in the course of their official duties to advance their private financial interests, or the private interests of others to whom they may give advice. The following guidance is intended not only to avoid actual conflict of interest between an individual's public duty and private affairs, but also to protect individuals being placed in a position where their actions might give the impression to anyone, inside or outside the department, that they might have acted improperly.

J.8412. Investments

1. Crown servants may hold any stock, shares or other investments, unless such holdings conflict with their official duties. Individuals must, however, declare to their Head of Establishment or Division or Commanding Officer all investments in any company with which they have official dealings. These declarations should also include details of such investments held by an individual's immediate family. The scope of family declarations will depend on good judgment, but must include investments held by Crown Servant's spouse or partner and children, as far as he or she is aware of such interests, or could reasonably be expected to have known of them. Changes in private interests (e.g. share disposals and or acquisitions) of all those covered by these instructions must be declared. It is not necessary to declare Unit trusts or other managed funds, over which the individual has no control, unless a sensitive company is the dominant factor in the investment.

2. Where an individual's Head of Establishment or Division or Commanding Officer considers, as a result of declarations, that there may be a conflict of interest, he or she will discuss with declarant what further action might be necessary or desirable. This might range from a voluntary undertaking not to deal in or advise on the holdings in question to, in rare cases, instructions from their Department to dispose of personally held investments. Failure to comply with such instructions may lead to administrative or disciplinary action. Each case will be examined on its merits, and in all cases involving Service personnel the advice of the relevant service legal staff will be sought.

J.8413. Directorships, Partnerships and other Private Commercial Activities

1. The requirements of the Crown Service must be the first call on the loyalty and the time of every Crown Servant. Crown Servants who are themselves directors or partners, or who hold any other appointment in a private sector commercial organisation must, if the private interest is associated in any way with their official duties, declare such interests to their Head of Establishment or Division or Commanding Officer. It may also be necessary to declare such appointments held by an individual's immediate family.

2. Where an individual's Head of Establishment or Division or Commanding Officer considers that there might be a conflict of interest between the declarant's personal activities and his or her official duties, it may be necessary to instruct the individual to resign from the private position. The Department cannot require a member of the individual's family to comply with such an instruction, but, where a conflict of interest arises, it may be necessary to remove the Crown Servant from the work in question, or transfer him or her to a new post.

3. Any information declared under this instruction will be confidential to the declarant, the individual holding the position of Head of Establishment or Division or Commanding Officer and, if appropriate, the civilian or Service personnel branch. Any record of it is to be destroyed when the declarant leaves the post to which the declaration refers. On assuming a new position within a Department, individuals must decide whether they need a new declaration.

J.8414. Further Information

1. Any enquiry on the content of this section, or request for advice about the application of the principles to particular circumstances, should be referred direct to DBS in the case of civilians, or the single-Service personnel authorities (*Navy*: NAVY NPS-STRATPOL EMPLOY POL SO1) (who will seek advice as appropriate), in the case of Service personnel.

J.ANNEX 84A**SPORT AND FINANCIAL INCENTIVES**

1. The growth of professionalism within sport has led to increasing opportunities for Service personnel to receive financial reward for being members or trainers of civilian teams, for competing as individuals and for officiating at civilian competitions. The rules which require Commanding Officer's approval for temporary employment as laid down in [Para J.8401](#)–**Para J.8403** apply equally to professional sport. It is recognised that professional sport and the associated training can make significant demands on the time of individuals. As a matter of both policy and financial regularity, Service personnel should not be paid twice for their working time. Policy detail for professional sportsmen and women in the Services is provided in BRd 51(4) Chap 9 – Sport in the Naval Service.
2. Commanding Officers are to inform individuals that when permission is given for participation in professional sport, it will normally be on the understanding that they will be required to make a contribution (paid or unpaid leave and/or salary abatement) in respect of paid sporting commitments, when they are required but not available for Service duties.
3. Proposals for each individual professional sportsman/woman are to be drawn up by his/ her Commanding Officer in consultation with the Command chain and Captain Naval Physical Development.
4. Guidance on assessing an individual's contribution by way of paid or unpaid leave and/or salary abatement is contained in BRd 51(4) Chap 9.