

DEFENCE ACT

CHAPTER 14:01

Act

7 of 1962

Amended by

9 of 1963

19 of 1967

35 of 1970

38 of 1970

136/1976

110/1977

218/1977

32 of 1979

16 of 1988

16 of 1994

*18 of 1994

14 of 1996

†25 of 2000

66 of 2000

*See Note on page 3

†See Note on Validation at page 3

Current Authorised Pages

<i>Pages (inclusive)</i>	<i>Authorised by L.R.O.</i>
1-2	..
3-26	.. 1/2006
27-28	..
29-44	.. 1/2006
45-46	..
47-170	.. 1/2006
171-202	..

L.R.O.

Index of Subsidiary Legislation

	<i>Page</i>
Defence (Enlistment and Service) Regulations (7 of 1962)	154
Defence (Officers) Regulations (7 of 1962)	167
Defence (Pay and Superannuation) (Transferred Officers) Regulations (19 of 1967)	170
Defence (Pay and Superannuation) (Transferred Officers) (Prescribed Bodies and Authorities) Regulations (134/1974)	175
Defence Force (Administrative Inspections) Regulations (82/1975)	177
Defence (Special Service Commissions) Regulations (LN 104/1987)	180
Defence (Pensions, Terminal and Other Grants) Regulations (GN No. 38 of 1968)	190

Note on Omissions

The following Subsidiary Legislation have been omitted:

PART A

- (a) Defence (Rates of Pay and Allowances) Regulations 1989 (LN 84/1989) (*See the latest Edition of the Consolidated Index of Acts and Subsidiary Legislation for amendments to these Regulations*);
- (b) Travelling Allowances Notification (GN 86/1966) made under regulation 15 of the Defence (Rates of Pay and Allowances) Regulations;
- (c) Trinidad and Tobago Defence Force Commissions Board Rules (LN 179/1983).

PART B

- (a) Notifications made under section 5;
- (b) Orders made under section 189;
- (c) Proclamations made under 238.

NB—(For references to the omitted Subsidiary Legislation see the latest Edition of the Consolidated Index of Acts and Subsidiary Legislation).

Note on Act No. 18 of 1994

For the discretion of the Court to deny bail to a defendant who is in custody in pursuance of the sentence of a Court or any authority acting under the Defence Act, *see* section 6(2)(c) of Act No. 18 of 1994.

Note on Validation

For the validation of all acts and things done under the Act, *see* section 4 of Act No. 25 of 2000.

CHAPTER 14:01

DEFENCE ACT

ARRANGEMENT OF SECTIONS

SECTION

PART I

PRELIMINARY

1. Short title.
2. Interpretation.
3. References to “Force”, “men”, “other rank” and “regulations”.
4. Provisions as to active service.
5. Establishment and maintenance of Force.
6. Powers of Officers, Petty Officers and men of the Coast Guard.

PART II

THE DEFENCE COUNCIL

7. Establishment of Defence Council.
8. Functions of the Council.
9. Procedure and proceedings of the Council.

PART III

OFFICERS

10. Establishment of Commissions Board.
11. Board to make recommendations for appointment or promotion up to rank of Major/Lieutenant Commander.
12. Recommendations for appointment for promotion of other officers.
13. President to act in accordance with recommendation.
14. Appeal to Council.
15. Commissioning and promotion of officers.
16. Appointment, promotion, etc., of officers to be Gazetted.
17. Reserve of officers.

PART IV

ENLISTMENT AND TERMS OF SERVICE

18. Recruiting officers.
19. Enlistment Form.

SECTION

TERMS AND CONDITIONS OF SERVICE

20. Terms of enlistment

RE-ENGAGEMENT AND EXTENSION OF SERVICE

21. Re-engagement and continuance in service.
22. Prolongation of service.

DISCHARGE AND TRANSFER TO THE RESERVE

23. Discharge.
24. Transfer to the reserve.
25. Postponement of discharge or transfer pending proceedings for offences, etc.
26. Restrictions on reduction in rank of warrant officers and non-commissioned officers.
27. Right of warrant officer to discharge on reduction to ranks.
28. Discharge upon prescribed grounds.
29. Right of soldier to purchase discharge.

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

30. Rules for reckoning service.
31. Validity of attestation and enlistment.
32. False answers in attestation paper.

PART V

**DISCIPLINE AND TRIAL AND
PUNISHMENT OF MILITARY OFFENCES**

**TREACHERY, COWARDICE AND OFFENCES ARISING
OUT OF MILITARY SERVICE**

33. Aiding the enemy.
34. Communication with the enemy.
35. Cowardly behaviour.
36. Offences against morale.
37. Becoming a prisoner of war through disobedience or wilful neglect; and failure to rejoin forces.
38. Offences by or in relation to sentries, etc.

ARRANGEMENT OF SECTIONS—*Continued*

SECTION

- 39. Sleeping on watch or abandoning post.
- 40. Looting.

MUTINY AND INSUBORDINATION

- 41. Mutiny.
- 42. Failure to suppress mutiny.
- 43. Insubordinate behaviour.
- 44. Disobedience to particular orders.
- 45. Obstruction of provost officers.
- 46. Disobedience to standing orders.

DESERTION, ABSENCE WITHOUT LEAVE, ETC.

- 47. Desertion.
- 48. Absence without leave.
- 49. Assisting and concealing desertion and absence without leave.
- 50. Failure to perform military duties.

MALINGERING AND DRUNKENNESS

- 51. Malingering.
- 52. Drunkenness.

OFFENCES RELATING TO PROPERTY

- 53. Offences in relation to public and service property.
- 54. Offences in relation to property of members of forces.
- 55. Miscellaneous offences relating to property.

**OFFENCES RELATING TO BILLETING AND
REQUISITIONING OF VEHICLES**

- 56. Billeting offences.
- 57. Offences in relation to requisitioning of vehicles.

FLYING, ETC., OFFENCES

- 58. Dangerous flying, loss or hazarding of ships.
- 59. Inaccurate certification of aircraft, etc.
- 60. Low flying.
- 61. Annoyance by flying.

SECTION

OFFENCES RELATING TO, AND BY, PERSONS IN CUSTODY

62. Irregular arrest and confinement.
63. Permitting escape, and unlawful release of prisoners.
64. Resistance to arrest.
65. Escape from confinement.

**OFFENCES IN RELATION TO COURTS-MARTIAL
AND CIVIL AUTHORITIES**

66. Offences in relation to contempt of Courts-martial.
67. False evidence.
68. Obstruction of police officer, arresting officer or soldier.

MISCELLANEOUS OFFENCES

69. Injurious disclosures.
70. Making of false statements on enlistment.
71. Making of false documents.
72. Scandalous conduct of officer.
73. Ill-treatment of officers or men of inferior rank.
74. Disgraceful conduct.
75. False accusation.
76. Attempts to commit military offences.
77. Conduct to prejudice of military discipline.

CIVIL OFFENCES

78. Civil offences.

PUNISHMENTS

79. Punishment of officers.
80. Punishment of other ranks.
81. Field punishment.
82. Imprisonment.

ARREST

83. Power to arrest offenders.
84. Provisions for avoiding delay after arrest.

ARRANGEMENT OF SECTIONS—*Continued*

SECTION

INVESTIGATIONS OF, AND SUMMARY DEALING WITH, CHARGES

- 85. Investigation of charges by Commanding Officer.
- 86. Charges to be dealt with summarily or by Court-martial.
- 87. Further proceedings on charges against N.C.Os and other ranks.
- 88. Further proceedings on charges against officers and warrant officers.
- 89. Dismissal of charges referred to higher authority.
- 90. Officers who are to act as commanding officers and appropriate superior authorities.
- 91. Limitation on powers of summary dealing with charges.

COURT-MARTIAL: GENERAL PROVISIONS

- 92. Trial by, and powers of, ordinary Court-martial.
- 93. Trial by, and powers of field Court-martial.
- 94. Officers having powers to convene Courts-martial.
- 95. Constitution of ordinary Courts-martial.
- 96. Constitution of field Courts-martial.
- 97. Supplementary provisions as to constitution of Courts-martial.
- 98. Place for sitting of Courts-martial and adjournment to other places.

COURTS-MARTIAL: PROVISIONS RELATING TO TRIAL

- 99. Challenges by accused.
- 100. Administration of oaths.
- 101. Courts-martial to sit in open Court.
- 102. Dissolution of Courts-martial.
- 103. Decisions of Courts-martial.
- 104. Finding and sentence.
- 105. Power to convict of offence other than that charged.
- 106. Rules of evidence.
- 107. Privilege of witnesses and others at Courts-martial.
- 108. Offences by civilians in relation to Courts-martial.
- 109. Affirmations.

CONFIRMATION, REVISION AND REVIEW OF PROCEEDINGS OF COURTS-MARTIAL

- 110. Confirmation of proceedings of Courts-martial.
- 111. Petitions against finding or sentence.

SECTION

- 112. Revision of findings of Courts-martial.
- 113. Powers of confirming authorities.
- 114. Confirming authorities.
- 115. Approval required for death sentences.
- 116. Review of findings and sentences of Courts-martial.
- 117. Reconsideration of sentences of imprisonment and detention.

REVIEW OF SUMMARY FINDINGS AND SENTENCES

- 118. Review of summary findings and sentences.

FINDINGS OF INSANITY, ETC.

- 119. Provisions where accused found insane.

COMMENCEMENT, SUSPENSION AND DURATION OF SENTENCES

- 120. Commencement of sentences.
- 121. Duration of sentences of imprisonment or detention.
- 122. Restrictions on serving of sentences of detention in prisons.
- 123. Special provisions as to civil prisons in Trinidad and Tobago.
- 124. Special provisions as to carrying out or serving of sentences outside Trinidad and Tobago.
- 125. Country in which sentence of imprisonment or detention to be served.
- 126. Duties of officers in charge of prisons and others to receive prisoners.

TRIAL OF PERSONS CEASING TO BE SUBJECT TO MILITARY LAW UNDER THE ACT AND TIME LIMITED FOR TRIALS

- 127. Trial and punishment of offences under this Act where the offender ceases to be subject thereto.
- 128. Limitation of time for trial of offences under this Act.

RELATIONS BETWEEN MILITARY AND CIVIL COURTS AND FINALITY OF TRIALS

- 129. Powers of civil Courts.
- 130. Persons not to be tried under this Act for offences already disposed of.

INQUIRIES

- 131. Boards of inquiry.
- 132. Inquiries into absence.

ARRANGEMENT OF SECTIONS—*Continued*

SECTION

MISCELLANEOUS PROVISIONS

- 133. Restitution or compensation for theft, etc.
- 134. Appointment of judge advocate.
- 135. Promulgation.
- 136. Custody of proceedings of Court-martial and right of accused to a copy thereof.
- 137. Indemnity for prison officers, etc.

INTERPRETATION

- 138. Interpretation of Part IV.
- 139. Rules of Procedure.
- 140. Imprisonment and Detention Rules.
- 141. Board of Inquiry Rules.
- 142. Miscellaneous Rules.

PART VI**APPEALS FROM COURTS-MARTIAL**

- 143. Right of appeal.
- 144. Application for leave to appeal.
- 145. Determination of appeals in ordinary cases.
- 146. Powers of the Court of Appeal in special cases.
- 147. Appeals to Privy Council.
- 148. Supplementary powers of the Court of Appeal.
- 149. Proceedings to be heard in absence of appellants.
- 150. Defence of appeals.
- 151. Right of appellant to present his case in writing.
- 152. Suspension of death sentences.
- 153. Person not to be tried again where conviction quashed.
- 154. Removal of prisoners for purposes of proceedings under Part V.
- 155. Furnishing, on appeal, of documents relating to trial.
- 156. Duties of Registrar of the Supreme Court with respect to appeals, etc.
- 157. Saving of President's powers.
- 158. Composition of Court.

SECTION

- 159. Exercise of certain powers of Court of Appeal by a judge.
- 160. General provisions.

PART VII

FORFEITURES AND DEDUCTIONS

- 161. Forfeitures and deductions: general provisions.
- 162. Forfeiture of pay for absence from duty.
- 163. Deductions for payment of civil penalties.
- 164. Compensation for loss occasioned by wrongful act or negligence.
- 165. Deductions for barrack damage.
- 166. Remission of forfeitures and deductions.
- 167. Enforcement of maintenance and affiliation orders by deduction from pay.
- 168. Deductions from pay for maintenance of wife or child.
- 169. Limit of deductions under sections 167 and 168 and effect on forfeiture.
- 170. Service of process in maintenance proceedings.

PART VIII

BILLETING AND REQUISITION OF VEHICLES

BILLETING

- 171. Billeting requisitions.
- 172. Premises in which the billets may be provided.
- 173. Provision of billets.
- 174. Accommodation to be provided and payment therefor.
- 175. Appeals against billeting.
- 176. Compensation for damage.
- 177. Refusal to receive persons billeted, etc.
- 178. Application to civilians employed with the Force.

REQUISITIONING OF VEHICLES

- 179. Requisitioning orders.
- 180. Provision of vehicles.
- 181. Period for which vehicle to be furnished.
- 182. Payment for vehicle furnished.
- 183. Avoidance or hardship in requisitioning of vehicles.

ARRANGEMENT OF SECTIONS—*Continued*

SECTION

- 184. Record and inspection of mechanically-propelled vehicles.
- 185. Enforcement of provisions as to requisitioning.
- 186. Application to cattle, food, forage and stores.
- 187. Liability of State for damage by vehicles being delivered for requisitioning.
- 188. Bringing into operation of sections 171 and 179.
- 189. Requisition of land for training, etc.

PART IX

GOVERNMENT AND GENERAL PROVISIONS COMMAND

- 190. Command and precedence.
- 191. Chief of Defence Staff.
- 192. Regulations as to command.
- 193. Powers of command of members of co-operating forces.

REDRESS OF COMPLAINTS

- 194. Complaints by officers.
- 195. Complaints by other ranks.

EXEMPTIONS FOR MEMBERS OF THE FORCE

- 196. Exemption from jury service.
- 197. Exemptions from tolls, etc.
- 198. Exemption from taking in execution of property used for military purposes.

**PROVISIONS RELATING TO DESERTERS AND
ABSENTEES WITHOUT LEAVE**

- 199. Arrest of deserters and absentees without leave.
- 200. Proceedings.
- 201. Deserters and absentees without leave surrendering to police.
- 202. Certificates of arrest or surrender of deserters and absentees.
- 203. Duties of superintendents of prisons and others to receive deserters and absentees.

SECTION

**OFFENCES RELATING TO MILITARY MATTERS
PUNISHABLE BY CIVIL COURTS**

- 204. Punishment for pretending to be a deserter.
- 205. Punishment for procuring and assisting desertion.
- 206. Punishment for obstructing members of Force in execution of duty.
- 207. Punishment for aiding malingering.
- 208. Unlawful purchase, etc., of military stores.
- 209. Illegal dealings in documents relating to pay, pensions, mobilisation, etc.
- 210. Unauthorised use of and dealing in decorations, etc.

PROVISIONS AS TO EVIDENCE

- 211. General provisions as to evidence.
- 212. Proof of outcome of civil trial.
- 213. Evidence of proceedings of Court-martial.

MISCELLANEOUS PROVISIONS

- 214. Temporary reception in civil custody of persons under escort.
- 215. Avoidance of assignment of, or charge on military pay, pensions, etc.
- 216. Power of certain officers to take statutory declarations.
- 217. Retirement in the interest of the Force.

**QUASI-MILITARY ORGANISATIONS AND UNLAWFUL
USE OF UNIFORMS AND DRILLING**

- 218. *(Repealed by Act No. 14 of 1996).*
- 219. Prohibition of wearing Defence Force uniform, etc.
- 220. *(Repealed by Act No. 14 of 1996).*

PART X

RESERVE

- 221. Reservists.
- 222. Annual training.
- 223. Calling out of the reserve on temporary service.
- 224. Calling out of the reserve on permanent service.
- 225. Punishment for non-attendance.
- 226. Record of illegal absence.

ARRANGEMENT OF SECTIONS—*Continued*

SECTION

- 227. Discharge during service.
- 228. Regulations as to the reserve.

PART XI

VOLUNTEER DEFENCE FORCE

- 229. Interpretation.
- 230. Constitution of Force.
- 231. Appointment of Commander of the Volunteer Defence Force.
- 232. Appointment of Staff Officers.
- 233. Appointment of officers.
- 234. Enlistment.
- 235. Enrolment.
- 236. Oath of allegiance.
- 237. Period of service.
- 238. President empowered to call out Force to aid civil force.
- 239. Power to make Regulations.
- 240. Saving.

PART XII

**APPLICATION OF THE ACT AND
SUPPLEMENTARY PROVISIONS**

APPLICATION, TRANSFER AND ATTACHMENT

- 241. Persons subject to military law and application of the Act.
- 242. Application of Act to civilians.

FINANCIAL PROVISIONS AND REGULATIONS

- 243. Emoluments, pensions and gratuities appropriated out of funds.
- 244. Power to make Regulations.
- 244A. President may make Order.
- 245. Powers exercisable in Subsidiary Legislation.
- 246. Execution of orders, instruments, etc.

FIRST SCHEDULE.

SECOND SCHEDULE.

THIRD SCHEDULE.

CHAPTER 14:01

DEFENCE ACT

An Act to provide for the defence of Trinidad and Tobago by the establishment of a Trinidad and Tobago Defence Force and to provide for matters connected therewith and incidental thereto. 7 of 1962.

[1ST JUNE 1962]

Commencement.

PART I

PRELIMINARY

1. This Act may be cited as the Defence Act.

Short title.

2. In this Act—

“acting rank” means rank of any description (however called) such that under regulations a commanding officer has power to order the holder to revert from that rank; “acting warrant officer” and “acting non-commissioned officer” shall be construed accordingly;

Interpretation.
[35 of 1970
136/1976
32 of 1979].

“aircraft” means any machine for flying, whether propelled by mechanical means or not, and includes any description of balloon;

“aircraft material” includes—

- (i) parts of, and components of or accessories for, aircraft, whether for the time being in aircraft or not;
- (ii) engines, armaments, ammunition and bombs, and other missiles of any description in, or for use in, aircraft;
- (iii) any other gear, apparatus or instruments in, or for use in, aircraft;
- (iv) any apparatus used in connection with the taking-off or landing of aircraft or for detecting the movement of aircraft; and

L.R.O. 1/2006

(v) any fuel used for the propulsion of aircraft and any material used as a lubricant for aircraft or aircraft material;

“appropriate superior authority” has the meaning assigned to it by section 86(1) and section 90(2);

“arrest” includes open arrest;

“before the enemy”, in relation to a person, means that he is in action against the enemy or about to go into action against the enemy or is under attack or threat of imminent attack by the enemy;

“Board of Inquiry Rules” means rules with respect to the convening, constitution and procedure of boards of inquiry made by the Minister under section 141;

“the Chief of Defence Staff” means the officer appointed by the President under section 191;

“civil Court” means a Court of ordinary criminal jurisdiction, but does not, except where otherwise expressly provided, include any such Court outside the Commonwealth;

“civil offence” has the meaning assigned to it in section 78(2);

“colour service” means service under this Act otherwise than service in the reserve;

“commanding officer” has the meaning assigned to it by section 90(1);

“Commonwealth force” means any military force of such of the countries as are listed in section 18 of the Constitution;

“competent military authority” means such officer as may be prescribed;

“corresponding civil offence” has the meaning assigned to it by section 78(2);

“corresponding rank”, in relation to any rank or rating in the naval, military or air forces of the United Kingdom, means such rank or rating in any other of those forces as may be declared by Regulations to correspond therewith;

“Court-martial”, except where it is expressed to be under service law, means a Court-martial under this Act;

- “damage” includes destruction and references to damaging shall be construed accordingly;
- “date of attestation”, in relation to any person, means the date on which he is attested in accordance with regulations;
- “decoration” includes medal, medal ribbon, clasp and good conduct badge;
- “desertion” shall be construed in accordance with section 47(2);
- “enemy” includes all persons engaged in armed operations against any of the forces of the United Kingdom and also includes all armed mutineers, armed rebels, armed rioters and pirates;
- “Imprisonment and Detention Rules” means rules regulating imprisonment and detention made by the Minister under section 140;
- “military” when used adjectivally means connected to or belonging to land, sea or air forces;
- “Minister” means the member of Cabinet responsible for the subject of defence;
- “property” includes real property in Trinidad and Tobago and property outside Trinidad and Tobago of the nature of real property;
- “provost officer” means a provost marshal or officer subject to service law appointed to exercise the functions conferred by or under service law on provost officers;
- “public property” means any property belonging to the State or held for the purposes thereof;
- “recruiting officer” means a person authorised as such under section 19;
- “the reserve” means the body comprised of those persons who are subject to reserve service or liability under Part X;
- “reservist” means a member of the reserve;
- “Rules of Procedure” means the Rules of Procedure, made by the Minister under section 139;
- “service” when used adjectivally, means belonging to or connected with the Force or any part thereof;

3 & 4 Eliz. 2
c. 18.
3 & 4 Eliz. 2
c. 19.
5 & 6 Eliz. 2
c. 53.

“service law” includes this Act, the Army Act 1955 of the United Kingdom, the Air Force Act 1955 of the United Kingdom and the Naval Discipline Act 1957 of the United Kingdom;

“ship” includes any description of vessel;

Ch. 11:12.

“steals” has the same meaning as in the Larceny Act;

“stoppages” means the recovery by deductions from the pay of the offender, of a specified sum by way of compensation for any expense, loss or damage occasioned by the offence;

“unit” includes any headquarters or a battalion or ship or other body of the Force established and maintained in Trinidad and Tobago under section 5 and declared by the President to be a unit;

“warrant officer” includes a chief petty officer.

References to
“Force”, “men”,
“other rank” and
“regulations”.

3. (1) In this Act, references to—

- (a) “regulations” shall be construed as references to regulations made under section 245;
- (b) “other rank” shall be construed as references to soldiers, sailors or airmen, as the case may require, who do not hold officer rank;
- (c) “men” shall be construed as references to soldiers, sailors and airmen, as the case may require, who do not hold officer, warrant officer or non-commissioned officer rank.

(2) In this Act—

- (a) “the Force” means the Trinidad and Tobago Defence Force established under section 5;
- (b) references to “the Force” includes reference to any units formed under section 5(1)(c).

Provisions as to
active service.

4. (1) In this Act, the expression “on active service”, in relation to any unit, means that it is engaged in operations against an enemy, and in relation to a person means that he is serving in or with such a unit which is on active service.

(2) Where it appears to the President that, by reason of the imminence of active service or of the recent existence of active service, it is necessary for the public service that a unit should be deemed to be on active service, he may declare that for such period, not exceeding three months, beginning with the coming into force of the declaration as may be specified therein that unit shall be deemed to be on active service.

(3) Where it appears to the President that it is necessary for the public service that the period specified in a declaration under subsection (2) should be prolonged or, if previously prolonged under this section, should be further prolonged, he may declare that the said period shall be prolonged by such time, not exceeding three months, as may be specified in the declaration under this subsection.

(4) If, at any time while any unit is deemed to be on active service by virtue of the foregoing provisions of this section, it appears to the President that there is no necessity for the unit to continue to be treated as being on active service, he may declare that as from the coming into operation of the declaration the unit shall cease to be deemed to be on active service.

***5.** (1) There shall be established and maintained in Trinidad and Tobago a body of military forces styled “the Trinidad and Tobago Defence Force” consisting of—

Establishment
and
maintenance of
Force.
[32 of 1979].

- (a) a unit of land forces (hereinafter referred to as “the Regiment”);
- (b) a Coast Guard; and
- (c) such other units as the President may from time to time think fit to be formed, and styled by such designation as the President shall declare by Notification.

(2) Every unit shall be charged with the defence of Trinidad and Tobago and with such other duties as may from time to time be defined by the Council.

*See Part B of Note on Omissions at page 2.

(3) The President may at any time order that any unit or part thereof shall be employed out of or beyond Trinidad and Tobago.

(4) The Minister may order that any officer or other rank shall proceed to any place outside Trinidad and Tobago for the purpose of undergoing instruction or training or for duty or employment.

Powers of Officers, Petty Officers and men of the Coast Guard. [9 of 1963 25 of 2000].

6. (1) An Officer, Petty Officer or man in command of any unit of the Coast Guard, in any case where he has reasonable cause to suspect that any vessel is engaged in any unlawful operation whatever within the territorial archipelagic or internal waters of Trinidad and Tobago, may stop and board and search, with any assistance, any and every part of such vessel and if he thinks it necessary may direct such vessel to proceed to such place as he may specify.

(2) In exercise of the power conferred by subsection (1), such Officer or Petty Officer or man may—

- (a) pursue and detain with any assistance any person whom he has reason to believe is engaged in or assisting in the carrying on of any unlawful operation as aforesaid;
- (b) use such force as may be necessary to compel a vessel to comply with any directions he may give as to such vessel's movements.

PART II

THE DEFENCE COUNCIL

Establishment of Defence Council. [32 of 1979].

7. (1) There is established a Defence Council (in this Act, referred to as "the Council") consisting of—

- (a) the Minister, who shall be the Chairman;
- (b) two other members of the Cabinet appointed by the Prime Minister, one of whom shall be the Vice-Chairman;
- (c) the Chief of Defence Staff;

(d) the Permanent Secretary in the Ministry responsible for the Trinidad and Tobago Defence Force, who shall be the Secretary.

(2) Where the Secretary is absent at a meeting of the Council, the person presiding at the meeting may nominate any member to perform the duties of Secretary for that meeting.

(3) Where a member referred to in subsection (1)(b) is by reason of illness or otherwise temporarily unable to perform his functions as a member, the Prime Minister may appoint some other Minister to the Council during the period of such illness or inability.

8. (1) Subject to subsection (2), the Council shall be responsible under the general authority of the Minister for the command, administration and discipline of and all other matters relating to the Force. Functions of the Council. [32 of 1979].

(2) The responsibility of the Council shall not extend to the operational use of the Force for which responsibility shall vest in the Chief of Defence Staff subject to the general or special directions of the Minister.

(3) The Council may delegate its powers or duties to any of its members and such delegation shall be published in the *Gazette*.

9. (1) The quorum of the Council shall be three members of whom not more than two shall be members of the Cabinet. Procedure and proceedings of the Council. [32 of 1979].

(2) The Council may otherwise make Rules for the proper discharge of its functions and the regulation of its procedure and proceedings.

PART III

OFFICERS

10. (1) There is established a Commissions Board (hereinafter referred to as “the Board”) appointed by the President and consisting of— Establishment of Commissions Board. [32 of 1979 16 of 1994].

(a) the Chairman of the Public Service Commission, who shall be the Chairman;

- (b) a member of the Judicial and Legal Service Commission;
- (c) one member of the public;
- (d) the Senior Regimental Battalion Commanding Officer;
- (e) the Commanding Officer of the Coast Guard.

(2) A member referred to in subsection (1)(b) or (c) shall hold office for a period of not less than three nor more than five years as may be specified in his instrument of appointment.

(3) Where the Senior Regimental Battalion Commanding Officer or the Commanding Officer of the Coast Guard is also the Chief of Defence Staff he shall nominate an officer to the President to serve in his stead.

(4) An officer of the Force shall be Secretary of the Board.

(5) The Board may with the approval of the Minister make Rules for the proper discharge of its functions and the regulation of its proceedings.

Board to make recommendations for appointment or promotion up to rank of Major/Lieutenant Commander. [32 of 1979].

11. The Board shall advise the President through the Minister on appointments to commissions and promotions in the Force up to the rank of Major/Lieutenant Commander.

Recommendations for appointment or promotion of other officers. [32 of 1979].

12. The Minister, after consultation with the Prime Minister, shall advise the President on appointments to commissions and promotions in the Force above the rank referred to in section 11.

President to act in accordance with recommendation. [32 of 1979].

13. In making appointments or promotions under this Act, the President shall act in accordance with the advice given by the Board under section 11 or by the Minister under section 12, as the case may be.

Appeal to Council. [32 of 1979].

14. (1) A member of the Force who is aggrieved by the failure of the Board to recommend him for an appointment to a commission or a promotion may appeal to the Council through the Board.

(2) The Board shall act in conformity with any finding or determination of the Council in respect of an appeal.

15. (1) The power of appointment to commissions in the Force and the power of promotion of persons holding commissions in the Force are vested in the President.

Commissioning and promotion of officers. [136/1976 32 of 1979].

(2) Every officer on appointment to a commission shall be issued with a commission in the form set out in the First Schedule which commission shall be signed by the President.

First Schedule.

16. The appointment of a person to a commission, the promotion of an officer whether permanent or acting and the retirement or resignation of an officer shall be notified in the *Gazette*.

Appointment, promotion, etc., of officers to be Gazetted. [32 of 1979].

17. A reserve of officers may be maintained consisting of those officers of the Force who have been permitted to retire from the active list.

Reserve of officers.

PART IV

ENLISTMENT AND TERMS OF SERVICE

18. A person authorised in that behalf by the Minister may enlist recruits in the Force in the prescribed manner.

Recruiting officers.

19. (1) A recruiting officer shall give to a person offering to enlist in the Force a notice in the prescribed form and shall not enlist any person in the Force unless he is satisfied—

Enlistment Form. [66 of 2000].

- (a) by that person that he has been given such a notice, understands it, and wishes to be enlisted;
- (b) subject to subsection (2), that the person has not attained the age of sixteen years.

(2) A recruiting officer shall not enlist a person between the ages of sixteen years and eighteen years unless consent to the enlistment has been given in writing—

- (a) if the person offering to enlist is living with both or one of his parents, by the parents or parent;
- (b) if he is not living with both or one of his parents, by any person (whether a parent or not) whose whereabouts are known or can after reasonable enquiry be ascertained and who has parental rights and powers in respect of him, by that person;

(c) if there is not such person as is mentioned in paragraph (b) or if after reasonable enquiry it cannot be ascertained whether there is any such person, by any person in whose care (whether in law or in fact) the person offering to enlist may be.

(3) Where the recruiting officer is satisfied by the production of a certified copy of an entry in the register of births or by any other evidence appearing to him to be sufficient, that a person offering to enlist has or has not attained the age of eighteen years, that person is deemed for the purposes of this Act to have attained or, as the case may be, not to have attained that age.

A document purporting to be a certificate signed by the recruiting officer, stating that he is satisfied as aforesaid, is sufficient evidence, until the contrary is proved, that he is so satisfied.

TERMS AND CONDITIONS OF SERVICE

Terms of enlistment.

20. (1) The term for which a person enlisting in the Force may be enlisted is the term beginning with the date of his attestation mentioned in this section.

(2) Where the person enlisting has attained the age of eighteen years the said term is—

- (a) such term not exceeding six years as may be prescribed, being a term of colour service; or
- (b) such term not exceeding twelve years as may be prescribed, being as to such part thereof as may be prescribed a term of colour service and as to the remainder a term of service in the reserve.

RE-ENGAGEMENT AND EXTENSION OF SERVICE

Re-engagement and continuance in service.

21. (1) Any other rank of good character who at any time has completed or is within two years before completing the term of his colour service may with the approval of the competent military authority re-engage for such period or periods of colour service and in the reserve as may be prescribed, but such further period or periods of colour service together with the original period of colour service, shall not, except as provided by subsection (2), exceed a

total continuous period of twenty-two years' colour service from the date of the other rank's original attestation or the date upon which he attained the age of eighteen years, whichever is the later.

(2) Any other rank who has completed a period of twenty-two years' colour service may, if he so desires and with the approval of the competent military authority, continue to serve from year to year in all respects as if his term of colour service was still unexpired except that he may claim discharge at the expiration of any period of three months after he has given notice to the officer under whose command he is serving of his wish to be discharged.

22. Any other rank whose term of colour service expires during a state of war, insurrection, hostilities or public emergency may be retained in the Force and his service prolonged for such further period as the competent military authority, with the approval of the Council, may direct.

Prolongation of service.
[32 of 1979].

DISCHARGE AND TRANSFER TO THE RESERVE

23. (1) Save as herein provided, every soldier upon becoming entitled to be discharged shall be discharged with all convenient speed but until discharged shall remain subject to military law.

Discharge.

(2) Except in pursuance of the sentence of a Court-martial under service law, an other rank shall not be discharged unless his discharge has been authorised by order of the competent military authority.

(3) Every other rank shall be given on his discharge a certificate containing such particulars as may be prescribed.

24. (1) Save as herein provided, every other rank upon falling to be transferred to the reserve shall be transferred to the reserve but until so transferred remains subject to military law.

Transfer to the reserve.

(2) Notwithstanding anything contained in subsection (1), the competent military authority may, when an other rank falls to be transferred to the reserve, discharge him forthwith without giving any reason, and in any such case the provisions of section 23 apply.

L.R.O. 1/2006

Postponement of discharge or transfer pending proceedings for offences, etc.

25. (1) Notwithstanding anything in this Part, an other rank is not entitled to be discharged or transferred to the reserve at a time when he has become liable, as a person subject to military law under this Act, to be proceeded against for an offence against any of the provisions of service law; but if it is determined that the offence is not to be tried by Court-martial, this subsection does not apply.

(2) Notwithstanding anything in this Part, an other rank who is serving a sentence of imprisonment or detention awarded by a Court-martial under service law or by his commanding officer is not entitled to be discharged or transferred to the reserve during the currency of the sentence.

Restrictions on reduction in rank of warrant officers and non-commissioned officers.
[32 of 1979].

26. (1) A warrant officer or a non-commissioned officer shall not be reduced in rank except by sentence of a Court-martial under service law or by order of the President, Council or an officer authorised by the Council to act for the purpose of this subsection.

(2) An authorisation under subsection (1) may be given generally or subject to such limitations as may be prescribed.

(3) For the purposes of this section reduction in rank does not include reversion from acting rank.

Right of warrant officer to discharge on reduction to ranks.

27. A warrant officer who is reduced to the ranks may thereupon claim to be discharged unless a state of war, insurrection, hostilities or public emergency exists.

Discharge upon prescribed grounds.

28. An other rank may be discharged by a competent military authority at any time during the currency of any term of engagement upon such grounds as may be prescribed.

Right of soldier to purchase discharge.

29. (1) Subject to this section, an other rank is entitled to claim his discharge at any time after twelve weeks and within six months from the date of his first attestation, and if he makes such a claim, he shall, on payment of one hundred dollars, be discharged with all convenient speed but until discharged shall remain subject to military law under this Act.

(2) This section does not apply to an other rank who immediately prior to the date of his first attestation was a member of a Commonwealth force.

(3) Section 23 does not apply to an other rank discharged under this section.

(4) Notwithstanding this section, an other rank is not entitled to claim his discharge at a time when or so long as other ranks are required to continue their colour service under section 22.

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

30. In reckoning the service of any other rank for discharge or re-engagement or transfer to the reserve there shall be excluded therefrom—

Rules for reckoning service.

- (a) all periods during which he has been absent from his duty for any of the following causes, that is to say—
 - (i) imprisonment;
 - (ii) desertion;
 - (iii) absence without leave exceeding twenty-eight days; and
- (b) any period ordered by a Court-martial to be forfeited.

31. (1) Where a person has made such declaration upon his attestation as may be prescribed and has thereafter received pay as an other rank—

Validity of attestation and enlistment.

- (a) the validity of his enlistment is not to be called in question on the grounds of any error or omission in his attestation paper;
- (b) after the expiration of a period of three months from the date on which he made the declaration, he shall be deemed to have been validly enlisted notwithstanding any non-compliance with the requirements of this Act or any regulations made as to enlistment or attestation or any other ground whatsoever (not being an error or omission in his attestation paper) and he shall be deemed to be an other rank until his discharge.

L.R.O.

(2) Where a person has received pay as an other rank without having previously made a declaration under subsection (1), then—

(a) he shall be deemed to be an other rank until discharged;

(b) he may claim his discharge at any time and if he makes such claim, the claim shall be submitted as soon as may be to the competent military authority who shall cause him to be discharged with all convenient speed.

(3) Nothing in this section shall be construed as prejudicing the determination of any question as to the term for which a person was enlisted or as preventing the discharge of a person who has not claimed his discharge.

False answers in attestation paper.

32. (1) Any person appearing before a recruiting officer for the purpose of being attested who knowingly makes a false answer to any question contained in the attestation paper and put to him by or by the direction of the recruiting officer, is liable on summary conviction to a fine of three hundred dollars or to imprisonment for three months.

(2) For the avoidance of doubt it is hereby declared that a person may be proceeded against under this section notwithstanding that he has since become subject to military law.

PART V

DISCIPLINE AND TRIAL AND PUNISHMENT OF MILITARY OFFENCES

TREACHERY, COWARDICE AND OFFENCES ARISING OUT OF MILITARY SERVICE

Aiding the enemy.

33. (1) Any person subject to military law who, with intent to assist the enemy—

(a) abandons or delivers up any place or post which it is his duty to defend, or induces any person to abandon or deliver up any place or post which it is that person's duty to defend;

- (b) does any act calculated to imperil the success of operations of the Force, of any forces co-operating therewith or of any part of any of those forces;
- (c) having been made a prisoner of war, serves with or aids the enemy in the prosecution of hostilities or of measures calculated to influence morale, or in any other manner whatsoever not authorised by international usage;
- (d) furnishes the enemy with arms or ammunition or with supplies of any description; or
- (e) harbours or protects an enemy not being a prisoner of war,

is, on conviction by Court-martial, liable to suffer imprisonment or less punishment.

(2) Any person subject to military law who knowingly and without lawful excuse—

- (a) abandons or delivers up any place or post which it is his duty to defend, or induces any person to abandon or deliver up any place or post which it is that person's duty to defend;
- (b) does any act calculated to imperil the success of operations of the Force, of any forces co-operating therewith or of any part of any of those forces;
- (c) having been made a prisoner of war, serves with or aids the enemy in the prosecution of hostilities or of measures calculated to influence morale, or in any other manner whatsoever not authorised by international usage;
- (d) furnishes the enemy with arms or ammunition or with supplies of any description; or
- (e) harbours or protects an enemy not being a prisoner of war,

is, on conviction by Court-martial, liable to suffer imprisonment or less punishment.

Communication
with the enemy.

34. (1) Any person subject to military law who, with intent to assist the enemy, communicates with or gives intelligence to the enemy is, on conviction by Court-martial, liable to suffer death or less punishment.

(2) Any person subject to military law who without authority communicates with or gives intelligence to the enemy is, on conviction by Court-martial, liable to imprisonment or less punishment.

(3) In this section, the expression “intelligence” means information which is or purports to be information as to any matter such that information about it would or might be directly or indirectly useful to an enemy, and in particular (but without prejudice to the generality of the foregoing provisions of this subsection) as to any matter falling within the following paragraphs, being a matter such that information as to it would or might be useful as aforesaid, that is to say—

- (a) the number, description, armament, equipment, disposition, movement or condition of the Force or of any forces co-operating therewith;
- (b) any operations or projected operations of any of such forces, ships or aircraft as aforesaid;
- (c) any code, cipher, call sign, password or countersign;
- (d) any measures for the defence or fortification of any place on behalf of the Government;
- (e) munitions of war.

Cowardly
behaviour.

35. (1) Any person subject to military law who when before the enemy—

- (a) leaves the post, position or other place where it is his duty to be; or
- (b) throws away his arms, ammunition or tools, in such a manner as to show cowardice, or otherwise behaves in such a manner as to show cowardice,

is guilty of an offence against this section.

(2) Any person subject to military law who when before the enemy induces any other person subject to service law and before the enemy to commit an offence under subsection (1) is guilty of an offence against this section.

(3) Any person guilty of an offence against this section is, on conviction by Court-martial, liable to imprisonment or less punishment.

36. Any person subject to military law who—

Offences against morale.

- (a) spreads (whether orally, in writing, by signal, or otherwise) reports relating to operations of the Force or of any forces co-operating therewith, or of any part of any of those forces, being reports calculated to create despondency or unnecessary alarm; or
- (b) when before the enemy, uses words calculated to create despondency or unnecessary alarm,

is, on conviction by Court-martial, liable to imprisonment or less punishment.

37. (1) Any person subject to military law who, through disobedience to orders or wilful neglect of his duty, is captured by the enemy, is guilty of an offence against this section.

Becoming a prisoner of war through disobedience or wilful neglect; and failure to rejoin forces.

(2) Any person subject to military law who, having been captured by the enemy, fails to take, or prevents or discourages any other person subject to service law who has been captured by the enemy from taking, any reasonable steps to rejoin the force which are available to him or, as the case may be, to that other person is guilty of an offence against this section.

(3) Any person guilty of an offence against this section is, on conviction by Court-martial, liable to imprisonment or less punishment.

38. (1) Any person subject to military law who, while on guard duty—

Offences by or in relation to sentries, etc.

- (a) sleeps at his post;

- (b) when not on duty at a post, is asleep at a time when he is not allowed to be asleep;
- (c) is drunk; or
- (d) leaves his post without having been regularly relieved or otherwise absents himself from any place where it is his duty to be,

is guilty of an offence against this section.

(2) For the purposes of this section a person shall be treated as being drunk if owing to the influence of alcohol or any drugs whether alone or in combination with any other circumstances, he is unfit to be entrusted with his duty.

(3) Any person subject to military law who strikes or otherwise uses force against a person on guard duty, being a member of any unit of the Force or of any forces co-operating therewith, or by the threat of force compels that person to let him or any other person pass, is guilty of an offence against this section.

(4) Any person guilty of an offence against this section is, on summary conviction by Court-martial, liable to imprisonment or less punishment, but if the offence is not committed on active service he is not liable to be imprisoned for more than two years.

(5) References in this section to a person on guard duty are references to a person who—

- (a) is posted or ordered to patrol or has adopted the position of sentry at a post or has undertaken the patrol; or
- (b) is a member of a guard or other party mounted or ordered to patrol,

for the purpose of protecting any person, premises or place.

(6) This section applies to persons posted or ordered to patrol or who have adopted the position of sentries at a post or have undertaken the patrol, and to the members of a party mounted or ordered to patrol, for the purpose of preventing or controlling access to or egress from any premises or place, or of regulating traffic by road, by rail or on any inland navigation, as it applies to persons on guard duty.

39. (1) Any person subject to military law who is attached to any ship of the Force and who, being in the presence or vicinity of the enemy or under orders to be prepared for action by or against the enemy, abandons his post improperly or sleeps upon his watch is, on conviction by Court-martial, liable to imprisonment for any term or less punishment.

Sleeping on watch or abandoning post.

(2) Any person subject to military law who is attached to any ship of the Force and who, not being in the presence or vicinity of the enemy or under such orders as mentioned above, abandons his post improperly or sleeps upon his watch is liable to imprisonment for a term of two years or less punishment.

40. Any person subject to military law who—

Looting.

- (a) steals from, or with intent to steal, searches the person of anyone killed or wounded in the course of warlike operations;
- (b) steals any property which has been left exposed or unprotected in consequence of warlike operations; or
- (c) takes otherwise than for the public service any vehicles, equipment or stores abandoned by the enemy,

is guilty of looting and, on conviction by Court-martial, liable to imprisonment or less punishment.

MUTINY AND INSUBORDINATION

41. (1) Any person subject to military law who—

Mutiny.

- (a) takes part in a mutiny involving the use of violence or the threat of the use of violence, or having as its object or one of its objects the refusal or avoidance of any duty or service against, or in connection with operations against, the enemy, or the impeding of the performance of any such duty or service; or

L.R.O. 1/2006

(b) incites any person subject to service law to take part in such a mutiny, whether actual or intended, is, on conviction by Court-martial, liable to suffer death or less punishment.

(2) Any person subject to military law who, in a case not falling within subsection (1), takes part in a mutiny, or incites any person subject to service law to take part in a mutiny, whether actual or intended, is, on conviction by Court-martial, liable to imprisonment or less punishment.

(3) In this Act, the expression “mutiny” means a combination between two or more persons subject to service law, or between persons two at least of whom are subject to service law—

- (a) to overthrow or resist lawful authority in the Force or any forces operating therewith or in any part of any of the said forces;
- (b) to disobey such authority in such circumstances as to make the disobedience subversive of discipline, or with the object of avoiding any duty or service against, or in connection with operations against, the enemy;
- (c) to impede the performance of any duty or service in the Force or in any forces co-operating therewith or in any part of any of the said forces; or
- (d) steals any property which has been left exposed or unprotected in consequence of any state of emergency declared by the President.

Failure to
suppress mutiny.

42. Any person subject to military law who, knowing that a mutiny is taking place or is intended—

- (a) fails to use his utmost endeavours to suppress or prevent it; or
- (b) fails to report without delay that the mutiny is taking place or is intended,

is, on conviction by Court-martial,

- (i) if his offence was committed with intent to assist the enemy, liable to suffer death or less punishment; and
- (ii) in any other case, liable to imprisonment or less punishment.

- 43.** (1) Any person subject to military law who—
- (a) strikes, or otherwise uses violence to, or offers violence to, his superior officer; or
 - (b) uses threatening or insubordinate language to his superior officer,

Insubordinate behaviour.

is, on conviction by Court-martial, liable to imprisonment or less punishment, but such person is not liable to be imprisoned for more than two years if the offence was not committed on active service, and did not involve the striking or other use of violence, or offering of violence, to a superior officer exercising authority as such.

(2) The expression “superior officer”, in relation to any person, means an officer, warrant officer or non-commissioned officer subject to service law of superior rank, and includes such an officer, warrant officer or non-commissioned officer of equal rank but greater seniority.

- 44.** (1) Any person subject to military law who, in such manner as to show a wilful defiance of authority, disobeys any lawful command given or sent to him personally is, on conviction by Court-martial, liable to imprisonment or less punishment.

Disobedience to particular orders.

(2) Any person subject to military law who, whether wilfully or through neglect, disobeys any lawful command is, on conviction by Court-martial, liable to imprisonment or less punishment; but if the offence was not committed on active service he is not liable to be imprisoned for more than two years.

- 45.** Any person subject to military law who—
- (a) obstructs; or
 - (b) when called on, refuses to assist,

Obstruction of provost officers.

any person known to him to be a provost officer, or to be a person (whether subject to military law or not) lawfully exercising authority under or on behalf of a provost officer, is, on conviction by Court-martial, liable to imprisonment for two years or less punishment.

Disobedience to standing orders.

46. (1) Any person subject to military law who contravenes any provision of orders to which this section applies, being a provision known to him, or which he might reasonably be expected to know, is, on conviction by Court-martial, liable to imprisonment for two years or less punishment.

(2) This section applies to standing orders or other routine orders of a continuing nature made for any formation or unit or body of troops, or for any command or other area, garrison or place, or for any ship, train or aircraft.

DESERTION, ABSENCE WITHOUT LEAVE, ETC.

Desertion.

47. (1) Any person subject to military law who—

(a) deserts; or

(b) persuades or procures any person subject to service law to desert,

is, on conviction by Court-martial, liable to imprisonment or less punishment; but a person is not liable to be imprisoned for more than two years unless—

(i) in the case of an offence under paragraph (a), he was on active service or under orders for active service at the time when it was committed; or

(ii) in the case of an offence under paragraph (b), the person in relation to whom it was committed was on active service or under orders for active service at that time.

(2) A person deserts who—

(a) leaves the Force or, when it is his duty to do so, fails to join or rejoin the Force, with (in either

- case) the intention, subsisting at the time of the leaving or failure or formed thereafter, of remaining permanently absent from his duty; or
- (b) being an officer, enlists in or enters any of the forces of the United Kingdom without having resigned his commission, or being an other rank enlists in or enters any Commonwealth force without having been discharged from his previous enlistment,

and references in this Act to desertion shall be construed accordingly.

(3) Subject to subsection (4), the Court-martial by whom an other rank is convicted of desertion may, in addition to or in lieu of any punishment provided for by subsection (1), direct that the whole or any part of his service previous to the period in respect of which he is convicted of having been a deserter shall be forfeited.

(4) Subsection (3) does not apply to reservists called out on permanent service.

48. Any person subject to military law who—

- (a) absents himself without leave; or
- (b) persuades or procures any person subject to service law to absent himself without leave,

Absence without leave.

is liable, on conviction by Court-martial, to imprisonment for two years or less punishment.

49. Any person subject to military law who—

- (a) knowingly assists any person subject to service law to desert or absent himself without leave; or
- (b) knowing that any person subject to service law has deserted or absented himself without leave, or is attempting to desert or absent himself without leave, fails to report that fact without delay, or fails to take any steps in his power to cause that person to be apprehended,

Assisting and concealing desertion and absence without leave.

is liable, on conviction by Court-martial, to imprisonment for a term of two years or less punishment.

Failure to perform military duties.

50. Any person subject to military law who without reasonable excuse fails to attend for any parade or other military duty of any description or leaves any such parade or duty before he is permitted to do so is liable, on conviction by Court-martial, to imprisonment for two years or less punishment.

MALINGERING AND DRUNKENNESS

Malingering.

- 51.** (1) Any person subject to military law who—
- (a) falsely pretends to be suffering from sickness or disability;
 - (b) injures himself with intent thereby to render himself unfit for service, or causes himself to be injured by any person with that intent;
 - (c) injures another person subject to service law, at the instance of that person, with intent thereby to render that person unfit for service; or
 - (d) with intent to render or keep himself unfit for service, does or fails to do anything (whether at the time of the act or omission he is in hospital or not) whereby he produces, or prolongs, or aggravates, any sickness or disability,

is guilty of malingering and is liable, on conviction by Court-martial, to imprisonment for two years or less punishment.

(2) In this section the expression “unfit” includes temporarily unfit.

Drunkenness.

52. (1) Any person subject to military law who is guilty of drunkenness, whether on duty or not, is liable, on conviction by Court-martial, to imprisonment for two years or less punishment; but where the offence is committed by an other rank neither on active service nor on duty the sentence imposed shall not exceed detention for a period of six months.

(2) For the purpose of this section a person is guilty of drunkenness if owing to the influence of alcohol or any drug, whether alone or in combination with any other circumstances, he is unfit to be entrusted with his duty or with any duty which he may be called upon to perform, or behaves in a disorderly manner or in any manner likely to bring discredit on the Force.

OFFENCES RELATING TO PROPERTY

53. Any person subject to military law who—

- (a) steals or fraudulently misapplies any public or service property, or is concerned in or connives at the stealing or fraudulent misapplication of any public or service property;
- (b) receives any public or service property knowing or having reason to believe it to have been stolen or to have been fraudulently misapplied;
- (c) wilfully damages, or is concerned in the wilful damage of, any public or service property; or
- (d) by wilful neglect causes damage by fire to any public or service property,

Offences in relation to public and service property.

is liable, on conviction by Court-martial, to imprisonment or less punishment.

54. Any person subject to military law who—

- (a) steals or fraudulently misapplies any property belonging to a person subject to service law, or is concerned in or connives at the stealing or fraudulent misapplication of any such property;
- (b) receives any such property knowing or having reason to believe it to have been stolen or to have been fraudulently misapplied; or
- (c) wilfully damages, or is concerned in the wilful damage of, any property belonging to a person subject to service law,

Offences in relation to property of members of forces.

is liable, on conviction by Court-martial, to imprisonment for two years or less punishment.

55. (1) Any person subject to military law who—

- (a) loses any public or service property of which he has the charge or which has been entrusted to his care or which forms part of property of which he has the charge or which has been entrusted to his care;

Miscellaneous offences relating to property.

- (b) by negligence damages any public or service property of which he has the charge or which has been entrusted to his care or which forms part of property of which he has charge or which has been entrusted to his care;
- (c) by negligence causes damage by fire to any public or service property;
- (d) fails to take proper care of any animal or bird used in the public service which is in his charge; or
- (e) makes away (whether by pawning, selling, destruction or in any other way) with any military, naval or airforce decoration granted to him or any clothing, arms, ammunition or other equipment issued to him for his use for military purposes,

is liable, on conviction by Court-martial, to imprisonment for two years or less punishment.

(2) It is a defence for any person charged under subsection (1)(a) with losing any property that he took reasonable steps for the care and preservation thereof.

OFFENCES RELATING TO BILLETING AND REQUISITIONING OF VEHICLES

Billeting offences.

56. Any person subject to military law who—

- (a) knowing that no billeting requisition is in force under Part VIII authorising him to demand any billets or that he is otherwise not authorised to demand them, obtains those billets or orders or procures another person to obtain them;
- (b) takes or agrees to take, or demands, from a person on whom he or any other person or any vehicle is or is to be billeted in pursuance of a billeting requisition under Part VIII any money or thing as consideration for not requiring, or ceasing to require, accommodation for himself or that other person or standing room for the vehicle; or

- (c) commits any offence against the person or property of the occupier of premises in which he is billeted in pursuance of a billeting requisition under Part VIII or of any other person being in those premises, or wilfully or by wilful neglect damages those premises or any such property as mentioned above,

is liable, on conviction by Court-martial, to imprisonment for two years or less punishment.

57. (1) Any person subject to military law who—

- (a) knowing that no requisitioning order is in force under Part VIII authorising him to give directions for the provision of any vehicle, or that he is otherwise not authorised to give such directions, gives directions for the provision of the vehicle or orders or procures another person to give such directions;
- (b) in purported exercise of powers conferred by a requisitioning order under Part VIII takes, or orders or procures any other person to take, possession of a vehicle knowing that no requisitioning order is in force under the said Part VIII under which the taking possession of the vehicle could be authorised, or that the taking possession thereof is otherwise not authorised under such an order; or
- (c) takes or agrees to take, or demands, from any person any money or thing as consideration for directions, or any particular directions, for the provision of a vehicle not being given, or possession of a vehicle not being taken or not being retained, under a requisitioning order under Part VIII,

Offences in relation to requisitioning of vehicles.

is liable, on conviction by Court-martial, to imprisonment for two years or less punishment.

(2) Subsection (1) applies in relation to horses, mules, donkeys and oxen, food, forage and stores (within the meaning of Part VIII) as it applies in relation to vehicles.

FLYING, ETC., OFFENCES

Dangerous flying, loss or hazarding of ships.

58. Any person subject to military law who, either wilfully or by negligence—

- (a) causes or allows to be lost, stranded or hazarded any ships belonging to the Force;
- (b) uses any aircraft or aircraft material in a manner which causes or is likely to cause loss of life or bodily injury to any person,

is liable, if he acts wilfully or with wilful neglect, to imprisonment for any term or less punishment, and in any other case to imprisonment for two years or less punishment.

Inaccurate certification of aircraft, etc.

59. Any person subject to military law who signs any certificate in relation to an aircraft or to aircraft material without ensuring the accuracy of the certificate is liable, on conviction by Court-martial, to imprisonment for two years or less punishment.

Low flying.

60. Any person subject to military law who, being the pilot of an aircraft belonging to the Force, flies it at a height less than the minimum height authorised by regulations in the circumstances is liable, on conviction by Court-martial, to imprisonment for two years or less punishment.

Annoyance by flying.

61. Any person subject to military law who, being the pilot of an aircraft of the Force, flies it so as to cause, or to be likely to cause, unnecessary annoyance to any person is liable, on conviction by Court-martial, to imprisonment for two years or less punishment.

OFFENCES RELATING TO, AND BY, PERSONS IN CUSTODY

Irregular arrest and confinement.

62. (1) Any person subject to military law who, when another person subject thereto is under arrest—

- (a) unnecessarily delays the taking of such steps as it is his duty to take for investigating the

allegations against that other person or for having the allegations against that other person investigated by his commanding officer or an appropriate superior authority or, as the case may be, tried by Court-martial; or

- (b) fails to release, or effect the release of, that other person when it is his duty to do so,

is guilty of an offence against this section.

(2) Any person subject to military law who, having committed a person (in this subsection and subsection (3) referred to as “the prisoner”) to the custody of any provost officer or other officer, or any warrant officer or non-commissioned officer, fails without reasonable cause to deliver—

- (a) at the time of the committal; or
(b) if it is not practicable to do so at the time of the committal, then within twenty-four hours thereafter,

to the person to whose custody the prisoner was committed a report in writing signed by himself of the offence which the prisoner is alleged to have committed, is guilty of an offence against this section.

(3) Where the prisoner is committed to the charge of a person subject to military law under this Act who is in command of a guard, then, if without reasonable cause that person does not as soon as he is relieved from his guard and any further duty or, if he is not sooner relieved, within twenty-four hours after the committal, give to the officer to whom it is his duty to report—

- (a) a written statement containing so far as known to him, the prisoner’s name and alleged offence and the name and rank or other description of the officer or other person by whom the prisoner is alleged to have committed the offence; and
(b) if he has received it, the report required by subsection (2),

he is guilty of an offence against this section.

(4) Any person found guilty of an offence against this section is liable, on conviction by a Court-martial, to imprisonment for two years or less punishment.

Permitting
escape, and
unlawful release
of prisoners.

63. (1) Any person subject to military law who wilfully allows to escape any person who is committed to his charge, or whom it is his duty to guard, is liable, on conviction by Court-martial, to imprisonment or less punishment.

(2) Any person subject to military law who—

(a) without proper authority releases any person who is committed to his charge; or

(b) without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to guard,

is liable, on conviction by Court-martial, to imprisonment for two years or less punishment.

Resistance
to arrest.

64. (1) Any person subject to military law who, being concerned in any quarrel or disorder, refuses to obey any officer who orders him into arrest, or strikes or otherwise uses violence to, or offers violence to, any such officer, is guilty of an offence against this section whether or not the officer is his superior officer.

(2) Any person subject to military law who strikes or otherwise uses violence to, or offers violence to, any person, whether subject to this Act or not, whose duty it is to apprehend him or in whose custody he is, is guilty of an offence against this section.

(3) Any person guilty of an offence against this section is liable, on conviction by Court-martial, to imprisonment for two years or less punishment.

Escape from
confinement.

65. Any person subject to military law who escapes from arrest, prison or other lawful custody (whether military or not) is liable, on conviction by Court-martial, to imprisonment for two years or less punishment.

**OFFENCES IN RELATION TO COURTS-MARTIAL
AND CIVIL AUTHORITIES**

- 66.** (1) Any person subject to military law who—
- (a) being duly summoned or ordered to attend as a witness before a Court-martial, makes default in attending;
 - (b) refuses to take an oath or make a solemn affirmation lawfully required by a Court-martial to be taken or made;
 - (c) refuses to produce any document in his custody or under his control lawfully required by a Court-martial to be produced by him;
 - (d) refuses when a witness to answer any question to which a Court-martial may lawfully require an answer;
 - (e) wilfully insults any person, being a member of a Court-martial or a witness or any other person whose duty it is to attend on or before the Court, while that person is acting as a member thereof or is so attending, or wilfully insults any such person as mentioned above while that person is going to or returning from the proceedings of the Court; or
 - (f) wilfully interrupts the proceedings of a Court-martial or otherwise misbehaves before the Court,

Offences in relation to contempt of Courts-martial.

is liable, on conviction by a Court-martial, other than the Court in relation to which the offence was committed, to imprisonment for two years or less punishment; and where an offence against paragraph (e) or (f) is committed at or in relation to any Court-martial, that Court-martial may, under the hand of the president, issue an order that the offender undergo, for a period not exceeding twenty-one days, a term of imprisonment or detention.

(2) Notwithstanding anything in subsection (1), where an offence against paragraph (e) or paragraph (f) of that subsection is committed in relation to any Court-martial that Court, if of opinion that it is expedient that the offender should be dealt with summarily

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by the Court instead of being brought to trial before another Court-martial, may by order under the hand of the president order the offender to be imprisoned for a period not exceeding twenty-one days or, in the case of an other rank, either to be imprisoned for such a period or to undergo detention for such a period.

(3) References in subsection (1)(a) to (f) to a Court-martial include references to a Court-martial held in pursuance of service law.

False evidence.

67. (1) Any person subject to military law who, having been lawfully sworn as a witness or as an interpreter in proceedings before a Court-martial under service law or before any board or person having power under service law to administer oaths, makes a statement material in those proceedings which he knows to be false or does not believe to be true is liable, on conviction by Court-martial, to imprisonment for two years or less punishment.

(2) A person is not liable to be convicted of an offence against this section solely upon the evidence of one witness as to the falsity of any statement alleged to be false.

Obstruction of police officer, arresting officer or soldier.

68. Any person subject to military law who at any place in the Commonwealth prevents or obstructs—

- (a) the execution by a police officer of a warrant for the arrest of a person subject to service law who has committed or is suspected of having committed an offence punishable on conviction by a civil Court; or
- (b) the arrest of a person subject to service law by a police officer acting in the exercise of his powers of arrest without warrant,

is liable, on conviction by Court-martial, to imprisonment for two years or less punishment.

MISCELLANEOUS OFFENCES

Injurious disclosures.

69. (1) Any person subject to military law who without authority discloses, whether orally, in writing, by signal or by any

other means whatsoever, any information which is or purports to be information useful to an enemy is liable, on conviction by Court-martial, to imprisonment for two years or less punishment.

(2) In this section, the expression “information useful to an enemy” means information as to any matter which is capable of being directly or indirectly useful to an enemy, and in particular information as to any matter falling within the following paragraphs:

- (a) the number, description, armament equipment, disposition, movement or condition of any of the Force or of any forces co-operating therewith, or any of the ships or aircraft of the force or of the ships or aircraft of any such co-operating force;
- (b) any operations or projected operations of any of such forces, ships or aircraft as mentioned above;
- (c) any code, cipher, call sign, password or countersign;
- (d) any measures for the defence or fortification of any place on behalf of the Government;
- (e) the number, description or location of any prisoners of war; or
- (f) munitions of war.

70. Any person who knowingly makes a false answer to any question set forth in any document required to be completed in relation to his enlistment and who subsequently becomes subject to military law is liable, on conviction by Court-martial, to imprisonment for three months or less punishment.

Making of false statements on enlistment.

71. Any person subject to military law who—

- (a) makes, signs or makes an entry in any service report, return, pay list or certificate or other service document, being a document or entry which is to his knowledge false in a material particular;

Making of false documents.

- (b) alters any service report, return, pay list or certificate or other service document, or alters any entry in such a document, so that the document or entry is to his knowledge false in a material particular, or suppresses, defaces or makes away with any such document or entry which it is his duty to preserve or produce;
- (c) with intent to defraud, fails to make an entry in any such document; or
- (d) aids, abets, commands, counsels, procures or connives at the commission by another person subject to service law of an offence against this section or the corresponding section of the appropriate service law, as the case may be (whether or not he knows the nature of the document in relation to which that offence will be committed),

is liable, on conviction by Court-martial, to imprisonment for two years or less punishment.

Scandalous
conduct of
officer.

72. Any officer subject to military law who behaves in a scandalous manner, unbecoming the character of an officer and a gentleman, shall, on conviction by a Court-martial, be cashiered.

Ill-treatment of
officers or men
of inferior rank.

73. Where—

- (a) an officer subject to military law strikes or otherwise ill-treats an officer subject to service law of inferior rank or less seniority or an other rank subject to service law; or
- (b) a warrant officer or non-commissioned officer subject to military law strikes or otherwise ill-treats a person subject to service law, being of inferior rank or less seniority,

he is liable, on conviction by Court-martial, to imprisonment for two years or less punishment.

74. Any person subject to military law who is guilty of disgraceful conduct of a cruel, indecent or unnatural kind is liable, on conviction by Court-martial, to imprisonment for two years or less punishment.

Disgraceful conduct.

75. Any person subject to military law who—

- (a) makes an accusation against an officer or an other rank subject to service law, which he knows to be false or does not believe to be true; or
- (b) in making a complaint where he thinks himself wronged, makes a statement affecting the character of an officer or other rank subject to service law, which he knows to be false or does not believe to be true or wilfully suppresses any material facts,

False accusation.

is liable, on conviction by Court-martial, to imprisonment for two years or less punishment.

76. Any person subject to military law who attempts to commit an offence against sections 36 to 75 is liable, on conviction by Court-martial, to the like punishment for that offence, but where the offence is one punishable by death, he is not liable to any greater punishment than imprisonment.

Attempts to commit military offences.

77. Any person subject to military law who is found guilty of any conduct or neglect to the prejudice of good order and military discipline is liable, on conviction by Court-martial, to imprisonment for two years or less punishment.

Conduct to prejudice of military discipline.

CIVIL OFFENCES

78. (1) Subject to this section, any person subject to military law who commits a civil offence is guilty of an offence against this section.

Civil offences.

(2) In this Act, the expression “civil offence” means any act punishable by the law of Trinidad and Tobago or which, if committed in Trinidad and Tobago, would be punishable by such

law and in this Act the expression “corresponding civil offence” means the civil offence the commission of which constitutes an offence against this section.

(3) A person convicted by Court-martial of an offence against this section is—

- (a) if the corresponding civil offence is treason or murder, liable to suffer death; and
- (b) in any other case, liable to suffer any punishment or punishments which a civil Court could award for the corresponding civil offence, being a punishment or punishments herein provided for or such punishment, less than the maximum punishment, which a civil Court could so award, as is so provided; but where a civil Court could not so award imprisonment, a person so convicted is liable to suffer such punishment, less than cashiering in the case of an officer, or discharge with disgrace in the case of an other rank, as is so provided.

(4) A person shall not be charged with an offence against this section committed in Trinidad and Tobago if the corresponding civil offence is treason, murder, manslaughter, rape or an offence under section 3 of the Treason Act.

Ch. 11:03.

(5) Where the corresponding civil offence is murder or manslaughter, an offence against this section is deemed, for the purposes of subsection (3), to have been committed at the place of the commission of the act or occurrence of the neglect which caused the death, irrespective of the place of the death.

PUNISHMENTS

Punishment of officers.

79. (1) The punishments which may be imposed on an officer by sentence of a Court-martial are, subject to the limitations herein provided on the powers of certain Courts-martial, those set out in the following scale:

- (a) death;
- (b) imprisonment;
- (c) cashiering;

- (d) dismissal from the service of the State;
- (e) fine of a sum not exceeding the equivalent of ninety days pay;
- (f) forfeiture of seniority;
- (g) severe reprimand or reprimand;
- (h) where the offence has occasioned any expense, loss or damage, stoppages,

and, in relation to an officer, references in this Act to punishments provided by this Act are references to these punishments.

(2) Where a punishment is specified in this Part as a penalty for an offence committed by an officer and it is further provided in the alternative that on conviction the offender is liable to less punishment, the expression “less punishment” means any one or more of the punishments lower in the scale of punishments than the specified punishment.

(3) Save as expressly provided herein, not more than one punishment shall be imposed by a Court-martial for one offence.

(4) Stoppages may be imposed by a Court-martial either in addition to or without any other punishment.

(5) A severe reprimand or reprimand may be imposed by a Court-martial in addition to a fine imposed under subsection (1)(e).

(6) Where the punishment awarded is a severe reprimand, the Court-martial may in addition award a forfeiture of seniority.

(7) Where an officer is sentenced by a Court-martial to imprisonment, he shall also be sentenced to be cashiered; but if the Court-martial fails to sentence him to be cashiered, the sentence of imprisonment is not invalid but shall be deemed to include a sentence of cashiering.

80. (1) The punishments which may be imposed on an other rank by sentence of Court-martial are, subject to the limitations herein provided on the powers of certain Courts-martial, those set out in the following scale: Punishment of other ranks.

- (a) death;
- (b) imprisonment;

- (c) discharge with ignominy from the Force;
- (d) in the case of a warrant officer, dismissal from the Force;
- (e) detention for a term not exceeding two years;
- (f) in the case of a warrant officer or non-commissioned officer, reduction to the ranks of any less reduction in rank;
- (g) fine of a sum not exceeding the equivalent of ninety days pay;
- (h) where the offence is desertion, forfeiture of service;
- (i) in the case of a warrant officer or non-commissioned officer, severe reprimand or reprimand;
- (j) where the offence has occasioned any expense, loss or damage, stoppages,

and, in relation to an other rank, references in this Act to punishments provided by this Act are references to these punishments.

(2) Where a punishment is specified by this Part as a penalty for an offence committed by an other rank, and it is further provided in the alternative that on conviction the offender is liable to less punishment, the expression "less punishment" means any one or more of the punishments lower in the scale of punishments than the specified punishment; but detention shall not be deemed to be less punishment than imprisonment if the term of detention is longer than the term of imprisonment.

(3) Save as expressly provided herein, not more than one punishment shall be imposed on an other rank by a Court-martial for one offence.

(4) An other rank sentenced by a Court-martial to imprisonment for a term exceeding forty-two days shall in addition thereto be sentenced to be discharged from the Force; and if the Court-martial fails to sentence him to be discharged, the sentence is not invalid but shall be deemed to include a sentence of discharge.

(5) Where a warrant officer or non-commissioned officer is sentenced by a Court-martial to imprisonment or detention, he shall also be sentenced to be reduced to the ranks; but if the Court-martial fails to sentence him to be so reduced, the sentence is not valid but shall be deemed to include a sentence of reduction to the ranks.

(6) In the case of a warrant officer or non-commissioned officer a severe reprimand or reprimand may be imposed by a Court-martial in addition to a fine imposed under subsection (1)(g).

(7) Stoppages may be imposed by a Court-martial either in addition to or without any other punishment.

(8) Where an offender has been sentenced by a Court-martial to detention, then if he is subsequently sentenced by a Court-martial to imprisonment any part of the sentence of the detention which has not yet been served shall thereupon be remitted.

(9) Without prejudice to the validity of any award, an offender shall not be kept continuously in detention for more than two years.

81. (1) In relation to an offence committed by an other rank on active service, the scale set out in section 80(1) has effect as if after paragraph (e) thereof there was inserted the following paragraph: Field punishment.

“(ee) field punishment for a period not exceeding ninety days;”,

and section 80(5) applies to field punishment as it applies to imprisonment or detention.

(2) Field punishment consists of such duties or drills, in addition to those which the offender may be required to perform if he were not undergoing punishment, and such loss of privileges as may be provided by and under rules made under this Part, and may include confinement in such place and manner as may be so provided and such personal restraint as may be necessary to prevent the escape of the offender and as may be so provided.

Imprisonment.

82. Where in this Act it is provided that a person subject to military law is liable on conviction by Court-martial to imprisonment and no term or maximum term of imprisonment is specified then such person is liable to imprisonment for any term.

ARREST

Power to arrest offenders.

83. (1) A person subject to military law found committing an offence against this Act, or alleged to have committed or reasonably suspected of having committed any such offence, may be arrested in accordance with this section.

(2) An officer may be arrested by an officer subject to service law of superior rank or, if engaged in a quarrel or disorder, by such an officer of any rank.

(3) An other rank may be arrested by an officer, warrant officer or non-commissioned officer subject to service law, but a person shall not be arrested by virtue of this subsection except by a person of superior rank.

(4) A provost officer, or an officer, warrant officer or non-commissioned officer subject to service law lawfully exercising authority under a provost officer or on his behalf, may arrest an officer or other rank; but an officer shall not be arrested by virtue of this subsection except on the order of another officer.

(5) The power of arrest given to a person by this section may be exercised either personally or by ordering into arrest the person to be arrested or by giving orders for that person's arrest.

Provisions for avoiding delay after arrest.

84. (1) The allegations against a person subject to military law who is under arrest shall be duly investigated without unnecessary delay, and either proceedings shall be taken for punishing his offence as soon as may be or he shall be released from arrest.

(2) Wherever a person subject to military law, having been taken into military custody, remains under arrest for a longer period than eight days without a Court-martial for his trial being convened, a special report explaining the necessity for further delay shall be made by his commanding officer to the prescribed authority in the

prescribed manner, and a similar report shall be made to the like authority and in the like manner every eight days until a Court-martial is assembled or the offence is dealt with summarily or he is released from arrest; but in the case of a person on active service compliance with this subsection shall be excused in so far as it is not reasonably practicable having regard to the exigencies of military operations.

(3) For the purposes of section 62(1) the question whether there has been unnecessary delay in the taking of any steps for the investigation of allegations against a person under arrest shall be determined without regard to the provisions of subsection (2) of this section.

INVESTIGATIONS OF, AND SUMMARY DEALING WITH, CHARGES

85. Before an allegation against a person subject to military law (herein referred to as “the accused”) that he has committed an offence against this Part is further proceeded with, the allegations shall be reported, in the form of a charge, to the accused’s commanding officer and the commanding officer shall investigate the charge in the prescribed manner.

Investigation of charges by Commanding Officer.

86. (1) After investigation, a charge against an officer below the rank of lieutenant-colonel or against a warrant officer or corresponding rank may, if an authority has power under this Part to deal with it summarily, be so dealt with by that authority (herein referred to as “the appropriate superior authority”).

Charges to be dealt with summarily or by Court-martial.

(2) After investigation, a charge against a non-commissioned officer or other rank may be dealt with summarily by his commanding officer, subject to and in accordance with this Part.

(3) Any charge not dealt with summarily shall after investigation be remanded for trial by Court-martial.

(4) Notwithstanding anything contained in this section, where—

(a) the commanding officer has investigated a charge against an officer or warrant officer; or

- (b) the commanding officer has investigated a charge against a non-commissioned officer or other rank, which is not one which can be dealt with summarily,

the commanding officer may dismiss the charge if he is of opinion that it ought not to be further proceeded with.

(5) References in this Act to dealing summarily with a charge are references to the taking by the appropriate superior authority or the commanding officer of the accused, as the case may require, of the following action, that is to say, determining whether the accused is guilty, dismissing the charge or recording a finding of guilty accordingly, and imposing punishment.

Further proceedings on charges against N.C.Os and other ranks.

87. (1) When the commanding officer has investigated a charge against a non-commissioned officer or other rank, he shall, where the charge is—

- (a) not one which can be dealt with summarily and the commanding officer has not dismissed it; or
 (b) one which can be dealt with summarily but the commanding officer is of opinion that it should not be so dealt with,

take the prescribed steps for the charge to be tried by Court-martial; but in any other case he shall proceed to deal with the charge summarily, and may, if he records a finding of guilty, impose one or more of the following punishments, that is to say:

- (aa) where the accused is a non-commissioned officer—
- (i) severe reprimand or reprimand;
 - (ii) where the offence has occasioned any expense, loss or damage, stoppages;
 - (iii) admonition;
 - (iv) a fine of a sum not exceeding the equivalent of twenty-eight days pay;
- (bb) where the accused is a man—
- (i) detention for a period of forty-two days or, if the accused is on active service, field punishment for a period of forty-two days;

- (ii) a fine of a sum equivalent to thirty days pay;
- (iii) where the offence has occasioned any expense, loss or damage, stoppages;
- (iv) confinement to barracks for a period beginning with the day of the sentence and not exceeding twenty-eight days;
- (v) stoppage of leave;
- (vi) extra guards or piquets;
- (vii) admonition.

(2) The commanding officer may, where he finds an acting warrant officer, an acting non-commissioned officer or a corresponding rank guilty and imposes only the punishment of stoppages, order such an accused to revert to his permanent rank, or to assume an acting rank lower than that held by him but higher than his permanent rank.

(3) Notwithstanding anything contained in subsection (1), the commanding officer shall, where he—

- (a) has determined that the accused is guilty; and
- (b) considers that the proper punishment for the charge, if taken summarily—
 - (i) is a punishment other than—
 - severe reprimand,
 - reprimand,
 - admonition,
 - confinement to barracks,
 - extra guards or piquets; or
 - (ii) involves a forfeiture of pay,

before recording a finding, give the accused an opportunity of electing to be tried by Court-martial.

(4) Where the accused elects to be tried by Court-martial under subsection (3), the commanding officer shall not record a finding but shall take the prescribed steps for the charge to be tried by a Court-martial.

(5) Subject to subsection (6), where a charge is one which can be dealt with summarily, but the commanding officer has referred the charge for trial by Court-martial under subsection (3), the higher authority to whom the charge is referred may refer the charge back to the commanding officer to be dealt with summarily; and on any such reference, subsections (1), (2), and (3) apply as if the commanding officer had originally been of opinion that the charge should have been dealt with summarily.

(6) A higher authority shall not refer back a charge to a commanding officer where the accused has elected to be tried by Court-martial and has not withdrawn his election.

Further proceedings on charges against officers and warrant officers.

88. (1) After investigating a charge against an officer or warrant officer, the commanding officer shall, unless—

- (a) he has dismissed the charge; or
- (b) the case is one where he has power, and proposes to direct trial by Court-martial,

submit it in the prescribed manner to a higher authority.

(2) Where a charge is submitted to a higher authority under subsection (1), that authority may—

- (a) if the charge is one that can be taken summarily, refer it to the appropriate superior authority for summary trial; or
- (b) if the charge is one that cannot be taken summarily, take the necessary steps for its being tried by Court-martial.

(3) Subject to subsection (4), where the charge is referred to the appropriate superior authority, that authority shall—

- (a) investigate the charge in the prescribed manner;
- (b) determine whether the accused is guilty of the charge; and
- (c) either dismiss the charge or record a finding of guilty.

(4) The appropriate superior authority shall, if at any time during the investigation of the charge it is of the opinion that the charge may more properly be dealt with by a Court-martial, take the prescribed steps to have the charge so tried.

(5) The appropriate superior authority may, when it records a finding of guilty, impose one or more of the following punishments:

- (a) a fine of a sum not exceeding the equivalent of twenty days pay;
- (b) forfeiture of seniority not exceeding twelve months;
- (c) severe reprimand or reprimand;
- (d) where the offence has occasioned any expense, loss or damage, stoppages.

(6) Notwithstanding anything contained in subsections (3) and (4), the appropriate superior authority shall, where it—

- (a) has determined that the accused is guilty; and
- (b) considers that the proper punishment for the charge—
 - (i) is a fine under subsection (5)(a);
 - (ii) is stoppages under subsection (5)(b); or
 - (iii) involves a forfeiture of pay,

before recording a finding, give the accused an opportunity of electing to be tried by Court-martial.

(7) Where the accused elects to be tried by Court-martial under subsection (6), the appropriate superior authority shall take the prescribed steps for the charge to be tried by a Court-martial.

89. (1) Notwithstanding anything in sections 87 and 88, where a charge—

- (a) has been referred to higher authority with a view to its being tried by Court-martial; or
- (b) has been submitted to higher authority for determination how it is to be proceeded with, that

Dismissal of charges referred to higher authority.

authority may, subject to this section, refer the charge back to the commanding officer of the accused with a direction that it shall be dismissed, and in every such case the commanding officer shall dismiss the charge.

(2) The reference back of a charge under subsection (1) is without prejudice to the preferring of another charge where the higher authority has so directed or the commanding officer thinks fit.

Officers who are to act as commanding officers and appropriate superior authorities. [32 of 1979].

90. (1) In this Act, the expression “commanding officer”, in relation to a person charged with an offence, means the officer for the time being commanding the unit to which the person belongs or is attached.

(2) Subject to this section, the following persons may be an appropriate superior authority in relation to a person charged with an offence:

- (a) the Chief of Defence Staff;
- (b) any other officer or panel of officers appointed for the purpose by the President under subsection (3).

(3) Where a commander is the commanding officer of the unit to which a person charged with an offence belongs, the President shall appoint such person or body of persons to be the appropriate superior authority.

(4) Rules of Procedure may confer on officers, or any class of officers, who are authorised by such Rules to exercise the functions of commanding officer, power to delegate those functions, in such cases and to such extent as may be specified in such Rules, to officers of a class so specified.

Limitation on powers of summary dealing with charges.

91. (1) Rules of Procedure may specify the charges which may not be dealt with summarily —

- (a) by a commanding officer;
- (b) by an appropriate superior authority; and

(c) by a commanding officer or an appropriate superior authority except with the permission of an officer authorised to convene a Court-martial for the trial of the accused.

(2) A commanding officer or an appropriate superior authority may deal summarily with the following charges:

- (a) any charge not specified by Rules of Procedure; and
- (b) any charge which may be dealt summarily with permission of an officer authorised to convene a Court-martial, upon the obtaining of such permission.

(3) The powers of a commanding officer or appropriate superior authority to impose punishment shall be subject to such limitations as may be specified in that behalf by the Rules of Procedure.

COURT-MARTIAL: GENERAL PROVISIONS

92. Subject to this Act, a Court-martial (herein referred to as an “ordinary Court-martial”) may try a person subject to military law for an offence which is triable by Court-martial and impose for such an offence the punishment authorised by this Act for that offence.

Trial by, and powers of, ordinary Court-martial.

93. Where an officer commanding a body of troops on active service—

Trial by, and powers of field Court-martial.

- (a) being an officer to whom under section 88(1) a charge has been submitted for determining how it is to be dealt with; or
- (b) being the accused’s commanding officer or the appropriate superior authority who has investigated a charge on which the accused has elected to be tried by Court-martial,

is of opinion that it is not possible without serious detriment to the public service that the charge should be tried by an ordinary Court-martial, he may (whether or not he is authorised to convene ordinary Courts-martial) direct that the charge shall be tried by a field Court-martial.

Officers having powers to convene Courts-martial. [32 of 1979].

94. (1) The Chief of Defence Staff or an officer authorised by the Council to convene ordinary Courts-martial may convene an ordinary Court-martial.

(2) The officer who directs that a charge be tried by field Court-martial may convene a field Court-martial.

(3) The Council when it issues an authorisation under subsection (1) to convene ordinary Courts-martial, may—

- (a) make such authorisation subject to restrictions, reservations, exceptions or conditions;
- (b) address such authorisation to officers by name or by designation of their offices, and may cause it to be issued or given to a named or designated officer, and to the person for the time being performing the duties of his office, to a named or designated officer and his successors in that office or to a named or designated officer and such person and his successors;
- (c) vary or revoke such authorisation either wholly or in part.

Constitution of ordinary Courts-martial. [35 of 1970].

95. (1) An ordinary Court-martial shall consist of the president and not less than two other officers; but where—

- (a) an officer is to be tried; or
- (b) the only punishment or the maximum punishment which can be imposed in respect of a charge before the Court is death,

an ordinary Court-martial shall consist of five members.

(2) Subject as is hereinafter provided, an officer shall not be appointed a member of an ordinary Court-martial unless he belongs to the Force, is subject to service law and has been an officer in any of the armed forces of the State for a period of not less than two years or for periods amounting in the aggregate to not less than two years.

(3) Not less than two of the members of an ordinary Court-martial shall be of a rank not below that of captain or corresponding rank.

(4) The president of an ordinary Court-martial shall be appointed by order of the convening officer and shall not be under the rank of field officer unless in the opinion of the convening officer a field officer having suitable qualifications is not, with due regard to the public service, available; and in any event the president of an ordinary Court-martial shall not be under the rank of a captain or corresponding rank.

(5) The members of an ordinary Court-martial, other than the president, shall be appointed by order of the convening officer or in such other manner as may be prescribed.

(6) An officer under the rank of captain or corresponding rank shall not be a member of an ordinary Court-martial for the trial of an officer above that rank.

96. (1) A field Court-martial shall consist of the president and not less than two other officers or, if the convening officer is of opinion that three officers having suitable qualifications are not available without serious detriment to the public service, shall consist of the president and one other officer.

Constitution of field Courts-martial.

(2) Subject to subsections (3) and (4), the members of a field Court-martial shall be persons belonging to the Force and subject to service law.

(3) The president of a field Court-martial shall be an officer appointed by the convening officer and shall not be under the rank of captain.

(4) The members of a field Court-martial, other than the president, shall be appointed by order of the convening officer or in such other manner as may be prescribed.

97. (1) The officer who convenes a Court-martial shall not be a member of that Court-martial but if in the case of a field Court-martial it is not practicable in the opinion of the convening officer to appoint another officer as president, he may himself be president of the Court-martial.

Supplementary provisions as to constitution of Courts-martial. [35 of 1970].

(2) An officer, who at any time between the date on which the accused was charged with the offence and the date of the trial,

has been the commanding officer of the accused, and any other officer who has investigated the charge against the accused, or who under service law has held, or has acted as one of the persons holding, an inquiry into matters relating to the subject matter of the charge against the accused, shall not sit as a member of an ordinary Court-martial or act as judge advocate at such a Court-martial.

(3) Notwithstanding any rule of law to the contrary, if any Court-martial is required to be convened in any circumstance in which, in the opinion of the convening officer, the necessary number of military officers having the requisite qualifications is not available to form the Court and cannot be made available with due regard to the public service and the interests of justice, the convening officer may appoint any person, as defined in subsection (4), as president in lieu of a military officer or as any other member of the Court in lieu of or in addition to a military officer or military officers. However, where an officer in a Commonwealth force is appointed as president or any other member of the Court he shall not be qualified to act in relation to the Court-martial unless—

- (a) he is of corresponding rank to that which would have been required in the case of a military officer; and
- (b) he has been an officer for the like period or periods as would have been so required.

(4) Where—

- (a) the officer convening an ordinary Court-martial appoints a captain or corresponding rank to be president being of opinion that a field officer having suitable qualifications is not with due regard to the public service available; or
- (b) the officer convening any Court-martial appoints a person as defined in subsection (5), as president or any other member of the Court, being of opinion that the necessary number of military officers having suitable qualifications is not available to form the Court and cannot be made available with due regard to the public service,

the order convening the Court-martial shall contain a statement of such opinion, and that statement shall be conclusive for all intents and purposes.

(5) In this section the expression “military officer” means any officer belonging to the Force and subject to service law, and “person” includes an officer of a Commonwealth force.

98. (1) Subject to this section, a Court-martial shall sit at such place as may be specified in the order convening the Court; but the convening officer may convene it to sit at a place outside the limits of his command.

Place for sitting of Courts-martial and adjournment to other places.

(2) A Court-martial sitting at any place shall, if the convening officer directs, sit at some other place, and may without any such direction, if it appears to the Court requisite in the interests of justice to sit at some other place, adjourn for the purpose of sitting at that other place.

COURTS-MARTIAL: PROVISIONS RELATING TO TRIAL

99. (1) An accused about to be tried by any Court-martial is entitled to object, on any reasonable grounds, to any member of the Court, whether appointed originally or in lieu of another member.

Challenges by accused.

(2) For the purpose of enabling the accused to avail himself of the right conferred by subsection (1), the names of the members of the Court shall be read over in the presence of the accused before they are sworn, and he shall be asked whether he objects to any of those officers.

(3) Every objection made by an accused to any officer shall be considered by the other officers appointed members of the Court.

(4) If objection is made to the president and not less than one-third of the other members of the Court allow it, the Court shall adjourn and the convening officer shall appoint another president.

(5) If objection is made to a member of the Court other than the president and not less than one-half of the members entitled to vote allow it, the member objected to shall retire and the vacancy

may, and if otherwise the number of members would be reduced below the legal minimum shall, be filled in the prescribed manner by another officer.

Administration
of oaths.

100. (1) Subject to section 109, an oath shall be administered to every member of a Court-martial and to any person in attendance on a Court-martial as judge advocate, officer under instruction, shorthand writer or interpreter.

(2) Subject to section 109, every witness before a Court-martial shall be examined on oath but where any child of tender years called as a witness does not in the opinion of the Court understand the nature of an oath, his evidence may be received, though not given upon oath, if in the opinion of the Court he is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth; but where the evidence is given on behalf of the prosecution, the accused shall not be liable to be convicted upon such evidence alone unless it is corroborated by some other material evidence in support thereof implicating the accused.

(3) An oath required to be administered under this section shall be in the prescribed form and shall be administered at the prescribed time by the prescribed person and in the prescribed manner.

Courts-martial
to sit in open
Court.

101. (1) Subject to this section, a Court-martial shall sit in open Court and in the presence of the accused.

(2) Nothing in subsection (1) shall affect the power of a Court-martial to sit *in camera* on the ground that it is necessary or expedient in the interests of the administration of justice to do so; and without prejudice to that power, a Court-martial may order that, subject to any exceptions the Court may specify, the public shall be excluded from all or any part of the proceedings of the Court if it appears to the Court that any evidence to be given or statement to be made in the course of the proceedings or that part, as the case may be, might otherwise lead to the disclosure of any information which would or might be directly or indirectly useful to an enemy.

(3) A Court-martial shall sit in closed Court while deliberating on their finding or sentence on any charge.

(4) A Court-martial may sit in closed Court on any other deliberation amongst the members.

(5) Where a Court-martial sits in closed Court no person shall be present except the members of the Court and such other persons as may be prescribed.

102. (1) Where, whether before or after the commencement of the trial, it appears to the convening officer necessary or expedient in the interests of the administration of justice that a Court-martial should be dissolved, the convening officer may by order dissolve the Court-martial.

Dissolution of
Courts-martial.

(2) Without prejudice to the generality of subsection (1), if after the commencement of the trial a Court-martial is, by reason of the death of one of the members or for any other reason, reduced below the legal minimum, it shall be dissolved.

(3) If after the commencement of the trial the president dies or is otherwise unable to attend and the Court is not reduced below the minimum number required by this Act, then—

- (a) if the senior member of the Court is of the rank of captain or corresponding rank or is of higher rank, the convening officer may appoint him president and the trial shall proceed accordingly;
- (b) if he is not of such rank or corresponding rank, the Court shall be dissolved.

(4) Without prejudice to the generality of subsection (1), if after the commencement of the trial it is represented to the convening officer that owing to the sickness or other incapacity of the accused it is impracticable having regard to all the circumstances to continue the trial within a reasonable time, the convening officer may dissolve the Court.

(5) Where a Court-martial is dissolved under this section, the accused may be tried by another Court-martial.

Decisions of
Courts-martial.

103. (1) Subject to this section, every question to be determined on a trial by Court-martial shall be determined by a majority of the votes of the members of the Court.

(2) In the case of an equality of votes on the finding, the Court shall acquit the accused.

(3) A finding of guilty where the only punishment which the Court can impose is death shall not have effect unless it is reached with the concurrence of all members of the Court; and where on such a finding being come to by a majority of the members there is no such concurrence, the Court shall be dissolved and the accused may be tried by another Court.

(4) A Court that finds an accused guilty and has power to sentence him either to death or to less punishment shall not pass sentence of death without the concurrence of all its members.

Finding and
sentence.

104. (1) Without prejudice to the provisions of section 102 the finding of a Court-martial on each charge shall be announced in open Court.

(2) Every finding of guilty shall be, and shall be announced as being, subject to confirmation.

(3) Every sentence of a Court-martial shall be announced in open Court, and a sentence of a Court-martial shall be, and shall be announced as being, subject to confirmation.

Power to
convict of
offence other
than that
charged.

105. (1) An accused charged before a Court-martial with an offence may, on failure of proof of the offence having been committed under circumstances involving a higher degree of punishment, be found guilty of the offence as having been committed under circumstances involving a less degree of punishment.

(2) An accused charged before a Court-martial with any offence may be found guilty of attempting to commit that offence.

(3) An accused charged before a Court-martial with attempting to commit an offence may be convicted on that charge notwithstanding that it is proved that he actually committed the offence.

(4) Where an accused is charged before a Court-martial under section 78 in respect of attempting to commit a civil offence, he may be convicted on that charge notwithstanding that it is proved that he actually committed the civil offence.

(5) Where an accused is charged before a Court-martial with an offence against section 78, and the corresponding civil offence is one in proceedings for which, if he had been tried by a civil Court, he might have been found guilty of another civil offence, then if the Court finds that he has committed that other civil offence, he may be convicted of an offence against section 78 in respect of the commission of that other civil offence.

(6) An accused charged before a Court-martial with an offence specified in the first column of the Second Schedule may be found guilty of an offence specified in relation thereto in the second column of that Schedule.

Second
Schedule.

106. (1) Subject to this Act, the rules of evidence to be observed in proceedings before Courts-martial shall be the same as those observed in civil Courts in Trinidad and Tobago, and no person shall be required in proceedings before a Court-martial to answer any question or to produce any document which he could not be required to answer or produce in similar proceedings before a civil Court in Trinidad and Tobago.

Rules of
evidence.

(2) Notwithstanding anything in subsection (1), a statutory declaration shall, in a trial by Court-martial, be admissible as evidence of the facts stated in the declaration in a case where, and to the extent which, oral evidence to the like effect would be admissible in that trial but a statutory declaration shall not be admitted in evidence in any such trial on behalf either of the prosecution or of the defence—

- (a) where the declaration is put forward on behalf of the prosecution, unless a copy of the declaration has, not less than seven days before the commencement of the trial, been served on the accused;

- (b) where the declaration is put forward on behalf of the defence, unless a copy of the declaration has, not less than seven days before the commencement of the trial or such shorter time as the Court-martial may allow, been served on the commanding officer of the accused;
- (c) in any case, if, not later than three days before the commencement of the trial or within such further time as the Court-martial may in special circumstances allow, the accused or, as the case may be, the commanding officer of the accused serves a notice in the prescribed form on the commanding officer or accused requiring that oral evidence shall be given in lieu of the declaration; or
- (d) in any case, if the Court-martial is of opinion that it is desirable in the interests of justice that oral evidence should be given in lieu of the declaration and declares that it is of that opinion.

(3) A Court-martial shall take judicial notice of all matters of notoriety, including all matters within the general service knowledge of the Court, and of all other matters of which judicial notice would be taken in a civil Court in Trinidad and Tobago.

Privilege of witnesses and others at Courts-martial.

107. A witness before a Court-martial or any other person whose duty it is to attend on or before the Court shall be entitled to the same immunities and privileges as a witness before the High Court.

Offences by civilians in relation to Courts-martial.

108. (1) Where any person other than a person subject to military law —

- (a) having been duly summoned to attend as a witness before a Court-martial, fails to comply with the summons;
- (b) refuses to swear an oath when duly required by a Court-martial to do so;
- (c) refuses to produce any document in his custody or under his control which a Court-martial has lawfully required him to produce;

- (d) when a witness, refuses to answer any question which a Court-martial has lawfully required him to answer;
- (e) wilfully insults any person, being a member of a Court-martial or a witness or any other person whose duty it is to attend on or before the Court, while that person is acting as a member thereof or is so attending, or wilfully insults any such person as mentioned above while that person is going to or returning from the proceedings of the Court;
- (f) wilfully interrupts the proceeding of a Court-martial or otherwise misbehaves before the Court; or
- (g) does any other thing which would, if the Court-martial had been a Court of law having power to commit for contempt, have been contempt of that Court,

the president of the Court-martial may certify the offence of that person under his hand to any Court being a Court having power to commit for contempt, and that Court may thereupon inquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in the same manner as if he had been guilty of contempt of the Court to which the offence is certified.

(2) In this section “Court-martial” means a Court-martial held under service law.

109. Where—

Affirmations.

- (a) a person required by this Act to take an oath for the purposes of proceedings before a Court-martial objects to being sworn, and states as the ground of his objection either that he has no religious belief or that the taking of an oath is contrary to his religious belief; or

L.R.O. 1/2006

- (b) it is not reasonably practicable to administer an oath to such a person as aforesaid in the manner appropriate to his religious belief,

he shall be required to make a solemn affirmation in the prescribed form instead of taking an oath.

**CONFIRMATION, REVISION AND REVIEW OF
PROCEEDINGS OF COURTS-MARTIAL**

Confirmation of proceedings of Courts-martial.

110. (1) A Court-martial that finds the accused guilty on any charge shall transmit the record of its proceedings to a confirming authority for confirmation of the finding and sentence of the Court on that charge.

(2) A finding of guilty or sentence of a Court-martial shall not be treated as a finding or sentence of the Court until confirmed; but this subsection does not affect the keeping of the accused in custody pending confirmation, or the operation of sections 111 and 112 or the provisions of this Act relating to confirmation or approval.

Petitions against finding or sentence.

111. At any time after a Court-martial has sentenced the accused, but not later than the prescribed time after confirmation is completed, the accused may in the prescribed manner present a petition against the finding or sentence or both.

Revision of findings of Courts-martial.

112. (1) A confirming authority may direct that a Court-martial shall revise any finding of guilty come to by the Court in any case where it appears to the authority—

- (a) that the finding was against the weight of evidence; or
- (b) that some question of law determined at the trial and relevant to the finding was wrongly determined.

(2) Any such direction shall be accompanied by the necessary directions for the re-assembly of the Court, and shall contain a statement of the reasons for the direction.

(3) On any revision of a finding the Court shall reconsider the finding, and (unless the Court adheres thereto) may substitute therefor either a finding of not guilty or any other finding to which the Court could originally have come at the trial in lieu of the finding under revision.

(4) On any such revision the Court shall not receive further evidence.

(5) Where, on any such revision, the Court either adheres to the original finding or substitutes therefor a finding of guilty of another offence, or of the same offence in different circumstances, the Court may substitute a different sentence for the original sentence; but the Court shall not substitute a sentence of a punishment greater than the punishment or the greatest of the punishments imposed by the original sentence, or substitute a sentence which in the opinion of the Court is more severe than the original sentence.

(6) The confirming authority shall not direct the revision of any substituted finding come to by the Court on previous direction of the confirming authority, or the revision of the original finding if adhered to by the Court on such a previous direction; but save as mentioned above this Act applies to the proceedings of the Court on any such revision as it applies to their deliberations on the original finding or sentence, and any substituted finding or sentence shall be treated for all purposes as an original finding or sentence of the Court but the decision of the Court on the revision is not required to be announced in open Court.

113. (1) Subject to section 112 and to this section, a confirming authority shall deal with the finding or sentence of a Court-martial by—

Powers of confirming authorities.

- (a) withholding confirmation, if of opinion that the finding of the Court is unreasonable or cannot be supported having regard to the evidence or involves a wrong decision on a question of law or that, on any ground, there was a miscarriage of justice;

- (b) confirming the finding or sentence; or
- (c) referring the finding or sentence, or both, for confirmation to a higher confirming authority.

(2) In lieu of withholding confirmation of the finding of a Court-martial, a confirming authority may, if—

- (a) some other finding of guilty could have been validly made by the Court-martial on the charge before it; and
- (b) he is of opinion that the Court-martial must have been satisfied of the facts necessary to justify that other finding,

substitute that other finding, and if he does so he shall consider in what manner, if at all, the powers conferred by subsection (4) may be exercised.

(3) Where it appears to a confirming authority that a sentence of a Court-martial is invalid, he may in lieu of withholding confirmation of the sentence substitute therefor a sentence of any punishment or punishments which could have been imposed by the Court, not being greater than the punishment or the greatest of the punishments imposed by the Court and not in his opinion more severe than that punishment or those punishments.

(4) In confirming the sentence of a Court-martial, the confirming authority may—

- (a) remit in whole or in part any punishment imposed by the Court; or
- (b) commute any such punishment for one or more punishment or punishments provided by this Act, being less than the punishment commuted.

(5) A finding or sentence substituted by the confirming authority, or any sentence having effect after the confirming authority has remitted or commuted punishment, shall be treated for all purposes as a finding or sentence of the Court duly confirmed.

(6) The confirmation of a finding or sentence shall not be deemed to be completed until the finding or sentence has

been promulgated; and in the event of a substitution, remission or commutation under this section, the finding or sentence shall be promulgated as it has effect after such substitution, remission or commutation.

(7) Where the confirming authority determines to withhold confirmation, the determination shall be promulgated and has effect as from the promulgation.

114. (1) Subject to this section, the following persons may confirm the finding and sentence of a Court-martial:

Confirming
authorities.
[32 of 1979].

- (a) the officer who convened the Court-martial or an officer superior in command to that officer;
- (b) the successor of such officer or superior officer, or a person for the time being exercising the functions of such officer or superior officer; or
- (c) failing any such officer, a person or persons appointed by the Council to act as confirming authority whether for the particular case or for a specified class of cases.

(2) The following shall not have power to confirm the finding or sentence of a Court-martial:

- (a) any officer who was a member of the Court-martial; or
- (b) any person who, as appropriate superior authority, investigated the allegations against the accused,

but a person excluded by this subsection may act as confirming authority for a field Court-martial, if otherwise having power to do so, where he is of opinion that it is not practicable, having due regard to the public service, to delay the case for the purpose of referring it to another confirming authority.

(3) An authorisation empowering the convening of an ordinary Court-martial may reserve for confirmation by superior authority findings or sentences or both in such circumstances as may be specified by or under the authorisation, and the powers conferred by subsection (1) are exercisable subject to any such reservation.

Approval
required for
death sentences.
[32 of 1979].

115. A sentence of death shall not be carried into effect unless it has been approved by the President acting on the recommendation of the Advisory Committee on the power of pardon.

Review of
findings and
sentences of
Courts-martial.

116. (1) A finding or sentence which has been confirmed shall be reviewed by the reviewing authority as soon as it is reasonably practicable to do so, and if after confirmation of a finding or sentence a petition is duly presented under section 111 against the finding or sentence, then, subject to this section, the finding or sentence, shall be reviewed as soon as may be after the presentation of the petition and after consideration of the matters alleged therein.

(2) The reviewing authority for the purposes of this Act is such officer as the President may from time to time appoint.

(3) If an application for leave to appeal is received by the Registrar of the Supreme Court under Part VI so much of subsection (1) as requires the review of a finding or sentence against which a petition has been presented, shall thereupon cease to apply to the finding to which the application for leave to appeal relates and the sentence passed in consequence of that finding.

(4) On a review under this section, the reviewing authority may—

- (a) in so far as the review is of a finding, quash the finding and, if the sentences relate only to the finding quashed, the sentence;
- (b) in so far as the review is of a sentence, quash the sentence; or
- (c) in any case, exercise the same powers of substituting findings, substituting valid for invalid sentences and remitting or commuting punishment as are conferred on a confirming authority by section 113(2), (3) and (4),

and any substituted finding or sentence, or sentence having effect after the remission or commutation of punishment, shall be treated for all purposes as sentence of the Court duly confirmed.

(5) Where a reviewing authority exercises any of the powers conferred by subsection (4), the determination of the authority shall be promulgated and shall have effect as from the promulgation.

117. (1) The Council may from time to time reconsider sentences of imprisonment and of detention; and if on any such reconsideration it appears that the conduct of the offender since his conviction has been such as to justify a remission of the sentence imposed upon him, the Council may, in part or in whole, remit the sentence accordingly.

Reconsideration of sentences of imprisonment and detention. [32 of 1979].

(2) The Council—

- (a) may reconsider a sentence at any time after it has been confirmed; and
- (b) shall at intervals of six months reconsider a sentence that has been reviewed and remains effective.

(3) A delay in complying with requirements of subsection (2)(b) does not invalidate a sentence of imprisonment or detention.

REVIEW OF SUMMARY FINDINGS AND SENTENCES

118. (1) Where a charge has been dealt with summarily, otherwise than by dismissal, the reviewing authority may at any time review the finding or sentence.

Review of summary findings and sentences.

(2) The reviewing authority may, where on a review under this section he is of the opinion that it is expedient to do so by reason of any mistake of law in the proceedings on the summary dealing with the charge or of anything occurring in those proceedings which involved substantial injustice to the accused, quash the finding; and if the authority quashes the finding, he shall also quash the sentence.

(3) Where on a review under this section the reviewing authority is of the opinion that a punishment imposed was invalid, or too severe, or (where the sentence included two or more punishments) that those punishments or some of them could not

validly have been imposed in combination or are, taken together, too severe, the reviewing authority may vary the sentence by substituting such punishment or punishments as he may think proper, being a punishment or punishments which could have been included in the original sentence and not being in the opinion of the reviewing authority more severe than the punishment or punishments included in the original sentence.

FINDINGS OF INSANITY, ETC.

Provisions
where accused
found insane.

119. (1) Where, on the trial of a person by Court-martial, it appears to the Court that the accused is by reason of insanity unfit to stand his trial, the Court shall so find; and if the finding is confirmed in accordance with this section, the accused shall be kept in custody in such manner as may be provided by or under Rules until the directions of the President are known or until any earlier time at which the accused is fit to stand his trial.

(2) Where, on the trial of a person by Court-martial, it appears to the Court that the evidence is such as, apart from any question of insanity, to support a finding that the accused was guilty of any offence, but that at the time of the acts constituting that offence the accused was insane, the Court shall find that the accused was guilty of that offence but was insane at the time, and thereupon the accused shall be kept in custody in such manner as may be provided by or under Rules until the directions of the President are known.

(3) In the case of any such finding as mentioned above the President may give orders for the safe custody of the accused during his pleasure in such place and in such manner as the President thinks fit.

(4) A finding under subsection (1) shall not have effect until the finding has been confirmed by an authority who would have had power to confirm a finding of guilty come to by the Court-martial in question and has been promulgated.

(5) Where the Court or the confirming authority comes to or substitutes a finding of guilty but insane, the confirming authority or, as the case may be, the reviewing authority shall not

substitute for that finding a finding of guilty; but save as mentioned above the provisions of this Act as to revision, confirmation and review (and in particular the provisions of this Act which confer power to substitute for any finding any other finding which could have been come to by the Court-martial in question) apply in relation to such findings as are provided for by subsection (2) as those provisions apply in relation to other findings of guilty.

COMMENCEMENT, SUSPENSION AND DURATION OF SENTENCES

120. A military sentence of imprisonment or detention or a sentence of field punishment shall, subject to section 144, begin to run from the beginning of the day on which sentence was originally pronounced by the Court-martial trying the offender or, as the case may be, was originally imposed by his commanding officer.

Commencement of sentences.

121. (1) Where any person serving a military sentence of imprisonment or detention becomes unlawfully at large during the currency of the sentence, then, in calculating the period for which he is liable to be imprisoned in pursuance of the sentence, no account shall be taken of time elapsing during the period beginning with the day on which he became at large and ending with the day on which, as a person having become unlawfully at large, he is taken into military custody or the custody of a civil authority or, not having been taken into such custody, he returns to the place in which he was imprisoned or detained before he became unlawfully at large; but if he satisfies such authority as may be specified for that purpose by Imprisonment and Detention Rules that at any time during the last-mentioned period he was—

Duration of sentences of imprisonment or detention.

- (a) in the custody of a civil authority; or
- (b) if and in so far as Imprisonment and Detention Rules so provide, in the custody of any military authority of any country or territory outside Trinidad and Tobago as respects which arrangements have been made under section 124,

otherwise than an account of an offence committed by him while unlawfully at large, the last-mentioned time shall not be disregarded in calculating the period for which he is liable to be imprisoned or detained in pursuance of the military sentence.

(2) In subsection (1), the expression “civil authority” means a civil authority authorised by law to detain persons, and includes a constable.

(3) Without prejudice to subsection (1), where any person serving a military sentence of imprisonment or detention has in accordance with Imprisonment and Detention Rules been temporarily released on compassionate grounds, then, in calculating the period for which he is liable to be imprisoned or detained in pursuance of the sentence, no account shall be taken of time elapsing during the period beginning with the day after that on which he is released and ending with the day on which he is required to return to custody.

(4) A person who for any period is released as mentioned in subsection (3) or who is otherwise allowed in pursuance of Imprisonment and Detention Rules, out of military custody for any period or subject to any condition shall, on failure to return at the expiration of the period or to comply with the condition, be treated for the purposes of subsection (1) as being unlawfully at large.

(5) A person serving a military sentence of imprisonment or detention in civil custody who, after being temporarily released under civil law, is at large at any time during the period for which he is liable to be detained in civil custody in pursuance of his sentence shall be deemed to be unlawfully at large if the period for which he was temporarily released has expired or if an order recalling him has been made in pursuance of civil law.

Restrictions on serving of sentences of detention in prisons.

122. A person shall not be required to serve any part of a military sentence of detention in a military or civil prison; but in such cases and subject to such conditions as may be specified by or under Imprisonment and Detention Rules, a person serving such a sentence may be temporarily detained in a military or civil prison for any period not exceeding seven days.

123. A person sentenced to death or imprisonment and committed or transferred to a civil prison in pursuance of rules made under this Part or of Imprisonment and Detention Rules shall, while in that prison, be confined and otherwise dealt with in the same manner as a person confined therein under a like sentence of a civil Court.

Special provisions as to civil prisons in Trinidad and Tobago.

124. The President may from time to time make arrangements with the authorities of any country outside Trinidad and Tobago whereby sentences of death passed by Courts-martial may in accordance with rules made under this Part be carried out in establishments under the control of those authorities and military sentences of imprisonment or detention may in accordance with Imprisonment and Detention Rules be served wholly or partly in such establishments.

Special provisions as to carrying out or serving of sentences outside Trinidad and Tobago.

125. (1) Subject to this section, a person sentenced under this Act, by a Court-martial held out of Trinidad and Tobago, to imprisonment or detention for more than twelve months shall as soon as practicable after the confirmation of the sentence is completed be removed to Trinidad and Tobago.

Country in which sentence of imprisonment or detention to be served.

(2) Where a person has been sentenced under this Act by a Court-martial held out of Trinidad and Tobago, to imprisonment or detention for more than twelve months, the confirming or reviewing authority may, notwithstanding anything in subsection (1), direct that he shall not be required to be removed to Trinidad and Tobago until he has served such part of his sentence, not exceeding (in the case of a sentence of more than two years imprisonment) two years, as may be specified in the direction; and in determining whether or not to exercise the powers conferred by this subsection, a confirming or reviewing authority shall have regard to any recommendation in that behalf made by the Court-martial.

(3) Any direction of a confirming authority under this section may at any time be revoked by the confirming authority or by a reviewing authority, or superseded by any direction of a confirming authority or a reviewing authority which the authority

could have given under subsection (2); and any direction of a reviewing authority under this section may at any time be revoked by a reviewing authority or superseded as mentioned above.

(4) Any direction given under this section, and the revocation of any such direction, shall be promulgated.

(5) In ascertaining at any time for the purposes of this section the nature or length of a sentence, regard shall be had to any commutation or remission of the sentence previously directed.

Duties of officers in charge of prisons and others to receive prisoners.

126. (1) The superintendent or other person in charge of a prison (not being a military prison) shall, in so far as rules made under this Part or Imprisonment and Detention Rules so provide, receive any person duly sent to that prison in pursuance of such rules and confine him until execution of the sentence is completed or the prisoner is discharged or delivered over in due course of law.

(2) Where a person is in military custody in pursuance of a military sentence of imprisonment or detention, then on receipt of a written order in that behalf purporting to be signed by that person's commanding officer, the superintendent or other person described in subsection (1), the police officer in charge of a police station or the person in charge of any other place in which prisoners may be lawfully confined, shall keep that person in custody for a period not exceeding seven days unless the person is earlier discharged or delivered over in due course of law.

TRIAL OF PERSONS CEASING TO BE SUBJECT TO MILITARY LAW UNDER THE ACT AND TIME LIMITED FOR TRIALS

Trial and punishment of offences under this Act where the offender ceases to be subject thereto.

127. (1) Subject to section 128, where an offence triable by Court-martial has been committed, or is reasonably suspected of having been committed, by any person while subject to military law, then in relation to that offence he shall be treated, for the purposes of the provisions of this Act relating to arrest, keeping in custody, investigations of charges, trial and punishment by Court-martial (including confirmation, review, and reconsideration) and execution of sentences as continuing subject to military law notwithstanding his ceasing at any time to be subject thereto.

(2) Where, while a person is in military custody by virtue of this section (whether before, during or after trial) he commits, or is reasonably suspected of having committed, an offence which if he were subject to military law would be an offence triable by Court-martial, then in relation to that offence or suspected offence he shall be treated, for the purposes of this Act mentioned in subsection (1) and the provisions thereof as to the summary dealing with charges, as having been subject to military law when the offence was committed or is suspected of having been committed and as continuing subject to military law thereafter.

(3) Where by virtue of either subsection (1) or subsection (2) a person is treated as being at any time subject to military law for the purpose of any provision of this Act, that provision applies to him—

- (a) if he holds any military rank, as to a person having that rank;
- (b) otherwise as to a person having the rank which he had when last actually subject to military law,

but any time after he has been sentenced and the sentence has been confirmed that provision applies to him as to an other rank.

(4) Where under subsection (3) a provision of this Act other than this subsection applies to a person, in relation to different offences, as to a person having different ranks, it applies to him as to a person having the lower or lowest of those ranks.

128. (1) No person shall be tried by Court-martial for any offence, other than one against section 41 or 42 or desertion, unless the trial is begun within three years after the commission of the offence, there being disregarded any time during which he was a prisoner of war and any time during which he was illegally absent; but in the case of an offence against section 78, where proceedings for the corresponding civil offence is required by any law to be brought within a limited time, that limit of time shall apply to the trial of the offence under the said section 78 in substitution for the foregoing provisions of this subsection.

Limitation of
time for trial of
offences under
this Act.

(2) Where a person who has committed an offence of desertion, other than desertion on active service, has since the offence served as a member of the Force continuously in an exemplary manner for not less than three years, he shall not be tried for that offence.

(3) A person shall not be triable by virtue of section 127(1) unless his trial is begun within three months after he ceases to be subject to military law; but this subsection shall not apply to an offence against section 41 or 42 or to the offence of desertion.

(4) A person shall not be arrested, or kept in custody by virtue of section 127(1) for an offence at any time after he has ceased to be triable for the offence.

RELATIONS BETWEEN MILITARY AND CIVIL COURTS AND FINALITY OF TRIALS

Powers of civil
Courts.

129. (1) Save as provided in section 153, nothing in this Act restricts the offences for which persons may be tried by any civil Court, or the jurisdiction of any civil Court to try a person subject to military law under this Act for any offence.

(2) Where a person is tried by a civil Court for any offence, and he has previously been sentenced by Court-martial held under service law to punishment for any act constituting (whether wholly or in part) that offence, or in pursuance of this Act he has been punished for any such act by his commanding officer or an appropriate superior authority, the civil Court shall, in awarding punishment, have regard to his punishment in pursuance of this Act.

Persons not to
be tried under
this Act for
offences already
disposed of.

130. (1) Where a person subject to military law under this Act—

- (a) has been tried for an offence by a civil Court or a Court-martial under service law, or has had an offence committed by him taken into consideration by any such Court in sentencing him;
- (b) has been charged with an offence under service law, and has had the charge dismissed, or has been found guilty on the charge by his commanding officer or an appropriate superior authority; or

- (c) has had an offence condoned by his commanding officer,

he is not liable in respect of that offence to be tried by Court-martial or to have the case dealt with summarily by his commanding officer or the appropriate superior authority.

- (2) For the purposes of this section—

- (a) a person shall not be deemed to have been tried by a Court-martial if confirmation is withheld of a finding by the Court-martial that he is guilty of the offence;
- (b) a person shall not be deemed to have had an offence taken into consideration by a Court-martial in sentencing him if confirmation of the sentence of the Court-martial is withheld or the sentence is quashed;
- (c) a case shall be deemed to have been dealt with summarily by the commanding officer or an appropriate superior authority notwithstanding that on the review thereof the finding of that officer or authority has been quashed, or the sentence of that officer or authority quashed or varied;
- (d) an offence shall be deemed to have been condoned by the commanding officer of a person alleged to have committed the offence if, and only if, that officer or any officer authorised by him to act in relation to the alleged offence has with knowledge of all relevant circumstances informed him that he will not be charged therewith;
- (e) a person ordered under section 66(2) or the corresponding provisions of any service law, to be imprisoned or to undergo detention for an offence against that section or provision shall be deemed to have been tried by Court-martial for the offence.

(3) Where confirmation of a finding of guilty of an offence is withheld, the accused shall not be tried again by Court-martial for that offence unless the order convening the later Court-martial is issued not later than twenty-eight days after the promulgation of the decision to withhold confirmation.

(4) Subject to this section, proceedings for an offence against this Act (whether before a commanding officer or appropriate superior authority or before a Court-martial) shall not be barred on the ground of condonation.

INQUIRIES

Boards of
inquiry.
[32 of 1979].

131. (1) Subject to and in accordance with the provisions of rules made under this Part (herein referred to as “Board of Inquiry Rules”), the Council or any officer empowered by or under such rules to do so may convene a board of inquiry to investigate and report on the facts relating to—

- (a) the absence of any person subject to military law under this Act;
- (b) the capture of any such person by the enemy;
- (c) the death of any person where an inquiry into the death is not required to be held by any civil authority; or
- (d) any other matter of a class specified in such rules or referred to such a board by the Minister or any such officer,

and a board of inquiry shall, if directed to do so, express their opinion on any question arising out of any matters referred to the board.

(2) A board of inquiry shall consist of such number of persons as may be provided for by Board of Inquiry Rules, who shall be persons subject to service law and the president of a board of inquiry shall be an officer not below the rank of lieutenant or corresponding rank.

(3) Evidence given before a board of inquiry is not admissible against any person in proceedings before a Court-martial,

commanding officer or appropriate superior authority other than proceedings for an offence against section 67 or 68 when the corresponding civil offence is perjury.

132. (1) Where a board of inquiry inquiring into the absence of an officer or other rank reports that he has been absent without leave or other sufficient cause for a period specified in the report, not being less than twenty-one days, a record of the report shall in accordance with Board of Inquiry Rules be entered in the service books.

Inquiries into absence.
[32 of 1979].

(2) A record entered in pursuance of subsection (1) shall, unless the absentee subsequently surrenders or is arrested or the report of the board of inquiry is annulled by the Council, or a subsequent board of inquiry, have the same effect as a conviction by Court-martial for desertion.

MISCELLANEOUS PROVISIONS

133. (1) This section has effect where a person has been convicted by Court-martial of unlawfully obtaining any property, whether by stealing it or receiving it knowing or having reason to believe it to have been stolen, fraudulently misapplying it or otherwise.

Restitution or compensation for theft, etc.

(2) Where any of the property unlawfully obtained has been found in the possession of the offender, it may be ordered to be delivered or paid to the person appearing to be the owner thereof.

(3) Where there has been found in the possession of the offender any property (other than money) appearing to have been obtained by him by the conversion or exchange of any of the property unlawfully obtained, the property may be ordered to be delivered to the person appearing to be the owner of the property unlawfully obtained.

(4) Where money is found in the possession of the offender, then whether or not it appears to have been obtained as mentioned above, an order may be made that there shall be paid out of that money to the person appearing to be the owner of the property unlawfully obtained such sum as may be specified in the

order as or towards compensation for the loss caused to the said person by the offence, in so far as not otherwise made good under this Act or by the recovery of the property unlawfully obtained.

(5) Where any of the property unlawfully obtained has been sold or given in pawn to some other person who did not then know it to have been unlawfully obtained, an order may be made that, subject to the restitution to the owner of the property sold or given as mentioned above, there shall be paid to the said other person, out of any money found in the possession of the offender (whether or not the money appears to be proceeds of the sale or giving in pawn), such sum as may be specified in the order as or towards compensation for the loss caused to him in consequence of the sale or giving in pawn.

(6) Where any of the property unlawfully obtained has been given in exchange to some other person who did not then know it to have been unlawfully obtained, an order may be made that, subject to the restitution to the owner of the property given as mentioned above, there shall be restored to the said other person the property taken in exchange for the property unlawfully obtained.

(7) An order under this section may be made by the Court-martial by whom the offender is convicted, by the confirming or by any reviewing authority; and in this section the expression “appearing” means appearing to the Court, officer or authority making the order.

(8) An order under this section made by a Court-martial shall not have effect until confirmed by the confirming authority; and the provisions of this Part as to the confirmation and review of the proceedings of Courts-martial apply to an order under this section as they apply to a sentence.

(9) The operation of any order under this section shall be suspended—

- (a) in any case, until the expiration of the period prescribed under Part VI as the period within which an application for leave to appeal to the Court of Appeal against the conviction shall be lodged; and

- (b) if such an application is duly lodged, until either the application is finally refused or is withdrawn or the appeal is determined or abandoned,

and where the operation of such order is suspended under this section—

- (c) it shall not take effect if the conviction is quashed on appeal;
- (d) the Court of Appeal may by order annul or vary the order although the conviction is not quashed;
- (e) such steps shall be taken for the safe custody, during the period which the operation of the order is suspended, of the property ordered to be restored or handed over or the money to which the order relates as may be provided by Rules of Court made under Part VI.

(10) Notwithstanding anything contained in subsection (9), an order under this section shall not, so far as it relates to the delivery of property to the person appearing to be the owner thereof, be suspended if the Court or authority making the order directs to the contrary in any case in which, in the opinion of the Court or authority, the title to the property is not in dispute.

(11) An order under this section shall not bar the right of any person, other than the offender or a person claiming through him, to recover any property delivered or paid in pursuance of such an order from the person to whom it is delivered or paid.

134. The appointment of a judge advocate to act at any Court-martial may be made by the President or by the convening officer.

Appointment of
judge advocate.

135. Any finding, sentence, determination or other thing required by this Act to be promulgated shall be promulgated either by being communicated to the accused or in such other manner as may be specified by Regulations or as the confirming authority or reviewing authority, as the case may be, may direct.

Promulgation.

Custody of proceedings of Court-martial and right of accused to a copy thereof. [32 of 1979].

136. (1) The record of the proceedings of a Court-martial shall be kept in the custody of the Chief of Defence Staff for not less than the prescribed period, being a period sufficient to ensure that the rights conferred by subsection (2) and subsection (3) are capable of being exercised.

(2) Subject to this section, a person tried by a Court-martial is entitled to obtain from the Chief of Defence Staff on demand at any time within the relevant period and on payment therefor at such rate as may be prescribed a copy of the record of the proceedings of the Court.

(3) Where a person tried by Court-martial dies within the relevant period, his personal representatives or any person who in the opinion of the Chief of Defence Staff ought to be treated for the purposes of this subsection as his personal representative are, subject to this section, entitled to obtain from the Chief of Defence Staff on demand at any time within the period of twelve months from the death and on payment therefor at the prescribed rate a copy of the record of the proceedings of the Court.

(4) If, on an application in pursuance of either subsection (2) or subsection (3) for a copy of the record of any proceedings, the Minister certifies that for reasons of security that the proceedings or any part thereof should not be disclosed, the applicant shall not be entitled to a copy of the proceedings or part to which the certificate relates.

(5) In this section, the expression “the relevant period”, in relation to any person tried by Court-martial, means the period of five years beginning with the date of his acquittal or, where he was convicted, of the promulgation of the findings and sentence or, where a finding of guilty was not confirmed, of the promulgation of the withholding of confirmation; but where the proceedings relate to two or more charges and the person tried was acquitted on one or more of the charges and convicted on another or others, the relevant period shall be the period of five years beginning with the date of the promulgation of the finding or findings of guilty and the sentence thereon or of the withholding of confirmation of that finding or those findings.

(6) Any reference in this section to the record of the proceedings of a Court-martial includes a reference to the record of the proceedings with respect to the confirmation or revision of the findings and sentence of the Court-martial.

137. No action lies in respect of anything done by any person in pursuance of a military sentence of imprisonment or detention if the doing thereof would have been lawful but for a defect in any warrant or other instrument made for the purposes of that sentence.

Indemnity for
prison officers,
etc.

INTERPRETATION

138. (1) In this Part—

Interpretation of
Part IV.

(a) “civil prison” means a prison in Trinidad and Tobago in which a person sentenced by a civil Court to imprisonment can for the time being be confined;

(b) “convening officer”, in relation to a Court-martial, means the officer convening that Court-martial and includes his successor or any person for the time being exercising his or his successor’s functions;

(c) “military establishment” means a military prison or any other establishment under the control of the Minister where persons may be required to serve military sentences of imprisonment or detention, or a military establishment as defined in section 143 of the Army Act 1955 of the United Kingdom;

3 & 4 Eliz. 2
c. 18.

(d) “military prison” means separate premises designated by the Minister for persons serving military sentences of imprisonment;

(e) “prescribed” means prescribed by Rules of Procedure;

(f) “prison” means a civil prison or a military prison.

(2) References in this Part to a military sentence of imprisonment are references to a sentence of imprisonment passed by a Court-martial.

(3) References in this Part to a military sentence of detention are references to a sentence of detention passed by a Court-martial or awarded by the offender's commanding officer.

(4) References in this Part to warrant officers do not include references to acting warrant officers.

(5) References in this Part to non-commissioned officers include references to acting non-commissioned officers and also to acting warrant officers.

Rules of
Procedure.

139. (1) Subject to this section, the Minister may make Rules (herein referred to as Rules of Procedure) with respect to the investigation and trial of, and awarding of, punishment for offences cognisable by Court-martial, commanding officers and appropriate superior authorities and with respect to the confirmation and revision of findings and sentences of Courts-martial.

(2) Without prejudice to the generality of subsection (1), Rules of Procedure may make provision with respect to all or any of the following matters:

- (a) the procedure to be observed in the bringing of charges before commanding officers and appropriate superior authorities;
- (b) the manner in which charges so brought are to be investigated, and the taking of evidence (whether orally or in writing, whether or not on oath and whether in full or in summary or abstract form) for the purpose of investigating or dealing summarily with such charges or otherwise as a preliminary to the trial thereof by Court-martial, provided that the Rules make provision for the application of section 100 in any case where the accused requires that evidence shall be taken on oath;
- (c) the addition to, or substitution for, a charge which has been investigated of a new charge for an offence disclosed by evidence taken on the investigation and the treating of the investigation as the investigation of the new charge;

- (d) the convening and constitution of Courts-martial;
- (e) the sittings, adjournment and dissolution of Courts-martial;
- (f) the procedure to be observed in trials by Court-martial;
- (g) the representation of the accused at such trials;
- (h) procuring the attendance of witnesses before Courts-martial and at the taking of evidence in pursuance of rules made under paragraph (b);
- (i) applying in relation to proceedings before commanding officers and appropriate superior authorities and otherwise in relation to proceedings prior to trial by Court-martial all or any of the provisions of sections 106, 107, 108 and 109;
- (j) empowering a Court-martial or the convening officer, in such cases and to such extent as may be prescribed, to amend a charge which is being tried by the Court;
- (k) empowering a Court-martial, where the particulars proved or admitted at the trial differ from those alleged in the charge, but are sufficient to support a finding of guilty of the like offence as that charged, to make a finding of guilty subject to exceptions or variations specified in the finding if it appears to the Court that the difference is not so material as to have prejudiced the accused in his defence;
- (l) the forms of orders and other documents to be made for the purposes of this Part or the rules relating to the investigation or trial of, or award of punishment for, offences cognisable by Courts-martial, commanding officers or appropriate superior authorities or to the confirmation and revision of the findings and sentences of Courts-martial.

(3) Rules made by virtue of subsection (2)(j) shall secure that the power to amend charges shall not be exercisable in circumstances substantially different from those in which indictments are amendable by a civil Court in Trinidad and Tobago, or otherwise than subject to the like conditions, as nearly as circumstances admit, as those subject to which indictments are so amendable, and shall not be exercisable by a Court-martial (otherwise than for the purpose only of correcting a mistake in the name or description of the accused or a clerical error or omission) unless there is a judge advocate present at the trial.

(4) Rules of Procedure may make provision as to the exercise by a judge advocate of his functions at a trial by Court-martial, and without prejudice to the generality of the foregoing provisions, may make provision—

- (a) as to the effect of advice or rulings given to the Court by a judge advocate on questions of law;
- (b) for requiring or authorising the president of a Court-martial, in such cases as may be specified in the Rules, to direct that questions of law shall be determined by a judge advocate in the absence of the president and other members of the Court and any officers under instruction, and for applying to the judge advocate and his proceedings on any such determination such of the provisions of this Act relating to the Court or its members and the proceedings thereof as may be specified in the Rules.

(5) In subsection (4) references to questions of law include references to questions of joinder of charges and as to the trial of persons jointly or separately.

(6) Rules of Procedure may make provision for determining the cases in which and the extent to which Courts-martial may, in sentencing an accused for any offence of which he is convicted, at the request of the accused take into consideration other offences against this Act committed by him.

(7) Where Rules of Procedure make provision for the matter mentioned in subsection (6), they may also make provision for conferring on the Court taking one or more offences into consideration, the power to direct the making of such deductions from the offender's pay as the Court would have had power to direct if he had been found guilty of the offence or offences taken into consideration as well as of the offence of which he was in fact found guilty.

(8) Until such time as Rules of Procedure are made under this section, the matters with respect to which such Rules may be made shall be governed, with such modifications as shall be necessary for the purpose, by the Rules of Procedure made under sections 103, 104 and 105 of the Army Act 1955 of the United Kingdom.

3 & 4 Eliz. 2
c. 18.

140. (1) The Minister may make Rules (herein referred to as "Imprisonment and Detention Rules") with respect to all or any of the following matters:

Imprisonment
and Detention
Rules.

- (a) the places in which and the establishments or forms of custody (whether military or not) in which persons may be required to serve the whole or any part of military sentences of imprisonment and detention passed on them;
- (b) the committal of persons under military sentences of imprisonment or detention to the appropriate establishment or form of custody, their removal from one establishment or form of custody to another and their release on the coming to an end of any term of imprisonment or detention;
- (c) the provision, classification, regulation and management of military establishments;
- (d) the classification, treatment, employment, discipline and control of persons serving military sentences of imprisonment or detention in military establishments or otherwise in military custody;

- (e) the temporary release on compassionate grounds of persons serving such sentences in such establishments or custody as mentioned above, the cases in which, periods for which and conditions subject to which they may be allowed out of any such establishment or custody and the remission of part of any such sentence for good conduct and industry;
- (f) the appointment, powers and duties of inspectors, visitors and governors, and of officers and other members of the staff, of military establishments.

(2) Until such time as Imprisonment and Detention Rules are made under this section, the matters with respect to which such rules may be made shall be governed, with such modifications as shall be necessary for the purpose, by the Imprisonment and Detention Rules made under sections 122 and 123 of the Army Act 1955 of the United Kingdom.

3 & 4 Eliz. 2
c. 18.

Board of
Inquiry Rules.

141. (1) The Minister may make Rules (in this Act referred to as “Board of Inquiry Rules”) with respect to the convening, constitution and procedure of boards of inquiry.

(2) Without prejudice to the generality of subsection (1), the Board of Inquiry Rules may make provision with respect to all or any of the following matters:

- (a) the rules of evidence to be observed by boards of inquiry and the taking of evidence before such boards, provided that the rules shall provide for the taking of evidence on oath or affirmation except in circumstances such that if the evidence was being taken at a Court-martial an oath could be dispensed with;
- (b) without prejudice to the provisions of section 132, the making in service books of records of findings of boards of inquiry in such cases as may be provided by the Rules.

(3) Board of Inquiry Rules shall contain provision for securing that any witness or other person subject to service law who may be affected by the findings of a board of inquiry shall have an opportunity of being present, and represented, at the sittings of the board or such part thereof as may be specified by or under the Rules.

142. The Minister may make Rules with respect to all or any of the following matters: Miscellaneous Rules.

- (a) the execution of sentences of death, including the manner and place where such executions are to be carried out and the custody, treatment and removal of persons under sentence of death;
- (b) field punishment;
- (c) any matter which by this Part is required or authorised to be prescribed or for which rules may be made;
- (d) such incidental and supplementary matters as appear requisite for any of the purposes set out in sections 139, 140 and 141 and in this section.

PART VI

APPEALS FROM COURTS-MARTIAL

143. Subject to this Part a person convicted by a Court-martial may, with the leave of the Court of Appeal, appeal to that Court against his conviction. Right of appeal.

144. (1) The Court of Appeal shall not grant leave to appeal except in pursuance of an application in that behalf made by or on behalf of the appellant, and lodged, within twenty-eight days of the date of the promulgation of the finding of the Court-martial in respect of which the appeal is brought, with the Registrar of the Supreme Court, being an application in the prescribed form and specifying the grounds on which leave to appeal is sought and such other particulars, if any, as may be prescribed. Application for leave to appeal.

(2) Rules of Court may provide that, in such circumstances as may be specified in the Rules, an application mentioned in subsection (1) which is lodged with such person, other than the Registrar, as is specified in the Rules shall be treated, for the purposes of that subsection, as having been lodged with the Registrar.

(3) The Court of Appeal may extend the period within which an application for leave to appeal shall be lodged, whether that period has expired or not.

(4) In considering whether or not to give leave to appeal, the Court of Appeal shall have regard to any expression of opinion made by the judge advocate if any, who acted at the Court-martial that the case is a fit one for appeal, and, if any such expression is made, may without more give leave to appeal.

(5) The Court of Appeal may, where it dismisses an application for leave to appeal if it considers the application to have been frivolous or vexatious, order that any sentence passed upon the applicant in the proceedings from which it was sought to bring the appeal shall begin to run from the day on which the Court dismiss the application.

Determination
of appeals in
ordinary cases.

145. (1) Subject to section 146, on an appeal under this Part, the Court of Appeal shall allow the appeal if it thinks that the finding of the Court-martial is unreasonable or cannot be supported having regard to the evidence or involves a wrong decision on a question of law or that, on any ground, there was a miscarriage of justice, and in any other case shall dismiss the appeal; but the Court may, notwithstanding that it is of the opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no substantial miscarriage of justice has actually occurred.

(2) If the Court of Appeal allows an appeal under this Part, it shall quash the conviction.

Powers of the
Court of Appeal
in special cases.

146. (1) If it appears to the Court of Appeal that an appellant, though not properly convicted on some charge preferred against him before the Court-martial by which he was tried, was properly

convicted on some other charge so preferred, then, if the sentence passed by the Court-martial on the appellant was not one which could lawfully be passed by the Court-martial for the offence of which he was convicted on the other charge, the Court shall pass on the appellant, in substitution for the sentence passed on him by the Court-martial, such sentence as it thinks proper, being a sentence which might lawfully be passed in respect of the charge on which the appellant was properly convicted, but not being a sentence of greater severity.

(2) Where an appellant has been convicted of an offence and the Court-martial by which he was tried could lawfully have found him guilty of some other offence, and it appears to the Court of Appeal that the Court-martial must have been satisfied of facts, which proved him guilty of that other offence, the Court may, instead of allowing or dismissing the appeal, substitute for the finding of the Court-martial a finding of guilty of the other offence and pass on the appellant, in substitution for the sentence passed on him by Court-martial, such sentence as they think proper, being a sentence which could lawfully have been passed for that other offence but not being a sentence of greater severity.

(3) When—

- (a) an appellant has been convicted of an offence committed under circumstances involving the higher of two degrees of punishment, and it appears to the Court of Appeal that the Court-martial by which he was tried ought to have found him guilty of the offence as being committed under circumstances involving the lower degree of punishment; or
- (b) an appellant has been convicted of an offence and it appears to the Court of Appeal that the Court-martial by which he was tried ought to have found him guilty of the offence subject to exceptions or variations,

the Court may, instead of allowing or dismissing the appeal, substitute for the finding of the Court-martial a finding of guilty of

the offence as being committed under circumstances involving the lower degree of punishment or, as the case may be, guilty of the offence subject to exceptions or variations and pass on the appellant, in substitution for the sentence passed on him by Court-martial, such sentence as it thinks proper, being a sentence which could lawfully have been passed for the offence specified or involved in the substituted finding, but not being a sentence of greater severity.

(4) If, on an appeal, it appears to the Court of Appeal that, although the appellant was guilty of the act charged against him, he was insane at the time the act was done, so as not to be responsible according to law for his actions, the Court may quash the sentence passed at the trial and order the appellant to be kept in custody in accordance with section 119 in like manner as on a special finding of insanity by the Court-martial by which the appellant was convicted.

(5) The term of any sentence passed by the Court of Appeal under this section, unless the Court otherwise direct, begins to run from the time from which it would have begun to run if it had been passed in the proceedings from which the appeal is brought, and a sentence passed by the Court of Appeal shall be deemed for the purposes of this Act to be a sentence passed by the Court-martial being a sentence that has been confirmed.

Appeals to
Privy Council.

147. If, in the case of an appeal under this Part, the Court of Appeal upon an application in that behalf made to the Court within a period of fourteen days from the date when the decision of the Court was given, is of opinion that the decision of the Court involves a point of law of exceptional public importance and that it is desirable in the public interest that a further appeal should be brought, the Court may grant leave to the appellant for the respondent to appeal to the Judicial Committee of the Privy Council from the decision of the Court; but, subject to this section, the determination by the Court of Appeal of any appeal or other matter which it has power to determine shall be final and conclusive for all purposes, and no appeal shall lie from the Court to any other Court.

148. For the purposes of this Part, the Court of Appeal shall have and may exercise all the powers conferred on it by sections 47 and 53 of the Supreme Court of Judicature Act and by the rules made thereunder relating to—

Supplementary powers of the Court of Appeal. Ch. 4:01.

- (a) legal assistance to an appellant;
- (b) the obtaining and production of documents; and
- (c) the receiving and examination of further evidence.

149. An appellant is not entitled to be present at the hearing of an appeal to the Court of Appeal under this Part or at any proceedings preliminary or incidental to such an appeal, except where Rules of Court provide that he shall have the right to be present or the Court gives him leave to be present, and accordingly any power of the Court of Appeal under this Part to pass a sentence may be exercised in the absence of the appellant.

Proceedings to be heard in absence of appellants.

150. The Director of Public Prosecutions shall undertake the defence of an appeal against conviction by a Court-martial.

Defence of appeals.

151. An appellant may if he so desires, instead of presenting his case orally, present it in writing in the prescribed form.

Right of appellant to present his case in writing.

152. (1) Where a conviction by Court-martial involves sentence of death—

Suspension of death sentences.

- (a) the sentence shall not in any case be executed until the expiration of the period within which an application for leave to appeal to the Court of Appeal against the conviction shall be lodged;
- (b) if such an application is duly lodged, the sentence shall not be executed until either the application is finally refused or is withdrawn or the appeal is determined or abandoned;
- (c) if leave to appeal is granted and the appeal is dismissed, the sentence shall not be executed until the expiration of the period within which an application may be made under section 147 for leave to appeal to the Judicial Committee of the Privy Council; and

(d) if an application under the said section 147 is duly made, the sentence shall not be executed until leave is refused or the application is withdrawn or the further appeal that lies to the Judicial Committee of the Privy Council by virtue of the grant of leave is determined or abandoned.

(2) Any appeal to the Court of Appeal against conviction by a Court-martial involving sentence of death, any application for leave to appeal to the Court of Appeal against any such conviction and any appeal to the Judicial Committee of the Privy Council against a decision of the Court of Appeal on an appeal thereto against any such conviction shall be heard and determined with as much expedition as practicable.

Person not to be tried again where conviction quashed.

153. Where the conviction of a person by a Court-martial for an offence has been quashed under this Part, he is not liable to be tried again for that offence by a Court-martial or by any other Court.

Removal of prisoners for purposes of proceedings under Part V.

154. Imprisonment and Detention Rules may provide in what manner an appellant, when in custody, is to be taken to, kept in custody at, and brought back from any place at which he is entitled to be present for the purposes of this Part or any place to which the Court of Appeal or a judge thereof may order him to be taken for the purpose of any proceedings of the Court of Appeal.

Furnishing, on appeal, of documents relating to trial. [32 of 1979].

155. In the case of every appeal, or application for leave to appeal, under this Part to the Court of Appeal against a conviction by Court-martial, the Chief of Defence Staff shall furnish to the Registrar of the Supreme Court in accordance with Rules of Court, the proceedings of the Court-martial [including any proceedings with respect to the revision of the finding or sentence of the Court-martial in pursuance of section 112(1)], the proceedings with respect to the confirmation of the finding and sentence of the Court-martial and any petition presented by the person convicted.

Duties of Registrar of the Supreme Court with respect to appeals, etc.

156. (1) The Registrar of the Supreme Court shall take all necessary steps for obtaining the determination of an appeal or application under this Part and shall obtain and lay before the Court

of Appeal in proper form all documents, exhibits and other things relating to the proceedings in the Court-martial before which the appellant or applicant was tried which appear necessary for the proper determination of the appeal or application.

(2) The Registrar of the Supreme Court shall furnish the necessary forms and instructions relating to applications for leave to appeal under this Part to any person who demands them, to persons in charge of places where persons sentenced by Court-martial may lawfully be confined for the purpose of serving their sentences and to such other persons as he thinks fit; and every person in charge of such a place shall cause the forms and instructions to be placed at the disposal of persons confined in that place who desire to make application for leave to appeal under this Part.

157. Nothing in this Part shall affect the exercise by the President of the powers herein contained to quash a conviction by a Court-martial, so far as regards the exercise thereof at a time before the receipt by the Registrar of the Supreme Court of an application for leave to appeal to the Court of Appeal against the conviction and nothing in this Part shall affect the exercise by the President of the prerogative of mercy.

Saving of President's powers.

158. Upon the hearing of any appeal from a Court-martial the Court of Appeal shall consist of at least three judges.

Composition of Court.

159. Notwithstanding the provisions of section 158, a judge of the Court of Appeal may—

Exercise of certain powers of Court of Appeal by a judge.

- (a) give leave to appeal;
- (b) subject to the provisions of section 144, extend the period within which an application for leave to appeal must be lodged; or
- (c) allow an appellant to be present at any proceedings under this Part,

but if the judge refuses an application on the part of an appellant to exercise in his favour any of the powers mentioned above, the

appellant, upon making a requisition in that behalf, within the prescribed period and in the prescribed form and manner, shall be entitled to have the application determined in accordance with section 158.

General provisions.

160. (1) Subject to this Part, any Rules of Court in force relating to the hearing of criminal appeals by the Court of Appeal apply to the hearing and determination of an appeal by the Court under this Part.

(2) Where under this Part anything is required or authorised to be prescribed it shall be prescribed by Rules of Court.

PART VII

FORFEITURES AND DEDUCTIONS

Forfeitures and deductions: general provisions.

161. (1) No forfeiture of the pay of an officer or other rank shall be imposed unless authorised by this Act, other service law or some other written law; and no deduction from such pay shall be made unless so authorised by Regulations.

(2) Regulations shall not authorise the making of any penal deduction, that is to say, a deduction to be made by reason of the commission of any offence or other wrongful act or in consequence of any negligence.

(3) The provisions of subsection (1) or subsection (2) shall not be construed so as to prevent the making of regulations providing for the imposition of any forfeiture authorised by this Act or the making of any deduction so authorised, or for the time at which and manner in which sums may be deducted from pay to give effect to authorised deductions or the manner in which amounts may be so deducted in order to recover any fine imposed in pursuance of this Act, or as to the appropriation of any such sum or amount when deducted, or of providing for the determination of questions relating to forfeitures or deductions.

(4) Notwithstanding any deduction from the pay of an officer or other rank he shall, subject to any forfeiture, remain in receipt of pay at not less than such minimum rate as may be prescribed.

(5) Notwithstanding that forfeiture of pay of an officer or other rank for any period has been ordered in pursuance of this Act, he shall remain in receipt of pay at such a minimum rate as may be prescribed, but the amount received for that period may be recovered from him by deduction from pay.

(6) Any amount authorised to be deducted from the pay of an officer or other rank may be deducted from any balance, whether or not representing pay, which may be due to him as an officer or other rank, and references in this Act to the making of deductions from pay shall be construed accordingly.

162. (1) The pay of an officer or other rank may be forfeited—

- (a) for any day of absence in such circumstances as to constitute an offence under section 47 or 48 or, if the Chief of Defence Staff or an officer authorised by regulations so directs, of other absence without leave;
- (b) for any day of imprisonment, detention or field punishment awarded under service law by a Court-martial or commanding officer, or of imprisonment or detention of any description to which he is liable in consequence of an order or sentence of a civil Court;
- (c) where he is found guilty, whether by Court-martial under service law, an appropriate superior authority or his commanding officer, of an offence under service law for any day whether before or after he is found guilty on which he is in hospital on account of sickness or injury certified by the proper medical officer to have been occasioned by the offence.

Forfeiture of pay for absence from duty. [32 of 1979].

(2) The pay of an officer or other rank may be forfeited for any day of absence by reason of his having been made a prisoner of war, if the Chief of Defence Staff or an officer authorised by Regulations for that purpose is satisfied—

- (a) that he was made a prisoner of war through disobedience of orders or wilful neglect of his duty;

- (b) that having been made a prisoner of war he failed to take any reasonable steps available to him to rejoin the Force; or
- (c) that having been made a prisoner of war he served with or aided the enemy in the prosecution of hostilities or measures calculated to influence morale or in any other manner whatsoever not authorised by international usage, but, except as provided in this subsection, nothing in subsection (1)(a) shall apply to absence by reason of having been made a prisoner of war.

(3) Regulations may make provision as to the computation of time for the purposes of this section and in particular as to the counting or disregarding of parts of days.

Deductions for payment of civil penalties.

163. Where an officer or other rank charged with an offence before a civil Court, is sentenced or ordered by the Court to pay any fine, penalty, damages, compensation or costs, and the whole or part thereof is met by a payment made by or on behalf of any military authority, the amount of the payment may be deducted from his pay.

Compensation for loss occasioned by wrongful act or negligence.

164. (1) Without prejudice to the provisions of this Act relating to the imposition of stoppages as a punishment, this section has effect where, after such investigation as may be prescribed by Regulations, it appears to the Minister or an officer authorised by Regulations for that purpose that any loss of, or damage to, public or service property has been occasioned by any wrongful act or negligence of an officer or soldier (hereinafter referred to as “the person responsible”).

(2) The Minister or such authorised officer, as the case may be, may order the person responsible to pay as or towards compensation for the loss or damage, such sum as may be specified in the order, and any such sum, in so far as not otherwise paid by the person responsible, may be deducted from his pay.

(3) No order shall be made under subsection (2) if, in proceedings before a Court-martial under service law, an appropriate superior authority or a commanding officer, the person responsible—

- (a) has been acquitted in circumstances involving a finding that he was not guilty of the wrongful act or negligence in question; or
- (b) has been awarded stoppages in respect of the same loss or damage,

but save as mentioned above, the fact that such proceedings have been brought in respect of the wrongful act or negligence in question shall not prevent the making of an order or deduction under subsection (2).

165. (1) When damage occurs to premises in which one or more units or parts of such units of the Force are quartered or billeted, or any fixtures, furniture or effects in or belonging to such premises are damaged or lost, and it appears on investigation in accordance with the provisions or Regulations that the damage or loss was occasioned by the wrongful act or negligence of persons belonging to the units or parts of units in occupation thereof, but that the said persons cannot be identified, every person belonging to any of such unit or parts of units of the Force may be required to contribute towards compensation for the damage or loss such amount as may in accordance with Regulations be determined to be just, and the amount may be deducted from his pay.

Deductions for
barrack damage.

(2) The provisions of subsection (1) extend to ships, trains, motor vehicles and aircraft in which units or parts of units of the Force are being transported; and reference to premises, quartering and occupation shall be construed accordingly.

166. (1) The Minister or such authority as may be provided for by Regulations may remit a forfeiture or deduction imposed under the provisions of section 162, 163, 164 or 165 or under Regulations.

Remission of
forfeitures and
deductions.
[32 of 1979].

(2) Officers or men of the Force against whom an order is made by an officer authorised under section 164, 167 or 168

L.R.O. 1/2006

may in accordance with the Regulations, apply to a board of officers for a further examination of the case in respect of which the order was made and the Board shall after considering the case, give such directions to the officer who made the order as it thinks fit.

(3) Any forfeiture or deductions imposed under section 162, 163, 164 or 165 or under the Regulations may be remitted by the Council or such other authority as may be provided for by such Regulations.

Enforcement of maintenance and affiliation orders by deduction from pay.
[32 of 1979].

167. (1) Where a Court has made an order against any person (in this section referred to as “the defendant”) for the payment of any periodical or other sums specified in the order for or in respect of—

- (a) the maintenance of his wife or child or of any illegitimate child of whom he is the putative father;
- (b) any costs incurred in obtaining the order; or
- (c) any costs incurred in proceedings on appeal against, or for the variation, revocation or revival of, any such order,

and the defendant is an officer or other rank, then (whether or not he was a member of the Force when the order was made) the Chief of Defence Staff or an officer authorised by him may order such sum to be deducted from the pay of the defendant and appropriated in or towards satisfaction on the payment due under the order of the Court as the Chief of Defence Staff or officer may think fit.

(2) Where to the knowledge of the Court making an order described in subsection (1), or an order varying, revoking or reviving such order, the defendant is an officer or other rank, the Court shall send a copy of the order to the Chief of Defence Staff.

(3) Where an order described in subsection (1) has been made by a Court in a Commonwealth territory outside Trinidad and Tobago, and the Chief of Defence Staff, or such officer as may be authorised by him, is satisfied that the defendant has had a reasonable opportunity of appearing in person, or has appeared by a duly authorised legal representative, to defend the case before

the Court by which the order was made, the Chief of Defence Staff or such officer has the same power under subsection (1) as if the order had been made by such a Court as is mentioned in that subsection; but this subsection does not apply to an order for payment of a sum for or in respect of the maintenance of an illegitimate child or for the payment of costs incurred in obtaining such an order or in proceedings on appeal against, or for the variation, revocation or revival of, such an order.

(4) The Chief of Defence Staff or such officer as has been authorised by him may by order vary or revoke any order previously made under this section, and may treat any order made under this section as being in suspense at any time while the person against whom the order was made is absent as mentioned in section 162(1)(a).

(5) In this section—

- (a) references to an order made by a Court in Trinidad and Tobago include references to an order registered in or confirmed by such a Court under any law which makes provision for the enforcement in any country of maintenance orders made outside that country;
- (b) references to a wife or child include, in relation to an order made in proceedings in connection with the dissolution or annulment of a marriage, references to a person who would have been the wife or child of the defendant had the marriage subsisted.

(6) For the purposes of subsection (5) the expression “maintenance order” means an order other than an order of affiliation for the periodical payment of sums of money towards the maintenance of the wife or other dependants of the person against whom the order is made, and the expression “dependants” means such persons as that person is, according to the law in force in that part of the Commonwealth in which the maintenance order was made, liable to maintain.

Deductions
from pay for
maintenance of
wife or child.
[32 of 1979].

168. (1) Where the Chief of Defence Staff or an officer authorised by him is satisfied that an officer or other rank is neglecting without reasonable cause to maintain his wife or any child of his under the age of sixteen, the Chief of Defence Staff or officer may order such sum to be deducted from his pay and appropriated towards the maintenance of his wife or child as the Chief of Defence Staff or officer thinks fit.

(2) On an application made to the Chief of Defence Staff or an officer authorised by him for an order under subsection (1), the Chief of Defence Staff or officer, if satisfied that a *prima facie* case has been made out for the making of such an order, may make an interim order for such deduction and appropriation as is mentioned in the said subsection (1) to take effect pending the further examination of the case.

(3) Where an order is in force under section 167(1) or (3) for the making of deductions in favour of any person from the pay of an officer, or other rank, no deductions from his pay in favour of the same person shall be ordered under subsection (1) or (2) of this section unless the officer or other rank is in a place where process cannot be served on him in connection with proceedings for the variation of the order of the Court in consequence of which the order under section 167 was made.

(4) The Chief of Defence Staff or an officer authorised by him may by order vary or revoke any order previously made under this section, and may treat any order made under this section as being in suspense at any time while the person against whom the order was made is absent as mentioned in section 162(1)(a).

(5) The power to make an order under this section for the deduction of any sum and its appropriation towards the maintenance of a child includes power—

- (a) subject to the provisions of subsection (3), to make such an order after the child has attained the age of sixteen, if an order in favour of the child is in force under section 167(1) or (3);

- (b) to make such an order after the child has attained the age of sixteen if—
- (i) such an order of the Court as is mentioned in section 167(1) was in force in favour of the child at the time when the child attained that age;
 - (ii) the person from whose pay the deductions are ordered is in such a place as is mentioned in subsection (3); and
 - (iii) the child is for the time being engaged in a course of education or training; or
- (c) to continue such an order from time to time after the child has attained the age of sixteen, if the child is for the time being engaged in a course of education or training,

but no order so made or continued shall remain in force after the child attains the age of twenty-one or shall, unless continued under paragraph (c), remain in force for more than two years.

169. (1) The sums deducted under sections 167 and 168 shall not together exceed—

- (a) in the case of an officer, three-sevenths of his pay;
- (b) in the case of a warrant officer or a non-commissioned officer not below the rank of sergeant or corresponding rank, two-thirds of his pay;
- (c) in the case of a man or a non-commissioned officer below the rank of sergeant or corresponding rank, three-fourths of his pay.

Limit of deductions under sections 167 and 168 and effect on forfeiture.

(2) Where any deductions have been ordered under either section 167 or section 168 from a pay of an officer or an other rank and, whether before or after the deductions have been ordered, he incurs a forfeiture of pay by or in consequence of the finding or sentence of a Court-martial or the finding or award of an appropriate superior authority or a commanding officer, the order applies only to so much of his pay as remains after the deductions have been made.

(3) For the purposes of subsection (1)(b) or (c) a person having acting rank shall be treated as of that rank.

Service of
process in
maintenance
proceedings.

170. (1) Any process to be served on an officer or other rank (in this section referred to as “the defendant”) in connection with proceedings for the obtaining, variation, revocation or revival of an order described in section 167(1)(a), shall be deemed to be duly served on him if served either on him or his commanding officer, and may, without prejudice to any other method of service, be so served by registered post.

(2) Where the process mentioned in subsection (1) appoints a hearing at a place more than twenty miles from the place where the defendant is then stationed and his appearance in person will be required at the hearing, service of the process is not valid unless there is left with it, in the hands of the person on whom it is served, a sum of money sufficient to enable the defendant to attend the hearing and return.

(3) Where the process mentioned in subsection (1) is served in Trinidad and Tobago and the defendant is required to appear in person at the hearing, then if his commanding officer certifies to the Court by which process was issued that the defendant is under orders for active service out of Trinidad and Tobago and that in the commanding officer’s opinion it is not possible for the defendant to attend the hearing and return in time to embark for that service, the service of the process shall be deemed not to have been effected.

PART VIII

BILLETING AND REQUISITION OF VEHICLES

BILLETING

Billeting
requisitions.

171. At any time when this section is in operation, an officer of the rank of major or above commanding any part of the Force may issue a billeting requisition requiring the Commissioner of Police to provide billets at such places for such numbers of the Force, and, if the requisition so provides, for such number of vehicles in use for the purpose of the Force, being vehicles of any class specified in the requisition, as may be so specified.

172. (1) Billets, other than for vehicles, may be provided in pursuance of a billeting requisition—

Premises in which the billets may be provided.

- (a) in any hotel (whether licensed or not) or in any other premises occupied for the purposes of a business consisting of or including the provision of sleeping accommodation for reward;
- (b) in any building not falling within paragraph (a) being a building to which the public habitually have access whether on payment or otherwise or which is wholly or partly provided or maintained out of the funds of any local authority;
- (c) in any dwelling, outhouse, warehouse, barn or stables,

but not in any other premises.

(2) Billets for vehicles may be provided in the manner set forth in subsection (1) in any building or on any land.

173. (1) Where a billeting requisition has been produced to the Commissioner of Police, he shall, on the demand of the officer commanding any portion of the Force, or on the demand of an officer or other rank authorised in writing by such an officer commanding, billet on the occupier of premises falling within section 172 being premises at such place in Trinidad and Tobago or part thereof as may be specified by the officer or other rank by whom the demand is made, such number of persons or vehicles as may be required by the officer or other rank by whom the demand is made, not exceeding the number specified in the requisition.

Provision of billets.

(2) The Commissioner of Police shall exercise his functions under this section in such manner as in his opinion will cause least hardship to persons on whom billeting may take place.

(3) The Commissioner of Police may to such extent and subject to such restrictions as he thinks proper authorise any police officer not below the rank of assistant superintendent, to exercise his functions on his behalf, and subsections (1) and (2) shall apply accordingly.

Accommodation
to be provided
and payment
therefor.

174. (1) Where persons are billeted in pursuance of a billeting requisition, the occupier of the premises on which they are billeted shall furnish such accommodation (including meals) as the officer or other rank demanding the billets may require, not exceeding such accommodation as may be prescribed by Regulations.

(2) Where vehicles are billeted in pursuance of a billeting requisition, the occupier of the premises shall furnish standing room for the vehicles.

(3) Where persons or vehicles have been billeted in pursuance of a billeting requisition they may continue to be billeted, so long as section 171 continues in operation, for such period as may be required, and the allotment of billets among the persons or vehicles in question may be varied from time to time.

(4) The occupier on whose premises any person or vehicle is billeted is entitled to receive for the billeting such payment as may be prescribed by Regulations but no payment shall be required in respect of vehicles billeted otherwise than in a building unless the land on which they are billeted—

- (a) has its surface made up for the passage or parking of vehicles; and
- (b) is not land where vehicles are normally allowed to stand free of charge irrespective of the person by whom they are owned or driven.

(5) Subject to subsection (6), payment for billeting—

- (a) shall be made before the persons billeted finally leave, or the vehicles are finally removed from, the premises where they are billeted; and
- (b) where the billeting continues for more than seven days, shall be made at least once in every seven days.

(6) If for any reason payment for billeting cannot be made or fully made, as required by subsection (5)(a), there shall be made up for the occupier an account, in such form as may be prescribed, of the amount due to him; and

- (a) on presentation of the account, the Comptroller of Accounts shall pay to the occupier the amounts stated in the account to be due;

(b) any sums paid by the Comptroller of Accounts under paragraph (a) shall be recoverable by him from public funds.

(7) In relation to premises of which there is no occupier this section applies as if the person entitled to possession thereof were the occupier thereof.

175. (1) Any person who—

- (a) is aggrieved by having an undue number of persons billeted upon him in pursuance of a billeting requisition; or
- (b) claims that by reason of special circumstances he should be exempted from having persons so billeted on him, either generally or on a particular occasion,

Appeals against billeting.

may apply to such person or persons as shall be appointed by the Minister for the purposes of this section.

(2) On any application on the grounds mentioned in subsection (1)(b) the person or persons to whom the application is made may grant such exemption as may seem just or may dismiss the application.

(3) An application under this section shall not affect billeting pending the determination of the application.

176. (1) Where any damage is caused to any premises by the billeting of persons or vehicles in pursuance of a billeting requisition, the occupier of the premises, or if there is no occupier, the person entitled to possession thereof, may recover from the State compensation of an amount equal to the depreciation caused by the damage in the value of the premises.

Compensation for damage.

(2) Where a person other than the recipient of compensation under subsection (1) has any interest in the premises, being an interest the value of which is depreciated by the damage, he shall be entitled to recover from the recipient such part of the compensation as may be just.

Refusal to receive persons billeted, etc.

177. Any person who—

- (a) refuses to receive any person billeted upon him in pursuance of a billeting requisition or without reasonable excuse fails to furnish him with the accommodation properly required for him;
- (b) gives or agrees to give any person billeted upon him in pursuance of a billeting requisition any money or reward in lieu of receiving any person or vehicle or furnishing accommodation properly required for him; or
- (c) obstructs the billeting in his building or on his land of any vehicle,

is liable on summary conviction to a fine of seven hundred and fifty dollars and to imprisonment for three months.

Application to civilians employed with the Force.

178. Sections 171 to 177 apply in relation to persons of such descriptions as may be prescribed who are employed with the forces, but are not entitled under those sections to be billeted, as they apply in relation to members of the Force.

REQUISITIONING OF VEHICLES

Requisitioning orders.

179. (1) At any time when this section is in operation any officer of the rank of major or above commanding any unit of the Force in Trinidad and Tobago may issue a requisitioning order authorising the requisitioning, from among vehicles in Trinidad and Tobago or part thereof specified in the order, of such vehicles, or such number of vehicles of such descriptions, as may be specified in the order.

(2) The purposes for which an order under this section may authorise vehicles to be requisitioned shall be such purposes for meeting the needs of any unit of the Force as may be specified in the order.

Provision of vehicles.

180. (1) A requisitioning order may be issued to the officer commanding any portion of the Force, and that officer, or an officer or other rank authorised by him in writing may give directions for the provision—

- (a) insofar as the requisitioning order authorises the requisitioning of particular vehicles, of all or any of those vehicles;

(b) insofar as the order authorises the requisitioning of vehicles of a specified description, of the number of vehicles of that description specified in the order or any lesser number of such vehicles.

(2) A direction under subsection (1) given as respects any vehicle may be either—

(a) a direction to the person having possession thereof to furnish it immediately at the place where it is; or

(b) a direction given to the said person to furnish it at such place within fifty miles from the premises of the said person and at such time as may be specified by the officer or soldier by whom the direction is given,

but no direction shall be given under paragraph (b) as respects a vehicle which is neither mechanically-propelled nor a trailer normally drawn by a mechanically-propelled vehicle.

(3) If the officer to whom the requisitioning order is issued, or an officer or other rank authorised by him in writing, is satisfied that a person has refused or neglected to furnish a vehicle in accordance with a direction under any of the provisions of subsection (1), or has reasonable ground for believing that it is not practicable without undue delay to give a direction to the said person, he may take, or authorise an officer or other rank to take, possession of the vehicle; and where possession is taken of a vehicle in pursuance of this subsection, this Part with the necessary modifications applies as if the vehicle had been furnished by the person having possession of the vehicle in accordance with a direction to furnish it immediately at the place where it is, and, in particular, payment shall be made therefor as if it had been so furnished.

(4) The Commissioner of Police shall, on a request to that effect made by or on behalf of the officer to whom a requisitioning order is issued, give instructions for securing that so far as practicable constables will be available, if required, for accompanying officers or other ranks requisitioning vehicles in pursuance of the order.

Period for which vehicle to be furnished.

181. (1) Subject to this section, where a vehicle has been furnished in pursuance of a requisitioning order it may be retained, so long as section 179 is in operation, for any period for which it is required for the purpose specified in the order or for any other purpose connected with the needs of any unit of the Force.

(2) During such time as the reserve is called out on permanent service, then insofar as a requisitioning order so provides, the person by whom any vehicle is to be furnished may be required to furnish it for the purposes of its being purchased on behalf of the State.

Payment for vehicle furnished.

182. (1) A person by whom a vehicle is furnished in pursuance of a requisitioning order, and is so furnished otherwise than for the purpose of being purchased, is entitled to be paid—

- (a) a sum for the use of the vehicle calculated by reference to the period for which possession of the vehicle is retained, at the rate of payment commonly recognised or generally prevailing in Trinidad and Tobago at the time at which the vehicle is furnished, or, in the default of such a rate, at such rate as may be just;
- (b) a sum equal to the cost of making good any damage to the vehicle not being damage resulting in a total loss thereof or damage attributable to fair wear and tear, which may have occurred during the period for which possession of the vehicle is retained and has not been made good during that period by a person acting on behalf of the State;
- (c) if during the said period, a total loss of the vehicle occurs a sum equal to the value of the vehicle immediately before the occurrence of the damage which caused the loss.

Third Schedule.

In paragraph (b) and in the Third Schedule references to fair wear and tear shall be construed as references to such fair wear and tear as might have been expected to occur but for the fact that the vehicle was requisitioned.

(2) The person by whom a vehicle is furnished in pursuance of a requisitioning order for the purpose of being purchased is entitled to be paid the value of the vehicle at the time at which it is furnished.

(3) Where a vehicle is furnished in pursuance of a direction under section 180(2)(b), then—

- (a) for the purposes of subsection (1)(a) and (b) of this section (if that subsection applies) the period for which possession of the vehicle is retained shall be deemed to begin at the time when the direction is given, and for the purposes of subsection (2) of this section (if that subsection applies) the vehicle shall be deemed to have been furnished at that time;
- (b) in addition to the payment provided for by subsection (1) or subsection (2) of this section the person by whom the vehicle is furnished is entitled to be paid the amount of any expenditure reasonably incurred by him in complying with the direction.

(4) Where a direction to furnish a vehicle is given under section 180(2)(b), and after the giving of the direction any damage occurs to the vehicle (whether or not resulting in a total loss thereof), then if the damage prevents the furnishing of the vehicle in pursuance of the requisitioning order, subsections (1), (2) and (3) of this section apply as if the vehicle had been furnished, and (notwithstanding that it may have been required to be furnished for the purpose of being purchased) had been furnished otherwise than for that purpose, subject however to the following modifications, that is to say:

- (a) subsection (1)(a), (b) and (c) of this section has effect as if for the period therein mentioned there were substituted the period beginning with the giving of the direction and ending immediately after the occurrence of the damage;

(b) subsection (3)(b) of this section has effect as if for the words “in complying with” there were substituted the words “by reason of anything done for the purpose of complying with”.

(5) Where a person (in this section referred to as “a person interested”) other than the person by whom a vehicle is required to be furnished has an interest in the vehicle—

(a) the person by whom the vehicle is required to be furnished shall notify any person known to him to be a person interested that the vehicle has been requisitioned;

(b) a person interested is entitled to recover from the person by whom the vehicle was required to be furnished such part (if any) of the payment received by him for the vehicle as may be just.

Third Schedule.

(6) The Third Schedule has effect as to the time for the making of payments under this section and as to the determination of disputes arising thereunder.

(7) Where, during the period for which possession of a vehicle is retained, a total loss of the vehicle occurs, then—

(a) for the purposes of subsection (1)(a) and (b) and of the Third Schedule the said period shall be deemed to have come to an end immediately after the occurrence of the loss; and

(b) no claim shall be made for the return of the vehicle (if it still exists) or for payment in respect thereof other than such as is provided for by subsection (1).

Avoidance or hardship in requisitioning of vehicles.

183. In deciding which of alternate vehicles is to be specified in an order under section 179 or is to be the subject of a direction under section 180(1)(b), the officer or other rank by whom the order is issued or direction given shall act in such manner as in his opinion will cause the least hardship.

184. The President may by Regulations require persons having in their possession mechanically-propelled vehicles, or trailers normally drawn by mechanically-propelled vehicles, if required to do so by such authority or person as may be specified in the Regulations—

Record and inspection of mechanically-propelled vehicles.

- (a) to furnish to such authority or person as may be so specified a return containing such particulars as to the vehicles as may be required by or under the Regulations; and
- (b) to afford all reasonable facilities for enabling any such vehicles in his possession to be inspected and examined, at such times as may be specified by or under the Regulations, by such authority or person as may be so specified.

185. (1) Any person who—

Enforcement of provisions as to requisitioning.

- (a) fails to furnish any vehicle which he is directed to furnish in pursuance of a requisitioning order, or fails to furnish any such vehicle at the time and place at which he is directed to furnish it;
- (b) fails to comply with any regulations made under section 184; or
- (c) obstructs any officer or other person in the exercise of his functions under this Part in relation to the inspection or requisitioning vehicles,

is liable on summary conviction to a fine of seven hundred and fifty dollars and to imprisonment for three months.

(2) Without prejudice to any penalty under subsection (1), if any person is obstructed in the exercise of powers of inspection conferred on him by regulations made under section 184, a justice of the peace may, if satisfied by information on oath that the person has been so obstructed, issue a search warrant authorising a constable named therein, accompanied by the said person, to enter the premises in respect of which the obstruction took place at any time between six o'clock in the morning and nine o'clock in the evening to inspect any vehicles which may be found therein.

Application to
cattle, food,
forage and
stores.
Third Schedule.

186. (1) Subject to this section, the provisions of sections 179 to 185 and the Third Schedule, except such of those provisions as relate only to mechanically-propelled vehicles and trailers normally drawn thereby apply to horses, mules, donkeys, and oxen, food, forage and stores as they apply to vehicles.

(2) Where stores are required for, and can be conveyed with, a vehicle with respect to which a direction is given under section 180(2)(b), such a direction may be given as well in relation to the stores as in relation to the vehicle, and, except section 182(4), sections 179 to 185 and the Third Schedule apply accordingly; but if after the giving of the direction the furnishing of the stores is prevented by damage to them or to the vehicle such payment (if any) shall be made in respect of the stores as may be just in all the circumstances.

(3) Notwithstanding anything contained in section 181 food, forage or stores to be furnished in pursuance of a requisitioning order at any time may be required to be furnished for purchase on behalf of the State.

(4) Section 184 applies in relation to horses, mules, donkeys and oxen as it applies in relation to mechanically-propelled vehicles.

(5) In this section—

- (a) the expression “oxen” means oxen used, or kept principally, for draught purposes;
- (b) the expression “stores” means any chattel, other than a horse, mule, donkey or ox, a vehicle, food or forage, being a chattel required for or for use in connection with—
 - (i) persons or vehicles billeted or to be billeted in pursuance of a billeting requisition or otherwise temporarily accommodated or to be so accommodated; or
 - (ii) vehicles, horses, mules, donkeys or oxen furnished or to be furnished in pursuance of a requisitioning order.

187. The person using a vehicle for the purpose of its being furnished in pursuance of a direction under section 180(2)(b) shall be deemed, as respects any claim in respect of injury or damage to any other person or property, to be so using the vehicle as a servant of the State, and any law which prohibits or renders unlawful the use on any road of a motor vehicle unless there is in force in relation to the user of the vehicle a policy of insurance or security in respect of third-party risk, does not apply to the use of the vehicle for the said purpose.

Liability of State for damage by vehicles being delivered for requisitioning.

188. (1) Whenever it appears to the President that the public interest so requires, he may by Order direct that section 171 or 179, or both those sections, shall come into operation either generally or as respects such area in Trinidad and Tobago as may be specified in the Order, and that section or those sections, as the case may be, shall thereupon come into operation and remain in operation so long as the Order has effect.

Bringing into operation of sections 171 and 179.

(2) An Order under this section shall, subject to any revocation or variation thereof, continue to have effect for the period of one month from the making thereof; but where, before the expiration of this period it is resolved by both Houses of Parliament that the public interest requires that the operation of the Order should be extended for such further period as may be specified in the resolution, it shall be extended accordingly.

***189.** (1) Notwithstanding the provision of any law in force in Trinidad and Tobago the President may from time to time by Order requisition the use of any area of land in Trinidad and Tobago which in the opinion of the Chief of Defence Staff is necessary and suitable for the purpose of the training, exercise or manoeuvres of the Force.

Requisition of land for training, etc. [32 of 1979].

(2) An Order made under this section may contain such terms and conditions and such other matters as to the user of any such area as to the President may seem fit.

(3) The President may make Rules with respect to the method of assessment of compensation for any damage or loss caused by the Force or any unit or detachment thereof to any area of land or part thereof requisitioned under this section.

*See Part B of Note on Omissions at page 2.

PART IX

GOVERNMENT AND GENERAL PROVISIONS COMMAND

Command and
precedence.
[32 of 1979].

190. (1) The officers, seconded and other warrant officers and seconded and other non-commissioned officers, and men shall stand with each other in order of precedence and command as may be prescribed by the Council.

(2) Officers and other ranks of any Commonwealth Force may be attached or seconded to the Force with the approval of the Council.

(3) Officers of the same rank shall stand with each other in order of precedence and command in accordance with any order which may be signified by the President and where no such order is signified then according to their seniority reckoned by the date of their respective appointments to the rank for the time being held by them.

Chief of
Defence Staff.
[32 of 1979].

191. (1) There shall be appointed by the President on the advice of the Minister after consultation with the Prime Minister, a Chief of Defence Staff.

(2) The Chief of Defence Staff who shall be appointed from among the officers of the Force shall be vested with responsibility for the operational use of the Force and shall in the exercise of any power connected with such responsibility conform with any special or general directions of the Minister.

Regulations as
to command.
[32 of 1979].

192. The Minister may make Regulations as to the persons, being members of the Force, in whom command over the units or any part or member thereof is vested and as to the circumstances in which such command is to be exercised.

Powers of
command of
members of co-
operating forces.

193. In so far as powers of command depend on rank, a member of any co-operating military, naval or air force who—

(a) is acting with any unit; or

(b) is a member of a body of any of those forces which is acting with any unit,

shall have the like such powers as a member of the Force of corresponding rank; and for the purposes of sections 43 and 83 any such member of the said military, naval or air forces shall be treated as if he were a member of the Force of corresponding rank.

REDRESS OF COMPLAINTS

194. (1) If an officer thinks himself wronged in any matter by a superior officer or authority and on application to his commanding officer does not obtain the redress to which he thinks he is entitled, he may make a complaint with respect to that matter to the Council.

Complaints by officers.
[32 of 1979].

(2) On receiving any such complaint the Council shall investigate the complaint and may grant any redress it thinks necessary or where so required by the complainant the Council shall make a report on the complaint to the President in order to receive his directions.

195. (1) If an other rank thinks himself wronged in any matter by any officer other than his commanding officer or by any other rank, he may make a complaint with respect to that matter to his commanding officer.

Complaints by other ranks.
[32 of 1979].

(2) If an other rank thinks himself wronged in any matter by his commanding officer, either by reason of redress not being given to his satisfaction on a complaint under subsection (1) or for any other reason, he may make a complaint with respect thereto to the Council.

(3) The Council or the commanding officer shall investigate any complaint received by him under this section and shall take such steps as he may consider necessary for redressing the matters complained of.

EXEMPTIONS FOR MEMBERS OF THE FORCE

196. An officer or other rank is exempt from serving on any jury.

Exemption from jury service.

197. (1) Duties or tolls for embarking on or disembarking from any pier, wharf, quay or landing place (including an airfield

Exemptions from tolls, etc.

or airport) in Trinidad and Tobago, or for passing over any road, ferry or bridge in Trinidad and Tobago, shall not be payable in respect of—

- (a) members of the Force on duty;
- (b) vehicles in military service, being vehicles belonging to the Force or other vehicles driven by persons (whether members of the Force or not) in service of the Force;
- (c) goods carried in such vehicles;
- (d) horses or other animals in military service.

(2) In subsection (1), the expression “in military service” means employed under proper military authority for the purposes of any body of the Force or accompanying any body of the Forces.

Exemption from taking in execution of property used for military purposes.

198. No judgment, decree or order given or made against a member of the Force by any Court in Trinidad and Tobago shall be enforced by the levying of execution on any property of the person against whom it is given or made, being public property, used by him for military purposes.

PROVISIONS RELATING TO DESERTERS AND ABSENTEES WITHOUT LEAVE

Arrest of deserters and absentees without leave.

199. (1) A constable may arrest without a warrant any person whom he has reasonable cause to suspect of being an officer or other rank who has deserted or is absent without leave.

(2) Where a constable is not available, any officer or other rank of the Force or any other person may arrest without a warrant any person whom he has reasonable cause to suspect of being an officer or other rank who has deserted or is absent without leave.

(3) Any person in Trinidad and Tobago having authority to issue a warrant for the arrest of a person charged with crime, if satisfied by evidence on oath that there is, or is reasonably suspected of being, within his jurisdiction an officer or other rank of the Force who has deserted or is absent without leave or is reasonably suspected of having deserted or of being absent without leave, may issue a warrant authorising his arrest.

(4) A person in custody in pursuance of this section shall as soon as practicable be brought before a Court of summary jurisdiction.

200. (1) Subsections (2) to (4) have effect where a person who is brought before a Court of summary jurisdiction is alleged to be an officer or other rank who has deserted or is absent without leave. Proceedings.

(2) (a) If he admits that he is illegally absent from the Force and the Court is satisfied of the truth of the admission, then—

- (i) unless he is in custody for some other cause the Court shall; and
- (ii) notwithstanding that he is in custody for some other cause the Court may,

forthwith either cause him to be delivered into military custody in such manner as the Court may think fit, or commit him to some prison, police station or other place provided for the confinement of persons in custody, to be kept there for such reasonable time as the Court may specify (not exceeding such time as appears to the Court reasonably necessary for the purpose of enabling him to be delivered into military custody) or until sooner delivered into such custody.

(b) Any time specified by the Court may be extended by the Court from time to time if it appears to the Court reasonably necessary to do so for the purpose mentioned above.

(3) If he does not admit that he is illegally absent, or the Court is not satisfied of the truth of the admission, the Court shall consider the evidence and any statement of the accused, and if satisfied that he is subject to military law and if of opinion that there is sufficient evidence to justify his being tried for an offence of desertion or absence without leave, then, unless he is in custody for some other cause, the Court shall cause him to be delivered into military custody or commit him as aforesaid, but otherwise shall discharge him; but if he is in custody for some other cause the Court may act in accordance with this subsection.

(4) The provisions of law in force in Trinidad and Tobago relating to the constitution and procedure of Courts of summary jurisdiction holding preliminary inquiries and conferring powers of adjournment and remand on such Courts so acting, and the provisions as to evidence and the issue and enforcement of summonses or warrants to secure the attendance of witnesses, apply to any proceedings under this section.

Deserters and absentees without leave surrendering to police.

201. (1) Where a person surrenders himself to a constable as being absent from the Force, the constable shall (unless he surrenders himself at a police station) bring him to a police station.

(2) The police officer in charge of a police station at which a person has surrendered himself, or to which a person who has so surrendered himself is brought, shall forthwith inquire into the case, and if it appears to that officer that the said person is illegally absent from the Force he may cause him to be delivered into military custody without bringing him before a Court of summary jurisdiction or may bring him before such a Court.

Certificates of arrest or surrender of deserters and absentees.

202. (1) Where a Court of summary jurisdiction in pursuance of section 200 deals with a person as illegally absent, then when that person is delivered into military custody there shall be handed over a certificate in the prescribed form, signed by a Magistrate, containing the prescribed particulars as to his arrest or surrender and the proceedings before the Court.

(2) Where a person is delivered into military custody without being brought before a Court, whether under the provisions of section 201 or under any other lawful power, there shall be handed over a certificate in the prescribed form, signed by the police officer who causes him to be delivered into military custody, containing the prescribed particulars relating to his surrender.

(3) In any proceedings for an offence under section 47 or 48—

(a) a document purporting to be a certificate under either subsection (1) or subsection (2) of this section, or under the corresponding provisions of

any service law (other than this Act) and to be signed as thereby required, shall be evidence of the matters stated in the document;

- (b) where the proceedings are against a person who has been taken into military custody on arrest or surrender, a certificate in the prescribed form purporting to be signed by a provost officer or any corresponding officer of a force raised under the law of a country in the Commonwealth, by any other officer in charge of the guardroom or other place where that person was confined on being taken into custody, stating the fact, date, time and place of arrest or surrender shall be evidence of the matters stated in the certificate.

203. (1) The superintendent or other person in charge of a civil prison shall receive any person duly committed to that prison by a Court of summary jurisdiction as illegally absent from the Force and to detain him until, in accordance with the directions of the Court, he is delivered into military custody.

Duties of superintendents of prisons and others to receive deserters and absentees.

(2) Subsection (1) applies to the person having charge of a police station or other place (not being a prison) provided for the confinement of persons in custody, as it applies to the superintendent of a prison.

**OFFENCES RELATING TO MILITARY MATTERS
PUNISHABLE BY CIVIL COURTS**

204. Any person who falsely represents himself to any military, naval, air force or civil authority to be a deserter from the Force is liable on summary conviction to a fine of seven hundred and fifty dollars and to imprisonment for three months.

Punishment for pretending to be a deserter.

205. Any person who—

- (a) procures or persuades any officer or other rank to desert or to absent himself without leave;
- (b) knowing that any such officer or other rank is about to desert or absent himself without leave, assists him in so doing; or

Punishment for procuring and assisting desertion.

- (c) knowing any person to be a deserter or absentee without leave from the Force, conceals him or assists him in concealing himself or assists in his rescue from custody,

is liable on summary conviction to a fine of seven hundred and fifty dollars and to imprisonment for three months, or on conviction on indictment to a fine of eight thousand dollars and to imprisonment for two years.

Punishment for obstructing members of Force in execution of duty.

206. Any person who wilfully obstructs or otherwise interferes with any officer or other rank acting in the execution of his duty is liable on summary conviction to a fine of seven hundred and fifty dollars and to imprisonment for three months.

Punishment for aiding malingering.

207. Any person who—

- (a) produces in an officer or other person any sickness or disability; or
- (b) supplies to or for him any drug or preparation calculated or likely to render him, or lead to the belief that he is, permanently or temporarily, unfit for service;
- (c) furnishes a false certificate of health,

with a view to enabling him to avoid military service or duty, whether permanently or temporarily, is liable on summary conviction to a fine of one thousand five hundred dollars and to imprisonment for three months, or on conviction on indictment to a fine of eight thousand dollars and to imprisonment for two years.

Unlawful purchase, etc., of military stores. [32 of 1979].

208. (1) Any person who acquires any military stores or solicits or procures any person to dispose of any military stores, or acts for any person in the disposing of any military stores, is guilty of an offence unless he proves either—

- (a) that he did not know, and could not reasonably be expected to know, that the chattels in question were military stores;

- (b) that those chattels had (by the transaction with which he is charged or some earlier transaction) been disposed of by order or with the consent of some person or authority who had, or whom he had reasonable cause to believe to have, power to give the order or consent; or
- (c) that those chattels had become the property of an officer who had retired or ceased to be an officer or an other rank, or of the personal representatives of a person who had died,

and is liable on summary conviction to a fine of one thousand five hundred dollars and to imprisonment for three months, or on conviction on indictment to a fine of eight thousand dollars and to imprisonment for two years.

(2) A constable or any person authorised by the Chief of Defence Staff may arrest without warrant any person whom he has reasonable grounds for suspecting of having committed an offence against this section, and may seize any property which he has reasonable grounds for suspecting of having been the subject of the offence.

(3) A person having authority to issue a warrant for the arrest of a person charged with crime may, if satisfied by evidence on oath that a person within his jurisdiction has, or is reasonably suspected of having, in his possession any property which has been the subject of an offence against this section, grant a warrant to search for such property as in the case of stolen goods; and any property suspected of having been the subject of such an offence which is found on such a search shall be seized by the officer charged with the execution of the warrant, and that officer shall bring the person in whose possession or keeping the property is found before a Court of summary jurisdiction.

(4) In this section—
the expression “acquire” means buy, take in exchange, take in pawn or otherwise receive (whether apart from this section the receiving is lawful or not);

the expression “dispose” means sell, give in exchange, pledge or otherwise hand over (whether apart from this section the handing over is lawful or not);

the expression “military stores” means any chattel of any description belonging to the State, which has been issued for use for military purposes or is held in store for the purpose of being so issued when required, and includes any chattel which belonged, and had been issued or held, as mentioned above at some past time.

(5) For the purposes of subsection (3) property is deemed to be in the possession of a person if he has it under his control, and whether he has it for his own use or benefit or for the use or benefit of another.

Illegal dealings
in documents
relating to pay,
pensions,
mobilisation,
etc.

209. (1) Any person who—

(a) as a pledge or a security for a debt; or

(b) with a view to obtaining payment from the person entitled thereto of a debt due either to himself or to any other person,

receives, detains or has in his possession any official document issued in connection with the payment to any person of any pay, pension, allowance, gratuity or other payment payable in respect of his or any other person’s military service is guilty of an offence against this section.

(2) Any person who has in his possession without lawful authority or excuse (the proof whereof shall lie on him) any document mentioned in subsection (1), or any official document issued in connection with the mobilisation or demobilisation of any units of the Force or any member thereof, is guilty of an offence against this section.

(3) Any person guilty of an offence against this section is liable on summary conviction to a fine of one thousand five hundred dollars and to imprisonment for three months.

(4) For the purposes of this section a document is deemed to be in the possession of a person, if he has it under his control and whether he has it for his own use or benefit or for the use or benefit of another.

210. (1) Any person who—

- (a) without authority uses or wears any military decoration, or any badge, wound stripe or emblem supplied;
- (b) uses or wears any decoration, badge, wound stripe, or emblem so nearly resembling any military decoration, or any such badge, stripe or emblem as mentioned above, as to be calculated to deceive; or
- (c) falsely represents himself to be a person who is or has been entitled to use or wear any such decoration, badge, stripe or emblem as is mentioned in paragraph (a),

Unauthorised
use of and
dealing in
decorations, etc.

is guilty of an offence against this section; but nothing in this subsection shall prohibit the use or wearing of brooches or ornaments representing military badges.

(2) Any person who purchases or takes in pawn any naval, military or air force decoration awarded to any member of the Force, or solicits or procures any person to sell or pledge any such decoration, or acts for any person in the sale or pledging thereof, is guilty of an offence against this section unless he proves that at the time of the alleged offence the person to whom the decoration was awarded was dead or had ceased to be a member of that Force.

(3) Any person guilty of an offence against this section is liable on summary conviction to a fine of seven hundred and fifty dollars and to imprisonment for three months.

PROVISIONS AS TO EVIDENCE

211. (1) This section has effect with respect to evidence in proceedings under this Act, whether before a Court-martial, a civil Court or otherwise.

General
provisions as to
evidence.
[32 of 1979].

(2) A document purporting to be a copy of the attestation paper signed by any person and to be certified to be a true copy by a person stated in the certificate to have the custody of the attestation paper is evidence of the enlistment of the person attested.

L.R.O. 1/2006

(3) The attestation paper purporting to be signed by a person on his enlistment is evidence of his having given the answers to questions which he is therein recorded as having given.

(4) A letter, return or other document stating that any person—

- (a) was or was not serving at any specified time or during any specified period in any part of the forces of the United Kingdom or was discharged from any part of those forces at or before any specified time;
- (b) held or did not hold at any specified time any specified rank or appointment in any of those forces, or had at or before any specified time been attached, posted or transferred to any part of those forces, or at any specified time or during any specified period was or was not serving or held or did not hold any rank or appointment in any particular country or place; or
- (c) was or was not at any specified time authorised to use or wear any decoration, badge, wound stripe or emblem,

is, if purporting to be issued by or on behalf of the President, the Council or the Chief of Defence Staff, evidence of the matters stated in the document.

(5) A record made in any service book or other document prescribed by Regulations for the purposes of this subsection, being a record made in pursuance of military duty, and purporting to be signed by the commanding officer or by any person whose duty it was to make the record, is evidence of the facts stated therein; and a copy of a record (including the signature thereto) in one of the said service books and a copy of such document, purporting to be certified to be a true copy by a person stated in the certificate to have the custody of the book or the original document, as the case may be, is evidence of the record.

(6) A document purporting to be issued by order of the Minister, the Council or the Chief of Defence Staff and to contain instructions or orders given or made by the Minister, the Council or the Chief of Defence Staff is evidence of the giving of the instructions or making of the orders and of their contents.

(7) A certificate purporting to be issued by or on behalf of the Minister, the Council or the Chief of Defence Staff, and stating—

- (a) that a decoration of a description specified in or annexed to the certificate is a military, naval or air force decoration; or
- (b) that a badge, wound stripe or emblem of a description specified in or annexed to the certificate is one supplied or authorised by the Minister, the Council or the Chief of Defence Staff,

is evidence of the matters stated in the certificate.

(8) A certificate purporting to be signed by a person's commanding officer or any officer authorised by him to give the certificate, and stating the contents of, or any part of, standing orders or other routine orders of a continuing nature made for—

- (a) any formation or unit or body of troops;
- (b) any command or other area, garrison or place; or
- (c) any ship, train or aircraft,

is evidence of the matters stated in the certificate in proceedings against that person.

212. (1) Where a person subject to military law under this Act has been tried before a civil Court (whether at the time of the trial he was so subject or not), a certificate signed by a judge or a magistrate and stating all or any of the following matters, that is to say—

Proof of
outcome of
civil trial.

- (a) that the said person has been tried before the Court for an offence specified in the certificate;
- (b) the result of the trial;

- (c) what judgment or order was given or made by the Court;
- (d) that other offences specified in the certificate were taken into consideration at the trial,

is for the purposes of this Act evidence of the matters stated in the certificate.

(2) A document purporting to be a certificate under this section and to be signed by a Judge or a Magistrate shall, unless the contrary is shown, be deemed to be such a certificate.

Evidence of proceedings of Court-martial.

213. (1) The original proceedings of a Court-martial under service law purporting to be signed by the president of the Court and being in the custody of any person having the lawful custody thereof is admissible in evidence on production from that custody.

(2) A document purporting to be a copy of the original proceedings of a Court-martial under service law or any part thereof and to be certified by any other person having the lawful custody of the proceedings to be a true copy is evidence of the contents of the proceedings or the part to which the document relates, as the case may be.

(3) This section applies to evidence given in any Court, whether civil or criminal.

MISCELLANEOUS PROVISIONS

Temporary reception in civil custody of persons under escort.

214. (1) Where a person is in military custody when charged with, or with a view to his being charged with, an offence against Part IV or the corresponding provisions of any other service law the superintendent or other person in charge of a prison (not being a military prison) or of the person having charge of any police station or other place in which prisoners may be lawfully detained, upon delivery to him of a written order purporting to be signed by the commanding officer of the person in custody, shall receive him into his custody for a period not exceeding seven days.

(2) In this section, "military prison" has the meaning ascribed to it in section 138.

215. (1) Every assignment of, or charge on, and every agreement to assign or charge, any pay, military award, grant, pension or allowance payable to any person in respect of his or any other person's service in the Force is void.

Avoidance of assignment of, or charge on military pay, pensions, etc.

(2) Save as expressly provided herein, no order shall be made by any Court the effect of which would be to restrain any person from receiving anything which by virtue of this section he is precluded from assigning and to direct payment thereof to another person.

(3) Nothing in this section shall prejudice any law providing for the payment of any sum to a bankrupt's trustee in bankruptcy for distribution among creditors.

216. (1) An officer of a rank not below that of major or corresponding rank (hereinafter referred to as an "authorised officer") may, outside Trinidad and Tobago, take statutory declarations from persons subject to military law.

Power of certain officers to take statutory declarations.

(2) A document purporting to have subscribed thereto the signature of an authorised officer in testimony of a statutory declaration being taken before him in pursuance of this section and containing in the jurat or attestation a statement of the date on which and the place at which the declaration was taken and of the full name and rank of that officer shall be admitted in evidence without proof of the signature being the signature of that officer or of the facts so stated.

217. (1) Where it is represented to the President or the President considers it desirable in the interest of the Force that an officer or other rank should be required to retire from the Force on grounds which cannot suitably be dealt with by any other provision of this Act he shall call for a full report from the commanding officer of the unit in which the officer or other rank has served during the last preceding three years.

Retirement in the interest of the Force.

(2) If, after considering such report and giving the officer or other rank an opportunity of submitting a reply to the grounds on which his retirement is contemplated, and having regard to the

conditions of the Force, the usefulness of the officer or other rank thereto, and all the other circumstances of the case, the President is satisfied that it is desirable in the interest of the Force to do so, he shall require such officer or other rank to retire on such date as to him may seem fit.

(3) This section applies to members of the Volunteer Defence Force established under Part XI as it applies to officers and other ranks of the Force.

**QUASI-MILITARY ORGANISATIONS AND UNLAWFUL
USE OF UNIFORMS AND DRILLING**

218. (Repealed by Act No. 14 of 1996).

Prohibition of wearing Defence Force uniform, etc. [38 of 1970].

219. A person, other than a member of the Defence Force, who without lawful excuse (the proof whereof shall lie on him)—

- (a) wears the uniform or any portion of the uniforms of a member of the Defence Force; or
- (b) wears any costume or any article of clothing or apparel so closely resembling the uniform or any portion thereof of a member of the Defence Force, as may cause such person to be mistaken for a member of the Defence Force,

is liable on summary conviction to a fine of one thousand dollars and to imprisonment for eighteen months.

220. (Repealed by Act No. 14 of 1996).

PART X

RESERVE

Reservists.

221. Notwithstanding section 241, this Part applies to every other rank who has been transferred to the reserve while he is subject to reserve liability or serving in the reserve.

Annual training.

222. (1) Every reservist is liable to be called out for training at such place and for such periods not exceeding twenty-eight days in any one year as may be specified in Regulations made under this Part.

(2) Every reservist may, during any training for which he may be called out, be attached to and trained with any unit.

223. (1) The President may, at any time when occasion appears to require, call out the reserve, or as many reservists as he thinks necessary on temporary service.

Calling out of the reserve on temporary service.

(2) Reservists called out for service under this section are not liable to serve at any one time for a period exceeding twenty-eight days.

224. (1) The President may, in the event of a state of war being declared or of insurrection, hostilities or public emergency, by Proclamation, call out the reserve on permanent service.

Calling out of the reserve on permanent service.

(2) Every such Proclamation shall be obeyed, and every reservist called out shall attend at the place and times fixed by such Proclamation, and at and after that time shall be deemed to be called out on permanent service.

(3) Every reservist when called out on permanent service is liable to serve as an other rank until his services are no longer required, but he shall not be required to serve for a period exceeding in the whole the remaining unexpired term of service in the reserve and any further period not exceeding twelve months as an other rank may, under section 22, be retained in the Force after the time at which he would otherwise be entitled to be discharged.

225. (1) Any reservist who, without leave lawfully granted or other reasonable excuse, fails to appear at the time and place appointed for annual training, or when called out on temporary service or on permanent service, is—

Punishment for non-attendance.

- (a) if called out on permanent service, guilty, according to the circumstances, of deserting within the meaning of section 47 or of absenting himself without leave within the meaning of section 48; or
- (b) if called out on temporary service or for annual training, guilty of absenting himself without leave within the meaning of section 48.

(2) Any reservist who commits any offence under this section is liable—

- (a) to be tried by Court-martial and on conviction is liable to imprisonment for two years or less punishment; or
- (b) to be tried by a Court of summary jurisdiction and, on conviction is liable to a fine of three hundred dollars, and in default of payment to imprisonment for two months.

(3) Section 83 applies to reservists who commit an offence against this section as it applies to persons otherwise subject to military law.

Record of
illegal absence.

226. Where a reservist fails to appear at the time and place appointed for annual training or when called out on temporary or on permanent service, and his absence continues for twenty-one days or more, an entry of such absence shall be made by an officer in the service books and such entry shall be *prima facie* evidence of the fact of such absence.

Discharge
during service.

227. A reservist may be discharged by the competent military authority at any time during the currency of any term of reserve service upon such grounds as may be prescribed.

Regulations as
to the reserve.
[32 of 1979].

228. The Minister may make Regulations with respect to the government, discipline and pay of the reserve, and the discharge of reservists, and, without prejudice to the generality of the foregoing, may make Regulations—

- (a) for the calling out for training of reservists;
- (b) for the calling out of the reserve on temporary service and on permanent service; and
- (c) requiring reservists to report themselves from time to time.

PART XI

VOLUNTEER DEFENCE FORCE

Interpretation.

229. In this Part—

- (a) “volunteer officer” means an officer commissioned for service in the Volunteer Defence Force; and

(b) “volunteer” means an enrolled warrant officer, non-commissioned officer or private belonging to the Volunteer Defence Force.

230. The Volunteer Defence Force of Trinidad and Tobago shall consist of such number and types of units and sub-units as the President from time to time considers necessary and commensurate with the needs of the State.

Constitution of Force.

231. The Commander of the Volunteer Defence Force shall be the person appointed as Chief of Defence Staff under section 191.

Appointment of Commander of the Volunteer Defence Force. [32 of 1979].

232. The President may appoint fit and proper persons to act as permanent staff of the Volunteer Defence Force as may be necessary.

Appointment of Staff Officers.

233. (1) The President may appoint the officers of the Volunteer Defence Force with such rank as he may from time to time think necessary.

Appointment of officers.

(2) The appointment of officers to the Volunteer Defence Force shall be for such period or periods as the President shall determine, and the President may at any time terminate or revoke any such appointment by notice to that effect signed by the Chief of Defence Staff.

(3) This section does not apply to the Chief of Defence Staff.

234. (1) The Minister may accept the services of any persons desirous of being enrolled in the Volunteer Defence Force and offering their services.

Enlistment. [32 of 1979].

(2) Subject to section 238, enlistment shall be for a term certain.

(3) The length of any term certain for which persons may enlist shall be such as the Minister may from time to time direct; but on first enlistment it shall be for not less than three years.

235. A volunteer shall be deemed to be duly enrolled from the date on which he signs the form of attestation in use at such date.

Enrolment.

Oath of
allegiance.
[32 of 1979].

236. (1) Every officer, non-commissioned officer, and private of the Force shall take and subscribe the oath of allegiance within one month after enrolment; such oath of allegiance may be administered by the Chief of Defence Staff, or Recruiting Officer of the Force, the commanding officer of the unit or sub-unit.

(2) The oath shall be in the following form:

I, *A.B.* do sincerely promise and swear that I will be faithful and bear true allegiance to Trinidad and Tobago, and that I will faithfully serve Trinidad and Tobago for the defence of the same against all its enemies and opposers whatsoever, according to the conditions of my service. So help me God.

Period of
service.
[32 of 1979].

237. (1) Subject to this section, a volunteer shall, after enrolment, save under the provisions of this Part serve during such term certain for which he has been enrolled and until duly discharged.

(2) A volunteer shall continue to serve after the expiration of such term certain if at the time of such expiration Trinidad and Tobago is engaged in a war; and in any such case the volunteer shall continue to serve until duly discharged at the end of the war.

(3) A volunteer may, on giving fourteen days notice, and by permission in writing of the Chief of Defence Staff, be released from the enrolment on good and sufficient grounds certified by his commanding officer upon his paying all money due or which may become due under this Act or of any Rules made thereunder.

President
empowered to
call out Force to
aid civil force.

***238.** (1) The President may call out the Volunteer Defence Force or any portion of it for actual military service with their arms and ammunition, in aid of the civil power in any case in which a riot, disturbance of the peace, or other emergency requiring such service occurs, or is, in the opinion of the President, anticipated as likely to occur, and in either case to be beyond the powers of the civil authorities to suppress, or to prevent, or deal with.

*See Part B of Note on Omissions at page 2.

(2) Every member of the Volunteer Defence Force or any portion of it shall on every occasion obey the orders of his superior officer.

(3) A person who assaults or resists, or aids or incites any person to assault or resist, any member of the Volunteer Defence Force in the execution of his duty, is liable on summary conviction to a fine of four hundred dollars or to imprisonment for three months.

(4) When called out for service the members of the Volunteer Defence Force shall receive out of public funds pay and allowances and the reasonable cost of transport to and from the place or places where the services of the Force are required.

239. (1) The Minister may make Regulations relating to anything necessary to be done for the carrying into effect of this Part, and without prejudice to the generality of such power, Regulations under this section may make provision for—

Power to make
Regulations.
[32 of 1979].

- (a) the constitution from time to time, governance, training, service, pay, powers and discipline of the Volunteer Defence Force;
- (b) the granting of commissions in the Volunteer Defence Force, the enlistment of volunteers therein, the revocation of commissions, and the discharge of volunteers;
- (c) the service in, or attachment to, the Force of officers or men of the regular forces of the United Kingdom and their pay, powers and discipline;
- (d) any matters consequent on, or ancillary to, the matters generally or specially mentioned above;
- (e) the obligations and liabilities (including criminal liabilities) of civilians in respect of acts relating to or affecting the governance of the Volunteer Defence Force and, in the case of any such criminal liabilities, the jurisdiction of the Courts and the punishments which may be awarded;
- (f) validating past acts;

- (g) declaring what is requisite to entitle a volunteer to be deemed efficient;
- (h) defining the extent of attendance at drill to be given, and the course of instruction to be gone through by him with his unit or any part of his unit.

(2) Regulations under this section may make different provisions in different classes of cases, and shall have effect notwithstanding anything inconsistent therewith in this Act and may be made with retrospective effect.

Saving.
Ch. 10 No. 1.
(1950 Ed.).

240. Notwithstanding the repeal of the Local Forces Ordinance, the appointment of an officer by the President under section 7 of that Ordinance shall be deemed to have the same force and effect as if such appointment was made under section 10 of this Act, and any officer so appointed shall be deemed to be appointed and commissioned in accordance with and for the purposes of this Act.

PART XII

APPLICATION OF THE ACT AND SUPPLEMENTARY PROVISIONS

APPLICATION, TRANSFER AND ATTACHMENT

Persons subject
to military law
and application
of the Act.

241. (1) Subject to this section, the following persons are subject to military law:

- (a) officers and other ranks of the Force;
- (b) officers and other ranks when attached to the Force;
- (c) officers and other ranks when seconded to the Force;
- (d) officers of the reserve of officers when ordered out on duty or service for which, as such, they are liable;
- (e) reservists called out for training, on temporary service and on permanent service;

(f) officers and men of the Volunteer Defence Force called out for training of eight hours or more, for annual camps or on temporary service or on permanent service.

(2) Officers, warrant officers and non-commissioned officers who, being members of the United Kingdom Military Forces, are subject to military law and who are seconded to serve with the Force, shall remain subject to the Army Act 1955 of the United Kingdom and shall not be subject to military law under this Act. 3 & 4 Eliz. 2
c. 18.

(3) The powers of arrest conferred by section 74 of the Army Act 1955 of the United Kingdom and the provisions of sections 186 to 190 of that Act (which relate to deserters and absentees without leave) shall continue to apply in Trinidad and Tobago to the persons referred to in subsection (2) of this Act on or after 31st August 1962, as they applied before that date.

(4) In the event of a person referred to in subsection (2) committing an offence against this Act, he may be held, tried and punished in Trinidad and Tobago under the provisions of such law to which he is subject for the offence thereunder.

(5) This Act applies to persons subject thereto under this section and in relation to the units as well outside as within Trinidad and Tobago.

242. (1) Subject to the modifications specified in subsection (2), where any unit is on active service, Part V applies to any person who is employed in the service of that unit or any part or member thereof, or accompanies the said unit or any part thereof and is not subject to service law, as the said Part V applies to persons subject to military law. Application of
Act to civilians.

(2) The modifications referred to in subsection (1) are the following:

(a) the punishment which may be awarded by a Court-martial include a fine, but do not include any other punishment less than imprisonment;

- (b) the punishment which may be awarded where a charge is dealt with summarily is, in the case of any offence, a fine of one hundred and fifty dollars but no other punishment;
- (c) the following provision has effect in substitution for section 83(2) to (4), that is to say, that a person may be arrested by a provost officer, by any warrant officer or non-commissioned officer legally exercising authority under a provost officer or on his behalf, or by order of any officer subject to service law;
- (d) where a charge is being dealt with summarily and it has been determined that the accused is guilty, a finding shall not be recorded until after the accused has been afforded an opportunity of electing to be tried by Court-martial, and if the accused so elects a finding shall not be recorded but such steps shall be taken with a view to the charge being tried by Court-martial as may be prescribed by Rules of Procedure;
- (e) the provisions of this Act relating to the investigation of, and summary dealing with, offences, save as otherwise expressly provided, apply as they apply to soldiers;
- (f) for the purposes of the provisions of this Act relating to the investigation of offences, the commanding officer shall be such officer as may be appointed by the officer authorised to convene a Court-martial;
- (g) for references in sections 127 and 128 to being, continuing, or ceasing to be subject to this Act there is substituted references to being, continuing to be or ceasing to be in such circumstances that the said Part V applies, and section 127(3) does not apply.

(3) Any fine awarded by virtue of this section, whether by a Court-martial or the commanding officer, is recoverable as a debt due to the State.

FINANCIAL PROVISIONS AND REGULATIONS

243. All such sums of money as may from time to time become payable on account of pay, allowances, pensions or gratuities, are hereby appropriated out of the public funds and shall be paid therefrom on the warrant of the Minister responsible for Finance.

Emoluments,
pensions and
gratuities
appropriated out
of funds.

244. (1) Subject to this Act, the Minister may make Regulations for the better carrying out of the provisions of this Act and generally for the good government and organisation of the Force, and without prejudice to the generality of the foregoing such Regulations may make provision with respect to all or any of the following matters:

Power to make
Regulations.
[19 of 1967].

- (a) the commissioning of officers, their terms of service, promotion, retirement, resignation, removal and such other matters concerning officers as may seem to him necessary;
- (b) the pay, duties, method of recall of officers of the reserve and other matters pertaining to such reserve of officers as may seem to him necessary;
- (c) the enlistment of persons into, and the discharge of persons from, the Force and generally for the carrying into effect of Part IV, including the prescribing of the necessary forms and the administration of oaths and affirmations;
- (d) determining to what extent and under what conditions colour service in any of the forces of the United Kingdom other than the Force, may be counted as colour service in the Force;
- (e) the pay, allowances, and the deductions from and forfeiture of pay, of officers and soldiers;
- (f) the pensions and gratuities of officers and soldiers (including the reckoning for pensions and gratuities of service in the forces of the United Kingdom other than in the Force, prior to the commencement of service in the Force);
- (g) the pay, allowances, pensions and gratuities of officers and other ranks assigned for duty in the

service of the Force from an office in the public service or in the employment of a prescribed body or authority;

- (h) the description, supply, use and disposal of arms, accoutrements, clothing and other stores;
- (i) prohibiting, restricting or regulating the holding of meetings within the limits of any military establishment and the admission thereto of civilians for the purpose of holding, addressing or attending any such meeting;
- (j) in respect of matters for which regulations may be made other than Part X;
- (k) subject to sections 138, 142 and 160, prescribing anything which may be prescribed.

(2) Any Regulations made under this Act shall be laid before the Senate and the House of Representatives.

(3) The Regulations formerly contained in the Fourth, *Fifth, Sixth and the Seventh Schedules to this Act shall be deemed to have been made under this section and may be added to, amended or revoked by Regulations made by the Minister under and in accordance with this section.

(4) Whenever the Minister is satisfied that it is equitable that any regulations made under this section should have retrospective effect in order to confer a benefit upon or remove a disability to any person subject to military law, that regulation may be given retrospective effect for that purpose.

President may
make Order.
[16 of 1988].

GN No. 38
of 1968.

244A. Notwithstanding any written law any officer or other rank who enlisted after 1st January 1966 and before 6th February 1968 and who has attained the age of compulsory retirement, but has not qualified for pension and terminal benefits under the Defence (Pensions, Terminal and Other Grants) Regulations, is hereby declared to be so qualified.

*The original Regulations contained in the Fifth Schedule to this Act have been revoked and replaced by GN 38/1968.

245. (1) Any power conferred by this Act to make Regulations, Rules, Orders or other instruments shall include power to make provision for specified cases or classes of cases, and to make different provisions for different classes or cases, and for the purposes of any such instrument classes of cases may be defined by reference to any circumstances specified in the instrument.

Powers
exercisable in
Subsidiary
Legislation.

(2) Any Regulations, Rules, Orders or other instruments referred to in subsection (1) may impose conditions, require acts or things to be performed or done to the satisfaction of any person named therein whether or not such persons are members of the Force, empower such persons to issue orders either orally or in writing requiring acts or things to be performed or done, or prohibiting acts or things from being performed or done, and prescribe periods or dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled and provide for appeal against any such order, requirement or direction.

246. Save as expressly provided by any Rules or Regulations, any order or determination required or authorised to be made by any military officer or authority may be signified under the hand of any officer authorised in that behalf, and any instrument signifying such an order or determination and purporting to be signed by an officer stated therein to be so authorised shall unless the contrary is proved be deemed to be signed by an officer so authorised.

Execution of
orders,
instruments, etc.

Section 15(2).
[136/1976
110/1977].

FIRST SCHEDULE

PRESIDENT'S COMMISSION

I,
President and Commander-in-Chief of the Armed Forces of the Republic of
Trinidad and Tobago do give to
Greetings and reposing especial trust in your loyalty, courage and good conduct,
do by these presents constitute and appoint you to be an officer in the Trinidad
and Tobago Defence Force from the day of, 20.....

You are therefore carefully and diligently to discharge your duty as such an
officer in the rank of or in such other rank as you may from time
to time hereafter be promoted or appointed and you are in such manner and on
such occasions to exercise and well discipline in their duties, such officers,
warrant and non-commissioned officers and men as may be placed under your
orders from time to time and use your best endeavours to keep them in good
order and discipline. I do hereby command, all such officers, warrant and non-
commissioned officers and men to obey you as their superior officer, and you
to observe and follow such orders and directions as from time to time you shall
receive from me or any of your superior officers in pursuance of the trust
hereby reposed in you.

Given at..... Trinidad, this day of
....., 20

.....
*President and Commander-in-Chief
of the Armed Forces of the
Republic of Trinidad and Tobago.*

Section 105.

SECOND SCHEDULE

**ALTERNATIVE OFFENCES OF WHICH ACCUSED MAY
BE CONVICTED BY COURT-MARTIAL**

Offence Charged	Alternative Offence
1. Any offence against section 33(1) of this Act.	1. Any offence against section 33(2) of this Act.
2. Any offence against section 34(1) of this Act.	2. Any offence against section 34(2) of this Act.
3. Any offence against section 41(1) of this Act.	3. Any offence against section 41(2) of this Act.

Offence Charged	Alternative Offence
4. Communicating with or giving intelligence to the enemy, either with intent to assist the enemy or without authority.	4. Disclosing information without authority.
5. Striking his superior officer.	5. (a) Using violence to his superior officer otherwise than by striking him. (b) Offering violence to his superior officer.
6. Using violence to his superior officer otherwise than by striking him.	6. Offering violence to his superior officer.
7. Using threatening language to his superior officer.	7. Using insubordinate language to his superior officer.
8. Disobeying, in such a manner as to show wilful defiance of authority, a lawful command given or sent to him personally.	8. Disobeying a lawful command.
9. Desertion.	9. Absence without leave.
10. Attempting to desert.	10. Absence without leave.
11. Stealing any property.	11. Fraudulently misapplying the property.
12. Any offence against section 53 of this Act involving wilfulness.	12. The corresponding offence involving negligence.
13. Any offence against section 63(1) of this Act.	13. Any offence against section 63(2) of this Act.
14. Any offence against section 64(1) of this Act involving striking.	14. (a) The corresponding offence involving the use of violence other than striking. (b) The corresponding offence involving the offering of violence.
15. Any offence against section 64 of this Act involving the use of violence other than striking.	15. The corresponding offence involving the offering of violence.

Sections 182
and 186.

THIRD SCHEDULE

SUPPLEMENTARY PROVISIONS AS TO PAYMENT FOR REQUISITIONED VEHICLES

1. (1) Subject to the provisions of this Schedule, any payment under section 182(1) (without prejudice to any agreement as to payment on account) becomes due on the expiration of the period for which possession of the vehicle in question is retained.

(2) Subject to the provisions of this Schedule, any payment under section 182(2) becomes due on the furnishing of the vehicle.

(3) Any payment under section 182(3)(b) becomes due on the furnishing of the vehicle.

2. (1) As soon as may be after the furnishing of a vehicle there shall be given or sent to the person by whom it was furnished, by such person and in such form and manner as may be specified by Regulations, a receipt for the vehicle specifying what payment, at what rate or of what amount, is offered in respect of the furnishing thereof under section 182(1)(a), or, as the case may be, under section 182(2).

(2) As soon as may be after the end of the period for which possession of a vehicle is retained, there shall be given or sent to the person by whom the vehicle was furnished, by such person and in such form and manner as mentioned above, a notice stating whether any, and if so what, damage to the vehicle has occurred during the period for which possession of the vehicle was retained, other than damage which has been made good by a person acting on behalf of the State, or that the total loss of the vehicle has occurred, and specifying what payment is offered in respect of the damage or loss under section 182(1)(b) or (c).

3. (1) A person to whom a receipt or notice under paragraph 2 has been given or sent (hereinafter referred to as "the claimant") shall be deemed to have accepted the offer contained therein unless within three weeks from the time at which he received the receipt or notice he gives notice to the person by whom the receipt or notice was given or sent that he claims some specified greater amount or rate.

(2) Where a notice under paragraph 2 has been given or sent stating that no damage has occurred to a vehicle during the period for which possession of the vehicle is retained, the claimant shall be deemed to have agreed that no damage has so occurred unless within three weeks from the time at which he received the notice he gives notice to the person by whom the notice was given or sent claiming that damage has so occurred and stating what payment he claims under section 182(1) in respect of the damage.

(3) On the making of a claim under subparagraph (2) or (3) the President may notify the claimant that it is not proposed to make any further offer or by notice may make a specified further offer.

4. The regulations referred to in paragraph 2 shall secure that any receipt or notice under that paragraph, contains a statement of the effect of paragraph 3 of this Schedule.

5. In this Schedule, the expression “damage” does not include damage resulting in a total loss, or damage attributable to fair wear and tear.

6. Nothing in this Schedule applies to a case falling within section 182(4) or section 186(2), and any sum payable by virtue of those subsections becomes due on the making, by the person by whom the vehicle is required to be furnished, of a claim therefor to such authority as may have been specified in that behalf in the direction requiring the furnishing of the vehicle (or, if no such authority was specified, to the President); but before making any such payment the said authority or the President, as the case may be, may require reasonable particulars of the damage in question and of the circumstances in which it occurred and may require a reasonable opportunity to be afforded to a person authorised by them to inspect the vehicle in question.

SUBSIDIARY LEGISLATION

DEFENCE (ENLISTMENT AND SERVICE) REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation and commencement.
2. Recruiting officers.
3. Prescribed forms.
4. Method of attestation.
5. Competent military authorities.
6. Transfer between units.
7. Terms of enlistment.
8. Re-engagement.
9. Continuance in the service.
10. Discharge certificates.
11. Chief of Defence Staff authorised under section 26 to reduce certain officers.

FIRST SCHEDULE.

SECOND SCHEDULE.

***DEFENCE (ENLISTMENT AND SERVICE) REGULATIONS** 7 of 1962.
(6th Sch.)

deemed to be made under section 244

1. (1) These Regulations may be cited as the Defence (Enlistment and Service) Regulations. Citation and Commencement.

(2) These Regulations have effect from 31st May 1962.

2. Officers of the rank of captain or corresponding rank and above who are— Recruiting officers.

(a) officers of the Force;

(b) officers of the regular forces of the United Kingdom raised in the United Kingdom; or

(c) officers seconded for service with the Force,

may act as recruiting officers.

3. The forms set out in the First Schedule to these Regulations or forms substantially to the like effect, are the forms to be used for the purpose of the Act and these Regulations in cases to which those forms are applicable. Prescribed forms.

4. (1) The recruiting officer, after a person offering to enlist has been given a notice paper, shall satisfy himself that the person understands the contents of the notice paper and the conditions of engagement upon which he is about to enter and he shall warn the person to be enlisted that if he knowingly makes any false answers to the questions in the attestation paper which are to be put to him, he is liable to be punished as provided by the Act. Method of attestation.

(2) The recruiting officer shall satisfy himself that the person offering to enlist is or, as the case may be, is not over the apparent age of eighteen years.

(3) The recruiting officer shall read or cause to be read to the person, in a language which he understands, the questions set out in the attestation paper and shall ensure that the answers are duly recorded thereon.

*These Regulations constituted the original Part I of the Sixth Schedule to the Act.

(4) The recruiting officer shall ask the person to make and sign the declaration set out in the attestation paper as to the truth of the answers and shall administer to him the oath of allegiance set out in the attestation; but if the person objects to be sworn and states as a ground for his objection either that he has no religious belief or if it is not reasonable to administer an oath to such a person in the manner appropriate to his religious belief, the person shall be required to make a solemn affirmation instead of taking the oath.

(5) Upon signing the declaration in the attestation paper and upon taking the oath or, as the case may be, making the solemn affirmation, the person shall become a member of the Force and subject to military law.

(6) The recruiting officer shall by signature confirm on the attestation paper that the requirements of the Act and these Regulations have been duly complied with and shall deliver the attestation paper duly dated to the appropriate officer in charge of the records who shall on receiving the attestation paper sign it in the appropriate place and thereby signify that the person is finally approved for service.

(7) An other rank on being finally approved for service shall be entitled to receive a certified true copy of the attestation paper.

Competent
Military
authorities.
Second
Schedule.

5. (1) In relation to the provisions of the Act specified in the first column of Part I of the Second Schedule to these Regulations and for the purposes specified opposite thereto in the second column thereof, the officer specified in the third column thereof shall be the competent military authority.

(2) The officers set out in the second column of Part II of the Second Schedule shall, in pursuance of section 23(3) and section 28 of the Act, be competent military authorities for the purpose of authorising the discharge of an other rank for the reasons set out in the first column thereof.

6. An other rank on enlistment shall be appointed to a unit and may be transferred from one unit to another by order of the Commander if it is in the interest of the Force to do so.

Transfer between units.

7. (1) The terms of service for which, in accordance with section 20(2) of the Act, a person who has apparently attained the age of eighteen years may be enlisted shall be—

Terms of enlistment.

- (a) a term of six months, 1, 2, 3, 4, 5 or 6 years of colour service; or
- (b) a term of 6 years being as to 3 years a term of colour service and as to the remainder a term of service in the reserve.

(2) The terms of service for which, in accordance with section 20(3) of the Act, a person who has not apparently attained the age of eighteen years may be enlisted shall be one of the following, being a term beginning on the date of his attestation and ending with the expiration of a period of—

- (a) 6 years beginning with the day on which he attained the age of eighteen years, being a term of colour service; or
- (b) 9 years beginning with the date on which he attained the age of eighteen years, as to 6 years a term of colour service and as to the remainder a term of service in the reserve.

8. The period or periods of colour service for which an other rank may re-engage in accordance with section 21(1) of the Act shall be not more than 1, 2, 3 or 6 years at a time up to a maximum of 12 years and thereafter for periods of 1, 2, or 3 years at a time, until he has completed 22 years colour service; but where an other rank has immediately prior to enlisting in accordance with these Regulations served as an other rank in the military forces of the United Kingdom or the former West India Regiment, the continuous period of such paid colour service shall, for the purposes of section 21 of the Act and this regulation, be treated as colour service under the Act.

Re-engagement.

Continuance in the service.

9. In computing the period of 22 years colour service for the purpose of section 21(2) of the Act, an other rank who immediately before he enlisted in the Force was serving in the military forces of the United Kingdom or the former West India Regiment shall be entitled to count any continuous period of such paid colour service as colour service.

Discharge certificates.

10. (1) The particulars to be contained in a certificate of discharge are—

- (a) number;
- (b) name, including given name or forenames;
- (c) date and place of enlistment;
- (d) physical description of the other rank on leaving colour service;
- (e) rank of the other rank on leaving colour service;
- (f) assessment of conduct and character on leaving colour service with the signature of the officer making the assessment;
- (g) date of transfer to the reserve;
- (h) rank on transfer to the reserve;
- (i) date of discharge;
- (j) rank on discharge;
- (k) reason for discharge;
- (l) total service on discharge, both colour service (including where appropriate prior service in accordance with regulations 8 and 9), and service in the reserve; and
- (m) signature of issuing officer.

(2) The particulars specified in paragraphs (g) and (h) shall be omitted in the case of an other rank who has not served in the reserve.

Chief of Defence Staff authorised under section 26 to reduce certain officers.

11. The Chief of Defence Staff is authorised to reduce a warrant officer, non-commissioned officer or corresponding rank in accordance with section 26 of the Act.

FIRST SCHEDULE

Regulation 3.

FORM 1

TRINIDAD AND TOBAGO DEFENCE FORCE

NOTICE PAPER

Notice to be given under section 19 of the Defence Act to a person offering to enlist in the Trinidad and Tobago Defence Force.

This paper sets out the questions you will be required to answer before the officer who will attest you for the Trinidad and Tobago Defence Force, and the general conditions of the various engagements.

Under the provisions of sections 32 and 71 of the Defence Act if any person knowingly makes a false answer to any question contained in the attestation paper he is liable to punishment.

Questions to be put to the recruit before enlistment

- Q. 1. What is your full name?
- Q. 2. What is your address?
- Q. 3. State day, month and year of your birth.
- Q. 4. Where were you born?
- Q. 5. What is your nationality now?
- Q. 6. What was the nationality at birth of: (a) yourself? (b) your father?
(c) your mother? (d) your wife/husband?
- Q. 7. Are you single, married, widowed, divorced?
- Q. 8. How many children are dependent on you?
- Q. 9. What is your trade or calling?
- Q. 10. Do you belong to, or have you ever served in, the naval, military or air forces of any Commonwealth country or the former West India Regiment, or in any police force? If so, state which, and the periods of service and the reasons for and dates of discharge.
- Q. 11. Have you ever been cashiered, dismissed, discharged with disgrace, with ignominy or for misconduct from the naval, military or air forces of any Commonwealth country, the former West India Regiment or from any police force?
- Q. 12. Have you truly stated the whole, if any, of your previous service?
- Q. 13. Have you at any time been found guilty by any civil Court of any offence? If so, give particulars.
- Q. 14. Have you ever been rejected for service in the naval, military or air force of any Commonwealth country, the former West India Regiment or in any police force? If so, on what grounds?
- Q. 15. Are you willing to be vaccinated or re-vaccinated?
- Q. 16. Have you received a notice paper setting out the questions to be answered on attestation, and the general conditions of the engagement to be entered into, and do you understand the contents of the notice paper and wish to be enlisted?

L.R.O. 1/2006

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF LEGAL AFFAIRS

www.legalaffairs.gov.tt

160

Chap. 14:01

Defence

[Subsidiary]

Defence (Enlistment and Service) Regulations

Q. 17. Are you willing to serve the State in the Trinidad and Tobago Defence Force or in such other of the military forces of the State as may be raised under the Defence Act if the State shall so long require your services, for—

a term of years with the colours; or

a term of years with the colours and years in the reserve;

or

if you are a boy (that is if your age is under 18 years) the period from your date of attestation up to the date on which you attain the age of 18 years and thereafter for either—

a period of 6 years with the colours; or

a period of 6 years with the colours and 3 years in the reserve.

You will be required to make the following declaration:

“I, do solemnly declare that the above answers made by me to the above questions are true, and that I am willing to fulfil the engagements made.”

On signing the declaration and taking the oath or making a solemn affirmation you will become an other rank of the Trinidad and Tobago Defence Force subject to military law under the Defence Act.

GENERAL CONDITIONS OF ENGAGEMENT

1. You will be required to engage to serve the State in the Trinidad and Tobago Defence Force or in such other of the military forces of the State as may be raised under the Defence Act for such time as is agreed on attestation if the State shall so long require your services. You will be liable to serve in any part of Trinidad and Tobago and may be ordered to serve outside Trinidad and Tobago.

2. You may engage to serve—

(a) for a term of 6 months, 1, 2, 3, 4, 5 or 6 years, with the colours when any of these terms of service are currently open;

(b) for a term of 3 years with the colours and 3 years in the reserve;

(c) if you are under the age of 18 years, for a term up to your 18th birthday and thereafter for a term—

(i) of 6 years with the colours; or

(ii) of 6 years with the colours and 3 years in the reserve.

3. At any time within two years of your completing your colour service, you may apply to serve for a further term with the colours until you have completed a continuous period of 22 years with the colours.

4. After you have completed 22 years with the colours, you may apply to continue to serve with the colours from year to year and during such continued service you may give three months' notice to claim your discharge.

5. If at the time you enlist you are serving in the military forces of the United Kingdom you will be discharged from those forces but you will be entitled to count your prior continuous service in those forces in computing the period of colour service for re-engagement and continuation under paragraphs 3 and 4 for computing your pension.

6. You will be enlisted in the rank of private or corresponding or such other rank as the Chief of Defence Staff, having due regard to any rank you have held either in the military forces of

the United Kingdom or in the former West India Regiment, may decide. Subsequent promotion will depend on vacancies in the establishment but if you had prior service in the military forces of the United Kingdom or the former West India Regiment such service will be considered.

7. When you have been attested you will be subject to the provisions of the Defence Act and you will be required to carry out whatever duties may be ordered by those in authority over you.

8. No guarantee can be given that you will be employed on any particular duties but where you are enlisted with a view to performing particular duties or to being trained in a particular trade, you will be employed on these duties or, as the case may be, trained and employed in that trade, so far as the requirements of the service permit.

9. Where you are enlisted with a view to being employed on particular duties or in a particular trade and through no fault of your own you fail to qualify or are unable to be employed on those duties or in that trade, except for periods of limited duration, you may apply for discharge which will be granted to you so long as the requirements of the service permit. Employment in a trade depends on passing a specified trade test and there being a vacancy in the trade.

10. If you are enlisting for the first time in the Trinidad and Tobago Defence Force or such other of the military forces of the State as may be raised from under the Defence Act and have not had any prior service in the military forces of the United Kingdom you shall be entitled to claim your discharge subject to sections 22 and 29 of the Defence Act at any time after twelve weeks and within six months of your attestation on payment of a sum not exceeding one hundred dollars.

11. In computing your service for the purpose of discharge, re-engagement or transfer to the reserve, periods during which you have been away from your duty because of imprisonment, desertion or absence without leave exceeding twenty eight days will be excluded and, further, any period which you are ordered by a Court-martial to forfeit, will be disregarded.

12. You may be discharged at any time during your engagement by order of a competent military authority as a result of irregularities concerning your enlistment, for misconduct, for unfitness on medical grounds or for the benefit of the public service.

13. If at any time when your term of colour service expires there is a state of war, insurrection or hostilities, or a public emergency, you may be retained and your service prolonged for such further period as a competent military authority may direct.

14. If you are transferred to the reserve at the end of your colour service you will be liable when in the reserve to be called out—

(a) by proclamation if a state of war has been declared or insurrection or hostilities or public emergency, in which event you are liable to serve for the whole of the remaining unexpired term of service in the reserve and such further period not exceeding twelve months as an other rank may be retained under the Defence Act;

(b) on temporary service at any time when the President thinks necessary.

15. If at the time you are due to be discharged or transferred to the reserve you are liable to be proceeded against for an offence against service law, your discharge or transfer to the reserve will be postponed until after the proceedings have been concluded.

16. If at the time when you are entitled to be discharged or transferred to the reserve you are serving out of Trinidad and Tobago, you will be sent to Trinidad and Tobago free of all costs.

FORM 2

THE TRINIDAD AND TOBAGO DEFENCE
FORCE ATTESTATION PAPER

No. Nature of Engagement..... years
with the colours years in the reserve.

General Instructions for completing the Attestation Paper

1. The recruit will first be given a copy of the notice paper.
2. Any alterations in this attestation paper will be initialled in ink by the recruiting officer.
3. The recruiting officer will delete all paragraphs referred to types of engagement which are not appropriate.

Under the provisions of sections 32 and 71 of the Defence Act if a person knowingly makes a false answer to any of the contained in the attestation paper, he renders himself liable to punishment.

Questions to be put to the recruit before Enlistment

Q. 1. What is your full name? (a) Given name or Forenames (b) Surname

Q. 2. What is your address?	Q. 3. State the day, month and year of your birth
Q. 4. Where were you born?	Q. 5. What is your nationality now?

Q. 6. What was the nationality at birth of—
(a) yourself? (b) your father?
(c) your mother? (d) your wife/husband?

Q. 7. Are you single, married, widowed, divorced? (State which)	Q. 8. How many children are dependent on you?	Q. 9. What is your trade or calling?
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Q. 10. Do you belong to, or have you ever served in the naval, military, or air forces of any Commonwealth country or in the former West India Regiment, or in any police force? If so, state which, and the periods of service and the reasons for and dates of discharge.

Q. 11. Have you ever been cashiered, dismissed, discharged with disgrace, with ignominy or for misconduct from the naval, military or air forces of any Commonwealth country or from any police force?	Q. 12. Have you truly stated the whole, if any, of your previous services?	Q. 13. Have you at any time been found guilty by a civil Court of any offence? If so, give particulars.
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Q. 14. Have you ever been rejected for service in any Commonwealth force or in the former West India Regiment or in any police force? If so, on what grounds?

Q. 15. Are you willing to be vaccinated or re-vaccinated?

Q. 16. Have you received a notice paper (.....) setting out the questions to be answered on attestation, and the general conditions of the engagement to be entered into? Do you understand the contents of the notice paper and wish to be enlisted?

Q. 17. Are you willing to serve in the Trinidad and Tobago Defence Force or in such military forces of the State as may be raised under the Defence Act provided the State shall so long require your services, for—

a term of years with the colours, or
a term of 3 years with the colours and 3 years in the reserve?
or A

If you are a boy (that is if your age is under 18 years) the period from the date of your attestation up to the date on which you attain the age of 18 years and thereafter for either—
a period of 6 years with the colours,

or
a period of 6 years with the colours and 3 years in reserve?
A

SOLEMN DECLARATION

I,....., do solemnly declare that the above answers made by me to the above questions are true, and that I am willing to fulfil the engagement made.

.....
(Date)

.....
(Signature of Recruit)

.....
(Signature of Witness)

(OATH TO BE TAKEN) (AFFIRMATION TO BE MADE) BY RECRUIT ON ATTESTATION

I,....., (swear by Almighty God) (do solemnly, sincerely and truly declare and affirm) that I will be faithful and bear true allegiance to Trinidad and Tobago and that I will, as in duty bound, honestly and faithfully defend the State and the dignity of the State against all enemies, and will observe and obey all orders of the State and of the officers set over me.

CERTIFICATE OF RECRUITING OFFICER

The recruit named overleaf was cautioned by me that if he knowingly made any false answer to any of the questions overleaf he would be liable to be punished as provided in the Defence Act.

The questions overleaf were then read to the recruit in my presence.

I have taken care that he understands each question, and that his answer to each question has been duly entered.

I have taken care to see that the recruit has received a copy of the notice paper and I am satisfied that he is fully aware of the terms and general conditions of service on which he has entered.

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF LEGAL AFFAIRS

www.legalaffairs.gov.tt

164

Chap. 14:01

Defence

[Subsidiary]

Defence (Enlistment and Service) Regulations

I am satisfied from the evidence produced or the statements made by the recruit that he (has)/(has not) attained the age of 18 years.

The said recruit has made and signed the declaration and (taken the oath) (made a solemn affirmation) before me at on this day of, 20

(Signature and rank) Recruiting Officer

Identification particulars of on enlistment
Apparent age years months Eyes Hair
(to be determined by the examining medical officer)
Height inches Distinctive marks, and marks indicating congenital peculiarities of previous disease (without boots/shoes, to nearest 1/4 inch.)
Weight lb.
Height Description of features (without boots/shoes to nearest 1/4 inch.)
Religious denomination

CERTIFICATE OF MEDICAL EXAMINATION

I/We have examined this recruit in accordance with current instructions and have assessed him as follows:

Date
Place

Table with 8 columns labeled P, U, L, H, E, E, M, S and empty rows for assessment.

[Signature(s) of medical officer(s)]

CERTIFICATE OF APPROVING OFFICER

I certify that this attestation paper of the above-named recruit is properly completed and that the required forms relative to his enlistment appear to have been complied with. I accordingly approve his enlistment in the Trinidad and Tobago Defence Force.

Date
Place

(Signature of approving officer)

NOTES FOR RECRUITING OFFICERS

1. Insert type of engagement.
2. If the recruit has former service he is to be asked particulars of his former service, and will produce, if possible, all certificates issued on discharge. All certificates will be returned to the recruit and certificates will be conspicuously endorsed in red ink that he has been enlisted into the Trinidad and Tobago Defence Force.
3. Delete whichever is inappropriate.
4. Answer yes to appropriate question.

SECOND SCHEDULE

Regulation 5.

PART I

<i>Provision of the Act</i>	<i>Purpose</i>	<i>Competent military authority</i>
Section 21(1)	Approving re-engagement	The commanding officer
Section 21(2)	Approving continuance in colour service	The commanding officer
Section 22	Prolonging service during emergency	In Trinidad and Tobago the Chief of Defence Staff; outside Trinidad and Tobago the commander of the force with which an other rank is serving
Section 24(2)	Discharging an other rank when he falls to be transferred to the reserve	The commanding officer
Section 31(2)	Receiving claim and discharging a person who has not made a declaration on attestation	The commanding officer

PART II

<i>Reason</i>	<i>Competent military authority</i>
For inefficiency during the first 6 months of service	The commanding officer
For inefficiency at any other time	The Chief of Defence Staff
Service no longer required	The Chief of Defence Staff
Conviction of civil Court	The Chief of Defence Staff
Medically unfit	The commanding officer
On compassionate grounds	The Chief of Defence Staff
On purchase under section 29 of the Act	The commanding officer
On being unable to qualify for a trade	The commanding officer
For misrepresentations and allied offences on attestation	The Chief of Defence Staff
Having been attested but not finally approved... ..	The commanding officer
Having been improperly enlisted	The commanding officer

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF LEGAL AFFAIRS

www.legalaffairs.gov.tt

166

Chap. 14:01

Defence

[Subsidiary]

Defence (Enlistment and Service) Regulations

<i>Reason</i>	<i>Competent Military Authority</i>
For the purpose of being appointed to a Commission ...	The Chief of Defence Staff
Having claimed discharged after 3 months notice (applicable to an other rank serving beyond 22 years reckonable service)	The commanding officer
A person having enlisted as a potential officer on his own request failing to qualify for selection as an officer cadet	The commanding officer
Having claimed discharged after 3 months notice (applicable to an other rank serving beyond 22 years reckonable service)	The commanding officer
A person having enlisted as a potential officer on his own request failing to qualify for selection as an officer cadet	The commanding officer



DEFENCE (OFFICERS) REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation and commencement.
 2. Eligibility.
 3. Eligibility for promotion.
 4. Promotions.
 5. Antedating of Commissions.
 6. Acting rank.
 7. Honorary rank.
-

7 of 1962.
(6th Sch.).
[32 of 1979]

***DEFENCE (OFFICERS) REGULATIONS**

deemed to be made under section 244

Citation and
Commencement.

1. (1) These Regulations may be cited as the Defence (Officers) Regulations.

(2) These Regulations have effect from 31st May 1962.

Eligibility.

2. No person shall be commissioned as an officer unless—

- (a) he is a Commonwealth citizen; and
- (b) has been resident in any place in the Commonwealth or the Eastern Caribbean for at least two years.

Eligibility for
promotion.

3. (1) Subject to this Regulation, officers will normally be eligible for consideration for promotion to substantive ranks as follows:

- (a) in the case of officers attached to the land forces—
 - (i) to lieutenant, after two years commissioned service;
 - (ii) to captain, after four years commissioned service as a lieutenant;
 - (iii) to major, after seven years commissioned service as a captain;
- (b) in the case of officers attached to the coast guard—
 - (i) to sub-lieutenant, depending on his progress while under training;
 - (ii) to lieutenant, after eighteen months commissioned service as sub-lieutenant;
 - (iii) to lieutenant-commander, after nine years commissioned service as a lieutenant.

(2) Commissioned service in the military forces of the United Kingdom or the former West India Regiment immediately prior to commission under this Act shall count as service for the purpose of these Regulations.

*These Regulations constituted the original Part II of the Sixth Schedule to the Act.

4. An officer is eligible for substantive promotion to the rank of Captain, Major or other corresponding rank where he has passed the appropriate promotion examination and has been recommended for promotion to the Board by his commanding officer.

Promotions.
[32 of 1979].

5. The Commission of an officer into the Force may, on the recommendations of the Board set up under section 10 of the Act, be antedated.

Antedating of
commissions.

6. An officer may be promoted to acting or paid acting rank to fill a vacancy in the establishment of any unit.

Acting rank.

7. (1) The President may appoint a person to an honorary rank and under such conditions as he may think fit.

Honorary rank.

(2) A person appointed under subregulation (1) to a commission is not entitled to any pay, allowance, retired pay, pension, gratuity or other benefit.

**DEFENCE (PAY AND SUPERANNUATION)
(TRANSFERRED OFFICERS) REGULATIONS**

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation.
2. Interpretation of “Secondment” and “public service”.
3. Seconded officers transferred to the Defence Force.
4. Pay and allowances of seconded personnel.
5. Superannuation benefits.
6. Preservation of leave and leave passages.
7. Leave passage on termination of service.
8. Transfer from the Defence Force to the public service.
9. Rights in lieu of re-absorption.
10. Repayment of benefits.

***DEFENCE (PAY AND SUPERANNUATION)
(TRANSFERRED OFFICERS) REGULATIONS**

19 of 1967.
[218/1977].

deemed to be made under section 244

1. These Regulations may be cited as the Defence (Pay and Superannuation) (Transferred Officers) Regulations. Citation.

2. (1) For the purposes of these Regulations, a person shall be taken to be seconded to the Defence Force if being the holder of a substantive office in the public service he has been assigned for duty with the Defence Force. Interpretation of "Secondment" and "public service".

(2) For the purposes of these Regulations "public service" includes service in the Trinidad and Tobago Police Service and the Trinidad and Tobago Fire Service.

3. Every person who has been seconded from the public service to the Defence Force on or before 31st December 1964 (in these Regulations referred to as a "seconded officer") shall be deemed to be transferred to the Defence Force with effect from 1st January 1965 and shall from that date, subject to the provisions of these Regulations, cease to be the holder of an office in the public service, but, subject as mentioned above, may be transferred from the Defence Force to an office in the public service. Seconded officers transferred to the Defence Force.

4. Every seconded officer shall, with effect from the date on which he was seconded, be paid the salary attached to the office from which he was seconded or the basic pay attached to the rank which he holds in the Defence Force, whichever is the greater, but in either case shall be entitled to receive such allowances as may attach to his rank in the Defence Force by virtue of any rules or regulations made under the Act for that purpose. Pay and allowances of seconded personnel.

5. (1) This regulation applies—
(a) to seconded officers;
(b) to persons who have after 31st December 1964 enlisted in or were recruited to the Defence Force from the public service; Superannuation benefit. [218/1977].

*These Regulations constituted the former Seventh Schedule to the Act.

- (c) to persons who have enlisted in or were recruited to the Defence Force from service in the employment of a prescribed body or authority;
- (d) to any person who has enlisted in or was recruited to the Defence Force from service as a teacher in an Assisted Secondary School;
- (e) to persons who on being recruited into or before enlisting in the Defence Force were daily-paid employees in the public service or in the employment of a prescribed body or authority.

In this regulation, “prescribed body or authority” means any body or authority prescribed by the Minister by Regulations made under section 244(1)(g) of the Act.

- (2) A person to whom this regulation applies may elect—
 - (a) to contribute to any superannuation scheme which may be established for the benefit of members of the Defence Force; or
 - (b) to continue to be subject for the purposes of eligibility for superannuation benefits to the pensions laws applicable to—
 - (i) the branch of the public service;
 - (ii) his service in the employment of a prescribed body or authority; or
 - (iii) his service as a teacher in an Assisted Secondary School,

from which he was seconded, enlisted or recruited, as the case may require; but, in any case, for the purposes of computing the total service in respect of which superannuation benefits shall accrue, account shall be taken both of the service in the Defence Force and service in the public service, or in the employment of a prescribed body or authority or as a teacher in an Assisted Secondary School, as the case may require;

(c) if he held a pensionable office, or was employed in a temporary capacity for not less than two years, in a Service as defined in the Law Reform (Pensions) Act, other than the Defence Force, to have his service in that Service (hereinafter referred to as “his previous service”) consolidated with his period of service in the Defence Force, on the condition that he pays arrears of contribution in respect of his previous service. Ch. 23:59.

(3) Subregulation (2)(c) applies only to a person who held a pensionable office in a Service as defined in the Law Reform (Pensions) Act, on or after 2nd June 1989.

6. A seconded officer who, prior to his secondment to the Defence Force, was eligible under any regulations then in force relating to the office of which he was holder for the grant of vacation leave or leave passages for himself and specified members of his family shall, notwithstanding any provisions to the contrary contained in such regulations or in any administrative directions, be entitled to have such leave and leave passages preserved to him and may, subject to the exigencies of the Defence Force, be granted the same at any time during his services with the Defence Force. Preservation of leave and leave passages.

7. A seconded officer who has been transferred to the Defence Force in pursuance of regulation 3, and who but for such transfer would have become eligible for the grant of a leave passage under the regulations applicable to the office from which he was seconded, shall, at the termination of his service in the Defence Force, if he has at that date completed four or more years service with the Force, be eligible for the grant of leave passage of a class prescribed for the holders of offices in the public service who receive like pay and allowances. Leave passage on termination of service.

8. A seconded officer who has been transferred to the Defence Force in pursuance of regulation 3 may, with the approval of the appropriate Service Commission, be transferred from the Defence Transfer from the Defence Force to the public service.

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Force to an office in the public service on the termination of his service with the Defence Force if—

- (a) at the date of the termination of such service the officer has not attained the age of fifty-five years;
- (b) there is available to the officer an office to which there are attached pensionable emoluments at least equivalent to the basic pay received by him as a member of the Defence Force at the date on which his service with that Force is terminated or to the average basic pay received by him during the last six months of his service as a member of the Defence Force, whichever is the greater.

Rights in lieu of re-absorption.

9. A seconded officer who has been transferred to the Defence Force in pursuance of regulation 3 and who has been honourably discharged from the Defence Force and is otherwise qualified to be re-absorbed in the public service may, if no appropriate office is at the time of his discharge available to him, elect either—

- (a) to receive compensation for loss of office calculated at the rate prescribed for public officers; or
- (b) to continue, subject to the approval of the Minister, in the service of the Defence Force until he attains the age at which he would normally be required to retire from the public service.

Repayment of benefits.

10. Where a seconded officer who has been transferred to the Defence Force in pursuance of regulation 3 has not been re-absorbed in the public service, and the officer has contributed towards the Superannuation Scheme established under the Defence Act and the Widows' and Orphans' Pensions Scheme, any benefits which may become payable to the personal representatives of such officers shall be paid from both funds, but if the officer has been re-absorbed into the public service, his personal legal representatives shall be entitled to receive the benefits provided for by the Superannuation Schedule established under the Defence Act or those provided by the Widows' and Orphans' Pension Scheme, whichever are the greater; and there shall be refunded with interest to such personal representatives the contributions made by the officer to the Scheme from which the benefits aforesaid were not paid.

**DEFENCE (PAY AND SUPERANNUATION)
(TRANSFERRED OFFICERS) (PRESCRIBED BODIES AND
AUTHORITIES) REGULATIONS**

134/1974.
[217/1977].

made under section 244

1. These Regulations may be cited as the Defence (Pay and Superannuation) (Transferred Officers) (Prescribed Bodies and Authorities) Regulations. Citation.

2. The bodies and authorities specified in the Schedule hereto are prescribed bodies and authorities for the purposes of regulation 5 of the Defence (Pay and Superannuation) (Transferred Officers) Regulations. Prescribed bodies and authorities to be specified.

SCHEDULE

The Agricultural Development Bank of Trinidad and Tobago established under the Agricultural Development Bank Act, Ch. 79:07.

The Agricultural Society of Trinidad and Tobago established under the Agricultural Society Act, Ch. 63:01.

*The Arima Borough Council established under the Arima Corporation Ordinance, Ch. 39 No. 11(1950 Ed.).

*The Borough Police appointed for the purposes of the San Fernando Corporation Ordinance, Ch. 39 No. 7 (1950 Ed.), and the Arima Corporation Ordinance, Ch. 39 No. 11(1950 Ed.), respectively.

The British West Indian Airways Limited, a company incorporated under the Companies Act (Ch. 81:01).

The Central Marketing Agency established under the Central Marketing Agency Act, Ch. 68:01.

*The City Police appointed for the purposes of the Port-of-Spain Corporation Ordinance, Ch. 39 No. 1 (1950 Ed.).

The Cocoa and Coffee Industry Board established under the Cocoa and Coffee Industry Act, Ch. 64:20.

The Control Board established by virtue of the Emergency Powers (Defence) Acts 1939 and 1940 of the United Kingdom as applied by the Emergency Powers (Colonial Defence) Order-in-Council in so far as it relates to the Control Board before the year 1951.

* This Ordinance was repealed by the Municipal Corporations Act, 1990 (Act No. 21 of 1990).

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF LEGAL AFFAIRS

www.legalaffairs.gov.tt

176

Chap. 14:01

Defence

[Subsidiary]

*Defence (Pay and Superannuation) (Transferred Officers)
(Prescribed Bodies and Authorities) Regulations*

The Industrial Development Corporation established under the Industrial Development Corporation Act, Ch. 85:50.

The National Housing Authority established under the Housing Act, Ch. 33:01.

The Port Authority of Trinidad and Tobago established under the Port Authority Act, Ch. 51:01.

*The Port-of-Spain City Council established under the Port-of-Spain Corporation Ordinance, Ch. 39. No. 1 (1950 Ed.).

The Public Transport Service Corporation established under the Public Transport Service Act, Ch. 48:02.

*The San Fernando Borough Council established under the San Fernando Corporation Ordinance, Ch. 39. No. 7 (1950 Ed.).

The Sugar Industry Control Board established under the Sugar Industry Control Board Act, Ch. 64:03.

The Sugar Industry Labour Welfare Committee incorporated under the Sugar Industry Labour Welfare Committee (Incorporation) Act, Ch. 64:05.

The Trinidad and Tobago Electricity Commission established under the Trinidad and Tobago Electricity Commission Act, Ch. 57:40.

The Trinidad and Tobago Telephone Company Limited established under the Trinidad and Tobago Telephone Act, Ch. 47:30.

The Trinidad and Tobago Tourist Board established under the Tourist Board Act, Ch. 87:53.

The Water and Sewerage Authority established under the Water and Sewerage Act, Ch. 54:40.

The Zoological Society of Trinidad and Tobago incorporated under the Zoological Society of Trinidad and Tobago (Incorporation) Ordinance 1952. (Ord. 12 of 1952).

The former Marketing Board established under the former Marketing Board Ordinance, Ch. 23. No. 8 (1950 Ed.).

* This Ordinance was repealed by the Municipal Corporations Act, 1990 (Act No. 21 of 1990).

**DEFENCE FORCE (ADMINISTRATIVE INSPECTIONS)
REGULATIONS**

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation.
2. Minister to appoint team of administrative inspectors.
3. Composition of team.
4. Minister may appoint person of proven military experience to assist them.
5. Team to inspect at least once a year and to give notice to Chief of Defence Staff.
6. Report of inspection to be submitted to Minister.
7. Snap inspections.
8. Report of snap inspections.
9. Conduct of inspections.
10. Inspectors to be paid travelling and subsistence allowances.

[Subsidiary]

82/1975.

**DEFENCE FORCE (ADMINISTRATIVE INSPECTIONS)
REGULATIONS**

made under section 244

Citation.

1. These Regulations may be cited as the Defence Force (Administrative Inspections) Regulations.

Minister to
appoint team of
administrative
inspectors.

2. The Minister shall by writing under his hand appoint a team of three administrative inspectors (hereinafter called “the team”) for the purpose of inspecting the Trinidad and Tobago Defence Force to ensure that—

- (a) all units of the Force are maintained at a level of efficiency sufficient to fulfil the role for which the Force was established—special attention being paid to discipline, morale and training;
- (b) economy is practised in the organisation and administration of the Force; and
- (c) satisfactory arrangements obtain for the security of camp areas and other military installations.

Composition of
team.

3. (1) The team shall consist of—

- (a) one inspector from the Ministry responsible for the subject of defence;
- (b) one inspector from the Ministry of Finance; and
- (c) one inspector from the law officers of the Attorney General’s Office,

and each Inspector shall serve on the team for the period specified in the instrument of his appointment.

(2) Subject to regulation 4, the Minister shall nominate one inspector to be leader of the team.

Minister may
appoint person
of proven
military
experience to
assist them.

4. For the purpose of assisting the team in the organisation and development of a system of inspection the Minister may appoint a person of proven military experience who has served elsewhere than in the Trinidad and Tobago Defence Force and who shall lead the team during the period of his appointment.

5. The team shall inspect the Force at least once each year and shall give at least fourteen days' notice of inspection to the Chief of Defence Staff.

Team to inspect at least once a year and to give notice to Chief of Defence Staff.

6. Reports of inspections by the team shall be submitted within three months of the conclusion of the inspection to the Minister who shall forward copies thereof to the Chief of Defence Staff.

Report of inspection to be submitted to Minister.

7. In addition to inspections under regulation 5 individual inspectors may from time to time make snap inspections without prior notice to the Chief of Defence Staff.

Snap inspections.

8. Reports of all snap inspections shall be submitted within one week of the conclusion of the inspection to the leader of the team for transmission to the Minister and through the Minister to the Chief of Defence Staff.

Report of snap inspections.

9. In the conduct of any inspection under these Regulations inspectors shall be guided by any special or general directions of the Minister and shall—

Conduct of inspections.

- (a) have access to all records, reports, standing orders and other written instructions, accounts, stores, equipment and installations obtaining with the approval of the Minister specialist or expert advice where necessary from whatever source such advice is obtainable;
- (b) examine disciplinary charges and punishment;
- (c) investigate complaints from officers and men; and
- (d) interview any member of the Force who is likely to be of assistance for the purposes of the inspection.

10. Inspectors shall be paid travelling and subsistence allowances at rates to be determined by the Minister.

Inspectors to be paid travelling and subsistence allowances.

L.R.O.

**DEFENCE (SPECIAL SERVICE COMMISSIONS)
REGULATIONS**

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation and Commencement.

PART I

PRELIMINARY

2. Definitions.

PART II

**APPOINTMENT, TRAINING
AND PROMOTION OF OFFICERS**

3. Condition precedent to making recommendation.
4. Power of Board to recommend in certain specified cases.
5. Training.
6. Commission and service.
- 6A. Termination of Commission.
7. Rank on appointment.
8. Seniority.
9. Promotion.
10. Eligibility for regular commission and terminal benefits.
11. Application of Regulations to officers.

PART III

SUPERANNUATION

AGE OF RETIREMENT, CONTRIBUTIONS AND BENEFITS

12. Age of compulsory retirement.
13. Contribution of superannuation benefits.
14. Gratuity on completion of Commission.
15. Officers retiring before completing ten years service.
16. Gratuity and pension payable after ten years but before fifteen years service.
17. Gratuity and pension payable after fifteen years but before twenty years service.

REGULATION

18. Gratuity and pension payable after twenty years service.

PART IV

BENEFITS TO DEPENDANTS ON DEATH OF OFFICERS

19. Benefits payable to dependants on death of officer who has completed ten years service.
20. Benefits payable to dependants on death of officer who has not completed ten years service.
21. Pension payable where officer dies after retirement.

PART V

GENERAL

22. Special allowances or pension payable for injuries or death resulting therefrom.
23. Savings.

PART VI

GENERAL AND TRANSITIONAL PROVISIONS

24. Power to dispense with probate.

[Subsidiary]

104/1987.
[143/2009].**DEFENCE (SPECIAL SERVICE COMMISSIONS)
REGULATIONS***made under section 244*Citation and
commencement.
[143/2009].**1.** (1) These Regulations may be cited as the Defence (Special Service Commissions) Regulations.

(2) These Regulations shall be deemed to have come into effect on 1st June 1962.

PART I**PRELIMINARY**Definitions.
[143/2009].**2.** In these Regulations—

“the Act” means the Defence Act;

“the 1968 Regulations” means the Defence (Pensions, Terminal and Other Grants) Regulations, 1968;

“basic pay” means such sum as may from time to time be approved by the Minister;

“Board” means the Commissions Board set up by the President pursuant to section 10 of the Act;

“child” has the meaning assigned to it under the 1968 Regulations;

“Force” means the Trinidad and Tobago Defence Force;

“officer” means Special Service Commissioned Officer;

“pensionable emoluments” means the average annual basic pay received by a member of the Force during the three years immediately preceding the date of retirement from colour service or the basic pay which he was actually receiving on the date of such retirement, whichever is the greater;

“reckonable service” means pensionable service and qualifying service within the meaning of the 1968 Regulations;

“Special Service Commission” means a Commission appointed pursuant to regulation 6.

GN No. 38 of
1968.

PART II

**APPOINTMENT, TRAINING AND
PROMOTION OF OFFICERS**

3. Before making a recommendation for the appointment of a person to a Special Service Commission, the Board must be satisfied that the person—

Condition precedent to making recommendation. [143/2009].

- (a) is a citizen of Trinidad and Tobago between the ages of twenty-four and forty-two;
- (b) has been certified as medically fit in accordance with service (PULMEEMS C.F.E.) standard; and
- (c) possesses an educational qualification of or equivalent to, five passes at ordinary level in the Cambridge Overseas General Certificate of Education Examinations or in the London Overseas General Certificate of Education Examinations or in the Caribbean Examination Council Examinations, save that the passes shall include English Language and either Mathematics or a science subject.

4. (1) Notwithstanding paragraph (b) of regulation 3, the Board may, in special circumstances, recommend for a Commission a person who is certified as medically fit in a lower medical category.

Power of Board to recommend in certain specified cases.

(2) Notwithstanding paragraph (c) of regulation 3, the Board may, in special circumstances, recommend for a Commission a person who does not possess the qualifications specified in that paragraph but who, in the opinion of the Board possesses any professional or technical competence or experience which it may consider desirable in the interest of the Force.

5. (1) A person appointed to a Commission in the Force shall be required, where necessary, to undergo training with a unit of the Force, or at an approved institution or with the unit and the approved institution.

Training.

L.R.O.

(2) An officer to whom subregulation (1) applies, who fails to attain the standard required by his Commanding Officer may be referred for further training or may be granted a discharge.

(3) An officer who is discharged under subregulation (2) shall not be subject to reserve liability but may be required to refund the cost of his training.

Commission and service. [143/2009].

6. (1) The appointment of an officer shall be for an initial period of at least three years but not more than five years, save that his Commission shall not be confirmed until he has completed six months' service to the satisfaction of the Board, acting on the recommendation of his Commanding Officer.

(2) On completing the initial period of service referred to in subregulation (1), the officer may, on the recommendation of his Commanding Officer, have his Commission extended by the Minister for further periods not exceeding three years at any one time where—

- (a) *(deleted by LN 143/2009)*;
- (b) his service is satisfactory; and
- (c) his services are required.

Termination of Commission. [143/2009].

6A. An appointment to a Commission effected under these Regulations may be terminated at anytime thereafter by the President on the advice of the Board through the Minister.

Rank on appointment.

7. The rank of an officer in the Force shall be not lower than that of Lieutenant in the Trinidad and Tobago Regiment or an equivalent rank in the Trinidad and Tobago Coast Guard, but the officer may, by virtue of his age and profession or technical competence or experience, be appointed to a higher rank.

Seniority.

8. (1) The seniority of an officer shall be determined by the date of his appointment to a Commission.

(2) Notwithstanding subregulation (1), the Board may for the purposes of determining the seniority of an officer take into account any previous service and special qualifications of that officer.

9. An officer who is commissioned under these Regulations is eligible for promotion to substantive rank in accordance with regulations 2 and 4 of the Defence (Officers) Regulations, 1962, but may on the recommendation of his Commanding Officer be promoted to substantive rank although not qualified by the length of service specified under the said Regulations. Promotion.

- 10.** (1) An officer is eligible for a regular commission if— Eligibility for regular commission and terminal benefits.
- (a) he has served at least three years as an officer;
 - (b) he has attended a course of training at an approved institution;
 - (c) he is able to serve a period of twenty years in the Force before he attains the age of forty-seven years or such other age at which he may be permitted to retire pursuant to the provisions of regulation 3(3)(a) of the 1968 Regulations; and
 - (d) he is recommended by his Commanding Officer.

(2) An officer to whom subregulation (1) applies shall have his terminal benefits assessed in accordance with the 1968 Regulations.

11. (1) Regulations made under the Act and relating to seniority, pay and allowances, family passages, medical and dental treatment, leave, discipline, accommodation and procedure shall apply to officers. Application of Regulations to officers.

(2) An officer shall, at the end of his service, be granted in addition to any other leave for which he may be eligible such terminal leave as may be prescribed.

PART III

SUPERANNUATION

AGE OF RETIREMENT, CONTRIBUTIONS AND BENEFITS

12. Every officer shall retire on attaining the age specified for the retirement of officers under regulation 3 of the 1968 Regulations. Age of compulsory retirement.

L.R.O.

Contribution of superannuation benefits.

13. As a contribution towards the superannuation benefits, there shall be deducted from the basic pay of every officer such sum as may from time to time be prescribed for members of the Force.

Gratuity on completion of Commission. [143/2009].

14. Every officer appointed to a Special Service Commission shall on completion of the Commission be eligible for a gratuity calculated at the rate of twenty per cent of the basic pay and previous unbroken Government service shall be taken into account for the purpose of assessing the gratuity.

Officers retiring before completing ten years service.

15. (1) Where an officer leaves the Force whether by reason of dismissal or otherwise without being eligible for a pension or gratuity, he is entitled to the return in full of all deductions made from his basic pay under regulation 13 with interest thereon at the rate prescribed for members of the Force.

(2) An officer who leaves the Force whether by reason of dismissal or otherwise, before completion of his Commission and who has not completed ten years reckonable service is—

- (a) eligible to receive a gratuity equivalent to twenty per cent of the aggregate amount of the basic pay received by him during the period of his service; and
- (b) entitled to the return in full of all deductions made from his basic pay under regulation 13, together with interest thereon at the rate prescribed for members of the Force.

Gratuity and pension payable after ten years but before fifteen years service.

16. An officer who leaves the Force whether by reason of dismissal or otherwise, after he has completed ten years reckonable service but before he has completed fifteen years such service shall be paid—

- (a) an annual pension at the rate of one/six hundredth of his pensionable emoluments for each completed month of such service; and
- (b) a gratuity equal to thirty days pensionable emoluments for each completed year of such service.

17. An officer who leaves the Force, whether by reason of dismissal or otherwise, after he has completed fifteen years reckonable service but before he has completed twenty years such service shall be paid—

Gratuity and pension payable after fifteen years but before twenty years service.

- (a) an annual pension at the rate of one/five hundred and fortieth of his pensionable emoluments for each completed month of such service; and
- (b) a gratuity equal to thirty days pensionable emoluments for each completed year of such service.

18. (1) An officer who leaves the Force whether by reason of dismissal or otherwise after he has completed twenty years reckonable service and has attained the age of forty-five years shall be paid—

Gratuity and pension payable after twenty years service.

- (a) an annual pension at the rate of one/four hundred and eightieth of his pensionable emoluments for each completed month of such service; and
- (b) a gratuity equal to thirty days pensionable emoluments for each completed year of such service.

(2) An officer who is retired or called upon to retire from the Force on grounds other than misconduct after he has completed twenty years reckonable service and before attaining the age of forty-five years shall be paid—

- (a) an annual pension at the rate of one/four hundred and eightieth of his pensionable emoluments for each completed month of such service; and
- (b) a gratuity equal to thirty days pensionable emoluments for each completed year of such service.

(3) An officer who retires voluntarily from the Force or is called upon to retire for misconduct or is dismissed after he has completed twenty years reckonable service and before attaining the age of forty-five years shall be paid—

- (a) an annual pension at the rate of one/four hundred and eightieth of his pensionable emoluments for

L.R.O.

- each completed month of reckonable service reduced by ten per cent for each year or part of a year by which the age at which he leaves the Force falls short of the age of forty-five years; and
- (b) a terminal grant equal to three and one-half times the annual pension computed in accordance with subparagraph (a).

PART IV

BENEFITS TO DEPENDANTS ON DEATH OF OFFICER

Benefits payable to dependants on death of officer who has completed ten years service.

19. Where an officer dies while in the service of the Force and at the date of his death he has completed ten years reckonable service, the gratuity and pension for which he would have been eligible had he retired at the date of his death shall be paid in accordance with regulation 11 of the 1968 Regulations.

Benefits payable to dependants on death of officer who has not completed ten years service.

20. (1) Where an officer dies while in the service of the Force but before he has completed ten years reckonable service, there shall be paid to his widow or orphans or to both such widow and orphans or where appropriate, to his legal personal representative, a special gratuity equal to thirty days pensionable service.

(2) Any gratuity payable under subregulation (1) shall be paid in accordance with the 1968 Regulations.

Pension payable where officer dies after retirement.

21. Where an officer dies after he has retired, the 1968 Regulations shall apply in respect of his benefits.

PART V

GENERAL

Special allowances or pension payable for injuries or death resulting therefrom.

22. Where an officer dies or has been permanently disabled in the circumstances contemplated by regulations 15 and 16 of the 1968 Regulations, those Regulations shall govern the payment of any pension or special allowances to which the officer or his dependants may be entitled.

23. (1) These Regulations, in so far as they relate to pensionable service and the payment of superannuation benefits shall not apply to an officer—

(a) who was transferred to the Force under the Defence (Amendment) Act, 1967; or

(b) who has been commissioned from the ranks.

Savings.

Act No. 19 of 1967.

(2) An officer referred to in subregulation (1) shall, for the purposes of superannuation and retirement benefits, have his previous military service or pensionable service with the Government of Trinidad and Tobago computed in accordance with the 1968 Regulations, or any other legislation made in that behalf.

PART VI

GENERAL AND TRANSITIONAL PROVISIONS

24. (1) On the death of an officer to whom any moneys may be due on account of pay, pension and terminal grant or gratuity, the Minister of Finance may, on his being satisfied as to the expediency in such case of dispensing with the production of probate or letters of administration, cause such moneys to be paid to such person as he may consider entitled thereto, without requiring the production of probate or letters of administration.

Power to dispense with probate.

(2) Any payment made in pursuance of subregulation (1), shall be valid against all persons whatsoever, and all persons acting under this regulation shall be absolutely discharged from all liability in respect of all moneys duly paid by them under that regulation.

L.R.O.

**DEFENCE (PENSIONS, TERMINAL AND OTHER
GRANTS) REGULATIONS**

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation and commencement.

PRELIMINARY

2. Definition.

PART I

SUPERANNUATION

AGE OF RETIREMENT, CONTRIBUTIONS AND BENEFITS

3. Ages of compulsory retirement.
4. Contribution to superannuation benefits.
5. Payments to officers and other ranks leaving the Force without qualifying for pension, etc.
6. Gratuity payable to officers and other ranks after ten years service.
7. On attaining age of 45 after 20 years service.
- 7A. Other rank enlisted before 1st January 1966.
8. Pensions to members of Force in cases of disability.
9. Retirement in the interest of the Force, etc.
10. Voluntary retirement or dismissal for misconduct before the age of forty-five years.

PART II

**BENEFITS TO DEPENDENTS ON DEATH OF OFFICER
OR OTHER RANK**

11. Officer or other rank dying after ten or more years of service.
12. Officer or other rank dying prior to completion of ten years service.
13. Pension to widow and orphans of officer or other rank dying after retirement.
14. Division of pension between widow and children in the discretion of the Minister.

REGULATION

PART III

**SPECIAL ALLOWANCES FOR INJURIES OR DEATH IN
THE DISCHARGE OF DUTIES**

15. Special allowance for injuries.
 16. Pension to widow and orphans of members of Force who die in execution of their duty.
 17. Power to dispense with probate.
 18. Officers and other ranks transferred from Public Service and Police Service.
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38/1968.*

DEFENCE (PENSIONS, TERMINAL AND OTHER GRANTS) REGULATIONS

Citation and commencement.

1. (1) These Regulations may be cited as the Defence (Pensions, Terminal and Other Grants) Regulations.

(2) The Regulations have effect from the 1st day of January, 1966.

PRELIMINARYDefinition.
[105/1985
20 of 1997].**2.** In these Regulations—

(a) “Act” means the Defence Act;

(b) “basic pay” means—

(i) in relation to officers, the appropriate sum set out in the second column of Table I to the Fourth Schedule to the Act;

(ii) in relation to other ranks, the appropriate sum set out in the second column of Table III to the Fourth Schedule to the Act together with increments earned;

(c) “pensionable emoluments” means the average annual basic pay received by a member of the Force during the three years immediately preceding the date of retirement from colour service or the basic pay which he was actually receiving on the date of such retirement, whichever is the greater;

(d) “child” means—

(i) a legitimate or legitimated child;

(ii) a step-child;

(iii) a child adopted in the manner prescribed by law;

(iv) a posthumous legitimate child, who has not attained the age of eighteen years;

(dd) “Her Majesty’s Military Forces” includes any Commonwealth Force;

*These Regulations have been amended by LNs 162, 172 and 173/1969; 50/1973; 212/1976; 131/1982; 105/1985; Act No. 16 of 1988; LN 236/1988 and Act No. 20 of 1997.

- (e) “pensionable service” means paid colour service in the Force after attaining the age of twenty years; and includes—
- (i) paid colour service in Her Majesty’s Military Forces, or in the West India Regiment; and
 - (ii) pensionable service under a pension law as defined in the Law Reform (Pensions) Act, other than the Defence Act, for which a member has paid arrears of contribution; Ch. 23:59.
- (f) “public claim” means—
- (i) any public debt or disallowance, including any over-issue or advance of pay, pension, terminal grant, gratuity or other emoluments made through an error as to the facts; or
 - (ii) the sum required to make good any loss, deficiency or irregular expenditure of public money, any deficiency, loss or damage to public stores buildings or other property;
- (g) “qualifying service” means paid colour service in the Force and, in respect of any member of the Force who before the coming into operation of these Regulations was in the Trinidad and Tobago Defence Force, includes colour service of such member in the Trinidad and Tobago Defence Force, or in Her Majesty’s Military Forces or in the West India Regiment;
- (h) “service claim” means any service debt or the sum required to make good any loss, deficiency or irregular expenditure of service money.

PART I

SUPERANNUATION

AGE OF RETIREMENT, CONTRIBUTIONS AND BENEFITS

3. (1) It shall be compulsory for officers to retire on attaining the following ages, that is to say:

- (a) a brigadier or commodore, colonel or a captain, at the age of fifty-five years;

Ages of compulsory retirement. [172/1969 50/1973 212/1976 236/1988].

L.R.O.

- (b) a lieutenant-colonel or a commander, at the age of fifty years;
 - (c) a major or a lieutenant-commander or lower rank, at the age of forty-seven years.
- (2) It shall be compulsory for other ranks to retire on attaining the following ages, that is to say:
- (a) a warrant officer or a chief petty officer, at the age of fifty years;
 - (b) a sergeant, staff-sergeant or a petty officer, at the age of forty-seven years; and
 - (c) a corporal or a leading rating or lower rank, at the age of forty-five years.
- (3) Notwithstanding that he has attained the age at which he is required by the provisions of this regulation to retire—
- (a) an officer (other than a brigadier or commodore) or other rank who on the 31st day of December, 1967, had attained the age of thirty-five years and who on that day was a member of the Force may, on the recommendation of his Commanding Officer, be permitted by the Minister to continue his colour service for such period not exceeding eight years as the Minister in his discretion may determine; and any such service shall be counted as pensionable service for the purposes of these Regulations;
 - (b) an officer who is a brigadier or commodore may be permitted by the President to continue his colour service for such period not exceeding five years as the President in his discretion may determine; provided however that in exceptional circumstances such officer may be further permitted by the President to continue his colour service for a period not exceeding six months at any one time and not exceeding in the aggregate two years; and all such colour service shall, unless it is governed by a contract in writing that provides otherwise, be counted as pensionable service for the purposes of the Regulations.

4. (1) As a contribution towards the superannuation benefits to members of the Force, there shall be deducted from the basic pay of every officer and other rank at the rate of five and one-half per centum of such pay and every such sum so deducted shall be paid into the Consolidated Fund.

Contribution to superannuation benefits. [20 of 1997].

(1A) As arrears of contribution payable under paragraph (b) of section 5(2) of the Law Reform (Pensions) Act, there shall be deducted from the basic pay of an officer or other rank to which that paragraph applies such amount as the Minister may approve, calculated on the basis of the actual pay received for each year in respect of which the arrears of contribution are payable, and every such sum so deducted shall be paid into the Consolidated Fund.

Ch. 23:59.

(2) Every pension, terminal grant, gratuity or other allowance granted or paid under these Regulations shall be paid out of the Consolidated Fund.

5. (1) In the event of any member of the Force leaving the Force whether by reason of dismissal or otherwise, without being eligible for a pension, terminal grant or gratuity under these Regulations, he shall be entitled to the return in full of all deductions made from his basic pay under paragraph (1) of regulation 4 with interest thereon at the rate of four per centum.

Payments to officers and other ranks leaving the Force without qualifying for pension, etc.

(2) Any amount returnable in accordance with paragraph (1) is liable to deduction on the order of the Minister to meet any public or service claim.

6. An officer or other rank who leaves the Force, whether by reason of dismissal or otherwise, after he has completed ten years qualifying service but before he has qualified for a pension and terminal grant under these Regulations, is eligible for the grant of a gratuity equivalent to thirty days pensionable emoluments for each completed year of pensionable service.

Gratuity payable to officers and other ranks after ten years service.

7. An officer or other rank who has attained the age of forty-five years and has completed not less than twenty years qualifying

On attaining age of 45 after 20 years service.

L.R.O.

service may retire from the Force and shall thereupon be paid—

- (a) an annual pension at the rate of one/four hundred and eightieth of the pensionable emoluments of such officer or other rank for each completed month of pensionable service so that, however, the maximum pension granted does not exceed three hundred and twenty/four hundred and eightieth of such pensionable emoluments; and
- (b) a terminal grant equal to three and a half times the annual pension computed in accordance with paragraph (a).

Other rank
enlisted before
1st January
1966.
[131/1982].

7A. An other rank who—

- (a) enlisted before 1st January 1966;
- (b) attains the age of compulsory retirement; and
- (c) has not completed 20 years qualifying service,

is entitled to a pension and terminal grant computed in accordance with the terms set out in paragraphs (a) and (b) of regulation 7.

Pensions to
members of
Force in cases
of disability.

8. (1) The Minister may order an officer or other rank, who may be disabled by infirmity of mind or body, to be retired, and such officer or other rank, if he has completed ten years qualifying service, shall thereupon be paid an annual pension at the rate of one/four hundred and eightieth of the pensionable emoluments of such officer or other rank for each completed month of pensionable service.

(2) An officer or other rank shall not be entitled to the grant of the pension referred to in paragraph (1) unless the Minister is satisfied by the certificate of a medical board that such officer or other rank is from infirmity of mind or body incapable of performing, or unsuitable to be entrusted with the duties of his office and that such infirmity or unsuitability is likely to be permanent.

Retirement in
the interest of
the Force, etc.

9. An officer or other rank who before he attains the age of forty-five years is retired or called upon to retire or resign either

on the grounds of the interest of the Force or because of a reduction in the size of the Force, and who has had at least twenty years pensionable service shall be paid—

- (a) an annual pension at the rate of one-four hundred and eightieth of the pensionable emoluments of such officer or other rank for each completed month of pensionable service; and
- (b) a terminal grant equal to three and a half times the annual pension computed in accordance with paragraph (a).

10. An officer or other rank who has completed twenty years pensionable service in the Force and who—

- (a) voluntarily resigns from the Force; or
- (b) is retired or called upon to retire or resign for misconduct; or
- (c) is cashiered or dismissed from the Force, as the case may be,

Voluntary retirement or dismissal for misconduct before the age of forty-five years.

before attaining the age of forty-five years, shall be paid—

- (i) an annual pension at the rate of one-four hundred and eightieth of the pensionable emoluments of such officer or other rank for each completed month of pensionable service reduced by ten per centum for each year or part of a year by which the age at which he retires falls short of the age of forty-five years; and
- (ii) a terminal grant equal to three and one-half times the annual pension computed in accordance with subparagraph (i).

PART II

BENEFITS TO DEPENDENTS ON DEATH OF OFFICER OR OTHER RANK

11. (1) Where an officer or other rank dies while in the service of the Force and at the date of his death has completed ten years

Officer or other rank dying after ten or more years of service.

L.R.O.

qualifying service, there shall be paid—

- (a) if he is survived only by a widow, to that widow, the terminal grant to which such officer or other rank would have been entitled had he retired at the date of his death and a pension while she remains unmarried, equal to one-half the pension to which the officer or other rank would be entitled on such date;
- (b) if he is survived by a widow and a child or children, to that widow, subject always to the provisions of regulation 14, the pension and terminal grant calculated in accordance with paragraph (a) to be administered in accordance with the provisions of subregulation (1) of regulation 14;
- (c) if he is not survived by a widow, but is survived by a child or children, to the person appointed by the Minister under subregulation (2) of regulation 14, the pension and terminal grant calculated in accordance with paragraph (a) to be administered in accordance with the provisions of subregulation (2) of regulation 14;
- (d) if he is not survived by a widow or by a child or children, to the legal personal representative of such officer or other rank, a lump sum equal to the total of the contributions paid by such officer or other rank during his period of service together with the interest thereon at the rate of four per centum.

(2) A pension granted to a female child shall cease upon the marriage of such child under the age of eighteen years.

Officer or other rank dying prior to completion of ten years service.

12. (1) When an officer or other rank dies while in the service of the Force but before he has completed ten years of qualifying service in the said Force, there shall be paid to his widow or orphans or to both such widow and such orphans or, in the appropriate case, to a legal personal representative, a special gratuity equal to thirty days pensionable emoluments for each completed year of pensionable service of such officer or other rank.

(2) The provisions of regulation 11, which relate to the manner in which a pension and terminal grant shall be administered, shall apply *mutatis mutandis* to a special gratuity payable in accordance with subregulation (1).

13. When an officer or other rank who has married prior to the date of his retirement from the Force dies after such retirement, and, before his death, was actually in receipt of or entitled to receive a pension granted under these Regulations, there shall be payable to his widow or orphans or to both such widow and orphans, as the case may require, a pension at the rate of one-half of the pension received by such officer or other rank or which such officer or other rank was entitled to receive at the date of his death and the provisions of regulation 14 shall apply *mutatis mutandis* to the administration of such pension.

Pension to widow and orphans of officer or other rank dying after retirement.

14. (1) When an officer or other rank dies leaving a widow and a child or children, there shall be paid to the widow, either in the first instance or at any time while a pension is payable, the whole of the pension, or a part only of the pension, and the balance of such pension may be applied for or towards the maintenance or education of the children in such manner as the Minister thinks fit; but where the pension ceases to be payable owing to the remarriage of such widow, the whole of such pension may be applied towards the maintenance and education of the child or children, as the case may be, in such manner as the Minister may from time to time direct.

Division of pension between widow and children in the discretion of the Minister.

(2) When any sum becomes payable to any person not *sui juris* in law, there shall be paid or applied such sum or any part thereof for the benefit or towards the maintenance or education of such person, in such manner and at such times as the Minister shall think fit; and the amount may be paid either direct to such person or to any other person or persons as the Minister may direct.

(3) If the widow of an officer or other rank while in receipt of a pension deserts or abandons or does not assist a child whom she is liable to maintain under these Regulations, the Minister may cause to be paid to a fit and proper person on behalf of such child, such portion of the pension as he may think fit.

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PART III

SPECIAL ALLOWANCES FOR INJURIES OR DEATH IN
THE DISCHARGE OF DUTIES

Special
allowance for
injuries.

15. (1) Subject to subregulation (2), where an officer or other rank has been permanently disabled—

- (a) in the actual discharge of his duty; and
- (b) without his own default; and
- (c) by some injury specifically attributable to the nature of his duty,

such officer or other rank may, on his retirement from the Force, be granted in respect of such injury, in addition to any pension, terminal grant or gratuity to which he is entitled under these Regulations, an allowance in proportion to his injury in such annual amount not exceeding the following:

When his capacity to contribute, to his support is—

- slightly impaired, 40/480th of pensionable emoluments;
- impaired, 80/480th of pensionable emoluments;
- materially impaired, 120/480th of pensionable emoluments;
- totally destroyed, 180/480th of pensionable emoluments.

(2) The annual allowance granted under subregulation (1) together with any pension granted under these Regulations shall not exceed 400/480th of the pensionable emoluments of such officer or other rank.

Pension to
widow and
orphans of
members of
Force who
die in
execution of
their duty.

16. (1) Subject to this regulation, where a member of the Force dies while in the service of the Force as a result of injuries received—

- (a) in the actual discharge of his duty;
- (b) without his own default; and
- (c) on account of circumstances specifically attributable to the nature of his duty,

there may be granted to his widow or orphans in addition to any pension, terminal grant or gratuity to which she or they are entitled under these Regulations an annual allowance equal to 60/480ths of such member's pensionable emoluments on the date of his death.

(2) The annual allowance granted under subregulation (1) shall not exceed 200/480ths of the pensionable emoluments of the officer or other rank concerned at the date of his death.

PART IV

GENERAL AND TRANSITIONAL PROVISIONS

17. (1) On the death of an officer or other rank to whom any sum or sums of money may then be due on account of pay, pension and terminal grant or gratuity, the Minister of Finance, on his being satisfied of the expediency in such case of dispensing with the production of probate or letters of administration, cause such sum or sums to be paid to such person or persons as he may consider entitled thereto, without requiring the production of probate or letters of administration.

Power to dispense with probate.

(2) Any payment made in pursuance of subregulation (1) shall be valid against all persons whatsoever, and all persons acting under the provisions thereof shall be absolutely discharged from all liability in receipt of all moneys duly paid by them under subregulation (1).

18. An officer or other rank who has been transferred from the Public Service, the Fire Service or the Police Service to the service of the Defence Force shall, on retirement from the Defence Force, be entitled to the payment of the greatest of the following benefits:

Officers and other ranks transferred from Public Service and Police Service.
[173/1969]

- (a) a pension and terminal grant or a gratuity, as the case requires, calculated as if all his pensionable service in the Public Service, the Fire Service or the Police Service were qualifying service as well as pensionable service under these Regulations;
- (b) a pension and gratuity calculated as if all his pensionable service as well as his pensionable

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202

Chap. 14:01

Defence

[Subsidiary]

Defence (Pensions, Terminal and Other Grants) Regulations

Ch. 23:52.
Ch. 15:01.

service in the Public Service, the Fire Service or the Police Service were pensionable service under the Pensions Act or the Police Service Act, as the case may be;

- (c) the aggregate of the superannuation benefits accruing to him at the date of his transfer to the Defence Force and the pension and terminal grant or the gratuity calculated on the period of service qualifying for pension and terminal grant or gratuity under these Regulations.