

CHAPTER 58

DEFENCE ACT
[1st January, 1981]

Act 31 of 1980
SI. 19 of 1986

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SCHEDULE - RANKS

PART I - PRELIMINARY

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

Interpretation 2. In this Act, unless the context otherwise requires -

"Air Force" means the Seychelles People's Air Force;

"Army" means the Seychelles People's Liberation Army;

"Chief of Staff" means the Chief of Staff of the Defence Force under section 9;

"Commander-in-Chief" means the Commander-in-Chief of the Defence Force under section 7;

"civil disaster" means a disturbance of the earth's surface, oceanic disturbance, fire, flood, famine or food shortage, epidemic, pest, shipping or aircraft disaster, or other disaster;

"Defence Force" means the Seychelles People's Defence Force established by section 3;

"enrolled" means enrolled in the Army, Navy, Air Force or Militia;

"member of the Defence Force" means an officer and a non-commissioned member, and includes a person deemed under section 21 to be a member of the Defence Force;

"Militia" means the Seychelles People's Militia;

"Navy" means the Seychelles People's Navy;

"non-commissioned member" means a person enrolled and appointed to a rank identified in the Schedule as a rank of a non-commissioned member;

"officer" means a person enrolled and appointed to a rank identified in the Schedule as a rank of an officer;

"rank" means a rank provided for in the Schedule;

"Regular Force" means a force provided for in section 16(1)(a);

"Regulations" means regulations made under section 41;

"Reserve Force" means a force provided for in section 17(1)(b);

PART II - ESTABLISHMENT AND FUNCTIONS OF DEFENCE FORCE

Establishment of Defence Force 3. There shall be established by this Act a force to be known as the Seychelles People's Defence Force which shall consist of -

- (a) The Seychelles People's Liberation Army;
- (b) The Seychelles People's Navy;
- (c) The Seychelles People's Air Force; and
- (d) The Seychelles People's Militia.

Units 4. The units of the Army, Navy, Air Force and Militia shall be as determined by the Commander-in-Chief by instrument in writing.

Functions 5. Subject to this Act, the functions of the Defence Force are -

- (a) to defend Seychelles;
- (b) to assist the civil power, as provided in section 30 and 32;
- (c) to perform functions and services of a civil nature, as provided in section 33; and
- (d) to assist in the fulfilment by Seychelles of its international obligations, as provided in section 34.

Duty to obey lawful orders 6. (1) It shall be the duty of a member of the Defence Force to obey the lawful orders of -

- (a) the Commander-in-Chief, the Chief of the Defence Force and the Chief of Staff of the Defence Force; and
- (b) any other member of the Defence Force who holds a rank superior to the rank held by him or who is senior to him within that rank.

(2) For the purpose of giving effect to lawful orders, such force (including lethal force) may be used by a member of the Defence Force as appears to be reasonably necessary in the circumstances.

(3) A member of the Defence Force is not responsible for the consequence of -

- (a) carrying out a lawful order; or
- (b) carrying out an order which he honestly and on reasonable grounds believes to be a lawful order.

(4) An order which is inconsistent with the laws and usages of war is not a lawful order for the purposes of this section.

PART III - DEFENCE ORGANISATION

Commander-in-Chief of Defence Force 7. (1) The President is Commander-in-Chief of the Defence Force.

(2) The Commander-in-Chief is responsible for -

- (a) the defence of Seychelles;

- (b) the raising, maintenance, command, control and administration of the Defence Force; and
- (c) related matters.

Chief of Defence Force 8. (1) There shall be a Chief of the Defence Force who shall be the Minister for the time being responsible for defence.

(2) The Chief of the Defence Force shall exercise such powers and perform such duties as may be delegated to him pursuant to section 12.

Chief of Staff of Defence Force 9. (1) There shall be a Chief of Staff of the Defence Force who shall be appointed and may at any time be suspended or dismissed by the Commander-in-Chief.

(2) Notwithstanding section 7 but subject to subsection (3), the Chief of Staff is responsible for the efficient administration and operational readiness of the Defence Force.

(3) The Commander-in-Chief may, pursuant to section 7(2), give directions to the Chief of Staff with respect to the exercise and performance by him of his functions under subsection (2), and the Chief of Staff shall comply with any direction so given.

(4) The Chief of Staff may exercise such powers and shall perform such duties as may be delegated to him pursuant to section 12.

Defence Council 10. (1) There shall be established by this Act a council to be known as the Defence Council.

(2) The members of the Defence Council shall be -

(a) the Commander-in-Chief;

(b) the Chief of the Defence Force;

(c) the Chief of Staff; and

(d) such other persons as may be appointed pursuant to subsection (3).

(3) The Commander-in-Chief may, by instrument in writing, appoint a person to be a member of the Defence Council and may, in like manner, remove from office any person so appointed.

(4) The Defence Council shall meet when, and as often as the Commander-in-Chief determines.

(5) The Commander-in-Chief or, in his absence the Chief of the Defence Force, shall preside at meetings of the Defence Council.

(6) Subject to this section, the procedures of the Defence Council shall be as determined by it.

Functions of Defence Council 11. The Defence Council shall advise the Commander-in-Chief with respect to -

(a) the exercise and performance of his functions as Commander-in-Chief; and

(b) any matter referred to the Defence Council by the Commander-in-Chief.

Delegation of functions of Commander-in-Chief 12.(1) The Commander-in-Chief may delegate any of his functions under this Act (except this power of delegation) to the Chief of the Defence Force, the Chief of Staff or to the holder of any office constituted pursuant to section 13.

(2) The delegation under subsection (1) of any function shall be made by instrument in writing and may be made -

(a) subject to such conditions, exceptions and limitations as are specified in the instrument of delegation; and

(b) either generally or with respect to any particular matter or class of matter.

(3) The Commander-in-Chief may, by instrument in writing, revoke or vary the terms of any delegation made by him under this section.

(4) Any act or thing done or suffered by a delegated officer while acting pursuant to a delegation under this section has the same effect as if the thing done or suffered had been done or suffered by the Commander-in-Chief.

Power to constitute offices 13. The Commander-in-Chief may, if he considers it necessary or desirable to do so in the interest of the efficient organisation or administration of the Defence Force, constitute offices, make appointments and terminate appointments made to any such office, and determine the terms and conditions of any such appointment.

Board of Inquiry 14.(1) Where the Commander-in-Chief thinks it expedient that he should be informed on any matter connected with the government, discipline, administration or functions of the Defence Force, or a part of the Defence Force, or affecting any member of the Defence Force, he may convene a Board of Inquiry to investigate and report to him on the matter.

(2) A Board of Inquiry shall be constituted, its proceeding shall be conducted, and its powers shall be as prescribed.

(3) Regulations may provide for the application to every or any Board of Inquiry of all or any of the provisions,

Cap 39 with the necessary modifications, of the Commissions of Inquiry Act, as if it were a commission under that Act.

Witnesses 15.(1)A Board of Inquiry investigating a matter under section 14 may -

(a)summon any person whose evidence is likely to be material to the consideration of the matter before the Board;

(b)administer an oath to any person appearing to give evidence; and

(c)require any person to produce documents within his possession or subject to his control.

(2) Any person who -

(a)knowingly or recklessly makes any false or misleading statement before a Board of Inquiry on any matter material to the inquiry; or

(b)neglects or fails, without reasonable excuse, the burden of proof which lies upon him, to attend in obedience to a summons under subsection (1), or to be sworn or answer questions or produce documents when required to do so under that subsection,

is guilty of an offence and is liable on conviction to a fine not exceeding R. 2000 or to imprisonment for a term not exceeding two years, or both.

(3) A person shall not refuse or fail to answer a question or produce a document on the ground that it might incriminate him, but any statement or disclosure is admissible in evidence against him only in proceedings for an offence against this section.

PART IV - CONSTITUTION, MEMBERSHIP, ETC., OF THE DEFENCE FORCE

Constitution 16.(1)The Army, Navy and Air Force shall each consist of -
of Army, etc.

(a)a Regular Force; and

(b)a Reserve Force.

(2) The Commander-in-Chief shall, by instrument in writing, from time to time, determine the maximum number of officers and non-commissioned members in each Regular Force and in each Reserve Force.

(3) The Commander-in-Chief may, by instrument in writing, upon such terms and conditions as he may determine and state in the instrument, transfer to any Regular Force or Reserve Force or to the Militia, an officer in a Regular Force or a Reserve Force.

Constitution 17. The Regular Force of the Army, Navy or Air Force
of each shall consist of -
Regular Force

- (a) persons enrolled for full-time service and appointed to a rank in that Regular Force;
- (b) any person transferred pursuant to section 16 (3) or the Regulations to that Regular Force; and
- (c) any person deemed under section 21(3) to be a member of that Regular Force.

Constitution of each Reserve Force 18. The Reserve Force of the Army, Navy or Air Force shall consist of -

- (a) any person transferred pursuant to section 16 (3) or the Regulations to that Reserve Force; and
- (b) persons enrolled for service other than full-time service and appointed to a rank in that Reserve Force.

Constitution of Militia 19.(1)The Militia shall consist of -

- (a) persons enrolled for service other than full-time service in the Militia; and
- (b) any person transferred pursuant to section 16 (3) or the Regulations to the Militia.

(2) The Commander-in-Chief may, by instrument in writing from time to time determine the maximum number of officers and non-commissioned members in the Militia.

Ranks in the Defence Force 20.(1)The ranks in the Defence Force shall be as prescribed in the Schedule.

(2) Each rank set out in the Schedule shall be superior to any rank following it and inferior to any rank preceding it.

(3) An officer is superior to a non-commissioned member.

(4) The relationship with respect to equivalence or superiority of ranks in the Defence Force shall be as prescribed.

(5) Seniority of officers or non-commissioned members within a rank shall be determined by a list of seniority maintained by the Commander-in-Chief, or if there is no such list by the service numbers of the officers or members (the lowest number determining the most senior).

(6) The listing of ranks in order of superiority or of members within a rank in order of seniority shall not be construed as creating an obligation for the appointment or promotion of any person to any of the ranks.

Service in Seychelles of members of other defence force 21.(1)The Commander-in-Chief may make an arrangement with the appropriate authority in any country whereby members or units of the armed services or defence force of that country will serve in Seychelles.

(2) The terms on which any person serves in Seychelles pursuant to an arrangement made under subsection (1) and, in particular, the position of that person in or in relation to the Defence Force, shall be as ordered by the Commander-in- Chief.

(3) Subject to any order made under subsection (2), a person serving in Seychelles pursuant to an arrangement provided for in subsection (1) is deemed -

(a) to be a member of the Regular Force in which he serves pursuant to the arrangement; and

(b) to hold the rank determined by the Commander- in-Chief.

PART V - TERMS AND CONDITIONS OF SERVICE

Appointment to rank on enrolment 22.(1) On enrolment in the Defence Force, a person shall be appointed to a rank therein.

(2) The power -

(a) to appoint persons to be officers;

(b) to promote officers to superior ranks; and

(c) to issue commissions to persons so appointed or promoted,

is vested in the Commander-in-Chief.

(3) Subject to subsection (2), the power to make an appointment pursuant to subsection (1) shall be as prescribed.

(4) The manner of enrolment shall be as prescribed.

Enrolment of person under 18 years of age 23. No person who is under the age of 18 years shall be enrolled without the consent in writing of his parents or his guardian or, when the parents or guardian are dead or unknown, of the President.

Effect of irregular enrolment 24.(1) Subject to this section or as may otherwise be prescribed, where a person has received pay as a member of the Defence Force then, notwithstanding any irregularity or error in his enrolment, he is a member of the Defence Force and not entitled to be discharged on the ground of the irregularity or error.

(2) Where a person, who by virtue of subsection (1) is a member of the Defence Force, claims his discharge within three months after his first receipt of pay as such a member, he shall, except in time of war, be discharged.

(3) Where a member of the Defence Force is under the age of 18 years and was enrolled irregularly or in error without the consent required by section 23, he shall be discharged at the request of his parent or guardian.

Period of service 25.(1) Subject to this Act, the period of service required of a member of the Defence Force shall be as prescribed.

(2) The period of service may be -

(a) a fixed period; or

(b) a period ending when the member reaches a prescribed age,

and may be different for members of the Army, Navy, Air Force or Militia, or for different ranks or classes of persons.

(3) A member of the Defence Force may re-engage for a further period of service, in such manner and on such conditions as shall be prescribed.

(4) Subject to subsection (5), at the end of his period of service, a member of the Defence Force is entitled to be discharged with all convenient speed, except in time of war or emergency when the Commander-in-Chief may extend the period of service to not later than six months after the end of the war or emergency.

(5) A member of the Defence Force shall not be entitled to be discharged if he -

(a) has become liable to be proceeded against for
Cap 59 a serious offence against the Defence Force (Offences) Act; or

(b) is serving a sentence of imprisonment under the Defence Force (Offences) Act.

(6) A member of the Defence Force shall remain subject to the provisions of this Act and of the Defence Force (Offences) Act until he has received a certificate of discharge.

Termination of service 26.(1) A member of the Defence Force may be discharged from the Defence Force by such authority and on such grounds (if any) as shall be prescribed.

PART VI - SERVICE AND EMPLOYMENT OF DEFENCE FORCE

Service of Regular Force 27.(1) The members of each Regular Force are at all times on continuous full-time service and liable to perform duty within and outside Seychelles.

(2) Except with the consent of the Commander-in-Chief no member of a Regular Force shall engage in any other employment or office.

Service of Reserve Force and Militia 28. Except as prescribed in section 29, members of a Reserve Force or of the Militia are not bound to serve continuously, but are bound -

(a) to render service when required under section 30, 32 or 33 to do so; and

(b) to render service (whether by way of training or otherwise) under the terms of their engagement for such periods as are ordered by the Commander-in-Chief or as are fixed by or in accordance with Regulations.

Calling out of Reserve Force etc. 29.(1) Where the Commander-in-Chief considers it desirable to do so, he may, by order, call out any Reserve Force or the Militia, or both, or any part thereof, for continuous full-time service, and in that case any member of a Reserve Force or the Militia affected by the order is, while so affected at all times on continuous full-time service and liable to perform duty within and outside Seychelles.

(2) The Commander-in-Chief may revoke or vary an order made under subsection (1).

Aid to civil power 30. Where the Commander-in-Chief is of opinion that a situation threatening national security or the preservation of public order exists to such an extent that the intervention of the Defence Force to support the civil power is required, he may, by order, call out the Defence Force, or any part thereof, in aid of the civil power.

Members of Defence Force given police powers Cap 172 31. A member of the Defence Force on duty under section 30 has and may exercise and perform, in addition to his powers and duties as a member of the Defence Force, all the powers and duties of a police officer under the Police Force Act or otherwise; but he shall act while so on duty as a member of the Defence Force and is obliged to obey lawful orders as required by section 6.

Civil disasters 32. The Defence Force, or a part thereof, shall, at the direction of the Commander-in-Chief, give assistance to the civil power in the event of a civil disaster.

Service in the public interest 33.(1) Where the Commander-in-Chief considers that it is in the public interest to do so, he may require any part of the Defence Force to perform any non-military public service that is capable of being performed by the Defence Force on such conditions as he determines.

(2) A requirement under subsection (1) may require any vehicles, vessels, aircraft or equipment of the Defence Force to be used in connection with the public service to which the requirement relates.

International peace-keeping operations 34. The Commander-in-Chief may require any Regular Force, or part thereof, to take part outside Seychelles in any international peace-keeping operation on such terms and conditions as he determines.

Savings 35. Nothing in this Part operates to prevent any other law conferring powers or imposing duties on the Defence Force or members thereof.

PART VII - MISCELLANEOUS AND REGULATIONS

Uniforms 36. The uniform, with distinctive marks or badges, of the Army, Navy, Air Force and Militia and units of these Forces shall be as prescribed in Regulations.

Attachment of members of Defence Force 37. A member of the Defence Force may be attached to any Government Department or authority, or to any other body or authority within or outside Seychelles, including the government of any other country, in such manner and on such conditions as the Commander-in-Chief may determine.

Apprenticeship 38. The Commander-in-Chief may provide or arrange for the provision of apprenticeship and other courses of training and education for members of the Defence Force.

Personal effects 39. Where a member of the Defence Force dies, is missing or deserts, his personal and household effects may be taken and dealt with as shall be prescribed with a view to their being disposed of in accordance with law to or for the benefit of the person entitled to them by law.

Requisitioning 40.(1)When this subsection is in operation in terms of subsection (2), the owner or person in possession or control of any vehicle, vessel, aircraft, aircraft material, animal or goods required for military purposes shall, when required to do so by a duly authorised member of the Defence Force, make it or them available for such purpose.

(2) Subsection (1) shall only come into operation when and for the period which the Commander-in-Chief so orders.

(3) Compensation shall be payable by the Government for any loss sustained by a person by reason of the exercise of the powers conferred by subsection (1), in such manner as shall be prescribed.

(4) If -

(a)payment of compensation under subsection (4) is not made; or

(b)the person who sustains the loss considers that the amount of compensation is not sufficient,

the person who sustains the loss may apply to the Supreme Court, which if satisfied on oath of the non-payment or that the rate of payment is below the rate generally prevailing in the area at the time of requisitioning, shall certify the amount due as compensation, including the costs of the application and the Government shall immediately pay that amount.

(5) The Chief Justice may make rules for the better carrying out of subsection (4).

Regulations 41.(1)The Commander-in-Chief may make Regulations prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without prejudice to the generality of subsection (1), the Regulations may -

(i) prescribe matters providing for and in respect of -

(a) the enrolment, appointment, promotion, reduction in rank, discharge and transfer of members of the Defence Force;

(b) the fixing of rates of pay of members of the Defence Force who are paid for their services; and

(c) the fixing of terms and conditions of service of members of the Defence Force;

(ii)make provision for or in respect of the certification or proof of the death -

(a) of a member of the Defence Force who died, or is presumed to have died, while on service; and

(b) of a person, not being a member of the Defence Force, who died, or is presumed to have died, while in the hands of an enemy or in other circumstances which make proof of death difficult, being circumstances arising out of any war or warlike operation; and

(iii) amend the Schedule.

Evidence 42. The production of any appointment, warrant, determination, arrangement or order in writing purporting to be granted or made under this Act is evidence of the appointment, warrant, determination, arrangement or order without proof of the signature thereto, or the authority of the person granting or making the appointment, warrant or determination.

SI 19 of 1986

SCHEDULE

Section 20(1)

RANK

(a) Officers

(i) Field Marshal;

- (ii) General;
- (iii) Lieutenant-General;
- (iv) Major-General
- (v) Brigadier;
- (vi) Colonel;
- (vii) Lieutenant-Colonel;
- (viii) Major;
- (ix) Senior Captain;
- (x) Captain;
- (xi) Lieutenant; and
- (xii) Second Lieutenant
- (b) Non-Commissioned Members
 - (i) Warrant Officer I;
 - (ii) Warrant Officer II;
 - (iii) Staff Sergeant;
 - (iv) Sergeant;
 - (v) Corporal;
 - (vi) Lance-Corporal; and
 - (vii) Private.