

# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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WINDHOEK - 20 August 2010

No. 4547

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## Government Notice

### MINISTRY OF DEFENCE

No. 189

2010

#### GENERAL REGULATIONS RELATING TO NAMIBIAN DEFENCE FORCE

Under section 72 of the Defence Act, 2002 (Act No. 1 of 2002), I –

- (a) make the regulations set out in the Schedule; and
- (b) repeal the regulations promulgated under Government Notices Nos. R1739 of 30 October 1964; R1223 of 20 August 1965; R276 of 25 February 1966; R1204 of 5 August 1966; R25 of 6 January 1967; R719 of 19 May 1967; R1252 of 18 August 1967; R605 of 19 April 1968; R1322 of 2 August 1968; R1867 of 18 October 1968; R2334 of 20 December 1968; R122 of 31 January 1969; R203 of 13 February 1970; R331 of 27 February 1970; R1981 of 13 November 1970; R1983 of 13 November 1970; R36 of 8 January 1971; R169 of 12 February 1971; R270 and R274 of 26 February 1971; R1724 of 1 October 1971; R2108 of 26 November 1971; R2110 of 26 November 1971; R2211 of 1 December 1972; R2213 of 10 December 1972; R261 of 23 February 1973; R1394 of 10 August 1973; R2360 of 14 December 1973; R507 of 29 March 1974; R678 of 26 April 1974; R1365 of 9 August 1974; R439 of 7 March 1975; R918 of 9 May 1975; R2194 of 19 December 1975; R2394 of 19 December 1975; R314 of 27 February 1976; R347 of 5 March 1976; R623 of 9 April 1976; R1387 of 13 August 1976; R341 of 24 February 1978; R572 of 23 March 1978; R832 of 21 April 1978; R2775 of 7 December 1979; R493 of 14 March 1980; R494 of 14 March 1980; R1298 of 20 June 1980; R1299 of 20 June 1980; R1300 of 20 June 1980; R1174 of 29 May

1981; R325 of 24 February 1984; R2772 of 13 December 1985 and R91 of 17 January 1986; R415 of 7 March 1986; R2203 of 24 October 1986; R1708 of 26 August 1988; Government Notice Nos. 241 of 19 December 1994 and No. 138 of 2005, as amended.

**C. NAMOLOH**  
**MINISTER OF DEFENCE**

Windhoek, 2 August 2010

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**PART I**  
**PRELIMINARY**

**Definitions**

**1.** In these regulations any word or expression to which a meaning has been assigned in the Act bears that meaning, and unless the context indicates otherwise -

“arm of the service” means the Namibian Army, Namibian Air Force or Namibian Navy;

“Code” means the Military Discipline Code referred to under section 39 of the Act;

“commanding officer” means the officer in command of or having authority over a formation or unit;

“formation” includes any military command, corps, division, brigade, group, wing, flotilla, naval squadron, or group thereof under one command;

“Public Service Act” means the Public Service Act, 1995 (Act No. 13 of 1995);

“the Act” means the Defence Act, 2002 (Act No. 1 of 2002);

“unit” means any regiment, battalion, military college, school or training institution, station, base, ship, hospital, depot, independent headquarters or similar institution which is established and designated as a unit.



## **PART II ORGANISATION AND CONTROL**

### **Classification of the Defence Force**

- 2.** (1) The Defence Force is organised into the following arms of service:
- (a) the Namibian Army, which is organised into –
    - (i) headquarters;
    - (ii) army commands, areas and districts; and
    - (iii) formations, units and personnel musterings;
  - (b) the Namibian Air Force, which is organised into –
    - (i) headquarters;
    - (ii) air force commands; and
    - (iii) units;
  - (c) the Namibian Navy, which is organised into –
    - (i) headquarters;
    - (ii) naval commands; and
    - (iii) units; and
  - (d) joint headquarters established by the Minister in terms of section 13 of the Act.

### **Powers and duties of the Chief of the Defence Force**

**3.** (1) The Chief of the Defence Force is, in addition to the powers and duties vested in him or her in terms of Article 119 of the Namibian Constitution and section 68 of Schedule 1 to the Act, responsible to the Minister for the execution of ministerial policies.

(2) Where a power, duty or function is conferred upon an officer over whom the Chief of the Defence Force exercises command or authority, the Chief of the Defence Force may personally exercise, perform or execute such power, duty or function as if such power, duty or function has been conferred or imposed upon himself or herself.

(3) The Chief of each arm of the service and section, is in so far as it concerns his or her arm of the service or section responsible to the Chief of Defence Force, for-

- (a) the execution of determined policy in respect of the Defence Force in general and his or her arm of service or section in particular;
- (b) the organisation, training, discipline, efficiency and preparedness of his or her arm of service or section.

### Delegation by the Chief of the Defence Force

4. The Chief of the Defence Force may, if he or she considers it expedient for the efficient administration of the Defence Force, delegate any duty or function conferred, imposed upon or entrusted to him or her in terms of these regulations or in terms of the Act to any officer over whom he or she exercises command or authority.

### Orders

5. (1) An order may be issued by the Chief of the Defence Force, a commander of a formation or unit to and in respect of the Defence Force, such formation or unit, to convey-

- (a) his or her commands, directions or instructions concerning –
    - (i) the planning, conduct, administration and logistics of any military operation;
    - (ii) any standard or routine procedures for the efficient functioning and control of such headquarter, arm of the service, formation or unit; or
    - (iii) the organisation and administration of such headquarter, arm of the service, formation or unit; or
  - (b) any matter relating to the pay, service or documents of any member of the Defence Force.
- (2) An order issued under subregulation (1) may not -
- (a) materially vary from an order issued by his or her superior; or
  - (b) derogate, in any manner, from the validity of any lawful command or direction given in any manner by an officer, warrant officer or non-commissioned officer.
- (3) An order referred to in subregulation (1) may be in the form of -
- (a) an operation order issued orally, in writing or in such other manner as the commander may consider necessary and which may be in the form of -
    - (i) an operation order, relating to the preparation for, the conduct of or the administration of any military operation;
    - (ii) an administrative order, relating to the administration of or logistics of a military operation; or
    - (iii) an instruction, relating to the planning of or general conduct of a military operation;
  - (b) a force order issued in writing for the efficient command and control of the Defence Force.
  - (c) a formation order issued in writing in the form determined by the commander, subject to the direction of his or her superior, and containing all matters not dealt with in -
    - (i) an operational order, referred to in paragraph (a); or

- (ii) Part II of a unit order, referred to in paragraph (c);
  - (d) a unit order issued in writing and comprising two Parts, namely –
    - (i) Part I, containing all matters not dealt with in operational orders, referred to in paragraph (a); and
    - (ii) Part II, containing all matters relating to pay, service or documents of a member of the Defence Force appointed to the headquarters, arm of the service, formation or unit concerned in accordance with instructions issued from time to time by the Head of Defence Force Personnel;
  - (e) a standing order issued in writing and stipulating the procedures to be followed by a member of the Defence Force appointed to a headquarters, arm of the service, formation or unit; or
- (4) Every commander must, in order to ensure efficient routine and control over his or her headquarters, arm of the service, formation or unit, issue a standing order, referred to in subregulation (3), and different standing orders may be issued in accordance with the circumstances under which that headquarters, arm of the service, formation or unit is required to serve or operate.
- (5) A standing order, referred to in subregulation (3), or an amendment thereto is subject to approval -
- (a) during periods of peace, by the Chief of arm of the service, Head of section concerned or the officer designated for that purpose by such Chief of arm of the service or Head of section; and
  - (b) during periods of war, by the officer referred to in subregulation (4),
- and the standing order or the amendment must, after the approval referred to in this subregulation, be issued as a formation or unit order.
- (6) Unless otherwise determined, an order referred to in this regulation comes into effect on the date of issue and remains of force until replaced by a subsequent order or withdrawn in the manner prescribed in the order in effect.
- (7) An order referred to in this regulation applies to every member of the Defence Force appointed to the headquarters, arm of the service, formation or unit for which the order is issued.
- (8) A written order, referred to in subregulation (3), must be signed by the officer in command or by an officer authorised by him or her to issue such order.
- (9) Every member of the Defence Force must ensure that he or she acquaints himself or herself with the contents of an order concerning the headquarters, arm of the service, formation or unit to which he or she is appointed.
- (10) The officer in command must ensure that every member of the Defence Force appointed under his or her command or authority has access to such order.
- (11) The orders referred to under this regulation apply to all members concerned by the said order: Provided that visiting members must comply with formation or unit orders issued for the formation or unit they are visiting.
- (12) For the purpose of this regulation each arm of the service order is considered as a formation order.

**Returns and statistics**

6. (1) The commander of any formation or unit must furnish the Chief of the arm of the service or Head of section concerned or an officer designated by him or her for that purpose, with such returns, statistics or information as he or she or the said officer in general or in particular may determine.

(2) A commander referred to in subregulation (1) must, during his or her performance of service, maintain a war diary in the manner and form and containing such information as may be determined by the Chief of the Defence Force.

**Placing of areas, premises and places out of bounds**

7. The Chief of the Defence Force or a formation commander designated by the Chief of the Defence Force for that purpose may, where he or she considers it necessary in the interests of military security or the discipline, health or morality of the members of the Defence Force, issue an order, in terms of regulation 5, specifying certain areas, premises or places to be, during the periods specified in that order, out of bounds to all members or class of members of the Defence Force.

**Political and other activities**

8. (1) No members of the Defence Force may attend a public political meeting while wearing a military uniform.

(2) Subject to regulations 26(2)(c) and 42(2)(b)(vi) no member of the Defence Force may, while in military uniform or while performing any duty in terms of the Act or these regulations or while undergoing training in the Defence Force, participate in any meeting, demonstration, procession or promotion of a party or political purpose or take part in activities for the furtherance of the interests of a political party or of a candidate or prospective candidate for election as member of Parliament or any public body, the members of which are elected on a political party basis.

(3) A member of the Defence Force who accepts a nomination for election as Member of Parliament or any other public body, of which members are elected on a political party basis, is considered to have resigned from the Defence Force with effect from the date of such acceptance.

(4) No member of the Defence Force may, without the prior permission of the Chief of the Defence Force, accept nominations for election as member of a public body, association or public board.

(5) A member of the Defence Force who, subject to subregulation (4), is nominated and subsequently elected as member of a public association or public board may not partake in any discussion or cast his or her vote on a matter involving the State and that public body.

**Residential address of members**

9. (1) A member of the Defence Force must inform his or her commanding officer of his or her residential address and any change thereof within 14 days from the date of such change.

(2) Any person who fails to comply with the provision of paragraph (1) is guilty of an offence, and liable on conviction to a fine not exceeding N\$2000 or to imprisonment for a period not exceeding six months.

**Flag stations and the display of the National Flag**

10. (1) The flag stations in the Defence Force are-

- (a) the defence headquarters;
- (b) the headquarters of the arms of the service;
- (c) the headquarters of every formation and unit;
- (d) every Navy vessel, while in commission;
- (e) the headquarters of a shore establishment of the Navy; or
- (f) other unit or sub-unit of the Defence Force, which-
  - (i) is situated on a base where there is no other flag station of the Defence Force; or
  - (ii) has been approved as such flag station by the Chief of the Defence Force and published in Defence Force orders.

(2) The National Flag of Namibia must, subject to this regulation, be hoisted on a daily basis at 08:00 and lowered at sunset.

(3) Where two or more headquarters referred to in subregulation (1) are situated on the same premises or in the same unit lines, only the most senior of such headquarters may display the National Flag of Namibia.

- (4) A Navy vessel which -
  - (a) bears the personal flag or standard of the President of Namibia or of a foreign Head of State;
  - (b) convoys a merchant ship bearing the personal flag or standard of the President of Namibia or of a foreign Head of State,

must in addition at all times display the National Flag of Namibia.

#### **Flags of the Defence Force, arms of service, formations and units**

**11.** (1) The Chief of the arm of the service concerned determines which formation or unit flag may be displayed by a headquarters, unit or sub-unit of his or her arm of the service and must publish his determination in the Orders of his arm of the service.

(2) The Chief of the Defence Force and Chiefs of the arms of the service, if he or she is a General Officer, must display the Defence Force flag or flag of the arms of the service respectively while travelling in their official vehicles for ceremonial purposes: Provided that such a display is accompanied by a rank identification plate, and provided further that any other General Officer must, for ceremonial purpose, only display the rank identification plate.

(3) There must be a flag for the Namibian Defence Force, a flag for the Namibian Army, a flag for the Namibian Air Force and for the Namibian Navy as described in Annexure A.

#### **Badges, Colours and Battle Honours**

**12.** (1) Regimental colours of a pattern approved by the Chief of the Defence Force, and claims for battle honours may, on the authority of the Chief of the Defence Force, be granted to regiments or units of the Defence Force.

(2) There must be a badge for the Namibian Defence Force, a badge for the Namibian Army, a badge for the Namibian Air Force and a badge for the Namibian Navy as described in Annexure B.

### **Procedure for applying and conferring of colours**

**13.** (1) The following documentation and information must, when requesting that colours be conferred on a headquarters, arm of the service, formation or unit, be submitted to the Chief of the arm of the service concerned:

- (a) an application for such conferment of colours, stating -
  - (i) whether the colours is being donated and whether the donor has made any stipulations concerning the donation;
  - (ii) whether the formation or unit requests the purchase of the colours;
- (b) a design in colour of the proposed colours.

(2) The Chief of the arm of the service referred to in subregulation (1), must submit the application and design referred to in that subregulation with his or her recommendations to the Chief of the Defence Force for approval in principle and after such approval, the application and design concerned must be submitted to the Head of Defence Force Logistics for reference to the State Heraldist for the checking, correction, authorisation and registration thereof.

(3) Where the design of the colours has been scrutinised and registered by the State Heraldist, the Head of Defence Force Logistics must resubmit the final design to the Chief of the Defence Force for-

- (a) final approval and authorisation;
- (b) re-submission of the final authorisation and design to the Chief of the arme of the service concerned for consideration and the manufacturing of the colours.

(4) The Head of Defence Force Logistics must keep a copy in colour of the final design of the colours and must keep a record of the full description of such colours.

### **Replacement and repair of colours**

**14.** (1) A colours conferred upon a headquarters, arm of the service, formation or unit must, when the colours has been in use for a period of 20 years, be examined by a board appointed by the Chief of the Defence Force for that purpose and -

- (a) if repairable, must be repaired in accordance with the recommendations of the board;
- (b) if unrepairable, an indent for a new colours with a copy of the minutes of the meeting of the board must be submitted to the Head of Defence Force Logistics for replacement.

(2) Colours, which have been replaced in terms of this regulation, become the property of the State and such replaced colours must be kept in a military museum or archives.

(3) A person may not exercise ownership or any other right over colours, which have been replaced, and such replaced colours may not be sold or otherwise disposed off.

(4) If the donor of any replaced colours has upon donating the colours made any stipulation regarding the disposal thereof, which stipulation is in conflict with the provisions of this regulation, the matter must be referred to the Chief of the Defence Force for final determination.

### PART III OFFICERS AND OFFICER CADETS

#### Ranks

**15.** (1) The ranks set out in the table below may, subject to this regulation, be conferred on the officers of the Defence Force and each such rank is -

- (a) lower than the rank preceding it in the relative column of the table; and
- (b) equivalent to those ranks in the other columns of the table, which corresponds with it in the order of precedence:

Namibian Army	Namibian Air Force	Namibian Navy
General	Air Chief Marshall	Admiral
Lieutenant General	Air Marshall	Vice-Admiral
Major General	Air Vice Marshall	Rear-Admiral
Brigadier General	Air Commodore	Rear-Admiral Junior Grade
Colonel	Group Captain	Captain
Lieutenant Colonel	Wing Commander	Commander
Major	Squadron Leader	Lieutenant Commander
Captain	Flight Lieutenant	Lieutenant
Lieutenant	Flight Officer	Lieutenant Junior Grade
Second Lieutenant	Pilot Officer	Ensign

- (2) (a) The rank of officer cadet may be conferred on a member of the Namibian Army or the Namibian Air Force and the rank of midshipman on a member of the Namibian Navy who is appointed as such in accordance with regulations 17 and 18, but any member who on the date of such appointment holds any other rank, ceases to hold that rank with effect from such date.
- (b) A member who ceases to hold his or her rank in terms of paragraph (a) must be paid as if he or she still holds the said other rank, unless the conditions of pay of an officer cadet are more favorable than those attached to the said rank, in which case he or she must be paid as an officer cadet.
- (3) (a) The rank of officer cadet or midshipman is, for disciplinary purposes, equivalent to the rank of private.
- (b) An officer cadet or midshipman may in the course of his or her training or the execution of his or her duties be placed in a position of authority over any other rank.
- (c) An officer cadet or midshipman who has been so placed in a position of authority is, whilst exercising such authority, deemed, in relation to any other rank over whom he or she exercises such authority, to hold the rank of Warrant Officer, Class 1.
- (4) Wherever any rank is referred to in these regulations it, unless the context otherwise indicates, includes those ranks which are equivalent thereto in terms of this regulation.
- (5) The distinctive buttons and insignia of rank of officers of the Defence Force are as set out in Annexure C to these regulations.

**Precedence**

**16.** (1) The order of precedence of officers of the Defence Force is in accordance with the order of their ranks as determined by regulation 15 and the order of precedence of officers of the same rank is in accordance with the order of their seniority as determined by regulation 22, but –

- (a) an officer in command takes precedence over all officers under his or her command;
- (b) a medical or dental officer, irrespective of his or her rank, in the execution of his professional duties takes seniority and precedence over any nursing officer;
- (c) under combat conditions, an officer classified in combatant capacity exercises command notwithstanding the presence of an officer who is his or her senior in the same rank but who is not so classified;
- (d) an officer of one arm of the service does not command any part of another arm of the service unless that officer is so in command by virtue of the nature of his or her appointment or has specifically been ordered to be so in command.

(2) A member who is a medical officer, a nursing officer or a member of the Medical Service exercises over a patient, irrespective of his rank, such authority as may be necessary for his medical treatment or for the discipline of any hospital or other institution established for the care of the sick, injured or wounded.

(3) Any officer in command of a ship or aircraft, irrespective of his or her rank, for the duration of any voyage or flight exercises authority over the crew and all passengers on such ship or aircraft in connection with any matter relating to the successful completion of such voyage or flight.

**Conditions for the appointment and enrolment of officers and officer cadets.**

**17.** (1) A person may, subject to regulations 18 and 20, be appointed as an officer in the Defence Force if such person -

- (a) is a citizen;
- (b) has obtained at least Grade 12 or equivalent certificate;
- (c) meets the required standard of medical fitness for the service or duties for which he or she is about to be enrolled;
- (d) is not less than 18 years of age;
- (e) has the other attributes and qualifications which in the opinion of the Chief of the Defence Force are required for his or her training for, and the execution of, the duties attached to the type of post to which he or she is to be appointed;
- (f) should he or she be required to do so, has successfully completed a preparatory course which the Chief of the Defence Force may prescribe for other ranks of the Defence Force;
- (g) complies, where applicable, with the other requirements prescribed in regulation 18(4) in respect of any professional post;
- (h) who is to be appointed as a nursing officer in the Medical Service, has obtained at least the Grade 12 or equivalent certificate and is registered with the Nursing



Council of Namibia as a trained nurse, but any person who is to be appointed as a Sister Tutor or Senior Sister Tutor must, in addition to the said requirements, have obtained a diploma in nursing education;

- (i) has, except in any case where the Chief of the Defence Force has dispensed with the requirement, been recommended by a selection board appointed by or on the authority of the Chief of the Defence Force,

but, in exceptional circumstances, any person who does not comply with requirements of paragraphs (b), (f) and (i), may be appointed as an officer in the Defence Force.

(2) A person who complies with at least the requirements of paragraphs (c), (d), (e), and (i), and, where applicable, (g) and (h) of subregulation (1) may be appointed or reappointed in the Defence Force as an officer in temporary capacity for such period as may be determined at the time of his or her appointment, but any such appointment of a person who is not a citizen is subject to section 7(2) of the Act.

(3) An officer who is a citizen and who has served for not less than 12 months in terms of subregulation (2) may be appointed in a permanent capacity as an officer of the Defence Force.

(4) Any other rank or any citizen other than a citizen referred to in subregulation (3) who complies with applicable requirements of subregulation (1), may be accepted for training for commissioned rank by means of a course at any university, the Military Academy or any other military training institution and may, if he or she-

- (a) has reached the age of 17 years on the date of commencement of the course concerned;
- (b) complies with at least the requirements for university admission,

be enrolled for that purpose in terms of Part IV of these regulations as an other rank in the Defence Force or, where applicable in the case of a serving other rank, be engaged for that purpose and may, if he or she has so been accepted, be appointed in terms of regulation 18 as an officer cadet.

(5) Any other rank or any citizen other than a citizen referred to in subregulation (3) who complies with the applicable requirements of subregulation (1) and whose training will not include obtaining an academic degree, may be enrolled for training for commissioned rank at any military or educational institution if he or she -

- (a) has reached the age of 17 years on the date of commencement of the course concerned; and
- (b) has obtained at least Grade 12 or equivalent certificate, which includes such subjects as the Chief of the Defence Force may from time to time determine.

(6) A person who in terms of subregulation (4) or (5) has been enrolled for training may undergo such training as an officer cadet or in commissioned rank and may, notwithstanding any provisions contrary in this Part, during such training be promoted to a higher substantive rank or granted a higher rank temporarily.

(7) An officer cadet who is undergoing his or her training by means of a course referred to in subregulation (4) that is of a duration of three years or more may, after he or she has successfully completed the second year of the course concerned, be appointed temporarily as a second lieutenant.

**Authority for appointment or enrolment as officers and officer cadets and rank on first appointment**

**18.** (1) An officer and officer cadet is appointed or enrolled on the authority of the Chief of the Defence Force who determines whether such appointment of an officer or the enrolment of an officer cadet is to be effected in a permanent or temporary capacity.

(2) An officer cadet must be enrolled as an other rank and holds his or her rank in terms of regulation 15 and any conditions of service of such officer cadet for which no provision is made in this Part, are governed by Part IV of these regulations.

(3) On first appointment an officer must be appointed in the rank of second lieutenant.

(4) Any person who complies with regulation 17(1) or (2) and in addition complies with the professional or academic requirements which have been recommended by the Public Service Commission in respect of an appointment in any professional post, may be appointed as a professional officer in such post in a rank determined by having regard to-

- (a) the alternative grading of such post;
- (b) the competency and appropriate experience of the person concerned;
- (c) such other conditions in respect of such post as the Public Service Commission has from time to time recommended and which have been promulgated in the orders of the Defence Force.

(5) Notwithstanding anything to the contrary in these regulations, a qualified pilot or qualified navigator may on the authority of the Chief of the Defence Force and in a rank determined in terms of the existing conditions of service applicable to such member, be appointed as an officer for a period of service not longer than 20 years in the Defence Force, but -

- (a) any previous periods of full time service rendered by the member concerned as a qualified pilot or qualified navigator in the Defence Force must be included in such period of service of 20 years;
- (b) the appointment may be approved only if the pilot or navigator concerned completes the period of service in question, which includes the service referred to in paragraph (a), before attaining the age of 45 years, subject thereto that the Minister may, in exceptional circumstances and in the interests of the Defence Force, raise such maximum age.

(6) If an officer referred to in subregulation (5) before the expiry of his or her period of service determined under that subregulation requests, in writing, that the age for retirement prescribed in regulation 27(1) must apply to him or her and that he or she is not retired upon expiry of the period of service so determined, and he or she also declares in writing-

- (a) that he or she is prepared to waive any service gratuity to which he or she may be entitled on the expiry of his or her stipulated period of service so determined;
- (b) that he or she will repay any short service gratuity, which he or she has already received;
- (c) that he or she will accept any adjustment of his or her rank and salary in accordance with conditions of service, which would have applied to him or her if he or she had an ordinary permanent appointment other than an appointment for the determined period of service in the Defence Force,

the provisions of regulation 27(1) may, with the approval of the Chief of the Defence Force and on the conditions determined by the Chief of the Defence Force, be made applicable to him or her, but subject thereto that no break in service occurs.

(7) The rank of an officer appointed in terms of subregulation (1) must be determined with due regard to his or her age, military and professional experience and qualifications.

### **Appointments in approved posts**

**19.** The Chief of the Defence Force may appoint any officer, serving in terms of this Part, to any post for which such officer is qualified, but such appointment must be done within the framework of the approved structure of the Defence Force.

### **Probationary service**

**20.** (1) Every first appointment of an officer is on probation for a period of 12 months after expiry of which the appointment may be confirmed or the probationary period extended for a period not exceeding six months, but an officer of the Defence Force who is appointed during a degree course in terms of regulation 17(7), renders probationary service until he or she has successfully completed the course concerned and for 12 months thereafter.

(2) If at any time during his or her period of probation or any extension thereof it is found that an officer does not satisfy the requirements of the service, his or her appointment must be terminated and his or her commission then lapses, but where such officer has been appointed from the ranks of the Defence Force he or she may be permitted, without break in service, to revert to the rank he or she held immediately before his or her appointment as an officer or to a higher other rank.

### **Postings, transfers, moves and reclassification**

**21.** (1) An officer may at any time, subject to these regulations and sections 31 and 32 of the Act be -

- (a) posted to any post in the Defence Force;
- (b) transferred or reclassified from any post or from one headquarter, arm of the service, formation, unit, personnel mustering or classification in the Defence Force to another post, headquarter, arm of the service, formation, unit, personnel mustering or classification in the Defence Force;
- (c) temporary attached to any formation, unit, depot, training or other establishments of the Defence force for service or training; or
- (d) moved from any place to any other place,

but such posting, transfer or reclassification, temporary attachment or move may only be done if it is in the interests of the Defence Force.

(2) If an officer other than a professional officer complies with the requirements of regulation 18 (4), he or she may, subject to subregulation (3), be reclassified in his or her rank for service in a professional capacity and posted to an appropriate professional post.

(3) No officer may without his or her own consent be reclassified in any case where such reclassification -

- (a) has the effect of altering the age at which the officer concerned has the right or may elect to be retired on pension; or

(b) bestows professional status upon the officer concerned or deprive him or her of such status.

(4) An officer serving in a professional capacity may not without the written approval of the Chief of the Defence Force -

(a) be reclassified for service in any other capacity; or

(b) be posted temporary or permanently to any post other than an appropriate professional post,

but where a lower salary or less favourable salary scale is attached to the classification or post which such officer is about to hold after reclassification or permanent posting, the recommendation of the Public Service Commission for the adjustment of such officer's salary or salary scale must first be obtained unless the officer concerned has agreed, in writing, to accept such lower salary or less favourable scale.

(5) For the purpose of promotion in a professional capacity in terms of regulation 23(6), a professional officer, who has in terms of subregulation (2) been reclassified as such in his or her rank is considered to have the same appropriate experience as a professional officer of the same profession who was appointed in the Defence Force without appropriate experience and has as a result of his or her having gained the appropriate professional experience in the Defence Force so progressed that he or she holds the same rank and is entitled to the same salary notch and incremental date as the officer concerned.

(6) If a staff member in the Public Service is transferred to the Defence Force without a break in his or her service and is appointed in any rank as a professional officer, his or her appropriate experience for the purpose of promotion in a professional capacity must, in accordance with the salary scale and incremental date to which he or she has been adjusted in his or her rank in the Defence Force, also be adjusted in the same manner as that applicable to an officer referred to in subregulation (5)

(7) An officer in the Defence Force who wishes to be transferred to any other post in the Public Service must first obtain written authorization to enter into negotiation from the Chief of the Defence Force before entering into such negotiation.

### **Seniority of officers**

**22.** (1) Except as otherwise provided in this regulation, the seniority of any officer, including an officer on whom temporary commissioned rank has been conferred in terms of section 21 of the Act, in any substantive or temporary rank must, in relation to other officers of the same or equivalent substantive or temporary rank, be determined by the date of his or her appointment in or promotion to such substantive rank or temporary rank, but any officer holding substantive rank is senior to all officers holding temporary rank of the same or equivalent grade.

(2) If two or more officers, other than officers referred to in subregulations (6) and (7), are appointed in terms of regulation 17, in the same rank on the same date, the order of seniority must be determined by the Chief of the Defence Force, but if the date for the determination of seniority accorded to an officer serving in terms of regulation 17(2), coincides with the date accorded for such purpose to an officer holding a permanent appointment in the same rank, the officer holding the permanent appointment is the senior.

(3) If two or more officers are promoted to the same substantive or temporary rank on the same date they mutually retain the seniority, which they held in any substantive rank immediately prior to such promotion.

(4) The date for the determination of the seniority of any officer who, without a break in service, has been permanently appointed in terms of subregulation (3) of regulation 17 is the date on which he or she, while serving temporarily in terms of subregulation (2) of that regulation, was promoted to or appointed in the rank in which he or she is so appointed permanently.

(5) Any officer transferred or reclassified in the exigencies of the Defence Force, but not at the request of the officer concerned, from any headquarter, arm of the service, formation, unit or personnel mustering does not as a result thereof forfeit his or her seniority, but if any officer serving in a professional capacity applies for reclassification for service in any capacity other than a professional capacity the Chief of the Defence Force may, with due regard to such officer's age, military and educational qualifications and experience and as a condition of such transfer or reclassification, require that officer to accept a lower position on the seniority roll.

(6) The seniority of an officer promoted in terms of regulation 23(5) must be determined in his or her rank with effect from the date on which he or she obtained the appropriate qualification referred to in that regulation, but in the case of a medical, dental or nursing officer his or her seniority must be determined with effect from the date of registration as a medical practitioner or dentist with the Medical and Dental Council of Namibia or date of enrolment as a nurse with the Nursing Council of Namibia.

(7) Where the seniority of any group of two or more officers, who have obtained degrees as a result of their training in terms of regulation 17(4), is reckoned from the same date, the seniority of every officer within such group must be determined in accordance with an order of merit compiled for the group concerned according to the achievements which each officer in that group gained in the military and the academic training which preceded the attainment of the degree concerned and such achievements must be adjudged on the principles accepted for the purpose with the approval of the Chief of the Defence Force.

(8) This regulation does not apply to an officer who has obtained any degree referred to in this regulation through private arrangements with any university.

### **Promotion of officers**

**23.** (1) The Chief of the Defence Force may, subject to this regulations and provided that a suitable vacancy exists, promote any officer on basis of his or her efficiency, qualifications and seniority.

(2) Subject to subregulation (3), a second lieutenant may after 18 months satisfactory service in that rank be promoted to the rank of lieutenant, but -

(a) temporary service as a second lieutenant during a course referred to in regulation 17(4), except temporary service as a second lieutenant arising from the remission of any part of the final phase of the course, must count as service for promotion in terms of this subregulation.

(b) a second lieutenant may, in exceptional circumstances pursuant to experience and qualifications, be promoted to lieutenant in a period less than 18 months.

(3) An officer who has attended a degree course of a duration of three years or more in terms of regulation 17(4), may after he or she has obtained such degree, notwithstanding subregulation (2), be promoted to the rank of lieutenant in any post other than a professional post.

(4) A lieutenant and a captain may, subject to subregulations (5) and (6), not be considered for promotion to the next higher rank until he or she has proved by examination or in any other manner which the Chief of the Defence Force considers sufficient, that he or she has

attained the standard of competence which the Chief of the Defence Force has determined for the rank concerned in his or her headquarters, arm of the service, formation, unit, personnel mustering or classification in the Defence Force.

(5) An officer appointed to a professional post on account of his or her attainment of an appropriate qualification in terms of regulation 17(4) may, where the lowest rank determined in terms of subregulation (6) for such post is higher than the rank which he or she holds, be promoted to that lowest rank.

(6) Any person who occupies a professional post referred to in regulation 18 (4) may, notwithstanding this regulation and subject to the alternative grading of the post concerned and to any special conditions applicable thereto, be promoted to the next higher alternative rank for which such post is graded, after the expiry of a period of service in that particular professional capacity in his or her rank determined from time to time for that purpose on the recommendation of the Public Service Commission and promulgated in the orders of the Defence Force.

(7) Notwithstanding this regulation, the Chief of the Defence Force may with the approval of the Minister, in exceptional circumstances and provided a suitable vacancy exists, promote any officer to any higher rank.

### **Temporary grant of higher rank**

**24.** (1) The Chief of the Defence Force may temporarily grant higher rank with or without additional pay to an officer who is appointed to a post to which a higher rank is attached than that held by such officer or who has in terms of regulation 17(7) been appointed as a second lieutenant and has successfully completed the third year of study of a course of more than three years' duration.

(2) The Chief of the Defence Force may, in constraining circumstances where an appointment in any rank is necessary, temporarily grant the said rank to any officer holding a lower rank.

### **Appointments in acting capacities**

**25.** Section 21 of the Public Service Act applies with the necessary changes to the appointment of officers in acting capacities.

### **Termination of service or dismissal of officers and officer cadets**

**26.** (1) The service of an officer may be terminated by the President or the Chief of the Defence Force acting on the President's behalf if it is found, during the period of probation referred to in regulation 20(1) or (2), that that officer does not satisfy the requirements of the Defence Force or that he or she is not making satisfactory progress in his or her academic studies.

(2) The service of an officer may, notwithstanding subregulation (1) but subject to section 9(2) and (3) of the Act, be terminated by the President or the Chief of the Defence Force acting on the President's behalf and he or she may be discharged from the Defence Force -

(a) where the officer concerned having been required in terms of section 81 of the Act to submit to an immunisation or prophylaxis, has refused to do so, and an officer discharged in terms of this paragraph is deemed to have retired voluntarily before attaining the required pensionable age;

(b) on account of misconduct, but subject to section 94(3) of the Code, where -

- (i) he or she deserts from the Defence Force;
  - (ii) he or she has, while serving, been convicted by a military court or a civil court of an offence which in the light of its nature or gravity considered in conjunction with the nature of the sentence imposed, renders his or her continued employment in the Defence Force undesirable;
  - (iii) before or since his or her appointment he or she has been convicted by a civil court or military court on more than one occasion of offences which, considered individually, would not justify or did not lead to his or her discharge on account of misconduct, but considered collectively, renders his or her continued employment in the Defence Force undesirable; or
  - (iv) his or her reprehensible conduct has rendered his or her continued employment in the Defence Force undesirable, irrespective of whether or not such conduct has led to criminal or disciplinary proceedings or to his or her conviction as a result of such proceedings;
- (c) where such officer is an active member of any political organization or is taking an active part in politics.
- (3) (a) The termination of service of an officer in terms of subregulation (2)(b)(i) may be affected in absentia and is effective from the first day of such absence and extends over the continuous period of absence, inclusive of Saturdays, Sundays and public holidays.
- (b) No person who is dismissed in terms of subregulation (2)(b)(ii) or (iii) is entitled to reinstatement in the Defence Force if any conviction referred to in that subregulation is set aside on appeal or review, unless the Chief of the Defence Force has satisfied himself or herself that, in the light of the facts of the matter, he or she would not have discharged such person in terms of subregulation (2)(b)(iv) had such conviction in the first instance not taken place.
- (c) A dismissal in terms of subregulation (2)(b)(iv), in the case of an officer who was not convicted by a military court or civil court, is effected only after an inquiry was held into that conduct by a board of inquiry in terms of rule 105 of the Code.
- (d) An officer who has been sentenced by a civil court to imprisonment and is serving such sentence is dismissed with effect from the date of that sentence.
- (4) An officer is dismissed from the Defence Force -
- (a) in the case of -
- (i) such member serving in a permanent capacity, on retirement when he or she attains the pensionable age prescribed by paragraph (a) of regulation 27(1) or when he or she retires as contemplated in paragraph (b) of that regulation;
  - (ii) such a member serving in a temporary capacity, when he or she attains the age of 65 years;
- (b) for misconduct on the execution of a sentence of discharge from the Defence Force imposed on him or her by a competent court;
- (c) in accordance with section 94 of the Code.

(5) The service of an officer cadet may be terminated by the President or the Chief of the Defence Force acting on the President's behalf and he or she may be discharged if -

- (a) he or she does not make satisfactory progress in his or her academic studies or other training;
- (b) he or she is guilty of misconduct or it appears that he or she does not possess the attributes of a good officer;
- (c) he or she may for any other reason be discharged as an other rank in terms of regulation 42,

but an officer cadet may be reappointed as an other rank in any headquarter, arm of the service, formation, unit or personnel mustering of the Defence Force.

(6) Regulation 43 relating to the issue of a Certificate of Service of other ranks is also with the necessary changes applicable to officers.

### **Retirement of officers**

**27.** (1) Subject to regulation 28 and to section 24 of the Public Service Act, an officer -

- (a) must retire at attaining the age of 60 years;
- (b) may retire at attaining the age of 55 years.

(2) If an officer who intends to retire under subregulation (1)(b) on pension upon attaining the age of 55 years, in writing, notifies his or her commanding officer of his or her intention to so retire -

- (a) at least three months before the earliest date on which he or she has the right to so retire, he or she must, subject to section 24(3) of the Public Service Act, be retired on pension on such earlier date;
- (b) on any later date of his or her intention to so retire, he or she must, subject to section 24(3) of the Public Service Act, be retired on pension on the first day of the fourth month following the month in which his or her notification of intention reached his or her commanding officer.

(3) The Head of Defence Force Personnel may, in exceptional circumstances, approve that a lesser period of notification than the period prescribed in subregulation (2) be accepted, and if he or she thus approves he or she must determine the date on which the officer concerned is to be retired, which date may not precede the earliest date referred to in that subregulation.

(4) The Minister may, after consultation with the Public Service Commission, authorise an early retirement of an officer -

- (a) on account of medical unfitness occasioned without his or her own default;
- (b) owing to the abolition of his or her office or post or to any reduction in or reorganisation or readjustment of the Defence Force or of any headquarter, arm of the service, formation or unit thereof;
- (c) on grounds or reasons other than his or her own unfitness or incapacity, in the promotion of economy or efficiency in the Defence Force, or any headquarter, arm of the service, formation or unit thereof.



**Maximum age limit for temporary service**

28. No officer may be retained in service in the Defence Force in a temporary capacity after he or she has attained the age of 65 years.

**Place of retirement**

29. The place of retirement of an officer is the last permanent station of the officer concerned.

**PART IV  
OTHER RANKS**

**Ranks and precedence**

30. (1) The ranks set out in the table hereunder may, subject to this regulation, be conferred on other ranks of the Defence Force, but -

- (a) all those ranks take precedence after commissioned ranks;
- (b) each such rank takes precedence after the rank which precedes it in the relative column to the table;
- (c) each such ranking in each column is equivalent to the rank in every other column of the table which corresponds with it in order of precedence:

<b>Namibian Army</b>	<b>Namibian Air Force</b>	<b>Namibian Navy</b>
Warrant Officer Class 1	Warrant Officer Class 1	Warrant Officer Class 1
Warrant Officer Class 2	Warrant Officer Class 2	Warrant Officer Class 2
Staff Sergeant	Flight Sergeant	Chief Petty Officer
Sergeant	Sergeant	Petty Officer
Corporal	Aircraftman	Leading Seaman
Lance Corporal	Leading Aircraftman	Able Seaman
Private	Private	Seaman

(2) Each rank referred to in subregulation (1) includes every other alternative nomenclature of such rank which may, with regard to military tradition, be used in respect of a particular headquarter, arm of the service, formation, unit or personnel mustering of the Defence Force, but the rank of nursing assistant, may be conferred on a member of the medical Service who is not a nursing officer.

(3) Wherever any rank is referred to in these regulations such reference, unless the context otherwise indicates, also includes such ranks as are equivalent thereto in terms of this regulation.

(4) An additional other rank's rank of officer cadet may be conferred on a member of the Namibian Army or Namibian Air Force and that of midshipman on a member of the Namibian Navy who has been designated for training as an officer.

(5) The rank officer cadet or midshipman is, for disciplinary purposes, deemed as equivalent to the rank of private, but an officer cadet or midshipman may in the course of his or her training or the execution of his or her duties be placed in a position of authority over any other rank, and an officer cadet or midshipman who has been so placed in authority is, whilst he or she exercises such authority, deemed in relation to any other rank over whom he or she exercises such authority, to hold the rank of Warrant Officer Class 1.

(6) A member who is a member of the Medical Service exercises over a patient, irrespective of his or her rank, such authority as may be necessary for his or her medical treatment or for the discipline of any hospital or other institution established for the care of the sick, injured or wounded.

(7) The distinctive buttons and insignia of rank of other ranks of the Defence Force are as set out in Annexure D to these regulations.

### **Mustering in the Defence Force**

**31.** (1) Every mustering in the Defence Force must be classified either as a technical mustering or a non-technical mustering.

(2) The Chief of the Defence Force may, subject to the recommendation of the Public Service Commission, where necessary determine the classification of each such technical mustering as an artificer, artisan or operative mustering and -

- (a) the standard of technical education;
- (b) the standard of theoretical knowledge and skill; and
- (c) in the case of an apprentice or learner operative trained in the Defence Force, the period of apprenticeship or learnership,

which are required for the classification or reclassification of an other rank as an artificer, artisan or an operative in each such technical mustering.

(3) The classification of each technical mustering and the requirements for classification or reclassification of members determined in terms of subregulation (2) must be promulgated in the orders of the Defence Force.

### **Eligibility for enrolment as other ranks**

**32.** (1) Subject to section 7(2) of the Act, no person is eligible for enrolment as an other rank in the Defence Force in a permanent or temporary capacity unless such person -

- (a) is a citizen;
- (b) is not less than 18 years old;
- (c) has obtained Grade 10 or an equivalent certificate;
- (d) meets the required standard of medical fitness determined by the Chief of the Defence Force for the mustering, service or duties for which he or she is about to be enrolled;
- (e) has the other attributes and qualifications which in the opinion of the Chief of the Defence Force are required for his or her training or necessary for the execution of the duties or service which he or she may be required to perform;
- (f) being a minor, has submitted the written consent of his or her parent or guardian for his or her enrolment in the Defence Force.

(2) The Chief of the Defence Force must assess the eligibility of every applicant for enrolment in the Defence Force and may, in exceptional circumstances, when making such assessment relax the requirements concerning age and medical fitness prescribed in subregulation (1)(b) and (d) and the educational requirements prescribed in subregulation (1)(c) for permanent or temporary enrolment in the Defence Force.

**Reclassification and remusterings in the Defence Force**

**33.** (1) The Chief of the Defence Force may, subject to subregulations (2) and (3), authorise the classification, reclassification or remustering of any other rank of the Defence Force who he or she considers suitable to be so classified, reclassified or remustered.

(2) No person may be classified or reclassified as an artificer or within any technical mustering as an artificer, artisan or an operative or be remustered from one technical mustering to another, unless he or she complies with the requirements determined for the mustering or remustering concerned in terms of regulation 31 and has successfully completed and obtained an appropriate qualification.

(3) No technical other rank may be reclassified as a non-technical other rank and no apprentice or learner operative may be remustered in any non-technical mustering unless such technical other rank, apprentice or learner operative has, in writing, consented to such reclassification or remustering.

**Postings, transfers and moves**

**34.** (1) Any other rank may at any time, subject to regulation 33 and to sections 31 and 32 of the Act, be -

- (a) posted to any post in the Defence Force;
- (b) transferred from any post or from one headquarter, arm of the service, formation, unit or personnel mustering to another post, headquarter, arm of the service, formation, unit or personnel mustering;
- (c) temporarily attached to any formation, unit, depot, training or other establishment of the Defence Force for service or training; or
- (d) be moved from any place to any other place,

but any such posting, transfer, temporarily attachment or move may only be done if it is in the interests of the Defence Force.

**Seniority of other ranks**

**35.** (1) Except as otherwise provided in this regulation, the seniority of any other rank in any substantive or temporary rank, in relation to other ranks of the same or equivalent substantive or temporary rank, must be determined by the date of his or her enrolment in or promotion to such substantive or temporary rank, but any other rank holding substantive rank is senior to all other ranks holding temporary rank of the same or equivalent grade.

(2) If two or more other ranks are enrolled in the same rank on the same date the order of their seniority must be determined by the Chief of the Defence Force, but if the date for the determination of seniority accorded to any other rank serving in a temporary capacity coincides with the date accorded for such purpose to an other rank serving in a permanent capacity in the same rank, the other rank serving in a permanent capacity is the senior.

(3) If two or more other ranks are promoted to the same substantive or temporary rank on the same date, they mutually retain the seniority which they held in any substantive rank immediately prior to such promotion, but if two or more other ranks holding any specific rank and whose seniority dates are the same, are reclassified from non-technical to operative, artisan or artificer mustering on the same date their mutual seniority must be determined in accordance with the order of merit they

obtained at the completion of their period of apprenticeship or training course, on a basis indicated by the Chief of the Defence Force, and dates from the period on which their period of apprenticeship or training course terminated.

(4) The seniority of an other rank who, after having served in the Defence Force in a temporary capacity, is without a break in service enrolled in any rank in a permanent capacity, must be determined by the date on which he or she was enrolled in that rank for temporary service or promoted thereto while serving in a temporary capacity.

(5) An other rank who is transferred or remustered in the interests of the Defence Force from any headquarter, arm of the service, formation, unit or personnel mustering does not as a result thereof forfeit his or her seniority, but if any other rank applies to be so transferred or remustered, the Chief of the Defence Force may, with due regard to the age, military and educational qualifications and experience of such other rank and as a condition of such transfer or remustering, require that other rank to accept a lower position on the seniority roll.

### **Promotion of other ranks**

**36.** (1) The Chief of the Defence Force may, subject to this regulation and provided that a suitable vacancy exists, promote any other rank on the basis of his or her competence, qualifications and seniority.

(2) No other rank may be considered for promotion unless he or she has, by examination or in such other manner as may be determined with the approval of the Chief of the Defence Force, shown that he or she has attained the standard of competence determined from time to time by the Chief of the Defence Force for the rank concerned in his or her personnel mustering or classification in the Defence Force.

(3) An apprentice may not be promoted during his or her apprenticeship, but the Chief of the Defence Force may, in exceptional circumstances, depart from this provision.

(4) A learner operative may, during his or her learnership, be promoted to a rank not higher than that of corporal.

(5) Every other rank promoted substantively to warrant rank must receive a warrant of appointment signed by the Minister.

(6) Notwithstanding this regulation, the Chief of the Defence Force may with the approval of the Minister, in exceptional circumstances and provided that a suitable vacancy exists, promote any other rank to any non-commissioned or warrant rank.

### **Temporary grant of higher rank**

**37.** (1) The Head of Defence Force Personnel may temporarily grant higher rank to an other rank who -

- (a) is posted to any post to which a higher rank is attached than that held by that other rank; and
- (b) is charged with duties of a more important nature than those normally allotted to an other rank of his or her rank.

(2) Temporary rank does not have the advantage of additional pay and is to be relinquished on the date the other rank ceases to fulfill the function for which the rank was granted.

**Appointments in acting capacities**

**38.** Section 21 of the Public Service Act applies with the necessary changes to the appointment of other ranks in acting capacities.

**Reversion in rank**

**39.** (1) A warrant or non-commissioned officer may, at his or her written request, with the written approval of the Chief of the Defence Force, be permitted to revert to any lower rank, but no such member may be permitted to so revert for the purpose of avoiding any disciplinary action or action under section 41 of the Act.

(2) A non-commissioned officer designated to undergo a course of flying or navigation with a view to his or her selection for, or a warrant officer or any other such non-commissioned officer who has been selected, for admission to any training institution may at the direction of the Head of Defence Force Personnel be reverted to the rank of private, officer cadet or midshipman for the duration of such course or his or her training at such institution, but -

- (a) for the duration of his or her reversion he or she must be paid as if he or she had not been reverted;
- (b) subject to paragraph (c), he or she must on the date of the termination of such course or training or on the date of the earlier termination, for any reason, of his or her attendance thereof, whichever may be the earlier date, again resume a rank which is not lower than the non-commissioned rank which he or she held prior to his or her reversion in terms of this regulation;
- (c) if -
  - (i) his or her attendance of such course or training is terminated while he or she is serving a sentence of detention;
  - (ii) after the termination of his or her attendance of such course or training, he or she is due to be tried by a military court for an offence committed during such course or training; or
  - (iii) he or she has been sentenced to detention by the court referred to in subparagraph (ii) -

he or she may not resume the non-commissioned rank concerned before the date on which the proceedings referred to in subparagraph (ii) have been completed or he or she has served the sentence referred to in subparagraph (i) or (iii), whichever may be the later date.

**Retirement of other ranks**

**40.** (1) Subject to regulation 41 and section 24 of the Public Service Act, an other rank -

- (a) must retire at attaining the age of 60 years;
- (b) may retire at attaining the age of 55 years.

(2) If an other rank who intends to retire under subregulation (1)(b) on pension upon attaining the age of 55 years, in writing, notifies his or her commanding officer of his or her intention to so retire -

- (a) at least three months before the earliest date on which he or she has the right to so retire, he or she must, subject to section 24(3) of the Public Service Act, be retired on pension on such earliest date;
- (b) on any later date of his or her intention to so retire, he or she must, subject to section 24 (3) of the Public Service Act, be retired on pension on the first day of the fourth month following the month in which his or her notification of intention reached his or her commanding officer.

(3) The Head of Defence Force Personnel may, in exceptional circumstances, approve that a lesser period of notification than the period prescribed in subregulation (2) be accepted, and if he or she thus approves he or she must determine the date on which the member concerned is to be retired, which date may not precede the earliest date referred to in that subregulation.

(4) The Minister may, after consultation with the Public Service Commission, authorise an early retirement of an other rank -

- (a) on account of medical unfitness occasioned without his or her own default;
- (b) owing to the abolition of his or her office or post or to any reduction in or reorganisation or readjustment of the Defence Force or of any headquarter, arm of the service, formation, unit or personnel mustering thereof;
- (c) on grounds for reasons other than his or her own unfitness or incapacity, in the promotion of economy or efficiency in the Defence Force, or any headquarter, arm of the service, formation, unit or personnel mustering thereof.

#### **Maximum age limit for temporary service**

**41.** No other rank may be retained in the service in the Defence Force in a temporary capacity after he or she has attained the age of 65 years.

#### **Discharge of other ranks**

**42.** (1) An other rank is discharged from the Defence Force -

- (a) in the case of -
  - (i) such member serving in a permanent capacity, on retirement when he or she attains the pensionable age prescribed by paragraph (a) of regulation 40(1) or when he or she retired as contemplated in paragraph (b) of that regulation;
  - (ii) a member serving in a temporary capacity, when he or she attains the age of 65 years;
- (b) for misconduct on the execution of a sentence of discharge from the Defence Force imposed on him or her by a competent court;
- (c) in accordance with section 94 of the Code.

(2) The Chief of the Defence Force may, notwithstanding anything to the contrary in these regulations but subject to section 9(2) and (3) of the Act, discharge an other rank from the Defence Force -

- (a) where the other rank concerned having been required in terms of section 81 of the Act to submit to immunisation or prophylaxis, has refused to do so, and any other rank discharged in terms of this paragraph is deemed to have retired voluntarily before attaining the prescribed pensionable age;
- (b) as being unfitted for or incapable of performing efficiently the duties of his or her post where -
  - (i) any fact which would have rendered such other rank ineligible or unacceptable for enrolment in the Defence Force comes to the knowledge of the Chief of the Defence Force after his or her enrolment, irrespective of whether or not the enrolling authority was misled by a false statement concerning or the willful suppression of, such fact by the other rank concerned;
  - (ii) such other rank, at any time while being trained as an officer cadet, an apprentice or learner operative or while undergoing flying or other specialised training proves to be unsuitable for such further training, and is not due to be remustered for employment in a different capacity;
  - (iii) such other rank at any time during the first year of his or her employment in the Defence Force proves to be unsuitable for military employment;
  - (iv) such other rank has in the course of time, continuously displayed a lack of interest in, or lack of application to, his or her duties or has consistently been grossly inefficient; or
  - (v) the continued employment of such other rank constitutes a security risk;
  - (vi) such other rank is an active member of any political organisation or is taking an active part in politics; or
- (c) on account of misconduct, but subject to subsection (4) and (5)(b) of section 94 of the Code, where -
  - (i) he or she deserts from the Defence Force;
  - (ii) he or she has, while serving, been convicted by a military court or a civil court of an offence which in the light of its nature or gravity considered in conjunction with the nature of the sentence imposed, renders his or her continued employment in the Defence Force undesirable;
  - (iii) before or since his or her enrolment he or she has been convicted by a civil court or military court on more than one occasion of offences which, considered individually, would not justify or did not lead to his or her discharge on account of misconduct, but considered collectively, render his or her continued employment in the Defence Force undesirable; or
  - (iv) his or her reprehensible conduct has rendered his or her continued employment in the Defence Force undesirable, irrespective of whether or not such conduct has led to criminal or disciplinary proceedings or to his or her conviction as a result of such proceedings.
- (3) (a) The discharge of an other rank in terms of subregulation (2)(c)(i) may be affected in absentia and is effective from the first day of such absence and extends over the continuous period of absence, inclusive of Saturdays, Sundays and public holidays.

- (b) No person discharged in terms of subregulation (2)(c)(ii) or (iii) is entitled to reinstatement in the Defence Force if any conviction referred to in that subregulation is set aside on appeal or review, unless the Chief of the Defence Force has satisfied himself or herself that, in the light of the facts of the matter, he or she would not have discharged such person in terms of subregulation (2)(c)(iv) had such conviction in the first instance not taken place.
  - (c) A discharge in terms of subregulation (2)(c)(iv) in the case of an other rank who was not convicted by a military court or civil court is effected only after an inquiry was held into that conduct by a board of inquiry in terms of section 105 of the Code.
  - (d) An other rank who has been sentenced by a civil court to imprisonment and is serving such sentence is discharged with effect from the date of that sentence.
- (4) An other rank who is in terms of section 9(1)(a) of the Act discharged from the Defence Force if he or she, in writing, tenders his or her resignation, but -
- (a) no other rank is so discharged before the expiry of a period of notice of resignation of at least one month or such lesser period as may, in exceptional circumstances, be approved by the Head of Defence Force Personnel;
  - (b) such discharge does not take effect -
    - (i) until the expiry of such period of notice of resignation;
    - (ii) while disciplinary action against the other rank concerned is contemplated or in progress or he or she is serving a sentence of detention;
    - (iii) while such other rank who has undergone specialised training is still under obligation in terms of section 9(2) and (3) of the Act.

### **Certificate of service**

- 43.** (1) An other rank must, upon being discharged, be issued with a certificate of service in a form approved by the Chief of the Defence Force and such certificate -
- (a) must contain the following personal particulars of such other rank:
    - (i) Defence Force number;
    - (ii) Identity number;
    - (iii) Rank held upon being discharged;
    - (iv) Full names;
    - (v) Date of enrolment and date of discharge;
    - (vi) Mustering and special qualifications held;
    - (vii) Decorations, medals and commendations awarded;
  - (b) may be specially endorsed by his or her unit commander in recognition of outstanding merit in the performance of his or her duties, or exemplary or good conduct or character in accordance with instructions promulgated from time to time in the orders of the Defence Force.



(2) An official testimonial or a duplicate of a certificate of service may not be issued to any person.

#### **Place of retirement of other ranks**

44. The place of retirement of an other rank is the last permanent station of the other rank concerned.

#### **Reduction in rank of non-commissioned officer**

45. For the purposes of section 41(3) of the Act, the Chief of the Defence Force may, in addition to the penalty imposed by the court upon that non-commissioned officer, reduce the rank of such non-commissioned officer.

### **PART V UNIFORMS, ACCESSORIES AND OTHER CLOTHING**

#### **Uniforms and other accessories**

46. (1) Every article of uniform of the Defence Force must be manufactured in accordance with the specifications given by the Chief of the Defence Force, with the approval of the Minister.

(2) A person may not wear an article of uniform manufactured other than as contemplated in subregulation (1).

(3) The Chief of the Defence Force may by way of written order issue instructions providing for the scales of issue to and manner of dress of articles of uniform to members of the Defence Force.

(4) A member of the Defence Force must, at State expense and upon enrolment, be provided with such articles of uniform in accordance with the scale of issue referred to in subregulation (3).

(5) Where a member of the Defence Force is required to replace or alter any article of uniform or to acquire any additional article of uniform, due to -

- (a) the instructions of dress, referred to in subregulation (3), or transfer or reclassification from one headquarter, arm of the service, formation, unit or personnel mustering to another headquarter, arm of the service, formation, unit or personnel mustering;
- (b) an alteration in the instructions of dress or as a result of his or her promotion or demotion from one rank to another,

the Chief of the Defence Force may, either by way of exchange or as a gratuity, issue such new or altered article of uniform to such member.

(6) The Chief of the Defence Force must, where a member's military duties render his or her clothing liable to damage or where his or her post required specially designed clothing and accessories, issue to such member such clothing and accessories in accordance with the scale of issue determined from time to time by the Chief of the Defence Force.

**Loss of or damage to clothing**

**47.** (1) An article of uniform issued to a member of the Defence Force must be replaced at State expense where such article of uniform is lost or damaged as a result of the performance of his or her service, but such article may only be so replaced -

- (a) if the article is required in terms of the instructions of dress referred to in regulation 46(3);
- (b) where a board of inquiry into the loss or damage of such article is convened, by the officer in command of or having authority over the headquarter, arm of the service, formation, unit, personnel mustering or classification of the Defence Force to which the officer whose article of uniform is lost or damaged is assigned, and has certified-
  - (i) that, with due observance of the nature of the military duty that had to be rendered, every possible precaution was taken to avoid the loss or damage;
  - (ii) that such loss or damage is not the result of wear and tear.

(2) The Chief of the Defence Force may, after an inquiry has been held as contemplated in subregulation (1)(b), authorise that officer in command to issue such replacement article on loan.

(3) Where an article of clothing, other than an article of uniform, or other personal effects of a member of the Defence Force is lost or damaged the Chief of the Defence Force may determine and authorise the amount of compensation payable to the member for such loss or damage where -

- (a) in the opinion of the Chief of the Defence Force, such clothing or personal effects was, by virtue of the military duty of the member concerned, necessary to be worn by the member or to be in his or her possession at the time of such loss or damage;
- (b) the officer in charge of the formation or unit concerned has convened a board of inquiry into the loss or damage and has certified -
  - (i) that with due observance of the nature of the military duty rendered, every possible precaution was taken to avoid the loss or damage;
  - (ii) that such damage is not the result of wear and tear.

(4) No compensation may be paid in respect of jewelry, other than one watch per member.

**Retention of uniform on discharge**

**48.** Any member must, prior to being discharged from the Defence Force, return each article of uniform issued to him or her by the Defence Force, but an officer placed on a retired list in terms of section 22(3) of the Act may retain such articles.

**Definitions**

**49.** For the purposes of this Part -

“personal effects” include spectacles, contact lenses, false teeth, hearing aids or other similar aids; and

“article of uniform” means the uniform of the Defence Force and such accessories, rank insignia and badge as is required to be worn by members of the Defence Force in accordance with the instructions of dress issued in terms of regulation 46(3).

## **PART VI ARMS, AMMUNITION AND OTHER LOAN EQUIPMENT**

### **Issue of arms, ammunition and accessories**

**50.** (1) Arms, ammunition and accessories, determined by the Chief of the Defence Force, may be loaned to a member for the duration of his or her service in the Defence Force against his or her personal account.

(2) The officer in command of or having authority over a headquarter, arm of the service, formation, unit, personnel mustering or classification must, when issuing arms, ammunition and accessories to a member of the Defence Force, issue such member with a certificate of receipt, which certificate must contain the name of the receiving member and the conditions subject to which the arms, ammunition and accessories are issued.

(3) The form of the certificate referred to in subregulation (2) and any conditions subject to which the arms, ammunition and accessories are issued must be set out in the Orders of the Defence Force.

### **Care and custody of loan equipment**

**51.** Equipment loaned to a member of the Defence Force remains the property of the State and such member must -

- (a) at all times keep the equipment in his or her possession or in safe custody;
- (b) if such equipment is lost or damaged, report such loss or such damage, as soon as may be reasonably possible to his or her commander and to the Namibian Police;
- (c) maintain the equipment in good working order and condition;
- (d) maintain the equipment in its original form and state, but where he or she wishes to make any modification or alteration to the equipment, that member must first obtain the authority of the Chief of the Defence Force;
- (e) return the equipment upon termination of his or her service in the Defence Force or when ordered by his or her superior officer to return the equipment.

## **PART VII TRAVEL AND TRANSPORT**

### **Economy and control**

**52.** (1) All official journeys must be approved by the Chief of the Defence Force or an officer authorized thereto by him or her, who must ensure that all official journeys are necessary and in the interests of the Defence Force.

(2) Where a member is granted approval to travel in terms of subregulation (1) he or she must undertake to travel by the most economical and practical means with regard to the circumstances.

(3) A member who, without the approval granted in terms of subregulation (1), travels in connection with the performance of the functions of the Defence Force may only be reimbursed to the amount equal to the cost of conveyance had he or she been granted such approval.

### **Transport expenses**

**53.** Subject to regulations 52 and 54 a member who undertakes to travel in connection with the performance of the functions of the Defence Force may be reimbursed for the expense of such conveyance and such incidental expenses reasonably and necessarily incurred for purposes of such conveyance.

### **Means of transport to be used**

**54.** (1) A member required to travel within Namibia in connection with the functions of the Defence Force must, in the absence of any available State owned transportation used by or on behalf of the Defence Force, be conveyed by such other means as are economical and reasonable in the circumstances, but where the member intends to be conveyed by means of air transportation the Chief of the Defence Force may, if it is in the interest of the State, with the approval of the Treasury and on the recommendation of the Public Service Commission, authorise the member to be so conveyed.

(2) Notwithstanding anything to the contrary contained in this Part, the Chief of the Defence Force may, if he or she considers it to be in the public interest, authorise a member who intends to travel in connection with the functions of the Defence Force to travel by means of private transportation.

(3) Notwithstanding anything to the contrary contained in this Part -

(a) the Chief of the Defence Force may, as he or she considers expedient in the circumstances and for purposes in connection with the functions of the Defence Force, acquire any vehicle, aircraft or vessel which is the property of the State or which is privately owned.

(b) a member of the Defence Force may be conveyed, in connection with the functions of the Defence Force, by a privately owned vehicle, aircraft or vessel other than a privately owned vehicle, aircraft or vessel acquired by the Defence Force for that purpose, but-

(i) such conveyance is, subject to the Employees Compensation Act, 1941 (Act No. 30 of 1941), at his or her own risk; and

(ii) such transport may not be used where transportation is made available by the Defence Force for that purpose.

(4) A member authorised by the Chief of the Defence Force, to be conveyed in connection with the functions of the Defence Force by means of privately owned transportation, may be reimbursed -

(a) where such conveyance was by road in terms of subregulation (2) or (3)(a), in accordance with the tariffs per kilometer and passenger allowance approved by the Treasury;

(b) where such conveyance is by road in terms of subregulation (3)(b), in accordance with an amount equal to the amount had the member been transported by means of a vehicle made available by the Defence Force for that purpose, but may not exceed

the reimbursement referred to in paragraph (a) and may not include incidental expenditure relating to such conveyance;

- (c) in the case of other transport, an amount recommended by the Public Service Commission and approved by the Treasury.

#### **Transport on appointment**

**55.** A person residing within Namibia may, upon being employed in the Defence Force and in order to assume duty, be granted free transport from his or her place of residence to the place at which he or she is instructed to assume duty.

#### **Transport for other ranks who are minors on discharge**

- 56.** The Chief of the Defence Force may, where an other rank is-
- (a) a minor;
  - (b) discharged from the Defence Force; and
  - (c) unable to defray the cost himself or herself;

provide such member with transport within Namibia from the place of his or her discharge to the place of his or her parent's or guardian's residence.

#### **Transfer of members**

**57.** (1) Where a member is transferred within Namibia from one headquarters, arm of the service, formation or unit to another, the Defence Force may, subject to the provisions of subregulations (2) and (3), convey such member and his or her household and personal effects to such other headquarters, arm of the service, formation or unit at State expense.

(2) Where a member requests to be transferred from one headquarters, arm of the service, formation or unit to another, all expenditure in connection with the transfer must be borne by the member requesting the transfer and any absence from duty as a result of the transfer must, for purposes of Part IX of these regulations, be considered to be vacation leave, unless the Chief of the Defence Force is satisfied that the transfer-

- (a) is in the interest of the Defence Force; or
- (b) is, on the recommendation of the Head of Defence Force Medical Services, necessary in the interests of the member concerned or his or her spouse or child.
- (3) (a) A member who, in terms of this regulation, is transferred at State expense may receive such payments and reimbursements as the Public Service Commission may from time to time determine and, for the purposes of this subregulation, his or her household is considered members of the Defence Force.
- (b) the household and personal effects of a member referred to in paragraph (a) must, unless deferred by the Chief of the Defence Force, be conveyed to his or her new headquarters, arm of the service, formation or unit within 60 consecutive days from the date of transfer of that member;
- (c) tenders for the packing, unpacking, loading and unloading and, if necessary, for the conveyance and storage of personal effects must be obtained, but the Chief of the

Defence Force may, if in his or her opinion it is in the interests of the Defence Force, accept a tender other than the lowest tender;

- (d) the Chief of the Defence Force may, in exceptional circumstances, grant approval for a member's personal effects to be stored at the expense of the State for a period of time, not exceeding six months.
- (4) The Chief of the Defence Force may, subject to paragraph (b), authorise the payment or reimbursement to a member who is transferred for-
- (a) the amount actually and necessarily expended on rent or board and lodging at the old headquarters and forfeited in consequence of short notice of transfer, but such payment or reimbursement may only be made if such expenditure is concurrently incurred at the new headquarters;
  - (b) the amount actually and necessarily expended on board and lodging or hotel accommodation for a period not exceeding seven days -
    - (i) at the old headquarters through the member and his or her household being compelled to reside at a boardinghouse or hotel or to board privately while his or her personal effects are being packed or transported to his or her new headquarters;
    - (ii) at the new headquarters through the member and his or her household being compelled to reside at a boardinghouse or hotel or to board privately while his or her personal effects are being unpacked or transported from his or her old headquarters, or while he or she is in search of a house or flat;
  - (c) the difference, limited to a period not exceeding two calendar months, between normal living expenses comprising rent, rates, water, light, fuel, food wages and the abnormal expenses actually and necessarily incurred by a member at his or her new headquarters through being compelled to-
    - (i) reside for a period of longer than seven days in a boarding-house, hotel, furnished house, furnished or unfurnished rooms or to board privately; or
    - (ii) occupy official married quarters, while his or her personal effects are being unpacked or transported from his or her old headquarters or while he or she is in search of an unfurnished house or flat or if his or her household is divided due to his or her children's schooling: Provided that claims for the reimbursement of abnormal living expenses must be submitted in writing in a form approved by the Public Service Commission;
  - (d) the expenditure necessarily incurred as a result of his or her transfer in connection with-
    - (i) the re-registration; and
    - (ii) the replacement of number plates by standard number plates;to privately-owned vehicles which are normally applied to personal use;
  - (e) telephone rental on a pro rata basis in respect of the period during which he or she is unable to use the telephone as a result of his or her transfer: Provided that telephone rental which is recoverable from the postal services may not be refunded;

- (f) the transfer or installation cost of a telephone: Provided the member concerned had a telephone at his or her old headquarters;
- (g) subject to the limitations and conditions as may be approved by the Treasury on the recommendation of the Public Service Commission-
  - (i) the cost of repairs or replacement of personal effects damaged in transit in case it is transported by Defence Force transport;
  - (ii) the cost of disconnecting and connecting and altering or replacing of domestic appliances;
  - (iii) the cost involved in purchasing essential school books and school uniforms for a child or other dependent member of his or her household.
- (h) an amount not exceeding N\$2000 with regard to the re-adjustment or replacement of curtains in the new home.

### **Transfer of members abroad**

**58.** (1) The provisions of regulation 57(4), except regulation 57(4)(g)(i), apply with the necessary changes to a member transferred from one headquarters, arm of the service, formation or unit within Namibia to another outside of Namibia, or from one headquarters, arm of the service, formation or unit outside of Namibia to one within Namibia, or from one headquarters, arm of the service, formation or unit outside of Namibia to another outside of Namibia, but -

- (a) the provisions of regulation 57(4)b(i) only apply to a member who is transferred from one headquarters, arm of the service, formation or unit within Namibia to another outside of Namibia; and
- (b) the provisions of subregulations (4)(b)(ii) and (4)(c) of regulation 57 only apply to a member who is transferred from one headquarters, arm of the service, formation or unit outside of Namibia to one within Namibia, and subregulation (4)(c) is not applicable to a member where abnormal living expenses are incurred solely owing to the schooling of children.

(2) In addition to the provisions of subregulation (1), when a member is transferred at State expense from one headquarters, arm of the service, formation or unit within Namibia to one outside of Namibia or from one headquarters, arm of the service, formation or unit outside of Namibia to one within Namibia, or from one headquarters, arm of the service, formation or unit outside of Namibia to another outside of Namibia-

- (a) a subsistence allowance may be paid to such member in respect of himself or herself and each member of his or her household, who is entitled to travel at State expense, at the rate approved by Treasury on the recommendation of the Public Service Commission and applicable to official journeys in the country in which they are traveling: Provided that -
  - (i) in respect of journeys within Namibia, the rate applicable to Namibia apply; and
  - (ii) half rates apply in respect of any member of the household who is younger than 12 years of age;
- (b) a member's personal effects may, at the discretion of the Chief of the Defence Force, be packed and transported;

- (c) personal effects may be insured at State expense, at appraised valuation accepted for compensation purposes by the insurance company concerned, against risk of loss or damage in transit between the old and new headquarters, arm of the service, formation or unit by means of surface transport authorised by or in terms of these regulations, and -
- (i) appraisement fees may be accepted as part of the insurance charges;
  - (ii) the insurance charges that may be paid from State funds must be limited to those applicable to personal effects which are insurable in terms of these regulations;
  - (iii) if the circumstances so justify, the Chief of the Defence Force may approve that the insurance policy concerned may be extended at State expense for a period not exceeding six calendar months, if the personal effects have to be stored until the member can move into a house;
  - (iv) no money or jewelry may be insured at State expense and no compensation for loss of or damage to such articles may be met from State funds;
  - (v) the insurance policy must be taken out in the name of the member concerned;
  - (vi) if a member is authorised to travel by airplane, the cost of insurance on such amount of personal luggage as his or her fare entitles him or her to have transported free of charge, may be paid from State funds;
- (d) subject to such limitations and conditions as may be approved by the Treasury on the recommendation of the Public Service Commission, the personal effects of a member may be stored at State expense.

### **Transport of household on enrolment**

**59.** (1) Subject to subregulation (2), the household and personal effects of a person referred to in regulation 55 may, with the approval of the Chief of the Defence Force, be conveyed at State expense from the place where he or she is recruited to the place where he or she is posted in terms of regulation 34.

(2) If a person whose household and personal effects have been conveyed in terms of subregulation (1), resigns or his or her services are terminated as a result of unsatisfactory service within six calendar months of the date of his or her assumption of duty, he or she must refund the expenditure incurred in respect of his or her household and personal effects.

(3) Such transport facilities as may be approved by the Treasury on the recommendation of the Public Service Commission may be granted to a person who resides outside Namibia and who is engaged for service in the Defence Force.

### **Transport facilities on termination of service and death**

**60.** (1) Subject to subregulation (2), the Chief of the Defence Force may approve that -

- (a) a member who retires after reaching his or her retirement age;
- (b) the household of a member who dies; or
- (c) a member whose services terminate on grounds, other than misconduct;



be granted conveyance at State expense for himself or herself and his or her household and personal effects to a place within Namibia where he or she wishes to reside, subject to such limitation and conditions as the Chief of the Defence Force may determine.

(2) The provisions of regulation 54 (4) apply with the necessary changes to a member referred to in subregulation (1) or his or her household, but a member of such member's household must be regarded for such purpose to be an official passenger.

(3) The Chief of the Defence Force may grant the transfer privileges prescribed in regulation 58 to a member of the Defence Force stationed abroad or to his or her household, in the event of the death of such member: Provided that such member qualifies on termination of service for such privileges, but the expenditure must be limited to the cost of transfer to the previous headquarters, arm of the service, formation or unit of the member within Namibia and the benefits prescribed in this regulation may be granted afterwards, if necessary.

### **Transport for military funerals**

**61.** (1) A member of the Defence Force who dies as a result of or the performance of his or her duties in the Defence Force may, subject to the provisions of this Part, be transported and buried within Namibia at State expense.

(2) A member of the Defence Force who dies in circumstances other than as a result of or the performance of his or her duties in the Defence Force may, subject to the approval of the Chief of the Defence Force, be transported and buried within Namibia at State expense.

(3) For the purposes of this regulation, where military transportation is not available, the deceased member of the Defence Force may, with the approval of the Chief of the Defence Force, be transported by means of public transportation.

### **Exceptional cases**

**62.** (1) If circumstances arise which in the opinion of the Chief of the Defence Force justifies a departure from any provision of this Part, he or she may on the recommendation of the Public Service Commission, where necessary, and subject to Treasury approval where expense to the State is involved, authorise such departure.

(2) The Chief of the Defence Force may, if he or she deems it expedient, delegate any power, duty or function which has in terms of this Part been conferred or imposed upon or entrusted to him or her to an officer of the Defence Force on such conditions as he or she may determine.

## **PART VIII LEAVE OF ABSENCE**

### **Classification of leave**

**63.** Leave is classified under the following headings:

- (a) Vacation leave, which consists of -
  - (i) accumulative vacation leave with full pay;
  - (ii) non-accumulative vacation leave with full pay; or
  - (iii) vacation leave without pay;

- (b) sick leave, which consists of -
  - (i) sick leave with full pay;
  - (ii) sick leave with half pay;
  - (iii) sick leave without pay;
  - (iv) special sick leave with full pay or with reduced pay; or
  - (v) additional sick leave with full pay;
- (c) special leave, which consists of -
  - (i) special leave with full pay;
  - (ii) compassionate leave; or
  - (ii) special leave for study purposes;
- (d) maternity leave

#### **Leave and leave gratuity are privileges**

**64.** (1) Leave and leave gratuity are privileges and, except in the case of sick leave, is granted only if the exigencies of the Defence Force permit the absence of the member from duty.

(2) Leave commences on the first day on which a member is absent from duty and terminates on the last working day preceding the day on which such member resumes duty.

#### **Public service and leave count as service for certain purposes**

**65.** Subject to provisions to the contrary in this Part, any continuous full-time public service as defined in regulation 66, rendered by a member, which immediately precedes his or her current appointment or enrolment as a member of the Defence Force, counts as service for determination or calculation of the accrual of leave in terms of regulation 69.

#### **Service which counts for leave purposes**

**66.** For the purpose of this Part any continuous service in terms of the Act is considered service, as well as any continuous whole-time service -

- (a) in terms of the Police Act, 1990 (Act No. 19 of 1990);
- (b) in terms of the Prison Act, 1998 (Act No. 17 of 1998); and
- (c) in terms of the Public Service Act, 1995 (Act No. 13 of 1995);

which without any break precedes any service in terms of the Act.

#### **Who may grant, cancel or convert leave**

**67.** (1) The Chief of the Defence Force, or officer designated by him or her for that purpose, may grant a member of the Defence Force any leave classified in terms of regulation 63 and may, subject to subregulation (2) of this regulation, at any time cancel or, subject to regulation

72, convert such leave, but where the Chief of the Defence Force intends to take leave such leave is subject to approval by the Minister who may cancel or, subject to regulation 72, convert such leave granted to the Chief of the Defence Force.

(2) The Chief of the Defence Force, or an officer designated by him or her for that purpose, may only in an emergency cancel leave granted to a member of the Defence Force and must, when contemplating to cancel such leave, take the personal circumstances of the member into consideration when making his or her decision.

### **Compulsory vacation or sick leave**

**68.** The Chief of the Defence Force may, in the interest of the Defence Force, at any time order a member of the Defence Force to take vacation leave with full pay or sick leave with full or half pay for such period of time as the Chief of the Defence Force may determine and the Minister may likewise order the Chief of the Defence Force to take such leave and for such period as the Minister may determine.

### **Calculation of periods of leave**

**69.** A member of the Defence Force is entitled to the following leave:

- (a) 25 days accumulative vacation leave per annum;
- (b) 10 days non-accumulative compassionate leave per annum;
- (c) 132 days sick leave with full pay per leave cycle;
- (d) 132 days sick leave with half pay per leave cycle; and
- (e) 12 days accumulative study leave per annum.

### **Application for leave**

**70.** Every application for leave by a member of the Defence Force must be made in writing, in the manner and on a form prescribed by the Head of Defence Force Personnel, and signed by such member, but a member of the Defence Force who -

- (a) in terms of regulation 68, is ordered to take vacation or sick leave;
- (b) is absent from duty without leave and who in terms of regulation 77(1) has such period of absence recorded as vacation leave without pay; or
- (c) in terms of regulation 96, is granted sick leave without pay,

need not make such application.

### **Leave commences only after it has been granted**

**71.** (1) A member of the Defence Force may not stay away from duty, unless he or she is suspended by the Chief of the Defence Force, in terms of section 90 of the Act, or contracts an illness or is granted leave in accordance with these regulations: Provided that a member who as a result of illness or other sufficient cause is unable to report for duty or for reasons beyond his or her control is compelled to stay away for a period longer than that for which he or she is granted leave must, without delay, notify his or her unit commander thereof and apply for the necessary leave as soon as reasonably possible.

(2) An application for leave is considered only to be granted once the member of the Defence Force, who made the application for leave, is notified of such approval by his or her unit commander.

(3) Any person who stays away from duty in contravention of subregulation (1) is guilty of an offence, and liable to a fine not exceeding N\$2000 or to imprisonment for a period not exceeding six months.

### **Conversion of leave**

**72.** (1) Subject to this Part leave granted under one leave classification may, on the written application of a member, be converted into leave under another leave classification, but such application for conversion of leave must be submitted to the Head of Defence Force Personnel within 30 days from such time that such member resumes duty and the Chief of the Defence Force or an officer designated by him or her for that purpose in terms of regulation 67, or Minister in the case of the Chief of the Defence Force, is satisfied that there is sufficient reasons for the application for conversion.

(2) The Chief of the Defence Force, or an officer designated by him or her for that purpose, may without an application being made in terms of subregulation (1), convert any classification of leave, taken by a deceased member, to another classification of leave if the reality so justify.

(3) Leave converted in terms of this regulation may not be further converted.

### **Publication in unit orders**

**73.** The following particulars of leave taken by a member of the Defence Force must be published in the unit orders of that particular member:

- (a) the period for which leave is granted, including the commencement date of such leave and the date of intended resumption of duty or the date of termination, cancellation or surrender of such leave;
- (b) the leave classification granted;
- (c) if applicable, particulars of any conversion of such leave.

### **Leave registers**

**74.** (1) The Chief of the Defence Force must designate each Chief of arm of the service or Head of section to maintain a register in which must be recorded for each member of the Defence Force such member's vacation leave credit and sick leave provision and every period of absence from duty whether such absence is as a result of granted leave or not.

(2) All leave applications must be kept in safe custody, together with the register referred to in subregulation (1) for such period as the Chief of the Defence Force may determine.

### **Leave provisions on discharge or retirement**

**75.** (1) When a member of the Defence Force gives notice of his or her resignation or retirement, any leave with pay which at the time of such giving of notice is granted for a period as from or after the date of such notice or if the notice is undated, as from or after the date the notification is received by his or her unit commander, lapses and any absence from duty on or after the said date is considered to be vacation leave without pay: Provided this regulation -

- (a) is only applicable in respect of absence during such member's last 30 days of service; and
- (b) does not apply to -
  - (i) sick leave;
  - (ii) vacation leave with pay, which has been granted as a result of illness in lieu of sick leave with half pay or without pay;
  - (iii) special leave in terms of regulation 98(1)(a) or (c);
  - (iv) compassionate leave granted in terms of regulation 100.

(2) If the services of a member of the Defence Force are terminated for any reason other than that referred to in subregulation (1) any leave of absence, which at that time may already have been granted to him or her for a period after the date of termination of his or her services, lapses.

(3) The period of service of a member of the Defence Force may not be extended in order to enable him or her to utilise leave, which may have been granted to him or her.

(4) Any vacation leave credit and any sick leave provision lapses on the day on which the service of the member concerned is terminated.

#### **Absence from duty not recorded as leave**

**76.** (1) A member of the Defence Force is not regarded as being absent from duty if he or she is, -

- (a) appearing -
  - (i) as a witness-
    - (aa) in a criminal court case;
    - (bb) in a civil court case, including a divorce case, but not if he or she is the plaintiff, in which case his or her absence from duty must be covered by the granting of vacation leave with or without remuneration, as the case may be;
    - (cc) in a military court case;
    - (dd) in any misconduct case;
    - (ee) before a commission or committee of inquiry appointed by the State; or
    - (ff) at an inquest;
  - (ii) as the respondent or co-respondent in a civil case which arises out of his or her official duties and in which the State has a direct interest; or
  - (iii) before the Labour Court or a District Labour Court;

- (b) undergoing a fellowship in terms of a bilateral agreement where such agreement provides that the member receives his or her full pay for the duration of such fellowship.
- (c) attending during official duty hours, with the permission by the Head of Defence Force Personnel, a course presented by the Ministry of Defence or other ministry, office or institution;
- (d) supervising the packing or unpacking or loading or unloading of his or her personal effects, where he or she is transferred at State expense and is absent from duty for a period of not more than four days in the aggregate.

### **Absence without leave**

**77.** (1) Subject to the provisions of these regulations, a member of the Defence Force who absents himself or herself from duty, without being granted such leave, must, notwithstanding the result of any disciplinary action for such absence, have such period of absence recorded as vacation leave without pay and such leave may not be converted, in terms of regulation 72, into any other leave.

(2) For the purpose of subregulation (1), weekends and holidays are included for purposes of calculating days of absence and such period of absence is calculated to start from the date and time such member is discovered to be absent and ends on such date and at such time as such member reports himself or herself to his or her headquarters, arm of the service, formation or unit for duty or is arrested or surrenders himself or herself to the military authorities.

(3) For the purpose of section 127 of the Military Discipline Code the following formula must be used in the calculation for the forfeiture of basic salary after conviction by a competent court:

$$\frac{A}{365} \times B = C$$

Where:

A is basic annual salary  
 B is total days forfeited  
 C is amount to be deducted

### **Exceptional cases**

**78.** In the event of circumstances arising, which justify a departure from the provisions of this Part or which are not covered by these regulations –

- (a) the Chief of the Defence Force may on such conditions, as approved by the Minister, grant leave to a member of the Defence Force; and
- (b) the Minister may, at his or her discretion, grant special leave privileges to a member of the Defence Force and make such recommendations in connection with leave matters as may be required.

## **PART IX VACATION LEAVE**

### **Vacation leave**

**79.** (1) A member of the Defence Force is entitled to at least 25 consecutive days vacation leave per annual leave cycle with full remuneration, referred to as annual leave, reduced by the number of granted occasional vacation leave days with full remuneration during that leave cycle.

(2) No payment in lieu of any vacation leave may be made except on termination of employment with the Defence Force.

(3) A member of the Defence Force may apply to the Head of Defence Force Personnel for the granting of annual vacation leave and such leave must be granted to such member as from a date agreed to by such Head of Defence Force Personnel, but such date must not be later than four months after the end of the leave cycle concerned: Provided that the Chief of the Defence Force may postpone the granting of annual leave of any member if the exigencies of the Defence Force so require.

### **Vacation leave without pay**

**80.** (1) A member of the Defence Force who has used up his or her paid annual vacation leave may, for sufficient reasons other than illness, be granted vacation leave without pay of not more than 132 days in any period of 12 consecutive months, but the Chief of the Defence Force may in exceptional cases grant more than 132 days unpaid vacation leave within that period.

(2) Notwithstanding subregulation (1), but subject to subregulation (3), a female member of the Defence Force may, for purposes of confinement and delivery, be granted leave without pay for a period not exceeding 12 consecutive months: Provided that -

- (a) she gives at least one month's notice of her intention to take such leave;
- (b) the period of such leave commences not less than three months before the anticipated date of the confinement;
- (c) notwithstanding paragraph (b), the Head of Defence Force Medical Service or a medical practitioner may, if he or she considers it necessary, recommend that such leave be granted to a member at an earlier stage.

(3) No vacation leave without pay may be granted to any member of the Defence Force who has leave days to his or her credit.

### **Commencement of leave cycle**

**81.** A leave cycle commences on the date of enrolment or appointment in the Defence Force until the last day of that specific year.

### **Public holidays**

**82.** A public holiday, which falls within the member of the Defence Force's period of vacation leave and which falls on a day which would otherwise have been an ordinary working day for such member, must not be included in such leave period.

**Vacation leave credits**

**83.** (1) In the calculation of vacation leave when a fraction of a day occurs, such fraction must be carried forward to the end of his or her leave cycle of that year when the member's leave credit is recorded, and a portion of a day may then be regarded as one day.

(2) On termination of employment a fraction of a day is regarded as a full day.

**Maximum accumulation of vacation leave**

**84.** (1) With effect from 1 September 1996, members may only accumulate a maximum of 60 days vacation leave.

(2) A member of the Defence Force who on 31 August 1996 has paid vacation leave credit in excess of 60 days may not accumulate further paid vacation leave and on the termination his or her service is only entitled to payment to the equivalent of the number of days vacation leave accumulated as at 31 August 1996, minus the days utilised, if any, plus the additional vacation leave days to a maximum of 25 days for the period of service after 31 August 1996.

(3) A member of the Defence Force who on 31 August 1996 has less than 60 days accumulated paid vacation leave may further accumulate such leave up to a maximum of 60 days and subregulation (2) applies with the necessary changes as regards termination of service and additional vacation leave days.

(4) Vacation leave accrued after 31 August 1996 does not lapse and may be utilised at any time during a member of the Defence Force's service, but will not be paid out on termination of service except as provided for in subregulation (2) and (3).

**Absence from duty for purposes of rehabilitation**

**85.** (1) Vacation leave with full remuneration, not exceeding 132 days in 18 months may be granted to a member of the Defence Force in order for such member to undergo initial treatment for addiction to alcohol or stupefying drugs with a view to rehabilitation: Provided that available vacation leave with full remuneration may be granted on the same basis to extend the period of treatment, but such member must provide a certificate, issued by the Head of Defence Force Medical Service indicating that continued treatment is necessary.

(2) A member who is granted vacation leave in accordance with subregulation (1), but does not co-operate with such treatment may face disciplinary action.

**Over-grant of vacation leave**

**86.** Where the Chief of arm of the service or Head of section, designated in terms of regulation 74, is satisfied that a member has in good faith been granted more accumulative or non-accumulative vacation leave with full pay than is provided for in this Part, the overgrant must be deducted from accumulative vacation leave with full pay which later accrues to such member and if such Chief of the arm of the service or Head of section is not satisfied that the overgrant has been made in good faith, the overgrant must be recorded as vacation leave without pay : Provided that -

(a) where the service of such member is terminated before such overgrant has been liquidated fully by vacation leave with full pay which later accrued, the period which on the last day of his or her service has not been so liquidated; must be recorded as vacation leave without pay; and



- (b) any overpayment as the result of the application of this regulation, calculated at the member's rate of pay at the time of his or her absence, must be recovered from him or her or otherwise written off under competent authority.

### **Termination of service**

**87.** (1) Subject to regulation 84, when a member obtains his or her discharge from the Defence Force, for any reason whatsoever, he or she must be paid the cash value, calculated at the rate of the pay which the member was receiving immediately prior to the date upon which his or her employment terminated, in respect of leave which accrued to him or her but was not granted before the date of termination of his or her services.

(2) For the purpose of subregulation (1), the following formula must be used to calculate the benefit payable to a member:

$$\frac{A}{260} \times B = C$$

Where:

- A is annual salary plus allowances  
 B is days accrued leave  
 C is amount payable to the member

## **PART X SICK LEAVE**

### **Commencement of sick leave cycle**

**88.** A sick leave cycle commences on the date of enrolment or appointment to the Defence Force and thereafter on each third anniversary of that date.

### **Application for sick leave must be supported by a medical certificate**

**89.** No sick leave of more than three consecutive days may be granted to any member of the Defence Force unless the application therefore is supported by a certificate from a medical officer, registered medical or dental practitioner and such certificate indicates clearly the nature of the illness, certifies that the member is unable to perform his or her official duties and states the period necessary for the member's recuperation, but -

- (a) not more than, in the aggregate, 10 days sick leave during any year, which ends on the last day of December, may be granted without the submission of such certificate, and that the officer who grants the leave may at his or her discretion demand that such certificate be submitted in respect of any period of three days or less;
- (b) the Chief of the Defence Force may, notwithstanding the submission of such certificate, in good cause refuse the grant of any sick leave in respect of any absence from duty to which such certificate refers and in such case the period of absence, notwithstanding the result of any disciplinary measures taken against such member, is recorded as vacation leave without pay;
- (c) where the Chief of the Defence Force is satisfied that the absence of any member is in good faith due to an illness and that sufficient reasons exist why the certificate of a medical officer or other registered practitioner cannot be submitted, he or she

may exempt the member from submitting such certificate in respect of a continuous period of absence of not longer than 14 days;

- (d) no other leave may be converted into sick leave, unless the application for such conversion is supported by the certificate of a medical officer or any registered medical or dental practitioner.

#### **Lapse of sick leave end of cycle**

**90.** Unused sick leave prescribed for a particular cycle lapses at the end of the cycle and may not be carried forward to the next cycle.

#### **Utilising of vacation leave instead of sick leave**

**91.** A member of the Defence Force may, on application in writing, be granted any vacation leave which he or she may have to his or her credit, in lieu of sick leave with half remuneration or sick leave without remuneration, but -

- (a) such application must be submitted not later than 1 month after he or she resumed duty;
- (b) the number of days vacation leave so granted may not exceed 260 days in the aggregate in any cycle.

#### **Conversion of vacation leave with or without remuneration into sick leave**

**92.** If a member of the Defence Force, to whom vacation leave with or without remuneration has been granted, becomes ill on vacation leave that portion of the vacation leave while he or she was ill may, on his or her written request, be converted into sick leave: Provided he or she furnishes the Chief of the Defence Force with the necessary medical certificate as provided for in regulation 89.

#### **Confinements, caesarean sections, miscarriage and termination of pregnancy**

**93.** (1) The absence from duty of a female member of the Defence Force must, with a view to her confinement, be covered by the granting of unpaid maternity leave or her available vacation leave with full pay, whichever she applies for.

- (2) Sick leave may be granted -
  - (a) during a period of pregnancy, including complications arising prior to or after confinement;
  - (b) during a period of unpaid maternity leave or vacation leave utilised for maternity purposes;
  - (c) in respect of absence from duty as a result of a miscarriage or termination of pregnancy on medical advice; and
  - (d) for a maximum period of 6 weeks following a cesarean section without complications,

but sick leave may not be granted for actual confinement.

**Medical examination by order**

94. The Head of Defence Force Medical Service may, at any time, require that a member of the Defence Force submits himself or herself to an examination by one or more registered medical practitioners at State expense.

**Additional sick leave with half pay**

95. A member of the Defence Force who does not have vacation leave credit or sick leave provision and who due to his or her ill-health is unable to perform his or her official duties may be granted additional sick leave with half pay of not more than 132 days in any cycle: Provided such member is not permanently medically unfit for service in the Defence Force.

**Sick leave without pay**

96. (1) A member of the Defence Force who has no vacation leave credit and who has used all his or her sick leave with full and half pay and who due to ill-health is unable to resume his or her official duties may be granted sick leave without pay for a period of not more than 260 days in any one cycle: Provided such member is not permanently medically unfit to perform or resume his or her service in the Defence Force.

(2) No further leave of any description may, except on the recommendation of the Military Medical Board and the approval of the Chief of the Defence Force, be granted to a member referred to in subregulation (1) within that cycle.

**Special sick leave with full pay or reduced pay**

97. (1) A member of the Defence Force who contracts an illness while rendering service in terms of section 5 of the Act and which illness is not contracted through his or her own misconduct or gross negligence may be granted special sick leave with full pay.

(2) Sick leave granted to a member of the Defence Force in terms of subregulation (2) is not recorded against his or her sick leave provision, but where compensation in terms of the provisions of the Employees Compensation Act, 1941 (Act No. 30 of 1941) is payable to such member special sick leave with pay, equal to the difference between the pay of the member and the compensation payable to him or her, must be granted for the period of his or her absence from duty.

**PART XI  
SPECIAL LEAVE****Special leave with full pay**

98. (1) Special leave with full pay may be recorded against the leave register of a member of the Defence Force -

- (a) who, on the recommendation of the Head of Defence Force Medical Service must be isolated as a result of his or her contact with any person who has contracted or is believed to have contracted any contagious or infectious disease;
- (b) who, in the case of a chaplain is required to officiate at communion service in civilian congregations not more than 8 days;
- (c) who has been taken into custody by the civilian authorities or must appear in any civil criminal court on a charge which is later withdrawn or in respect of which he or she is later acquitted;

- (d) who, actually and of necessity undertakes any journey for any of the purposes referred to in paragraphs (a) or (c);
- (e) to whom, in the opinion of the Chief of the Defence Force on the recommendation of the Head of Defence Force Personnel, such leave should be granted in such circumstances not provided for in these regulations.

(2) The Chief of the Defence Force or an officer acting in his or her authority, may grant special leave with pay to a member who has been selected by a recognised sport association to -

- (a) take part, as a member of an organised sport group, in a sports tour outside of Namibia, whether as a competitor, coach or manager;
- (b) represent Namibia as a competitor, coach or manager at international sporting events within Namibia, and not merely to represent a club;
- (c) accompany a foreign national team visiting Namibia, as a representative of the Namibia Sport Association organising the tour,

but where such member is absent for a cumulative period of 20 days per annum, for purposes of taking part or preparing for such tour, representing Namibia or accompanying such foreign national team, such member must be granted vacation leave with or without remuneration, as the case may be.

(3) A member of the Defence Force who has been discharged from service, as a result of a sentence of a competent court, may, if such sentence is later judicially squashed or amended and as a result thereof the member resumes his or her duty in the service, be granted special leave with full pay for a period not exceeding 60 days in respect of the period during which such member did not render service, and any period in excess of such period of 60 days must, if the member has any vacation leave credit, be recorded against such credit, and if the member does not have sufficient vacation leave with full pay to his or her credit, be recorded as vacation leave without pay.

### **Other provisions**

**99.** The Chief of the Defence Force may on such conditions as he or she in conjunction with the Minister may determine, grant special leave with full pay to members of the Defence Force serving abroad.

## **PART XII COMPASSIONATE LEAVE**

### **Granting of compassionate leave**

**100.** (1) Compassionate leave with full pay for not more than 10 days per annum may be granted to members of the Defence Force for the following reasons:

- (a) death in the family; or
- (b) serious illness in the family,

and an application for compassionate leave must be accompanied by a death certificate or a letter from a recognised church authority, headman or traditional leader, in the case of an application for compassionate leave due to a death in the family, or in the case of an application for compassionate leave due to a serious illness in the family, a certificate from a medical practitioner indicating that the presence of the member is required.

- (2) For the purpose of this regulation “family” means –
- (a) children, whether adopted or not, including those adopted according to customary law or practice;
  - (b) a spouse, including partners to a union according to customary law or union recognised as a marriage in terms of any religion, or a relationship in respect of which the Chief of the Defence Force is satisfied that the parties have cohabited as if married for a significant period of time;
  - (c) siblings;
  - (d) parents; and
  - (e) grandparents,
- of a member.

(3) Compassionate leave may not be accumulated from one year to the next and may be taken individually or consecutively.

(4) Members who assume duty after 1 January of a year is entitled to the full provision of compassionate leave.

(5) Compassionate leave does not part of vacation leave and a member of the Defence Force is not entitled, upon termination of service, to have unutilised compassionate leave paid out to him or her.

### **PART XIII STUDY LEAVE**

#### **Granting of study leave**

**101.** Study leave with full pay may be granted to a member of the Defence Force who undertakes to study, attend a course or undertakes preparatory work for such study or course and which study or course is in line with his or her duties or functions in the service and in the interest of the Defence Force.

#### **Condition for granting study leave**

**102.** (1) A member of the Defence Force may be granted 12 days study leave with full pay per annum.

(2) Study leave on the basis of one day’s special leave with full pay for each day’s study leave taken by a member of the Defence Force in connection with his or her studies, and if necessary, one day’s special leave with full pay for each day’s vacation leave with full pay, may be granted to such member at the commencement of his or her studies and thereafter, if necessary, vacation leave without pay to a maximum of 260 days or such shorter period, may be granted, irrespective of whether he or she undertakes such studies at his or her own expense.

(3) The number of study, special and vacation leave days, with or without pay, may not exceed 260 days in the aggregate, except if approved by the Chief of the Defence Force.

(4) The granting of special leave in terms of subregulation (2) is subject to such member signing an undertaking on the conditions approved by the Chief of the Defence Force.

- (5) No study leave may be granted to a member of the Defence Force in terms of this regulation, unless -
- (a) such member furnishes together with his or her application for leave, proof of admission to a university, technical college or other educational institution as well as proof of the field of study to be undertaken by such member;
  - (b) such member undertakes, in writing, to serve in the Defence Force for a specified period after completion or cessation of his or her studies and on such conditions and stipulations prescribed by the Head of Defence Force Personnel on the recommendation of the Public Service Commission;
  - (c) the Chief of the Defence Force or an officer designated by him or her for that purpose satisfies himself or herself that such leave is for purposes of studies towards a career in the Defence Force and that such studies will be in the interests of the Defence Force;
  - (d) the Chief of the Defence Force or an officer designated by him or her for that purpose approves the university, technical college or other educational institution concerned where such member of the Defence Force is studying; and
  - (e) the official roster of the university, technical college or other educational institution concerned is submitted together with such application for exemption by such member.

**To whom study leave may be granted**

- 103.** Study leave may be granted to a member of the Defence Force who -
- (a) studies intra-murally at a university or other recognised educational institution within or outside of Namibia; or
  - (b) undertakes special studies, including a study tour; or
  - (c) attends a preparatory course with a view to taking an examination for a particular qualification or with a view to admission to a university course; or
  - (d) studies extramurally or by means of correspondence and who requires leave for a reasonable period of time, excluding a full academic year, to do prescribed preparatory work or research work, but study leave may not be granted to a member to a member of the Defence Force who such leave to prepare for -
    - (i) a re-examination; or
    - (ii) an examination in respect of a study course, or part of a study course, failed and which he or she has to repeat;
  - (e) requires leave to do research work or write an essay or a thesis for purposes of attaining an honours, master's or doctor's degree; or
  - (f) upon proof of graduation, for a period of one day to attend his or her graduation ceremony, but where such ceremony is held outside of Namibia such member may, upon proof of such graduation, be granted a maximum of three days leave to attend.

**Exemption from duty to attend part-time classes.**

**104.** (1) A member of the Defence Force may, for purposes of attending classes during ordinary working hours, at a technical college or other recognised educational institution in order to obtain the School Leaving Certificate or an equivalent certificate, apply to the Head of Defence Force Personnel to be granted exemption from duty.

(2) A member referred to in subregulation (1) may be granted exemption from duty to a maximum of eight hours per week.

(3) A member of the Defence Force, who is studying part-time at a university, technical college or other recognised educational institution in order to qualify himself or herself for appointment in a technical or professional post in the Defence Force, may be exempted from duty for the purpose of attending the necessary classes.

(4) A member of the Defence Force, who -

- (a) studies part-time at a university, technical college or other recognised educational institution in a course which is in the interests of the Defence Force;
- (b) studies by means of correspondence in a course which is in the interests of the Defence Force and who is desirous to attend a vacation school held by a recognised university,

may be exempted from duty, but one day's vacation leave with full pay or, where the member does not have vacation leave with pay to his or her credit, one day's vacation leave without pay must be recorded against his or her leave, for each 16 hours of which he or she is so exempt.

(5) No exemption from duty may be granted to a member of the Defence Force in terms of this regulation, unless -

- (a) such member undertakes, in writing, to serve in the Defence Force for a specified period after completion or cessation of his or her studies and on such conditions and stipulations prescribed by the Head of Defence Force Personnel on the recommendation of the Public Service Commission;
- (b) the Chief of the Defence Force or an officer designated by him or her for that purpose satisfies himself or herself that such exemption is for purposes of studies towards a career in the Defence Force and that such studies will be in the interests of the Defence Force;
- (c) the Chief of the Defence Force or an officer designated by him or her for that purpose approves the university, technical college or other educational institution concerned where such member of the Defence Force is studying; and
- (d) the official roster of the university, technical college or other educational institution concerned is submitted together with such application for exemption by such member.

**PART XIV  
MATERNITY LEAVE**

**Unpaid maternity leave**

**105.** A member may with a view to her confinement, be granted 12 weeks unpaid maternity leave, but 4 of the 12 weeks must be taken immediately before the expected date of confinement and the remaining leave must be taken immediately after such confinement.

**Conditions**

**106.** (1) Maternity leave is exclusive of vacation leave and should be applied for separately and at least three calendar months in advance.

(2) The expected date of confinement and the actual date of confinement must be certified in writing by a medical practitioner.

(3) A female member on maternity leave -

(a) retain her seniority and remain eligible for promotion and salary increments; and

(b) who is granted unpaid maternity leave is not precluded from receiving Social Security payments during her period of unpaid maternity leave;

(4) During any period of maternity leave, the provisions of the contract of service in the Defence Force.

(5) A female member of the Defence Force who is on maternity leave may not have her contract of service terminated during such leave or at the expiry of such leave on -

(a) grounds of abolition of such member's post or any reduction in or reorganisation or readjustment of any office in the Defence Force; or

(b) any grounds arising from her pregnancy, delivery, or her resulting family status or responsibility,

unless all reasonable steps have been taken to offer such member another appropriate post or such member has unreasonably refused to accept such offer.

(6) Subregulation (5) does not apply to such member if -

(a) for reasons, other than her own unfitness or incapacity, her discharge will promote efficiency or economy in the Defence Force; or

(b) on the date immediately prior to the commencement of her maternity leave, she is unfit for her duties or incapable of carrying such duties efficiently.

**Vacation leave for maternity purpose**

**107.** A female member of the Defence Force may utilise any vacation leave with full remuneration standing to her credit to a maximum of 132 days with a view to her confinement in the place of unpaid maternity leave.

**Granting of sick leave for maternity purpose**

**108.** Subject to regulation 93(2), sick leave may be granted in the prescribed manner during a period of unpaid maternity leave, but such sick leave may not be granted for purposes of actual confinement.

**Accrual of vacation leave during unpaid maternity leave**

**109.** A female member of the Defence Force who in terms of regulation 105 is granted unpaid maternity leave accrues vacation leave during such 12 week period.



**General conditions with regard to maternity leave**

**110.** (1) Female members of the Defence Force may, during the period of unpaid maternity leave granted in terms of regulation 105, claim maternity benefits under the Social Security Act, 1994 (Act No. 34 of 1994): Provided that such member may not claim maternity benefits for any period of vacation leave or sick leave granted with full pay, for maternity purposes, but where such member is granted sick leave with half pay and such payment is less than the such maternity benefits she would otherwise be entitled to, such member may claim the different between such sick leave with half pay and such maternity benefit.

(2) If a female member of the Defence Force claims maternity benefits in contravention to subregulation (1), the amount overpaid to such member is recoverable from such member's salary.

**PART XV  
TRAINING****Training of members**

**111.** A member of the Defence Force, may be trained in the organisation, duties, functions and procedure applicable in time of peace or war in respect of any headquarter, arm of the service, formation, unit or personnel mustering in which such member may be required to serve in terms of section 5 of the Act, including-

- (a) command technique and staff duties;
- (b) the tactical employment and co-operation of armed forces;
- (c) intelligence;
- (d) irregular warfare;
- (e) military administration, including management technique, provisioning, accounting procedures and military law;
- (f) technical and maintenance procedures;
- (g) physical training and recreational requirements;
- (h) instructional duties in any classification or mustering;
- (i) civil defence;
- (j) other military, academic and technical subjects as may in the opinion of an officer referred to in regulation 112, be necessary to qualify such member for any military or other duty which he or she may be required to perform.

**Arrangement and Planning of Training**

**112.** (1) The Chief of every arm of the service or any Head of section authorised thereto must, for members of a headquarter, arm of the service, formation, unit or personnel mustering of the Defence Force, arrange instruction courses and draw up syllabuses on the authority and in accordance with policy approved by the Chief of the Defence Force and the Chief of the Defence Force may designate such training or syllabus specifically or generally.

(2) Subject to subregulation (1), the Chief of every arm of the service or Head of section concerned must arrange in accordance with the provisions of regulation 111 and in consultation with

the Head of section concerned, where necessary, and in accordance with the instructions of the Chief of the Defence Force the training of members allotted to and posted to a headquarter, arm of the service, formation, unit or personnel mustering of the Defence Force and in addition thereto, he or she is responsible to make arrangements for-

- (a) the necessary classes, courses and exercises in his or her arm of the service or section;
- (b) the determination of standards of efficiency;
- (c) the manner in and the conditions under which a member of the Defence Force may be examined against such standards;
- (d) the equipping of training camps;
- (e) the determination of the additional service a member may be permitted to perform, with a view to his or her training and experience;
- (f) any other steps which in his or her opinion are necessary for the efficient training of members of his or her arm of the service or section,

but training, which involves the employment of more than one arm of the service or includes co-operation between arms of the service or with other Government Departments or training which the Chief of the Defence Force may specially designate for that purpose, may be executed on the instructions of and in the manner indicated by the Chief of the Defence Force.

### **Nature and Place of Training**

**113.** (1) The training referred to in regulations 111 and 112 must be conducted within the Defence Force context according to the directions of the officer responsible in terms of regulation 112 and may take the form of a training camp, a course, a training exercise, a period of instruction, a class, a shooting, tactical or administrative exercise, drill or other parade, or guard, administrative or other duty.

(2) Training in terms of this Part may take place at a member's unit or any training institution or other unit of the Defence Force or at any other institution in Namibia designated by the Chief of the Defence Force: Provided that, with the approval of the Minister, training of selected members may be arranged -

- (a) at any academic, technical or other civilian educational institution outside of Namibia; or
- (b) with the armed forces of any other country.

(3) Training material, including equipment, items of clothing and other necessities of any nature, may, in accordance with the directives and instructions of the Chief of the Defence Force, be provided at State expense to any headquarter, arm of the service, formation, unit, personnel mustering or training institution of the Defence Force or a member thereof.

### **Training on Sundays and Public Holidays**

**114.** With the exception of church and commemorative parades, no training of any nature may take place on a Sunday or on Good Friday, Easter Monday, Ascension Day or Christmas Day and no training to which a member may be liable in terms of the Act may be conducted in peacetime on any public holiday.

**Trade Training and Testing**

**115.** (1) An apprentice or a learner operative or a technical other rank who has been designated for remustering must be trained in accordance with the directives issued from time to time on the authority of the Chief of the Defence Force to determine the standard of technical tuition, theoretical knowledge and proficiency to be attained and that is required in terms of regulation 31 for his or her reclassification as an artificer, artisan or operative in the trade concerned and he or she may be required to attend technical or educational classes on the conditions determined by the Chief of the Defence Force.

(2) A member of the Defence Force may not be classified, reclassified or remustered in a technical mustering as an artificer, an artisan or an operative unless he or she has proved through a trade test by a Trade Test Board that he or she has attained the standard referred to in subregulation (1).

**Delegation of Powers, Functions and Duties**

**116.** Any power, function or duty which has, in terms of this Part, been conferred or entrusted or imposed upon the Chief of the Defence Force, a Chief of an arm of the service or a Head of a section may, if it is considered expedient, be delegated by the Chief of the Defence Force, or the said Chief of the arm of the service or Head of section to an officer or official over whom he or she exercises command or authority on such conditions as he or she may determine.

**PART XVI**  
**COMPULSORY INSURANCE FOR MEMBERS OF THE DEFENCE FORCE**

**Definitions**

**117.** For the purposes of this Part, unless the context otherwise indicates -

"dependant" means-

(a) the spouse of a member and a dependent child (including an adopted child or a stepchild) who is in the opinion of Head of the Defence Force Personnel fully dependant on him or her;

(b) a relative of a member who is permanently resident with and necessarily dependent on the member and whose income, from any source, does not exceed the appropriate maximum basic social pension as prescribed by regulations promulgated in terms of National Pensions Act, 1992 (Act No. 10 of 1992),

provided that where two relatives reside with him or her and are dependent on him or her in this manner, and where the one relative would normally have been dependent on the other relative, for instance a father and a mother, both such relatives may be deemed members of his or her household only if half of their joint income, from any source, does not exceed the amount of the appropriate maximum basic social pension as contemplated above;

"the Scheme" means a Group Life Assurance Scheme, with funeral and disability benefits, for members of the Defence Force.

**Compulsory participation**

**118.** (1) Each member of the Defence Force is obliged to participate in the Scheme which covers –

- (a) death for members of the Defence Force and their families; and
- (b) disability for members of the Defence Force.

(2) The cover referred to in subregulation (1) lapses on the date of termination of such member's services and such cover cannot be converted into any other form of insurance.

### **Premiums**

**119.** (1) Premiums in respect of the Scheme referred to in regulation 118 must be deducted directly from the salary of such member and paid over to the insurer.

(2) For purposes of deductions referred to in subregulation (1), a portion of a calendar month is considered to be a full calendar month.

### **Claims**

**120.** Any claim arising under the Scheme referred to in regulation 118 must be submitted on the forms and in accordance with the directives determined from time to time by the Head of Defence Force Personnel who is authorised to verify any claim made under that Scheme.

## **PART XVII FUNDS AND INSTITUTIONS**

### **Definitions**

- 121.** (1) In this Part, unless the context otherwise indicates-
- (a) "banking account" means any current or savings bank account with any registered commercial bank or building society or any post office or with any representative of the Chief Paymaster of the Defence Force in the field;
  - (b) "certificate" means an official document indicating that the institution concerned has been certified in terms of section 87 of the Act;
  - (c) "committee" includes any body charged with the conduct and management of any institution or any sub-section or branch thereof or of any fund, other than a body designated as a controlling authority;
  - (d) "controlling authority" means any officer or body of persons responsible under regulation 149 or 192 for the direct control over any fund or institution;
  - (e) "function" includes any social gathering or other activity arranged to mark a social occasion;
  - (f) "fund" means the Defence Force Foundation or any regimental fund, but not the money belonging to any institution;
  - (g) "institution" means any recreation institution or trading institution;
  - (h) "mess" means any trading institution, established and conducted under regulation 187, which provides sleeping accommodation or meals, conducts trade or provides indoor recreational facilities;

- (i) “other trading institution” means a trading institution established in association with any recreation institution or any sub-section or branch thereof or in association with any fund;
- (j) “recreation institution” means any sports club or social or educational institution;
- (k) “regimental fund” means any fund established under regulation 194;
- (l) “social or educational institution” means any recreation institution established to afford facilities for social or educational activities of members of the Defence Force or their families and every reference to any such institution includes every sub-section or branch of any such institution concerned;
- (m) “sports club” means-
  - (i) any recreation institution established to provide facilities for participation in any kind of sport by members of the Defence Force or their families and every reference to a sports club includes every sub-section of any such sports club concerned; or
  - (ii) in relation to affiliation to any civilian sports body, also any individual sub-section of any sports club;
- (n) “trading institution” means a Defence Force Institution or any branch thereof, any mess or any other trading institution;
- (o) “treasurer” means any person appointed to handle and account for any moneys or other assets of any institution, fund or other body referred to in this Part or of any sub-section or branch of any institution;

(2) Any reference in this Part to public funds or public expense is a reference to monies appropriated by Parliament for the service concerned.

#### **Establishment of funds and institutions**

**122.** (1) Any fund or institution may be established and be conducted, controlled, used or dissolved under the conditions and in the manner prescribed in this Part.

- (2) The conduct, control or use of any such institution or fund is subject-
  - (a) to the constitution or deed of trust approved in terms of this Part for such fund or institution;
  - (b) to any administrative conditions, not inconsistent with this Part, which may be imposed on or in respect of the fund or institution concerned; and
  - (c) in the case of any trading institution, to the terms of any certificate issued in respect thereof.

#### **Funds and institutions to defray expenses not met from public funds**

**123.** Each fund or institution bears the expenses arising from its conduct for which no provision has been made in these regulations or which the Treasury has not otherwise approved for defrayal from public funds.

**Personnel for the conduct and control of funds and institutions**

**124.** (1) Any member of the Defence Force may be elected or appointed as an office-bearer of, or appointed or ordered to perform any duty in connection with the conduct or control of any fund or institution.

(2) The duties of any such office-bearer or any other duty imposed pursuant to subregulation (1), must be performed as part of the official military duties of the member concerned, and may not, except in exceptional circumstances, be relinquished without the prior consent of the committee in the case of an elected member, or in every other case, the controlling authority or the commander who imposed such duty.

(3) Each mess, conducted primarily for members of the Defence Force must, and each recreation institution so conducted may, in accordance with establishments or scales approved by the Minister from time to time be provided at public expense with any full-time staff or labour required for its conduct or for maintenance.

(4) Any fund or institution may employ additional staff or labour at its own expense.

(5) Honoraria paid in terms of this Part may be accepted and retained by a member of the Defence Force who is an office-bearer of, or who is employed in connection with the conduct or maintenance of a fund or institution.

**Provision and maintenance of facilities for recreation institutions**

**125.** (1) Public funds may, subject to such conditions as determined by the Minister, be made available for the acquisition, preparation, erection or maintenance and the provision of any grounds, fields, courts, buildings, works or other accommodation required for the pursuit of the purpose of any recreation institution conducted for members of the Defence Force.

(2) A recreation institution in respect of which any facility referred to in subregulation (1) has been provided, may be provided at public expense, according to scales determined by the Head of Defence Force Logistics in consultation with the Minister, with such furniture, furnishings, fittings, equipment, tools, transport, water, fuel, electricity, petrol, oil, lubricants, materials or other articles which are necessary for the functioning of such institutions and the maintenance of any facilities provided in terms of subregulation (1).

(3) Any formation or unit commander may, on such conditions as he or she may determine, authorise the use of any grounds, fields, courts or works or any public accommodation or facilities which are under his or her control, by any recreation institution which serves members of the Defence Force, and to which such facilities are not otherwise available or are inadequately available and the cost of any water, fuel, electricity or maintenance, occasioned by such use, must be defrayed from public funds.

(4) No items of personal clothing and equipment used by individual members of the Defence Force for any kind of sport, other than such items normally issued for physical training purposes, may be provided at public expense.

(5) Any recreation institution may, in addition to any articles or facilities provided in terms of this regulation, acquire, at its own expense from available Government stores or any other source, any other article which may be required in the pursuit of the purpose for which it was established.

**Buildings, equipment and maintenance of trading institutions**

**126.** (1) Any building, furniture, furnishing, fitting, kitchen, dining-room and barrack equipment, water, electricity, fuel, material and other necessities required for the proper functioning of any trading institution, conducted primarily for the use of members of the Defence Force, must be provided and maintained at public expense in accordance with such scales as may be determined by the Head of Defence Force Logistics.

(2) Any trading institution may be permitted to purchase from available Government stores any article or commodity referred to in this regulation which it requires for its proper functioning and which is not provided at public expense.

**Safeguarding of fixed property of the State**

**127.** (1) The erection or construction of any building or other structure on State land, or the demolition, removal or alteration in any way of any State building or other fixed property, made available under regulation 125 or 126, is subject to prior written approval from the Minister.

(2) Any expense incurred by the State in respect of the restoration or removal of any property or building or any other structure referred to in subregulation (1), erected, constructed, demolished, removed or altered in any way without such approval or which has been willfully or negligently damaged, is considered to be a debt to the State by the responsible person or institution.

(3) No approval given in terms of subregulation (1) may be construed as an authority for the expenditure of public moneys, except in so far as that is explicitly stated in any document recording such approval.

**State not liable for theft, loss or damage to private property**

**128.** The State is not liable to make good any loss resulting from any cause including the theft of or any damage to the private property of any fund or institution, which is kept in any building or on land belonging to the State, nor for the payment of the cost of any insurance against such loss, theft or damage.

**Acquisition and application of private assets**

**129.** (1) Any fund or institution may, subject to regulations 130 and 131, acquire, possess or dispose of assets on its own behalf.

(2) The assets of any fund or institution may be used for the benefit of members of the Defence Force served by such fund or institution or the families of such members.

(3) Subject to this Part and the constitution or deed of trust of the fund or institution concerned, such assets may be invested or may be used by such fund or institution to meet expenditure in respect of -

- (a) purchases made and services rendered;
- (b) loans or donations made to any other fund or institution, also in respect of loans or donations made to members of the Defence Force;
- (c) salaries and wages of employees, other than those fully remunerated by the State, and the refund of out-of-pocket expenses incurred by any person on behalf of the fund or institution concerned;

- (d) honoraria to its office-bearers or employees;
- (e) functions held in terms of regulation 141;
- (f) the achievement by any social or educational institution for which provision is made under the constitution or deed of trust concerned;
- (g) the purchase of any gift intended to enhance the prestige of the unit or formation concerned, to bring about good-will or to serve as a mark of respect for or appreciation of any person approved by the controlling authority concerned;
- (h) any other expenditure for the benefit of members of the Defence Force undertaken pursuant to subregulation (2) or which is not inconsistent with these regulations and approved by the Head of Defence Force Logistics; and
- (i) any deliberate, planned and sustained effort to establish and maintain mutual understanding between a military organisation and the public.

### **Financing of funds and institutions**

**130.** (1) Subject to subregulation (2) institutions or funds may obtain money or other assets, in addition to facilities, amenities or services provided at public expense, -

- (a) in every case from-
  - (i) voluntary donations or contributions by any person or by any other fund or institution;
  - (ii) loans from any other fund or institution;
  - (iii) the proceeds of any function held in terms of this Part; or
  - (iv) such other source as may, in exceptional circumstances, be approved by the Chief of the Defence Force;
- (b) in the case of a recreation institution also from subscriptions which must, subject to regulation 185(2)(c), be determined with the consent of a two-thirds majority at a general meeting of the members of the institution or of any subsection or branch of such institution;
- (c) in the case of any mess, also from-
  - (i) subscriptions determined by the controlling authority concerned after consultation with the mess committee concerned and payable by its members to cover the cost of any service, amenity or facility not provided at public expense;
  - (ii) trading within the limits prescribed in this Part; or
  - (iii) the charge of a mess tariff and a handling fee for boarding and lodging as well as occasional meals at a percentage of the tariffs as approved from time to time by the Treasury;
- (d) in the case of any other trading institution, also from trading within the limits prescribed in this Part.



(2) Voluntary donations of whatever nature made by any person to a fund or institution, except donations from one fund or institution to another fund or institution, may be accepted or received by such fund or institution only with the approval of the Chief of the Defence Force, or an officer authorised thereto by him or her.

#### **Restrictions on the acquisition and application of private assets**

**131.** (1) The Chief of the Defence Force, or an officer acting on his or her authority may, notwithstanding anything contained in the constitution or deed of trust of any fund or institution -

- (a) prohibit any investment or other disposal of money or assets of any such fund or institution; or
- (b) limit the amount or value of any such investment, expenditure, loan, sale or other disposal, which may be undertaken or entered into without his or her prior consent or the prior consent of an officer designated by him or her.

(2) The Head of Defence Force Logistics may, where he or she is of the opinion that any subscription or the charge in respect of any benefit or service provided by any fund or institution is excessive, require the reduction of such subscription or charge to such extent as he or she may determine.

#### **Non-liability for debts and claims upon assets**

**132.** (1) The Chief of the Defence Force, or any person serving under his or her control, including any controlling authority, office-bearer, member or employee of any fund or institution, is not liable, either individually or collectively, for any debt incurred by such fund or institution.

(2) No member of the Defence Force who is a member of any institution or contributor to any fund, and no person authorised to use the facilities of any institution is, upon ceasing to be such member or contributor or to be so authorised, entitled to any proportion of the assets of the fund or institution concerned.

#### **Conditions relating to trading**

**133.** (1) An institution may carry on trading activities only during the validity of a certificate reflecting the extent to which the fund or institution, subject to regulation 135, is entitled to conduct any trading activities.

(2) The laws governing the purchase, holding in stock and sale of any merchandise in which a trading institution is authorised to trade, governs, subject to section 87 of the Act, the trading activities of such institution.

#### **Validity of certificates**

**134.** Every certificate must, during any period in respect of which it has been issued or until it is altered or withdrawn, be valid at every place where the military organisation named in such certificate is located at any time, or in the ship, in respect of which it was issued, but only within the bounds of the camp, station, ship or naval station occupied by the military organisation for which the institution concerned was established: Provided that where such institution is required to serve any portion of the organisation concerned which, in the course of military service, moves beyond the bounds of such camp, station, ship or naval station and establishes a temporary camp in another area, the certificate must also be valid within the limits of such temporary camp for the period it is occupied by such portion of such military organisation.

**Certification of funds or institutions to meet temporary needs**

**135.** A certificate permitting the temporary provision of any trading facility for which no provision is made in any certificate held by any institution established for members of the unit or military organisation concerned, may be issued under such conditions as the Minister or a person authorised by him or her to sign certificates, may consider sufficient, to any such institution or to any fund established in such unit or organisation.

**Trading hours**

**136.** (1) The controlling authority concerned must, subject to subregulation (2) and the direction of the Head of Defence Force Logistics, determine the hours during which any trading institution may be open for trade.

(2) The controlling authority of an institution, certified for that purpose, determines, within the limits laid down by the Chief of the Defence Force, the hours during which such institution may normally sell intoxicating liquor on any day.

(3) Any formation or unit commander may, within limits determined by the Chief of the Defence Force, or an officer designated by him or her for the purpose, in respect of any special function, authorise in writing the extension of the hours during which any institution may on any other day sell intoxicating liquor.

**Restrictions on the sale of liquor**

**137.** (1) No intoxicating liquor may be sold or in any way supplied to any person under the age of 18 years.

(2) With due regard to the provisions of section 59 of the Act, the Chief of the Defence Force may prohibit or restrict the sale, supply or provision by any other means of intoxicating liquor or any kind of intoxicating liquor by any trading institution to any person or category of persons determined by him or her.

(3) No trading institution, except an institution expressly permitted to do so by certificate, may sell any intoxicating liquor in any corked, stoppered or sealed bottle, vat or other container for consumption off the premises of such institution.

(4) Any institution certified to sell intoxicating liquor must, subject to subregulation (3), provide such liquor solely for consumption on its premises and may provide malt liquors or wines in uncorked or unstoppered bottles or open cans and where spirituous liquor is served, such spirituous liquor must be served by tot measures in drinking utensils.

(5) Every institution certified to sell intoxicating liquor must keep a visitor's book in which must be recorded the name and address of every guest invited to such institution.

**Restriction on profits**

**138.** The controlling authority concerned must ensure that the profit margin on every commodity sold by any trading institution remains as low as may be consistent –

- (a) with the financial stability of the institution concerned; and
- (b) in order to provide such amenities as may be necessary to persons entitled to use such institution.

**Restriction of credit and payment of accounts**

**139.** (1) No fund or institution may extend credit to any person authorised to use the facilities thereof in respect of any sale or service, except if, owing to the nature of any service concerned or in the military exigencies, such sale or service cannot in the opinion of the controlling authority concerned expediently be provided on a cash basis.

(2) Notwithstanding the provisions of subregulation (1) the controlling authority concerned may at any time authorise the extension of credit by the Defence Force Institution or any branch thereof on such conditions as such controlling authority may determine.

(3) Every member of any recreation institution or mess is liable to pay the subscription determined for such institution or mess and every member of the Defence Force must pay any account rendered in terms of regulation 165 for such subscription or in respect of any goods, benefit or service provided to him or her on credit by any fund or institution not later than seven days after such account has been rendered to him or her.

**Purchase on behalf of certain persons prohibited**

**140.** No member of any institution and no person entitled to trade with any institution may, subject to regulation 182(2), purchase any article of merchandise from such institution on behalf of any person not entitled to trade with the institution concerned.

**Conditions relating to functions**

**141.** (1) Any fund or institution may with the approval of the controlling authority concerned arrange and hold a function on State property or elsewhere for all or some of the members of the Defence Force served by such fund or institution and their guests, to which members of the public may also be invited or, subject to subregulation (2), admitted against a charge.

(2) No function to which members of the public referred to in subregulation (1) are admitted against a charge, may be held on State property without the prior approval of the Head of Defence Force Logistics, impose conditions concerning payment for the use of such State property or for services provided or paid for by the State.

(3) The right of admission to any function vests in the controlling authority concerned.

(4) No person may be required to attend any function or to contribute to the cost of any function which he or she has not undertaken to attend.

(5) Any member of an institution who has undertaken to attend, or has attended any function, may notwithstanding the provisions of regulation 129(3)(e), be required to bear his or her own expenses, the expenses of any guests invited thereto by him or her and, proportionately with other such members, also the expenses of any official guest invited by the controlling authority or committee concerned.

**Constitution and deed of trust**

**142.** (1) Each fund or institution established under this Part must have a constitution or deed of trust which provides for those matters prescribed in subregulation (2) as well as to regulate such other administrative or disciplinary matters not specifically provided for in these regulations and a separate constitution for a subsection of a sports club or a branch of another recreation institution may be approved in order to provide such matters not contained in the constitution of such club or other institution.

- (2) Every such constitution or deed of trust must, in respect of the fund or institution concerned and subject to this regulations, provide for-
- (a) its name;
  - (b) its aims and objectives, including details of the members of the Defence Force for whose benefits it is established;
  - (c) the composition, terms of office and powers of its committee and the powers and duties of its office-bearers;
  - (d) the holding and conduct of meetings;
  - (e) any restriction concerning the application of assets or concerning membership or the use by members, guests or other persons of any facilities or amenities provided;
  - (f) the custody and control of movable property;
  - (g) the rates of any subscription which may be levied;
  - (h) the publication and enforcement of domestic rules concerning administration and discipline;
  - (i) the appointment of a controlling authority in the case of any social or educational institution; or
  - (j) any other matter which may in the opinion of the officer authorised to approve such constitution or of the controlling authority concerned be expedient or necessary for the efficient conduct of the business of such fund or institution.

### **Dissolution or temporary suspension of activities of funds or institutions**

**143.** (1) The Minister may on good cause order the dissolution of any fund or institution or the temporary suspension of any of the activities of such fund or institution.

(2) The Chief of the Defence Force, or an officer designated by him or her for the purpose or the controlling authority concerned, may order or authorise the dissolution of or the temporary suspension of any of the activities of a fund or an institution or the discontinuation of any benefit or service provided if in his or her opinion -

- (a) the need for the institution, fund, benefit or service concerned no longer exists;
- (b) the fund or institution concerned is inefficiently controlled or managed; or
- (c) the fund or institution concerned is unable economically to provide the service or amenity which it was established to provide.

(3) Where a recreation institution or subsection or branch thereof or fund, in association with which a trading institution has been established, is dissolved such trading institution is simultaneously dissolved.

### **Disposal of assets on dissolution**

**144.** (1) On the establishment of a fund or an institution, established primarily for the benefit of members of the Defence Force, any balance of its assets must, after liquidation of any liabilities and subject to subregulation (2), be transferred to the Defence Force Foundation.

(2) The balance, if any, of any assets controlled by any subsection or branch of any institution or the balance, if any, of the assets of any trading institution established in association with a recreation fund or institution must, on its dissolution and after liquidation of its liabilities, be transferred to the fund or institution of which it was a subsection or a branch, or with which it was associated, as the case may be.

#### **Existing funds and institutions**

**145.** (1) If, at the commencement of these regulations, the constitution, deed of trust, control, management or conduct of any fund or institution is in noncompliance with this Part the controlling authority concerned must, within a period determined by the Chief of the Defence Force or an officer designated by him or her for that purpose, take such action as may be necessary to secure compliance.

- (2) Nothing contained in this Part may be construed as –
- (a) abrogating or diminishing ownership of any asset, which existed at the establishment of a fund or institution; or
  - (b) affecting liability of or towards a fund or institution.

#### **Departure from these regulations**

**146.** The Chief of the Defence Force may, subject to approval by the Minister where public funds are involved, authorise a departure from any provision of this Part: Provided that such departure may only be done in exceptional circumstances and if in his or her opinion such departure is justified.

#### **Establishment and approval of constitution or deed of trust**

**147.** (1) A fund or institution may not operate or conduct any business prior to its establishment and prior to the approval of such fund or institution's constitution or deed of trust –

- (a) by the Chief of the Defence Force, or an officer acting on his or her authority, in the case of –
  - (i) a branch of the Defence Force Institute;
  - (ii) a sports club established jointly for two or more formations or units belonging to different arms of the Defence Force;
  - (iii) a social or educational institution; or
  - (iv) a fund or institution not referred to in this regulation;
- (b) by the Chief of the arm of the service or formation commander concerned or an officer acting on his or her authority, in the case of –
  - (i) a sports club established for a formation or combination of formations or units of the same arm of the Defence Force; or
  - (ii) a regimental fund;
- (c) by the Head of Defence Force Logistics or an officer acting on his or her authority in the case of a trading institution;

- (d) by the formation commander concerned in the case of a sports club established for a unit in his or her formation;
- (e) by the controlling authority concerned in the case of-
  - (i) a subsection of a sports club; or
  - (ii) a branch of a social or educational institution.
- (2) The establishment of-
  - (a) the Defence Force Foundation;
  - (b) the Mile 4 Holiday Resort, or
  - (c) any other institution or subsection or branch thereof or fund in existence at the commencement of these regulations,

is deemed to be approved under this regulation.

(3) The constitution or deed of trust of each fund or institution referred to in subregulation (2) is, subject to regulation 145, deemed to be approved in terms of this regulation.

(4) Any amendment to a constitution or deed of trust referred to in this regulation is subject to approval by -

- (a) the Minister or a person acting on his or her authority, in the case of any fund referred to in paragraph (a) or (b) of subregulation (2); or
- (b) the officer who may approve such constitution or deed of trust in terms of subregulation (1).

#### **Notification of establishment, suspension or dissolution**

**148.** A person who approves the establishment, or authorises or orders the temporary suspension, of any activity or the dissolution of any institution or any fund must inform the Head of Defence Force Logistics of such approval, authority or order.

#### **Control of funds and institutions**

**149.** (1) The direct control over a fund or an institution vests in its controlling authority who is the Chief of the arm of the service of the arm of the Defence Force concerned.

(2) The commander of a formation or unit must, subject to subregulation (3), be the controlling authority of each such fund or institution established for such formation or unit.

(3) The officer who approves the establishment of a fund or an institution must, if such fund or institution is intended to serve more than one formation or unit, appoint a controlling authority and determine to whom such controlling authority is responsible and may at his or her discretion appoint an officer, other than a commander concerned, as the controlling authority of such fund or institution.

(4) Each controlling authority is responsible to the person determined in terms of subregulation (3) or to his or her next higher commander or the Chief of the arm of the service or formation commander, as the case may be, for the efficient conduct and administration of the fund or institution concerned.

(5) Without derogating from the generality of the administrative or disciplinary responsibility of any Chief of the arm of the service or formation commander, the Head of Defence Force Logistics must exercise overall control over institutions and regimental funds and may, subject to this Part, issue directives not inconsistent with these regulations and determine the type of books of account or other records to be kept and the manner in which such books or records are to be kept by each such fund or institution.

### **Committees**

**150.** (1) Each fund or institution must be managed by a committee, responsible to the controlling authority concerned, for the efficient conduct of such fund or institution and of each trading institution established in association therewith, including the management, administration, accounting for monies and other assets, and the control of any personnel of the fund or institution concerned.

(2) A committee referred to in subregulation (1) must comprise of-

- (a) a chairperson appointed by the controlling authority or designated in the constitution concerned;
- (b) a secretary and treasurer appointed by such controlling authority;
- (c) not less than three members who, subject to regulation 153, may, at the discretion of the controlling authority concerned -
  - (i) be elected by a majority of votes at an annual general meeting by the Defence Force members who are full members of the institution or subsection concerned;
  - (ii) be elected by a majority of votes at an annual general meeting of the members of any unit for which a regimental fund has been established; or
  - (iii) be appointed by such controlling authority.

(3) Each branch or subsection of an institution must be managed by a committee, constituted, with the necessary changes, in accordance with subregulation (2) and is responsible to the committee of the institution concerned for the efficient conduct of such subsection or branch and of a trading institution established in association therewith.

(4) Each committee referred to in subregulation (2) or (3) may appoint a sub-committee from the members of the fund or institution concerned to perform any specified task under its direction.

### **Additional appointment by controlling authority**

**151.** A controlling authority may appoint any member of the Defence Force for which a fund or an institution has been established, to perform any duty, other than as an office-bearer, in connection with the supervision, conduct or administration of such fund or institution.

### **Duties of office-bearers and staff**

**152.** The duties assigned to an office-bearer, or person employed or appointed to perform any duty in connection with the supervision, conduct or administration of a fund or an institution must be detailed in writing and such office-bearer or person must give his or her written acknowledgement that he or she is conversant with the duties so detailed.

**Annual general meetings**

**153.** (1) An annual general meeting must, subject to the other provisions of this regulation, be held in respect of each -

- (a) sports club established for a unit;
- (b) subsection of every sports club;
- (c) other recreation institution or subsection or branch thereof operating within the territorial boundaries of any formation;
- (d) mess; or
- (e) regimental fund other than such fund established for a formation as a whole.

(2) Each full member of an institution or subsection or branch thereof referred to in subregulation (1)(a), (b), (c) or (d), and each member of a unit for which a regimental fund referred to in subregulation (1)(e) has been established, is entitled to vote at such annual general meeting.

(3) An annual general meeting, referred to in subregulation (2), may by a majority of votes pass any resolution which is not inconsistent with this Part regarding the conduct or administration of the fund or institution concerned and every resolution of an annual general meeting must, subject to approval by the controlling authority concerned, be binding upon the committee of such fund or institution and upon each member thereof or each member of any unit served by the regimental fund concerned.

**Committee meetings**

**154.** A committee, referred to in regulation 150, must meet as frequently as set out in the constitution or deed of trust of the institution or fund concerned or as determined by the controlling authority or chairperson concerned and must conduct its business by way of resolution passed by the majority of votes of the members present.

**Chairperson's casting vote**

**155.** In the event of an equality of votes at a meeting referred to in regulation 153 or 154, the chairperson concerned has a casting vote.

**Recording and approval of minutes**

**156.** (1) A resolution taken at a meeting referred to in regulation 153 or 154, must be minuted and the minutes must be signed by the chairperson, the secretary and treasurer.

(2) No effect is given to a resolution which is made without the approval of the controlling authority concerned or a person appointed by him or her for the purpose under regulation 151.

**Maintenance of financial stability**

**157.** (1) The controlling authority concerned must ensure that the affairs of each fund or institution is so maintained that it remains financially stable and is able to meet any financial liability when such liability falls due.

(2) If for any reason any fund or institution is unable to meet any financial liability when it falls due, the controlling authority concerned must, notwithstanding any disciplinary action that



may be taken, without delay report such inability and the reasons therefore to the higher authority to whom he or she is responsible for the conduct of the fund or institution concerned.

### **Separate books of account and other records**

**158.** (1) Separate books of account and other records must be kept, and separate balance sheets and supporting financial statements must be prepared, for each fund and each institution.

(2) The financial transactions in respect of a subsection or branch of an institution may, subject to the discretion of the Head of Defence Force Logistics, either be recorded separately or recorded in the books of account of such institution and in the latter case the balance sheet of the institution concerned must reflect separately the financial state of each such subsection or branch.

### **Handling of money received**

**159.** (1) Any money due, loaned or donated to a fund or an institution, other than money deposited directly into the banking account of such fund or institution, must be received by the treasurer concerned.

(2) The treasurer, referred to in subregulation (1), must without undue delay acknowledge in writing each sum of money, cheque or other similar instrument received by him or her from each source which owed, loaned or donated such monies to a fund or an institution.

(3) All monies received in accordance with this regulation must, until deposited in a banking account, be kept in safe custody in State safes or similar containers issued for this purpose to such military organisations, as may be authorised on a scale to be determined by the Head of Defence Force Logistics, and such issued safes or other containers may not also be used for the safe custody of public funds.

(4) The treasurer concerned must deposit all monies received by him or her in terms of this regulation into the banking account concerned at such intervals as the controlling authority may direct.

### **Banking accounts**

**160.** (1) Each fund or institution and each subsection or branch of such institution, which maintains separate books of account, must open and operate a banking account in its own name.

(2) No money belonging to a fund or an institution may be deposited in any banking account other than a banking account operated in terms of subregulation (1), and no private money may be deposited in a banking account so operated.

(3) No banking account of a fund or an institution or a subsection or branch of such institution, may subject to regulation 131(1)(a)(iv), be overdrawn.

(4) A cheque or other instrument for withdrawing money from a banking account must be signed by at least two signatories designated for that purpose by the controlling authority concerned.

(5) No cheque or instrument referred to in subregulation (4) may be signed until such cheque or instrument is completed in full.

(6) Where a cheque is cancelled it must be endorsed to this effect and retained.

**Petty cash**

**161.** (1) The controlling authority concerned may authorise the opening of a petty cash account and must, where such authority is given-

- (a) determine the value thereof;
- (b) designate the person responsible for the control thereof; and
- (c) stipulate the maximum amount which may be expended on any single payment from such account.

(2) Any petty cash account referred to in subregulation (1) must be opened and reimbursed by cheque or similar instrument drawn on the banking account concerned.

**Cash floats**

**162.** (1) The controlling authority concerned may authorise the holding of a cash float for the purpose of having small change readily available and must, where such authority is given-

- (a) determine the value of such float; and
- (b) designate the person responsible for the control thereof.

(2) A cash float referred to in subregulation (1) must be opened by cheque or similar instrument drawn on the banking account concerned, and may not be used to effect any payment whatsoever.

**Checking of petty cash, cash float and cash on hand**

**163.** Any petty cash, cash float or cash on hand must be checked at regular intervals and also on the date determined for the closing of the books of the fund or institution concerned.

**Purchase on credit by funds and institutions**

**164.** Each purchase on credit by a fund or an institution must be authorised or confirmed in writing by the controlling authority.

**Accounts for sales effected or services rendered on credit**

**165.** (1) Each fund or institution which effects sales or provides services on credit or is entitled to collect subscriptions, must render accounts to its debtors monthly, or at the close of such other periods as may be determined by the controlling authority concerned with due regard to the circumstances under which such fund or institution is required to operate.

(2) Where specified individual accounts may be dispensed with, without prejudice to the debtors concerned, a collective account in the form of a nominal roll may be rendered to the officer effecting payment of the pay of the members concerned for the collection of the amounts owing: Provided that if any debtor concerned is not convinced regarding the correctness of an account so rendered, nothing in this regulation contained affects his or her right to demand a specified account.

**Accounting for goods received**

**166.** (1) No goods delivered to any fund or institution may be accepted without a covering delivery note or invoice against which such goods must be verified.

(2) A record must be kept of all goods received and any such goods intended for resale must be entered in the record of the stock of the institution concerned before stock is taken.

### **Stocktaking**

**167.** (1) All goods held by a trading institution for sale must be recorded in a stock book and stock must be taken of such goods on the date determined for the closing of books of such institution, or, when ordered by the controlling authority concerned or the Head of Defence Force Logistics, at any other time.

(2) The result of such stocktaking must be reflected in a stock sheet, signed by all persons present at such stocktaking and such stock sheet must be dispatched to the auditor concerned.

(3) Any irregularity discovered during stocktaking must be reported without delay to the controlling authority concerned, who must ensure that the cause thereof or of any loss or abnormal unaccountable profit is investigated and eliminated.

### **Payment of debts due by fund or institution**

**168.** (1) Payment of each account for purchases made by or services rendered to a fund or an institution must be made, subject to its approval or confirmation, in a manner determined by the controlling authority concerned and not later than thirty days after receipt of such account or within such period as is accepted in the commercial practice relating to the transaction concerned.

(2) Payments must, where practicable, be made by cheque or similar instrument drawn on the banking account concerned.

(3) Except where in the course of normal commercial practice receipts are not issued, a receipt must be obtained for every payment made in terms of subregulation (1) or (2).

### **Write-off of losses or bad debts**

**169.** A fund or institution which suffers a financial or other loss for which no accountability can be determined, or where such fund or institution cannot recover a debt, may write off such debt, after due investigation of the surrounding circumstances and subject to the direction of the Head of Defence Force Logistics and with the approval of the controlling authority.

### **Closing and audit of books of account**

**170.** (1) The books of account of each fund or institution must be closed and audited at least once in each year or at such more frequent intervals as the activities of such fund or institution may necessitate, or at any time which the controlling authority concerned or the Head of Defence Force Logistics, may specially direct.

(2) The books of account of the Defence Force Foundation and the Defence Force Institute must be audited by a firm of auditors registered with the Public Accountants and Auditors Board, and the books of account of any other fund or institution may be audited by such firm or by a person approved by the Head of Defence Force Logistics.

(3) The cost of any audit referred to in this regulation must be met from the assets of the fund or institution concerned.

### **Balance sheets**

**171.** (1) On completion of any audit referred to in regulation 170, a balance must be prepared, supported by-

- (a) an auditor's report;
- (b) a report by the controlling authority on any steps taken to investigate and to rectify any matter which formed the subject of adverse criticism in such auditor's report;
- (c) a report on the circumstances surrounding the write-off of any bad debt or loss exceeding N\$500;
- (d) a statement of income and expenditure in respect of balance sheets prepared for each recreation institution and, where applicable, any sub-section or branch thereof or fund;
- (e) a trading, profit and loss account in respect of balance sheets prepared for each trading institution; and
- (f) such other document as may be considered necessary by the auditor or a officer responsible for the control of such fund or institution.

(2) A copy of each balance sheet must be submitted to such higher authority as may be directed by the Head of Defence Force Logistics and must be published in a manner which ensures that each member of the Defence Force concerned has access thereto.

### **Records and control of property**

**172.** (1) A register of movable and immovable property, other than goods held for sale or consumable or expendable items, belonging to each fund or institution must be kept and must accurately reflect -

- (a) such property's particulars;
- (b) the date of acquisition and value of such property as at such date; and
- (c) in the case of property which is disposed of, the date and method of such disposal.

(2) The value of any property referred to in subregulation (1) must from time to time be assessed and may, on the recommendation of the committee and controlling authority concerned, be depreciated.

(3) A record of all consumable and expendable property acquired and used within the Defence Force must be kept and maintained in such form as may be determined by the controlling authority concerned, so as to ensure adequate control, as may be necessary, of such consumable and expendable property.

(4) A person who in charge of the custody of any property belonging to a fund or institution -

- (a) must when issuing such property, issue such property against signature of the person entitled or authorised to receive such property;
- (b) upon return of such property issued, accept such property against signature of such person returning such property into his or her custody; and
- (c) must report any discrepancy in respect of non-expendable articles to the committee concerned,

but the controlling authority concerned may authorise an alternative method of control in respect of sports equipment.

(5) The property referred to in this regulation must be verified at such regular intervals as the controlling authority concerned may determine.

#### **Handing and taking over of private assets of funds and institutions.**

**173.** (1) A person who takes over responsibility as a controlling authority of a fund or institution must examine its financial stability and satisfy himself or herself that its books of account and other records accurately reflect its assets and liabilities.

(2) A person other than a person referred to in subregulation (1), who takes over any duty in connection with the administration or conduct of a fund or institution, involving the custody or control of any of its assets, must verify the correctness of the assets taken over to the satisfaction of the controlling authority concerned.

(3) Where a discrepancy or irregularity concerning the accurate reflection of the assets and liabilities of a fund or institution is detected, a written report of such discrepancy or irregularity must be made –

- (a) in the instance of a person referred to in subregulation (1), to a higher authority to whom such person is responsible; and
- (b) in the instance of a person referred to in subregulation (2), to the controlling authority of such fund or institution.

#### **Retention of books of account and other records**

**174.** The books of account or other records of each fund and institution must be retained for a period of not less than three years after the date of the last entry in such book or record.

### **PART XVIII MEMBERSHIP AND THE USE OF FUNDS AND INSTITUTIONS**

#### **Benefits provided by funds and institutions**

- 175.** (1) Each recreation institution and each mess may –
- (a) subject to regulation 177, admit the persons or categories of persons prescribed in terms of this Part to full, temporary or honorary membership; and
  - (b) provide to guests or to other prescribed persons such facilities or amenities as it is designed and permitted to extend, in terms of this Part, its constitution or its domestic rules, to such full, temporary or honorary members, but a person who is confined to a mess, in terms of rule 5 of the Military Discipline Code, may not be permitted access to those parts of a mess containing messing, social or trading amenities.

(2) Every trading institution other than a mess and every fund may provide benefits to or be used by or be conducted for the benefit of the persons or categories of persons prescribed for the purpose in this Part, but no such fund or institution may have members.

#### **Members required to live in messes**

**176.** An unmarried member of the Defence Force may at all times be required to use the sleeping accommodation or meals provided by a mess and a married member of the Defence Force may also, when the military exigencies so demand, be required to live in a mess.

**Compulsory membership and payment of subscriptions**

**177.** (1) A member of the Defence Force may not, except as provided in subregulations (2), (3) or (4) be required to become a member of, or to trade with any institution.

(2) A member of the Namibian Defence Force must, subject to regulation 178, be a full member of a mess or club established in terms of this Part and the member may be required to produce proof of his or her membership of the mess or club concerned.

(3) Each member of the Defence Force who lives in a mess of which he or she is not a full member is deemed to be a temporary member of such mess.

(4) Each member of the Defence Force is a full member of the sports club established for members of his or her unit or a temporary member of the sports club of a unit with which he or she is temporarily attached, and is deemed to be a full or temporary member, as the case may be, of the sports club established for the members of the formation of which such unit forms part.

(5) Each person who is a full or temporary member of any recreation institution or mess is liable to pay such subscription as determined in respect of such membership, but such person may not pay subscriptions to more than one sports club and more than one mess at any time.

**Full membership and rights of full members**

**178.** (1) Each member of the Defence Force is, subject to this Part and such restrictions imposed by its constitution or deed of trust relating to membership, eligible for full membership of a recreation institution or mess.

(2) Each full member of a recreation institution or mess is, subject to such restrictions imposed by its constitution or deed of trust relating to the use of facilities or amenities, entitled to use all the amenities or facilities provided by the institution concerned.

**Temporary membership and rights of temporary members**

**179.** (1) A person may not be admitted to temporary membership of a recreation institution or mess which is established for a unit or other military organisation to which such person is permanently posted.

(2) The following persons or category of persons are eligible for temporary membership of a recreation institution or mess, subject to this Part and the constitution of the institution concerned, -

- (a) any member of the Defence Force who is on detached duty;
- (b) any family member of a person eligible for a full membership of such institution;
- (c) any full member of a recreation institution or mess of a unit or formation while on leave away from his or her normal duty station and in the area catered for by the recreation institution or mess concerned of which he or she is not a full member;
- (d) any family member of a member of the Defence Force, who accompanies such member while he or she is on leave or on temporary duty or undergoing training away from his or her normal place of duty;
- (e) any person employed by the Public Service or a private concern while performing any duty for, on behalf of, or in connection with the Ministry of Defence or the Defence Force at any place where the facilities or services, provided by the institution or mess concerned, are not provided by any private concern, or if so provided, are not readily available; or

- (f) any other person authorised under regulation 146 to use the sleeping accommodation of or to have meals regularly at any mess:

Provided that-

- (i) the provision of sleeping accommodation and regular meals by any mess to any person referred to in paragraph (b), (d) or (e) is subject to approval by the Head of Defence Force Logistics and to such conditions as may be determined him or her; and
- (ii) whenever a person is eligible for temporary membership of more than one sports club or mess, the formation commander concerned may determine the institution of which such person may become a temporary member.

(3) Each temporary member of a recreation institution or mess is, subject to such restrictions imposed by its constitution or deed of trust relating to the use of facilities or amenities, entitled to use all the amenities or facilities provided to a full member of such institution or mess.

### **Honorary membership and rights of honorary members**

**180.** (1) The Minister and any person holding an honorary rank or appointment in the Defence Force are ex officio honorary members of every recreation institution and mess.

(2) Subject to the other provisions of these regulations and the constitution of the institution or mess concerned, the following persons or categories of persons may be eligible for honorary membership of a recreation institution or mess:

- (a) any retired member of the Defence Force;
- (b) any official of the Ministry of Defence, or an officer of the Public Service who performs duties relating to the Ministry of Defence or the Defence Force, or an official of the Defence Industries and any of its subsidiaries who performs duties relating to the Ministry of Defence or the Defence Force in the area in which such institution is situated, or any member of the Namibian Police or of the Prison Service.

(3) Honorary membership of a recreation institution or mess accorded to any person referred to in subregulation (2) is voluntary and may be terminated at the discretion of the controlling authority concerned.

(4) Each honorary member of a recreation institution or mess is, subject to such restrictions imposed by its constitution or deed of trust relating to the use of facilities or amenities, entitled to use the facilities or amenities provided to a full member by such institution or mess, and each honorary member, other than an honorary member referred to in subregulation (1) must be provided with sleeping accommodation and regular meals.

### **Guests and other persons**

**181.** (1) Persons who may use the facilities of a trading institution, other than a mess, are -

- (a) in the case of a trading institution established in association with a recreation institution, any member of such recreation institution;
- (b) in the case of a trading institution established in association with any fund, any member of the Defence Force in respect of which such fund is established or a family member of such member;

- (c) in the case of any branch of the Defence Force Institute -
  - (i) any serving or retired member of the Defence Force or any family member of such member;
  - (ii) any person holding an honorary rank or appointment in the Defence Force;
  - (iii) any employee of the Public Service in the Ministry of Defence;
  - (iv) any other person employed by the Public Service, or any person employed by any private concern while performing any duty for or on behalf of, or in connection with the Ministry of Defence or the Defence Force at any place where the trading facilities provided by such institution are not provided by a private concern, or if so provided, are not readily available to such person;
  - (v) any employee of such institution and any family member of such employee;
- (2) A person who-
  - (a) is introduced to any institution as a guest, whether at a function or otherwise; or
  - (b) is admitted against a charge to any function, for the purpose of which a fund or an institution has provided any facilities or amenities, may, subject to regulation 182, use such facilities or amenities as may be provided for his or her entertainment or use, but the purchase of intoxicating liquor by such person or for such guest is limited to such quantity as the institution may determine.

### **Introduction of guests or donor members**

**182.** (1) The controlling authority, committee or member of an institution or a person authorised to use the facilities of the institution concerned may, subject to these regulations, the constitution concerned and administrative conditions imposed, introduce a guest to such institution.

(2) A controlling authority, committee, member or person authorised to use the facilities of an institution bears all expenses connected with the entertainment of a guest referred to in subregulation (1), but any expense approved in connection with any official guest by its committee may be met from the funds of the institutions concerned.

(3) A member who introduces a guest to an institution may not absent himself or herself from the premises of such institution while his or her guest remains on such premises.

(4) A social or educational institution may, regarding its membership and subject to the conditions determined in its constitution, name as a donor member any person who is not admitted to such institution as a full, temporary or honorary member.

(5) A donor member referred to in subregulation (4) is not subject to any obligation nor entitled to any right or privilege under these regulations, other than such obligation, right or privilege, if any, as may be granted to a guest of such institution.

### **Special membership**

**183.** Notwithstanding the provisions of regulation 175 to and including regulation 182, the Minister may grant authority, whether or not on a permanent basis and if in his or her opinion it is necessary or desirable to do so, to a member of the Namibian Police, a member of the Prison Service or a member in the Public Service to access and utilise the facilities of an institution and may grant such member full membership of the institution concerned on such conditions as the Chief of the Defence Force may determine.



**PART XIX**  
**RECREATION INSTITUTIONS**

**Establishment and purpose**

**184.** Where facilities for participation by members of the Defence Force and the families of such members in sport or social or educational activities cannot be provided adequately by any existing military recreation institution-

- (a) a sports club with sub-sections as may be necessary for a sport; or
- (b) a social or educational institution or club with branches as may be necessary,

may, subject to the other provisions of this Part, be established to provide such facilities: Provided that where it is not practicable or expedient to establish separate recreation institutions for each such military organisation, one such institution may be established in respect of any two or more such organisations.

**Organisation, conduct and control of recreation institutions**

**185.** (1) Sport must be organised, conducted and controlled in the Defence Force by means of sports clubs as part of the military training of members of the Defence Force.

- (2) The Chief of the Defence Force, may-
  - (a) determine the kinds of sport which may be recognised as military training;
  - (b) sub-allot any public moneys appropriated by Parliament for the provision or maintenance of sports facilities;
  - (c) determine the maximum subscriptions which a sports club may recover from any of its members for the promotion of sport within the club or for the promotion of sport in the Defence Force or in any headquarters, arm of the service, formation or unit thereof;
  - (d) control the application and distribution of and the accounting for any moneys, other than public funds, so subscribed, or which may otherwise become available for the promotion of sport in the Defence Force;
  - (e) determine, in consultation with any civilian or other sports control body concerned, the policy and procedure regarding the affiliation, or association in any other way, of any sports club of the Defence Force with any civilian or other sports club or body;
  - (f) issue orders, not inconsistent with these regulations, to govern the organisation, conduct or control of any sports or other organised recreation in the Defence Force;
  - (g) undertake all other things which may be necessary for the efficient organisation, conduct or control of sports or other organised recreation in the Defence Force; or
  - (h) appoint or designate any person or body of persons to exercise any power or to perform any duty referred to in this regulation.

(3) The commander of every formation or unit is responsible to his or her superior commander or chief of service as the case may be for the organisation and conduct of sport in his or her formation or unit whether he or she is the controlling authority of the sports club concerned or not.

(4) Every recreation institution other than a sports club must, subject to this Part, be organised, conducted and controlled as may be determined by its constitution.

### **Participation in sport**

**186.** (1) Every member of the Defence Force may select a sport, approved by the Chief of Defence in terms of regulation 186, in which he or she wishes to participate and may become a member of the sub-section concerned.

(2) At any centre where the facilities for such approved sport cannot be made available economically by a sport club or where suitable competition in such sport cannot be arranged for a member of such club within its membership, the commander concerned may grant written permission to such member to participate in such sport as a member of a civilian club.

(3) Subject to these regulations any member of the Defence Force is on official duty during any period in which he or she -

- (a) travels under military control to or from, or participates in any game or competition in any approved kind of sport-
  - (i) in which game or competition only members of the Defence Force participate, and which is conducted under military control; or
  - (ii) in which he or she represents the Defence Force or sports club as a member of a team or individually;
- (b) practices at any approved kind of sport on or in the grounds, works, buildings, courts, fields or other premises controlled by the Defence Force or, where the nature of the sport concerned renders that impractical, at any other place approved by the commander concerned;
- (c) participates in or practices at any kind of sport in terms of subregulation (2); or
- (d) acts as an official to or travels under military control to or from any game, competition or practice referred to in paragraph (a), (b) or (c).

(4) Any member of the Defence Force who participates in any approved kind of sport as a member or an official of a team selected on a regional or national level, is in respect of any injuries sustained by him or her in the course of any game, competition or practice, as a member or official of such team, deemed to be on official duty.

(5) No member of the Defence Force who is on official duty pursuant to this regulation is entitled to subsistence and transport allowance except when such member travels to or from any place, other than a place situated in the area of the city, town or place where the principal duties of the member concerned are or have to be performed, to participate in any game or competition confined to members of the Defence Force.

(6) Departmental animals or transport may, to the extent and on the conditions approved by the Chief of the Defence Force, be used for an approved sport or for the conveyance of any member, referred to in this regulation, to or from any place at which he or she, for purposes of such sport, is required to participate in or practice at.

**PART XX**  
**MESSES**

**Establishment and purpose of messes**

**187.** (1) A mess or club may be established at any place for members of the Defence Force.

(2) A mess established in terms of subregulation (1) may-

(a) provide club and indoor recreation facilities to the extent approved by the Head of Defence Force Logistics; or

(b) trade to the extent permitted by a certificate issued in respect thereof, and for that purpose conduct a bar, canteen, coffee shop, tearoom or other similar amenity as part of such mess.

(3) Subject to this regulation a separate mess must be established to provide for members of the Defence Force in each of the following categories -

(a) Officers;

(b) warrant officers and non-commissioned officers; or

(c) privates.

(4) Where it is not practicable or desirable to establish separate messes for each of the categories of persons referred to in subregulation (3), a composite mess may be established for the use of more than one such category: Provided that -

(a) separate sleeping accommodation and facilities for ablution and toilet must be provided, and a separate eating accommodation may be provided for each of the categories concerned; and

(b) where such composite mess is certified to provide intoxicating liquor, separate serving points and separate lounge facilities must, with due regard to the provisions of section 59 of the Act, be provided for each of the categories concerned.

**Messing charges**

**188.** (1) The Chief of the Defence Force must, with due regard to these regulations and any instructions governing the charges for accommodation and rations provided at public expense, determine the amount of messing fees payable by -

(a) a living-in member of a mess under his or her control, for the cost attached to such living-in member for any additional commodities not issued according to the official ration scale at public expense to the club or mess or if it is inadequate; and

(b) a person not living in a mess under his or her control, in respect of an occasional meal partaken of during breakfast, lunch and supper.

(2) Different messing charges may be determined in respect of messes established for members of different ranks or grading.

(3) The profits accruing from trading activities of any bar, canteen, coffee shop, tearoom or other similar amenity, conducted as part of any club or mess, may not be used for the purchase of

foodstuffs to supplement rations, except in such instances and to such extent as may be authorised by the controlling authority concerned.

### **Disposal of by-products**

**189.** Any by-product, in the kitchen of the club or mess concerned, of ration items such as vegetable cuttings, peelings, other waste as well as ration items which are not fit for further human use must be sold for the benefit of the State by annual tender invited by the supply officer or equipment officer and the proceeds must be paid into revenue.

### **Temporary board and lodging**

**190.** (1) A member or employee of the Defence Force who performs official duty for more than 24 hours outside of his or her headquarters area must be taken on strength at a unit, in which case the member or employee is obliged only to pay the messing tariff referred to in regulation 188(1)(a).

(2) A member or employee of the Defence Force who during a period of official duty performed outside his or her headquarters for a period exceeding 24 hours must, if accompanied by such member's or employee's dependants, pay for each such dependant –

- (a) the tariff of board and lodging authorised from time to time by the Chief of the Defence Force into revenue; and
- (b) a handling fee plus the costs referred to in regulation 188(1)(a) to the club or mess concerned.

(3) A member or employee of the Defence Force who during his or her leave stays in a club or mess with his or her family must pay, in respect of himself or herself and each member of his or her family, the tariff prescribed in subregulation (2).

(4) Where an employee of the Public Service, other than the Defence Force, a statutory body or private contractor, or an official of such a contractor, renders a service in the interest of the Defence Force and is granted permission by the Chief of the Defence Force to be accommodated in a Defence Force club or mess such employee or official must pay the tariff as set out in subregulation (2).

### **Mess presidents**

**191.** (1) The controlling authority of any mess must appoint a mess president to act as host at any function arranged by such mess and to perform such other duties as such controlling authority may direct, such controlling authority may himself or herself perform the duties of a mess president.

(2) A mess president, other than the controlling authority of the mess concerned, may also serve as chairperson of the mess committee of the mess of which he or she is mess president.

## **PART XXI**

### **DEFENCE FORCE INSTITUTE AND OTHER TRADING INSTITUTIONS**

#### **Establishment, purpose and conduct of the Defence Force Institute.**

**192.** (1) An institution to be known as the Defence Force Institute may be established on the authority of the Minister to provide trading facilities, refreshments, entertainment or other necessities for the persons referred to in regulation 181(1)(c).

(2) The Defence Force Institute must carry on its activities through and by means of a head office and such branches as may be established on the authority of the Chief of the Defence Force, or an officer designated by him or her for the purpose at any place where there is a need for such branch.

(3) The control of the Defence Force Institute vests in the Chief of the Defence Force, who is responsible for the proper conduct and management thereof in accordance with the provision of this Part.

(4) A controlling authority must be established and consists of such person or body of persons as the Chief of the Defence Force, may determine and appoint from time to time, and such controlling authority must assist the Chief of the Defence Force, in the control and management of the Defence Force Institute and is vested with such powers and must perform such duties and functions as may be determined by the Chief of the Defence Force.

(5) The Chief of the Defence Force, may appoint any officer of the Defence Force as secretary to the controlling authority.

(6) The controlling authority must, with the approval of the Chief of the Defence Force, appoint a general manager, who is responsible to the controlling authority for the management of the affairs of the Defence Force Institute and the powers, duties and functions of such general manager is determined by the controlling authority in consultation with the Chief of the Defence Force, and communicated to such general manager in writing.

(7) The affairs of any branch of the Defence Force Institute must be managed by the branch manager, who is appointed, subject to approval by the Chief of the Defence Force, by the controlling authority after consultation with the general manager, and such branch manager is responsible to the general manager who must, in consultation with the controlling authority, determine the powers, duties and functions of such branch manager.

### **Establishment and purpose of trading institutions other than messes and Defence Force Institute**

**193.** Where the need exists for the provision of trading facilities which cannot adequately or economically be provided by the Defence Force Institute or any of its branches or any mess, a trading institution including a canteen, coffee shop, tea room or any similar amenity may be established in association with any recreation institution or sub-section or branch thereof or fund, for use by the persons referred to in regulation 181(1)(a) or (b).

## **PART XXII REGIMENTAL FUNDS**

### **Establishment and purpose of regimental funds**

**194.** A regimental fund may be established, subject to these regulations, for the benefit of members of any unit or formation and such fund may be used -

- (a) to meet any expenditure referred to in regulation 129;
- (b) for the provisions of amenities for the common welfare of such members and their families;
- (c) to make grants or loans to individual members in case of need or special merit; or
- (d) for such other purpose as may be determined in its constitution.

**PART XXIII  
OFFENCES AND PENALTIES**

**Offences and penalties**

**195.** A person who fails to comply with any provision of Part XVII, XVIII, XIX, XX, XXI or XXII, with which it is his or her duty to comply, is guilty of an offence and liable on conviction to a fine not exceeding N\$ 2000.

**PART XXIV  
PERFORMANCE OF POLICE FUNCTIONS BY MILITARY POLICE OFFICIALS**

**Definition**

**196.** In this Part, unless the context otherwise indicates, “military police official” means a member of the Namibian Defence Force authorised thereto by the Chief of the Defence Force, or by any officer designated by him or her, to perform the police functions contemplated in regulation 197.

**Police functions of military police officials**

**197.** A military police official may at any time perform police functions which include-

- (a) the maintenance of law and order;
- (b) the investigation of any offence or alleged offence; and
- (c) the prevention of crime,

for the purpose of enforcing any provision of the Act, or any other law, in so far as it applies in respect of the Namibian Defence Force or any member or any property thereof or any land or premises under its control.

**Powers and duties of military police officials**

**198.** (1) A military police official may, in the performance of any police function referred to in regulation 197, exercise any power or execute any duty which may be exercised or executed in connection with such function by-

- (a) a member of the Namibian Police established under the Police Act, 1990 (Act No. 19 of 1990); or
- (b) any functionary who in terms of a definition in the applicable law is or includes a member of the Namibian Police.

in terms of any law, including-

- (i) section 14(2), (4) and(5) of the Police Act, 1990 (Act No. 19 of 1990);
- (ii) sections 43 and 44 of the Forest Act, 2001 (Act No. 12 of 2001);
- (iii) sections 10, 29(5) and 34(2) of the Arms and Ammunition Act, 1996 (Act No. 7 of 1996);
- (iv) section 11 of the Abuse of Dependence-Producing Substances and Rehabilitation Centres Act, 1971 (Act No. 41 of 1971);

- (v) section 5 of the Marine Resources Act, 2000 (Act No.27 of 2000);
- (vi) the Criminal Procedure Act, 1977 (Act No. 51 of 1977); and
- (vii) the Road Traffic and Transport Act, 1999 (Act No. 22 of 1999).

(2) In the execution of the police functions listed under this regulation, whenever practicable possible, officers must only be arrested by other officers of equal or higher rank

- (3) (a) no person may in any manner obstruct, hinder or impede a military police official in the performance, exercise or execution by such an official of a function, power or duty referred to in subregulation (1).
- (b) Any person who contravenes a provision of paragraph (a) is guilty of an offence, and liable on conviction to a fine not exceeding N\$2000 or to imprisonment for a period not exceeding six months.

#### **Admissibility of confessions to military police officials**

**199.** The provisions of section 217 of the Criminal Procedure Act, 1977, in relation to a confession made to a peace officer, other than a magistrate, a justice, or a peace officer referred to in section 334 of that Act, applies with the necessary changes to a confession made to a military police official in the exercise or execution of a duty or power referred to in regulation 198(1).

### **PART XXV**

#### **POLICE FUNCTIONS IN CONNECTION WITH WHICH THE DEFENCE FORCE MAY BE USED AND POWERS AND DUTIES OF MEMBERS BEING USED AS SUCH**

##### **Police functions in connection with which the Defence Force or any portion or member thereof may be used while on service**

**200.** The Defence Force or any portion or member thereof may, while employed on any service contemplated in section 5(2) of the Act, be used in connection with any of the following police functions mentioned in section 13 of the Police Act, 1999 (Act No. 19 of 1990):

- (a) the preservation of the internal security of Namibia;
- (b) the maintenance of law and order; and
- (c) the prevention of crime,

in so far as such preservation, maintenance or prevention is necessary for or is connected with the service concerned for which the Defence Force or that portion or member thereof is being used.

##### **Performance of police functions in certain circumstance by members of the Defence Force**

**201.** Subject to the concurrence of the Ministers responsible for Defence and Safety and Security and upon the written request from the Inspector-General of the Police to the Chief of the Defence Force, the Chief of the Defence Force may assign members of the Defence Force to assist members of the Namibian Police in the execution of those functions of the Namibian Police which relate to the maintenance of law and order and the prevention of crime under paragraphs (b) and (d) of section 13 of the Police Act, 1990 (Act No. 19 of 1990), provided that such agreement -

- (i) fixes the maximum number of members of the Defence Force which may be assigned;

- (ii) stipulates the period for which members of the Defence Force will be assigned which may, except with the prior approval of the Minister of Defence and the Minister of Safety and Security, not exceed a continuous period of 28 days for any such assignment;
- (iii) specifies the geographical area or areas in which the assignment has effect; and
- (iv) describes the nature of the assignment.

### **Designation of members of the Defence Force**

**202.** The Chief of the Defence Force, or any officer of the Defence Force designated by him or her for that purpose, must designate the members of the Defence Force required to perform police duties as contemplated in regulation 200.

### **Command and control**

**203.** Members of the Defence Force assigned in accordance with these regulations must perform such duties under the command and control of the officer or officers of the Namibian Police under whose authority they were detailed to render service by the Inspector-General of Police or by a member of the Police designated by the Inspector-General of Police for that purpose.

### **Powers and duties of a member of the Defence Force used in connection with police functions**

**204.** Members of the Defence Force who are used in connection with any police function mentioned in regulation 200 or 201, must, in the performance of that function have such powers and duties as are conferred or imposed upon members of the Namibian Police Force established under the Police Act, 1990 (Act No. 19 of 1990), in terms of the provisions of-

- (a) section 14(4) and (5) of that Act; and
- (b) sections 21, 22, 23 (a), 25, 27, 29, 30, 31, 32, 33, 34, 35, 36, 39, 40, 41, 44 and 47 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

## **PART XXVI MEDICAL MATTERS**

### **Definitions**

**205.** For the purposes of this Part, unless the context indicates otherwise, -

“allotted category” means a category of fitness allotted to a member in terms of regulation 207;

“category of fitness” means a standard of physical and mental fitness determined and described in terms of regulation 206;

“dependant” means the spouse and the child of a member;

“hospital” includes a medical or nursing institution, a field ambulance unit or a sick-bay;

“medical officer” means a registered medical practitioner and, where applicable, a registered dentist or a specialist who-

- (a) is serving as medical officer or dental officer in the Defence Force;



- (b) is employed on a whole or part-time basis by the Ministry of Defence or has, in terms of regulation 231(2) (g), been designated as a medical officer either generally or in relation to a specific patient;
- (c) is employed as a whole or part-time district surgeon by the Ministry of Health and Social Services;

“Military Medical Board” means a board appointed in terms of regulation 207(4);

“widow” or “widower” does not include any person who was legally divorced from the member concerned before his or her death.

#### **Establishment of categories of fitness**

**206.** (1) The Head of Defence Force Medical Service must from time to time in consultation with the Chief of the Defence Force, determine the standard of fitness of a member of the Defence Force required in peace or war-time for the efficient performance of service in the Defence Force.

(2) On the basis of the standards determined in subregulation (1), the Head of Defence Force Medical Service must -

- (a) determine and describe such categories of fitness as he or she may consider expedient and classify these in order of stringency;
- (b) designate a suitable category of fitness for each branch, corps, unit, classification, mustering, appointment, post or class of appointments or posts in the Defence Force; and
- (c) promulgate the classification and application of the said categories in the orders of the Defence Force.

#### **Determination of and employment according to medical fitness**

**207.** (1) The Head of Defence Force Medical Service or a medical officer designated by him or her for that purpose is the prescribed medical authority for the determination of the standard of fitness of a person who-

- (a) has applied for enrolment in any part of the Defence Force;
- (b) is required to undergo training in the Defence Force; or
- (c) is serving in any part of the Defence Force.

(2) A person may not be enrolled, mustered or appointed or employed in any classification or mustering of the Defence Force or be required to serve or undergo training in such classification or mustering unless the allotted category of fitness of such person equals or exceeds the category of fitness applicable in terms of regulation 208 to such classification or mustering, and a person may not, while a restriction or a temporary category is applicable to him or her in terms of regulation 208(3), be mustered, appointed or employed in any manner incompatible with such restriction or temporary category.

(3) The Head of Defence Force Medical Service or a medical officer designated by him or her may, for the purposes of subregulation (1) or (2) -

- (a) designate a medical officer to report to him or her on the physical fitness and any medical particulars of any person referred to in subregulation (1);
- (b) in any case where-
  - (i) a medical report, submitted to him or her in terms of paragraph (a) or in any other manner, causes him or her to doubt the medical fitness of the person mentioned therein,
  - (ii) doubt exists whether the disability, disease or ailment from which any member is suffering has been caused or aggravated by military service or training or has arisen from or in the course of his or her service;
  - (iii) the Head of Defence Force Medical Service or a medical officer designated by him or her considers a report submitted in terms of paragraph (a) inadequate on medical grounds,

appoint a board consisting of at least three medical officers, to report to him or her on the medical condition of such member or person, the origin, nature, extent or possible future development of any disability or disease from which such member or person is suffering, or on any such other medical particulars as he or she may deem necessary for the application of subregulation (1) or (2).

(4) The report referred to in subregulation (4) must be submitted in a form determined by the Head of Defence Force Medical Service and he or she or a medical officer designated by him or her for that purpose may determine where and when a medical examination in terms of that subregulation must take place.

(5) The medical examination in terms of subregulation (4), any medical test which the Head of Defence Force Medical Service has ordered to compliment such examination as well as the hospitalisation of the person concerned is at public expense.

#### **Allotment, restriction and alteration of categories of fitness**

**208.** (1) Notwithstanding regulation 207(2), the allotted category of any member who on the date of commencement of these regulations is serving in any post in the Defence Force who has been found medically fit must, subject to proof to the contrary, be considered to be the category of fitness applicable to the post or mustering in which such member was serving on that date.

(2) The allotted category applicable in terms of subregulation (1) or regulation 207(1) or (2) to any person at any time may not be altered, unless such person has been subjected to a medical examination in terms of regulation 207(4) by a board of medical officers appointed in terms of that subregulation.

(3) Where in any case, in the opinion of the Head of Defence Force Medical Service or an medical officer designated by him or her for that purpose, it is necessary on account of a member's state of health to restrict, temporarily or permanently, the nature or extent of the service or duties in respect of which, or the area or place in which, the allotted category of any member applies, even though such state of health does not justify the alteration of the member's a allotted category or the allotment to him or her of a temporary category, the Head of Defence Force Medical Service or such officer may define the extent of such restriction and apply it in accordance with subregulation (6) to the member concerned and such restriction must only be altered or revoked on the authority of the Head of Defence Force Medical Service or such designated officer.

(4) In each case where a restriction in terms of subregulation (3) or a temporary category is applied to a member, the medical officer who orders the application thereof must, in accordance with the directions of the Head of Defence Force Medical Service, notify such member and his or her commanding officer, in writing, of the nature, extent and duration of such restriction or temporary category, and while a member's employment is subject to such restriction or temporary category, the member concerned must, notwithstanding any other steps taken in connection therewith, ensure that the commanding officer of each unit in which he or she may serve or undergo training is informed of the nature and duration of that restriction or temporary category.

(5) If a commanding officer is in doubt whether a member serving or undergoing training under his or her command is physically fit to perform any duty which he or she may in the course of his or her service or training be required to perform, he or she may prohibit the performance of the duty concerned by such member and must immediately report his or her reasons for the prohibition to the medical officer concerned for action in terms of regulation 209(3).

### **Subjection to undergo medical examination**

**209.** (1) In terms of regulation 207 a member is required to undergo a medical examination for the purpose of determining his or her medical fitness for any service, course or category of fitness referred to in this regulation before-

- (a) he or she is enrolled in the Defence Force;
- (b) he or she is transferred to or remustered in any post, branch, classification or mustering in respect of which a higher category of fitness than the member's allotted category has been designated in terms of regulation 206(2);
- (c) he or she is permitted to leave Namibia on duty of any kind or for the purpose of attending a course abroad, if so required

(2) Where a member performs any duty, which in the opinion of the Head of Defence Force Medical Service, requires him or her in the interests of the Defence Force, or in his or her own interests to be medically examined periodically so as to determine whether he or she is fit to continue carrying out such duties the Head of Defence Force Medical Service may direct that such examination be conducted in terms of regulation 207.

(3) The Head of Defence Force Medical Service or an officer acting on his or her authority may at any time direct that the standard or medical fitness of any member be determined in accordance with regulation 207 if -

- (a) he or she or such officer doubts the validity of the allotted category of the member concerned;
- (b) the member's commanding officer is in doubt whether such member is physically fit to perform any duty which he or she may in the course of his or her service or training be required to perform; or
- (c) such member has undergone medical treatment in a hospital.

(4) By order of his or her commanding officer or the commanding officer of a hospital a member to whom this regulation applies must, in accordance with instructions issued by the Head of Defence Force Medical Service, submit to a medical examination in terms of regulation 207 and if it is found that such member is unfit to serve in the Defence Force or to perform duties required of him or her the Chief of the Defence Force may order the discharge, reclassification or remustering of the said member accordingly.

**Extent and authorisation of medical or dental treatment**

**210.** (1) The Head of Defence Force Medical Service must, subject to the provisions of the Act and this Part, arrange for the provision to a patient of-

- (a) medical, dental and hospital treatment which is required in respect of an injury, disease, latent disease, physical defect or other disability from which the patient concerned is suffering, in order to-
  - (i) effect the recovery of such patient or to promote his or her health; or
  - (ii) promote or improve the serviceability or operation of any limb, organ, bodily function or faculty of such patient or to reinforce, supplement or replace such limb, organ, bodily function or faculty;
- (b) medical and hospital treatment in addition to the treatment referred to in paragraph (a) required in the case of a female member during her pregnancy and confinement, including pre-natal and post-natal care of the mother and child concerned; or
- (c) preventative, prophylactic or immunising treatment which must or may be administered in terms of any Act or which such Head of Defence Force Medical Service considers necessary in the interests of the Defence Force or any patient.

(2) The Head of Defence Force Medical Service, or a medical officer designated by him or her for that purpose, must from time to time determine the nature and extent of the treatment required in accordance with subregulation (1) by a patient and may, subject to the other provisions of this Part, authorise the provision or administration of such treatment to the patient concerned, and may -

- (a) refer the patient to any State hospital for treatment; or
- (b) in case where a patient is a member of the Public Service Employees Medical Aid Scheme or any other medical scheme and on the request of the said patient, refer the patient to a private medical practitioner of his or her choice for further treatment.

(3) For the purposes of subregulations (1)(c) and (2) the Head of Defence Force Medical Service or a medical officer designated by him or her for that purpose, is the medical authority referred to in section 81 of the Act.

**Medical benefits for the dependants of serving members**

**211.** The rules for the Public Service Employees Medical Aid Scheme, in case of members of the Scheme, and those applicable to the provisions by the State Hospitals apply with the necessary changes to members of the Defence Force and their dependants.

**Additional requirements and services**

**212.** The treatment which may be authorised in terms of regulation 210 of this Part includes the provision of the requisite medicaments, bandages, wrappings, catgut, gloves, medical, dental or surgical instruments, apparatus, roentgen films, chemicals or organic materials or derivatives thereof, including blood or plasma, consumer goods for occupational therapy or such other aids or apparatus as may be necessary for the promotion of the recovery of a patient, and also the required hospital facilities and maintenance, paramedical services and nursing.

**Provision of treatment**

**213.** (1) The Head of Defence Force Medical Service must arrange for and exercise professional, executive and administrative control over the provision and administration of any treatment provided to a patient in terms of this Part.

(2) For the purposes of subregulation (1) the Head of Defence Force Medical Service, as far as it is professionally and administratively practicable, must make use of the facilities of the military medical service and such other State medical facilities as may be at his or her disposal and such Head of Defence Force Medical Service may -

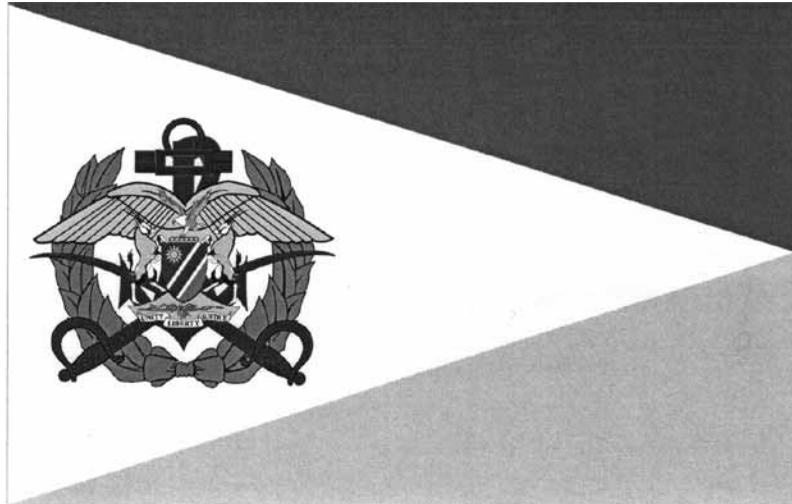
- (a) delegate any power vested in him or her by this regulation to any other medical officer designated by him or her for that purpose, whether generally or in respect of a specific case;
- (b) administer treatment to a patient, in terms of this Part, at such patient's place of residence or at a hospital, clinic, out-patients, department of a hospital or at the consulting rooms of a medical officer or at any other place designated by such Head of Defence Force Medical Service for the purpose of administering treatment to a patient;
- (c) where no military hospital is available in the area where a patient is serving or where a military hospital is in the opinion of the Head of Defence Force Medical Service unable to accommodate or to treat the patient concerned effectively, authorise the admission to or the treatment of the patient concerned at any other hospital or institution which may be designated by him or her for the purpose of administering treatment to a patient;
- (d) for purposes of administering treatment to a patient, authorise the conveyance of such patient to or from any place, designated in terms of paragraph (b) or (c), in such manner as he or she may consider appropriate in the circumstances;
- (e) authorise the escort or nursing of a patient while such patient is being conveyed in terms of paragraph (d);
- (f) where a female patient requiring hospitalisation at a military hospital is still breastfeeding her child, authorise that such patient and her child be accommodated together in such hospital if, in the opinion of the Head of Defence Force Medical Service, the facilities of the hospital and the health condition of such patient so permits;
- (g) in the interest of the patient concerned or where for any medical reason which such Head of Defence Force Medical Service considers necessary, designate a private registered medical or dental practitioner or specialist on such basis as may be required for the proper administration of medical treatment of such patient;
- (h) on behalf of the State accept liability for the cost of medical, dental or hospital treatment provided in a case of emergency to any patient by any medical or dental practitioner or hospital, if in the opinion of the Head of Defence Force Medical Service, it was in the interests of such patient to provide such treatment as a matter of urgency;
- (i) authorise the provision to a patient of any necessary service referred to in regulation 212.

(3) The Head of Defence Force Personnel must authorise and arrange for the provision of medical treatment to the dependants of a member of the Defence Force who is performing service outside of Namibia and which dependants, with the approval of the Head of Defence Force Personnel, accompany such member.

**ANNEXURE A**  
(regulation 11(3))

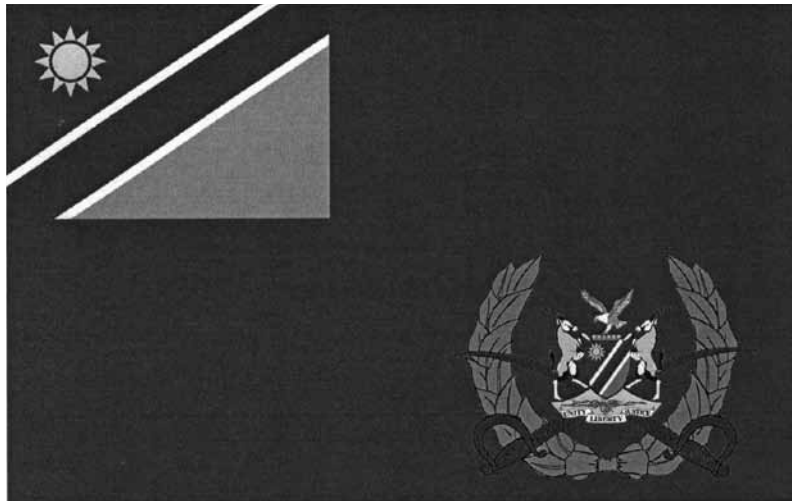
**FLAGS**

**Namibian Defence Force**

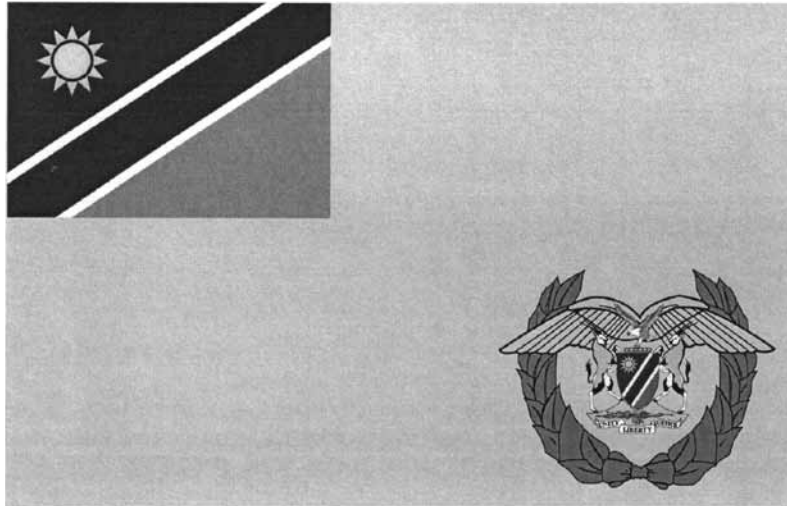


The Namibian Defence Force Flag is rectangular in the proportion of three in the length to two in the width, tierced per pile, one simple and two reversed, being white, red and light blue; the simple pile being white and charged in the hoist with the Namibian Defence Force Badge, the height of the full achievement being one half of the width of the flag with its centre position one third of the flag away from the hoist; the red pile reversed, its apex reaching the point of contact where the base of the simple pile meets the top of the hoist; the light blue pile reversed, its apex reaching the point of contact where the base of the simple pile meets the bottom of the hoist.

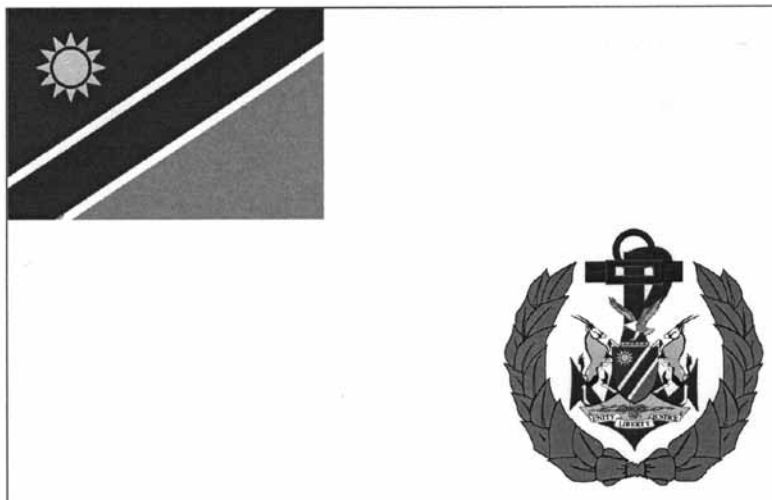
**Namibian Army**



The Namibian Army Flag is a red rectangular monochrome field, in the proportion of three in the length to two in the width, charged in the upper hoist canton with the National Flag of Namibia; the lower fly canton being charged with the Namibian Army Badge with the height of the full achievement being one half of the width of the flag with its centre position being one third of the flag away from the fly.

**Namibian Air Force**

The Namibian Air Force Flag is a light blue rectangular monochrome field, in the proportion of three in the length to two in the width, charged in the upper hoist canton with the National Flag of Namibia; the lower fly canton being charged with the Namibian Air Force Badge with the height of the full achievement being one half of the width of the flag with its centre position being one third of the flag away from the fly.

**Namibian Navy**

The Namibian Navy Flag is a white rectangular monochrome field, in the proportion of three in the length to two in the width; charged in the upper hoist canton with the National Flag of Namibia; the lower fly canton being charged with the Namibian Navy Badge with the height of the full achievement being one half of the width of the flag with its centre position being one third of the flag away from the fly.



**ANNEXURE B**  
(regulation 12 (2))

**BADGES**

**Namibian Defence Force**



Description:

An anchor, wings, two crossed swords and the coat-of-arms of the Republic of Namibia within a laurel wreath.

**Namibian Army**



Description:

Two crossed swords and the coat-of-arms of the Republic of Namibia within laurel wreath.

**Namibian Air Force**

Description:

Wings and the coat-of-arms of the Republic of Namibia within laurel wreath.

**Namibian Navy**

Description:

Anchor and the coat-of-arms of the Republic of Namibia within laurel wreath.

**ANNEXURE C**  
(regulation 15 (5))

**BUTTONS AND INSIGNIA OF RANK - OFFICERS**

**1. Buttons:**

Dome shaped, embossed with an anchor, wings, two crossed swords and the Coat-of-arms of the Republic of Namibia within a laurel wreath.

**2. Insignia of rank:**

(a) Army

General	Crossed sword and scroll below four five point stars
Lieutenant General	Crossed sword and scroll below three five point stars
Major General	Crossed sword and scroll below two five point stars
Brigadier General	Crossed sword and scroll below one five point stars
Colonel	Two five point stars below Coat-of-arms
Lieutenant Colonel	One five point stars below Coat-of-arms
Major	Coat-of-arms
Captain	Three five point stars
Lieutenant	Two five point stars
Second Lieutenant	One five point star

(b) Air Force

Chief Air Marshall	Crossed sword and scroll below four thick stripes
Air Marshall	Crossed sword and scroll below three thick stripes
Air Vice Marshall	Crossed sword and scroll below two thick stripes
Air Commodore	Crossed sword and scroll below one thick stripe
Group Captain	One thick stripe below three thin stripes
Wing Commander	One thick stripe below two thin stripes

Squadron Leader	One thick stripe below one thin stripe
Flight Lieutenant	Three thin stripes
Flight Officer	Two thin stripes
Pilot Officer	One thin stripe

## (c) Navy

Rank insignias of Navy General Officers differ depending on the type of uniform and are worn either on the shoulder, wrist or collar.

## Admiral

Shoulder	Crossed sword and scroll below four five point stars
Wrist	Two medium and one thick stripe below knot
Collar	Crossed sword and scroll below four five point stars

## Vice-Admiral

Shoulder	Crossed sword and scroll below three five point stars
Wrist	Medium and thick stripe below knot
Collar	Cross sword and scroll below three five point stars

## Rear-Admiral

Shoulder	Crossed sword and scroll below two five point stars
Wrist	Thick stripe below knot
Collar	Cross sword and scroll below two five point stars

## Rear Admiral Junior Grade

Shoulder	Crossed sword and scroll below one five point star
Wrist	Knot with thick base
Collar	Crossed sword and scroll below one five point star

Captain	Three medium stripes below knot
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Commander	Two medium stripes below knot
Lieutenant Commander	Medium and thin stripe below knot
Lieutenant	Medium stripe below knot
Lieutenant Junior Grade	Thin stripe below knot
Ensign	Knot

**ANNEXURE D**  
(regulation 30 (7))

**BADGES, BUTTONS AND INSIGNIA OF RANK - OTHER RANKS**

**1. Buttons:**

Dome shaped, embossed with an anchor, wings, two crossed swords and the Coat-of-arms of the Republic of Namibia within a laurel wreath.

**2. Insignia of rank:**

Warrant Officer Class 1 or equivalent	Coat-of-arms within a laurel wreath
Warrant Officer Class 2 or equivalent	Coat-of arms
Staff Sergeant or equivalent	Three-bar chevron below Coat-of arms (a five point star in the place of a Coat-of-arms in the case of a Flight Sergeant)
Sergeant or equivalent	Three-bar chevron
Corporal or equivalent	Two-bar chevron
Lance Corporal or equivalent	One-bar chevron

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