



**THE STATUTES OF THE REPUBLIC OF SINGAPORE**

**SINGAPORE ARMED FORCES ACT**

**(CHAPTER 295)**

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# Singapore Armed Forces Act

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An Act to provide for the raising, maintenance and discipline of the Singapore Armed Forces and for matters connected therewith.

[15th June 1972\*]

## PART I

### PRELIMINARY

#### Short title and commencement

1.—(1) This Act may be cited as the Singapore Armed Forces Act and shall, with the exception of sections 199 and 200, come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

(2) Sections 199 and 200 shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

#### Interpretation

2.—(1) In this Act, unless the context otherwise requires —

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

“Armed Forces Council” means the Armed Forces Council established under section 8;

“arms” includes parts and accessories of arms, ammunition, explosives whether encased or not and instruments used as aids to operation or adjustment of arms, whether the arms are serviceable or not;

“arrest” includes open arrest;

“before the enemy”, in relation to a person, means that he is in action against the enemy or about to go into action against the

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\* Sections 199 and 200 are not in operation. See G.N. No. S 159/72.

enemy or is under attack or threat of imminent attack by the enemy;

“civil court” means a court of ordinary criminal jurisdiction constituted under any written law in force relating to courts;

“civil offence” means an offence punishable under any written law in force other than a military offence;

“civil prison” means a prison declared as such under section 3 of the Prisons Act (Cap. 247);

“commander”, in relation to any person subject to military law, means an officer of or above the rank of captain or a senior military expert for the time being commanding a unit or units or part of a unit of the Singapore Armed Forces;

*[28/2009 wef 01/04/2010]*

“convening authority” means —

(a) in the case of a general court martial, the officer of or above the rank of major, or the senior military expert of or above the rank of ME5, appointed by the Armed Forces Council for the purpose of being the convening authority for general courts martial; or

(b) in the case of a field general court martial, a convening officer;

*[17/2004 wef 31/12/2004]*

“convening officer” means a commander referred to in section 83(1);

*[17/2004 wef 31/12/2004]*

“detention barracks” means any building or part of a building which is set apart by the Armed Forces Council for the purpose of persons serving sentences of detention;

“Director, Legal Services of the Singapore Armed Forces” means the person appointed by the Armed Forces Council under section 82(5)(a);

“disciplinary barrack” means any premises or place set apart by the Armed Forces Council for the purposes of persons

serving sentences of special detention in a disciplinary barrack;

“disciplinary officer” means a junior disciplinary officer, a senior disciplinary officer and a superior commander each being qualified to be such or being designated as such pursuant to the provisions of Part IV and includes a Service Chief and the Chief of Defence Force;

“enemy” includes persons engaged in violent operations against the Singapore Armed Forces, armed mutineers, armed rebels, armed rioters or pirates;

“general courts martial panel” means the panel appointed by the convening authority under section 80A;

*[17/2004 wef 31/12/2004]*

“general orders” includes orders of the Armed Forces Council, General Orders of the Ministry of Defence, standing orders, routine orders and other general orders published in writing in accordance with military usage;

“Military Court of Appeal” means the Court established under Part VII;

“military custody” means any place designated by the Armed Forces Council pursuant to regulations made under this Act which according to military usage is used for keeping offenders under arrest awaiting trial or on remand;

“military documents” includes reports, certificates, returns, pay lists, forms and any other documents in use in the Singapore Armed Forces;

“military expert” means a serviceman in the military domain experts service;

*[28/2009 wef 01/04/2010]*

“military offence” means an offence punishable under this Act;

“military policeman” means a serviceman appointed to be a military policeman;

“military prison” means any building or part of a building under the control of the Armed Forces Council which is set apart by the Armed Forces Council for the purpose of persons serving sentences of imprisonment;

“national serviceman” has the same meaning as in the Enlistment Act (Cap. 93);

“non-uniformed serviceman” means a regular serviceman who is not required under his terms of service to wear military uniform;

“officer” means a person appointed by the President of Singapore or the proper authority to hold the rank of officer in the Singapore Armed Forces and includes any person commissioned as an officer under any written law that is repealed by this Act;

“operationally ready national serviceman” means a person liable to render operationally ready national service under the Enlistment Act (Cap. 93);

“proper authority” has the same meaning as in the Enlistment Act;

“publication” and “words” have the same meanings as in the Sedition Act (Cap. 290);

“qualified person” has the same meaning as in the Legal Profession Act (Cap. 161);

“registrar for subordinate military courts” means the person appointed by the Armed Forces Council as registrar for subordinate military courts under section 82(5)(c);

*[17/2004 wef 31/12/2004]*

“regular serviceman” has the same meaning as in the Enlistment Act;

“senior military expert” means a military expert of or above the rank of ME4;

*[28/2009 wef 01/04/2010]*

“sentence” means a punishment imposed on a convicted person;

“Service Chief” means the Chief of Air Force, the Chief of Army or the Chief of Navy;

“serviceman” means an officer, a soldier, a military expert or a non-uniformed serviceman of the Singapore Armed Forces, and includes a servicewoman;

*[28/2009 wef 01/04/2010]*

“sickness” includes permanent or temporary illness, disability or injury;

“Singapore Armed Forces” means the Singapore Armed Forces raised and maintained under section 7;

“Singapore Armed Forces property” includes property in the possession, control or occupancy of the Singapore Armed Forces;

“soldier” means any person, other than an officer, a senior military expert or a non-uniformed serviceman, who is a member of the Singapore Armed Forces, and includes any such person who is a servicewoman;

*[28/2009 wef 01/04/2010]*

“subordinate military courts” means general courts martial and field general courts martial from the decisions of which by reason of this Act there is a right of appeal to the Military Court of Appeal;

“summary trial” means a trial by a disciplinary officer under Part IV;

“vessel” includes a hovercraft;

“volunteer” means a person accepted by the proper authority as a volunteer in the Singapore Armed Forces;

“warrant officer” means a person appointed by the Armed Forces Council or the proper authority to hold the rank of warrant officer in the Singapore Armed Forces.

*[20/75; 1/91; 1/94; 20/94; 10/2000]*

(2) In any written law or any document —

- (a) all references to “the Army Board” shall be construed as references to the Armed Forces Council constituted under this Act;
- (b) all references to “court-martial” shall be construed as references to the subordinate military courts constituted under this Act;
- (c) all references to “Singapore armed forces” “Singapore Army”, “Singapore forces” and “the army, navy or air force of Singapore” shall be construed as references to the Singapore Armed Forces constituted under this Act;
- (d) all references to “a person holding a commission in the armed forces” shall be construed as references to an officer under this Act; and

*[28/2009 wef 01/04/2010]*

- (e) all references to “a soldier, enlisted personnel, sailor, seaman, rating or airman” shall be construed as references to a serviceman under this Act.

*[1/94]*

(3) For the purposes of this Act, if not inconsistent with the context, the expression “on active service” as applied to a person subject to military law means whenever he is attached to or forms part of a force which is engaged in operations against the enemy or is engaged in military operations in a country or place wholly or partly occupied by an enemy, or is in military occupation of any foreign country.

(4) Notwithstanding subsection (3), where any part of the Singapore Armed Forces is serving, or due to serve, outside Singapore under conditions that do not, or will not, amount to “active service” as defined in subsection (3), the Armed Forces Council may declare that that part of the Singapore Armed Forces shall be temporarily subject to this Act, as if that part of the Forces was on active service.

(5) On the publication of any declaration under subsection (4), the forces to which the declaration applies shall be deemed to be on



active service until the declaration is cancelled by the Armed Forces Council.

### **Application**

3. The following persons shall be persons subject to military law and this Act shall, subject to such exclusions or variations in relation to non-uniformed servicemen as may be prescribed, apply to them:

- (a) regular servicemen and full-time national servicemen in the Singapore Armed Forces from the time their liability to report for enlistment or service arises until such time as they are lawfully discharged or released;
- (b) operationally ready national servicemen from the time that they are ordered to report for enlistment or service, whether they have complied with such order or not, and while in uniform or performing service in the Singapore Armed Forces or the People's Defence Force pursuant to section 14 of the Enlistment Act (Cap. 93), and while called out for mobilised service pursuant to sections 16 and 17 of that Act or when called out to duty in aid of the civil power;
- (c) all civilians who are in the service of the Singapore Armed Forces when engaged on active service;
- (d) all civilians, not otherwise subject to military law, who are followers of, or accompany, the Singapore Armed Forces when engaged on active service;
- (e) officers and soldiers belonging to a Commonwealth or foreign force when attached to or seconded for service with or otherwise acting as part of or with any portion of the Singapore Armed Forces; and
- (f) volunteers during the period that they are ordered to report for service, whether they have complied with such order or not.

[1/91; 20/94]

**Liability for military offences**

4. All persons subject to military law by virtue of section 3 shall be liable to be tried by subordinate military courts for all the military offences in this Act and by a disciplinary officer for the offences specified in the Schedule.

**Liability for offences under Emergency (Essential Powers) Act**

5.—(1) A person, who was subject to military law under section 3(a) or (b) and —

- (a) who is liable to render operationally ready national service as a person subject to the Enlistment Act (Cap. 93); or
- (b) who is exempted from liability to render operationally ready national service under section 28 of that Act, but comes within the definition of a person subject to the Enlistment Act in section 2 of that Act,

shall be regarded as continuing to be subject to military law and, where such person was a member of the Singapore Armed Forces, be regarded as continuing to be a member of the Singapore Armed Forces, for the purposes of proceedings for such offence under the Emergency (Essential Powers) Act (Cap. 90) as may be prescribed under subsection (5), notwithstanding that he has been discharged or released from the Singapore Armed Forces or has otherwise ceased to be subject to military law at the time of the commission of the offence.

[17/78; 20/94]

(2) Subject to section 111(1), where such offence under the Emergency (Essential Powers) Act as may be prescribed under subsection (5) has been committed or is reasonably suspected of having been committed by a person who was, at the time of the commission of the offence, subject to military law under subsection (1), such person shall —

- (a) be liable to be tried by a subordinate military court for the offence; and
- (b) in relation to that offence, be treated for the purposes of the provisions of this Act relating to arrest, keeping in custody,

investigation of offences, trial and punishment by a subordinate military court, and execution of sentences as continuing to be subject to military law,

notwithstanding that he has been discharged or released from the Singapore Armed Forces or has otherwise ceased to be subject to military law at any time.

(3) Where a person, who is subject to military law by virtue of subsection (1), is sentenced by a subordinate military court to imprisonment, special detention or detention for such offence under the Emergency (Essential Powers) Act (Cap. 90) as may be prescribed under subsection (5), this Act shall apply to him during the term of his sentence, notwithstanding that he has been discharged or released from the Singapore Armed Forces, or has otherwise ceased to be subject to military law; and he may be kept, removed, imprisoned, made to undergo special detention or detention, and punished accordingly as if he continued to be subject to military law.

(4) For the purposes of subsections (2) and (3), a person shall —

(a) subject to paragraph (c), where he was a regular serviceman, be regarded as having the rank or service grade that he held on the day of his discharge or release as a regular serviceman;

[28/2009 wef 01/04/2010]

(b) where he was a full-time national serviceman or an operationally ready national serviceman, be regarded as having the rank that he held on the day of his release as a full-time national serviceman or as an operationally ready national serviceman, if he is no more liable for full-time service or operationally ready national service, as the case may be, under the Enlistment Act (Cap. 93); or

(c) where he remains liable to render operationally ready national service under the Enlistment Act, be regarded as having the rank that he holds as an operationally ready national serviceman in the Singapore Armed Forces or the People's Defence Force at the date of the trial for such offence.

[20/94]

(5) For the purposes of this section, the Minister may, by order\* published in the *Gazette*, prescribe the offences under the Emergency (Essential Powers) Act (Cap. 90), for which a person, who commits any of those offences, may be tried and punished under this Act.

### **Jurisdiction of civil courts**

6. Nothing in this Act shall affect the jurisdiction of civil courts to try a person subject to military law for any civil offence.

## PART II

### ORGANISATION OF SINGAPORE ARMED FORCES

#### **Establishment and organisation of Singapore Armed Forces**

7.—(1) It shall be lawful for the President in accordance with this Act and any regulations made thereunder to raise and maintain a force to be known as the Singapore Armed Forces which shall be a unified force consisting of army, air force and navy commands and each command shall consist of such number of servicemen as the President may from time to time determine.

[1/91]

(2) The servicemen in each command shall be formed into such units, corps, regiments, services or other like bodies and divisions as the President may from time to time determine.

(3) The President may disband any command, unit, corps, regiment, service or other like body or division constituted under subsection (2) in whole or in part or amalgamate any such command, unit, corps, regiment, service or other body or division or alter the name or title thereof.

(4) The Singapore Army and the People's Defence Force and any other force that was raised and maintained under any written law repealed by this Act which were in existence immediately before 15th June 1972 shall, on or after that date, be deemed to be included in the Singapore Armed Forces raised and maintained under this Act.

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\* G.N. No. S 96/78.

### **Establishment of Armed Forces Council**

**8.**—(1) For the purposes of the administration of matters relating to the Singapore Armed Forces under this Act, there shall be established an Armed Forces Council which shall consist of —

- (a) one or more Ministers charged with the responsibility for defence and any other Minister who has been assigned to assist them;
- (b) the Permanent Secretary, or all the Permanent Secretaries (if there is more than one), of the Ministry of Defence;
- (c) the Chief of Defence Force;
- (d) the Chief of Army;
- (e) the Chief of Air Force;
- (f) the Chief of Navy; and
- (g) not more than 4 other members as the President may appoint if the President, acting in his discretion, concurs with the advice of the Prime Minister.

[1/91]

(2) The Minister charged with the responsibility for defence or, if there is more than one, the principal Minister shall be the Chairman of the Armed Forces Council.

[1/91]

(3) No revocation of any of the appointments referred to in subsection (1)(g) shall be made unless the President, acting in his discretion, concurs with the advice of the Prime Minister.

[1/91]

(4) Any appointment or revocation thereof made by the President under this section shall be published in the *Gazette*.

[1/91]

### **Armed Forces Council to provide for certain matters**

**8A.** The Armed Forces Council may make provision for the following matters:

- (a) the organisation of its work and the manner in which its functions are to be performed, and the keeping of records and minutes;
- (b) the duties and responsibilities of the members of the Council including the delegation to any member of the Council of any of its powers or duties;
- (c) the consultation by the Council with persons other than its members; and
- (d) the procedure to be followed by the Council in conducting its business.

[1/91]

### **Quorum**

**8B.**—(1) Subject to subsections (2) and (3), a quorum for a meeting of the Armed Forces Council shall be 3 members.

[1/91]

(2) No business shall be transacted at any meeting of the Armed Forces Council unless the following members of the Council are present:

- (a) the Chairman of the Council;
- (b) a Permanent Secretary of the Ministry of Defence; and
- (c) the Chief of Defence Force, Army, Air Force or Navy.

[1/91]

(3) Where the Chairman of the Armed Forces Council is unable to attend any meeting of the Council, the Council may meet and transact any business if a member present at such a meeting has been appointed by the Chairman to act on his behalf.

[1/91]

(4) No decision of the Armed Forces Council on any matter made at that meeting shall take effect unless the consent of the Chairman of the Council in writing under his hand has been obtained therefor.

[1/91]

### **Committees appointed by Armed Forces Council**

**8C.**—(1) The Armed Forces Council may from time to time appoint committees consisting of one or more persons who may or

may not be members of the Armed Forces Council, either for general or specific purposes (including disciplinary matters and to conduct inquiries).

[1/91]

(2) The Armed Forces Council may delegate to such committees power to do any specific act or carry out any specific function.

[1/91]

(3) Every such committee shall report to the Armed Forces Council.

[1/91]

(4) Sections 113, 185, 187, 188, 189, 190 and 191 shall apply, with the necessary modification and adaptation, to a committee of inquiry appointed under subsection (1).

[1/91]

### **Style, seal and proceedings of Armed Forces Council**

**9.—**(1) The Armed Forces Council may for all purposes be described by that name.

(2) The Armed Forces Council shall have an official seal, which shall be officially and judicially noticed, and that seal shall be authenticated by the signature of the Chairman of the Armed Forces Council, or of a secretary, or of some person authorised by the Armed Forces Council to act on behalf of a secretary.

(3) Every document purporting to be an instrument issued by the Armed Forces Council, and to be sealed with the seal of the Armed Forces Council, authenticated in the manner provided by this Act, or to be signed by a secretary or any person authorised by the Armed Forces Council to act on behalf of a secretary, shall be received in evidence, and be deemed to be such an instrument without further proof, unless the contrary is shown.

(4) A certificate signed by the Chairman of the Armed Forces Council that any instrument purporting to be made or issued by the Council was so made or issued shall be conclusive evidence of the fact.

### **Appointment of officers**

**10.—**(1) Subject to section 10A, officers of the Singapore Armed Forces shall be appointed either by the President or by the proper

authority who or which may, without assigning any reason, cancel any such appointment.

[1/91]

(2) An appointment made under subsection (1) shall be in the prescribed form.

(3) Officers appointed under subsection (1) shall be deemed to be officers of the Singapore Armed Forces from the date specified in their appointments.

(4) Officers may from time to time be promoted or advanced in rank by the proper authority.

(5) Any officer who has been commissioned pursuant to the repealed section 78 of the Singapore Army Act 1965 (Act 13 of 1965) or has been appointed by the proper authority to hold the rank of officer and who has held that rank immediately before 15th June 1972 shall for all purposes be deemed to have been appointed as an officer under this Act.

### **Appointment of Chiefs of Defence Force, Army, Air Force and Navy**

**10A.**—(1) The President acting in his discretion may, if he concurs with the advice of the Prime Minister who shall before tendering such advice consult the Armed Forces Council, appoint from among the officers of the Singapore Armed Forces a Chief of Defence Force, a Chief of Army, a Chief of Air Force and a Chief of Navy.

[1/91]

(2) No revocation of any of the appointments referred to in subsection (1) shall be made unless the President, acting in his discretion, concurs with the advice of the Prime Minister who shall before tendering such advice consult the Armed Forces Council.

[1/91]

(3) The Chief of Defence Force shall perform the duties of the Chief of Army, the Chief of Air Force or the Chief of Navy, as the case may be, when any of them is unable to carry out his duties by reason of absence, illness or otherwise.

[1/91]



(4) The Minister may direct the Chief of Army, the Chief of Air Force or the Chief of Navy, as the Minister thinks fit, to perform the duties of the Chief of Defence Force when the latter is unable to carry out his duties by reason of absence, illness or otherwise.

[1/91]

(5) Any appointment or revocation thereof made by the President under this section shall be published in the *Gazette*.

[1/91]

### **Appointment of warrant officers**

**10B.**—(1) Warrant officers of the Singapore Armed Forces shall be appointed by the Armed Forces Council or by the proper authority which may, without assigning any reason, cancel any such appointment.

[1/91]

(2) An appointment made under subsection (1) shall be in the prescribed form.

[1/91]

(3) Warrant officers appointed under subsection (1) shall be deemed to be warrant officers of the Singapore Armed Forces from the date specified in their appointments.

[1/91]

(4) Warrant officers may from time to time be promoted or advanced in rank by the proper authority.

[1/91]

(5) Any warrant officer who has been appointed by the proper authority to hold the rank of warrant officer and who has held that rank immediately before 1st July 1992 shall for all purposes be deemed to have been appointed as a warrant officer.

[1/91]

(6) Every warrant officer appointed before 1st July 1992 shall be deemed to be appointed under subsection (1).

[1/91]

### **Appointment of senior military experts**

**10C.**—(1) Senior military experts of the Singapore Armed Forces shall be appointed by the President or by the proper authority who or

which may, without assigning any reason, cancel any such appointment.

(2) An appointment made under subsection (1) shall be in the prescribed form.

(3) Senior military experts appointed under subsection (1) shall be deemed to be senior military experts of the Singapore Armed Forces from the date specified in their appointments.

(4) Senior military experts may from time to time be promoted or advanced in rank by the proper authority.

*[28/2009 wef 01/04/2010]*

### PART III

#### MILITARY OFFENCES

##### **Misconduct in action**

**11.**—(1) Every person subject to military law who, without lawful excuse —

- (a) surrenders any place or thing to the enemy; or
- (b) abandons any place or thing which it is his duty to defend against the enemy or to prevent from falling into the hands of the enemy,

shall be guilty of an offence.

(2) Every person subject to military law shall be guilty of an offence under this section if, being in the presence or vicinity of the enemy, or being engaged in any action or operation against the enemy or under orders to be prepared for any action or operation by or against the enemy, he —

- (a) fails to use his utmost exertions to carry the lawful orders of his superiors (being officers or senior military experts) into execution;

*[28/2009 wef 01/04/2010]*

- (b) while on guard duty and posted or ordered to patrol, or while on watch, sleeps or, without having been regularly relieved, leaves any place where it is his duty to be; or

- (c) behaves in such a manner as to show cowardice, or induces any other person so to behave at a time when that other person, being a member of the Singapore Armed Forces or of any force co-operating therewith is in the presence or vicinity of the enemy, or is engaged in any action or operation against the enemy or under orders to be prepared for any action or operation by or against the enemy.

(3) Every person guilty of an offence under this section shall be liable on conviction by a subordinate military court to suffer death or any less punishment authorised by this Act.

### **Assisting enemy**

**12.** Every person subject to military law who, knowingly and without lawful excuse —

- (a) communicates with or gives intelligence to the enemy;
- (b) fails to make known to the proper authorities any information received by him from the enemy;
- (c) furnishes the enemy with supplies of any description;
- (d) having been captured by the enemy, serves with or aids the enemy in the prosecution of hostilities or of measures calculated to influence morale, or in any other manner not authorised by international usage;
- (e) harbours or protects an enemy not being a prisoner of war or knowingly does any other act to prevent the capture of an enemy;
- (f) surrenders himself to the enemy or leaves the battle;
- (g) without authority transmits or discloses any information to the enemy regarding the Singapore Armed Forces or any forces co-operating therewith; or
- (h) does any act calculated to imperil the success of any military action or operation of the Singapore Armed Forces or of any forces co-operating therewith or wilfully delays or discourages upon any pretext any such action or operation,

shall be guilty of an offence and shall be liable on conviction by a subordinate military court to suffer death or any less punishment authorised by this Act.

### **Unauthorised disclosure of information**

**13.**—(1) Every person subject to military law who without lawful authority discloses or purports to disclose, whether orally, in writing, by signal or by any other means, information relating to any matter upon which information would or might be useful to an enemy shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 3 years or any less punishment authorised by this Act.

(2) It shall be a defence for a person charged with an offence under this section that he did not know and had no reasonable cause to believe that the information disclosed related to a matter upon which information would or might be, directly or indirectly, useful to an enemy.

### **Offences in connection with captivity**

**14.** Every person subject to military law who —

- (a) is captured by the enemy through his negligence or disobedience; or
- (b) being captured by the enemy, does not take any reasonable steps which are available to him to rejoin the Singapore Armed Forces or prevents or discourages any other person who has been captured from taking such steps,

shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 5 years or any less punishment authorised by this Act.

### **Mutiny**

**15.**—(1) Every person subject to military law who —

- (a) takes part in a mutiny involving the use of violence or the threat of the use of violence, or having as its object or one of its objects the refusal or avoidance of any duty or service

against, or in connection with operations against, the enemy, or the impeding of the performance of any such duty or service; or

- (b) incites any person subject to military law to take part in such a mutiny, whether actual or intended,

shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 10 years or any less punishment authorised by this Act; and if the offence is committed in the face of the enemy or involves the use of violence he shall be punished with death.

(2) Every person subject to military law who, in a case not falling within subsection (1), takes part in a mutiny, or incites any person subject to military law to take part in a mutiny, whether actual or intended, shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 10 years or any less punishment authorised by this Act.

(3) For the purposes of this section, “mutiny” means a combination of 2 or more persons subject to military law —

- (a) to overthrow or resist lawful authority in the Singapore Armed Forces or any forces co-operating therewith or any part of those forces;
- (b) to disobey lawful authority in such circumstances as to make the disobedience subversive of discipline or with the object of avoiding any duty or service against the enemy or in connection with operations against the enemy; or
- (c) to impede the performance of any duty or service in the Singapore Armed Forces or in any forces co-operating therewith or any part of those forces.

### **Offences by or in relation to sentries, persons on watch, etc.**

**16.** Every person subject to military law who —

- (a) while on guard duty and posted or ordered to patrol, or on watch, or under orders to regulate traffic by land, water or air, sleeps or, without having been regularly relieved, leaves any place where it is his duty to be;

- (b) strikes or otherwise uses force against a member of the Singapore Armed Forces or of any forces co-operating therewith, who is on guard duty and posted or ordered to patrol, or on watch, or under orders to regulate traffic by land, water or air; or
- (c) by the threat of force compels any such person as is mentioned in paragraph (b) to let him or any other person pass,

shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 2 years or any less punishment authorised by this Act.

### **Disobedience of, non-compliance with lawful orders, etc.**

17.—(1) Every person subject to military law who by words or behaviour wilfully disobeys any lawful order, by whatever means communicated to him, shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 3 years, and, if the offence is committed during active service, such person shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 7 years or any less punishment authorised by this Act.

(2) Every person subject to military law who does not comply with any lawful order or neglects to perform or negligently performs any lawful duty or order shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 2 years, and, if the offence is committed during active service, such person shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 5 years or any less punishment authorised by this Act.

### **Looting**

18. Every person subject to military law who —

- (a) steals from or, with intent to steal, searches the person of anyone killed, wounded or captured in the course of warlike operations, or killed, injured or detained in the course of operations undertaken by the Singapore Armed

Forces for the preservation of law and order or otherwise in aid of the civil authorities;

- (b) steals any property which has been left exposed or unprotected in consequence of any such operations as are mentioned in paragraph (a); or
- (c) takes, otherwise than for the purposes of the Singapore Armed Forces, any aircraft, vessel, arms, vehicle, equipment or stores abandoned by the enemy,

shall be guilty of the offence of looting and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 7 years or any less punishment authorised by this Act.

### **Insubordinate behaviour**

**19.**—(1) Every person subject to military law who —

- (a) strikes or otherwise uses violence to, or offers violence to, a person superior in rank or appointment; or
- (b) uses threatening or insubordinate language or gestures to, or behaves with contempt to a person superior in rank or appointment,

shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 2 years and if the offence is committed during active service, for a term not exceeding 5 years or any less punishment authorised by this Act.

[20/94]

(2) It shall be a defence for any person charged under this section to prove that he neither knew nor had reasonable cause to believe that the person in relation to whom the offence is alleged to have been committed was a person superior in rank or appointment.

### **Obstruction of military policemen**

**20.**—(1) Every person subject to military law who obstructs or, when called upon, refuses to assist any military policeman or person legally exercising authority under or on behalf of a military policeman shall be guilty of an offence and shall be liable on

conviction by a subordinate military court to imprisonment for a term not exceeding 2 years or any less punishment authorised by this Act.

(2) It shall be a defence for any person charged under this section to prove that he neither knew nor had reasonable cause to believe that the person in relation to whom the offence is alleged to have been committed was a military policeman or, as the case may be, a person legally exercising authority under, or on behalf of, a military policeman.

### **Disobedience of general orders**

**21.** Every person subject to military law who contravenes or fails to comply with any lawful provision of general orders, being a provision known to him or which he might reasonably be expected to know, shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 2 years or any less punishment authorised by this Act.

### **Absence without leave**

**22.—**(1) Every person subject to military law who is absent without leave from service in the Singapore Armed Forces or from the place where he is lawfully required for the time being to be shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 2 years or any less punishment authorised by this Act.

(2) It shall be a defence for any person charged under this section to prove that his absence was a result of circumstances over which he had no control.

### **Desertion**

**23.—**(1) Every person subject to military law who deserts shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 10 years or any less punishment authorised by this Act.

(2) For the purposes of this section, a person deserts if he —

- (a) leaves or fails to attend at his place of duty in the Singapore Armed Forces with the intention of remaining permanently



absent from duty without lawful authority, or, having left or failed to attend at his place of duty in the Singapore Armed Forces, thereafter forms the like intention; or

- (b) absents himself without leave with intent to avoid service or any particular service before the enemy,

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

### **Failure to report deserters and absentees**

**24.** Every person subject to military law who, knowing that any other person has committed an offence under section 22 or 23 —

- (a) fails to report the fact without delay; or  
(b) fails to take any steps within his power to cause that person to be apprehended,

shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 2 years or any less punishment authorised by this Act.

### **Conduct to prejudice of good order or discipline**

**25.** Every person subject to military law who is guilty of any act, conduct or neglect to the prejudice of good order or discipline shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 12 months or any less punishment authorised by this Act.

### **Cruel, indecent or disgraceful conduct**

**26.** Every person subject to military law who behaves in a cruel, indecent or disgraceful manner or in a manner unbecoming a member of the Singapore Armed Forces shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 2 years or any less punishment authorised by this Act.

### **Non-prevention of offences**

**27.** Every person subject to military law who knows that another person is planning or attempting to commit an offence under

section 11, 12, 15, 22 or 23 and fails to take reasonable steps to suppress or prevent its commission shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 2 years or any less punishment authorised by this Act.

### **Ill-treatment**

**28.** Every person subject to military law who ill-treats a serviceman of lower rank or less seniority or any person in custody or subject to his authority shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 3 years or any less punishment authorised by this Act.

### **Abuse of authority**

**29.** Every person subject to military law who knowingly exceeds his authority over a serviceman of lower rank or less seniority shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 2 years or any less punishment authorised by this Act.

### **Personation and excess of authority**

**30.—(1)** Every person subject to military law who without authority holds himself out to have a rank, status, appointment or assignment in the Singapore Armed Forces or who wears any military dress, insignia or badge whether of rank or otherwise which he is not authorised to wear shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 12 months or any less punishment authorised by this Act.

(2) Every person subject to military law who without authority does any act while holding himself out to have authority to do so shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 2 years or any less punishment authorised by this Act.

### **Creating despondency or alarm**

**31.**—(1) Every person subject to military law who creates, or is likely to create, despondency or alarm in the Singapore Armed Forces by —

- (a) printing, publishing, selling, offering for sale, distributing or reproducing any publication;
- (b) uttering any words; or
- (c) behaviour,

shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 3 years or any less punishment authorised by this Act.

(2) Every person subject to military law who prepares, publishes or disseminates publications, or utters any words likely to be detrimental to the Singapore Armed Forces shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 2 years or any less punishment authorised by this Act.

(3) Every person subject to military law who unlawfully keeps in his possession any publication likely to create despondency or alarm, or likely to be detrimental to the Singapore Armed Forces, shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 12 months or any less punishment authorised by this Act.

### **Malingering**

**32.** Every person subject to military law who —

- (a) falsely pretends to be suffering from any sickness;
- (b) injures himself or any other person subject to military law with intent thereby to render himself or that other person unfit for service, or causes himself to be injured by any person with that intent; or
- (c) does any act or fails to do anything to produce, prolong or aggravate any sickness with intent to render or keep himself unfit for duty or service,

shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 12 months or any less punishment authorised by this Act.

### **Intoxication**

**33.** Every person subject to military law who whether on duty or not is intoxicated by alcohol shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 6 months or any less punishment authorised by this Act.

### **Possession, etc., of drugs**

**34.** Every person subject to military law who has in his possession, smokes, administers to himself or otherwise consumes any dangerous, prohibited or controlled drug as defined in any written law relating to the misuse or control of drugs shall, unless authorised by such law in that regard, be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding 5 years or any less punishment authorised by this Act.

### **Abandonment of aircraft or vessel**

**35.** Every person subject to military law who without authority abandons any arms, aircraft, vessel or vehicle of the Singapore Armed Forces when it is threatened with loss shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 7 years or any less punishment authorised by this Act.

### **Causing or allowing any ship, vessel or aircraft to be lost or hazarded**

**36.** Every person subject to military law who, either wilfully or by negligence —

- (a) causes or allows to be lost, stranded or hazarded any ship or vessel of the Singapore Armed Forces; or
- (b) causes or allows to be lost or hazarded any aircraft of the Singapore Armed Forces,

shall be guilty of an offence and shall be liable on conviction, if he acts wilfully or with wilful neglect, to imprisonment for a term not exceeding 7 years or any less punishment authorised by this Act, and in any other case to imprisonment for a term not exceeding 3 years or any less punishment authorised by this Act.

### **Offences by commanding officer in relation to ship, vessel or aircraft taken as prize**

**37.** Every person subject to military law who, being in command of any ship, vessel or aircraft of the Singapore Armed Forces —

- (a) having taken any ship, vessel or aircraft as prize, fails to send to the High Court, or to some other prize court having jurisdiction in the case, all the ship's papers or aircraft's papers, as the case may be, found on board;
- (b) unlawfully makes any arrangement for the ransoming of any ship, vessel, aircraft or goods taken as prize; or
- (c) in pursuance of any arrangement as mentioned in paragraph (b) or otherwise by collusion, restores or abandons any ship, vessel, aircraft or goods taken as prize,

shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding 3 years or any less punishment authorised by this Act.

### **Further offences in relation to ship, vessel or aircraft taken as prize**

**38.** Every person subject to military law who —

- (a) strikes, or otherwise ill-treats, any person who is on board a ship, vessel or aircraft when taken as prize, or unlawfully takes from any such person anything in his possession;
- (b) removes out of any ship, vessel or aircraft taken as prize (otherwise than for safe keeping or for the necessary use and service of the Singapore Armed Forces) any goods not previously adjudged by a prize court to be lawful prize; or
- (c) breaks bulk on board any ship, vessel or aircraft taken as prize, or detained in exercise of any belligerent right or

under any enactment, with intent to embezzle or fraudulently misapply anything therein,

shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding 3 years or any less punishment authorised by this Act.

### **Offences by officer, etc., serving in ship involved in conveying and protection of vessel**

**39.** Every officer, warrant officer or military expert of or above the rank of ME3 who while serving in a ship of the Singapore Armed Forces involved in the conveying and protection of a vessel —

- (a) fails to defend a vessel or goods in his convoy;
- (b) refuses to fight in the defence of a vessel in his convoy when it is attacked; or
- (c) cowardly abandons or exposes a vessel in his convoy to hazards,

shall be guilty of an offence and shall be liable on conviction by a subordinate military court to suffer death or any less punishment authorised by this Act.

[1/94]

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### **Disobeying lawful command of captain of ship**

**40.—(1)** Every person who, when in a ship, disobeys any lawful command given by the captain of the ship in relation to the navigation or handling of the ship or affecting the safety of the ship, shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for life or any less punishment authorised by this Act.

(2) For the purposes of this section, every person whatever his rank shall, when he is in a ship, be under the command, as respects all matters relating to the navigation or handling of the ship or affecting the safety of the ship, of the captain of the ship.

**Endangering life or property**

**41.** Every person subject to military law who does an act in relation to any thing or substance that may be dangerous to life or property, which act causes, or is likely to cause, loss of life or bodily injury to any person or causes, or is likely to cause, damage to or destruction of any property shall —

- (a) if he acted wilfully, be guilty of an offence and be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 5 years or any less punishment authorised by this Act; and
- (b) if he acted negligently, be guilty of an offence and be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 3 years or any less punishment authorised by this Act.

**Damage to, and loss of, Singapore Armed Forces property, etc.**

**42.—(1)** Every person subject to military law who —

- (a) wilfully damages or destroys or causes the loss of, or is concerned in the wilful damage, destruction or loss of, any Singapore Armed Forces property, or any property belonging to a person subject to military law; or
- (b) by wilful neglect causes or allows damage to, or the loss of, any Singapore Armed Forces property or property so belonging,

shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 3 years or any less punishment authorised by this Act.

**(2)** Every person subject to military law who —

- (a) by any negligent act or omission causes or allows damage to, or the loss of, any Singapore Armed Forces property; or
- (b) is guilty of any wilful or negligent act or omission which is likely to cause damage to, or the loss of, any such property,

shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 2 years or any less punishment authorised by this Act.

(3) Where such property consists of arms, or is an aircraft, a vessel or a vehicle, such person shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 3 years or any less punishment authorised by this Act.

### **Dishonest misappropriation of Singapore Armed Forces property**

**43.** Every person subject to military law who —

- (a) steals or dishonestly misappropriates any Singapore Armed Forces property or any property belonging to a person subject to military law or is concerned in the stealing or dishonest misappropriation of any such property; or
- (b) receives any property belonging to the Singapore Armed Forces or to a person subject to military law knowing it to have been stolen or to have been dishonestly misappropriated,

shall be guilty of an offence and shall be liable on conviction by a subordinate military court where the property stolen or dishonestly misappropriated consists of an aircraft, a vessel, or arms, to imprisonment for a term not exceeding 7 years and in any other case to imprisonment for a term not exceeding 3 years or any less punishment authorised by this Act.

### **Misapplication and waste of Singapore Armed Forces property**

**44.** Every person subject to military law who misapplies or wastefully expends any Singapore Armed Forces property shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 2 years or any less punishment authorised by this Act.



**Unlawful arrest**

**45.** Every person subject to military law who —

- (a) unlawfully places or holds a person in custody; or
- (b) does not comply with the provisions of this Act or of any regulations governing the placing or holding of a person in custody,

shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 2 years or any less punishment authorised by this Act.

**Resistance to arrest**

**46.** Every person subject to military law who refuses to obey or strikes or otherwise uses violence to or offers violence to any person whose lawful duty it is to arrest him or to place him in custody, or in whose custody he is, shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 3 years or any less punishment authorised by this Act.

**Escape and permitting escape and unlawful release from custody**

**47.—(1)** Every person subject to military law who escapes from lawful custody shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 3 years or any less punishment authorised by this Act.

(2) Every person subject to military law who wilfully or negligently or without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to guard shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 2 years or any less punishment authorised by this Act.

(3) Every person subject to military law who without proper authority releases any person who is committed to his charge shall be guilty of an offence and shall be liable on conviction by a subordinate

military court to imprisonment for a term not exceeding 2 years or any less punishment authorised by this Act.

## **Contempt**

**48.**—(1) Every person subject to military law who —

- (a) fails to comply with a summons or order to attend as a witness at the Military Court of Appeal, a subordinate military court, disciplinary trial or board of inquiry;
- (b) refuses to take an oath or make an affirmation when required by a subordinate military court, disciplinary officer or a board of inquiry to do so;
- (c) refuses to produce any document or material in his custody or control which a subordinate military court, a disciplinary officer, a board of inquiry or an investigating officer lawfully requires him to produce;
- (d) as a witness refuses to answer any question which a subordinate military court, a disciplinary officer or a board of inquiry lawfully requires him to answer;
- (e) wilfully insults a subordinate military court, a disciplinary officer or a board of inquiry or any person whose duty it is to attend before them; or
- (f) wilfully interrupts, obstructs or disturbs the proceedings of a subordinate military court, a disciplinary officer or a board of inquiry,

shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 2 years or any less punishment authorised by this Act.

(2) Where an offence under subsection (1) is committed in relation to a subordinate military court and the court is of the opinion that it is expedient that the offender should be dealt with summarily by the court instead of being brought to trial under this Act, the court may, after giving the offender an opportunity to be heard, order him to be imprisoned for a term not exceeding 21 days or to be fined a sum not exceeding \$50.

**False evidence**

**49.** Every person subject to military law who having been lawfully sworn as a witness or as an interpreter in proceedings before a subordinate military court, a disciplinary officer, a committee of inquiry appointed under section 8C or a board of inquiry, makes a statement material in those proceedings which he knows to be false or does not believe to be true shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 2 years or any less punishment authorised by this Act.

[1/91]

**Falsification of documents**

**50.** Every person subject to military law who —

- (a) makes, signs, or makes an entry in any report, return, pay list or certificate or other official document, being a document or entry which is to his knowledge false in a material particular;
- (b) alters any report, return, pay list or certificate or other official document, or alters any entry in such a document, so that the document or entry is to his knowledge false in a material particular, or suppresses, defaces, destroys or makes away with any such document or entry which it is his duty to preserve or produce; or
- (c) with intent to deceive, fails to make an entry or fails to reveal any material fact in any such document,

shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 2 years or any less punishment authorised by this Act.

**Refusing medical or dental examination and treatment**

**51.** Every person subject to military law who, without reasonable excuse, does not submit to —

- (a) a medical or dental examination or test;
- (b) inoculation, vaccination or immunisation; or

(c) medical or dental treatment,

shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 6 months or any less punishment authorised by this Act.

### **Obstructing investigation**

**52.** Every person subject to military law who does not comply with a request of an investigating officer to submit to the taking of his photograph or fingerprints shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 6 months or any less punishment authorised by this Act.

### **Inaccurate certification**

**53.—(1)** Every person subject to military law who issues or signs, without having ensured its accuracy —

- (a) a certificate relating to any matter affecting the sea-going or fighting efficiency of any vessel of the Singapore Armed Forces; or
- (b) any certificate relating to any aircraft or aircraft material of the Singapore Armed Forces,

shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 2 years or any less punishment authorised by this Act.

(2) In subsection (1), “aircraft material” includes —

- (a) parts of, and components of or accessories for, aircraft, whether for the time being in aircraft or not;
- (b) engines, armaments, ammunition and bombs and other missiles of any description in, or for use, in aircraft;
- (c) any other gear, apparatus or instrument in, or for use in, aircraft;
- (d) any apparatus used in connection with the taking off or landing of aircraft or for detecting the movement of aircraft; and

- (e) any fuel used for the propulsion of aircraft and any material used as lubricant for aircraft or aircraft material.

### **Dangerous flying, etc.**

**54.**—(1) Every person subject to military law who is guilty of any act or neglect in flying, or in the use of any aircraft, or in relation to any aircraft or aircraft material, which causes or is likely to cause loss of life or bodily injury to any person shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 4 years or any less punishment authorised by this Act.

(2) If the offender has not acted wilfully or with wilful neglect he shall not be liable to be imprisoned for a term exceeding 2 years.

### **Low flying**

**55.**—(1) Every person subject to military law who, being the pilot of an aircraft, flies it at a height less than such height as may be provided in general orders shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 2 years or any less punishment authorised by this Act.

(2) Where a pilot flies an aircraft in contravention of this section on the orders of some other person who is in command of the aircraft, that other person shall be treated for the purposes of this section as having been the pilot of, and flying, the aircraft at the material time.

### **Annoyance by flying**

**56.**—(1) Every person subject to military law who, being the pilot of an aircraft, flies it so as to cause, or to be likely to cause, unnecessary annoyance to any person shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 2 years or any less punishment authorised by this Act.

(2) Where a pilot flies an aircraft in contravention of this section on the orders of some other person who is in command of the aircraft,

that other person shall be treated for the purposes of this section as having been the pilot of, and flying, the aircraft at the material time.

### **Irregular arrest and confinement**

**57.** Every person subject to military law who, when another person subject thereto is under arrest —

- (a) unnecessarily delays the taking of such steps as it is his duty to take for investigating the allegations against that other person or for having the allegations against that other person investigated pursuant to this Act or, as the case may be, tried by a subordinate military court;
- (b) fails to release, or effect the release of, that other person when it is his duty to do so; or
- (c) being a disciplinary officer unnecessarily delays dealing with a charge against an accused person under Part IV,

shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 2 years or any less punishment authorised by this Act.

### **Abetments and attempts**

**58.** Every person subject to military law who aids, abets, counsels or procures the commission of a military offence or who attempts to commit a military offence under this Act shall be guilty of an offence and shall be liable on conviction by a subordinate military court to suffer the same punishment as for the offence except that if the military offence is punishable by death he shall not be liable to any greater punishment than imprisonment.

### **Justification, excuse and defence**

**59.** All rules and principles from time to time followed in the civil courts that would render any circumstances a justification or an excuse or a defence to any charge shall be applicable to any charge under this Act, except in so far as such rules and principles are altered by or are inconsistent with this Act or any regulations made thereunder.

## PART IV

## SUMMARY TRIAL BY DISCIPLINARY OFFICERS

**Interpretation of this Part**

**60.** In this Part, unless the context otherwise requires —

“detachment” means a part of a unit so separated from the unit to which it belongs that the senior disciplinary officer of that unit cannot effectively exercise his disciplinary powers over it;

“formation” means a brigade or its equivalent in the navy and air force or any equivalent body of servicemen;

“junior disciplinary officer” means, except where otherwise expressly provided, any officer, warrant officer or military expert of or above the rank of ME3 —

(a) who is in command of a squadron, battery or company or an equivalent sub-unit; or

(b) in whom a senior disciplinary officer has vested the powers of a junior disciplinary officer for the purposes of discipline;

*[28/2009 wef 01/04/2010]*

“reversion in rank” means reverting a soldier from a temporary rank to the next substantive rank;

“Senior Disciplinary Committee” means a Senior Disciplinary Committee appointed under section 72;

“senior disciplinary officer” means —

(a) any officer, warrant officer or senior military expert who is —

(i) in command of a base or unit; or

(ii) designated by the Armed Forces Council as a senior disciplinary officer for the purposes of discipline; or

(b) a commander of a detachment;

*[28/2009 wef 01/04/2010]*

“superior commander” means any officer or senior military expert who is —

- (a) in command of a command or formation; or
  - (b) designated by the Armed Forces Council as a superior commander for the purposes of discipline;
- [28/2009 wef 01/04/2010]*

“unit” means a battalion or its equivalent in the navy and air force or any equivalent body of servicemen.

*[1/91; 1/94]*

### **Summary disposal of charges for offences not specified in Schedule**

**61.**—(1) No charge made against any person subject to military law in respect of any offence that is not specified in the Schedule shall be dealt with summarily under the provisions of this Part.

(2) The Armed Forces Council may by order amend or vary the Schedule.

### **Charges and jurisdiction**

**62.**—(1) Before an allegation against any person subject to military law (referred to in this Act as the accused) that he has committed an offence under this Act is further proceeded with, the allegation shall be reported in the form of a charge to a disciplinary officer and dealt with in accordance with the provisions of this Part.

(2) If the accused is an officer of the rank of colonel, or a senior military expert of the rank of ME7, the charge shall, within such time as may be specified in any regulations made under this Act, be brought before the Chief of Defence Force.

*[1/94; 10/2000]*

*[28/2009 wef 01/04/2010]*

(2A) If the accused is an officer of the rank of lieutenant-colonel or senior lieutenant-colonel, or a senior military expert of the rank of ME6, the charge shall, within such time as may be specified in any regulations made under this Act, be brought before any Service Chief.

*[10/2000]*

*[28/2009 wef 01/04/2010]*



(3) If the accused is an officer below the rank of lieutenant-colonel, or a senior military expert below the rank of ME6, the charge shall, within such time as may be specified in any regulations made under this Act, be brought before a superior commander at least 2 ranks above him.

*[28/2009 wef 01/04/2010]*

(4) If the accused is a warrant officer or a military expert of the rank of ME3, the charge shall within such time as may be specified in any regulations made under this Act be brought before a superior commander.

*[28/2009 wef 01/04/2010]*

(5) If the accused is a soldier below the rank of warrant officer or ME3, the charge shall, within such time as may be specified in any regulations made under this Act, be brought before a junior disciplinary officer.

*[28/2009 wef 01/04/2010]*

(6) A disciplinary officer other than a Service Chief or the Chief of Defence Force may try an accused only when —

- (a) the accused and the disciplinary officer belong to the same detachment, unit, formation or command; or
- (b) the Armed Forces Council has vested him with the powers of a senior disciplinary officer or a superior commander or a senior disciplinary officer has vested him with the powers of a junior disciplinary officer in respect of the accused.

*[1/94; 10/2000]*

### **Powers of junior disciplinary officer when dealing with charge**

**63.** A junior disciplinary officer when dealing with a charge may —

- (a) dismiss the charge if he is of the opinion that it ought not to be proceeded with;
- (b) try the accused summarily; or
- (c) if he is of the opinion that the charge should not be dealt with by him —
  - (i) refer the charge to a senior disciplinary officer for summary trial; or

- (ii) refer the charge to a senior disciplinary officer recommending that the accused be tried by a subordinate military court.

### **Powers of senior disciplinary officer when dealing with charge**

**64.**—(1) A senior disciplinary officer when dealing with a charge may —

- (a) dismiss the charge if he is of the opinion that it ought not to be proceeded with;
- (b) try the accused summarily; or
- (c) if he is of the opinion that the charge should not be dealt with by him refer it to a superior commander recommending that the accused be tried by a subordinate military court.

(2) On receipt of a charge under subsection (1), the superior commander shall either —

- (a) direct that the charge be tried by the senior disciplinary officer who referred the charge or by any other senior disciplinary officer; or
- (b) refer the charge to the Director, Legal Services of the Singapore Armed Forces.

### **Powers of superior commander when dealing with charge**

**65.** A superior commander when dealing with a charge other than a charge referred to him under section 64(1) may —

- (a) dismiss the charge if he is of the opinion that it ought not to be proceeded with;
- (b) try the accused summarily;
- (c) if he is of the opinion that the charge should not be dealt with by him, refer the charge to the Director, Legal Services of the Singapore Armed Forces.

**Powers of Service Chief when dealing with charge**

**65A.**—(1) A Service Chief when dealing with a charge brought before him under section 62(2A) may —

- (a) dismiss the charge if he is of the opinion that it ought not to be proceeded with;
- (b) try the accused summarily; or
- (c) if he is of the opinion that the charge should not be dealt with by him, refer the charge to the Director, Legal Services of the Singapore Armed Forces.

[10/2000]

(2) A Service Chief shall try the accused summarily where a charge is referred to him under section 67(b)(ii) or 75(4)(a)(i).

[10/2000]

**Powers of Chief of Defence Force when dealing with charge**

**65B.**—(1) The Chief of Defence Force when dealing with a charge brought before him under section 62(2) may —

- (a) dismiss the charge if he is of the opinion that it ought not to be proceeded with;
- (b) try the accused summarily; or
- (c) if he is of the opinion that the charge should not be dealt with by him, refer the charge to the Director, Legal Services of the Singapore Armed Forces.

[10/2000]

(2) The Chief of Defence Force shall try the accused summarily where a charge is referred to him under section 67(b)(iii) or 75(4)(a)(i) or (ii).

[10/2000]

**Restrictions on power to dismiss charge**

**66.**—(1) A disciplinary officer shall not dismiss a charge unless he is satisfied —

- (a) that the charge is groundless; or
- (b) that there are special circumstances which justify its dismissal.

(2) A disciplinary officer shall record the reasons for the dismissal of a charge.

### **Remission of case for trial or otherwise**

**67.** Where a superior commander, a Service Chief or the Chief of Defence Force has referred a charge to the Director, Legal Services of the Singapore Armed Forces, that person may —

(a) direct that the charge be tried by a subordinate military court;

*[17/2004 wef 31/12/2004]*

(b) with the approval of the Armed Forces Council, direct that the charge be tried by —

(i) in the case of a charge referred to him by a superior commander, the superior commander, the senior disciplinary officer or any other superior commander or senior disciplinary officer;

(ii) in the case of a charge referred to him by a Service Chief, the Service Chief, any other Service Chief or the Chief of Defence Force; and

(iii) in the case of a charge referred to him by the Chief of Defence Force, the Chief of Defence Force; or

(c) with the approval of the Armed Forces Council, direct that no action be taken against the accused either by way of summary trial or by a subordinate military court.

*[1/94; 10/2000]*

### **Powers of punishment of junior disciplinary officer**

**68.** A junior disciplinary officer may, upon conviction of an accused below the rank of warrant officer or ME3, impose any one of the following punishments:

(a) in the case of servicemen holding trainee ranks which are equivalent to the rank of private, privates and recruits detention for a period not exceeding 10 days;

- (b) a fine not exceeding —
- (i) in the case of soldiers above the rank of third sergeant (including military experts), a sum of \$1,000; and
  - (ii) in the case of soldiers of the rank of third sergeant and below, a sum not exceeding \$300;
- (c) reprimand; or
- (d) such minor punishment as he is for the time being authorised by regulations made under this Act to award.
- [1/91; 1/94]*  
*[6/2006 wef 21/02/2006]*  
*[28/2009 wef 01/04/2010]*

### **Powers of punishment of senior disciplinary officer**

**69.**—(1) A senior disciplinary officer may, upon conviction of an accused below the rank of warrant officer or ME3, impose any one of the following punishments:

- (a) detention for a period not exceeding 40 days;
  - (b) reduction in rank;
  - (c) reversion in rank;
  - (d) a fine not exceeding —
    - (i) in the case of soldiers above the rank of third sergeant (including military experts), a sum of \$1,500; and
    - (ii) in the case of soldiers of the rank of third sergeant and below, a sum not exceeding \$500;
  - (e) reprimand; or
  - (f) such minor punishment as he is for the time being authorised by regulations made under this Act to award.
- [1/91; 1/94]*  
*[6/2006 wef 21/02/2006]*  
*[28/2009 wef 01/04/2010]*

(2) In addition to or in lieu of any other punishment, the senior disciplinary officer may order that the accused shall suffer any deduction from his ordinary pay authorised by this Act.

### **Powers of punishment of superior commander**

**70.**—(1) A superior commander may upon conviction of an accused who is an officer below the rank of lieutenant-colonel, a warrant officer or a military expert of the rank of ME3, ME4 or ME5 impose any one of the following punishments:

- (a) forfeiture of seniority of rank and forfeiture of all or any part of his service for purposes of promotion;
- (b) a fine not exceeding —
  - (i) in the case of officers who are of the rank of captain or major, or senior military experts who are of the rank of ME4 or ME5, a sum of \$3,000; and
  - (ii) in the case of officers below the rank of captain, warrant officers and military experts of the rank of ME3, a sum of \$2,000; or
- (c) reprimand.

*[1/91; 1/94]*

*[6/2006 wef 21/02/2006]*

*[28/2009 wef 01/04/2010]*

(2) In addition to or in lieu of any other punishment, the superior commander may order that the accused shall suffer any deduction from his ordinary pay authorised by this Act.

### **Powers of punishment of Service Chief**

**70A.**—(1) A Service Chief may, upon the conviction of an accused of the rank of lieutenant-colonel, senior lieutenant-colonel or ME6, impose any one or all of the following punishments:

- (a) forfeiture of seniority of rank and forfeiture of all or any part of service for the purposes of promotion;
- (b) a fine not exceeding a sum of \$6,000; or

(c) reprimand.

[10/2000]

[6/2006 wef 21/02/2006]

[28/2009 wef 01/04/2010]

(2) In addition to or in lieu of any other punishment, a Service Chief may order that the accused shall suffer any deduction from his ordinary pay authorised by this Act.

[10/2000]

### **Powers of punishment of Chief of Defence Force**

**70B.**—(1) The Chief of Defence Force may, upon the conviction of an accused of the rank of lieutenant-colonel, senior lieutenant-colonel, colonel, ME6 or ME7, impose any one or all of the following punishments:

- (a) forfeiture of seniority of rank and forfeiture of all or any part of service for the purposes of promotion;
- (b) a fine not exceeding a sum of \$6,000; or
- (c) reprimand.

[10/2000]

[6/2006 wef 21/02/2006]

[28/2009 wef 01/04/2010]

(2) In addition to or in lieu of any other punishment, the Chief of Defence Force may order that the accused shall suffer any deduction from his ordinary pay authorised by this Act.

[10/2000]

### **Detention in default of fine**

**71.**—(1) A disciplinary officer, if he is empowered under this Act to impose detention as a punishment, may direct that in default of the payment of any fine imposed by him on any offender, the offender shall, subject to subsection (2), undergo detention for such period as the disciplinary officer may determine.

[20/75]

(2) The period of detention which a disciplinary officer may direct under subsection (1) shall be as follows:

- (a) if the fine does not exceed \$300, detention for a period not exceeding 10 days;
- (b) if the fine exceeds \$300 but does not exceed \$1,000, detention for a period not exceeding 20 days; and
- (c) in any other case, detention for a period not exceeding 40 days,

and such detention shall take effect from such date as the disciplinary officer may direct and shall terminate whenever the fine is paid.

[1/91]

[6/2006 wef 21/02/2006]

### **Power of Senior Disciplinary Committee**

**72.—**(1) A charge against an officer of or above the rank of brigadier-general or rear admiral (one-star), or a senior military expert of the rank of ME8, may be dealt with summarily by a Senior Disciplinary Committee appointed by the Chairman of the Armed Forces Council for that purpose.

[1/94; 10/2000]

[28/2009 wef 01/04/2010]

(2) Notwithstanding subsection (1), a Senior Disciplinary Committee shall have the power to deal with a charge against an officer of the rank of colonel, or a senior military expert of the rank of ME7, in any case referred to it by the Armed Forces Council under section 75(4)(a)(ii).

[1/94; 10/2000]

[28/2009 wef 01/04/2010]

(3) The Senior Disciplinary Committee shall consist of not less than 3 members of the Armed Forces Council or any other uneven number, the majority of whom shall be members of the Singapore Armed Forces.

[1/94]

(4) The members of the Senior Disciplinary Committee shall be equivalent or superior in rank to the accused or shall each be holding an appointment equivalent or superior to that held by the accused.

[28/2009 wef 01/04/2010]



(4A) The seniority of such appointments shall be determined by the Chairman of the Armed Forces Council.

[1/94]

(5) The Senior Disciplinary Committee may —

- (a) dismiss the charge if it is of the opinion that the charge ought not to be proceeded with; or
- (b) deal with the case summarily and upon conviction of the accused, impose any one or all of the following punishments:
  - (i) forfeiture of seniority of rank and forfeiture of all or any part of service for purposes of promotion;
  - (ii) a fine not exceeding a sum of \$10,000; or
  - (iii) reprimand.

[1/94]

[6/2006 wef 21/02/2006]

(6) In addition to or in lieu of any other punishment, the Senior Disciplinary Committee may order that the accused shall suffer any deduction from his ordinary pay authorised by this Act.

[1/94]

(7) Where the Senior Disciplinary Committee considers under this section that the accused should be tried by a subordinate military court, the Committee shall refer the charge to the Director, Legal Services of the Singapore Armed Forces.

[1/94]

(8) Where the Senior Disciplinary Committee has proceeded to deal with a case summarily under this section and is satisfied on the evidence as to the guilt of the accused, the Committee shall, before proceeding to conviction and punishment other than a reprimand, afford the accused an opportunity of electing to be tried by a subordinate military court.

(9) If the accused so elects, the Committee shall refer the charge to the Director, Legal Services of the Singapore Armed Forces who shall direct that the charge be tried by a subordinate military court.

[17/2004 wef 31/12/2004]

(10) Every decision of the Senior Disciplinary Committee shall be in accordance with the opinion of the majority of the members dealing with the case.

[1/94]

### **Compensation**

**73.—**(1) Where an accused is convicted by a disciplinary officer or a Senior Disciplinary Committee, the disciplinary officer or Senior Disciplinary Committee may, in addition to any other punishment but subject to subsection (2), order the accused to pay compensation to the party who suffered damage or loss by reason of the offence.

[1/94]

(2) The amount of compensation that may be ordered by a junior disciplinary officer shall not exceed a sum of \$50 and the amount of compensation ordered by a senior disciplinary officer, a superior commander, a Service Chief, the Chief of Defence Force or a Senior Disciplinary Committee shall not exceed a sum of \$100.

[1/94; 10/2000]

### **Recovery of compensation**

**74.** An order for payment of compensation made under section 73 shall not prejudice any right to any civil remedy for the recovery of damages beyond the amount of compensation paid under the order.

### **Power to quash finding of disciplinary officer**

**75.—**(1) The Armed Forces Council may, upon the advice of the Director, Legal Services of the Singapore Armed Forces —

- (a) quash any finding, sentence, order of dismissal of a charge or award of compensation of a disciplinary officer;
- (b) substitute any new finding for any finding of guilty made by a disciplinary officer that is illegal or cannot be supported by the evidence if the new finding could validly have been made by the disciplinary officer on the charge and if it appears that the disciplinary officer was satisfied of the facts establishing the offence specified or involved in the new finding;

(c) substitute another punishment or a lesser punishment where the sentence of a disciplinary officer is invalid or unduly excessive but so that the punishment substituted shall not in any event be greater or more severe than that awarded by the disciplinary officer.

(2) Any substituted finding or sentence under subsection (1) shall be treated for all purposes as a finding or sentence of the disciplinary officer.

(3) In the case where servicemen are serving outside Singapore, the powers under subsection (1) shall be exercised —

(a) in relation to any finding, sentence, order of dismissal of a charge or award of compensation of a Service Chief or the Chief of Defence Force, by the Armed Forces Council, except that where the person for the time being holding the appointment of a Service Chief or the Chief of Defence Force is the person who made the finding, sentence, order or award, he shall not sit as a member of the Armed Forces Council for the purposes of this paragraph; and

(b) in any other case, by an officer or a senior military expert appointed by the Armed Forces Council.

[1/94; 10/2000]

[28/2009 wef 01/04/2010]

(4) Where the Armed Forces Council has in any case quashed the finding, sentence, order of dismissal of a charge or award of compensation of a disciplinary officer under subsection (1)(a), the Council may —

(a) refer the case to be retried —

(i) where the disciplinary officer is a Service Chief, by the Service Chief or, if the Council is of the opinion that the case should not be retried by the Service Chief, any other Service Chief or the Chief of Defence Force;

(ii) where the disciplinary officer is the Chief of Defence Force, by the Chief of Defence Force or, if the Council is of the opinion that the case should not be

retried by the Chief of Defence Force, by a Senior Disciplinary Committee; and

(iii) in any other case, by the same or another disciplinary officer; or

(b) if the Council is of the opinion that the case should be retried by a subordinate military court, refer the charge to the Director, Legal Services of the Singapore Armed Forces.

[1/94; 10/2000]

(5) The Armed Forces Council may at any time suspend the execution of any sentence passed by a disciplinary officer for such period as the Council thinks fit.

[20/75]

### **Inapplicability of law of evidence**

76. A disciplinary officer or a Senior Disciplinary Committee shall not be bound by the laws of evidence and shall act in such manner as seems to him or it most expedient for the disposal of the charge.

[1/94]

### **Right of accused to elect for trial by subordinate military court**

77.—(1) Notwithstanding the provisions of this Part but subject to this section, a disciplinary officer who has proceeded to deal with a case summarily and is satisfied on the evidence as to the accused's guilt shall, before proceeding to conviction and punishment, other than a reprimand or minor punishment, afford the accused an opportunity of electing to be tried by a subordinate military court.

(2) If the accused so elects, the disciplinary officer shall forward the charge-sheet, record of the evidence and such other particulars as may be prescribed to the Director, Legal Services of the Singapore Armed Forces who may —

(a) direct that the charge be tried by a subordinate military court; or

[17/2004 wef 31/12/2004]

(b) with the approval of the Armed Forces Council, direct that no action be taken against the accused either by way of summary trial or by a subordinate military court.

(3) Where under subsection (1) the disciplinary officer considers that in the circumstances of the case a proper punishment for the offence would be a reprimand or a minor punishment, he may proceed to the conviction of the accused without giving him an opportunity of electing to be tried by a subordinate military court.

### **Time limits for summary trial**

**78.**—(1) Subject to subsection (2), no person shall be tried by a disciplinary officer —

- (a) if he has been released or discharged within 6 months after the commission of the offence, after the expiry of 3 years from the date of the commission of the offence;
- (b) if he is an operationally ready national serviceman at the time of the commission of the offence, after the expiry of 3 years from that time;
- (c) in any other case, after the expiry of 6 months from the date of the commission of the offence.

*[1/91; 20/94]*

(2) Notwithstanding subsection (1), the Armed Forces Council or any officer, senior military expert or person authorised by the Council may by order in writing direct a person to be tried after the expiry of the period of 6 months or 3 years referred to in subsection (1) where the circumstances of the case warrant such a summary trial.

*[28/2009 wef 01/04/2010]*

(3) No person shall be tried after the expiry of any time limit specified in section 111 for the trial of any offence referred to in that section.

*[1/91]*

### **Record of proceedings**

**79.** Every disciplinary officer shall keep a record of proceedings conducted by him under this Part and upon the conclusion of the proceedings shall forward the record to the Director, Legal Services of the Singapore Armed Forces.

## PART V

## TRIAL BY SUBORDINATE MILITARY COURTS

**Subordinate military courts**

**80.** For the purposes of this Act, there shall be the following courts:

- (a) general courts martial; and
- (b) field general courts martial,

and in this Act when these courts are collectively referred to they are called subordinate military courts.

**General courts martial panel**

**80A.**—(1) For the purpose of enabling general courts martial to be constituted in accordance with this Part, the convening authority shall appoint a panel (referred to in this Act as the general courts martial panel) consisting of such number of officers, senior military experts and non-uniformed servicemen in officer grades as the convening authority shall determine.

*[28/2009 wef 01/04/2010]*

(2) A member of the general courts martial panel shall be appointed for such term as the convening authority may determine.

(3) The convening authority may at any time revoke the appointment of any member of the general courts martial panel.

*[17/2004 wef 31/12/2004]*

**Constitution and jurisdiction of general court martial**

**81.**—(1) The general courts martial shall consist of the following courts:

- (a) judge courts martial; and
- (b) panel courts martial.

(2) Every general court martial shall be constituted —

- (a) by the convening authority; and
- (b) subject to subsection (7), from the members of the general courts martial panel.

(3) A judge court martial shall consist of a president, who shall be a qualified person and, subject to subsection (6)(a), an officer of or above the rank of major or a senior military expert of or above the rank of ME5.

*[28/2009 wef 01/04/2010]*

(4) A panel court martial shall consist of the following members:

- (a) a president who, subject to subsections (6)(b) and (7), shall be an officer of or above the rank of major or a senior military expert of or above the rank of ME5; and
- (b) subject to subsections (5) and (6)(c), 2 or any greater even number of other members —
  - (i) each of whom shall be an officer or a senior military expert; and
  - (ii) at least one of whom shall be an officer of or above the rank of captain or a senior military expert.

*[28/2009 wef 01/04/2010]*

(5) Where a panel court martial is constituted for the trial of a non-uniformed serviceman, the members referred to in subsection (4)(b) may include, in place of the corresponding number of officers or senior military experts, not more than 2 non-uniformed servicemen in officer grades.

*[28/2009 wef 01/04/2010]*

(6) Where the accused is of or above the rank of lieutenant-colonel or ME6 —

- (a) the president of any judge court martial constituted for the trial of the accused shall be an officer, or a senior military expert, who is equivalent or superior in rank to the accused;
- (b) subject to subsection (7), the president of any panel court martial constituted for the trial of the accused shall be an officer, or a senior military expert, who is equivalent or superior in rank to the accused; and
- (c) if a panel court martial is constituted for the trial of the accused, at least 2 of the members under subsection (4)(b) shall be of or above the rank of lieutenant-colonel or ME6.

*[28/2009 wef 01/04/2010]*

- (7) Where the accused is charged with —
- (a) murder or culpable homicide not amounting to murder;
  - (b) an offence under section 121 or 121A of the Penal Code (Cap. 224); or
  - (c) any other offence for which the punishment of death is authorised under any written law,

and the charge is to be tried by a general court martial, the accused shall be tried before a panel court martial and the president of the panel court martial shall be a Judge of the Supreme Court appointed by the Chief Justice.

(8) Where none of the members of a panel court martial is a qualified person, a judge advocate designated by the convening authority shall officiate in any trial before that court in accordance with regulations of procedure made under section 93.

(9) Subject to subsection (7), every general court martial shall have jurisdiction to try any person subject to military law for any offence under this Act and to award for any such offence any punishment authorised by this Act.

(10) Unless the Director, Legal Services of the Singapore Armed Forces directs otherwise, where a charge is to be tried by a general court martial, the charge shall be tried by a panel court martial.

(11) Subject to subsection (7), where, before the commencement of any trial before a general court martial —

- (a) the president or any member of the court dies; or
- (b) the convening authority ascertains that the president or any member of the court —
  - (i) is unable to attend; or
  - (ii) is not eligible to serve in that court,

the convening authority may designate another person from the general courts martial panel to fill the vacancy.

- (12) Subject to subsection (13), any question as to —
- (a) the guilt of the accused; or



(b) the sentence to be imposed on the accused, shall be decided by a panel court martial in accordance with the opinion of the majority of the members of that court.

(13) Where the accused is charged with any offence for which the punishment of death is authorised under any written law —

(a) the accused shall not be convicted of that offence unless the members of the panel court martial reach a unanimous decision that the accused is guilty of that offence; and

(b) if the members of that court fail to reach a unanimous decision, the accused may, if the members of that court by majority decision agree, be convicted of any lesser offence authorised by this Act.

(14) Where the convening authority has authorised the registrar for subordinate military courts or any other person to exercise the powers conferred and perform the duties imposed on the convening authority under subsection (2), (8) or (11), the registrar or person shall be entitled to exercise those powers and perform those duties.

*[17/2004 wef 31/12/2004]*

### **Judge Advocate-General, judge advocates and legal personnel**

**82.—**(1) The Armed Forces Council may appoint a suitable person to perform in respect of the Singapore Armed Forces the functions of a Judge Advocate-General and any reference under any written law to the Judge Advocate-General shall be deemed to be references to the person appointed under this subsection.

(2) The person appointed under subsection (1) shall be either an officer in the Singapore Legal Service of not less than 5 years service or an advocate and solicitor of the Supreme Court of not less than 5 years' standing.

*[28/2009 wef 01/04/2010]*

(3) Rules of procedure may make provision as to the functions to be exercised by the Judge Advocate-General and, in particular, his functions shall include advising the Armed Forces Council on the validity of the findings and sentences of subordinate military courts and on any other matters which may from time to time be referred to

him by the Armed Forces Council or the Director, Legal Services of the Singapore Armed Forces.

(4) The Armed Forces Council may appoint advocates and solicitors of the Supreme Court to officiate as judge advocates in subordinate military courts and rules of procedure made under this Act may provide for the exercise of their functions at a trial by such courts.

(5) The Armed Forces Council may appoint —

- (a) a qualified person to be responsible for legal matters in the Singapore Armed Forces who shall be called the Director, Legal Services of the Singapore Armed Forces;
- (b) military prosecutors who shall wherever practicable be qualified persons; and
- (c) a registrar for the Military Court of Appeal or for subordinate military courts.

[1/94]

(6) The Director, Legal Services of the Singapore Armed Forces shall by virtue of his appointment be the chief military prosecutor.

### **Field general courts martial**

**83.**—(1) Where an offence punishable under this Act has been committed by any person subject to military law who belongs to a unit or part of a unit of the Singapore Armed Forces which is, at the time of the commission of the offence, engaged on active service it shall be lawful for a commander (referred to in this Act as the convening officer), if it is not practicable for a general court martial to try the accused, to convene a field general court martial.

[17/2004 wef 31/12/2004]

(2) Every field general court martial may try any person subject to military law for any offence under this Act and may award for such offence any punishment that a general court martial is competent to award for such offence.

(3) Every field general court martial shall consist of 3 or any greater uneven number of members (each of whom shall be an officer or a

senior military expert), and the member who is most senior in rank shall preside.

*[28/2009 wef 01/04/2010]*

(4) The convening officer may preside over a field general court martial, but shall, whenever it is practicable, appoint as president of the field general court martial another person, who shall be —

- (a) an officer of or above the rank of captain; or
- (b) a senior military expert.

*[28/2009 wef 01/04/2010]*

(5) Whenever it is practicable, the rank of each member of the field general court martial shall be of a rank above that of the accused.

(6) The convening officer shall appoint any serviceman to perform the functions of a registrar of the court.

(7) The determination of any question before a field general court martial shall be according to the majority of the members of the court hearing the case.

(8) Where an accused is found guilty of a charge in respect of which punishment of death is authorised under this Act the decision of the field general court martial shall be unanimous.

(9) In the event of the field general court martial failing to reach a unanimous decision, an accused shall not be convicted of that offence in respect of which punishment of death is authorised by this Act but may, if the members of the court by majority decision agree, be convicted of any lesser offence authorised by this Act.

### **Ineligibility**

**84.** The following persons are not eligible to serve on a subordinate military court:

- (a) a relative of the accused;
- (b) any person who has had cognizance of the matter as a disciplinary officer;
- (c) any person who has taken part in the investigation of or inquiry into the alleged offence;
- (d) the complainant;

- (e) any person who is a witness to the alleged offence; and
- (f) a military prosecutor.

[17/2004 wef 31/12/2004]

### **Members of subordinate military courts may belong to same or different units**

**85.**—(1) The members of a panel court martial or field general court martial may belong to the same or different units, or may be unattached to any unit, and may try persons belonging to or attached to any unit.

(2) The president of a judge court martial may be unattached to any unit, and may try persons belonging to or attached to any unit.

[17/2004 wef 31/12/2004]

### **Record of proceedings**

**86.**—(1) The president of a subordinate military court or, if a judge advocate is present, the judge advocate shall keep a record of the proceedings of the trial.

(2) The president of a subordinate military court may, if a judge advocate is not present, notwithstanding subsection (1) during any proceedings of the court, appoint a person to keep on his behalf the record of the proceedings or may direct that the record shall be taken by a recording device or by some other mechanical device.

(3) The charge-sheet and the documents admitted by the court, and any other documents which the president of the subordinate military court may direct, shall be attached to the record of the proceedings and shall form part thereof.

(4) The president of a subordinate military court and, in the case of a panel court martial or a field general court martial, every member of the court who is so required by the president shall record the grounds for his decision in writing and such written judgment or grounds of decision shall form part of the record of the proceedings.

[17/2004 wef 31/12/2004]

(5) The president of a subordinate military court or, in the case of a panel court martial or a field general court martial, any member of the

court when he has recorded his judgment shall not alter or revise the same.

*[17/2004 wef 31/12/2004]*

(6) A clerical error may be rectified at any time and any other mistake may be rectified before the court rises for the day.

(7) The record of the proceedings shall be authenticated by the president of a subordinate military court.

(8) The record of the proceedings of a subordinate military court authenticated by the president of the court shall be conclusive evidence of any thing contained therein unless it is proved that it has been falsified.

(9) A record of the proceedings of a subordinate military court purporting to be signed by the president of the court shall be presumed to be so signed.

### **Oath and affirmation**

**87.**—(1) Subject to subsection (2), an oath or affirmation in the prescribed form shall be administered by the convening authority, or by any person appointed by the convening authority for this purpose, to each member of the general courts martial panel before the member assumes his office in a general court martial.

*[17/2004 wef 31/12/2004]*

(2) A Judge of the Supreme Court acting as president of a panel court martial shall take, in the presence of the Chief Justice, the oath or affirmation of allegiance in the prescribed form before he assumes his office in the panel court martial.

*[17/2004 wef 31/12/2004]*

(2A) In the case of a field general court martial, an oath or affirmation shall be administered —

(a) by the president to every other member; and

(b) to the president by any member already sworn,

in the presence of the accused, after the court has assembled but before the accused is arraigned.

*[17/2004 wef 31/12/2004]*

(2B) An oath or affirmation in the prescribed form shall be administered by the president of a subordinate military court to any judge advocate officiating in a trial before the court in the presence of the accused, after the court has assembled but before the accused is arraigned.

*[17/2004 wef 31/12/2004]*

(3) An oath or an affirmation in the prescribed form shall be administered by the president of a subordinate military court to every shorthand writer or interpreter (if any) in attendance at the trial.

(4) Every witness before a subordinate military court shall be examined on oath or affirmation, which the president of the court shall administer in the prescribed form.

### **Challenges by accused**

**88.**—(1) The accused or, where there is more than one accused, each of the accused about to be tried by a subordinate military court may object, for any reasonable cause, to —

- (a) the president of the court, except a president who is a Judge of the Supreme Court; and
- (b) in the case of a panel court martial or a field general court martial, any other member of the court,

whether appointed to serve on the court originally or to fill a vacancy, so that the court may be constituted by a president or of members to whom the accused makes no reasonable objection.

(2) In the case of a panel court martial or a field general court martial, every objection made by an accused to any member, including the president, shall be submitted to the other members appointed to form the court and —

- (a) if the majority of the members entitled to vote decide that there is reasonable cause for the objection, the court shall allow the objection and the member objected to shall retire; or
- (b) if the majority of the members entitled to vote decide that there is no reasonable cause for the objection, the court shall dismiss the objection and record the reasons for its

decision in the record of proceedings, and shall also furnish such reasons to the convening authority if required to do so.

(3) Any vacancy resulting from the retirement of a member under subsection (2)(a) may be filled by another member who shall be —

- (a) in the case of a panel court martial, a member of the general courts martial panel who is eligible for the appointment, and who is designated by the convening authority to fill the vacancy; or
- (b) in the case of a field general court martial, an officer or a senior military expert who is eligible for the appointment, and who is appointed by the convening officer to fill the vacancy,

subject to the same right of the accused to object.

*[28/2009 wef 01/04/2010]*

(4) In the case of a judge court martial, if an accused objects to the president, the president shall determine whether there is any reasonable cause for the objection, and —

- (a) if the president decides that there is reasonable cause for the objection —
  - (i) the president shall allow the objection and the court shall be dissolved; and
  - (ii) the convening authority shall designate another member of the general courts martial panel who is eligible for the appointment to be the president of another judge court martial convened to try the accused, subject to the same right of the accused to object; or
- (b) if the president decides that there is no reasonable cause for the objection, the president shall —
  - (i) dismiss the objection and record the reasons for his decision in the record of proceedings; and
  - (ii) furnish such reasons to the convening authority if required to do so.

(5) In order to enable an accused to avail himself of his privilege of objecting to the president of a judge court martial or the members of a panel court martial or field general court martial —

- (a) the name of each person constituting the court shall be read over in the hearing of the accused when the court first assembles and, in the case of a field general court martial, before the members of the court take their oaths or affirmations;
- (b) the accused shall be asked whether he objects to that person; and
- (c) a like question shall be repeated in respect of any person who —
  - (i) is designated or appointed to fill a vacancy under subsection (3) or section 89(1)(b) or (c), (2) or (3); or
  - (ii) is designated to be the president of a judge court martial under subsection (4)(a)(ii) or section 89(1)(a).

(6) Where a judge court martial is dissolved under subsection (4)(a)(i), the accused may be tried again by another judge court martial.

(7) Where the convening authority has authorised the registrar for subordinate military courts or any other person to exercise the powers conferred and perform the duties imposed on the convening authority under subsection (3)(a) or (4)(a)(ii), the registrar or person shall be entitled to exercise those powers and perform those duties.

*[17/2004 wef 31/12/2004]*

### **Effect of death or sickness on and adjournment of subordinate military court**

**89.—**(1) If, after the commencement of the trial, the president of a subordinate military court dies or is otherwise unable to attend, then —

- (a) in the case of a judge court martial, the court shall be dissolved, and the convening authority shall designate another member of the general courts martial panel who is



eligible for the appointment to be the president of another judge court martial convened to try the accused;

- (b) in the case of a panel court martial, the court shall adjourn, and the convening authority shall designate another member of the general courts martial panel who is eligible for the appointment to fill the vacancy; or
- (c) in the case of a field general court martial, the court shall adjourn, and the convening officer shall appoint another person (being an officer or a senior military expert) who is eligible for the appointment to fill the vacancy.

*[28/2009 wef 01/04/2010]*

(2) If, after the commencement of a trial, any member of a panel court martial, other than the president, dies or is otherwise unable to attend, the court shall adjourn, and the convening authority shall designate another member of the general courts martial panel who is eligible for the appointment to fill the vacancy.

(3) If, after the commencement of a trial, any member of a field general court martial, other than the president, dies or is otherwise unable to attend, the court shall adjourn, and the convening officer shall appoint another person (being an officer or a senior military expert) who is eligible for the appointment to fill the vacancy.

*[28/2009 wef 01/04/2010]*

(4) If, on account of the illness of the accused before the finding, it is impossible to continue the trial, a subordinate military court shall be dissolved.

(5) Where a subordinate military court is dissolved under subsection (1)(a) or (4), the accused may be tried again by another subordinate military court.

(6) A subordinate military court may adjourn from time to time.

(7) A subordinate military court may, where necessary, view any place.

(8) Where the convening authority has authorised the registrar for subordinate military courts or any other person to exercise the powers conferred and perform the duties imposed on the convening authority

under subsection (1)(a) or (b) or (2), the registrar or person shall be entitled to exercise those powers and perform those duties.

[17/2004 wef 31/12/2004]

### **Power to convict for offence other than that charged**

**90.**—(1) An accused charged before a subordinate military court with an offence under this Act may, on failure of proof of the offence having been committed under circumstances involving a higher degree of punishment, be found guilty of the offence as having been committed under circumstances involving a less degree of punishment.

(2) An accused charged before a subordinate military court with any offence may be found guilty of attempting to commit that offence.

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

(4) Where an accused is charged before a subordinate military court with attempting to commit a civil offence, he may be convicted on that charge notwithstanding that it is proved that he actually committed the civil offence.

(5) An accused charged before a subordinate military court with theft may be found guilty of dishonestly misappropriating property.

(6) An accused charged before a subordinate military court with desertion may be found guilty of being absent without leave.

(7) An accused charged before a subordinate military court with striking a person superior in rank or appointment may be found guilty of using or offering violence to a person superior in rank or appointment.

[20/94]

[28/2009 wef 01/04/2010]

(8) An accused charged before a subordinate military court with using violence may be found guilty of offering violence.

(9) An accused charged before a subordinate military court with using threatening language may be found guilty of using insubordinate language.

(10) When an accused is charged before a subordinate military court with a civil offence and the charge is one upon which, if he had been tried by a civil court in Singapore for such an offence committed in Singapore, he might have been found guilty of any other offence, the subordinate military court shall have power to find him guilty of that offence.

### **Power to order restitution of stolen property**

**91.**—(1) Where a person has been convicted by a subordinate military court of having stolen, dishonestly misappropriated or converted, received, knowing it to be stolen, or otherwise unlawfully obtained, any property, and the property or any part thereof is found in the possession of the offender, the president of the court may order the property so found to be restored to the person appearing to be the lawful owner thereof.

(2) A like order may be made with respect to any property found in the possession of such offender, which appears to the president of the subordinate military court to have been obtained by the conversion or exchange of any of the property stolen, dishonestly misappropriated or converted, received or unlawfully obtained.

(3) An order under this section shall not bar the right of any person, other than the offender, or any one claiming through him, to recover any property or money delivered or paid in pursuance of an order made under this section from the person to whom the same is so delivered or paid.

### **Decision**

**92.** On the termination of hearing, a subordinate military court shall, either at once or on some future date which shall either then be appointed for the purpose or of which notice shall subsequently be given to the parties, announce its finding or sentence or both.

[20/75]

### **Regulations of procedure**

**93.**—(1) Subject to the provisions of this Act, the Armed Forces Council may, from time to time, make regulations of procedure with regard to any matter or thing that is expedient or necessary for the purpose of carrying this Act into execution so far as relates to the investigation, trial and punishment of offences triable or punishable by subordinate military courts under this Act.

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

- (a) the convening of subordinate military courts;
- (b) the adjournment, dissolution and sittings of subordinate military courts;
- (c) the procedure to be observed in trials by subordinate military courts;
- (d) the preparation of charge-sheets and the framing of charges;
- (e) procuring the attendance of witnesses before a subordinate military court;
- (f) empowering a subordinate military court in such cases and to such extent as may be prescribed to amend the charge which is being tried by a subordinate military court;
- (g) empowering a subordinate military court, where the particulars proved or admitted at the trial differ from those alleged in the charge but are sufficient to support a finding of guilt of the like offences as that charged, to make a finding of guilt, subject to exceptions or variations specified in the finding, if it appears to the court that the difference is not so material as to prejudice the accused in his defence;
- (h) determining cases in which and the extent to which subordinate military courts may in sentencing the accused for any offence of which he is convicted at the

request of the accused, take into consideration other offences under this Act committed by him;

- (i) the procedure to be observed when an accused is suspected to be mentally disordered and the procedure to be followed when an accused is sentenced to death;

*[21/2008 wef 01/03/2010]*

- (j) the forms of orders to be made under the provisions of this Act relating to investigation of, the trial of, or award of punishments for offences under this Act;

- (k) any matter in this Part which is required or authorised to be prescribed.

(3) Such regulations may further provide for the making of such warrants and orders as may be necessary to enable a subordinate military court to enforce its orders or sentences.

(4) No such regulations shall contain anything which is contrary to, or which is inconsistent with, the provisions of this Act.

### **Application of Criminal Procedure Code**

**94.**—(1) Without prejudice to section 93 of this Act, sections 123 to 148, 244 to 256, 262 to 268, 282, 283, 284, 290, 293, 294, 296, 297, 319 (other than subsection (1)(e) thereof), 320, 326 to 332, 359, 360, 364, 365, 366, 368 to 372, 391, 423 and 426 of the Criminal Procedure Code 2010, in so far as they are not inconsistent with the provisions of this Act or any regulations made thereunder, shall apply, with the necessary modification, to proceedings before and punishments awarded by subordinate military courts.

*[20/75; 1/94]*

*[Act 4 of 2012 wef 01/08/2012]*

*[15/2010 wef 02/01/2011]*

(2) A subordinate military court when invoking section 319 of the Criminal Procedure Code 2010 (other than subsection (1)(e) thereof) may award detention or special detention in a disciplinary barrack instead of imprisonment.

*[15/2010 wef 02/01/2011]*

(3) Section 328 of the Criminal Procedure Code 2010 shall apply to any sentence of caning awarded or imposed under this Act

notwithstanding any other provisions of this Act or any regulations made thereunder.

*[15/2010 wef 02/01/2011]*

(4) In exercising the powers under section 331 of the Criminal Procedure Code 2010, a subordinate military court may award any less punishment authorised by this Act instead of imprisonment.

*[15/2010 wef 02/01/2011]*

(5) The Minister may, by order published in the *Gazette*, provide for the application of such other provisions of the Criminal Procedure Code as he thinks fit for the purposes of investigation, trial and punishment of offences punishable under this Act, subject to any modifications as may be specified in the order.

### **Procedure in absence of provisions**

**95.** Where no provision is made in this Act, or in any regulations made thereunder, in respect of any procedural matter, a subordinate military court shall decide on the most expedient procedure to be followed in the particular case that will best serve the interests of justice.

### **Proceedings not to be set aside**

**96.** Subject to section 112(3), no proceedings of a subordinate military court shall be set aside or deemed to be void for want of form or be removed by a Quashing Order or otherwise into any civil court.

*[42/2005 wef 01/01/2006]*

### **Application of general rules of evidence**

**97.** Subject to this Act or any regulations made thereunder, the rules of evidence, including the Evidence Act (Cap. 97), observed in the trial of criminal cases before civil courts in Singapore shall, in so far as they are not inconsistent with the provisions of this Act or any regulations made thereunder, apply to subordinate military courts.

### **Military documents as evidence**

**98.—(1)** Any document, purporting to be signed by an officer, a warrant officer or a military expert of or above the rank of ME3 in the course of his duty and containing particulars regarding the matters

enumerated below, shall be prima facie evidence of such particulars —

- (a) service in the Singapore Armed Forces, including dates of enlistment and discharge;
- (b) absence from service in the Singapore Armed Forces, with or without leave;
- (c) offences of which a person has been convicted by a subordinate military court or where there is an appeal, by the Military Court of Appeal, or by a disciplinary officer or the Armed Forces Council;
- (d) units to which a person was posted or attached;
- (e) personal particulars relating to service or employment in the Singapore Armed Forces including rank, assignment, training and vocation;
- (f) the monetary value of any Singapore Armed Forces property;
- (g) the usage or wearing of military decorations, medals, ribbons or badges;
- (h) matters relating to custody, including time, date and place;
- (i) the service of a summons or convening order.

[1/94]

[28/2009 wef 01/04/2010]

(2) A copy of general orders or of any official publication, document, certificate or form certified by the Armed Forces Council as general orders, official publication, document, certificate or form for the purpose of this section, shall be conclusive evidence of its contents.

(3) Any document purporting to be a document under subsection (1) or (2) shall be presumed to be such a document.

**Certificate relating to controlled drug or controlled substance**

**99.**—(1) A certificate purporting —

(a) to be signed by —

- (i) an analyst employed by the Health Sciences Authority;
- (ii) a person appointed under section 16(a)(ii) of the Misuse of Drugs Act (Cap. 185);
- (iii) a Singapore Armed Forces pharmacist or chemist; or
- (iv) such other person as the Minister may, by notification in the *Gazette*, appoint; and

(b) to relate to a controlled drug or controlled substance,

is to be admitted in evidence in any proceedings under this Act for an offence under section 34, or under the Misuse of Drugs Act, on the production of the certificate by the prosecution without proof of signature and, until the contrary is proved, is proof of all matters contained in the certificate.

(2) In this section —

“controlled drug” and “controlled substance” have the same meanings as in section 2 of the Misuse of Drugs Act;

“Health Sciences Authority” means the Health Sciences Authority established under section 3 of the Health Sciences Authority Act (Cap. 122C).

*[Act 16 of 2016 wef 01/08/2016]*

**100.** *[Repealed by Act 16 of 2016 wef 01/08/2016]*

**Transcript**

**101.** Where a document has been prepared or certified by a person subject to military law in the course of his duty, a transcript thereof authenticated by him or by an officer or a senior military expert shall have the effect of the original and shall be presumed correct.

*[28/2009 wef 01/04/2010]*



## Representation

**102.**—(1) Subject to any other provisions of this Act, an accused shall have the right to be represented in his defence before a subordinate military court by an advocate and solicitor, if provided by him, or by any officer or senior military expert in the Singapore Armed Forces.

*[28/2009 wef 01/04/2010]*

(2) Where an accused is not represented by a person in accordance with subsection (1) and —

- (a) is charged with an offence punishable by death;
- (b) is dumb, blind or deaf; or
- (c) is suspected of being mentally disordered,

the president of the subordinate military court shall appoint a defence counsel to assist the accused in his defence.

*[21/2008 wef 01/03/2010]*

(3) Where the accused selects a person to represent him in a subordinate military court, that person shall be authorised to do so after submitting to the court a warrant to act signed by the accused.

## Publicity

**103.**—(1) Subject to any other provisions of this Act, a subordinate military court shall sit in open court in the presence of the parties and, to the extent that accommodation permits, the public shall be admitted to the trial.

(2) Every judgment or finding of a subordinate military court shall be pronounced in open court.

## Proceedings in camera

**104.**—(1) The president of a subordinate military court may where it is expedient in the interests of —

- (a) the administration of justice;
- (b) the security of Singapore;
- (c) public defence or safety; or

(d) public morals,

order that all or any part of the proceedings before the court shall be dealt with in camera.

(2) Upon the making of such order the subordinate military court shall cease to be an open court and, with the exception of the accused's counsel and such other persons as may be considered by the court to be necessary for the purposes of the proceedings, the public shall be excluded therefrom for so long as the court thinks fit.

(3) A subordinate military court may exclude a person from any part of the proceedings where such person is obstructing the proceedings of the court.

(4) No person shall be present during any deliberation by a panel court martial or a field general court martial without permission from the president of the court.

*[17/2004 wef 31/12/2004]*

(5) The president of any panel court martial or field general court martial may, on any deliberation amongst the members of the court, cause the courtroom to be cleared of all other persons.

*[17/2004 wef 31/12/2004]*

### **Publications and photographs**

**105.**—(1) Where any proceedings in a subordinate military court have been held in camera, no person shall publish any information concerning the proceedings and the judgment, except with the permission of the Armed Forces Council.

(2) No person shall take photographs in the court room or in the presence of the court or publish photographs so taken, except with the permission of the president of the subordinate military court.

(3) Any person who contravenes this section shall be guilty of an offence and shall be liable on conviction by a subordinate military court to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 12 months or to both.

**Investigation materials before a field general court martial**

**106.** The accused, his defence counsel or, with the consent of a military prosecutor, a person authorised by the accused or his defence counsel may, where a charge-sheet is submitted to a field general court martial, at any reasonable time inspect and take copies of the investigation materials excluding the investigation diary.

[28/2009 wef 01/04/2010]

**Independence of subordinate military courts**

**107.**—(1) In matters of adjudication, presidents and other members of subordinate military courts shall not be subject to the authority of their commanders, or to any other authority, except the law.

[17/2004 wef 31/12/2004]

(2) No person shall attempt to coerce or by any unauthorised means influence the action or proceedings of a subordinate military court or any president or, where applicable, other member thereof.

[17/2004 wef 31/12/2004]

(3) Any person who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction by a subordinate military court to imprisonment for a term not exceeding 2 years or any less punishment authorised by this Act.

*Supplementary provisions as to trial***Person not to be tried twice**

**108.**—(1) Subject to the provisions of this Act, where a person subject to military law has been acquitted or convicted of an offence by a subordinate military court or has had his conviction quashed by the Military Court of Appeal or the Armed Forces Council, he shall not be liable to be tried again by a subordinate military court or any civil court or a disciplinary officer in respect of that offence or for any offence based on the same facts.

(2) Where a person subject to military law has been acquitted or convicted of an offence by a disciplinary officer, he shall not be liable to be tried again by a subordinate military court or a disciplinary officer in respect of that offence or for any offence based on the same facts but he may be tried for the same offence or for an offence based

on the same facts by a civil court which shall in awarding punishment have regard to any military punishment he may already have undergone as a result of his conviction by a disciplinary officer.

(3) Where a person subject to military law has been acquitted or convicted of an offence by a competent civil court, he shall not be liable to be tried in respect of that offence by a subordinate military court or a disciplinary officer.

### **Trial and punishment of offences where offender ceases to be subject to military law**

**109.**—(1) Subject to section 111, where an offence under this Act triable by a subordinate military court or by a disciplinary officer has been committed or is reasonably suspected of having been committed by any person while subject to military law then in relation to that offence he shall be treated for the provisions of this Act relating to arrest, keeping in custody, investigation of offences, trial and punishment by a subordinate military court or by a disciplinary officer (including review) and execution of sentences as continuing to be subject to military law notwithstanding his ceasing at any time to be subject thereto.

(1A) Without prejudice to the generality of subsection (1) but subject to section 111, where an offence under this Act triable by a subordinate military court or by a disciplinary officer has been committed or is reasonably suspected of having been committed by any person while subject to military law, the subordinate military court or disciplinary officer before which the offence is triable may order that person to report for trial for the offence as if that person continued to be subject to military law notwithstanding his ceasing at any time to be subject to military law.

*[16/2001 wef 15/05/2001]*

(1B) Any person who fails to comply with any order under subsection (1A) —

- (a) shall be deemed to have failed to comply with a lawful order within the meaning of section 17(2); and

- (b) shall be liable to be arrested, proceeded against and punished for an offence under section 17(2) as if he continued to be subject to military law.

[16/2001 wef 15/05/2001]

(2) Where a person subject to military law is sentenced by a subordinate military court to imprisonment, special detention or detention or by a disciplinary officer to detention, this Act shall apply to him during the term of his sentence, notwithstanding that he is discharged or dismissed from the Singapore Armed Forces, or has otherwise ceased to be subject to military law, and he may be kept, removed, imprisoned, made to undergo special detention or detention, and punished accordingly as if he continued to be subject to military law.

[17/78]

### **Liability to military law in respect of place of commission of offence**

**110.** Every person subject to military law who whether in Singapore or elsewhere commits any offence for which he is liable to be tried by a subordinate military court or a disciplinary officer may be tried and punished for such offence at any place (in Singapore or elsewhere) which is within the jurisdiction of a subordinate military court or disciplinary officer and in which the offender may for the time being be, in the same manner as if the offence had been committed where the trial by a subordinate military court or disciplinary officer takes place.

### **Limitation of time for trial of offences**

**111.—**(1) Subject to subsection (2), no person shall in pursuance of this Act be tried for any offence triable under this Act unless the trial is begun within 3 years after —

- (a) the date on which the offence was committed; or
- (b) the date on which information relating to the commission of that offence was reported to a disciplinary officer having jurisdiction over the accused or to a military policeman,

whichever date is the later.

[1/94]

(2) This section shall not apply to a trial for the offence of misconduct in action, assisting the enemy, mutiny, absence without leave or desertion.

[1/94]

(3) For the purpose of this section, the trial of any person by a subordinate military court for any offence shall begin when he appears or is brought before a subordinate military court for the first time in connection with the offence, notwithstanding the fact that the subordinate military court before which he appears or is brought for the first time may for any reason, adjourn or postpone the trial, and another subordinate military court is convened to try him for the offence.

[1/94]

(4) Where a serviceman has served continuously in an exemplary manner for not less than 3 years in the Singapore Armed Forces, he shall not be tried for the offence of desertion (other than desertion on active service), if that offence was committed more than 3 years before the trial is begun.

[1/94]

(5) Nothing in this section shall affect the jurisdiction of a civil court in the case of any offence triable by such court.

[1/94]

### **Trial of civil offences**

**112.**—(1) Subject to subsection (2), every person subject to military law who commits any of the following offences:

- (a) any offence under sections 121 and 121A of the Penal Code (Cap. 224);
- (b) murder;
- (c) culpable homicide not amounting to murder;
- (d) rape;
- (da) sexual assault by penetration;
- (e) any other offence which when committed in Singapore is punishable by the law of Singapore,

[51/2007 wef 01/02/2008]

shall, if charged under this section with any such offence, be liable to be tried by a subordinate military court and on conviction to be punished as follows:

- (i) if he is convicted of any offence under sections 121 and 121A of the Penal Code, be liable to suffer death, or any less punishment authorised by this Act;
- (ii) if he is convicted of murder, be liable to suffer death;
- (iii) if he is convicted of any other offence for which the punishment of death is authorised under any written law had he been convicted by a civil court for such other offence, be liable to suffer death;
- (iv) if he is convicted of culpable homicide not amounting to murder, be liable to suffer imprisonment, or any less punishment authorised by this Act;
- (v) if he is convicted of rape or sexual assault by penetration, be liable to suffer imprisonment or any less punishment authorised by this Act; or

*[51/2007 wef 01/02/2008]*

- (vi) if he is convicted of any other offence, which when committed in Singapore is punishable by the law of Singapore, be liable, whether the offence is committed in Singapore or elsewhere, either to suffer such punishment as might be awarded to him under this Act in respect of an act, conduct or neglect to the prejudice of good order or discipline or to suffer any punishment that may be awarded for such offence under any written law, had he been convicted by a civil court for the offence and, in addition to or in lieu of such punishment, one or more of the punishments specified in section 118(1)(c), (d), (e), (f), (g), (h), (j), (k) and (l), and any punishment which may be imposed under section 118(9), (10), (12) and (13), which is or are not prescribed by the written law for the offence.

*[17/78]*

(2) A person subject to military law shall not be tried by a subordinate military court for murder or culpable homicide not amounting to murder unless —

- (a) the person against whom the offence was committed was at the time of the offence subject to military law; or
- (b) the offence was committed while on active service.

[20/75]

(3) Notwithstanding anything in this section, the Attorney-General may, on his own motion, if he thinks it expedient for the ends of justice or on the application of the Director, Legal Services of the Singapore Armed Forces, at any time before the finding is pronounced order that a person subject to military law who is charged with a civil offence under this section shall not be tried by a subordinate military court.

(4) Upon an order being made under subsection (3), the case shall be transferred to and shall be tried by a civil court.

### **Summoning and privilege of witnesses at subordinate military courts and misconduct of civilians thereat**

**113.**—(1) Every person required to give evidence before a subordinate military court may be summoned or ordered to attend in the prescribed manner.

(2) Every person attending in pursuance of such summons or order as a witness before any subordinate military court shall, during his necessary attendance at such court, and in going to and returning from the court, have the same privilege from arrest as he would have if he were a witness before a civil court.

- (3) Where any person who is not subject to military law —
  - (a) on being duly summoned as a witness before a subordinate military court and after payment or tender of the reasonable expenses of his attendance, makes default in attending; or
  - (b) being in attendance as a witness —
    - (i) refuses to take an oath legally required by a subordinate military court to be taken;
    - (ii) refuses to produce any document in his power or control legally required by a subordinate military court to be produced by him; or



- (iii) refuses to answer any question to which a subordinate military court may legally require an answer,

the president of the subordinate military court may certify the offence of that person under his hand to a Magistrate's Court.

(4) The Magistrate's Court may thereupon inquire into such alleged offence, and after examining any witnesses that may be produced against or on behalf of the person so accused, and after hearing any statement that may be offered in defence, if it seems just, punish that person in the like manner as if he had committed such offence in a proceeding in that Court.

(5) Where a person not subject to military law when examined on oath or on affirmation before a subordinate military court wilfully gives false evidence, he shall be liable on conviction before a competent court to be punished for the offence of giving false evidence in a judicial proceeding.

(6) Where a person not subject to military law is guilty of any contempt towards a subordinate military court, by using insulting or threatening language, or by causing any interruption or disturbance in its proceedings, or by printing observations or using words calculated to influence the members of or witnesses before such court, or to bring such court into disrepute, the president of the subordinate military court may certify the offence of such person under his hand to a Magistrate's Court.

(7) The Magistrate's Court may thereupon inquire into such alleged offence, and after hearing any witnesses that may be produced against or on behalf of the person so accused, and after hearing any statement that may be offered in defence, if it seems just, punish or take steps for the punishment of such person in the like manner as if he had been guilty of contempt of that Court.

### **Evidence of civil conviction or acquittal**

**114.**—(1) Whenever any person subject to military law has been tried by any civil court, the registrar or clerk of the court or his deputy, or other officer having the custody of the records of that court, shall, if required by the commanding officer of such person, or by any other

serviceman (being an officer, a warrant officer or a military expert of or above the rank of ME3), transmit to him a certificate setting forth the offence for which the person was tried, together with the judgment or order of the court thereon, or if he was acquitted, the acquittal.

[1/94]

[28/2009 wef 01/04/2010]

(2) Any such certificate shall be sufficient evidence of the conviction and sentence or of the order of the court or of the acquittal of the prisoner, as the case may be.

### **Evidence of conviction of subordinate military court**

**115.**—(1) The original proceedings of a subordinate military court purporting to be signed by the president of the court and being in the custody of an officer of the court or the registrar shall be deemed to be of such a public nature as to be admissible in evidence on their mere production from such custody.

(2) Any copy of the original proceedings of a subordinate military court purporting to be certified by an officer, a warrant officer, a military expert of or above the rank of ME3 or the registrar to be a true copy of such proceedings or of any part thereof, shall be admissible in evidence without proof of the signature of the president of the court.

[1/94]

[28/2009 wef 01/04/2010]

### *Review of findings and sentences of subordinate military courts*

### **Review of findings and sentences of subordinate military courts by reviewing authority**

**116.**—(1) For the purposes of this Act, the Armed Forces Council shall be a reviewing authority.

(2) The Armed Forces Council may delegate its powers as a reviewing authority under this section to a committee consisting of at least 3 of its members.

(3) An accused who has been sentenced by a subordinate military court or who has been found to be unfit to stand his trial or to be not

guilty by reason of insanity may, within such time and in such manner as may be prescribed, present a petition to the reviewing authority against the finding or sentence or both.

(4) The reviewing authority may —

(a) at any time on its own motion; and

(b) upon receipt of a petition under subsection (3) shall, as soon as practicable after considering the matters alleged in the petition,

review the finding or sentence.

[20/75]

(5) Notwithstanding subsection (4), if notice of appeal has been lodged with the registrar of the Military Court of Appeal under section 129, any powers of review exercised by the reviewing authority in reviewing a finding or sentence under this section shall cease to have effect; and the appeal shall be proceeded with as if no petition to review the finding or sentence had been made.

(6) On a review, the reviewing authority may —

(a) in so far as the review is of a finding, quash the finding and if the sentence relates only to the finding quashed, the sentence;

(b) in so far as the review is of a sentence, quash the sentence;

(c) in any case substitute a new finding for any finding of guilt made by a subordinate military court that is illegal or cannot be supported by the evidence, if the new finding could validly have been made by the subordinate military court on the charge and if it appears that the court was satisfied of the facts establishing the offence specified or involved in the new finding;

(d) in any case substitute for the finding of guilt made by a subordinate military court a new finding of some other offence if —

(i) the subordinate military court could on the charge have found him guilty under section 90 of that other offence;

- (ii) the subordinate military court could have found the offender guilty of that other offence on any alternative charge that was laid, and it appears that the facts proved him guilty of that other offence;
- (e) in any case where a sentence is invalid or unduly severe substitute therefor any other punishment or any lesser punishment which the subordinate military court could have awarded but so that in any event the punishment so substituted shall not be greater or more severe than that awarded by the subordinate military court.

(7) Any substituted finding or sentence imposed under this section shall be treated for all purposes as a finding or sentence of the subordinate military court.

(8) Notwithstanding anything in this section but subject to section 156(4), a sentence of death shall not be carried into effect until reviewed by the reviewing authority unless the sentence of death is passed on a person on active service.

(9) In such an event a sentence of death may, subject to subsection (3) and to the accused's right of appeal, be carried out if an officer of or above the rank of lieutenant-colonel, who is specifically designated by the Armed Forces Council for the purpose, certifies to the Armed Forces Council that it is essential in the interests of discipline and for the purpose of securing the safety of the force with which the accused is serving that the sentence should be carried out forthwith.

### **Power to order a retrial**

**117.**—(1) The reviewing authority shall have and may exercise all the powers of the Military Court of Appeal to order a retrial conferred upon that Court by sections 149 and 150 and those sections shall apply with any necessary modification to a review by the reviewing authority under this section.

(2) Regulations made under this Act may provide for the procedure to be followed on a review of a finding or sentence by the reviewing authority.

(3) Any order for a retrial under this section shall operate to extinguish any appeal by the accused to the Military Court of Appeal.

## PART VI

### PUNISHMENTS OF MILITARY OFFENCES AND EXECUTION OF SENTENCES

#### *Punishments*

#### **Scale of punishments, etc.**

**118.**—(1) The punishments which may be awarded by sentence of a subordinate military court under this Act are, subject to section 112(1) and to this section —

- (a) death;
- (b) imprisonment;
- (c) discharge with ignominy;
- (d) dismissal;
- (e) special detention for a term not exceeding 3 months in a disciplinary barrack;
- (f) detention for a term not exceeding 2 years;
- (g) reduction in rank, except that —
  - (i) an officer shall not be reduced below the rank of second lieutenant;
  - (ii) a warrant officer shall not be reduced below —
    - (A) the rank of third warrant officer, if he was appointed as a warrant officer on or after the date of commencement of section 30(a) of the Singapore Armed Forces (Amendment) Act 2009; or
    - (B) the rank of second warrant officer, if he was appointed as a warrant officer before that date; and

(iii) a senior military expert shall not be reduced below the rank of ME4;

[28/2009 wef 01/04/2010]

(h) forfeiture of seniority of rank and forfeiture of all or any part of his service for purposes of promotion;

(i) a fine;

(j) in the case of an offence which has occasioned any expense, loss or damage, deduction of pay;

(k) reprimand;

(l) such minor punishments as may from time to time be authorised by the Armed Forces Council in regulations made under this Act,

and references in this Act to any punishment provided by this Act are, subject to the limitation imposed in any particular case by the addition of the word “less” are references to any one or more of the punishments.

[20/75; 17/78; 1/94]

(2) For the purposes of this Part, a punishment specified in a paragraph in subsection (1) shall be treated as less than the punishments specified in the paragraphs preceding that paragraph and greater than those specified in the paragraphs following that paragraph.

(3) A person sentenced to death by a subordinate military court shall also be sentenced to discharge with ignominy.

(4) An officer, a warrant officer or a military expert of or above the rank of ME3 who is sentenced by a subordinate military court to imprisonment or special detention in a disciplinary barrack or detention shall also be sentenced to discharge with ignominy but, if the subordinate military court fails to give effect to this subsection, the sentence shall not be invalid but shall be deemed to include a sentence of discharge with ignominy from the Singapore Armed Forces.

[20/75; 1/94]

[28/2009 wef 01/04/2010]

(4A) A soldier (other than a warrant officer or a military expert of the rank of ME3) or a non-uniformed serviceman who is sentenced by a subordinate military court to imprisonment or special detention in a disciplinary barrack or detention may also be sentenced to discharge with ignominy.

[1/94]

[28/2009 wef 01/04/2010]

(5) A discharge with ignominy under this section shall not affect the liability of any person to perform national service under the Enlistment Act (Cap. 93).

[20/75]

(6) Subject to section 112(1), the amount of a fine that may be awarded shall not exceed —

(a) in the case of officers and senior military experts, a sum of \$10,000; and

(b) in the case of soldiers and non-uniformed servicemen, a sum of \$5,000,

and any such fine may, if the court orders, be paid by instalment to be deducted from the offender's pay.

[17/78; 1/91]

[6/2006 wef 21/02/2006]

[28/2009 wef 01/04/2010]

(7) The Armed Forces Council may restore the whole or any part of any lost seniority or forfeited service in the case of a person subject to military law who has performed good and faithful service, or who may otherwise be deemed by the Armed Forces Council to merit such restoration.

(8) A person subject to military law when sentenced to forfeiture of seniority of rank, and a person subject to military law when sentenced to forfeiture of all or any part of his service for the purposes of promotion, may also be sentenced to a reprimand.

(9) Where a person subject to military law on active service is guilty of any offence, it shall be lawful for a subordinate military court to award for that offence such field punishment, as may be prescribed in regulations made under this Act, and such field punishment may include confinement in such manner or place as may be so provided

or such labour or employment as a person subject to military law could be subjected if he were serving a sentence of imprisonment.

(10) In addition to or in lieu of any other punishment in respect of an offence committed by a person subject to military law on active service, it shall be lawful for a subordinate military court to order that the offender forfeits all ordinary pay for a period not exceeding 3 months commencing from the date on which the sentence is awarded.

(11) For the purpose of commutation of punishment, the field punishment mentioned in subsection (9) shall be deemed to be a less punishment than detention.

(12) In addition to or in lieu of any other punishment in respect of any offence, an offender convicted by a subordinate military court may be subject to forfeiture of any military decoration or military award.

(13) In addition to any of the punishments under subsection (1), a subordinate military court may order an accused person to pay to the party who sustained damage or loss through the offence compensation not exceeding \$1,000.

(14) Nothing in subsection (13) shall prejudice the right of any person to a civil remedy for the recovery of damages beyond the amount of compensation ordered.

(15) In addition to or in lieu of any other punishment, where a person has been convicted of an offence under sections 17, 19, 21, 22, 23 and 47, a subordinate military court may sentence him to caning not exceeding 12 strokes but such sentence shall not be carried into effect unless confirmed by the Armed Forces Council.

[20/75]

(16) Notwithstanding anything in this Act where an operationally ready national serviceman has been convicted of an offence under section 17, 19, 25 or 26, the subordinate military court, if it is satisfied on the facts of the particular offence that the operationally ready national serviceman by his behaviour, conduct or deportment has shown himself during the period of operationally ready national service referred to in section 14(1)(b) of the Enlistment Act (Cap. 93) that he is not responsive or amenable to military discipline, may, in lieu of awarding the punishment prescribed by the section upon



which he has been convicted or any less punishment authorised by this Act, require the operationally ready national serviceman, in addition to his liability under section 14 of the Enlistment Act, to serve for such further period or periods of operationally ready national service not exceeding 12 months in the aggregate as the court may, in the circumstances of each particular case, decide.

[20/75; 20/94]

(17) The subordinate military court shall award the punishment referred to in subsection (16) only where it is satisfied that the operationally ready national serviceman is fit for operationally ready national service and considers that it is in the best interests of the Singapore Armed Forces that the operationally ready national serviceman should render a further period of operationally ready national service.

[20/94]

(18) For the purposes of this Part, the punishment specified in subsection (16) shall be treated as a less punishment than that specified in subsection (1)(e) and shall be treated as a sentence imposed by a subordinate military court for purposes of review and appeal under this Act.

### **Punishment for aggravated disciplinary barrack offences**

**119.**—(1) Subject to subsection (2), a person serving a sentence of special detention in a disciplinary barrack who is found after due inquiry to be guilty of an aggravated disciplinary barrack offence may be punished by the officer or senior military expert in charge of a disciplinary barrack with caning not exceeding 12 strokes.

[20/75]

[28/2009 wef 01/04/2010]

(2) The officer or senior military expert in charge of a disciplinary barrack shall not award any caning without the approval of the Armed Forces Council.

[28/2009 wef 01/04/2010]

(3) For the purposes of this section, an aggravated disciplinary barrack offence is —

- (a) mutiny as defined in section 15;
- (b) escape or attempt to escape;

- (c) striking or otherwise using violence to, or offering violence to, any person superior in rank or on the staff of the disciplinary barrack;
- (d) aggravated or repeated assault on any other person serving special detention in a disciplinary barrack;
- (e) wilful destruction of Singapore Armed Forces property;
- (f) wilfully causing self-illness, self-injury or disability;
- (g) wilfully making a false or groundless complaint against any person superior in rank or on the staff of the disciplinary barrack;
- (h) repetition of any minor disciplinary barrack offence after having been twice punished for such minor offence;
- (i) any other act of gross misconduct or insubordination; or
- (j) abetting the commission of any aggravated disciplinary barrack offence.

(4) Minor disciplinary barrack offences shall be prescribed by regulations made under this Act.

(5) When any caning is imposed under this section upon any person serving a sentence of special detention in a disciplinary barrack, he shall not be liable to more than one such sentence in respect of the act or acts, or omission or omissions, for which he has been sentenced.

### **Suspension of sentence**

**120.**—(1) Subsections (2) and (3) shall have effect in relation to the suspension of a sentence of imprisonment or special detention in a disciplinary barrack or detention passed by a subordinate military court or by a disciplinary officer.

[20/75]

(2) It shall be lawful for a subordinate military court or a disciplinary officer when passing a sentence of imprisonment or special detention in a disciplinary barrack or detention to order that the sentence shall be suspended and the accused shall not in that event be committed to prison or disciplinary barrack or detention barrack.

(3) Where any such sentence is suspended and the offender so sentenced is sentenced for a fresh offence during the period of suspension —

(a) by a subordinate military court to imprisonment or special detention in a disciplinary barrack or to detention; or

(b) by a disciplinary officer to detention,

then the court or the disciplinary officer may cancel the suspension of the earlier sentence and the court or the disciplinary officer shall direct whether the 2 sentences are to run concurrently or consecutively.

### *Execution of sentences*

#### **Commencement of sentences**

**121.**—(1) The term of imprisonment or special detention in a disciplinary barrack or detention to which a person subject to military law is sentenced by a subordinate military court or a term of detention awarded by a disciplinary officer whether the person is already undergoing sentence or not shall take effect from the date on which it was passed unless the court or the disciplinary officer passing the sentence otherwise directs.

[20/75]

(2) A sentence of imprisonment or special detention in a disciplinary barrack or detention passed by a subordinate military court or sentence of detention passed by a disciplinary officer or when there has been an appeal, by the Military Court of Appeal, which is suspended under section 120, shall not begin to run until the beginning of the date on which the suspension is cancelled.

[20/75]

#### **Sentence of detention or special detention in disciplinary barrack**

**122.**—(1) A person sentenced to detention under this Act shall, unless otherwise provided for in regulations made under this Act, serve his sentence in detention barracks.

[20/75]

(2) A person shall not in any event be required to serve any part of a sentence of detention in a military or civil prison except that in such cases and subject to such conditions as may be specified in any regulations made under this Act a person serving such a sentence may be temporarily detained in a military or civil prison for any period not exceeding 7 days such thereafter shall be transferred to detention barracks.

[20/75]

(3) A person sentenced to special detention in a disciplinary barrack shall, unless otherwise provided for in any regulations made under this Act, serve his sentence in a disciplinary barrack.

[20/75]

### **Civil prisons may receive military prisoners**

**123.** It shall be lawful for the Commissioner of Prisons appointed under section 20 of the Prisons Act (Cap. 247) or any Superintendent of Prisons, in accordance with any regulations made under this Act, to receive any person —

- (a) sentenced by a subordinate military court duly sent to him in pursuance of such regulations and to confine him until execution of the sentence is completed or the prisoner is discharged or delivered over in due course of law;
- (b) delivered into his custody as a deserter or absentee without leave by any person conveying him under legal authority on production of a warrant of a magistrate on which such deserter or absentee without leave has been taken or committed; and
- (c) in military custody and detain him for a period not exceeding 7 days.

[Act 1 of 2014 wef 01/07/2014]

### **Provisions as to persons unlawfully at large**

**124.—**(1) Any person who, having been sentenced by a subordinate military court to imprisonment or detention or to detention by a disciplinary officer, is at large may (without prejudice to any other power of arrest) be arrested by any police officer without warrant and

taken to any place in which he may be required to be detained in accordance with this Act or any regulations made thereunder.

(2) Where any person sentenced by a subordinate military court to imprisonment or detention or sentenced to detention by a disciplinary officer is at large at any time during the period for which he is liable to be detained in pursuance of the sentence, no account shall be taken, in calculating the period for which he is liable to be so detained, of any time elapsing after he was at large and before either he is taken into custody or he is received into a military prison, whether in pursuance of the same sentence or of a sentence of any other court.

### **Mode of executing sentence of caning**

**125.**—(1) This section shall apply to a sentence of caning awarded in respect of an offence specified in section 118(15) or 119.

[20/75]

(2) In no case shall the caning awarded at any one trial exceed 24 strokes in the case of a person of the age of 16 years and above or 10 strokes in the case of a person below the age of 16 years.

(3) Caning shall be inflicted on such part of the person as the Minister may direct.

(4) The rattan shall not exceed 6.35 millimetres in diameter.

(5) In no case shall caning be inflicted upon any person under this section until a medical certificate has been issued by a medical officer to the effect that such person is in a fit condition of health to undergo the punishment.

(6) A person on whom caning is to be inflicted shall wear such protective clothing as may be prescribed.

### **Power of President to grant pardon and to mitigate punishment, etc.**

**126.** The President, as occasion shall arise, may, on the advice of the Cabinet —

- (a) grant a pardon to any accomplice in any offence who gives information which leads to the conviction of the principal

offender or any one of the principal offenders, if more than one;

- (b) grant to any offender convicted of any offence in any subordinate military court, a pardon, free or subject to lawful conditions, or any reprieve or respite, either indefinite or for such period as the President may think fit, of the execution of any sentence pronounced on such offender; or
- (c) remit the whole or any part of such sentence or of any penalty or forfeiture imposed by law.

## PART VII

### MILITARY COURT OF APPEAL

#### *General provisions*

#### **Establishment, jurisdiction and powers of Military Court of Appeal**

**127.**—(1) There shall be established a Military Court of Appeal which shall be a superior court of record and shall consist of —

- (a) a president who shall be, or is a person qualified to be, a Judge of the Supreme Court appointed by the Chief Justice; and
- (b) 4 other members 2 of whom shall be qualified persons of at least 5 years standing and 2 of whom shall be officers of or above the rank of captain or senior military experts.

[20/75]

[28/2009 wef 01/04/2010]

(2) The 2 members of the Military Court of Appeal who are qualified persons shall be appointed by the Armed Forces Council from a panel of qualified persons and the 2 members who are officers or senior military experts shall be selected by the Armed Forces Council from a panel of officers and senior military experts.

[28/2009 wef 01/04/2010]

(3) Notwithstanding subsections (1) and (2), where an appeal is made to the Military Court of Appeal in a case of murder or culpable

homicide not amounting to murder or an offence under section 121 or 121A of the Penal Code (Cap. 224), the Court shall consist of a president and 2 other members all of whom shall be Judges of the Supreme Court appointed by the Chief Justice.

[20/75]

(4) There may be paid to the qualified persons appointed under subsection (2) such remuneration and allowances as the Armed Forces Council may determine.

(5) The Military Court of Appeal shall have jurisdiction to hear and determine any appeal by a person convicted by a subordinate military court subject nevertheless to the provisions of this Part regulating the terms and conditions upon which such appeals may be brought.

(6) The Military Court of Appeal shall for the purposes of the provisions of this Act have full power to determine, in accordance with this Act, any question necessary to be determined for the purpose of doing justice in any case before the Court and may issue any warrants necessary for enforcing its orders or sentences.

(7) The determination of any question before a Military Court of Appeal shall be according to the opinion of the majority of the members of the Court hearing the case.

(8) An appeal by a person convicted by a subordinate military court shall be either against the conviction or against sentence or against both except that where an accused person has pleaded guilty and has been convicted on such plea by a subordinate military court there shall be no appeal except as to the extent or legality of the sentence.

(9) An appeal may lie on a question of fact or a question of law or on a question of mixed fact and law.

(10) An appeal against an acquittal by a subordinate military court or a sentence of a subordinate military court which is manifestly inadequate may be made by the Director, Legal Services of the Singapore Armed Forces.

[20/75]

### **Oath and affirmation**

**128.**—(1) Before the president of the Military Court of Appeal enters upon the execution of his office, he shall take in the presence of

the Chief Justice the oath or affirmation of allegiance in the prescribed form.

(2) An oath or an affirmation in the prescribed form shall be administered by the president of the Military Court of Appeal to every member of the Court before the commencement of the appeal.

(3) An oath or an affirmation in the prescribed form shall be administered by the president of the Military Court of Appeal to every shorthand writer or interpreter (if any) in attendance at the appeal.

(4) Every witness before the Military Court of Appeal shall be examined on oath or on affirmation, which the president of the Court or other prescribed person shall administer in such form as may be approved.

### **Notice and petition of appeal**

**129.**—(1) An appeal shall be brought by way of a notice of appeal, signed by the appellant, which shall be lodged with the registrar of the Military Court of Appeal.

[20/75]

(2) A notice of appeal shall be lodged within 10 days after the date on which the decision appealed against was given except that the Military Court of Appeal may, on the application of any party desirous of appealing showing sufficient cause, extend the time for the lodging of an appeal upon such terms and subject to such directions as the Court thinks fit.

(3) The other party to the proceedings before the subordinate military court from whose decision or sentence the appeal is lodged shall be the respondent to the appeal.

(4) Every notice of appeal shall contain an address to which any notices or documents connected with the appeal may be served upon the appellant or his counsel.

(5) When a notice of appeal has been lodged, the registrar of the Military Court of Appeal shall cause to be served on the appellant or his counsel by leaving at the address, mentioned in the notice of appeal, or by posting it by registered post addressed to the appellant at that address, a copy of the grounds of decision in the case signed by



the president of the subordinate military court and a copy of the record of proceedings.

(6) Within 10 days or such extension of time as the Military Court of Appeal may permit, after the copies of the grounds of decision and of the record of proceedings have been served as provided in subsection (5), the appellant or his counsel shall lodge with the registrar of the Military Court of Appeal a petition of appeal signed by the appellant or his counsel and addressed to the Military Court of Appeal.

(7) Every petition of appeal shall state shortly the substance of the judgment appealed against and the grounds of appeal and shall include particulars of the points of law or fact in regard to which the subordinate military court is alleged to have erred.

(8) Except by leave of the Military Court of Appeal, the appellant shall not be permitted at the hearing of the appeal to rely on any grounds of appeal other than those set forth in the petition of appeal.

(9) If a petition of appeal is not lodged within the time prescribed by this section, the appeal shall be deemed to have been withdrawn and the subordinate military court shall enforce its sentence or order where there has been a stay of execution.

(10) Nothing in subsection (9) shall limit or restrict the power of extending the time for appeal and for the lodging of a petition of appeal conferred upon the Military Court of Appeal by subsections (2) and (6).

### **Bail pending appeal**

**130.** A subordinate military court may grant bail to any person who has lodged a notice of appeal against his conviction or sentence in accordance with section 129.

*[20/75; 1/94]*

### **Delivery of notice of appeal**

**131.** A copy of the notice of appeal shall be delivered by the registrar to the president of the Military Court of Appeal and upon the issue of the convening order under section 132(1) to the other members of the Court and to the respondents.

**Convening order**

**132.**—(1) Upon the lodging of a petition of appeal, the president of the Military Court of Appeal shall issue a convening order.

[20/75]

(2) A convening order shall contain the following particulars:

- (a) the particulars of the members of the Military Court of Appeal;
- (b) the particulars of the appellant and the respondent;
- (c) the date on which the hearing shall commence;
- (d) the place of the hearing;
- (e) any other particulars as may be prescribed in any regulations made under this Act.

**Delivery of convening order**

**133.** A copy of the convening order shall be delivered by the registrar of the Military Court of Appeal to the members of the Court, to the appellant and to the respondent as soon as possible.

**Withdrawal of appeal**

**134.** The appellant may at any time, with the permission of the president of the Military Court of Appeal, withdraw his appeal.

**Joint or separate appeal**

**135.** The president of the Military Court of Appeal may order, where appeals by more than one party against a judgment have been submitted, that they shall be heard jointly or separately.

**Delivery of judgment and record to Military Court of Appeal**

**136.** Where an appeal has been lodged, the judgment, the record of the proceedings and any other relevant material of the subordinate military court shall be delivered by the registrar to the president of the Military Court of Appeal and to the members thereof and to the military prosecutor.

**Proceedings in Military Court of Appeal**

**137.**—(1) Where a party to an appeal having been summoned does not attend, the Military Court of Appeal may hear the appeal in his absence.

(2) During the hearing of the appeal, the appellant shall be heard first and the respondent shall be heard after him; the appellant shall then be entitled to reply.

(3) Where appeals by several persons are heard jointly, the president of the Military Court of Appeal shall determine the order in which they are to be heard.

(4) The president of the Military Court of Appeal may permit any party to present additional arguments.

**Effect of death or sickness on Military Court of Appeal**

**138.**—(1) If the Military Court of Appeal, after the commencement of the appeal, is by reason of death or otherwise reduced below the legal minimum, the Court shall be dissolved.

(2) If before the commencement of the appeal, the president of the Military Court of Appeal dies or is otherwise unable to attend, the Court shall be dissolved.

(3) If, on account of the illness of the accused before the appeal is dealt with, it is impossible to continue the appeal, the Military Court of Appeal shall be dissolved.

(4) Where the Military Court of Appeal is dissolved under subsection (1), (2) or (3), the appeal shall be dealt with at a later date.

**Removal from office and bar to serve in Military Court of Appeal, etc.**

**139.**—(1) The Armed Forces Council may, on the advice of the Chief Justice, remove the president of the Military Court of Appeal from office for misbehaviour or for inability, whether from infirmity of body or mind or any other cause, properly to discharge the functions of his office.

(2) The Armed Forces Council may bar any officer or senior military expert from serving as a member of a Military Court of Appeal or a subordinate military court for misbehaviour or for inability, whether from infirmity of body or mind or from any other cause, properly to discharge the functions of the office.

*[28/2009 wef 01/04/2010]*

### **Challenge by accused**

**140.**—(1) Where the appeal of an accused is about to be heard by the Military Court of Appeal, the accused may object for any reasonable cause to any member of the Court, other than the president of the Court, whether such member was appointed to serve thereon originally or to fill a vacancy caused by the retirement of a member objected to, so that the Court may be constituted of members to whom the accused makes no reasonable objection.

(2) Upon the objection being made by an accused with regard to any member of the Military Court of Appeal, the objection shall be submitted to the other members appointed to form the Court.

(3) If the objection referred to in subsection (2) is allowed by one half or more of the votes of the members entitled to vote, the objection shall be allowed and the member objected to shall retire and his vacancy may be filled in the prescribed manner by another member subject to the same right to the accused person to object.

(4) In order to enable the accused to avail himself of his privilege of objecting to any member, the names of the members appointed to form the Military Court of Appeal shall be read over in the hearing of the accused on their first assembly and before they are sworn and he shall be asked whether he objects to any of those members and a like question shall be repeated in respect of any member appointed to serve in lieu of a retiring member.

### *Powers of Military Court of Appeal*

#### **Interpretation of this Part**

**141.** In this Part, unless the context otherwise requires, “appellant” includes the Director, Legal Services of the Singapore Armed Forces.

**Power to quash conviction as wrong in law, etc.**

**142.**—(1) The Military Court of Appeal shall allow an appeal against conviction by a subordinate military court if the Court thinks —

- (a) that the finding of the subordinate military court under all the circumstances of the case is unsafe or unsatisfactory;
- (b) that the finding involves a wrong decision of a question of law; or
- (c) that there was a material irregularity in the course of the trial,

and in any other case shall dismiss the appeal.

(2) The Military Court of Appeal may, notwithstanding that it is of the opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no miscarriage of justice has actually occurred.

(3) If the Military Court of Appeal allows an appeal against conviction, the Court shall quash the conviction.

(4) In an appeal from an order of acquittal, the Military Court of Appeal may reverse the order and direct that further enquiry shall be made or that the accused shall, subject to section 149, be retried or find him guilty and pass sentence on him according to law.

(5) At the hearing of an appeal, the Military Court of Appeal may subject to this Part —

- (a) if the appeal is against a conviction —
  - (i) reverse the finding and sentence and acquit the accused or order him to be retried under section 149;
  - (ii) alter the finding, maintain the sentence or, with or without altering the finding, reduce or enhance the sentence; or
  - (iii) with or without reduction or enhancement and with or without altering the finding alter the nature of the sentence;

- (b) if the appeal is against sentence, reduce or enhance the sentence or alter the nature of the sentence;
- (c) if the appeal is from any other order, alter or reverse the order.

### **Adjustment of sentence in case of conviction on 2 or more charges**

#### **143.** Where —

- (a) it appears to the Military Court of Appeal that an appellant, though not properly convicted on some charge preferred against him before the subordinate military court by which he was tried, was properly convicted on some other charge so preferred; and
- (b) the sentence passed by the subordinate military court on the appellant was not warranted for the offence of which he was convicted on the other charge,

the Court shall pass on the appellant, in substitution for the sentence passed on him by the subordinate military court, such sentence so warranted as it thinks proper.

### **Substitution of conviction on different charge**

**144.**—(1) This section shall apply where an appellant has been convicted of an offence and the subordinate military court by which he was tried could lawfully have found him guilty of some other offence, and it appears to the Military Court of Appeal that the subordinate military court must have been satisfied of the facts which proved him guilty of that other offence.

(2) The Military Court of Appeal may in the circumstances referred to in subsection (1), instead of allowing or dismissing the appeal, substitute for the finding of the subordinate military court a finding of guilty of the other offence, and may pass on the appellant, in substitution for the sentence passed on him by the subordinate military court, such sentence as the Court thinks proper, being a sentence warranted by that other offence.

**Variation of conviction so as to attract different sentence**

**145.**—(1) Where an appellant has been convicted of an offence committed under circumstances involving the higher of two degrees of punishment, and it appears to the Military Court of Appeal that the subordinate military court by which he was tried ought to have found him guilty of the offence as being committed under circumstances involving the lower degree of punishment, the Court may, instead of allowing or dismissing the appeal, substitute for the finding of the subordinate military court a finding of guilty of the offence as being committed under circumstances involving the lower degree of punishment.

(2) Where an appellant has been convicted of an offence and it appears to the Military Court of Appeal that the subordinate military court by which he was tried ought to have found him guilty of the offence subject to exceptions or variations, the Court may, instead of allowing or dismissing the appeal, substitute for the finding of the subordinate military court a finding of guilty of the offence subject to exceptions or variations.

(3) Where the Military Court of Appeal exercises the power conferred by subsection (1) or (2), the Court may pass on the appellant, in substitution for the sentence passed on him by the subordinate military court, such sentence as it thinks proper, being a sentence warranted for the offence specified or involved in the substituted finding.

**Substitution of finding of insanity or unfitness to plead**

**146.** Where on an appeal the Military Court of Appeal is of the opinion that the proper finding should have been a finding that the accused was not guilty by reason of insanity or that the accused was unfit to stand trial, the Court shall order that the accused be kept in custody and dealt with in accordance with the procedure laid down in regulations made under this Act where a subordinate military court makes a finding of not guilty by reason of insanity or a finding of unfitness to stand trial.

**Term of sentence passed under section 142, 143, 144 or 145**

**147.** The term of any sentence passed by the Military Court of Appeal under section 142, 143, 144 or 145 shall, unless the Court otherwise directs, begin to run from the time from which it would have begun to run if it had been passed in the proceedings from which the appeal was brought.

**Retrial generally excluded**

**148.** Subject to the provisions of this Act, where the conviction of a person by a subordinate military court for an offence has been quashed under this Act, he shall not be liable to be tried again for that offence by a subordinate military court or by a civil court or by a disciplinary officer.

**Power to authorise retrial in certain cases**

**149.—(1)** The Military Court of Appeal shall have the power, on quashing a conviction or reversing an order of acquittal, to make an order authorising the appellant to be retried by a subordinate military court.

(2) The Military Court of Appeal shall only exercise the power under subsection (1) when the appeal against conviction or an order of acquittal is allowed by reason only of evidence received or available to be received by the Court under section 152 and it appears to the Court that the interests of justice require that an order under this section should be made.

(3) An appellant shall not be retried under this section for an offence other than —

- (a) the offence of which he was convicted by the original subordinate military court and in respect of which his appeal is allowed as mentioned in subsection (2);
- (b) any offence of which he could have been convicted at the original subordinate military court on a charge of the first-mentioned offence; or
- (c) any offence charged in the alternative in respect of which the subordinate military court recorded no finding in



consequence of convicting him of the first-mentioned offence.

(4) A person who is to be retried under this section for an offence shall, if the Military Court of Appeal so directs, be retried on a fresh charge or charges specified in that direction.

### **Implementation of authority for retrial, and supplementary orders of Military Court of Appeal**

**150.**—(1) The limitations imposed in this Act with respect to the time within which a trial may be begun shall not apply in the case of a retrial authorised by an order of the Military Court of Appeal under section 142(4) or 149.

(2) The Military Court of Appeal may, where it authorises a retrial, make such orders as appear to it to be necessary or expedient for the retention until the relevant time of property or money which has been restored, delivered or paid in pursuance of an order made on or in consequence of the original conviction or has been placed in safe custody while the operation of any such order is suspended.

(3) In subsection (2), the reference to “the relevant time” is reference to the time when the case is finally disposed of except that for the purposes of that subsection the relevant time, in a case where the appellant is found guilty on his retrial, is the expiration of the period of 28 days beginning with the date of the finding.

#### *Supplementary provisions*

### **Presentation of appellant’s case**

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

### **Evidence**

**152.**—(1) The Military Court of Appeal may —

- (a) order the production of any document, exhibit or other thing connected with the proceedings the production of which appears to them necessary for the determination of the case;

- (b) order any witness who would have been a compellable witness at the trial to attend for examination and be examined before the Court, whether or not he was called at the trial; and
- (c) receive the evidence, if tendered, of any witness.
- (2) Without prejudice to the generality of subsection (1), where evidence is tendered to the Military Court of Appeal under that subsection, the Court shall, unless it is satisfied that the evidence if received would not afford any ground for allowing the appeal, exercise its power under that subsection of receiving it if —
- (a) it appears to the Court that the evidence is likely to be credible and would have been admissible at the trial on an issue which is the subject of the appeal; and
- (b) the Court is satisfied that it was not adduced at the trial, but there is a reasonable explanation of the failure to adduce it.
- (3) Subsection (1)(c) shall apply to any witness (including the appellant) who is competent but not compellable, and shall apply also to the appellant's husband or wife where the appellant makes an application for that purpose and the evidence of the husband or wife could not have been given at the trial except on such an application.
- (4) The Military Court of Appeal may order the examination of any witness whose attendance may be required under subsection (1)(b) to be conducted in the prescribed manner before any member of the Court or before any other person appointed by the Court for that purpose, and allow the admission of any depositions so taken as evidence before the Court.

### **Mode of taking additional evidence**

**153.**—(1) Without prejudice to section 152 in dealing with any appeal, the Military Court of Appeal may, if it thinks additional evidence is necessary, either take such evidence itself or direct it to be taken by the trial court.

(2) When such additional evidence is taken by the trial court, it shall certify that evidence, with a statement of its opinion on the case considered with regard to the additional evidence, to the Military

Court of Appeal, and the Military Court of Appeal shall thereupon proceed to dispose of the appeal.

(3) The parties to the appeal shall be present when such additional evidence is taken.

(4) In dealing with any appeal, the Military Court of Appeal may also, if it thinks fit, call for and receive from the trial court a report of any matter connected with the trial.

### **Judgment**

**154.**—(1) On the termination of the hearing of an appeal, the Military Court of Appeal shall, either at once or on some future date which shall either then be appointed for the purpose or of which notice shall subsequently be given to the parties, deliver judgment in open Court.

(2) The Military Court of Appeal shall ordinarily give only one judgment which may be pronounced by the president of the Court or by such other member of the Court as the president may direct but separate judgments shall be delivered if the president so directs.

(3) The judgment of any member of the Military Court of Appeal who is absent may be read by any other member.

### **Judgment to be certified to trial court**

**155.**—(1) The Military Court of Appeal shall certify its judgment or order to the trial court.

(2) The trial court shall thereupon make such orders as are conformable to the judgment or order of the Military Court of Appeal, and, if necessary, the record shall be amended in accordance therewith.

(3) Upon the withdrawal or discontinuance of any appeal, the registrar of the Military Court of Appeal shall notify the trial court accordingly and if any stay of execution has been granted, the sentence or order of the trial court shall forthwith be enforced.

**Appeal not to operate as stay of execution**

**156.**—(1) Except in the cases mentioned in subsection (4), no appeal shall operate as a stay of execution.

(2) The trial court may stay execution on any judgment, order, conviction or sentence pending appeal on such terms as to security for the payment of any money or the performance or non-performance of any act or the suffering of any punishment ordered by or in such judgment, order, conviction or sentence as to the Military Court of Appeal may seem reasonable.

(3) If the appellant is ultimately sentenced to imprisonment, the time during which the execution of the sentence was stayed shall be excluded in computing the term of his sentence unless the Military Court of Appeal otherwise orders.

(4) In the case of a conviction involving sentence of death —

- (a) the sentence shall not in any case be executed until after the expiration of the time within which notice of appeal may be given, or any extension of time which may be permitted, under section 129; and
- (b) if notice is so given the sentence shall not be executed until after the determination of the appeal.

**Summary rejection of appeal**

**157.**—(1) Where the grounds of appeal do not raise any question of law and it appears to the Military Court of Appeal that the evidence is sufficient to support the conviction and that there is no material in the circumstances of the case which could raise a reasonable doubt whether the conviction was right or lead the Court to consider that the sentence ought to be reduced, the appeal may, without being set down for hearing, be summarily rejected by an order under the hand of the president of the Court, certifying that the members thereof, having perused the record, are satisfied that the appeal has been brought without any sufficient ground of complaint.

(2) Notice of such rejection shall be served upon the appellant.

(3) If, in any case rejected under subsection (1), the appellant gives, within 7 days of service of notice of rejection upon him, notice to the

registrar of the Military Court of Appeal of application for leave to amend his grounds of appeal so as to raise a question of law, accompanied by a certificate signed by an advocate and solicitor specifying the question to be raised and undertaking to argue it, the Military Court of Appeal may grant leave to amend accordingly and shall restore the appeal for hearing.

(4) For the purposes of subsection (3), the question whether a sentence ought to be reduced shall be deemed not to be a question of law.

### **Reference of point of law to Military Court of Appeal in case of acquittal by subordinate military court**

**158.**—(1) When any person has been acquitted in a trial before a subordinate military court and the Director, Legal Services of the Singapore Armed Forces has, within one month from the date of such acquittal or such time as the Military Court of Appeal may permit, signed and filed with the registrar of the Court a certificate that the determination of such trial involved a question of law which it is desirable to have determined by the Military Court of Appeal, the Court shall review the case or such part of it as may be necessary and shall deliver a declaratory judgment thereon.

(2) A declaratory judgment of the Military Court of Appeal under subsection (1) shall not operate to reverse an order of acquittal, but such judgment shall thereafter be binding upon all other subordinate military courts in the same manner as an ordinary judgment of the Military Court of Appeal.

(3) The powers conferred upon the Director, Legal Services of the Singapore Armed Forces by this section shall be exercisable by that person only.

### **Costs of appeal**

**159.** The Military Court of Appeal may make such order as to the whole or any part of the costs of appeal or the whole or any part of the costs in a subordinate military court as the Court thinks fit.

**No appeal from Military Court of Appeal**

**160.** No appeal shall lie from any decision of the Military Court of Appeal.

**Regulations of procedure in Military Court of Appeal**

**161.** The Armed Forces Council may by regulations made under this Act provide for the procedure and practice to be followed in the Military Court of Appeal.

**PART VIII****ARRESTS, SEARCHES AND INVESTIGATIONS***Arrests***General authority**

**162.**—(1) Every person subject to military law found committing or reasonably suspected of having committed an offence under this Act or any regulations made thereunder may be arrested in accordance with the provisions of this Act.

(2) Any person making an arrest shall actually touch or confine the body of the person being arrested unless there is a submission to the arrest by word or action.

(3) Every person authorised to make an arrest under this Act may use such force as is reasonably necessary for that purpose.

(4) Where a person forcibly resists an attempt to arrest him or attempts to evade the arrest, the person arresting him or any other person assisting him may use all means necessary to make the arrest.

**Search of place where person sought to be arrested has entered**

**163.**—(1) If any person acting with a warrant of arrest issued under section 169 or acting without a warrant of arrest under sections 164, 165 and 166 has reason to believe that any person to be arrested has entered into or is within any place, the person residing in or in charge of such place shall, on demand of such person so acting, allow him free entry thereto and afford all reasonable facilities for search therein of the person to be arrested.

(2) Where free entry to such place cannot be obtained under subsection (1), it shall be lawful for a person acting with a warrant of arrest or a military policeman acting without a warrant of arrest where such warrant is not immediately obtainable in order to effect an entrance into such place to break open any outer or inner door or window of any place whether that of the person to be arrested or of any other person if after notification of his authority and purpose and demand of admittance duly made he cannot otherwise obtain admittance.

### **Powers of officers and senior military experts**

**164.** An officer or a senior military expert may, without a warrant of arrest, subject to regulations made under this Act, arrest —

- (a) any serviceman of lower rank; and
- (b) any officer or senior military expert who is engaged in a quarrel, affray or disorder.

*[28/2009 wef 01/04/2010]*

### **Powers of servicemen**

**165.** A serviceman, other than an officer or a senior military expert, may without a warrant of arrest, subject to regulations made under this Act, arrest any serviceman, other than an officer or a senior military expert, of lower rank.

*[28/2009 wef 01/04/2010]*

### **Powers of military policemen**

**166.—(1)** A military policeman may, without a warrant of arrest, subject to regulations made under this Act, arrest any person subject to military law.

(2) Without prejudice to his powers of arrest under subsection (1), a military policeman may, without a warrant of arrest, subject to regulations made under this Act, arrest any person subject to military law who does not give sufficient information to identify himself.

(3) A military policeman shall have —

- (a) the same powers of arrest as a police officer over a person not subject to military law who is in a place in the

possession, control or occupancy of the Singapore Armed Forces; and

- (b) power to arrest a person not subject to military law who wilfully obstructs any military operation, training or function.

### **Power of arrest of suspected deserters**

**167.**—(1) A police officer may arrest any person whom he has reasonable cause to suspect is a deserter, is absent without leave or has failed to comply with an order under section 109(1A).

*[16/2001 wef 15/05/2001]*

(2) Where no police officer is present, any person may arrest a person whom he has reasonable grounds to suspect is a deserter or is absent without leave.

(3) Where a person is arrested under subsection (1) or (2), the arrested person shall be taken as soon as possible before a civil court.

### **Proceedings before a civil court where persons suspected of illegal absence**

**168.**—(1) Where a person who is brought before a civil court is alleged to be a serviceman who has deserted, is absent without leave or has failed to comply with an order under section 109(1A), subsections (2), (3) and (4) shall have effect.

*[16/2001 wef 15/05/2001]*

(2) If he admits that he is illegally absent from the Singapore Armed Forces or has failed to comply with an order under section 109(1A) and the civil court is satisfied of the truth of the admission, then notwithstanding that he is in custody for some other cause, the court may forthwith cause him to be delivered into military custody in such manner as the court may think fit.

*[16/2001 wef 15/05/2001]*

(3) If he does not admit that he is illegally absent, or has failed to comply with an order under section 109(1A), as mentioned in subsection (2), or the civil court is not satisfied of the truth of the admission, the court shall consider the evidence and any statement of the accused, and if —



- (a) satisfied that he is subject to military law; and
- (b) of opinion that there is sufficient evidence to justify his being tried under this Act for an offence of desertion, absence without leave or failure to comply with a lawful order under section 109(1A),

then, unless he is in custody for some other cause, the court shall cause him to be delivered into military custody, but otherwise shall discharge him.

*[16/2001 wef 15/05/2001]*

(4) If the accused is in custody for some other cause, the civil court shall have power, but shall not be required, to act in accordance with subsection (3).

### **Issue of warrant of arrest**

**169.**—(1) Subject to this section, a senior disciplinary officer or a superior commander may by a warrant under his hand authorise the arrest of any person subject to military law.

(2) A senior disciplinary officer or a superior commander shall, unless he is otherwise authorised by the Armed Forces Council, issue warrants of arrest only in respect of persons serving in his command, formation or unit, as the case may be.

(3) In the case of a person subject to military law not being a serviceman, a warrant of arrest shall be issued only by a senior disciplinary officer or a superior commander authorised in that behalf by the Armed Forces Council.

(4) Every warrant shall remain in force until it is cancelled by a disciplinary officer or a superior commander or executed.

### **Warrants to whom directed**

**170.**—(1) A warrant of arrest may be directed to —

- (a) all military policemen but any military policeman may execute such warrant;
- (b) any one or more servicemen not being military policemen;

(c) the Commissioner of Police and all other police officers in Singapore.

(2) When a warrant is directed to more than one person, it may be executed by all or any one or more of them.

### **Provision for avoiding delay after arrest**

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

(2) Whenever any person subject to military law has been arrested and remains under arrest for a period longer than 8 days before being brought before a subordinate military court or a disciplinary officer for trial, a special report on the necessity for further delay shall be made to such person and in such manner as may be prescribed.

(3) A similar report as mentioned in subsection (2) shall be made to the like person in the like manner every 8 days until he is brought before a subordinate military court for trial or has been dealt with summarily by a disciplinary officer or he is released from arrest.

(4) Subsections (2) and (3) shall not apply where the accused is on active service.

## *Searches*

### **Search of persons arrested**

**172.**—(1) A military policeman making an arrest under this Act may search the person arrested and place in safe custody all articles other than necessary wearing apparel found upon him and any such articles which there is reason to believe were the instruments or the fruits of or other evidence of the crime may be detained until his discharge or acquittal.

(2) Any person other than a military policeman making an arrest under this Act may search the person arrested for any offensive weapons and may seize any such weapons.

**Power of search by persons of a superior rank**

**173.** Any person superior in rank to a serviceman may, without warrant, search a serviceman, or a place, if he has authority over the serviceman or the place.

**Search warrant**

**174.** A president of a subordinate military court, a senior disciplinary officer and a superior commander may, in accordance with regulations made under this Act, issue search warrants.

**Searching of women**

**175.** Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

**Forms of warrants**

**176.** Warrants of arrest and search warrants shall be in such form as may be prescribed by regulations made under this Act.

*Investigations***Investigating officers**

**177.** The following persons may, subject to section 178, serve as investigating officers:

- (a) any officer, warrant officer or military expert of or above the rank of ME3 appointed in writing by a senior disciplinary officer or a superior commander to investigate a military offence; and

[28/2009 wef 01/04/2010]

- (b) any military policeman.

[1/94]

**Restriction on powers of investigating officers**

**178.—(1)** An officer or a senior military expert appointed as an investigating officer under section 177(a) may only conduct an

investigation where there is reason to believe that a military offence specified in the Schedule has been committed.

[1/94]

[28/2009 wef 01/04/2010]

(2) A warrant officer, or a military expert of the rank of ME3, appointed as an investigating officer under section 177(a) may only conduct an investigation where there is reason to believe that a military offence specified in the Schedule has been committed by a soldier who is below the rank of warrant officer or ME3.

[1/94]

[28/2009 wef 01/04/2010]

(3) A military policeman may conduct an investigation where there is reason to believe that any offence involving persons subject to military law has been committed.

(4) An investigation may be conducted where the person who has committed the offence is not known.

### **General powers of investigating officers**

**179.**—(1) An investigating officer may —

- (a) issue an order in writing requiring the attendance before him of any person who appears to be acquainted with the circumstances of the matter;
- (b) if he considers that the production of any document or other material is necessary or desirable for the purpose of an investigation, issue an order in writing to the person in whose possession, custody or control such document or material is believed to be, requiring him to attend and produce it at the time and place stated in the order;
- (c) for the purpose of the investigation, take possession of or photograph any material or document;
- (d) take or cause to be taken the fingerprints and photographs of a person accused of an offence and may use them in any manner he thinks fit including sending the same for identification and report;
- (e) visit any place for the purpose of investigation; and

- (f) examine orally any person who may be acquainted with the facts and circumstances of the matter under investigation and shall reduce into writing any statement made by the person so examined.

(2) Where an investigation into an offence involving persons subject to military law, that is not committed on active service, is completed, the investigating officer —

- (a) if he is an officer, a warrant officer or a military expert of or above the rank of ME3 appointed under section 177(a) shall forward the investigation material obtained pursuant to the exercise of his powers under subsection (1) to the senior disciplinary officer or superior commander who appointed him to investigate the offence who shall thereupon cause the matter to be dealt with in accordance with the provisions of Part IV;

*[28/2009 wef 01/04/2010]*

- (b) if he is a military policeman shall forward the investigation material obtained pursuant to the exercise of his powers under subsection (1) to the Director, Legal Services of the Singapore Armed Forces who shall, if he is of the opinion that the investigation material discloses sufficient evidence to connect a person subject to military law with the commission of an offence, direct a military prosecutor to frame a charge and submit the charge to a disciplinary officer for summary trial under Part IV or to a subordinate military court for trial.

*[1/94]*

*[17/2004 wef 31/12/2004]*

(3) Where the investigation is in respect of an offence committed by a person on active service, the investigating officer, whether a military policeman or otherwise shall submit the investigation material to a senior disciplinary officer or superior commander who will if he is satisfied that the material discloses evidence to connect that person with the commission of the offence either deal with the case summarily or arrange the convening of a field general court martial for the trial of that person.

**Witnesses**

**180.**—(1) Any witness before an investigating officer shall be bound to state truly the facts and circumstances with which he is acquainted concerning the matter under investigation and shall answer every question put to him in the course of the investigation provided that he may decline to make a statement which may incriminate him.

(2) A statement made by any person under this section shall be read over to him by the investigating officer and shall, after giving him the opportunity to make any corrections, be signed by such person.

(3) Where the person who has made a statement refuses to sign the statement, the investigating officer shall record the fact of the refusal.

**Admissibility of statements**

**181.**—(1) Subject to this section, no statement made by any person to an investigating officer in the course of an investigation shall be used as evidence at his trial.

(2) When any witness, other than the accused, is called for the prosecution or for the defence, the subordinate military court shall, on the request of the accused or the prosecutor, refer to any statement made by such witness to an investigating officer, and such statement may be used in the manner provided by the Evidence Act (Cap. 97).

(3) When a person is charged with an offence in relation to the making or contents of any statement made by him to an investigating officer in the course of an investigation, such statement may be used in or as evidence.

(4) Where a person is charged with an offence, any statement, whether such statement amounts to a confession or not or is oral or in writing, made at any time, whether in the course of an investigation or not, by such person to or in the hearing of an investigating officer shall be admissible in evidence at his trial and, if such person tenders himself as a witness, any such statement may be used in cross-examination and for the purpose of impeaching his credit.

(5) A subordinate military court shall refuse to admit such statement or allow it to be used as mentioned under subsection (4)

if the making of the statement appears to the court to have been caused by any inducement, threat or promise having reference to the charge against such person, proceeding from a person in authority and sufficient in the opinion of the court, to give such person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

(6) Where a person subject to military law is officially informed that he may be prosecuted for an offence in a subordinate military court, he shall be served with a notice in writing, which shall be explained to him, to the following effect:

“You have been informed that you may be prosecuted for an offence. Do you wish to say anything in answer to the allegation that you have committed the offence? If there is any fact on which you intend to rely in your defence, you are advised to mention it now. If you hold it back till you go to court, your evidence may be less likely to be believed and this may have a bad effect on your case in general. If you wish to mention any fact now, and you would like it written down, this will be done.”

[17/78]

(7) Where a person subject to military law is served with a notice under subsection (6), he shall forthwith be officially informed, orally or in writing, of the date, place and nature of the offence which he is alleged to have committed.

(8) No statement made by an accused person in answer to a written notice served on him pursuant to subsection (6) shall be construed as a statement caused by any inducement, threat or promise as is described in subsection (5), if it is otherwise voluntary.

(9) In subsections (6) and (7), “officially informed” means informed by an investigating officer referred to in section 177, and empowered by section 178, to investigate the offence referred to in subsection (6).

**Circumstances in which inferences may be drawn from accused's failure to mention particular facts when informed that he may be prosecuted for an offence**

**182.**—(1) Where, in any proceedings in a subordinate military court against a person subject to military law for an offence, evidence is given that the accused on being officially informed that he may be prosecuted for the offence, failed to mention any fact, which in the circumstances existing at the time he could reasonably have been expected to mention when so informed, the subordinate military court, in determining whether there is a case to answer, and in determining whether the accused is guilty of the offence charged, may draw such inferences from the failure as appear proper.

(2) The failure mentioned in subsection (1) may, on the basis of such inferences, be treated as, or as capable of amounting to, corroboration of any evidence given against the accused in relation to which the failure is material.

[17/78]

(3) In subsection (1), “officially informed” means informed by an investigating officer referred to in section 177 and empowered by section 178 to investigate into the offence referred to in subsection (1).

(4) Nothing in this section shall in any proceedings in a subordinate military court —

- (a) prejudice the admissibility in evidence of the silence or other reaction of the accused in the face of anything said in his presence relating to the conduct in respect of which he is charged, in so far as evidence thereof would be admissible apart from this section; or
- (b) be taken to preclude the drawing of any inference from any such silence or other reaction of the accused which could be drawn apart from this section.

[17/78]



## PART IX

## BAIL AND BONDS

**Interpretation of this Part**

**182A.** In this Part —

“Bail Officer” means any officer or senior military expert appointed by the Armed Forces Council, by order published in the *Gazette*, to exercise the power to release a person subject to military law on bail or bond;

[28/2009 wef 01/04/2010]

“military court” means a general court martial or the Military Court of Appeal.

[1/94]

**When person subject to military law may be released on bail**

**182B.**—(1) Where any person subject to military law who is accused of an offence is arrested or detained in accordance with this Act or any regulations made thereunder or is brought before a military court, he may be released on bail or his own bond by a Bail Officer or the military court.

[1/94]

(2) No person shall be released on bail or his own bond under subsection (1) if there appear to be reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life.

[1/94]

(3) The Bail Officer or military court releasing any person under subsection (1) shall record in writing his or its reasons for so doing.

[1/94]

(4) A Bail Officer or a military court may at any time cause a person who has been released under this section to be arrested and may commit him to custody.

[1/94]

**Amount of bail or bond**

**182C.** The amount of bail or bond shall be fixed with due regard to the circumstances of the case as being sufficient to secure the attendance of the person arrested or detained.

[1/94]

**Person released on bail to give address for service**

**182D.**—(1) Where any person is released on bail or his own bond, he shall give to the Bail Officer or the military court releasing him an address at which service upon him of all notices and process may be made.

[1/94]

(2) In any case where the person released cannot be found or for any other reason service on him of any notice or process cannot be effected, any notice or process left for him at the address given by him under subsection (1) shall be deemed to have been duly served on him.

[1/94]

**Bond to be executed**

**182E.**—(1) Before any person is released on bail or his own bond under this Part, a bond for such sum of money as the Bail Officer or military court, as the case may be, thinks sufficient shall be executed by that person and, when he is released on bail, by one or more sufficient sureties conditioned that that person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by a Bail Officer or a military court, as the case may be.

[1/94]

(2) It shall be a further condition of the bond that as long as it remains in force, the person so released shall not, without the permission of a Bail Officer or a military court, as the case may be, proceed beyond the limits of Singapore.

[1/94]

(3) Such permission, if granted, shall be evidenced by an endorsement on the bond specifying the period of time and the place to which the permission extends.

[1/94]

(4) No such permission shall be granted except on the personal application of the person so released in the presence of his surety or sureties, if any.

[1/94]

### **Person to be released**

**182F.**—(1) As soon as the bond has been executed, the person for whose appearance it has been executed shall be released.

[1/94]

(2) Nothing in this section shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

[1/94]

### **Re-arrest in case of insufficient sureties**

**182G.** If through mistake, fraud or otherwise, insufficient sureties have been accepted or if they afterwards become insufficient, a Bail Officer or a military court, as the case may be, may direct that the person released shall be brought before him or it and may order such person to find sufficient sureties and, on his failing to do so, may commit him to custody.

[1/94]

### **Cash deposit instead of sureties**

**182H.** Where any person is required by a Bail Officer or a military court to execute a bond with one or more sureties, the Bail Officer or military court may permit him to enter into his own bond and, in addition thereto, to deposit a sum of money to such amount as the Bail Officer or the military court thinks fit instead of providing a surety or sureties.

[1/94]

### **Sureties may apply to have bond discharged**

**182I.**—(1) Where any person is required to execute a bond with sureties, any person who has entered into such a bond as surety may apply to a military court or, where no military court has assembled, to the relevant convening authority, to discharge the bond either wholly or so far as it relates to the applicant.

[1/94]

(2) On such application being made, the military court or the convening authority, as the case may be, may direct that the person on whose behalf the bond was entered into shall be arrested and brought before the court or the authority.

[1/94]

(3) Upon the appearance of such person, the military court or the convening authority may direct that the bond be discharged either wholly or so far as it relates to the applicant and shall call on that person to find other sufficient sureties and, if he fails to do so, shall commit him to custody.

[1/94]

### **Arrest on breach of bond for appearance**

**182J.** Where any person who is bound by any bond taken under this Part to appear before a military court or to attend at any other place at the time specified in the bond does not so appear or attend, the military court or the Bail Officer, as the case may be, may direct that that person shall be arrested and produced before it or him.

[1/94]

### **Procedure on forfeiture of bond**

**182K.**—(1) Where it is proved to the satisfaction of a military court that any bond taken under this Part has been forfeited, the court shall record the grounds of such proof and may summon before it any person bound by the bond and call him to pay the penalty thereof or to show cause why it should not be paid.

[1/94]

(2) If sufficient cause is not shown and the penalty is not paid, or the person bound by the bond fails to appear, the penalty shall be deemed to be a debt due to the Government.

[1/94]

## **PART X**

### **BOARDS OF INQUIRY**

#### **Board of inquiry**

**183.**—(1) Where it is expedient that the Armed Forces Council and such other person or bodies as it may appoint or prescribe for that

purpose (referred to in this Part as the convening body) should be informed on any matter connected with the Government, discipline, administration or functions of the Singapore Armed Forces or affecting any person subject to military law, the Armed Forces Council or any such body may convene a board of inquiry.

[20/75]

(2) A board of inquiry shall inquire and report on the facts relating to any matter referred to it and, if directed by the convening body to do so, express its opinion on any question arising out of any such matter.

### **Composition**

**184.**—(1) A board of inquiry shall consist of one or more persons who shall be members of the Singapore Armed Forces.

(2) Where a board of inquiry consists of more than one person, the convening body shall appoint one of the members to be the Chairman.

(3) Where a board of inquiry consists of one member only, he shall be vested with the powers of the Chairman.

### **Powers**

**185.** A board of inquiry may —

- (a) summon any person to give evidence on oath or on affirmation or produce any document or material necessary for the purpose of the inquiry;
- (b) visit any place in order to inquire into any matter which may arise in the course of the inquiry.

### **Application of section 113 to board of inquiry**

**186.** Section 113 shall apply, with the necessary modifications, to a board of inquiry convened under this Part.

[20/75]

### **Evidence and procedure**

**187.** Subject to this Act or any regulations made thereunder, a board of inquiry shall not be bound by the rules of evidence and shall act in such manner as it thinks most expedient.

**Admissibility of evidence**

**188.** No statement made in the course of any inquiry and no report of a board of inquiry shall be admissible as evidence in proceedings before a subordinate military court or a disciplinary officer other than proceedings for an offence under section 49.

**Sittings not open to public**

**189.** A board of inquiry shall not sit in public and no person shall be allowed to attend an inquiry or address the board of inquiry except with the permission of the Chairman or if the convening body so directs.

**Person who may be affected by findings**

**190.**—(1) Where it appears to a board of inquiry that any person subject to military law may be adversely affected by its findings, the board shall notify him thereof and give him an opportunity to be present at the sittings of the board of inquiry or at such part thereof as the Chairman of the board may specify.

(2) Any such person as referred to in subsection (1) shall be allowed to give evidence and examine witnesses.

**Record of proceedings**

**191.**—(1) The Chairman shall record or cause to be recorded in writing the proceedings of the board of inquiry.

(2) The evidence of each witness before the board of inquiry shall be read over to him and shall be signed by him.

(3) A record of the proceedings shall be signed by the Chairman and members, if any, and forwarded to the convening body.

**PART XI****PAY****Authorised deductions only to be made from pay**

**192.** The pay of a serviceman shall be paid without any deduction other than the deductions authorised by this Act or any other written

law or by regulations made under this Act by the Armed Forces Council.

### **Deductions from ordinary pay of servicemen**

**193.**—(1) The following deductions may, or if regulations made under this Act so provide shall, be made from the ordinary pay due to a serviceman of the Singapore Armed Forces:

- (a) all ordinary pay —
  - (i) for every day of absence either on desertion or without leave, for overstaying the period for which leave of absence is granted or as a prisoner of war under circumstances described in sections 12(d) and 14;
  - (ii) for every day of imprisonment, corrective training, preventive detention, reformatory training or detention of any other description, to which he is liable in consequence of an order or sentence of a civil court or order of the civil power;
  - (iii) for every day of imprisonment, special detention in a disciplinary barrack, detention or field punishment awarded by a subordinate military court or detention awarded by a disciplinary officer and for every day while a serviceman is under close arrest or civil custody on a charge for an offence of which he is afterwards convicted by a subordinate military court or a civil court, or by a disciplinary officer or the Senior Disciplinary Committee;
- (b) all ordinary pay for every day on which he is in hospital on account of sickness certified by the proper medical officer attending on him at the hospital to have been caused by an offence under this Act committed by him;
- (c) the sum required to make good such compensation for any expenses, loss, damage or destruction occasioned by the commission of any offence as may be awarded by a subordinate military court by whom he is convicted of such

offence or by a disciplinary officer or Senior Disciplinary Committee dealing summarily with a charge under this Act;

- (d) the sum required to make good such compensation for any expenses caused by him, or for any loss of or damage or destruction done by him to any arms, equipment, clothing, instruments, or regimental necessaries or military decoration, or to any buildings or property, as may be awarded by the disciplinary officer or Senior Disciplinary Committee dealing summarily with a charge under this Act or, in case he requires to be tried by a subordinate military court, by that court;
- (e) the share he is required to contribute as belonging to a unit towards compensation for barrack damage which after due investigation, to be held in the manner provided by regulations made under this Act, appears to have been occasioned by the wilful act or negligence of a person or persons who cannot be identified, belonging to the unit, during the period while such unit was in occupation; for the purposes of this paragraph, “barrack damage” means damage to or loss or destruction of any premises in which servicemen are quartered or billeted, or any appurtenances, fixtures, furniture or effects therein or appertaining thereto, and “unit” includes any part of a unit;
- (f) the sum required to pay a fine awarded by a disciplinary officer, a Senior Disciplinary Committee, a subordinate military court or the Military Court of Appeal, or any fine, penalty, damages, compensation, or costs which a civil court before which he has been charged with an offence has ordered him to pay;
- (g) the sum required to pay for the maintenance of his wife or child, or of any illegitimate child, or towards the cost of any relief given by way of loan to his wife or child; and
- (h) the sum required to pay the penalty payable upon forfeiture of any bond taken under Part IX.

[20/75; 1/94]



(2) Notwithstanding subsection (1) —

- (a) the total amount of deduction from the ordinary pay due to a serviceman in respect of the sums required to pay any compensation, fine or sum awarded or ordered to be paid under subsection (1) shall not exceed such sums as will leave to the serviceman less than 50 cents a day;
- (b) a person shall not be subjected in respect of any compensation, fine or sum awarded or ordered to be paid under subsection (1) to any deductions greater than is sufficient to make good the expenses, loss, damage or destruction for which such compensation is awarded, or to pay the said sum; and
- (c) where a serviceman who is sentenced or ordered in respect of an offence on active service to forfeit all ordinary pay is liable to any other penal deductions from pay, the sentence or order shall apply only to so much of his ordinary pay as remains after those other deductions have been made.

[20/75; 1/94]

(3) Without prejudice to the provisions of this Act as to the imposition of deduction of pay as a punishment where, after enquiry by the Armed Forces Council or by a board of inquiry convened under Part IX, it appears that a loss of or damage to public or the Singapore Armed Forces property has been occasioned by any wrongful act or negligence of a serviceman, the Armed Forces Council may order the serviceman (whether or not he is a member of the Singapore Armed Forces when the order is made) to pay as or towards compensation for the loss or damage such sum as may be specified in the order and any such sum which is not otherwise paid by the serviceman may be deducted from his pay.

[20/75]

(4) No order shall be made under subsection (3) if the serviceman in proceedings under this Act —

- (a) has been acquitted in circumstances involving a finding that he was not guilty of the wrongful act or negligence in question; or

- (b) has been awarded deduction of pay in respect of the same loss or damage.

### **How deduction of pay may be remitted**

**194.** Any deduction of pay authorised by this Act may be remitted in such manner and by such authority as may from time to time be provided by regulations made under this Act, and may, subject to the provisions of any such regulations, be remitted by the Armed Forces Council.

### **Supplemental provisions as to deductions from ordinary pay**

**195.—(1)** Any sum authorised by this Act to be deducted from the ordinary pay of a serviceman may, without prejudice to any other mode of recovering the sum, be deducted from the ordinary pay or from any sums due to the serviceman, in such manner, and when deducted or recovered may be appropriated in such manner, as may from time to time be directed by any regulations made under this Act or order of the Armed Forces Council.

(2) Subject to the following provisions, any regulations made under this Act or order may from time to time declare what shall, for the purposes of the provisions of this Act relating to deductions from pay, be deemed to constitute a day of absence or a day of imprisonment, special detention or detention:

- (a) no person shall be treated as absent, imprisoned, specially detained or detained, for those purposes, unless the absence, imprisonment, special detention or detention has lasted for at least 6 hours, except where the absence prevented the absentee from fulfilling any military duty;
- (b) a period of absence, imprisonment, special detention or detention which commences before and ends after midnight may be reckoned as a day;
- (c) the number of days shall be reckoned as from the time when the absence, imprisonment, special detention or detention commences; and

- (d) no period of less than 24 hours shall be reckoned as more than one day.

[17/78]

(3) In cases of doubt as to the proper issue of pay or the proper deduction from pay due to any serviceman, the pay may be withheld until the order of the Armed Forces Council respecting it has been made.

### **Prohibition of assignment of military pay, pensions, etc.**

**196.** Every assignment of, and every charge on, and every agreement to assign or charge, any deferred pay, or military reward payable to a serviceman or any pension, allowance or relief payable to any such serviceman, or his wife, widow, child or other dependant, or to any person in respect of any military service, shall, except so far as the same is made in pursuance of any regulations made under this Act for the benefit of the family of the person entitled thereto, or as may be authorised by any written law for the time being in force, be void.

### **Write off of public property**

**197.**—(1) Without prejudice to section 19 of the Financial Procedure Act (Cap. 109) —

- (a) where during or at the conclusion of a trial by a disciplinary officer, Senior Disciplinary Committee or subordinate military court, the disciplinary officer, Senior Disciplinary Committee or subordinate military court —
- (i) makes an order under section 69(2), 70(2), 70A(2), 70B(2), 72(6) or 118(1)(j), as the case may be, for a deduction of the pay of a serviceman to be made as or towards compensation for part of any loss or deficiency of property which was caused by the offence for which the trial is being held;
  - (ii) makes an order under section 73 or 118(13), as the case may be, for the payment of such compensation;
- or

- (iii) does not make any order for such deduction to be made as or towards compensation for such loss or deficiency of property or part thereof or for the payment of such compensation;
- (b) where there is any loss or deficiency of property which was caused by the commission of an offence disclosed in a charge which has been dealt with by a Senior Disciplinary Committee under section 72;
- (c) where upon the determination of an appeal, the Military Court of Appeal —
  - (i) makes an order under section 142 for a deduction of the pay of a serviceman to be made as or towards compensation for part of any loss or deficiency of property caused by the offence in respect of which the appeal is being determined or for the payment of such compensation;
  - (ii) substitutes under section 143, 144 or 145 one or more punishments imposed by the subordinate military court with an order for such deduction to be made as or towards compensation for part of such loss or deficiency of property or for the payment of such compensation;
  - (iii) dismisses under section 142 the appeal against or maintains under that section one or more punishments imposed by the subordinate military court which ordered such deduction to be made as or towards compensation for part of such loss or deficiency of property or the payment of such compensation;
  - (iv) dismisses under section 142 the appeal against an order of acquittal by the subordinate military court of the offence which caused such loss or deficiency of property or against one or more punishments imposed by the subordinate military court which did not order for such deduction to be made as or towards compensation for such loss or deficiency of

property or part thereof or for the payment of such compensation; or

- (v) quashes under section 142 one or more punishments imposed by the subordinate military court which ordered such deduction to be made as or towards compensation for such loss or deficiency of property or part thereof or the payment of such compensation;
- (d) where under section 75(1) or 116(6), the Armed Forces Council —
- (i) substitutes one or more punishments imposed by a disciplinary officer or subordinate military court, as the case may be, with an order for a deduction of the pay of a serviceman to be made as or towards compensation for part of any loss or deficiency of property caused by the offence for which the punishments were imposed or for the payment of such compensation; or
  - (ii) quashes one or more punishments imposed by the disciplinary officer who, or the subordinate military court which ordered such deduction to be made as or towards compensation for such loss or deficiency of property or part thereof or the payment of such compensation; or
- (e) where after enquiry by the Armed Forces Council or by a board of inquiry convened under Part X into any loss or deficiency of property, the Armed Forces Council orders a serviceman to pay a sum as or towards compensation for part of such loss or deficiency of property or does not make any order under section 193(3),

the Armed Forces Council may write off the loss or deficiency or such part thereof or the value of the loss or deficiency or part thereof as remains irrecoverable or unrecovered.

*[17/78; 1/94; 10/2000]*

(2) The Armed Forces Council may, subject to such conditions or restrictions as it thinks fit, delegate to a person the exercise of the power vested in it by subsection (1).

(3) The Armed Forces Council may exercise the power conferred upon it by subsection (1) notwithstanding that it has delegated its powers under subsection (2).

(4) In subsection (1) —

“loss of property” includes destruction of or damage to such property;

“property” means public money or other public property in the possession or under the charge of the Singapore Armed Forces.

(5) Where the Armed Forces Council has, under section 8C(1), appointed a committee to exercise the powers conferred upon it —

(a) by section 75(1) in relation to a serviceman, who is serving in Singapore, a reference to an order made or quashed by the Armed Forces Council in subsection (1)(d) in respect of that serviceman shall be construed as a reference to an order made or quashed by the committee; or

(b) by section 193(3) in relation to a serviceman, a reference to an order made by the Armed Forces Council in subsection (1)(e) in respect of that serviceman shall be construed as a reference to an order made by the committee.

[1/94]

(6) Where the Armed Forces Council has —

(a) under section 75(3), appointed an officer or a senior military expert to exercise the powers conferred upon it by section 75(1) in relation to a serviceman serving outside Singapore; or

[28/2009 wef 01/04/2010]

(b) in relation to a serviceman, delegated its powers as a reviewing authority to a committee under section 116(2), a reference to an order made or quashed by the Armed Forces Council in subsection (1)(d) in respect of that serviceman shall be construed as a reference to an order made or quashed by the officer, senior military expert or committee, as the case may be.

[28/2009 wef 01/04/2010]

## PART XII

## EMERGENCY POWERS

**Application of emergency powers**

**198.** Whenever the President is of the opinion that it is necessary to do so for securing the public safety or the defence of Singapore, the President may from time to time order sections 199 and 200 to come into operation and may vary or revoke such order.

**Emergency powers**

**\*199.** Where the public safety or the defence of Singapore so require, it shall be lawful for any serviceman acting on the authority of the Armed Forces Council —

- (a) to enter, inspect, occupy, take possession of, evacuate, use, transfer, confiscate, repair or destroy any private or public property; and
- (b) to order any person to do any work or render any service.

**Compensation and remuneration**

**\*200.**—(1) Any person who suffers damage because of any act under section 199(a) shall be entitled to due compensation.

(2) Any person who does work or renders a service under section 199(b) shall be entitled to remuneration in accordance with the order of the Armed Forces Council.

**Obstruction of exercise of emergency powers**

**201.** Any person who interferes with or obstructs an act under section 199(a) or does not comply with an order under section 199(b) shall be guilty of an offence and shall be liable on conviction by a subordinate military court to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 3 years or to both.

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\* Sections 199 and 200 were not in operation when this Revised Edition was brought into force.

## PART XIII

## AID TO CIVILIAN AUTHORITIES

**Interpretation of this Part**

**201A.** In this Part —

“Committee” means the Committee appointed under section 201C(2);

“infrastructure” includes physical facilities, supply chains, information technologies and communication networks or systems.

[25/2007 wef 01/08/2007]

**Deployment of Singapore Armed Forces for air and sea operations in aid of civilian authorities**

**201B.**—(1) The Minister may authorise the Singapore Armed Forces to be deployed in such manner as is reasonable and necessary for all or any of the following air or sea operations:

- (a) to combat piracy or piratical acts;
- (b) to detect and prevent any aerial or maritime threat to the defence or security of Singapore;
- (c) to detect and prevent the unlawful carriage by air or sea of any weapon, explosive or other dangerous device or substance;
- (d) to rescue any hijacked aircraft, vessel or other fixed or floating facility;
- (e) to carry out such other air or sea operation as the Minister, after consulting the Committee, may, by notification in the *Gazette*, prescribe.

(2) The Minister shall have regard to Singapore’s international obligations when giving any authorisation under subsection (1).

(3) Subject to sections 201E and 201F, any serviceman deployed for duty under subsection (1) may, for the purposes of the operation for which he is deployed, do one or more of the following in relation to any aircraft:



- (a) intercept the aircraft and require it —
  - (i) to leave, or not to enter, Singapore airspace or such part of Singapore airspace as may be specified by him; or
  - (ii) to land at an aerodrome or such other place in Singapore as may be specified by him;
- (b) capture or recapture the aircraft;
- (c) board the aircraft;
- (d) where he is on board the aircraft —
  - (i) prevent, or put an end to, acts of violence;
  - (ii) protect persons from acts of violence;
  - (iii) free any hostage from the aircraft;
  - (iv) evacuate persons to a place of safety;
  - (v) detain any person whom the serviceman believes on reasonable grounds to have committed an offence or to have a design to commit an offence, to be handed over to a police officer as soon as practicable;
  - (vi) search the aircraft, and any person or anything on it, including its cargo;
  - (vii) seize any dangerous thing or other thing related to the operation concerned or evidence of any offence found in such a search;
- (e) detain the aircraft and bring it, or cause it to be brought, to any other place in Singapore;
- (f) take measures (including the use of force) reasonable and necessary in the circumstances to exercise any of the powers in paragraphs (a) to (e).

(4) Subject to sections 201E and 201F, any serviceman deployed for duty under subsection (1) may, for the purposes of the operation for which he is deployed, do one or more of the following in relation to any vessel or fixed or floating facility:

- (a) intercept the vessel and require it to leave, or not to enter, Singapore territorial waters or such part of Singapore territorial waters as may be specified by him;
- (b) pursue, stop and board the vessel;
- (c) where necessary and after firing a warning signal, fire at or into the vessel to disable it or compel it to be brought to for boarding;
- (d) capture or recapture the vessel or facility;
- (e) where he is on the vessel or facility —
  - (i) prevent, or put an end to, acts of violence;
  - (ii) protect persons from acts of violence;
  - (iii) free any hostage from the vessel or facility;
  - (iv) evacuate persons to a place of safety;
  - (v) require any person to give information concerning himself, the vessel or facility or anything thereon;
  - (vi) detain any person whom the serviceman believes on reasonable grounds to have committed an offence or to have a design to commit an offence, to be handed over to a police officer as soon as practicable;
  - (vii) search the vessel or facility, and any person or anything on it, including its cargo;
  - (viii) seize any dangerous thing or other thing related to the operation concerned or evidence of any offence found in such a search;
- (f) detain the vessel and bring it, or direct the person in charge of the vessel to bring it —
  - (i) to a port or to any other place in Singapore; or
  - (ii) out of Singapore;
- (g) take measures (including the use of force) reasonable and necessary in the circumstances to exercise any of the powers in paragraphs (a) to (f).

(5) The powers under subsections (3) and (4) shall extend to aircraft and vessels outside Singapore in accordance with Singapore's international obligations.

[25/2007 wef 01/08/2007]

### **Deployment of Singapore Armed Forces for land operations in aid of civilian authorities**

**201C.**—(1) Where the Minister, after consulting the Committee, is of the opinion that a relevant event has occurred, could occur or would be likely to occur, the Minister may, from time to time, order the Singapore Armed Forces to be deployed for the relevant event for such period as may be specified in the order.

(2) For the purposes of this Part, the Prime Minister shall appoint a Committee consisting of such persons as he may appoint.

(3) Any order made under subsection (1) shall be published in the *Gazette* as soon as practicable after it is made unless, for reasons of urgency or national security, it would be impracticable or undesirable to do so.

(4) Any order made under subsection (1) shall specify —

- (a) the circumstances to which the order relates;
- (b) the location or infrastructure to which, or the person to whom, the order relates;
- (c) the interest to be protected or threat to be averted, as the case may be;
- (d) the powers under subsection (9) which apply in relation to the order; and
- (e) the period for which the order shall be in force.

(5) An order made under subsection (1) shall not be invalid by reason that it does not specify one or more of the particulars in subsection (4), if the Minister is satisfied that it is impracticable or undesirable that such particulars be so specified.

(6) The Minister, after consulting the Committee, may at any time revoke or vary any order made under subsection (1).

(7) The Minister may make any order under subsection (1) without consulting the Committee if he is satisfied that —

(a) because of a sudden and extraordinary emergency, it is not practicable to do so; and

(b) any of the circumstances specified in that subsection exists.

(8) An order made under subsection (1) by virtue of subsection (7) shall cease to be valid after the expiration of 72 hours from the time it was made, unless confirmed by the Committee.

(9) Subject to sections 201E and 201F, any serviceman deployed for duty in accordance with any order made under subsection (1) which is in force may, for the purposes of the relevant event for which he is deployed, do one or more of the following:

(a) exercise any of the powers conferred on a police officer by sections 63 to 68 and 75 to 85 of the Criminal Procedure Code 2010 in like manner as if references in those provisions to —

*[15/2010 wef 02/01/2011]*

(i) a police officer were references to a serviceman;

(ii) the rank of “sergeant” were references to the rank of third sergeant or ME1 (depending on whether the holder of that rank is a military expert); and

*[28/2009 wef 01/04/2010]*

(iii) the rank of “inspector” were references to the rank of second lieutenant or ME4 (depending on whether the holder of that rank is an officer or a senior military expert);

*[28/2009 wef 01/04/2010]*

(b) regulate, restrict, control or prohibit the use of any public road or public place, where and to the extent that similar powers are not exercisable under paragraph (f) by a serviceman;

*[Act 26 of 2018 wef 16/05/2018]*

(c) erect or place barriers in or across any public road or street or in any public place and take all reasonable steps to prevent any vehicle being driven or ridden past any such

barrier, where and to the extent that similar powers are not exercisable under paragraph (f) by a serviceman;

*[Act 26 of 2018 wef 16/05/2018]*

- (d) arrest, without warrant, any driver or rider of any vehicle who fails to comply with the signal of a police officer or serviceman requiring such person to stop the vehicle before reaching the barrier erected or placed under paragraph (c), where and to the extent that similar powers are not exercisable under paragraph (f) by a serviceman;

*[Act 26 of 2018 wef 16/05/2018]*

- (e) where and to the extent that similar powers are not exercisable under paragraph (f) by a serviceman, stop and search any person or vehicle, or enter and search any premises, if the serviceman has reasonable grounds for believing that any evidence of the commission or of the preparation for the commission of an offence under the Arms and Explosives Act (Cap. 13), the Arms Offences Act (Cap. 14) or the Corrosive and Explosive Substances and Offensive Weapons Act (Cap. 65) is likely to be found on such person or premises or in such vehicle, and may —

- (i) disarm any such person;
- (ii) seize any such evidence so found, any weapon, explosive or other dangerous device or substance and any article or material or accumulation thereof capable of being used for causing hurt if he has reasonable grounds for believing that it is intended or likely to be used for the purpose of causing hurt; and
- (iii) seize any vehicle in which that evidence, weapon, explosive, dangerous device or substance, article or material is found;

*[Act 26 of 2018 wef 16/05/2018]*

*[Act 26 of 2018 wef 16/05/2018]*

- (f) exercise any of the powers conferred on a police officer under any provision in Part 4 (except sections 17 and 24), or section 31 or 48, of the Public Order and Safety (Special

Powers) Act 2018 as if references in that provision to a police officer were references to a serviceman, but only —

- (i) when an activation order is made and in effect under that Act in respect of a relevant event;
- (ii) to the extent as requested by the Commissioner of Police;
- (iii) after a police officer gives an order or a direction under section 19(1) or 21(1) of that Act, if the power under that provision is so requested; and
- (iv) within a target area within the meaning given by that Act unless it is a power in section 28 or 31 of that Act.

*[Act 26 of 2018 wef 16/05/2018]*

(10) In this section, “relevant event” means —

- (a) a terrorist attack in Singapore;
- (b) injury or threat to the life of such person as the Minister proposes to specify in the order to be made under subsection (1);
- (c) damage or disruption to the operation of such infrastructure as the Minister proposes to specify in the order to be made under subsection (1);
- (d) the taking of any hostage;
- (e) the unlawful carriage by land in or through Singapore of any weapon, explosive or other dangerous device or substance; or
- (f) such other event as the Prime Minister may, by notification in the *Gazette*, specify.

*[25/2007 wef 01/08/2007]*

(11) A reference in subsection (9) to similar powers exercisable under paragraph (f) is a reference to the following powers described in the Public Order and Safety (Special Powers) Act 2018:

- (a) the powers conferred on a police officer under sections 16, 18, 19 and 20 of that Act, where subsection (9)(b), (c) or (d), as the case may be, is concerned;
- (b) the powers conferred on a police officer under sections 16, 22, 23, 25 and 26 of that Act, where subsection (9)(e) is concerned.

*[Act 26 of 2018 wef 16/05/2018]*

### **Powers of Singapore Armed Forces in vicinity of protected area or place**

**201D.** The Minister may authorise any serviceman to exercise one or more of the powers under section 201C(9) in the immediate vicinity of any Singapore Armed Forces property which has been declared a protected area or a protected place under the Protected Areas and Protected Places Act (Cap. 256), for the protection of persons and property therein.

*[25/2007 wef 01/08/2007]*

### **Serviceman to act on Minister's authorisation or superior order**

**201E.**—(1) A serviceman may exercise any power under section 201B(3) or (4) or 201C(9), or give an order to exercise that power, only —

- (a) in accordance with any authorisation or order by the Minister to do so; or
- (b) under, or under the authority of, an order of a superior (referred to in this section as a superior order) to do so.

(2) For the purposes of subsection (1)(a), any authorisation by the Minister includes written authorisation given in advance specifying the powers which shall be exercisable under the circumstances specified in the authorisation.

(3) The Minister shall not authorise or order the taking of measures involving the use of lethal force against any person, vehicle, aircraft, vessel or facility unless the Minister is satisfied that such measures are reasonable and necessary in the circumstances, and in so doing,

the Minister shall have regard to Singapore's international obligations.

(4) Subsection (1)(b) shall apply only if —

- (a) the serviceman is under a legal obligation to obey the superior order;
- (b) the superior order is not manifestly unlawful;
- (c) the serviceman has no reason to believe that circumstances have changed in a material way since the superior order was given;
- (d) the serviceman has no reason to believe that the superior order was based on a mistake as to a material fact; and
- (e) the serviceman exercises the power or gives the order to exercise the power in a manner reasonable and necessary to give effect to the superior order.

(5) In this section, “superior” means the Chief of Defence Force, an officer, a warrant officer, a military expert of or above the rank of ME3 or such other serviceman as the Minister may specify in his authorisation or order.

*[25/2007 wef 01/08/2007]*

*[28/2009 wef 01/04/2010]*

### **Restriction on use of force likely to cause death or grievous hurt**

**201F.**—(1) A serviceman in exercising any power under section 201B(3) or (4) or 201C(9) shall not, in using force against any person —

- (a) do anything likely to cause the death of, or grievous hurt to, the person unless the serviceman believes on reasonable grounds that doing that thing is necessary to —
  - (i) protect the life of, or to prevent serious injury to, another person (including himself); or



- (ii) protect infrastructure specified in an order made under section 201C(1) against damage or disruption to its operation;

*[Act 26 of 2018 wef 16/05/2018]*

- (aa) do anything likely to cause the death of, or grievous hurt to, the person in exercising any power under section 201C(9)(f) unless the serviceman would have been authorised by the Public Order and Safety (Special Powers) Act 2018 to do so if he were a police officer acting in accordance with that Act; or

*[Act 26 of 2018 wef 16/05/2018]*

- (b) subject the person to greater indignity than is reasonable and necessary in the circumstances.

(2) If a person attempts to escape being detained, a serviceman shall not do anything that is likely to cause the death of, or grievous hurt to, the person unless the person has, if practicable, been called on to surrender and the serviceman believes on reasonable grounds that the person cannot be apprehended in any other manner.

*[25/2007 wef 01/08/2007]*

### **Procedure on arrest of persons, seizure of property or detention of aircraft and vessels**

**201G.**—(1) Any person arrested or detained by a serviceman in exercise of his powers under section 201B(3) or (4) or 201C(9) shall be handed over to a police officer as soon as practicable, and section 66(3), (4) and (5) of the Criminal Procedure Code 2010 shall apply to that person as if he were handed over to the police officer under section 66(1) and (2) of that Code.

*[15/2010 wef 02/01/2011]*

(2) Where a serviceman has seized any thing or vehicle in exercise of his powers under section 201B(3) or (4) or 201C(9), the serviceman shall —

- (a) take such action as is reasonable and necessary to secure the thing or vehicle or prevent it from being used;
- (b) if the serviceman believes on reasonable grounds that the thing or vehicle has been used or otherwise involved in the

commission of an offence, hand it to a police officer as soon as practicable; and

- (c) if paragraph (b) does not apply, return the thing or vehicle to the person from whom it was seized, or hand it to a police officer as soon as practicable.

(3) Any thing or vehicle seized by a serviceman shall be dealt with in the same manner as if it were seized by a police officer under the Criminal Procedure Code (Cap. 68).

(4) Where a serviceman has detained any aircraft or vessel in exercise of his powers under section 201B(3) or (4), the serviceman shall —

- (a) take such action as is reasonable and necessary to secure the aircraft or vessel, or prevent it from being used;
- (b) report the detention of the aircraft or vessel to the Chief of Defence Force as soon as practicable; and
- (c) deal with the aircraft or vessel in such manner as the Chief of Defence Force, after consulting the Commissioner of Police, shall determine.

*[25/2007 wef 01/08/2007]*

### **Obstruction of exercise of powers**

**201H.** Any person who obstructs or resists, or fails to comply with any order of, a serviceman acting in the exercise of his powers under this Part shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both.

*[25/2007 wef 01/08/2007]*

*[Act 26 of 2018 wef 16/05/2018]*

### **Saving**

**201I.** Nothing in this Part shall affect or derogate from any other power exercisable by a serviceman under any other written law.

*[25/2007 wef 01/08/2007]*

## PART XIII

## MISCELLANEOUS

**Exemption of servicemen from certain laws**

**202.** Any serviceman acting bona fide and in his official capacity shall be exempt from all written laws providing for the carriage and storage of arms.

**Reduction in rank for inefficiency**

**203.** When a serviceman by reason of unsuitability or inefficiency of a nature which does not warrant disciplinary action is nevertheless undeserving to retain his rank, the Armed Forces Council may, after giving him 3 months notice in writing to that effect, reduce him to a rank appropriate to his abilities.

**Mode of complaint by servicemen**

**204.**—(1) If any serviceman thinks himself wronged in any matter by another serviceman superior to him in rank, he may complain to his commander, but if the first-mentioned serviceman is an officer or a senior military expert who is equivalent or superior in rank to the commander he may complain to an officer or a senior military expert next senior in rank to him.

*[28/2009 wef 01/04/2010]*

(2) Every officer or senior military expert to whom a complaint is made under this section shall cause such complaint to be enquired into and shall, if on inquiry he is satisfied of the justice of the complaint so made, take such steps as may be necessary for giving full redress to the complainant in respect of the matter complained of.

*[28/2009 wef 01/04/2010]*

(3) If the serviceman is not satisfied that his complaint has been redressed he may complain to the Armed Forces Council and the Armed Forces Council shall examine such complaint and do justice in the matter.

**Regulations**

**205.** The Armed Forces Council may make regulations in respect of all or any of the following matters:

- (a) the government, administration and organisation of the Singapore Armed Forces;
- (b) ranks of servicemen in the uniformed services (including the military domain experts service);  
*[28/2009 wef 01/04/2010]*
- (c) service grades of regular servicemen in the non-uniformed service, including the designation of grades as officer grades;  
*[28/2009 wef 01/04/2010]*
- (d) powers of commanders;
- (e) powers of disciplinary officers;
- (f) procedure and practice in summary trials;
- (g) powers and duties of military policemen;
- (h) arrests and searches and investigation of offences;
- (i) payments, deductions, forfeitures, pensions, gratuities and other allowances;
- (j) terms and conditions of service of servicemen including classes or categories of serviceman and periods of service;
- (k) terms and conditions of service of the president of the Military Court of Appeal and the registrar thereof;
- (l) committees of inquiry appointed under section 8C;
- (m) boards of inquiry;
- (n) military decorations;
- (o) military funerals and burials at sea;
- (p) military prisons, disciplinary barracks and detention barracks;
- (q) the committal of persons under military sentences of imprisonment, special detention or detention to military prisons, disciplinary barracks or detention barracks, as the case may be, their removal from one place to another or from one form of custody to another and their release when

their terms of imprisonment, special detention or detention have ended;

- (r) the provision, classification, regulation and management of military prisons, disciplinary barracks and detention barracks;
- (s) the classification, treatment, employment, discipline and control of persons serving military sentences of imprisonment, special detention or detention or in military custody;
- (t) the temporary release on compassionate grounds of persons serving such sentences in military prisons, disciplinary barracks or detention barracks, the cases in which, periods for which and conditions subject to which they may be allowed out of any of those places and the remission of part of any such sentence for good conduct and industry;
- (u) the appointment, powers and duties of inspectors, visitors and members of the staff of military prisons, disciplinary barracks and detention barracks;  
*[28/2009 wef 01/04/2010]*
- (v) the establishment, maintenance and application of a fund to be known as the Singapore Armed Forces Central Welfare Fund;
- (w) the appointment, release, discharge and terms and conditions of service of volunteers;
- (x) the exclusion or variation of the operation of the provisions of this Act in relation to non-uniformed servicemen;
- (y) in relation to any rank referred to in any provision of the Act, the designation of a corresponding service grade in the non-uniformed service for the purpose of that provision; and
- (z) all other matters which the Armed Forces Council considers necessary or expedient for the purposes of this Act.

*[17/78; 1/91; 20/94]*

**SAVER and Premium Plans**

**205A.**—(1) The Armed Forces Council may also make regulations for the establishment of 2 savings and employee retirement plans (referred to in this Act as the SAVER Plan and the Premium Plan, respectively) for the payment of —

- (a) any gratuity, allowance, superannuation or other like benefit to such servicemen or classes of servicemen as may be prescribed, or to their legal personal representatives or dependants, on the death or the retirement or resignation from the Singapore Armed Forces of such servicemen;
- (b) any pension, allowance, gratuity, compensation or other benefit in respect of the death of or injuries received by any such serviceman in and which are attributable to service;
- (c) any subsidy, rebate or other benefit in respect of medical services rendered to such servicemen;
- (d) any allowance, subsidy or other benefit to such former servicemen after their retirement from the Singapore Armed Forces; and
- (e) any loan or other benefit to such servicemen or classes of servicemen as may be prescribed.

*[12/98; 10/2000]*

(2) The following provisions shall apply to the SAVER Plan and the Premium Plan established under this section:

- (a) no payments, allowance or other benefit payable under the SAVER Plan or the Premium Plan (whether on death, retirement or resignation of a serviceman or otherwise), and no contribution by the Government made under the SAVER Plan or the Premium Plan and no interest thereon shall be assignable or transferable, or liable to be garnished, attached, sequestered or levied upon for or in respect of any debt or claim, other than —
  - (i) a debt due to the Government; or

- (ii) an order of court for the payment of periodical sums of money towards the maintenance of the wife or former wife or minor child (whether legitimate or not) of the serviceman to whom the payment, allowance or other benefit has been granted;
- (b) no contribution by the Government made under the SAVER Plan or the Premium Plan and no interest thereon shall be subject to the debts of a serviceman, nor shall such contributions and interest pass to the Official Assignee on the bankruptcy of the serviceman, but if the serviceman is adjudicated a bankrupt or is declared insolvent by a court of law, such contribution and interest shall be deemed excluded from the property of the bankrupt for the purposes of the Bankruptcy Act (Cap. 20); and
- (c) subject to the provisions of any regulations made under this section, all moneys paid or payable under the SAVER Plan or the Premium Plan on the death of a serviceman shall be deemed to be subject to a trust in favour of the persons entitled thereto under the will or intestacy of such deceased serviceman and shall not be deemed to form part of his estate or be subject to the payment of his debts but shall be deemed to be property passing on his death for the purposes of the Estate Duty Act (Cap. 96).

[12/98; 10/2000]

(3) The Armed Forces Council shall, in making any regulations under this section, provide —

- (a) for officers who, immediately prior to 1st January 1998, are eligible for any pension, gratuity or other allowance under any regulations made under section 205 to opt to join the SAVER Plan and for the terms and conditions of such an option;
- (b) for soldiers who, immediately prior to 1st January 2000, are eligible for any pension, gratuity or other allowance under any regulations made under section 205 to opt to join

the Premium Plan and for the terms and conditions of such an option; and

- (c) that any such officer who opts to join the SAVER Plan or any such soldier who opts to join the Premium Plan, shall remain eligible to benefits not less in value than the amount of any pension, gratuity or other allowance for which he would have been granted under the regulations made under section 205 if he retired or ceased contract service on medical grounds not due to causes within his control on the date immediately prior to his joining the SAVER Plan or the Premium Plan, as the case may be.

*[10/2000]*

(4) Any option exercised by any officer before 1st April 1998 to join or not to join the SAVER Plan and any option exercised by any soldier before 31st March 2000 to join or not to join the Premium Plan, shall be deemed to be exercised in accordance with the regulations made under subsection (3).

*[10/2000]*

### **SAVER — Premium Fund**

**205B.**—(1) There shall be a fund to be called the Savings and Employee Retirement and Premium Fund (referred to in this Act as the SAVER-Premium Fund) which shall be held, managed and administered as a Government fund separate from other Government funds.

*[12/98; 10/2000]*

(2) Except as otherwise provided by section 206(1), all payments and other benefits payable to servicemen under the SAVER Plan or the Premium Plan, and all expenses incurred in the administration of the SAVER Plan or the Premium Plan and the investment of moneys in the SAVER — Premium Fund shall be charged on and paid out of the SAVER-Premium Fund, and no other moneys shall be withdrawn from the SAVER-Premium Fund unless authorised to be withdrawn under this Act.

*[12/98; 10/2000]*

*[43/2004 wef 01/12/2004]*



- (3) There shall be paid into the SAVER-Premium Fund —
- (a) such sums appropriated from time to time from the Consolidated Fund and authorised to be paid in the SAVER-Premium Fund by any written law to enable the SAVER-Premium Fund to meet its liabilities;
  - (b) all revenues of Singapore allocated by any written law to the SAVER-Premium Fund; and
  - (c) the net income from investments of moneys in the SAVER-Premium Fund authorised to be made by this Act or any other written law.

[12/98; 10/2000]

(4) There shall also be paid into the SAVER-Premium Fund such sum from the Pension Fund established by the Pension Fund Act (Cap. 224A) as the Minister for Finance may determine as the value of that part of the Pension Fund relating to all those servicemen exercising an option in favour of joining the SAVER Plan or the Premium Plan in accordance with the regulations made under section 205A.

[12/98; 10/2000]

(5) The moneys referred to in subsection (3)(a) and (b) and subsection (4) shall be paid into the SAVER-Premium Fund as capital money, and shall not be used to meet payments of dividends under the SAVER Plan or the Premium Plan.

[12/98; 10/2000]

(6) The income from the investment of capital moneys of the SAVER-Premium Fund shall be paid into an account for the Fund to be called the SAVER-Premium Income Account.

[12/98; 10/2000]

(7) Except as otherwise expressly provided in this Act, the Financial Procedure Act (Cap. 109) and the regulations made thereunder shall apply to the SAVER-Premium Fund.

[12/98; 10/2000]

### **Administration of SAVER-Premium Fund**

**205C.**—(1) The SAVER-Premium Fund shall, subject to the direction and control of the Armed Forces Council, be managed and administered by a Board of Trustees consisting of not more than

13 members, all of whom shall be appointed by the Armed Forces Council.

*[12/98; 10/2000]*

(2) The moneys in the SAVER-Premium Fund may be invested in —

- (a) any investments authorised under section 7 of the Financial Procedure Act; and
- (b) such other investments as the Board of Trustees thinks fit, not being any stock, bond, fund or security issued by the Government.

*[12/98; 10/2000]*

(3) The Armed Forces Council may authorise the transfer to the Consolidated Fund any moneys in the SAVER-Premium Fund which, in the opinion of the Minister and the Minister for Finance, are not required to meet the liabilities of the SAVER-Premium Fund.

*[12/98; 10/2000]*

(4) The Armed Forces Council shall cause to be kept proper accounts and records of all transactions and affairs relating to the SAVER-Premium Fund and shall ensure that payments out of the Fund are correctly made and properly authorised and that adequate control is maintained over the assets and receipts of the Fund.

*[12/98; 10/2000]*

(5) The accounts and annual financial statements of the SAVER-Premium Fund shall be audited by the Auditor-General or such other auditor as may be appointed annually by the Minister in consultation with the Auditor-General.

*[17/2004 wef 31/12/2004]*

(5A) A person shall not be qualified for appointment as an auditor under subsection (5) unless he is a public accountant as defined in the Companies Act (Cap. 50).

*[17/2004 wef 31/12/2004]*

(5B) The remuneration of the auditor shall be paid out of the SAVER-Premium Fund.

*[17/2004 wef 31/12/2004]*

(5C) The auditor shall submit such periodic and special reports to the Minister as may appear to the auditor to be necessary or as the Minister may require.

*[17/2004 wef 31/12/2004]*

(5D) As soon as the accounts of the SAVER-Premium Fund and the financial statements have been audited in accordance with this Act, a copy of the audited financial statements, together with a copy of any report made by the auditor, shall be submitted to the Minister.

*[17/2004 wef 31/12/2004]*

(5E) Where the Auditor-General is not the auditor of the SAVER-Premium Fund, a copy of the audited financial statements and any report made by the auditor shall be forwarded to the Auditor-General at the same time they are submitted to the Minister.

*[17/2004 wef 31/12/2004]*

(6) The Minister shall cause a copy of the audited financial statements of the SAVER-Premium Fund and the auditor's report to be presented to Parliament.

*[12/98; 10/2000]*

(7) For successive periods of such duration, not exceeding 5 years, as the Minister may determine in each case, an examination of the SAVER-Premium Fund shall be made with a view to determining the state of the SAVER-Premium Fund having regard to its prospective liabilities and the probable annual provisions required by the SAVER-Premium Fund to meet those liabilities.

*[12/98; 10/2000]*

(8) The Armed Forces Council may make regulations for the proper control and management of the SAVER-Premium Fund and, in particular, regulations —

- (a) providing for the appointment of the members of the Board of Trustees, including their tenure and remuneration;
- (b) prescribing the procedure to be followed by the Board of Trustees in the exercise of its functions; and
- (c) relating to the accounting, reporting, auditing and periodic examination of the SAVER-Premium Fund.

*[12/98; 10/2000]*

**Military domain experts service**

**205D.**—(1) The Armed Forces Council may, in making any regulations under section 205(j), provide for the rank of a serviceman to be changed upon his transfer from the military domain experts service to any other uniformed service, or vice versa.

(2) A change in the rank of a serviceman upon his transfer from the military domain experts service to any other uniformed service, or vice versa, shall not be treated as a reduction in the rank of the serviceman.

(3) The Armed Forces Council may, in making any regulations under section 205 or 205A, provide for —

- (a) any regular serviceman who opts to transfer to the military domain experts service to opt for the provident fund scheme applicable to non-pensionable employees of the Government under the Central Provident Fund Act (Cap. 36); and
- (b) the terms and conditions of such option.

*[28/2009 wef 01/04/2010]*

**Pension Fund**

**206.**—(1) There shall be charged on and paid out of the Pension Fund established by the Pension Fund Act (Cap. 224A) —

- (a) all such sums of money as may from time to time be granted by way of pension, gratuity or other allowance in accordance with any regulations made under section 205; and
- (b) such payments and benefits as may from time to time be payable in accordance with any regulations made under section 205A to servicemen under the SAVER Plan or the Premium Plan —
  - (i) in respect of the death of or injuries received by such servicemen in and which are attributable to service;
  - (ii) in respect of any allowance, subsidy, rebate or other benefit in respect of medical services rendered to such servicemen or to such former servicemen after

their retirement from the Singapore Armed Forces;  
or

- (iii) in respect of any initial lump-sum contributions to such servicemen.

*[43/2004 wef 01/12/2004]*

(2) A pension, gratuity or other allowance granted under any regulations made pursuant to section 205 shall not be assignable or transferable or liable to be garnished, attached, sequestered or levied upon for or in respect of a debt or claim, except for the purpose of satisfying —

- (a) a debt due to the Government; or
- (b) an order of a court for the payment of periodical sums of money towards the maintenance of the wife or former wife or minor child, whether legitimate or not, of the serviceman to whom the pension, gratuity or other allowance has been granted.

*[12/98]*

### **Pension, etc., not of right**

**206A.**—(1) No serviceman shall have an absolute right to compensation for past services or to any pension, gratuity, allowance or other benefit under any regulations made under section 205 or 205A, nor shall anything in this Act or any regulations made thereunder limit the right of the Armed Forces Council to dismiss any serviceman without compensation.

*[12/98]*

(2) Where it is established to the satisfaction of the Armed Forces Council that a serviceman has been guilty of negligence, irregularity or misconduct, it shall be lawful for the Armed Forces Council to reduce or altogether withhold the pension, gratuity, allowance or other benefit for which the serviceman would but for this section have become eligible under any regulations made under section 205 or 205A.

*[12/98]*

**Regulations to be presented to Parliament**

**207.** All regulations made under this Act shall be presented to Parliament as soon as possible after publication in the *Gazette*.

**General Orders of Ministry of Defence**

**208.**—(1) The Armed Forces Council may from time to time make such orders not inconsistent with the provisions of this Act and any regulations made thereunder to be called “General Orders of the Ministry of Defence” as the Council may consider necessary or expedient.

(2) Without prejudice to the generality of subsection (1), the Armed Forces Council may make orders relating to —

- (a) conduct and discipline and the regulation and carrying out of punishment;
- (b) classification and promotion;
- (c) instructions and examinations;
- (d) inspection, drill, parades, training and exercises;
- (e) the institution and maintenance of common rooms and canteens; and
- (f) the manner and form of reports, correspondence and other records.

(3) It shall not be necessary to publish any General Orders of the Ministry of Defence in the *Gazette*.

**Transitional provision**

**209.** The Queen’s Regulations for the Army or the Royal Air Force of the United Kingdom and Queen’s Regulations of the Royal Navy of the United Kingdom shall, in so far as they are not inconsistent with the provisions of this Act or any regulations made thereunder or any General Orders of the Ministry of Defence, continue to apply to the Singapore Armed Forces.

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LEGISLATIVE HISTORY  
SINGAPORE ARMED FORCES ACT  
(CHAPTER 295)

This Legislative History is provided for the convenience of users of the Singapore Armed Forces Act. It is not part of this Act.

**1. Act 7 of 1972 — Singapore Armed Forces Act 1972**

Date of First Reading	: 7 March 1972 (Bill No. 1/1972 published on 8 March 1972)
Date of Second and Third Readings	: 23 March 1972
Date of commencement	: 15 June 1972 (except sections 191 and 192)

**2. Act 20 of 1975 — Singapore Armed Forces (Amendment) Act 1975**

Date of First Reading	: 24 March 1975 (Bill No. 22/1975 published on 27 March 1975)
Date of Second and Third Readings	: 29 July 1975
Date of commencement	: 24 October 1975

**3. Act 17 of 1978 — Singapore Armed Forces (Amendment) Act 1978**

Date of First Reading	: 17 February 1978 (Bill No. 8/1978 published on 22 February 1978)
Date of Second and Third Readings	: 23 March 1978
Date of commencement	: 28 April 1978

**4. Act 1 of 1991 — Singapore Armed Forces (Amendment) Act 1991**

Date of First Reading	: 3 January 1991 (Bill No. 2/1991 published on 4 January 1991)
Date of Second and Third Readings	: 14 January 1991
Date of commencement	: 1 April 1991

**5. 1985 Revised Edition — Singapore Armed Forces Act**

Date of operation	: 30 March 1987
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**6. Act 1 of 1994 — Singapore Armed Forces (Amendment) Act 1994**

Date of First Reading	:	13 January 1994 (Bill No. 1/1994 published on 14 January 1994)
Date of Second and Third Readings	:	23 February 1994
Date of commencement	:	1 May 1994 (except sections 28 and 29 (e))

**7. Act 1 of 1994 — Singapore Armed Forces (Amendment) Act 1994**

Date of First Reading	:	13 January 1994 (Bill No. 1/1994 published on 14 January 1994)
Date of Second and Third Readings	:	23 February 1994
Date of commencement	:	14 October 1994 (sections 28 and 29 (e))

**8. Act 20 of 1994 — Singapore Armed Forces (Amendment No. 2) Act 1994**

Date of First Reading	:	25 July 1994 (Bill No. 22/1994 published on 29 July 1994)
Date of Second and Third Readings	:	31 October 1994
Date of commencement	:	1 December 1994

**9. 1995 Revised Edition — Singapore Armed Forces Act**

Date of operation	:	15 March 1995
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**10. Act 8 of 1995 — Pensions Fund Act**  
(Consequential amendments made by)

Date of First Reading	:	23 January 1995 (Bill No. 2/1995 published on 24 January 1995)
Date of Second and Third Readings	:	1 March 1995
Date of commencement	:	1 April 1995

**11. Act 12 of 1998 — Singapore Armed Forces (Amendment) Act 1998**

Date of First Reading	:	19 February 1998 (Bill No. 10/1998 published on 20 February 1998)
Date of Second and Third Readings	:	20 March 1998

- Date of commencement : 1 April 1998
- 12. Act 10 of 2000 — Singapore Armed Forces (Amendment) Act 2000**
- Date of First Reading : 17 January 2000  
(Bill No. 2/2000 published on 18 January 2000)
- Date of Second and Third Readings : 22 February 2000
- Date of commencement : 31 March 2000
- 13. 2000 Revised Edition — Singapore Armed Forces Act**
- Date of operation : 30 December 2000
- 14. Act 16 of 2001 — Enlistment (Amendment) Act 2001**
- Date of First Reading : 22 February 2001  
(Bill No. 4/2001 published on 23 February 2001)
- Date of Second and Third Readings : 19 April 2001
- Date of commencement : 15 May 2001
- 15. Act 43 of 2004 — Singapore Armed Forces (Amendment No 2) Act 2004**
- Date of First Reading : 21 September 2004  
(Bill No. 45/2004 published on 22 September 2004)
- Date of Second and Third Readings : 19 October 2004
- Date of commencement : 1 December 2004
- 16. Act 17 of 2004 — Singapore Armed Forces (Amendment) Act 2004**
- Date of First Reading : 19 April 2004  
(Bill No. 16/2004 published on 20 April 2004)
- Date of Second and Third Readings : 19 May 2004
- Date of commencement : 31 December 2004
- 17. Act 42 of 2005 — Statutes (Miscellaneous Amendments) (No. 2) Act 2005**
- Date of First Reading : 17 October 2005  
(Bill No. 30/2005 published on 18 October 2005)
- Date of Second and Third Readings : 21 November 2005
- Date of commencement : 1 January 2006

**18. Act 6 of 2006 — Singapore Armed Forces (Amendment) Act 2006**

Date of First Reading : 21 November 2005  
(Bill No. 44/2005 published on  
22 November 2005)

Date of Second and Third Readings : 17 January 2006

Date of commencement : 21 February 2006

**19. Act 25 of 2007 — Singapore Armed Forces (Amendment) Act 2007**

Date of First Reading : 9 April 2007  
(Bill No. 12/2007 published on  
10 April 2007)

Date of Second and Third Readings : 21 May 2007

Date of commencement : 1 August 2007

**20. Act 51 of 2007 — Penal Code (Amendment) Act 2007**

(Consequential amendments made by)

Date of First Reading : 17 September 2007  
(Bill No. 38/2007 published on  
18 September 2007)

Date of Second Reading : 22 October 2007

Date of Third Reading : 23 October 2007

Date of commencement : 1 February 2008

**21. Act 21 of 2008 — Mental Health (Care and Treatment) Act 2008**

(Consequential amendments made to Act by)

Date of First Reading : 21 July 2008  
(Bill No. 11/2008 published on  
21 July 2008)

Date of Second and Third Readings : 16 September 2008

Date of commencement : 1 March 2010

**22. Act 28 of 2009 — Singapore Armed Forces (Amendment) Act 2009**

Date of First Reading : 19 October 2009  
(Bill No. 21/2009 published on  
19 October 2009)

Date of Second and Third Readings : 23 November 2009

Date of commencement : 1 April 2010

**23. Act 15 of 2010 — Criminal Procedure Code 2010**

(Consequential amendments made by)

- Date of First Reading : 26 April 2010  
(Bill No. 11/2010 published on  
26 April 2010)
- Date of Second and Third Readings : 19 May 2010
- Date of commencement : 2 January 2011

**24. Act 4 of 2012 — Evidence (Amendment) Act 2012**

(Consequential amendments made by)

- Date of First Reading : 16 January 2012  
(Bill No. 2/2012 published on  
16 January 2012)
- Date of Second and Third Readings : 14 February 2012
- Date of commencement : 1 August 2012

**25. Act 1 of 2014 — Prisons (Amendment) Act 2014**

- Date of First Reading : 11 November 2013 (Bill No.  
22/2013 published on  
11 November 2013)
- Date of Second and Third Readings : 21 January 2014
- Date of commencement : 1 July 2014

**26. Act 16 of 2016 — Statutes (Miscellaneous Amendments) Act 2016**

- Date of First Reading : 14 April 2016 (Bill No. 15/2016  
published on 14 April 2016)
- Date of Second and Third Readings : 9 May 2016
- Date of commencement : 1 August 2016

**27. Act 26 of 2018 — Public Order and Safety (Special Powers) Act 2018**

- Date of First Reading : 27 February 2018 (Bill No.  
11/2018 published on  
27 February 2018)
- Date of Second and Third Readings : 21 March 2018
- Date of commencement : 16 May 2018

**COMPARATIVE TABLE**  
**SINGAPORE ARMED FORCES ACT**  
**(CHAPTER 295)**

The following provisions in the 1995 Revised Edition of the Singapore Armed Forces Act have been renumbered by the Law Revision Commissioners in this 2000 Revised Edition.

This Comparative Table is provided for the convenience of users. It is not part of the Singapore Armed Forces Act.

<b>2000 Ed.</b>	<b>1995 Ed.</b>
<b>2</b> — (4) and (5)	<b>2</b> — (4)
<b>8B</b> — (3) and (4)	<b>8B</b> — (3)
<b>8C</b> — (1) and (2)	<b>8C</b> — (1)
(3)	(2)
(4)	(3)
<b>54</b> — (1) and (2)	<b>54</b>
<b>72</b> — (4) and (4A)	<b>72</b> — (4)
(8) and (9)	(8)
(10)	(9)
<b>77</b> — (1) and (2)	<b>77</b> — (1)
(3)	(2)
<b>78</b> — (2) and (3)	<b>78</b> — (2)
<b>81</b> — (7) and (8)	<b>81</b> — (7)
(9)	(8)
<b>83</b> — (7) and (8)	<b>83</b> — (7)
(9)	(8)
<b>104</b> — (1) and (2)	<b>104</b> — (1)
(3)	(2)
(4)	(3)
<b>115</b> — (1) and (2)	<b>115</b> — (1)
<b>118</b> — (4)	<b>118</b> — (4) ( <i>a</i> )

(4A)	(4) (b)
<b>129</b> — (9) and (10)	<b>129</b> — (9)
<b>140</b> — (2) and (3)	<b>140</b> — (2)
(4)	(3)
<b>149</b> — (1) and (2)	<b>149</b> — (1)
(3)	(2)
(4)	(3)
<b>156</b> — (1) and (2)	<b>156</b> — (1)
(3)	(2)
(4)	(3)
<b>157</b> — (1) and (2)	<b>157</b> — (1)
(3)	(2)
(4)	(3)
<b>171</b> — (2) and (3)	<b>171</b> — (2)
(4)	(3)
<b>182</b> — (1) and (2)	<b>182</b> — (1)
(3)	(2)
(4)	(3)
<i>Omitted</i>	(4)
PART IX	PART VIIIA
<b>182B</b> — (1) and (2)	<b>182B</b> — (1)
(3)	(2)
(4)	(3)
PART X	PART IX
<b>184</b> — (2) and (3)	<b>184</b> — (2)
<b>193</b> — (1) and (2)	<b>193</b> — (1)
(3)	(2)
(4)	(3)
PART XII	PART XI

PART XIII	—
<b>204— (1) and (2)</b>	<b>204— (1)</b>