

CHAPTER 19

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CHAPTER 19**THE GAMBIA ARMED FORCES**

An Act to make provision for the raising and maintenance of the Armed Forces of The Gambia, to provide a machinery for its organisation, to establish a code of military discipline and for other matters connected therewith.

2 of 1985
5 of 1987.

[24TH JUNE, 1985.]

**PART I.—ESTABLISHMENT, ORGANIZATION
AND APPLICATION OF THE ACT**

1. This Act may be cited as The Gambia Armed Forces Act. Short title.
2. In this Act, unless the context otherwise requires— Interpretation.

“active service” means service—

 - (a) in operation against an enemy or in a foreign country in operation for the protection of the life or property or relating to the military occupation of a foreign country;
 - (b) in operation for the preservation of public order;
 - (c) for purposes of relief in cases of emergency; and
 - (d) for any other purpose appearing to the President to be expedient;

“appropriate superior authority” in relation to any person subject to this Act means the persons holding any of the ranks specified in section 93 of this Act;

“Armed Forces” means the Army, the Navy, the Air Force, and the Gendarmerie, of The Gambia;

“army service” means service under the provisions of this Act otherwise than service in the Reserves;

“boy” means a male person enlisted in accordance with subsection (3) of section 22 of this Act and who has not attained the age of eighteen years;

“civil court” means the Supreme Court and any court established by an Act of Parliament;

“civil offence” has the same meaning assigned to it as in section 83 of this Act;

“Commanding Officer” in relation to any person, means the Commanding Officer of that person or such other officer commanding the unit to which such person belongs or is attached;

“Competent Authority” means the Chief of Defence Staff, the Commander of each Force or such other officer to whom power has been delegated;

1 of 1970.

“Constitution” means the Constitution of the Republic of The Gambia;

“continuous service” in relation to a man means the period for which such man was enlisted, commencing with the date of his original attestation or the date on which he attains the age of eighteen years;

“court-martial” means a court convened under this Act or a person authorised under this Act to try offences committed by persons subject to this Act;

“date of attestation” in relation to any person, means the date on which he is attested in accordance with the provisions of regulations made under this Act;

“defence establishment” means any establishment declared by the President or any person authorised in that behalf by him to be a defence establishment, and includes any property therein;

“enemy” includes all persons engaged in armed operations against the Armed Forces of The Gambia or part thereof and includes armed mutineers, armed rebels, armed rioters and pirates;

“Forces” means the Forces raised under section 3 of this Act;

“Force Commander” means the officer appointed by the President

under section 11 of this Act to have the command, direction and general superintendence of any particular Force raised under this Act;

“man” means any person, other than an officer, who is enlisted in, or who is attached or seconded otherwise than as an officer to, any of the Armed Forces;

“material” means all movable public property, other than money provided for the Armed Forces or for any other purpose under this Act and includes any vessel, vehicle, aircraft, animal, missile, arms, ammunition, clothing, stores, provision or equipment so provided;

“Minister” means the Minister for the time being responsible for Defence;

“military” shall be construed as relating to all or any of the Armed Forces;

“mutiny” means a combination of two or more persons subject to this Act or between two persons at least one of whom is subject to this Act—

(a) to overthrow or resist lawful authority in the Armed Forces or any forces co-operating therewith or any part thereof;

(b) to disobey such authority in such circumstances as to make subversive of discipline, or with the object of avoiding any duty or service against or in connection with operation against the enemy; or

(c) to impede the performance of any duty or service in the Armed Forces or any forces co-operating therewith or any part thereof;

“officer” means—

(a) a person commissioned by the President to any of the Armed Forces; or

(b) any person who is attached or seconded as an officer to any of the Armed Forces;

“public property” means all money and property belonging to—

(a) the Government;

(b) any corporation established by Parliament;

(c) any company in which the Government is the majority shareholder;

“recruiting officer” means a person authorised as such under section 21 of this Act;

“Reserve” means the body of troops comprised of those persons who are subject to Reserve service in accordance with section 6 of this Act;

“Reservist” means a member of the Reserve;

“service custody” means the holding under arrest or in confinement of any person by the Armed Forces and includes confinement in a service prison or detention barrack;

“service estate” means the following parts of the estate of a deceased officer or man in the Armed Forces—

- (a) pay and allowances in respect of his service in such Forces;
- (b) personal equipment that such officer or man is permitted to retain under regulations made under this Act; and
- (c) personal belongings, including cash, found on such officer or man, or in camp, quarters or otherwise in the case of custody of such Forces;

“soldier” includes a man, and subject to the provisions of this Act, a warrant officer and non-commissioned officer but does not include an officer;

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“steal” has the same meaning assigned to it as in the Criminal Code;

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

“superior officer” means any officer or man who in relation to any other officer or man, is by this Act or by regulations made thereunder or by custom of the appropriate Force, authorised to give a lawful command to that other officer or man;

“unit” means a battalion or any other formation of troops which has been declared to be a unit by the Force Commander.

Raising of
Armed
Forces.

3. In accordance with the provisions of this Act, there shall be raised and maintained in The Gambia, an Army, a Navy, an Air Force and a Gendarmerie to be collectively known as the Armed Forces of The Gambia.

Constitution
of each
force.

4. (1) Each of the Forces specified in section 3 of this Act shall consist of a Regular Force and a Reserve Force.

(2) The Regular Force and the Reserve Force shall consist of such units and other elements and shall be under the immediate supervision and control of such officers as may be prescribed.

5. Each Regular Force shall consist of—

Composition
of Regular
Force.

- (a) officers commissioned by the President under the provisions of this Act;
- (b) men enlisted in accordance with regulations made under this Act.

6. Each Reserve Force shall consist of officers whom the President has transferred to such Reserve and men who have been transferred thereto in accordance with the terms of their enlistment.

Composition
of Reserve
Force.

7. (1) There may be raised and maintained in The Gambia for the Armed Forces, Volunteer Forces consisting of such units or elements as may be deemed necessary by the President for the purpose of rendering service under this Act.

Raising and
maintenance
of Volunteer
Force.

(2) The Minister may, with the approval of the President, make regulations to govern the procedure and conditions relating to the raising and the maintenance of such Volunteer Force.

8. (1) Each Regular Force or part thereof shall be on continuing full-time military service and shall at all times be liable to be employed on active service.

Full-time
active
service.

(2) The whole or any part of the Reserve or the Volunteer Force may be ordered by the President to be on continuing full-time military service.

(3) Such Reserve or Volunteer Force or any part thereof shall, while on such continuing full-time military service, be liable to be employed on active service.

(4) Where the whole or any part of a Reserve or Volunteer Force has been ordered to be on continuing full-time military service, the officers and men of such Reserve or Volunteer Force or part thereof shall, during the period of such service, be deemed for all purposes, except for purposes as may be prescribed, to be a part of the corresponding Regular Force.

(5) Until such time as the President may by Order terminate a continuing full-time military service of a Reserve or Volunteer Force under subsection (2) of this section, all officers and men so ordered shall remain in such service.

(6) The President may, whenever he deems it necessary, call out the Reserve or any part thereof to aid the civil power in the maintenance of order and the preservation of the public peace.

(7) Reservists called out for service under this section shall not be liable to serve at any one time for a period exceeding twenty-eight days.

9. There shall, from time to time, be called out for training, the whole or any part of the Volunteer or Reserve Force.

10. (1) Each of the Forces specified in section 3 of this Act shall be charged with the defence of The Gambia and with such other duties as may, from time to time, be determined by the President.

(2) An officer of the Gendarmerie shall have the same powers and protection and shall be liable to perform the same duties as any police officer.

(3) Officers of the Gendarmerie shall also have the powers and functions of military police for the purpose of the Armed and Security Forces.

(4) The President may order that any officer or man in the Armed Forces shall proceed to any place outside The Gambia for the purpose of undergoing instructions or training or for duty or employment.

11. (1) The President shall, as provided in section 31 of the Constitution, be the Commander-in-Chief of The Gambia Armed Forces.

(2) For the Command of the Armed Forces and each of the Forces raised under section 3 of this Act, there shall be appointed by the Commander-in-Chief, the following officers—

- (a) an officer styled as Chief of Defence Staff who shall, subject to the general direction of the Commander-in-Chief and such regulations as may be prescribed, be charged with the responsibility for the administration of the Armed Forces as a whole;
- (b) an officer styled as Commander of The Gambia Gendarmerie who shall, subject to the general direction of the Commander-in-Chief and such regulations as may be prescribed, be charged with the control of the Gendarmerie;
- (c) an officer styled as Commander of The Gambia National Army who shall, subject to the general direction of the Commander-in-Chief and such regulations as may be prescribed, be charged with the control of the Army;

Training of
Reserve and
Volunteer
Forces.

Employment
of Forces.

Commander-
in-Chief.

(d) an officer styled as Commander of The Gambia Navy who shall, subject to the general direction of the Commander-in-Chief and such regulations as may be prescribed, be charged with the control and administration of the Navy;

(e) an officer styled as Commander of The Gambia Air Force who shall, subject to the general direction of the Commander-in-Chief and such regulations as may be prescribed, be charged with the control and administration of the Air Force.

(3) The Chief of Defence Staff and each other Commanders referred to in subsection (2) of this section, may delegate to any officer under his command such of his functions, other than the function of delegation, as he may, from time to time, deem expedient.

12. Subject to the provisions of this Act the responsibilities of the Commander-in-Chief shall include—

Powers of
the
Commander-
in-Chief.

(a) the power to commission persons as officers in each of the Forces raised under section 3 of this Act;

(b) the power to order any of the said Forces to engage in operations for the defence of The Gambia, for the preservation of public order, for the relief in cases of emergency, or for any other purpose appearing to the Commander-in-Chief to be expedient;

(c) the power to dismiss a member of the Armed Forces or to order a member of the Armed Forces not to exercise any authority vested in him as a member thereof until the Commander-in-Chief otherwise directs.

13. (1) There is established by this section, The Gambia Armed Forces Council, hereafter in this Act referred to as 'the Council'.

The Gambia
Armed
Forces
Council.

(2) The Council shall consist of the following members—

(a) the Commander-in-Chief;

(b) the Chief of Defence Staff;

(c) the Minister responsible for Defence;

(d) the Commander of The Gambia National Army;

(e) the Commander of the The Gambia Navy;

(f) the Commander of The Gambia Air Force;

(g) the Commander of The Gambia Gendarmerie;

(h) the Permanent Secretary of the Ministry responsible for Defence; and

(i) such other persons as the Commander-in-Chief may appoint.

(3) The Commander-in-Chief shall preside at all meetings of the Council and where he is absent or for any other reason unable to attend, he shall appoint some other person to preside.

(4) Where any member of the Council is unable to attend any of its meetings or perform his duties as such member, the Commander-in-Chief may appoint some other person to act in his place during the period of his inability to attend.

Secretary to
the Council.

14. The Permanent Secretary of the Ministry responsible for Defence shall be the Secretary to the Council.

Functions of
the Council.

15. (1) The Council shall advise the Commander-in-Chief on all matters relating to the control and administration of the Armed Forces.

(2) In the discharge of its functions under subsection (1) of this section, the Council shall not concern itself with the operational use of any of the Forces.

Operational
use of
Forces.

16. (1) Subject to the general direction and control of the Commander-in-Chief, responsibility for the operational use of the Forces shall be vested in the Chief of Defence Staff.

(2) The Commander-in-Chief may give a Force Commander such directions with respect to the operational use of his Forces in The Gambia for the purpose of maintaining and securing the public safety and public order, and the Force Commander shall comply with those directions or cause them to be complied with.

Command of
the Forces
etc.

17. (1) The Minister may, with the approval of the President, make regulations as to persons in whom command over units or any member thereof is vested and as to the circumstances in which such command is to be exercised, and, without prejudice to the generality of the foregoing, may in such regulations provide for the duties, functions and powers of the Force Commander, his military staff and the officers, warrant officers, non-commissioned officers and soldiers.

(2) If the whole or any part of the Forces is required to act with any other military force, the President may place the Force or such part thereof under the command of the officer commanding such other force if that officer is senior in rank to all the officers of the Forces or such part thereof.

(3) Where any part of the Forces is acting in co-operation with any other force, the Commander of that part of the Forces may, in agreement with the Commander of that other force, define the powers of command and the order of precedence of the officers, warrant officers and non-commissioned officers of the Forces in relation to an officer, warrant officer, or non-commissioned officer of such other force who is of the same or equivalent rank.

(4) In so far as powers of command depend on rank a member of any foreign force who—

(a) is acting with any unit; or

(b) is a member of a body or any of such force which is acting with any unit;

shall have the like powers as a member of the Forces of corresponding rank and for the purpose of sections 50 and 86 of this Act, any such member of the said force shall be treated as if he were a member of the Forces of corresponding rank.

18. (1) For the purposes of commissioning and promoting officers in the Armed Forces there shall be constituted a Board, consisting of such persons and governed by such procedures as may be prescribed by regulations made under this Act.

Board to recommend appointment to commission and promotions.

(2) No person shall be appointed to a commission in the Armed Forces unless he has been recommended by the Board established in accordance with the provisions of subsection (1) of this section.

(3) Any person recommended for appointment to a commission may either be appointed for an indefinite period or for a specific time.

(4) Every officer on appointment shall be issued with a commission in the form prescribed by regulations and signed by the President.

(5) The appointment of a person to a commission in the Armed Forces shall be notified in the *Gazette*, subject to any other requirements prescribed by regulations made under this Act.

(6) No officer shall be promoted in the Armed Forces unless such officer has been recommended by the Board established in accordance with the provisions of subsection (1) of this section.

(7) The promotion of any officer in the Armed Forces shall be notified in the *Gazette*.

19. The resignation or retirement of any officer from the Armed Forces shall be notified in the *Gazette*.

Resignations and retirements.

Reserve of
officers.

20. A Reserve of officers consisting of those officers of the Armed Forces who have been permitted to retire from the active service shall be maintained.

Recruitment.

21. Any person or authority in whom responsibility to recruit has been conferred by regulation made under this Act, may enlist recruits for the Forces.

Enlistment.

22. (1) Any person who offers to enlist in the Armed Forces shall be provided with a prescribed form setting out the questions to be answered on attestation and stating the general conditions of the enlistment to be entered into by him.

(2) No person shall be enlisted in the Armed Forces unless the person or authority authorised to recruit is satisfied that the person being enlisted—

- (a) has been provided with the prescribed form;
- (b) understands the questions and conditions set out therein; and
- (c) expresses his willingness to enlist.

(3) where any person who has not attained the age of eighteen years offers himself for enlistment, the recruiting authority shall not enlist such person unless the consent in writing of the parent or guardian or where the parents and guardian are dead or unknown, the Commissioner of the Division in which such person resides or the District Chief or village Alkali, or a Justice of the Peace, has been given.

Term of
enlistment.

23. (1) A person may be recruited for enlistment for a period not exceeding twelve years in the first instance in the Armed Forces or in the Reserve, or partly in the Armed Forces and partly in the Reserve, as may be prescribed in his term of enlistment.

(2) Where the person enlisting has not attained the age of eighteen years, his period of enlistment shall commence from the date he attains the age of eighteen years.

Re-engage-
ment and
extension of
service.

24. (1) With the approval of the Competent Authority, any soldier may, before or after completing the term of his military service, be re-engaged for a further period or periods of military service or service in the Reserve.

(2) Any soldier re-engaged under this section after the term of his twelve years continuous service, shall be deemed to have completed all Reserve service due by him.

(3) Subject to the provisions of subsections (4) and (5) of this section, no soldier shall be re-engaged for a term exceeding a total of six years.

(4) Subject to the provisions of subsection (5) of this section, any soldier who has completed a period of eighteen years of military service after attaining the age of eighteen may, if he so desires and with the approval of the Competent Authority, continue to serve to complete twenty-two years of military service, in all respects as if his term of military service has still not expired:

Provided that—

- (a) it shall be lawful for him to claim his discharge at the expiration of any period of three months after he has given notice to his Commanding Officer of his wish to be discharged; and
- (b) it shall be lawful for his Commanding Officer to give three months notice of intention to discharge him.

(5) Any soldier who has completed a period of twenty-two years of military service after attaining the age of eighteen may, if he so desires and with the approval of the Competent Authority, continue to serve in all respects as if his term of military service has still not expired:

Provided that—

- (a) it shall be lawful for him to claim his discharge at the expiration of any period of three months after he has given notice to his Commanding Officer of his wish to be discharged; and
- (b) it shall be lawful for his Commanding Officer to give him three months notice of intention to discharge him.

25. (1) Where the term of military service of a soldier expires during a state of war, hostilities, insurrection, civil disorder or a state of public emergency, he may be retained to continue his military service for such further period as the Competent Authority with the approval of the Minister may direct.

Extension of
military
service.

(2) Such continuation of military service under subsection (1) of this section shall be counted in computing his total term of continuous military service.

26. (1) Subject to the provisions of this Act, every soldier who becomes qualified for discharge shall, without delay, be discharged, but until such soldier is discharged, the provisions of this Act and

Discharge.

any regulations, rules or Code made thereunder shall continue to apply to him.

(2) When a soldier who is listed to be discharged is serving out of The Gambia, he shall be returned to The Gambia free of cost, with all convenient speed, and shall be discharged on his arrival or, if he consents to his discharge being delayed, within six months from the date of his arrival.

(3) Except in pursuance of the sentence of a court-martial made under this Act, a soldier shall not be discharged unless his discharge has been authorised by order of the Competent Authority in accordance with regulations made under this Act.

(4) Every soldier shall be given on his discharge, a Certificate of Discharge containing such particulars as may be prescribed, but where a soldier is discharged within six months of the date of attestation, he shall not be entitled to receive a Certificate of Discharge.

(5) A soldier who is discharged in The Gambia shall be entitled to be conveyed free of cost from the place where he is discharged to the place stated in his attestation paper to be the place where he was attested, or to any place at which he intends to reside and to which he can be conveyed with no greater cost.

Transfer to
the Reserve.

27. (1) Save as otherwise provided in this Act, every soldier upon falling to be transferred to the Reserve, shall be so transferred, but until such transfer shall remain subject to the provisions of this Act or any regulations, rules or Code made thereunder:

(2) When a soldier who falls to be transferred to the Reserve is serving out of The Gambia he shall be returned to The Gambia free of cost with all convenient speed and shall be transferred to the Reserve on his arrival or, if he consents to his transfer being delayed, within six months from the date of his arrival.

(3) A soldier who is transferred to the Reserve in The Gambia shall be entitled to be conveyed free of cost from the place where he is transferred to the place stated in his attestation paper to be the place where he was attested or to any place at which he intends to reside and to which he can be conveyed with no greater cost.

(4) Notwithstanding anything in this section, the Competent Authority may, when a soldier falls to be transferred to the Reserve under this section, discharge such soldier forthwith without giving any reason and in such case the provisions of section 26 of this Act shall apply.

28. (1) Notwithstanding anything in this Part of this Act, a soldier shall not be entitled to be discharged or transferred to the Reserve at a time when he has become liable, as a person being proceeded against for an offence against any of the provisions of this Act; but this section shall not apply where it is determined that the offence shall not be tried by court-martial.

Postpone-
ment of
discharge or
transfer
pending pro-
ceeding for
offences etc.

(2) Notwithstanding anything in this Part of this Act, a soldier who is serving a sentence of imprisonment or detention imposed by a court-martial under this Act or by his Commanding Officer shall not be entitled to be discharged or transferred to the Reserve during the currency of the sentence.

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

Right of a
warrant
officer to
discharge on
reduction to
ranks.

30. The Competent Authority may discharge a soldier at any time during the currency of his term of engagement.

Power to
discharge.

31. (1) A soldier shall be entitled to claim his discharge at any time within six months after the date of his first attestation and if he makes such a claim, he shall on payment of such amount as the Minister may, by Order published in the *Gazette* from time to time prescribe, be discharged with all convenient speed, but until discharged, shall remain subject to this Act or any regulation, rules or Code made thereunder.

Right of a
soldier to
purchase
discharge.

5 of 1987.

(2) Notwithstanding the provisions of this section, no soldier shall be entitled to claim his discharge at a time when, or so long as, soldiers are required to prolong their services under the provisions of section 25 of this Act.

32. (1) In reckoning the service of any soldier for discharge or re-engagement or transfer to the Reserve, there shall be excluded therefrom—

Rules for
reckoning
service.

(a) all periods during which he has been absent from his duty for any of the following causes—

- (i) imprisonment;
- (ii) desertion;
- (iii) absence without leave exceeding twenty-eight days; and

(b) any period ordered by a court-martial to be forfeited.

(2) Regulations under this Part may make provision for restoring service excluded by the provisions of subsection (1) in consideration of good service or on other grounds justifying the restoration of service so excluded.

Validity of
attestation
and enlist-
ment.

33. (1) Where a person has made such declaration upon his attestation as may be prescribed and has thereafter received pay as a soldier—

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

(2) Where a person has received pay as a soldier without having previously made such declaration as prescribed in subsection (1) of this section, then—

- (a) he shall be deemed to be a soldier until discharged;
- (b) he may claim his discharge at any time and if he makes such claim, the claim shall be submitted as soon as may be to the Competent Authority who shall cause him to be discharged with all convenient speed.

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

34. (1) The following persons and no others shall be subject to this Act and any regulations made thereunder—

- (a) every officer and man of each Regular Force;
- (b) every officer and man of each Regular Reserve or Volunteer Force, when he is—

- (i) undergoing drill or training whether in uniform or not

Application
of Act.

- (ii) in uniform;
 - (iii) on duty;
 - (iv) on continuing, full-time military service;
 - (v) on active service;
 - (vi) in or on any vessel, vehicle or aircraft of the Armed Forces or in or on any defence establishment or work for defence;
 - (vii) serving with any unit or other element of a Regular Force; or
 - (viii) present, whether in uniform or not, at any drill or training of a unit or other element of the Armed Forces;
- (c) subject to such exceptions, adaptations, and modifications as the Minister with the approval of the President, may by regulation prescribe, a person who, pursuant to law, is attached or seconded as an officer or man, to one of the Armed Forces;
- (d) every person, not otherwise subject to this Act, who is serving in the position of an officer or man of any force raised and maintained out of The Gambia and commanded by an officer of the Armed Forces;
- (e) every person, not otherwise subject to this Act, who accompanies any unit or other element of the Armed Forces that is on service in any place;
- (f) every person, not otherwise subject to this Act, who in respect of any service offence committed or alleged to have been committed by him, is in civil custody or in service custody; and
- (g) every person, not otherwise subject to this Act, while serving with the Armed Forces under an engagement whereby he agreed to be subject to this Act.

(2) Every person mentioned in subsection (1) of this section at the time of the alleged commission by him of the service offence, shall continue to be liable to be charged, dealt with and tried in respect of that offence under this Act, notwithstanding that he may have, since the commission of that offence, ceased to be a person mentioned in that subsection.

(3) Every person who, since the alleged commission by him of a service offence, has ceased to be a person mentioned in subsection (1) of this section, shall for the purposes of this Act, be deemed, for the period during which under that Act he is liable to be charged, dealt with and tried, to have the status and rank that he held immediately prior to the time when he ceased to be a person mentioned in that subsection.

(4) Subject to subsections (5) and (6) of this section every person who is alleged to have committed a service offence may be charged, dealt with and tried only within the Armed Forces in which he was commissioned or enlisted.

(5) Every person who, while attached or seconded to an Armed Force other than the Armed Force in which he was commissioned or enlisted, may be charged, dealt with and tried either within that other Force as if he belonged to that other Force, or within the Force in which he was commissioned or enlisted.

(6) Every person who, while embarked on any vessel or aircraft of an Armed Force other than the Force in which he was commissioned or enlisted, is alleged to have committed a service offence, may be charged, dealt with and tried either within that other Force as if he belonged to that other Force, or within the Force in which he was commissioned or enlisted.

(7) Every person serving in the circumstances specified in paragraph (d) of subsection (1) of this section, who, while so serving, is alleged to have committed a service offence, may be charged, dealt with and tried within the Armed Force in which his commanding officer is serving.

(8) For the purposes of this section, a person accompanies a unit or other element of the Armed Forces that is on service if such person—

- (a) participates without that unit or other element in the carrying out of any of its movements, manoeuvres, duties in aid of the civil power, duties in a disaster, or war-like operations;
- (b) is accommodated or provided with rations at his own expense otherwise than by that unit or other element in any country or at any place designated by the President;
- (c) is a dependant out of The Gambia of an officer or man serving beyond The Gambia with that unit or other element; or
- (d) is embarked on a vessel or aircraft of that unit or other element.

PART II.—SERVICE OFFENCE

35. (1) Every person who—

(a) does or omits to do any act for the purpose of enabling or aiding another person to commit an offence;

(b) aids or abets another person in committing an offence;

(c) counsels or procures any person to commit an offence,

Aiding and
abetting
commission
of offences
etc.

shall be guilty of an offence and on conviction thereof shall be liable to the same punishment as the person found guilty of committing that offence.

(2) When a person intending to commit an offence begins to put his intention into execution by means adapted to its fulfilment, and manifests his intention by some overt act, but does not fulfil his intention to such an extent as to commit the offence, he is deemed to attempt to commit the offence.

It is immaterial that by reason of circumstances not known to the offender it is impossible in fact to commit the offence.

36. Every person subject to this Act who—

Aiding the
enemy.

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

(b) improperly delays or discourages any action against the enemy;

(c) goes over to the enemy;

(d) furnishes the enemy with arms, ammunition or with supplies of any description;

(e) harbours or protects an enemy not being a prisoner of war;

(f) improperly casts away or abandons any material in the presence of the enemy;

(g) improperly does or omits to do anything that results in the capture by the enemy of persons, or the capture or destruction by the enemy of material;

- (h) When on watch in the presence or vicinity of the enemy, leaves his post before he is regularly relieved, or sleeps, or is drunk;
- (i) behaves before the enemy in such a manner as to show cowardice; or
- (j) does or omits to do anything calculated to imperil the success of operation of the Armed Forces or of any Forces co-operating therewith,

shall be guilty of an offence and on conviction, if he acted treasonably, shall suffer death, and in any other case, if the offence was committed in action, shall be liable to suffer death or to any less punishment provided by this Act, or if the offence was committed otherwise than in action, shall be liable to imprisonment for life or to any less punishment provided by this Act.

Offences by
persons in
command
when in
action.

37. Every person in command of a military establishment, unit, vessel, aircraft, place, post or other element of the Armed Forces who—

- (a) when under orders to carry out an operation of war or on coming into contact with an enemy that it is his duty to engage, does not use his utmost exertion to bring the officers and men under his command or his ship, vessel, aircraft, or his other material into action;
- (b) being in action does not, during the action, in his own person and according to his rank, encourage the officers and men under his command to fight courageously;
- (c) when capable of making a successful defence, surrenders the defence establishment, vessel, aircraft, material, unit or other element of an Armed Force to the enemy;
- (d) being in action improperly withdraws from the action;
- (e) improperly fails to pursue an enemy or to consolidate a position gained;
- (f) improperly fails to relieve or assist a known friend to the utmost of his power; or
- (g) when in action improperly forsakes his station;

shall be guilty of an offence and on conviction thereof if he acted treasonably, shall suffer death; if he acted with cowardice, shall be liable to suffer death or any less punishment provided by this

Act and in any other case shall be liable to dismissal with disgrace; from the Armed Forces or to any less punishment provided by this Act.

38. Any person subject to the provisions of this Act, who—

Offences
relating to
security.

- (a) improperly holds communication with or gives intelligence to the enemy;
- (b) without authority discloses in any manner whatsoever, any information relating to the numbers, position, material, movements, preparations for operations or operations of any of the Armed Forces or of any forces co-operating therewith;
- (c) without authority discloses in any manner whatsoever, any information relating to the cryptographic system, aid, process, procedure, publication or document of any of the Armed Forces or of any forces co-operating therewith;
- (d) makes known the parole, watchword, password, countersign, call-sign or identification signal to any person not entitled to receive it;
- (e) gives a parole, watchword, password, countersign, call-sign or identification signal different from that which he received;
- (f) makes known the number, description or location of any prisoner of war to any person not entitled to know it,

shall be guilty of an offence and on conviction, if he acts treasonably, shall suffer death, and in any other case shall be liable to imprisonment for life or to any less punishment provided by this Act.

39. Every person subject to this Act who—

Offences
relating to
prisoners of
war.

- (a) by want of due precaution, or through disobedience of orders or wilful neglect of duty, is made a prisoner of war;
- (b) having been made a prisoner of war, fails to rejoin the Armed Forces when required to do so or discourages or prevents any other person subject to this Act who has been made a prisoner of war from taking any reasonable steps to rejoin the Armed Forces; or
- (c) having been made a prisoner of war, serves with or aids the enemy;

shall be guilty of an offence and on conviction thereof, if he acted

treasonably, shall suffer death and in any other case shall be liable to a term of imprisonment for life or to any less punishment provided by this Act.

Offences
relating to
operations.

40. Every person subject to this Act who—

- (a) does violence to any person bringing material to any of the Armed Forces or to any forces co-operating therewith;
- (b) irregularly detains any material being conveyed to any unit or other element of the Armed Forces or any forces co-operating therewith;
- (c) irregularly appropriates to the unit or other element of the Armed Forces with which he is serving, any material being conveyed to any other unit or element of such Forces or of any forces co-operating therewith;
- (d) without orders from his superior officer, improperly destroys or damages any property;
- (e) breaks into any house or other place in search of plunder;
- (f) commits any offence against the property or person of any inhabitant or resident of a country in which he is serving;
- (g) steals from or with intent to steal searches, the person of any person killed or wounded, in the course of war-like operations;
- (h) steals any money or property that has been left exposed or unprotected in consequence of war-like operations; or
- (i) takes otherwise than for the service of The Gambia, any money or property abandoned by the enemy;

shall be guilty of an offence and on conviction thereof, if he committed any such offence on active service, shall be liable to imprisonment for life or to any less punishment provided by this Act, and in any other case shall be liable to dismissal with disgrace from the Armed Forces or to any less punishment provided by this Act.

Offences
relating to
convoys.

41. Any person who, while serving in one of the ships or vessels of The Gambia Navy involved in the conveying and protection of another ship or vessel—

- (a) fails to defend any ship, vessel or goods under convoy;
- (b) refuses to fight in the defence of a ship or vessel in his convoy when it is attacked;

- (c) cowardly abandons or exposes a ship or a vessel in his convoy to hazard;

shall be guilty of an offence and on conviction thereof shall be liable to suffer death or any less punishment provided by this Act.

42. Any person who—

- (a) in the use of, or in relation to, any aircraft or aircraft material, wilfully or negligently, or by neglect of or contrary to regulations, orders, or instructions, does any act or omits to do anything, which act or omission causes or is likely to cause a loss of life or bodily injury to any person;
- (b) wilfully or negligently, or by neglect of or contrary to regulations, orders, or instructions, does any act or omits to do anything, which act or omission results or is likely to result in damage to or destruction or loss of any aircraft or aircraft material of the Armed Forces or of any forces co-operating therewith; or
- (c) during a state of war, wilfully or negligently causes the sequestration by or under the authority of a neutral State, or the destruction in a neutral State, of any aircraft of the Armed Forces or of any forces co-operating therewith,

Wrongful
acts in rela-
tion to
aircraft.

shall be guilty of an offence and on conviction, if he acted wilfully, shall be liable to imprisonment for life or to any less punishment provided by this Act and in any other case shall be liable to imprisonment for a term of two years or to any less punishment provided by this Act.

43. Any person subject to this Act, who flies an aircraft at a height less than the prescribed minimum, shall be guilty of an offence and on conviction thereof shall be liable to imprisonment for a term of two years or to any less punishment provided by this Act.

Low flying.

44. Any person who signs an inaccurate certificate in relation to an aircraft or an aircraft material, unless he proves that he took reasonable steps to ensure that it was accurate, shall be guilty of an offence and on conviction thereof shall be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Inaccurate
certificate.

45. Every person who takes part in a mutiny that is accompanied by violence shall be guilty of an offence and on conviction thereof

Mutiny with
violence.

shall be liable to suffer death or to any less punishment provided by this Act.

Mutiny
without
violence.

46. Every person who takes part in a mutiny that is not accompanied by violence shall be guilty of an offence and on conviction thereof shall be liable to imprisonment for life or to any less punishment provided by this Act.

Offences
relating to
mutiny.

47. Every person who—

(a) incites any person subject to this Act to take part in a mutiny whether actual or intended;

—(b) causes or conspires with any other person to cause a mutiny;

(c) endeavours to persuade any person to take part in a mutiny;

(d) being present, does not use his utmost endeavours to suppress a mutiny;

—(e) being aware of an actual or intended mutiny, does not, without delay, inform his superior officer thereof;

shall be guilty of an offence and on conviction thereof shall—

(i) if his offence was committed with intent to assist the enemy, be liable to suffer death or any less punishment provided by this Act; and

(ii) in any other case, be liable to imprisonment or any less punishment provided by this Act.

Disobedience
of lawful
command.

48. Every person who disobeys a lawful command of a superior officer shall be guilty of an offence and on conviction thereof shall be liable to imprisonment for a term of five years or to any less punishment provided by this Act.

Striking or
offering
violence to a
superior
officer.

49. Every person who strikes or draws or lifts-up a weapon, or uses, or offers violence, against a superior officer, shall be guilty of an offence and on conviction thereof shall be liable to imprisonment for life or to any less punishment provided by this Act.

Insubordinate
behaviour.

50. Every person who uses threatening or insulting language to, or behaves with contempt towards, a superior officer, shall be guilty of an offence and on conviction thereof shall—

(i) if his offence was committed on active service, be liable to imprisonment for a term of two years; and

- (ii) in any other case, be liable to dismissal with disgrace from the Armed Forces or to any less punishment provided by this Act.

51. Every person who quarrels or fights with any other person who is subject to this Act or who uses provoking words or gestures towards a person so subject, tending to cause a quarrel or disturbance, shall be guilty of an offence and on conviction thereof be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Quarrels and disturbance.

52. (1) Every person subject to this Act who—

Disorder.

- (a) being concerned in a quarrel, affray or disorder, refuses to obey an officer, though of an inferior rank, who orders him into arrest, or strikes, or uses or offers violence to any such officer;
- (b) strikes, or uses or offers violence to any other person in whose custody he is placed, whether or not such other person is his superior officer and whether or not such other person is subject to this Act;
- (c) resists an escort whose duty it is to apprehend him or to have him in charge; or

(d) breaks out of barracks, station, camp, quarters or ship;

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

(2) Every person subject to this Act who—

- (a) spreads reports relating to operations of The Gambia Armed Forces or of any forces co-operating therewith or of any part of those forces, being reports calculated to create despondency or unnecessary alarm; or
- (b) when before the enemy, uses words calculated to create despondency or unnecessary alarm;

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

53. (1) Every person subject to this Act who on active service or when under orders for active service—

Desertion.

(a) deserts; or

(b) persuades or procures any person subject to this Act to desert, shall be guilty of an offence and on conviction thereof be liable to imprisonment for life or any less punishment provided by this Act.

(2) In addition to, or in lieu of, any punishment authorised by subsection (1) of this section, the court-martial by whom such person is convicted for desertion may direct that the whole or part of his service previous to the periods as respect which he is convicted of having been a deserter shall be forfeited.

Connivance
of desertion.

54. Every person who—

(a) being aware of the desertion or intended desertion of a person from the Armed Forces, does not without reasonable excuse inform his superior officer forthwith; or

(b) fails to take any steps in his power to cause the apprehension of a person known by him to be a deserter;

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

Meaning of
desertion.

55. (1) For the purposes of this Act, a person deserts who—

(a) being on, or having been warned for, active service or other important service, is absent without authority, with the intention of avoiding that service;

(b) having been warned that his vessel is under sailing orders, is absent without authority, with the intention of missing that vessel;

(c) absents himself without authority from his unit or formation or from the place where his duty requires him to be, with the intention of not returning to that unit, formation or place;

(d) is absent without authority from his unit or formation or from the place where his duty requires him to be, and at any time during such absence, forms the intention of not returning to that unit, formation or place; or

(e) while absent with authority from his unit or formation or the place where his duty requires him to be, with the intention of not returning to that unit, formation or place, does any act, or omits to do anything, the natural and probable consequence of which act or omission is to preclude his return

to that unit, formation or place at the time required.

(2) A person who has been absent without authority for a continuous period of six months or more shall, unless the contrary is proved, be presumed to have deserted, for the purposes of this Act.

56. (1) Every person subject to this Act who—

Absence
without
leave.

- (a) absents himself without leave; or
- (b) persuades or procures any person subject to this Act to absent himself without leave;

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

(2) A person absents himself without leave who—

- (a) without authority leaves his unit, formation or place where his duty requires him to be;
- (b) without authority is absent from his unit, formation or place where his duty requires him to be; or
- (c) having been authorised to be absent from his unit, formation or place where his duty requires him to be, fails to return to that unit, formation or place at the expiration of the period for which his absence was authorised.

57. Every person who knowingly makes a false statement for the purpose of prolonging his leave of absence, shall be guilty of an offence and on conviction thereof shall be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

False state-
ment in res-
pect of
leave.

58. Every person subject to this Act who without excuse—

Failure to
perform
military
duties.

- (a) fails to attend any parade or other military duty of any description; or
- (b) leaves any such parade or duty,

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

59. Every person subject to this Act who strikes or otherwise ill-treats any person in the Armed Forces, who by reason of rank

Abuse of
inferiors.

or appointment is subordinate to him, shall be guilty of an offence and on conviction thereof shall be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

scandalous
conduct of
officers.

60. (1) Every officer who behaves in a scandalous manner unbecoming of an officer, shall be guilty of an offence and on conviction thereof shall be dismissed from the Armed Forces with or without disgrace.

(2) Every person in the Armed Forces, who behaves in a cruel or disgraceful manner shall be guilty of an offence and on conviction thereof shall be liable to imprisonment for a term not exceeding five years or to any less punishment provided by this Act.

lingering.

61. Every person subject to this Act, who—

- (a) falsely pretends to be suffering from sickness or disability; or
- (b) feigns disease or produces disease or infirmity; or
- (c) aggravates or delays the cure of any disease or infirmity by misconduct or wilful disobedience of orders; or
- (d) wilfully maims or injures himself or any other person who is in the Armed Forces or of any forces co-operating therewith, whether at the instance of that person or not, with intent thereby to render himself or that other person unfit for service, or causes himself to be maimed or injured by any person with intent thereby to render himself unfit for service,

shall be guilty of an offence and on conviction thereof, if he commits the offence on active service or when under orders for active service, or in respect of a person on active service or orders for active service, shall be liable to imprisonment for a term not exceeding five years or to any less punishment provided by this Act and in any other case, shall be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

lingering.

62. Any person who—

- (a) produces in an officer or soldier of the Armed Forces any sickness or disability; or
- (b) supplies to, or for, him, any drug or preparation calculated or likely to render him, or lead to the belief that he is, permanently or temporarily unfit for service,

with a view to enabling him to avoid military service, whether permanently or temporarily, shall be guilty of an offence and shall be liable on conviction thereof to imprisonment for a term not exceeding twelve months or to any less punishment provided by this Act.

63. (1) Any person subject to this Act who is drunk, whether on duty or not on duty, shall be guilty of an offence and on conviction thereof shall be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act: Drunkenness.

Provided that, where the offence is committed by a person not in active service, the sentence imposed shall not exceed imprisonment for a term of two months.

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

64. (1) Every person subject to this Act, who unnecessarily details any other person subject thereto under arrest or in confinement without bringing him to trial, or fails to bring that other person's case before the proper authority for investigation, shall be guilty of an offence. Irregular arrest and detention.

(2) Every person subject to this Act who having committed a person (hereinafter referred to as 'the prisoner') to the custody of any officer fails without reasonable cause to deliver—

(a) at the time of the committal; or

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

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

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

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

he shall be guilty of an offence.

(4) Every person guilty of an offence against this section shall, on conviction thereof, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Negligent or wilful interference with lawful custody.

65. Every person subject to this Act who—

- (a) without lawful authority sets free or authorises or otherwise facilitates the setting free of any person in custody;
- (b) negligently or wilfully allows to escape any person who is committed to his charge, or whom it is his duty to guard or keep in custody;
- (c) assists any person in escaping or in attempting to escape from his custody;

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

Escape from custody.

66. Every person subject to this Act who, being under arrest or confinement or in prison or otherwise in lawful custody, escapes, shall be guilty of an offence and on conviction thereof shall be liable to imprisonment for a term not less than two years or to any less punishment provided by this Act.

Resistance to lawful arrest.

67. Every person subject to this Act who—

- (a) resists or wilfully obstructs any officer or man in the performance of any duty pertaining to the arrest, custody or confinement of any other person subject to this Act;
- (b) when called upon, refuses or neglects to assist an officer or man in the performance of any such duty;

shall be guilty of an offence and on conviction thereof shall be liable to imprisonment for a term not less than two years or to any less punishment provided by this Act.

68. Every person subject to this Act, who neglects or refuses to deliver over an officer or man to the civil power pursuant to a warrant in that behalf, or to assist in the lawful apprehension of an officer or man accused of an offence punishable by a civil court, shall be guilty of an offence and on conviction thereof shall be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Obstruction of civil power.

69. (1) Every person subject to this Act who—

Stealing etc.

(a) steals or fraudulently misapplies any property; or

(b) receives any such property knowing it to have been stolen or fraudulently misapplied,

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

(2) In this section “stealing” has the same meaning as in the Criminal Code.

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70. (1) Every person subject to this Act, who extorts money or any other thing from any person shall be guilty of an offence and on conviction thereof be liable to imprisonment for a term not exceeding five years or to any less punishment provided by this Act.

Extortion.

(2) Every person subject to this Act, who connives at any extortion shall be guilty of an offence and on conviction thereof be liable to imprisonment for a term not exceeding five years or to any less punishment provided by this Act.

71. Every person subject to this Act, who offers his superior officer any inducement for the purpose of escaping, from any military duty which he is called upon to perform, or from the consequences of any act or neglect, shall, on conviction thereof, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Offering inducement to escape duty.

72. Every person subject to this Act, who—

Dishonest exaction.

(a) without authority exacts from any person carriage, portage or provision; or

(b) takes any fee or advantage in respect of, or in any way improperly acquires an interest in,—

(i) the sale of provision or merchandise brought into any

garrison, camp, barrack or place in which he has any command or authority;

- (ii) the sale or purchase of any provisions or stores; or
- (c) takes any fees or advantage in respect of, or in any way improperly obtains an interest in, the performance of any service which is his duty or responsibility,

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

Disturbance
in billets.

73. Every person subject to this Act, who—

- (a) ill-treats, by violence, extortion, or making disturbances in billets or otherwise, any occupant of, a house in which he or any other person is billeted, or of any premises in which accommodation for material of the Armed Forces has been provided; or
- (b) fails to comply with regulations made under this Act in respect of the payment of the just demands of the person in whose house he or any officer or man under his command is or has been billeted, or the occupant of premises on which such material is or has been accommodated,

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

Withholding
pay.

74. Every person subject to this Act who, having received the salary, wages or other allowance of any officer unlawfully detains or unlawfully refuses to pay the same when due, shall, on conviction thereof, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Offences in
relation to
documents.

75. Every person who—

- (a) wilfully or negligently makes a false statement or entry in a document made or signed by him, that is required for the purposes of this Act or any regulation made thereunder, or who, being aware of the falsity of a statement or entry in such a document, orders the making or signing thereof;
- (b) when signing a document required for such purposes, leaves blank any material part for which his signature is a voucher; or

- (c) with intent to injure any person or with intent to deceive, suppresses, defaces, alters, or makes-away with any document or file, kept, made or issued for any such purpose,

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

76. Every person subject to this Act who—

False accusation.

- (a) makes a false accusation against any officer or man, knowing such accusation to be false; or
- (b) when seeking redress in a matter in which he considers, that he has suffered any personal oppression, injustice or other ill-treatment, or that he has any other cause for grievance, knowingly, makes a statement affecting the character of an officer or man which he knows to be false, or in respect of the redress so sought, suppresses any material fact,

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

77. Every person subject to this Act, who attempts to commit an offence against any of the provisions of this Act shall, on conviction thereof, be liable to the like punishment as for that offence, but where such offence is punishable by death he shall be sentenced to a term of imprisonment.

Attempt to commit an offence under the Act.

78. (1) Any act, conduct disorder or neglect to the prejudice of good order and discipline shall be an offence and every person convicted thereof shall be liable to dismissal with disgrace from the Armed Forces or to any less punishment provided by this Act.

Conduct prejudicial to good order and discipline.

(2) No person may be charged under this section with any offence for which provision is made under this Act.

(3) Notwithstanding the provisions of subsection (2) of this section, a conviction based on a charge which contravenes that subsection shall not be invalid unless such contravention results in an injustice to the person so charged.

(4) An act or omission constituting an offence under subsection (2) of section 52 of this Act, or a contravention by any person of—

- (a) any of the provisions of this Act;

- (b) any regulations, orders or instructions published for the general information and guidance of the Armed Forces to which that person belongs, or to which he is attached or seconded; or
- (c) any general garrison, unit, station, standing, local or other orders;

shall be an act, conduct, disorder or neglect to the prejudice of good order and discipline.

(5) An attempt to commit any of the offences in any other provisions of this Act shall, unless such attempt is in itself an offence punishable under such provision, be an act, conduct, disorder or neglect to the prejudice of good order and discipline.

(6) Nothing in subsection (3) or subsection (4), shall affect the generality of subsection (1), of this section.

Causing
fires.

79. Any person who wilfully or negligently or by neglect or contrary to any regulations made under this Act, order or instruction, does any act or omits to do anything, which act or omission causes or is likely to cause fire to occur in any material, defence establishment, or work for defence, shall be guilty of an offence and on conviction thereof, if he acted wilfully, shall be liable to imprisonment for life or to any less punishment provided by this Act, and in any other case, shall be liable to imprisonment for a term not less than two years or to any less punishment provided by this Act.

Unauthorised
use of
vehicles.

80. Any person who uses—

- (a) a vehicle of the Armed Forces for an unauthorised purpose;
- (b) without authority, a vehicle of such Forces for any purposes; or
- (c) a vehicle of such Forces contrary to any regulation under this Act, order or instruction,

shall be guilty of an offence and on conviction thereof shall be liable to imprisonment for a term of twelve months or to any less punishment provided by this Act.

Destruction,
loss or im-
proper
disposal, of
property,
medal,
insignia etc.

81. Any person subject to this Act, who—

- (a) wilfully destroys or damages, loses by neglect, improperly sells, or wastefully expends, any public property, non-public property or property of any of the Armed Forces or of any forces co-operating therewith; or

- (b) sells, pawns, or otherwise disposes of any medal, insignia or other decoration,

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

82. Any person subject to this Act, who—

- (a) connives at the exaction of an exorbitant price for property purchased or rented by a person supplying property or services to the Armed Forces;
- (b) improperly demands or accepts compensation, consideration or personal advantage in respect of the performance of any military duty or in respect of any matter relating to the Armed Forces;
- (c) receives directly or indirectly, whether personally or through a member of his family or person under his control, for his benefit, any gift, loan, promise, compensation, or consideration, either in money or otherwise, from any person, for assisting or favouring any person in the transaction of any business relating to the Armed Forces, or to any forces co-operating therewith or to any mess, institute or canteen operated for the use and benefit of members of such Forces;
- (d) demands or accepts compensation, consideration or personal advantage for conveying a vessel entrusted to his care;
- (e) being in command of a vessel or aircraft, takes or receives on board, goods or merchandise that he is not authorised to take or receive on board; or
- (f) commits any act of fraudulent nature not expressly specified in this Act,

Miscellaneous offences.

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

83. (1) An act or omission—

- (a) that takes place in The Gambia and is punishable by a civil court or under any other enactment; or
- (b) that takes place out of The Gambia and would, if it had taken place in The Gambia, be punishable by such court or under any other enactment,

Court-martial of civil offences.

shall be an offence and every person convicted thereof shall be liable to suffer punishment as provided in subsection (2) of this section.

(2) Subject to the provisions of subsection (3) of this section, where a court-martial convicts a person under subsection (1) of this section, the court-martial shall—

- (a) if under any other enactment a minimum penalty is prescribed, impose a penalty in accordance with the enactment prescribing that minimum penalty; or
- (b) in any other case,
 - (i) impose the penalty prescribed for the offence by that other enactment; or
 - (ii) impose a punishment of dismissal with disgrace from the Armed Forces or any less punishment provided by this Act.

(3) All provisions of this Act in respect of a punishment of death, imprisonment for a term of two years or more, imprisonment for a term less than two years, and a fine, apply in respect of penalties imposed under paragraph (a) or subparagraph (i) of paragraph (b) of subsection (2) of this section.

(4) Nothing in this section is in derogation of the authority conferred by other sections of this Act to charge, deal with and try a person alleged to have committed any offence set out in any other provision of this Act and to impose the punishment for that offence mentioned in the section prescribing the offence.

84. (1) Any person charged with desertion may be found guilty of attempting to desert or of being absent without leave.

(2) Any person charged with attempting to desert may be found guilty of being absent without leave.

(3) If on trial for one of the offences specified in section 49 of this Act, the evidence discloses the commission of another offence specified in that section, the accused may be convicted of that other offence even though he was not charged with that other offence.

(4) If on trial for one of the offences specified in section 50 of this Act, the evidence discloses the commission of another offence specified in that section, the accused may be convicted of that other offence even though he was not charged with that other offence.

(5) Any person charged with any offence under this Act may,

Conviction
for less
serious
offences.

on failure of proof of an offence having been committed under circumstances involving a higher punishment, be found guilty of the same offence as having been committed under circumstances involving a lower punishment.

(6) Where a person is charged with an offence under section 83 of this Act, and the charge is one upon which, if he had been tried by a civil court in The Gambia for the offence, he might have been found guilty of any other offence, he may be found guilty of that other offence.

PART III.—TRIAL AND PUNISHMENT

85. (1) Any person who has committed, is found committing, is suspected of being about to commit or is suspected of or charged under this Act with having committed an offence under this Act, may be placed under arrest.

(2) Any person authorised to effect arrest under this Act or under regulations made thereunder may use such force as is reasonably necessary for that purpose.

86. (1) An officer may, without warrant, in circumstances mentioned in section 85 of this Act, arrest or order the arrest of—

(a) any man;

(b) any officer of equal or lower rank.

(2) A man may, without warrant, in circumstances mentioned in section 85 of this Act, arrest or order the arrest of—

(a) any man of lower rank; and

(b) any man of equal rank who is engaged in a quarrel or affray or in any disorder.

(3) An order given under subsection (1) or subsection (2) of this section, shall be obeyed although the person giving the order and the person to whom, and the person in respect of whom, the order is given, do not belong to the same Force, unit or other element of the Armed Forces.

(4) Any person who is not an officer or man, but who was subject to this Act at the time of the alleged commission by him of the offence, may without a warrant be arrested or ordered to be arrested by such person as any Commanding Officer may designate for that purpose.

Arrest.

Power of officers and men to arrest.

Appointment
and powers
of specially
appointed
persons.

87. Any officer or man appointed under any regulations for the purposes of this section, may—

- (a) detain or arrest without a warrant, any person who is subject to this Act, regardless of the rank or status of that person, who has committed, is found committing, is suspected of being about to commit, or is suspected of or charged under this Act with having committed an offence, and
- (b) exercises such other powers for carrying out such provisions of this Act as may be prescribed.

Avoiding
delay and
arrest.

88. (1) An allegation against any person subject to this Act, who is under arrest, shall be duly investigated without unnecessary delay and such person shall, and as soon as practicable, be brought to trial or released from arrest.

(2) Whenever any person subject to this Act and taken into service custody remains under arrest for longer than eight days without a court-martial for his trial being assembled, a special report on the necessity for further delay shall be made by his Commanding Officer to the prescribed authority in the prescribed manner, and similar report shall be made to the like authority and in the like manner every eight days until a court-martial is assembled or the offence is dealt with summarily or he is released from arrest:

Provided that in the case of a person on active service, compliance with this subsection shall be excused in so far as it is not reasonably practicable having regard to the exigencies of the military operations.

(3) For the purposes of subsection (1) of section 64 of this Act, the question whether there has been unnecessary delay in the taking of any steps for the investigations against any person under arrest shall be determined without regard to the provisions of subsection (2) of this section.

Investigation
of charges by
Commanding
Officer.

89. Before an allegation against a person that he has committed a service offence is proceeded with, the allegation shall be reported in the form of a charge to that person's Commanding Officer. Where such Officer is satisfied that the charge should not be proceeded with, he shall dismiss the charge; but otherwise the charge shall be proceeded with under this Act, as expeditiously as circumstances permit.

90. (1) A Commanding Officer may, in his discretion, try an accused person by summary trial, but only if all the following conditions are satisfied—

*Trials by
Commanding
Officer etc.*

- (a) the accused person is either a subordinate officer or a man below the rank of a Warrant Officer;
- (b) having regard to the gravity of the offence, the Commanding Officer considers that his powers of punishment are adequate;
- (c) the Commanding Officer is not precluded from trying the accused person by reason of his election, under regulations made under this Act, to be tried by court-martial; and
- (d) the offence is not one that under such regulations the Commanding Officer is precluded from trying.

(2) Subject as otherwise expressly provided in this Act, a Commanding Officer at a summary trial may pass a sentence in which any one or more of the following punishments may be included—

- (a) if the accused is a Non-Commissioned Officer—
 - (i) reduction to the ranks or any less reduction in rank;
 - (ii) forfeiture in the prescribed manner or seniority of rank;
 - (iii) a fine of a sum not exceeding the equivalent of twenty-eight days' pay;
 - (iv) severe reprimand or reprimand;
 - (v) admonition;
 - (vi) where the offence has occasioned any expenses, loss or damage, stoppages;
- (b) if the accused is a soldier other than a Non-Commissioned Officer, a boy, or an enlisted Army Cadet—
 - (i) imprisonment for a term not exceeding twenty-eight days or, if the accused is on active service, field punishment for a period not exceeding twenty-eight days;
 - (ii) dismissal from the Armed Forces;
 - (iii) a fine of a sum not exceeding the equivalent of twenty-eight days' pay;
 - (iv) confinement to barracks for a period beginning with the day of the sentence and not exceeding twenty-eight days;

- (v) extra guard-duties or piquets not exceeding seven in number;
- (vi) admonition;
- (vii) where the offence has occasioned any expense, loss or damage, stoppages;
- (c) if the accused is a boy or an enlisted Army Cadet—
 - (i) dismissal from the Armed Forces;
 - (ii) a fine of a sum not exceeding the equivalent of twenty-eight days' pay;
 - (iii) confinement to barracks for a period beginning with the day of the sentence and not exceeding seven days;
 - (iv) extra guard-duties or piquets not exceeding seven in number;
 - (v) admonition;
 - (vi) when the offence has occasioned any expense, loss or damage, stoppages.

(3) Such punishments as are specified in regulations made under this Act, to require approval before they may be imposed by a Commanding Officer, shall not be imposed until approval has been obtained.

(4) Where a Commanding Officer tries an accused person by summary trial, the evidence shall be taken on oath if the Commanding Officer so directs or the accused person so requests and the Commanding Officer shall inform the accused person of his right so to request.

(5) Where the Commanding Officer has taken steps with a view to a charge being tried by court-martial, any higher authority to whom the charge is referred may refer the charge back to the Commanding Officer to be dealt with summarily; and on any such reference, the provisions of subsection (3) of this section shall apply as if the Commanding Officer had originally been of the opinion that the charge should be dealt with summarily.

Trial by
Superior
Commanders.

91. (1) An officer of or above the rank of Brigadier, or equivalent rank in the Navy or Air Force or any other officer prescribed or appointed by the President for the purpose, such officer being referred to in this section as a 'Superior Commander', may, in his discretion, try by summary trial, an officer below the rank of Com-

mander, Lieutenant-Colonel or Wing Commander, or a Warrant Officer, charged with having committed an offence under this Act.

(2) A Superior Commander may, with or without hearing the evidence, dismiss a charge if he considers that it should not be proceeded with; but otherwise shall cause it to be proceeded with as expeditiously as circumstances permit.

(3) Subject as otherwise expressly provided in this Act, a Superior Commander at a summary trial may pass a sentence in which any one or more of the following punishments may be imposed—

- (a) forfeiture of seniority;
- (b) severe reprimand;
- (c) reprimand; or
- (d) fine.

(4) A Superior Commander shall not try an accused person who, by reason of an election under regulations made under this Act, is entitled to be tried by court-martial.

(5) Where a Superior Commander tries an accused person by summary trial, the evidence shall be taken on oath if the Superior Commander so directs or the accused person so requests, and the Superior Commander shall inform the accused person of his right so to request.

92. (1) Notwithstanding the provisions of sections 90 and 91 of this Act, where a charge has been referred to higher authority—

- (a) with a view to it being tried by court-martial; or
- (b) for determination as to how it is to be proceeded with, that authority may, subject to the provisions of this section, refer the charge back to the Commanding Officer, of the accused with a direction that it shall be dismissed, and in any such case, the Commanding Officer shall dismiss the charge.

(2) The reference back of a charge in pursuance of this section shall be without prejudice to the preferring of another charge if the higher authority so directs or the Commanding Officer thinks fit.

93. (1) The following persons may act as appropriate higher authority in relation to a person charged with an offence, that is to say, a Force Commander and any officer of the rank of Brigadier or above, or an officer of corresponding rank under whose command such person is for the time being.

Dismissal of charges referred to higher authority.

Appropriate higher authority.

(2) Rules made by the Minister and subject to the approval of the President for the purpose of this section, may confer on Commanding Officers power to delegate their functions, in such cases and to such extent as may be specified in the rules, to officers of a class so specified.

(3) In such case as may be specified in that behalf by rules made by the Minister and subject to the approval of the President for the purpose of this section, the powers of the Commanding Officer or appropriate higher authority to impose punishment shall be subject to such limitations as may be so specified.

94. (1) There shall for the purposes of this Act be established a general court-martial and a disciplinary court-martial.

(2) The President or such other authority as may be authorised in that behalf by him may convene a general court-martial or a disciplinary court-martial.

(3) Any authority who convenes a court-martial under subsection (1) of this section, may appoint as members of the court-martial, officers of the Army, Gendarmerie, Navy or Air Force of The Gambia or officers of any army, gendarmerie, navy or air force, who are attached, seconded or loaned to the Armed Forces.

(4) The members of a general court-martial shall be appointed by order of the convening officer or in such other manner as may be prescribed.

95. (1) A general court-martial shall consist of not less than five officers and not more than such number of officers as may be prescribed.

(2) The president of a general court-martial shall be an officer of or above the rank of Lieutenant-Colonel or an officer of corresponding rank in the Navy or Air Force and shall be appointed by the authority convening the general court-martial or by an officer empowered by that authority to appoint such president.

(3) Where the accused person is of or above the rank of Brigadier, or an officer of corresponding rank, the president of a general court-martial shall be an officer of or above the rank of the accused person, and the other members of the court-martial shall be of or above the rank of Captain, or of or above the rank of Colonel, or an officer of corresponding rank.

(4) Where the accused person is of the rank of a Lieutenant-

Establishment and convening authority of court-martial.

Constitution of a general court-martial.

Colonel or officer of corresponding rank, all the members of a general court-martial other than the president, shall be of or above the rank of Major, or an officer of corresponding rank.

96. A general court-martial may try any person subject to this Act who is alleged to have committed an offence under this Act.

Jurisdiction of a general court-martial.

97. The Chief Justice shall appoint a person to officiate as a Judge Advocate at a general court-martial.

Judge Advocate.

98. None of the following persons shall be qualified to sit as a member of a general court-martial—

Dis-qualification to serve on general court-martial.

- (a) the officer who convened the court-martial;
- (b) the prosecutor;
- (c) a witness for the prosecution;
- (d) the Commanding Officer of the accused person;
- (e) a Provost Officer;
- (f) an officer who has not been an officer in the Armed Forces for a period of two years or for periods amounting in aggregate to not less than two years;
- (g) an officer below the army rank of Lieutenant or officer of corresponding rank in the Navy or Air Force; or
- (h) any person who, prior to the court-martial, participated in any investigation in respect of the matters upon which a charge against the accused person is founded.

99. (1) A disciplinary court-martial shall consist of not less than three officers and not more than such number of officers as may be prescribed.

Constitution of a disciplinary court-martial.

(2) The president of a disciplinary court-martial shall be appointed by the authority convening the disciplinary court-martial or by an officer empowered by that authority to appoint such president.

(3) The president of a disciplinary court-martial shall be an officer of or above the rank of Captain or an officer of a corresponding rank in the Navy or Air Force or an officer of such higher rank as may be prescribed.

(4) The members of a disciplinary court-martial shall be appointed by order of the convening officer or in such other manner as may be prescribed.

Jurisdiction
of
disciplinary
court-
martial.

100. Subject to any limitations prescribed by this Act or any regulations made under this Act, a disciplinary court-martial may try any person subject to this Act who is alleged to have committed an offence under this Act or any regulations made thereunder.

Punishment
by
disciplinary
court-
martial.

101. A disciplinary court-martial shall not pass a sentence including punishment higher in the scale of punishment than dismissal with disgrace from the Armed Forces, or higher than such other punishment as may be prescribed; but no such other punishment shall be higher in the scale of punishment than dismissal with disgrace from the Armed Forces.

Appointment
of a Judge
Advocate.

102. The Chief Justice may appoint a person to officiate as Judge Advocate at a disciplinary court-martial.

Disqualifica-
tion to serve
on a
disciplinary
court-
martial.

103. None of the following persons shall be qualified to sit as a member of a disciplinary court-martial—

- (a) the officer who conveyed the court-martial;
- (b) the prosecutor;
- (c) a witness for the prosecution;
- (d) the Commanding Officer of the accused person;
- (e) a Provost Officer; or
- (f) any person who, prior to the court-martial, participated in any investigation in respect of the matters upon which a charge against the accused person is founded.

Place for
sitting of
court-
martial.

104. (1) Subject to the provisions of this Act, a court-martial shall sit at such place as may be specified in the order convening the court; and the convening officer may convene it to sit at a place outside the limits of his command.

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

105. (1) Any person who—

- (a) being duly summoned or ordered to attend as a witness before a court-martial, makes default in attending;
- (b) refuses to take on oath or make solemn affirmation lawfully required by a court-martial to be taken or made;
- (c) refuses to produce any document in his power or control lawfully required by a court-martial to be produced by him;
- (d) as a witness refuses to answer any question to which a court-martial may lawfully require an answer;
- (e) uses insulting or threatening language before or causes interruption or disturbance in the proceedings of a court-martial; or
- (f) commits, or omits to perform, any act before a court-martial, which act or omission if done or made before a civil court would constitute contempt of that court,

Offences in
respect of
court-
martial.

shall be guilty of an offence and on conviction thereof, shall be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act; and where an offence under this section is committed at, or in relation to, a court-martial, that court-martial may, under the hand of its president, issue an order that the offender shall undergo for a period not exceeding thirty days, a term of imprisonment or detention and where any such order is issued, the offender shall not be liable to any other proceedings under this Act in respect of the contempt in consequence of which the order is issued.

(2) Notwithstanding anything in subsection (1) of this section, where an offence against paragraph (e) or paragraph (f) of that subsection is committed in relation to any court-martial held in pursuance of this Act, that court, if of the opinion that it is expedient that the offender should be dealt with summarily by the court instead of being brought to trial before another court-martial, may by order under the hand of its president, order the offender to be imprisoned for a period not exceeding twenty-one days.

106. (1) Any person subject to this Act who, having been lawfully sworn as a witness or as an interpreter in proceedings before a court-martial or before any board or person having power to administer an oath under this Act or any regulation made thereunder, makes a statement material in those proceedings, which he knows to be false or does not believe to be true shall, on conviction thereof

False
evidence.

by court-martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

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

Obstructing
police
officer,
arresting
officer, or
man.

107. Any person subject to this Act, who prevents or obstructs—

(a) the execution by a police officer of a warrant for the arrest of a person subject to this Act, who has committed or is suspected of having committed an offence punishable on conviction by civil court; or

(b) the arrest of a person subject to this Act by a police officer acting in the exercise of his powers of arrest without a warrant,

shall be guilty of an offence and on conviction thereof by court-martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Decisions
of courts-
martial.

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

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

(3) A finding of guilt, where the only punishment which the court can award is death, shall not have effect unless it is reached with the concurrence of all the members of the court; and where such a finding is reached by a majority of the members without such concurrence, the court shall be dissolved and the accused may be tried by another court.

(4) Where the accused is found guilty and the court has power to sentence him either to death or to some less punishment, a sentence of death shall not be passed without the concurrence of all the members of the court.

(5) In the case of an equality of votes on the sentence, or of any question arising after the commencement of a trial, except the finding, the president of the court shall have a second or casting vote.

Court-martial
to sit in
open court.

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

(2) Nothing in subsection (1) of this section shall affect the power

of a court-martial to sit in camera on the ground that it is necessary and expedient in the interests of the administration of justice to do so; and without prejudice to that power, a court-martial may order that, subject to any exceptions that the court may specify, the public shall be excluded from all or any part of the proceedings, or statement to be made in the course of the proceedings or that part as the case may be, which might otherwise lead to the disclosure of any information directly or indirectly useful to any enemy.

(3) A court-martial may sit in closed court while deliberating on the finding or sentence on any charge.

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

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

110. (1) The finding of a court-martial on each charge shall be announced in open court. Finding and sentence.

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

(3) Any sentence of a court-martial, together with any recommendation of mercy, shall be announced in open court, and a sentence of a court-martial shall be, and be announced as being, subject to confirmation.

111. (1) An accused before a court-martial, charged 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. Power to convict of offence other than that charged.

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

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

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

(5) Where an accused person is charged before a court-martial for committing a civil offence and the offence is one in respect of which, if he had been tried by a civil court, he could have been found guilty of another civil offence, then if the court finds that he has committed that other civil offence, he may be convicted of that other offence.

Confirming
and
Reviewing
Authority.

112. (1) There shall, for the purposes of enforcing decisions of a court-martial, be a Confirming and Reviewing Authority, who shall have the power to confirm and review the finding and sentence of any court-martial.

(2) The Confirming and Reviewing Authority shall for the purposes of this Act, be the Chief of Defence Staff or the officer for the time being performing his functions, or any other officer to whom he has delegated the power to confirm and review findings and sentences of a court-martial.

(3) The following persons shall not have the power to confirm and review the finding or sentence of a court-martial—

- (a) any officer who was a member of the court-martial before whom the accused was tried;
- (b) any person who, as a Commanding Officer of the accused, investigated the allegations against him;
- (c) any person who, as appropriate superior authority, investigated the allegations against the accused;
- (d) any officer of a rank lower than that of the president of the court.

Confirmation
and review
proceedings.

113. (1) Where the proceedings of a court-martial are completed, the record of proceedings shall be transmitted to the Confirming and Reviewing Authority for confirmation and review of the finding, and sentence of the court, on that charge.

(2) No finding of a court-martial shall be treated as a finding or sentence of the court until such finding is confirmed.

(3) The provisions of this section shall not affect the keeping of the accused in custody pending the confirmation and review or the operation of sections 115 and 116 of the provisions of this Act.

Directions to
the court-
martial for
review.

114. (1) A Confirming and Reviewing Authority may direct that a court-martial shall revise any finding and sentence made by the court in any case where it appears to it—

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

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

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

(4) On any such revision, the court shall not have power to receive further evidence.

(5) Where, on any such revision, the court—

- (a) stands by its original finding; or
- (b) substitutes a finding of guilt of another offence or of the same offence in different circumstances,

the court may substitute a different sentence for the original offence or impose the appropriate sentence for that other offence:

Provided that, the court shall not have power to substitute a sentence of a punishment severer than the punishment, or the severest of the punishments, imposed on the accused by the original court.

(6) Where on any such revision of a finding of not guilty, the court substitutes a finding of guilt, it shall impose the appropriate sentence on the accused.

115. (1) The Confirming and Reviewing Authority shall not have the power to direct—

- (a) the revision of any substituted finding made by the court on a previous direction of the Confirming and Reviewing Authority;
- (b) the revision of its original finding, if adhered to by the court on such previous direction.

(2) Subject to the provisions of subsection (1) of this section, this Act shall apply to the proceedings of the court on any such revision as it applies to their deliberation on the original finding and sentence, and any substituted finding or sentence shall be treated

Limitation of
powers of
Confirming
and
Reviewing
Authority.

COPIE ROUGE - RESPONSABILITE DU TRAITEMENT

for all purposes as an original finding or sentence of the court:

Provided that the decision of the court on the revision shall not be required to be announced in open court.

(3) At any time after a court-martial has sentenced the accused, but not later than the prescribed time after confirmation is completed, the accused may, in the prescribed manner, present to the Confirming and Reviewing Authority, a petition against the finding or sentence, or both such finding and sentence.

Confirmation
of findings
of court-
martial.

116. (1) In the exercise of its powers under this section, the Confirming and Reviewing Authority may—

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

substitute that other finding, and if it does so, it shall consider in what manner, if at all, the powers conferred by subsection (3) of this section should be exercised.

(2) Where it appears to the Confirming and Reviewing Authority, that a sentence of a court-martial is inadequate, it may substitute therefor, a sentence of any punishment which it considers appropriate in the circumstances.

(3) In confirming the sentence of a court-martial, a Confirming and Reviewing Authority may—

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

(4) A finding or sentence substituted by the Confirming and Reviewing Authority or any sentence having effect after such Authority has remitted or commuted punishment, shall be treated for all purposes as a finding or sentence of the court duly confirmed.

(5) The confirmation of a finding or sentence shall not be effective until the finding or sentence has been promulgated; and in the event of any substitution under subsection (4) of this section, the remission or commutation, the finding or sentence shall not have effect until it has been promulgated.

117. A sentence of death passed by a court-martial shall not be carried into effect unless approved by the President.

Sentence of death to be approved by the President.

118. Subject to the following provisions of the Constitution namely, subsection (3) of section 28, subsection (1) of section 93 and subsections (1) and (2) of section 97, an appeal shall lie as of right to the Court of Appeal from final decisions of a courts-martial.

Right of appeal.

119. (1) A sentence of imprisonment passed by a court-martial may be reviewed by the Force Commander or by such officers as may from time to time be appointed by the President; and if on any recommendation, it appears that the conduct of the offender since his conviction has been such as to justify remission of the sentence, whether in part or in whole, it may be remitted accordingly.

Review of sentence of imprisonment.

(2) The power to review a sentence may be exercised at any time after confirmation, and where, after such review, a sentence remains effective, it shall be re-reviewed at intervals of six months:

Provided that, delay in complying with this section shall not invalidate the sentence.

120. (1) Where a charge has been dealt with summarily, otherwise than by the dismissal thereof, the Confirming and Reviewing Authority under section 112 of this Act may, at any time, review the finding or award.

Review of summary finding and awards.

(2) Where, on a review under this section, it appears to such Authority expedient so to do by reason of any mistake of law in the proceedings on summary dealing with the charge or of anything occurring in those proceedings which, in the opinion of the Authority, involved substantial injustice to the accused, the Authority may quash the finding, and if the finding is quashed, the Authority shall also quash the award.

(3) Where on a review under this section, it appears to such Authority that a punishment imposed was invalid or too severe or the award included two or more punishments or that those punishments or some of them could not validly have been imposed in combination or are, taken together, too severe, the Authority may vary the punishment by substituting such punishment or punishments which could have been included in the original punishment and not being, in the opinion of the Authority, more severe than the punishment or punishments included in the original award.

Findings of
insanity.

121. (1) Where, on the trial of a person under this Act, it appears to the court-martial that the accused is by reason of insanity, unfit to stand his trial, the court shall so find, and if the finding is confirmed in accordance with the provisions of subsections (2), (3), (4), (5) and (6) of this section, the accused shall be kept in custody in such manner as may be prescribed by rules or until the directions of the President are known or until any earlier time at which the accused is fit to stand his trial.

(2) Where, on a trial of a person under this Act, it appears to the court-martial that the evidence is such as, apart from any question of insanity, to support a finding that the accused is guilty of any offence, at the time of the acts or omissions constituting that offence the accused was, by reason of mental diseases or natural mental infirmity, not criminally responsible for the acts or omissions alleged as constituting the offence, the court shall find that the accused committed the act or omission but was insane at the time, and thereupon the accused shall be kept in custody in such manner as may be prescribed by rules or until the directions of the President are known.

(3) In the case of any finding made under subsections (1) and (2) of this section, the President may give orders for the safe custody of the accused during his pleasure, in such place and in such manner as the President thinks fit.

(4) A finding under subsection (1) of this section shall not have effect unless the finding has been confirmed by an authority who has the power to confirm a finding of guilt by the court-martial that tried the accused.

(5) Where the court or the Confirming Authority substitutes for a finding under subsection (2) of this section, the Confirming Authority or, as the case may be, the Reviewing Authority shall not have the power to substitute for that finding, a finding of guilt; but the Reviewing Authority shall have the power to revise, confirm or review the finding so made under subsection (2) as if it was a finding of guilt.

(6) Subject to any contrary provisions under this Act, a conviction or a finding of guilt in respect of any offence includes a finding made under subsection (1) or subsection (2) of this section.

122. (1) Subject to the provisions as to limitation of trial of offences under this Act, where an offence under this Act which is triable by a court-martial has been committed or is reasonably

Trial of
persons ceas-
ing to be
subject to
the Act.

suspected of having been committed by any person whilst subject to this Act, then in relation to that offence, he shall be treated for the purposes of the provisions of this Act relating to arrest, keeping in custody, investigation of charges, trial and punishment by court-martial and execution of sentences, as continuing to be subject to this Act, notwithstanding his ceasing at any time to be subject thereto.

(2) Where, while a person is in custody by virtue of this section he commits or is reasonably suspected of having committed an offence which, if he were subject to this Act, would be an offence triable by a court-martial under this Act, then in relation to that offence or suspected offence, he shall be treated, for the purposes of the provisions of subsection (1) of this section and the provisions as to summarily dealing with charges, as having been subject to this Act when the offence was committed or is suspected of having been committed, and as continuing to be subject thereto thereafter.

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

- (a) if he holds any military rank, as to a person having that rank;
- (b) otherwise as to a person having the rank which he held immediately before he ceased to be subject to this Act:

Provided that, as respects any time after he has been sentenced for the offence in question and the sentence has been confirmed, the said provision shall apply to him as to a soldier.

(4) Where, apart from this subsection, any provision of this Act would under subsection (3) of this section apply to a person, in relation to different offences, as to a person having different ranks, it shall apply to him as to a person having the lower or lowest of those ranks.

123. (1) Any person alleged to have committed an offence under this Act may be charged, dealt with and tried under this Act whether the alleged offence was committed in or outside The Gambia: No limitation.

Provided that a court-martial shall not try any person charged with the offence of murder, rape or manslaughter.

(2) Any person alleged to have committed an offence under this

Act may be charged, dealt with and tried under this Act either in or outside The Gambia.

Time bar.

124. (1) Except in respect of an offence specified in subsection (2) of this section, no person shall be liable to be tried by a court-martial unless his trial begins before the expiration of a period of three years from the date on which the offence was alleged to have been committed.

(2) Any person subject to this Act at the time of the alleged commission by him of the offence of mutiny, desertion or absence without leave, or an offence for which the maximum punishment that may be imposed is death, shall continue to be liable to be charged, dealt with and tried at any time, under this Act.

(3) In calculating the period of limitation referred to in subsection (1) of this section, there shall not be included—

- (a) time during which a person was a prisoner of war;
- (b) any period of absence in respect of which a person has been found guilty by a court-martial, of desertion or absence without leave; and
- (c) any time during which a person was serving a sentence of incarceration imposed by any court other than a court-martial.

*Autrefois
acquitt and
autrefois
convict.*

125. (1) Any person, in respect of whom a charge of having committed an offence under this Act has been dismissed, or who has been found guilty or not guilty either by a court-martial or a civil court on a charge of having committed any such offence, shall not be tried or tried again by a court-martial under this Act, in respect of that offence or any other offence of which he might have been found guilty on that charge by a court-martial or a civil court.

(2) Nothing in subsection (1) of this section shall affect the validity of a new trial ordered under this Act.

Scale of
punishment.

126. (1) A court-martial may impose, where appropriate, any one or more of the punishments specified below in respect of any offence committed under this Act—

- (a) death;
- (b) imprisonment for two years or more;
- (c) dismissal with disgrace from the Armed Forces;
- (d) imprisonment for less than two years;
- (e) detention;

- (f) field punishment for a period not exceeding ninety days;
- (g) reduction in rank, or, in the case of the Navy, disrating;
- (h) in the case of a Warrant Officer or Non-Commissioned Officer, reduction to the ranks or any less reduction in rank;
- (i) in the case of a Warrant Officer or Non-Commissioned Officer, forfeiture in the prescribed manner, of seniority of rank;
- (j) forfeiture of seniority;
- (k) in the case of the Navy, dismissal of an officer from the ship to which he belongs;
- (l) severe reprimand;
- (m) reprimand;
- (n) a fine of a sum not exceeding the equivalent of ninety days;
- (o) in the case of a Warrant Officer or Non-Commissioned Officer, severe reprimand or reprimand;
- (p) where the offence is desertion, forfeiture of service;
- (q) where the offence has occasioned any expense, loss or damage, stoppages.

(2) For the purposes of this section, each punishment specified in any paragraph of the above scale shall be deemed to be a punishment less than every punishment preceding it in that scale and greater than those specified in the succeeding paragraphs of the scale; such scale in this section being referred to as the "scale of punishment".

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

(4) The punishment of imprisonment for a term of two years or more or imprisonment for a term less than two years shall be subject to the following conditions—

- (a) every person who, on conviction of an offence under this Act, is liable to imprisonment for life or for a term of years or other term, may be sentenced to imprisonment for a shorter term;
- (b) a sentence of imprisonment for a shorter term or imprisonment for a term of two years or more imposed upon an officer shall be deemed to include a punishment of dismissal with disgrace from the Armed Forces, whether or not the last mentioned punishment is specified in the sentence passed by the court-martial;

(c) a sentence that includes a punishment of imprisonment for less than two years imposed upon an officer shall be deemed to include a punishment of dismissal from the Armed Forces, whether or not the last-mentioned punishment is specified in the sentence passed by the court-martial;

(d) where a court-martial imposes a punishment of imprisonment for two years or more upon a man, the court-martial may in addition, notwithstanding any other provision of this Part of this Act, impose a punishment of dismissal with disgrace from the Armed Forces;

(e) where a court-martial imposes a punishment of imprisonment for less than two years upon a man, the court-martial may, in addition, notwithstanding any other provision of this Part of this Act, impose a punishment of dismissal from the Armed Forces;

(f) a punishment of imprisonment for two years or more or imprisonment for less than two years shall be deemed to be a punishment of imprisonment with hard labour; but in the case of a punishment of imprisonment for less than two years, the President or such other person as he may authorise in that behalf, may order that such punishment shall be without hard labour.

(5) Where a Warrant Officer or Non-Commissioned Officer is sentenced by a court-martial to imprisonment or field punishment, he shall also be sentenced to be reduced to the ranks.

Provided that, if the court-martial fails to sentence him to be so reduced, the sentence shall not be invalid but shall be deemed to include a sentence of reduction to the ranks.

(6) The punishment of reduction in rank shall apply to officers, Warrant Officers, Chief Petty Officers, Petty Officers, Non-Commissioned Officers and Leading Ratings.

(7) Where an officer or man has been sentenced to forfeiture of seniority, the court-martial imposing the punishment shall, in passing sentence, specify the period for which seniority is to be forfeited.

(8) A field punishment shall consist of such duties or work, in addition to those which the offender might be required to perform if he were not undergoing punishment, and such loss of privileges as may be provided by or under rules made under this Part of this Act, and may include confinement in such place and manner, and

the use of such personal restraint as may be necessary to prevent the escape of the offender, as may be so provided.

(9) A person upon whom a punishment of dismissal with disgrace from the Armed Forces has been carried out shall not, except in an emergency or unless that punishment is subsequently set aside or altered, be eligible to serve The Gambia again in any military or civil capacity.

PART IV.—APPEALS

127. (1) Pursuant to the provisions of subsection (4) of section 97 of the Constitution, the Court of Appeal shall hear and determine all appeals referred to it in accordance with the provisions of this Act, from decisions of any court-martial.

Court of Appeal to hear appeals from court-martial.

(2) The Court of Appeal shall, in the exercise of its appellate jurisdiction under this Act, apply all the provisions of The Gambia Court of Appeal Act to appeals from courts-martial in the same manner as they apply to appeals from the Supreme Court.

Cap. 6:02

128. (1) Any person who has been found guilty by a court-martial shall have a right to appeal to the Court of Appeal, in such form, manner and within such time as may be prescribed, in respect of either or both of the following matters—

Jurisdiction of Court of Appeal.

(a) the legality of any or all of the findings; and

(b) the legality of the whole or any part of the sentence.

(2) Subject to the provisions of this Part of this Act and to any Rules of Court, the provisions of The Gambia Court of Appeal Act relating to the hearing of appeals from subordinate courts shall apply to the hearing and determination of an appeal under this Act.

129. (1) Upon the hearing of an appeal in respect of the legality of a finding of guilt on any charge, the Court of Appeal, if it allows the appeal, shall—

Powers of Court of Appeal.

(a) set aside the finding and direct a finding of not guilty to be recorded in respect of that charge; or

(b) direct a new trial on that charge, in which case the appellant shall be tried again as if no trial on that charge had been held.

(2) Where the Court of Appeal has set aside a finding of guilt, but no finding of guilt in respect of any other charge remains, the whole of the sentence shall cease to have force and effect.

(3) Where the Court of Appeal has set aside a finding of guilt, but a finding of guilt in respect of any other charge remains, the court shall forthwith refer the proceedings to the President, or to such other authority as may be authorised on his behalf by him, who shall—

- (a) affirm the punishment imposed by the court-martial if the court-martial could legally have imposed that punishment upon the finding of guilt that remains; or
- (b) subject to such conditions as may be prescribed, substitute such new punishment or punishments as such authority considers appropriate.

(4) Where the appellant has been found guilty of an offence and the court-martial could, on the charge, have found him guilty under section 84 of this Act of some other offence on any alternative charge that was laid, and on the actual finding it appears to the Court of Appeal that the facts proved him guilty of that other offence, the court may, instead of allowing or dismissing the appeal, substitute for the finding of guilt made by the court-martial, a finding of guilty of that other offence, and the Court of Appeal shall forthwith refer the proceedings to the President or to such other authority as may be authorised in that behalf by him, who shall—

- (a) affirm the punishment imposed by the court-martial, if the court-martial could legally have imposed that punishment upon the substituted finding of guilt; or
- (b) subject to such conditions as may be prescribed, substitute for the punishment imposed by the court-martial, such new punishment or punishments as such authority considers appropriate.

(5) Where, pursuant to subsection (3) or subsection (4) of this section, a new punishment is substituted, the punishment imposed by the court-martial thereupon shall cease to have effect and the provisions of section 111 of this Act shall apply to the new punishment or punishments.

Substitution
of new
punishment.

130. Upon the hearing of an appeal in respect of the legality of a sentence passed by a court-martial, the Court of Appeal, if it allows the appeal, shall forthwith refer the proceedings to the President or to such other authority authorised in that behalf by him, who shall, subject to such conditions as may be prescribed, substitute for the punishment imposed by the court-martial, such new punishment or punishments as such authority considers

appropriate, and every punishment comprised in the sentence passed by the court-martial shall thereupon cease to have force and effect; and the provisions of section 136 of this Act shall apply to the new punishment or punishments.

131. An appellant may present his case orally or in writing, and in the prescribed form. Appellant to present his case orally or in writing.

132. The Attorney-General or any person designated by him shall undertake the defence of an appeal brought under this Act. Defence of appeal.

133. Nothing in this Act affects the jurisdiction of any civil court to try a person for any offence triable by that court. Jurisdiction of civil court.

134. Where any person subject to this Act has at any time been tried by a civil court, an officer of that court authorised in that behalf by the Judge or the Magistrate thereof, as the case may be, shall, if required by any officer of the Armed Forces, transmit to that officer, a certificate setting out the offence for which that person was tried together with the judgment or order of the court thereon, and shall be paid for that certificate, the prescribed fee. Certificate of civil court.

135. The President may in pursuance of section 54, and subject to section 55, of the Constitution, mitigate, commute, remit, grant pardon or substitute a less severe form of punishment imposed by a court-martial. President's power to mitigate etc.

136. Where under the authority of this Act, a new punishment, by reason of substitution or commutation replaces a punishment imposed by a court-martial, the new punishment shall have force and effect as if it had been imposed by the court-martial in the first instance and the provisions of this Act shall apply accordingly; but where the new punishment involves incarceration, the term of the new punishment shall be reckoned from the date of substitution or commutation, as the case may be. Effect of new punishment.

PART V.—MISCELLANEOUS

137. (1) Any officer, Warrant Officer or Non-Commissioned Officer, who is a member of any foreign military force and subject to the military law of his own country and is seconded to serve Seconded members of foreign forces.

with the Forces shall remain subject to the military law of his country, and except where expressly provided, this Act shall not apply to him.

(2) Any person referred to in subsection (1) of this section who commits any offence against the provisions of this Act may be held, tried and punished in The Gambia for the offence.

Indemnity
for prison
officer, etc.

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

Restriction
on reduction
of Warrant
Officers etc.

139. (1) Warrant Officer shall not be reduced in rank except by sentence of a court-martial under this Act or by order of an officer not below the rank of a Major, under whose command the Warrant Officer serves.

(2) A Non-Commissioned Officer shall not be reduced in rank except by sentence of a court-martial under this Act, by order of his Commanding Officer, the Force Commander or an officer not below the rank of a Major, under whose command the Non-Commissioned Officer serves.

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

Free passage
for members
of the
Forces.

140. Where any member of the Armed Forces is required to travel on duty, he shall be entitled to a free passage on any public transport.

Pretending to
be a
deserter.

141. Any person who falsely represents himself to an army, naval, airforce, gendarmerie or civil authority to be a deserter from the Forces, shall be guilty of an offence and liable on conviction thereof to a fine not exceeding five hundred dalasis or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Assisting a
soldier to
desert.

142. Any person who—

- (a) procures or persuades any officer or soldier of the Armed Forces to desert or to absent himself without leave;
- (b) knowing that any such officer or soldier is about to desert or absent himself without leave, assists him in so doing; or

- (c) knowing any person to be a deserter or absentee without leave from the Armed Forces, conceals him or assists him in concealing himself or assists in his rescue from custody,

shall be guilty of an offence and shall be liable on conviction thereof to a fine not exceeding five hundred dalasis or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

143. Any person who obstructs or otherwise interferes with any officer or soldier of the Armed Forces acting in the execution of his duty shall be guilty of an offence and liable on conviction thereof to a fine not exceeding five hundred dalasis or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Obstructing members of the forces in execution of duty.

144. (1) Any person who acquires any military stores or solicits or procures any person to dispose of any military stores or acts for any person in the disposing of any military stores shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding five hundred dalasis or to imprisonment for a term not exceeding twenty-four months or to both such fine and imprisonment unless he proves either—

Unlawful purchase of military stores.

- (a) that he did not know and could not reasonably be expected to know, that the chattels in question were military stores;
- (b) that those chattels had (by the transaction with which he is charged or some earlier transaction) been disposed of by order or with the consent of the President or some person or authority who had, or whom he had reasonable cause to believe to have, power to give the order or consent; or
- (c) that those chattels had become the property of an officer who had retired or ceased to be an officer, or of a soldier who had been discharged, or of the personal representatives of a person who had died.

(2) A constable may arrest without warrant any person whom he has reasonable grounds for suspecting has committed an offence against this section, and may seize any property which he has any reasonable grounds for suspecting has been the subject of the offence.

Unauthorised
use of
decoration.

145. (1) Any person who—

- (a) without authority uses or wears any military decoration, or any badge, wound stripe, or emblem supplied or authorised by the President, the Council, or the Government of The Gambia;
- (b) uses or wears any decoration, badge, wound stripe, or emblem so nearly resembling any military decoration, or any such badge, stripe or emblem which is calculated to deceive; or
- (c) falsely represents himself to be a person who is or has been entitled to use or wear any decoration, or any such badge, stripe or emblem as is mentioned in paragraph (a) of this subsection,

shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding five hundred dalasis or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(2) Nothing in subsection (1) of this section shall affect the use or wearing of ordinary regimental badges or of broaches or ornaments representing them.

(3) Any person who purchases or takes in pawn any Army, Navy, Air Force or Gendarmerie decoration awarded to any member of The Gambia Armed Forces, or solicits or procures any person to sell or pledge any decoration, or acts for any person in the sale or pledging thereof, shall be liable to a fine not exceeding five hundred dalasis or to imprisonment for a term not exceeding six months or to both such fine and imprisonment, unless he proves that at the time of the alleged offence, the person to whom the decoration was awarded was dead or has ceased to be a member of those Forces.

Existing
Forces.

146. Any Forces in existence before the commencement of this Act shall be deemed to be included in the Armed Forces raised and maintained under this Act.

Regulations.

147. The Minister may, with approval of the President, make regulations for securing the discipline and good government of the Armed Forces and generally for the better carrying out of the objects and purposes of this Act.

*The Gambia Armed Forces
(Purchase of Discharge) Order*

SUBSIDIARY LEGISLATION

**The Gambia Armed Forces
(Purchase of Discharge) Order**

L.N.
10/1988

made under section 31

1. This Order may be cited as The Gambia Armed Forces (Purchase of Discharge) Order.
2. The amount payable by a soldier to obtain his discharge shall be four thousand dalasis.

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*Regulation*PART X.—THE ATTORNEY-GENERAL
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AND THE GENDARMERIE

102. Powers of the Attorney-General.
103. Other Ministries and the Gendarmerie.

L.N.
15/1989.

The Gambia National Gendarmerie
Regulations

made under section 147

PART I.—DUTIES OF THE GENDARMERIE

Short title
and
commence-
ment.

1. These regulations may be cited as The Gambia National Gendarmerie Regulations, and shall be deemed to have come into force on the first day of July, 1989.

Duties of the
Gendarmerie.

2. (1) The Gendarmerie shall—

- (a) together with the Police Force be employed in the preservation of law and order, protection of property, prevention and detection of crime, apprehension of offenders and the enforcement of all laws and regulations with which the Police are charged;
- (b) together with the Army, be employed in the defence of The Gambia, and for the maintenance of public safety and public order and such other duties as may be determined by the President; and
- (c) act as military police for the purposes of the Army and Security Forces.

(2) Without prejudice to the generality of paragraph (1) of this regulation, the Gendarmerie shall regularly carry out a surveillance of the whole of The Gambia, and in particular, the rural areas and the highways.

3. (1) The Gendarmerie shall, in the discharge of their duties under regulation 2 of these regulations, act only—

Employment
of the
Gendarmerie.

- (a) on the orders of the Commander-in-Chief;
- (b) on the orders of the Minister;
- (c) on the orders of the Minister of the Interior under paragraph (1) of regulation 99 of these regulations;
- (d) on the orders of the Attorney-General under paragraph (1) of regulation 103 of these regulations; or
- (e) subject to these regulations, on a request for assistance from any other authority.

(2) The Gendarmerie shall discharge its duties openly and in normal military attire and shall not—

- (a) participate or interfere in politics; or
- (b) undertake covered operations.

4. The Gendarmerie personnel shall, ordinarily, operate within the Zone assigned to them:

Zonal
boundaries

Provided that they may operate outside such Zone on the orders of the competent authorities or while in pursuit of offenders:

And provided further that the competent administrative, judicial and Gendarmerie authorities are so informed as soon as practicable.

5. The Gendarmerie duties shall consist of—

- (a) ordinary duties, which shall be carried out daily or at intervals to be determined by their commanders on their own initiative without a requisition from any of the different authorities with whom the Gendarmerie is connected; and
- (b) extraordinary duties, which shall be carried out only on superior orders or on requisitions by a competent authority.

Ordinary
extraordinary
duties.

6. (1) The Gendarmerie shall carry out a continuous surveillance of The Gambia in order to prevent threats to public order and to quell public disturbances.

Surveillance

(2) In discharging its duties under this regulation, the Gendarmerie may intervene in any place where public order may be threatened,

and may use reasonable force to avert such threat or quell any public disturbance.

PART II.—INFORMATION AND REPORTS

Gendarmerie
to give
information
to the
authorities.

7. The Gendarmerie shall, without delay, convey to the competent authorities referred to under regulation 10 of these regulations, any information it has acquired which may affect public order or public safety.

Civilian
authorities to
give informa-
tion to the
Gendarmerie.

8. Civilian authorities shall convey to the Gendarmerie any information they may consider useful for the execution of their duties, or to have a direct or indirect bearing on public or general security.

Relationship
with other
authorities.

9. (1) Officers and Non-Commissioned Officers of the Gendarmerie shall maintain contact with the authorities in order to receive information readily and shall report or communicate only with the following authorities directly:

- (a) the National Security Service in matters relating to public order or general security;
- (b) with the Attorney-General in criminal matters and matters relating to the law; and
- (c) with the military authorities on events or information concerning the Armed Forces.

(2) In addition to the matters referred to under regulation 10, the Gendarmerie shall deal with these three authorities on any of the extraordinary matters enumerated in regulation 11, of these regulations.

(3) In the event that any information is of interest to different authorities, such authorities shall be informed simultaneously.

Submission
of reports.

10. (1) Reports on all important events, particularly the extraordinary events specified in regulation 11, shall be submitted to all the competent authorities referred to under regulation 9, of these regulations.

(2) Such reports shall be submitted by the Commanding Officers or in their absence, by the Platoon Commanders, and shall be addressed to the following authorities as appropriate:

- (a) the competent District Chief;
- (b) the competent Divisional Commissioners;
- (c) the Attorney-General;
- (d) the Commanding Officer, if the report is being submitted by a Platoon;
- (e) the Commander of the General Duty Corps; and
- (f) the Commander of the Gendarmerie, in four copies.

(3) Each authority receiving a report made under this regulation, shall take necessary action as soon as reasonably practicable.

(4) Unless incapacitated, all reports on the extraordinary events referred to under regulation 12 of these regulations shall receive the personal attention of the Commanding Officer.

11. The extraordinary events referred to in these regulations which warrant the submission of reports include the following:

Extra-ordinary events.

- (a) disasters which necessitate urgent and decisive measures, either in bringing help to people or in protecting people and properties (floods, cave-ins, earthquakes, major traffic accidents, air disasters, ship-wrecks, explosions, wide-spread fire and similar disasters);
- (b) events which affect public order or internal security and which require special measures to be taken to maintain order, including general strikes, riots, armed attacks, serious provocations or the discovery of ammunition depots or clandestine workshops for the manufacture of explosives or similar events;
- (c) any acts other than cases of espionage which are of interest to national defence, including serious or general attacks on sensitive areas, posts or sentries, incitement of the military to indiscipline or to desertion or any incursions into Gambian territory by foreign troops or gangs;
- (d) any offences which, due to their frequency, either in view of the circumstances in which they were committed or as a result of the importance of the offenders, have aroused unrest in the areas concerned or call for special measures to be taken, including acts of banditry, attacks on public officers, robbing of public safes, attacks on public safes, public roads, telephone or telegraphic lines.

Other
reports.

12. (1) The Gendarmerie shall also submit a report, on the conclusion of each operation, in order to have a full record of its deployment and investigations.

(2) It shall also keep a record of all offences investigated by it or reported to it.

Form of
reports.

13. (1) Reports may be presented on ordinary paper in the approved prescribed form.

(2) A report shall contain a true account of events, the observations of the person making the report and an accurate record of the statement of all the persons concerned, which shall be put together in a prescribed statement file and in the prescribed form.

(3) A report shall state—

(a) the date on which the report was written and the date of the findings; and

(b) the respective ranks of the investigating officers.

(4) A report shall comprise four Parts as follows:

Part I — shall state—

(a) the date of commencement of the report;

(b) the names of all those in the investigations; and

(c) that the Gendarmerie acted whilst in uniform and in accordance with superior orders.

Part II — shall state the subject matter of the investigations, give details of the information and evidence gathered and any arrests made.

Part III — shall contain the conclusion of the report indicating the number of copies made and to whom submitted and shall bear the signature of the reporting officer.

Part IV — shall contain a concise analysis indicating the nature of the offence, its author and the nature of the information received.

Reports on
Customs
matters.

14. (1) Reports on matters relating to Customs shall be made in the manner prescribed by Customs legislation.

(2) The Gendarmerie shall liaise with the nearest Customs Office for this purpose.

15. (1) Information disclosing identity, which must be included in a report, shall vary according to the nature of the offence and the particulars of the offender. Information relating to identity.

(2) If the offence committed is a misdemeanour, such information shall contain—

- (i) the first and other names;
- (ii) surname;
- (iii) date and place of birth;
- (iv) nationality;
- (v) occupation; and
- (vi) address.

(3) If the offence committed is a felony, the following particulars must be added to the particulars specified under paragraph (2) of this regulation:

- (i) marital status;
- (ii) name of employer (if military, state rank and date and place of recruitment; if merchant seaman, state place of registration and registration number);
- (iii) qualifications;
- (iv) associates and contacts; and
- (v) criminal record (if any).

(4) If the report relates to a juvenile, it shall indicate the name and address of the person legally responsible for him.

(5) If the report relates to a female, it shall indicate her maiden name, marital status and name of spouse.

16. (1) Except in the case of related offences, each offence shall be the subject of a separate report. Contents of reports.

(2) Reports on arrest shall be separate and shall state whether the apprehended persons had been carefully searched at the time of arrest and shall contain an exact inventory of any articles found on the person apprehended, which inventory shall be signed by such person.

Copies of
reports.

17. (1) Reports shall be prepared in as many copies as there are authorities concerned in the matter.

(2) One copy shall be sent immediately to the competent authority and one to the Commanding Officer.

(3) The Commanding Officer shall check the report for errors or omissions and shall, if the report is in order, transmit it with his comments to the Commander of the Gendarmerie.

Certified
copy of
report to be
sent to
Attorney-
General.

18. A certified true copy of every report shall be sent to the Attorney-General.

Classification
of reports.

19. Reports shall be classified into three categories—

- (a) those concerning material objects offences and misdemeanours;
- (b) those which are valid up to the point where false elements may be included; and
- (c) those which are only for information.

Reports
relating to
persons in
custody.

20. In all reports concerning interrogations of persons in custody or in any documents prepared for this purpose, the following shall appear:

- (a) place and reason for the custody;
- (b) date and time of custody;
- (c) duration of each interrogation—
(commencement and ending);
- (d) date and time of release of the person or of his appearance before a competent Magistrate; and
- (e) information given to the person in custody concerning his rights.

Recording of
statement.

21. (1) A statement shall contain the time it was taken.

(2) At the end of the recording of each statement, it shall be read by the person making the statement or in the case of an illiterate, it shall be read to him.

(3) The person making the statement shall thereafter be invited to

indicate whether he has any comments to make and if he does not, the following statement shall be included—

“The (date) at (time), I have read the above statement. I confirm it and have nothing to add to it or delete from it.”

(4) If any corrections are desired they shall be made and the statement shall then be completed in the manner specified in paragraph (3) of this regulation.

(5) The person making the statement shall then sign or thumb print the statement and in the case where such person refuses to sign, such fact shall be mentioned in the statement. If the person concerned does not understand, his statement shall be read and translated to him in the language which he understands, in which case the person writing the statement must indicate at the end of the statement that it was read out and translated by the writer with or without an interpreter.

21. All reports must be drawn-up in an objective, clear and concise manner, shall be recorded immediately after the occurrence of the event being reported, and shall be transmitted without delay to the authorities who have to deal with the matter.

Drawing-up
of reports.

PART III.—GENDARMERIE PERSONNEL

22. (1) Officers and Non-Commissioned Officers shall assume military command over units over which they are in charge, in accordance with any regulations in force relating to the Army and the Gendarmerie.

Unit
Commanders.

(2) The officers of the General Duty Corps shall direct and control the operations of the stations in their areas.

23. (1) All officers of the Gendarmerie, Commanders of Stations, and Commanders of Intervention Platoons, shall be employed in maintaining public order, and all other personnel of whatever rank shall work under the direction of such senior officers.

Responsi-
bility for
public order.

(2) Gendarmerie Officers may request assistance from other security forces in the discharge of their duties.

The Judicial
Corps.

25. The Judicial Corps shall consist of—

- (a) all Officers of the Gendarmerie; and
- (b) all Non-Commissioned Officers who successfully complete a judicial police course.

Duties of the
Judicial
Corps.

26. (1) The Judicial Corps shall be employed in—

- (a) preparing reports on all offences reported to them;
- (b) undertaking investigations in accordance with the Criminal Procedure Code; and
- (c) carrying out duties assigned to them by the Attorney-General.

Cap. 12:01.

(2) The Judicial Corps may request the assistance of other security forces in the discharge of their duties.

The Judicial
Corps shall
be respon-
sible to the
Attorney-
General.

27. (1) The Judicial Corps shall be under the direction of the Attorney-General in the exercise of their functions.

(2) The Attorney-General shall only exercise his authority by way of directives or request for information.

(3) Any directive or requests by the Attorney-General shall be addressed to the Commander of the Gendarmerie.

Duties of the
General Duty
Corps.

28. (1) The General Duty Corps shall be employed in enforcing law and order.

(2) The Ministry of the Interior, The Ministry of Local Government and Lands and any other Ministry in charge of special police branches may co-ordinate activities and measures of the General Duty Corps.

Surveillance
duties.

29. In the discharge of their surveillance duties, the Gendarmerie shall maintain active surveillance over—

- (a) lunatics, ex-convicts, beggars, vagabonds, suspects and persons under house arrest;
- (b) nomadic populations and persons without a fixed abode in their areas of jurisdiction; and
- (c) ports and airports in the manner, and under the conditions, established by the competent authorities.

30. (1) The Gendarmerie shall carry out traffic patrol duties and maintain free passage in order to ensure maximum security to users. The discharge of patrol duties.

(2) The Commander of the Gendarmerie shall give general directives, devise temporary safety measures for the prevention of road accidents and shall review procedures for greater efficiency.

31. The Gendarmerie Unit in charge of the highways shall educate users, keep the competent authorities informed of any need for the improvement of the road network and its signal system, and prevent acts that are likely to cause accidents. The Gendarmerie shall educate users.

32. (1) The Gendarmerie shall visit the scene as soon as they are notified of a road accident. Road accidents.

(2) They shall take the necessary measures to prevent other accidents, provide emergency first aid to the wounded or transport them to the nearest hospital or dispensary, as the case may be.

(3) They shall thereafter investigate the nature and cause of the accident and prepare a report.

PART IV.—MAINTENANCE OF LAW AND ORDER

33. (1) The Gendarmerie shall always be within reach of large gatherings of persons such as fairs, feasts and public ceremonies in order to maintain order and, before such gatherings, shall patrol surrounding roads to protect individuals or traders. Protection of crowds and gatherings.

(2) The Gendarmerie shall disperse all unlawful gatherings of persons and shall arrest groups, armed or unarmed, intending to commit an offence.

(3) Where a Gendarmerie patrol, without any specific instructions, is faced with a riot of such proportions as to make it difficult for the patrol to control it, the officer in control of the patrol shall—

(a) immediately inform the administrative authority concerned and the Attorney-General and the Commanding Officer who shall give such support as may be necessary to deal with the situation; and

(b) shall identify the ring leaders.

(4) Public disturbances shall be quelled with the minimum of force necessary.

(5) After such disturbances have been quelled, a report must be submitted giving a detailed account of the circumstances before and after the disturbances and which shall also indicate the ring leaders.

(6) Persons arrested by the Gendarmerie shall be taken before a Magistrate as soon as reasonably practicable.

Use of force.

34. (1) The Gendarmerie shall not, without the permission of the Commander-in-Chief, use arms (bayonets, firearms or explosives) except as specified under regulation 70 of these regulations.

(2) In the discharge of its duties under this Part, the Gendarmerie may act in concert with other Security Forces and may also be strengthened by elements from the Army, if so authorised by the Commander-in-Chief.

(3) Methods and techniques concerning the maintenance of law and order shall be set out in specific directives for the guidance of the Gendarmerie.

Extraordinary Events

Duty of the
Gendarmerie
under extra-
ordinary
circum-
stances.

35. (1) In the event of any of the events specified under regulation 11 of these regulations occurring, the Gendarmerie shall, if practicable, first inform the competent authorities and visit the scene of the event.

(2) If on arrival at the scene, the competent authorities are absent, they may take the initiative to apply urgent measures to rescue persons in charge, to restore law and order and to protect property.

Duty of the
Station
Commander.

36. The competent Station Commander shall—

- (a) take all possible action necessary to combat the disaster and to save life and property; and
- (b) carry out investigations into the cause of the disaster and arrest any suspects, and shall leave the scene only after ensuring that his presence is no longer necessary.

Maintenance of Public Health

37. (1) The Gendarmerie shall take precautionary measures to prevent, where possible, the spreading of contagious diseases and shall to this end, ensure that health measures are enforced and must report all infringements of these measures. Health duties.

(2) Where dead animals are discovered, the Gendarmerie shall notify the competent authorities, Village Heads or elders as the case may be, and request that the dead animals be buried or destroyed chemically or by fire if the owner is unknown, and shall report any failure to enforce such measures.

Other Duties

38. (1) The Gendarmerie shall report any unauthorised civil works being executed on the border zones, which may have any bearing on the defence of the territory. Civil works at borders.

(2) The Commander of the Gendarmerie shall also inform the Minister of any such report.

39. The General Duty Corps shall, as administrative police and in collaboration with the competent authorities, ensure that regulations relating to the following are complied with: Enforcement of certain legislation.

- (a) foreigners;
- (b) hawkers, rent, public places, demonstrations and drinking places;
- (c) public health, medicines and drugs;
- (d) trade and the possession of arms and explosives;
- (e) buildings;
- (f) press and display of notices;
- (g) public transportation;
- (h) fishing and hunting;
- (i) protection of the environment, especially vegetation and animals;

- (j) economic matters and price control; and
- (k) gambling.

PART V.—POWERS OF THE GENDARMERIE

The Judicial Corps

Functions. 40. (1) The Judicial Corps shall investigate offences, gather evidence, and prosecute suspects in the appropriate courts. They shall carry out these functions under the supervision of the Attorney-General and in accordance with the provisions of the Criminal Procedure Code.

Cap. 12:01.

(2) Members of the Judicial Corps must report to the Attorney-General all matters investigated by them and which may lead to prosecution.

Search of
premises.

Cap. 12:01.

41. The Judicial Corps shall have the right to enter and search any premises in accordance with the Criminal Procedure Code.

Visit to scene
of crime.

42. In the event of a suspected major criminal offence, the competent Commanding Officer shall visit the scene of crime. He shall then report the crime to his own immediate superior officer and carry out investigations.

Custody.

43. (1) An arrested person may be kept in custody for interrogation or to facilitate investigations.

(2) No person who has been taken into custody without a warrant for an offence other than one punishable with death may be detained for longer than 24 hours unless he is brought before a competent subordinate court and ordered by the court to be remanded in custody:

Provided that the Gendarmerie may release such a person on his executing a recognisance with or without sureties for reasonable amounts to appear at a station or before a subordinate court at a time named in the recognisance.

(3) If it is necessary for a person in custody to undergo medical examination, he must be escorted. If the doctor certifies that the person is medically unfit to remain in custody any longer, the Attorney-General shall be informed and his instructions in the matter carried out.

(4) The period of detention in custody begins from the moment of arrest.

(5) An arrested person may be kept in custody at any Gendarmerie establishment, any Police Station or any District Tribunal Cell.

44. (1) All Gendarmerie Units shall keep a Statement Book in an approved form, duly signed by the Unit Commander. Such book may be used in all investigations. Statement Book.

(2) All statements and actions taken in any particular case must be entered in a Statement Book.

(3) All statements must be signed by the persons who made them and the investigating Officer and, in the case of an illiterate, a witness.

PART VI.—MILITARY DUTIES

45. (1) The Military Corp shall be responsible for the maintenance of discipline of military establishments with regard to military personnel. To this end, its duties shall include: Military duties.

- (a) keeping a watch and maintaining appropriate control over military personnel and their activities;
- (b) giving information to military authorities; and
- (c) protecting military property and interests.

(2) Special Units of the Military Corps may be created to operate provost stations.

46. The Gendarmerie has the power to arrest any member of the Armed Forces (Gendarmerie, Army, Navy and Air Force) who fails to report for duty at the end of his leave or approved absence or who, being out of his garrison, is not in possession of a valid movement order, appropriate leave authorisation documents or a valid approved absence document duly signed by the competent authority. Offenders shall be handed over to the nearest military authority competent to deal with them. Absence without leave.

47. (1) A Gendarmerie Station Commander shall ensure that any member of the Armed Forces on leave in the area of his station, reports for duty at the end of his leave. If there is no garrison in the area, Military personnel on leave.

the person who has more than eight days leave, must inform the Station Commander of his presence. This shall be recorded in a file kept for this purpose.

(2) The Gendarmerie shall inform the local military authority of all members of the Armed Forces on leave, even if on convalescence leave, in case their conduct and or behaviour may cause them to be recalled to base.

Extension of
leave.

48. (1) The Gendarmerie shall inform the competent military authorities of the reasons which may have prevented any person from reporting for duty at the end of his leave or authorised absence.

(2) When a person staying at home on leave is for good reason, unable to report for duty at the end of such leave, and needs sick leave, or an extension of leave, the Gendarmerie shall transmit his documents to the appropriate local military authority, in accordance with leave and off-duty regulations.

(3) The Gendarmerie shall submit a report on each case, such report stating whether or not the person concerned reported for duty.

Death of
military
personnel
outside
station.

49. (1) In the event of the death of a member of the Armed Forces, the Gendarmerie Station Commander shall—

- (a) forward a copy of the report concerning the death, with an inventory of the deceased's personal effects, to his Quartermaster; and
- (b) forward a copy of the same report, with a copy of the death certificate to all military authorities concerned.

(2) If the death was caused by a contagious disease or by an epidemic, the Station Commander shall burn the person's personal effects on the spot and record the fact in a report.

(3) In the case of the death of an Officer, the Station Commander of the area in which the death occurred shall inform the local military authority as soon as possible.

Military
personnel on
duty.

50. (1) The Commander of a Military Unit may in serious cases, and at his discretion, directly request the Gendarmerie in writing giving reasons, to receive a person who has been charged and who belongs to his Unit.

(2) The Gendarmerie shall not refuse such a request or challenge the reasons for the arrest.

(3) Military personnel apprehended for any offence shall be handed over to the Gendarmerie on the written orders of the Head of the Unit. They may be handcuffed if they turn violent or were arrested for an offence involving violence.

(4) In any area where there is a Gendarmerie station, the Station Commander shall assist Unit Commanders and Officers as much as possible on the accommodation and feeding of the Unit.

51. The Gendarmerie shall keep watch over all members of the Armed Forces outside barracks with regard to:

Surveillance
of members
of the Armed
Forces.

- (a) the observance of disciplinary rules;
- (b) the attitude, appearance and behaviour of personnel; and
- (c) all matters in which personnel are involved.

52. The Gendarmerie shall keep particular watch—

Surveillance
over public
places.

- (a) in public places (stations, drinking establishments, cinemas and dancing halls etc.);
- (b) on the public highway during normal service;
- (c) on special orders by military authorities.

53. The Gendarmerie shall assist the various forces in the control of military vehicles. This duty shall include—

Military
vehicle
control.

- (a) the checking of prescribed documents to be carried on vehicles and on passengers;
- (b) registration and identification of vehicles;
- (c) the application of disciplinary rules specific to military traffic;
- (d) ensuring that vehicles are used for military purposes only;
- (e) ensuring that no unauthorised passengers (especially civilians) are carried on military vehicles;
- (f) the application of the Highway Code; and
- (g) the enforcement of regulations regarding nature and weight of load.

National Defence

Defence
duties.

54. (1) The Gendarmerie shall be a key force in the internal defence of the territory. It shall actively participate in the civil and economic defence of The Gambia.

Duties during
war.

55. At time of war, the Gendarmerie shall, as Military Corps Units attached to the Army, discharge its duty by keeping order among the deployed Units, rendering prison services, carrying out traffic duties and, if necessary, by guarding and escorting prisoners of war.

(2) As part of its military training, the Gendarmerie may, with the approval of the Minister of Defence, participate in manoeuvres with the Army, Navy or Air Force.

Administration of Reserves

Preparation
for
mobilisation.

56. (1) Gendarmerie Units shall participate in the control of Reserves by—

- (a) advising the members of the Reserve Forces as to their obligations;
- (b) keeping an up to date record of service on all changes in the status or domicile of the Reservists;
- (c) reporting to the military authorities on each member of the Reserve Force.

Complaints
or allegations
against
soldiers.

57. (1) Complaints and allegations against soldiers may be made to the Gendarmerie who shall carry out investigations into such complaints and allegations.

(2) The investigating Officer shall report their findings to the Commander of the Gendarmerie.

(3) The investigations shall be carried out either in the course of normal duties, by order, or by requisitions from the competent authorities, in accordance with these regulations.

(4) The Commander of the Gendarmerie shall inform the Minister of Defence of the action taken and shall comply with his instructions.

Desertion.

58. (1) The Gendarmerie shall carefully search for and arrest deserters wherever they are to be found.

(2) Deserters found by the Gendarmerie shall be arrested and handed over in the shortest possible time to the nearest military authority.

(3) The arresting Officer shall make a report to the commander of the Gendarmerie.

(4) The Gendarmerie shall arrest any person who harbours or employs a deserter or who has facilitated his desertion.

59. The Gendarmerie shall, subject to the provisions of the Criminal Procedure Code, execute bench warrants issued by a court.

Execution of
bench
warrant.

60. (1) Gendarmerie personnel may be required to serve summonses issued under the provisions of The Gambia Armed Forces Act.

Execution of
other court
orders.
Cap. 19.

(2) They may also in exceptional cases, be required to serve summonses to parties or to witnesses summoned by courts.

61. (1) The escort and custody of offenders arrested by Customs officials may be entrusted to the Gendarmerie.

Transfer of
persons in
custody.

(2) Rules relating to the custody and transfer of detainees shall be prescribed by specific instructions.

(3) Transportation costs shall be met by the administrative authorities with respect to civilian detainees.

(4) Travelling expenses of the escorting team shall be borne by the Gendarmerie.

(5) In the event of the death of a prisoner while being escorted, the nearest administrative authority shall be informed and the provisions of the Criminal Procedure Code shall apply.

Cap. 12:01.

62. The Gendarmerie shall protect children against any physical or moral danger. They may search any premises while investigating offences committed by juveniles or of which they are the victims, or against any harmful practice or influence (participating in dangerous escapades, begging or visiting places where alcohol may be available. They may also investigate the background of any juvenile and his family for the information of the competent authorities.

Protection of
children.

Customs
duties.

63. The Gendarmerie shall assist the Customs authorities in the prevention of smuggling and may impound goods unlawfully carried into the country and may arrest the offenders and hand them over to the Customs authorities.

Price
control.

64. The Gendarmerie shall also assist the Chief Price Control Officer by checking on prices imposed by traders and by reporting on illegal pricing, hoarding and also on any contravention of the price control laws.

Tax laws.

65. The Gendarmerie shall have the power to investigate and report on all offences against tax laws and generally ensure that licenses and taxes are paid.

Security of
important
personalities.

66. (1) At the request of the administrative authorities, the Gendarmerie shall provide such services as are required for the reception of important personalities and for their attendance at official ceremonies. It shall also provide any security needed.

(2) If due to inadequacy of staff or material it cannot on its own provide such services, the Gendarmerie may act jointly with other Security Forces in an appropriate manner.

(3) The requirements of the requesting authority must be clearly stated in the letter of request addressed to the Commander. Each Unit shall be under the direct command of the Commander.

(4) Where a Commander of a Unit discovers that the Unit's strength and material support is inadequate for its task, he shall report the fact to his immediate superior officer.

Powers of
identi-
fication.

67. (1) In order to enable it to investigate suspected persons, individuals moving around without necessary valid documents, and wanted persons, the Gendarmerie shall have power to demand identity documents from whosoever and in any circumstances whatsoever.

(2) No person may refuse to show his identification documents when required to do so by a member of the Gendarmerie in uniform, but such identity check must neither be tedious nor arbitrary and the Gendarmerie must perform it politely and refrain from committing any vexatious act or abuse of power.

(3) Disciplinary action shall be taken against any member of the Gendarmerie guilty of infringement of paragraph (2) of this regulation.

(4) The Gendarmerie may detain any person for the purpose of identification or interrogation, in accordance with the Criminal Procedure Code. The Gendarmerie may detain any person who refuses to disclose his identity, produce his identity documents, or cooperate in the verification of his identity. Cap. 12:01.

(5) Any vehicle driver who refuses to disclose his identity and that of his vehicle shall be taken to a station and his vehicle impounded. The systematic identification of all unknown persons (new residents, visitors in transit, seasonal visitors) may be carried out as a basis of the investigative functions of the Gendarmerie.

68. (1) In making an arrest, the Gendarmerie officer shall actually touch or confine the body of the person to be arrested, unless there be a submission to custody by word or action. Powers of arrest.

(2) Where such person forcibly resists or attempts to evade arrest, such Gendarmerie Officer or other person may use all means necessary to effect the arrest.

(3) The Gendarmerie shall have the power to arrest the following persons in accordance with the Criminal Procedure Code: Cap. 12:01.

- (a) a person found committing a crime;
- (b) a person who has just committed a crime;
- (c) a person in respect of whom a committal order, warrant of arrest or a detention order has been issued;
- (d) offenders from the Armed Forces; and
- (e) persons in a state of drunkenness.

69. The Gendarmerie may set up road blocks, using the usual barriers or any other suitable object, in order to stop and search all or particular vehicles, or in order to divert traffic. Road blocks may not be set up or removed except by order of the Commander of the Gendarmerie, a Station Officer, or the General Duty Corps. Power to set up road blocks.

70. (1) A Gendarmerie may only use firearms in the following special circumstance: Right to use arms.

- (a) in self-defence against armed attack;
- (b) under lawful command;

- (c) in defence of persons, posts or installations under its control;
- (d) to set-free the authorities competent to requisition the Armed Forces when the latter are unlawfully prevented from doing so;
- (e) when a suspected person ordered to stop by loud and repeated calls of "Gendarmerie, halt!", tries to escape and cannot be stopped other than by the use of firearms;
- (f) when any suspected person in charge of a vehicle, boat or other means of transport, ignores an order to stop.

(2) Any use of force authorised by this regulation shall be proportionate to the threat which necessitates such use.

Power to search.

71. The Gendarmerie shall have power to enter any premises, vehicle or vessel at any time to search for persons or objects if necessary in the execution of their duties, in accordance with the Criminal Procedure Code, especially in the following circumstances:

- (a) at the request of any lawful occupant;
- (b) on lawful orders during a state of emergency;
- (c) in order to investigate and report on suspected offences relating to drugs;
- (d) by court order;
- (e) where an offence has been committed in the presence of the suspected person and of a witness; and
- (f) in all other cases provided for by law.

Cap. 12:01.

Search of military establishments.

72. Military establishments may be searched only in response to a requisition from the Head of the establishment.

Search of diplomatic premises.

73. Diplomatic premises may be searched only at the request, or with the permission, of the Head of the diplomatic mission.

Power to inspect.

74. (1) The Gendarmerie shall have power to search any arrested person including the person's vehicles, and personal effects in the execution of their lawful duties, in accordance with the Criminal Procedure Code.

Cap. 12:01.

(2) The search shall be carried out at the time of the arrest and preferably in the presence of two witnesses.

(3) Women shall be searched by women.

(4) The result of any search shall be recorded in the form of an inventory.

75. (1) At the end of a search, the objects or documents that are relevant to the offence being investigated and those that are otherwise illegal shall be seized. Power to seize.

(2) Any seizure shall be carried out in the presence of the person suspected to have committed the offence or the person in whose house such seizure takes place, and two other witnesses. The articles seized shall be listed in an inventory with the help of the person concerned and shall be presented to him for acknowledgement.

76. (1) The Gendarmerie may request for assistance or support in the execution of its general duties and in all cases when it is attacked or threatened during the performance of its functions. Gendarmerie may request for assistance.

(2) In the absence of representatives of the competent civilian authority at the scene of an accident or a disaster, or in the event of an attack, the Gendarmerie may directly solicit the physical or material assistance of members of the public or other official bodies.

(3) The Gendarmerie may command the use of a public subscriber's telephone in an emergency.

(4) The Gendarmerie may request any person to serve as a witness in any matter and such request shall not be refused by any person.

77. When any offence or a serious road accident is the subject of a report, the Gendarmerie may order any person to undergo medical examination. Power to order a medical examination.

78. Members of the Gendarmerie travelling on duty shall be entitled to a free passage on any public transport and shall be given priority. Right to passage.

PART VI.—OBLIGATIONS OF THE GENDARMERIE

Respect for
individual
liberty.

79. (1) The Gendarmerie shall not unlawfully or unnecessarily interfere with the individual liberties of the people or the privacy of their persons or property.

(2) Any such interference shall constitute an abuse of power and shall result in disciplinary action.

Unlawful
arrests.

80. The unlawful arrest, or detention, of any person beyond the lawful duration shall constitute an abuse of power and shall result in disciplinary action.

Unlawful
entry.

81. Entry into any person's residence against his will, except in the discharge of lawful duty, shall constitute an abuse of power and shall be subject to disciplinary action.

Professional
secrecy.

82. (1) All Gendarmerie personnel shall be under the oath of secrecy with regard to confidential matters which may have come to their knowledge officially.

(2) In the interest of the service, the Gendarmerie shall not reveal the names of their informers except with the informer's consent.

Liaison with
the different
services.

83. (1) The Gendarmerie shall liaise closely with the different Security Forces to facilitate efficient preventive and repressive action at any time.

(2) On a reciprocal basis, the Gendarmerie shall on its own initiative or on request, communicate relevant information to the other services.

(3) It shall provide other services with technical assistance as well as personnel support whenever necessary and shall participate in appropriate missions, particularly in the search for criminals.

(4) It shall maintain contact at all levels with public officers responsible for national security, Customs and excise, water resources and forestry.

Conflict with
other
Security
Forces.

84. Any conflict which may occur between the Gendarmerie and other security forces shall be swiftly resolved through consultation and understanding between the hierarchical Heads, at the level immediately above that at which the conflict occurred.

85. All members of the Gendarmerie shall swear the Oath of Oath. Allegiance before entering service.

PART II RELATIONS WITH OTHER AUTHORITIES IN GENERAL

86. (1) The Gendarmerie shall assist the administrative, judicial and military authorities in the enforcement of law and regulation.

The
Gendarmerie
and the
authorities.

(2) None of these authorities shall exercise exclusive control over the Gendarmerie.

(3) Gendarmerie personnel shall be courteous and respectful in their dealings with other authorities.

(4) If the Gendarmerie cannot respond immediately to all the requests for its services, the Officer concerned shall determine, after due consideration of the urgency of each request, the order of priority to be given to the requests. The maintenance of law and order shall be given most priority.

(5) Oral or written communications from civilian authorities should be addressed to the District Commanders, except in an emergency, when they may be addressed to the Station Commanders concerned.

87. (1) Requests by any authority for the services of the Gendarmerie shall be in the form of a requisition if it is for—

A
requisition.

(a) an exceptional service which does not clearly fall within its competence;

(b) the maintenance of public order; or

(c) support to the authorities.

(2) A requisition shall be issued if the mission to be carried out by the Gendarmerie involves the movement of personnel away from their normal area of operation.

88. (1) A requisition is a formal request for the services of the Gendarmerie. It shall be addressed to the Gendarmerie by the authority competent to do so.

Definition
and objectives
of
requisitions.

(2) It may be issued only within the area of jurisdiction of the person competent to issue it, and executed only within the area of jurisdiction

where the authority issuing the requisition is located; and by the Gendarmerie personnel within that jurisdiction.

Addressee of
the
requisition.

89. (1) A requisition should be addressed directly to the Commander of the Unit responsible for its execution.

(2) However, except in an emergency, if the requisitioning authority is in the same area as the Zonal Commander, the requisition should be addressed to him.

(3) A requisition for the Intervention Unit of the Gendarmerie shall be addressed to the Commander of the Gendarmerie who shall transmit it, through the Ministry of Defence to the President of the Republic who shall have sole authority to order its execution.

(4) The Commander in charge in the Unit executing a requisition must at all times hold the said requisition personally or be in a position to produce it at any time.

Requisitions
which appear
to be
irregular.

90. In cases where the requisition appears to be irregular or unlawful or where it could be put in abeyance without inconvenience in order to refer it to higher authority, the Station Commander may advise the requisitioning authority to contact the Zonal Commander. If the requisitioning authority declares in writing, under his own responsibility, that the execution of the requisition is urgent, the requisition must then be processed without further delay.

Responsi-
bility for the
execution of
requisitions.

91. The execution of an illegal requisition, or refusal by Gendarmerie personnel to obey lawful orders to execute a legal requisition, shall constitute an offence punishable in accordance with The Gambia Armed Forces Act, 1985.

Form of
requisitions.

92. (1) Every requisition shall be in the prescribed form.

(2) In an emergency, the requisitioning authority may requisition by cable, telex or radio, stating therein that a proper requisition in the prescribed form would follow.

PART VIII.—THE MINISTER OF DEFENCE,
THE MILITARY AUTHORITIES
AND THE GENDARMERIE

93. The Minister of Defence shall be responsible for—

- (a) enlistment into the Gendarmerie, promotions, authorised absence or leave, discharge, resignations, pensions and military awards;
- (b) organisation of the Gendarmerie appointments to command posts, salaries, accommodation, uniforms, equipment and deployment;
- (c) military training, discipline and welfare;
- (d) military operations of all nature pertaining to the Gendarmerie; and
- (e) all matters relating to the Gendarmerie in general.

Responsibilities of the Minister of Defence.

94. The Gendarmerie shall report immediately to the Minister of Defence all events and incidents of interest to him and within his responsibilities.

Report to the Minister of Defence.

95. The Gendarmerie shall inform the military authorities of important events which occur in the area of their responsibility. The jurisdiction of a military authority shall be extended to—

Military authorities and the Gendarmerie.

- (a) any Gendarmerie unit temporarily or permanently at its disposal; and
- (b) through direct and normal requests for assistance.

96. A military authority which has Units of the Gendarmerie at its disposal may deploy them strictly within the limits of the particular mission for which they have been made available. It shall not under any pretext interfere in the special service of the Gendarmerie.

Deployment of the Gendarmerie by military authority.

97. If the Divisional Commanders of the Gendarmerie deem it necessary to have reinforcement in order to disperse an illegal gathering or prevent the commission of an offence, or to transfer a very large number of prisoners, or for any other good reason, they shall immediately ask for reinforcement from the most expeditious channel.

Reinforcement.

PART IX.—THE MINISTER OF THE INTERIOR,
THE ADMINISTRATIVE AUTHORITIES
AND THE GENDARMERIE

Powers of
the Minister
of the
Interior.

98. (1) The General Duty Corps of the Gendarmerie shall be answerable to the Minister of the Interior for the maintenance of law and order.

(2) The Gendarmerie shall inform the Minister of the Interior of the execution of missions assigned by his Ministry in this area and of all serious events worthy of his attention.

Adminis-
trative
authorities
and the
Gendarmerie.

99. With regard to the administrative authorities responsible for land administration, the Gendarmerie shall have an obligation not only to keep them informed, but also to carry out their directives concerning the execution of special services assigned to them.

Report to the
adminis-
trative
authorities.

100. (1) Unit Commanders of the Gendarmerie must inform the administrative authorities of all acts or events which have occurred in their area of jurisdiction and of all information they may have which can be of interest to the authority concerned.

(2) These shall include any information relating to—

- (a) offences;
- (b) maintenance of public order (strikes, demonstrations, possession of firearms, drugs, stolen property, unlawful export of essential commodities);
- (c) fires, accidents or disasters in minor cases;
- (d) suspicious incidents affecting any public servant, traditional chiefs, dignitaries or material belonging to the administration;
or
- (e) disputes or fights between ethnic groups, villages or communities.

Mode of
information.

101. (1) Information shall be in writing if it is very important and of a confidential nature; otherwise it may be conveyed orally. A copy of all written reports, briefs or documents concerning important events shall be sent to the Commander of the Gendarmerie.

(2) The Gendarmerie shall inform the administrative authority of the acts or matters brought to its knowledge. The latter may indicate

the specific matters on which it wishes to receive information.

(3) The administrative authority shall however not interfere in the command of any Unit.

PART X.—THE ATTORNEY GENERAL,
THE JUDICIAL AUTHORITY
AND THE GENDARMERIE

102. (1) The Attorney-General shall be the competent authority in matters relating to the service of the judicial corps of the Gendarmerie. The Gendarmerie shall inform the Attorney-General through the Director of Public Prosecutions, of all offences being investigated by them.

Powers of
the Attorney-
General.

(2) The Attorney-General may require the Gendarmerie to accomplish any mission which they are competent to carry out.

(3) The Attorney-General shall supervise investigations being carried out by the Judicial police of the Gendarmerie and shall be responsible for any prosecutions. He may delegate his powers under this section to the Commander of the Gendarmerie, who may authorise any officer to prosecute on his behalf.

103. (1) The Gendarmerie may intervene on behalf of any Ministry.

Other
Ministries
and the
Gendarmerie.

(2) The Gendarmerie may inform any Minister of any matter concerning his Ministry.

(3) A Ministry may obtain the assistance of the Gendarmerie—

(a) either by asking for assistance, through the Minister of Defence who may give orders to the Gendarmerie to grant the assistance requested; or

(b) by asking the Commander of the Gendarmerie or a Unit Commander for assistance.