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GOVERNMENT NOTICE

DEPARTMENT OF DEFENCE

No. R. 714

1 July 2009

DEFENCE ACT, 2002

REGULATIONS FOR THE RESERVE FORCE

I, Lindiwe Sisulu, the Minister of Defence, has under sections 53 and 82 of the Defence Act, 2002 (Act No. 42 of 2002), made the Regulations in the Schedule.

SCHEDULE

Definitions

1. In these Regulations any word or expression to which a meaning has been assigned in the Act has the meaning so assigned and, unless the context otherwise indicates—

“continuous service” means a training camp, course, or training exercise and many period of service which commences on one day, continues over midnight and ends on an ensuing day, and which shall be reckoned as service for the number of days on which it was rendered without a break and is therefore uninterrupted.;

“MSDS” means the Military Skills Development System which is a service system wherein members serve voluntary for a two-year period to augment the SA National Defence Force's deployment capability;

“non-continuous service” means, any period of service which is not defined as continuous. Non-continuous service of –

eight hours' duration of one day; or

any period of less than eight hours' duration on different days;

must be properly recorded for audit purposes.

“PMC” means a Personnel Management Code which is a career management and remuneration guide for SANDF members as authorised in terms of Section 82(1)(a) of the Act;

“the Act” means the Defence Act 2002, (Act No. 42 of 2002).

Scope of application

2. These Regulations apply to all members of the Reserve Force.

Rank structure in Reserve Force

3. (1) The ranks set out in the following table may be conferred on the members of the Reserve Force, and each such rank —

- (a) shall be lower than the rank preceding it in the relative column of the table; and
- (b) shall be equivalent to those ranks in the other columns of the table which occupy a corresponding position in order of precedence:

SA Army	SA Air Force	SA Navy	SA Military Health Service
(i) Officers			
Lieutenant-General Major-General Brigadier-General	Lieutenant-General Major-General Brigadier-General	Vice-Admiral Rear-Admiral Rear-Admiral (Junior Grade)	Lieutenant-General Major-General Brigadier-General
Colonel Chaplain Lieutenant-Colonel Major Captain Lieutenant Second Lieutenant Candidate Officer	Colonel Chaplain Lieutenant-Colonel Major Captain Lieutenant Second Lieutenant Candidate Officer	Captain Chaplain Commander Lieutenant-Commander Lieutenant Sub-Lieutenant Ensign Midshipman	Colonel Chaplain Lieutenant-Colonel Major Captain Lieutenant Second Lieutenant Candidate Officer
(ii) Other Ranks			
Senior Chief Warrant Officer Chief Warrant Officer Master Warrant Officer Senior Warrant Officer Warrant Officer Class 1 Warrant Officer Class 2 Staff Sergeant Sergeant Corporal Lance Corporal Private	Senior Chief Warrant Officer Chief Warrant Officer Master Warrant Officer Senior Warrant Officer Warrant Officer Class 1 Warrant Officer Class 2 Flight Sergeant Sergeant Corporal Lance Corporal Airman	Senior Chief Warrant Officer Chief Warrant Officer Master Warrant Officer Senior Warrant Officer Warrant Officer Class 1 Warrant Officer Class 2 Chief Petty Officer Petty Officer Leading Seaman Able Seaman Seaman	Senior Chief Warrant Officer Chief Warrant Officer Master Warrant Officer Senior Warrant Officer Warrant Officer Class 1 Warrant Officer Class 2 Staff Sergeant Sergeant Corporal Lance Corporal Private

(2) Wherever any rank is referred to in these Regulations, it includes, unless the context otherwise indicates, those ranks which are equivalent thereto in terms of this regulation.

Post requirements

4. The requirements for appointment in any post in the Reserve Force are based on the inherent requirements of the post and procedures adopted to—

- (a) record the inherent requirements of a post;
- (b) ensure that the requirements for appointment or enrolment do not discriminate against any person; and
- (c) comply with any statutory requirement for the appointment of an applicant to a post.

Enrolment requirements, procedures and conditions

5. (1) An applicant for enrolment as a Reserve Force member—

- (a) must be a citizen of the Republic: Provided that the Minister may authorize the enrolment of a non-citizen;
- (b) may not be a learner with school-going commitments;
- (c) must be older than 18 but not older than 65;
- (d) may not have any previous criminal conviction;
- (e) must comply with the required standards of medical fitness in respect of the service or duty to which that applicant is to be appointed;
- (e) must have the attributes and qualifications which are required for his or her training for and the execution of the service or duties attached to the post for which he or she applies; and
- (f) must obtain the required security clearance applicable to the rank, post, or position in which he or she is to be appointed.

(2) An applicant contemplated in subregulation (1)—

- (a) who is not subject to section 53(1) of the Act must complete an enrolment form and furnish certified copies of the documents required to accompany an application for enrolment; and
- (b) must appear before a selection board appointed in terms of regulation 7.

(3) A person is enrolled in the Reserve Force on condition that—

- (a) the enrolment is for a fixed term, which may on its expiry be extended or renewed; and
- (b) any enrolment or appointment is subject to the probation period provided for in regulations 10 and 11

Prohibition on re-enrolment of former Defence Force members

6. The Chief of the Defence Force may not re-enrol a former member of the Defence Force as a member of the Reserve Force if—

- (a) that former member left the Defence Force on the condition that he or she would not accept or seek re-enrolment;
- (b) the original grounds for termination of service in the Defence Force militate against re-enrolment;
- (c) the services of a former Regular Force member has been terminated in terms of section 59(1) (d) or (e) of the Act; or
- (d) that former member left the Defence Force for medical or psychological reasons and cannot produce recent and conclusive evidence of recovery that are verified by the Surgeon General.

Selection boards

7. (1) The Chief of the Defence Force shall appoint selection boards to make recommendations for—

- (a) enrolment of suitable applications from outside the Defence Force;
- (b) serving members of the Reserves for appointment as officers in the Reserve Force; and
- (c) ranks to be awarded to the successful applicants.

(2) A selection board contemplated in subregulation (1) must consist of—

- (a) at least three Defence Force members who are in rank equal to or higher than the rank of the vacancy to be filled;
- (b) a chairperson, who must be a serving Defence Force member of the rank of Major or Warrant Officer Class 2 or a rank higher than the vacancy to be filled: Provided that the rank of a chairperson of a selection board for the selection of members for officer appointment shall not be lower than that of Colonel; and
- (c) Defence Force members that may be determined by Chiefs of Services and Divisions to provide for their unique requirements.

(3) Defence Force members of a rank, which is lower than the rank of the vacancy to be filled, may provide secretarial or advisory services during the selection process, but do not form part of the selection board.

(4) A selection board must make recommendations on the suitability of an applicant after considering—

- (a) information based on valid methods, criteria or instruments for selection that are free from any bias or discrimination;
- (b) the training, skills, competence and knowledge necessary to meet the inherent requirements of the post; and

- (c) the representativeness of the corps, classification or mustering where the post is located.

(5) A selection board must record the reasons for its decision with reference to the criteria mentioned in subregulation (4).

(6) When the Chief of the Defence Force does not approve a recommendation of a selection board, he or she shall record the reasons for his or her decision in writing.

Authorization of appointment or enrolment

8. A person who complies with the provisions of regulation 5 and the professional or academic requirements which are contained in the applicable PMC for a post or rank, may be considered for appointment or enrolment in the post and rank recommended, with due regard to—

- (a) the competency and appropriate experience determined in the PMC; and
- (b) the inherent requirements of that post.

Enrolment or appointment as officer or candidate officer

9. (1) The Chief of the Defence Force may, with due regard to the qualifications, appropriate experience, previous military service, age, the requirements of the applicable PMC and the recommendation by a selection board, authorise the appointment of a selected applicant in the Reserve Force.

(2) The Chief of the Defence Force may approve that

- (a) an applicant who is selected for appointment as an officer be appointed in a rank higher than that of Second Lieutenant; or
- (b) an applicant who is selected to undergo training as an officer be enrolled as a Private and that for the duration of his or her training, wear the insignia of a Candidate Officer or Midshipman.

(3) A Candidate Officer or Midshipman may in the course of his or her training or the execution of his or her duties be placed in a position of authority over any non-commissioned rank or other rank: Provided that a Candidate Officer or Midshipman who has been so placed in a position of authority, must, while exercising such authority, be deemed, in relation to any other rank over whom he or she exercises such authority, to hold the rank of Warrant Officer Class 1.

Probationary service

10. (1) All applicants selected for appointment as volunteers in the Reserve Force must serve a probationary period of 12 months, after which his or her appointment may be terminated, confirmed or extended for a maximum period of 12 months: Provided that, subject to section 54(2)(d) of the Act, an officer of the Reserve Force on whom temporary commission has been conferred on completion of officer's training, may be confirmed in his or her appointment on expiration of a period of 12 months' service.

(2) The officer commanding of a member who is serving a probationary period, must ensure that—

- (a) at the commencement of the probationary period, the member be informed of the performance and other requirements necessary to be confirmed in his or her appointment;
- (b) the member is informed in writing of his or her performance and compliance with other requirements on a quarterly basis;
- (c) the member receives the evaluation, instruction, training, guidance or counselling that may be necessary to meet the requirements for confirmation;
- (d) the member be afforded the opportunity to state his or her case before a recommendation is made for the termination of the member's service; Provided that a member on whom temporary commission has been conferred may be permitted to revert to the rank he or she held prior to the conferment of such temporary commission; and
- (e) the member receives written confirmation whether he or she has been confirmed or not in his or her appointment after the period of probationary service.

Appointment of officer commanding

11. (1) The Chief of the Defence Force may appoint any Reserve Force officer to any post of officer commanding in the Reserve Force for which such officer is qualified.

(2) An officer who is appointed as officer commanding of a unit is on probation for a period of 12 months, which period may be extended for a further period not exceeding 12 months.

(3) The Chief of the Defence Force may—

- (a) terminate an appointment contemplated in subregulation (1) if it appears to him or her that the officer concerned is not competent to serve as officer commanding, but only after having informed the officer of his or her reasons for not regarding the person as competent, and having afforded the person a reasonable opportunity to respond thereto; or
- (b) at the end of a probationary period, if he or she considers the officer concerned qualified to perform the duties efficiently, confirm him or her in his or her appointment as officer commanding with effect from the date of such appointment.

(4) The appointment of an officer commanding contemplated in this regulation is for a period not exceeding five years: Provided that the Chief of the Defence Force or an officer designated by him or her for that purpose, may with due observance to the needs of the Defence Force and the age and physical abilities of the officer commanding concerned, extend or terminate such appointment at any time: Provided further that no such appointment may be terminated unless the Chief of the Defence Force or other designated officer has first informed the appointee of the reasons for the intended termination, and having afforded the appointee an opportunity to respond within 14 calendar days thereto.

Honorary appointments and ranks

12. (1) The Chief of the relevant Service may, with the approval of the Minister, appoint an honorary Colonel, Captain (SAN), Lieutenant Colonel, or Commander (SAN) to a Reserve Force unit or structural component of the Defence Force.

(2) An appointment contemplated in subregulation (1) is titular and confers no military status or power of command on the holder thereof, but entitles the holder to wear the uniform of the unit or other establishment concerned on the occasions determined by the Chief of the relevant Service and to qualify for Defence medals and decorations.

(3) Appointments contemplated in subregulation (1) are subject thereto that—

- (a) only one appointment of honorary Colonel or honorary Captain (SAN) per unit or larger organisation or staff division may be made;
- (b) in the case of a large or combined unit of various corps an additional honorary Lieutenant Colonel or Commander (SAN) may be appointed on the same terms and conditions as a honorary Colonel or Captain (SAN);
- (c) the member must be between 40 and 70 years of age;
- (d) the member must have permanent residence in South Africa;
- (e) the member must be of good standing in the community;
- (f) the member must have a commitment to the unit or organisation;
- (g) the member must possess an appropriate military bearing, have such officer-like qualities as are generally required of Officers of the Defence Force and his or her conduct must be beyond reproach;
- (h) the member does not necessarily have previous military experience;
- (i) the appointment of serving Defence Force officers is discouraged;
- (j) the member must preferably not have vested business interests in the defence or related enterprises in order that indirect benefits are avoided;
- (k) the member is entitled to the appellation of his or her rank and must be paid the appropriate compliments when officiating in his or her honorary capacity;
- (l) the member may not receive remuneration or be issued with a military weapon;
- (m) the member is appointed for a fixed period of time or have an initial tenure of five years which may be extended; and
- (n) termination of the member's appointment occurs —
 - (i) if the member cannot perform the duties expected of him or her;
 - (ii) if, due to the member's advancing age, medical condition or physical profile, he or she no longer meets the required standards;
 - (iii) if his or her conduct or actions are to the detriment of the unit, organisation or the Defence Force;
 - (iv) when a unit or structural component disbands; or

- (v) on request of the member.

Honorary members

13. (1) The Chief of the relevant Service may, with the approval of the Minister, appoint an honorary member of a Reserve Force unit of the Defence Force, or have such an appointment terminated by the Minister.

(2) An honorary member shall not be entitled to—

- (a) any privilege or right or be liable to any duty or obligation of a Reserve Force member;
- (b) wear a Defence Force uniform; or
- (c) any Defence Force medal or decoration.

(3) The number of honorary members shall not exceed ten in any one unit.

Detached duty

14. Should any unit, formation, service or division other than the unit, formation, service or division to which a member of the Reserve Force belongs, wish to utilise that member's service, authority must be requested from the member's officer commanding for such utilisation.

Contract of service for volunteer members

15. A member of the Reserve Force and the Department must enter into a formal contract of service in writing which must contain at least the following:

- (a) That the member has volunteered his or her services to the Department;
- (b) that the member has been enrolled as a member of the Reserve Force of the Defence Force;
- (c) the period or periods of utilisation agreed upon;
- (d) that the member may, on a voluntary basis, render service with or without remuneration in addition to the service stipulated in the contract;
- (e) that service may be rendered on either a continuous or a non-continuous basis, or both;
- (f) the conditions of service and service benefits applicable to the form of service rendered;
- (g) that provision for exemption from the agreed upon period of service may be requested from an Exemption Board contemplated in Chapter 11 of the Act;
- (h) the provisions regarding voluntary service to be rendered outside the borders of the Republic; and

- (i) obligatory service as provided for in the Act.

Contract of service for MSDS members

16. A MSDS member and the Department may enter into a formal service contract which contains a condition that the member undertakes to be enrolled in the Reserve Force of the Defence Force for a period of five years after the initial two-year period of full-time training in the MSDS.

Credit for service rendered

17. Credit of one day's service shall be given for each day served by a member of the Reserve Force during continuous service and for every period of non-continuous service irrespective of the duration of such service rendered on a specific day.

Transfers

18. (1) A member of the Reserve Force may apply for any of the following transfers and, if the transfer is considered to be in the interest of the Defence Force, it may be authorised by the Chief of the relevant Service:

- (a) Inter – Unit;
- (b) Inter – Corps; or
- (c) Inter – Service.

(2) No member may be transferred without his or her consent where such transfer—

- (a) will have the effect of altering his or her remuneration or conditions of service or of reversion to a lower rank; or
- (b) will bestow professional status upon the member concerned or deprive him or her of such status, or if a less favourable salary scale is attached to the classification or post such member is about to hold after transfer.

Promotion

19. (1) The Chief of the Defence Force may, subject to subregulation (2) and regulation 21, promote any member of the Reserve Force to the substantive next higher rank .

(2) Promotion to the next higher rank is subject thereto that—

- (a) a suitable vacancy exists;
- (b) the member's efficiency has been determined by a prior assessment of his or her performance that indicated the promotability of the member;

- (c) the member has obtained the applicable military and academic qualifications, in accordance with the inherent requirements of the post: Provided that his or her suitability for promotion has taken into account proficiency, potential, age, command experience, operational experience, on the job (rather than formal) training and specialist civilian training, experience and qualifications;
- (d) if the member, as a result of circumstances beyond his or her control, could not become suitably course-qualified, he or she may be promoted but may not be considered for a further promotion until the outstanding qualifying course or courses have been successfully completed;
- (e) the member's health status complies with the requirements of the post;
- (f) the member's grade of security clearance is in accordance with the requirements of the vacancy; and
- (g) the member has served at least the minimum required period in his or her present rank.

Taking effect of promotion

20. (1) A promotion in terms of these Regulations takes effect on the first day of the month following the month during which the Chief of the Defence Force has approved the promotion.

(2) No member has any right to promotion to a vacant post until the Chief of the Defence Force has approved his or her promotion in writing.

Promotion in exceptional circumstances

21. The Chief of the Defence Force may in exceptional circumstances, on approval in writing by the Minister, promote a member of the Reserve Force to the next higher rank without regard to subregulation 19(2).

Warrant of appointment

22. A warrant of appointment issued by and bearing the Minister's signature or a replica thereof shall be issued to a member of the Reserve Force who has been promoted to the substantive rank of Warrant Officer.

Temporary higher rank

23. (1) The Chief of the Defence Force may confer a higher rank with the pay attached to it on a member of the Reserve Force who, due to the exigencies of the service -

- (a) is appointed in a post to which a higher rank is attached than that held by the member; and
- (b) is charged with duties normally allotted to a member of a higher rank than of his or her rank.

(2) The Chief of the Defence Force may temporarily confer a higher rank without the pay attached to it on a member of the Reserve Force for command and control purposes if the level functionality remains the same: Provided that the member shall relinquish that temporary higher rank when he or she ceases to perform that command and control functions, and that such temporary rank and appointment without pay shall not exceed a period of three months.

Reversion in rank

24. (1) A member may, on his or her request in writing, be permitted with the approval of the Minister to revert to any lower rank: Provided that no member shall be permitted to revert to any lower ranking if it may result in avoidance of any disciplinary action.

(2) A Warrant Officer or a non-commissioned officer selected to undergo training in order to qualify for appointment as an officer in the Reserve Force—

- (a) retains his or her substantive rank for the duration of training;
- (b) must be considered for promotion to the next higher rank if he or she becomes eligible for promotion during such training;
- (c) must for the duration of such training, wear the insignia of a Candidate Officer or Midshipman; and
- (d) retains the remuneration and benefits applicable to his or her substantive rank for the duration of his or her training.

Seniority in general

25. (1) The seniority of any member of the Reserve Force, including an officer on whom a temporary commissioned rank has been conferred in terms of 54(4) of the Act, in any substantive or temporary rank is, in relation to other members of the same or equivalent substantive or temporary rank, determined by the date of his or her appointment or re-appointment in or promotion to that substantive or temporary rank: Provided that any member holding a substantive rank is senior to all members holding temporary ranks of the same or equivalent grade.

(2) If two or more members of the Reserve Force are appointed or enrolled in the same rank on the same date, the order of their seniority is determined with due regard to their qualifications, appropriate experience, previous military service and age, or the seniority which they held in their previous ranks.

Seniority of professional members

26. (1) A person appointed or enrolled in a professional capacity in the Reserve Force takes appropriate seniority amongst serving members of the same profession with effect from the date he or she has been appointed in the relevant profession.

(2) If two or more members of the Reserve Force are appointed or enrolled on the same level of the same profession on the same date, the order of their seniority is determined with due regard to their qualifications, appropriate experience and age, or the seniority which they held in their previous ranks.

Retirement age

27. (1) A member serving in the Reserve Force must be retired from the date he or she attains the age of 65 years: Provided that the date of retirement of a member may be extended with his or her consent, but at most until that member reaches the age of 75 years.

(2) The terms and conditions for the extension of the retirement age beyond the age of 65 years are as follows:

- (a) A motivation in writing in which is stated the specific purpose and period for which the extension is requested must be submitted to the Chief of the Defence Force or an officer designated by him or her for approval;
- (b) the motivation contemplated in paragraph (a) must include reasons why another member who has not yet reached the age of 65 years cannot be utilised in the place of the member whose retirement age is requested to be extended;
- (c) the member's consent for the proposed purpose and duration of the utilisation must be obtained; and
- (d) the request must be signed by the member's officer commanding or, if applicable, by higher authority.

TERMINATION OF SERVICE

28. (1) Service by a member of the Reserve Force terminates—

- (a) if upon expiry of an engagement for a specific period, the member has not re-enrolled for a further period of service;
- (b) upon satisfactory proof of the termination of the member's South African citizenship;
- (c) when an exemption board has in terms of the Act, granted the member total exemption from service in the Reserve Force;
- (d) on appointment in the Regular Force, the South African Police Service, including the South African Police Service Reserves, a Metropolitan Police Force or the Department of Correctional Services;
- (e) upon the member's death;
- (f) on the abolition of his or her post or reorganisation of the Reserve Force or of any headquarters, service, formation, unit, personnel mustering or a part, branch or section thereof in which the member is employed;
- (g) if the Minister is reasonably of the opinion that the termination of his or her service will promote efficiency in the Reserve Force or of any headquarters, service, formation, unit, personnel mustering or a part, branch or section thereof in which the member is employed;
- (h) with effect from the date on which the member attains the age contemplated in regulation 29;
- (i) on resignation after due notice thereof in writing by the member; or

- (j) if is sentenced to a term of imprisonment without the option of a fine by a competent civilian court.
- (2) Service by a member of the Reserve Force may be terminated by the Minister —
- (a) on account of misconduct, where—
- (i) the member has, while serving, been convicted by a Civilian Court or Court of a Military Judge of an offence which in the light of its nature or gravity considered in conjunction with the nature of the sentence imposed, renders his or her continued service in the Reserve Force undesirable;
- (ii) before, or since his or her appointment, the member has been convicted by a Civilian Court or Court of a Military Judge on more than one occasion of offences which, considered individually, would not justify or did not lead to his or her discharge on account of misconduct, but considered collectively, render his or her continued enrolment in the Reserve Force undesirable; and
- (iii) owing to his or her recurrent conviction over a period by Courts of Military Judges of offences, he or she is considered not to be amenable to military discipline;
- (b) if the member is appointed on probation and his or her appointment is not confirmed, or if the conditions of a conditional appointment are not fulfilled;
- (c) if the member is incapable of rendering any Reserve Force service or carrying out his or her duties efficiently as a result of ill-health, unfitness or any other physical or mental disability;
- (d) on the grounds of material misrepresentation by the member of his or her position with regard to a condition for his or her appointment to any rank or post in the Reserve Force;
- (e) if continued employment of the member constitutes a real or potential security risk to the Department of Defence;
- (f) if, at any time during his or her formative training or specialised training in the corps or mustering in which the member has been appointed, he or she proves to be unsuitable for such training and is not regarded as suitable to be re-mustered for service in any other corps or mustering in the Reserve Force;
- (g) if the member, after he or she had been instructed to submit himself or herself to immunisation and prophylaxis, has refused to do so;
- (h) if the President appoints the member in the public interest under any law to an office to which the provisions of the Act do not apply;
- (i) if the member accepts a nomination for election as a member of Parliament or of a Provincial Legislature; or
- (j) if the member no longer complies with the criteria applicable to his or her particular mustering, post profile or utilisation.

(3) Where any service of a member is to be terminated as contemplated in subregulation (1) and (2), not by the occurrence of objective factual circumstances but by virtue of an indispensable subjective discretion in terms of the Act to be exercised by any person, the member concerned must beforehand be informed by that person of the reasons for the termination decision to be taken by the person and must be afforded an opportunity to respond within 14 calendar days thereto.

Certificate of service

29. (1) A certificate of service must be issued by the Chief of the National Defence Force or an officer designated by him or her to each member who retires from the Reserve Force or whose service is terminated and such certificate—

- (a) must make provision for the force number, identity number, rank on discharge, full names, dates of enrolment and discharge, mustering and special qualifications of the member concerned and particulars of the decorations and medals which he or she is entitled to wear as well as of his or her mention in despatches or commendation; and
- (b) may be specially endorsed by his or her unit commander in recognition of outstanding merit in the performance of his or her duties, or exemplary or good conduct or character.

(2) An official testimonial shall not be issued to any member of the Reserve Force.

Repeal of regulations

30. The following provisions of the General Regulations for the South African Defence Force and the Reserve made under the Defence Act, 1957 (Act No. 44 of 1957), are hereby repealed:

- (a) Chapter III Regulations 3 and 15 and Chapter IV Regulations 14 and 15 insofar as they relate to the Citizen Force and the Commandos;
- (b) Regulations 6, 8, 9.(1)(b), 14, 16, 24 and 24A of Chapter III; and
- (c) Regulations 13, 20 and 22 of Chapter IV.

Short title

31. These Regulations are called the Regulations for the Reserve Force, 2009.
