**CONSOLIDATED TO 30 JUNE 2012**

**LAWS OF SEYCHELLES**

**CHAPTER 59**

Act 32 of 1980

**DEFENCE FORCE (OFFENCES) ACT**

(1st January, 1981)

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PART I ‑ PRELIMINARY

**1.** This Act may be cited as the Defence Force (Offences) Act.

**2.** In this Act, unless the context otherwise requires ‑

"court‑martial" means a court‑martial under this Act;

"disciplinary offence" has the meaning assigned by section 6(b);

"disciplinary officer" means a senior or a junior disciplinary officer;

"junior disciplinary officer" means a person appointed as such under paragraph 3(b) of Part B of the Second Schedule;

"offence against this Act" has the meaning assigned by section 6;

"on duty", in relation to a member of the Defence Force, has the meaning assigned by section 4;

"senior disciplinary officer" means a person appointed as such under paragraph 3(a) of Part B of the Second Schedule;

"serious offence" has the meaning assigned by section 6(a);

"Regulations" means regulations made under section 22.

(2) Except when the context otherwise requires, and in particular except in the case of the expressions "Regula‑ tions" and "this Act", any expression defined in section 2 of the Defence Act, has the meaning given in that section when used in this Act.

(3) For the purposes of this Act, the superiority or otherwise with respect to rank of a member of the Defence Force shall be determined as provided in section 20 of the Defence Act.

**3.** A person is subject to this Act if, and only if, he is ‑

(a) a member of the Defence Force; and

(b) on duty.

**4.** For the purposes of this Act, a member of the Defence Force Serving ‑

(a) in a Regular Force is deemed to be on duty at all times; or

(b) in a Reserve Force or the Militia is deemed to be on duty only ‑

(i) when bound to render service as provided in section 28 of the Defence Act;

(ii) while affected by an order made under section 29 of that Act; or

(iii) while in custody or undergoing a sentence of imprisonment pursuant to this Act.

**5.** (1) The Commander‑in‑Chief may give a certificate to the effect that a person identified in the certificate is or is not, or was or was not on a date or during a period so identified ‑

(a) an officer or a non‑commissioned member of a stated rank and either ‑

(i) a member of the Defence Force; or

(ii) serving in Seychelles pursuant to an arrangement under section 21 of the Defence Act, and

(b) on duty.

(2) A certificate given under subsection (1) shall be received as conclusive evidence of any matter certified pursuant to that subsection in the certificate.

**6.** An offence specified in Part A of the First or Second Schedule is an offence against this Act, and

(a) an offence so specified in the First Schedule is referred to in this Act as a "serious offence"; and

(b) an offence so specified in the Second Schedule is referred to in this Act as a "disciplinary offence".

PART II ‑ JURISDICTION IN RESPECT OF OFFENCES

AGAINST THIS ACT

**7.** (1) Subject to Paragraph 6(4) of Part A of the First Schedule, any proceedings in respect of a serious offence shall be taken before a court‑martial in accordance with Part B of the First Schedule and not otherwise.

(2) Paragraphs 17 and 18 of Part B of the First Schedule apply with respect to appeals from courts‑martial.

(3) Any proceedings in respect of a disciplinary offence shall be taken before a disciplinary officer in accordance with Part B of the Second Schedule and not otherwise.

(4) Paragraph 8 of Part B of the Second Schedule applies with respect to the review of disciplinary proceedings.

**8.** (1) Subject to subsection (2), where a person is alleged to have committed an offence against paragraph 6 of Part A of the First Schedule, proceedings shall be taken in respect of that offence and not in respect of the civil offence concerned.

(2) The Commander‑in‑Chief may give a certificate to the effect that proceedings in respect of an offence against paragraph 6 of Part A of the First Schedule will not be taken; and in that event proceedings may be taken in respect of the civil offence concerned but shall not be taken in respect of the offence against paragraph 6.

(3) In this section, "civil offence concerned" means the offence the alleged commission of which in a particular case constitutes an offence under paragraph 6 of Part A of the First Schedule.

**9.** Proceedings may be taken under this Act in respect of an offence against this Act notwithstanding that the person who is alleged to have committed the offence has ceased (whether temporarily or permanently) to be subject to this Act.

PART III ‑ ARREST AND CUSTODY, ETC.

**10.** (1) Subject to subsections (2) and (3), a member of the Defence Force who is on duty may, without a warrant, arrest ‑

(a) any person whom he suspects upon reasonable grounds of having committed an offence against this Act;

(b) any person who commits an offence against this Act in his presence; or

(c) any person for whom he has reasonable cause to believe a warrant of arrest has been issued under section 11.

(2) A non‑commissioned member shall not arrest an officer.

(3) A member of the Defence Force shall not arrest another member of the higher rank than himself, except, subject to subsection (2), in the case referred to in sub‑ section (1) (b) where the offence concerned involves violence (whether actual or threatened) to property or to the person.

(4) A member of the Defence Force making an arrest pursuant to subsection (1) may call upon ‑

(a) a member of the Defence Force of lower rank than himself; or

(b) a member of the Police Force,

to assist him in making the arrest, and any person so called upon shall do so.

**11.** (1) The Commander‑in‑Chief may issue a warrant for the arrest of a person suspected on reasonable grounds of having committed an offence against this Act.

(2) A warrant under subsection (1) may be directed to all or any, or to any class, of the following, namely ‑

(a) members of the Defence Force; or

(b) members of the Police Force,

and may be executed accordingly.

**12.** (1) Every person making, or assisting in the making of, an arrest pursuant to section 10 or 11 may use such force as is reasonably necessary in the circumstances for that purpose, having regard to the gravity of the offence concerned.

(2) Every person referred to in subsection (1) has, for the purpose of making or assisting in the making of an arrest, the same powers as those of a police officer under sections 11 and 12 of the Criminal Procedure Code.

**13.** A person arrested pursuant to section 10 or 11 shall, without unnecessary delay, be placed in civil or service custody, or taken to the unit or element of the Defence Force to which he belongs, and detained in service custody or otherwise dealt with in the manner prescribed in Regulations or in orders made by the Commander‑in‑Chief.

**14.** Where a person is arrested pursuant to section 10 or 11, proceedings in respect of any offence against this Act alleged to have been committed by him shall be commenced without unnecessary delay; and if he is detained in custody‑

(a) he may at any time petition the Commander‑in‑ Chief for his release; and

(b) he shall be released at the end of the period of 90 days following his arrest if the proceedings have not then been brought before a court‑martial or a disciplinary officer.

**15.** (1) Whenever a person is arrested pursuant to section 10 or 11, the person making the arrest or any member of the Defence Force into whose custody he is delivered pursuant to section 13, may search him and place in safe custody all articles, other than necessary wearing apparel, found upon him.

(2) A person searched pursuant to subsection (1) shall be searched by a person of the same sex unless, in a parti‑ cular case, the need to search the person is too urgent in that case to allow the delay which would be necessary to comply with that requirement.

(3) A member of the Defence Force authorised for the purpose by a senior disciplinary officer ‑

(a) may search any place that is or has been occupied by, or has been under the control of, the Defence Force; and

(b) seize and place in safe custody any service property found in or on the place, and any other thing in or on the place that is suspec‑ ted upon reasonable grounds of having been unlawfully obtained or that may furnish evidence of the commission of an offence against this Act or any other law.

(4) In subsection (3) (b), "service property" means any property used by, or under the control of, the Defence Force, or any property issued to a person subject to this Act in his capacity as such.

**16.** (1) Subject to this section, an allegation that a person has committed an offence against this Act shall be investi‑ gated without unnecessary delay.

(2) The Commander‑in‑Chief, in relation to a serious offence, or a disciplinary officer, in relation to a disci‑ plinary offence in respect of which he would have jurisdic‑ tion, may in writing order that an allegation that such an offence has been committed shall not be investigated or that an investigation which has been commenced shall not be continued.

(3) Where an order is made under subsection (2), the person against whom the allegation is made shall, if in custody, be forthwith released unless he is also in custody on other lawful grounds.

(4) Where an order is made under subsection (2) by a disciplinary officer, he shall forthwith give in writing particulars of the order to the Commander‑in‑Chief or to a member of the Defence Force designated by the Commander‑in‑ Chief.

PART IV ‑ MISCELLANEOUS

**17.** Where, in respect of a particular offence against this Act, proceedings have been taken under this Act against any person and he has been found guilty or not guilty of that offence in those proceedings, no subsequent proceedings shall be taken under this Act or any other law against him in respect of ‑

(a) that particular offence; or

(b) any other offence against this Act or any other law for which proceedings might then have been taken instead of proceedings for that particular offence.

**18.** The Commander‑in‑Chief may dismiss a member of the Defence Force who has been ‑

(a) convicted of an offence under this Act and has had a punishment of dismissal under paragraph 2(1)(a) or (b) of the Second Schedule imposed on him; or

(b) convicted by a court of an offence against any law.

**19.** (1) A person shall not be tried for ‑

(a) a serious offence (other than an offence under paragraph 2, 3, or 6 of Part A of the First Schedule) unless the trial begins within 3 years after the commission of the offence;

(b) an offence under paragraph 6 of Part A of the First Schedule, unless the trial begins within the period prescribed for bringing proceedings in a court in respect of the similar civil offence under the other law concerned; or

(c) a disciplinary offence unless disciplinary proceedings are commenced within 12 months after the commission of the offence.

(2) A person may be tried at any time for an offence under paragraph 2 or 3 of Part A of the First Schedule.

**20.** (1) Except in respect of a matter that would properly be the subject of an appeal or review under this Act, a member of the Defence Force who considers that he has suffered any personal oppression, injustice or ill‑treatment, or that he has any other cause for grievance, may as a matter of right complain to such superior officer, in such manner and on such conditions as are prescribed in Regulations or in orders made by the Commander‑in‑Chief.

(2) If the complainant is not satisfied with the decision or action on the complaint by the superior officer to whom the complaint was made and the superior officer refuses or fails, when requested to do so, to forward the complaint to the next superior officer, the complainant is entitled to make a complaint of the original grievance or against the refusal or failure, or both, and the provisions of this subsection apply to any such further complaints.

(3) It is the duty of an officer receiving a complaint under this section to investigate it or have it investigated as soon as practicable, and to take such steps within his authority for redressing the grievance as appear to him to be necessary, whether or not the act or omission that gave rise to the complaint was procedurally correct.

**21.** (1) The Commander‑in‑Chief may delegate by instrument in writing any of his functions under this Act (except this power of delegation) either unconditionally or subject to such conditions, limitations or exceptions as are specified in the instrument of delegation, and may, by instrument in writing, revoke or vary any such delegation.

(2) The delegation under subsection (1) of any function may be made either generally or with respect to any parti‑ cular matter or class of matters.

(3) Any act or thing done or suffered by a delegate while acting pursuant to a delegation has the same effect as if the act or thing done or suffered had been done or suffered by the Commander‑in‑Chief.

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

(2) In particular, Regulations may prescribe matters in respect of‑

(a) proceedings before courts‑martial or disci‑ plinary officers;

(b) the custody, discipline or treatment of persons arrested for or convicted of an offence against this Act; or

(c) the execution of sentences for offences against this Act.

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FIRST SCHEDULE              Sections 6 and 7

PART A

Serious Offences

**1.** (1) A person subject to this Act who, with intent to assist an enemy ‑

(a) assists, or does any act that is calculated or likely to assist, an enemy in any way; or

(b) except as authorised by law, communicates to any person any information that ‑

(i) it is his duty to keep secret; and

(ii) is likely to assist an enemy,

is guilty of an offence against this Act and liable on con‑ viction before a court‑martial to imprisonment for life or for a lesser period.

(2) Sub‑paragraph 1(a) does not apply in relation to an act that is otherwise lawful and ‑

(a) is directed to the relief of the distress of an injured or otherwise distressed person; and

(b) is not calculated, and is not likely, to assist the enemy in any political, military, navel or air force sense,

but the burden of proof of any such matter is on the accused person.

(3) A person subject to this Act who, knowing or having reasonable grounds for suspecting that an offence against sub‑paragraph (1) has been or is likely to be committed, does not immediately report the fact, together with the grounds of his belief or suspicion, to a member of the Defence Force of superior rank to himself, is guilty of an offence against this Act and liable on conviction before a court‑martial to imprisonment for a term not exceeding 10 years.

(4) For the purposes of this paragraph and without limi‑ ting its generality, assistance to an enemy includes ‑

(a) concealing or sheltering an enemy;

(b) concealing, transporting or taking care of any munitions, arms or goods of, or intended for the use of, an enemy; or

(c) failing to report to a member of the Defence Force of superior rank to himself the presence or suspected presence in or on any place, or in any locality, of an enemy or of munitions, arms or goods of, or intended for the use of, an enemy.

(5) In this paragraph, "enemy" means ‑

(a) any authority (whether governmental or other‑ wise) controlling any defence force or guer‑ rilla or irregular force with which Seychelles is at war or engaged in armed combat opera‑ tions;

(b) any member of an authority or force of a kind referred to in item (a);

(c) any person or authority materially assisting an authority or a person of a kind referred to in item (a) or (b); or

(d) any person or group of persons declared by the President by notice published in the Gazette  to be an enemy.

**2.** (1) A person subject to this Act who takes part in a mutiny is guilty of an offence against this Act and liable on conviction before a court‑martial to imprisonment for life or for a lesser period.

(2) A person subject to this Act who, knowing that a mutiny is taking place or is intended ‑

(a) fails to use his utmost endeavour to suppress or prevent it; or

(b) fails to report to a member of the Defence Force of superior rank to himself that a mutiny is taking place or is intended,

is guilty of an offence against this Act and liable on con‑ viction before a court‑martial to imprisonment for a term not exceeding 10 years.

(3) In this paragraph, "mutiny" means a combination of two or more persons subject to this Act, or between persons of whom at least two are such persons ‑

(a) to overthrow or resist lawful authority in the Defence Force or in any part of the Defence Force;

(b) to disobey any such authority in such circum‑ stances as to make the disobedience subversive of discipline, or with the object of avoiding any service or duty against, or in connection with operations against, an enemy as defined in paragraph 1(5); or

(c) to impede the performance of any duty or service of duty of the Defence Force or of any part of the Defence Force.

**3.** (1) A member of a Regular Force who ‑

(a) with intent to remain permanently absent from duty leaves or fails to attend at his place of duty without authority; or

(b) having left or failed to attend at his place of duty, forms the intention to remain perma‑ nently absent from duty without authority,

is guilty of an offence against this Act.

(2) A member of a Reserve Force or the Militia who being bound under Part VI of the Defence Act, to render service or to perform duty, conducts himself in the manner and with the intention referred to in item (a) or (b) of sub‑paragraph (1) is guilty of an offence against this Act.

(3) On conviction before a court‑martial for an offence against this paragraph ‑

(a) a member of a Regular Force is liable to imprisonment for life or for a lesser period; or

(b) any other person is liable to imprisonment for a term not exceeding 10 years.

**4.** A person subject to this Act who ‑

(a) steals from, or, with intent to steal, searches the person of any person killed or wounded or captured in the course of any war or warlike operations, or any operations of the Defence Force, or any part of the Defence Force;

(b) steals any property that has been left exposed or unprotected in consequence of ‑

(i) any act of war or any warlike operations;

1. riot, civil commotion or disorder;

(iii) an accident; or

(iv) a natural disaster, whether actual or apprehended;

(c) takes, otherwise than in execution of his duty or for the public service, any vehicle, vessel, aircraft, equipment or stores abandoned by an enemy as defined in paragraph 1(5),

is guilty of an offence against this Act and liable on conviction before a court‑martial to imprisonment for a term not exceeding 10 years.

**5.** (1) A person subject to this Act who, while on operational service, is guilty of misconduct is guilty of an offence against this Act and liable on conviction before a court‑martial to imprisonment for a term not exceeding 10 years.

(2) In sub‑paragraph (1) ‑

"misconduct" includes ‑

(a) a breach of service discipline;

(b) negligence in the performance of duty;

(c) failure to use the utmost exertions in the performance of duty; and

(d) failure to use all lawful means to prevent or suppress misconduct by any other person;

"operational service" means service ‑

(a) in the defence of Seychelles; or

(b) pursuant to section 30 of the Defence Act.

**6.** (1) A person subject to this Act who commits a civil offence is guilty of an offence against this Act and is liable on conviction before a court‑martial to incur the penalty, or a penalty not exceeding the penalty, prescribed in respect of the civil offence.

(2) This paragraph applies notwithstanding that some of the ingredients of the civil offence arose or occurred after the person whose alleged conduct constitutes an offence under sub‑paragraph (1) had ceased (whether temporarily or permanently) to be subject to this Act.

(3) In this paragraph "civil offence" means an offence under any law other than this Act.

(4) Regulations may prescribe that any proceedings in respect of a civil offence of a minor nature and specified in the Regulations shall not be taken before a court‑martial but shall be dealt with as a disciplinary offence and taken before a disciplinary officer in accordance with Part B of the Second Schedule; such Regulations may specify particular civil offences or classes or types of civil offence.

**7.** A person subject to this Act who contravenes paragraph 14(4) (b) of Part B is guilty of an offence against this Act and liable on conviction before a court‑martial to a fine not exceeding R.5000 or to imprisonment for a term not exceeding 2 years, or to both.

PART B

Courts‑Martial

**8.** No proceedings against a person shall be instituted of proceedings before court‑martial without the authority of the Commander‑in‑Chief, or of a person designated by the Commander‑in‑ Chief.

**9.** (1) The Commander‑in‑Chief may convene and constitute a court‑martial.

(2) In pursuance of sub‑paragraph (1), the Commander‑in‑ Chief may ‑

(a) appoint not less than 3 officers to be members of a court‑martial ;

(b) where he considers that the seriousness or complexity of the offence, or the seniority of the person, to be tried, justifies his doing so and after consultation with the Chief Justice, appoint a Judge or Magistrate to be a member of a court‑martial; and

(c) designate a member to be president of the court‑martial.

**10.** (1) The Commander‑in‑Chief may appoint members of the Defence Force to be prosecutors in proceedings before courts‑martial.

(2) The Commander‑in‑Chief may direct the Attorney‑General to be prosecutor for purpose of any proceedings before a court‑martial and, in that event, the Attorney‑ General or a member of his Chambers designated by the Attorney‑General shall be prosecutor in those proceedings.

(3) A prosecutor is entitled ‑

(a) to present a charge;

(b) with the agreement of the Commander‑in‑Chief or a person designated by him, to discontinue at any stage before judgement proceedings before a court‑martial; and

(c) to appear and be heard on a charge.

**11.** (1) The Commander‑in‑Chief may appoint members of the Defence Force to be defenders in proceedings before courts‑ martial.

(2) An accused person awaiting trial before a court‑ martial shall be afforded the opportunity before the trial to be advised ‑

(a) at no cost to himself, by a defender; or

(b) if he is in custody and so wishes, by a legal practitioner.

(3) In proceedings before a court‑martial, an accused person may be represented ‑

(a) at no cost to himself, by a defender; or

(b) if he so wishes, by a legal practitioner,

and the person so representing the accused person is entitled to appear and be heard in those proceedings on behalf of the accused person.

**12.** Save as otherwise expressly provided in this Schedule or in Regulations, the rules of evidence and procedure to be observed in proceedings before courts‑martial shall, as far as is practicable, be the same as those observed in criminal trials before the Magistrates' Court.

**13.** Proceedings before courts‑martial shall be open to the public unless ‑

(a) the Commander‑in‑Chief, in the interest of defence, public safety or public morals; or

(b) the president of a court‑martial, in the interest of public morals or the orderly conduct of proceedings,

orders that the public, or any member or class of members of the public, be excluded from all or any proceedings before a court‑martial.

**14.** (1) A court‑martial may ‑

(a) summon any person whose evidence is likely to be material;

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

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

(2) The powers under sub‑paragraph (1) may be exercised on behalf of the court by any person authorised by the court and exercising duties in relation to the proceedings of the court.

(3) A member of the Defence Force may be ordered by a court martial or by another member of the Defence Force of superior rank to him to appear before a court‑martial to give evidence or to produce documents within his possession or subject to his control.

(4) Any person who ‑

(a) neglects or fails, without reasonable excuse, the burden of proof of which lies upon him, to attend in obedience to a summons or order made under sub‑paragraph (1) or (3), or to be sworn or to answer questions or produce documents when required to do so;

(b) knowingly or recklessly makes any false or misleading statement in any evidence before a court‑martial;

(c) uses insulting or threatening language before, or causes any interruption or disturbance in the proceedings of, a court‑martial; or

(d) commits, or omits to perform, before a court‑ martial any act which if done or made before a court would constitute contempt of that court,

is guilty ‑

(e) in the case of a person subject to this Act, of an offence under paragraph 7 of Part A; or

(f) in the case of a person not subject to this Act, of an offence and liable on conviction to a fine not exceeding 2 years, or to both.

(5) Proceedings in respect of an offence under sub‑para‑ graph (4)(f) may be brought in any court of competent juris‑ diction but shall not be taken under this Act.

(6) A witness shall not refuse of fail to answer a question or produce a document on the ground that it might incriminate him, but any statement or disclosure is admissible in evidence against him only in proceed‑ ings for an offence against this paragraph or paragraph 7 of Part A.

**15.** Regulations may make provision with respect to the procedures to be followed in or in connection with courts‑ martial and, in particular, with respect to the proof of any matter or the admissibility of documents and records or copies thereof.

**16.** (1) Subject to this paragraph, the finding and sentence at a court‑martial and the decision in any other matter or question arising after the commencement of the trial shall be determined by the vote of a majority of the members.

(2) Subject to sub‑paragraph (3), in the case of an equality of votes on a finding, the accused person shall be found not guilty.

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

(4) Where a Judge or a Magistrate has been appointed pursuant to paragraph 9(2) to be a member of a court‑ martial, he may, in such circumstances and subject to such conditions and procedures as are prescribed, determine questions of law arising before or after the commencement of the trial.

**17.** (1) Subject to the modifications referred to in sub‑paragraph (2), the provisions of section 308 to 319 of the Criminal Procedure Code apply with respect to appeals from courts‑martial to the Supreme Court as they apply to appeals from the Magistrates' Court to the Supreme Court.

(2) For the purpose of the application of sections 308 to 319 as provided in sub‑paragraph (1) ‑

(a) the reference therein to "the Magistrates' Court" (except in section 318 or 319(4)) is deemed to be a reference to "a court‑martial";

(b) section 315 shall be read as if it required the notice and memorandum of appeal to be served in every case on the Attorney‑General;

(c) section 316 shall be read as if in (a)(i) the words "or order him to be tried by a court of competent jurisdiction, or commit him for trial" were deleted;

(d) section 318 shall be read ‑

(i) as if the reference in subsection (1) to the Magistrates' Court did not occur; and

(ii) as if subsection (3) were deleted; and

(e) section 319 shall be read ‑

(i) as if the reference in subsection (1) to the Magistrates' Court did not occur; and

(ii) as if subsection (2) were deleted.

(3) No appeal from courts‑martial lies to the Court of Appeal.

**18.** For the purpose of appeals from courts‑martial to the Supreme Court, the Supreme Court shall be constituted by the Chief Justice or by a Judge designated by the Chief Justice either generally or for the purpose of hearing any particular appeal.

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 SECOND SCHEDULE          Sections 7 and 8

PART A

*Disciplinary Offences*

**1.** (1) A person subject to this Act who commits an act or omission that is ‑

(a) prejudicial to good order and discipline; or

(b) unbecoming of a member of the Defence Force,

is guilty of a disciplinary offence.

(2) Without prejudice to the generality of sub‑paragraph (1), the following are disciplinary offences ‑

(a) to strike or use, or threaten by words, actions or otherwise to use, violence to another member of the Defence Force on duty;

(b) to ill‑treat in any way a member of the Defence Force on duty and of inferior rank;

(c) to offer, in the course of duty, inhumane or degrading treatment to another person;

(d) to cause or engage in a disturbance, or to behave in a disorderly manner;

(e) to behave in an insubordinate manner;

(f) to misconduct oneself or fail to do one's  duty while on sentry duty or on watch;

(g) to disobey a lawful order;

(h) to be drunk or under the influence of drugs;

(i) to be inefficient due to causes within one's own control;

(j) to be absent without leave;

(k) to avoid duty;

(l) to make a false statement concerning any service matter;

(m) to take or damage property belonging to another member of the Defence Force without authority;

(n) to resist arrest;

(o) to escape from service custody;

(p) to hinder or obstruct any person in the exer‑ cise of his powers or the performance of his duties under the Defence Act, or this Act; or

(q) a civil offence dealt with as a disciplinary offence under paragraph 6(4) of Part A of the First Schedule.

(3) A person subject to this Act who ‑

(a) has helped or encouraged another person to commit a disciplinary offence; or

(b) tries to conceal a disciplinary offence; or

(c) is otherwise an accessory to the commission of a disciplinary offence; or

(d) attempts to commit a disciplinary offence,

is liable to be treated as if he had committed the disci‑ plinary offence.

**2.** (1) Subject to this Act, all or any of the following punishments, which are listed in descending order of severity, may be imposed in accordance with this Act in respect of a disciplinary offence, namely‑

(a) dismissal with previous detention in accord‑ ance with item (d);

(b) dismissal without detention;

(c) reduction in rank, with or without detention;

(d) detention for a period not exceeding 180 days;

(e) forfeiture of service for the purposes of promotion;

(f) confinement to barracks for a period not exceeding 180 days;

(g) a fine not exceeding three month's salary;

(h) stoppage of not more than 21 days leave;

(i) extra duties in accordance with Regulations or with orders by the Commander‑in‑Chief; or

1. reprimand.

(2) The punishment of ‑

(a) dismissal under sub‑paragraph 1(a) or (b);

(b) reduction in rank under sub‑paragraph (1) (c);

(c) detention for a period exceeding 14 fdays under sub‑paragraph (1)(d);

(d) forfeiture of service under sub‑paragraph (1)(e);

(e) confinement to barracks for a period exceeding 21 days under sub‑paragraph (1)(f);

(f) a fine exceeding one week's salary under sub‑ paragraph (1)(g); or

(g) stoppage of more than 7 days leave under sub‑ paragraph (1)(h),

shall not take effect until it is confirmed by the Defence Council in the manner prescribed in Regulations or others made by the Commander‑in‑Chief.

(3) An offer shall not be reduced to a rank of a non‑ commissioned member.

(4) A sentence of detention shall be served in such place and under such conditions as the Commander‑in‑Chief may order or as may be prescribed.

(5) Where the breach involves damage to property, the disciplinary officer may order that part or all of any fine imposed be paid to the owner of the property by the way of compensation.

PART B

*Disciplinary Proceedings*

**3.** The Commander‑in‑Chief may appoint ‑

(a) any officer to be a senior disciplinary officer; or

(b) any officer to be a junior disciplinary officer,

in relation to the Defence Force or any part of the Defence Force.

**4.** A senior disciplinary officer ‑

(a) has jurisdiction over all disciplinary offences; and

(b) may, subject to paragraph 2 of Part A, impose any punishment provided for in that paragraph.

**5.** (1) A junior disciplinary officer –

(a) has jurisdiction over all disciplinary offences committed by non‑commissioned members; and

(b) may imposed any punishment provided for in sub‑paragraph (2).

(2) A junior disciplinary officer may impose only the following punishments namely ‑

(a) detention under paragraph 2 (1)(d) of Part A, for a period not exceeding 14 days;

(b) confinement to barracks under paragraph 2 (1)(f) of Part A, for a period not exceeding 7 days;

(c) a fine under paragraph 2(1)(g) of Part A, not exceeding R.250;

(d) stoppage of not more than 7 days' leave under paragraph 2(1)(h) of Part A;

(e) extra duties under paragraph 2(1)(i) of Part A, for a period not exceeding 14 days; or

(f) reprimand under paragraph 2(1)(j) of Part A.

(3) Notwithstanding the preceding provisions of this paragraph, a junior disciplinary officer who investigates a charge of breach of service discipline over which he has no jurisdiction may recommend to a senior disciplinary officer that the charge be not proceeded with, and the senior disci‑ plinary officer may dismiss the charge.

**6.** (1) Subject to this paragraph, the procedures to be followed by disciplinary officers in disciplinary proceed‑ ings are as prescribed in Regulations or in orders made by the Commander‑in‑Chief.

(2) For the avoidance of doubt, it is hereby declared that disciplinary proceedings are not judicial proceedings.

(3) Subject to this Schedule and the Regulations, a disciplinary officer is not bound by any technical rules of law or of evidence, and may inform himself on any matter in such manner as he thinks fit; but as far as operational requirement allow, disciplinary proceedings must be conducted so as to give the person charged a full and fair opportunity of presenting his defence or explanation (if any) and for that purpose and to that extent –

(a) the disciplinary officer dealing with the charge should not proceed with the charge where it is in the interests of natural justice that the charge should be dealt with by another disciplinary officer; and

(b) the person charged is always entitled ‑

(i) to have the charge stated in writing, and to have a copy of it before the proceedings commence, and to have the charge explained to him by the disci‑ plinary officer at or before the commencement of the proceedings;

(ii) to remain silent and not to be required to make any statement;

(iii) to examine and cross‑examine witnesses called against him and persons whose statements are used against him;

(iv) to call and examine witnesses on his behalf; and

(v) to be represented by a person of his own choice who is a member of the Defence Force.

(4) A disciplinary officer conducting any disciplinary proceedings may examine witnesses on oath.

(5) A disciplinary officer conducting any disciplinary proceedings shall keep in the manner prescribed in Regulations or in orders made by the Commander‑in‑Chief, a record of ‑

(a) the charge;

(b) the defence or explanation (if any) of the person charged;

(c) the decision; and

(d) the reasons for the decision,

and a note of the evidence given, and such other records as are so prescribed.

(6) If the disciplinary officer, at any stage of any disciplinary proceedings before he has imposed a punishment, considers that ‑

(a) the breach of service discipline warrants or may warrant a punishment more severe than he has power to impose;

(b) he should disqualify himself in accordance with sub‑paragraph 3(a); or

(c) it is for any other reason inappropriate that he should deal with the charge or appropriate that another disciplinary officer should deal with the charge,

he may refer the matter for hearing to another disciplinary officer having jurisdiction.

**7.** No appeal lies to a court against a decision in any disciplinary proceedings.

**8.** (1) The Defence Council shall review any disciplinary proceedings where any punishment of a kind referred to in paragraph 2(2) of Part A is imposed.

(2) Subject to sub‑paragraph (1) the Defence Council may, of its own motion or at the request of any person affected by the decision, review any disciplinary proceed‑ ings.

(3) On review by the Defence Council of any disciplinary proceedings it may, if it thinks it proper to do so, ‑

(a) disallow any findings of guilt;

(b) impose any punishment less than that imposed by the decision; or

(c) order a further investigation into the matter or the decision,

and may make such other order that it considers necessary to do justice in the matter, and for the purposes of a review or a further investigation may suspend the carrying out of the punishment.

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**LAWS OF SEYCHELLES**

**DEFENCE FORCE (OFFENCES) ACT**

SI. 17 of 1982

**CHAPTER 59**

**SUBSIDIARY LEGISLATION**

**SECTION 22**

**DEFENCE FORCE OFFENCES (DISCIPLINARY) REGULATIONS**

*(24th March, 1982)*

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 PART I ‑ PRELIMINARY

**1.** These Regulations may be cited as the Defence Force Offences (Disciplinary) Regulations.

**2.** In these Regulations, unless the context otherwise requires ‑

"accused" means a person charged with an offence under the Act and, where the context so admits (but not in relation to a plea before a court‑martial or in disciplinary proceedings), any defender, legal practitioner or member of the Defence Force advising or representing that person;

"authorised officer" means an officer authorised by the Commander‑in‑Chief to issue a detention warrant under Regulation 40;

"convening authority" means the Commander‑in‑Chief or person to whom he has delegated his functions in respect of courts‑martial under Part B of the First Schedule to the Act;

"investigating officer" means an officer ordered to investigate an allegation that a person has commit‑ ted an offence against this Act;

"president" in Part III of these Regulations means the person designated by the convening authority as president of a court‑martial.

 PART II. ‑ INVESTIGATION OF OFFENCES

**3.** Subject to section 16(2) of the Act, a commanding officer of a unit ‑

(a) shall specify in his standing orders the officers who are to investigate without delay all allegations of offences occurring within his unit; and

(b) shall in any event cause an allegation of an offence occurring within his unit to be inves‑ tigated without delay as soon as he becomes aware of it.

**4.** Before questioning any person who is suspected of committing an offence the investigating officer shall caution him in the following words ‑

"You are not obliged to say anything unless you wish to do so, but what you say may be put in writing and given in evidence."

**5**. (1) An investigating officer shall make a full inquiry into all the facts and circumstances surrounding the alleged offence.

(2) If, on completing his investigation, the investiga‑ ting officer thinks that a person appears to have committed an offence, he shall prepare a charge sheet which he shall cause to be given to the accused without delay.

(3) The investigating officer shall report the result of his investigation to his commanding officer without delay.

**6.** (1) A charge sheet shall contain the whole issue or issues to be tried at one time.

(2) A charge sheet may contain more than one charge if ‑

(a) the charges are founded on the same facts; or

(b) the charges form (or are part of) a series of offences of the same or similar character.

(3) A charge sheet shall be in (or as nearly as may be in) the form specified ‑

(a) for a serious offence, in Schedule 1; or

(b) for a disciplinary offence, in Schedule 4.

(4) The forms specified in Schedule 1 and 4 are examples which are illustrative only and are not exhaustive; and in the case of conflict between an example and any other provi‑ sion of the Act or these Regulations that other provision prevails.

(5) A court‑martial or a disciplinary officer, as the case may be, may amend the charge sheet ‑

(a) to correct a mistake in the name or descrip‑ tion of the accused;

(b) to correct a clerical error or omission; or

(c) in the interests of justice and without unfairness to the accused.

**7.** (1) Each charge shall state one offence.

(2) Offences may be charged in the alternative in seperate charges :

But must not be charged in the alternative in the same charge.

**8.** Immediately an accused has been given a charge sheet under Regulation 5, he shall be cautioned in the following words ‑

"You have been charged with ................................ Do you wish to say anything? You are not obliged to say anything unless you wish to do so, but anything you say may be taken down in writing and used in evidence against you.

You may be advised or assisted or represented by a member of the Defence Force of your own choice [or by a lawyer (1)]"

Note : (1) Add these words where the accused is to be court‑martialled for a serious offence.

 PART III. ‑ COURT‑MARTIAL PROCEDURE

**9.** (1) On a court‑martial assembling, the court shall, before beginning the trial, satisfy itself in closed court ‑

(a) that the court has been convened in accordance with the Act and these Regulations;

(b) that the accused appears from the charge sheet to be liable to trial by court‑martial under the Act and to be subject to the jurisdiction of the court; and

(c) that each charge is on its face correct in law and framed in accordance with these Regulations.

(2) If the court is not satisfied in terms of sub‑regulation (1) and is not competent to rectify the matter itself, it shall, before commencing the trial, report to the convening authority.

(3) The court shall consider whether the public or any member of or class of members of the public should be excluded from the proceedings under Paragraph 13 of the First Schedule to the Act.

(4) When the court has complied with this Regulation and is ready to proceed with the trial, the president shall open the court and the trial shall begin.

**10.** (1) The president shall cause a record of the proceedings of a court‑martial to be kept.

(2) A record under sub‑regulation (1) may be ‑

(a) taken by a shorthand writer;

(b) taken by a tape‑recorder; or

(c) recorded in longhand.

(3) The record of proceedings shall be delivered to the convening authority.

**11.** (1) The president of a court‑martial shall ensure that the trial is conducted in accordance with the Act and these Regulations and in a matter suitable to a court, and in particular shall ensure that ‑

(a) the prosecutor and defender or legal practitioner representing the accused follow these Regulations; and

(b) the accused does not suffer any disadvantage because of ‑

(a) his position as accused;

(b) ignorance;

(c) incapacity to examine or cross‑examine witnesses;

(d) incapacity to make his own evidence clear and intelligible; or

(e) in any other way.

**12.** (1) The order convening the court‑martial and the names of the persons appointed to try the accused shall be read out in the hearing of the accused.

(2) Immediately after sub‑regulation (1) has been complied with, the Court‑Martial Oath set out in Schedule 2 shall be administered to the president and each member of the court martial and to the interpreter and shorthand writer, if any.

(3) The oath shall be first administered by the president to the other members of the court‑martial and to the interpreter and shorthand writer, and then to the president by any member of the court already sworn.

(4) A court‑martial may be sworn at one time to try any number of accused then present before it, whether they are to be tried jointly or separately.

**13.** (1) After Regulation 12 has been complied with, the president shall read the charge sheet to the accused, who must plead "Guilty" or Not Guilty" to the charge, subject to Regulations 14 and 15.

(2) If the accused refuses to plead, he is deemed to have pleaded "Not Guilty".

(3) If there is more than one charge against the accused

(a) he must plead separately to each charge;

(b) he may apply to be tried separately on any charge.

(4) The plea of the accused to each charge shall be recorded.

**14.** (1) Before the accused pleads to a charge he may offer a plea to the jurisdiction of the court‑martial.

(2) The accused and the prosecutor may

(a) bring evidence; and

(b) address the court‑martial,

respectively in support of and against a plea under sub‑ regulation (1).

(3) If the court‑martial allows the plea it shall adjourn and report to the convening authority.

**15.** (1) Before the accused pleads to a charge he may object to it on the grounds that‑

(a) it is not correct in law; or

(b) it is not framed in accordance with these Regulations.

(2) The accused and the prosecutor may address the court‑martial respectively in support of and against an objection under sub‑regulation (1).

(3) If the court‑martial upholds the objection it shall‑

(a) amend the charge, if permissible under Regulation b(5); or

(b) adjourn and report to the convening authority.

**16.** On receiving a report under Regulation 14(3) or 15(3), the convening authority may ‑

(a) if he approves the decision, dissolve the court‑martial; or

(b) if he disapproves the decision ‑

(i) direct the court‑martial to proceed with the trial; or

(ii) convene a fresh court‑martial to try the accused.

**17.** (1) If the accused pleads not guilty to any charge, the trial of that charge shall proceed.

(2) No procedure for sentence shall be carried out on any charge to which the accused pleads guilty until any trial under sub‑regulation (1) has been completed.

**18.** (1) An accused who has pleaded not guilty may, at any time before the court‑martial closes to make a finding under Regulation 26, withdraw his plea of not guilty and substitute a plea of guilty:

The court‑martial shall then proceed under Regulation 28.

(2) If at any time during the trial it appears to the court‑martial that an accused who has pleaded guilty does not understand ‑

(a) the effect of his plea; or

(b) the nature of the charge,

the court‑martial shall enter a plea of not guilty and proceed with the trial.

**19.** (1) The prosecutor shall call the witnesses for the prosecution, who shall be sworn by the president with the oath specified in Schedule 3 and shall then give their evidence.

(2) The accused may cross‑examine any witness for the prosecution :

If he does so, the prosecutor may re‑examine that witness on a matter arising out of the cross‑examination.

(3) The president or a member of the court‑martial may put questions to a witness.

(4) No witness (except the accused) shall be in court during the trial while not under examination, unless he has the permission of the court‑martial.

**20.** (1) When the case for the prosecution is completed, the court‑martial may ‑

(a) on the motion of the accused; or

(b) on its own motion,

hear arguments from the accused and the prosecutor on whether there is a case to answer.

(2) The court‑martial shall then close to decide whether there is a case to answer.

(3) The court‑martial shall re‑open to give its decision and ‑

(a) if it decides that there is no case to answer, the president shall pronounce the accused not guilty of that charge; or

(b) if it decides that there is a case to answer, the trial shall proceed.

**21.** (1) The accused may give evidence himself in his defence and may call witnesses for his defence.

(2) If the accused gives evidence himself, he must do so before he calls any witnesses for the defence.

(3) When giving evidence the accused ‑

(a) may be examined by any person representing him; or

(b) may make a statement without such examination.

(4) Regulation 19 applies to the accused when giving evidence and to witnesses for the defence as it applies to witnesses for the prosecution.

**22.** The court‑martial may on its own initiative at any time before it makes a finding under Regulation 26 ‑

(a) recall and question a witness; or

(b) summon a witness under paragraph 14 of the First Schedule to the Act.

**23.** The court‑martial shall admit any evidence, including documentary or similar evidence, in accordance with the law of evidence of Seychelles at the time of the trial.

**24**. (1) The court‑martial may in the interest of justice ‑

(a) on its own initiative; or

(b) on the request of the prosecutor or the accused, adjourn the proceedings ‑

(i) at any time for such period and as often as it thinks fit;

(ii) from place to place;

(iii) if the accused becomes ill;

(iv) if during a trial any reason emerges why that court‑martial should not continue to hear the case.

(2) In the case of adjournments under paragraphs (iii) or (iv) of subregulation (1), the court‑martial shall report the position to the convening authority.

**26.** (1) When the case for the defence is completed,

(a) the prosecutor may apply for an adjournment to prepare his address;

(b) the prosecutor shall address the court‑martial on the charge;

(c) the accused may then apply for an adjournment to prepare his address;

(d) the accused may address the court‑martial on the charge.

(2) The court‑martial shall then close to decide whether the charge has been proved beyond reasonable doubt.

(3) The court‑martial shall re‑open immediately to give its findings on that charge.

**27.** If the accused has been found not guilty on all the charges before the court‑martial, the court‑martial shall ‑

(a) stop and dismiss the proceedings in respect of the accused;

(b) acquit the accused of those charges; and

(c) report the result of the case to the convening authority.

**28.** (1) If the accused had pleaded guilty to or has been found guilty of any charge ‑

(a) the prosecutor shall inform the court of ‑

(i) the age, service and character of the accused;

(ii) the length of time the accused has been in close custody and in open custody awaiting trial;

(iii) the family background and responsibilities of the accused; and

(iv) any previous convictions of the accused by a court‑martial, senior disciplinary officer or any other court;

(b) the accused may rebut information given under paragraph (a) and may, with the permission of the court‑martial, call witnesses in mitigation of sentence;

(c) the prosecutor shall address the court‑martial on sentence;

(d) the accused may

(i) address the court‑martial on sentence; and

(ii) request the court‑martial to take into account other similar offences under the Act.

(2) The court‑martial shall then close to determine its sentence.

(3) The court‑martial shall then re‑open ‑

(a) to pronounce its sentence on the accused; and

(b) to inform the accused of his right of appeal under paragraph 17 of the First Schedule to the Act.

**29.** The court‑martial shall thereafter

(a) finish in respect of the accused; and

(b) report the result of the case to the convening authority.

PART IV. ‑ DISCIPLINARY PROCEEDINGS

**30.** (1) Before any disciplinary proceedings begin, the accused shall be given a copy of the charge sheet in the form specified in Schedule 4.

(2) Immediately an accused has been given a charge sheet, he shall be cautioned in the form set out in Regulation 8.

**31.** Subject to this Part of these Regulations, all disciplinary proceedings shall be conducted in the presence of the accused.

**32.** A disciplinary officer shall be assisted by ‑

(a) another officer as adjutant; and

(b) 3 senior non‑commissioned members.

**33.** (1) A disciplinary officer shall not proceed to hear a charge where it is in the interests of natural justice that the charge should be dealt with by other disciplinary officer having jurisdiction, that is to say if the first disciplinary officer ‑

(a) has a personal interest in the case; or

(b) is not free from bias for or against the accused,

and he shall then proceed under paragraphs (i), (ii), and (iii) of sub‑regulation (2).

(2) Where, at any stage of disciplinary proceedings before he has imposed punishment, a disciplinary officer considers in terms of paragraph 6(6) of the Second Schedule to the Act that‑

(a) the breach of service discipline warrants or may warrant a punishment more severe than he has power to impose; or

(b) he should disqualify himself under subregulation (1); or

(c) it is for any other reason ‑

(a) inappropriate that he should deal with that charge; or

(b) appropriate that another disciplinary officer should deal with that charge,

he shall

(i) inform the accused that the charge will be heard by another authority or officer;

(ii) make such order as he thinks fit for the close or open custody or temporary release of the accused; and

(iii) adjourn the trial.

**34.** (1) An accused who has pleaded not guilty may, at any time before the disciplinary officer makes his decision withdraw his plea of not guilty and substitute a plea of guilty.

(2) If at any time during disciplinary proceedings it appears to the disciplinary officer that an accused who has pleaded guilty does not understand ‑

(a) the effect of his plea; or

(b) the nature of the charge,

the disciplinary officer shall enter a plea of not guilty and proceed to hear the case.

**35.** (1) Disciplinary proceedings shall be conducted as follows ‑

Reading charge and taking plea

(a) Adjutant orders accused to be marched in;

(b) Adjutant asks accused if ‑

(i) he has received a copy of the charge sheet; and

(ii) he has had sufficient time to prepare his defence;

(c) Adjutant reads out the charge sheet and then passes it to the disciplinary officer;

(d) Disciplinary officer asks accused if he understands the charges:

if accused does not, disciplinary officer explains the charges to him;

(e) Disciplinary officer asks accused whether he pleads "Guilty" or "Not Guilty" to each charge and records those pleas:

if accused refuses to plead, he is deemed to plead "Not Guilty";

(f) Disciplinary officer informs accused that he has the right to require any witness to be examined on oath;

*If accused pleads not guilty*

(g) Adjutant calls witnesses for the prosecution specified on the charge sheet, who may be cross‑examined by accused:

Adjutant also presents any documents, productions or other evidence for the prosecution.

(h) Disciplinary officer asks if accused wishes to give evidence on oath or make or hand in statement on the facts of the case and cautions him, using the words of paragraph 12 of Schedule 5;

(i) Accused may then give evidence on his own behalf and, if so, may be cross‑examined by adjutant (accused must do this before calling witnesses for his defence);

Accused may also call witnesses for his defence, who may be cross‑examined by adjutant:

Accused may also present any document, production or other evidence for his defence;

(j) whether or not accused gives evidence, he may then make a statement to the disciplinary officer, but shall not be questioned or cross‑ examined on that statement;

(k) Adjutant orders accused to be marched out;

(l) Disciplinary officer asks those assisting him (starting with the most junior) for their views (with reasons) on whether the accused is guilty;

(m) Disciplinary officer, after considering the views of those assisting him, makes his decision on whether the accused is guilty;

(n) Adjutant orders accused to be marched in;

(o) Disciplinary officer tells accused his decision under paragraph (m) and the reasons for it;

If accused found not guilty, adjutant orders him to be marched out.

If accused pleads guilty or if found guilty

(p) Adjutant tells disciplinary officer the service background of accused and recommends the punishment to be imposed;

(q) Disciplinary officer asks if accused wishes to make or hand in a statement or call witnesses in explanation or to justify a lesser punishment (using the words of paragraph 15 of Schedule 5);

(r) Accused may make a statement or call witnesses (or both) in explanation or in mitigation of punishment;

(s) Adjutant orders accused to be marched out;

(t) Disciplinary officer asks those assisting him (starting with the most junior) for their views (with reasons) on the punishment which should be imposed;

(u) Disciplinary officer, after considering the views of those assisting him, makes his decision on the punishment to be imposed;

(v) Adjutant orders accused to be marched in;

(w) Disciplinary officer tells accused the punishment imposed on him;

(x) Adjutant explains to accused the meaning and effect of the punishment imposed;

(y) Adjutant orders accused to be marched out.

**36.** (1) The disciplinary officer may direct that the evidence of any witness shall be taken on oath.

(2) The oath to be sworn by a witness is specified in Schedule 3.

(3) After a witness has been cross‑examined he may be re‑examined on a matter arising out of the cross‑examination.

(4) The disciplinary officer or those assisting him may put questions to a witness.

(5) No witness (except the accused) shall be present during the proceedings while not under examination, unless he has the permission of the disciplinary officer.

(6) Subject to the Second Schedule to the Act and to this Part of these Regulations, a disciplinary officer is not bound by any technical rules of law or of evidence and may inform himself on any matter in such manner as he thinks fit.

**37.** A disciplinary officer may dismiss a charge at any stage of a trial.

**38.** A disciplinary officer may ‑

(a) on his own initiative; or

(b) on the request of the adjutant or the accused, adjourn the proceedings from time to time either ‑

(i) in the interests of justice; or

(ii) for operational requirements.

**39.** A record of disciplinary proceedings shall be kept in the form specified in Schedule 5.

 PART V. ‑ DETENTION AND PUNISHMENT

**40.** (1) A person who is ‑

(a) arrested under section 10 or 11 of the Act and placed in custody under section 13 of the Act;

(b) sentenced to imprisonment by a court‑martial under the First Schedule to the Act; or

(c) sentenced to detention by a disciplinary officer under paragraph 2 of the Second Schedule to the Act, may, on a warrant issued by an authorised officer, be detained ‑

(i) in service custody in terms of Regulation 41; or

(ii) in civil custody in a prison under the Prisons Act.

(2) A warrant issued under sub‑regulation (ii) shall be sufficient authority for the admission of a person to prison under section 19(1) of the Prisons Act and for his detention in prison in accordance with the terms of that warrant.

(3) In this regulation, an "authorised officer" means an officer authorised by the Commander‑in‑Chief to grant war‑ rants under this Regulation.

**41.** A person detained in service custody under Regulation 40(1) (i) shall be detained in custody at Defence Force Headquarters ‑

(i) if he has not been charged under Regulation 5(2) but it appears that he has committed a serious offence liable to trial by court‑ martial;

(ii) if he has been charged under Regulation 5(2) with a serious offence liable to trial by court‑martial

(iii) if he has been sentenced to imprisonment by a court‑martial under the First Schedule to the Act; or

(iv) if he has been sentenced to detention by a disciplinary officer for a period exceeding 60 days;

(v) if there are no facilities in his unit for detention;

(vi) if he is violent or likely to escape; or

(vii) if his commanding officer so requests,

but otherwise shall be detained in custody at his unit in close or open custody according to his commanding officer's standing orders.

**42.** (1) The punishment of extra duties under paragraph 21(1)(i) of the Second Schedule to the Act (in respect of disciplinary offence) may include ‑

(a) guard duties;

(b) parade drill;

(c) garden duties;

(d) cleaning duties;

(e) making building blocks; and

(f) other similar duties promulgated in the standing orders of the commanding officer of the unit.

(2) A person undergoing extra duties as a punishment shall be confined to barracks during his period of extra duties.

 PART VI. ‑ REDRESS OF GRIEVANCES

**43.** (1) Subject to Regulation 46, a member of the Defence Force who considers that, in relation to the Defence Force ‑

(a) he has suffered any personal oppression, injustice or ill‑treatment; or

(b) he has any other cause for grievance,(in this Part referred to as a "complainant"), may submit a written statement of his grievance to his commanding officer.

(2) A statement under sub‑regulation (1) must be submitted –

(a) as early as practicable; and

(b) while it is still possible to find out the facts about the grievance.

(3) If a complainant requests assistance in presenting his grievance his commanding officer shall order an officer to assist him, who shall if applicable be an officer requested by the complainant.

**44.** (1) If the complainant's commanding officer has not put right the grievance to the satisfaction of the complainant within 14 days of its submission to him, the complainant may submit a written statement of his grievance to the Chief of Staff at Defence Force Headquarters.

(2) If the Chief of Staff has not put right the grievance to the satisfaction of the complainant within 14 days of its submission to him, the complainant may submit a written statement of his grievance to the Chief of the Defence Force.

(3) If the Chief of the Defence Force has not put right the grievance to the satisfaction of the complainant within 14 days of its submission to him, the complainant may submit a written statement of his grievance to the Commander‑ in‑Chief.

(4) Subject to Regulation 46, a grievance submitted under sub‑regulation (1), (2) or (3) may include the complainant's original grievance and a complaint against the refusal or failure (or both) of all or any of his commanding officer, the Chief of Staff or the Chief of the Defence Force to forward the complaint respectively to the Chief of Staff, the Chief of the Defence Force or the Commander‑in‑ Chief.

**45.** Subject to Regulation 46, no member of the Defence Force shall be penalised for stating a grievance in accordance with section 20 of the Act and this Part of these Regulations.

**46.** (1) No member of the Defence Force shall state a grievance ‑

(a) jointly with another person; or

(b) including language or comments which are insubordinate or subversive of discipline.

(2) A member of the Defence Force who contravenes sub‑ regulation (1) is liable to be treated as if he had committed the relevant offence under the Act.

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SCHEDULE 1 Regulation 6(3)

 COURT MARTIAL CHARGE SHEETS

1. Commencement of Charge Sheet

The accused ............................................................

 (number) (rank) (full name) (unit)

an officer/non‑commissioned member \*of the Seychelles People's Liberation Army\*

Navy

Air Force

Militia

being subject to the Defence Force (Offences) Act, under section 3 of that Act, is charged with the following offence(s)\* ‑

 Statement of offence :

 Particulars of offence :

 \*delete as appropriate

Forms of statement and particulars of offences :‑

 A. Aiding the enemy

 Statement ‑ Aiding the enemy, contrary to paragraph 1 of the First Schedule to the Defence Force (Offences) Act.

 Particulars ‑ (No, rank, name) on (date) at (time) hours at (place) communicated to the Second Secretary of Utopian Embassy the information that certain units of the Seychelles People's Defence Force were expected to sail from Victoria on the following day, with intent to assist the enemy.

 ‑ or ‑

(No, rank, name) on (date) having reasonable grounds for suspecting that an offence against paragraph 1(1) of the First Schedule to the Act had been committed by (No, rank, name) (who had disclosed information about the movements of the Defence Force) did not immediately report the fact to a member of the Seychelles People's Defence Force of superior rank to himself.

 ‑ or ‑

(No rank, name) on (date) between (time) hours and (time) hours at (place) hid an enemy mercenary to avoid detection by a patrol of the SPLA sent out to capture him and thereby assisted an enemy by sheltering him.

 B. Mutiny

 Statement ‑ Mutiny, contrary to paragraph 2 of the First Schedule to the Defence Force (Offences) Act.

 Particulars ‑ (No, rank, name) on (date) at (time) hours at (place) combined with (No, rank, name) to disobey the orders of their commanding officer (No, rank, name), (to start the engines of the patrol vessel (name) and thereby disobeyed lawful authority in the Seychelles People's Defence Force in circum‑ stances where their disobedience was subver‑ sive of discipline and thereby took part in a mutiny.

 ‑ or ‑

(No, rank, name) on (date) at (time) hours at (place), knowing that (No, rank, name) and (No, rank, name) intended to mutiny by disobeying orders of their commanding officer (No, rank, name) (to start the engines of the patrol vessel (name)) failed to report to a member of the Seychelles People's Defence Force of superior rank to himself that a mutiny was intended.

 C. Desertion

 Statement ‑ Desertion, contrary to paragraph 3 of the Frist Schedule to the Defence Force (Offences) Act.

 Particulars ‑ (No, rank, name), being a member of a Regular Force, on (date) at (time) hours, with intent to remain permanently absent from duty, left his place of duty on (place) without authority (and left the island in a fast speedboat)

 ‑ or ‑

(No, rank, name) being a member of the Seychelles People's Militia bound to render service under section 28(a) of the Defence Act, as from (time) hours on (date), with intent to remain permanently absent from duty, failed without authority to attend at his place of duty at (place) and remained at his house at (address)

 D. Looting

 Statement ‑ Looting, contrary to paragraph 4 of the First Schedule to the Defence Force (Offences) Act.

 Particulars ‑ (No, rank, name) on (date) at (time) at (place), stole a (transistor radio) from the house of (name) which had been left unprotected in consequence of an act of war.

 ‑ or ‑

(No, rank, name) on (date) at (time) hours at (place), took, otherwise than in execu‑ tion of his duty or for the public service a (pair of binoculars) abandoned by an enemy.

 E. Misconduct on operational service

 Statement ‑ Misconduct on operational service, contrary to paragraph 5 of the First Schedule to the Defence Force (Offences) Act.

 Particulars ‑ (No, rank, name) on (date) between (time) hours and (time) hours (while in command of Platoon No ... of Company No ... of the Seychelles People's Liberation Army at (place) being in action against the enemy although capable of making a successful attack ordered his platoon to withdraw because of personal fear and thereby failed to use his utmost exertions in the perfor‑ mance of his duty) and thereby committed misconduct while on operational service.

 F. Civil Offence

 Statement ‑ Committing a civil offence, contrary to paragraph 6 of the First Schedule to the Defence Force (Offences) Act.

 Particulars ‑ (No, rank, name) on (date) at (time) hours at (place) Barracks murdered (No, rank, name) and, being subject to the Defence Force (Offences) Act, thereby committed a civil offence under that Act.

 G. False statements

 Statement ‑ Making a false or misleading statement in evidence before a court martial, contrary to paragraph 7 of the First Schedule to the Defence Force (Offences) Act.

 Particulars ‑ (No, rank, name) on (date) being a witness at the court‑martial of (No, rank, name) at (place) Barracks, knowingly or recklessly gave false testimony that (he saw (No, rank, name) strike (No, rank, name) on (date) when he did not do so) and there‑ by knowingly or recklessly made a false or misleading statement in evidence before that court‑martial.

2. Prosecution witnesses and evidence

 No Rank Name Evidence.

 Other evidence (give brief details of documents, productions etc)

3. Signature

(Sgd)........................................

 (No, Rank & Name)........................................

 (Unit)........................................

 Investigating Officer

 (Date)........................................

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SCHEDULE 2 Regulation 12(2)

 COURT‑MARTIAL OATH

I ...................................................................... do swear (1) solemnly and sincerely declare and affirm (2)

that I will well and truly serve the Republic of Seychelles in the office of president/member/interpreter/shorthand writer (3) of this court‑martial.

that I will do right in accordance with the Constitution of Seychelles as by law established, and in accordance with the laws of the Republic without fear or favour, affection or ill will; and

that I will not at any time disclose the vote or opinion of any member of this court‑martial, unless required to do so in due course of law.

 So held me God. (1)

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 SCHEDULE 3 Regulations 19(1) and 36(2)

 WITNESSES OATH

I swear (1)/solemnly and sincerely declare and affirm (2)

that the evidence which I shall give before this court‑martial/these discipli‑ nary proceedings (3) shall be the truth, the whole truth and nothing but the truth.

Notes to Schedules 2 and 3

(1) Words where oath taken

(2) Words where person expresses desire to make an affirmation in place of oath or expresses an objection to taking the oath.

(3) Delete as appropriate.

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 SCHEDULE 4 Regulations 6(3) and 30

 DISCIPLINARY PROCEEDINGS CHARGE SHEETS

I. Commencement of Charge Sheets

The accused ............................................................

 (number) (rank) (full name) (unit)

an officer/non‑commissioned member \*of the Seychelles People's Liberation Army\*

 Air Force

 Navy

 Militia

being subject to the Defence Force (Offences) Act, under section 3 of that Act is charged with the following offence(s)\* ‑

Statement of offence :

Particulars of offence :

 \*delete as appropriate

 \* Forms of statement and particulars of offences :‑

|  |  |  |
| --- | --- | --- |
|  Statement contrary to the following paragraph of the Second Schedule to the Defence Force (Offences) Act.  |  | Particulars |
| Committing an act prejudicial to good order and discipline  | 1(I) (a)  | (No, rank, name) on (date) at (time) hours at (place) (dropped his rifle into the sea while landing from a launch), thereby committing an act prejudicial to good order and discipline. |
| Committing an act unbecoming of a member of the Seychelles People's Defence Force  | 1(I) (b) | (No, rank, name) on (date) at (time) hours at (place) (while in uniform in a public place used indecent and obscene language) thereby committing an act unbecoming of a member of the Seychelles People's Defence Force |
| Striking another member of the Seychelles People's Defence Force on duty |  1(2) (a)  | (No, rank, name) on (date) at (time) hours at (place) struck (No, rank, name) of the the Seychelles People's Defence Force who was on duty (taking an extra drill parade). |
| Ill‑treating member of the Seychelles People's Defence Force of inferior rank | 1(2) (b)  |  (No, rank, name) on (date) at (time) hours at (place) made (No, rank, name) (run round the parade ground in full kit on extra drill parade, until he collapsed with exhaustion), thereby ill‑treating a member of the Seychelles People's Defence Force on duty and of inferior rank.  |
| Offering, in the course of duty, inhuman or degrading treatment to another person |  1(2) (c)  |  (No, rank, name) on (date) at (time) hours at (place) (in the state of Utopia while on duty under section 34 of of the Defence Act, in an international peace‑keeping operation, caused an unknown Utopian woman to have the hair shaved off her head), thereby offering inhumane or degrading treatment to her in the course of his duty |
| Causing a disturbance | 1(2) (d) | (No, rank, name) on (date) at (time) hours at (place) (sang loudly and raucously), thereby causing a disturbance. |
| Behaving in an insubordinate manner  | 1(2) (e) | (No, rank, name) on (date) at (time) hours at (place) (made a rude and improper gesture to the Guard Commander (no, rank, name), thereby behaving in an insubordinate manner. |
| Misconduct on sentry duty or on watch  | 1(2) (f) | (No, rank, name) on (date) at (time) hours (in (ship) at sea failed while on watch as a lookout to observe and report a suspicious object), thereby committing misconduct while on watch. |
|  Disobeying a lawful order  | 1(2) (g) | (No, rank, name) on (date) at (time) hours at (place) disobeyed a lawful order from (No, rank, name) to (refuel aircraft (specify)). |
| Being drunk  | 1(2) (h)  | (No, rank, name) on (date) at (time) hours at (place) was drunk. |
| Being inefficient | 1(2) (i) |  (No, rank, name) on (date) at (time) hours (in ship) at sea) was inefficient (while on watch as a lookout in the middle watch) due to a cause within his own control, namely that (while off‑duty during the first watch he had been playing dominoes instead of sleeping)). |
| Being absent without leave  | 1(2) (j) | (No, rank, name) on (date) from (time hours to (time) hours was absent without leave from (place). |
| Avoiding duty  | 1(2) (k) | (No, rank, name) on (date) at (time) hours at (place) (attended sick parade) with the intention of avoiding duty. |
| Making a false statement | 1(2) (l) | (No, rank, name) on (date) at (place) made a false statement concerning a service matter, namely that (he had not been paid for the week ending on (date)). |
| Taking property of another member of the Seychelles People's Defence Force without authority  | 1(2) (m)  | (No, rank, name) on (date) at (time) hours at (place) took a (transistor radio), the property of (No, rank, name) without his authority. |
|  Resisting arrest | 1(2) (n) |  (No, rank, name) on (date) at (time) hours at (place) resisted arrest by (No, rank, name) (of the Military Police). |
| Escaping from service custody | 1(2) (o) | (No, rank, name) on (date) between (time) hours and (time) hours at (place) escaped from service custody in the (Guard Room of the camp) |
| Hindering a person in perfor-mance of his duties under the Defence Act or the Defence (Offences) Act |  1(2)(p)  |  (No, rank, name) on (date) between (time) hours and (time) hours at (place) (repeatedly argued with (No, rank, name) while the latter was on guard duty) and thereby hindered him in the performance of his duties under the Defence Act. |
| Committing a civiloffence which is to be dealt withas a disciplinary offence | 1(2)(q) | (No, rank, name) on (date) at (time) hours at (place) (carried on a lottery contrary to section 170 of the Penal Code) and, being subject to the Defence Force (Offences) Act, thereby committed a civil offence under that Act. |
|  |  |  |
| Encouraging another person to commit a disciplinary offence | 1(3)(a) | (No, rank, name) on (date) at (time) hours at (place) (bet (No, rank, name), that he would not dare to drop his rifle into the sea) thereby encouraging him to commit a disciplinary offence, namely (committing an act prejudicial to good order and discipline). |
| Trying to conceal a disciplinary offence | 1(3)(b) | (No, rank, name) on (date) at (time) hours at (place) (failed to report to the Camp Commander that he had seen (No, rank, name) ill‑treating (No, rank, name)) and thereby tried to conceal a disciplinary offence. |
| Being an accessory to the commission of a disciplinary offence  | 1(3)(c) |  (No, rank, name) on (date) between (time) and (time) hours at (place) (kept watch for (No, rank, name) while he escaped from service custody in the (Guard Room of the Camp) and thereby was an accessory to the commission of a disciplinary offence. |
| Attempting to commit a discipli- nary offence  | 1(3)(d)  |  (No, rank, name) on (date) at (time) hours at (place) attempted to (escape) from service custody in the (Guard Room of the Camp)). |

 2. Prosecution witnesses and evidence

 Number Rank Name Evidence

3. Signature

 (Sgd) ....................................

 (No, rank & name) ....................................

 (Unit) ....................................

 Investigating Officer

 (Date) ....................................

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SCHEDULE 5 Regulation 39

 RECORD OF DISCIPLINARY PROCEEDINGS

1. Accused ................................................................

 (Number) (Rank) (Full Name) (Unit)

2. STATEMENT OF CHARGE ‑

3. PARTICULARS OF CHARGE

4. DATE OF CHARGE ‑

5. PERSON WHO GAVE CAUTION ‑

6. DATE PROCEEDINGS STARTED ‑

QUESTIONS TO BE PUT TO ACCUSED BY DISCIPLINARY OFFICER BEFORE CHARGE IS READ ‑

7. Q. Have you received a copy of the charge sheet? A ...................

8. Q. Have you had sufficient time to prepare your defence? A ............

QUESTION TO BE PUT TO ACCUSED BY DISCIPLINARY OFFICER AFTER CHARGE IS READ ‑

9. Q. Do you understand what you are accused of in this charge against you? A ..........................

10. PLEA OF ACCUSED ‑ Guilty/Not Guilty

11. NOTE OF EVIDENCE FOR PROSECUTION ‑

(including a note of which witnesses were examined on oath)

 Name of witness Examined on oath? Evidence

QUESTIONS TO BE PUT TO ACCUSED AFTER EVIDENCE FOR PROSECUTION

12. Q. Do you wish to give evidence on oath or to make or hand in a statement on the facts of the case without being sworn? You are not obliged to say anything unless you wish to do so but anything you say may be taken down in evidence and used against you. A ........................

13. Q. Do you wish any other person to give evidence for you? A ...........

14. NOTE OF EVIDENCE FOR DEFENCE ‑

 Name of witness Examined on oath? Evidence

15. DECISION OF DISCIPLINARY OFFICER ‑

16. REASONS FOR DECISION 1)

 2)

 3)

QUESTION TO BE PUT TO ACCUSED AFTER ADJUTANT HAS RECOMMENDED PUNISHMENT

17. Do you wish to make or hand in a statement or call witnesses in explana‑ tion of what you did or to justify a lesser punishment? A .............

18. PUNISHMENT IMPOSED ....................................

19. NAME OF ADJUTANT ......................................

NAMES OF OTHER PERSONS ASSISTING DISCIPLINARY OFFICER ‑

 (1) ...........................

 (2) ...........................

 (3) ...........................

20. SIGNATURE

 (Sgd) ...........................................

 (Name) ...........................................

 (Rank) ...........................................

 Junior/Senior Disciplinary Officer

 (Date) ...........................................