

CHAPTER 19.

DEFENCE FORCE.

AN ORDINANCE TO PROVIDE FOR THE ESTABLISHMENT OF
A DEFENCE FORCE.

[13th December, 1920.]

7 of 1920.
6 of 1938.
3 of 1940.
9 of 1941.
19 of 1948.
38 of 1949.
10 of 1950.

1. This Ordinance may be cited as the Defence Force Ordinance. Short title.

2. In this Ordinance and in any regulations or rules made thereunder unless the context otherwise requires: Interpreta-
tion.

“Appointments” includes accoutrements and equipments of every kind other than clothing.

“Commanding Officer” or “Commandant” means the officer in command of the Defence Force.

“Force” means the Defence Force established by this Ordinance.

“Efficiency” or “efficient” means the standard of efficiency fixed by the Governor in Council by regulations under this Ordinance.

“Member” means a member of the Force.

“Officer” means a person holding the Governor’s commission as an officer in the Force.

“Regulations” and “Standing Orders” and “Rules” mean respectively regulations and standing orders and rules made under the provisions of this Ordinance.

“Unit” means unit forming part of the Force.

38 of 1949.

“The Army Act” means the Army Act, 1881 (44 and 45, Vic. c. 58), and includes all Acts amending or substituted for the same and also all Articles of War in force thereunder.

3. (1) It shall be lawful for the Governor on behalf of His Majesty to accept the services of any male person desiring to join the Force and offering his services to His Majesty. Formation of
Force.
3 of 1940.

[Note. This Ordinance is declared to be in force in the Dependencies by the Application of Colony Laws Ordinance, Cap. 1 (D.S.).]

(2) Nothing herein contained shall be deemed to render it obligatory upon the Governor to accept the services of any person.

38 of 1949.

(3) The Governor may appoint such honorary members as he may deem fit.

Composition
of Force.

4. The Force shall consist of such units as the Governor may from time to time determine, and each such unit shall be designated by such style as the Governor shall direct.

Disbandment

5. The Governor may disband or discontinue the services of any unit or part thereof whenever it seems to him expedient to do so.

Entry on
Muster Roll.

6. (1) The name of every person whose services have been accepted by the Governor as a Member shall be entered by the Commanding Officer on the muster roll of the Force which shall be kept by him.

Oath.
Schedule A.

(2) Every person whose services have been accepted as above shall upon admission to the Force take the oath or make the declaration set forth in Schedule A to this Ordinance, to be administered by a magistrate or justice of the peace or by a commissioned officer of the Force.

Officers.

7. (1) The Governor shall appoint the officers with such rank as he may from time to time think necessary; such officers shall have such rank and authority in the Force as are held by officers of corresponding rank in His Majesty's Regular Forces, and their duties shall be the same as are from time to time prescribed for officers of the Army in the "King's Regulations" so far as the same can be made applicable.

Command-
ant.

(2) The Governor may appoint a Commanding Officer or Commandant of the Force, who shall have such local rank as the Governor may confer on him, and he shall be responsible to the Governor for the instruction, training, discipline and conduct of the Force.

Rank of
officers.

(3) Officers shall rank with officers of His Majesty's Regular Forces but as junior of their respective ranks.

Validity of
appoint-
ment.

(4) No appointment made under this section shall be deemed to be vacated by the death or retirement from office of the Governor who made the same.

8. The Commanding Officer may appoint such non-commissioned officers of the Force as he may deem expedient.

Non-commissioned officers.

9. (1) Members, other than officers, shall wear such uniforms as the Governor shall direct, which shall be supplied to them upon their enrolment, and renewed at the public expense, as the Commandant shall decide.

Uniform.
38 of 1949.

(2) Officers shall provide and maintain at their own expense such uniforms as the Governor shall direct: Provided that the Governor may grant an allowance to each officer in respect thereof.

Officers' uniforms.

10. (1) A rifle and such appointments as the Governor may direct shall be issued to the Commandant on loan for the use of every member, and the Commandant shall be responsible to the Governor for such arms and appointments.

Arms, etc.

(2) There may be issued for every member annually two hundred rounds of rifle ammunition and such further supply on such terms as to payment and otherwise as the Governor may direct.

Ammunition supply per member.

(3) Every member shall pay to the Commandant the cost of repairing or replacing any rifle or appointments damaged, destroyed or lost by such member, and shall also pay for any ammunition expended by him to the full issue of which he was not entitled.

Cost of repairs, etc., and extra ammunition.

(4) All arms, ammunition, musical instruments, clothing, appointments and necessities issued on loan to any member shall be and remain the property of the Government and shall be produced, exhibited and delivered to the Commanding Officer or to any person authorised by him to inspect or receive the same.

Arms and equipment, etc., remain property of Government.

11. Subject as hereinafter mentioned any member may, except when on active service, and except when the sections relating to compulsory service under this Ordinance are in force, quit the Force on complying with the following conditions:

Right of member to quit Force.

- (i) giving the Commanding Officer one month's notice in writing of his intention to quit the Force: Provided that the Commandant may in his discretion dispense with such notice;

38 of 1949.

- (ii) delivering up in good order (fair wear and tear only excepted) all arms, clothing and appointments being public property or property of the Force issued to him; and
 - (iii) paying all money due or becoming due by him under the rules of the Force either before or at the time or by reason of his quitting the Force,
- and thereupon he shall be struck off the muster roll of the Force by the Commanding Officer.

Persons
liable to
serve furnish
name and
age.

12. (1) Every male person resident in the Colony between the ages of eighteen and forty-one years, shall within four months of his becoming liable under this Ordinance furnish his full name, the date of his birth, and nationality to the Commanding Officer who shall enter the same in an alphabetical Register to be kept by him.

To report
movements
to or from
Colony.

(2) Every person so registered and liable to serve in the Force shall on each occasion of his leaving or returning to the Colony notify the Commanding Officer.

(3) Upon any person ceasing to be liable to serve under this Ordinance the Commanding Officer shall strike his name out of the Register.

Failure to
furnish
name, etc.

13. Any person who fails to furnish his full name, the date of his birth, and nationality to the Commanding Officer as required under the provisions of this Ordinance shall on summary conviction be liable to a penalty not exceeding ten pounds.

Retired list.

19 of 1948.
38 of 1949.
10 of 1950.

14. (1) Any member who has been returned with efficiency for at least fifteen years or has been returned with efficiency for at least twelve years and has attained the age of forty-one years

- (a) may at any time thereafter, on application in writing to the Commanding Officer, be posted to the Retired List, and his name shall thereupon be removed from the Active List;
- (b) may at any time thereafter for any reason which the Commanding Officer may deem fit, subject to the approval of the Governor, be posted to the Retired List and his name shall thereupon be removed from the Active List.

(2) Any member who

(a) has been returned with efficiency for at least five years and has been certified by a medical officer to be debarred from further service with the Force by reason of physical disability, not being the result of his own misconduct, or

(b) while on service with the Force, suffers a disability, not being the result of his own misconduct, and has been certified by a medical officer to be thereby debarred from further service with the Force,

shall be posted to the Retired List and his name removed from the Active List.

(3) Every member on the Retired List may wear uniform and the badge of the substantive rank held by him at the time he was posted to the Retired List, with the approval of the Commanding Officer, at any military function or on any occasion when uniform is permitted to be worn. He shall wear the letters "R.L." below the badge of the Force worn on the shoulder straps.

(4) He may enjoy the privileges of the Defence Force Club as though he were an active member of the Force.

15. (1) The Commanding Officer may, subject to such appeal to the Governor as is hereinafter mentioned, discharge any member from the Force and strike him off the strength, either for disobedience to orders by him, while on duty with the Force, or for neglect of duty or misconduct by him as a member, or for other sufficient cause, the existence and sufficiency of the cause to be judged by the Commanding Officer or, in a case of appeal, by the Governor.

Expulsion
from Force.

(2) The member so discharged shall deliver up in good order, fair wear and tear only excepted, all arms, ammunition, clothing and appointments, being public property or property of the Force, issued to him and to pay all moneys due or becoming due by him under this Ordinance or under the rules or regulations, either before or at the time or by reason of his discharge.

Liability
after dis-
charge.

(3) Any member who feels aggrieved by such discharge may appeal to the Governor at any time within fourteen days after such discharge, and the Governor may cancel or confirm such discharge or give such other directions with reference thereto as to him may seem just and proper, and his determination shall be binding on all persons.

Appeal to
Governor.

Offences.
Schedule C.

16. (1) Every member who shall be guilty of any of the offences specified in the first column of Schedule C to this Ordinance shall be liable to pay a fine not exceeding the amount set opposite such offence in the second column of that Schedule.

Fines of £1
and under.

(2) Fines in respect of an offence for which the limit of the fine is one pound and under may be imposed by the Commanding Officer.

Fines over
£1.

Fines in respect of offences for which the limit of fine exceeds one pound shall only be imposed by the Commanding Officer after an investigation by a Court of Inquiry.

Fines to go
to funds
Force.

Chapter 3.

(3) All fines inflicted for any of the said offences shall go to the funds of the Force, and, if not paid within ten days, shall be recoverable summarily as a civil debt, under the Administration of Justice Ordinance, or any Ordinance amending the same, by the Commanding Officer or any officer of the Force authorised by him.

Recovery.

17. Any money recoverable under this Ordinance may be recovered in a Court of Summary Jurisdiction notwithstanding the amount may be in excess of the ordinary jurisdiction of that Court.

Inspections.

18. An inspection of the Force may from time to time be held by an Officer of His Majesty's Regular Forces, nominated by the Governor for the purpose, at such times as the Governor may direct, and such Inspecting Officer shall report in writing to the Governor as to the efficiency or otherwise of the Force.

Immunities
of members.

19. (1) No action shall lie against any member of the Force, nor shall he be subject to any penalty or punishment, for any act or thing done by him, while paraded under arms:

Provided that the act or thing was done in pursuance of a lawful command given to him by the Governor or a Magistrate or his Commanding Officer, or in defence of his post or person or otherwise in the lawful performance of his duty.

(2) No action shall be brought against any person for anything done by him under this Ordinance, unless the same shall be commenced within three months after the act complained of was committed, nor unless notice in writing

of such action shall have been given at least one month before such action was commenced.

(3) No plaintiff in an action brought against any person in respect of any act performed under this Ordinance shall succeed unless he prove that such act was done maliciously or without reasonable cause or that it was carried out with gross negligence.

The defendant may plead this Ordinance in his defence.

(4) Nothing in this Ordinance contained shall exempt any person from being prosecuted, tried and convicted before the ordinary tribunals of the Colony for any felony, misdemeanour or offence against any law for the time being in force in the Colony:

Provided that no person shall be punished twice for the same offence.

20. It shall be lawful for the Colonial Treasurer subject to the regulations and on the warrant of the Governor to pay annually out of the Revenue of the Colony to the Commanding Officer for the purpose of the Force, capitation grants, not exceeding the following rates:

Capitation
grant.

For every member qualified in any year as efficient:

- (a) in drilling or musketry the sum of thirty shillings (30s.)
- (b) in both drilling and musketry the sum of two pounds (£2).

21. All moneys subscribed by or to or for the use of the Force or any unit or club of the Force and all effects and other property belonging to the Force or any unit or club of the Force and the exclusive right to sue for and recover current subscriptions, arrears of subscriptions and other moneys due to the Force or to any unit or club of the Force shall vest in the Commanding Officer for the time being and his successors in office, with power for him and them to bring actions, to make contracts and conveyances and to do all other lawful things in respect of or relating to the same; and any civil or criminal proceedings taken by virtue of this section by the Commanding Officer shall not be discontinued or abated by his death, resignation or removal from office, but may be carried on by and in the name of his successor.

Force funds
and property
vested in
Commanding
Officer.

Committee
of Force.

22. There shall be a Committee of the Force composed of the Commanding Officer the Adjutant and six members to be elected at a General Meeting of the members to be held annually. Two of the elected members shall retire in rotation each year, but shall be eligible for re-election. Any casual vacancy on the Committee during the course of a year may be filled by the Committee until the next annual General Meeting.

Committee
may make
rules.

23. The Committee may from time to time make, amend, and revoke rules for the management and maintenance by annual subscription or otherwise of the social club of the Force to be called "The Defence Force Club", and for the property, finances and civil affairs of the Force;

Provided that such rules shall not have effect until they have been approved by the Governor and such approval has been notified to the Force, whereupon they shall be binding on all members and shall be published in the *Gazette*.

Fines under
rules.

24. The rules may provide for the payment by member of fines not exceeding ten shillings for any infringement thereof as may be imposed by the Committee, and for the payment of the amount of any damage done to the property of the Club.

Governor
may convene
Court of
Inquiry.

25. (1) The Governor may at any time convene a Court of Inquiry, composed of officers or other persons, or of both, to inquire into any matter relative to the Force or to any unit or any part thereof or to any officer or member and to record the facts and circumstances ascertained in such inquiry and, if required, to report upon the same for his information.

Commanding
Officer may
convene
Court of
Inquiry.

(2) The Commanding Officer may at any time convene a Court of Inquiry composed of officers to inquire into any matter relative to any unit or to any non-commissioned officer or private thereof and to record the facts and circumstances ascertained on such inquiry, and, if required, to report on the same for his information and assistance.

Power of
Court.

(3) Every Court of Inquiry shall have power to bring any member before it, either by summons or, if necessary, by warrant of apprehension directed to any police officer or constable.

(4) If any person summoned or ordered to attend as a witness before a Court of Inquiry, after payment or tender of reasonable expenses of his attendance: Non-attendance.

- (a) makes default in attending or in being in attendance; or
- (b) refuses to take an oath or affirmation which the Court of Inquiry requires him to take; or
- (c) refuses to produce any document in his power or control which the Court of Inquiry lawfully requires him to produce; or
- (d) refuses to answer any question which the Court of Inquiry lawfully requires him to answer; or
- (e) is guilty of any contempt of the Court of Inquiry by causing any interruption or disturbance in its proceedings or otherwise;

the President of the Court of Inquiry may certify the default, refusal or contempt under his hand to a Judge or magistrate having power to deal with or punish persons guilty of like acts or omissions in his Court, and such Judge or magistrate may thereupon inquire into the same, and if the person is found guilty, deal with or punish him in like manner as if such default, refusal or contempt had been made or committed before him or in relation to his Court. President's powers.

26. Any person who assaults or resists, or aids or abets any person in assaulting, or resisting, any member in the discharge of his duty shall be punishable on summary conviction with a fine not exceeding one hundred pounds or with imprisonment for any term not exceeding six months. Assaulting or resisting members.

27. Any person who wilfully obstructs or molests any unit or any officer or member of any unit while on duty shall, on the prosecution of the Commanding Officer, be liable, on summary conviction, to a penalty not exceeding five pounds, and may be arrested or given into custody by the senior officer present and conveyed and handed over to the custody of the police. Obstructing or molesting members.

28. Any person who wilfully commits any damage to any gun, cannon, butt or target, hut, shed, emplacement, magazine or other property lawfully used by His Majesty's Regular Forces or the Force, or without the leave of the Wilful injury to guns, butts, etc.

Commanding Officer searches for bullets in or otherwise disturbs the soil of or near such gun, cannon, butt or target, hut, shed, emplacement or magazine, shall on the prosecution of the Commanding Officer, be liable on summary conviction to a penalty not exceeding twenty pounds for every such offence.

Wrongful
detention or
disposal of
arms, etc.

Chapter 3.

29. (1) If any person makes away with, sells, pawns, wrongfully destroys or damages or negligently loses anything issued to a member, or refuses or neglects, when lawfully required, to produce, exhibit or deliver, on demand anything which he is liable under this Ordinance or the rules or regulations made thereunder to produce, exhibit or deliver, the value thereof shall be recoverable from him summarily, under the Administration of Justice Ordinance, by the Commanding Officer, and he shall also for every such offence, be liable, on summary conviction, to a fine not exceeding five pounds.

(2) Whoever knowingly buys or takes in exchange or in pawn from any member or person acting on his behalf, or solicits or entices any member to sell or pawn, or knowingly assists or acts for any member in selling or pawning, or has in his possession or keeping without satisfactorily accounting for the same, any arms, ammunition, clothing, appointments, musical instruments or necessities, being public property, or the property of the Force, shall be liable, on summary conviction, to a sum not exceeding five pounds for every such offence.

Prevention
of persons
from be-
coming
members of
Force.

30. Any employer or person who by threats or otherwise, wilfully prevents or endeavours to prevent anyone from becoming a member of the Force or at any time serving as a member shall be liable on summary conviction, if the offence be committed in peacetime, to a fine not exceeding twenty-five pounds, and if committed at any time during which the Force or any part thereof is on active service, to a fine not exceeding one hundred pounds, for each such offence or repeated offence.

Appearance
of Com-
manding
Officer.

31. In all proceedings under this Ordinance before a Court of Summary Jurisdiction the Commanding Officer may appear by any officer of the Force authorised by him in that behalf by writing under his hand.

32. Every pecuniary penalty recovered summarily on the prosecution of the Commanding Officer shall be paid to the Commanding Officer and be applied as part of the funds of the Force. Application of penalties.

33. (1) The Governor in Council may from time to time make, amend, and revoke such regulations consistent with the provisions of this Ordinance as he shall deem proper for: Governor to make regulations.

- (a) regulating muster, instruction and rifle practice;
- (b) fixing standards of efficiency and extra efficiency;
- (c) the storing and issuing of arms and ammunition;
- (d) the provision and use of targets, butts and shooting ranges;
- (e) the composition and proceedings of Courts of Inquiry;
- (f) the general government and good discipline of the Force; and
- (g) giving further and better effect to the provisions of this Ordinance.

(2) Any such regulations may provide for the punishment or penalty of any infraction thereof.

ACTIVE SERVICE.

34. (1) The Governor may by proclamation call out the Force, or any unit or part thereof, for active service, whenever it appears to him advisable to do so by reason of invasion, or war, or danger, or any of them, or by reason of any internal emergency threatening the security of life or property, which he may deem the available civil force is inadequate to quell. Governor may call out Force.

(2) Every member so called out shall attend in obedience to the call and shall assemble at such place and perform such service as may be directed by the Governor. Attend call.

(3) Every member so called out shall for the purpose of this Ordinance be deemed to be on active service. If any such member, not incapacitated by infirmity for service, refuses or neglects so to assemble, as required by the Governor, he shall be deemed to be a deserter. Called out, deemed on active service.

(4) The period of such service shall continue so long as the Governor shall consider necessary, and shall end only by order of the Governor. Period of active service.

Liabie to
serve in
Colony only.

(5) Nothing in this Ordinance shall render any member liable to serve or proceed on duty without his consent beyond the limits of the Colony.

Command on
active
service.

35. Whenever the Force or any part thereof is on active service, or is undergoing drill, exercise or inspection, or is doing any duty together with His Majesty's Regular Forces, the Force shall, subject to any regulation under this Ordinance, be under the command of the officers of His Majesty's Regular Forces so nevertheless that the Force or any part thereof shall when the circumstances of the service admit be led by its own officers under such command.

Persons
liable to
serve.

36. Every male British subject over the age of eighteen and under the age of forty-one years resident in the Colony, not being exempt under section 39 of this Ordinance, shall be liable to serve in the Force:

Provided that when a state of war or emergency exists, the Governor in Council may increase the age limit to fifty-one years and any person thereupon becoming liable, if resident in Stanley, shall forthwith furnish his full name, the date of his birth, and nationality to the Commanding Officer and if resident in any camp to the manager of that camp. The manager shall thereupon communicate such particulars to the Commanding Officer.

Application
of active
service.

37. In the event of the Force being called out for active service as hereinbefore provided, and the Governor considering it expedient that the numerical strength of the Force should be increased, the Governor may by proclamation call upon and require any or all such person or persons as are mentioned in the preceding section, not being members of the Force or exempt under the next succeeding section to join and serve with the Force so called out, and every such person shall be required to assemble at such place and perform such service as may be directed by the Governor and shall be subject to the provisions of this Ordinance and shall serve as a member of the Force accordingly.

Power of
Governor to
exempt,
defer calling
up, etc.
38 of 1949.

38. The Governor in Council may exempt, defer the calling out of, or order the release or discharge of any person or class of persons registered under sections 12, 36 and 37 hereof when he may deem it in the interest of the Colony so to do.

39. The persons specified in Schedule B to this Ordinance shall be exempt from service in the Force:

Exemption from service.

Provided that they may so serve, if they desire and the Governor sanctions their doing so.

Schedule B.

40. Whenever any member shall be called out under this Ordinance on active service away from his place of residence he shall be entitled to receive, if willing to do so, his travelling expenses from and to such residence, and the Governor may fix the rate and amount of such expenses.

When travelling expenses are payable to members.

41. Every member called out under this Ordinance on active service shall receive from the Government such pay and allowances, quartering and billeting, as the Governor shall from time to time direct, and while in receipt of such shall not be entitled to claim pay from his employer, except at such times and under such conditions as are hereinafter specified.

Pay and allowances on active service.

42. Every member who, when called out under this Ordinance on active service, shall leave a wife or a wife and family unable to support herself or themselves, shall during the period of absence on such active service be entitled to relief for his wife and family, and the Governor may fix the amount of such relief, consideration being given to the amount of the pay and allowances granted under the preceding section to the member himself.

Relief to families of members called out on active service.

43. Every member who shall have received wounds or injuries when called out under this Ordinance on active service, and the widows and families of all such members who may have been killed or have died within twelve months after having been wounded of wounds received during such active service, or have died within twelve months from illness directly traceable to fatigue or exposure incidental to such active service, shall be entitled to such pensions or gratuities as shall be fixed by the Governor provided that no pension or gratuity under this section shall exceed the sum of two hundred pounds (£200).

Pensions to members disabled on service and to widows and families of those killed on service.

44. (1) When on the written request of an employer a member is permitted or instructed by the Commanding Officer temporarily to resume his civil employment no payment shall be made by the Government in respect of the

Payment of members by employer on release from military duties.

period during which such member shall be released from military duty, and the employer shall pay full wages to the member in respect of such time as he shall work for his employer during the period of such release.

(2) Should any employer apply for the temporary services of any member other than his own employee, he shall be responsible for the full payment, at the current rate of wages, of such members as may be selected to perform such work in respect of such time as they or any of them are thus employed.

Impressment
of horses,
etc.
38 of 1949.

45. The Commanding Officer may, when the Force or any part thereof is called out for active service, impress motor vehicles, horses, carts, riding and driving gear and boats and their accessories, or any article as the service may require.

Discipline on
active
service.

46. (1) The provisions of the Army Act shall as far as applicable apply to the discipline of the Force or any part thereof when on active service, or undergoing drill, exercise, training or inspection together with His Majesty's Regular Forces or any part thereof, subject nevertheless to the following modifications:

- (a) that no member shall for any offence against the Army Act be subject to the penalty of death, or to any longer term of imprisonment than five years;
- (b) that no sentence of a Court Martial for the trial of a member shall be carried into execution unless confirmed by the Governor.

(2) Nothing in this section contained shall be deemed to limit or derogate from the power given by section 177 of the Army Act to the General Officer Commanding His Majesty's Forces with which the Force is serving of making such exceptions or modifications as in the same section are referred to.

SCHEDULES.

SCHEDULE A.

Section 6 (2).

* As the case
may be.

†Omit in
case of
declaration.
3 of 1940.

I do sincerely promise and swear (*or "solemnly, sincerely, and truly declare") that I will be faithful and bear true allegiance to His Majesty George VI His Heirs and Successors according to law, and that I will faithfully serve His Majesty in the Defence Force of the Colony of the Falkland Islands for the defence of the same against His Majesty's enemies and for the security of life or property, and in accordance with the law under which I serve—†so help me God.

[The words "and bear true allegiance" should be deleted if the person whose services have been accepted as a member of the Defence Force is not a British subject.]

SCHEDULE B.

Section 39.

Persons Exempt from Serving in the Defence Force.

1. Judge of the Supreme Court.
2. Members and Clerk of the Executive and Legislative Councils.
3. Magistrates.
4. Registered medical practitioners.
5. Ministers of Religion.
6. Postmaster, and Registrar Supreme Court.
7. Members of the Police Force.
8. Teachers in schools under Government inspection.
9. The only son of a widow being her only support.
10. All persons medically certified to the satisfaction of the Governor to be physically unfit for service,
11. Any person exempted by order of the Governor in Council.

SCHEDULE C.

Section 16.

	Limits of Fine.		
	£	s	d
Loading a rifle contrary to orders	1	0	0
Improperly pointing a rifle, loaded or unloaded, at any person ..	5	0	0
Discharging a rifle without orders in a public place	1	0	0
Infringing or disobeying any of the rules of target practice	1	0	0
Failing to qualify in either drill or musketry through his own neglect or omission	10	0	
Failing to qualify in both drill and musketry through his own neglect or omission	2	0	0