

GOVERNMENT NOTICE NO. 11

DEFENCE FORCE ACT

(Cap. 12:01)

DEFENCE FORCE (CHAPLAINCY) REGULATIONS, 2020

ARRANGEMENT OF REGULATIONS

REGULATION

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IN EXERCISE of the powers conferred by section 241 of the Defence Force Act, I, PROFESSOR ARTHUR PETER MUTHARIKA, Minister of Defence, with the advice of the Defence Council, make the following Rules—

1. These Regulations may be cited as the Defence Force (Chaplaincy) Regulations, 2020. Citation

2. In these Regulations, unless the context otherwise requires— Interpretation

“Chaplain” means a member appointed as a clergyman in the Defence Force and includes the Head Chaplain;

“Chaplain Assistant” means a member appointed to assist a clergyman in the discharge of his religious services in the Defence Force;

“Geneva Conventions of 1949” means the Geneva Conventions under the Geneva Conventions Act; Cap. 12:03

“Head Chaplain” means a Chaplain in charge of all Chaplains and based at the Joint Headquarters of the Defence Force.

3.—(1) The Commander shall, in accordance with these Regulations, appoint— Appointment of a Chaplain

(a) a Head Chaplain;

(b) other Chaplains.

(2) The Commander shall publish a vacancy or vacancies of chaplains in media of communication or through other channels as the Commander may be deemed fit.

(3) A Chaplain shall, on first being granted a commission, be appointed to the rank of lieutenant:

Provided that a person who was already serving in the Defence Force at the time of appointment as chaplain shall retain his or her rank immediately before the appointment.

(4) A Chaplain shall, unless sooner removed, serve for a period of five years, but he may be appointed for a further period not exceeding two years in accordance with section 13 (2) of the Act.

Qualifications
for a Chaplain

4. A person shall not be qualified to be appointed as a Chaplain in the Defence Force, unless that person—

(a) is a citizen of Malawi who at the time of appointment has attained the age of twenty-four years;

(b) belongs to a recognized religion and demonstrates sufficient knowledge of theology and doctrine of that particular religion;

(c) is of high integrity and is in good standing at his regular place of worship;

(d) has experience of at least five years in pastoral duties;

(e) does not have any criminal convictions for which there is no option of a fine;

(f) has not been declared bankrupt;

(g) is otherwise competent and capable of performing the duties of his office; and

(h) is mentally and physically fit.

Responsibilities
of
Head Chaplain

5.—(1) The Head Chaplain shall be responsible for—

(a) the day to day management of the chaplaincy services;

(b) the provision of advice to the Commander or any other appropriate superior authority on the general religious welfare of the Defence Force;

(c) the provision and liaison of inter-religious services within and outside the Defence Force as and when required;

(d) the maintenance of good relations and co-existence with other religious institutions and organizations outside the Defence Force;

(e) ensuring that units do not exceed the requisite number of prayer houses in a military installation as provided by the Standing Orders for Peace; and

(f) the provision of such services and performance of such duties as directed by the Commander in accordance with these Regulations and the Act.

(2) The Head Chaplain shall report to the Commander or an appropriate superior authority.

6.—(1) A Chaplain shall provide inter-religious leadership and shall—

Duties and
functions of a
Chaplain

(a) be responsible for the day to day religious affairs of members of the Defence Force;

(b) act as an adviser to the Commanding Officers on the general religious welfare of the unit;

(c) conduct spiritual services and minister to the individual needs of members of the Defence Force and their families;

(d) conduct religious services at such functions of a military nature;

(e) provide counseling services to members of the Defence Force and their families;

(f) maintain good relations and coexistence with the local civilian religious institutions and organisations;

(g) coordinate and implement religious education programmes in a unit;

(h) perform such function as under the Geneva Conventions of 1949 and its Additional Protocols of 1977 and 2005; and

(i) perform such other functions as may be required by him as directed by the Commander in accordance with these Regulations and the Act.

(2) Nothing in subregulation shall be construed as limiting the performance of the functions of the religion or denomination of a Chaplain.

7.—(1) The Head Chaplain shall appoint a suitable member to serve as Chaplain Assistant.

Appointment
and
responsibilities
of
Chaplain
Assistant

(2) A Chaplain Assistant shall be allocated such roles and responsibilities as the Head Chaplain may determine, from time to time.

(3) A Chaplain Assistant shall, unless sooner removed, serve for a period of five years, but he may be appointed for a further period not exceeding two years.

8.—(1) All Chaplains and Chaplain Assistants may be deployed in all areas where the Defence Force shall operate.

Employment
and
accountability

(2) Each denomination represented in the Defence Force shall consist of leaders appointed to conduct respective religious activities.

(3) A Chaplain shall be accountable to the appropriate superior authority in liaison with the Head Chaplain on all activities within his area of responsibility.

9.—(1) A Chaplain shall wear the authorized military uniform at all times when performing military functions.

Dress code

(2) A Chaplain shall wear the appropriate attire when performing pastoral or religious functions.

Transitional provisions

10. A serving Chaplain who is already serving in the Defence Force shall, unless otherwise expressly provided for in these Regulations, continue to be Chaplain until he reaches his mandatory retirement age or otherwise resigns from the Defence Force.

Made this 19th day of February, 2020.

PROF. ARTHUR PETER MUTHARIKA
Minister of Defence

(FILE NO.: A/150)

GOVERNMENT NOTICE NO. 12

DEFENCE FORCE ACT

(Cap. 12:01)

DEFENCE FORCE (MEDICAL AND PENSIONS BOARDS) (AMENDMENT) REGULATIONS, 2020

IN EXERCISE of the powers conferred by section 241 of the Defence Force Act, I, PROFESSOR ARTHUR PETER MUTHARIKA, Minister of Defence, with the advice of the Defence Council, make the following Regulations—

Citation 1. These Regulations may be cited as the Defence Force (Medical and Pensions Boards) (Amendment) Regulations, 2020.

Amendment of regulation 4(1) to Cap.12:01, Sub. leg. p.292 2. Regulation 4 (1) of the Defence Force (Medical and Pensions Boards) Regulations (hereinafter referred to as the "principal Regulations") is revoked and replaced with the following new regulation 4 (1), as follows—

“(1) There shall be established the Defence Force Pensions Board which shall be responsible for—

(a) determining members eligible for pension and approve retirement in accordance with the Defence Force (Regular Force) (Officers) Regulations and the Defence Force (Regular Force) (Other Ranks) Regulations; and

(b) calculating the pension due to officers and members of the Defence Force.”.

Amendment of regulation 5 of the principal Regulations

3. Regulation 5 of the principal Regulations is amended—

(a) in subregulation (1), by inserting, immediately after the word “Board”, the following words deleting the words, “which shall determine complaints arising from awards of pensions by the Pension Board.”; and

(b) by revoking subregulation (2) and substituting therefor, a new subregulation (2), as follows—

“(2) The Pensions Appeals Board shall consist of—

(a) the Solicitor General, who shall be the chairperson;

(b) the Secretary to the Treasury;

(c) the Secretary responsible for human resources;

(d) the Accountant General; and

(e) one member appointed by the Defence Council.”.

Made this 19th day of February, 2020.

(FILE NO.: A/150)

PROF. ARTHUR PETER MUTHARIKA
Minister of Defence

GOVERNMENT NOTICE NO. 13

DEFENCE FORCE ACT

(Cap. 12:01)

DEFENCE FORCE (REGULAR FORCE) (CADET OFFICERS) (AMENDMENT) REGULATIONS, 2020

IN EXERCISE of the powers conferred by section 17 of the Defence Force Act, I, PROFESSOR ARTHUR PETER MUTHARIKA, Minister of Defence, with the advice of the Defence Council, make the following Regulations—

1. These Regulations may be cited as the Defence Force (Regular Force) (Cadet Officers) (Amendment) Regulations, 2020. Citation

2. The Defence Force (Regular Force) (Cadet Officers) Regulations (hereinafter referred to as the “principal Regulations”) are amended, in regulation 6— Amendment
of regulation 6
to Cap.12:01,
Sub. leg.
p.272

(a) in subregulation (1),—

(i) by deleting the words “direct from a civil life” and substituting therefor the words “as a civilian,”; and

(ii) by deleting the words “twenty-five” and substituting therefor with the words “twenty-eight”;

(b) in subregulation (2), by deleting the words “shall, except in the exceptional case, be thirty years” and substituting therefor the words “shall be thirty-five years.”; and

(c) by revoking subregulation (3) and replacing it with a new subregulation (3), as follows—

“(3) The minimum education requirements for a candidate shall be a university degree obtained from a university recognized or accredited under the National Council for Higher Education Act.”. Cap. 30:12

3. Regulation 7 of the principal Regulations is revoked and replaced with a new regulation 7 as follows— Replacement
of regulation 7
of the
principal
Regulations

“Training of
cadet officers

7. A candidate who has been selected by the Selection Board as a cadet officer shall undergo prescribed training for cadet officers.”.

4. Regulation 8 of the principal Regulations is revoked and replaced with a new regulation 8 as follows— Replacement
of regulation 8
of the
principal
Regulations

"No
reinstatement
after discharge

8. Where a cadet officer has been discharged either in accordance with regulation 17 or under the Standing Orders for Peace issued by the Commandant, the cadet officer shall, under no circumstances, be reinstated due to military exigencies and discipline."

Amendment
of regulation
10 of the
principal
Regulations

5. Regulation 10 of the principal Regulations is amended, by deleting the words "within or".

Replacement
of regulation
15 of the
principal
Regulations

6. Regulation 15 of the principal Regulations is revoked and replaced with a new regulation 15, as follows—

"Sick leave

15.—(1) A cadet officer may, at any time, be granted sick leave for a period not exceeding fifteen consecutive days, provided that when the period exceeds thirty consecutive days, he shall be discharged on medical grounds.

(2) Where a cadet officer is unfit for further training due to physical or personal injury occasioned without any misconduct or serious negligence on his part, he shall be discharged on account of disablement and be entitled to a compensation in accordance with the Defence Force (Compensation for Injury) Regulations."

Amendment
of regulation
16 of the
principal
Regulations

7. Regulation 16 of the principal Regulations is amended, by deleting the word "ten" and substituting it with the word "seven".

Amendment
of regulation
17 of the
principal
Regulations

8. Regulation 17 of the principal Regulations is amended—

(a) by deleting the word "or" appearing in paragraph (b);

(b) by deleting paragraph (c) and substituting therefor, a new paragraph (c), as follows—

"(c) medical grounds; or"; and

(c) by inserting a new paragraph (d) as follows—

"(d) if, for any reason given to him in writing, he is considered to be unfit to be a member of the Defence Force."

Made this 19th day of February, 2020.

(FILE NO.: A/150)

PROF. ARTHUR PETER MUTHARIKA
Minister of Defence

GOVERNMENT NOTICE NO. 14

DEFENCE FORCE ACT

(Cap. 12:01)

RULES OF PROCEDURE (DEFENCE FORCE) (AMENDMENT) RULES, 2020

IN EXERCISE of the powers conferred by section 136 of the Defence Force Act, I, PROFESSOR ARTHUR PETER MUTHARIKA, Minister of Defence, with the advice of the Defence Council, make the following Regulations—

1. These Rules may be cited as the Rules of Procedure (Defence Force) (Amendment) Rules, 2020. Citation
2. The Rules of Procedure (Regular Force) Rules (hereinafter referred to as the "principal Rules") are amended, in rule 3, by inserting immediately after the words, "commanding officers", the words, "the Brigade Commanders, Service Commanders or any other appropriate superior authority as the Defence Force Commander may appoint from time to time" Amendment of rule 3 of Cap.12:01, Sub. leg. p.271
3. The principal Rules are amended, in the title to Part III, by inserting immediately after the words, "commanding officers", the words, "the Brigade Commanders or Service Commanders". Amendment of title to Part III of principal Rules
4. The principal Rules are amended, from rule 6 to 12, by inserting, immediately after the words, "commanding officer", wherever those words appear, the words, "the Brigade Commander, Service Commander or any other appropriate superior authority as the Defence Force Commander may appoint from time to time". Amendment of rules 6 to 12 of the principal Rules
5. Form 3 in the *Second Schedule* to the principal Regulations is amended— Amendment to Form 3 in the Second Schedule to the principal Regulations
 - (a) on the Statement for offences under section 51 of the Act (MALINGERING AND DRUNKENNESS) in paragraph (d), delete the words "section 59 (1)" and substitute therefor, the words "section 51 (1)";
 - (b) on the Statement for offences under section 53 of the Act (OFFENCES RELATING TO PROPERTY), in paragraphs 1 (a) and 1 (b), insert, immediately after the word "property", the words, "or money";
 - (c) on the Statement for offences under section 54 of the Act, in paragraphs (a) and (b), insert, immediately after the word "property", the words, "or money";
 - (d) on the Statement for offences under section 55 of the Act, in paragraph (a), insert, immediately after the word "property", the words, "or money".

Made this 19th day of February, 2020.

(FILE NO.: A/150)

PROF. ARTHUR PETER MUTHARIKA
Minister of Defence

GOVERNMENT NOTICE NO. 15

DEFENCE FORCE ACT

(Cap. 12:01)

DEFENCE FORCE (REGULAR FORCE) (OFFICERS) (AMENDMENT)
REGULATIONS, 2020

IN EXERCISE of the powers conferred by section 17 of the Defence Force Act, I, PROFESSOR ARTHUR PETER MUTHARIKA, Minister of Defence, with the advice of the Defence Council, make the following Regulations—

Citation

1. These Regulations may be cited as the Defence Force (Regular Force) (Officers) (Amendment) Regulations, 2020.

Amendment
of regulation 2
to Cap.12:01,
Sub. leg.
p.229

2. The Defence Force (Regular Force) (Officers) Regulations (hereinafter referred to as the "principal Regulations") are amended, in regulation 2, by—

(a) deleting the definition of the word "chaplain" and substituting therefor, the following new definition—

"chaplain" means a person appointed as chaplain in accordance with the Defence Force (Chaplaincy) Regulations;";

(b) inserting, in the correct alphabetical order, new definitions, as follows—

"course of training" means a series of lessons, lectures, research or studies where an officer is taught skills needed for a particular job or activity also known as a training course or course of instruction"; and

"instructor" means any officer appointed to carry out functions at a training institution or attached to conduct training at such an institution.

Amendment
of regulation 5
of the
principal
Regulations

3. Regulation 5 of the principal Regulations is amended, by inserting a new subregulation (6), as follows—

"(6) A soldier may, subject to the need of the Defence Force, be granted a commission to become an officer regardless of his service on account of either professional or technical expertise."

Amendment
of regulation 8
of the
principal
Regulations

4. Regulation 8 (1) of the principal Regulations is amended, by deleting the figure "7" and substituting therefor the figure "9".

Amendment
of regulation 9
of the
principal
Regulations

5. Regulation 9 of the principal Regulations is revoked and replaced with the following new regulation 9—

"Retirement

9.—(1) An officer shall, whatever the length of his pensionable service, retire from employment in the Force on attaining the age of sixty-two years.

(2) The High Command may defer, until the age of sixty-five years, the retirement of certain cadre of professional officers, as may be determined from time to time.

(3) The mandatory retirement age for general officers shall be sixty-five years.

(4) An officer whose pensionable service amounts to fifteen or more years may retire from his employment in the Force on giving a written notice of six months, to the Commander of his intention to do so and on repaying to the Government any amount which he is liable to pay to the Government under these Regulations:

Provided that if such notice is given while the officer is on active service or while he is under orders of a superior officer to hold himself in readiness for such service his resignation shall not take effect until a period of one month has elapsed from the date on which such active service is completed or on which such orders are rescinded, as the case may be.

(5) Notwithstanding the provisions of subregulation (4), an officer who has attended a training or studies exceeding one year outside or within Malawi shall not be entitled to retire from the Force within three years of the date of termination of such training, unless he—

(a) has reached mandatory retirement age in accordance with regulation 9; or

(b) repays to the Government an amount at the rate prescribed in regulation 8 (6)."

6. Regulation 10 of the principal Regulations is amended by—

(a) revoking subregulation (2) and replacing it with the following new subregulation (2)—

"(2) An officer to whom this regulation applies shall, on first being granted a commission, be appointed to the rank of second lieutenant.";

(b) revoking subregulation (4) and replacing it with the following new subregulation (4)—

"(4) Promotion from the rank of lieutenant to the rank of captain shall be made after not less than four years satisfactory service on the substantive rank of lieutenant.";

(c) in subregulation (5),—

Amendment
of regulation
10 of the
principal
Regulations

(i) deleting the words "lieutenant to captain" and substituting them with the words "from the rank of captain to the rank of major";

(ii) deleting the word "in" and substituting therefor, the word "on";

(iii) in paragraph (c), by deleting the word "and", at the end of that paragraph;

(iv) in paragraph (d), by deleting the word, "." at the end of that paragraph and substituting it with "; and"; and

(v) inserting the following new paragraphs (e) and (f), as follows—

"(e) provided that the officer is physically and mentally fit; and

(f) after the officer has passed the Junior Command and Staff Course, otherwise known as Grade III Staff Course.";

(d) in subregulation (6), by—

(i) inserting, immediately after the word "Promotion", the words "from the rank of major" ;

(ii) in paragraph (c), by deleting the word "and", at the end of that paragraph;

(iii) in paragraph (d), by deleting the word, "." at the end of that paragraph and substituting it with "; and"; and

(iv) by inserting the following new paragraphs (f) and (g), as follows—

"(f) provided that the officer is physically and mentally fit; and

(g) the officer has obtained a first degree from an institution of higher learning recognized or accredited by the National Council for Higher Education";

(e) revoking subregulation (7) and replacing it as follows—

"(7) Promotion to the rank of brigadier general or the rank of major general shall be made—

(a) after the officer has successfully completed an approved strategic military training from a war college or has obtained a Master's Degree in a relevant field from an institution of higher learning recognised by the National Council for Higher Education;

(b) upon approval by the Defence Council after recommendation by the High Command; and

(c) provided that the officer is physically and mentally fit.";

and

(f) revoking subregulation (8) and replacing it as follows—

"(8) Promotion from the rank of major general to any higher rank shall be made by the Commander-in-Chief upon approval by the Defence Council after recommendation by the High Command."

7. Regulation 11 of the principal Regulations is amended—
- Amendment
of regulation
11 of the
principal
Regulations
- (a) in subregulation (5) (i), by deleting the word “Selection” and replacing it with the words “Promotions”;
- (b) in subregulation (5), by revoking paragraph (e) and replacing it with the following new paragraph (e)—
- “(e) the officer is physically and mentally fit and has been selected by the Promotions Board”;
- (c) in subregulation (6), by inserting new paragraphs (e) and (f), as follows—
- “(e) the officer has passed the Junior Command Staff Course otherwise known as Grade III Staff Course; and
- (f) provided that the officer is physically and mentally fit.”; and
- (d) by revoking subregulation (7) and replacing it with a new subregulation (7), as follows—
- “(7) Promotion to any rank higher than that of major shall be in accordance with regulation 10 (6), 10 (7) and 10 (8).”.
8. Regulation 12 of the principal Regulations is amended by inserting a new subregulation (3) as follows—
- Amendment
of regulation
12 of the
principal
Regulations
- “12.—(1) There shall be a board to be known as the Promotions Board which shall have the function of selecting suitable officers for promotion and which shall consist of—
- (a) the Deputy Commander who shall be the chairperson;
- (b) an officer designated as the Chief of Staff who shall be the secretary;
- (c) the Chief of Human Resource Management;
- (d) the Chief of Training; and
- (e) the Chief of Medical Services.
- (2) For the purposes of subregulation (1), the Promotions Board shall submit its recommendations to the High Command which shall have power to promote or appoint any officer to such higher rank, as may be required.”.
9. Regulation 16 of the principal Regulations is amended by inserting a new subregulation (3) as follows—
- Amendment
of regulation
16 of the
principal
Regulations
- “(3) The ranks provided under this regulation shall apply, with the necessary modifications, in both the Air Force and the Maritime Force.”.
10. Regulation 19 of the principal Regulations is revoked and replaced with the following new regulation 19—
- Amendment
of regulation
19 of the
principal
Regulations
- “Responsibility allowance 19.—(1) Any officer holding a command appointment shall be paid a responsibility allowance at the rate of 10 per cent of their monthly basic pay.

(2) Without prejudice to sub regulation (1), the responsibility allowance at the rate of 8 per cent shall also be paid to any officer holding the appointment of Commander, Deputy Commander, Chief of Staff, Chiefs, Directors and heads of department—

Provided that any officer, not being specified under these Regulations but who receives and entertain official guests, shall be paid a responsibility allowance on indemnity basis.”.

Amendment
of regulation
20 of the
principal
Regulations

11. Regulation 20 of the principal Regulations is revoked and replaced with the following new regulation 20—

“Responsi-
bility allowance

20.—(1) Subject to these Regulations, any officer classified by a Specialist Classification Board as being professionally qualified, shall be paid a specialist allowance at the rate of twenty per cent of one-month basic pay.

(2) The Specialist Classification Board shall have the function of classifying officers who shall qualify for a specialist allowance and shall consist of—

(a) the Deputy Commander;

(b) the Chief of Staff;

(c) the Chief of Human Resource, Management and Development

(d) the Inspector General; and

(e) any other person co-opted as a member for the purpose of this sub-regulation.”.

Amendment
of regulation
21 of the
principal
Regulations

12. Regulation 21 of the principal Regulations is revoked and replaced with the following new regulation 21—

“Eligibility for
a responsibility
allowance

21. For avoidance of doubt, an officer who relinquishes his appointment in his relevant field of expertise shall not be entitled to a specialist allowance or trade allowance as the case may be.”.

Amendment
of regulation
24 of the
principal
Regulations

13. Regulation 24 of the principal Regulations is revoked and replaced with the following new regulation 24—

“Sanitary
allowance

24. An officer who is married and who resides with his family in official quarters shall be paid an allowance at the rate of five per cent of their monthly basic pay for sanitary services.

Amendment
of regulation
25 of the
principal
Regulations

14. Regulation 25 of the principal Regulations is revoked and replaced with the following new regulation 25—

"Batman allowance

25. An officer who is not provided with a batman shall be paid monthly a servant allowance at the rate of five per cent of their monthly basic pay:

Provided that no such allowance shall be paid in respect of any period during which the officer is on leave.

15. The principal Regulations are amended, by inserting a new regulation 26A, as follows—

Insertion of regulation 26A into the principal Regulations

"Home ownership loan scheme

26A.—(1) Subject to availability of funds, an officer shall be entitled to a loan from the home ownership loan scheme fund to enable him purchase or build residential houses principally for his own occupation.

(2) An officer shall in the interim continue to benefit from the home ownership loan scheme operated by Government."

16. Regulation 27 of the principal Regulations is revoked and replaced with the following new regulation 27—

Amendment of regulation 27 of the principal Regulations

"Official quarters

27.—(1) An officer who is married and resides with his family shall be provided with furnished official quarters provided there are such quarters available.

(2) An officer provided with furnished official quarters or who is eligible to be provided with furnished official quarters but for the fact that there are none available is accommodated otherwise than in such quarters, shall be entitled to be paid monthly a barrack allowance equivalent to twenty-four per cent of the annual basic pay."

17. Regulation 33 (1) of the principal Regulations is amended, by deleting the words "or for the purposes of attending a course of instruction".

Amendment of regulation 33 (1) of the principal Regulations

18. Regulation 37 of the principal Regulations is revoked and replaced with the following new regulation 37—

Amendment of regulation 37 of the principal Regulations

"Risk and instructor's allowance

37.—(1) Active paratroopers, divers, explosive ordinance disposal experts and such other officer as the Commander may determine shall, during posting at a relevant unit and such other period as the Commander may determine, be paid risk allowance at the rate of seven per cent of their monthly basic pay.

(2) An officer who is —

(a) appointed as an instructor for any military training shall, during the period of such an appointment, be paid an instructor's allowance at the rate of seven per cent of their monthly basic pay; or

(b) attached as an instructor shall during the period of that attachment be paid an instructor's allowance at the same rate as the officer entitled in paragraph (a)."

Amendment
of regulation
43 (1) of the
principal
Regulations

19. Regulation 43 (1) of the principal Regulations is amended, by inserting, immediately after the words "one calendar year", the words "that shall not accrue to another year".

Amendment
of regulation
44 (1) of the
principal
Regulations

20. Regulation 44 (1) of the principal Regulations is amended---

(a) by deleting the words "full pay"; and

(b) in paragraph (a), by inserting, immediately after the words "every month", the words "failing which that officer shall only be entitled to one-half of his monthly salary".

Amendment
of regulation
47 of the
principal
Regulations

21. Regulation 47 of the principal Regulations is revoked and replaced with a new regulation 47, as follows—

"Study leave

47.—(1) Subject to regulation 30, an officer may be granted study leave to pursue training identified by the Defence Force within or outside Malawi for a period of two or more years.

(2) Where an officer has identified a course on his own within or outside Malawi, he shall be granted study leave for a period not exceeding two years. Provided that where an officer who has been granted leave exceeds a period of two years, he shall not be entitled to a salary."

Amendment
of regulation
47 of the
principal
Regulations

22. Regulation 48 of the principal Regulations is amended by inserting a new subregulation (3) as follows—

"(3) A female officer who was on maternity leave in accordance with this regulation shall be engaged in light duties for a further period not exceeding three months from the expiry of her maternity leave."

Amendment
of regulation
47 of the
principal
Regulations

23. Regulation 49 of the principal Regulations is revoked and replaced with the following new regulation 49—

"Leave

47.—(1) An officer who has been granted an annual leave shall be paid leave grant at the rate determined by the Defence Council.

(2) An officer who has been granted—

- (a) embarkation leave;
- (b) disembarkation leave;
- (c) compassionate leave;
- (d) study leave; or
- (e) maternity leave.

shall be granted free travelling facilities, or the equivalent in money, to and from his leave destination on one occasion per year, except in relation to embarkation, disembarkation, compassionate leave and maternity leave when travelling facilities may be granted at the discretion of the commanding officer:

Provided that if his leave destination is outside Malawi, such facilities shall only be granted to and from the point on the borders of Malawi which is nearest to his leave destination.”.

24. The principal Regulations are amended, by inserting a new regulation 52A, as follows—

“Medical aid

52A.—(1) General officers shall be entitled to free medical aid under the best scheme as provided by a medical aid scheme provider fully covered by Government for life:

Provided that the spouses of the general officer and their children, and up to three dependants aged below eighteen years shall be on a contributory medical scheme to which the general officer shall contribute fifty percent.

(2) An officer of the rank of lieutenant colonel and colonel shall be entitled to free medical aid under a scheme not equivalent or superior to the medical aid scheme provider to general officers.”.

Insertion of regulation 52A into the principal Regulations

25. The principal Regulations are amended, by inserting a new regulation 53A, as follows—

“Medical aid
“Duty insurance
cover Cap.
55:03

53A. Appropriate superior authorities shall be entitled to free personal injury and accident insurance by the Government in line with the Workers’ Compensation Act.”.

Insertion of regulation 52A into the principal Regulations

26. Regulation 64 of the principal Regulations is amended by revoking subregulation (1) and replacing it with the following new subregulation (1)—

“(1) An officer shall not wear any dress or article forming part of uniform of the regular force which he is not authorized to wear.”.

Amendment of regulation 64 of the principal Regulations

27. Regulation 68 of the principal Regulations is amended, by deleting the word “ten”, wherever that word appears and substituting therefor the word “fifteen”.

Amendment of regulation 68 of the principal Regulations

28. Regulation 79 (4) of the principal Regulations is amended, by inserting, immediately after the words “...discovered to”, the word “have”.

Amendment of regulation 79 (4) of the principal Regulations

Amendment
of regulation
80 of the
principal
Regulations

29. Regulation 80 of the principal Regulations is amended, by deleting the words "regulation 6" and substituting therefor the words "regulation 8".

Amendment
of regulation
81 of the
principal
Regulations

30. Regulation 81 of the principal Regulations is amended—

(a) in paragraph (a), by deleting the word "fourteen" and substituting therefor the word "twenty"; and

(b) in paragraph (b), by deleting the word "fourteen" and substituting therefor the word "fifteen".

Insertion of
regulation
81A into the
principal
Regulations

31. The principal Regulations are amended, by inserting a new regulation 81A, as follows—

"Motor
vehicles for
the
Commander
and Deputy
Commander

81A.—(1) A Commander and a Deputy Commander proceeding on retirement shall be entitled to a free motor vehicle purchased by Government suitable to his rank.

(2) A Commander and a Deputy Commander shall be entitled to purchase a motor vehicle duty-free once every five years."

Amendment
of regulation
83 of the
principal
Regulations

32. Regulation 83 of the principal Regulations is revoked and replaced with the following new regulation 83—

"Benefits on
discharge or
dismissal on
prescribed
grounds

83. A member who, under section 26 of the Act (other than on the grounds of medical or physical unfitness occasioned without any misconduct or serious negligence on his part) or under section 82 of the Act, is discharged or dismissed from the Regular Force may be entitled—

(a) where he is discharged under section 26 (a) one month pay for each completed year of service;

(b) where he is discharged under section 26 (b) one month pay for each completed year of service;

(c) where he is discharged under section 26 (c)—

(i) if the civil offence involves the misappropriation, theft or any misapplication of public funds, no gratuity; and

(ii) pay for three months;

(d) where he is discharged under section 26 (d)—

(i) if his service amounts to less than fifteen years, a gratuity at the rate prescribed in regulation 78; and

(ii) if his pensionable service amounts to fifteen years or more, a pension at the rate prescribed in regulation 78;

(e) where he is discharged under section 26 (e)—

(i) if his service amounts to less than fifteen years a gratuity at the rate prescribed in regulation 78; and

(ii) if his pensionable service amounts to fifteen or more years a pension at the rate prescribed in regulation 78;

(f) where he is discharged under section 26 (f)—

(i) if his service amounts to less than fifteen years, a gratuity at the rate prescribed in regulation 78; and

(ii) if his pensionable service amounts to fifteen or more years a pension at the rate prescribed in regulation 78;

(g) where he is discharged under section 26 (g), one month pay for each completed year of service;

(h) where he is discharged under section 26 (h)—

(i) if his service amounts to less than fifteen years, a gratuity at the rate prescribed in regulation 78; and

(ii) if his pensionable service amounts to fifteen or more years a pension at the rate prescribed in regulation 78;

(i) where he is discharged under section 26 (i), one month pay for each completed year of service;

(j) where he is discharged under section 26 (j), one month pay for each completed year of service;

(k) where she is discharged under section 26 (k), one month pay for each completed year of service;

(l) where he is discharged under section 26 (l), one month pay for each completed year of service;

(m) where he is discharged under section 26 (m)—

(i) no gratuity; and

(ii) pay for three months; and

(n) where he is discharged under section 26 (n), one month pay for each completed year of service.”

33. The principal Regulations are amended, by inserting a new regulation 84A, as follows—

“Commutation
of gratuity

84A.—(1) In this regulation, unless the context otherwise requires—

Insertion of
regulation
84A into the
principal
Regulations

“beneficiary” means a person who is entitled to the pension, gratuity or other benefits of a deceased officer as prescribed in the Second Schedule.

(2) The beneficiary of gratuity of a deceased officer may apply to the Commander for commutation of up to one-third of the total gratuity that the particular beneficiary is entitled to as prescribed in the Second Schedule:

Provided that the portion of commutation applied for shall be deducted from the applicable gratuity under regulation 84.”.

Amendment
of regulation
91 of the
principal
Regulations

34. Regulation 91 of the principal Regulations is revoked and replaced with the following new regulation 91—

“Marriage

91. An officer shall not marry without obtaining the consent of the Commander and in cases where consent is denied, the officer shall be furnished with reasons for that denial, in writing.”.

Amendment
of regulation
94 of the
principal
Regulations

35. Regulation 94 of the principal Regulations is amended by—

(a) in subregulation (2),—

(i) deleting paragraph (g) and replacing therefor the following new paragraph (g)—

“(g) participating in a parliamentary, presidential or local authority elections or participating in a referendum”; and

(ii) inserting a new paragraph (h) as follows—

“(h) any other act or conduct whatever of an officer whereby the public might reasonably be induced to associate or identify him with an organization or movement of a political character.”;

(b) revoking subregulation (3) and replacing therefor the following new subregulation (3) —

“(3) A trade union or employers’ organization shall, for the purposes of subregulation (2) (a) and (b) be deemed to be an organization or movement of a political character.”; and

(c) deleting subregulation (4).

Diligent but
unsuccessful
search and duty
of the Judge
Advocate
General

36. Regulation 96 of the principal Regulations is revoked and replaced with the following new regulation 96—

“Funeral
expenses

96. The amount of any reasonable expenses incurred in burying an officer including a pensioner of a rank of Major and above, his spouse and children not exceeding four under the age of eighteen years shall be paid by the Government:

Provided that the Government shall not pay for funeral expenses of an officer who was discharged with ignominy.”.

37. The principal Regulations are amended, by inserting a new regulation 98, as follows—
- “Purchase of motor vehicles 98.—(1) A general officer proceeding on retirement shall be entitled to purchase the motor vehicle allocated to him at the cost of ten per cent of its book value.
- (2) General officers shall be entitled to purchase a motor vehicle duty-free once every five years.”
38. The Second Schedule to the principal Regulations is amended, in paragraph 4 (a) by deleting the words “Seven eighths” and substituting therefor the words “Six eighths”.
- Insertion of regulation 98 into the principal Regulations
- Amendment of the Second Schedule to the principal Regulations

Made this 19th day of February, 2020.

(FILE NO.: A/150)

PROF. ARTHUR PETER MUTHARIKA
Minister of Defence

GOVERNMENT NOTICE NO. 16

DEFENCE FORCE ACT

(Cap. 12:01)

DEFENCE FORCE (PRESUMPTION OF DEATH OF A MEMBER
MISSING IN ACTION) REGULATIONS, 2020

ARRANGEMENT OF REGULATIONS

REGULATIONS

1. Citation
2. Interpretation
3. Guiding factors for presumption of death of a member
4. Duty of the Commanding officer of the member missing in action
5. Diligent but unsuccessful search and duty of the Judge Advocate General
6. Presumption of death of a member missing in action
6. Proof of unsuccessful search of a person
7. Duty of the Chief of Human Resource, Management and Development and remuneration of person missing in action
8. Resurfacing of member missing in action

IN EXERCISE of the powers conferred by section 136 of the Defence Force Act, I, PROFESSOR ARTHUR PETER MUTHARIKA, Minister of Defence, with the advice of the Defence Council, make the following Regulations—

1. These Regulations may be cited as the Defence Force (Presumption of Death of a Member Missing in Action) Regulations, 2020. Citation

Interpretation

2. In these Regulations, unless the context otherwise requires—

“Act” means the Defence Force Act;

“active service” means a state of war, peace support operations or such military operations as construed in section 2 as read with section 3 of the Act;

“Coroner” means a coroner as defined in the Inquest Act;

“imminent peril” means serious and immediate danger during a military operation, typically resulting in death, injury or missing of a member; and

“incident” means an unfortunate incident that happens unexpectedly and unintentionally during a military operation, typically resulting in death, injury or missing of a member; and

“missing in action” means the missing of a member during active service but does not include a member who has been captured, detained or interned by an enemy force.

Guiding factors for presumption of death of a member

3. The guiding factors in determining the presumption of death of a member missing in action shall be—

(a) the occurrence of an incident or imminent peril;

(b) the evidence surrounding the incident;

(c) the probability of death as a result of the incident or imminent peril;

(d) the unlikelihood of survival from the accident or imminent peril;

(e) opinion of the Commanding Officer of the status of the member;

(f) period of time elapsed since the occurrence of the incident or imminent peril;

(g) proof of diligent but unsuccessful search of the member; and

(h) report declaring a member missing in action.

Duty of Commanding Officer of the member missing in action

4.—(1) The Commanding Officer shall exercise due diligence in conducting a search for a member who is missing in action and rescue every member missing in action.

(2) The Commanding Officer shall, upon completion of search, submit a report to the Commander stating—

(a) the nature of the incident that the member missing in action was involved in;

(b) the evidence surrounding the incident;

(c) the probability of death of the member or likelihood of survival; and

(d) the proof on diligent but unsuccessful search.

5.—(1) A Commanding Officer of a member missing in action shall provide proof of diligent but unsuccessful search specifying that—

Diligent but
unsuccessful
search and
duty of the
Judge
Advocate
General

(a) all reasonable steps were taken to search and rescue the member missing in action;

(b) it is unlikely than any further search and rescue efforts will be successful; and

(c) he has formed an opinion regarding the prospects of survival and likelihood of death of the member missing in action.

(2) The Commanding Officer shall declare the member missing in action and submit a report thereof including the proof of diligent but unsuccessful search to the Commander within ninety days from the date of the incident.

(3) Where a report is submitted to the Commander under subsection (2), the Commander shall request an inquest by the Judge Advocate General appointed under section 194A of the Defence Force Act.

(4) The Judge Advocate General shall hold inquest into the presumption of death of a member and shall submit a report on the presumption of death to the Commander.

(5) The report of the Judge Advocate General shall have the same effect as the report of a Coroner under the Inquest Act.

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6.—(1) A member who goes missing in action shall only be presumed to be dead by the Defence Force where the High Command is satisfied that—

Presumption
of death of
a member
missing in
action

(a) the member was duly deployed in active service;

(b) the member was involved in an incident or imminent peril while so deployed;

(c) the member was subjected to a search and his Commanding Officer has submitted a proof of a diligent but unsuccessful search;

(d) a report of the board of inquiry has been made regarding the whereabouts of the member; and

(e) a report of the Judge Advocate General on the incident has been submitted to the High Command.

(2) A member shall not be presumed to be dead in absentia unless a period of not less than twelve months has elapsed from the date of the occurrence of the incident necessitating the presumption.

(3) Upon being satisfied that all the necessary conditions have been met, the High Command shall direct the Chief of Military Health Services to produce a death report.

(4) The Chief of Military Health Services shall submit the death report of a member presumed dead to the Chief of Human Resources Management and Development.

Duty of the Chief of Human Resources, Management and Development and remuneration of person missing in action

7.—(1) The Chief of Human Resources Management and Development, once a member is declared missing in action, shall—

(a) be responsible to inform the family members of a member missing in action of the circumstances involving the member; and

(b) oversee the provision of support and welfare of the family of a member missing in action.

(2) Upon receipt of the death report referred to under regulation 6, the Chief of Human Resources Management and Development shall—

(a) coordinate and implement programmes for the welfare of the family of the member missing in action; and

(b) perform such other functions as may be required by him as directed by the Commander in accordance with these Regulations and the Act.

(3) A member who is missing in action shall be entitled to receive remuneration due to him and all the necessary benefits as if he is still employed in the Force.

(4) Where a member has been presumed dead in accordance with these Regulations, the Chief of Human Resources Management and Development shall process his death gratuity in accordance with the relevant Regulations and the Act.

(5) Nothing in these subregulations shall be construed as limiting the performance of the functions of Chief of Human Resource, Management and Development.

Resurfacing of member missing in action

8.—(1) Where a member who has been presumed dead resurfaces and presents himself or the Defence Force is informed that the member is still alive, the High Command shall institute a board of inquiry to investigate the circumstances surrounding his missing and return.

(2) The board of inquiry shall satisfy itself that—

(a) the member is the person who was presumed dead;

(b) the member was not killed in action; and

(c) the circumstances of the member were not meant to perpetuate fraud,

and report its findings to the High Command.

(3) Upon concluding the investigation under subregulation (1) and upon being satisfied that the member presumed dead is still alive, the High Command shall—

(a) direct the Chief of Military Health Services to cancel his death report;

(b) take any appropriate action.

Made this 19th day of February, 2020.

(FILE NO.: A/150)

PROF. ARTHUR PETER MUTHARIKA
Minister of Defence