

No. 27 of 2009.

Defence (Amendment) Act 2009.

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Defence (Amendment) Act 2009.

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No. of 2009.

AN ACT

entitled

Defence (Amendment) Act 2009,

Being an Act to amend the *Defence Act* (Chapter 74),

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

1. INTERPRETATION (AMENDMENT OF SECTION 1).

Section 1 of the Principal Act is amended -

(a) by inserting before the definition of "aircraft" the following:-

"active service" means the Papua New Guinea Defence Force or a part of the Defence Force is involved in military combat operations of a warlike or armed conflict nature including counter terrorist operations and insurgencies, other than administrative or training operations and low risk non combat operations such as civic actions and providing assistance of a civil nature to civil authorities;"; and

(b) by adding the following definitions immediately after the definition of "aircraft":-

"appointment" means an appointment to a substantive position within the structure of the Defence Force or otherwise an approved designated position of employment with the Defence Force by the appropriate authority, and includes a temporary or acting appointment to such position pursuant to this Act, any other law or regulations; and

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- “appropriate Authority” means any person, body, authority or corporation that is prescribed under this Act, the Regulations, Defence Council orders or any other law to have the lawful power or authority to do an act or omission for purposes of giving effect to this Act, the Regulations, Defence Council Orders or any other law as the case may be;”; and
- (c) by repealing the definition of “co-operating force” and substituting the following:-
- “co-operating force” means an armed force or a part of that armed force from a country that Papua New Guinea has formal ties with under a Treaty or Protocol pursuant to International Law or declared under Section 25 to be a force acting in co-operation with the Defence Force or a part of the Defence Force, and is an ally of Papua New Guinea;”; and
- (d) by repealing the definition of “Commander of Defence Force” and substituting the following:-
- “Chief of Defence Force” means the Commander of the Papua New Guinea Defence Force appointed in accordance with Section 193 of the *Constitution* to the Office of the Commander of the Defence Force established under Section 6 of this Act;”; and
- (e) by adding after the definition of “the Defence Council” the following:-
- “Deputy Chief of Defence Force” means the Deputy Commander of the Papua New Guinea Defence Force appointed under Section 8A of this Act;”; and
- (f) by repealing the definition of “defence area” and replacing it with the following:-
- “defence area” means any land, water, or part of the seabed, or any building, or part of any building, either in Papua New Guinea or outside of Papua New Guinea, that is set apart, used or occupied for the purposes of the Defence Force, whether the property is owned by the Independent State of Papua New Guinea or used, occupied by or on behalf of the Defence Force with the consent of the owner, and more particularly includes -
- (a) every army camp, naval or maritime establishment and air force or element base; and

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- (b) any arsenal and any place used for the purpose of building, repairing, making, or storing ammunitions or equipment for or belonging to the Defence Force; and
- (c) any land or any building or part of a building, declared by the Defence Council Orders or pursuant to a law or regulation to be a Defence Reserve for purposes of this Act;”; and
- (g) by inserting after the definition of “military” the following:-
“non active service” means the Papua New Guinea Defence Force or a part of the Defence Force is involved in duty or operations other than active service or not of a war like or armed conflict nature, and includes non combat operations such as administrative or training exercises and includes civic actions and providing assistance of a civil service nature to civil authorities;”; and
- (h) by inserting after the definition of “prescribed” the following:-
“promotion” means an administrative elevation by the appropriate authority to a rank higher than the rank immediately held prior to that elevation;”; and
- (i) by repealing the expression “the Commander of the Defence Force” or “Commander” whenever the expression appears in the Act and substituting it with “Chief of Defence Force”; and
- (j) by inserting before the definition of “co-operating force” the following:-
“Chief of Personnel” when making reference to the Chief of Personnel in this Act, the Regulations, Defence Council Orders or any other law, means the Chief of Support Services;
“Commander in Chief” means a military commander who has the ultimate power and authority to command the Defence Force including the political and civilian power and authority to control the Defence Force;”; and
- (k) by inserting before the definition of “Defence Force Magistrate” the following:-
“demotion” means an administrative reduction by the appropriate authority to a rank lower than the rank immediately held prior to that reduction;”.

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2. **REPEAL AND REPLACEMENT OF SECTION 6.**

Section 6 of the Principal Act is repealed and replaced by the following new section:-

“6. CHIEF OF DEFENCE FORCE.

(1) An Office of the Commander of Defence Force is hereby established.

“(2) The Office of the Commander shall be known as the Office of the Chief of Defence Force, and the Commander shall be called the Chief of Defence Force.

“(3) The Chief of Defence Force-

(a) shall be appointed in accordance with Section 193 (*Appointments to Certain Offices*) of the *Constitution*; and

(b) may be suspended or dismissed at any time by the Head of State, acting on advice, by notice in the National Gazette.

“(4) The Chief of Defence Force shall be appointed for a term of four years.

“(5) The rank of the Chief of Defence Force shall be of a rank of either Major General, Rear Admiral or Air Vice Marshall, as the case may be.

“(6) Subject to this section during the periods of absence of the Chief of Defence Force either from temporary illness or travel overseas, or otherwise his inability to perform his functions and responsibilities under Section 10 of this Act or any other law or regulation, the Deputy Chief of Defence Force may act as the Chief of Defence Force and shall execute the functions and responsibilities of the Chief of Defence Force provided under this Act or any other law or regulation for the duration of such absence.

“(7) The period of absence referred to in Subsection (6) shall not exceed six months.

“(8) If the period of absence referred to in Subsection (6) exceeds six months, the Minister shall subject to the advice of the Defence Council take appropriate action to make an alternative permanent appointment to that office.

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“(9) The terms and conditions of the Chief of Defence Force are as determined by the Head of State acting on advice, and except where the contrary intention appears, Part VII of the Act does not apply to or in relation to the Chief of Defence Force.

“(10) The Minister and Secretary for Defence shall not have any power or authority to command the Defence Force or wear any rank or badge of service within the Defence Force.

“(11) The Chief of Defence Force shall not have any political power or authority other than the power and authority to command the Defence Force as a military force.

“(12) Notwithstanding anything in this Act, the Regulations or any other law, the Chief of the Defence Force shall not be deemed to be the Commander in Chief of the Defence Force as defined under Section 1 of this Act.”.

3. REPEAL AND REPLACEMENT OF SECTION 7.

Section 7 of the Principal Act is repealed and is replaced with the following:-

“7. DEFENCE COUNCIL.

(1) A Defence Council is hereby established.

“(2) The Council shall consist of -

- (a) the Minister; and
- (b) the Secretary of Defence; and
- (c) the Chief of Defence Force.

“(3) The Minister shall be the Chairman of the Council.

“(4) The Secretary of Defence is the Secretary to the Council, and shall maintain registers and other records of the Council as may be determined by the Council.

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“(5) Subject to this Act and to the regulations, the procedures of the Council are as determined by it, and without limiting the generality of this section -

- (a) the Defence Council shall keep a Register of all Defence Council Orders; and
- (b) keep records of all its meetings in Minute form; and
- (c) provide to all its members a confirmed Agenda not less than 24 hours prior to the meeting; and
- (d) copies of any submission on the Agendas, shall be provided to all members not less than seven days prior to the meeting; and
- (e) all submissions on the Agenda of a Council meeting shall be sponsored by at least one of the members of the Defence Council, by signing the original and any copies made; and
- (f) notwithstanding Paragraphs (c) and (d), the Council may consider any thing or matter on the agenda, if a thing or matter is approved by the Council to be of such urgency that any delay or deferral of the thing or matter in issue will cause unnecessary inconvenience or suffering; and
- (g) approval to consider a thing or matter under Paragraphs (f) shall only be given after the Council has considered the grounds of urgency relied on by the member or members concerned and the grounds of urgency relied on shall be stated in writing.

“(6) Where it is provided by or under this Act or any other law, that a matter or thing shall or may be done by the Defence Council -

- (a) the Minister shall give effect to the Council’s decision or order; and
- (b) except with the approval of the Head of State, acting on advice, shall act only in accordance with the advice of the Defence Council.

“(7) Defence Council Orders shall be signed by each member of the Council.”.

4. FUNCTIONS OF THE DEFENCE COUNCIL (AMENDMENT OF SECTION 8).

Section 8 of the Principal Act is amended -

- (a) in Subsection (2) by adding after Paragraph (c) the following new paragraphs:-

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- “(d) to administer and control the dependants of those person(s) mentioned in Subsection (2)(a), (b) and (c) respectively; and
- “(e) any other person, that is the responsibility of the Defence Council to administer or control.”; and
- (b) in Subsection (4) by inserting before the words “A document purporting” the following words:-

“Subject to Section 7(5) and (7) of this Act,”.

5. NEW SECTION 8A.

The Principal Act is amended by adding after Section 8 the following new section:-

“8A. DEPUTY CHIEF OF DEFENCE FORCE.

(1) A Deputy Chief of Defence Force shall be appointed in accordance with Section 18 of this Act, and shall be of the rank of either a Brigadier General, Navy Commodore or Air Commodore respectively.

“(2) The Deputy Chief of Defence Force is primarily responsible to the Chief of Defence Force for the operational and administrative readiness of the Defence Force, and in principle is responsible for giving effect to the functions and responsibilities of the Chief of Defence Force under this Act, or any other law or regulation or as may be directed or ordered by the Chief of Defence Force from time to time.

“(3) The Deputy Chief of Defence Force shall exercise command of the Defence Force through the Functional Commanders more particularly the Operations Commander, the Chief of Support Services, the Chief of Training the Joint Task Force Commander and the Reserve Force Commander respectively.

“(4) All the Functional Commanders are primarily responsible to the Deputy Chief of Defence Force in giving effect to the functions and responsibilities of the Chief of Defence Force under this Act, or any other law or regulations, or as may be directed or ordered by the Chief of Defence Force from time to time.

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“(5) During the periods of the Deputy Chief of Defence Force acting as Chief of Defence Force pursuant to Section 6(6) of this Act, the Deputy Chief of Defence Force shall appoint an Acting Deputy Chief of Defence Force approved by the Chief of Defence Force.

“(6) Where the Chief of Defence Force is unable to approve the appointment under Subsection (5) due to illness or otherwise his inability, the Defence Council may approve.

“(7) The Deputy Chief of Defence Force shall be responsible for development of policy, planning, implementation, consultation, negotiation, command and control, co-ordination and provision of all legal services, protocol, public relations, information technology services, force strategies, military police and provost marshalling in relation to the Defence Force respectively.

“(8) The Deputy Chief of Defence Force shall be responsible for development of policy, planning, implementation, command and control and co-ordination of all defence Attaches, Advisors, Consultants, and Representatives of the Chief of Defence Force, and they shall be primarily responsible to the Chief of Defence Force through the Deputy Chief of Defence Force, except when ordered or directed under Section 10(4) of this Act.”.

6. FUNCTIONS OF THE SECRETARY (AMENDMENT OF SECTION 9).

Section 9 of the Principal Act is amended in Subsection (1), by adding after Paragraph (d) the following new paragraphs:-

- “(e) shall endeavour to give effect to the decisions or orders of the Defence Council; and
- “(f) shall facilitate the operations and administrative requirements of the Chief of Defence Force, to the extent and in so far as they are consistent with the decisions and orders of the Defence Council; and
- “(g) formulate advice, in consultation with the Chief of Defence Force, or in accordance with Defence policy; and
- “(h) prepare, in consultation with the Chief of Defence Force, and submit to the Minister from time to time or as requested by the Minister, a Defence assessment, including a review of different options of achieving the Government’s policy and goals; and

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“(i) in consultation with the Chief of Defence Force to procure, replace, or repair ships, vehicles, aircraft, equipment or stores used or intended for use by the Defence Force, where that procurement, replacement, or repair has major significance to military capability and to deliver or return such ships, vehicles, aircraft, equipment or stores to the Defence Force.”.

7. FUNCTIONS OF THE CHIEF OF DEFENCE FORCE (AMENDMENT OF SECTION 10).

Section 10 of the Principal Act is amended -

(a) in Subsection (1) by adding after Paragraph (e) the following new paragraphs:-

“(f) is responsible for the control of all civilian personnel employed in respect of his functions; and

“(g) shall have and exercise command of the Defence Force either directly or through the Deputy Chief of Defence Force; and

“(h) may order the Defence Force or a part of the Defence Force to participate in civic actions or services of a civil or public service nature so as to participate to the maximum in the task of national development and improvement pursuant to Section 202(d) (*Functions of the Defence Force*) of the *Constitution*; and

“(i) is responsible for the efficient, effective, and economical management of the activities and resources of the Defence Force; and

“(j) shall have all such other powers as may be reasonably necessary to enable the Chief of Defence Force give effect to his functions and responsibilities provided by or under this Act, the Defence Council Orders or any other law or regulation; and

“(k) without limiting the generality of Paragraph (f) in the performance of any such function or duty, the Chief of Defence Force may, in the name of the Defence Force and/or in the name of or on behalf of the State whichever the case may be:-

(i) enter into any contract, agreement, or arrangement with any other person or legal entity; or

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- (ii) purchase, take on lease, dispose of, or trade in any goods, services, or assets (whether tangible or intangible), including land, buildings equipment, facilities, stores, operating supplies, investments, and ownership of any part of any corporation; or
- (iii) sell or otherwise dispose of, or grant any lease, licence, or easement over any land or interest in land under control of the Defence Force, to the extent and in so far as they are not inconsistent with this Act, the Defence Council Orders or any other law or regulation; or
- (iv) shall account for all income or benefits derived and shall provide an annual financial report or audit for all income and benefits derived to the Defence Council; and

(b) by adding after Subsection (4) the following new subsection:-

“(5) Without limiting Subsection (1)(f) or any other law, the Chief of Defence Force shall always have the command, direction and general superintendence of the Defence Force and may exercise direct command and control over any part of the Defence Force as he may deem fit from time to time.”.

8. NEW SECTIONS.

The Principal Act is amended by inserting after Section 10 the following new sections:-

“10A. CHIEF OF OPERATIONS.

(1) A Chief of Operations shall be appointed in accordance with Section 18 of this Act.

“(2) The Chief of Operations may be from either the Land, Air or Navy Services and shall have the rank of either a Colonel, Air Group Captain or Navy Captain respectively.

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“(3) The Chief of Operations shall be primarily responsible to the Chief of Defence Force through the Deputy Chief of Defence Force for all Papua New Guinea Defence Force Operations, except when ordered or directed under Section 10(5) of this Act.

“(4) Without limiting the functions and responsibilities of the Chief of Operations under Subsection (3), his functions and responsibilities shall be as provided under this Act, the Regulations, the Defence Council Orders or any other law, except to the extent and in so far as they are not inconsistent with the following:-

- (a) the Chief of Operations shall be responsible for the effective administration, command and control, and co-ordination of all operations functions within the Papua New Guinea Defence Force; and
- (b) development of policy, planning, implementation, co-ordination, direction, command and control of all Land, Air and Maritime Operations of the Defence Force; and
- (c) providing timely and accurate advice to the Chief of Defence Force and the Deputy Chief of Defence Force on all operational matters affecting the Defence Force; and
- (d) providing timely and accurate advice to other Functional Commanders when required in relation to their respective functions and responsibilities; and
- (e) in consultation with the Chief of Training, planning, Implementation, direction, command and control, and co-ordination of all individual or collective training in relation to land, air and maritime operational exercises of the Defence Force; and
- (f) development, planning and implementation of tactical, operational and strategic doctrines in relation to the Defence Force for all operational purposes; and
- (g) in consultation with the Chief of Support Services, identification, development and implementation of all user requirements for operational materials and equipment of the Defence Force; and

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- (h) development of policy, planning, implementation and co-ordination of all Defence Force Civic Action operations; and
- (i) development of policy, planning, implementation and co-ordination of all Explosive Ordinance Disposal operations by the Defence Force; and
- (j) development of policy, planning, implementation and co-ordination of all land, air, and maritime border surveillance operations by the Defence Force; and
- (k) development of policy, planning, implementation and co-ordination of all Defence Force operations in relation to all national or otherwise emergency or disaster operations; and
- (l) development of policy, planning, implementation and co-ordination, discipline, command and control, and direction of all Defence Force operations in relation to a Call-out in Aid to Civil Power or assistance of a public service nature to a Civil Authority; and
- (m) development of policy, planning, co-ordination, preparation, implementation, discipline, command and control, and direction of all international operations of the Defence Force; and
- (n) development of policy, planning, co-ordination, implementation and command and control of all operational matters relating to intelligence, surveillance, security, communications and information technology as they relate to operations of the Defence Force; and
- (o) development of policy, planning, implementation, co-ordination, discipline, command and control of the Reserve Force or a part of the Reserve Force when on operational duties or training exercises; and
- (p) development of policy, planning, implementation, co-ordination, discipline, command and control of the Joint Task Force when on operational duties or training exercises, unless ordered by the Chief of Defence Force under Section 10(5) or Section 10E(4)(b) of this Act.

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“10B. CHIEF OF SUPPORT SERVICES.

(1) There shall be a Chief of Support Services, who shall be appointed in accordance with Section 18 of this Act.

“(2) The Chief of Support Services may be from the Land, Air or Navy Services and shall be of the rank of either a Colonel, Air Group Captain or Navy Captain respectively.

“(3) The Chief of Support Services shall be primarily responsible to the Chief of Defence Force through the Deputy Chief of Defence Force for all Defence Force Support Services, except when ordered or directed pursuant to Section 10(5) of this Act.

“(4) Without limiting the functions and responsibilities of the Chief of Support Services under Subsection (3), his functions and responsibilities shall be as prescribed in this Act, the Regulations, Defence Council Orders or any other law, except to the extent and in so far as they are not inconsistent with the following:-

- (a) the Chief of Support Services is responsible for the effective administration, discipline, command and control of all Support Services and Support Functions of the Papua New Guinea Defence Force including all those functions formerly coming under the Chief of Personnel; and
- (b) development of policy, planning, implementation and co-ordination of the provision of all logistic support for the Defence Force; and
- (c) development of policy, planning, implementation and co-ordination of the provision of all logistic support to organizations outside of the Defence Force, which are authorized to receive it; and
- (d) development of policy, planning, negotiation, the purchase, introduction or disposal of all stores and equipment with the Defence Force, including stores material or equipment standardization, technical specification, verification of entitlement documents, development, trials and evaluation, and quality assurance of all stores and equipment; and

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- (e) maintenance of a consistent pattern of stores and equipment with the Defence Force in consultation with the other Functional Commanders, and stores and equipment users, with the aim of achieving an agreed service and material solution to approved standards and requirements; and
- (f) development of policy and management of the Defence Force inventory of service stores and equipment; and
- (g) development of policy, planning, negotiation, implementation, management, and co-ordination of all Defence Force accommodation, messing or catering requirements and processes; and
- (h) development of policy, planning, implementation, management, negotiation and co-ordination of all Defence Force works, maintenance and construction processes; and
- (i) development of policy, planning, implementation, management, negotiation and co-ordination of Defence Force logistics, technical transport, engineering, or personnel services concepts; structure and training; and
- (j) development of policy, planning, implementation, negotiation, management, co-ordination and provision of all technical services for the Defence Force; and
- (k) development of policy, planning, implementation, negotiation, management, co-ordination and provision of all engineering works, maintenance, and construction for or undertaken by the Defence Force; and
- (l) development of policy, planning, implementation, negotiation, management, co-ordination, and provision of all transport, removals and movement requirements of the Defence Force; and
- (m) development of policy, planning, implementation, negotiation, management, co-ordination, and provision of all medical, dental health, hygiene, pharmacy and nursing services of the Defence Force; and

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- (n) development of policy, planning, implementation, negotiation, management, co-ordination, and provision of all personnel services including all conditions of service, pay, gratuities, allowances, pension schemes, amenities, leave and compensation matters; and
- (o) development of policy, planning, implementation, consultation, negotiation, management, co-ordination, and provision of all personnel administration including boards of inquiry, investigations, audits, dress policy and Regulations, disciplinary proceedings and appeals to the Chief of Defence Force, proceedings of the Defence Force Judges or Defence Force Magistrates, funerals, ceremonial, honours and awards, recruiting policy, direction of recruitment and assessment targets, discharges, and psychological matters; and
- (p) development of policy, planning, implementation, consultation, negotiation, management, co-ordination, and provision of all personnel and family welfare services; and
- (q) in consultation with the Training Commander, development of policy, planning, implementation and co-ordination of all individual and collective training in relation to his functions and responsibilities.

“10C. CHIEF OF TRAINING.

(1) There shall be a Chief of Training who shall be appointed in accordance with Section 18 of this Act.

“(2) The Chief of Training may be from the Land, Air or Navy Services, and shall be of the rank of either a Colonel, Air Group Captain or Navy Captain respectively.

“(3) The Chief of Training shall be primarily responsible to the Chief of Defence Force through the Deputy Chief of Defence Force for all training and education in relation to the Defence Force, except when ordered or directed under Section 10(5) of this Act.

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“(4) Without limiting the functions and responsibilities of the Chief of Training under Subsection (3), his functions and responsibilities shall be as provided under this Act, the Regulations, the Defence Council Orders or any other law, except to the extent and in so far as they are not inconsistent with the following:-

- (a) the Chief of Training shall be responsible for the effective administration, command and control, development of policy, planning, implementation and co-ordination of all training, education and doctrine functions of the Defence Force; and
- (b) provide accurate and timely advice to the Chief of Defence Force through the Deputy Chief of Defence Force on all training, education, and doctrinal matters affecting the Defence Force in relation to personnel and equipment; and
- (c) in consultation with the Chief of Support Services, maintain inventories of all stores, equipment and facilities required for training or education purposes; and
- (d) in consultation with the Chief of Support Services, development of policy and standards for user requirements of all training or stores, equipment and facilities in relation to the Defence Force; and
- (e) development of policy, planning, implementation, review and co-ordination of training, education, and doctrines in relation to personnel and equipment in consultation with all other functional Commanders, the Force Capability Development Branch of the Department of Defence and other authorized public or private sector organizations as it relates to them; and
- (f) development of policy, planning, implementation, and co-ordination of standards for training and education of all professional and technical expertise of members of the Defence Force to satisfy the minimum standards set or required by their respective professions or technical streams within the public or private sectors both national and international; and
- (g) responsible for the effective administration, command and control, and co-ordination of all Defence Force Training and Education Schools or Institutions whether Land, Air or Navy; and

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- (h) in consultation with the Deputy Chief of Defence Force, development of policy, planning, implementation and co-ordination of all seminars or conferences concerning the Defence Force; and
- (i) development of policy, planning, implementation, administration, command and control, and co-ordination of all members attending civilian or military schools or institutions both in-country and overseas; and
- (j) development of policy, planning, implementation, command and control, and co-ordination of all sponsored students or trainees; and
- (k) in consultation with other Functional Commanders, development of policy, planning, implementation, command and control, and co-ordination of all individual and collective training and education for the Defence Force.

“10D. RESERVE FORCE COMMANDER.

(1) A Reserve Force Commander shall be appointed in accordance with Section 18 of this Act.

“(2) The Reserve Force Commander may be from either the Land, Air or Navy Services, and shall have the rank of either a Colonel, Navy Captain or Air Group Captain respectively.

“(3) The Reserve Force Commander shall be the Commander of the Reserve Force established under Section 12(b) of this Act and shall be primarily responsible to the Chief of Defence Force through the Deputy Chief of Defence Force for all Reserve Force command functions and responsibilities of the Papua New Guinea Defence Force, except when ordered or directed under Section 10(5) of this Act.

“(4) Without limiting the functions and responsibilities of the Reserve Force Commander under Subsection (3), his functions and responsibilities shall be as provided under the Act, the Regulations, the Defence Council Orders or any other law, except to the extent and in so far as they are not inconsistent with the following:-

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- (a) the Reserve Force Commander shall be responsible for the development of policy, effective administration, command and control, planning, implementation and co-ordination of all Reserve Force Functions within the Papua New Guinea Defence Force; and
- (b) subject to Sections 12, 14 and 41 of this Act, he is responsible for the mobilization of the Reserve Force or a part of the Reserve Force; and
- (c) in consultation with the Chief of Training, development of policy, planning, implementation and co-ordination of all individual and collective training for the Reserve Force; and
- (d) in principle development of policy, planning, implementation provision and co-ordination of all technical and professional expertise or services from the Reserve Force in support of the Regular Force; and
- (e) the development of policy, planning, implementation, and co-ordination of all cadet schemes (other than Officer Cadets) but including School Cadet Schemes; and
- (f) the development of policy, planning, implementation, and co-ordination of all Volunteer Rifle Service or similar schemes; and
- (g) development of policy, planning, implementation and co-ordination of the Reserve Force in consultation with Ex-Servicemen's Associations or similar schemes and Associations.

“10E. JOINT TASK FORCE COMMANDER.

(1) A Joint Task Force is hereby established and the Joint Task Force shall be known as the Kumul Force when deployed on international operations pursuant to Section 202(b) of the *Constitution*.

“(2) A Joint Task Force Commander shall be appointed by the appropriate authorities and shall be of a rank as the appropriate authorities may determine.

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“(3) The Joint Task Force shall be the Commander of the Joint Task Force established under Subsection (1) and shall be primarily responsible to the Deputy Chief of Defence Force through the Chief of Operations, except when ordered or directed under Section 10(5) or Section 10E(4)(b) of this Act.

“(4) Without limiting the functions and responsibilities of the Joint Task Force Commander under Subsection (3), his functions and responsibilities shall be as provided under this Act, the Regulations, the Defence Council Orders or any other law, except to the extent and in so far as they are not inconsistent with the following:-

- (a) the Joint Task Force Commander shall be responsible for the development of policy, effective administration, planning, command and control, implementation and co-ordination of all Joint Task Force Operations; and
- (b) in time of war, armed conflict or in the event of any actual or imminent emergency including counter terrorist operations involving the deployment of members of the Defence Force, the Joint Task Force Commander on the order or directions of the Chief of Defence Force may relieve the Chief of Operations of responsibility for any particular function imposed on the Chief of Operations by or under this Act, or any other enactment, if the Chief of Defence Force is satisfied that it is necessary or desirable to do so to enable the Chief of Operations perform his principal functions in relation to the Defence Force, as the case may require; and
- (c) in consultation with the Chief of Training, development of policy, planning, implementation and co-ordination of all individual and collective training and exercises for the Joint Tasks Force; and
- (d) more particularly to ensure that all command responsibilities or otherwise in relation to the Law of War or Armed Conflict are complied with and to prepare the Joint Task Force for deployment at any time; and

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- (e) to do any act or omission that is provided for under this Act, the Regulations, Defence Council Orders or any other law that is necessary for achieving the objectives of the Joint Task Force.

“10F. CHIEF OF DEFENCE INTELLIGENCE.

(1) There shall be a Chief of Defence Intelligence who shall be appointed in accordance with Section 18 of this Act.

“(2) The Chief of Defence Intelligence may be a Civilian Officer of the Department of Defence or a Military Officer of the Defence Force either from the Land, Air or Navy Services and shall be of the rank of either a Colonel, Air Group Captain or Navy Captain or otherwise of equal grade within the National Public Service.

“(3) The Chief of Defence Intelligence shall be primarily responsible to the Defence Council on all Security and Intelligence matters and shall be responsible to the Chief of Defence Force and the Secretary to the extent, and in so far as it relates to their respective functions and responsibilities.

“(4) Without limiting the functions and responsibilities of the Chief of Defence Intelligence under Subsection (3), his functions and responsibilities shall be as provided under this Act, the Regulations, the Defence Council Orders or any other law, except to the extent and in so far as they are not inconsistent with the following:-

- (a) the Chief of Defence Intelligence is the Principal Advisor to the Defence Council on all security and intelligence matters relevant for Defence policies and contingency planning; and
- (b) development of policy, planning, implementation, command and control and co-ordination of all Defence security and intelligence operations and capabilities; and
- (c) plan and formulate project directives for the respective Directors under his command and control, or administration in compliance with Defence Council policy or directive; and

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- (d) provide accurate and timely advice to the other Functional Commanders to the extent and in so far as it relates to their functions and responsibilities; and
- (e) development of policy, planning, implementation, and co-ordination of advice and directives to civilian agencies including the National Security Advisory Committee and the Civil Aviation Agency Security Committee; and
- (f) development of policy, planning, implementation and co-ordination of all security matters relating to foreign military or co-operating forces; and
- (g) development of policy, planning, implementation and co-ordination of all Papua New Guinea Defence Attaches and Diplomatic Missions, to the extent and in so far as they relate to his functions and responsibilities.”.

9. REPEAL AND REPLACEMENT OF SECTION 15

Section 15 of the Principal Act is repealed and is replaced with the following:-

“15. UNITS, STRUCTURES AND APPOINTMENTS, ETC., IN THE DEFENCE FORCE.

(1) The units of the Defence Force are as prescribed and in this respect the Head of State acting on advice shall subject to Sections 13(2) and 14(2) of this Act declare the Units of the Defence Force.

“(2) All appointments in the Defence Force shall be made in accordance with this Act, the Regulations or the Defence Council Orders.

“(3) The appropriate authorities may appoint members of the Defence Force (other than the Functional Commanders) in accordance with Section 18 of this Act or otherwise as prescribed, to be Defence Attaches or Defence Advisors in respect of a Co-operating Force, as the appropriate authorities may from time to time determine.

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“(4) The appropriate authorities may appoint members of the Defence Force (other than the Functional Commanders) in accordance with Section 18 of this Act or otherwise as prescribed, to be Advisors, Consultants or Representatives of the Chief of Defence Force within any legal authority or entity including the United Nations or a Regional Organization established by law or under the United Nations Charter as the appropriate authorities may from time to time determine.

10. REPEAL AND REPLACEMENT OF SECTION 17.

Section 17 of the Principal Act is repealed and replaced with the following:-

“17. RANKS IN THE DEFENCE FORCE.

(1) Subject to Subsections (3) and (4), the Commissioned Officer ranks in the Defence Force are as follows:-

(a) Commissioned Officer ranks in the Land Element are -

- (i) Major General; and
- (ii) Brigadier General; and
- (iii) Colonel; and
- (iv) Lieutenant Colonel; and
- (v) Major; and
- (vi) Captain; and
- (vii) Lieutenant; and
- (viii) Second Lieutenant; and

(b) Commissioned Officer ranks in the Maritime Element are -

- (i) Rear Admiral; and
- (ii) Commodore; and
- (iii) Captain; and
- (iv) Commander; and
- (v) Lieutenant Commander; and
- (vi) Lieutenant; and
- (vii) Sub-Lieutenant; and
- (viii) Mid-Shipmen; and

(c) Commissioned Officer ranks in the Air Element are -

- (i) Vice Marshall; and
- (ii) Commodore; and
- (iii) Wing Commander; and

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- (iv) Squadron Leader; and
- (v) Flight Lieutenant; and
- (vi) Flying Officer; and
- (vii) Pilot Officer.

“(2) Subject to Subsection (4), the Non-Commissioned Officer ranks in the Defence Force are as follows:-

- (a) Non-Commissioned Officer ranks in the Land Element are –
 - (i) Chief Warrant Officer; and
 - (ii) Warrant Officer; and
 - (iii) Sergeant; and
 - (iv) Corporal; and
 - (v) Lance Corporal; and
- (b) other rank in the Land Element is Private; and
- (c) Non-Commissioned Officer ranks in the Maritime Element are -
 - (i) Warrant Officer; and
 - (ii) Chief Petty Officer; and
 - (iii) Petty Officer; and
 - (iv) Leading Seaman; and
 - (vi) Able Seaman; and
- (d) other rank in the Maritime Element is Seaman; and
- (e) Non-Commissioned Officer ranks in the Air Element are -
 - (i) Chief Warrant Officer; and
 - (ii) Warrant Officer; and
 - (iii) Sergeant; and
 - (iv) Corporal; and
 - (v) Leading Aircraftman; and
- (f) other rank in the Air Element is Airman.

“(3) Subject to Subsection (4), there is a commissioned officer rank of chaplain and the regulations or the Defence Council Orders may -

- (a) provide for different grades within that rank; and

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(b) accord for the purposes of administration and discipline, to each grade, status corresponding to the appropriate commissioned officer rank set out in Subsection (1).

“(4) The regulations or the Defence Council Orders may provide for -
(a) ranks in addition to or in substitution for the ranks set out in Subsections (1) and (2); and
(b) substantive, probationary, provisional or other tenure of any rank.”.

11. REPEAL AND REPLACEMENT OF SECTION 18.

Section 18 of the Principal Act is repealed and is replaced with the following:-

“18. SENIOR OFFICERS.

(1) Appointments and promotions of members of the Defence Force (other than appointments and promotions to the Office of the Chief of Defence Force) to the rank of Colonel or above, shall be made by the Head of State, acting on advice.

“(2) Notwithstanding Subsection (1), the Chief of Defence Force may make acting or temporary appointments for the appointments of Colonels or above, where the substantive appointee is unable to discharge his functions and responsibilities through illness, temporary absence or otherwise inability to act during the period of that illness or absence.

“(3) The duration of acting or temporary appointment referred to in Subsection (2) shall not exceed six months.

“(4) Where the period referred to under Subsection (2) exceeds six months, the Chief of Defence Force shall take appropriate action or advise the Defence Council and the Head of State with a view to appointing a permanent or substantive appointee in respect to such appointment.”.

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12. REPEAL AND REPLACEMENT OF SECTION 34.

Section 34 of the Principal Act is repealed and replaced by the following:-

“34. SUSPENSION FROM DUTY (AMENDMENT OF SECTION 34).

(1) Where a disciplinary or other offence or suspected offence is such, or the circumstances in which it is committed are such, that the member of the Defence Force concerned should not continue to perform his duty, the member may by notice in writing be suspended by his superior officer.

“(2) Suspension under Subsection (1) may be effected before, at the time, or after the laying of the charge and may be lifted by a superior officer of the member of the Defence Force concerned.

“(3) Where a member of the Defence Force concerned is suspended under Subsection (1), the suspension shall cease on the expiration of a period of eight days after the suspension takes effect unless -

- (a) before that time a charge is laid against the member and may continue once a charge laid against the member; or
- (b) the Chief of Defence Force approves an extension of the period of suspension upon request in writing from a superior officer of the member of the Defence Force concerned or a disciplinary officer, and the period of that extension of suspension shall continue but the period of extension of that suspension shall not exceed sixty days from the date the member was first suspended unless a charge has been laid.

“(4) No member of the Defence Force shall be charged for a disciplinary offence under this Act, or any other law or regulation that the member concerned has committed or has been suspected of committing unless the charge is laid within six months of committing that alleged offence.

“(5) Subsection (4) does not apply to criminal offences provided for under this Act or any other law or regulation.”.

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“(6) Where a member of the Defence Force has been suspended under this section, he is entitled to his normal pay and allowances unless -

- (a) he absents himself without leave or deserts whilst under suspension; or
- (b) suspension of his pay is directed by the Chief of Defence Force.”.

13. MOBILISATION OF THE RESERVE FORCE (AMNDMENT OF SECTION 41).

Section 41 of the Principal Act is amended by adding after Subsection (2) the following new subsections:-

“(3) Notwithstanding anything to the contrary, the Chief of Defence Force may order the whole or a part of the Reserve Force on continuous full time service (other than war, defence stand-by or active service) or service of an administrative or training nature pursuant to Section 205(4) (*active service*) of the *Constitution*.

“(4) The Chief of Defence Force may order the whole or part of the Reserve Force on duty other than active service to participate in civic action programs or services of a civil nature so as to participate to the maximum in the task of national development and improvement, pursuant to Section 202(d) (*functions of the Defence Force*) of the *Constitution*.”.

14. REFERENCE TO COMMANDER OF DEFENCE FORCE.

Where in the Act a reference is made to the “Commander of Defence Force” or “Commander”, where the context requires, referring to the position and Office of the Commander of the Defence Force established under the repealed Section 6 of this Act, that reference shall be read and construed as a reference to the Chief of Defence Force established under Section 6 of this Act.

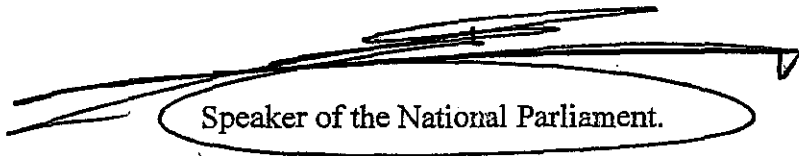
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I hereby certify that the above is a fair print of the *Defence (Amendment) Act 2009* which has been made by the National Parliament.



Clerk of the National Parliament.

I hereby certify that the *Defence (Amendment) Act 2009* was made by the National Parliament on 17 November 2009.



Speaker of the National Parliament.

09 MAR 2011

