



*Tonga*

**TONGA DEFENCE SERVICES  
(OPERATIONS BENEFIT) REGULATIONS  
2013**





# TONGA DEFENCE SERVICES (OPERATIONS BENEFIT) REGULATIONS 2013

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Tonga

## TONGA DEFENCE SERVICES (OPERATIONS BENEFIT) REGULATIONS 2013

### TONGA DEFENCE SERVICES ACT 1992

*IN EXERCISE of the powers conferred by section 141 of the Tonga Defence Services Act 1992, His Majesty hereby makes the following Regulations—*

#### 1 Short Title

These Regulations may be cited as the Tonga Defence Services (Operations Benefit) Regulations 2013.

#### 2 Interpretation

(1) In these Regulations unless the contrary intention appears:

“**Act**” means the Tonga Defence Services Act 1992;

“**beneficiary**” means a person designated by a member of the Services through a will or testament to receive an operational death benefit under these Regulations upon the death of the member;

“**Board**” means the Defence Board constituted under Part III of the Act;

“**dependent child**” means the dependent child of a member, including children who are legally adopted or subject of a guardianship order;

“**medical officer**” means a qualified and registered medical practitioner appointed by the Board to examine members of the Services;

“**member**” means an officer or soldier of the Services, and includes a soldier appointed to the Tonga Royal Guards, Royal Tonga Marines or the Royal Tonga Navy;

“**spouse**” in relation to a male member means his wife, and in relation to a female member means her husband;

“**widow**” means the spouse of a member who has survived the death of a member; and

“**wounds**” or “**injuries**” include (but are not limited to) the effects of exposure to atomic radiation, gas or other toxic chemical substance.

- (2) Other expressions in these Regulations have the same meaning as if these Regulations formed part of the Act.

### 3 Application

These Regulations shall apply only to members of the Services who, as of 1 July 2013:

- (a) will receive their retirement benefits under the Retirement Fund Act; and
- (b) who are wounded, injured or killed as a result of:
  - (i) conducting operational services under section 14 of the Act; or
  - (ii) being employed in or outside the Kingdom under section 15 of the Act.

### 4 Operational Injury Benefit

- (1) Where a member of the Services:
- (a) suffers wounds or injuries on or in the course of operations against an enemy; or
  - (b) is otherwise injured in the course of his duties as a member of the Services,

the member shall be entitled to an operational injury benefit paid out under these Regulations.

- (2) The operational injury benefit shall be paid as follows:

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- (a) where a member of the Services is certified by a medical officer to be at least 60% disabled for civil employment, the Member, shall be entitled to an operational injury benefit amounting to 75% of the rate of pay on issue to the Member on the date of his leaving the Services;
  - (b) where a member of the Services is certified by a medical officer to be 30% but less than 60% disabled for civil employment the member, shall be entitled to an operational injury benefit amounting to 37% of the rate of pay on issue to the member on the date of his leaving the Services;
  - (c) a member of the Services who is certified by a medical officer to be less than 30% disabled for civil employment, shall be entitled to an operational injury benefit amounting to 14% of the rate of pay on issue to the member on the date of his leaving the Services.

## **5 Operational Death Benefit**

- (1) Where a member of the Services is:
  - (a) killed on operations against the enemy;
  - (b) dies of wounds or injuries suffered on or in the course of operations against an enemy;
  - (c) dies from disease or illness contracted as a direct result of being involved in operations against an enemy;
  - (d) is otherwise killed in the course of his duties as a member of the Services;
  - (e) dies as a result of injuries received in the course of his duties as a member of the Services; or
  - (f) dies from disease or illness otherwise contracted as a direct result of the duties performed by him as a member of the Services,

the designated beneficiary or beneficiaries of such member shall be entitled to an operational death benefit paid out under these Regulations.

- (2) The operational death benefit under sub-regulation (1) shall include:
  - (a) a death grant of \$50,000 which shall be paid as follows:
    - (i) where a member dies without leaving a designated beneficiary, the death grant shall be paid to the next of kin in accordance with the Probate Act;
    - (ii) where a member dies leaving a designated beneficiary or beneficiaries, the death grant shall be paid to such beneficiary or

beneficiaries, and, where there are more than one beneficiary, the death grant shall be divided equally amongst the beneficiaries; and

- (b) a pension, to be paid if a beneficiary is:
  - (i) the widow, without dependent children, 55% of the rate of pay on issue to the member on the date of his death;
  - (ii) the widow, with dependent children, 50% of the rate of pay plus 7.5% of the rate of pay for the first of such dependent child, and 3.5% of the rate of pay for each successive child to a maximum of 78% of the rate of pay on issue to the member on the date of his death; and
  - (iii) a child or children who are orphaned, 10% of the rate of pay for the first of such child and 3.5% of the rate of pay for each successive child to a maximum of 34.5% of the rate of pay on issue to the member on the date of his death.
- (3) The pension payable under regulation 5(2)(b) shall cease to be paid:
  - (a) in respect of a widow, when the widow re-marries or is in a de facto relationship; and
  - (b) in respect of a dependent child, when the child attains the age of 18 years.
- (4) Where dependent children cease to receive a pension due to sub-regulation 3(b), the rate of benefit payable to the widow shall be increased from 50% to 55% of the rate of pay from the date the last child attained the age of 18 years.

## 6 Review of Benefits

The Board shall review the rate of the operational injury benefit and the operational death benefit when appropriate, or at least annually, and make any necessary variations to such benefits as deemed fair and reasonable for the circumstances in the best interests of the members of the Services.

Made at Nuku'alofa on this 28<sup>th</sup> day of June 2013.

**TUPOU VI**  
**King of Tonga**