

CAYMAN ISLANDS



Defence Act, 2020

(Act 49 of 2020)

**DEFENCE (PERSONNEL MATTERS)
GOVERNOR'S ORDERS, 2023**

(SL 19 of 2023)

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CAYMAN ISLANDS**Defence Act, 2020****(Act 49 of 2020)****DEFENCE (PERSONNEL MATTERS)
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In exercise of the powers conferred by section 13 of the Defence Act, 2020, the Governor makes the following Orders —

PART 1 - PRELIMINARY

Citation

1. These Orders may be cited as the Defence (Personnel Matters) Governor's Orders, 2023.

Definitions

2. In these Orders —

“**financial year**” means a year ending on 31st December;

“**His Majesty's forces in the United Kingdom**” means the Royal Navy, the Army and Air Force in the United Kingdom;

“**Promotions Board**” means the Promotions Board established under paragraph 9;

“**serve**” means to serve in the Regiment, and “**service**” has a corresponding meaning; and

“**specialist officer**” means an officer holding —



- (a) the post of Chaplain, Director of Music, Defence Medical Officer, Legal Advisor, Paymaster, Quartermaster; or
- (b) any other post declared to be a specialist post by the Governor by notice published in the Gazette, in any other official Government website or in any other official means of communication.

PART 2 - COMMAND AND SENIORITY

Honorary Colonel

3. The Governor may appoint a person to be the Honorary Colonel of the Regiment, with the rank of Colonel.

Appointment of Commanding Officer

4. (1) The Governor, acting in accordance with the Act and this Order, shall appoint a Commanding Officer.
- (2) A person shall not be considered for appointment as Commanding Officer unless the person has attained the rank of Major in the Regiment or, where there are no suitably qualified Majors in the Regiment, a person who has attained the rank of Major in another armed force elsewhere.
- (3) An outgoing Commanding Officer shall —
- (a) furnish to the Promotions Board the annual performance appraisal reports of the Majors who are currently recommended to command; and
 - (b) recommend in writing to the Promotions Board the Major whom the Commanding Officer considers best suited to be Commanding Officer.
- (4) The Promotions Board shall make its recommendation to the Governor and, in doing so, shall take into account the outgoing Commanding Officer's recommendation under subparagraph (3)(b) but is not bound by it.

Period of command

5. (1) Subject to subparagraph (2), the period of a Commanding Officer's command shall be for no more than five years.
- (2) The Governor may, in circumstances considered by the Governor to be exceptional, extend a Commanding Officer's period of command by one or more extensions, but a Commanding Officer's period of command shall not exceed ten years in total.

Appointment of Second-in-Command

6. (1) The Governor, acting in accordance with the Act and these Orders, shall appoint a Second-in-Command.



- (2) A person shall not be considered for appointment as Second-in-Command unless the person has attained the rank of Major.
- (3) The Commanding Officer shall —
 - (a) consider that recommendation; and
 - (b) submit a recommendation in writing to the Promotions Board as to who should be appointed the new Second-in-Command.
- (4) The Promotions Board shall thereafter make its recommendation to the Governor and, in doing so, shall take into account the Commanding Officer's recommendation but is not bound by it.

Seniority in the Regiment

7. (1) The Commanding Officer has command over all the members of the Regiment.
- (2) The Second-in-Command has command —
 - (a) over those members of the Regiment as directed by the Commanding Officer but does not have command over the Commanding Officer; and
 - (b) over all the members of the Regiment in the absence of the Commanding Officer.
- (3) A senior officer present has command over all the members of the Regiment in the absence of the Commanding Officer and the Second-in-Command.
- (4) Where an officer of one of His Majesty's forces in the United Kingdom has been appointed as a staff officer to, and is acting with the authority of, the Commanding Officer, the officer shall execute the authority commensurate with the authority of a staff officer.
- (5) Subject to subparagraphs (1) to (4) and (6), and to paragraph 17(8) —
 - (a) officers have seniority according to their respective ranks;
 - (b) officers of the same rank have seniority according to their respective dates on which they were appointed on promotion; and
 - (c) officers appointed to the same rank on the same date have seniority according either to the date of the previous promotion or, if that is the same date, to the order in which their appointments were gazetted.
- (6) An Adjutant shall be considered senior to an officer of the same rank as the Adjutant.

Defence Medical Officer

8. The duties of the Defence Medical Officer are as follows —
 - (a) contributing clinical expertise to patient care and providing guidance to junior physicians;
 - (b) performing administrative duties and risk management;



- (c) ensuring that the highest standards in patient care are maintained;
- (d) verifying complex diagnoses and facilitating treatment plans;
- (e) ensuring compliance with healthcare regulations and safety standards;
- (f) reporting to the Commanding officer;
- (g) ensuring consistent and accurate medical record keeping practices; and
- (h) carrying out such other duties as are assigned under the Act and these Orders.

PART 3 - PROMOTION IN THE REGIMENT; THE PROMOTIONS BOARD

Establishment of the Promotions Board

- 9.** (1) There is established the Promotions Board, with the constitution and functions set out in these Orders.
- (2) The functions of the Promotions Board are to make recommendations to the Governor on the promotion of officers in accordance with the procedures set out in these Orders.

Composition of the Promotions Board

- 10.** (1) The Promotions Board shall consist of the following persons appointed by the Governor —
- (a) a chairperson; and
 - (b) at least three and not more than five other members,
- who shall be persons with experience or qualifications in management, military practice or personnel management.
- (2) The members of the Board shall be paid such allowances as the Governor may determine and the payment of such allowances shall be made out of the revenue of the Islands.

Tenure of Board Members

- 11.** (1) A member of the Promotions Board holds office for a term of two years from the date of appointment.
- (2) If the Governor is of the opinion that a member of the Promotions Board has become unfit or unable to continue as a member of the Promotions Board, the Governor shall so declare by notice in writing to the Promotions Board, and that member's membership terminates immediately.
- (3) A member of the Promotions Board may resign at any time by notice in writing to the Governor.



- (4) A person appointed to fill the place of a member ceasing to be a member by virtue of subparagraph (2) or (3) holds office for the unexpired portion only of that member's term.
- (5) A former member of the Promotions Board may be re-appointed.

Meetings, etc.

12. (1) The chairperson or, failing the chairperson, a member of the Promotions Board as the chairperson may select, shall preside over meetings of the Promotions Board.
- (2) Three members form a quorum for meetings of the Promotions Board.
- (3) Meetings of the Promotions Board shall be held at such places, on such days and at such times as the chairperson determines, and notice of such place, date and time shall be given to each member in writing at least seven days before the time at which the meeting is to be held.
- (4) The chairperson shall summon regular meetings of the Commission as often as may be required but not less than four times in any one year.
- (5) A meeting of the Promotions Board may be convened through videoconference, teleconference or any other electronic method determined by the chairperson.
- (6) The chairperson may at any time call a special meeting of the Promotions Board within three days of receipt of request for that purpose addressed to the chairperson in writing and signed by any three members.
- (7) An act or decision of the Promotions Board is not invalid by reason only of a vacancy in the Promotions Board's membership or a defect in a member's appointment.
- (8) Any question for decision by the Promotions Board shall be decided by a majority of the members present and voting.
- (9) Each member of the Promotions Board present has one vote except that the person presiding has a second vote if there is a tie.

Secretary

13. (1) The Governor shall appoint a secretary to the Promotions Board who shall keep minutes in proper form.
- (2) The secretary to the Promotions Board is not a member of the Promotions Board.

Reports, etc.

14. The Promotions Board shall furnish the Governor annually with such returns and other information regarding the activities of the Promotions Board as the Governor may from time to time require.



Power to regulate proceedings

15. Subject to these Orders, the Promotions Board may regulate its proceedings as it sees fit.

Eligibility for appointment as an officer

16. (1) A person is, subject to this Part, eligible for appointment by the Governor by commission to the lowest rank of officer in the Regiment if the person satisfies the criteria under section 14 of the Act.
- (2) The Commanding Officer shall refer to the Defence Medical Officer any question as to the mental or physical fitness of a person for the purposes of subparagraph (1) and the Defence Medical Officer shall decide any question so referred.

Procedure for award of commission

17. (1) This paragraph states the procedure for the award of a Governor's commission.
- (2) If there is a vacancy in the Regiment for officers, the Commanding Officer shall call for persons to volunteer, subject to paragraph 19, to attend a potential officer's selection examination and be examined by a selection board.
- (3) A selection board for the purposes of subparagraph (2) is a board —
- (a) appointed by the Commanding Officer; and
 - (b) consisting of not fewer than three nor more than five officers of the Regiment presided over by an officer of or above the rank of Major.
- (4) The selection board shall select the successful candidate or candidates and recommend in writing to the Commanding Officer the candidate or candidates for attendance at an approved overseas commissioning course.
- (5) The Commanding Officer shall, in writing, put forward to the Promotions Board the name of every candidate who has passed the approved overseas commissioning course, together with the Commanding Officer's recommendations in the matter.
- (6) The Promotions Board shall recommend to the Governor in writing the name or names of the candidate or candidates for commissioning.
- (7) The Governor may then make the requisite appointment or appointments as the Governor may see fit.
- (8) The respective seniority of persons commissioned together pursuant to this paragraph shall be in conformity with their performance on the approved overseas commissioning course, unless the Governor determines otherwise.
- (9) The Commanding Officer shall publish in the *Gazette* the name of every person awarded a Governor's commission.



Power to refuse applications in certain cases

- 18.** (1) The Commanding Officer may withhold permission to attend a potential officer's selection examination from a person who has volunteered as mentioned in paragraph 17(2).
- (2) Where the Commanding Officer withholds permission under subparagraph (1), the Commanding Officer shall give the person concerned the relevant reasons in writing.
- (3) A person from whom permission is withheld under subparagraph (1) may, within twenty-one days of receiving the Commanding Officer's reasons under subparagraph (2), appeal in writing to the Promotions Board against the decision.
- (4) The Promotions Board may reject or allow an appeal under subparagraph (3), and shall, in either event, communicate in writing its decision on the appeal to the Commanding Officer, who shall then act in conformity with the Promotion Board's decision.

Award of commission in special cases

- 19.** (1) Notwithstanding paragraphs 17 and 18, the Governor, in a case to which this paragraph applies, may award a commission to a person in accordance with the procedure set out in this paragraph.
- (2) This paragraph applies to a case where the Commanding Officer is of the opinion that a person has qualifications which entitle the person to special consideration for the grant of a commission.
- (3) In a case to which this paragraph applies —
- (a) a person may be awarded a commission without attending a potential officer's selection examination or going before a selection board; and
- (b) the person may be appointed to a rank higher than that of Second Lieutenant.
- (4) In a case to which this paragraph applies, the Commanding Officer shall submit a recommendation in writing to the Promotions Board, which shall consider the recommendation and then submit its own recommendation in writing to the Governor.

Promotion of officers

- 20.** (1) The Governor may, at any time, promote an officer to a higher rank in accordance with the procedure set out in this paragraph.
- (2) The Commanding Officer shall submit in writing the requisite recommendation to the Promotions Board, which shall consider the recommendation and then submit in writing its own recommendation to the Governor.
- (3) The rules of eligibility for the purposes of this paragraph are as follows —

- (a) a Second Lieutenant is eligible for promotion to Lieutenant if the Second Lieutenant has served one year as a Second Lieutenant;
 - (b) a Lieutenant is eligible for promotion to Captain if the Lieutenant has served three years as a Lieutenant and has passed a Lieutenant to Captain promotion examination;
 - (c) a Captain is eligible for promotion to Major if the Captain has served four years as a Captain and the Captain has successfully completed the promotion course to be a Major which is set by the Regiment;
 - (d) subject to paragraph (4), a specialist officer —
 - (i) who is thirty years of age or older and not already a Captain, is eligible for promotion to Captain after three years commissioned service in his or her speciality;
 - (ii) if not already a Major, is eligible for promotion to Major after five years as a Captain;
 - (iii) may not be promoted to a rank higher than Major; and
 - (iv) may be exempted by the Commanding Officer from any or all military training outside his or her speciality.
- (4) The Governor may determine the age limit set out in subparagraph (3)(d)(i), if, in the opinion of the Governor, the circumstances of recruitment requires that the age limit should be changed.

Supersession of officers

- 21.** (1) Where an officer is to be superseded for promotion, the Commanding Officer shall inform the officer, in writing—
- (a) of the reasons for the proposed supersession; and
 - (b) of the officer's right to an interview with the Governor about the proposed supersession,
- before notice of the promotion or appointment involving the supersession is published.
- (2) An officer who intends to exercise the officer's right to an interview under subparagraph (1) shall apply in writing for that purpose to the Commanding Officer.

Gazetting of officers' promotions

- 22.** The Commanding Officer shall publish in the *Gazette* notice of every substantive promotion of an officer.

Acting appointments of officers

- 23.** (1) The Commanding Officer may, at any time, appoint an officer to an acting rank to fill a vacancy temporarily.



- (2) A person may be appointed under subparagraph (1) to a rank which the person is not qualified to hold substantively.
- (3) The Commanding Officer may, at any time, relieve an officer of the officer's acting rank.
- (4) The holding of an acting rank does not affect an officer's substantive rank or seniority.
- (5) An appointment under subparagraph (1) shall not be for more than twelve months.

Promotion to warrant officer

24. (1) The Governor may, at any time, promote a senior non-commissioned officer to be a warrant officer in accordance with the procedure set out in subparagraph (2).
- (2) The Commanding Officer shall submit in writing the requisite recommendation to the Promotions Board, which shall consider the recommendation and then submit in writing its own recommendation to the Governor.

Other promotions

25. Subject to paragraphs 16 to 24, the promotion of a member of the Regiment is in the power of the Commanding Officer.

Annual performance reports

26. The Commanding Officer, within three months after the end of each financial year, shall submit to the Governor a written annual performance appraisal report on the conduct and efficiency of every officer, warrant officer and senior non-commissioned officer.

PART 4 - PERIOD OF SERVICE

Period of service of volunteers

27. A volunteer may be enlisted, or, in the case of a person who is serving and wishes to serve beyond the period referred to in section 26(1) of the Act, be re-engaged, for periods in each case not exceeding four years at the Commanding Officer's discretion.

Normal rules for termination of service

28. (1) This paragraph governs the termination of service in any case where termination of service is not otherwise regulated by the Act, these Orders, or any other Orders or Regulations.
- (2) Subject to this paragraph, the service of a soldier terminates —
 - (a) on the soldier reaching the age of fifty-five years; or

- (b) on the soldier completing twenty-five years of service, whichever of those events first occurs.
- (3) Notwithstanding subparagraph (2), on request by a soldier to continue service —
- (a) beyond the age of fifty-five years; or
- (b) beyond twenty-five years of service,
- the Commanding Officer, if the Commanding Officer considers that it is in the interest of the Regiment, with the written confirmation of the Governor, may extend the soldier's service for a period as is recommended by the Commanding Officer of up to one year at a time, but not beyond the soldier's sixty-fifth birthday.
- (4) Subject to subparagraph (5), a Lieutenant's service terminates on reaching the age of thirty-five or after holding that rank for ten years, whichever occurs last.
- (5) If the Commanding Officer considers that it is in the interest of the Regiment that a Lieutenant should continue to serve after the Lieutenant has reached the age of thirty-five or after holding that rank for ten years, the Commanding Officer shall —
- (a) require the Lieutenant to undergo a medical and a fitness test; and
- (b) if the Lieutenant passes the medical and fitness tests and provides a medical and fitness report by the Defence Medical Officer, submit in writing a recommendation for the purpose to the Promotions Board,
- and the Promotions Board shall consider the recommendation and then submit in writing its own recommendation in the matter to the Governor.
- (6) Subject to subparagraph (7), a Captain's service terminates on reaching the age of forty-five or after holding that rank for ten years, whichever occurs last.
- (7) Subparagraph (5) applies in relation to a Captain, with necessary changes, as it applies in relation to a Lieutenant.
- (8) Subject to subparagraphs (9), (10) and (11), a specialist officer may be engaged for an initial period of three years and the period of engagement may be extended for such periods as the Governor, on the recommendation of the Commanding Officer and the Promotions Board, may determine.
- (9) Subject to subparagraphs (10) and (11), a specialist officer's service terminates on reaching the age of sixty.
- (10) Notwithstanding subparagraph (9), on request by a specialist officer to continue service beyond the age of sixty years, the Commanding Officer, if the Commanding Officer considers that it is in the interest of the Regiment, may so recommend to the Governor in writing, and the Governor may then consult the Promotions Board and thereafter direct that the specialist officer's service be



extended for periods of up to one year at a time, but not beyond the specialist officer's sixty-fifth birthday.

- (11) The Commanding Officer may at any time recommend in writing to the Governor, and the Governor may then determine, that a specialist officer who is not a member of the Regiment's full-time staff shall resign the specialist officer's commission or retire, whether or not the specialist officer has reached the age of sixty.

Voluntary resignation or retirement by officers

- 29.** (1) This paragraph governs the case of an officer who wishes of his or her own motion to resign his or her commission or to retire.
- (2) An officer under subparagraph (1) shall apply in writing for the purpose referred to under that subparagraph to the Governor through the Commanding Officer.
 - (3) An officer who is fifty-five years of age or older, or who has served as an officer for ten years or more, is entitled to retire.
 - (4) An officer who has served as an officer for three years or more but less than ten years may resign the officer's commission with the Governor's permission.
 - (5) An officer who has served as an officer for less than three years may resign the officer's commission with the Governor's permission if, in the Governor's opinion, there are exceptional reasons for the resignation.
 - (6) Where an officer is hired on contract, the contract shall regulate the terms and conditions of retirement and resignation of the officer.

Voluntary return of officers to active service

- 30.** (1) This paragraph governs the case where an officer —
- (a) has resigned the officer's commission and wishes to be re-commissioned; or
 - (b) has retired and wishes to return to the active list.
- (2) Subject to subparagraph (5), an officer referred to under subparagraph (1) shall apply in writing for the purpose referred to under that subparagraph to the Governor through the Commanding Officer, who shall refer the application to the Promotions Board with the Commanding Officer's written recommendation.
- (3) After the Commanding Officer refers the application to the Promotions Board with the recommendation under subparagraph (2), the Promotions Board shall —
- (a) consider that recommendation; and
 - (b) submit the recommendation of the Promotions Board in writing to the Governor.

- (4) Notwithstanding subparagraph (3)(a), the Promotions Board is not bound by the recommendation submitted by the Commanding Officer under subparagraph (2).
- (5) An application cannot be made under subparagraph (2) —
 - (a) by a specialist officer who is fifty-five years of age or older; or
 - (b) by any other officer who is forty-five years of age or older.
- (6) The Governor may, after considering a recommendation made pursuant to subparagraph (2) or (3), grant such an application.

Termination of the service of service persons on medical grounds

- 31.** (1) If the Commanding Officer has reason to believe that a service person is mentally or medically unfit to perform his or her duties, the Commanding Officer shall, in writing, order the service person to undergo a mental or medical examination by the Defence Medical Officer or by another medical specialist referred by the Defence Medical Officer.
- (2) The report of the Defence Medical Officer upon such an examination shall place the examined service person in one of the following grades —
- (a) Grade I: fit for all duties;
 - (b) Grade II: fit for administrative duties only, but with the possibility of being placed in Grade I within twelve months;
 - (c) Grade III: fit for administrative duties only, and unlikely ever to be placed in Grade I or II; or
 - (d) Grade IV: unfit to serve in any capacity.
- (3) Where the Defence Medical Officer places an examined service person in Grade III —
- (a) if the service person is an officer, the Commanding Officer shall recommend, in writing, to the Governor, through the Promotions Board, whether the officer's service should be terminated;
 - (b) the Governor shall, after obtaining the advice of the Promotions Board, determine whether the examined officer's service shall be terminated, and if so, when the service shall be terminated; and
 - (c) if the service person is other than an officer, the Commanding Officer shall, after obtaining the report of the Defence Medical Officer, determine whether the examined service person's service should be terminated, and if so, when such termination shall take place.
- (4) Where the Defence Medical Officer places an examined service person in Grade IV, the service person's service shall terminate on such date as the Commanding Officer determines and advises in writing.



- (5) In this regulation “**service person**” means an officer or soldier of any rank in the Regiment.

PART 5 - GENERAL PERSONNEL MATTERS

Regulation of full-time staff

- 32.** (1) The full-time staff of the Regiment shall —
- (a) subject to subparagraphs (2) and (3), be appointed by the Governor, after consultation with the Commanding Officer; and
 - (b) consist of such number of persons as the Governor determines.
- (2) Full-time staff members shall be subject to the authority of the Commanding Officer for disciplinary purposes.
- (3) Full-time staff members of the Regiment are not public officers but shall be entitled to the same salaries, pensions, gratuities, allowances, leave and other benefits as public officers under the *Public Service Pensions Act (2021 Revision)*, the *Public Service Management Act (2018 Revision)* and the *Personnel Regulations (2022 Revision)*.

Transfer of public officers and civil servants to the Regiment

- 33.** The Governor may, subject to such conditions as agreed with a public officer or civil servant, approve the appointment of any public officer or civil servant in the service of Government, by way of secondment, to any full-time office with the Regiment, and a public officer or civil servant so appointed shall, in relation to discipline, salary, pension, gratuity, allowances or other benefits, and to other rights and obligations as a public officer or civil servant, be treated as continuing in the service of Government in the same employment position from which the public officer or civil servant has been seconded.

Made this 15th day of September, 2023.

Jane Owen
Governor

