

ANTIGUA AND BARBUDA



THE DEFENCE (AMENDMENT) ACT, 2007

No. 11 of 2007

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The Defence (Amendment) Act, 2007.



I Assent,

Louise Lake-Tack,
Governor-General.

8th October, 2007.

ANTIGUA AND BARBUDA
THE DEFENCE (AMENDMENT) ACT, 2007

No. 11 of 2007

AN ACT to amend the Defence Act, 2006.

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short title.

This Act may be cited as the Defence (Amendment) Act, 2007.

2. Interpretation.

In this Act “principal Act” means the Defence Act, 2006.

3. Amendment of section 1 – Short Title.

The principal Act is amended in section 1 by repealing “2003” and substituting “2006”.

4. Amendment of the Arrangement of Sections of the principal Act.

The principal Act is amended in the Arrangement of Sections by repealing—

- (a) the word “Force” in the title of Part II and substituting the word “Board”; and

(3) The Prime Minister may, where no directions have been given by the Governor General, give the Chief of Defence Staff directions to the operational use of the Force in Antigua and Barbuda for the purpose of securing and maintaining public order and public safety as the Prime Minister thinks fit.

(4) Where a member of the Force is acting pursuant to directions given under subsections (2) and (3) that member shall, while so acting, enjoy all the immunity, privileges and protection enjoyed by members of the Royal Police Force of Antigua and Barbuda.

9. Amendment of section 10 – Establishment of the Defence Board.

The principal Act is amended in section 10 by—

- (a) inserting the words “and Functions” after the word “Establishment” in the heading of section 10;
- (b) in subsection (1), repealing the words “subsection (2)” and substituting the words “section 6”; and
- (c) repealing subsections (2) and (3).

10. Amendment of section 11 — Membership of the Defence Board.

The principal Act is amended in section 11 by—

(1) repealing subsection (1) and substituting the following—

“(1) The members of the Defence Board are—

- (a) the Prime Minister, who shall be the Chairman, *ex officio*;
- (b) the Minister responsible for Defence and National Security;
- (c) such other Ministers that the Prime Minister considers appropriate;
- (d) the Chief of Defence Staff; and
- (e) any other persons that the Prime Minister considers appropriate.”; and

(2) repealing the marginal note next to subsection (2).

11. Amendment of section 12 – Performance of functions of Defence Board.

The principal Act is amended in section 12 by—

- (b) the words in the heading of section 205 under Part IX “Paid up policies.” and substituting the words “Attendance on call-out of reserve”.

5. Amendment of section 2 – Interpretation.

The principal Act is amended in section 2 by—

- (a) repealing the definition of “Chief of Defence Staff” and substituting the following—
“Chief of Defence Staff” means the officer in whom command of the Force is vested;”
and
- (b) by inserting before the definition “mutiny” the following definition—
“military uniforms” means combat or other distinctive dress generally worn by members of the Antigua and Barbuda Defence Force.

6. Insertion of section 2A – Commander-in-Chief

The principal Act is amended by inserting after section 2 the following section—

“2A. The Governor General shall be the Commander-in-Chief of the Force.”

7. Amendment of the heading of Part II of the principal Act.

The principal Act is amended in the title of Part II by repealing the word “Force” and substituting the word “Board”.

8. Amendment of section 6 – Duties of Defence Force.

The principal Act is amended in section 6 by repealing subsection (2) and substituting the following subsections—

- “(2) The Governor General shall, on the advice of the Prime Minister, by proclamation, direct that the Antigua and Barbuda Defence Force or part thereof be employed—
- (a) in aid of and to support the civil authorities in securing and maintaining public order and public safety;
 - (b) to assist the civil authorities generally in granting relief in times of disaster; and
 - (c) in other duties defined by the Prime Minister.

The principal Act is amended in section 96 by—

- (a) repealing the semi-colon and the word “or” at the end of paragraph (b) and substituting a comma; and
- (b) repealing paragraph (c).

16. Amendment of section 174 – Command of Force.

Section 174 of the principal Act is repealed and substituted by the following section—

“174. (1) The Governor General shall appoint a Chief of Defence Staff who may be an officer in the Force.

(2) The Chief of Defence Staff will be vested with command of the Force and subject to the terms of his appointment, shall have command of the Force during the pleasure of the Governor General.

(3) Subject to the directions of the Governor General and the Prime Minister, the Chief of Defence Staff of the Force is responsible for the operational use of the Force.”

17. Amendment of section 193— Unauthorised use of, and dealing in, decorations, etc.

The principal Act is amended in section 193 1(b)(i) by repealing the word “colthing” and substituting the word “clothing”.

18. Insertion of section 193A – Prohibition against importation, sale and purchase of military uniforms; 193B – Power of seizure by Police and 193C – Power of seizure by Comptroller of Customs and any authorised officer.

The principal Act is amended by inserting after section 193 the following sections—

“193A. (1) A person shall not import, trade, sell or deal in military uniforms, accessories or decorations except with the approval of the Defence Board.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of \$2,000 or to imprisonment for one year.

(3) Subsection (1) does not apply to—

- (a) hair ornaments;

- (a) repealing the marginal note “Performance of functions of Defence Board” and substituting the word “Secretary” as the heading to the section; and
- (b) repealing the words “at any meeting of the Defence Board in the event of the absence or inability to perform those duties, of the Permanent Secretary”.

12. Amendment of section 13 – Performance of functions of Defence Board.

The principal Act is amended in section 13 by repealing the words “functions of” and substituting the word “the” in the marginal note.

13. Amendment of section 90 – Further proceedings on charges against non-commissioned officer and soldier

The principal Act is amended in section 90 by—

- (a) repealing the semi-colon at the end of subsection (3) paragraph (a) subparagraph (iv) and substituting a comma;
- (b) inserting after subsection (3) paragraph (a) subparagraph (iv) the following subparagraph—
“(v) reduction to the ranks or a lower rank;”;
- (c) repealing subsection (4); and
- (d) repealing the words “and (4) apply; but where the accused has elected to be tried by court-martial and has not withdrawn his election, a charge shall not be referred back.” in subsection (5).

14. Amendment of section 91 – Charges against officers and warrant officers

The principal Act is amended in section 91 by—

- (a) repealing the full stop after subsection (4) paragraph (c) and substituting a comma;
- (b) inserting after subsection (4) paragraph (c) the following paragraph—
“(d) detention for a period not exceeding 56 days.”; and
- (c) repealing subsection (6).

15. Amendment of section 96 – Trial by, and powers of, field court-martial

(5) Notwithstanding any enactment or rule of law to the contrary, an employer of a member of the reserve element of the Defence Force shall not withhold or deduct any sum of money from wages or other remuneration or withhold or deny any privilege or benefit to which that member would otherwise have been entitled in respect of any period during which the member was bona fide in the service of the reserve element of the Defence Force for the purpose of attending training required by section 202, or on temporary service pursuant to section 203 or on permanent service pursuant to section 204 of this Act.

(6) An employer who contravenes the provisions of this section commits an offence and is liable on summary conviction to a fine not exceeding \$5000 or imprisonment for a term not exceeding two (2) years, or both.”.

20. Amendment of section 205 – Attendance at call-out

The principal Act is amended in section 205 by repealing the words in the marginal note “Attendance at call-out” and substituting the words “Attendance on call-out of reserve”.

21. Insertion of section 236 – Repeal of the Military Uniforms Act, 1997

The principal Act is amended by inserting after section 235 the following section—

“The Military Uniforms Act, 1997 is repealed.”.

22. Amendment of First Schedule

The principal Act is amended in the First Schedule by repealing the heading “FIRSTSCHEDULE” and substituting the heading “FIRST SCHEDULE”.

23. Amendment of Second Schedule

The principal Act is amended in the Second Schedule by repealing the heading “SECONDSCHEDULE” and substituting the heading “SECOND SCHEDULE”.

24. Amendment of Third Schedule

The principal Act is amended in the Third Schedule by—

- (a) repealing the heading “THIRDSCHEDULE” and substituting the heading “THIRD SCHEDULE”;
- (b) inserting “Maritime Areas Act” after “Immigration and Passport Act”; and
- (c) inserting “Customs Act” after “Maritime Areas Act”.

- (b) swim wear;
- (c) foot wear;
- (d) jewellery; or
- (e) fashion items distinguishable by cut style or colour from uniforms worn by members of the Antigua and Barbuda Defence Force.

193B. A policeman may arrest without warrant any person whom he has reasonable grounds to suspect has committed an offence under section 193A and may seize any property that he has reasonable grounds to suspect is the subject of the offence.

193C. (1) Subject to section 193A, the Comptroller of Customs or any Customs officer authorised by him may seize any goods imported into Antigua and Barbuda which resemble military uniforms and accessories.

(2) Subject to subsection (3) where goods are seized pursuant to subsection (1) from a person who is not permanently resident in Antigua and Barbuda the Comptroller of Customs or any Customs officer authorised by him shall issue a receipt for the goods to that person and subject to subsection (4), shall return the goods to the person on the day of his departure from Antigua and Barbuda.

(3) The Comptroller of Customs or any Customs officer authorised by him shall not return goods seized pursuant to this section if he is satisfied that the goods were imported for sale in Antigua and Barbuda.

(4) Goods seized pursuant to this section shall not be returned unless the original receipt issued by the Comptroller of Customs or any Customs officer authorised by him is surrendered when the goods are claimed.”.

19. Amendment of section 203 – Call-out of Reserve on temporary service

The principal Act is amended in section 203—

- (a) in the marginal note by repealing the words “of first class”;
- (b) in subsection (1) by repealing the words “the first class of”; and
- (c) by repealing subsection (4) and substituting the following subsections—

“(4) An employer shall not discharge or threaten to discharge an employee because that employee is or proposes to become a member of the reserve element of the Defence Force.

The Defence (Amendment) Act, 2007.

No. 11 of 2007

Passed by the House of Representatives on
this 23rd day of July, 2007.

Passed by the Senate on this 17th day
of August, 2007.

D. Giselle Isaac-Arrindell,
Speaker.

Hazlyn M. Francis,
President.

Yvonne Henry,
Clerk to the House of Representatives.

Yvonne Henry,
Clerk to the Senate.