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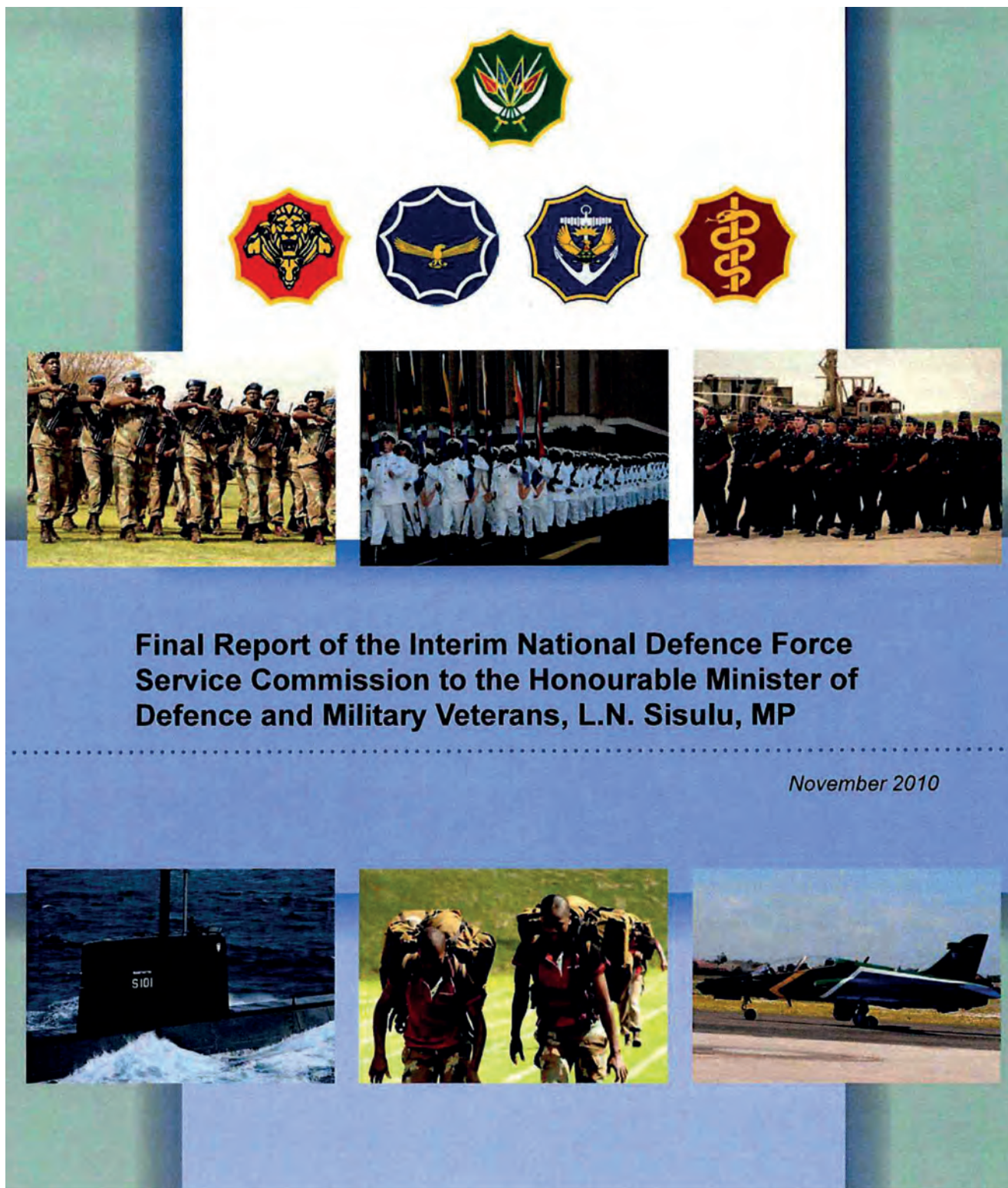


Interim National Defence Force Service Commission

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Compiled by the Interim National Defence Force Service Commission

**Interim National Defence Force Service Commission**

Department:
Defence
REPUBLIC OF SOUTH AFRICA

**INTERIM NATIONAL DEFENCE FORCE SERVICE COMMISSION FINAL REPORT**

Ms L.N. Sisulu, MP
Minister of Defence and Military Veterans
Private Bag X 427
Pretoria
0001

I have pleasure to advise that the Interim National Defence Service Commission (INDFSC) has successfully executed the mandate assigned to it by the Minister of Defence and Military Veterans during October 2009.

It is with a deep sense of honour and pleasure that I hand over the Interim Commission's Final Report which contains its observations, the response by the leadership of the Department of Defence and Military Veterans, and the Interim Commission's assessment and recommendations.

It was indeed an honour for the Commissioners to have been given the privilege to serve on the Interim National Defence Force Service Commission

I hereby formally submit the Final Report to you as the Executive Authority, as a statutory requirement for reporting to Parliament.

(L.O. BOSIELO)
CHAIRPERSON OF THE INTERIM NATIONAL DEFENCE SERVICE COMMISSION:
JUGDE

Final Report INDFSC

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ACKNOWLEDGEMENTS



Front Row (left to right): Judge L. Bosielo, Ms L.N. Sisulu, Minister of Defence and Military Veterans, Deputy Minister of Defence and Military Veterans: Mr T. Makwella

Back Row (left to right): Professor R. Christie, Ms H. Mgabdeli, Maj-Gen (ret) B.H. Holomisa (MP), Dr A. Mokgokong, Mr A. Ismail, Lt-Gen (ret) L. Moloi, Bishop M. Mpumlwana, Mr P.J. Groenewald (MP),



*Mr Z.T. Ngcakani. (replacing Professor D. Swartz who was not in a position to take up his appointment)
Z.T. Ngcakani*

On behalf of the Interim National Defence Force Service Commission, I wish to express the Interim Commission's sincere gratitude to the Honourable Minister of Defence and Military Veterans for having shown confidence in us and for having given us the opportunity to serve on this Interim Commission as well as for her unfailing support to the Interim Commission and commitment to the noble cause of improving the conditions of service of members of the SANDF.

Appreciation is expressed to the former Acting Secretaries for Defence, Mr T.E. Motumi and Lt Gen T.T. Matanzima and the Secretary for Defence, Ms N.Z.H. Mpofu and their staff for their support, contributions and invaluable assistance.

We wish to thank the Chief of the SANDF, General G.N. Ngwenya, as well as the Chiefs of the Arms of Service and Divisions for their commitment, unconditional support for and understanding of the mandate and role of the Interim National Defence Force Service Commission. The Officers Commanding of all the units/bases that were visited and without whose support this Interim Commission would not have made progress, are also thanked.

A special vote of thanks is also passed to the staff of the Secretariat of the Interim Commission for their tireless effort, dedication, diligence and invaluable assistance in co-ordinating all visits, meetings and proceedings, as well as for the research, logistical and administrative support to the Interim Commission.

Finally, I wish to thank the Deputy Chairperson, Mr A. Ismail and the members of this Commission, Lieutenant General (retired) L. Moloi, Major General (retired) B.H. Holomisa (MP), Ms H. Mgabdeli (MP), Mr P.J. Groenewald (MP), Dr A. Mokgokong, Professor R. Christie, Mr Z.T. Ngcakani and Bishop M. Mpumlwana for their commitment and selfless dedication, their contributions within their specific areas of expertise and their invaluable inputs towards successfully executing the monumental task assigned to them..

(JUDGE L.O. BOSIELO)

CHAIRPERSON OF THE INTERIM NATIONAL DEFENCE FORCE SERVICE COMMISSION

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FOREWORD

The South African National Defence Force is a young, 16 year old military organisation that was formed with the advent of our democracy. It is the result of a merger of seven armed forces that had been sworn enemies until the monumental decision was taken to lay down arms and pursue peaceful political negotiations. The country is now proud to be served by a new South African Army, Air Force, Navy and Military Health Service all integrated as a unified South African National Defence Force, with a single command structure.

The SANDF was from the outset constrained by the difficult and intricate task of integration and transformation of the SADF, TBVC armed forces, MK, APLA and members of the IFP Self Protection Units. Aside from political differences and historical animosity, there were also wide-ranging differences in organisational structure, culture, ideology and ranking which needed to be accommodated within the newly-established SANDF. There are still challenges resulting from this process, as this report will reveal.

The primary and core mandate of the SANDF is to defend and protect the Republic of South Africa, its territorial integrity and its people in accordance with the Constitution and the principles of international law regulating the use of force. This function is further buttressed by the Defence Act (Act 42 of 2002).

As the new democratic government was confronted with a plethora of socio-economic challenges, it directed its focus to the new Reconstruction and Development Programme which was intended to address the pressing issues of poverty and development. Social security and economic development became the budget priorities of the new democratic order. This change of focus is clearly articulated in the Defence Review of 1998. The result has been a significant reduction in the percentage of the Gross Domestic Product which was spent on the SANDF.

However, in the years since then, the SANDF has increasingly been given peace-keeping mandates within the Southern African Development Community and on the Continent which put more pressure on its limited resources. Originally the SANDF had the responsibility of patrolling the borders of the country. This duty was later transferred to the SAPS. However, in 2010 this obligation has been returned to the SANDF. Yet, despite this prominent role, the conditions of service of SANDF members have not enjoyed a top priority since South Africa became a democracy. This has led to conditions of service which have led to a serious deterioration in morale in certain areas of the SANDF and an outflow of expertise. In order to stem the tide, there must therefore be some urgent and immediate intervention to restore the morale and self-worth of members of the SANDF. This can be achieved by acknowledging the uniqueness of the military and improving the conditions of service of members of the SANDF to meet their unique requirements.

Despite conditions that might lead to low morale, it is remarkable how well SANDF members have performed over the past sixteen years. Tribute is paid to them for their strength of character. Some illustrations are: Our peace keepers in places like the Sudan, DRC, Burundi and others, made significant contributions to conflict resolution on the continent; the entire world was deeply moved by the heroic assistance in the delivery of a baby in a tree during a disaster relief operation when parts of Mozambique were flooded; at home, the role of the SANDF in the protection of the FIFA 2010 World Cup event was exemplary. Likewise, the

Foreword *(continued)*

SANDF gained the admiration of the nation when it worked in protecting elections and ensuring that the provision of essential medical services continue during public service strikes.

The Interim Commission found many cases demonstrating that there has been a failure of the grievance mechanism. Grievances had been left unattended for inordinately long periods. This can be attributed (at least in part) to a lack of training and skills in the command structure. Discipline and morale have suffered in the process.

Whilst money was spent on big defence items, the replenishment and maintenance of basic equipment began to lag. The demands of peace-keeping also placed stress on ageing equipment which needed to be replaced. In the 21st century it has perhaps become necessary to look at the balance of capital funding between the Arms of Service.

With each passing year these challenges have placed the SANDF under increasing pressure. The SANDF and Department of Defence have campaigned for better budgets from the National Treasury, but have been rebuffed with the argument that defence spending should be restricted. The Government has given emphasis to the crying needs of alleviating social problems in creating the new nation. The Defence budget has been reduced to an untenably low 1.3% of the Gross Domestic Product.

The new duties of the SANDF, including increased operational deployments in peace-keeping missions, mean that the conclusions of the 1998 Defence Review are outmoded. The SANDF is forced to utilise obsolete equipment in all Arms of Service. If this is not properly addressed, it is likely to compromise the combat readiness of the SANDF. The situation also contributes to low morale of SANDF troops and may have far-reaching implications for the overall image of the country.

The ever-shrinking defence allocation does not cater for the proper living conditions of ordinary soldiers. The average ages and consequent family responsibilities of SANDF members have increased, but their income has not kept pace. The military is not represented in the Public Service Co-ordinating Bargaining Council (PSCBC). As a result, the rank and file have little recourse in seeking to improve their conditions of service. It is for this reason, among others, that the Interim Commission facilitated the establishment of a permanent National Defence Force Service Commission.

The debate about conditions of service in the SANDF has been ongoing for many years, with experts and previous Ministers warning of challenges, but it seemed that the Government ignored these warnings. These unfavourable conditions led to a change of attitude by some of the rank and file towards the leadership of the SANDF. The Ministry and the Defence Force leadership were aware of the problem from at least the late 1990s and the creation of a separate service dispensation began to be investigated early in the new century.

In the Minister's budget vote on 3 July 2009, she emphasized the need for a new and unique service dispensation in the SANDF. This led to the establishment on 9 September 2009 of the Interim Commission by the Minister with the approval of Cabinet. On 3 October 2009, the Interim National Defence Force Service Commission was introduced to the Portfolio Committee on Defence. The Interim National Defence Force Service Commission presented its terms of

Foreword *(continued)*

reference and programme of action to the Portfolio Committee on Defence which expressed its full support for the Interim Commission and its programme of action.

The Interim National Defence Force Service Commission found that complaints about low salaries were a major factor which had many ramifications for morale and discipline. It became clear that an urgent substantive improvement in soldiers' remuneration was required. As a first phase, the closing of the salary gap with the SAPS was inevitable. This was imperative for the re-building of morale and a well-motivated military force which was critical for achieving the DOD's vision of ensuring effective defence for a democratic South Africa.

In order to achieve these changes, the Interim Commission submitted two urgent interim reports to the Minister, the first on 3 November 2009 and the second on 10 December 2009, as working documents which would enable the Minister to rekindle hope in the hearts of soldiers in the SANDF. In December 2009, in line with the Interim Commission's recommendations, the Minister announced substantial salary increases which had a positive effect on the morale of the nation's soldiers.

There are many improvements that can be made in the operation of the Defence Force without an extra budget allocation. However, the Interim Commission is of the view that in addition to these improvements, the time has come for the country to spend more on its Defence Force to ensure that it has a Defence Force that is well trained, multi-skilled, motivated, disciplined, well equipped and combat ready to undertake its mandate in terms of the Constitution. Indeed the time has come for a radically different way of arriving at the amount in the annual Defence Budget. The time has come to adopt an approach which will enable the DOD to articulate its funding requirements properly in order to meet its unique duties.

In conclusion, I trust that this report will be useful to the Minister of Defence and Military Veterans in the daunting task of directing future determinations on conditions of service and a unique service dispensation for members of the SANDF.



(JUDGE L.O. BOSIELO)
CHAIRPERSON OF THE INTERIM NATIONAL DEFENCE FORCE SERVICE
COMMISSION

Pretoria
November 2010

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ACRONYMS

AFPRB:	Armed Forces Pay review Body
APLA:	Azanian People's Liberation Army
CAT:	Computer Assisted Tomography
CDLS:	Chief Defence Legal Services
DOD:	Department of Defence
DOD IG:	Department of Defence Inspector General
DSC:	Defence Staff Council
DPW:	Department of Public Works
ETD:	Education, Training and Development
HR:	Human Resources
IFP:	Inkatha Freedom Party
INDFSC or Interim Commission:	Interim National Defence Force Service Commission
JCPS:	Justice, Crime Prevention and Security
MBC:	Military Bargaining Council
MC:	Military Council
MK:	Umkhonto we Sizwe
MRI:	Magnetic Resonance Imaging
MOD&MV:	Minister of Defence and Military Veterans
MSDS:	Military Skills Development System
MTU:	Military Trade Union
NDFSC:	National Defence Force Service Commission
PSC:	Public Service Commission
PSCBC:	Public Service Co-ordinating Bargaining Council
RAMP:	Refurbishment and Maintenance Programme
RSA:	Republic of South Africa
SADF:	South African Defence Force
SAMHS:	South African Military Health Services
SANDF:	South African National Defence Force
SAPS:	South African Police Service
TBVC:	Transkei, Bophuthatswana, Venda and Ciskei
TCE:	Total Cost to Employer
UK:	United Kingdom
USA:	United States of America

EXECUTIVE SUMMARY

The Interim Commission was established in October 2009 by the Minister of Defence and Military Veterans. It had three essential amended terms of reference. These required it to advise and make recommendations on a unique service dispensation outside the ambit of the Public Service, to advise on the regulatory framework for the unique dispensation, and to investigate and provide advice on remuneration and conditions of service of members of the SANDF.

With respect to a unique service dispensation outside the ambit of the Public Service, the Interim Commission has submitted a draft Bill which is in process through the Legislature. With respect to the regulatory framework, this logically must await the passing of the Bill, when it will require rapid attention. With respect to remuneration and conditions of service, the Interim Commission has made recommendations in its two previous interim reports, many of which have been acted upon. This present report has made a substantial number of further observations and recommendations for the improvement of conditions of service for the soldiers.



CHAPTER 1: Introduction

The Interim National Defence Force Service Commission consists of a wide variety of people drawn from different walks of life. They are a judge of the Supreme Court of Appeal, a bishop of the church, a member of Parliament who is a social worker and who chairs the Joint Standing Committee on Defence and Military Veterans, two other members of Parliament one of whom is a retired general and both of whom have extensive military experience, two other retired generals who were central during the creation of the South African National Defence Force, a retired Inspector General of Intelligence, a medical doctor with experience in the Independent Commission for the Remuneration of Public Office Bearers, and a professor who is an economist with extensive knowledge of defence and civil-military relations. They all served part-time.

The Interim Commission had the opportunity to traverse the country to various bases to hear the views of thousands of South African soldiers on matters pertaining to conditions of service. It also heard the views of a large number of experts in many fields. The Interim Commission also conducted benchmarking visits to the United Kingdom, United States of America and the Russian Federation. It also had the benefit of deep and repeated

interactions with the most senior officers of the SANDF.

The Interim Commission was tasked to come up with a way to establish a new and different dispensation for the employment of South Africa's soldiers. It also found that there was a pressing and urgent need to tackle a radical case of under remuneration of our soldiers compared to their counterpart equivalents elsewhere in society.

The Interim Commission has made recommendations to the Minister of Defence and Military Veterans with regard to a unique service dispensation as well as with regard to urgent changes in the salaries and other conditions of service of the members of the SANDF. There is a Bill currently in process in the legislature to establish a permanent National Defence Force Service Commission. The Minister of Defence was able to make serious upward adjustments to the salaries of the lower ranks of the SANDF during December 2009.

This is the first comprehensive review of the Defence Force since 1994; and these preliminary observations and assessments will need further interrogation. Be that as it may, the report sets out the Interim Commission's

final assessments of each issue. The report sets out the Interim Commission's final assessments on each issue. The final report concludes by making far reaching recommendations which the Interim Commission believes, if implemented, would go a long way towards ensuring that the SANDF of the future is an organisation of which the nation will be very proud.



CHAPTER 2: Mandate

INTRODUCTION

The South African National Defence Force is a national asset. The SANDF must identify itself with the people of the country. It must be a defence force of the people for the people. It must conduct itself with honour and dignity. It must treat civilians with courtesy and respect. In short, it must win and maintain its legitimacy in the eyes of the nation at all times.

The SANDF must be absolutely committed to defending the nation and to playing its part in maintaining peace in Africa and the world. As part of this commitment, the SANDF must contribute towards nation building, because that strengthens the defence of the country.

The SANDF will only succeed in all these things if it manages at all times to act in such a manner that the people of the country can embrace, admire and be proud of its soldiers. In turn, this can only happen if the SANDF is properly designed and resourced.

A defence budget must, on the one hand, not be too big, because then there will not be enough resources left to meet the pressing socio-economic needs of the people in terms of the provision of houses, schools and hospitals. On the other hand, the defence

budget must not be too small, because then the houses, schools and hospitals may be burnt down by an enemy. Arriving at a balanced defence budget is one of the most important things a government has to do. In South Africa, the defence budget must ensure sufficient funds to enable the SANDF to perform its task effectively and efficiently. There must be enough money to ensure that the conditions of service, including the weapons and equipment are not inferior. Right now the South African defence budget is too small to adequately meet the SANDF's multifarious needs.

South Africa is an important role player in the international arena, being a member of the African Union and the United Nations. It has a duty to help to keep world peace, especially within the South African Development Community and on the African continent. In order to fulfil these obligations, SANDF requires sufficient resources.

Upon joining the SANDF, members voluntarily sacrifice their basic, non-derogable human right to life, for service to their country. Because they have sacrificed their right to life, the nation must therefore reciprocate with a commensurate duty of care. Indeed, when you recruit a soldier, you enlist the family. This distinguishes them from ordinary civil servants who do not expect to be shot at, maimed or even having to lay their lives down in their normal course of business. The nation must therefore appreciate this major sacrifice and look after their well-being and that of their families.

The nation must take responsibility through the President as Commander-



Chapter 2 *(continued)*

in-Chief, Parliament, the Government and the leadership of the SANDF for the well-being of soldiers. Soldiers are justified in relying on their commanders to create conditions of service which will nurture morale. In this context, commanders must act in the interest of soldiers.

BACKGROUND TO THE ESTABLISHMENT OF THE INTERIM NATIONAL DEFENCE FORCE SERVICE COMMISSION

Since the implementation of the Public Service Labour Relations Act (Act No 102 of 1993) and the establishment of the Public Service Co-ordinating Bargaining Council in terms of Section 36 of the Labour Relations Act (Act No 66 of 1995), members of the SANDF have been excluded from the bargaining mechanisms providing for improvements and adjustments in respect of remuneration, allowances and other general conditions of service for the Public Service. During 1996, Cabinet approved the investigation of a possible institution of an alternative bargaining mechanism for the SANDF. A task team comprising members of the Department of the Public Service and Administration and the SANDF, conducted a comparative study on the position of the military in several countries. The Council on Defence was presented with a range of proposed models and accepted a Combined Defence Remuneration Board as the preferred model. The Combined Defence Remuneration Board would have comprised both independent members from industry and commerce as well as members of the SANDF. The envisaged Board was, however, never established.

In subsequent years, several attempts were made to find a way for the soldiers to be included in a bargaining mechanism. A Military Bargaining Mechanism was established by the Defence Act, Act No 42 of 2002, but

this has proved to be dysfunctional. Several initiatives were taken within the SANDF to seek improvements in remuneration and conditions of service, but these were not successful. In this process, however, it was realised that the case of the soldiers is unique. This realisation that soldiers' circumstances are different from the rest of the Public Service, eventually led the Minister of Defence and Military Veterans to say in her first Defence Budget speech in July 2009 that "having assessed our options, we are considering making a request for a separate dispensation for the Department of Defence that would allow us to creatively deal with our own needs and the specificities of the our own unique security requirements".

THE UNIQUENESS OF THE MILITARY

Service in the military constitutes a profession of a unique nature and service ethos. It requires high standards of honour, dignity, loyalty, courage, integrity, diligence, pride and discipline as contained in the Code of Conduct for Uniformed Members of the SANDF. Voluntary enrolment is considered very different from employment in the rest of public and private society.

Section 195(6) of the Constitution recognises the difference between sectors of the Public Service: "The nature and function of different sectors, administrations or institutions of public administration are relevant factors to be taken into account in legislation regulating public administration". The uniqueness of military service should be viewed against a combination of factors that impact on the conditions of life of soldiers. It is quite conceivable that individual factors that contribute to the uniqueness of soldiery are shared with other public service occupations. However, no other public service or private sector occupation is impacted upon by the same or even a similar range of factors.

Chapter 2 *(continued)*

In an article published in The Star during October 2009, defence analyst Mr Helmud Heitman, made the following statement: "The armed forces are not just another branch of the Public Service. The military is a profession and make unique and often harsh demands on its members. The responsibilities and risks inherent to it must be recognised and understood, and that must underlie how we treat our military." This graphically captured the vision behind the establishment of the Interim Commission. Members of the SANDF are subject to limitations, risks and responsibilities as a direct consequence of their conditions of service which are applicable to no other category of public servant. Some of the differences are as follows:

Limitations. Soldiers accept that their duty dictates that the rights enjoyed by other South Africans will be limited in their applicability to them.

Risks. In addition to their risks in combat, soldiers are exposed to financial, social, environmental and physical health risks that are directly linked to their conditions of service and duties such as hardship and inconvenience in the field, at sea or in temporary bases, exposure to dangerous equipment, foreign deployments and frequent separation from their families for prolonged periods.

Responsibilities. Military personnel have extraordinary responsibilities with respect to career-long formal training requirements, subordinate personnel under command, equipment and the consequences of their decisions whether in battle or in peace time. Military personnel have two distinct, though complementary, development paths which are the prerequisites for their dual functional and military responsibilities. On the one hand,

military personnel specialize in a specific occupational function such as logistics or personnel, whilst on the other hand they must specialize in war fighting. The social, ethical and legal responsibilities of Officership add to the personal risks for Officers.

The Bill of Rights (Section 11 of the Constitution of the Republic of South Africa) deals with the non-derogable right to life. Soldiers willingly accept to forego the right to life when they join the SANDF. The State therefore has an obligation to compensate them in kind. The Minister stated that the new dispensation for the SANDF was based on the acknowledgement that the responsibility of the State towards the soldier was higher than that towards other workers, as no other employees are required to give up their lives. This calls for a unique dispensation wherein 'conditions of service' also relate to the life-long commitment and engagement between the State and soldiers which differs from other employees in the Public Service. The country has a duty towards soldiers in and out of service, Military Veterans and the families of soldiers. South Africa must effectively memorialize all of its heroes and heroines who fall in battle.

ESTABLISHMENT OF THE INTERIM NATIONAL DEFENCE FORCE SERVICE COMMISSION

During the Department of Defence Budget Vote in the National Assembly, Cape Town, on 3 July 2009, the Minister of Defence and Military Veterans made reference to the establishment of a Commission.

During her address, the Minister assured the Defence Force staff that their conditions of service are a concern and that she is acutely aware that the state of readiness of the

Chapter 2 *(continued)*

SANDEF depends primarily on the morale of soldiers. The Minister said: "Having assessed our options, we are considering making a request for a separate dispensation for the Department of Defence that would allow us to creatively deal with our own needs and the specificities of our own unique security requirements".

Pursuant to the Minister's Budget Vote made on 3 July 2009, the establishment of the Interim Commission was approved by Cabinet and created by a resolution made by the Minister on 9 September 2009. On the occasion of announcing the establishment of the Interim Commission on September 21, the Minister went further to say: "In recognition of the distinction between the rest of the public service and the security and intelligence services, legislators have determined that the Labour Relations Act should not be applicable to the Defence Force, the National Intelligence Agency and the South African Secret Services." She continued: "In addition, the Constitution enjoins us to develop the Defence Force into a disciplined, professional force precisely because of the role it plays as the last bastion to defend democracy and to protect our territorial sovereignty." Therefore, the Minister added: "I am of the considered view that a National Defence Force Service Commission must be established immediately to assist me to deal with these vitally important issues so that our national security is never compromised. This commission will function on an interim basis until a permanent commission is established through legislation".

The Interim Commission would thus be an independent body established to provide expert advice to the Minister on all matters pertaining to the conditions of service of the members of the military. The Interim Commission was announced by the Minister on 21 September 2009. The Minister

appointed the Commissioners on 1 October 2009 whereafter the Interim Commission adopted and executed a Programme of Action to give effect to its Terms of Reference.

The Interim Commission, assisted by a Secretariat, comprised of the following members:

Judge L.O. Bosielo (Chairperson).
Mr A. Ismail (Deputy Chairperson).
Lt Gen (ret) L. Moloi.
Maj Gen (ret) B.H. Holomisa.
Mr P.J. Groenewald, MP.
Ms H.C. Mgabadel, MP.
Dr A. Mokgokong.
Bishop M.M. Mpumwana.
Prof R.L. Christie.
Mr Z.T. Ngcakani. (replacing Professor D. Swartz who was not in a position to take up his appointment)

TERMS OF REFERENCE

On 5 October 2009 the Minister issued the terms of reference mentioned hereunder to the Interim Commission. The Interim Commission was required to report by 31 December 2009 or an earlier date, giving due consideration to Section 80 of the Defence Act (Act No 42 of 2002):

To advise and make recommendations on a unique service dispensation outside the ambit of the Public Service in respect of members of the SANDEF.

To advise and make recommendations regarding the amendment of the regulatory framework in order to give effect to the unique service dispensation.

To investigate, provide advice and make recommendations regarding remuneration and conditions of service of members of the SANDEF.

Chapter 2 *(continued)*

To consult widely with all stakeholders.

To engage a team of experts to assist the Interim Commission in its proceedings.

AMENDED TERMS OF REFERENCE

Following upon the initial wide consultation with stakeholders, the Interim Commission submitted an Urgent Interim Report to the Minister on 5 November 2009 which contained observations and recommendations which the Interim Commission regarded as so urgent as to require immediate intervention by the Minister.

On 9 November 2009, the Minister produced amended and more detailed Terms of Reference to guide the work of the Interim Commission, which read as follows:

Advise and make recommendations on a unique service dispensation outside the ambit of the Public Service.
Advise on the regulatory framework for the unique service dispensation.

Investigate and provide advice on remuneration and conditions of service of members of the SANDF.

In order to assist the Interim Commission, it is proposed that the Interim Commission adopts the following approach:

It makes recommendations on a unique service dispensation for the SANDF.

The recommendations must include the establishment of a National Defence Force Service Commission (Military Service Commission) and:

- How it is to be appointed.
- Its terms of reference.

- Its functions.
- Its staff component.
- Its relationship with the Public Service Commission.
- Its relationship with Parliament.
- Its reporting responsibilities to the President and the Minister.
- Its oversight role over the SANDF in respect of the Interim National Defence Force Service Commission's mandate

It develops a framework for determining salaries and conditions of service for the SANDF that the NDFSC will be able to develop and implement, subject to any changes which it may make.

The Minister requested the Interim Commission to note that:

It is not in the terms of reference of the Interim Commission to investigate and consider forms of voluntary association for the military, including trade unions. The President, as Commander-in-Chief has, with the support of Cabinet, declared that de-unionisation of the SANDF must be accomplished as soon as possible. No other person has the authority to countermand the President's directive.

The Interim Commission must therefore not be seen to undermine this expressed command. To do so would undermine the command and control that are central to the Defence Force. It would be advisable for the Interim Commission to steer as far as possible from entertaining issues relating to unions or military associations.

All other issues mentioned in the initial briefing document should be regarded as medium

Chapter 2 *(continued)*

term work in progress to be continued until a permanent National Defence Force Service Commission is appointed.

In other words the mandate of the Interim Commission was narrowed to three critical issues namely:

To advise and make recommendations on a unique service dispensation outside the ambit of the Public Service.

To advise on the regulatory framework for the unique service dispensation.

To investigate and provide advice on remuneration and conditions of service of members of the SANDF.

PROGRAMME OF ACTION

In pursuance of its original terms of reference, the Interim Commission prepared a draft Programme of Action and a time-table which were submitted to the Minister and subsequently to the Parliamentary Portfolio Committee on Defence on 3 October 2009 who expressed their full support for the Interim National Defence Force Service Commission and its Programme of Action. The Programme of Action is attached as Annexure 1 to this report.

The Interim Commission hit the ground running and set a programme for itself based on the priority of consulting widely with the relevant stakeholders. Among those consulted was the Portfolio Committee on Defence in Parliament, which expressed support for the work of the Interim Commission when presented with the Terms and Reference and program of action. The Interim Commission further consulted with the Defence Staff Council, the Military Command Council and the Defence Secretariat Council. The aim

was to obtain the views of these structures on the challenges facing the Defence Force. The Interim Commission further met with the two recognised military trade unions in the SANDF – the South African National Defence Force Union and South African Security Forces Union - to get their views. The Interim Commission also visited various military bases and units in the South African Army, South African Air Force and South African Navy, to solicit their views and concerns in line with the Interim Commission's Terms of Reference.

THE RECEPTION OF THE INTERIM NATIONAL DEFENCE FORCE SERVICE COMMISSION

Across the board, in all our consultations with stakeholders they expressed relief that the Interim Commission was finally addressing these issues. Notwithstanding the amended Terms of Reference and the specific emphasis that the Interim Commission should refrain from investigating certain matters, it should be clearly stated that the Interim Commission strictly confined its interaction with military unions to its Terms of Reference. It should be understood that the Interim Commission interacted with military unions on the issue of the conditions of service, not the advisability of unionisation in the SANDF.

When the amended Terms of Reference were announced, the Interim Commission had already consulted with the military unions. It would not be responsible if the Interim Commission were to refrain from reporting on those discussions. It is especially relevant since the command structure and the military unions have separately accused each other of being responsible for the breakdown of discipline. What the Interim Commission cannot dispute is that the military unions are major stakeholders in the SANDF currently,

Chapter 2 *(continued)*

as permitted by the Constitution and the Defence Act.

The Interim Commission noted that even the Portfolio Committee on Defence was under the impression that the Interim Commission was investigating the question of military unions. However, this impression was corrected by the Interim Commission which referred the Portfolio Committee to the Terms of Reference. Some of the members of the Portfolio Committee expressed the view that unions should not be allowed in the Defence Force.

AIM OF THE REPORT

The aim of this report is to provide a detailed report on the Interim Commission's programme of action since its establishment and its observations and assessments made during its term of service in order to make specific recommendations in addressing imminent issues in the SANDF.

STRUCTURE OF THE REPORT

This report describes activities, visits, observations, assessments and recommendations made by the Interim National Defence Force Service Commission. After a detailed discussion on the establishment and the mandate of the Interim Commission, the methodology followed by the Interim Commission in executing its mandate is explained. This part also provides a quantitative analysis of individual submissions made to the Interim Commission in the course of their activities. The major part of the report details all the observations made by the Interim Commission in the execution of its Terms of Reference as well as the assessments derived from the observations and concludes with extensive recommendations. These recommendations include recommendations that have already been effected as well as recommendations for further investigation by the proposed permanent National Defence Force Service Commission.

CHAPTER 3: Methodology

INTRODUCTION

In line with the undertaking to conduct broad consultations, the Interim Commission held meetings with the Defence Staff Council, the Military Command Council of the South African National Defence Force and with the Secretariat Council to get the views of the leadership on various matters of pressing concern relating to conditions of service which were likely to have a negative impact on members of the SANDF.

During the Interim Commission's visits to various units, it welcomed individual submissions which were received in order to obtain an understanding of the broad nature of the problems experienced by individual members of the SANDF.

The Interim Commission experienced time constraints during the visits in hearing all oral submissions and therefore invited members to send individual written submissions to enable the Interim Commission to attend to them. The Interim Commission visited selected bases and units in the South African Army (21 South African Infantry Battalion, and Army Support Base Johannesburg), the South African Air Force (Air Force Base Hoedspruit), the South African Navy (Fleet Command in Simons'

Town, and SAS SALDANHA), the South African Military Health Service (1 Military Hospital) and Joint Training establishments, (Personnel Services School and the Military Academy), to interact and gain first hand experience of the conditions under which the members of the SANDF serve. The visits also enabled the Interim Commission to ascertain the concerns affecting members of the SANDF.

The Interim Commission also sought and obtained expert advice inside and outside the Defence Force. In addition, the Interim Commission also interacted with the Office of the Inspector General of Intelligence, the South African Police Service, Public Service Commission, external consultants and the Independent Commission for the Remuneration of Public Office Bearers in order to acquaint the Interim Commission with remuneration practices within the security cluster and the regulatory imperatives for the establishment of a permanent Commission.

This chapter covers the process followed in research and investigation, the selected procedures as well as the data collection and methods used during the observations. The chapter also outlines how data analysis was done and the limitations encountered in the observations.



DATA COLLECTION

The Interim Commission used the following methodology in preparing its advice to the Minister of Defence and Military Veterans. The current legislative framework, the White Paper on Defence and the Defence Review were scrutinized in order to:

Chapter 3 *(continued)*

Obtain a comprehensive understanding of the legal framework.

Contextualise and evaluate the "Uniqueness," interpretational issues and the principles relating to the Conditions of Services of the Defence Force.

Appreciate the history of the debate on the conditions of service.

In addition, the Interim Commission considered documentary information which had been submitted. Oral presentations made by relevant stakeholders were analysed.

Presentation of Documents Received

Documentary presentations and submissions made by relevant stakeholders were analysed. Various presentations were made at the request of the Interim Commission on specialist topics related to conditions of service. The primary objective was to hear oral presentations from identified stakeholders/officials on various issues pertinent to conditions of service. The Interim Commission interacted freely with the various stakeholders to obtain an understanding of the relevant issues and to obtain clarity on a wide range of aspects. In certain instances more information was requested and obtained.

Responsiveness and Co-operation

It was clear from the information obtained from the many participants that there exists a rich knowledge and some concern about the complexities facing the Department. The willingness by all to co-operate and participate in the discussions was appreciated.

All officials who availed themselves to make their presentations were ready and willing to engage in debate with the Interim Commission.

International Benchmarking Visits

The Interim Commission had the privilege of visiting the United Kingdom Ministry of Defence Head Office as well as British Army, Royal Air Force and Royal Navy bases. The Interim Commission had the opportunity to obtain first hand knowledge on their practices (some of which the Interim Commission regard as world-class) through site visits, walk-about tours and interaction with service personnel. This exposure provided invaluable insight to the Interim Commission on the United Kingdom's Armed Forces, their various conditions of service and the view of service personnel about them.

Likewise, the Interim Commission conducted the benchmarking trip to the United States. Visits to the Pentagon, House of Representatives, Washington DC Veterans Health Administration Medical Centre, the US Naval Academy, Andrews Air Force Base and the National Defence University.

Again, the Interim Commission noted a range of practices, some of which were clearly models for the world.

On a further benchmarking trip, the Interim Commission visited the Russian Federation Ministry of Defence where it received briefings on the state of education and training of the Russian Defence Force. The Russian Federation expressed its willingness to offer training to the SANDF. With regard to defence matters, the need for a Memorandum of Understanding to be signed between the two countries was emphasized.

Chapter 3 *(continued)*

SUMMARY OF INDIVIDUAL SUBMISSIONS TO THE INTERIM COMMISSION: OCT 2009- NOV 2010

A total of 335 individual submissions were made to the Interim Commission during the period October 2009 – November 2010.

All the individual submissions by SANDF members were referred for investigation and further attention by the specific Services and Divisions. The 335 submissions were reduced to 271 because some anonymous submissions could not be traced. Of the 271 submissions, 220 submissions were investigated and concluded by the Services, whilst 51 submissions were finalised by the Divisions. In other word, the submissions made to the Interim Commission were dealt with by the SANDF. The Interim Commission is pleased to report that it has received letters

of appreciation from service members whose submissions have been addressed to their satisfaction.

The nature of the submissions varied between Services and Divisions with the bulk relating to the rank review process, staffing and promotion procedures, participation in strikes, discrimination against former Transkei, Bophuthatswana, Venda and Ciskei members, preferential treatment allegedly given to former MK and APLA members, occupational specific dispensation and salary adjustments. Members who lodged submissions with the Interim Commission have been notified of the outcome. The submissions were analysed and divided into main categories which are tabled below:

Table 1: Frequency: Categories of Individual Submissions

Category	Frequency
Career Management/Promotion	61
Integration Issues/Rank Review	78
Service Benefits/Conditions	24
Discrimination	20
Remuneration	30
Corrupt Administration	8
Individual Formal Grievances	22
Occupation Specific Dispensation	13
Unclassified Submissions	10
Reserve Force	5
Requesting Visit by Interim Commission or to make a presentation	5
Status of Civilian Employees versus Soldiers	5
Unfair Labour Practices/Dismissals/ Discrimination:	36
Other Grievances of Civilian Employees	18
Families and Other Interested Parties	4

In analysing the rank groups of submissions made, the under mentioned rank groups represented the majority of submissions:

Chapter 3 *(continued)*

Table 2: Rank Groups

Rank Group	Frequency
General	0
Lieutenant General	0
Major General	1
Brigadier General	0
Colonel	6
Lieutenant Colonel	20
Major	17
Captain	21
Lieutenant	20
Warrant Officer class 1	24
Warrant Officer class 2	35
Staff sergeant	30
Sergeant	41
Corporal	68
Lance Corporal	0
Private	52

The majority of submissions were made by members of the South African Infantry Corps (SAIC) and the units/bases from where the highest frequency of submission was received from are tabled below:

Table 3: Units/Bases The majority of submissions were made by members from the following Services and Division including Army Support Bases:

Arm of Service	Frequency
SA Army	79
Air Force	15
SAHMS	52
SA Navy	12
Financial Division	44
ASB Johannesburg	35
ASB Eastern Cape	28
21 SAI Bn	40
Area Military Health Unit Northern Cape	30

LIMITATIONS

The following limitations were identified during the work of the Interim Commission:

This report does not cover the full spectrum of topics discussed during the various visits. However, this report does reflect broadly on the information provided to the Interim Commission. Due to very restrictive time

schedules for presentations and the limited opportunity for thorough interrogation during the visits, some areas still require further investigation. It may be advisable that the proposed permanent Commission will take these investigations further. The Interim Commission however, believes that the impact of the above-mentioned limitations have been minimised.

CHAPTER 4: Observations, Responses and Assessments

INTRODUCTION

Since the approval of the Interim Commission by Cabinet on 9 September 2009, its announcement on 21 September 2009 and the appointment of the Commissioners on 1 October 2009, the Interim Commission adopted and executed a programme of action to give effect to its Terms of Reference.

The Interim Commission briefed the Portfolio Committee on Defence and Military Veterans on its terms of reference and programme of action, with the Portfolio Committee expressing its full support for the Interim Commission. The Interim Commission met on several occasions with the Defence Staff Council, the Military Command Council of the SANDF and with the Secretariat Council to obtain the leadership's views on matters of pressing concern to the SANDF. In addition, the Interim Commission visited various bases and units in the SA Army (21 SA Infantry Battalion and the Army Support Base Johannesburg), the SA Air Force (Air Force Base Hoedspruit), the SA Navy (Fleet Command in Simons' Town and SAS SALDANHA), the SA Military Health Service (1 Military Hospital) and Joint Training Units (the Military Academy and Personnel Services School) to interact with, and to ascertain the concerns pertaining to

members of the SANDF at all rank levels with regard to their general conditions of service. The Interim Commission interacted with the Public Service Commission, the Office of the Inspector General of Intelligence, the South African Police Service, external consultants and the Independent Commission for the Remuneration of Public Office Bearers in order to acquaint itself with remuneration practices within the security cluster and the regulatory imperatives for the establishment of a permanent Commission.

To acquaint itself with best practices on conditions of service for Defence Force members, the Interim Commission also conducted foreign benchmarking visits to the United Kingdom Ministry of Defence, the United States Department of Defence and the Russian Federation Ministry of Defence.

BACKGROUND

This report contains the observations and assessments of the Interim Commission. The two most critical issues identified were first and foremost the remuneration of members of the SANDF and, secondly, the need for legislation and regulatory framework amendments to establish a permanent National Defence Force Service Commission.

Other concerns that were reported on in the Urgent Interim Report to the Minister of Defence and Military Veterans on 3 November 2009, as well as the response by the DOD's leadership to these concerns are also addressed in this report.



Chapter 4 *(continued)*

THE INTERIM COMMISSION'S OBSERVATIONS, THE DOD'S RESPONSES TO THE OBSERVATIONS AND THE INTERIM COMMISSION'S ASSESSMENT

The Interim Commission, having conducted lengthy visits and investigations across the board, prepared written observations which it submitted to the leadership of the DOD. After meetings between the various DOD structures and the Interim Commission, the DOD then made formal responses to the observations. Having considered the responses, the Interim Commission now presents its assessments.

Relationship Between Military Command and the Defence Secretariat: Interim Commission Observation

Interim Commission's Observation

In the course of our consultations with the military command it became clear that over the years there have been historical tensions between the Military Command and the Secretary of Defence as Accounting Officer. Of course the nature of these tensions has been changing as people in the posts have changed. There has been uncertainty about their respective roles and responsibilities, with both sides sometimes making accusations and counter-accusations. The Military Command sometimes felt that the Secretary of Defence did not respond to issues that, if not addressed, would lead to the worsening of conditions of service of the soldiers. On occasion, there was also a feeling that the Secretary for Defence might be interfering in issues that were considered to be within the ambit of the Military Command.

In a situation where the command structure sometimes may not have had all the necessary management skills, because the

officers came from varying backgrounds and because the role of military in society has been changing, management problems in the SANDF have been further complicated by the necessary constitutional superimposition of civil oversight via the Secretary for Defence. The Defence Secretariat has itself, on occasion, been composed of people who had not been career civil servants nor had served in the military, and this meant a steep learning curve before they could function optimally.

DOD Response

In its comment in September 2010 on the Urgent Interim Report, the DOD agreed that, whilst Sections 8 and 14 of the Defence Act (Act 42 of 2002) provided for the functions of the Secretary for Defence and the Chief of the SA National Defence Force, respectively, there may have been challenges in the interpretation and implementation that impacted negatively on command and control.

Assessment

The Interim Commission finds it refreshing that the DOD acknowledges that there may have been challenges in the interpretation and implementation of the regulatory framework that had impacted on the SANDF's command and control in the past. The civil-military relations in any state requires a very finely controlled balance. On the one hand, the military must be able to carry out both strategic and tactical command with the necessary independence and speed which either battles or contested peacekeeping situation demand. On the other hand, it is vital that the civil control of the armed forces as envisaged by the Constitution is maintained at all times. South Africa cannot afford any slippage into undemocratic military rule. However, despite the earlier tensions, the Interim Commission is now happy to report that a markedly improved relationship exists between the Secretariat and the Military Command.

Chapter 4 *(continued)*

Command, Control and Communication in the SANDF

Interim Commission's Observation

At the time of the Interim Commission's visits to the Doornkop and Lenz bases, it was reported to the Interim Commission that many members were simply idling about the base as there were no proper facilities for them to fulfil their tasks. It was said that the troops reported for duty at 08h00 and left the base at 09h00 with the knowledge of their officers. The morale of the troops was extremely low, as they felt that "senior command personnel in Pretoria were only looking after themselves and did not care for members of the SANDF". The Interim Commission was told that some members have had to live in informal settlements due to a lack of accommodation at the unit. It was plain that discipline at the bases that were visited needed to be restored and improved, immediately.

There was a common complaint by middle management at these bases that they were not visited or properly informed by the higher command. The crisis at 21 SA Infantry Battalion required immediate attention. When the Interim Commission visited 21 SA Infantry Battalion, the situation was that an acting commander with the rank of Major was in charge. This created the perception amongst the soldiers that this crisis was not viewed as important by the SANDF's leadership. An officer with the rank of Lieutenant-Colonel needed to take charge of the situation urgently to restore order and discipline.

DOD/SANDF Response

On 14 October 2010 the C SANDF responded that the command and control situation at the unit had been rectified and this had resulted in a proper unit routine being followed, retraining having been conducted from January to March 2010 and the deployment

of a company from the unit for border safeguarding since then. Two companies from the unit were also deployed with great success in Gauteng during the Public Service industrial action. Discipline at the unit had improved dramatically and the unit was currently functioning as a normal infantry battalion. As far as conditions of service are concerned, an amount of R523 000 was spent on facilities since February 2010. The Department of Public Works will do a full refurbishment of the unit (including office accommodation, married and single living quarters, mess facilities, road and drainage infrastructure) over a three-year period. As a result of a lack of habitable living-in accommodation at Doornkop, 21 SA Infantry Battalion still makes use of living-in quarters at Lenz. Regular inspections are conducted at all the abovementioned facilities to ensure that living conditions are at an acceptable standard. The transport situation has been improved with the acquisition of a new 60-seater bus, in addition to other vehicles used for the official transport of members.

The performance agreements of the Chief of the SA National Defence Force and of the Service and Divisional Chiefs demand that visits are to be undertaken to units in a regular and ordered manner. These visits create the opportunity for leadership to empower its members by informing, educating and advising them as to how their efforts fit into the national effort of the defence of the Republic.

Service and Divisional Chiefs are mandated by their performance agreements to communicate with personnel to the lowest level. Communication visits are scheduled and executed by Service and Divisional Chiefs. Due to practical reasons and higher level commitments, it is not always possible for Service and Divisional Chiefs to visit all units under command at regular intervals. As an example, the Chief of the SA Army instructed all his Chief Directors (Major Generals) as well

Chapter 4 *(continued)*

as Directors (Brigadier Generals) to conduct a special communication briefing to all SA Army members and units under command on various issues and developments within the SANDF in general and the SA Army in particular. The main purpose of the visits was for the Chief of the SA Army to exercise effective command and control by clarifying various issues and developments to all SA Army members.

Assessment

The Interim Commission notes that it has not had the opportunity for a return visit to Lenz and Doornkop. However, in the light of the reports from the leadership of the SANDF, the Interim Commission is relieved that the situation at 21 SA Infantry Battalion, including the anger, frustration and despondency of SANDF members has been somewhat alleviated through dedicated interventions by the DOD leadership and particularly the SA Army Command.

The resilience of the SANDF members at 21 SA Infantry Battalion is highly commended. They remained dedicated to putting duty before self, despite having had to continue to endure adverse conditions of service.

The stepped up Command communication efforts by the SANDF leadership, as reported, to engage with its members of all ranks at more frequent intervals is highly appreciated.

The Interim Commission finds it undesirable that the full refurbishment of facilities including accommodation at 21 SA Infantry Battalion will take 3 years to complete. This implies another 3 years of unnecessary hardship for SANDF members who devote their lives to the service of the Republic and all its people. It is recognised that this major problem is not completely within the DOD's exclusive domain to solve and that urgent

inter-departmental Government interventions at the highest level are required to address the problem in an expeditious and conclusive manner. Soldiers and their families should not be allowed under any circumstances to live in informal settlements, as it detracts from their dignity and self worth.

Disempowerment of Commanding Officers

Interim Commission's Observation

Over-centralisation has robbed Officers Commanding of many decision making powers. This has had a negative effect on their ability to exercise command and control effectively. For example, Officers Commanding have lost powers relating to discretionary expenditure authorisation and powers to exercise punitive measures for disciplinary infringements. In addition, members have ignored the official channels of command, going to other authorities in an attempt to gain faster relief for requests and grievances, thereby contributing to the disempowerment of Officers Commanding or other immediate superiors.

DOD Response

The DOD responded that it agreed that Officers Commanding were disempowered. The process was however being reversed, to empower Officers Commanding, by issuing appropriate delegations. This is an effort to turn around the situation where the chain of command was undermined. This will be corrected throughout the chain of command. The enactment of the Public Funds Management Bill and the Military Disciplinary Bill will support the effort of empowering Officers Commanding.

Chapter 4 (continued)

Assessment

Appropriately empowered Commanders at all levels, and particularly at unit level, constitute the essential apex of a disciplined, motivated, combat-ready, effective and efficient Defence Force. This essential requirement was found lacking at all bases and units visited by the Interim Commission.

The Interim Commission notes that the Public Funds Management Bill and the Military Disciplinary Bill are in process. If enacted, these would significantly contribute towards a more empowered Command Cadre in the SANDF. The current process within the SANDF of empowering Officers Commanding by appropriate delegations, is also welcomed.

The Interim Commission found it regrettable that many SANDF members had lost trust and confidence in their Commanders. It cannot however be condoned that they ignored the official chain of command in the hope of gaining faster relief for requests and grievances. This behaviour attested to command and control challenges which will require continuing and vigorous attention by the SANDF. It is vital that all members of the SANDF, from the Privates to the Generals, do what is required to maintain a proper professional and disciplined force.

The Defence Budget Allocation and Composition

Interim Commission's Observation

Through various interactions with the SANDF troops, Defence Staff Council, Military Command Council, Secretariat Council, Officers Commanding and other SANDF members, the Interim Commission observed that the defence budget allocation was considered inadequate. This situation was exacerbated by peacekeeping operations

and capital items which were reported to be taking up a large part of the budget, leaving inadequate funds for operating, infrastructure, training and personnel expenses. The operating budget was under severe constraints, resulting in shortages of fuel and ammunition. In some cases operating funds were used for infrastructure. Equipment was rapidly becoming obsolete or was at best unreliable, unserviceable or faulty. Further to that, transport was old and unserviceable. This was affecting units which found it difficult to fulfil their obligations properly. It had also resulted in the loss of United Nations financial contributions due to non-compliance with the standards set by the international body. The above situation affected the overall state of operational readiness of the SANDF adversely. Such a state of affairs should not continue to exist, particularly in an environment where South Africa is called upon to increase the level of participation in peacekeeping operations in the world, particularly in our continent.

DOD Response

The DOD responded that it has had to deal with a reduced budget since 1994 in an environment where deployment into certain parts of Africa was required soon thereafter. This reduction in the budget, while having to deploy forces, has led to a reduction in capabilities. The ongoing nature of the deployments, without additional funding for the operations, has eroded the levels of capabilities required to execute the mandated missions of the SANDF.

The present budget allocation of the projects on the Strategic Capital Acquisition Master Plan was not sufficient to acquire defence equipment in terms of quantity and time scales.

Cost cutting efforts were continuously being implemented in order to ensure improved

Chapter 4 *(continued)*

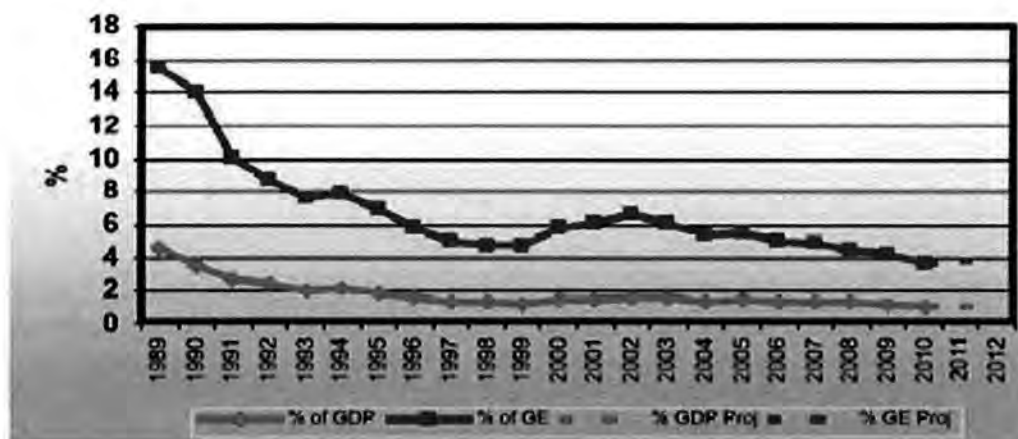
effective, efficient and economic use of the budget. Closing of capabilities was often considered as a further option to ensure that there was more money where it was needed most. The downside is that, once a capability is closed due to short term requirements, the long term effect on the desired strategic outcome may constitute a high risk.

The Minister of Defence and Military Veterans' strategic intent and guidance is for the SANDF to be appropriately funded in order to be able to execute its constitutional mandate. Current funding of the SANDF does not permit the achievement of the force design and force structure. Deployment requirements are partially satisfied with the achieved Force Design and Force Structure.

The defence budget comprises personnel, operating and capital expenditure. The White Paper on Defence and the Defence Review

suggest a 40:30:30 ratio between the three components. The FY2010/11 Defence Budget reflected a 44:43:13 ratio amongst the three expenditure components. In other words, as measured by the ratio, capital expenditure has suffered severely. However, no matter how the cake is cut, it is still too small, meaning that personnel costs, operations expenditure and capital investment are all deficient.

The allocated budget represented an annual average of 1,1% of estimated GDP or 3,9% of estimated Government Expenditure. This was significantly less than the international norm of 2% of GDP or 6% of Government Expenditure for developing countries during peace time. The DOD requested an extra amount of 2,6 billion Rand for FY2010/11 on top of its existing budget. However, the final allocation was a reduction of 2 billion Rand compared to the previous financial year.



Chapter 4 *(continued)*

Ideally, the level of military expenditure should correspond to the real security requirements of South Africa. This must be balanced with the constitutional mandate assigned and properly weighed against competing budget priorities in line with views of the electorate. In this way, there would be less risk that military spending would be perceived as a waste of resources. An inappropriately funded defence sector would strain the SANDF in the execution of its constitutional mandate. It should be noted that Defence plays a pivotal role in creating and maintaining stability in South Africa. This directly impacts on domestic economic growth and direct foreign investment.

Defence has over a period of time engaged the Portfolio Committee on Defence and Military Veterans, the Medium Term Expenditure Committee, Justice, Crime Prevention and Security Cluster and the Ministers' Committee on the Budget with varying degrees of success.

Assessment

South Africa's declared and demonstrated aspirations as a regional entity of goodwill and upliftment and its exemplary role in various fora on the global stage, have catapulted the country into a most prominent geopolitical and internationally strategic position. This position can only be credibly maintained and expanded through the effective and efficient exercise of all the elements of State power, of which the SANDF constitutes an essential part. The Interim Commission therefore finds it disturbing that the SANDF, whilst being entrusted with expanding functions and commitments, has to endure a reduction in capabilities for the foreseeable future.

The erosion of the SANDF's operating budget coupled to the insufficient capital budget will, unless addressed expeditiously, inevitably lead to the further reduction in combat-readiness and operational capability. The

addition of extra internal duties, such as the protection of the borders, requires proper funding.

Reduction in the SANDF's sustainable combat-readiness and operational capability will tarnish the credibility of South Africa in the African region and internationally. A reduction would also invite opportunistic actions that could endanger national security. A reduction would be likely to lead to morale problems amongst the members. People with scarce skills would continue to leave the SANDF, further undermining the SANDF's operational capability.

The Interim Commission believes that the recruitment and retention of soldiers must involve looking after the members and their families as a proper recompense for the unique nature of military service. This means that the defence budget must therefore, be sufficient to ensure that salaries, health services, transport, housing, equipment, and indeed all conditions of service, are such that the nation will have pride in its defence force.

The State of Defence Infrastructure

Interim Commission's Observations

There is a serious lack of acceptable and sufficient accommodation. This lack of accommodation, as well as the state of the available accommodation, has a direct and negative impact on the morale, discipline and combat-readiness of our soldiers. This state of affairs forces members to live in sub-human conditions. This detracts from their being proud to serve in the SANDF and breeds anger and frustration. The allocated budget for accommodation is woefully inadequate. Many bases have been closed due to occupational health risks. In October 2009 the Interim Commission was informed that, at that stage, there was inadequate or no

Chapter 4 *(continued)*

available accommodation for the December intake at Saldanha and Simonstown. Already a few hundred members had had to make home in bunks of the naval vessels. Undoubtedly this situation, if left unattended, would lead to frustrations, anger and tensions amongst SANDF members.

During the Interim Commission's visit at Lenz and Doornkop it was discovered that the buildings and facilities had been vandalised. The Interim Commission was confronted by leaks in roofs and pipes, broken doors and windows, mould, caved-in ceilings, blocked urinals and toilets, general disrepair and unclean grounds. Such slum-like conditions with the concomitant lack of privacy for mature soldiers with families are totally unacceptable and unworthy. This is a grave and flagrant violation of the right to dignity of the soldiers and their families. It was the Interim Commission's observation that the leadership of the SANDF resorted to crisis management, by moving units from one base to another, none of which met acceptable standards. Underlying this was the continuing inability of the Department of Public Works to fulfil their obligations to maintain these buildings

despite funds having been allocated from the defence budget for repairs and maintenance.

1 Military Hospital

Interim Commission's Observations

As the flagship and the largest unit of the South African Military Health Service, the state of 1 Military Hospital should depict the general state of healthcare services in the SANDF. This is a tertiary hospital with emphasis on service delivery and training within the specific context of support to military operations. As a Level 4 referral hospital for all United Nations and African Union missions in the African context, it is not in line with its class category. Undoubtedly this hospital lacks certain key services which are at the heart of quality health care delivery.

The Public Works Program which commenced in October 2007 to address the issue of the necessary repairs is definitely not coping and has failed to deliver the necessary changes to the internal state of the buildings. As a referral hospital for the entire country and also tending to dignitaries of the country, the absence of specialised equipment is a serious limitation to the delivery of the quality services which are required. Inevitably, the authorities have had to resort to outsourcing. Investing in our own facilities should help to obviate this situation. The period set aside for the Repair and Maintenance Programme (RAMP) has been longer than the norm in the sector.



Chapter 4 (continued)

Underlying this is the inability of the Department of Public Works to fulfil their obligations despite funds having been allocated from the defence budget for repairs and maintenance. This has resulted in the SANDF having no confidence in the Department of Public Works to deliver.

DOD Response

The DOD acknowledged that the conditions of SANDF facilities were not ideal. The situation should, however, be understood within the context of the confines of the current model of facilities management within government institutions and departments which prescribes that the DPW is the custodian of government properties. This effectively means that all government departments lease property from the DPW.

The DOD, like any other government department, pays accommodation charges to DPW who, in turn, is supposed to utilise the funds for the upkeep of the facilities. The DPW does not, however, utilise all the funds paid for the upkeep of DOD facilities, resulting in under-maintenance and decay. As an illustration, during FY2009/10 the DOD paid 932 million Rand in accommodation charges to DPW, but DPW only allocated 165 million Rand of this amount to maintenance. This effectively means that only 17% of what was supposed to be used for the maintenance of DOD facilities was actually allocated to the DOD facilities. The rest was allocated elsewhere.

The DOD agreed that its relationship with DPW has to improve. The RAMP of DPW has been erratic since its inception and is now being practised as a refurbishing programme. The DOD, through the Chief of Logistics, is engaged in discussions with DPW in order to determine what could be achieved through a phased approach of the DOD taking over first-line maintenance programmes from DPW.

These programmes are primarily for repair and renovation and reside within Services and Divisions. Second-line programmes, which relate to outsourced project management, should follow. There are a number of options that could be considered as a way forward in order to improve accommodation. The major challenge is to overcome the short term requirements.

The DOD is in the process of establishing its own facility building/refurbishment capability through the DOD Works Regiment in an attempt to improve the situation and to take responsibility for the maintenance of SANDF facilities. This capability will typically take over the first-line maintenance.

The influx of Military Skills Development System (MSDS) members highlights the requirement for additional accommodation in all categories as some of these members migrated into a further career in the SANDF. A number of initiatives have been undertaken in an attempt to come up with feasible options to improve all categories of accommodation:

There are pockets of improvement where new buildings have been built in some areas to improve conditions, but the numbers are relatively low due to limited funding.

Options for public-private partnerships have been discussed with a number of stakeholders in an attempt to devise a method to develop accommodation. The processes and related discussions are lengthy and ongoing.

The alternative use of endowment properties as a source to fund the construction of additional buildings is being considered by the Chief of Logistics.

The option of building prefabricated accommodation has been considered as a short term solution. This is feasible and, although somewhat cheaper than

Chapter 4 *(continued)*

conventional buildings, will still require considerable funding given the volumes required.

The Deputy Ministers of Defence and Military Veterans and of Public Works have since established an inter-departmental task team to look into the above matter. The task team has received Ministerial approval to review the abovementioned model and to submit recommendations to Cabinet.

Assessment

The Interim Commission found that the general disrepair and, in some cases, decay, of much of the SANDF's infrastructure primarily resulted from many years of significant under-funding and subsequent neglect as well as regulatory framework constraints in so far as the independence of the DOD to effect its own infrastructure maintenance and construction were concerned.

In the final months of 2010, the Interim Commission had the opportunity to visit SANDF training establishments, such as SAS SALDANHA and the Military Academy. It observed infrastructure conditions there which were similar to those at Lenz and Doornkop in their general nature, if not in the depth of decay. It is especially important that training takes place in good conditions because it is here that the future leadership of our country's defence force, and indeed, other sectors of society, is nurtured.

There has been lack of recognition for the damage to the image of the SANDF that the above situation brought about, the occupational health and safety risks that resulted, as well as the negative impact of this situation on morale, discipline and combat readiness. The impact of the lack of accommodation for SANDF members has been under-appreciated for too long. The

accommodation conditions for junior ranks will have a severe effect on the force in the medium and longer term.

Although the Interim Commission did not have an opportunity to acquaint itself with the state of military infrastructure, including accommodation, in other developing countries, it noted the stark contrast between the generally high quality and ready availability of accommodation for military members and their families in the UK and USA.

The Interim Commission welcomes the renewed efforts and sense of urgency between the DOD and the Department of Public Works to find ways and means of addressing this major challenge.

The Interim Commission appreciates the establishment of the DOD Works Regiment as a significant development to begin to address certain aspects of the large scale neglect of infrastructure over many years.

Grievance Mechanism

Interim Commission's Observations

The Military Command Council has admitted to the breakdown in the former Grievance Mechanism. The previous policy for dealing with grievances was not being followed, resulting in widespread complaints of favouritism and a lack of feedback. The Interim Commission strongly recommended the establishment of a task team within the Human Resources Division to clear the backlog in grievances. The grievances cover a wide range of issues including major matters like welfare-related issues involving soldiers' families and remuneration as well as smaller matters such as requests by students for after-hours transport. However, these matters have often not been addressed. There is seldom

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feedback. Middle management expressed deep frustration at matters that are referred upward and are not addressed.

The former grievance mechanism and process was regarded as dysfunctional by all, including the leadership of the SANDF. The middle management and members have reported to the Interim Commission that this state of affairs was driving members to lose their confidence in the established structures and to join military trade unions as an alternative mechanism, thereby possibly affecting command and control. When these issues were questioned by members, they were told to leave the SANDF, or else their grievances were simply ignored. This resulted in serious discontent, frustration and low morale amongst the soldiers.

DOD Response

The DOD concurred with the concerns regarding the ineffectiveness of the former grievance mechanism which resulted in a huge backlog of grievances. This led to unhappiness and low morale amongst members. The DOD has since developed a new grievance mechanism in the form of Regulations for both SANDF members and civilian employees serving in terms of the Public Service Act. These Regulations were approved by the Minister of Defence and Military Veterans on 8 June 2010 and were gazetted on 30 June 2010. These Regulations were communicated through the newly

established *Tshwaraganang* ("working together for a better future") campaign. Regional briefings to formations and units were conducted during July and August 2010. Training of Commanders, Managers, SANDF members and employees in the new grievance procedure has commenced.

The new system allows for the following:

Every unit is equipped with computers which members and employees can utilise freely and without fear of victimisation or intimidation, to lodge their grievances on an electronic system.

Once the grievance is logged, it is visible to Chiefs of Services and Divisions who are able to monitor progress and ensure that the grievance is finalised within the 90 days period provided for in the new Regulations.

The Secretary for Defence and Chief of the SA National Defence Force are also able to monitor and track grievances that are lagging behind and are able to apply disciplinary measures against those members and employees who fail to comply with the Regulations.

The Chief of Human Resources has been mandated by the Minister of Defence and Military Veterans, in terms of the Regulations, to establish a Grievance Board to deal with all lodged grievances. This Board can summon any person to testify or to produce documents and is required to act impartially and fairly when taking decisions to finalise grievances. The Board convenes on at least on a monthly basis.



TSHWARAGANANG

Department of Defence: Directorate Labour and Service Relations

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Assessment

The Interim Commission was struck by the high levels of discontent and even anger that it encountered during its visits to SANDF bases and units regarding the matter of the ill-functioning grievance mechanism, the lack of seriousness in effectively dealing with grievances, the scope and severe nature of many complaints and the backlog in unresolved grievances which have long passed the prescribed timeline for the processing of formal grievances. It was apparent from the start that this situation constituted a driver of low morale and frustration amongst SANDF members. This led to loss of trust in their superior officers.

During its visits to SANDF bases and units, the Interim Commission articulated the view to SANDF members that the Interim Commission did not constitute an alternative avenue of command and control and that it had no mandate to usurp the formal power of the SANDF Command in the solving of grievances. As there was not sufficient time to interact with every SANDF member, members were invited to inform the Interim Commission by means of written submissions about aspects that had a negative influence on their conditions of service and also to make suggestions and recommendations on how these matters could be improved. Many SANDF members forwarded their grievances and complaints to the Interim Commission in the hope that it would do something about their plight. The Interim Commission in turn forwarded these grievances and complaints to the SANDF Command with a request that the SANDF should attend to these and provide feedback to the members concerned as well as to the Interim Commission on progress made to solve the said grievances.

The Interim Commission appreciates the major effort which has been undertaken by the

SANDF to attend to the 335 grievances that were forwarded by the Interim Commission and processed by the SANDF. The Interim Commission remains concerned that it has not been apprised of the state of many other unresolved grievances which had earlier been submitted by SANDF members in terms of the former grievance mechanism. The continued lingering of these unresolved grievances does not bode well for morale and discipline. The Interim Commission heartily welcomes the implementation of the new single grievance procedure, as provided for in the Regulations promulgated in June 2010, as well as the commitment expressed by the SANDF leadership to make the new grievance procedure work.

Professional Health Support

Interim Commission's Observation

Generally there are serious problems in the provision of health services to the forces and their families. The level of professional health support at bases and units is inadequate and under severe pressure due to un-staffed posts, the non-availability or shortage of doctors, inadequate facilities, inadequate equipment and lack of military ambulances. Members are forced to travel long distances for specialised health care, at great inconvenience to their families. Professional health workers at base/unit level do not get the required levels of support from higher command, yet requirements and expectations for quality healthcare are most prevalent at base/unit level. The lack of general social support services, as well as inadequate social welfare and psychology services at base/unit level lead to an inordinate workload for the Chaplaincy.

Since 2006, 1 Military Hospital has not had a resident radiologist as well as the

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required equipment for procedures such as mammograms, oncology diagnoses, CAT scans, MRI scans and ultra-sonography.

Radiological, oncology, cardiothoracic and neurology treatment, which are core force preparation functions, are outsourced, because the hospital has lost its internal capacity for these specialisations. SAMHS finds it extremely difficult to compete with the private and public sector, as well as internationally, in appointing and retaining professional health workers. This has resulted in a serious flight of scarce skills. As a result, 1 Military Hospital has gradually lost many capabilities. This is attributed to the fact that the current remuneration packages and equipment fail to act as incentives to attract and retain experienced personnel. Some radiological equipment was lying half commissioned, which also placed a question on the procurement processes and warranties of equipment.

A proportionate ratio of registrars, interns and professional nurses is required per patient. Appointment processes take at least nine months. This is not efficient as the qualified skills cannot be attracted timeously.

The shortage of medical personnel has led to poor staff morale which has been exacerbated by mass resignations. Good administration is said to be wanting. The poor working conditions and inflexible remuneration systems have led to low retention of staff. There is an absence of Clinical Heads in various departments including essential services such as gynaecology, radiology and various super-specialties. Working conditions such as leave and staff accommodation were said to be problematic. The Interim Commission was told by many of the Military Nursing staff that they felt that they were not properly recognised as soldiers. This resulted in various disadvantages for them. The payment of overtime and incentives was said to be processed late. The SANDF

needs a comprehensive, holistic healthcare system. The one that it has, does not fit the bill. Among the reasons for this is the lack of funds, but there are other problems as well.

DOD Response

Despite challenges and risks, the Military Health Support Programme has continued to render health services in terms of its dual mission to deployed forces and patients reporting to base-orientated health care facilities. The long-term strategy of the SAMHS forms the basis of the responses to current and emerging needs. The strategic requirements and developments is, however, not properly resourced. There is an inadequate operating budget and a woefully low capital budget.

The SAMHS is in an untenable situation because it has to meet the service requirements of employment contracts for an estimated patient population of 292 000 members, against the backdrop of health care costs that have been increasing faster than inflation. It is forced to restrict health care provision. The funding shortage of the SAMHS due to the high rate of medical inflation is a DOD corporate risk. The SAMHS is not funded to the level where the demands of the SANDF can be properly satisfied. The structure of the SAMHS budget does not support sustainable operations and capital components. The DOD has not received the required budget increases to improve medical health care.

The SAMHS may authorise the admission or treatment of patients at any other hospital or institution that may be designated by the Surgeon General for that purpose. The latter is applicable to places where no military health facilities are available, where the SAMHS is unable effectively to treat the patient concerned due to a lack of facilities or specialist knowledge, or due to

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transport difficulties where time and distance are relevant factors. Keeping budgetary constraints in mind, the decision and management process in all cases must be based on the clinical circumstances involved. The recruitment and retention of health care practitioners remains the biggest challenge in rendering service. The SAMHS functions in a highly competitive environment with reference to the availability of health care practitioners. The international pressure of foreign countries recruiting South African health care practitioners and other government departments recruiting SAMHS health care practitioners is well documented. This situation is aggravated at national level where the demand for these professionals in the private sector is constantly increasing.

The decreasing operating budget and general lack of funds are impacting on the service delivery at the hospitals. The obsolete and outdated equipment and the shortage of health care practitioners and support personnel remain a risk. Progress has been made with the repair and maintenance programme at the three military hospitals. Some of the departments and sections have occupied the upgraded facilities and are fully operational. This will enhance the capability of the SAMHS.

The maintenance and upgrade of the operational ambulance fleet as a critical capacity for peace support operations and internal operational health support has been addressed by means of a special allocation of funds after a policy proposal to National Treasury. On the matter of technology, this issue can only be addressed by allocating sufficient funds. History has proved that under-funding has caused technology to fall further and further behind.

New information technology systems, such as digital scanning, clinical imaging, electronic handheld palmtops, telemedicine and smart

identification cards, are being developed as a strategic resource to the SAMHS and thus the DOD. The technology will facilitate administrative processes and promote accountability of the health care practitioners and their core business processes.

Assessment

Quality healthcare and effective and efficient healthcare service delivery to Defence Force members and their dependents constitute a significant driver of morale and combat readiness in any defence force. The general state of professional health support to SANDF members and their dependents was found to have degenerated over a period of many years.

Similar to the situation that pertained to infrastructure and facilities in the rest of the SANDF, the Interim Commission found that professional health support in the SANDF was characterised by a general state of major dissatisfaction. This is despite various laudable efforts to improve and the valiant endeavours of individual professional health workers and attempts to maintain professional standards. Such dissatisfaction was articulated to the Interim Commission not only by SANDF members who were the clients of the healthcare system, but also by the professional health workers.

Totally insufficient funding and major human resource management problems were found to be the primary drivers of the current unsatisfactory state of professional healthcare in the SANDF. The increasing demand for professional healthcare in the SANDF has simply exceeded the available capacity and capability to render a satisfactory service.

The Interim Commission appreciates the measures being undertaken to improve some aspects of professional health services, but also recognises that the challenge is so

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daunting as to call for a major intervention across the full spectrum of factors that influence professional health services in the SANDF.

Transport

Interim Commission's Observation

Prior to the institution of the new salary dispensation in December 2009, poor salaries did not allow junior members to acquire private transport. Military transport/duty buses are absent or totally inadequate. Additionally the serviceability and safety of military vehicles poses life threatening risks. There is no free access, subsidy or reimbursement for utilising public transport, as it is understood to be the case with the SAPS. The absence of a school bus system puts on additional expenditure on the members, which they have to bear from low salaries.

DOD Response

The DOD agrees that transport should be provided for those members who live far from their workplace. Therefore, approval has been granted for the establishment of a duty bus system, where official transport will be provided between home and work. This has been partially implemented in certain areas. Full implementation will take time as considerable funding is required to acquire suitable buses.

The matter of ensuring that this system is implemented efficiently and economically is being investigated at a corporate level by Chief of Logistics. One challenge is to cope with the members who live in scattered communities, with low numbers, resulting in a requirement for buses to travel long distances for a few members.



Furthermore, other options are being considered in terms of gaining subsidised transport for members on public and private transport systems. This is being done at corporate and regional level as some areas are affected in different ways because of distances and numbers of members requiring this support.

An official school bus system is being considered for travel between military bases and schools that are distant from the base. This system is already in place in some bases.

Two hundred and one duty buses have been implemented for 5 822 personnel in the DOD, namely 159 buses for 4 505 SA Army personnel, 35 buses for 1 087 SA Air Force personnel and 7 buses for 230 SA Navy personnel.

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Assessment

The Interim Commission commends the efforts being undertaken to improve the official transport system for SANDF members to and from their places of service, being an important factor that impacts on the quality of work life, morale and productivity. However, the Interim Commission remains deeply disturbed about the serviceability, safety and availability of the SANDF's transport fleet in general and especially at remote bases and units. A well maintained transport fleet is an essential prerequisite for the effective, efficient and productive conduct of the SANDF's mission, whilst also serving to enhance morale and the dignity of members and their families.

Career Management

Interim Commission's Observations

The Interim Commission observed that there is general agreement amongst SANDF members that the current career management system does not work and is a driver of low morale and anger. There is no or little communication on career planning. Members with tertiary qualifications are mis-utilised in functions such as guarding, whilst they can be utilised much more productively in functions related to their qualifications. Nepotism and favouritism are said to be seriously prevalent factors influencing career management. Geographical transfers also do not take into account members' personal and family circumstances, leading to the disruption of family life and material sacrifices. For example, there are spouses who cannot find employment at the new posting areas. Ineffective administration bedevils career management. There is sometimes no career planning for members who have already served a decade or more at one rank level in the lower ranks.

The current exit mechanism is inadequate to motivate members who have reached a career plateau to leave the service. They thereby block the upward mobility of junior members. The promotion policy is not consistently implemented and should be revisited. Due to basic salaries being coupled to a rank, the revised promotion policy that calls for a longer period of service in each rank has a debilitating effect on members' material wellbeing and morale.

DOD Response

The DOD agreed that there are challenges related to career management in the case of both uniformed members and civilian employees. To address this, the career management policy will be revised to ensure that there are sufficient options for members to advance in their careers in a structured manner. This will include a reasonable exit mechanism for those who wish to leave the DOD, thus creating upward mobility for those who would normally not be in a position to move. Chief of Human Resources will lead the development of the revised policy and has been directed to benchmark with the defence forces of Botswana and Tanzania.

The challenge of geographical transfers manifests itself not only in the case of the member but also the spouse. Members become area bound because of family circumstances. When the spouse of the transferred member is a serving member, every effort is made to accommodate the spouse in a post in the area of the primary transfer. This is not always possible and leads to discontent. When the spouse is in the private sector, consideration is given to transferring the member. However, the needs of the SANDF have to be the priority at all times.

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Assessment

The Interim Commission found major unhappiness about the state of career management amongst members at all rank levels. The lack of communication on career management policy, a lack of transparency on career planning, as well as the inconsistent implementation of career management policy in certain cases, were found to have a most negative impact on SANDF members. This situation stems, in part, from the integration challenges; and has also tended to affect the trust in, and credibility of, the SANDF's command. Most grievances had to do with one or other matter pertaining to career management. Even should the resourcing challenges and material conditions of the SANDF improve significantly, the lingering dissatisfaction about career management would still constrain the SANDF from becoming as effective, efficient and productive as it could be. A proper exit mechanism for those leaving the service, including retraining for the civilian world, would enable the SANDF to make an extra contribution to the South African economy. The need for a total revamping of career management policies and practices is acutely apparent.

Promotion and Utilisation

Interim Commission's Observation

There is severe competition for promotions due to the fact that basic salaries are coupled to rank. Members can only improve their living standards by being promoted. The promotion policy must be revisited. Due to basic salaries being coupled to a rank, a promotion policy that calls for a longer period of service in each rank, has a debilitating effect on members' material well-being and morale. It is being questioned why more and more Reserve members are called up, whilst there are many Regular members

being mis-utilised, who are willing to serve in vacant posts. The promotion policy is not consistently implemented. The exodus of highly skilled and experienced personnel significantly increases the workload on those remaining behind, which drives low morale, as additional work efforts are not appropriately recognised through remuneration.

DOD Response

The DOD responded that the promotion policy serves its purpose but does require to be reviewed in certain areas. Promotion is linked to career management. Therefore the revision of the policy would have to consider two matters holistically. It is believed that in the short term, a positive outcome will be manifested by the de-linking of rank with pay. In many cases members will enjoy remunerative improvements without having been promoted to the next higher rank. It must be agreed that according to the One Force Concept, Reserve members should be utilised effectively but should not be competing with Regular members for permanent posts. It is of concern that Reserves are being called up into posts when Regular members are held supernumerary. An instruction has been issued to Services and Divisions not to abuse the system when calling up Reserves whilst Regulars are held supernumerary.

Assessment

The Interim Commission appreciates that there is recognition for the challenges pertaining to promotion and utilisation of SANDF members. It must clearly be understood by all members that no defence force can promote everybody. Any promotion policy must be transparent and fair. It must also be intelligently linked to an equitable exit policy which enables departing members to be employed by private sector partners of the SANDF and by other state departments. Promotion must be on merit earned both in operations and by successful

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attendance of appropriate training courses. Because it is apparent that not all who pass the courses are immediately promoted, the SANDF should examine the possibility of monetary rewards for those who have passed courses but are not promoted. In all training and promotion, fairness is at the base of a successful system. It is noted that measures are being considered to address these issues. Challenges pertaining to promotion and utilisation of members will continue to have severely negative impacts on the SANDF until radical effective measures are taken.

The Military Skills Development System (MSDS)

Interim Commission's Observation

The MSDS system as currently implemented does not find favour amongst members. The two-year period of service with no guarantee of continued service drives low morale. Inevitably this has led to serious anger, discontent and frustration amongst members.

DOD Response

The DOD responded that the MSDS was instituted, primarily, to revitalise the Reserves. Recruits are made aware that only a small number would be absorbed into the Core Service System. Candidates are informed that the MSDS is not a guarantee to permanent employment, but rather a stepping stone for the selected youth of the country to be prepared for life in the broader labour market. The concept that the MSDS is a guarantee for long term Regular Force employment must be changed so that all recruits understand this from the outset. The MSDS will, however, have to be revitalised as it is the intention of the DOD to make a positive impact on society at large through this system. This will involve engagement with Education, Labour, Agriculture and other

relevant Departments. This effort will be directed by the Chief of Human Resources.

Assessment

In its interaction with many MSDS members, the Interim Commission found large scale dissatisfaction amongst members with this component of the SANDF's service system. It is apparent that there is a disjuncture between the policy requirements of the MSDS as a feeder system of the SANDF's human resources on the one hand and the expectations by MSDS members on the other hand.

A speedy solution has to be found to match the SANDF's requirement for a flexible human resource feeding system for Regulars and Reserves on the one hand and the expectations of most young South Africans who join the SANDF with the view to building a full-time military career on the other hand. Currently, the MSDS only serves to frustrate the expectations and morale of recruits who join the SANDF with the view to building a full-time military career, only to find out that their services are required on a temporary basis with no guarantee for continued service after their initial MSDS service period even though they excel and meet all requirements for continued service.

A particular problem is that MSDS members, who have been selected and have undergone junior leader training successfully, are not always commissioned, despite their considerable achievements and merit. It makes little sense to the Interim Commission that people succeed in junior leader training and yet are not commissioned as officers.

There is a need for a clear distinction between temporary youth upliftment and empowerment projects undertaken by the SANDF in terms of which young people are accommodated in the system for a defined temporary period

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on the one hand and providing for the recruitment and development of professional career soldiers on the other hand. These two imperatives cannot be accommodated within one service system component at once, as it nurtures confusion whilst not being conducive for the profession of career soldiering.

Transformation

Interim Commission's Observation

There is little understanding of transformation in the SANDF. There are efforts to improve understanding transformation, but these seem to be inadequate. Legacies of incorrect decisions regarding ranking and utilisation during the integration process continue to persist 16 years after the establishment of the SANDF. Allegations of racism, especially towards the junior ranks, are rife. There are some views that affirmative action and political appointments lead to racism and polarisation. It was repeatedly said to the Interim Commission that the present force-number system enables those who wish to undertake unfair discrimination to identify their target. The force-number system is not facilitating transformation. What is urgently required is enhanced diversity training to create an understanding of our past so that these legacies can be overcome.

DOD Response

The DOD agreed that there is little understanding of transformation in the DOD. Transformation had been addressed in the DOD since integration in the early nineties, through Civic Education, Leadership, Command and Management Principles and cultural diversity programmes. The Chief Directorate Transformation Management was established to make a concerted effort in the transformation of the SANDF. Despite the implementation of policies

guiding Equal Opportunity and Affirmative Action, Gender Transformation, Mentoring, Learning Partnerships, Social Responsibility and Organisational Excellence, the DOD is still receiving complaints about racism and polarisation. All such cases are dealt with in the appropriate manner. The DOD will continue to strive through these programmes to become a centre of excellence for multiculturalism and a role model for the nation. The discriminatory force-number system will be reviewed in order to change the perception that the force-numbers influence career management decisions. The SANDF will continue to strive to achieve an integrated balanced force. The institutionalisation of a culture of human rights will have to be embedded in the day to day activities of the organisation.

Assessment

The Interim Commission agrees that the transformation project of the SANDF cannot be completed over the short term due to the vast scope of legacy issues and challenges confronting transformation and given that the SANDF is a microcosm of South African society at large. The measures which have already been undertaken to transform the SANDF are highly commended. However, it may be that insufficient attention was paid to auditing the SANDF with regard to its matching the demographic composition of the nation.

However, the Interim Commission is severely perturbed by the fact that legacies of incorrect decisions regarding ranking and utilisation during the integration process continue to persist 16 years after the establishment of the SANDF. It seems that the efforts being made to solve or at least ameliorate these issues are not particularly successful. The existence of significant numbers of members who are still at the short end of inappropriate ranking and utilisation decisions is not conducive towards the maintenance of a disciplined

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and motivated force. Ways and means must speedily be found to address this serious matter. It confronted the Interim Commission at all bases and units that it visited. It was also a common factor in many of the submissions directed to the Interim Commission.

REMUNERATION AND CONDITIONS OF SERVICE FOR MEMBERS OF THE SANDF

The SANDF Remuneration Dispensation Before December 2009

In respect of the remuneration dispensation for the SANDF, before the recommendations of the Interim Commission were implemented, the following concerns were noted:

Members of the Defence Force had not been informed of the outcome of the 2009 negotiations in the Public Service Bargaining Council and whether this affected them or not. Many members of the Defence Force held a very negative view of the negotiations as they were not directly represented. They felt discriminated against; stating that the salaries they earned were low; further that they earned significantly less than the police, even when working with the police on identical tasks; have not had promotions for a number of years and were not paid overtime as was the case for their colleagues in the SAPS. Salaries were generally considered to be inadequate at all levels.

Salaries of junior members were totally inadequate and forced them to live in informal settlements which are far from their places of work. The effect of transport costs significantly diluted their income, leading to social, psychological and family crises. The salary situation was seen as being so poor that members

stated that they would rather have their right to vote revoked in exchange for the non-payment of personal income tax.

Inadequate salaries were a primary reason for the exodus of highly skilled and experienced personnel, which had a debilitating effect on the SANDF's operational readiness. Salaries were not regarded as appropriate recognition for the unique demands and dangers inherent in military service. The remuneration differential between the SANDF and SAPS drove low morale.

Inadequate remuneration debilitated the SANDF's efforts to enhance the number of black members with scarce skills because such members were poached by the private sector as soon as they had obtained scarce skills qualifications in the SANDF.

Allowances in most categories were regarded as woefully inadequate, including the external deployment allowance which was insufficient when compared with that received by members of other defence forces serving alongside SANDF members on external deployments. The housing allowance is regarded with ridicule, as it cannot serve to cover bond repayments. What compounds the problem is that members are not able to get bonds through the commercial banks, because of poor salaries. At the same time they do not qualify for Reconstruction and Development Programme (RDP) houses. Allowances for specialised functions or occupations have not been appropriately adjusted for inflation over many years.

The Interim Commission considered submissions from Alexander Forbes Financial Consultants on ways to address

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these concerns in the short term. It also considered submissions all of which have been endorsed by the Defence Staff Council on their remuneration strategy and a future unique SANDF Remuneration Dispensation including proposals to provide interim relief to SANDF members (salary levels 2 to 12). The Interim Commission has not had the time to undertake its own deep research on these matters and expresses its gratitude to Alexander Forbes Financial Consultants and the DOD in this regard. Because salary levels 13 and above fall within the General Public Service Senior Management System, the Interim Commission did not address their needs at this stage.

Future Unique SANDF Remuneration Dispensation

In the past the SANDF has found itself repeatedly drawn into remuneration dispensations which are designed for the broader Public Service and which were not designed to meet the unique needs of the SANDF. With every past revision of a remuneration dispensation for the Public Service, this disregard of the unique nature of the military has further eroded the position of the military. The current SANDF remuneration dispensation does not take into account these unique limitations, risks and responsibilities of the profession of soldiery. This state of affairs has forced the SANDF to institute incentive allowances in critical occupational classes as an urgent measure to stem the outflow of scarce skills which has potentially dire consequences for the efficacy and readiness of the armed forces. In order to address the unique limitations, risks and responsibilities to which SANDF members are subjected, a unique SANDF remuneration model was developed by the DOD after extensive research, literature reviews and national and international benchmarking of norms and best practices.

The DOD also informed the Interim Commission about their efforts since 2007 to have this unique dispensation or elements thereof funded and implemented to provide relief to the soldiers and to address the concerns identified by the Interim Commission during the visits to SANDF units/bases. On comparisons between the SAPS and the DOD, the Interim Commission also noted with concern that soldiers were remunerated below the salary levels applicable to the SAPS. The Interim Commission also noted that the DOD has initiated attempts since 2008 at least to achieve relative parity between the SANDF and the SAPS. These attempts have proved to be unsuccessful. The intention was to achieve immediate relief for soldiers while continuing to pursue the SANDF's quest for a unique dispensation.

The Interim Commission fully acknowledges the fact that further developments are required to establish a unique service dispensation for the military outside the ambit of the Public Service. In the quest to seek immediate interim relief for soldiers' current conditions of service, the Interim Commission confined itself to attempts to address the immediate needs of members of the SANDF by recommending relative parity with the SAPS as a short term solution for interim relief. In summary, the Interim Commission recommended that the SANDF (salary levels 2 to 12) be put on par with the SAPS with effect from 1 July 2009. As was noted above, the Minister was able to achieve this in December 2009.

REGULATORY FRAMEWORK FOR A UNIQUE SERVICE DISPENSATION FOR THE SANDF

The Interim Commission was tasked to make recommendations on the Bill and Regulations for the establishment of a National Defence Force Service Commission, with specific reference to how the NDFSC

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is to be appointed, its terms of reference, functions, staff component and reporting responsibilities. In addition the task included recommendations concerning the relationship between the NDFSC and the Public Service Commission as well as with Parliament. Finally the Interim Commission was tasked to address the oversight role which the NDFSC would have over the SANDF in the light of the NDFSC's mandate.

To give effect to the above mentioned, the Interim Commission engaged with the Secretariat of the Independent Commission for the Remuneration of Public Office Bearers. This Commission was established by the Independent Commission for the Remuneration of Public Office Bearers Act, Act 92 of 1997, from which it derives its mandate. This Act further details the appointment and terms of the Commissioners, the functions, staff components and reporting responsibilities of the Interim Commission and the Commission's relationship with Parliament.

The Interim Commission also engaged with the Chief of Defence Legal Services in respect of the drafting of a Bill for the establishment of a permanent National Defence Force Service Commission. The Interim Commission is particularly grateful for inputs made by the Chairperson of the Public Service Commission during a meeting with the Interim Commission. The Interim Commission also benefited from a written input from the Public Service Commission.

This engagement resulted in a draft Bill for the establishment of a National Defence Force Service Commission, similar in concept to the Independent Commission for the Remuneration of Public Office Bearers. In this regard, the Interim Commission recommended that the Minister takes initiatives to begin the legislative process for the approval of the draft Bill. This

engagement resulted in the provisions for the National Defence Force Service Commission having been incorporated into the Defence Amendment Bill [B 11B 2010], which was approved by the National Assembly on 26 October 2010 and by the Select Committee of the National Council of Provinces on 9 November 2010.

INTERNATIONAL BENCHMARKING VISITS

In executing its Programme of Action, it was required of the Interim Commission to embark on international benchmarking visits to determine whether the conditions of service in the SANDF are broadly in line with international best practice. The Interim Commission undertook international benchmarking visits to the United Kingdom Ministry of Defence, the United States Department of Defense and the Russian Federation Ministry of Defence to gain insight into generally accepted world-class best practice dealing with unique service dispensations and military unique remuneration dispensations, inclusive of service conditions and benefits. The Interim Commission was exposed to a comprehensive range of defence related aspects and site visits. However, serious time constraints did not allow for obtaining in-depth technical detail on every aspect. During the international visits the following matters were observed:

Defence Regulatory Frameworks and Mechanisms to Determine Remuneration, Allowances and Benefits

As South Africa has had the benefit of close relations with the defence establishments of the UK and the USA, in visiting these two countries the Interim Commission was following in the footsteps of a number of previous defence department teams, whose previous work made the visit by the Interim Commission substantially easier.

Chapter 4 *(continued)*

Both in the United Kingdom and in the United States, the Interim Commission was duly apprised of the respective regulatory frameworks, mechanisms and procedures governing the determination of military remuneration, allowances and benefits. The United Kingdom Armed Forces Pay Review Body (AFPRB), established as long ago as 1971, is an independent body which annually advises government on pay and charges for all military personnel up to the rank of Brigadier General. The AFPRB must ensure that the pay of military personnel is sufficient to allow the Services to recruit, retain and motivate suitable, able and qualified personnel. Secretariat services for the AFPRB are provided by the Office of Manpower Economics. The AFPRB conducts its business within a suitably and well defined annual pay round to ensure the timely submission of its annual report for implementation within the broader governmental time frames. The submission of evidence to the AFPRB is regulated by the Cabinet Office's Public Sector Pay Committee to enable Ministers to reach a collective cross-Cabinet decision on pay matters before submission to the AFPRB. Within the UK MOD Head Office is a Deputy Chief of Defence (Personnel) who is responsible for directing the formulation of a long-term strategy for service personnel as well as joint service personnel policy to ensure that sufficient, capable and motivated personnel are recruited, trained and retained to sustain the Armed Forces. The interaction between the UK MOD and the AFPRB occurs on this level.

The Interim Commission found various similarities between the rationale for, and concept of, the AFPRB and the proposed National Defence Force Service Commission. The annual pay round process followed by the AFPRB to consider various inputs and to formulate determinations provided a most informative methodology of process that

could be considered by the National Defence Force Service Commission.

In the United States the Interim Commission visited the Military Personnel Sub-Committee of the Congress's House Sub Committee on Armed Services, which is responsible for formulating the personnel budget input to the Defence Authorisation Bill. A Legislature subcommittee, which is the equivalent of the South African Parliamentary Committee on Defence and Military Veterans, is staffed by experienced civil servants with a strong military background and long service. The House Armed Services Sub Committee entertains submissions from a wide variety of stakeholders, including the Department of Defence, members of the armed forces and the general public to inform the annual defence personnel budget input. Both the House and the Senate develop separate drafts of the annual "Pays Bill" in consultation with the Executive. There is then a vigorous and deeply informed bargaining process between the three sectors and finally an agreed Act is signed by the President. In other words, after extensive consultation including regular visits to the troops the USA passes a thoroughly researched and debated law every year to determine what the troops, get paid. This process contributes to very strong bipartisan support for the armed forces in the USA. At the time of the Interim Commission's visit there was a popular dislike for some of the conflicts in which the USA was involved, but this did not affect the vigorous bipartisan and popular support for the interest and wellbeing of the troops.

Personnel Strategy, Career Management, Recruitment and Retention

The British Service Personnel Plan centres around three themes which are sufficient, capable and motivated people. Recruitment therefore focuses on whom the Armed Forces

Chapter 4 (continued)

need as opposed to whom the Armed forces can get. In respect of career management, training and development, a high emphasis is placed on through-life career management and learning. Consideration is also given to outsourcing certain aspects of training. The Interim Commission found that aspects related to recruiting and selection could be further investigated to address challenges currently experienced in South Africa with the MSDS.

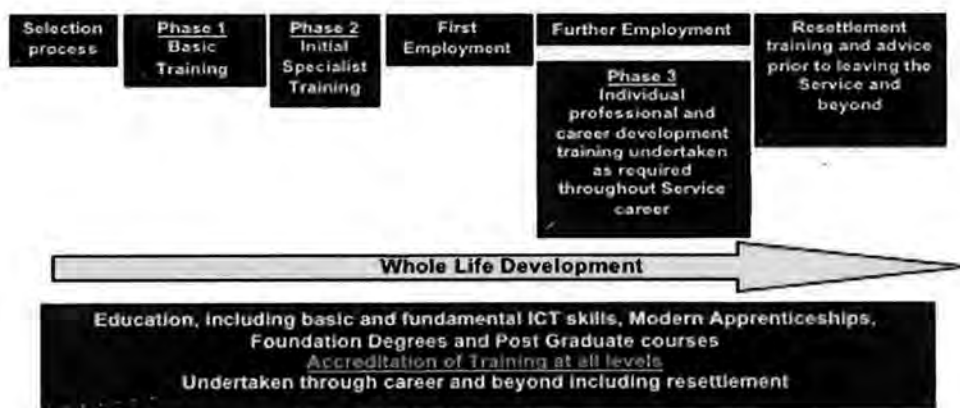
In the case of the United States, the Interim Commission was apprised that the United States Armed Forces have been regarded by the American public over the past 15 years as a first career choice. The Armed Forces generally enjoyed strong support from the American public. This situation significantly eased the recruiting task of the military. Recruiting strategies and selection processes, including that with regard to educational entry qualifications, are strongly merit-based to ensure that the very best young people from society enter the military. Both the United States and British armed forces have well established retention schemes for identified categories of scarce skills personnel, comprising of a variety of production bonuses and incentive allowances,

depending on members' corps, musterings and utilisation specialisation. Military members invariably served in terms of fixed term contract appointments, characterised by clearly defined exit points and appropriate exit support and benefits.

Education, Training and Development and Accreditation

In the case of the United Kingdom and the United States, training aims to equip all military members with the required skills, knowledge and attitude to meet the rigours and demands of a military career in a highly sophisticated military and technological milieu. The quality of lecturers and instructors enjoys a very high premium, with a significant presence of doctoral qualified faculty at military education and training establishments. The accreditation of military education and training courses in both countries is well entrenched, which lends credibility to the profile of exiting military members entering the civilian labour market. The following schematic of the individual training and education process was presented to the Interim Commission by the United Kingdom Ministry of Defence and illustrates similarities with the SANDF's education, training and development philosophy:

Table 4: Individual Training and Education Process



Chapter 4 (continued)

The United States Naval Academy at Annapolis provided the Interim Commission with an excellent example of how recruitment and training of officers is done. The President, Vice-President, Senate and House of Representatives are all involved in the nomination and selection process. This ensures that candidate officers are drawn from every state of America and that politicians understand the necessity for recruiting high quality people to lead the armed forces. In addition, the Naval Academy has a well funded and vigorous outreach programme to minorities across America, the intention being to ensure the US Navy and US Marines have officers who are drawn in a representative manner from the whole population. There is a similar outreach to the women of America. The quality of leadership that has emerged from this process of selection and training is attested to by the fact that the Naval Academy has produced several Presidents of the United States, and very many significant leaders in government as well as in the private sector.

The Beneficial Effect on the Armed Forces of Advanced Research and Development

The Interim Commission learned that the extensive research and development sectors of the UK and USA make a massive contribution to the quality of their armed forces. This begins with basic research which is heavily funded and leads to vigorous application of new knowledge by the Services. This is achieved through commercialisation, strong public-private partnerships, including universities, and by ensuring that there is a consistent programme to ensure that there is cutting edge technology. The troops are given excellent equipment and are then rigorously trained in its use and constant maintenance. Because the troops have excellent training on advanced equipment, when the time comes for them to leave the force, they readily find well-paid employment

in the private sector. This whole process has a massively beneficial effect on the entire economy of the countries concerned and indeed advances world knowledge. It should be recalled that the internet began inside the military research and development sector. If a country does not invest in defence-based research and development, it inevitably denies itself benefits, not only for the military, but for the whole of society.

Service Conditions and Service Benefits

In the case of both the United States and the United Kingdom, the Interim Commission was exposed to theoretical and empirical evidence on a wide range of military service conditions and service benefits including military housing, welfare support to service personnel and their families, the Armed Force Pension Schemes and a variety of resettlement programmes conducive to favourable conditions of service and benefits packages for service personnel. This enables the armed forces to meet the challenge to be an employer of choice in a highly competitive labour market. The quality of work life, facilities and infrastructure that was observed at military bases is of a very high standard and contributes to high levels of morale and discipline. In the case of the United States, support for military members and their families emanate from the White House. In the words of President Obama: "When one person in the family serves in the Armed Forces, that means the entire family is also serving." Similarly, the British Armed Forces' vision for service personnel is: "To place Service Personnel at the centre of our plans, investing in them and giving them and their families confidence in their future". It has furthermore been observed that the armed forces have pension schemes with very generous benefits and, in the case of the British Armed Forces, it is the only non-contributory public sector scheme. In the USA and the UK an approach of variable exit points, where a full-career pension can be earned, is in practice.

Chapter 4 (continued)

Military Remuneration and Allowances

In the United Kingdom, military remuneration and allowances were observed in detail. The British Armed Forces' remuneration model consists of basic pay, comprising of base pay and the X-Factor, which is payment in recognition of military uniqueness. There is also specialist pay for identified groupings and retention bonuses and incentives to address problems on a short term basis. In addition, there are 80 Joint Service Allowances and 19 miscellaneous provisions to, firstly, recompense for circumstances which cannot be addressed in either basic pay, additional pay or the X-Factor, secondly, to reimburse expenses and lastly, to aid recruitment, retention and operational effectiveness. In the case of the United States, basic pay is determined by years of service and rank.

Military Unique Dispensations

The British concept of Career Employment Groups relates closely to the South African concept of occupation specific dispensations (OSDs). The UK MOD has a unique dispensation outside the ambit of the general Public Service determined by the AFPRB which has the responsibility to ensure that the pay of the Armed Forces is broadly comparable with pay levels in civilian life. The British Armed Forces have one single dispensation for all their service personnel. Occupational differentiation is achieved through the payment of Specialist Pay to identified Career Employment Groups.

Military Discipline and Grievance Mechanisms

Discipline, values and standards enjoy uncompromised priority within the United States and British Armed Forces and are regarded as a prime command responsibility. In both the above cases, the Interim Commission observed a strong adherence

to, as well as an institutionalised culture of, military discipline. Although a well established Service complaints process, supplemented with a Service Complaints Commissioner to provide independence, is in existence in the UK Armed Forces, the Interim Commission was informed that grievances tended to clog the chain of command.

Military Health Care Systems

The Interim Commission noted that service personnel in all three countries visited, received free medical care of a standard at least as high as that of their national health systems. In the case of the United States, the Interim Commission was informed that the quality of the military health care system for serving members, as well as for veterans, was the best that could be provided anywhere.

Military Communities

During the UK visit, the Interim Commission established that welfare support to Service personnel and their families is provided as a core business function and is the responsibility of the chain of command. The Armed Forces have a very comprehensive support system in place looking at the wellness of soldiers. A high premium is placed on the welfare of soldiers who are deployed externally. The UK MOD goes a long way to ensure that service families are not disadvantaged because of their service status. This includes children's education, spouse employment and many other aspects to mitigate the effect of mobility of service families. In the case of the United States, there is comprehensive quality support for the maintenance and enhancement of military communities. This includes on-base facilities such as family readiness centres which render spouse employment services; relocation assistance; personal financial services; military child education and many more. There is a strong link between military bases and local government. The benefits

Chapter 4 *(continued)*

of having a military base in an area are so substantial that local government goes out of its way to ensure good relations with the military. Having a military base in an area, almost always improves the security of the civilians around the base, but of course the base has to give great attention to protecting itself from interlopers. Local government provides a wide variety of free incentives and benefits to the troops, such as free bus services. Military communities are also knit together through the provision of top class sport and entertainment facilities on base. The constant engagement by the armed forces with families in order to form military communities results in a strong multi-generational participation in the armed forces.

Veterans Affairs

The Interim Commission observed the management of Military Veterans Affairs in the United States. The Veterans Department is the second largest of 15 Cabinet level administrations and serves more than 23 million Veterans. It represents the largest health care system in the USA providing a full range of health care service to Veterans.

This Department also constitutes the second largest research organisation in the USA. Main Veterans Benefit Administration programmes entail Compensation and Pensions (spending on compensation and pensions is mandatory, guaranteed by Congress, and all payments are tax free); education service; vocational rehabilitation and employment; the providing of loan guarantees and insurance and various benefits assistance including the provisioning of a national call centre and website. In the Russian Federation, the Interim Commission observed the large scale allocation of state resources to memorialize the fallen soldiers of the Russian Defence Force in historical conflicts especially in the Great Patriotic War. These efforts also contribute towards patriotism, national identity and educating the youth whilst portraying a positive image of military service.

The Interim Commission notes that its observations made during its benchmarking visits have not been shared with the leadership of the SANDF nor with the Defence Secretariat. However, these observations informed the Interim Commission's thinking in making its recommendations.

CHAPTER 5: Recommendations and Conclusion

RECOMMENDATIONS

Relationship Between the Military Command and the Defence Secretariat

The Interim Commission has noted that the delicate balance between civil oversight and military command is so important that a process needs to be established to determine how this balance is to be achieved in South Africa. The Interim Commission recommends that the Minister, the Secretary for Defence and the Chief of the SA National Defence Force find ways and means to produce a definitive statement on civil-military relations in South Africa.

Disempowerment of Officers Commanding

The Interim Commission recommends that the current process within the SANDF in empowering Officers Commanding with appropriate delegations be expedited. Further, it recommends that the Public Funds Bill and the Military Discipline Bill, once enacted, be rapidly expedited. Further, the Interim Commission recommends that the Military Command vigorously ensure that all SANDF members do what is required to maintain a properly disciplined force. This will also involve ensuring that communication in both directions between the command and the troops is seriously improved.

Defence Budget Allocation and Composition

In its assessment, the Interim Commission has noted that the defence budget is currently inadequate for the task. In addition, there are severe imbalances between the funding of operations, training, personnel, materiel acquisition and maintenance and base structures. Further still, the Interim Commission noted that the balance of funding between the

various Arms of Service may well need to be reviewed.

The Interim Commission recommends that a much improved iterative budgeting process be developed for defence. This will involve a constant methodical engagement amongst the Military Command, the Defence Secretariat, the Minister of Defence and Military Veterans, the National Treasury, Cabinet and the Parliamentary Committees. The Interim Commission further recommends that the proposed NDFSC be closely involved in the budgeting process in so far as its mandate concerning conditions of service is concerned. Further still, the Interim Commission recommends that within the constraints of the world and South African economies, the defence budget be increased to a level which is approximately 2% of the Gross Domestic Product, noting that this has become a world norm for developing economies in peace time. This will require a substantial increase in the defence budget.

Need for a New Defence Review

The Interim Commission notes that conditions in the 21st century are radically different from those in the 20th century, but that our defence force is expected to continue its operations



Chapter 5 *(continued)*

under the guidance of what is by now a very outmoded Defence Review conducted in 1998. The Interim Commission therefore recommends that a properly funded and extensive Defence Review be undertaken as soon as possible to pay close attention to the relationship between mandate, capabilities and funding. This will include ensuring that the conditions of service of our troops are such that they continue to be the pride of the nation.

The State of Defence Infrastructure

The Interim Commission notes that the current infrastructure in the DOD is both seriously inadequate and, in many places, in unacceptable disrepair and decay. The Interim Commission recommends that the inter-departmental process at Ministerial level, which has been started, be expedited with a view to rapidly improving the situation. The Interim Commission also recommends that serious consideration be given by ministers to transferring the ownership, custody and repair of defence property completely from the DPW to the DOD. The Interim Commission further recommends that the new DOD Works Regiment be expeditiously expanded and properly funded.

Professional Health Support

The Interim Commission notes that the military health capacity has a dual function, firstly of supporting the soldiers and their families in order that the national goals of defence can be achieved, and, secondly, be a backstop to the national health system in times of trial. This implies that its quality must be of the highest: it cannot be second rate. The Interim Commission further notes that the current health provision in the Defence Force is deeply compromised, despite the valiant efforts of those involved. A major cause of the present unsatisfactory situation is a simple insufficiency of funding. The

Interim Commission therefore recommends that a substantial review of the budgetary requirements of the SAMHS be undertaken at once with a view of improving the funding.

Transport

The Interim Commission notes that a well-maintained transport fleet is an essential prerequisite for the effective, efficient and productive execution of the SANDF's mission, whilst also serving to enhance morale and dignity. The Interim Commission further notes that the transport needs of mature professional soldiers and their families, often living off base, are substantially different from the transport needs of a conscript force normally comprised of teenagers living on base. The Interim Commission notes that much of the current infrastructure was developed at a time when South Africa had a conscript force. The present transport arrangements for the SANDF simply do not meet the present and future requirements.

The Interim Commission recommends that a radical audit be undertaken by the SANDF of the transport needs of its members and that a completely new system be put in place to ensure that the nation's soldiers have a 21st century transport system that enables them to live and work properly. The Interim Commission further recommends that the serviceability, safety and availability of the SANDF's transport fleet rapidly be enhanced. This inevitably will involve the purchase of more vehicles and better arrangements for their fuelling and maintenance. The Interim Commission recommends, in addition, that the SANDF carefully examine the potential for using external public and private sector short and long distance transport systems which would involve free or subsidised use by the soldiers and their families.

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Career Management

The Interim Commission notes that the current career management system in the SANDF is both dysfunctional and impractical. It is not achieving the goals of the SANDF nor has it any respect amongst the soldiers. The Interim Commission recommends that a total revamping of career management policies and practices be carried out immediately.

The Interim Commission notes that an effective career management system has to have integral to it, a very deliberate, systemic and methodical system of education, training and development for all levels. At the officer level, in order to retain world-class capacity, the Interim Commission strongly recommends that programmes of exchange with other countries be intensified as part of a deliberate plan for leadership development and to resolve existing legacy challenges. At the technical level, much articulation should be explored between the requirements of the SANDF and the offerings of our tertiary educational institutions and leading edge research applications.

The Military Skills Development System

The Interim Commission notes that all good defence forces are used as development agencies in order to uplift, educate and train members of society who, very often, otherwise would not be enabled to gain the attitude and skills by which they could contribute fully to society. In South Africa there is a massive need for leadership and development of our youth. Not all of this can be achieved by tertiary education because it is inevitable in a developing country that only a small proportion of the youth will be able to attend universities or colleges. It is the duty of the SANDF to play a significant role in the development of our youth, especially those who do not get to university in the conventional way.

The Interim Commission notes that there is a significant difference between the expectations on the part of the soldiers serving in the Military Skills Development System versus those of the SANDF authorities. The young soldiers deeply hope for a permanent career in the military. However, the SANDF is only able to absorb a very few of them and expect the rest of them to go out into society whilst perhaps serving in the Reserves. This mismatch bedevils the entire system.

The Interim Commission recommends that the SANDF review the MSDS in order to make a distinction between youth upliftment programmes and career soldiering. It may be that separate systems may be required, one of which feeds new members into the SANDF and the other of which achieve the goals of youth upliftment. Further, the Interim Commission recommends in particular that serving MSDS members who have completed officers formative training successfully, promptly be commissioned.

Transformation

The Interim Commission notes that successful transformation is absolutely vital for the future of the SANDF and the country, but understands, nonetheless, that it cannot be achieved overnight. However, the Interim Commission also notes that there is substantial dissatisfaction with the lack of transformation in the SANDF, including the severe consequences of legacy decisions regarding ranking and utilisation, during the integration process.

The Interim Commission recommends that the SANDF conduct a systematic audit of its transformation achievements and particularly with regard to the match between the force and the demographic characteristics of the country. The Interim Commission further recommends that the relevant parts of the

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legacy decisions with regard to ranking and utilisation be reviewed by the SANDF. In addition, the Interim Commission recommends that the discriminatory force number system be scrapped at once and be replaced by a neutral way assigning new force numbers.

Grievance Mechanism

The Interim Commission notes with pleasure that a new grievance mechanism has been installed during 2010. Given the depth of dissatisfaction with the old grievance system which the Interim Commission observed in the course of its consultations with the troops, the Interim Commission recommends that the SANDF pays great attention to ensuring that the new system functions well. It should also be recognised that, in certain cases, grievances reflect constructive criticisms of existing systems, which often lead to improvement, even though at times this may be perceived negatively by the command structures.

Command, Control and Communication in the SANDF

The Interim Commission notes that during its visits to units, many examples of inadequate command, control and communication between SANDF leadership and the ordinary soldiers came to light. The Interim Commission notes further that the SANDF leadership has undertaken substantial measures to remedy this matter during 2010. The Interim Commission also notes that in some bases members and their families are being expected to live in inhuman conditions, but the Interim Commission acknowledges that a start has been made to improve matters. However, the three-year period currently proposed for the fixing of the bases is, in the view of the Interim Commission, much too long a time for the soldiers to have to wait.

The Interim Commission recommends that accelerated step be taken to ensure that an acceptable refurbishment and repair of the bases which are in severe decay, such as Lenz and Doornkop, be achieved by the end 2011 at the latest. In the light of the revised and enthusiastic commitment by the SANDF leadership to ensure that bases are systematically visited by senior officers and that bases are repaired, the Interim Commission recommends simply that these things be done.

Promotion and Utilisation

The Interim Commission notes that the current system of promotion and utilisation of members is dysfunctional and lacks respect by a large number of SANDF members. The Interim Commission notes further that not everybody can be promoted, but that a transparent and fair system of promotion and utilisation, together with a proper exit system into jobs in the rest of the Public Service or the private sector would go a long way towards mitigating dissatisfaction.

The Interim Commission recommends that the SANDF review its whole system of promotion and utilisation in order to develop radical, effective measures to achieve a fair, transparent and efficient method of using the services of all its members optimally, and of ensuring that those who leave the service are properly trained and counselled in order to get rewarding jobs in the outside society.

Remuneration and Conditions of Service for the SANDF

The Interim Commission notes that in its Second Interim Report, the Interim Commission made substantial recommendations for immediate salary improvements and other adjustments to the conditions of service of our soldiers. The Interim Commission notes further, with pleasure, that the Minister was able to achieve many of these short term

Chapter 5 (continued)

changes during and after December 2009. The Interim Commission also notes that its recommendations for a permanent National Defence Force Service Commission have been acted upon and a Bill is at an advanced stage in their progress through the legislature.

It remains for the Interim Commission to recommend that the new Permanent Commission be provided with the reports of the Interim Commission and particularly with those concerning its foreign benchmarking visits, in order that the new Commission may be informed about the observations and findings made with regard to remuneration and conditions of service. The Interim Commission further recommends that the new NDFSC give attention to the possibility that adjustments still need to be made to the remuneration structure for rank levels 13 and above.

Establishment of a National Defence Force Service Commission

The Interim Commission notes that its recommendations for the mechanism of the proposed permanent National Defence Force Service Commission, have been acted upon and a Bill is at an advanced stage in its progress through the legislature. Regulations for the proposed National Defence Force Service Commission, are still to be finalised following the passage of the Bill.

Remuneration and Conditions of Service for the SANDF

The Interim Commission notes that in its Second Interim Report, it made substantial recommendations for immediate salary improvements and other adjustments to the conditions of service of our soldiers. The Interim Commission notes further, with pleasure, that the Minister was able to achieve many of these short term changes during and after December 2009.

The Interim Commission commends its interim reports to the proposed Permanent Commission, particularly those concerning its foreign benchmarking visits, in order that the proposed Commission may be informed about the observations and assessments made with regard to remuneration and conditions of service. The Interim Commission further recommends that the proposed National Defence Force Service Commission give attention to the possibility that adjustments still need to be made to the remuneration structure for rank levels 13 and above.

RECOMMENDATIONS EMANATING FROM INTERNATIONAL BENCHMARKING

The Interim Commission notes with respect to its benchmarking visits to the United Kingdom, United States of America and the Russian Federation that more mature and richer states have very sophisticated mechanisms for ensuring a good civil-military relationship; a proper and multi-party respect by the nation for its soldiers; a method of rewarding the uniqueness of military service by good pay and other benefits in order that the defence force becomes an employer of choice in the society attracting high quality recruits; a constant engagement by the defence force with the soldiers' families and with local communities to ensure mutual benefit; an excellent research and development base which enables the defence force and the defence industry to make sustained contributions to the economy and society; an advanced equipment procurement system married to vigorous training of the soldiers in the use of high technology, a high quality provision of health services to soldiers, veterans and their families, and a suitable exit process from the defence force into society. The Interim Commission notes that it has built into its recommendations elsewhere in this report, many of the good practices which it observed during its international benchmarking visits.

Chapter 5 *(continued)*

The Interim Commission recommends that the proposed National Defence Force Service Commission continue to make benchmarking visits to countries from which South Africa can learn and that it follows up on the connections made by the Interim Commission during its visits to the United Kingdom, United States of America and the Russian Federation, possibly by inviting specialist to visit our country. The Interim Commission recommends further that the process of finalising a defence memorandum of understanding with the Russian Federation be expedited.

RANK AUDIT OF THE DEMILITARISED FINANCE FUNCTIONARIES

The Interim Commission notes that it was requested by the Minister to give urgent attention to the question of whether injustices or error still remain with regard of the rank audit done at the time of integration. Due to the size and complexity of the task, the Interim Commission has been unable to finalise the whole matter and recommends that the outstanding matters be transferred to the proposed National Defence Force Service Commission for further attention. However, the Interim Commission notes that it was able to finalise question relating to the rank audit of demilitarised finance functionaries and that it has proposed a detailed way forward, which is currently in the hands of the Secretary for Defence.

The Interim Commission recommends that the questions of rank audit relating to the demilitarised finance functionaries urgently be resolved by reference to the detailed proposals which have been made by the Interim Commission suggestions currently which are in the hands of the Secretary for Defence.

THE TOTAL WELLNESS OF THE DEPARTMENT OF DEFENCE

The Interim Commission notes that if the Department of Defence, and in particular the SA National Defence Force were to be looked at as an organisation, its overall wellness has much to be desired, despite the sterling efforts and positive attitudes to be found in the vast majority of the employees. The Interim Commission notes that notwithstanding the many drivers of low morale which have been observed in the current report, it remains a fact that despite everything our soldiers and their civilian counterparts continue to perform remarkably.

However, the Interim Commission recommends that the SA National Defence Force leadership undertake a programme further to improve the resilience and social, emotional and spiritual wellness of all the employees in the Department of Defence.

CONCLUSION

Ordinary citizens of South Africa desire safety and security. To this end the ordinary citizens have no doubt of the need for a fully operational defence force that is able to defend and protect their country. There is thus a requirement to have multi-party support and consensus for the defence and protection of South Africa. This can only be achieved through a well-equipped, well-motivated, disciplined, well-trained, combat-ready and flexible military force that is properly funded to execute its constitutional mandate in peace time and in war. Of course, the best defence of a nation will be made by the people themselves. The more the people are encouraged and enabled to participate in the overall development of the country, as well as in its actual defence, the better the future will be for all South Africans.

Chapter 5 *(continued)*

During its visits to the bases, the Interim Commission concluded that a large number of SANDF members want a new beginning in order to resolve their major challenges. In the present report, the Interim Commission has made a significant number of recommendations to solve these challenges and indeed to make a new beginning.

The Interim Commission notes that its amended terms of reference required it to advise and make recommendations on a unique service dispensation outside the ambit of the Public Service, to advise on the regulatory framework for the unique dispensation, and to investigate and provide advice on remuneration and conditions of service of members of the SANDF.

With respect to a unique service dispensation outside the ambit of the Public Service, the Interim Commission has submitted a draft Bill which is in process through the Legislature. With respect to the regulatory framework, this logically must await the passing of the Bill, when it will require rapid attention. With respect to remuneration and conditions of service, the Interim Commission has made recommendations in its two previous Interim Reports, many of which have already been acted upon. This present report contains a substantial number of further observations and recommendations for the improvement of remuneration and conditions of service for the soldiers.

Chapter 5 *(continued)*

HEREBY SUBMITTED TO THE HONOURABLE MINISTER OF DEFENCE AND
MILITARY VETERANS ON 16 NOVEMBER 2010



JUDGE L.O. BOSIELO
CHAIRPERSON



MR A. ISMAIL
DEPUTY CHAIRPERSON



LT GEN (RET) L. MOLOI
COMMISSIONER



MAJ GEN (RET) B.H. HOLOMISA (MP)
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DR A. MOKGOKONG
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BISHOP M. MPUMLWANA
COMMISSIONER



PROF R. CHRISTIE
COMMISSIONER



MR Z.T. NGCAKANI
COMMISSIONER

ANNEXURE 1**INTERIM COMMISSION PROGRAMME OF ACTION**

Ser	Programme of Action
1	<p>Hold discussions with stakeholders to understand the nature and depth of problems confronting the SANDF</p> <ul style="list-style-type: none"> • Portfolio Committee on Defence • Representatives of civil society especially in the security sector • DSC, MCC and Arms of Service • Ordinary members of the SANDF and Unit Commands • DOD IG • Directorates of HR Policy • Chaplain General • Military Veterans Associations • Reserve Forces Council • SANDF members or their representatives • Public Service Commission and Minister of Public Service and Administration • Minister of Finance and National Treasury • Minister of State Security and the Intelligence Department • Consultation with political parties represented in parliament
2	<p>Command and Control</p> <ul style="list-style-type: none"> • Command and control related problems • Military chain of command • Discipline in the SANDF • Morale in the SANDF • Grievance mechanisms • Service conditions • Current state of infrastructure, facilities and equipment

Annexure 1 *(continued)*

Ser	Programme of Action
3	Defence Commitments <ul style="list-style-type: none"> • Ability of the SANDF to meet defence commitments • Defence budget and its impact on commitments • Split of defence budget into capital, operational and HR • Adequacy of training • Military ranking and salary grading • Possible effect of under spending on morale
4	Transformational Issues <ul style="list-style-type: none"> • Implementation of civic education program especially wrt military professionalism • ETD programs on diversity and equal opportunities • Success of military integration program and willingness of middle management to implement processes
5	Civil-Military Relations <ul style="list-style-type: none"> • Role of parliament in oversight • Role of Defence Secretariat and their role in supporting the MINISTER in civil control • Implications for defence strategy, planning and commitments • Operational control • Organisational structure challenges
6	Service Conditions <ul style="list-style-type: none"> • Determination of military service to provide for the SANDF vs the Public Service • Functioning of the MBC • Military ranking, grading of posts and salary structure (short- and long term implications) • Local benchmarking with other Services eg SAPS • International benchmarking • Application of grievance mechanism from servicemen's perspective

Annexure 1 *(continued)*

Ser	Programme of Action
7	Legislative Issues <ul style="list-style-type: none">• Defence Amendment Bill – enactment of a NDFSC• Rulings of the Constitutional Court• Implementation of the Labour Relations Act• SANDF General Regulations• Unique service conditions for the SANDF• Rules for engagement for MTUs
8	Reports to the MINISTER



Annexure 1 *(continued)*

CHRONOLOGICAL EVENTS EMANATING FROM THE PROGRAMME OF ACTION

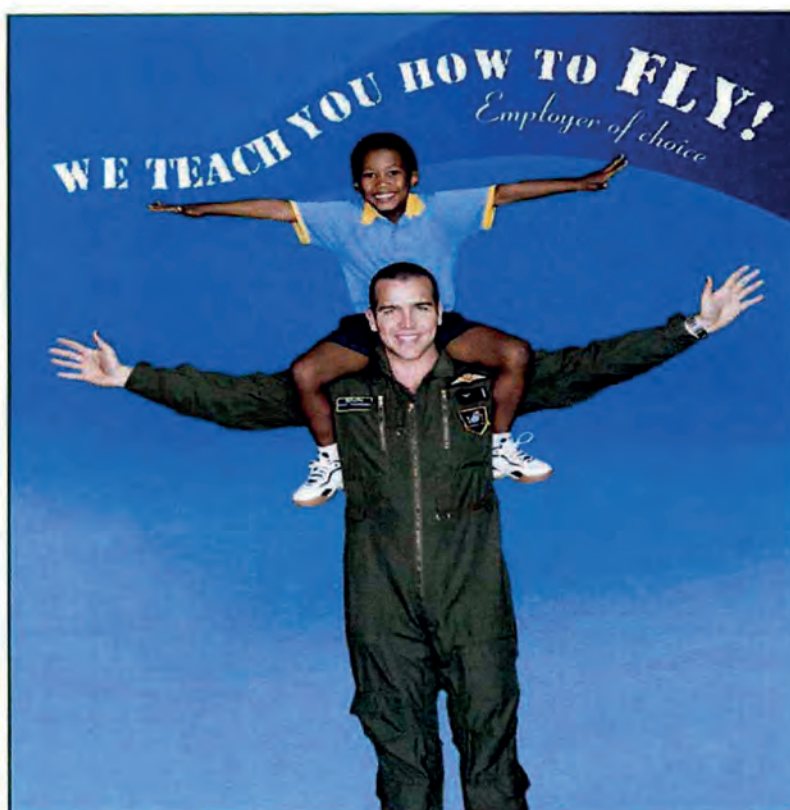
Date	Event
3 July 2009	The Minister of Defence and Military Veterans announced in the Defence Budget Vote the intent to establish an Interim National Defence Force Service Commission
9 September 2009	Cabinet approved the establishment of the Interim National Defence Force Service Commission for purposes of developing a unique dispensation for members of the SANDF
21 September 2009	Minister of Defence and Military Veterans announced the establishment of the Interim National Defence Force Service Commission
1 October 2009	Ten Commissioners were appointed to the Interim National Defence Force Service Commission
5 October 2009	The Minister of Defence and Military Veterans issued terms of reference to the Interim National Defence Force Service Commission
13 October 2009	The Interim National Defence Force Service Commission's programme of action was presented to and supported by the Portfolio Committee on Defence and Military Veterans
19 October 2009	The Interim National Defence Force Service Commission met with the Defence Staff Council
20 October 2009	The Interim National Defence Force Service Commission met with the Military Command Council
21 October 2009	The Interim National Defence Force Service Commission met with the Military Trade Unions
26 October 2009	The Interim National Defence Force Service Commission visited SA Army military bases at Lenz and Doornkop
27 October 2009	The Interim National Defence Force Service Commission visited Air Force Base Hoedspruit
28 October 2009	The Interim National Defence Force Service Commission visited Fleet Command in Simons Town
29 October 2009	The Interim National Defence Force Service Commission met with the Defence Secretariat Council
5 November 2009	The Interim National Defence Force Service Commission submitted an Urgent Interim Report to the Minister of Defence and Military Veterans
9 November 2009	The Minister of Defence and Military Veterans issued amended terms of reference to the Interim National Defence Force Service Commission
9 November 2009	The Interim National Defence Force Service Commission visited 1 Military Hospital

Annexure 1 *(continued)*

Date	Event
12 November 2009	The Interim National Defence Force Service Commission met with the SA Police Service; the Independent Commission for the Remuneration of Public Office Bearers; the Office of the Inspector General for Intelligence and Alexander Forbes Consultants
18 November 2009	The Interim National Defence Force Service Commission presented a progress report on its programme of action to the Portfolio Committee on Defence and Military Veterans
19 November 2009	The Interim National Defence Force Service Commission visited Army Support Base Johannesburg and Personnel Services School
24 November 2009	The Interim National Defence Force Service Commission met with the Defence Secretariat Council
26 November 2009	The Interim National Defence Force Service Commission met with the Defence Staff Council
10 December 2009	The Interim National Defence Force Service Commission submitted its Second Interim Report to the Minister of Defence and Military Veterans
24 February to 17 March 2010	The Interim National Defence Force Service Commission conducted a benchmarking visit to the United Kingdom Ministry of Defence
16 March 2010	The Interim National Defence Force Service Commission presented a follow-up progress report on its programme of action to the Portfolio Committee on Defence and Military Veterans
8 April 2010	The Interim National Defence Force Service Commission met with the Reserve Force Council
10 June 2010	The Interim National Defence Force Service Commission briefed the Portfolio Committee on Defence and Military Veterans on the Defence Amendment Bill (clauses pertaining to the National Defence Force Service Commission)
19 July 2010	The Interim National Defence Force Service Commission met with the Chairperson of the Public Service Commission
24 July to 1 August 2010	The Interim National Defence Force Service Commission conducted a benchmarking visit to the United States Department of Defence
17 August 2010	The Interim National Defence Force Service Commission presented its response to the public hearings on the Defence Amendment Bill to the Portfolio Committee on Defence and Military Veterans
2 September 2010	The Interim National Defence Force Service Commission visited Kalafong Hospital to observe SANDF assistance provided during the public service strike
15 September 2010	The Interim National Defence Force Service Commission met with the Secretary for Defence and Chief of the SA National Defence Force on their joint response to the Interim Commission observations

Annexure 1 *(continued)*

Date	Event
16 September 2010	The Interim National Defence Force Service Commission visited the Military Academy
17 September 2010	The Interim National Defence Force Service Commission visited SAS SALDANHA
16 October to 23 October 2010	The Interim National Defence Force Service Commission conducted a benchmarking visit to the Russian Federation Ministry of Defence
16 November 2010	The Interim National Defence Force Service Commission submitted the Final Report to the Minister of Defence and Military Veterans



ANNEXURE 2

COMPARATIVE ANALYSIS OF THE CURRENT AND PROPOSED SANDF NOTCHES

Salary Band	Structure	Rank	Current Notches			Proposed Notches		
			Level	Min	Max	Scale	G1	G12
Band A	Salary & Benefits	MSDS 1 st Year	3	31 719		A1	51 816	
	Salary & Benefits	MSDS 2 nd Year	3	31 719		A2	64 120	
Band B	Salary & Benefits	Private	3	63 438	74 724	B1	94 452	117 439
	Salary & Benefits	Lance Corporal	4	73 788	86 916	B2	102 238	127 120
	Salary & Benefits	Corporal	5	87 288	102 822	B3	110 666	137 599
	Salary & Benefits	Sergeant	6	107 553	126 693	B4	122 184	151 920
	Salary & Benefits	Staff Sergeant	7	132 531	156 114	B5	140 315	174 508
	Salary & Benefits	WO II	8	161 976	190 797	B6	167 732	208 554
	Salary & Benefits	WO I	9	192 540	226 800	B7	200 455	249 241
	Salary & Benefits	Candidate Officer	4	73 788	86 916	C1	102 238	127 120
Band C	Salary & Benefits	2 nd Lieutenant	5	87 288	102 822	C2	110 666	137 599
	Salary & Benefits	Lieutenant	6	107 553	126 693	C3	129 662	161 219
	Salary & Benefits	Lieutenant	7	132 531	156 114			
	Salary & Benefits	Captain	8	161 976	190 797	C4	167 732	208 554
	Salary & Benefits	Major	9	192 540	226 800	C5	200 455	249 241
	Salary & Benefits	Lieutenant Colonel	10	240 318	283 080	C6	249 241	309 900
	TCE	Colonel	11	381 249	449 091	C7-1	390 000	484 916
	TCE	Colonel	12	451 890	532 302	C7-2	439 203	540 740

Annexure 2 *(continued)*

FUNDING REQUIREMENT: SANDF SALARY AND ALLOWANCE ADJUSTMENTS WITH EFFECT FROM 1 JULY 2009

Rank	Strength	Current Cost	Full Year Cost of Recommendation	Cost wef 1 Jul 09 (Financial Requirement) ¹
Col	790	362 573 952	369 693 342	5 339 542
Lt Col	1 835	591 573 891	602 032 525	7 843 975
Maj	1 987	512 403 255	523 736 525	8 769 952
Capt	1 858	400 623 799	410 366 367	7 306 926
Lt	1 673	265 558 204	281 924 234	12 274 523
2Lt	261	28 695 367	36 189 574	5 620 655
Cpln	123	37 743 808	38 191 544	335 802
WO I	2 507	650 437 474	662 400 174	8 972 025
WO II	2 576	547 477 654	558 374 729	8 172 806
SSgt	6 001	1 040 802 926	1 069 829 973	21 770 285
Sgt	7 318	1 028 715 402	1 117 639 579	66 693 133
Cpl	7 984	909 059 169	1 100 262 717	143 402 661
L Cpl	6 047	569 443 344	769 196 858	149 815 135
Pte	18 440	1 188 808 216	1 994 419 421	604 208 404
CO	14	1 303 359	1 795 659	369 225
Aux Service	74	5 835 406	8 690 214	2 141 106
TOTAL	59 488	8 140 95 229	9 544 743 434	1 053 036 154
ALLOWANCES²		778 271 130	1 156 259 363	283 491 175
RESERVES³		476 333 094	558 500 553	61 625 594
TOTAL COST		9 395 299 453	11 259 503 350	1 398 152 922

1 Full year cost of recommendation minus current cost divided by 12 months and multiplied by 9 months

2 Allowances reflect all allowances coupled to salary levels/grades as basis of calculation of allowance

3 Figures do not include the 22% pay *in lieu* of benefits rectification

ANNEXURE 3

DEFENCE AMENDMENT BILL

REPUBLIC OF SOUTH AFRICA

DEFENCE AMENDMENT BILL

*(As amended by the Portfolio Committee on Defence and Military Veterans
(National Assembly))
(The English text is the official text of the Bill)*

(MINISTER OF DEFENCE AND MILITARY VETERANS)

[B 11B—2010]

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Annexure 3 *(continued)*

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Defence Act, 2002, so as to state who comprises the Military Command of the South African National Defence Force and to further regulate the appointment of its members; to require members of the Reserve Force contemplated in section 53(1) to enter into a contract of service with the Defence Force; to require members of the Reserve Force to comply with a call-up order to report for duty; and to establish the Defence Force Service Commission which is to make recommendations to the Minister of Defence and Military Veterans concerning conditions of service of members of the Defence Force; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 42 of 2002

1. Section 1 of the Defence Act, 2002 (Act No. 42 of 2002) (hereinafter referred to as the principal Act), is hereby amended—

(a) by the insertion in subsection (1) after the definition of "Code" of the following definition:

"'conditions of service' includes conditions relating to—

- | | |
|--|----|
| (a) recruitment procedures and advertising and selection criteria; | 5 |
| (b) appointment and appointment processes; | 10 |
| (c) job classification and grading; | |
| (d) salaries, allowances and service benefits; | |
| (e) job assignments; | |
| (f) working environment and facilities; | 15 |
| (g) education, training and development; | |
| (h) performance evaluation systems; | |
| (i) promotion; | |
| (j) transfers; | |
| (k) demotion; | 20 |
| (l) disciplinary measures other than dismissals; | |
| (m) grievance and grievance procedures; | |
| (n) dismissal; | |
| (o) scarce skills; | |
| (p) pay progression; | |

Annexure 3 (continued)

3

- (q) deployment benefits;
 (r) tools of trade;
 (s) accommodation; and
 (t) any other matter pertaining to conditions of service;"; and
 (b) by the insertion in subsection (1) after the definition of "superior officer" of the following definition:
"the Commission" means the Defence Force Service Commission established by section 62A;"

Insertion of section 4A in Act 42 of 2002

2. The following section is hereby inserted in the principal Act after section 4: 10

"Military Command of Defence Force

4A. The Military Command of the Defence Force referred to in section 202(1) of the Constitution consists of—

- (a) the Chief of the Defence Force;
 (b) the Chief of the South African Army;
 (c) the Chief of the South African Air Force;
 (d) the Chief of the South African Navy;
 (e) the Surgeon-General of the South African Military Health Service;
 (f) the Chief of Joint Operations of the Defence Force;
 (g) the Chief of Defence Intelligence;
 (h) the Chief of Human Resources; and
 (i) the Chief of Logistics."

Amendment of section 13 of Act 42 of 2002

3. Section 13 of the principal Act is hereby amended—
 (a) by the substitution for the heading of the following heading:
"Chief of Defence Force, and appointment of other members of Military Command"; and
 (b) by the insertion after subsection (1) of the following subsection:
"(1A) The President must appoint members of the Military Command of the Defence Force referred to in section 4A."

Amendment of section 53 of Act 42 of 2002

4. Section 53 of the principal Act is hereby amended—
 (a) by the addition to subsection (1) of the following paragraph, the existing subsection becoming subsection (1)(a):
"(b) (i) The members of the Defence Force contemplated in paragraph (a) must, within 18 months after the commencement of the Defence Amendment Act, 2010, enter into a contract of service with the Defence Force as contemplated in subsection (1A)(a).
 (ii) Should any such members fail to conclude a contract contemplated in subparagraph (i), the Minister must give the member notice of his or her intention to terminate the membership of the member and afford such member a reasonable opportunity to conclude the contract.
 (iii) The Minister must terminate the membership of the member if such member fails to conclude the contract following the notice contemplated in subparagraph (ii)."
 (b) by the insertion after subsection (1) of the following subsection:
"(1A) (a) Any member of the Reserve Force is liable to render service in terms of a contract entered into between the Defence Force and such member.
 (b) The content and format of the contract contemplated in paragraph (a) must be prescribed.
 (c) The period for which a member of the Reserve Force must render the service contemplated in paragraph (a) and the calculation thereof must be prescribed."

Annexure 3 (continued)

4

- (c) by the insertion after subsection (3) of the following subsection:
 “(3A) (a) A Reserve Force member must comply with a call-up order issued by that member’s commanding officer in terms of which such member must report for service as contemplated in this Act or the Constitution.
 (b) The content and format of such call-up order must be prescribed.”; 5
 and
 (d) by the insertion after subsection (4) of the following subsection:
 “(4A) Where a Reserve Force member’s period of service terminates, lapses or expires during any form of employment contemplated in section 18(1), the Minister may, with the concurrence of such member, extend such service for a period not exceeding three months or until the conclusion of the operation, whichever is the shorter.”. 10

Amendment of section 55 of Act 42 of 2002

5. Section 55 of the principal Act is hereby amended by the addition of the following subsection after subsection (2): 15

- “(3) In the event that the processes contemplated in subsections (1) and (2) do not materialise, the Minister may, taking into account any recommendation by the Commission, and with the approval of the Minister of Finance, determine pay, salaries and entitlements of the members of the Defence Force.”. 20

Insertion of sections 62A, 62B, 62C, 62D, 62E, 62F, 62G, 62H, 62I, 62J, 62K and 62L in Act 42 of 2002

6. The following sections are hereby inserted in the principal Act after section 62:

“Establishment and composition of Defence Force Service Commission 25

- 62A. (1) There is hereby established a Defence Force Service Commission.
 (2) The Commission consists of no fewer than eight and no more than ten members appointed by the Minister.
 (3) The Minister must designate one member as Chairperson and another as Deputy Chairperson of the Commission. 30
 (4) If the Chairperson is absent or for any reason unable to act as Chairperson, the Deputy Chairperson must act as the Chairperson of the Commission.

Functions of Commission 35

- 62B. (1) The Commission must—
 (a) on an annual basis, make recommendations to the Minister on improvements of salaries and service benefits of members;
 (b) make recommendations to the Minister on policies in respect of conditions of service; 40
 (c) promote measures and set standards to ensure the effective and efficient implementation of policies on conditions of service within the Defence Force, and make recommendations to the Minister in this regard; and
 (d) for the purposes of making recommendations contemplated in paragraphs (a), (b) and (c)— 45
 (i) enquire into or conduct research on conditions of service;
 (ii) review policies;
 (iii) evaluate and monitor the implementation of such policies;
 (iv) consult with the Secretary for Defence, the Chief of the Defence Force, members of the Defence Force, Reserve Force Council and any other interested person or body on conditions of service and any other matter relating to the purview of its functions; 50
 (v) consider any representations made to the Commission; 55

Annexure 3 (continued)

5

- (vi) consult with National Treasury;
- (vii) confer with the Department responsible for public service and administration, the Public Service Commission and any other relevant stakeholder within the public service;
- (viii) consider, among others—
 - (aa) the rank structure of the Defence Force;
 - (bb) the affordability of different levels of remuneration of the Defence Force;
 - (cc) current principles and levels of remuneration in the public service generally; and
 - (dd) inflationary increases.
- (2) The Commission must perform its functions impartially, without bias, fear or prejudice.
- (3) The Commission may, in consultation with the Minister, call upon any member of the Defence Force or employee of the Department to assist it in the execution of its functions, and such person is obliged to provide the necessary assistance.
- (4) The Minister determines the conditions of service for members of the Defence Force, in consultation with the Minister of Finance, after having received a recommendation from the Commission.

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Appointment of members of Commission and conditions of service

- 62C. (1) For the purposes of appointing the members of the Commission, the Minister must by notice in two national newspapers and in the *Gazette* invite interested persons to submit, within the period and in the manner mentioned in the notice, the names of persons fit to be appointed as members of the Commission.
- (2) The Minister must appoint five members of a nomination committee to make recommendations to the Minister for the appointment of the members of the Commission.
- (3) (a) In establishing a nomination committee, the Minister must ensure that the committee is broadly representative of the South African population and that both males and females are represented.
- (b) The members of the nomination committee must have sufficient knowledge and experience that would enable them to exercise a sound and objective discretion in making recommendations to the Minister.
- (4) The nomination committee must, in making a recommendation to the Minister, consider—
- (a) the proven skills, knowledge and experience of a candidate in matters relevant to the functioning of the Commission; and
 - (b) generally, whether the persons nominated represent a sufficient spread of qualifications, expertise and experience to ensure the efficient and effective functioning of the Commission.
- (5) The nomination committee must submit to the Minister a list of suitable candidates at least one and a half times the number of members of the Commission to be appointed.
- (6) If a suitable person or the required number of suitable persons is not recommended, the Minister must call for further nominations in the manner set out in subsection (1).
- (7) (a) The Minister must appoint members of the Commission from the list of candidates submitted in terms of subsection (5).
- (b) The Minister must, within 30 days after appointing the members, by notice in the *Gazette* publish the names of the members so appointed and the date of commencement of their terms of office.
- (8) Any vacancy occurring in the Commission must be filled in the manner provided for in subsections (1) to (7).
- (9) (a) A member of the Commission—
- (i) holds office for a period not exceeding five years;
 - (ii) may, at the discretion of the Minister and in the interest of continuity, be reappointed, but may not serve more than two terms consecutively;
 - (iii) is appointed according to the terms and conditions determined by the Minister; and

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Annexure 3 (continued)

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- (iv) may be appointed either on a full-time or a part-time basis.
- (b) A member of the Commission who is not in the full-time employ of the State must be paid from the budget of the Department such remuneration and allowances in respect of his or her services as the Minister may determine, acting in consultation with the Minister of Finance. 5

Disqualification from membership and removal from office

- 62D.** (1) No person may be appointed as a member of the Commission if he or she—
- (a) is a member of the Defence Force; 10
 - (b) is an unrehabilitated insolvent; or
 - (c) has been convicted of any offence for which that person has been sentenced to imprisonment without the option of a fine for a period of not less than 12 months, unless a period of at least five years has expired after the date on which the sentence was served. 15
- (2) For the purposes of subsection (1)(c), no person is deemed to have been sentenced until an appeal against the conviction or sentence has been disposed of or until the period has expired within which an appeal may be lodged, as the case may be.
- (3) The Minister may remove a member of the Commission from office on account of— 20
- (a) misconduct;
 - (b) inability to perform the duties of that member's office effectively and efficiently; or
 - (c) absence from three consecutive meetings of the Commission without the prior permission of the chairperson, except on good cause shown. 25

Vacation of office

- 62E.** A member of the Commission must vacate office if he or she—
- (a) becomes subject to any disqualification referred to in section 62D;
 - (b) becomes of unsound mind; 30
 - (c) resigns by giving at least 30 days' written notice to the Minister; or
 - (d) for whatever reason, becomes unfit or unable to remain a member of the Commission.

Meetings of Commission

- 62F.** (1) The Commission must meet at least twice a year at a time and place determined by the Chairperson of the Commission. 35
- (2) Six members of the Commission form a quorum for a meeting of the Commission.
- (3) The decision of a majority of the members of the Commission present at a meeting of the Commission constitutes a decision of the Commission and, in the event of an equality of votes on any matter, the person presiding at the meeting concerned has a casting vote in addition to his or her deliberative vote. 40
- (4) The Commission must determine its own procedures to be followed at its meetings. 45

Committees of Commission

- 62G.** (1) The Commission may from time to time appoint one or more committees to perform any duties and exercise any powers assigned or delegated to it by the Commission, and may at any time dissolve or reconstitute such a committee. 50
- (2) A committee consists of so many members of the Commission as the Commission may deem necessary.
- (3) The Commission must designate one of the members of a committee as chairperson of that committee.

Annexure 3 (continued)

7

(4) A committee must perform its duties and exercise its powers subject to this Act and such directives as may be issued by the Commission.

(5) A decision of a committee taken in the performance of a duty or exercise of a power assigned or delegated to it is a decision of the Commission, subject to ratification by the Commission.

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Reporting

62H. (1) The Commission—

(a) is accountable to the Minister; and

(b) must within two months after the end of each financial year submit a report on its activities and findings to the Minister.

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(2) The Minister must, as soon as practicable after receipt of a report contemplated in subsection (1), cause a copy of the report to be lodged with the Cabinet and tabled in Parliament.

(3) A report contemplated in subsection (1) must not contain confidential information that would be detrimental to national security.

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(4) The Commission must, by notice in the *Gazette*, annually publish its findings and recommendations in respect of its work.

Staff of Commission

62I. The Minister may, after consultation with the Commission, appoint or designate persons to give research, secretariat, logistical and technical support to the Commission or to perform other work incidental to the exercise or performance of the powers and duties of the Commission.

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Funding

62J. The costs and expenses connected with the administration of the affairs of the Commission must be defrayed from moneys appropriated by Parliament to the Department for that purpose.

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Intervention by Minister

62K. (1) The Minister may direct the Commission to take any action specified by the Minister if the Commission has failed to perform its functions in an effective and efficient manner.

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(2) A directive contemplated in subsection (1) must state—

(a) the reason for issuing the directive;

(b) the steps which must be taken to remedy the situation; and

(c) a reasonable period within which the steps contemplated in paragraph (b) must be taken.

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(3) (a) If the Commission fails to comply with the directive contemplated in subsection (1), the Minister may—

(i) after having given the Commission a reasonable opportunity to be heard; and

(ii) after having afforded the Commission a hearing on any submissions received,

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replace the members of the Commission or, where circumstances so require, appoint a person as an administrator to take over one or more functions of the Commission subject to such conditions as the Minister may determine.

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(b) Any vacancy occurring as a result of the application of paragraph (a) must be filled in the manner provided for in section 62C.

(4) If the Minister appoints an administrator in terms of subsection (3)—

(a) the administrator may do anything which the Commission might otherwise be empowered or required to do under or in terms of this Act; and

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(b) the Commission may not, while the administrator is responsible for a particular function, exercise any of its powers or perform any of its duties relating to that function.

Annexure 3 (continued)

8

(5) Once the Minister is satisfied that the Commission is able to perform its functions in an effective and efficient manner, the Minister must terminate the appointment of the administrator.

(6) (a) Notwithstanding subsection (3), the Minister may dissolve the Commission if the Minister loses confidence in the ability of the Commission to perform its functions effectively and efficiently.

(b) The Minister may dissolve the Commission only after having—

(i) provided the Commission with reasons for losing confidence in its abilities;

(ii) given the Commission a reasonable opportunity to respond to those reasons; and

(iii) afforded the Commission a hearing on any submissions received.

(c) If the Minister dissolves the Commission, the Minister—

(i) may appoint an administrator to take over the functions of the Commission and to do anything which the Commission might otherwise be empowered or required to do under or in terms of this Act, subject to such conditions as the Minister may determine; and

(ii) must, as soon as it is feasible, but not later than three months after the dissolution of the Commission, appoint the members of the Commission in the manner provided for in section 62C.

Regulations in respect of Commission

62L. The Minister may make regulations regarding—

(a) the manner in which consultation with the Commission must be conducted and the procedures relating thereto;

(b) any matter relating to the functioning of the Commission that it is necessary to prescribe in order to ensure the efficient and effective functioning of the Commission; and

(c) any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of the provisions relating to the Commission."

Amendment of section 104 of Act 42 of 2002

7. Section 104 of the principal Act is hereby amended—

(a) by the substitution for subsection (12) of the following subsection:

"(12) Any person who is liable to render service in the Defence Force by virtue of a military service contract with the Defence Force, and refuses or, without a valid reason, fails to render such service, is guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding one year.";

(b) by the deletion in subsection (21)(a) of the word "or" at the end of subparagraph (ii), and the insertion of the expression "; or" at the end of paragraph (iii); and

(c) by the addition to subsection (21)(a) of the following subparagraph:

"(iv) having been duly notified of his or her call-up for service by way of a call-up order issued in terms of section 53(3A), fails to present himself or herself at the time and place specified in the call-up order."

Transitional provision and saving

8. (1) Any person who is a member of the body known as the interim National Defence Force Service Commission when this Act takes effect, is regarded as having been appointed in terms of section 62C and holds office until the Minister has appointed the members of the Commission in terms of that section.

(2) Anything done by the interim National Defence Force Service Commission prior to the commencement of this Act which could have been done by the Commission in terms of this Act, must be regarded as having been done by the Commission in terms of this Act."

Annexure 3 *(continued)*

9

Short title and commencement

9. This Act is called the Defence Amendment Act, 2010, and takes effect on a date fixed by the President by proclamation in the *Gazette*.

Annexure 3 (continued)

10

MEMORANDUM ON THE OBJECTS OF THE DEFENCE AMENDMENT BILL, 2010

1. OBJECTS OF THE BILL

1.1 The Bill seeks to ensure that Reserve Force members can be utilised and required to perform service in the Defence Force at all times, including during peacetime.

1.2 The Bill also seeks to establish a permanent Defence Force Service Commission, which will advise the Minister of Defence and Military Veterans (Minister) with regard to the improvement of conditions of service of members of the Defence Force.

2. DISCUSSION

2.1 Reserve Force members currently serve on a voluntary basis or render service in terms of a contract. The members of the Reserve Force are only obliged to serve during time of war, a state of national defence or a state of emergency.

2.2 Currently not all members of the Reserve Force have entered into or are required to enter into a contract of service with the South African National Defence Force (Defence Force), and as a result this creates problems with regard to planning. The Bill seeks to make it clear that all Reserve Force members are required to conclude a contract of service with the Defence Force. Such contract will set out the periods of service that a Reserve Force member is liable to render.

2.3 To ensure that Reserve Force members present themselves for service when required to do so, the Bill provides that these members must comply with a call-up order.

2.4 The Bill also seeks to authorise the Minister to extend the period of service of Reserve Force members, with the concurrence of the members.

2.5 In order to relieve the Defence Force from depending solely on the largely dysfunctional bargaining process as the only mechanism towards achieving improved conditions of service and service benefits, the Bill proposes the establishment of an independent Defence Force Service Commission (Commission). The purpose of the Commission would be to render expert advice and provide a mandate to the Minister in respect of the improvement of conditions of service and service benefits for members of the Defence Force.

3. CLAUSE BY CLAUSE ANALYSIS

3.1 Clause 1

This clause inserts certain new definitions in the Act.

3.2 Clause 2

Currently the Minister may not make regulations regarding remuneration of members of the Regular Force. Clause 2 seeks to omit the provision preventing the Minister from making such regulations.

3.3 Clause 3

3.3.1 Clause 3(a) and (b) seeks to require all members of the Reserve Force to enter into a contract of service with the Defence Force. Provision is also made for the Minister to prescribe periods of service.

3.3.2 As in the case of the Regular Force, the Minister currently may not make regulations regarding remuneration of members of the Reserve Force. Clause 3(c) seeks to omit the provision preventing the Minister from making such regulations.

3.3.3 Clause 3(d) seeks to make it compulsory to comply with a call-up order, failure of which may lead to conviction for an offence [clause 7(c)].

3.3.4 Clause 3(e) seeks to empower the Minister to extend the period of contracted service of a member of the Reserve Force for a period of not more than three months after the expiry of such contracted service or until the conclusion of the operations which are being conducted. This means that the Defence Force can retain the services of Reserve Force members who are engaged in important operations.

Annexure 3 *(continued)*

11

3.4 Clause 4

Clause 4 seeks to amend section 55 of the Act by empowering the Commission to recommend pay, salaries and entitlements, including allowances, disbursements and other benefits to the Minister. The Minister may approve these recommendations in consultation with the Minister of Finance.

3.5 Clause 5

3.5.1 Clause 5 inserts sections dealing with the establishment of the Commission and the appointment of the members of the Commission (proposed section 62A).

3.5.2 The Commission will be required to make recommendations to the Minister regarding conditions of service and other benefits, after conducting relevant research, reviewing the relevant policy and consulting various stakeholders (proposed section 62B).

3.5.3 The proposed sections set out in detail the procedure to be followed in the appointing the members of the Commission. The primary responsibility for the selection of the members of the Commission will lie with a nomination committee which will make recommendations to the Minister for suitable candidates (proposed section 62C).

3.5.4 The clause provides for disqualifications from serving in the Commission, for the Minister to remove a member from office under certain circumstances, and for circumstances under which a member must vacate office (proposed sections 62D and 62E).

3.5.5 The clause furthermore makes provision for certain procedural matters, e.g. meetings of the Commission and committees of the Commission (proposed sections 62F and 62G).

3.5.6 The Commission will be accountable to and report to the Minister, who in turn will report to Cabinet and Parliament on the activities and findings of the Commission. (proposed section 62H).

3.5.7 The Minister will appoint or designate the necessary staff to assist the Commission in performing its duties (proposed section 62I).

3.5.8 The Commission will be funded from the budget of the Department of Defence and Military Veterans (proposed section 62J).

3.5.9 The clause furthermore seeks to empower the Minister to intervene where the Commission has not executed its functions effectively and efficiently by directing the Commission to perform certain specified acts to rectify the situation. Where the Commission fails to comply with the directive, the Minister may replace the members or appoint an administrator to take over one or more function of the Commission. The Minister is also authorised to dissolve the Commission if the Minister on good cause shown loses confidence in the Commission to perform its functions properly (proposed section 62K).

3.5.10 The proposed section 62L seeks to give the Minister the power to make regulations regarding the manner in which consultation with the Commission is to be conducted, the procedures in this respect and, generally, regarding the smooth functioning of the Commission.

3.6 Clause 6

Reference has already been made to the fact that the Act currently prevents the Minister from making regulations regarding the remuneration of members of the Defence Force. Section 82 of the Act contains the general authorisation to make regulations. Clause 6 seeks to omit the provision in section 82(1)(a) which prevents the Minister from making regulations in this regard.

3.7 Clause 7

This clause proposes to create offences in respect of a person who fails to render service required in terms of his or her military service contract or to report for duty in terms of a call-up order.

Annexure 3 *(continued)*

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3.8 Clause 8

Clause 8 seeks to ensure a smooth transition from the current dispensation under the interim National Defence Force Service Commission to the new dispensation envisaged in the Bill.

4. CONSULTATION

Stakeholders within the Department of Defence (Reserve Force Council, Human Resource Staff Council and the Plenary Defence Staff Council) have been consulted regarding the proposed amendments.

5. FINANCIAL IMPLICATIONS FOR STATE

Costs resulting from the implementation of this Bill will be borne by the Department.

6. PARLIAMENTARY PROCEDURE

6.1. The Department of Defence and the Office of the Chief State Law Adviser are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.

6.2. The Department of Defence and the Office of the Chief State Law Adviser are further of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.

ANNEXURE 4**URGENT INTERIM REPORT OF THE INTERIM COMMISSION TO THE
HONOURABLE MINISTER OF DEFENCE AND MILITARY VETERANS
3 NOVEMBER 2009****FOREWORD**

Since the approval of the Interim National Defence Force Service Commission by Cabinet on 9 September 2009, the announcement of the Interim National Defence Force Service Commission on 21 September 2009 and the appointment of the Commissioners on 1 October 2009, the Interim National Defence Force Service Commission has adopted, and started to execute, a programme of action to give effect to its Terms of Reference, being

- To advise and make recommendations on a unique service dispensation, outside the ambit of the public service, in respect of members of the South African National Defence Force;
- To advise and make recommendations regarding the amendment of the regulatory framework in order to give effect to the unique service dispensation;
- To investigate, provide expert advice and make recommendations regarding remuneration and the conditions of service of members of the South African National Defence Force;
- To consult widely with all stakeholders; and
- To engage a team of experts to assist the Interim National Defence Force Service Commission in its proceedings.

Over the past month, the Interim National Defence Force Service Commission was introduced to the Portfolio Committee on Defence to whom it presented its terms of reference and programme of action, with the Portfolio Committee having expressed its full support for the Interim National Defence Force Service Commission.

The Interim National Defence Force Service Commission met with the Defence Staff Council, the Military Command Council of the South African National Defence Force and with the Secretariat Council to obtain the top structure's views on matters of pressing concern to the South African National Defence Force. In addition, the Interim National Defence Force Service Commission met with the two recognised military trade unions to ascertain their views on matters of pressing concern to their members. The Interim National Defence Force Service Commission furthermore visited selected bases and units in the South African Army, South African Air Force and South African Navy to interact with, and to ascertain the concerns pertaining to, members of the South African National Defence Force at all rank levels.

The findings of the Interim National Defence Force Service Commission thus far embrace multiple factors of concern that were identified and are generally considered to be so grave and prejudicial to the interests of maintaining the South African National Defence Force as a disciplined, motivated and combat-ready force, that the Interim National Defence Force Service Commission deems it imperative to submit its interim findings to the Honourable Minister of

Annexure 4 *(continued)*

Defence and Military Veterans for immediate consideration, whilst it continues to pursue its programme of action in line with its Terms of Reference.

Pending the submission of a more detailed Report in December 2009, the Honourable Minister of Defence and Military Veterans is hereby appraised of the Interim National Defence Force Service Commission's findings for the period 1 October to 1 November 2009.



(JUDGE L.O. BOSIELO)

CHAIRPERSON OF THE INTERIM NATIONAL DEFENCE FORCE SERVICE COMMISSION

**Pretoria
November 2009**

Annexure 4 *(continued)*

3 November 2009

URGENT REPORT OF THE INTERIM NATIONAL DEFENCE FORCE SERVICE COMMISSION (INDFSC) TO THE MINISTER OF DEFENCE

The INDFSC has met frequently in the last few weeks in an attempt to get a deeper understanding of the pressing matters of concern so that it would be in a position to provide a more detailed report to the Minister of Defence and Military Veterans by December 2009. The Commission has visited a number military bases during this time and has interacted with SANDF officers, troops and unions at various units.

The Commission has come to the conclusion that there are certain matters of grave concern which, given their nature and extent, need to be brought to the attention of the Minister, SANDF Command and Defence Secretariat immediately.

The Command of 21 SAI based at Doornkop has indicated that many members are no longer obeying orders or are simply idling about the base as there are no proper facilities for them to fulfil their tasks. Troops report 08h00 and leave the base at 09h00 with the knowledge of their officers. The morale of the troops is extremely low, as they feel that senior command personnel in Pretoria are only looking after themselves and do not care for members of the SANDF.

Key issues that emerged from the discussions with the Defence Secretariat, the Military Command Council and from the various visits to military units and other forums at this early stage include:

1. Defence Budget Allocation

- a. That the defence budget allocation is considered inadequate and that Peacekeeping Operations and Capital items may be taking up a large part of the budget, leaving inadequate funds for Operational, Infrastructure, Training and Personnel expenses. The Operational budget is under severe constraints resulting in the shortage of jet fuel and ammunition. In some cases operational funds are used for infrastructure. Unit commanders and troops indicate that equipment is rapidly becoming obsolete or at best is unreliable, unserviceable or faulty. Further that transport is old and unserviceable. This has affected the units in properly fulfilling their obligations during peacekeeping operations. This has also resulted in the loss of UN contributions to SA due to non compliance with laid down standards. This impacts negatively on the operational state of the SANDF in all the Services and in all functions performed by them. This affects the overall state of operational readiness in an environment where SA is called upon to increase the level of participation in peacekeeping operations in Africa. Even in the case of the new state-of-the-art naval acquisitions, spare parts have not been able to be procured for a sufficient length of time into the future to ensure long-term serviceability.

2. Accommodation

- a. There is a serious lack of acceptable accommodation. Troops do not have proper barracks and there is a lack of quality accommodation, both regarding single members and married quarters.

Annexure 4 (continued)

- b. The lack of accommodation, as well as the state of available accommodation, forces members to live in sub-human conditions often causing members to live in informal settlements, which drives low morale, detracts from being proud to serve in the SANDF and which breeds anger and frustration. There is inadequate or no available accommodation for the December intake at Saldanha and Simonstown, where already a few hundred members have made home in bunks of the naval vessels.
 - c. The allocated budget for accommodation is woefully inadequate. Many bases have been closed due to occupational health risks. At Lenz and Doornkop there are vandalised buildings, leaks, broken doors and windows,, mould caved in ceilings, blocked urinals and toilets, general disrepair and unclean grounds. Such slum-like conditions with the concomitant lack of privacy for mature soldiers with families is totally unacceptable. The leadership of the SANDF are resorting to crisis management moving units from one base to another, none of which meet acceptable standards. Underlying this is the inability of the Department of Public Works to fulfil their obligations despite funds having been allocated for repairs and maintenance.
 - d. This has resulted in a strained relationship between the Department of Public Works and the SANDF. The Minister needs to take this matter up urgently with the Minister of Public Works and Cabinet and get the responsibility delegated to the DoD, so that the inordinate delays are overcome. This is especially urgent as we are advised that at least R900 million is currently available in the DoD budget for maintenance that awaits the readiness of the Department of Public Works to be utilised. This allocation may well be returned to National Treasury as unused if the DoD waits much longer. It is preferable to have the DoD mandated to use their own money.
3. Grievance Mechanism
- a. The Military Command Council has admitted to the breakdown in the Grievance Mechanism. The current policy for dealing with complaints is not being followed, resulting in widespread complaints of favouritism and a lack of feedback. The Commission strongly recommends the establishment of a task team within HR to clear the backlog in grievances. The grievances cover a wide range of issues including major matters like welfare-related issues involving soldiers' families; remuneration matters etc., but often include relatively smaller matters like requests by students for after-hours transport. However these matters have often not been addressed and reported back on. There is no feedback. Middle management expressed deep frustration at matters that are referred upward and are not addressed.
 - b. The current grievance mechanism and process is regarded as largely ineffective. The middle management have reported to the Commission that this state of affairs is driving members to belong to military trade unions as an alternative mechanism, thereby affecting command and control. When these issues are questioned by members, they are told to leave the organisation, or their grievances are simply ignored.

Annexure 4 *(continued)*

4. Remuneration

- a. Members of the Defence Force have not been informed of the outcome of the negotiations in the Public Service Bargaining Council and whether this affects them or not. Many members of the Defence Force hold a very negative view of the negotiations as they are not directly represented. They feel discriminated against stating that the salaries they earn are low, further that they earn significantly less than the police, even when working with the police on identical tasks, have not had promotions for a number of years and are not paid overtime as their colleagues in the SAPS are. Salaries are considered to be inadequate at all levels.
- b. Salaries of junior members are totally inadequate and force them to live in informal settlements; far from their places of work and that the effect of transport costs significantly dilutes their income, leading to social, psychological and family crises.
- c. The salary situation is seen as being so poor that member's state that they would rather have their right to vote revoked in lieu of the non-payment of personal income tax.
- d. Inadequate salaries are a primary reason for the exodus of highly skilled and experienced personnel, which has a debilitating effect on the SANDF's operational readiness.
- e. Salaries are not regarded as appropriate recognition for the unique demands and dangers inherent in military service.
- f. The remuneration differential between the SANDF and SAPS drives low morale.
- g. Inadequate remuneration debilitates the SANDF's efforts to enhance the number of Black members with scarce skills, as such members are poached by the private sector as soon as they have obtained scarce skills qualifications in the SANDF.

5. Allowances

- a. Allowances in most categories are regarded as woefully inadequate, including external deployment allowance which compare insufficient with that received by members of other defence forces serving alongside SANDF members on external deployments.
- b. The housing allowance is regarded with ridicule, as R 500 per month cannot serve to cover bond repayments and members are not able to get bonds through the commercial banks given their poor salaries.
- c. Allowances for specialised functions/occupations have not been appropriately adjusted for inflation over many years, which factor drives low morale and the exit of personnel with scarce skills.

Annexure 4 *(continued)*

6. Professional Health Support

- a. The level of professional health support at bases and units is inadequate and under severe pressure due to un-staffed posts; the non-availability or shortage of doctors; inadequate facilities; inadequate equipment and lack of military ambulances.
- b. Members must travel long distances for specialised health care at great inconvenience to their families.
- c. The level of professional health support is a driver of low morale.
- d. Professional health workers at base/unit level do not get the required support from their higher levels of command, yet requirements and expectations for quality healthcare are the most prevalent at base/unit level.
- e. The lack of general social support services, as well as inadequate social welfare and psychology services at base/unit level lead to an inordinate workload for the Chaplaincy.

7. Transport

- a. Low salaries do not allow junior members to acquire private transport, whilst military transport/duty buses are absent or totally inadequate.
- b. The state of serviceability and safety of military vehicles pose life threatening risks.
- c. Members allege the misuse of official vehicles by senior individuals.
- d. There is no free access, subsidy or reimbursement for utilising public transport, as is understood to be the case with the SAPS.
- e. The absence of a school bus system burdens families with additional expenditure, drawn from low salaries.

8. Career Management

- a. There is general agreement that the current career management system does not work and is a driver of low morale and anger.
- b. There is no or very little communication on career planning.
- c. Members with tertiary qualifications are mis-utilised in functions such as guarding, whilst they can be utilised much more productively in functions related to their qualifications.
- d. Nepotism and favouritism are identified as seriously prevalent influencing factors in career management.
- e. Ineffective administration bedevils career management.

Annexure 4 *(continued)*

- f. There is no career planning for members who have already served a decade or more at one rank level in the lowest ranks.
 - g. The current exit mechanism is inadequate to motivate members who have reached a career plateau to exit, thereby blocking the upward mobility of junior members.
 - h. Geographical transfers do not take into account members' personal and family circumstances, leading to disruption of family life and material sacrifices (e.g. spouses who cannot find employment at the new posting areas).
9. Promotions and Utilisation
- a. There is severe competition for promotions due to the fact that basic salaries are coupled to rank. Members can only improve their living standards by being promoted.
 - b. The promotion policy must be revisited. Due to basic salaries being coupled to a rank, the revised promotion policy that calls for a longer period of service in each rank, has a debilitating effect on members' material wellbeing and morale.
 - c. It is being questioned why more and more Reserve members are called up, whilst there are many Regular members being mis-utilised and who are willing to serve in vacant posts.
 - d. The promotion policy is not consistently implemented.
 - e. The exodus of highly skilled and experienced personnel significantly increases the workload on those remaining behind, which drives low morale, as additional work efforts are not appropriately recognised through remuneration.
10. The Military Skills Development System (MSDS)
- a. The MSDS system as currently implemented does not find favour amongst members. The two-year period of service with no guarantee of continued service drives low morale.
11. Transformation
- a. There is little understanding for, and effort to improve understanding of, transformation in the SANDF.
 - b. Legacies of incorrect decisions regarding ranking and utilisation during the integration process continue to persist 15 years after the establishment of the SANDF.
 - c. Allegations of racism are rife, towards the junior ranks.
 - d. There are some views that affirmative action and political appointments lead to racism and polarisation. What is urgently required is an enhanced diversity training to create an understanding of our past so that these historic legacies can be overcome.

Annexure 4 *(continued)*

12. Disempowerment of Commanding Officers

- a. Over-centralisation has robbed officers commanding of many decision making powers which has a negative effect on their ability to exercise command and control effectively (e.g. powers relating to discretionary expenditure authorisation and powers to exercise punitive measures for disciplinary infringements).
- b. Members jump the official channels of command to gain faster relief for requests and grievances, thereby contributing to the disempowerment of Commanding Officers or direct superiors.

13. Command and Control

- a. The Commission has noticed that discipline at the bases that were visited, needs to be restored and improved. There is a common complaint by middle management that they are not visited or properly informed by the higher command. The crisis at 21 Battalion needs immediate attention, somebody with the rank of Lieutenant-Colonel should take charge of the situation. The current situation is that an acting commander with the rank of Major is in charge, which creates the perception amongst the soldiers that this crisis is not viewed as important by the SANDF's leadership. A further problem is that leadership of the SANDF do not visit units.

14. Expectations of the INDFSC

- a. SANDF members support a new beginning to resolve their major challenges, through the work of the INDFSC and a to-be-established permanent NDFSC.
- b. There is a need to defuse the situation or tension at many bases and overcome the feeling of general neglect by senior commanders.
- c. Civil-military relations and the effect of turf wars rather than addressing the needs of the SANDF and its proper functioning in a democracy needs to be further investigated.

Annexure 4 *(continued)*

Conclusion

Given the situation that is currently prevailing, the level of combat readiness is questioned as it relates to the state of equipment and infrastructure and the overall sense of decay, especially in the SA Army.

These matters, if not addressed immediately, will adversely affect the morale of troops and could threaten the security of the state.

The Commission will still pronounce in detail on these issues, in the December report but we thought it prudent and imperative to bring these matters to the attention of the Minister, so that she can immediately bring this to the attention of the Commander-in-Chief, should she and the President deem it expedient to table before Cabinet for resolution to prioritise the necessary authorization to address these matters urgently and expeditiously.

The Commission feels obliged to suggest that the Commander-in-Chief, Ministers of Finance, Public Works and Defence and Military Veterans, should meet urgently to resolve the most urgent aspects set out above.

ANNEXURE 5**SECOND INTERIM REPORT OF THE INTERIM COMMISSION TO THE
HONOURABLE MINISTER OF DEFENCE AND MILITARY VETERANS
10 DECEMBER 2009****ACKNOWLEDGEMENTS**

1. On behalf of the Interim National Defence Force Service Commission, I wish to thank the Minister of Defence and Military Veterans for having shown confidence in us and for having given us the opportunity to serve on this Interim Commission.
2. Appreciation is expressed towards the Acting Secretary for Defence, Mr T.P. Motumi, and his staff for their invaluable assistance.
3. We wish to thank the Chief of the SANDF, General G.N. Ngwenya, as well as the Chiefs of the Arms of Service and Divisions for their unwavering commitment, dedication and support to the Commission. Furthermore, we are grateful to them for their invaluable skills and expertise which they brought to the Commission. The Officers Commanding of all the units/bases that were visited and without whose support this Interim Commission would not have made progress, are also thanked.
4. A special vote of thanks is also passed to the staff of the Secretariat of the Interim National Defence Force Service Commission for their invaluable assistance in co-ordinating all visits to units, as well as for logistical and administrative support to the Commission.
5. Finally, I wish to thank the Deputy Chairperson, Mr A. Ismail and the members of this Commission, Lieutenant General (retired) L. Moloï, Major General (retired) B.H. Holomisa (MP), Ms H. Mgabadeli (MP), Mr P. Groenewald (MP), Dr A. Mokgokong, Professor R. Christie and Bishop M. Mpumlwana for their dedication, specific areas of expertise and invaluable contributions to the finalisation of this report.

**(JUDGE L.O. BOSIELO)****CHAIRPERSON OF THE INTERIM NATIONAL DEFENCE FORCE SERVICE COMMISSION**

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LIST OF ABBREVIATIONS

CDLS:	Chief Defence Legal Services
DOD:	Department of Defence
INDFSC:	Interim National Defence Force Service Commission
MOD&MV:	Minister of Defence and Military Veterans
MSDS:	Military Skills Development System
NDFSC:	National Defence Force Service Commission
SANDF:	South African National Defence Force
SAPS:	South African Police Service

Annexure 5 *(continued)*

FOREWORD

1. Over the past decade the SANDF has emerged as a profound force to restore and maintain peace and security on the African Continent through its participation in United Nations and African Union mandated peace support operations. Yet, despite this prominent role, the improvement in conditions of service of SANDF members has not enjoyed a top priority since South Africa became a democracy. This situation has led to a serious deterioration in morale and an outflow of expertise. There must therefore be an urgent and immediate intervention to restore the morale and self-worth of members of the SANDF stem the outflow of expertise and rare skills through improving SANDF members' conditions of service.
2. An urgent substantive improvement in soldiers' remuneration is required. As a first phase, the closing of the salary gap with the SAPS must be implemented. This is imperative for the re-building of morale and a motivated force, which can contribute with confidence towards achieving the DOD's vision of ensuring effective defence for a democratic South Africa.
3. The INDFSC observed that it appears as if the DOD has, during the past, attempted to design its requirements within the budget allocation. However, there have been recommendations made by the Secretary for Defence and C SANDF via the previous Ministers that proved to be unsuccessful. It is time to amend the approach and the DOD should clearly articulate its funding requirements in order to execute its mandate. The INDFSC emphasizes that a serious bid must be made to close the salary gap between the SANDF and the SAPS, backdated to 1 July 2009, as the salary situation negatively affects members' lives and morale, as well as the maintenance of national security. Members of the SANDF have been disadvantaged in salary negotiations since 2001. This matter cannot await the establishment of a permanent National Defence Force Service Commission.



(JUDGE L.O. BOSIELO)

CHAIRPERSON OF THE INTERIM NATIONAL DEFENCE FORCE SERVICE COMMISSION

Pretoria

December 2009

Annexure 5 *(continued)*

EXECUTIVE SUMMARY

1. The INDFSC commenced with its work on 1 October 2009. Since then, the INDFSC has, in line with its programme of action and time table, endorsed by the PPCOD on 13 October 2009 held extensive consultations with the top leadership of the DOD (Defence Secretariat and SANDF) as well as with approximately 3 500 SANDF members of all rank levels at various bases and units and Military Trade Unions in order to give effect to the terms of reference issued by the Minister of Defence and Military Veterans, as outlined in this report.
2. The two most critical issues identified and deliberated upon in this report, which require immediate attention and action, are
 - a. remuneration and conditions of service for members of the SANDF with specific reference to the occupational class Military Practitioner (Salary Level 2 to 12); and
 - b. the establishment of a National Defence Force Service Commission.
3. The recommendations of this report are therefore confined to the above two critical issues whilst the remainder of issues will be deferred for the subsequent report.
4. Remuneration and Conditions of Service for Members of the SANDF. The Commission acknowledges the imperative to establish a unique service dispensation for the military. The SANDF Remuneration Strategy is designed to remunerate soldiers in terms of their professional occupation as soldiers. However, the SANDF is currently remunerated at the same level as the general Public Service. This has resulted in the SANDF always lagging behind in its remuneration packages. As a result the most viable short-term relief is to raise the remuneration of the SANDF to be on par with that of the SAPS. To this effect, the Commission recommends as a measure of interim relief that SANDF members' salaries be brought on par with the SAPS with effect from 1 July 2009. The financial implication will be approximately Rbn 1,398 over a nine-month period within the current financial year (FY 09/10).
5. Establishment of a National Defence Force Service Commission. It is recommended that a permanent National Defence Force Service Commission be established through dedicated legislation. Such legislation must contain details of how the NDFSC is to be appointed, the Commissioners' terms of reference, functions, staff component and reporting responsibilities, as well as the NDFSC's relationship with Parliament and the Executive and its oversight role over the SANDF.

Annexure 5 *(continued)*

6. In summary, firstly, the INDFSC trusts that the attainment of parity between the salaries of the SANDF and SAPS will serve as a firm expression of national intent to regard the remuneration of members of the South African National Defence Force with the appropriateness which matches their expected contributions towards national security and their dignity as soldiers. Secondly, the establishment of a statutory National Defence Force Service Commission will create a sound platform from which to further advance the needs of soldiers in terms of their conditions of service, all of which cannot be addressed at once immediately or over the short term.
7. The INDFSC recommends that both of its recommendations be implemented immediately.

Annexure 5 *(continued)*

10 December 2009

SECOND INTERIM REPORT OF THE INTERIM NATIONAL DEFENCE FORCE SERVICE COMMISSION (INDFSC) TO THE MINISTER OF DEFENCE AND MILITARY VETERANS

INTRODUCTION

1. Since the approval of the Interim National Defence Force Service Commission by Cabinet on 9 September 2009, the announcement of the INDFSC on 21 September 2009 and the appointment of the Commissioners on 1 October 2009, the INDFSC has adopted, and started to execute, a programme of action to give effect to its Terms of Reference.
2. On 13 October 2009, the INDFSC was introduced to the Portfolio Committee on Defence to whom it presented its terms of reference and programme of action, with the Portfolio Committee having expressed its full support for the INDFSC. The INDFSC has met with the Defence Staff Council, the Military Command Council of the South African National Defence Force, the Secretariat Council to obtain the top structure's views on matters of pressing concern to the South African National Defence Force and Military Trade Unions. In addition, the INDFSC visited selected bases and units in the South African Army (21 South African Infantry Battalion, Personnel Services School and the Army Support Base Johannesburg), the South African Air Force (Air Force Base Hoedspruit), the South African Navy (Fleet Command in Simon's Town) and the South African Military Health Service (1 Military Hospital) to interact with and to ascertain the concerns pertaining to members of the South African National Defence Force at all rank levels with regard to their general conditions of service.
3. The INDFSC has also interacted with the National Intelligence Agency, the SAPS, external consultants and the Independent Commission for the Remuneration of Public Office Bearers in acquainting the Commission with remuneration practices within the security cluster and the regulatory imperatives for the establishment of a permanent Commission.

BACKGROUND

4. In the course of its visits to the various SANDF units/bases and its interaction with the Command structures, the commission made observations and received a variety of complaints and issues from the members.

Annexure 5 *(continued)*

5. However, due to serious time constraints and considerations of pragmatism, the Commission resolved to focus in this report on two identified critical issues and to defer the other concerns to a later report. As a result this report will be confined to the two critical issues being first and foremost the remuneration of soldiers and, secondly, the need for regulatory framework amendments to establish a permanent National Defence Force Service Commission.

TERMS OF REFERENCE

6. On 5 October 2009 the MOD&MV issued the terms of reference mentioned hereunder to the INDFSC. The INDFSC was required to report by 31 December 2009 or an earlier date, giving due consideration to Section 80 of the Defence Act (Act No 42 of 2002):
 - a. To advise and make recommendations on a unique service dispensation outside the ambit of the Public Service, in respect of members of the SANDF.
 - b. To advise and make recommendations regarding the amendment of the regulatory framework in order to give effect to the unique service dispensation as per paragraph 6.a.
 - c. To investigate, provide expert advice and make recommendations regarding remuneration and the conditions of service of members of the SANDF.
7. On 9 November 2009, the MOD&MV handed over to the INDFSC the amended terms of reference which read as follows:
 - a. Advise and make recommendations on a unique service dispensation outside the ambit of the Public Service.
 - b. Advise on the regulatory framework for the unique service dispensation.
 - c. Investigate and provide advice on remuneration and conditions of service of members of the SANDF.
 - d. In order to assist the INDFSC, it is proposed that the INDFSC adopts the following approach:
 - i. It makes recommendations on a unique service dispensation for the SANDF.
 - ii. The recommendations must include the establishment of a National Defence Force Service Commission (Military Service Commission) and:
 - (1). How it is to be appointed.
 - (2). Its terms of reference.
 - (3). Its functions.
 - (4). Its staff component.
 - (5). Its relationship with the Public Service Commission.
 - (6). Its relationship with Parliament.
 - (7). Its reporting responsibilities to the President and the MOD&MV.
 - (8). Its oversight role over the SANDF in respect of the INDFSC's mandate.

Annexure 5 *(continued)*

- iii. It develops a framework for determining salaries and conditions of service for the SANDF that the NDFSC will be able to develop and implement, subject to any changes which it may make.
- e. The MOD&MV requested the INDFSC to note that:
 - i. "It is not in the terms of reference of the INDFSC to investigate and consider forms of voluntary association for the military, including trade unions. The President, as Commander-in-Chief has, with the support of Cabinet, declared that de-unionisation of the SANDF must be accomplished as soon as possible. No other person has the authority to countermand the President's directive.
 - ii. The Commission must therefore not be seen to undermine this expressed command. To do so would undermine the command and control that are central to the Defence Force. It would be advisable for the INDFSC to steer as far as possible from entertaining issues relating to unions or military associations.
- f. All other issues mentioned in the initial briefing document should be regarded as medium term work in progress to be continued until a permanent National Defence Force Service Commission is appointed."
- 8. On 5 November 2009 the Commission submitted its report titled 'Urgent Interim Report' addressing multiple matters of concern that were identified in its initial engagements and considered to be so grave and prejudicial to the interests of maintaining the SANDF as a disciplined, motivated and combat-ready force that they required the MOD&MV's immediate consideration. These matters will be dealt with at length in a subsequent report.

REMUNERATION AND CONDITIONS OF SERVICE FOR MEMBERS OF THE SANDF

- 9. **The State of Morale in the SANDF.** As mentioned in the previous report, the exodus of highly skilled and experienced personnel, largely as a result of low pay, significantly increases the workload on those remaining behind, which drives low morale as additional work efforts are not appropriately recognised through remuneration.
- 10. **Conditions of Service in the SANDF.** The INDFSC regards conditions of service within the military context as an extended concept, being broader than merely encompassing salaries and allowances. The INDFSC views the following factors as constituting a part of soldiers' conditions of service:

Annexure 5 *(continued)*

- a. Recruitment procedures, advertising and selection criteria;
- b. Appointments and appointment processes;
- c. Job classification and grading;
- d. Remuneration, service benefits and terms and conditions of service;
- e. Job assignments;
- f. The working environment and state of facilities;
- g. Training and development;
- h. Performance evaluation systems;
- i. Promotion;
- j. Transfers;
- k. Demotion;
- l. Disciplinary measures other than dismissals;
- m. Scarce skills;
- n. Pay progression;
- o. Deployment benefits; and
- p. Tools of trade.

11. The Current SANDF Remuneration Dispensation. In respect of the current remuneration dispensation for the SANDF, the following concerns have been noted in the Urgent Interim Report dated 3 November 2009:

- a. Members of the SANDF feel discriminated against stating that the salaries they earn are low, further that they earn significantly less than the SAPS, even when working with the police on identical tasks. Furthermore, members of the SANDF complained that they had not had promotions for a number of years and are not paid overtime as their colleagues in the SAPS are.
- b. Salaries are considered to be inadequate at all levels. Salaries of junior members are totally inadequate and force them to live in informal settlements; far from their places of work. Furthermore, members complain that the practical effect of the attendant transport costs significantly dilutes their income, leading to social, psychological and family crises. The salary situation is seen as being so poor that some members state that they would rather have their right to vote revoked in lieu of the non-payment of personal income tax.
- c. Inadequate salaries are cited as a primary reason for the exodus of highly skilled and experienced personnel, which has a debilitating effect on the SANDF's operational readiness. Salaries are not regarded as appropriate recognition for the unique demands and dangers inherent in military service. The remuneration differential between the SANDF and SAPS drives low morale.

Annexure 5 *(continued)*

- d. Inadequate remuneration debilitates the SANDF's efforts to enhance the number of Black members with scarce skills as such members are poached by the private sector as soon as they have obtained scarce skills qualifications in the SANDF.
 - e. Allowances in most categories are regarded by many troops as woefully inadequate, including external deployment allowances which compare insufficiently with that received by members of the SAPS and other defence forces serving alongside SANDF members on external deployments.
 - f. The housing allowance is regarded with ridicule, as R 500 per month cannot serve to cover bond repayments and members are not able to get bonds through the commercial banks given their poor salaries. Allowances for specialised functions/occupations have not been appropriately adjusted for inflation over many years, which factor drives low morale and the exit of personnel with scarce skills.
12. Considering the above mentioned, the Commission entertained submissions from Alexander Forbes Financial Consultants on ways to address these concerns in the short term, submissions by the DOD on their remuneration strategy and a future unique SANDF Remuneration Dispensation including proposals to provide interim relief to SANDF members (salary levels 2 to 12), all of which have been endorsed by the Defence Staff Council. The Commission has not had the time to undertake its own deep research on these matters and expresses its gratitude to Alexander Forbes Financial Consultants and the DOD in this regard. Because salary levels 13 and above fall within the General Public Service Senior Management System, the Commission is not addressing their needs at this stage. Likewise, the Commission has not had sufficient time to deal with the complex matter of Occupational Specific Dispensations, but notes that there are special difficulties in this regard in the SA Army, SA Air Force, SA Navy and the SAMHS.
13. **Distinction Between Military Service and Public Service.** The distinctiveness of military service as opposed to public service should be viewed in the combination of factors that impact on the conditions of life of soldiers. Members of the SANDF are subject to limitations, risks and responsibilities as a direct consequence of their conditions of service which are applicable to no other category of public servants. Soldiers accept that their duty dictates that the rights enjoyed by other South African citizens will be limited in its applicability to them. Furthermore, soldiers are exposed to financial, emotional, social and physical health risks that are directly linked to their conditions of service and duties. Lastly, soldiers have extraordinary responsibilities with respect to career long development, personnel, equipment and the consequences of their decisions. Soldiers have two distinct though complementary development paths which are prerequisites for their dual functional and military responsibilities. For example a troop may be trained

Annexure 5 *(continued)*

as a soldier and as an artisan. As a soldier a troop has to be prepared to die in combat whilst this is not true of a civilian artisan.

14. Future Unique SANDF Remuneration Dispensation. In the past the SANDF has found itself repeatedly drawn into remuneration dispensations which are designed for the broader Public Service and which at best only approximate the unique needs of the SANDF. With every past revision of a remuneration dispensation for the Public Service, the effects of this approximation have further eroded the position of the military. The current SANDF remuneration dispensation does not take into account these unique limitations, risks and responsibilities of the profession of soldiery and the SANDF has been compelled to institute incentive allowances in critical occupational classes as an urgent measure to stem the flight of critically scarce skills.
15. In order to address the unique limitations, risks and responsibilities to which SANDF members are subjected to, a unique SANDF remuneration model was developed by the DOD after extensive research, literature reviews and national and international benchmarking of norms and best practices. The Commission's terms of reference require it to undertake benchmarking. Due to serious time constraints, the Commission has not been able to undertake any benchmarking. The Commission records its intention to undertake further research on the model presented by the DOD.
16. The DOD also informed the Commission about their efforts since 2007 to have this unique dispensation or elements thereof funded and implemented to provide relief to the soldiers and to address the concerns identified by the Commission during their visits to SANDF units/bases and noted in this report. On engagements between the SAPS and the DOD, the Commission also notes with concern that soldiers are currently remunerated below the salary levels applicable to the SAPS. The Commission also notes that the DOD has initiated attempts since 2008 at least to achieve relative parity between the SANDF and the SAPS. These have proved to be unsuccessful. The intention was to generate immediate relief for soldiers while continuing to pursue the SANDF's quest for a unique dispensation.
17. The Commission fully acknowledges the fact that further developments are required to establish a unique service dispensation for the military outside the ambit of the Public Service. In the quest to seek immediate interim relief for soldiers' current conditions of service, the Commission confined itself to attempts to address the immediate needs of members of the SANDF by recommending relative parity with the SAPS as a short term solution for interim relief.

Annexure 5 *(continued)*

18. In summary, the Commission now recommends that the SANDF (salary levels 2 to 12) be put on par with the SAPS with effect from 1 July 2009.

ESTABLISHMENT OF A NATIONAL DEFENCE FORCE SERVICE COMMISSION

19. The terms of reference demanded from the INDFSC to make recommendations on the establishment of a National Defence Force Service Commission with specific reference to how the NDFSC is to be appointed, the terms of reference, functions, staff component and reporting responsibilities of the NDFSC, the relationship between the NDFSC and the Public Service Commission and with Parliament and the oversight role over the SANDF.
20. To give effect to the above mentioned, the INDFSC engaged with the Secretariat of the Independent Commission for the Remuneration of Public Office Bearers. This Commission was established by the Independent Commission for the Remuneration of Public Office Bearers Act, Act 92 of 1997, from where it derives its mandate. This Act further details the appointment and terms of the Commissioners, the functions, staff components and reporting responsibilities of the Commission and the Commission's relationship with Parliament.
21. The INDFSC also engaged with the Chief of Defence Legal Services in respect of the drafting of a Bill for the establishment of a permanent National Defence Force Service Commission.
22. This engagement resulted in a draft Bill for the establishment of a National Defence Force Service Commission, similar in concept to the establishment of the Independent Commission for the Remuneration of Public Office Bearers. In this regard, the Commission recommends that the MOD&MV takes initiatives to begin the legislative process for the approval of the draft Bill.

SHORT TERM RECOMMENDATIONS

23. **Remuneration and Conditions of Service for the SANDF**
- a. The Commission acknowledges the imperative to have a unique service dispensation for the military. As proposed by the DOD, the SANDF Remuneration Strategy is designed to remunerate soldiers as soldiers. However, since the SANDF is currently remunerated on the same par as the General Public Service, the most viable relief for the situation is to raise the remuneration of the SANDF to be on par with that of the SAPS. To this effect, the Commission recommends, as a

Annexure 5 *(continued)*

measure of interim relief that SANDF members' salaries (levels 2 to 12) be brought on par with the SAPS.

- b. To achieve parity between salaries of the SAPS and the SANDF by merely duplicating the minimum and maximum notches/packages will create problems for the SANDF since the differences are addressed in a mechanical way. The parity exercise demands that due account be taken of the same level of responsibility as well as opportunity to reach the maximum of the different levels. The notches/packages currently being paid to SAPS were used to obtain parity where possible for the SANDF.
- c. In addition, this measure of interim relief also distinguishes between the remuneration of Non-Commissioned Officers (NCOs) and Commissioned Officers in two distinct and different salary bands and provides for overlapping of salary grades to address concerns on the restricted salary progression in junior ranks resulting from the promotion policy.
- d. The Military Skills Development System (MSDS) in comparison with Student Constables is also addressed in this recommendation.
- e. The percentage change to the DOD's HR budget is 19.84 % ranging from a 67.77% increase for MSDS to a 2% increase for Colonels. It also includes the Reserves and an increase in all allowances (remunerative allowances and incentive payments for scarce skills) linked to a salary grade/level as a basis of calculation of the specific allowance.
- f. A comparison of the current minimum and maximum notches with this recommendation and the financial implications for the DOD are attached at Annexures 1 and 2.
- g. It is recommended that this proposal be implemented with effect from 1 July 2009. The implementation of this recommendation with effect from 1 July 2009 will cost approximately Rbn 1,398 over a nine-month period (FY 09/10).

24. Establishment of a National Defence Force Service Commission

- a. It is recommended that a NDFSC be established through separate legislation setting out how the NDFSC is to be appointed, its terms of reference, functions, staff component and reporting responsibilities, the relationship with Parliament and its oversight role over the SANDF.
- b. Appointment of the National Defence Force Service Commission
 - i. It is recommended that a public nomination process, duly gazetted, should be followed. The President, after consulting with the MOD&MV, should appoint a demographically representative nomination committee, who are to make recommendations to the President for the appointment of the Commissioners. The nomination committee must consider the eligibility of nominees based

Annexure 5 *(continued)*

upon factors such as their skills, knowledge and relevant experience and to what extent nominees can contribute towards the effective and efficient functioning of the Commission.

- ii. It is recommended that the NDFSC should comprise of ten (10) Commissioners who are to be appointed by the President, after consultation with the MOD&MV. The President should designate the Chairperson and another Commissioner as Deputy Chairperson of the Commission.
- iii. It is recommended that six members of the Commission shall constitute a quorum.
- c. The expenditure incidental to the execution of the Commission's powers, duties and functions should be defrayed from moneys from the Defence Budget Vote allocated for the purposes of the Commission.
- d. Recommended Terms of Reference of the National Defence Force Service Commission. It is recommended that the NDFSC should be ceased with the following terms of reference:
 - i. To make annual recommendations to the President and MOD&MV on improvements of salaries and service benefits of South African National Defence Force members;
 - ii. To make recommendations to the President and MOD&MV on the development of policies on other conditions of service;
 - iii. To promote measures and set standards to ensure the effective and efficient performance and implementation of policies on conditions of service within the SANDF and make recommendations to the President and MOD&MV thereto.
- e. Functions of the National Defence Force Service Commission. For the purposes of adhering to the terms of reference contemplated in paragraph 25.d above, it is recommended that a NDFSC must execute the following functions:
 - i. Enquire into, or conduct research on, conditions of service;
 - ii. Review policies;
 - iii. Evaluate and monitor the implementation of policies;
 - iv. Invite the Secretary for Defence, the Chief of the South African National Defence Force, members of the SANDF and any other interested party to make representations on any matter falling within the purview of its functions;
 - v. Evaluate representations made;
 - vi. Consult with National Treasury;
 - vii. Confer with the Department responsible for Public Service and Administration, the Public Service Commission and any other relevant stakeholders within the Public Service;

Annexure 5 *(continued)*

- viii. Consider, amongst other factors, the rank structure of the SANDF; the affordability of different levels of remuneration of the SANDF; the current principles and levels of remuneration in the Public Service in general and inflationary factors.
- ix. Meet at least once in every year at a time and place determined by the Chairperson.
- f. Staff Component. It is recommended that the MOD&MV should appoint or designate persons, after consulting with the Commission, to give research, secretariat, logistical and technical support or to perform other work incidental to the execution of the Commission's functions.
- g. Reporting Responsibilities to the President, Minister of Defence and Military Veterans and Parliament
 - i. It is recommended that the Commission should be accountable to the President and must within two months after the end of each financial year submit a report with findings and recommendations to the President and MOD&MV. The President, in consultation with the MOD&MV, should cause a copy of the report to be submitted to cabinet and tabled in Parliament as soon as practicable.
 - ii. The Commission must, by notice in the Gazette, publish its findings and recommendations annually.
- h. It is recommended that the President should, after consultations with the MOD&MV and with the NDFSC, make regulations with regard to the nature and manner of consultation on salaries, service benefits and conditions of service within the SANDF or any other matter necessary for the effective functioning of the Commission.
- i. Attached as Annexures 3 and 4 are copies of the draft Bill and the Memorandum.

AREAS IN NEED FOR FURTHER INVESTIGATION WITH THE VIEW TO MEDIUM TO LONG TERM RECOMMENDATIONS AND PROPOSALS

- 25. The Commission worked against a tight time schedule and therefore had to prioritise its activities in terms of short- medium- and long term. The Commission deemed it prudent and practical to make recommendations on a short term intervention on the remuneration of SANDF members and the regulatory framework for the establishment of a NDFSC.
- 26. The areas identified by the Commission for further investigation are:
 - a. Defence budgetary constraints.
 - b. The state of defence infrastructure.
 - c. The SANDF grievance mechanism.
 - d. Aspects mentioned in this report that contribute to the low morale of soldiers.

Annexure 5 *(continued)*

- e. Command, Control and Communication in the SANDF.
- f. Transformational issues.
- g. Civil-Military Relations.
- h. Recommendations on a unique service dispensation outside the ambit of the Public Service and the regulatory framework thereof considering the model that was presented to the Commission.
- i. Recommendations on a framework for determining salaries and conditions of service for the SANDF that the NDFSC will be able to develop and implement, subject to any changes which the NDFSC may make.
- j. Military justice system.
- k. The total wellness of the SANDF.

CONCLUSION

- 27. It is fair to state that many members of the SANDF are highly optimistic and expressed high expectations for the permanent National Defence Force Service Commission.
- 28. Given the nature of the conditions and observations made by the Commission during its investigations, it is critical and imperative that the morale of soldiers be improved. Part of the overall strategy should include the purchase of a variety of new equipment. Some of the infrastructure which the Commission saw requires rapid restoration, renewal or replacement. In short, there is a clear need for a wide variety of matters to be attended to.
- 29. It is the opinion of the Commission that failure to address some of these concerns might affect the morale of the troops further and could possibly even threaten the security of the state.
- 30. In recommending a short term relief for the challenges regarding remuneration of members of the SANDF and the establishment of a unique service dispensation for the SANDF outside the ambit of the Public Service, coupled with the establishment of a permanent National Defence Force Service Commission, the Interim Commission is hopeful that the uniqueness of the military as a profession will be acknowledged and the needs of the soldiers met in the process.

Annexure 5 *(continued)*

SECOND INTERIM REPORT OF THE INTERIM NATIONAL DEFENCE FORCE SERVICE COMMISSION (INDFSC) TO THE MINISTER OF DEFENCE AND MILITARY VETERANS

Signed at Pretoria on this Tenth Day of December 2009



JUDGE L.O. BOSIELO
CHAIRPERSON



MR A. ISMAIL
DEPUTY CHAIRPERSON



LT GEN (RET) L. MOLOI
COMMISSIONER



MAJ GEN (RET) B.H. HOLOMISA (MP)
COMMISSIONER



MS H. MGABADELE (MP)
COMMISSIONER



MR P. GROENEWALD (MP)
COMMISSIONER



DR A. MOKGOKONG
COMMISSIONER



BISHOP M. MPUMLWANA
COMMISSIONER



PROF R. CHRISTIE
COMMISSIONER

Annexure 5 *(continued)*

ANNEXURE 1: COMPARATIVE ANALYSIS OF THE CURRENT AND PROPOSED SANDF NOTCHES

Salary Band	Structure	Rank	Current Notches			Proposed Notches		
			Level	Min	Max	Scale	G1	G12
Band A	Salary & Benefits	MSDS 1 st Year	3	31 719		A1	51 816	
	Salary & Benefits	MSDS 2 nd Year	3	31 719		A2	64 120	
Band B	Salary & Benefits	Private	3	63 438	74 724	B1	94 452	117 439
	Salary & Benefits	Lance Corporal	4	73 788	86 916	B2	102 238	127 120
	Salary & Benefits	Corporal	5	87 288	102 822	B3	110 666	137 599
	Salary & Benefits	Sergeant	6	107 553	126 693	B4	122 184	151 920
	Salary & Benefits	Staff Sergeant	7	132 531	156 114	B5	140 315	174 508
	Salary & Benefits	WO II	8	161 976	190 797	B6	167 732	208 554
	Salary & Benefits	WO I	9	192 540	226 800	B7	200 455	249 241
	Salary & Benefits	Candidate Officer	4	73 788	86 916	C1	102 238	127 120
Band C	Salary & Benefits	2 nd Lieutenant	5	87 288	102 822	C2	110 666	137 599
	Salary & Benefits	Lieutenant	6	107 553	126 693	C3	129 662	161 219
	Salary & Benefits	Lieutenant	7	132 531	156 114			
	Salary & Benefits	Captain	8	161 976	190 797	C4	167 732	208 554
	Salary & Benefits	Major	9	192 540	226 800	C5	200 455	249 241
	Salary & Benefits	Lieutenant Colonel	10	240 318	283 080	C6	249 241	309 900
	TCE	Colonel	11	381 249	449 091	C7-1	390 000	484 916
	TCE	Colonel	12	451 890	532 302	C7-2	439 203	540 740

Annexure 5 *(continued)*

ANNEXURE 2: FUNDING REQUIREMENT: SANDF SALARY AND ALLOWANCE ADJUSTMENTS WITH EFFECT FROM 1 JULY 2009

Rank	Strength	Current Cost	Full Year Cost of Recommendation	Cost wef 1 Jul 09 (Financial Requirement) ¹
Col	790	362 573 952	369 693 342	5 339 542
Lt Col	1 835	591 573 891	602 032 525	7 843 975
Maj	1 987	512 403 255	523 736 525	8 769 952
Capt	1 858	400 623 799	410 366 367	7 306 926
Lt	1 673	265 558 204	281 924 234	12 274 523
2Lt	261	28 695 367	36 189 574	5 620 655
Cpln	123	37 743 808	38 191 544	335 802
WO I	2 507	650 437 474	662 400 174	8 972 025
WO II	2 576	547 477 654	558 374 729	8 172 806
SSgt	6 001	1 040 802 926	1 069 829 973	21 770 285
Sgt	7 318	1 028 715 402	1 117 639 579	66 693 133
Cpl	7 984	909 059 169	1 100 262 717	143 402 661
L Cpl	6 047	569 443 344	769 196 858	149 815 135
Pte	18 440	1 188 808 216	1 994 419 421	604 208 404
CO	14	1 303 359	1 795 659	369 225
Aux Service	74	5 835 406	8 690 214	2 141 106
TOTAL	59 488	8 140 95 229	9 544 743 434	1 053 036 154
ALLOWANCES²		778 271 130	1 156 259 363	283 491 175
RESERVES³		476 333 094	558 500 553	61 625 594
TOTAL COST		9 395 299 453	11 259 503 350	1 398 152 922

1 Full year cost of recommendation minus current cost divided by 12 months and multiplied by 9 months

2 Allowances reflect all allowances coupled to salary levels/grades as basis of calculation of allowance

3 Figures do not include the 22% pay *in lieu* of benefits rectification

Annexure 5 *(continued)*

ANNEXURE 3: NATIONAL DEFENCE FORCE SERVICE COMMISSION BILL

REPUBLIC OF SOUTH AFRICA

NATIONAL DEFENCE FORCE SERVICE COMMISSION BILL

*(As introduced in the National Assembly as a section 75 Bill. explanatory summary of Bill
published in Government Gazette No.of)
(The English text is the official text of the Bill)*

(MINISTER OF DEFENCE AND MILITARY VETERANS)

[B 2009]

Annexure 5 *(continued)*

ACT

To provide for the establishment of the National Defence Force Service Commission to make recommendations concerning the salaries, allowances, benefits and other conditions of service of members of the Defence Force; and for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa as follows:—

Definitions

1. In this Act, unless the context indicates otherwise—
 - (i) “Commission” means the National Defence Force Service Commission established in terms of section 2.
 - (ii) “**Conditions of Service**” means
 - (a). Recruitment procedures, advertising and selection criteria;
 - (b). Appointment and appointment process;
 - (c). Job classification and grading;
 - (d). Remuneration, employment benefits and terms and conditions of employment;
 - (e). Job assignments;
 - (f). The working environment and facilities;
 - (g). Training and development;
 - (h). Performance evaluation systems;
 - (i). Promotion;
 - (j). Transfers;
 - (k). Demotion;
 - (l). Disciplinary measures other than dismissals;
 - (m). Dismissal;
 - (n). Scarce skills;
 - (o). Pay progression;
 - (p). Deployment benefits;
 - (q). Tools of trade
 - (r). All matters relating to standards for the effectiveness and efficiency of the Defence Force; and
 - (s). Shall include any matter that, in the opinion of the Commission, has an impact either directly or indirectly on the conditions of service.
 - (iii) “**Defence Force**” means the South African National Defence Force contemplated in section 11 of the Defence Act, 2002. (Act 42 of 2002)
 - (iv) “**Department**” means the Department of Defence
 - (v) “**Minister**” means the Minister responsible for defence.
 - (vi) “**President**” means the President of the Republic of South Africa.

Establishment of National Defence Force Service Commission

2.
 - (1) There is hereby established a National Defence Force Service Commission.
 - (2) The Commission consists of ten (10) members appointed by the President, after consultation with the Minister.

Annexure 5 *(continued)*

- (3) The President shall designate one member as Chairperson and another as Deputy Chairperson of the Commission.
- (4) If the Chairperson is absent or for any reason unable to act as Chairperson, the Deputy Chairperson shall act as the Chairperson of the Commission.

Appointment of members of Commission and conditions of service

- 3. (1) For the purposes of appointing the members of the Commission, the President must by notice in two national newspapers and in the Gazette invite interested persons to submit, within the period and in the manner mentioned in the notice, the names of persons fit to be appointed as members of the Commission.
- (2) The President, after consultation with the Minister, must appoint a nomination committee to make recommendations to the President for the appointment of the members of the Commission.
- (3) (a) In establishing a nomination committee, the President must ensure that the committee is broadly representative of the various racial groups of the Republic and that both males and females are represented.
- (b) The members of the committee must have sufficient knowledge and experience that would enable them to exercise a sound and objective discretion in making recommendations to the President.
- (4) The nomination committee, in making a recommendation to the President, must consider—
 - (a) the proven skills, knowledge and experience of a candidate in matters relevant to the functioning of the Commission; and
 - (b) generally, whether the persons nominated represent a sufficient spread of qualifications, expertise and experience to ensure the efficient and effective functioning of the Commission.
- (5) The nomination committee must recommend a list of at least fifteen (15) nominees from which the President must appoint the members of the Commission
- (6) If a suitable person or the required number of suitable persons is not recommended, the President must call for further nominations in the manner set out in subsection (1).
- (7) (a) The President, after consultation with the Minister, must appoint members of the Commission from the list of suitable persons recommended by the nomination committee as contemplated in subsection (4) and (5).
- (b) The President must, within 30 days after appointing the members, by notice in the Gazette publish the names of the members so appointed and the date of commencement of their terms of office.
- (8) Any vacancy occurring in the Commission must be filled in the same way as the departing member was appointed to the Commission.
- (9) (a) A member of the Commission—
 - (i) holds office for a period of five years;
 - (ii) may, at the discretion of the President and in the interest of continuity, be reappointed, for a second five year term;
 - (iii) shall not be appointed for more than two five-year terms consecutively;
 - (iv) is appointed according to the terms and conditions determined by the President; and

Annexure 5 *(continued)*

- (v) may be appointed either on a full-time or part-time basis.
- (b) A member of the Commission who is not in the full-time employ of the State must be paid from the budget of the Department such remuneration and allowances in respect of his or her services as the President may determine after consultation with the Minister and Minister of Finance.

Persons not qualified to be members of Commission

- 4. (1) No person shall be appointed as a member of the Commission if—
 - (a) that person is a member of the National Defence Force;
 - (b) that person is an unrehabilitated insolvent;
 - (c) that person has been convicted of any offence for which that person has been sentenced to imprisonment without the option of a fine for a period of not less than twelve months, unless a period of at least five years has expired after the date on which the sentence was served.
- (2) For the purposes of subsection (1)(c), no person shall be deemed to have been sentenced until an appeal against the conviction or sentence has been disposed of or until the period has expired within which an appeal may be lodged, as the case may be.

Vacation of office

- 5. The office of a member of the Commission shall be vacated—
 - (a) if that member becomes subject to any disability mentioned in section 4;
 - (b) if that member becomes of unsound mind;
 - (c) if that member resigns by lodging a resignation in writing with the President: Provided that such resignation shall only take effect after 30 days of having been lodged with the President; or
 - (d) if that member, for whatever reason, becomes unfit or unable to serve in the Commission.

Functions of the Commission

- 6. (1) The Commission must—
 - (a) on an annual basis, make recommendations to the President and Minister on improvements of salaries and service benefits of members;
 - (b) make recommendations to the President and Minister on the development of policies on other conditions of service;
 - (c) promote measures and set standards to ensure the effective and efficient performance and implementation of policies on such conditions of service within the Defence Force, and make recommendations to the President and Minister thereto; and
 - (d) for the purposes of making recommendations as contemplated in paragraphs (a), (b) and (c)—
 - (i) enquire into or conduct research on conditions of service;
 - (ii) review such policies;
 - (iii) evaluate and monitor the implementation of such policies;

Annexure 5 *(continued)*

- (iv) invite the Secretary for Defence, the Chief of the SANDF, members of the SANDF and any other interested party to give representations on any matter falling within the purview of its functions;
- (v) evaluate representations contemplated in subparagraph (iv);
- (vi) consult with National Treasury;
- (vii) confer with the Department responsible for public service and administration, Public Service Commission and any other relevant stakeholders within the public service.
- (viii) Consider, among others, -
 - (aa) the rank structure of the defence force;
 - (bb) the affordability of different levels of remuneration of the Defence Force;
 - (cc) current principles and levels of remuneration in the public service generally; and
 - (dd) inflationary increases.
- (2) The Commission must perform its functions impartially, without bias, fear or prejudice.
- (3) The Commission may call upon any member or employee of the Department to assist it in the execution of its functions and such person shall be obliged to provide the necessary assistance.
- (4) Notwithstanding anything to the contrary, the President must, after consultation with the Minister and Commission, make regulations with regard to the nature and manner of consultation on salaries, service benefits and other conditions of service within the Defence Force or any other matter necessary for the effective functioning of the Commission.
- (5) The Commission may determine its own rules of procedure, but its decisions must be supported by a majority of its members.

Meetings of the Commission

- 7. (1) A meeting of the Commission shall be held at least once in every year at a time and place determined by the Chairperson of the Commission.
- (2) Six (6) members of the Commission shall form a quorum for a meeting of the Commission.
- (3) The decision of a majority of the members of the Commission present at a meeting of the Commission shall constitute a decision of the Commission, and, in the event of an equality of votes on any matter, the person presiding at the meeting concerned shall have a casting vote in addition to that person's deliberative vote.

Reporting

- 8. (1) The Commission—
 - (a) is accountable to the President; and
 - (b) must within two months after the end of each financial year submit a report on its activities and findings to the President and Minister.

Annexure 5 *(continued)*

- (2) (a) The Minister, in consultation with the President, must cause a copy of the report submitted in terms of subsection (1) to be lodged with the Cabinet and tabled in Parliament as soon as may be practicable.
- (b) The report must be dealt with by the Minister in a manner consistent with the interests of national security.
- (3) The Commission must publish annually by notice in the Gazette its findings and recommendations in respect of its work.

Staff of the Commission

- 9. (1) The Minister may appoint or designate persons, after consultation with the Commission, to give research, secretariat, logistical, technical support or to perform such other work incidental to the exercise or performance of the powers and duties of the Commission.
- (2) The expenditure incidental to the exercise or performance of the powers and duties of the Commission shall be defrayed from moneys allocated by the Secretary for Defence from the defence vote for that purpose.

Intervention by President

- 10. (1) The President may, after consultation with the Minister, direct the Commission to take any action specified by the President if the Commission has failed to perform its functions in an effective and efficient manner
- (2) A directive contemplated in subsection (1) must state—
 - (a) the reason for issuing the directive;
 - (b) the steps which must be taken to remedy the situation; and
 - (c) a reasonable period within which the steps contemplated in paragraph (b) must be taken.
- (3) (a) If the Commission fails to remedy the situation within the stated period, the President may—
 - (i) after having given the Commission a reasonable opportunity to be heard; and
 - (ii) after having afforded the Commission a hearing on any submissions received,replace the members of the Commission or, where circumstances so require, appoint a person as an administrator to take over one or more functions of the Commission subject to such conditions as the President may determine.
- (b) Any vacancy occurring as a result of the application of paragraph (a) must be filled in the same way as the departing member was appointed.
- (4) If the President appoints an administrator in terms of subsection (3)—
 - (a) the administrator may do anything which the Commission might otherwise be empowered or required to do by or under this Act; and
 - (b) the Commission may not, while the administrator is responsible for a particular function, exercise any of its powers or perform any of its duties relating to that function.

Annexure 5 *(continued)*

- (5) (a) Notwithstanding subsection (1), the President may, after consultation with Minister, dissolve the Commission if the President, on good cause shown, loses confidence in the ability of the Commission to perform its functions effectively and efficiently.
- (b) The President may exercise the power only—
 - (i) after having provided the Commission with reasons for losing confidence in its abilities;
 - (ii) after having given the Commission a reasonable opportunity to respond to those reasons; and
 - (iii) after having afforded the Commission a hearing on any submissions received.
- (c) If the President dissolves the Commission, the President—
 - (i) may appoint an administrator to take over the functions of the Commission and to do anything which the Commission might otherwise be empowered or required to do by or under this Act, subject to such conditions as the President may determine; and
 - (ii) must, as soon as it is feasible but not later than three months after the dissolution of the Board, replace the members of the Commission in the same way as they were appointed."

Short title and commencement

- 11. This Act shall be called the National Defence Force Service Commission Act. 2010, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

Annexure 5 *(continued)*

ANNEXURE 4: MEMORANDUM ON THE OBJECTS OF THE NDFSC BILL

1. BACKGROUND

- 1.1 In order to relieve the South African National Defence Force (Defence Force) from depending solely on the largely dysfunctional bargaining process as the only mechanism towards achieving improved conditions of service and service benefits, the Bill proposes the establishment of an independent National Defence Force Service Commission (Commission) to render expert advice and provide a mandate to the Minister of Defence and Military Veterans in respect of the improvement of military members' conditions of service and service benefits. This will emulate various international and national statutory bodies with a similar role and function.

2. OBJECTS OF THE BILL

- 2.1 The Bill seeks to establish a permanent National Defence Force Service Commission, which will advise the President and the Minister of Defence with regard to the improvement of the conditions of service of members of the South African National Defence Force.

3.1 Clause 1

This clause inserts the definition of "Commission", "Minister" and "President" since the Bill establishes a new structure that will function under the direction of the President and Minister of Defence.

3.2 Clause 2 and 3

- 3.2.1 These clauses for the establishment and appointment of the Commission by the President after consultation with the Minister of Defence. These clauses set out in detail the procedure to be followed in the appointment of the members of the Commission. The primary responsibility for the selection of the members of the Commission will lie with the Nomination Committee which will make recommendations to the President for appointment.

Clause 6

- 3.3.2 The Commission will perform this role by making the appropriate recommendations to the Minister regarding these conditions of service and other benefits, after conducting relevant research, reviewing the relevant policy, inviting representations from the various stakeholders.
- 3.3.3 The clause proposes to give the Minister the power to make regulations for the establishment and registration of military professional associations. The Minister may also make regulations on consultation on conditions of service and effective functioning of the Commission within the Defence Force

Annexure 5 *(continued)*

- 3.3.4 The Commission will be accountable to and report to the Minister who in turn will report to Cabinet and Parliament on the activities and findings of the Commission.
- 3.3.5 A member of the Commission may be removed from office if such member becomes unfit or he or she resigns.
- 3.3.6 The Minister will appoint members or persons to assist the Commission in performing its duties.

Clauses 4 and 5

Clauses 4 and 5 provide for disqualifications from serving in the Commission and removal from office respectively.

Clause 6

This clause sets out the functions of the Commission in that it explains what the Commission must do and how it must be done. In particular it provides that the Commission must make recommendations to the President and Minister on its findings and that in order to make the said recommendations it needs to consult with various stakeholders within the public service.

Clause 7

This clause provides for the meetings, quorum and decision-making processes of the Commission.

Clause 8

The clause provides for the reporting lines of the Commission. The Commission shall be accountable to the President and shall provide an annual report to both the President and the Minister of Defence on its activities and findings.

Clause 10

The clause empowers the President to intervene where the Commission has not executed its functions effectively and efficiently by directing the Commission to perform certain specified acts to rectify the situation. Where the Commission still fails to remedy the situation, the President may, after consultation with the Minister remove the entire Commission and replaces it with an Administrator or a new Commission in the prescribed manner.

Annexure 5 *(continued)*

4. CONSULTATION

The above amendments have been sufficiently canvassed with all the stakeholders within the Department of Defence and were fully supported. Further consultations are envisaged between the Department and the Office of the Chief State Law Adviser (DOJ) once the Bill has been approved by the INDFSC for further engagements.

5. COMMUNICATION IMPLICATIONS

These proposals contained in the Bill were sufficiently canvassed with the affected internal stakeholders and it is envisaged that further communication will be dealt with in accordance with the departmental chains of command.

6. CONSTITUTIONAL IMPLICATIONS

The Bill carefully recognises the right of the members of the SANDF to be consulted on their conditions of service without compromising the responsibility of the Command to take decisions within the SANDF.

7. VULNERABLE GROUPS

None

8. PARLIAMENTARY PROCEDURE

- 10.1. The Department of Defence is of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.
- 10.2. The Department of Defence is further of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.

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