

LAWS OF BRUNEI
REVISED EDITION 1984

CHAPTER 135
GURKHA RESERVE UNIT
ARRANGEMENT OF SECTIONS

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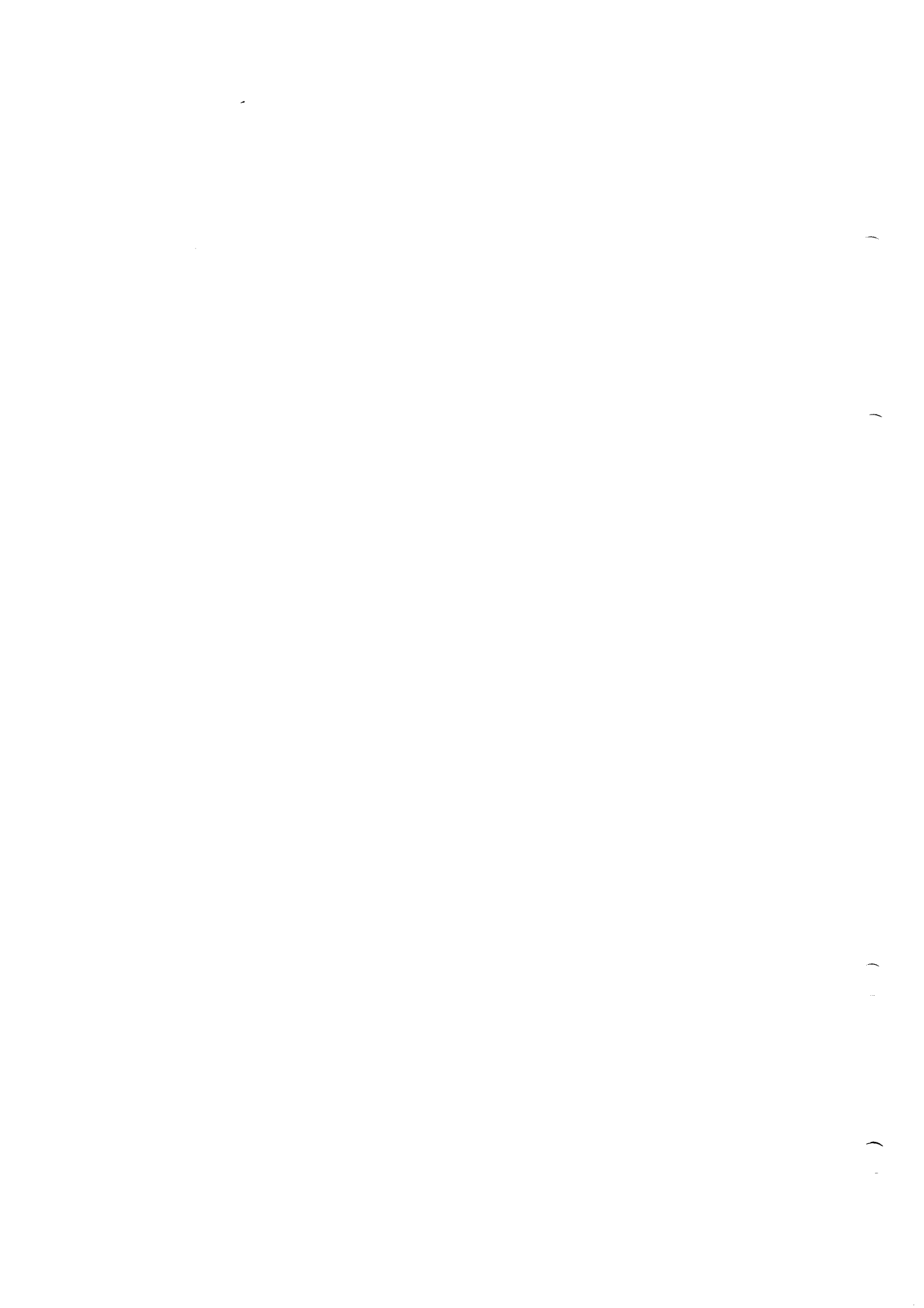
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GURKHA RESERVE UNIT ACT

**An Act to make provision for the constitution, organisation
and discipline of the Gurkha Reserve Unit**

E.8/81
E.1 of 1984,
Sch. 5

Commencement: 9th May 1981

PART I

PRELIMINARY

1. This Act may be cited as the Gurkha Reserve Unit Act. Short title

2. (1) In this Act, unless the context otherwise requires — Interpreta-
tion

“Commandant” means the Commandant of the Gurkha Reserve Unit appointed under section 4 (1);

“General Orders” means the General Orders of the Government;

“Member” means a person who is either a Senior Officer, Subordinate Officer, or of the rank and file of the Gurkha Reserve Unit;

“Senior Officer” means a member of the Gurkha Reserve Unit of the rank of Second Lieutenant, Lieutenant, Captain, Major, Lieutenant Colonel and Colonel or above and includes the Commandant;

“Subordinate Officer” means a member of the Gurkha Reserve Unit of the rank of Lance Corporal, Corporal, Sergeant, Warrant Officer Class Two and Warrant Officer Class One;

“Unit” means the Gurkha Reserve Unit;

“weapons” includes firearms and ammunition.

Cap. 22

(2) In sections 131 and 140 of the Penal Code the phrase “an officer or constable in the Royal Brunei Police Force” shall be deemed to include a member of the Gurkha Reserve Unit.

(3) In section 137 of the Penal Code the phrase “any deserter from the Royal Brunei Police Force” shall be deemed to include a deserter from the Gurkha Reserve Unit.

(4) In any Order made by His Majesty the Sultan and Yang Di-Pertuan under section 83 of the Constitution of Brunei Darussalam 1959 the phrase “member of any Local Forces established under any written law” shall be deemed to include a member of the Gurkha Reserve Unit.

PART II

CONSTITUTION, DUTIES AND POWERS

Constitution

3. The Gurkha Reserve Unit shall consist of such complement of Senior Officers, Subordinate Officers and rank and file as His Majesty may direct and shall form an integral part of the Security Forces of Brunei.

Administra-
tion

4. (1) The organisation and administration of the Gurkha Reserve Unit shall subject to the orders and control of the Minister be vested in the Commandant of the Unit who shall be appointed by His Majesty.

(2) The powers and duties of the Commandant under this Act may be exercised and performed in the case of absence or incapacity of the Commandant by the next senior officer present in place of the Commandant.

5. The duties of the Unit shall be to take lawful measures for executing such duties as may be imposed on the Unit by His Majesty the Sultan and Yang Di-Pertuan or by any written law.

Duties of the Unit

6. (1) Every member of the Unit shall be engaged in accordance with the conditions of contract of service applicable to him at the date of his engagement;

Terms of engagement

(2) No member of the Gurkha Reserve Unit shall be awarded a further contract of service with the Unit after reaching the age of 40 years without the approval of the Minister on the recommendation of the Commandant.

7. Subordinate Officers and members of the rank and file of the Unit may be promoted by the Commandant with the approval of the Minister.

Promotions

8. (1) Every member of the Unit shall be provided with uniform and other accoutrements for the performance of his duties and is hereby authorised to wear such uniform and accoutrements within Brunei.

Uniform and accoutrements

(2) Every person upon ceasing to be a member of the Unit shall forthwith deliver up to the Commandant of the Unit, every article of uniform, clothing and other effects of every kind belonging to the Government.

(3) Any person who fails to comply with the provisions of paragraph (2) shall be liable on conviction before the Court of a Magistrate to imprisonment for 3 months and to a fine of \$500 and in addition thereto shall be liable to pay the value of any article not delivered up, which value shall be summarily ascertained by the Commandant and shall be recoverable as if it were a fine.

(4) Every person not being a member of the Unit who shall have in his possession any article of uniform, clothing, accoutrements or other effects supplied to the Unit

and who is unable satisfactorily to account for his possession of the same shall on conviction before the Court of a Magistrate be liable to imprisonment for 3 months and to a fine of \$500.

Carrying and
use of
weapons

9. (1) Every member of the Unit is hereby authorised to carry and use weapons, as ordered by the Commandant, for the effectual discharge of his duties. Such weapons shall be kept and used according to the orders made under section 20 (1).

(2) Every member of the Unit may use weapons for the defence and security of any place at which he may be stationed on duty.

(3) Every member of the Unit may use weapons in self-defence or the defence of another member of the Unit or other Security Forces of Brunei.

Gurkha Re-
serve Unit
personnel to
power of
police officer
Cap. 22

10. Every member of the Unit while acting as such shall have virtue of his office all the powers, authorities, protection and privileges of a police officer and shall be deemed to be a public servant within the meaning of the Penal Code.

Compensa-
tion

11. (1) Where a member of the Unit is injured on duty without negligence on his part, he may be awarded such compensation as His Majesty may decide on the recommendations of the Commandant based on the findings of a Medical Board or a Government Medical Officer.

(2) Where a member of the Unit dies within one year of receiving such injuries but whose dependants are not eligible to receive any payment or benefit under section 12, His Majesty may award such compensation as He may decide of an amount not exceeding the annual emoluments of such member.

(3) For the purposes of this section and section 12, the word “dependants” means the widow and children of a member.

(4) In calculating the amount which may be awarded under section 11 (2) there shall be deducted the amount, if any, awarded under section 11 (1).

12. Where a member of the Unit dies as a result of injuries received —

Pensions to dependants where a member is killed on duty

(a) in the actual discharge of his duty;

(b) without his own default; and

(c) on account of circumstances specifically attributable to the nature of his duty;

while in service with the Unit, it shall be lawful for His Majesty in Council to grant to such dependants of such member, such pensions as may be granted under section 17 of the Pensions Act as if members of the Unit held pensionable offices within the meaning of the said Act and the Pensions Regulations and as if provision had been made in section 17 of the said Act for the grant of such pensions to such dependants of the members of the Unit. Cap. 38

PART III

DISCIPLINE

13. Any member who commits any of the offences against discipline specified in the First Schedule shall be liable to be dismissed or otherwise punished as provided in these Orders and in the regulations made thereunder. Offence against discipline generally

Offences
against disci-
pline by
Senior
Officers

14. (1) Whenever it is alleged that any Senior Officer has been guilty of an offence against discipline —

(a) the provisions of General Orders which relate to interdiction shall apply;

(b) the Minister shall cause the matter to be investigated and the Senior Officer dealt with in the appropriate manner provided by the said regulations and orders for allegations of misconduct made against a public officer.

(c) For the purposes of this Order, the Minister may appoint a Senior Government Officer or a Committee consisting of 3 Senior Government Officers to carry out the investigations.

(2) In relation to Senior Officers of the Unit, the Disciplinary Authority shall be His Majesty.

Offences
against disci-
pline by Sub-
ordinate
Officers and
rank and file

15. (1) Whenever it is alleged that any Subordinate Officer or any member of the rank and file has committed an offence against discipline —

(a) the Commandant may interdict him from duty;

(b) investigation shall be made into the allegation in the manner prescribed by the rules of procedure contained in the Second Schedule and on proof thereof any such punishment as is mentioned in the Third Schedule may be awarded by the appropriate authority therein specified.

(2) Any Subordinate Officer or any member of the rank and file who is interdicted from duty under paragraph (1) of this section shall receive half of the emoluments of his office unless the Commandant order otherwise; if the proceedings against him are dismissed he shall be entitled to

receive the balances of the full amount of the emoluments which he would have received if he had not been interdicted.

16. (1) The following penal deductions may be made from the emoluments due to a member — Penal deductions from emoluments

(a) all emoluments for every day of absence either on desertion or without leave;

(b) the sum required to be paid for an offence against discipline.

(2) For the purposes of subsection (1) —

(a) no member shall be treated as absent unless the absence has lasted 3 hours or upwards;

(b) the number of days shall be reckoned as from the time when the absence commences.

17. For the avoidance of doubt it is hereby declared that — Removal of doubt

(a) if criminal proceedings are instituted against a member, he may be interdicted from duty and thereafter paid emoluments as follows —

(i) if a Senior Officer, in accordance with the provisions of General Orders;

(ii) if a Subordinate Officer or of the rank and file, in accordance with the provisions of section 15;

(b) if a member is convicted of a criminal offence he may be dismissed in accordance with the provisions of General Orders;

(c) nothing in this Part shall be construed to preclude the summary dismissal of any member.

Payment of
money for-
bidden

18. (1) No money or other consideration shall on any pretext whatsoever be payable, paid, given, received or promised by or on behalf of any member of the Unit, either on his entry into, continuance in or discharge from the Unit. Any member of the Unit paying, giving, receiving or demanding any such money or other consideration or the promising of such money or other consideration or undertaking any service in consideration of receiving or promise of such money or other consideration shall be liable on conviction before the Court of a Magistrate to imprisonment for 6 months and a fine of \$500.

(2) Any person convicted under this section may be dismissed from his office, and all arrears of pay due to him may be forfeited.

Member of
the Unit not
exempt from
ordinary pro-
cess of law

19. (1) Nothing in this Act shall be construed to exempt any member of the Unit from being proceeded against by the ordinary process of law when accused of any offence punishable under any other Act or law.

(2) Any sentence of imprisonment or detention passed upon any Subordinate Officer or member of the rank and file under these Orders may be carried out in a place of detention prescribed for that purpose by any Orders made under section 20 (1) or in any Government prison.

(3) Every officer in charge of a Government prison shall receive into his custody and carry out any sentence of imprisonment passed upon any member of the Unit for any offence under these Orders upon an order in writing being delivered to him under the hand of the Commandant which order shall specify the offence and period of imprisonment.

(4) Every person whilst undergoing any sentence of imprisonment shall be deemed to be and shall be dealt with as a criminal prisoner.

(5) No pay shall accrue to any member of the Unit in respect of any period during which he is undergoing any sentence of imprisonment.

PART IV

MISCELLANEOUS

20. (1) The Commandant may make orders called the “Gurkha Reserve Unit Standing Orders” and the “Gurkha Reserve Unit Routine Orders” not inconsistent with the provisions of these Orders for the proper and efficient administration of the Unit.

Gurkha Re-
serve Unit
Standing
Orders

(2) Such Orders may prescribe or provide for —

(a) the control, direction and formation of the Unit;

(b) discipline;

(c) training;

(d) classifications and promotions;

(e) inspections, drills, exercises and parades;

(f) welfare;

(g) departmental finance;

(h) buildings, grounds, stores, furniture and equipment;

(i) services to be performed by members;

(j) the manner and form of reports, correspondence and other records;

(k) the performance of any act which may be necessary for the proper carrying out of these Orders or any regulations made thereunder or any other enactment or for the discharge of any duty imposed by the law on the Unit;

(l) such other matters as may be necessary or expedient for preventing abuse or neglect of duty, for rendering the Unit efficient in the discharge of its duties and for carrying out the objects of these Orders.

Prohibition
against mem-
bers of the
Unit being
members of
trade union

21. (1) It shall not be lawful for a member of the Unit to become, or after the expiration of one month from the coming into force of these Orders to be, a member of any trade union, or of any association having for its objects, or one of its objects, to control or influence the pay, pensions, or conditions of service of the Unit or of any association with political objects; and any member of the Unit who contravenes this provision shall be disqualified for continuing to be a member of the Unit; and, if any member of the Unit continues to act as such after becoming disqualified, he shall forfeit all pension right:

Provided that where a man was a member of a trade union before becoming a member of the Unit, he may, with the consent of the Commandant, continue to be a member of that union during the time of his service in the Unit.

(2) If any question arises whether any body is a trade union or an association to which this Order applies, the question shall be determined by the Commissioner of Labour.

22. The provisions contained in the First, Second and Third Schedules may be amended, cancelled or replaced by regulations made by His Majesty. Contents of
Schedule

23. (1) Any person who resists or obstructs any member acting in the execution of his duty shall be guilty of an offence and shall be liable on conviction before the Court of a Magistrate to a fine of \$500 and to imprisonment for 6 months. Offences

(2) Any member who —

(a) deserts;

(b) wilfully disobeys a lawful command of a member who it is his duty to obey;

shall be guilty of an offence and shall be liable on conviction before the Court of a Magistrate to a fine of \$500 and imprisonment for 6 months.

(3) Any person who, not being a member, wears, without permission of the Commandant, the uniform of the Unit, or any dress having the appearance or bearing any of the distinctive marks of that uniform, shall be guilty of an offence and shall be liable on conviction before the Court of a Magistrate to a fine of \$500.

FIRST SCHEDULE

(Section 13)

OFFENCES AGAINST DISCIPLINE

Any member commits an offence against the discipline who —

(1) is guilty of cowardice in the performance of his duty;

(2) without good and sufficient cause fails to carry out any lawful order, whether written or verbal;

(3) is insubordinate towards any member whose orders it is his duty to obey;

(4) (a) neglects or without good and sufficient cause fails to do, promptly and diligently, anything it is his duty to do;

(b) by carelessness or neglect in the performance of his duty contributes to the occurrence of any loss, damage or injury to any person or property;

(5) knowingly makes any false, misleading or inaccurate statement in connection with his duty either verbally or in writing;

(6) with intent to deceive, destroys any official record, document or book or alters or erases any entry therein;

(7) without proper authority —

(a) divulges any matter which it is his duty to keep secret;

(b) directly or indirectly communicates to the press or to any other person any matter which may have come to his knowledge in the course of his official duties;

(c) publishes any matter or makes any public pronouncement relating to the Unit;

(8) (a) solicits or receives any unauthorised fee, gratuity or other consideration in connection with his duties as a member;

(b) fails to account for, or to make a prompt and true return of, any money or property for which he is responsible, either in connection with his duties as a member or with any fund connected with the Unit;

(c) improperly uses his position as a member;

(9) without proper authority or reasonable excuse —

(a) absents himself from duty or from any place of parade;

(b) arriving late for any duty or parade;

(10) (a) wilfully or negligently damages or loses any articles of clothing or equipment, or any implement, accoutrement or appointment whatever, with which he has been provided or entrusted or fails to take proper care thereof;

(b) neglects to report any damage to, or loss of, any articles of clothing or equipment, or any implement, accoutrement, or appointment whatever, with which he has been provided or entrusted;

(11) when on duty, or called upon for duty, is unfit for duty through drinking intoxicating liquor;

(12) when on or off duty acts in a disorderly manner, or in any manner prejudicial to discipline, or likely to bring discredit upon the Unit or the public services;

(13) is sleeping on duty;

(14) is gambling except when permitted by the Commandant to do so in accordance with Nepalese religious customs;

(15) is improperly dressed when in uniform;

(16) is guilty of anything, whether by reason of contravention of General Orders or otherwise which amounts to misconduct in a public officer.

SECOND SCHEDULE

(Section 15)

Rules of procedure for the investigation into offences against discipline by Subordinate Officers and Rank and File are as follows —

1. Every charge shall be entered on a charge sheet.
2. Every charge shall be investigated by the Commandant in the first instance without delay in the presence of the accused and a full record thereof be made by the Commandant.
3. The charge shall be read and explained to the accused.
4. The accused shall have full liberty to cross examine any witness against him and to call any witness and make any statement in his defence.

5. No documentary evidence shall be used against the accused unless he has previously been supplied with a copy thereof or has been given access thereto.

6. The Commandant may at any stage of the proceedings amend the charge or add a new charge: Provided that in such event the amended or new charge shall be read and explained to the accused who shall be entitled to have any witnesses who have given evidence recalled for further cross-examination and to call such further witnesses as he may desire.

7. At the conclusion of the hearing of a charge, the Commandant shall —

(a) if in his opinion the evidence does not show that some offence against discipline has been committed, dismiss it;

(b) if in his opinion the evidence does show that some offence against discipline has been committed either —

- (i) award a punishment within his powers; or
- (ii) refer the case to the Minister.

8. (1) Whenever the Commandant refers a case to the Minister under paragraph (b) of rule 7 he shall forward —

(a) a typed copy of the record of proceedings (including the charge) certified by himself to be a true copy of the original thereof;

(b) a report setting out —

- (i) his reasons for considering the charge proved;
- (ii) his recommendations as to punishment;

(c) the accused's conduct sheet.

(2) Whenever the Commandant so refers a case he shall inform the accused that he may within 14 days forward any further representations he may wish to make in writing to the Minister.

9. Every punishment awarded shall be entered in the conduct sheet of the member so punished.

10. Any member of the Unit may appeal to the Minister against any punishment or order awarded by the Commandant under these Orders and the Minister may thereupon reduce or confirm any such punishment or vary such order.

THIRD SCHEDULE

(Section 15)

Punishment of Subordinate Officers and Rank and File for offences against discipline.

PART I

Subordinate Officers

Subordinate Officers found guilty of an offence against discipline may be awarded punishment as follows —

(1) By the Minister —

(a) Any of the following —

- (i) dismissal;
- (ii) detention up to a maximum of 28 days;
- (iii) reduction in rank;
- (iv) stoppage of increment;
- (v) fine;
- (vi) extra drills;
- (vii) severe reprimand;
- (viii) reprimand.

(b) In addition to any of the above, payment by way of compensation for any loss of or damage to any article of clothing or equipment, or any implement, accoutrement or appointment whatever with which he has been provided or entrusted, or to any Government property.

(2) Without prejudice to (1) above the Commandant may award any of the following punishments —

- (a) detention up to a maximum of 14 days;
- (b) a fine of not more than a month's pay;
- (c) extra drills;
- (d) severe reprimand;
- (e) reprimand.

PART II

Rank and File

Rank and file found guilty of an offence against discipline may be awarded punishment by the Commandant as follows —

(1) Any of the following —

- (a) dismissal subject to confirmation by the Minister;
- (b) detention up to a maximum of 14 days or subject to confirmation by the Minister 28 days;
- (c) stoppage of increment;
- (d) a fine of not more than a month's pay;
- (e) extra drills;
- (f) severe reprimand;
- (g) reprimand.

(2) In addition to any of the above, payment by way of compensation for any loss of or damage to any article of clothing or equipment, or any implement, accoutrement or appointment whatever with which he has been provided or entrusted, or to any Government property.