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The following Act was passed by Parliament on 19th May 2004 and assented to by the President on 1st June 2004:—

REPUBLIC OF SINGAPORE

No. 17 of 2004.

I assent.

(LS)

S R NATHAN,
President.
1st June 2004.

An Act to amend the Singapore Armed Forces Act (Chapter 295 of the 2000 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Singapore Armed Forces (Amendment) Act 2004 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 2

2. Section 2(1) of the Singapore Armed Forces Act (referred to in this Act as the principal Act) is amended —

(a) by deleting the definition of “convening authority” and substituting the following definitions:

““convening authority” means —

(a) in the case of a general court martial, the officer of or above the rank of major appointed by the Armed Forces Council for the purpose of being the convening authority for general courts martial; or

(b) in the case of a field general court martial, a convening officer;

“convening officer” means a commander referred to in section 83(1);”;

(b) by inserting, immediately after the definition of “enemy”, the following definition:

““general courts martial panel” means the panel appointed by the convening authority under section 80A;”;

(c) by inserting, immediately after the definition of “qualified person”, the following definition:

““registrar for subordinate military courts” means the person appointed by the Armed Forces Council as registrar for subordinate military courts under section 82(5)(c);”.

Amendment of section 67

3. Section 67 of the principal Act is amended by deleting paragraph (a) and substituting the following paragraph:

“(a) direct that the charge be tried by a subordinate military court;”.

Amendment of section 72

4. Section 72 of the principal Act is amended by deleting subsection (9) and substituting the following subsection:

“(9) If the accused so elects, the Committee shall refer the charge to the Director, Legal Services of the Singapore Armed Forces who shall direct that the charge be tried by a subordinate military court.”.

Amendment of section 77

5. Section 77(2) of the principal Act is amended by deleting paragraph (a) and substituting the following paragraph:

“(a) direct that the charge be tried by a subordinate military court; or”.

New section 80A and repeal and re-enactment of section 81

6. Section 81 of the principal Act is repealed and the following sections substituted therefor:

“General courts martial panel

80A.—(1) For the purpose of enabling general courts martial to be constituted in accordance with this Part, the convening authority shall appoint a panel (referred to in this Act as the general courts martial panel) consisting of such number of officers and non-uniformed servicemen in officer grades as the convening authority shall determine.

(2) A member of the general courts martial panel shall be appointed for such term as the convening authority may determine.

(3) The convening authority may at any time revoke the appointment of any member of the general courts martial panel.

Constitution and jurisdiction of general court martial

81.—(1) The general courts martial shall consist of the following courts:

(a) judge courts martial; and

(b) panel courts martial.

(2) Every general court martial shall be constituted —

(a) by the convening authority; and

(b) subject to subsection (7), from the members of the general courts martial panel.

(3) A judge court martial shall consist of a president, who shall be a qualified person and, subject to subsection (6)(a), an officer of or above the rank of major.

(4) A panel court martial shall consist of the following members:

(a) a president who, subject to subsections (6)(b) and (7), shall be an officer of or above the rank of major; and

(b) subject to subsections (5) and (6)(c), 2 or any greater even number of other members who shall be officers and at least one of whom shall be of or above the rank of captain.

(5) Where a panel court martial is constituted for the trial of a non-uniformed serviceman, the members referred to in subsection (4)(b) may include, in place of the corresponding number of officers, not more than 2 non-uniformed servicemen in officer grades.

(6) Where the accused is of or above the rank of lieutenant-colonel —

(a) the president of any judge court martial constituted for the trial of the accused shall be an officer of or above the rank of the accused;

(b) subject to subsection (7), the president of any panel court martial constituted for the trial of the accused shall be an officer of or above the rank of the accused; and

(c) if a panel court martial is constituted for the trial of the accused, at least 2 of the members under subsection (4)(b) shall be of or above the rank of lieutenant-colonel.

(7) Where the accused is charged with —

(a) murder or culpable homicide not amounting to murder;

(b) an offence under section 121 or 121A of the Penal Code (Cap. 224); or

- (c) any other offence for which the punishment of death is authorised under any written law,

and the charge is to be tried by a general court martial, the accused shall be tried before a panel court martial and the president of the panel court martial shall be a Judge of the Supreme Court appointed by the Chief Justice.

(8) Where none of the members of a panel court martial is a qualified person, a judge advocate designated by the convening authority shall officiate in any trial before that court in accordance with regulations of procedure made under section 93.

(9) Subject to subsection (7), every general court martial shall have jurisdiction to try any person subject to military law for any offence under this Act and to award for any such offence any punishment authorised by this Act.

(10) Unless the Director, Legal Services of the Singapore Armed Forces directs otherwise, where a charge is to be tried by a general court martial, the charge shall be tried by a panel court martial.

(11) Subject to subsection (7), where, before the commencement of any trial before a general court martial —

- (a) the president or any member of the court dies; or
- (b) the convening authority ascertains that the president or any member of the court —
 - (i) is unable to attend; or
 - (ii) is not eligible to serve in that court,

the convening authority may designate another person from the general courts martial panel to fill the vacancy.

(12) Subject to subsection (13), any question as to —

- (a) the guilt of the accused; or
- (b) the sentence to be imposed on the accused,

shall be decided by a panel court martial in accordance with the opinion of the majority of the members of that court.

(13) Where the accused is charged with any offence for which the punishment of death is authorised under any written law —

- (a) the accused shall not be convicted of that offence unless the members of the panel court martial reach a unanimous decision that the accused is guilty of that offence; and
- (b) if the members of that court fail to reach a unanimous decision, the accused may, if the members of that court by majority decision agree, be convicted of any lesser offence authorised by this Act.

(14) Where the convening authority has authorised the registrar for subordinate military courts or any other person to exercise the powers conferred and perform the duties imposed on the convening authority under subsection (2), (8) or (11), the registrar or person shall be entitled to exercise those powers and perform those duties.”.

Amendment of section 83

7. Section 83(1) of the principal Act is amended by deleting the words “be convened” and substituting the words “try the accused”.

Amendment of section 84

8. Section 84 of the principal Act is amended by deleting the words “as members of” and substituting the word “on”.

Repeal and re-enactment of section 85

9. Section 85 of the principal Act is repealed and the following section substituted therefor:

“Members of subordinate military courts may belong to same or different units

85.—(1) The members of a panel court martial or field general court martial may belong to the same or different units, or may be unattached to any unit, and may try persons belonging to or attached to any unit.

(2) The president of a judge court martial may be unattached to any unit, and may try persons belonging to or attached to any unit.”.

Amendment of section 86

10. Section 86 of the principal Act is amended —

- (a) by inserting, immediately after the words “subordinate military court and” in subsection (4), the words “, in the case of a panel court martial or a field general court martial,”; and
- (b) by deleting the words “any member” in subsection (5) and substituting the words “, in the case of a panel court martial or a field general court martial, any member of the court”.

Amendment of section 87

11. Section 87 of the principal Act is amended by deleting subsections (1) and (2) and substituting the following subsections:

“(1) Subject to subsection (2), an oath or affirmation in the prescribed form shall be administered by the convening authority, or by any person appointed by the convening authority for this purpose, to each member of the general courts martial panel before the member assumes his office in a general court martial.

(2) A Judge of the Supreme Court acting as president of a panel court martial shall take, in the presence of the Chief Justice, the oath or affirmation of allegiance in the prescribed form before he assumes his office in the panel court martial.

(2A) In the case of a field general court martial, an oath or affirmation shall be administered —

- (a) by the president to every other member; and
- (b) to the president by any member already sworn,

in the presence of the accused, after the court has assembled but before the accused is arraigned.

(2B) An oath or affirmation in the prescribed form shall be administered by the president of a subordinate military court to any judge advocate officiating in a trial before the court in the presence of the accused, after the court has assembled but before the accused is arraigned.”.

Repeal and re-enactment of sections 88 and 89

12. Sections 88 and 89 of the principal Act are repealed and the following sections substituted therefor:

“Challenges by accused

88.—(1) The accused or, where there is more than one accused, each of the accused about to be tried by a subordinate military court may object, for any reasonable cause, to —

- (a) the president of the court, except a president who is a Judge of the Supreme Court; and
- (b) in the case of a panel court martial or a field general court martial, any other member of the court,

whether appointed to serve on the court originally or to fill a vacancy, so that the court may be constituted by a president or of members to whom the accused makes no reasonable objection.

(2) In the case of a panel court martial or a field general court martial, every objection made by an accused to any member, including the president, shall be submitted to the other members appointed to form the court and —

- (a) if the majority of the members entitled to vote decide that there is reasonable cause for the objection, the court shall allow the objection and the member objected to shall retire; or
- (b) if the majority of the members entitled to vote decide that there is no reasonable cause for the objection, the court shall dismiss the objection and record the reasons for its decision in the record of proceedings, and shall also furnish such reasons to the convening authority if required to do so.

(3) Any vacancy resulting from the retirement of a member under subsection (2)(a) may be filled by another member who shall be —

- (a) in the case of a panel court martial, a member of the general courts martial panel who is eligible for the appointment, and who is designated by the convening authority to fill the vacancy; or
- (b) in the case of a field general court martial, an officer who is eligible for the appointment, and who is appointed by the convening officer to fill the vacancy,

subject to the same right of the accused to object.

(4) In the case of a judge court martial, if an accused objects to the president, the president shall determine whether there is any reasonable cause for the objection, and —

- (a) if the president decides that there is reasonable cause for the objection —
 - (i) the president shall allow the objection and the court shall be dissolved; and
 - (ii) the convening authority shall designate another member of the general courts martial panel who is eligible for the appointment to be the president of another judge court martial convened to try the accused, subject to the same right of the accused to object; or
- (b) if the president decides that there is no reasonable cause for the objection, the president shall —
 - (i) dismiss the objection and record the reasons for his decision in the record of proceedings; and
 - (ii) furnish such reasons to the convening authority if required to do so.

(5) In order to enable an accused to avail himself of his privilege of objecting to the president of a judge court martial or the members of a panel court martial or field general court martial —

- (a) the name of each person constituting the court shall be read over in the hearing of the accused when the court first assembles and, in the case of a field general court martial, before the members of the court take their oaths or affirmations;
- (b) the accused shall be asked whether he objects to that person; and
- (c) a like question shall be repeated in respect of any person who —
 - (i) is designated or appointed to fill a vacancy under subsection (3) or section 89(1)(b) or (c), (2) or (3); or
 - (ii) is designated to be the president of a judge court martial under subsection (4)(a)(ii) or section 89(1)(a).

(6) Where a judge court martial is dissolved under subsection (4)(a)(i), the accused may be tried again by another judge court martial.

(7) Where the convening authority has authorised the registrar for subordinate military courts or any other person to exercise the powers conferred and perform the duties imposed on the convening authority under subsection (3)(a) or (4)(a)(ii), the registrar or person shall be entitled to exercise those powers and perform those duties.

Effect of death or sickness on and adjournment of subordinate military court

89.—(1) If, after the commencement of the trial, the president of a subordinate military court dies or is otherwise unable to attend, then —

- (a) in the case of a judge court martial, the court shall be dissolved, and the convening authority shall designate another member of the general courts martial panel who is eligible for the appointment to be the president of another judge court martial convened to try the accused;
- (b) in the case of a panel court martial, the court shall adjourn, and the convening authority shall designate another member of the general courts martial panel who is eligible for the appointment to fill the vacancy; or
- (c) in the case of a field general court martial, the court shall adjourn, and the convening officer shall appoint another officer who is eligible for the appointment to fill the vacancy.

(2) If, after the commencement of a trial, any member of a panel court martial, other than the president, dies or is otherwise unable to attend, the court shall adjourn, and the convening authority shall designate another member of the general courts martial panel who is eligible for the appointment to fill the vacancy.

(3) If, after the commencement of a trial, any member of a field general court martial, other than the president, dies or is otherwise unable to attend, the court shall adjourn, and the convening officer

shall appoint another officer who is eligible for the appointment to fill the vacancy.

(4) If, on account of the illness of the accused before the finding, it is impossible to continue the trial, a subordinate military court shall be dissolved.

(5) Where a subordinate military court is dissolved under subsection (1)(a) or (4), the accused may be tried again by another subordinate military court.

(6) A subordinate military court may adjourn from time to time.

(7) A subordinate military court may, where necessary, view any place.

(8) Where the convening authority has authorised the registrar for subordinate military courts or any other person to exercise the powers conferred and perform the duties imposed on the convening authority under subsection (1)(a) or (b) or (2), the registrar or person shall be entitled to exercise those powers and perform those duties.”.

Amendment of section 104

13. Section 104 of the principal Act is amended by deleting subsection (4) and substituting the following subsections:

“(4) No person shall be present during any deliberation by a panel court martial or a field general court martial without permission from the president of the court.

(5) The president of any panel court martial or field general court martial may, on any deliberation amongst the members of the court, cause the courtroom to be cleared of all other persons.”.

Amendment of section 107

14. Section 107 of the principal Act is amended —

(a) by inserting, immediately after the word “adjudication,” in subsection (1), the words “presidents and other”; and

(b) by inserting, immediately before the words “member thereof” in subsection (2), the words “president or, where applicable, other”.

Amendment of section 179

15. Section 179(2) of the principal Act is amended by deleting the words “the convening authority for trial by a subordinate military court” in paragraph (b) and substituting the words “a subordinate military court for trial”.

Amendment of section 205C

16. Section 205C of the principal Act is amended by deleting subsection (5) and substituting the following subsections:

“(5) The accounts and annual financial statements of the SAVER-Premium Fund shall be audited by the Auditor-General or such other auditor as may be appointed annually by the Minister in consultation with the Auditor-General.

(5A) A person shall not be qualified for appointment as an auditor under subsection (5) unless he is a public accountant as defined in the Companies Act (Cap. 50).

(5B) The remuneration of the auditor shall be paid out of the SAVER-Premium Fund.

(5C) The auditor shall submit such periodic and special reports to the Minister as may appear to the auditor to be necessary or as the Minister may require.

(5D) As soon as the accounts of the SAVER-Premium Fund and the financial statements have been audited in accordance with this Act, a copy of the audited financial statements, together with a copy of any report made by the auditor, shall be submitted to the Minister.

(5E) Where the Auditor-General is not the auditor of the SAVER-Premium Fund, a copy of the audited financial statements and any report made by the auditor shall be forwarded to the Auditor-General at the same time they are submitted to the Minister.”.

Savings and transitional provisions

17.—(1) Sections 6 and 9 to 14 of this Act shall not apply in relation to any trial before any general court martial that was convened before the appointed day, and the provisions of the principal Act governing any trial before any general court martial that were in force immediately before that day shall apply in relation to that trial as if this Act had not been enacted.

(2) Where any trial before any general court martial that was convened before the appointed day continues on or after that day —

- (a) the members of that court shall continue to hold office as such until —
 - (i) the court has announced its decision under section 92 of the principal Act; and
 - (ii) the president of the court and every member of the court who is so required by the president has recorded his judgment or grounds for decision under section 86(4) of the principal Act; and
- (b) nothing in this Act shall affect the validity of the proceedings before that court.

(3) Where, before the appointed day, the Director, Legal Services of the Singapore Armed Forces has directed, under section 67(a), 72(9), 77(2)(a) or 179(2)(b) of the principal Act, that a charge or charge-sheet be submitted to the convening authority, the Director, Legal Services of the Singapore Armed Forces shall be deemed to have directed that the charge be tried by a subordinate military court.

(4) In this section, “appointed day” means the date of commencement of this Act.
