
PRESENTATION TO THE PCD ON DEFENCE AMENDMENT BILL, 2010

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AIM

- ✧ To brief the PCD on the Defence Amendment Bill:
 - ◆ obligatory service for members of the Reserve Force; and
 - ◆ Establishment of the Defence Force Service Commission (DFSC)

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SCOPE

- ⌘ **Obligation to serve for Res Force:**
 - ◆ **Background;**
 - ◆ **Policy Theme;**
 - ◆ **Legal position;**
 - ◆ **Legislative proposal;**
- ⌘ **Establishment of DFSC:**
 - ◆ **Background;**
 - ◆ **Policy Themes;**
 - ◆ **Legislative proposals**
 - Appointment;
 - Functions;
 - Method of appointment; and
 - Intervention by Minister.
- ⌘ **Conclusion**

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RES. FORCE: BACKGROUND

- ⌘ Reserve Force members currently serve on a voluntary basis and render service in terms of a contracted period.
- ⌘ Furthermore members of the Reserve Force have no obligation to report for training, exercises or any deployment for peacekeeping purposes.
- ⌘ They can only be compelled to serve in time of war, state of emergency or state of national defence.

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RES. FORCE: BACKGROUND (Cont'd)

- ⌘ This makes it extremely difficult for defence planners to plan and allocate resources as the availability of Reserve Force members is not certain/guaranteed.
- ⌘ Previously introduced in Parliament but withdrawn with the rest of the Defence Amendment Bill in 2008.
- ⌘ The proposal was revived and was approved by Cabinet on 24 April 2010:
 - ◆ Ever expanding mandate of and demands on the SANDF; and
 - ◆ Shrinking budget

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LEGAL POSITION

- ⌘ An analysis of the Defence Act reveals that there is nothing in the law that makes service compulsory for Res Force in circumstances short of a time of war or state of national defence.
- ⌘ It has often been argued that the voluntary nature of service in the Res. Force is a contractual arrangement and therefore does not warrant the intervention of the Legislature.
- ⌘ However, if the Res. Force is to serve as a "force multiplier" it is critical that Res Force members are compelled to serve when required by the SANDF both for training and operations.
- ⌘ Certainty requires that a matter of service in the Defence Force should not be left to the whims of an individual but to legislation. This approach will eliminate contractual disputes at a later stage.

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POLICY THEME

- ✧ It is the DOD's view that Res. Force members should be obliged to serve during peacetime under the following circumstances:
 - ◆ where life, health or property are in imminent danger;
 - ◆ to ensure the provision of essential services;
 - ◆ support any department of state, including support for purposes of socio-economic upliftment; and
 - ◆ effect national border control.

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LEGISLATIVE PROPOSAL

- ✧ The Bill proposes to make it compulsory for members of the Res. Force to serve in peace time when called up to do so, *inter alia*, in the following circumstances:
 - ◆ where life, health or property are in imminent danger;
 - ◆ to ensure the provision of essential services;
 - ◆ support any department of state, including support for purposes of socio-economic upliftment; and
 - ◆ effect national border control.
- ✧ An offence is created for failure to honour a call-up.

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DFSC: BACKGROUND

- ✘ To date the SANDF's conditions of service are dependant solely on the dysfunctional bargaining process in the MBC;
- ✘ As the only mechanism towards achieving improved conditions of service and service benefits;
- ✘ Over the past ten (10) years the MBC has never produced even a single agreement on "bread and butter" issues;
- ✘ As a result the SANDF had to utilize agreements of the PSCBC for improvement of CoS;

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DFSC: BACKGROUND

- ✘ To address the vacuum created by this situation the MOD & MV appointed an INDFSC with the ff TOR:
 - ◆ 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**; and
 - ◆ Investigate and provide advice on **remuneration and conditions of service of members of the SANDF**;
- ✘ The INDFSC continues to execute this function pending the establishment of the permanent Commission.

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