



# **Defence Force Discipline (Consequences of Punishment) Rules 2018**

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I, Mark Binskin AC, Chief of the Defence Force, make the following rules.

Dated 15 March 2018

Mark Binskin AC  
Chief of the Defence Force

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## Part 1—Preliminary

### 1 Name

This instrument is the *Defence Force Discipline (Consequences of Punishment) Rules 2018*.

### 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

#### Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	At the same time as the <i>Defence Force Discipline Regulations 2018</i> commence.	1 April 2018

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

### 3 Authority

This instrument is made under subsections 68(2), 68A(2) and 169FB(1) of the *Defence Force Discipline Act 1982*.

### 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

### 5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) detainee;
- (b) detention centre;
- (c) punishment;
- (d) service tribunal.

In this instrument:

*Act* means the *Defence Force Discipline Act 1982*.

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**authorised member** means a member, or a member included in a class of members, authorised, for the purposes of this instrument:

- (a) by the standing, routine or daily orders of the unit, establishment or ship in which the member is serving; or
- (b) in writing, by a commanding officer.

**Discipline Regulations** means the *Defence Force Discipline Regulations 2018*.

**member** means a member of the Defence Force.

**non-working day**, in relation to a member or prescribed defence member, means a day designated as a rest day or non-working day by the standing, routine or daily orders of the unit, establishment or ship in which the member or prescribed defence member is serving punishment.

**prescribed defence member** has the same meaning as in section 169A of the Act.

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## **Part 2—Consequences of punishments under sections 68 and 169FB of the Act**

### **6 Consequences of punishment of reduction in rank**

For the purposes of subsection 68(2) of the Act, the consequences that flow from the imposition on a member of the punishment of reduction in rank are as follows:

- (a) the rank to which the member is reduced is the rank specified by the service tribunal which imposed the punishment;
- (b) the member's seniority in that rank is to be calculated from a date or year specified by the service tribunal, not being a date or year later than the date or year, respectively, on or in which the punishment is imposed.

### **7 Consequences of punishment of forfeiture of seniority**

For the purposes of subsection 68(2) of the Act, the consequences that flow from the imposition on a member of the punishment of forfeiture of seniority are as follows:

- (a) the punishment imposed does not affect the seniority of that member otherwise than in relation to the member's seniority in the rank held by the member on conviction;
- (b) the seniority forfeited by the member is so much of the member's seniority in that rank as accrued to the member before the date or year (as the case requires) specified by the service tribunal which imposed the punishment as being the date or year from which the member's seniority in that rank is to be calculated.

### **8 Consequences of punishment of restriction of privileges**

For the purposes of subsections 68(2) and 169FB(1) of the Act, the consequences that flow from the imposition on a member or a prescribed defence member (as the case requires) of the punishment of restriction of privileges are, for the duration of the punishment, as follows:

- (a) the member or prescribed defence member must not leave the unit, establishment or ship in which the punishment is to be served except in the course of duty;
- (b) the member or prescribed defence member must not:
  - (i) be present at any recreation or entertainment in the unit, establishment or ship; or
  - (ii) consume any alcoholic beverage;
- (c) the member or prescribed defence member must, in accordance with an order given to the member by an authorised member, perform:
  - (i) additional duties for a period not exceeding 4 hours outside working hours in a working day or for a period not exceeding 8 hours in a non-working day; or

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- (ii) if the member or prescribed defence member cannot be employed effectively in additional duties for all or part of a period mentioned in subparagraph (i)—drill for periods that cumulatively do not exceed 1 hour in each day;
- (d) outside working hours the member or prescribed defence member must, in accordance with an order given to the member or prescribed defence member by an authorised member, report between 6 am and 11 pm (but not more frequently than once every 2 hours) to a person specified by the authorised member;
- (e) outside working hours the member or prescribed defence member must wear:
  - (i) if the member or prescribed defence member is required to perform a duty—the appropriate working dress; or
  - (ii) in any other case—the dress of the day.

### 9 Consequences of punishment of stoppage of leave

For the purposes of subsections 68(2) and 169FB(1) of the Act, the consequences that flow from the imposition on a member or a prescribed defence member (as the case requires) of the punishment of stoppage of leave are, for the duration of the punishment, as follows:

- (a) the member or prescribed defence member must not leave the unit, establishment or ship in which the punishment is to be served except in the course of duty;
- (b) outside working hours the member or prescribed defence member must, in accordance with an order given to the member or prescribed defence member by an authorised member, report between 6 am and 11 pm (but not more frequently than once every 2 hours) to a person specified by the authorised member;
- (c) outside working hours the member or prescribed defence member must wear:
  - (i) if the member or prescribed defence member is required to perform a duty—the appropriate working dress; or
  - (ii) in any other case—the dress of the day;
- (d) the member or prescribed defence member must not consume any alcoholic beverage.

### 10 Consequences of punishment of extra duties

For the purposes of subsections 68(2) and 169FB(1) of the Act, the consequences that flow from the imposition on a member or a prescribed defence member (as the case requires) of the punishment of extra duties are, for the duration of the punishment, as follows:

- (a) the member or prescribed defence member must, in accordance with an order given to the member or prescribed defence member by an authorised member, perform:
  - (i) additional duties outside working hours for a period not exceeding 4 hours in each day; or

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- (ii) if the member or prescribed defence member cannot be employed effectively in additional duties for all or part of the period referred to in subparagraph (i)—drill for periods that cumulatively do not exceed 1 hour in each day;
- (b) outside working hours the member or prescribed defence member must wear:
  - (i) if the member or prescribed defence member is required to perform a duty—the appropriate working dress; or
  - (ii) in any other case—the dress of the day.

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## **Part 3—Consequences of custodial punishments under section 68A of the Act**

### **11 Consequences of custodial punishment of segregated confinement**

For the purposes of subsection 68A(2) of the Act, the consequences that flow from the imposition on a detainee in a detention centre of the punishment of segregated confinement are, for the duration of the punishment, as follows:

- (a) the detainee must be accommodated in a part of the detention centre set apart from the accommodation for detainees who are not undergoing the punishment of segregated confinement;
- (b) the detainee must, subject to paragraph (c) and section 15 of the Discipline Regulations, be confined to his or her cell;
- (c) the detainee must perform drill for periods that cumulatively do not exceed 1 hour in each day;
- (d) the detainee must be denied access to:
  - (i) subject to section 20 of the Discipline Regulations—books; and
  - (ii) social media and other forms of digital entertainment;
- (e) the detainee must not be permitted to receive visitors other than visitors referred to in subsection 19(1) of the Discipline Regulations.

### **12 Consequences of custodial punishment of confinement to cell**

For the purposes of subsection 68A(2) of the Act, the consequences that flow from the imposition on a detainee of the punishment of confinement to cell are, for the duration of the punishment, as follows:

- (a) the detainee must, subject to section 15 of the Discipline Regulations, be confined to his or her cell;
- (b) the detainee must perform drill periods that cumulatively do not exceed 1 hour in each day;
- (c) the detainee must be denied access to:
  - (i) subject to section 20 of the Discipline Regulations—books; and
  - (ii) social media and other forms of digital entertainment;
- (d) the detainee must not be permitted to receive visitors other than visitors referred to in subsection 19(1) of the Discipline Regulations.

### **13 Consequences of custodial punishment of extra drill**

For the purposes of subsection 68A(2) of the Act, the consequences that flow from the imposition on a detainee of the punishment of extra drill are that the detainee must, for the duration of the punishment, perform drill for periods that cumulatively do not exceed 1 hour in each day.

#### **14 Consequences of custodial punishment of restriction of custodial privileges**

For the purposes of subsection 68A(2) of the Act, the consequences that flow from the imposition on a detainee of the punishment of restriction of custodial privileges are, for the duration of the punishment, as follows:

- (a) the detainee must be denied access to:
  - (i) subject to section 20 of the Discipline Regulations—books; and
  - (ii) social media and other forms of digital entertainment;
- (b) the detainee must not be permitted to receive visitors other than visitors referred to in subsection 19(1) of the Discipline Regulations.

## **Part 4—Performance of drill**

### **15 Conditions governing the performance of drill**

For the purposes of this instrument, drill must be performed by a member or a prescribed defence member in accordance with the following conditions:

- (a) the nature and type of drill to be performed must be as specified in the standing, routine or daily orders of the unit, establishment, ship or detention centre in which the drill is performed;
- (b) the member or prescribed defence member must perform the drill in accordance with an order given to the member or prescribed defence member by an authorised member;
- (c) the member or prescribed defence member must not be required to perform the drill for a continuous period exceeding 30 minutes;
- (d) the member or prescribed defence member must not be required to perform periods of drill more frequently than at 4-hourly intervals.

## **Part 5—Transitional provisions**

### **16 Definitions**

In this Part:

*commencement day* means the day on which this instrument commences.

*old rules* means the *Defence Force Discipline (Consequences of Punishment) Rules 1986*, as in force immediately before the commencement day.

### **17 Transitional—punishments**

- (1) Parts 1 to 4 of this instrument apply in relation to a punishment imposed on a member, prescribed defence member or detainee on or after the commencement day.
- (2) Despite the repeal of the old rules by Schedule 1, those rules continue to apply in relation to a punishment imposed on a member, prescribed defence member or detainee before the commencement day.

### **18 Transitional—authorised members**

Despite the repeal of the old rules by Schedule 1, a person who was an authorised member for the purposes of the old rules immediately before the commencement day is taken, on and after that day, to be an authorised member for the purposes of this instrument.

## **Schedule 1—Repeals**

### ***Defence Force Discipline (Consequences of Punishment) Rules 1986***

#### **1 The whole of the instrument**

Repeal the instrument.