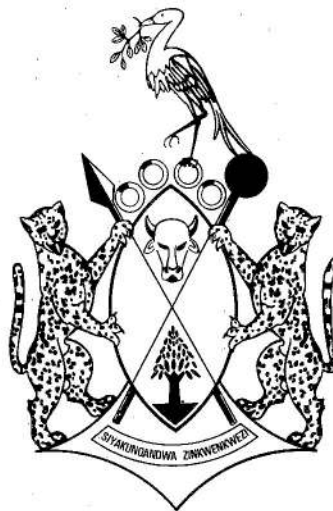


**IRIPHABLIKI  
YECISKEI**

**REPUBLIC OF  
CISKEI**

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**GOVERNMENT  
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**No. 77**

**DEPARTMENT OF DEFENCE**

**GOVERNMENT NOTICE No. 61**

**IT IS HEREBY NOTIFIED THAT THE PRESIDENT HAS  
ASSENTED TO THE FOLLOWING ACT WHICH IS HEREBY  
PUBLISHED FOR GENERAL INFORMATION:—**

**DEFENCE AMENDMENT ACT, 1985**

**ACT No. 11 OF 1985**

# DEFENCE AMENDMENT ACT, 1985

## ACT

To amend the Defence Act, 1981.

(English text signed by the President. Assented to on 22 July 1985).

BE IT ENACTED by the National Assembly of the Republic of Ciskei, as follows:-

*Amendment of section 1 of Act 1 of 1981, as amended by sections 35 and 36 of Act 35 of 1983.*

1. Section 1 of the Defence Act, 1981 (hereinafter in this Act referred to as the principal Act) is hereby amended —
  - (a) by the substitution in subsection (1) for the definition of "citizen" of the following definition:  
" 'citizen' means a citizen of the Republic;";
  - (b) by the insertion in subsection (1) after the definition of "citizen" of the following definition:  
" 'Commander of the Defence Force' means the chief military executive officer of the Defence Force appointed under section 8;";
  - (c) by the insertion in subsection (1) after the definition of "court" of the following definition:  
" 'Defence Force' means the Force composed as prescribed in section 5;";
  - (d) by the substitution in subsection (1) for the definition of "Department" of the following definition:  
" 'Department' means the Department of Defence;";
  - (e) by the substitution in subsection (1) for the definition of "Minister" of the following definition:  
" 'Minister' means the Minister of Defence;";
  - (f) by the substitution in subsection (1) for the definition of "Republic" of the following definition:  
" 'Republic' means the Republic of Ciskei;";and
  - (g) by the deletion in subsection (1) of the definition of "Special Force".

*Amendment of section 17 of Act 1 of 1981.*

2. Section 17 of the principal Act is hereby amended by the insertion in subsection (2) after the words "age limits" of the words "if any".

*Amendment of section 37 of Act 1 of 1981, as amended by section 36 of Act 35 of 1983.*

3. Section 37 of the principal Act is hereby amended by the substitution in subsection (2) for the word "course" of the word "courses".

*Repeal of section 50 of Act 1 of 1981.*

4. Section 50 of the principal Act is hereby repealed.

*Amendment of section 54 of Act 1 of 1981.*

5. Section 54 of the principal Act is hereby amended by the substitution for the expression "sections 50, 51 and 52" of the expression "sections 51 and 52".

*Substitution of section 55 of Act 1 of 1981.*

6. The following section is hereby substituted for section 55 of the principal Act:  
"No territorial restriction on employment of Defence Force in time of war."  
55. In time of war a member of the Defence Force may be required to perform service against an enemy anywhere within or outside the Republic."

*Amendment of section 57 of Act 1 of 1981.*

7. Section 57 of the principal Act is hereby amended —
  - (a) by the substitution for paragraph (e) of subsection (1) of the following paragraph:  
"(e) a member of the Ciskeian Police;"; and
  - (b) by the substitution in paragraph (h) of subsection (1) for the word "secretary" of the word "Director-General".

*Amendment of section 67 of Act 1 of 1981.*

8. Section 67 of the principal Act is hereby amended by the insertion before the word "exceeds" of the word "or".

*Amendment of section 88 of Act 1 of 1981.*

9. Section 88 of the principal Act is hereby amended by the substitution for the words "State Security" of the word "Defence".

## DEFENCE AMENDMENT ACT, 1985

*Substitution of section 97 of Act 1 of 1981, as amended by section 36 of Act 35 of 1983.*

10. The following section is hereby substituted for section 97 of the principal Act :

"Non-liability of Department.

97. The state or any servant of the State shall not be liable (except in the case of any wilful act or omission on the part of any such servant) to any person (except a servant of the State acting in the execution of his duty as such) who makes use of any vehicle, aircraft or vessel which is the property of the State in its Department of Defence or to whom services are rendered by the said Department or who makes use of any other property of the State in its Department of Defence or to the spouse, or any parent, child or other dependant of such person, for any loss or damage resulting from any bodily injury, loss of life or loss of or damage to property caused by or arising out of or in any way connected with the use of any such vehicle, aircraft or vessel, of the said services or the use of any such other property."

*Amendment of section 98 of Act 1 of 1981.*

11. Section 98 of the principal Act is hereby amended by the substitution for the words "State Security" of the word "Defence".

*Amendment of schedule 1 of Act 1 of 1981, as amended by section 36 of Act 35 of 1983.*

12. Schedule 1 of the principal Act (the said Schedule being hereinafter referred to as the Code) is hereby amended —

- (a) by the insertion in section 1(1) of the Code after the definition of "capital offence" of the following definition:  
" 'chief disciplinary officer' means the chief disciplinary officer appointed under section 135(1) and includes an assistant disciplinary officer;";
- (b) by the deletion in section 1(1) of the Code of the definition of "Minister";
- (c) by the insertion in section 1(1) of the Code after the definition of "enemy" of the following definition:  
" 'field punishment' means the performance in custody in the field of such labour and extra duties as may be prescribed;";
- (d) by the substitution in section 1(1) of the Code in the definition of "pay" for the expression "Ciskeian Government Service Pensions Act" of the expression "Government Service Pensions Act, 1981 (Act 7 of 1981)";
- (e) by the substitution in section 1(1) of the Code for the definition of "prescribed" of the following definition:  
" 'prescribed' except in the definition of 'prescribed apparatus', means prescribed in the rules made under the Act;";
- (f) by the insertion in section 1(1) of the Code after the definition of "prescribed" of the following definition:  
" 'prescribed apparatus' means any apparatus (prescribed by the Minister by notice in the *Gazette*) by means of which the breath of any person is tested or analysed in order to determine whether or not the alcohol content of the blood of such person exceeds a given limit;";
- (g) by the insertion in section 1(1) of the Code after the definition of "service" of the following definition:  
" 'shorthand writer' includes the operator of any recording device;";
- (h) by the substitution in section 1(1) of the Code for the definition of "trial officer" of the following definition:  
" 'trial officer' means any commanding officer or any other officer who has been authorized in writing by the appropriate convening authority or the Commander of the Defence Force to exercise the powers and jurisdiction conferred on a trial officer by section 62 and includes the Commander of the Defence Force;";
- (i) by the insertion in section 19(2) of the Code after the word "conviction" of the words "to imprisonment";
- (j) by the substitution in subsection (1) of section 34 of the code for the words "misconduct as defined in" of the words "a contravention of";
- (k) by the substitution in subsection (2) of section 34 of the Code for the words "misconduct as defined in" of the word "contravening";
- (l) by the substitution in section 61(3)(b) of the Code for the words "Commander of the Special Force" of the words "appropriate convening authority";
- (m) by the substitution for paragraph (b) of section 63(2) of the Code of the following paragraph:  
"(b) if the objection is upheld, the appropriate convening authority or the Commander of the Defence Force shall authorize some other officer to try the accused.";
- (n) by the substitution for section 64 of the Code of the following section:  
"REVIEW OF SENTENCES PASSED BY TRIAL OFFICER

64. Whenever a trial officer has convicted an offender, he shall as soon as possible cause the record of the proceedings to be sent for review to the appropriate convening authority or, if the Commander of the Defence Force was the trial officer to the Minister, who may after the expiration of a period of not less than three days after the conviction —

- (a) endorse the finding or the finding and the sentence; or
- (b) quash the finding and set aside the sentence; or
- (c) substitute for the finding any other lawful finding; or
- (d) if he has endorsed the finding, vary the sentence but so that the varied sentence is not either in itself

or in its consequences more unfavourable to the offender than the sentence of the trial officer:  
Provided that a sentence of a fine exceeding one hundred rand imposed by a trial officer other than the Commander of the Defence Force shall in any event be subject to confirmation by the Commander of the Defence Force."

## DEFENCE AMENDMENT ACT, 1985

- (o) by the substitution in paragraph (b) of section 104(1) of the Code for the word "squash" of the word "quash";
- (p) by the substitution in section 109 of the Code for the words "Ciskeian Prisons Act", appearing in subsections (1) and (3)(m), of the expression "Prisons Act, 1983 (Act 36 of 1983)";
- (q) by the substitution in section 112 of the Code for the words "disordered or defective" of the word "ill";
- (r) by the deletion in section 115(1)(a) of the Code of the word "Ciskeian";
- (s) by the substitution in section 117(1) of the Code for the words "by placed" of the words "be placed".

*Substitution of certain words in Act 1 of 1981.*

13. Subject to the foregoing provisions of this Act, the principal Act is hereby amended by the substitution for the words "Special Force", "Ciskeian Special Force" or "Ciskei Special Force", wherever they occur, of the words "Defence Force".

*Repeal of laws and savings.*

14. (1) Subject to the provisions of subsection (2), the laws mentioned in the Schedule are hereby repealed to the extent indicated in the third column of the Schedule.
- (2) Until the President makes regulations under section 47 of the principal Act, the regulations in force under any law repealed by subsection (1) (hereinafter referred to as the existing regulations) shall, in so far as the existing regulations can be applied and are not inconsistent with the provisions of the principal Act, continue to apply: Provided that, when the President makes regulations with regard to any matter referred to in subsection (1) of section 47 of the principal Act, the existing regulations relating to that matter shall be deemed to have been withdrawn.

*Short title.*

15. This Act shall be called the Defence Amendment Act, 1985.

### SCHEDULE

#### LAWS REPEALED

<i>No. and Year of law</i>	<i>Short title</i>	<i>Extent of repeal</i>
Act 44 of 1957	Defence Act, 1957 . . . . .	The whole
Act 12 of 1961	Defence Amendment Act, 1961 . . . . .	The whole
Act 42 of 1961	Defence Further Amendment Act, 1961 . . . . .	The whole
Act 83 of 1962	Defence Amendment Act, 1962 . . . . .	The whole
Act 77 of 1963	Defence Amendment Act, 1963 . . . . .	The whole
Act 81 of 1964	Defence Amendment Act, 1964 . . . . .	The whole
Act 85 of 1967	Defence Amendment Act, 1967 . . . . .	The whole
Act 3 of 1969	Defence Amendment Act, 1969 . . . . .	The whole
Act 28 of 1970	Defence Amendment Act, 1970 . . . . .	The whole
Act 80 of 1971	General Law Amendment Act, 1971 . . . . .	Section 20
Act 66 of 1972	Defence Amendment Act, 1972 . . . . .	The whole
Act 26 of 1973	Defence Amendment Act, 1973 . . . . .	The whole
Act 8 of 1974	Defence Amendment Act, 1974 . . . . .	The whole
Act 83 of 1974	Defence Further Amendment Act, 1974 . . . . .	The whole
Act 94 of 1974	Second General Law Amendment Act, 1974 . . . . .	Section 34
Act 57 of 1975	General Law Amendment Act, 1975 . . . . .	Sections 23 and 24
Act 1 of 1976	Defence Amendment Act, 1976 . . . . .	The whole
Act 35 of 1977	Defence Amendment Act, 1977 . . . . .	The whole
Act 68 of 1977	Second Defence Amendment Act, 1977 . . . . .	The whole
Act 49 of 1978	Defence Amendment Act, 1978 . . . . .	The whole
Act 42 of 1979	Defence Amendment Act, 1979 . . . . .	The whole
Act 77 of 1980	Defence Amendment Act, 1980 . . . . .	The whole
Act 56 of 1981	Manpower Training Act, 1981 . . . . .	The whole
Act 35 of 1983	National Security Amendment Act, 1983 . . . . .	Paragraph (c) of section 35

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DEPARTMENT OF DEFENCE

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DEFENCE AMENDMENT ACT, 1985