

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 563 Cape Town

3 May 2012

No. 35309

THE PRESIDENCY

No. 346

3 May 2012

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 4 of 2012: Military Ombud Act, 2012.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

(English text signed by the President)
(Assented to 25 April 2012)

ACT

To provide for the establishment of an independent Office of the Military Ombud; and to provide for the appointment and functions of the Military Ombud; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, unless the context indicates otherwise—
 - “**Constitution**” means the Constitution of the Republic of South Africa, 1996; 5
 - “**Defence Force**” means the South African National Defence Force contemplated in section 11 of the Defence Act, 2002 (Act No. 42 of 2002);
 - “**Department**” means the Department of Defence;
 - “**Deputy Ombud**” means the Deputy Military Ombud appointed in terms of section 5; 10
 - “**member**” bears the same meaning ascribed to it in section 1 of the Defence Act;
 - “**Minister**” means the Minister responsible for defence;
 - “**Office**” means the Office of the Military Ombud established in terms of section 2;
 - “**Ombud**” means the Military Ombud appointed in terms of section 5;
 - “**prescribed**” means prescribed by regulation under section 15. 15

Office of Military Ombud

2. (1) The Office of the Military Ombud is hereby established.
(2) The seat of the Office must be determined by the Ombud in consultation with the Minister.

Object of Office 20

3. The objective of the Office is to investigate and ensure that complaints are resolved in a fair, economical and expeditious manner.

Mandate of Office

4. (1) The mandate of Office is to investigate complaints lodged in writing by—
 - (a) a member regarding his or her conditions of service; 25

- (b) a former member regarding his or her conditions of service;
 - (c) a member of the public regarding the official conduct of a member of the Defence Force; or
 - (d) a person acting on behalf of a member.
- (2) For the purposes of this section, conditions of service bear the same meaning assigned to it under section 1 of the Defence Act, 2002 (Act No. 42 of 2002), as amended. 5

Appointment of Military Ombud and Deputy Military Ombud

5. (1) The President must appoint a Military Ombud.
- (2) The Ombud must— 10
- (a) possess adequate knowledge of the Constitution and must have legal knowledge; and
 - (b) have knowledge of or experience in military and public administration that was gained over a period of 10 years.
- (3) The President must, in consultation with the Ombud, appoint a Deputy Military Ombud who— 15
- (a) possesses adequate knowledge of the Constitution; and
 - (b) has knowledge of or experience in military and public administration that was gained over a period of eight years.
- (4) The Ombud holds office for a non-renewable period of seven years. 20
- (5) The remuneration and other terms and conditions of service of the Ombud and Deputy Ombud must be determined by the President with the concurrence of the Minister of Finance: Provided that—
- (a) the salary of the Ombud must not be less than the salary of a judge of a High Court, as determined by the President under section 2(1) of the Judges' Remuneration and Conditions of Employment Act, 2001 (Act No. 47 of 2001); and 25
 - (b) such remuneration may not be reduced and such terms and conditions may not be adversely altered during the term of office of the Ombud and Deputy Ombud. 30
- (6) The Ombud and Deputy Ombud may at any time resign by submitting a written notice to the President at least two months prior to the intended date of vacation of office.
- (7) The President may remove the Ombud and Deputy Ombud from office on the grounds of misconduct, incapacity or incompetence, after affording the person concerned a reasonable opportunity to be heard, and subject to applicable legislation. 35

Powers and functions of Ombud and Deputy Ombud

6. (1) The Ombud must investigate complaints lodged with the Office in accordance with this section.
- (2) A complaint must be lodged in writing with the Office in the prescribed manner.
- (3) On receipt of a complaint the Ombud must register the complaint as may be prescribed. 40
- (4) The Ombud must investigate a complaint fairly and expeditiously without fear, favour or prejudice.
- (5) The Ombud may not investigate a complaint unless the Ombud—
- (a) has in writing informed every other interested party to the complaint of the receipt thereof; 45
 - (b) is satisfied that all interested parties have been provided with such particulars that will enable the parties to respond to the complaint; and
 - (c) has afforded all interested parties the opportunity to submit a response to the complaint. 50
- (6) For the purpose of subsection (1), the Ombud—
- (a) may summon any person to submit an affidavit or affirmed declaration or to appear before him or her to give evidence or produce any document that has a bearing on the matter before him or her;