

Annex

Paragraph	Comments
1	<p>In order to maintain enough flexibility to ensure that the CF retains the ability to prevent persons from avoiding service in the CF during times of obligatory service simply by declaring that they have committed a homosexual act, it is recommended that the words "declare themselves to" be deleted from the paragraph. It is also recommended that, in conjunction with DPLS, you develop policy guidelines for recruiters. Such guidelines could, in my opinion, provide that, so long as enrolment is voluntary, an applicant who declares that he has committed a homosexual act shall be refused enrolment, but that, if enrolment becomes compulsory, more evidence than his own statement would be required before he could escape compulsory service.</p>
2	<p>As a matter of form, this definition should be set out as a single sentence, beginning with the phrase "In this order, "homosexual act" means an intentional ...".</p> <p>I also recommend substituting the word "wilful" for "willing" in the definition of homosexual act.</p>
3	<p>Because under the proposed amendments to QR&Os, commanding officers will exercise judicial functions, they should not be personally involved in investigations. Therefore, I recommend that the latter phrase of this paragraph be revised to read as follows:</p> <p style="padding-left: 40px;">"...a homosexual act, he shall cause an investigation to be made to determine the facts..."</p> <p>As an editorial matter, "commanding officer" should not be capitalized in this paragraph and the abbreviation "(CO)" should follow immediately after the first use of the term "commanding officer".</p>
4	<p>I recommend that for clarity's sake, the first sentence of this paragraph be revised to read as follows:</p> <p style="padding-left: 40px;">"A CO may order that a preliminary investigation be conducted in any manner he deems appropriate".</p>

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001381

Paragraph

Comments

With respect to the confidentiality issue raised in this paragraph, I suggest that for obvious reasons, this protection of privacy provision be made one of general application, and not be limited to preliminary investigations. In order to accomplish this, you may wish to insert the following as a new paragraph directly following the "Investigations" subtitle:

"Any action taken or investigation conducted pursuant to this order should be handled so as to ensure maximum confidentiality and protection of privacy of members involved".

The provision relating to questioning of members on matters of sexual activity is couched in somewhat sexist terms. I recommend the following reformulation:

"A member shall not be questioned on matters of sexual activity other than in the presence of an officer of the same sex, preferably a nurse. If this proves impracticable, then a member of the military police of the same sex or non-commissioned officer of the same sex must be present".

5, 6
and 7

In order to clarify the stages of the investigation and the requirement for disposal of records relating to the investigation, the following revision of these paragraphs is recommended:

"5. When a preliminary investigation has been conducted and the CO has reason to believe that further investigation is required, the CO shall request that the nearest Special Investigation Unit (SIU) complete the investigation and prepare a report.

6. When, after a preliminary investigation has been conducted and the CO does not have reason to believe that a homosexual act was committed, or, after the SIU has completed an investigation and there are not reasonable grounds to believe that a homosexual act was committed, unit personnel records of such investigation, and any reference to the circumstances which led to the investigation, shall be destroyed. In any other case, the CO shall forward a confidential report of all relevant details to NDHQ/DGPCO or DGPCOR, as appropriate."

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001382

Paragraph	Comments
8	<p>Since this paragraph is to be deleted in accordance with Surg Gen's wishes, I recommend that the following paragraph be added at the end of the order:</p> <p>"When release action is directed in accordance with paragraph 9(?), the member's CO shall ensure that the member is counselled as to the psychiatric and other facilities that are available in the civilian community to counsel or treat the member".</p>
9	<p>For the sake of clarity of intent, I recommend that this paragraph be reworded as follows:</p> <p>"When, with reasonable certainty, it has been determined by the appropriate authorities at NDHQ that a member has performed a homosexual act, NDHQ shall, except as otherwise provided in this paragraph, authorize the release of the member, normally in accordance with QR&O 15.01 Item 5(d). However, when the member is to be released...in accordance with QR&O 15.01 Item 2(c). But, when the homosexual act is determined to have occurred under unusual circumstances, constituting an isolated incident and is out of character with the member's otherwise heterosexual behaviour, consideration may be given to retaining the member."</p>
10	<p>Finally, I recommend the following rewording of this paragraph:</p> <p>"When the appropriate authorities at NDHQ have not authorized release pursuant to paragraph 9(?) of this order, the member's CO shall destroy all documents on unit personnel files which refer to the investigation or any reference to the circumstances which led to it".</p>

*if the number
is quoted
see pg 11*