

THE UNITED REPUBLIC OF TANZANIA



No. 31 OF 1974

ASSENT,

Julius K. Nyerere
President

20TH AUGUST, 1974

An Act to amend the National Service Act, 1964

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the National Service (Amendment) Act, 1974, shall be read as one with the National Service Act, 1964 (hereinafter in this Act referred to as "the principal Act") and shall come into operation on the 1st January, 1975.

Short title,
construction
and com-
mencement
Cap. 553

2. Section 2 of the principal Act is amended-

Section 2
amended

(a) by renumbering it as subsection (1) of section (2);

(b) in the definition "Registrar" by deleting the semi-colon at the end and substituting therefor "and includes an Assistant Registrar";

(c) by adding the following subsection-

"(2) The Minister may, by order in the *Gazette*, appoint any public officer or any officer of a university, college, school or other educational institution or establishment to be an Assistant Registrar in relation to such category of persons as may be specified in such order."

3. Section 5 of the principal Act is amended by deleting subsections (1), (2) and (3) and substituting therefor the following subsections:

Sections 5
amended

"(1) The appropriate authority may enlist into the National Service male or female citizens who, at the time of their first enlisting are between the apparent ages of sixteen and thirty-five years (both inclusive):

Provided that this subsection shall not be construed so as to disqualify any person who is over the apparent age of thirty-five years from joining or continuing as a member of the permanent staff after he has attained the apparent age of thirty-five years and for the avoidance of doubts it is hereby declared that members of the permanent staff shall, in so

far as the eligibility of being appointed to, continuing in or holding an office on the permanent staff by virtue of having attained any particular age, shall be subject to the regulations for the time being applicable to members of the civil service holding offices of the corresponding rank in the civil service.

(2) Every serviceman shall be enlisted to serve in the National Service for a period of-

- (a) in the case of a serviceman enlisted voluntarily under subsection (1), two years;
- (b) in the case of a serviceman enlisted in consequence of an enlistment notice under section 5F, one year,

and on the expiry of such period a serviceman may, if he so wishes and the appropriate authority so agrees, be re-engaged for a further period of the same duration as the period of his original enlistment:

Provided that in calculating any period of enlistment provided for by this subsection no account shall be taken of any period during which the service of the serviceman is suspended at his request and with the consent of the Director.

(3) After the conclusion of his engagement with the National Service Reserve, a serviceman shall from part of the National Service or any branch of the Defence Forces when called upon to do so in such manner and for such purposes as the Minister may, by regulations under section 21, prescribe.

Sections 5A
amended

4. Section 5A is amended by deleting subsection (2) and substituting therefor the following: -

"(2) The power to make an appointment of an officer on the permanent staff is vested in the President;

Provided that the President may by order, delegate the power conferred upon him by this section to the Minister or any other person.

(2A) Nothing in this section shall be construed as precluding an appointment being made to an office on the permanent staff for any specified period."

Section 5a
repealed
and
replaced

5. Section "5B of the principal Act is repealed and replaced by the following section:

"Liability
to be
called up
for
National
Service"

5B.-(1) Subject to the provision of this Act every person to whom this section applies shall be liable to have his name entered in the National Service Register and to be called upon to serve in the National Service in accordance with the provisions of this Act.

(2) This section shall apply to every male or female citizen who has attained the apparent age of sixteen years but has not attained the apparent age of thirty-five years and-

- (a) who has completed an academic year in Form VI or has attained such alternative academic standard as the Minister may, by order in the *Gazette*, prescribe; or
- (b) who having completed an academic year in Form IV subsequently enrolled in any post-secondary school institution, whether within or outside Tanganyika, for a course of studies (other than a correspondence course only) and has ceased to be a student of such institution either because of the completion of the course of studies or because he has abandoned the course after having been such student of such institution for a period of not less than one-half of the normal duration of the course:

Provided that-

- (i) the provisions of this subsection shall not apply to any person who completed an academic year in Form VI or attained the prescribed academic standard or ceased to be a student of any institution referred to in paragraph (b), as the case may be, before 1st November, 1966;
- (ii) the provisions of this subsection shall not apply to any person who having completed Form IV enrolls in a post-secondary school institution for a course of studies in Form V or Form VI but does not complete an academic year in Form VI;
- (iii) where a person after completing an academic year in Form VI or attaining the prescribed academic standard proposes to prosecute further studies at any educational institution (otherwise than by a correspondence course) this section shall apply in relation to him-
 - (A) immediately after the completion of such further studies; or
 - (B) if he fails to undertake the prosecution of further studies within six months from the date of the completion of an academic year in Form VI or attaining the prescribed academic standard, or such longer period as the Director may in any case allow by a writing under his hand, immediately upon the expiry of such period of six months or, as the case maybe such longer period allowed by the Director; or
 - (C) if he, after commencing the prosecution of further studies, at any time before the completion of the course of studies, abandons the same, immediately after he abandons such course.

(3) No person to whom subsection (2) applies shall enter into any contract of service any term of which may conflict with his liability to be called up for national service under this Act, and any such term in any such contract shall be void and unenforceable.

(4) Notwithstanding the provisions of subsection (2), this section shall not apply to any person who-

- (a) is certified by a Government medical officer as being blind; or
- (b) is detained in custody as a criminal lunatic; or
- (c) is a public officer and was a public officer at the commencement of this Act; or
- (d) having become a public officer after the commencement of this Act, attends any in-service training course at any post-secondary school institution for a duration not exceeding nine months; or
- (e) being a woman, was lawfully married prior to 7th November, 1969; or
- (f) is a person who is exempted or who belongs to a category of persons exempted from the provisions of this section by an order made under section 5K.

(5) For the purposes of subsections (2) and (4)-

- (a) "post-secondary school institution" means any university, college or other educational or vocational training establishment offering a course of studies or training for any profession, vocation or occupation, whether or not any degree, diploma or other award is granted to students enrolling therein and completing any course of studies, and which normally requires the completion of at least Form VI or the attainment of equivalent academic standard as a qualification for entry or enrollment therein for a course of studies, but does not include any such institution which offers only correspondence course and does not require its students to attend any lecture or seminar;
- (b) a person shall be deemed to have completed an academic year in Form VI if he has been a student at a school or other educational institution offering a course of studies in Form VI and remained enrolled as a member of the class for Form VI for the whole of one academic year, whether or not he sat for or passed any examination for Form VI."

6. Section 5F of the Principal Act is amended-

Section 5F
amended

- (a) by deleting the words "an Area Commissioner" or "the Area Commissioner" wheresoever they occur therein and substituting therefor in each case the words "the Registrar";
- (b) in subsection (2) by deleting the words "to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding six months" which occur in the sixth and seventh lines and substituting therefor "to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding one year";
- (c) in subsection (8) by deleting the words "to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding six months" which occur in the seventh and eighth lines and substituting therefor "to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding one year";
- (d) by adding the following new subsection:
 - "(9) Rules made under section 21 may provide for the duties of the Registrar and Assistant Registrars in relation to enlistment notices and service of enlistment notices."

7. Section 5G of the principal Act is amended by adding the following subsection: -

Section 5G
amended

"(6) No postponement certificate shall be granted or renewed so as to postpone the liability of any person to be called up for national service for a period or aggregate of periods exceeding six months unless the Minister has by a writing under his hand authorized the grant of such certificate."

8. Section 8 of the principal Act is amended by deleting the full-stop at the end and substituting therefor "or if in the opinion of the appropriate authority, the continued engagement of the serviceman is contrary to the public interest or the interest of the National Service."

Section 8
amended

9. Section 15 of the principal Act is amended-

Section 15
amended

- (a) in subsection (2)-
 - (i) in paragraph (c) by deleting the words "fourteen days" and substituting therefor the words "twenty-one days";
 - (ii) paragraph (d) by deleting the words "ten shillings" and substituting therefor the words "half of the serviceman's monthly salary or allowance";
- (b) by adding the following new subsection:

"(5) Where in the opinion of the Director any serviceman enlisted pursuant to an enlistment notice under section 5F has not, on the completion of the period of one year provided for in subsection (2) of section 5, attained standard normally expected of a serviceman in the National Service, the Director may, by order under his hand, extend such period of one year by a period of six months or such shorter periods as the Director may in such order specify and in any case in which such order is made the provisions of subsection (2) of section 5 shall take effect as if the reference in paragraph (a) thereof to the period of one year were reference to such period so extended."

Section 18
repealed and
replaced

10. Section 18 of the principal Act is repealed and replaced by the following section:

"Desertion

18.-(1) Any member of the National Service who deserts from the Service shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding five thousand shillings or to both such imprisonment and fine.

(2) No person shall be found guilty of the offence of desertion unless the court is satisfied that he intended not to return to the Service:

Provided that where a serviceman has without lawful authority absented himself from his duties for a period of twenty-one consecutive days or more the court shall presume that he did not intend to return to the Service."

Section 20A
amended

11. Section 20A of the principal Act is amended by deleting the words "to a fine of one thousand shillings or to imprisonment for a term not exceeding four months" which occur therein and substituting therefor the words "to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two years."

Section 20B
amended

12. Section 20B of the principal Act is amended by deleting the words "a fine not exceeding five hundred shillings" which occur at the end, and substituting therefor the words "a fine not exceeding two thousand shilling."

Section 21
amended

13. Section 21 of the principal Act is amended in subsection (1) by deleting paragraph (i).

Third
Schedule
repealed
Transitional
provisions

14. The principal Act is amended by deleting the Third Schedule.

15.-(1) Notwithstanding the amendment at the National Service Act, 1964 by this Act any serviceman enlisted on or before 31st December, 1974 in consequence of an enlistment notice under section 5F shall continue in the National Service as if section 5 of the National Service Act, 1964 had not been amended by this Act.

(2) The Minister may, by rules made under section 21 or by directions under his hand modify the provisions of subsection (1) in relation to any person or category of persons to alleviate any hardship caused to such person or category of persons by the amendments to the National Service Act, 1964 made by this Act.

Passed in the National Assembly on the twenty-fourth day of July, 1974.

MMwindadi

Acting Clerk of the National Assembly

