

Chapter 11:08**PREVIOUS CHAPTER****NATIONAL SERVICE ACT**

Acts 19/1979, 22/2001.

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title.
2. Interpretation.
3. Meaning of “resident”.

PART II

DIRECTOR OF SECURITY MANPOWER AND REGISTRATION OF RESIDENTS

4. Director of Security Manpower.
5. Registration.
6. Registered address.
7. Furnishing of registration certificate and particulars.
8. Duty to furnish information.

PART III

NATIONAL SERVICE OTHER THAN EMERGENCY NATIONAL SERVICE

9. Liability to undergo Phase I and Phase II Service.
10. Volunteering for Phase I Service.
11. Call-up for Phase I Service.
12. Phase I Service.
13. Phase II Service.
14. Resident who has completed Phase II Service to remain in designated Service concerned.
15. Computation of periods of service.
16. Failure to perform National Service in terms of this Part.

PART IV

EMERGENCY NATIONAL SERVICE

17. Emergency National Service.
18. Volunteering for emergency National Service.
19. Residents deemed to be undergoing Phase II Service
20. Failure to perform emergency National Service.

PART V

MEDICAL AND OTHER EXEMPTION

21. Residents exempt from National Service.
22. Medical exemptions.
23. Exemption boards.
24. Conscientious objection.

PART VI

GENERAL

25. Conditions of National Service and transfer of persons from one designated Service to another.
26. Engagement of non-residents.
27. Co-operation of employers.
28. Causing person to refuse or fail to carry out National Service.
29. Restrictions on certain residents.
30. Certificate of service.

31. Certificate of Director to be evidence.

32.

[repealed by Act 22 of 2001, with effect from the 20th May, 2002]

33. Presumptions.

34. Regulations.

AN ACT to provide for the registration, liability for National Service and exemption from that liability of residents; and to provide for matters incidental to or connected with the foregoing.

[Date of commencement: 1st January, 1980.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the National Service Act [Chapter 11:08].

2 Interpretation

(1) In this Act—

“certificate of registration” means a certificate prescribed for the purposes of registration under this Act;

“Commander” means, subject to subsection (3)—

(a) in relation to the Defence Forces, the Commander of the Army or the Air Force;

(b) in relation to the Police Force, the Commissioner of Police;

(c) in relation to the Prison Service, the Commissioner of Prisons;

(d) in relation to the Ministry responsible for home affairs, the Secretary of that Ministry;

(e) in relation to a designated Service referred to in paragraph (c) of the definition of “designated Service”, the person specified in terms of subsection (2) to be the Commander of that designated Service;

“designated Service” means—

(a) any Force; or

(b) the Ministry responsible for home affairs; or

(c) such other Ministry, department, body or organization as may, in terms of subsection (2), be declared to be a designated Service for the purposes of this Act;

“Director” means the Director of Security Manpower referred to in subsection (1) of section four;

“emergency National Service” means service in terms of Part IV;

“exemption board” means an exemption board appointed in terms of subsection (1) of section twenty-three;

“Force” means—

(a) any of the Defence Forces; or

(b) the Police Force; or

(c) the Prison Service;

“Minister” means the Minister of Defence or any other Minister to whom the President may from time to time assign the administration of this Act;

“National Service” means any service rendered in terms of this Act;

“Phase I Service” means service referred to in subsection (2) or (4) of section twelve;

“Phase II Service” means service referred to in subsection (2) or (4) of section thirteen;

“register” means register in terms of subsection (1) or (2) of section five;

“registered address” means an address or change of address notified in terms of regulations referred to in subsection (1) of section six and “registered residential address” shall be construed accordingly;

“repealed legislation” means any enactment repealed by this Act, the National Service Act, 1976 (No. 35 of 1976) or the Defence Act [Chapter 11:02], and any regulations relating to service or employment under the Defence Act [Chapter 11:02] made in

terms of the Emergency Powers Act [Chapter 11:04];

“resident” means any person who in terms of section three is a resident for the purposes of this Act.

(2) The Minister may, by notice in a statutory instrument, declare any Ministry or department of the State or any body or organization whatsoever to be a designated Service for the purposes of this Act and shall specify the person who shall be the Commander of that designated Service.

(3) Any reference in this Act to the Commander, in relation to any National Service, shall be read and construed as a reference to the Commander of the designated Service in which the National Service is being or is to be rendered.

3 Meaning of “resident”

(1) Subject to this section, any male who—

(a) resides permanently in Zimbabwe; or

(b) has, whether before or after the 1st January, 1980, resided in Zimbabwe for a continuous period of six months or for periods which amount, in the aggregate, to not less than six months in any period of twelve months; shall be a resident for the purposes of this Act.

(2) A person referred to in subsection (1) shall cease to be a resident if he—

(a) has left Zimbabwe with the intention of departing permanently therefrom; and

(b) has been absent from Zimbabwe for a continuous period of twelve months or more.

(3) The following persons shall not be residents—

(a) any person serving in any foreign naval, marine, army, air or police force, which is co-operating with the Defence Forces;

(b) any person in the service of the government of a foreign country who is not a citizen of Zimbabwe;

(c) a member of the Regular Force of any branch of the Defence Forces as defined in the law relating to the conditions of service of members of such branch;

(d) a member of the Regular Force of the Police Force as defined in the law relating to the conditions of service of members of the Police Force;

(e) a member of the Prison Service, other than a person who is such a member in pursuance of this Act;

(f) a member of such branch of any Force, other than a branch referred to in paragraph (c), (d) or (e), as may be prescribed.

PART II

DIRECTOR OF SECURITY MANPOWER AND REGISTRATION OF RESIDENTS

4 Director of Security Manpower

(1) There shall be a Director of Security Manpower, whose office shall be a public office and shall form part of the Public Service.

(2) The Director shall perform such functions as are conferred upon him by this Act or as are directed by the Minister.

5 Registration

(1) Subject to subsection (5), every, person who—

(a) is a resident and attains the age of sixteen years; or

(b) having attained the age of sixteen years but not attained the age of fifty years, becomes a resident;

shall register at such time and in such manner as may be prescribed.

(2) The Minister may, by notice in a statutory instrument or otherwise, require all residents in such classes as are specified, whether or not they are registered, to register at such time and in such manner as shall be specified in that notice:

Provided that a resident who has not attained the age of sixteen years or who has attained the age of fifty years shall not be required to register in terms of this subsection.

(3) The duty of every resident required to register by or in terms of this section shall be a continuing duty and shall not be deemed to be extinguished by reason only of the fact that he has failed to do so at the time or within the period so specified for the purpose and has thereby incurred a penalty.

(4) Any resident who, being required by or in terms of this section to register, fails to do so in accordance with this Act shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

(5) The Minister may—

(a) by notice in writing, exempt any resident; or

(b) by notice in a statutory instrument, exempt any class of residents;

from the provisions of this section and may, by like notice, withdraw any such exemption.

(6) If, in any prosecution for an offence in terms of subsection (4), it is proved that the accused was living in Zimbabwe and failed to register, it shall be presumed, unless the contrary is proved, that the accused was a resident and was required by or in terms of this section to register.

6 Registered address

(1) The Minister may, in regulations made in terms of section thirty-four, require any resident or class of residents to notify his residential address, employer and such other particulars as may be prescribed and any change in such particulars.

(2) Any resident who—

(a) fails to comply with the regulations referred to in subsection (1); or

(b) when required to give particulars in terms of regulations referred to in subsection (1), gives any particulars which he knows to be false or does not know or reasonably believe to be true;

shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

7 Furnishing of registration certificate and particulars

(1) Every resident who is registered or required to register shall—

(a) if he is given a notice; or

(b) whether he is given a notice or not, on demand by any police officer of or above the rank of sergeant authorized in that behalf by the Director; produce his certificate of registration and give particulars as to his name, address, age and occupation.

(2) A notice referred to in paragraph (a) of subsection (1) may—

(a) be given by any person authorized in that behalf by the Director to a resident who is to be required to produce his certificate of registration and particulars as to his name, address, age and occupation by—

(i) delivering it to him; or

(ii) leaving it at his place of residence; or

(iii) publishing or causing it to be published at the place where he is employed in such manner as is reasonably likely to bring it to his knowledge;

(b) specify a time, being three days or more from the date of the notice, and a place, not being other than—

(i) the office of the Director; or

(ii) the place of residence or place of employment of the resident concerned; or

(iii) the police station nearest to his place of residence;

at which the certificate of registration and particulars as to his name, address, age and occupation shall be produced.

(3) Any police officer authorized in terms of paragraph (b) of subsection (1) to

demand the production of the certificate of registration or particulars as to the name, address, age and occupation of a resident may, for the purpose of the performance of his duties in terms of this section, at any reasonable time enter any factory, workshop or business premises.

(4) Any resident who—

(a) fails to comply with this section; or

(b) when required to give particulars in terms of this section gives any particulars which he knows to be false or does not know or reasonably believe to be true; or

(c) obstructs any person in the exercise of his powers in terms of this section;

shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

8 Duty to furnish information

(1) Every member of such classes of persons as may be prescribed for the purposes of this section shall supply to the Director such information and render such assistance as may be prescribed in respect of residents who are or will become required to be registered in terms of this Act.

(2) Any person who fails to comply with subsection (1) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

PART III

NATIONAL SERVICE OTHER THAN EMERGENCY NATIONAL SERVICE

9 Liability to undergo Phase I and Phase II Service

(1) Subject to this Act—

(a) every resident who has—

(i) attained the age of eighteen years but has not attained the age of twenty-five years, shall be liable to undergo Phase I Service;

(ii) completed Phase I Service and has not attained the age of thirty years, shall be liable to undergo Phase II Service for a period which shall not exceed five years from the 1st January after the date on which he completed Phase I Service;

(b) every person who ceases to be a resident after notice has been served on or sent to him in terms of subsection (1) of section eleven but has not undergone Phase I Service shall be liable to undergo that service.

(2) The Minister may declare that any resident who has—

(a) attained the age of eighteen years but not attained the age of thirty years; and

(b) had any military or other service or training approved by the Minister; shall be deemed to have completed Phase I Service or one or more years of Phase II Service, as the case may be, in such designated Service as he may specify.

10 Volunteering for Phase I Service

(1) Any resident may apply to be permitted to undergo Phase I Service by appearing in person before or making written application to the Director and such resident may, with the permission of the Minister, undergo such service.

(2) This Act shall apply to a resident referred to in subsection (1) who is permitted to undergo Phase I Service as it applies to a resident who is liable to undergo Phase I Service.

11 Call-up for Phase I Service

(1) Notice of call-up for Phase I Service may be served personally on or sent by registered post to the registered address or any known address of a resident who is liable to undergo Phase I Service.

(2) A notice referred to in subsection (1) shall be in writing and shall specify—

- (a) the designated Service in which he is to serve; and
- (b) the time and place of the medical examination referred to in section twenty-two; and
- (c) the time and place at which he is to present himself for Phase I Service.

(3) A resident shall not be required in terms of subsection (1) to serve in—

- (a) the Police Force, unless the Commissioner of Police has agreed thereto; or
- (b) the Prison Service, unless the Commissioner of Prisons has agreed thereto.

(4) Any person who has received a notice referred to in subsection (1) and fails to present himself for Phase I Service at the time and place specified in the notice shall be guilty of an offence unless he shows that he was not liable to undergo that service offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

(5) If, upon the trial of any accused for an offence in terms of subsection (4), it appears upon the evidence that the accused did not receive the notice referred to in subsection (1) because—

- (a) he was absent from his registered residential address, he may be convicted of any offence in terms of subsection (1) of section twenty-nine; or
 - (b) he failed to notify his address or change of address, he may be convicted of an offence in terms of subsection (2) of section six;
- if the evidence establishes that he committed that offence.

12 Phase I Service

(1) Subject to this Act—

- (a) a resident who has been notified that he has been called up for Phase I Service; and
 - (b) a person who ceases to be a resident after he has been notified that he has been called up for Phase I Service but who has not undergone that service;
- shall undergo Phase I Service in terms of this section.

(2) Phase I Service shall be rendered for a continuous period not exceeding twelve months or such lesser period as may be prescribed and shall consist of such training and service as the Commander may determine and the Commander may fix different courses for different classes of persons.

(3) A person shall not be required to undergo Phase I Service after the date on which he attains the age of twenty-five years:

Provided that, notwithstanding the fact that he has attained such age, any person who—

- (a) through failure to comply with this Act or the repealed legislation, whether with the consent of the Director or not, has not completed Phase I Service which he was liable to undergo may be required to complete that service; or
- (b) has commenced Phase I Service before the age referred to in this subsection shall be required to complete that service.

(4) A resident who has completed Phase I Service may volunteer to continue to undergo Phase I Service in accordance with the conditions of service obtaining in the designated Service concerned.

13 Phase II Service

(1) Subject to this Act, a resident who has completed Phase I Service shall undergo Phase II Service in terms of this section.

(2) Phase II Service shall be rendered in each year commencing on the 1st January after the date on which Phase I Service was completed and shall consist of such training and service for such periods, not exceeding in the aggregate thirty days in any one year, as the Commander may determine and the Commander may fix different courses for different classes of persons.

(3) A resident who is undergoing Phase II Service shall be deemed to have completed that service on the date on which he attains the age of thirty years:

Provided that, notwithstanding the fact that he has attained such age, any resident who—

(a) through failure to comply with this Act has not completed Phase II Service which he was liable to undergo may be required to complete that service; or

(b) has been classified as inefficient in terms of subsection (5) shall undergo a period of additional service equivalent to the period in respect of which he has been so classified as inefficient.

(4) A resident who has completed Phase II Service may volunteer to continue to undergo Phase II Service in accordance with the conditions of service obtaining in the designated Service concerned.

(5) A person designated by the Commander may classify a resident undergoing Phase II Service as inefficient at the end of any year of such service.

(6) The Minister may direct that any resident shall be deemed to have completed one or more years of Phase II Service.

(7) Any period of emergency National Service rendered by a resident in any year of service shall be taken into account by the Commander for the purpose of computing Phase II Service.

(8) For the purposes of subsection (2), any periods of service which are less than twenty-four hours each shall be aggregated on such basis as the Director may fix by notice in writing to the Commander.

14 Resident who has completed Phase II Service to remain in designated Service concerned

A resident who has completed Phase II Service in a designated Service—

(a) shall not be entitled to be discharged from that designated Service until he attains the age of fifty years; and

(b) may volunteer for service in accordance with the conditions of service obtaining in the designated Service concerned.

15 Computation of periods of service

The time occupied in proceeding to or returning from an assembly point for any National Service in terms of this Part shall not be reckoned as part of such National Service.

16 Failure to perform National service in terms of this Part

Any person who—

(a) without leave or permission absents himself during; or

(b) evades or fails to perform duly and with proper zeal;

any National Service in terms of this Part shall be guilty of any offence unless he shows that he was not liable to undergo such National Service.

PART IV

EMERGENCY NATIONAL SERVICE

17 Emergency National Service

(1) Every resident who has attained the age of eighteen years but has not attained the age of fifty years shall be liable to render emergency National Service inside or outside Zimbabwe in the interests of defence, public safety or public order, whether or not such resident has undergone any other period of National Service, and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

(2) Whenever the Minister, with the approval of the Minister responsible for home affairs—

(a) deems it necessary or desirable in the interests of defence, public safety or public order, he may authorize the call-up of residents or any class of residents who are liable to render emergency National Service;

(b) considers that an authorization in terms of paragraph (a) is no longer

necessary or desirable in the interests of defence, public safety or public order, he shall withdraw that authorization.

(3) The Minister, with the approval of the Minister responsible for home affairs, shall from time to time fix the period of service or minimum and maximum periods of service that residents who are liable to render emergency National Service or particular classes of such residents shall be required to undergo, and the Director shall inform the Commanders of the period or periods so fixed and indicate the method of equating the periods involved in different kinds of service.

(4) Where an authorization in terms of subsection (2) is in force, the Director shall—

(a) call up for emergency National Service, at such times and for such periods, such residents liable to render emergency National Service who have not rendered any National Service or undergone any service or training or been employed in terms of the repealed legislation as he considers to be necessary; and

(b) give each resident called up in terms of paragraph (a) notice in writing of—

(i) the designated Service in which he is to serve; and

(ii) the time and place of the medical examination referred to in section twenty-two; and

(iii) the time and place at which he is to present himself for emergency National Service.

(5) Where an authorization in terms of subsection (2) is in force, the Commander of each designated Service or any person authorized by him shall, subject to any general directions given to him by the Minister responsible for the designated Service, call up, at such times and for such periods, such residents liable to render emergency National Service who are members of the designated Service as he considers to be necessary for the purposes of that designated Service.

(6) No call-up in terms of this section shall be regarded as invalid by reason of the fact that the resident concerned would undergo emergency National Service in excess of the period or maximum period, as the case may be, fixed in terms of subsection (3).

(7) The Director shall from time to time, having regard to the period or periods fixed in terms of subsection (3) and such other factors as he considers to be relevant, give to the Commander of each designated Service directions as to the returns to be submitted to the Director as to the persons called up in terms of subsection (5) and the period for which each such person was called up.

18 Volunteering for emergency National Service

(1) A resident who volunteers to undergo emergency National Service in a designated Service may, with the permission of the Director, be engaged for emergency National Service in that designated Service.

(2) The provisions of this Act shall apply, mutatis mutandis, to a person who is engaged for emergency National Service in terms of subsection (1) as it applies to a resident required to render emergency National Service:

Provided that, notwithstanding subsection (4) of section seventeen, the notice for calling up such a person for emergency National Service for the first time may, with the consent of the Director, be given by the Commander.

(3) A person who is engaged for emergency National Service in terms of subsection (1) may, with the permission of the Director, cease to render emergency National Service.

19 Residents deemed to be undergoing Phase II Service

Any resident who has not rendered any National Service or undergone any service or training or been employed in terms of the repealed legislation and who is called up for emergency National Service shall, if he is under the age of thirty years, on completion of that service, be liable to undergo Phase II Service as though he had completed Phase I Service and this Act shall apply, mutatis mutandis, to him accordingly.

20 Failure to perform emergency National Service

(1) Any person who—

(a) has been given notice of his call-up for emergency National Service and fails to present himself at the time and place specified; or

(b) without leave or permission absents himself during any period of emergency National Service; or

(c) evades or fails to perform duly and with proper zeal emergency National Service;

shall be guilty of an offence unless he shows that he was not liable to undergo emergency National Service offence, and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

(2) If, upon the trial of any accused for any offence in terms of subsection (1), it appears upon the evidence that the accused did not receive notice of his call-up for emergency National Service which was give in writing because—

(a) he was absent from his registered residential address, he may be convicted of an offence in terms of subsection (3) of section twenty-nine; or

(b) he failed to notify his address or change of address, he may be convicted of an offence in terms of subsection (2) of section six; if the evidence establishes that he committed that offence.

PART V

MEDICAL AND OTHER EXEMPTIONS

21 Residents exempt from National Service

(1) Subject to this Part, the following residents shall be exempt from National Service—

(a) a judge of the Supreme Court or the High Court and a judicial officer of any other court of law; and

(b) the Speaker and a member of Parliament; and

(c) during such periods as the Speaker shall in each case determine, an officer of Parliament as defined in section 2 of the Privileges, Immunities and Powers of Parliament Act [Chapter 2:08]; and

(d) a minister of religion as defined by the Minister in consultation with such authority as may be determined by the Minister for the purpose; and

(e) a person designated by the Minister responsible for health and employed in the Public Service in a hospital or mental institution as a medical practitioner, dental practitioner, pharmaceutical chemist, nurse or attendant; and

(f) a person engaged in any other employment which may be prescribed; and

(g) a person exempted in terms of subsection (2); and

(h) a person exempted in terms of section twenty-two; and

(i) a person exempted by an exemption board:

Provided that—

(i) an exemption shall have effect only during the continuance of the employment, condition or status upon which it is based;

(ii) an exemption granted subject to conditions shall have effect only for as long as the conditions are complied with;

(iii) this subsection shall not preclude the call-up in terms of this Act of any person who is exempted but volunteers for National Service.

(2) The Minister may—

(a) by notice in writing, exempt any person from any National Service;

(b) by notice in a statutory instrument or otherwise, exempt any class of residents from any National Service.

(3) An exemption in terms of subsection (2) may—

(a) be granted unconditionally or subject to specified conditions; and

(b) by like notice be amended or withdrawn at any time.

(4) The Minister may, by notice in a statutory instrument or otherwise, withdraw any exemption or class of exemption granted by any exemption board:

Provided that a person whose exemption has been withdrawn in terms of this subsection may again apply for an exemption.

22 Medical exemptions

(1) In this section—

“medical officer” means—

(a) a person who is a medical officer for the purposes of any enactment relating to the conditions of service of members of any branch of the Defence Forces; or

(b) a medical practitioner appointed by the Secretary of the Ministry responsible for health for the purposes of this section.

(2) Any person who—

(a) has not rendered any National Service or undergone any service or training or been employed in terms of the repealed legislation and is called up for National Service; or

(b) is required by the Minister to undergo a medical examination prior to rendering any National Service;

shall, at the time and place notified, present himself for and submit to medical examination by a medical officer.

(3) Any person who has been medically examined in terms of subsection (2) and has been found to be unfit for National Service in any capacity whatsoever shall be exempted and shall receive from the Director a certificate to that effect in the prescribed form specifying whether the exemption is a permanent one or, if not, the period for which that person is exempted and, in the latter event, the date on which and place at which the person shall present himself for and submit to a further medical examination, and the exemption shall, on and after that date, be deemed to be withdrawn and this section shall apply, *mutatis mutandis*.

(4) In any case where, because of the certificate of a medical practitioner or for any other reason, a medical officer performing a medical examination in terms of subsection (2) has any doubt as to the fitness for National Service of any person who presents himself for examination in terms of this section, he shall refer that person to a medical board consisting of two medical practitioners appointed by the Secretary of the Ministry responsible for health who may take the advice of a consultant.

(5) Any person referred to a medical board in terms of subsection (4) shall, at the time and place specified, present himself for and submit to medical examination and the medical board shall decide whether an exemption shall be granted in terms of subsection (3) and this section shall apply, *mutatis mutandis*.

(6) The Minister may direct any person or class of persons exempted in terms of this section, including a person permanently exempted in terms of subsection (3), to submit to a further medical examination at such time and place as he may specify in order to establish whether or not the disability continues to preclude his or their call-up and the exemption shall, on and after that date, be deemed to be withdrawn and this section shall apply, *mutatis mutandis*.

(7) Any person who fails to comply with this section or with any direction in terms of subsection (6) shall be guilty of an offence unless he shows that he was not liable to undergo National Service offence, and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

(8) If, upon the trial of any accused for an offence in terms of subsection (7), it appears upon the evidence that the accused did not receive any notice of medical examination in terms of this section which was given in writing because—

(a) he was absent from his registered residential address, he may be

convicted of an offence in terms of subsection (3) of section twenty-nine; or

(b) he had failed to notify his address or change of address, he may be convicted of an offence in terms of subsection (2) of section six; if the evidence establishes that he committed that offence.

23 Exemption boards

(1) The Minister shall appoint such exemption boards for such purposes and at such places in Zimbabwe as he may consider expedient.

(2) An exemption board shall consist of such persons as the Minister may appoint.

(3) The functions of an exemption board shall be—

(a) to consider and grant or refuse applications for exemption from National Service; and

(b) to carry out such other duties as may be prescribed or assigned to it by the Minister.

(4) An exemption board may grant exemptions for a specified period and either unconditionally or subject to specified conditions.

(5) Subject to subsection (7), the decision of an exemption board shall be in its absolute discretion and shall not be subject to any appeal.

(6) The procedure for the conduct of business of an exemption board shall be as prescribed.

(7) In exercising its discretion an exemption board shall comply with any directions issued by the Minister.

24 Conscientious objection

(1) A person whose bona fide religious beliefs inhibit his rendering National Service may apply to an exemption board for exemption from Phase I Service or, in the case of a person who has not rendered any National Service or undergone any service or training or been employed in terms of the repealed legislation, emergency National Service.

(2) Subject to section twenty-three, the exemption board may, on an application made in terms of subsection (1)—

(a) grant the application; or

(b) recommend that the applicant be required to undergo such National Service as the Director may decide is not inappropriate to the beliefs of the applicant; or

(c) notwithstanding that the board is satisfied that the applicant is a person referred to in subsection (1), refuse the application.

PART V

GENERAL

25 Conditions of National Service and transfer of persons from one designated Service to another

(1) National Service shall be rendered on such terms and conditions and subject to such discipline as may be prescribed, in the case of a person rendering National Service—

(a) in the Defence Forces, by or under the law relating to the Defence Forces;

(b) in the Police Force, by or under the law relating to the Police Force;

(c) in the Prison Service, by or under the law relating to the Prison Service;

(d) in any other designated Service, under this Act and, in prescribing those terms and conditions and discipline, any other enactment may, *mutatis mutandis*, be applied with or without modifications.

(2) A person who has rendered or is rendering National Service in any designated Service may be transferred by the Commander, with the consent of the Commander of the designated Service concerned, to any other designated Service, and, for the purposes of computing the length of the National Service required to be rendered, and National Service or service, training or employment under the repealed legislation in

the designated Service from which he has been transferred shall be deemed to have been in the designated Service to which he is transferred.

(3) Notwithstanding anything to the contrary in this Act, no person shall be required, without his consent, to render National Service in a designated Service which is not a disciplined force as defined for the purposes of the Constitution unless, during the period concerned, there is in force a declaration under the Constitution that a state of emergency exists or a situation exists which, if it is allowed to continue, may lead to a state of public emergency, and if any person is undergoing National Service in such a designated Service on the termination of such a declaration he shall, unless he consents to remain in the designated Service concerned, forthwith be discharged from that designated Service or transferred in terms of subsection (2) to a designated Service which is a disciplined force as so defined.

26 Engagement of non-residents

(1) Any person who is not a resident and who volunteers for National Service in a designated Service may, with the permission of the Director, be engaged for National Service.

(2) This Act shall apply, mutatis mutandis, to a person who is engaged for National Service in terms of subsection (1) as it applies to a resident required to render National Service.

(3) A person who is engaged for National Service in terms of subsection (1) may, with the permission of the Director, cease to render National Service.

27 Co-operation of employers

(1) Every employer shall give all proper facilities to a person in his employ to enter upon and carry out any National Service.

(2) Any person who—

(a) contravenes subsection (1); or

(b) by dismissal, reduction of wages or salary or in any other manner whatsoever, penalizes a person in his employ for volunteering for, entering upon or carrying out any National Service; or

(c) by words, conduct or otherwise, directly or indirectly compels, induces or prevails upon or attempts to compel, induce or prevail upon any person in or seeking his employ to refrain from doing any National Service;

shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

(3) Subject to any enactment or agreement to the contrary, an employer shall not be required to pay any person in his employ any wages or salary for the time when he is absent from work for the purpose of undergoing National Service.

(4) If, in any prosecution for an offence in terms of paragraph (b) of subsection (2), it is proved that the accused dismissed or gave notice of dismissal to any person in his employ or reduced his wages or salary or gave notice of the reduction of his wages or salary or otherwise placed him in a position or indicated an intention to place him in a position whereby his remuneration was or was likely to be substantially reduced—

(a) when he had, to the knowledge of the accused, volunteered for or received notice that he was required to render any National Service; or

(b) while he was undergoing any National Service; or

(c) within twelve months of his completing any National Service;

it shall be presumed, unless the contrary is proved, that the accused was penalizing him for volunteering for entering upon or carrying out that National Service.

28 Causing person to refuse or fail to carry out National Service

Any person who, whether in propagating religious beliefs or otherwise, uses any language or does any act or thing with intent to recommend to, encourage, aid, incite, instigate, suggest to or otherwise cause any other person to refuse or fail to carry out any National Service to which such other person is or may become liable shall be

guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

29 Restrictions on certain residents

(1) In this section—

“parent”, in relation to a minor, means the person who has the lawful custody of such minor.

(2) Any registered resident liable to undergo Phase I Service, Phase II Service or emergency National Service who is to be absent from his registered residential address for such period as may be prescribed shall notify in writing—

(a) in the case of a person who has not been called up for Phase I Service, the Director; or

(b) in the case of a person who has not completed Phase I Service or who is liable to undergo Phase II Service or emergency National Service, the Commander or such person as the Commander may designate;

before such absence and within seven days of his return of such facts in such manner as may be prescribed.

(3) No person who is registered and has not attained the age referred to in subsection (3) of section twelve shall depart or attempt to depart from Zimbabwe unless he has completed Phase I Service except upon such terms and conditions as may be prescribed:

Provided that a person referred to in this subsection—

(a) who is a minor; and

(b) whose parents have left or leave Zimbabwe with the intention of departing permanently therefrom; and

(c) who has not commenced Phase I Service;

may depart from Zimbabwe for the purpose of being with his parents.

(4) Any person who contravenes any provision of this section shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment:

Provided that it shall be a defence to a charge of contravening subsection (3) for the person charged to show that he was not liable to undergo the National Service referred to in that subsection.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

(5) If, in any prosecution for an offence involving a contravention of—

(a) subsection (2), it is proved that the accused left his residential address, it shall be presumed, unless the contrary is proved, that he did so without notifying the Director or the Commander or the person designated by the Commander, as the case may be;

(b) subsection (3), it is proved that the accused departed or attempted to depart from Zimbabwe, it shall be presumed, unless the contrary is proved, that he did so without complying with the terms and conditions referred to in that subsection.

30 Certificate of service

Every person shall, on completion of Phase I Service or Phase II Service or any period of emergency National Service or on leaving Zimbabwe permanently, be entitled to be furnished by the Director with a certificate in the prescribed form giving particulars of his National Service or any service, training or employment under the repealed legislation.

31 Certificate of Director to be evidence

A certificate purporting to be signed by the Director and stating facts obtained from the records which are in the custody of the Director and which relate to a charge arising out of a contravention of this Act shall, on its mere production by the prosecutor, be admissible as prima facie proof of those facts.

32

[repealed by Act 22 of 2001, with effect from the 20th May, 2002]

33 Presumptions

If, in any prosecution for an offence in terms of this Act, it is proved that—

(a) a notice issued under this Act in relation to the accused was exhibited at a prescribed public place within the district in which his registered address is situated, it shall be presumed, unless the contrary is proved, that notice was given to him;

(b) a notice which is given in writing in terms of this Act has been served on or sent by registered post to the registered address of the accused, it shall be presumed, unless the accused proves that he did not receive the notice and did not do anything or fail to do anything in order to avoid receiving the notice, that he received the notice;

(c) the accused was registered, it shall be presumed, unless the contrary is proved, that he was a resident.

34 Regulations

(1) The Minister may, by regulation, provide for all matters which are required or are permitted to be prescribed or for which regulations may be made or which, in his opinion, are necessary or convenient to be provided for in order to give effect to this Act.

(2) Regulations in terms of subsection (1) may prescribe penalties for any contravention thereof:

Provided that the penalties shall not exceed a fine of level five or imprisonment for a period of six months or both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002]

[Go To Top Page](#)

[NEXT CHAPTER](#)