

THE NATIONAL YOUTH SERVICE ACT, 1965

No. 3 of 1965

Date of Assent: 30th March 1965

Date of Commencement: 1st September 1964

ARRANGEMENT OF SECTIONS

PRELIMINARY

Section

- 1—Short title and commencement.
- 2—Interpretation.
- 3—Establishment of the National Youth Service.
- 4—Appointment of National Youth Leader.

ORGANIZATION AND MEMBERSHIP OF THE SERVICE

- 5—Members of the Service.
- 6—Secondment to the Service.
- 7—Appointment to, or enlistment in, Service.
- 8—Termination of service.
- 9—Resignation from the Service.
- 10—Extension of service during times of emergency.
- 11—Return of service property.
- 12—Members not to engage in trade, etc.
- 13—Service may be divided into branches, etc.
- 14—Responsibilities of Director and officers in charge.

DUTIES AND EMPLOYMENT OF THE SERVICE

- 15—Duties of members.
- 16—Functions of Service.
- 17—Employment of Service in times of emergency.

DISCIPLINE

- 18—Disciplinary Code and Regulations.
- 19—Mutiny.
- 20—Insubordinate behaviour.
- 21—Liability for other offences.
- 22—Desertion.

REGULATIONS

- 23—Minister may make regulations.

MISCELLANEOUS

- 24—Causing disaffection, etc.
- 25—Unlawful possession of articles supplied to members.
- 26—Amendment of other laws.
- 27—Transitional.
- 28—Finance.
- 29—Member declared to be a workman.
- 30—Prohibition against members being members of trade union.

SCHEDULES

An Act of Parliament to provide for the establishment of a National Youth Service and for matters connected therewith and incidental thereto

ENACTED by the Parliament of Kenya, as follows:—

PRELIMINARY

Short title and commencement.

1. This Act may be cited as the National Youth Service Act, 1965, and shall be deemed to have come into operation on the 1st September 1964.

Interpretation.

2. In this Act, unless the context otherwise requires—

“Director” means the Director of the National Youth Service appointed under this Act;

“gazetted officer” means a member of the Service of one of the ranks of gazetted officer specified in the First Schedule to this Act;

“member” in relation to the Service includes a gazetted officer, a subordinate officer, an under officer, and a serviceman, and includes any person for the time being seconded for service in the Service;

“Minister” means the Minister for the time being responsible for the Service;

“serviceman” means a member of the Service other than a gazetted officer, a subordinate officer, an under officer or any person seconded for service in the Service;

“subordinate officer” means a member of the Service of one of the ranks of subordinate officer specified in the First Schedule to this Act;

“under officer” means a member of the Service of one of the ranks of under officer specified in the First Schedule to this Act.

3. There shall be established and maintained the National Youth Service, hereinafter referred to as the Service.

4. (1) There shall be a National Youth Leader appointed by the President, acting on the advice of the Minister, and for the avoidance of doubt it is hereby declared that, for the purposes of section 41 (1) (f) of the Constitution, the office of National Youth Leader shall be deemed not to be a public office.

Establishment of the National Youth Service.

Appointment of National Youth Leader.

(2) The duties of the National Youth Leader shall be to advise the Minister on the exercise of his powers under this Act and his general responsibilities for the Service.

(3) The National Youth Leader shall be a Member of the National Assembly.

ORGANIZATION AND MEMBERSHIP OF THE SERVICE

5. (1) The Service shall consist of such number of members as may, from time to time, by notice in the Gazette, be prescribed by the Minister.

Members of
the Service.

(2) The members of the Service shall be either servicemen or officers, such officers being gazetted officers, subordinate officers or under officers having the ranks and seniorities specified in the First Schedule to this Act.

(3) The Minister may, from time to time, by notice in the Gazette, amend the First Schedule to this Act.

6. Any person in the civil or military service of Kenya, or any adviser or officer from any other country by arrangement with the Government, may be seconded by the Minister for service with the Service, for such period and at such rank in the Service as the Minister may approve:

Secondment
to the Service.

Provided that where a person is seconded to the Service in any particular rank he shall not thereafter be required to serve in any rank junior thereto without his consent, and if he can no longer be employed in the rank at which he was seconded, or in any rank senior thereto, his secondment shall, if he so wishes, be terminated.

7. (1) Gazetted officers and subordinate officers shall be appointed in the manner applicable to the appointment of other public officers.

Appointment to,
or enlistment in,
Service.

(2) (a) Other members of the Service, who must be male or female citizens of Kenya between the ages of sixteen years and thirty years (both ages being inclusive) may be enlisted or re-enlisted by the Director, or by a gazetted officer authorized by him in that behalf, from persons who voluntarily offer themselves for enlistment or re-enlistment.

(b) Every member of the Service enlisted or re-enlisted under paragraph (a) of this subsection shall be enlisted initially to serve in the Service for a period of one year, or for such

other period as the Minister may, from time to time, by notice in the Gazette prescribe, and on the expiration of such period may, if he so wishes and the Director, or a gazetted officer authorized by him in that behalf so approves, be re-enlisted for a further period:

Provided that a member desiring to re-enlist for a further term of service shall so apply not more than three months, or less than one month immediately preceding the date of expiration of his current period of service.

(3) Every member of the Service being appointed or seconded or enlisted for the first time shall be required to make the declaration set out in the Second Schedule to this Act, either in English or in some other language that he understands.

Termination
of Service.

8. (a) The Minister may at any time during the period of secondment of a member terminate such secondment if, for any reason, the services of such member are no longer required.

(b) The appointment of a gazetted officer or a subordinate officer may be terminated, if his services are no longer required, in the manner applicable to other public offices.

(c) The Director may, at any time during the period of enlistment or re-enlistment of an under officer or serviceman, terminate such enlistment or re-enlistment if for any reason the under officer's or serviceman's services are no longer required.

Resignation
from the
Service.

9. (a) An under officer or a serviceman may, at the discretion of the Director, or a gazetted officer authorized by him in that behalf, be permitted to resign from the Service before the expiration of his period of enlistment or re-enlistment on personal or compassionate grounds.

(b) A gazetted officer or a subordinate officer may be permitted to resign from the Service in the manner applicable to other public officers.

Extension of
service during
times of
emergency.

10. Notwithstanding the foregoing provisions of this Act, any member of the Service whose engagement or secondment expires, or who wishes to resign, during a state of war, insurrection, hostilities or public emergency, may be retained in the Service and his period of engagement or secondment

prolonged for such further period, not being more than six months after the ending of such date, as the Minister directs:

Provided that the provisions of this section shall not apply to a member seconded from another country without the consent of the government of the other country concerned and of the member concerned.

11. (1) Every member on leaving the Service shall forthwith deliver up to such person as may be authorized in that behalf, any uniform, clothing, equipment or accoutrements supplied to him by or on behalf of the Service, provided the Director, at his discretion, may authorize a member to retain items of clothing on leaving the Service.

Return of
service
property.

(2) Any person who fails to comply with the provisions of subsection (1) of this section, or who returns such property in a damaged condition, the damage not being attributable to the proper discharge of his duties whilst a member of the Service, shall be liable for the cost of replacing or repairing such property, and such cost shall be a debt due from such person to the Government and may be recoverable by deduction from any moneys due from the Government to such person, or by civil suit for the whole amount, or for any balance due after such deduction as aforesaid.

12. During his period of service with the Service no member shall engage himself in any trade, business or employment, or shall take part in any commercial or agricultural undertaking, outside the scope of his duties in the Service, except with the approval of the Minister in the case of a gazetted officer, or the Director in the case of any other member.

Members not
to engage in
trade, etc.

13. (1) The Service shall be divided into such numbers and description of branches, units and sub-units as the Minister may, from time to time, by notice in the Gazette direct.

Service may
be divided
into branches,
etc.

(2) Any member, save an officer specifically seconded for a particular description of branch, unit or sub-unit (in which case he may be posted only to a branch, unit or sub-unit of that description) may at the discretion of the Director be posted to and employed in any branch, unit or sub-unit of the Service.

Responsibilities
of Director
and officers
in charge.

14. (1) The Director shall, subject to this Act and any subsidiary legislation made thereunder, and any directions given by the Minister, be responsible for the overall command, superintendence and direction of the Service, and may for this purpose from time to time issue Service Standing Orders (which shall not be required to be published in the Gazette).

(2) Subject to subsection (1) of this section the member who is appointed as officer in charge of any description of branch, unit or sub-unit or combination of the same shall be responsible for the command, superintendence and direction of such branch, unit or sub-unit or such combination.

(3) The Director may, subject to this Act and any subsidiary legislation made thereunder, make such appointments or promotions to the ranks of under officer as he deems fit.

DUTIES AND EMPLOYMENT OF THE SERVICE

Duties of
members.

15. Every member of the Service shall—

- (a) perform such duties and carry out such training as he may be directed by the officers senior to, or placed in command over him;
- (b) obey and execute promptly all orders lawfully issued to him by the officers senior to, or placed in command over him.

Functions of
Service.

16. The functions of the Service shall be the training of young citizens to serve the nation, and the employment of its members in tasks of national importance, and otherwise in the service of the nation.

Employment of
Service in
times
of emergency.

17. (1) The President may, during a state of war, insurrection, hostilities or public emergency order that the Service or any part thereof be employed to serve with the Kenya Military Forces, or otherwise in the defence of the nation, whether within or without Kenya.

(2) Where any part of the Service is, in pursuance of an order made under subsection (1) of this section, serving with the Kenya Military Forces, or otherwise in the defence of the nation whether within or without Kenya, such part of the Service shall for all purposes be deemed to be part of the Kenya Military Forces, and it shall be governed by and subject

to all the laws relating to and governing the Kenya Military Forces in all respects as if such part of the Service were part of the Kenya Military Forces.

(3) Where any part of the Service is, in pursuance of an order made under subsection (1) of this section, serving with and as part of the Kenya Military Forces, the Minister for the time being responsible for internal security and defence shall make rules declaring which ranks of the Service shall correspond to which ranks of the Kenya Military Forces, and shall make rules relating to the command of such part of the Service by members of the Kenya Military Forces.

DISCIPLINE

18. (1) The Director may issue a disciplinary code for the Service or any part of the Service, and in respect of under officers and servicemen may make regulations for the following matters—

Disciplinary
Code and
Regulations.

- (a) to make provision for the investigation of disciplinary offences and the hearing and determination of disciplinary proceedings;
- (b) to make provision for appeals; and
- (c) to prescribe disciplinary penalties and awards.

(2) The following disciplinary penalties and awards, or any combination thereof, may be included in such regulations for infringements of the disciplinary code—

- (a) dismissal from the Service;
- (b) reduction in rank;
- (c) confinement in a guard room, or restriction to the confines of any camp or other area where a part of the Service is stationed, for not more than fourteen days;
- (d) fines;
- (e) stoppages of pay or allowances;
- (f) extra drills or parades or fatigues.

(3) Regulations issued under this section may provide that any member committing a disciplinary offence may be arrested without warrant by or on the order of an officer senior to himself or placed in command over him, and taken without delay before a gazetted officer, who may, if the circumstances

so warrant, confine such member or cause such member to be confined in any building suitable for the purpose, pending the determination of disciplinary proceedings.

(4) A person seconded to the Service from another country shall not be subject to the disciplinary code.

Mutiny.

19. (1) Any member who takes part in a mutiny shall be guilty of an offence and shall be liable to a term of imprisonment not exceeding five years.

(2) "Mutiny" for the purposes of this section means a combination between two or more members, or between persons, at least two of whom are members—

- (a) to overthrow or resist lawful authority in the Service;
or
- (b) to disobey any such authority in such circumstances as to make the disobedience subversive of discipline.

Insubordinate
behaviour.

20. Any member who—

- (a) strikes or otherwise uses violence to, or offers violence to or incites any other person to use violence to an officer senior to or placed in command over him or such other person; or
- (b) uses threatening or insubordinate language to any officer senior to or placed in command over him,

shall be guilty of an offence and shall be liable to a term of imprisonment not exceeding one year.

Liability
for other
offences.

21. Nothing in this Act or in the disciplinary code shall, or shall be deemed to, exempt any member from being proceeded against for any offence under any other written law.

Desertion.

22. (1) Any member who absents himself from duty without leave or just cause for a period of twenty-one days shall, unless the contrary be proved, be deemed to have deserted from the Service.

(2) Any member who deserts from the Service, or who is deemed to have deserted from the Service, shall forfeit any pay or allowances due to him, and all rights in respect of any savings scheme operated by the Service.

(3) No pay or allowances shall be paid to any member in respect of any day during which he is absent from duty without leave, unless the Director otherwise directs.

REGULATIONS

23. In addition to the powers to make regulations or orders provided in the foregoing provisions of this Act, the Minister may make regulations generally for the better carrying out of the purposes of this Act.

Minister may make regulations.

MISCELLANEOUS

24. Any person who—

- (a) causes or attempts to cause, or utters, prints or publishes any words or does any act calculated to cause disaffection amongst members; or
- (b) induces or attempts to induce, or utters, prints or publishes any words, or does any act calculated to induce any member to desert or commit any offence under this Act or any subsidiary legislation made thereunder or under the disciplinary code,

Causing disaffection, etc.

shall be guilty of an offence and shall be liable to a term of imprisonment not exceeding two years.

25. (1) Any person, not being a member, or who has ceased to be a member, who is found in possession of any article whatsoever which has been supplied to a member, or is intended for supply to a member for use in the execution of his duty, and who fails to account satisfactorily for his lawful possession thereof, shall be guilty of an offence and liable to a term of imprisonment not exceeding six months.

Unlawful possession of articles supplied to members

(2) Any person who, without lawful authority—

- (a) sells or otherwise disposes of, or purchases or otherwise acquires any article whatsoever which has been supplied to, or is intended for supply to a member for use in the execution of his duty; or
- (b) aids and abets any person in selling, or disposing of, or purchasing or acquiring any such article,

shall be guilty of an offence and shall be liable to a term of imprisonment not exceeding six months.

Amendment of
other laws.

26. The provisions of the laws set out in the first and second columns of the Third Schedule to this Act are hereby amended in the manner respectively set out in the third column thereof.

Transitional.

27. The units raised and maintained, or the members or persons enlisted or appointed under the authority of the Government under the style of the National Youth Service before the passing of this Act shall be deemed to have been raised, or enlisted or appointed under this Act.

Finance.

28. The expenditure incurred in the establishment, maintenance and operation of the Service, including the payment of such allowances for members as the Minister may from time to time direct, shall be defrayed out of moneys provided by Parliament.

Member
declared to be
a workman.

29. Notwithstanding anything contained in any other written law, a member of the Service shall be deemed to be a workman, and the Government of Kenya shall be deemed to be the employer of such member for the purposes of the Workmen's Compensation Act.

Cap. 236.

Prohibition
against
members being
members of
trade union.

30. (1) It shall not be lawful for any member of the Service to be or to become a member of—

- (a) any trade union, or any body or association affiliated to a trade union; or
- (b) any body or association the objects, or one of the objects of which is to control or influence conditions of employment in any trade or profession; or
- (c) any body or association the objects, or one of the objects of which is to control or influence the pay, allowances or conditions of service of the Service.

(2) Any member of the Service who contravenes the provisions of this section shall be liable to be dismissed from the Service and shall forfeit any pay or allowances due to him and all rights in respect of any savings scheme operated by the Service.

(3) If any question arises as to whether any body is a trade union, or body or association to which this section applies, the question shall be referred to the Minister, whose decision thereon shall be final and shall not be questioned in any court.

FIRST SCHEDULE

(s. 5 (2))

RANKS OF OFFICERS OF THE SERVICE IN ORDER OF SENIORITY

Gazetted Officers

- Director.
- Deputy Director.
- Assistant Director.
- Unit Commandant.
- Senior Training Officer.
- Training Officer.
- Assistant Training Officer.

Subordinate Officers

- Section Commander.
- Section Officer Grade I.
- Section Officer Grade II.

Under Officers

- Sergeant.
- Corporal.
- Lance-Corporal.

SECOND SCHEDULE

(s. 7 (3))

THE NATIONAL YOUTH SERVICE ACT, 1964

DECLARATION

I,
do hereby swear by Almighty God (or do hereby solemnly and sincerely affirm) that I will give faithful and loyal service during this or any subsequent period of service as a member of the National Youth Service of Kenya, and that I will subject myself to all Acts, Subsidiary Legislation, Standing Orders or the disciplinary code relating to the said Service which may from time to time be in force.

.....
(Signature or thumb-print of member)

Declared by the said

.....
after the same had been read over
and explained to him in the
language, which he appeared to
understand. at
this day of
19....

Before me,

.....

THIRD SCHEDULE

(s. 26)

The Penal Code (Cap. 63)	s. 46	Insert immediately after the word "Kenya" the words "or the National Youth Service".
	s. 47 (a)	Insert immediately after the words "Her Majesty" the words "or any member of the National Youth Service from his duty or allegiance".
	s. 48	Insert immediately after the words "police officer" the words "or any member of the National Youth Service".
	s. 77 (3)	Insert immediately after the words "air force" which appear in paragraphs (f) and (g) the words "or the National Youth Service" in each case.
The Employment of Women, Young Persons and Children Act (Cap. 227)	s. 3	Add immediately after the words "public authority" the words "or to the members of the National Youth Service".
The Regulation of Wages and Conditions of Employment Act (Cap. 229)	s. 3	Insert immediately after paragraph (b) the following new paragraph— “(bb) persons in the National Youth Service: or”.
The Trade Disputes Act, 1964 (No. 9 of 1964)	s. 3	Substitute a semi-colon for the full stop at the end of paragraph (b) and by adding the following new paragraph— “(c) in the National Youth Service”.