



GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Selling price • Verkoopprys
(GST excluded/AVB uitgesluit)

Local **50c** Plaaslik
Other countries 70c Buitelands
Post free • Posvry

Vol. 267

CAPE TOWN, 16 SEPTEMBER 1987

KAAPSTAD, 16 SEPTEMBER 1987

No. 10911

STATE PRESIDENT'S OFFICE

No. 2032.

16 September 1987

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

No. 45 of 1987: Defence Amendment Act, 1987.

KANTOOR VAN DIE STAATSPRESIDENT

No. 2032.

16 September 1987

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 45 van 1987: Wysigingswet op Verdediging, 1987.

Act No. 45, 1987

DEFENCE AMENDMENT ACT, 1987

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Defence Act, 1957, so as to further define the period of service during which an applicant who has been classified as a religious objector in terms of section 72D (1) (a) (iii) of the said Act has to render community service; to extend the power of the Minister of Defence to determine that community service may be completed over a shorter period; to further define the period of imprisonment prescribed for a contravention of section 126A (1) (a) of the said Act; to give retrospective effect to certain provisions; and to validate anything purporting to have been done by virtue of certain provisions; and to provide for incidental matters.

*(English text signed by the State President.)
(Assented to 3 September 1987.)*

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

Amendment of section 72E of Act 44 of 1957, as inserted by section 9 of Act 34 of 1983 and amended by section 37 of Act 87 of 1984.

1. Section 72E of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) A person classified as a religious objector in terms of section 72D (1) (a) (iii) shall, instead of—

(a) rendering service in terms of section 22, render service in a post mentioned in subsection (5) (in this Act referred to as ‘community service’) which shall be completed in a single continuous period of service one-and-a-half times as long as the aggregate of the maximum of all periods of service mentioned in section 22 (3) during which he [would] could otherwise still have been [applicable] compelled to render service in terms of that section; or

(b) rendering service in terms of any other provision of this Act, render community service which shall be completed during a single continuous period of service one-and-a-half times as long as the particular period of service during which he otherwise has to render service in terms of that provision or 18 days, whichever is the longer:

Provided that the Minister may on account of any consideration, including the duration of service rendered or possibly to be rendered by anyone in terms of this Act, determine that—

(i) such community service;

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Verdedigingswet, 1957, ten einde die diens-tydperk waartydens 'n aansoeker wat ingevolge artikel 72D (1) (a) (iii) van genoemde Wet as 'n godsdienbeswaarde geklassifiseer is, gemeenskapsdiens moet doen, nader te omskryf; die bevoegdheid van die Minister van Verdediging om te bepaal dat gemeenskapsdiens oor 'n korter tydperk voltooi kan word, uit te brei; die tydperk van gevangenisstraf wat vir 'n oortreding van artikel 126A (1) (a) van genoemde Wet voorgeskryf word, nader te omskryf; sekere bepalinge terugwerkend van krag te maak; en enigiets wat voorgee uit hoofde van sekere bepalinge gedoen te gewees het, geldig te verklaar; en om vir bykomstige aangeleenthede voorsiening te maak.

*(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 3 September 1987.)*

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

1. Artikel 72E van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

5 “(3) Iemand wat ingevolge artikel 72D (1) (a) (iii) as 'n godsdienbeswaarde geklassifiseer is, moet in plaas daarvan om—

10 (a) diens te doen ingevolge artikel 22, diens doen in 'n pos in subartikel (5) vermeld (in hierdie Wet ‘gemeenskapsdiens’ genoem) wat voltooi word gedurende 'n enkele ononderbroke diens tydperk wat een-en-'n-half maal so lank is as die totaal van die maksimum van alle in artikel 22 (3) vermelde diens tydperke **[wat]** waartydens hy andersins ingevolge daardie artikel **[van toepassing]** nog verplig sou **[wees]** kon word om diens te doen; of

15 (b) diens te doen ingevolge enige ander bepaling van hierdie Wet, gemeenskapsdiens doen wat voltooi word gedurende 'n enkele ononderbroke diens tydperk wat een-en-'n-half maal so lank is as die betrokke diens tydperk **[wat]** waartydens hy andersins ingevolge daardie bepaling diens moet doen of 18 dae, watter ook al die langste is:

25 Met dien verstande dat die Minister weens enige oorweging, met inbegrip van die duur van diens wat enigiemand ingevolge hierdie Wet gedoen het of moontlik sal moet doen, kan bepaal dat—

(i) sodanige gemeenskapsdiens;

Wysiging van artikel 72E van Wet 44 van 1957, soos ingevoeg deur artikel 9 van Wet 34 van 1983 en gewysig deur artikel 37 van Wet 87 van 1984.

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- (ii) community service which has to be rendered by a person in compliance with the conditions of parole laid down for his release from the detention barracks where he had to serve a sentence of detention imposed on him in terms of section 72I (2) (a); or 5
- (iii) community service which has to be rendered by a person in compliance with a condition on which the operation of a sentence imposed under section 72I (2) (a) has been suspended under section 72I (5), 10
- may be completed during a shorter period.”.

Amendment of section 126A of Act 44 of 1957, as inserted by section 10 of Act 66 of 1972 and substituted by section 16 of Act 34 of 1983.

2. Section 126A of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) refuses to render such service in the South African Defence Force, shall be guilty of an offence and liable on 15 conviction to imprisonment for a period one-and-a-half times as long as the **[total period]** aggregate of **[service still to be rendered by him]** the maximum of all periods of service mentioned **[in terms of]** in section 22 (3) or 44 (3), as the case may be, during which he could 20 otherwise, in terms of those sections, still have been compelled to render service, or for a period of 18 months, whichever is the longer; or”.

Retrospectivity of sections 1 and 2.

3. (1) Sections 1 and 2 of this Act shall be deemed to have come into operation on 2 December 1983. 25

(2) Anything purporting to have been done since 2 December 1983 by virtue of a provision of section 72E (3) (a) or 126A (1) (a) of the principal Act, shall be deemed to have been properly done.

Short title.

4. This Act shall be called the Defence Amendment Act, 30 1987.

WYSIGINGSWET OP VERDEDIGING, 1987

Wet No. 45, 1987

- (ii) gemeenskapsdiens wat deur iemand gedoen moet word ter voldoening aan die paroolvoorwaardes wat gestel is vir sy vrylating uit die detensiekasne waar hy 'n vonnis van detensiestraf wat hom ingevolge artikel 72I (2) (a) opgelê is, moes uitdien; of
- (iii) gemeenskapsdiens wat deur iemand gedoen moet word ter voldoening aan 'n voorwaarde waarop die tenuitvoerlegging van 'n vonnis wat kragtens artikel 72I (2) (a) opgelê is, kragtens artikel 72I (5) opgeskort is, gedurende 'n korter tydperk voltooi kan word."

2. Artikel 126A van die Hoofwet word hierby gewysig deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

- “(a) weier om diens in die Suid-Afrikaanse Weermag te doen, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met gevangenisstraf vir 'n tydperk wat een-en-'n-half maal so lank is as die **[totale tydperk]** totaal van **[diens wat nog ingevolge]** die maksimum van alle in artikel 22 (3) of 44 (3), na gelang van die geval, **[deur hom gedoen moet word]** vermelde dienstydsperke waar-tydens hy andersins ingevolge daardie artikels nog verplig sou kon word om diens te doen of vir 'n tydperk van 18 maande, watter ook al die langste is; of”.

Wysiging van artikel 126A van Wet 44 van 1957, soos ingevoeg deur artikel 10 van Wet 66 van 1972 en vervang deur artikel 16 van Wet 34 van 1983.

3. (1) Artikels 1 en 2 van hierdie Wet word geag op 2 Desember 1983 in werking te getree het.

Terugwerkendheid van artikels 1 en 2.

(2) Enigiets wat voorgee gedoen te gewees het sedert 2 Desember 1983 uit hoofde van 'n bepaling van artikel 72E (3) (a) of 126A (1) (a) van die Hoofwet, word geag behoorlik gedoen te gewees het.

30 4. Hierdie Wet heet die Wysigingswet op Verdediging, 1987.

Kort titel.

