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Conscription Advice Service

Box 208, Woodstock, 7915



CONSCRIPTION ADVICE SERVICE - CONSTITUTION

NAME

The name shall be 'the CONSCRIPTION ADVICE SERVICE (Cape Town)

OBJECTIVES

- To give conscripts information and advice about their legal rights and alternatives to military service.
- To educate the community about alternatives to military service.
- To liaise with Conscription Advice services in other centres.

MEMBERSHIP

Membership shall be open to all persons who subscribe to the objectives of the organisation and who participate in its activities.

COORDINATING COMMITTEE

1. This shall consist of a Convenor, a Secretary, and a Treasurer.
2. They will be appointed annually at an Annual General Meeting.
3. They will be accountable at all times to the membership.
4. The Coordinating Committee will have the power to coopt 2 further members.

FUNCTIONS OF THE COORDINATING COMMITTEE

1. To be responsible for the day to day running of the service.
2. To deal with all the correspondence of the service.
3. To see to the raising and allocation of funds that the Service requires for its working.
4. To call, and prepare the agenda of, the Annual General Meeting.

FINANCES

1. A bank account will be opened up in the name of the CONSCRIPTION ADVICE SERVICE (Cape Town).
2. Money received will be deposited in this bank account.
3. Signing powers for cheques will be vested in the members of the Coordinating Committee.
4. Disbursement of money shall be ratified by the Coordinating Committee.

MEETINGS

The Coordinating Committee shall meet at least 4 times a year. A quorum of a meeting will be 3 members of the Coordinating Committee.

DISSOLUTION

Dissolution will be agreed upon at an AGM by a $\frac{2}{3}$ majority. Funds will revert back to the donors.

AM I LIABLE FOR NATIONAL SERVICE ?

Liability For Service

Every white South African male experiences the effects of conscription. From school cadets, and registration for military service at the age of 16, their liability for service in the SADF extends to the age of 65.

National military service begins with a 13 year period, 1 year of which is continuous, the other 12 years discontinuous, in the form of "camps". Thereafter the conscript becomes a member of the Active Citizen Force Reserve for 5 years. He is then liable for "Dad's Army" until the age of 55 years. He remains part of the National Reserve until the age of 65 years.

Cadets

Although many white school-boys undergo cadet training between the ages of 12 and 17 years, cadets is not compulsory. The pupil's parent or guardian may object in writing and the pupil will then not be required to do cadets.

Registration

By law every white male South African must register for military service with the SADF. Registration must occur during the period from the first of January to the last day of February in the year in which the person turns 16 years of age.

If for any reason the person failed to register, he must do so within 30 days of the reason no longer being applicable e.g. return from outside South Africa, unless the person is then over 55 years of age.

If a person refuses to register, the SADF is entitled to register him without his consent. Any male liable for military service who is unable to produce his registration certificate, is guilty of an offence and liable to a fine not exceeding R200 or imprisonment for up to 6 months.

Change Of Address

Every registered conscript is required to inform the SADF of their residential address within 14 days of it changing. This address is defined as the one at which the conscript normally resides. The penalty for not informing the SADF of such a change in address is punishable with a fine of up to R200 or a prison sentence not exceeding six months.

National Military Service

Citizen Force

This 13 year period includes one year continuous and 12 years discontinuous service in six, two year cycles. Each cycle comprises 60 days. The 5th cycle camps must be authorised by the Officer Commanding the Regional Command. A 6th cycle call-up requires an order from the Minister of Defence. Annual camp commitments are currently about 30 days long.

Alternatively conscripts who are "area bound" may be allotted to serve in their local commandos. They serve a maximum of 1000 days, 50 days per annum for as long as required, and thereafter, 12 days per year.

Completed cycles are credited to the conscript even if he was not called up for the maximum possible period. Service not rendered because of deferment applications will result in cycles being postponed.



Active Citizen Force Reserve

For a five year period after the completion of Citizen Force service: members are only called up if a mass mobilisation is announced.

The Commandos /Dad's Army

Until the age of 55 years: a maximum of 30 days in the first year and 12 days per year thereafter.

The National Reserve

Until the age of 65 years: members are only called up should mass mobilisation occur.

Exemption And Deferment

Anyone has the right to apply (or re-apply) for exemption or deferment of military service.

The Basis For Application:

According to the Defence Act, an exemption Board may grant deferment (i.e. temporary reprieve) or exemption on a number of grounds: (i) education, (ii) domestic, (iii) business, (iv) medical.

The crucial point however, is whether or not the Board is convinced that military service would: (i) cause the applicant undue hardship, or (ii) be contrary to the public interest.

[See C.A.S. Factsheet Number 4/90 on Deferment & Exemption for further details.]

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Pietermaritzburg Mark
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East London Sharlene
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Port Elizabeth Debbie
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DADS' ARMY SERVICE

All white males between the ages of 18 and 54 who are citizens of the RSA may be called-up for commando service (Dads' Army). This is irrespective of previous national service. Permanent residents of other nationalities may also be called-up if the Minister gazettes this specifically.

Under current provisions your service commitments vary according to the registration procedure followed. Most members of the Dads' Army are liable for up to 12 days service annually.

Commandos are usually deployed locally and current practice is that many commandos are used to police black townships.

Registration Procedures

The Defence Act (44 of 1957) as amended (103/82) makes provision for six procedures to be followed in the registration of men for commando service.

1. Request for Information (Completion of a Questionnaire)

Section 54 (2A) provides for a designated officer of the SADF to request information from all white male citizens of the RSA between the ages of 18 and 54 in order to register them for Commando Service.

If requested to furnish information or to register under this section of the Act, you are entitled to ask the officer in question for written proof that he has been designated by the Minister of Defence to request such information. His failure to respond will not necessarily affect your liability to serve.

If you do not respond, the SADF can still register you.

2. A Gazetted Order To Register

Section 54 (2B) provides for the Minister of Defence to promulgate a notice in the Government Gazette indicating that white male citizens of the RSA between the ages of 18 and 54 in a particular area are required to furnish personal information in order to register them for commando service. Once an area has been gazetted, the registering officer may register you for commando service, whether or not you provide the information requested. Usually a questionnaire will be sent to you.

Before completing the questionnaire you could check with a legal adviser whether the magisterial district in which you reside has been gazetted.

3. Automatic registration after 5 years in Active Citizen Force Reserve

It is currently SADF policy to transfer all persons who have completed service in the Citizen Force (i.e. initial national service and camps) to the "Active Citizen Force Reserve". Persons who have spent 5 years in the Active Citizen Force Reserve can automatically be registered for Commando Service without a request for information as in Paragraphs 1 and 2 above. You will then be liable for up to 12 days service annually until the age of 55.

4. Registration of persons who finished service in the SADF on or before 31/12/82

If you:

- finished your service in the Citizen Force or Commando Service under the old laws governing military service on or before 31/12/82, AND
 - you are under the age of 55 years, AND
 - you are not liable for service in the Active Citizen Force Reserve
- you can automatically be registered for Commando Service.

If you are registered under this procedure, you will be liable for up to 12 days service annually up to the age of 55.

5. Registration of "Area Bound" persons

If you are told that you have been declared "Area Bound" this means that you have been moved out of the ordinary Citizen Force camps system and have been registered for service in the commandos.



You can only be declared area bound if you:

- have applied for deferment or exemption from a camp, AND
- the exemption board has given you a chance to say whether or not you want to become area bound, AND
- the exemption board has not already granted deferment of exemption, nor refused it.

If you are registered under this procedure you will be potentially liable for more service than other members of the Commando Service: up to 50 days annually for the first 20 years in the commandos, and 12 days annually thereafter until you turn 55.

This does **not** mean that you **will** definitely be called up for more service than other members of the commando.

6. Citizen Force duty in the commandos

Ordinary Citizen Force service can be done in a commando unit, if so ordered. If this happens, you will maintain your Citizen Force liability for service until it is completed.

Consequences of Objection

If you fail to respond to a legally valid request to return questionnaire forms, you will be liable to a fine not exceeding R200 or a period of imprisonment not exceeding six months.

If Registration is Complete and you Receive a Call-up but;

- **You fail to report for service**

You will be liable on conviction to a fine or imprisonment (or detention) of up to 18 months, which is not regarded as service completed.

First offenders will normally receive a fine.

- **You refuse to report**

You will be liable on conviction to imprisonment for a period 1.5 times your outstanding service or 18 months whichever is the longer. The onus is on you to prove that you did not refuse to report.

- **Reporting for duty**

If you report for service you may approach your commanding officer to ask him to exempt you from township duty. If he is not sympathetic and you refuse to obey an order you will be charged in a court martial and will be liable on conviction to a fine or detention for a period of up to two years. (See CAS Factsheet Number 6/90 entitled "Non-combatant Status and/or Township Duty")

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DEFERMENT AND EXEMPTION FROM MILITARY SERVICE

Who May Apply ?

Any person who is liable for compulsory military service has the right to apply for exemption or deferment. Furthermore, any interested person acting on behalf of the conscript (e.g. a doctor, parent, employer) may apply for his exemption or deferment. The conscript should then either confirm the application or submit a separate one to the relevant authority where possible. Exemption is more difficult to obtain than deferment because of its permanent nature.

Grounds For Application

The Board may grant exemption or deferment for any reason. The most commonly used grounds being:

- Educational
- Domestic obligations, e.g. work commitments
- Medical reasons
- Detention

Educational reasons apply to full time students with documentary evidence provided to substantiate one's registration at a particular educational institution. Deferment will usually be granted one year at a time with the onus on the conscript to re-apply each year. Deferment for up to 8 years can be expected in general, provided satisfactory progress in a particular field can be shown.

Domestic obligations might include, (i) illness in the immediate family, marriage, birth of a child etc. or, (ii) work commitments, including employment in certain occupations critical to the economy and/or completion of government contracts

Complete exemption is rare but certain persons have been granted exemption by virtue of their profession, e.g. farmers and owners of small businesses. More recently ballet dancers and jockeys have received exemption conditional on their continued pursuance of these occupations for ten years.

Medical reasons are generally the only grounds on which exemption will be granted. Any conscript who has been medically examined and pronounced by the prescribed medical authority to be unfit for military service in any capacity will be exempted from military service for as long as they remain unfit. Reasons may include physical defects, ill health or mental incapacity.

The conscript may be required to be examined by SADF medical practitioners. It is sometimes possible to make an appointment for such an examination at the nearest military hospital to facilitate your exemption application. It is recommended that prior to this, the conscript should see a civilian doctor/psychologist/social worker to back up his application.

Detention refers to the compulsory detention of a conscript in an institution, for example, in terms of emergency regulations, imprisonment for any other reason or confinement in a mental institution.

It is however not enough to have a factual basis which falls within the stated grounds for deferment, the application must also satisfy the board that the call-up would:

- Cause undue hardship, or is
- Contrary to the public interest.



Making Your Application

The application must be submitted to:

- (1) The chairman of the Exemption Board, Private Bag X281, Pretoria 0001, if made prior to the initial two years military service; **or**
- (2) The commanding officer of the conscript's unit for exemption/deferment of camps.

Applications can be made at any stage provided that the conscript has been called-up or notified of his allotment.

An application must contain:

- (1) full personal details such as name, rank, force number, address;
- (2) reference to the specific call-up instruction, including its date;
- (3) the grounds upon which the application is based;
- (4) proof that the call-up would cause undue hardships or is contrary to the public interest;
- (5) reference to any relevant documents. These should be attached as annexures e.g. statements from one's professor, employer, medical practitioner, minister of religion etc. in support of the application.

The application should preferably be presented in the form of an affidavit, i.e. sworn to under oath before a commissioner of oaths, eg. a policeman, postmaster, priest or lawyer.

A photocopy should be made of the complete application and retained by the conscript. The original application should be posted by registered mail or delivered by hand.

Note: The posting of an application does not automatically relieve the conscript of his duty to report. He is liable for service until advised otherwise by the Board. It should also be noted that application for deferment or exemption may result in allotment to commandos i.e. the conscript is then "area bound", and may be liable for a maximum of 1000 days service or 50 days per year.

Unsuccessful application

If the conscript is notified by the Exemption Board or his Commanding Officer that deferment or exemption has not been granted, he may re-apply, incorporating new and more effective information to support it.

If the application is again refused, the only legal option which the conscript has is to take the decision of the Exemption Board on review to the Supreme Court. This will require a formal court application drafted by a lawyer.

Make your deferment application promptly so that you know the outcome sooner and have time to lodge a further application.

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YOUR RIGHTS IN THE SADF

Conscripts Do Have Rights

These are included in the South African Defence Force Orders (SADFO). However the difficulty lies in establishing and maintaining your rights. Your corporal or Commanding Officer is unlikely to brief you on your rights in the SADF, so the responsibility to find out what they are, and to insist on them, is yours! A copy of the SADFO's is available from most military chaplains.

Unfair/Unlawful Treatment; Victimisation and Bullying.

Ill treatment is defined as "any act which tends to adversely affect a person physically or mentally or which affects his self respect or dignity".

Basic Rights

- Punishment of the whole group for errors made by some individuals is forbidden (SADFO 1/6/812).
- Initiation is forbidden.
- Threatening physical contact is forbidden.
- Indecent language, yours and theirs, is forbidden.
- Extra drill may not last longer than one hour per day and there must be a 30 second break every 15 minutes. It must be given by an authorised P.T. instructor. It is usually done with full field dress, skeleton webbing and water bottle with or without a rifle but no other gear is permitted.
- Physical training as a form of punishment is forbidden. Find out the details and dangers of heat fatigue in SADFO 1/5/79.

Laying a complaint

If a conscript is ill-treated, he should pursue the following procedure:

- Raise the problem with a military chaplain and/or the unit welfare officer.
- Complain formally to your platoon commander. If you get no relief, approach the next officer in the chain of command and so on, until the issue is resolved.
- Such a complaint should be made in writing and you should keep a copy.
- If you complain about improper treatment you might encounter some hostility. Do not be intimidated. You have committed no offence by complaining.
- Inform your parents of the situation and ask them to take up the matter if you reach an impasse.

Your parent could take the following steps:

- Complain to the Defence Complaints Office, Private Bag X159 Pretoria 0001. or telephone 021-21-4611
- If the situation is not satisfactorily resolved, they could phone the OC of your base, their local MP or even the Minister of Defence.

The more pressure they bring to bear, the more likely it is that the problem will be speedily resolved.

Other basic rights included in the SADFO's are:

Religious

The chaplain is accessible to a conscript at all times. In requesting to see the chaplain, the conscript is not required to explain why, but can merely say "personal reasons".

Conscripts are compelled to attend one church service per Sunday during Basic Training and before weekend leave is granted. Transport must be provided (SADFO 1/21/78).

You are entitled to apply to the Board for Religious Objection to obtain non-combatant status or apply to do community service. The application must be sent via your OC.

Leave

After three months of service, you are entitled to seven days paid leave plus travelling time. A free rail warrant is issued which can be used in part



payment for an airticket. During the second year, 14 days uninterrupted leave is allowed.

A maximum of ten days compassionate leave can be applied for in the event of the death or serious illness of a close relative. A total of 28 days special leave is available to sportsmen who represent their province or country. The unit commander is allowed to grant up to 20 days leave in deserving cases.

Debts

The Moratorium Act of 1963 provides that any contractual debt incurred by a conscript before commencing service, but payable after the start of service, will be suspended by the length of the service plus one additional month. There are instances where the obligation to pay is not suspended, for example, when an employer is making up his wages.

Employers

The Defence Act of 1957 protects the conscript in his civilian employment. It is an offence for an employer to dismiss a conscript, reduce or alter his position in any disadvantageous way, because of his service obligations.

Military Offences

These are dealt with by the Military Disciplinary Code (MDC) which defines a number of offences.

One offence is: "disobeying a lawful command".

If wilful "defiance" is found to be present, the offence is seen as serious and carries a maximum sentence of five years imprisonment. The maximum in all other cases is one year. As a first offender you will be most unlikely to receive the maximum sentence.

Another offence is: "AWOL".

This is "absence without leave", and is an offence punishable on conviction with a maximum sentence of one year's imprisonment. A sentence that long is unlikely, but it is common for persons who have been on AWOL to be sent to detention barracks for a period.

Military trials

Within the SADF, the authorities can deal with an offender at a summary trial or a court martial.

The **Summary trial** is relatively informal; it is not held in public; one has no right to legal representation although you may ask for it, the maximum sentence is R150 or 40 days; the sentence is immediately effective; the case must be reviewed by a higher authority.

The **Court martial** hears more serious cases; it is formal; it hears the case in open court; one has a right to legal representation. The sentence must be reviewed by higher authority before it is implemented; it can range from death by firing squad to reprimand. No appeal exists from a military court to the Supreme Court, although it may be asked to review a procedural irregularity.

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NON-COMBATANT STATUS AND/OR TOWNSHIP DUTY

SADF policy

The serving conscript does not have the right not to carry a rifle unless he has been recognised as a non-combatant by the Board for Religious Objection (See CAS Factsheet Number 7/90 on Religious Objection). He also does not have the right not to do duty in the townships. If he is ordered to carry a rifle or do township duty and refuses to do so, then he commits an offence by disobeying a lawful command.

In practice, however, the SADF does give the OC of the Unit the discretion to grant a conscript informal status as a non-combatant or to exempt him from township duty and allocate him to other duties instead. Such "rights" are often, but not always granted. They are informal "rights" and may be taken away at any time. The conscript attempting to claim such "rights" may encounter considerable hostility and resistance.

The correct procedure

When trying to get informal non-combatant status or to get out of township duty:

- (1) Go to the OC direct. Do not follow the chain of command.
- (2) See him privately, not in the presence of other troops.
- (3) Insist on seeing him as soon as you report for the camp, or as soon as you discover you might be doing township duty. (Or you could write to him before the camp, once any deferment application you have made has finally been refused, but remember to keep copies of the letter and take one with you.)
- (4) Give him a statement spelling out the grounds for your request. You might be given the opportunity to explain yourself. Do so clearly and logically.
- (5) Supporting affidavits from a parent, minister of religion or any other suitable person testifying to your sincerity, give added weight to your request.
- (6) Be diplomatic and non-confrontational, but be firm in your convictions.
- (7) Be fully aware of the legal implications of your action.
- (8) If you have strong principles on the matter, stick to them. Do not be intimidated by threats.

Once you have informal status

- Try to get confirmation in writing
- Be prepared for attempts by your officers to dissuade you from your stand, and to tell you that you cannot have political views in the SADF.
- Be prepared for some initial criticism from your peers and especially people with lower ranks — ultimately most will respect you for sticking to your principles.



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RELIGIOUS OBJECTION

Military service is not your only legal option as a conscript.

If your religious beliefs conflict with rendering military service, making you unwilling to do so, you have a legal alternative open to you, religious objection.

Options Available To Religious Objectors

The Defence Amendment Act provides for 3 categories of religious objectors:

1. Non-combatant Military Service

Those prepared to serve in the SADF wearing a military uniform, but in a non-combatant capacity i.e. they are not prepared to use weapons.

Non-combatancy may be granted to conscripts whose religious beliefs prevent them from carrying and/or using a weapon in any army.

If non-combatant status is granted the applicant is still liable for two years continuous military service in the SADF followed by camps during the subsequent years.

He is required to complete basic training without the use of a weapon, and may later serve as a cook, clerk, driver, etc. including possible service in an operational area.

2. Non-uniformed Non-combatant Service

Those prepared to serve in the army but not in either a non-combatant capacity or in uniform. Application for this option is uncommon.

3. Non-military Community Service

Those whose convictions prevent the performing of any military service or related tasks within any army:-

If non-military service is granted, the applicant is liable for one and a half times the total length of military service owed. It has to be rendered in one continuous period i.e. for someone objecting to their initial period of service, it is currently three years; for someone refusing camps only, it will be not more than about 18 months.

Non-military service may be performed in any government, provincial or municipal department.

The Board

To be recognised as a Religious Objector, the conscript must apply to the Board for Religious Objection, convincing them of the sincerity of his beliefs.

The Board for Religious Objection is appointed by the Minister of Manpower. It consists of a judge or retired judge in the chair, three theologians from different denominations, a military chaplain and a SADF representative.

The Function Of The Board

The function of the Board is to examine the application and determine:

- (i) evidence of religious conviction,
- (ii) the universality of his objection i.e. he objects to participation in **any** armed force,
- (iii) sincerity.

These are the three vital criteria in a conscript's application to the Board for Religious Objection. Sincerity is the overriding test applied to all aspects of the applications case.

"Religion" is not defined in the Defence Act and may be interpreted widely - although it must involve belief in a deity (unless the applicant is a Buddhist). It should not be assumed that one must have orthodox religious beliefs or that one should be a member of a specific denomination; neither are you required to prove regular religious practice. Detailed theological knowledge is also not required.



While the applicant must emphasize that his objection applies to any armed force it is not required that he reject all use of force; condemn all use of armed force by others; or hold an apolitical world view. However the Board is suspicious of strong political statements and may form the opinion that the underlying motivation is more political than religious.

The Application

An application to the Board must state the following:

- the **category** in which the applicant wishes to be classified
- the **reasons** for applying.
- the "**books of revelation**" upon which the religious objections are based. For example, state whether it is the Bible, Koran, Book of Mormon etc.
- **affidavits** from witnesses in support of the application, preferably including a clergyperson, the applicant's statement should include: a copy of his most recent call-up, a curriculum vitae, a history of how he became an objector, the sincerity with which he holds these views, the life-style he has adopted as a result, and the position his religious organisation has taken on the matter.

The application should be submitted within 30 days of receiving a call-up.

If the applicant is already doing military service, he must apply through his commanding officer, and request leave to be sent home on unrecorded leave pending his hearing.

Once the applicant has received acknowledgment of his application from the Board, he need not report for National Service until they have decided on his application and have advised him of the outcome.

An applicant may be required to appear before the Board, usually in Bloemfontein.

After The Board Hearing

If the application was for non-combatant status, before call-up, the conscript's allotment may be changed to a different unit and if he is already in the SADF, he may be transferred to another area of work.

If the applicant is granted non-military service, the applicant will be employed in a post arranged with the Department of Manpower, usually near his place of residence.

The Board's Address

The Board For Religious Objection,
Private Bag X 20521
9300 Bloemfontein.

Telephone: 051-7609617

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Port Elizabeth Debbie
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About the Conscription Advice Service

The CAS offers an independent counselling and advice service for anyone experiencing difficulties regarding military conscription, be they the conscripts, friends or relatives.

The service is non-directive. We can help you to clarify the issues and provide information about the various options and their consequences.

If necessary, we can refer you to lawyers, psychologists and church ministers for specialist help.

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PO Box 15467, Vlacberg 8018.

EVADING MILITARY SERVICE

The Legal Consequences Of Evading Military Service

From when do I fall under the authority of the SADF ?

As soon as you have been notified of the date upon which, and the place where you are required to commence service, you are regarded as a member of the Citizen Force. This applies both with regard to the initial two year period of service, and to subsequent camps. You are similarly regarded as a member of the Commandos once you have been informed where and when to report. (Section 146A of the Defence Act)

What are the legal implications of this ?

Even though you have not actually commenced service, the Military Disciplinary Code will still apply to you and you can still be compelled to perform certain acts by the SADF (Section 104(5) of the Defence Act). This is the basis on which members of the Defence Force are often required to inform the SADF of any intended departure from South Africa, prior to commencing their service.

Change Of Address

Am I under any legal obligation to inform the SADF of a change of address ?

From the moment you register for military service, you are required to notify the Registering officer of any change in your residential address, within 14 days of your address changing (Section 64 of the Defence Act). In addition, once you are a member of the Citizen Force, you are required to notify your Commanding Officer of any change of address, within 14 days of such change occurring (Section 29 of the Defence Act).

Should I keep proof of the fact that I have notified the SADF of my change of address ?

Yes. If you are charged with failing to notify the SADF of a change of address, you must either produce an acknowledgment of receipt by the SADF, or a registered slip as proof of postage.

What is the maximum penalty for not notifying the SADF of change of address ?

The maximum penalty is a fine of R200 or imprisonment for a period not exceeding 6 months.

What is meant by "residential address" ?

"Residential address" quite simply refers to the place where you reside. Thus, if you reside in London, and return to South Africa for a 4-week holiday, it is arguable that your residence remains in London and that you are consequently under no obligation to inform the SADF of your temporary return to South Africa.

Failure To Report For Service

If I fail to report for a camp or my initial call-up, what are the specific offences for which I can be charged ?

There are three possible offences for which you could be charged:

(i) You could be charged under Section 14 of the Military Disciplinary Code. This states that:

"Any person who fails to appear at a place of parade or duty or at any other place appointed by his Commanding Officer, ... shall be guilty of an offence".

If you are convicted, you face a maximum penalty of one year's imprisonment, or a fine of up to R600 for a Private. If you were charged with this offence, the trial would in all likelihood take place at a Court Martial.

(ii) Alternatively, you could be charged under Section 126A(1)(b) of the Defence Act for failure to report for service. In all likelihood, if you were charged with this offence, the trial would take place in a Magistrate's Court. If you were convicted, you would face a fine of up to R600 (for Privates) or imprisonment for up to 18 months.



(iii) It is unlikely, but it is possible that you would be charged with refusal to do military service in terms of the Section 126A(1)(a) of the Defence Act. If you were charged with this offence, the onus would be on you to show that, although you failed to report for service, you did not actually intend to refuse to serve.

A first offender charged with failure to report for service in terms of either (i) or (ii) above, is extremely unlikely to receive a sentence of more than six months imprisonment, or a R600,00 fine, with half the imprisonment or fine suspended for a period of time.

Conviction for refusal to serve is severe, calculated at one-and-a-half times the length of the military service you still owe the SADF. This is dealt with in greater detail in the notes on the "prison option".

If I am charged with failure to report for service, is it a defence to argue that I did not receive a call-up ?

The law presumes that any call-up sent to your registered address has reached you (Section 150 of the Defence Act). It is not a defence, for example, for you to argue that you received a registered slip, but did not collect the registered letter from the post office. The onus would therefore be on you to prove to the court that you did not receive the call-up.

If I fail to report for my call-up, what is likely to happen to me ?

Sometime after the date that you were due to report for service, you will probably be contacted by the Military Police, either by telephone or in person. You will probably be asked to visit the Military Police and present some explanation of your failure to report.

Once you have presented them with an explanation (preferably in affidavit form), the military authorities will decide what course of action to follow. They may decide to prosecute you under any of the offences mentioned above, or alternatively they may merely file away your affidavit and take no further action.

The type of action they take against you will be affected by the extent of your own cooperation. Thus if you clearly indicate that you are trying to evade them and avoid their phone calls or visits, there is a greater chance that you will be prosecuted for failure to report for service.

Departure From South Africa Prior To Call-up

What is the situation if I leave South Africa prior to my call up ?

The SADF has gone on record that you will not be prosecuted for failing to report for military service if you comply with the following:

- leave South Africa prior to the date of your call-up.
- advise the Exemption Board of your departure before the date of your call-up.
- submit an application for deferment in the prescribed form.

In such cases the SADF normally grants deferment. The conscript must then inform the Registering Officer of his return to South Africa, within 14 days of his return.

In the unlikely event that the military decide to charge you, they would probably do so under Section 10(5) of the Military Disciplinary Code. This states that

"any person who neglects to obey any Unit, formation or Force order, of which it is his duty to have knowledge, shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding six months", (or a fine of up to R600,00 for a Private).

What is the position regarding "independent homelands" ?

Because independent homelands are regarded as independent States, the situation is the same as moving to any other country.

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LEAVING THE COUNTRY

More and more people are leaving South Africa, among them a large number of conscripts who, rather than face military service, choose to emigrate or go into exile by applying for political asylum or refugee status in another country.

Although it may appear to be one of the more attractive options, emigration or exile is not an easy one. The procedures are complicated and lengthy, with no certainty of outcome.

Those who emigrate may return to South Africa, but those who do not qualify for emigration and are forced into exile may not return until a popular democratic government is in power.

Emigration

In order to emigrate into any of the following English-speaking countries; UK, USA, Canada, New Zealand, Australia, the applicant would need at least one of the following:

1. A passport of that country; or

2. Family

The applicant must have immediate family who are permanent residents or citizens of that country. In some countries e.g. Canada and Australia, the family member must act as a sponsor of the applicant, showing that she/he has the financial means to provide for the her/him; **or**

3. Work Permits

In order to work in a foreign country the applicant must have a work permit. Preference is given to those whose jobs/skills etc. are in demand by that particular country. Details of occupational demand are usually available from the respective local embassies. In some countries an offer of permanent employment from a prospective employer is essential to the application; **or**

4. Study Visas

The applicant must present evidence of his acceptance at an educational institution in his application. He must be able to meet the cost of his studies, accommodation and other personal needs. Generally a student visa does not include permission to seek work or to stay after the completion of your course. Bursaries are not usually given to foreign students and the fees are exceptionally high.

It is possible to apply for permanent residence once in the country of your destination or apply from South Africa through the local embassy.

NOTE:-In all the above cases, details differ from country to country and change over time. It is thus very important to contact a local embassy to find out the precise details and procedures to follow.

The Homeland Option

The South African government regards Transkei, Venda, Bophuthaswana and Ciskei as independent countries. South Africans residing in these areas are not liable for call-ups.

Refugee Status/Political Asylum

In each of the above-mentioned countries there is a category for "special immigrants" applying on humanitarian grounds for refugee status or political asylum. A conscript applying for this category must show a well founded fear that should he return to South Africa, he would be persecuted for reasons of race, religion, nationality, membership of a particular social group or for political opinion. Applicants may also be assessed against factors measuring their genuine ability to adapt to the particular country chosen.



Countries To Consider

Previously refugee status has been granted in the UK, Netherlands and Canada. Belgium and Sweden would probably be sympathetic. Botswana, Lesotho, Swaziland and Zimbabwe have allowed war resisters to stay for limited periods, but will not grant them refugee status.

Application Procedures

The conscript must travel directly to the country in which he plans to apply for status, i.e. on a temporary visa, with a return ticket and enough money to support him for a few months. It is not advisable to announce or reveal one's intentions to seek refugee status on arrival at the airport, but he should contact a refugee agency as soon thereafter as possible.

It is suggested that supporting documentation such as call-up papers be posted to a contact address there, rather than carried in person.

The refugee agency will assist in formulating an application for refugee status, which should be made as soon as possible after entering the country. The applicant must show that he has a well founded fear of persecution for reasons of race, religion or political belief.

Procedures for obtaining refugee status differ from one country to another. In Britain, the application is sent to the Home Office. The applicant is placed on the dole, which provides for basic living expenses. After a few months he is called for an interview and cross-examined on the details of his personal history, political involvement and beliefs.

Some months after the interview, the applicant should receive permission to work. He may have to wait up to two years before hearing further from the Home Office.

If refugee status is granted, the applicant is issued with a United Nations travel document (and may for the first time, leave the country).

If the application is unsuccessful, he may appeal against the decision, a process that can take up to a year or more but refusal is less likely than at the first stage. If this too fails, the applicant must return to South Africa and may not apply for refugee status in any other country.

If he is successful in this application, he may apply for permanent citizenship after about 5 years of residence in his new country, and will then receive a passport.

Despite all the factors working against exile as a viable option to military service, hundreds of young men find a way to take this path and follow it through every year.

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CONSCRIPTION ADVICE SERVICE

MINUTES OF THE NATIONAL CO-ORDINATING MEETING IN
JOHANNESBURG, 14-15 OCTOBER 1989

REPORT BACKS FROM CENTRES

PRETORIA have been getting quite a few calls but advertising in W.M and V.W. is not sufficient.

There are new people in Pretoria as well as in Rustenburg and Witbank who are interested in counselling and a course will be got together for them.

JOHANNESBURG have 5/6 new counsellors from their recent course - these are not part of the working group. Jhb therefore feel that they are on a sounder footing but the W.G. is still too small and things take time to organise.

PIETERMARITZBURG have run a 6 week course - about 8 new people attended. The campus advice centre is working well but the town service not so well. The new media should perk things up.

DURBAN still have a core of 5 people - more are needed to share the load. They are counselling 3/4 people per week and counsellors meet regularly once a month.

EAST LONDON have 7 counsellors and since February have been sharing office and phone facilities with the Black Sash. They have an ad once a week in the local paper. Weekly training sessions for counsellors. Have had 2 successful house meetings for matric students and have also held public discussion forums. Security harassment has been a problem.

GRAHAMSTOWN have recently completed a training course and have 3/4 counsellors. W.G. meets once a fortnight - advertising is the main focus. They are setting up a resource centre and a psychologist referee is writing a paper on the effects of basic training. They have also addressed a GOSAC meeting and are going to be addressing 2 private schools.

PORT ELIZABETH have very few activists so not much progress has been made.

They had a pamphlet blitz on D.B.'s anniversary and handled "the 17" in P.E. as there is no C.O.S.G. there.

CAPE TOWN have 2 counsellors in the office from Monday to Thursday.
They have mostly been concentrating on the national media and the series of pamphlets on options.

The meeting was very disjointed as it took place in amongst the A.M.F. national meeting and there was very little time to do anything constructive. So apart from the rushed reportbacks, the more important points raised were:

1. Neil to coordinate our submission to the Van Loggerenberg commission.
2. The constitution was not able to be ratified. Changes to be submitted to Neil by 30 November after which it will be assumed to be ratified.
3. Linda will investigate the acquisition of a P.C. from "the Japanese".
4. Grahamstown will approach consulates re their country's attitude to exiles.
5. Port Elizabeth has the K.Y.R. booklet in draft form - Grahamstown will produce it.
6. Pretoria are translating the manual and are willing to translate the pamphlets as well.
7. Johannesburg will place ads in 'Early Times' and in 'BOB-T' newsletter.
8. Johannesburg still need to finish off the slide/tape show.
9. Johannesburg should have the draft of the 'non-combatancy booklet' ready soon.
10. The newsletter didn't happen but will soon.
11. Neil to coordinate application for 1990 funds.
12. Point of information: Jacqui Boule has a copy of "Anyone's son will do".
13. East London to convene the National Conference in February (17 - 19).

CONSCRIPTION ADVICE SERVICE

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CITIZEN FORCE CAMPS INFORMATION SHEET

27 JULY 1994

This information sheet aims to provide answers to questions asked by people who are considering not complying with call-up instructions for Citizen Force camps.

A. HAVEN'T CAMPS BEEN MADE VOLUNTARY?

Some people are under the impression that Citizen Force camps have been scrapped, or that they have been made voluntary. This is not so - when the Defence Act was amended in Parliament last year, the total period of service in the Citizen Force was reduced, not done away with entirely. The *Defence Second Amendment Act, 1993 (Act No. 134 of 1993)* replaced the six two-year cycles (amounting to a period of twelve years) with a single period of eight years, during which a member of the Citizen Force may be called up for 30 days per year. So the system of Citizen Force camps remains intact, albeit in reduced form, and the SANDF is still acting fully in accordance with the law as it presently stands if it calls up members of the Citizen Force for such camps.

In terms of the Defence Second Amendment Act, people who are required to render service in the Citizen Force are those who were Citizen Force members at the beginning of 1985 or who became Citizen Force members thereafter, and who have not yet completed 240 days of camps. This requirement is applicable both to those people whose initial period of National Service was two years and to those whose initial period of National Service was only one year.

The confusion about whether camps are still compulsory may have arisen because the Defence Second Amendment Act dispensed with compulsory "National Service" (the initial one-year period of military training for young white men). This was replaced with a non-racial voluntary system, which meant that all references to race had to be removed from the Defence Act.

B. BUT UNDER THE NEW VOLUNTARY SYSTEM THE ARMY HAS MORE PEOPLE WANTING TO JOIN THAN IT CAN COPE WITH, SO SURELY IT DOESN'T STILL NEED CAMPERS?

The Conscription Advice Service wrote to the Minister of Defence in May, asking, *inter alia*, why Citizen Force members are still being called up for camps, especially as stated ANC policy opposes conscription. The Ministry replied that "effective force levels have to be maintained ... the Citizen Force is the backbone of the manpower capability of the SA Army. Periodic military

call-ups are necessary to maintain the required level of competency and to ensure that the significant investment which has been made in the training and equipment of the Citizen Force is not wasted. To ensure that the State has a guaranteed level of manpower available to handle any emergency the cohesion of the Citizen Force has to be maintained."

Deputy Defence Minister Ronnie Kasrils was quoted in *The Star* of 25 July 1994 as saying, "It's a bit of a catch-22 situation since we are faced with an interregnum at the moment. We are moving towards a new system based on voluntary response ... but in the meantime the call-up process of the past is still in place, and the National Defence Force still has manpower needs".

Brigadier Bill Sass, chief researcher at the Institute for Defence Policy, said in *The Weekly Mail & Guardian* of 22-28 July 1994: "The elections and the state of emergency (in kwaZulu/Natal) clearly demonstrated we need a reserve we can call upon. Until the new voluntary system has delivered enough people, it will be very difficult to make do without it".

C. SO HOW MUCH LONGER WILL CAMP CALL-UPS GO ON FOR?

Indications from Ronnie Kasrils are that the call-up system will be amended "during the next parliamentary session, which runs from August 1 until the end of the year" (*The Star*, 25 July 1994). *The Star* of 26 July 1994 reported that the government "is poised to make a major announcement about the current [military call-up] system".

D. WHAT ABOUT THE REMOVAL OF RACIAL REFERENCES FROM THE DEFENCE ACT - DOESN'T THIS MAKE THE CALL UP OF A WHITE PERSON FOR A CAMP DISCRIMINATORY AND THEREFORE ILLEGAL?

In July 1991, the Population Registration Act, which classified all South Africans as "black", "white", "coloured", etc., was repealed. As the Defence Act at that time was applicable to "white" persons only, it seemed reasonable to assume that the repeal of the Population Registration Act would have repercussions on the whites-only call-up, and the End Conscription Campaign and a conscript, Richard Rule, jointly contested the call-up's validity. In September 1992, the Pretoria Supreme Court ruled in favour of the Minister of Defence and the Chief of the Defence Force. It found that the repeal of the Population Registration Act was not intended to have any effect on the section of the Defence Act which requires that only "whites" perform military service.

Subsequently, all the references to race in the Defence Act were deleted by the Defence Second Amendment Act of 1993; however, the new reference to "every person who was or is a member of the Citizen Force on or after" the beginning of 1985 is a way of disguising the fact that those people who are now required to do camps were conscripted for military service under the whites-only call-up system. Legal opinions obtained recently by the Con-

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