

A BILL

ENTITLED

AN ACT to Amend the Defence Act.

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BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Defence (Amendment) Act, 2017, and shall be read and construed as one with the Defence Act (hereinafter referred to as the "principal Act") and all amendments thereto.

Short title
and
construction.

2. Section 2 (1) of the principal Act is amended—

Amendment
of section 2
of principal
Act.

(a) by inserting next after the definition of "Imprisonment and Detention Regulations" the following definition—

“Jamaica National Service Corps” means the body of soldiers established under paragraph (c) of section 4;”;

- (b) in the definition of “recruiting officer”, by inserting immediately after the words “provisions of section 17” the words “or section 208A”;
- (c) by inserting next after the definition of “recruiting officer” the following definition—

“ “regular Force” means the body of officers and soldiers established under paragraph (a) of section 4;”;

- (d) by deleting the definition of “soldier” and substituting therefor the following—

“ “soldier” —;

- (a) does not include an officer but, with the modifications contained in this Act in relation to warrant officers and non-commissioned officers, includes a warrant officer and a non-commissioned officer; and
- (b) includes a member of the Jamaica National Service Corps;”.

Amendment
of section 4
of principal
Act.

3. Section 4 of the principal Act is amended—

- (a) in paragraph (a), by deleting the word “and”;
- (b) in paragraph (b), by deleting the full stop appearing immediately after the word “Reserve” and substituting therefor the word “; and”; and
- (c) by inserting next after paragraph (b), the following as paragraph (c)—

“(c) a service corps to be known as the Jamaica National Service Corps.”.

Amendment
of section 8
of principal
Act.

4. Section 8 of the principal Act is amended by deleting subsection (1) and substituting therefor the following—

- “ (1) The Defence Board may order that any officer or soldier of the regular Force or, with his consent, any officer or soldier of the Jamaica National Reserve, or with his consent, any member

of the Jamaica National Service Corps, shall proceed to any place outside Jamaica for the purpose of undergoing instruction or training or for duty or employment.”.

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| <p>5. The marginal note to section 17 of the principal Act is amended by inserting immediately after the words “Recruiting Officers” the words “for regular Force”.</p> | <p>Amendment of section 17 of principal Act.</p> |
| <p>6. The marginal note to section 18 of the principal Act is amended by inserting immediately after the word “Enlistment” the words “in regular Force”.</p> | <p>Amendment of section 18 of principal Act.</p> |
| <p>7. The marginal note to section 19 of the principal Act is amended by inserting immediately after the word “enlistment”, the words “in regular Force”.</p> | <p>Amendment of section 19 of principal Act.</p> |
| <p>8. The marginal notes to sections 20 and 21 of the principal Act are amended by inserting immediately after the word “service” wherever it appears the words “in regular Force” in each case.</p> | <p>Amendment of sections 20 and 21 of principal Act.</p> |
| <p>9. The marginal note to section 22 of the principal Act is amended by inserting immediately after the word “Discharge” the words “from regular Force”.</p> | <p>Amendment of section 22 of principal Act.</p> |
| <p>10. The marginal note to section 23 of the principal Act is amended by inserting immediately after the word “Reserve” the words “from regular Force”.</p> | <p>Amendment of section 23 of principal Act.</p> |
| <p>11. The marginal note to section 24 of the principal Act is amended by inserting immediately after the word “transfer” the words “to the Reserve”.</p> | <p>Amendment of section 24 of principal Act.</p> |
| <p>12. The marginal note to section 25 of the principal Act is amended by inserting immediately after the words “non-commissioned officers” the words “of the regular Force”.</p> | <p>Amendment of section 25 of principal Act.</p> |
| <p>13. The marginal note to section 26 of the principal Act is amended by inserting immediately after the words “warrant officer” the words “of the regular Force”.</p> | <p>Amendment of section 26 of principal Act.</p> |

Amendment
of section 27
of principal
Act.

14. The marginal note to section 27 of the principal Act is amended by inserting immediately after the word "Discharge" the words "soldier of the regular Force".

Amendment
of section 28
of principal
Act.

15. The marginal note to section 28 of the principal Act is amended by inserting immediately after the word "soldier" the words "of the regular Force".

Amendment
of section 29
of principal
Act.

16. The marginal note to section 29 of the principal Act is amended by inserting immediately after the word "purchase" the words "by soldier of the regular Force".

Amendment
of section 30
of principal
Act.

17. The marginal note to section 30 of the principal Act is amended by inserting immediately after the words "reckoning service" the words "of soldier of the regular Force".

Amendment
of section 31
of principal
Act.

18. The marginal note to section 31 of the principal Act is amended by inserting immediately after the words "attestation and enlistment", the words "in regular Force".

Amendment
of section 32
of principal
Act.

19. Section 32 of the principal Act is amended—

- (a) in the marginal note, by inserting immediately after the words "attestation papers" the words "for enlistment in regular Force"; and
- (b) in subsection (1), by deleting the words "before a Resident Magistrate to imprisonment for a term not exceeding three months or to a fine not exceeding forty dollars" and substituting therefor the words "in a Parish Court to imprisonment for a term not exceeding three months or to a fine not exceeding two hundred and fifty thousand dollars".

Amendment
of section 33
of principal
Act.

20. The marginal note to section 33 of the principal Act is amended by inserting immediately after the word "Interpretation", the words "of Part IV".

21. The principal Act is amended by inserting next after Part IX, the following as Part IXA—

Insertion of
new Part
IXA in
principal
Act.

“ PART IXA—*Enlistment and Terms of Services in
the Jamaica National Service Corps*

Enlistment

Recruiting
officers for
Jamaica
National
Service
Corps.

208A. A recruiting officer, authorized in that behalf by regulations made under section 212, may enlist recruits in the Jamaica National Service Corps in the prescribed manner.

Enlistment
in Jamaica
National
Service
Corps.

208B.—(1) A person offering to enlist in the Jamaica National Service Corps shall be given a notice in the prescribed form setting out the questions to be answered on attestation and stating the general conditions of the engagement to be entered into by him; and a recruiting officer shall not enlist any person in the Jamaica National Service Corps unless satisfied by that person that he has been given such a notice, understands it, and wishes to be enlisted.

(2) A recruiting officer shall not enlist a person under the age of eighteen years in the Jamaica National Service Corps unless consent to the enlistment has been given in writing—

- (a) if the person offering to enlist is living with both or one of his parents, by the parents or a parent;
- (b) if the person offering to enlist is not living with both or one of his parents, but any person (whether a parent or not) whose whereabouts are known, or can, after reasonable enquiry, be ascertained has parental rights and powers in respect of him, by that person; or

- (c) if there is no such person as is mentioned in paragraph (b) or if after reasonable enquiry it cannot be ascertained whether there is any such person, by any person in whose care (whether in law or in fact) the person offering to enlist may be.

(3) Where the recruiting officer is satisfied by the production of a certified copy of an entry in the register of births or by any other evidence appearing to him to be sufficient, that a person offering to enlist has or has not attained the age of eighteen years that person shall be deemed for the purposes of this Act to have attained, or as the case may be, not to have attained, that age.

(4) A document purporting to be a certificate signed by the recruiting officer, stating that he is satisfied, shall be sufficient evidence that he is so satisfied, unless the contrary is proved.

(5) A person who is or was a member of the Jamaica Combined Cadet Force constituted by section 3 (1) of the *Jamaica Combined Cadet Force Act* who otherwise satisfies the conditions of enlistment in the Jamaica National Service Corps may be recruited to or enlisted in the Jamaica National Service Corps before any other person.

Terms and Conditions of Service

Terms of
enlistment in
Jamaica
National
Service
Corps.

208C.—(1) The term for which a person enlisting in the Jamaica National Service Corps may be enlisted shall be such a term beginning with the date of his attestation as is mentioned in this section.

(2) Where the person enlisting has attained the age of eighteen years the term shall be a period not exceeding two years.

(3) Where the person enlisting has not attained the age of eighteen years the term shall be a term ending with the expiration of such period, not exceeding two years, as may be prescribed, beginning with the date on which he attains that age.

Prolongation
of service in
Jamaica
National
Service
Corps.

208D. Any member of the Jamaica National Service Corps whose term of service expires during a state of war, insurrection, hostilities or public emergency may be retained in the Jamaica National Service Corps and his service prolonged for such further period as the competent military authority, with the approval of the Defence Board, may direct.

Discharge

Discharge
from Jamaica
National
Service
Corps.

208E.—(1) Save as in this Act provided, every member of the Jamaica National Service Corps upon becoming entitled to be discharged, shall be discharged with all convenient speed, but until discharged shall remain subject to military law under this Act.

(2) Where a soldier of the Jamaica National Service Corps is, when entitled to be discharged, serving outside of Jamaica, then—

- (a) if he requires to be discharged in Jamaica, he shall be sent there free of cost with all convenient speed and shall be discharged on his arrival there or if he consents to his discharge being delayed, within six months from his arrival; but
- (b) if at his request he is discharged at the place where he is serving, he shall have no claim to be sent to Jamaica or elsewhere.

(3) Except in pursuance of the sentence of a court-martial, a soldier of the Jamaica National Service Corps shall not be discharged unless his

discharge has been authorized by order of the competent military authority.

(4) Every soldier of the Jamaica National Service Corps shall be given on his discharge, a certificate of discharge containing such particulars as may be prescribed.

Postponement of discharge from Jamaica National Service Corps pending proceedings for offences, etc.

208F.—(1) Notwithstanding anything in this Part, a soldier of the Jamaica National Service Corps shall not be entitled to be discharged at a time when he has become liable to be proceeded against for an offence against any of the provisions of this Act: Provided that if it is determined that the offence shall not be tried by court-martial this subsection shall cease to apply.

(2) Notwithstanding anything in this Part, a soldier of the Jamaica National Service Corps who is serving a sentence of imprisonment or detention imposed by a court-martial or by his commanding officer shall not be entitled to be discharged during the currency of the sentence.

Discharge from Jamaica National Service Corps upon prescribed grounds.

208G. A soldier of the Jamaica National Service Corps may be discharged by the competent military authority at any time during the currency of any term of engagement upon such grounds as may be prescribed.

Rights of a soldier to purchase discharge from Jamaica National Service Corps.

208H.—(1) Subject to the provisions of this section, a soldier of the Jamaica National Service Corps shall be entitled to claim his discharge at any time within three months after the date of his first attestation and if he makes such a claim, he shall, on payment of the prescribed sum, be discharged with all convenient speed, but until discharged shall remain subject to military law under this Act.

(2) The provisions of this section shall not apply to a soldier of the Jamaica National Service Corps who was at any time within three months prior to the date of his first attestation a member of any of Her Majesty's forces.

(3) The provisions of section 208E shall not apply to a soldier discharged under the provisions of this section.

(4) Notwithstanding the provisions of this section, a soldier of the Jamaica National Service Corps shall not be entitled to claim his discharge pursuant to this section while soldiers of the Jamaica National Service Corps are required to continue their service under the provisions of section 208D.

Further provisions relating to purchase of discharge from Jamaica National Service Corps.

208I.—(1) A soldier of the Jamaica National Service Corps may, at any time after the expiration of the period mentioned in subsection (1) of section 208H, make an application for the purchase of his discharge under this section.

(2) Every such application shall be considered by the Defence Board; and the Defence Board, after considering the application may, in its discretion, either refuse the application or direct that, upon payment by the applicant of such sum as the Defence Board shall specify, the applicant shall be discharged accordingly.

(3) Where the Defence Board has directed under subsection (2) that a soldier of the Jamaica National Service Corps be discharged, the soldier shall, on payment of the sum specified by the Defence Board in respect of his discharge, be discharged with all convenient speed, but until discharged shall remain subject to military law under this Act.

(4) Where a soldier is serving out of Jamaica when he is discharged under this section, he shall have no claim to be sent to Jamaica or elsewhere.

(5) The provisions of subsections (1), (2) and (3) of section 208E shall not apply to a soldier discharged under this section.

Miscellaneous and Supplementary Provisions

Rules for reckoning service in Jamaica National Service Corps.

208J.—(1) Service in the Jamaica National Service Corps shall be counted as reckonable service for a person who proceeds to serve in the regular Force or the Jamaica National Reserve.

(2) In reckoning the service of any soldier of the Jamaica National Service Corps towards service in the regular Force or the Jamaica National Reserve, there shall be excluded therefrom—

- (a) all periods during which the soldier has been absent from his duty for any of the following causes—
 - (i) imprisonment;
 - (ii) desertion; or
 - (iii) absence without leave for a period that exceeds twenty-eight days;
- (b) any period ordered by a court-martial to be forfeited.

Validity of attestation and enlistment for Jamaica National Service Corps.

208K.—(1) Where a person has made such declaration upon his attestation as may be prescribed and has thereafter received pay as a soldier of the Jamaica National Service Corps—

- (a) the validity of his enlistment shall not be called in question on the grounds of any error or omission in his attestation paper; and

- (b) after the expiration of a period of three months from the date on which he made the declaration, he shall be deemed to have been validly enlisted, notwithstanding any non-compliance with the requirements of this Act or any regulations made under section 212 as to enlistment or attestation or any other ground whatsoever (not being an error or omission in his attestation paper) and he shall be deemed to be a soldier of the Jamaica National Service Corps until his discharge.

(2) Where a person has received pay as a soldier of the Jamaica National Service Corps without having previously made the declaration—

- (a) he shall be deemed to be a soldier of the Jamaica National Service Corps until discharged; and
- (b) he may claim his discharge at any time, and if he makes such claim, the claim shall be submitted as soon as may be to the Defence Board who shall, if the claim is well founded, cause him to be discharged with all convenient speed.

(3) Nothing in this section shall be construed as prejudicing the determination of any question as to the term for which a person was enlisted or as preventing the discharge of a person who has not claimed his discharge.

False answer
in attestation
papers in
Jamaica
National
Service
Corps.

208L.—(1) If a person appearing before a recruiting officer for the purpose of being enlisted in the Jamaica National Service Corps knowingly makes a false answer to any question contained in the attestation paper and put to him either by or by the

direction of the recruiting officer he shall be liable on summary conviction in a Parish Court to imprisonment for a term not exceeding three months or to a fine not exceeding two hundred and fifty thousand dollars.

(2) For the avoidance of doubt, it is declared that a person may be proceeded against under this section notwithstanding that he has since become subject to military law under this Act.

Training of
Jamaica
National
Service
Corps.

208M.—(1) Subject to the provisions of this section, every soldier of the Jamaica National Service Corps shall attend for training at such place or places and for such periods as may be determined by the Defence Board and shall fulfil such conditions relating to training as may be prescribed.

(2) The requirements of this section may be dispensed with in whole or in part as respects any of the Jamaica National Service Corps, by the Defence Board, and as respects any soldier of the Jamaica National Service Corps, by his commanding officer subject to any general directions of the Defence Board.

(3) Nothing in this section shall be construed as preventing a soldier of the Jamaica National Service Corps from undergoing voluntary training in addition to any training referred to in subsection (1).”.

Amendment
of section
209 of
principal
Act.

22. Section 209 (1) of the principal Act is amended—

- (a) by deleting the full stop appearing at the end of paragraph (c) and substituting therefor the word “; and”; and
- (b) by inserting next after paragraph (c) the following as paragraph (d)—

“(d) members of the Jamaica National Service Corps.”.

23. Section 212 of the principal Act is amended by—

- (a) re-lettering paragraphs (h) and (i) as paragraphs (i) and (j), respectively; and
- (b) inserting immediately after paragraph (g) the following as paragraph (h)—

“(h) the enlistment of persons into, and the discharge of persons from, the Jamaica National Service Corps and generally for the carrying into effect of Part IXA, including the prescribing of the necessary forms and the administration of oaths and affirmations;”.

Amendment
of section
212 of
principal
Act.

24. The principal Act is amended by inserting next after section 214, the following as section 214A—

“The
Minister
may amend
monetary
penalties
and
Schedules.

214A.—The Minister may, by order, subject to affirmative resolution, amend—

- (a) any monetary penalties imposed in this Act;
and
- (b) the Schedules to this Act.”.

Insertion of
new section
214A of the
principal
Act.

25. This Act and all other enactments are amended by deleting the words “Chief of Staff” wherever they appear in relation to the Chief of Staff referred to in the Defence Act and substituting therefor, in each case, the words “Chief of Defence Staff”.

Amendment
of
enactments.

MEMORANDUM OF OBJECTS AND REASONS

A decision has been taken to amend the Defence Act to—

- (a) establish an arm of the Jamaica Defence Force to be known as the Jamaica National Service Corps;
- (b) provide for the enlistment and terms of service for enlistment in the Jamaica National Service Corps;
- (c) cause the members of the Jamaica National Service Corps to be subject to military law under the Defence Act;
- (d) grant the Defence Board the power to make regulations governing the enlistment in and discharge from the Jamaica National Service Corps and generally for carrying into effect the provisions of the Defence Act with respect to the Jamaica National Service Corps; and
- (e) empower the Minister to amend the monetary penalties imposed under this Act and the Schedules to this Act.

ANDREW HOLNESS
Minister of Defence.

A BILL

ENTITLED

AN ACT to Amend the Defence Act.

As introduced by the Honourable Minister of Defence.

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