

LEGAL NOTICE NO. 10

THE NATIONAL YOUTH SERVICE ACT

(No. 17 of 2018)

IN EXERCISE of the powers conferred by section 64(1) of the National Youth Service Act, 2018, the Cabinet Secretary for Public Service and Gender makes the following Regulations—

THE NATIONAL YOUTH SERVICE (LIMITATION OF
FUNDAMENTAL RIGHTS AND FREEDOMS) REGULATIONS,
2020

PART I—PRELIMINARY

1. These Regulations may be cited as the National Youth Service (Limitation of Fundamental Rights and Freedoms) Regulations, 2020.

Citation.

2. In these Regulations, unless the context otherwise requires—

Interpretation.

“Act” means the National Youth Service Act;

Act No. 17 of 2018.

“in active service” has the meaning assigned to it under section 45 of the Act;

“inspection” means an official visit to the living or work place of a member of the Service;

“investigating officer” means a member of the Service appointed by the Director-General to conduct an investigation on breach of any of the provisions of the Act;

“premises” includes the place of living or work place; and

“rights and freedoms” includes the Fundamental Rights and Freedoms enshrined under Chapter 4 of the Constitution;

3. These Regulations shall only apply to members of the Service in “active service”.

Application.

PART II—LIMITATION OF FUNDAMENTAL RIGHTS AND FREEDOMS

4. (1) An investigating officer may, in the course of an investigation, apply to the Director-General in the Form set out in the Schedule for an order to enter the premises of a member of the Service to conduct a search and seize any material evidence against the member of the Service suspected to have committed an offence under the Act.

Search, seizure and inspection.

(2) The investigating officer shall, when making an application under paragraph (1)—

- (a) explain the reason for the belief that the material sought may be found in the premises to be searched;
- (b) state that the search relates to evidence that may be altered, tampered with or otherwise destroyed unless there is immediate entry to the premises upon arrival;

- (c) identify and explain, the type of evidence suspected to be found in the premises; and
- (d) explain the manner in which the search and seizure will be carried out.

(3) The Director-General may, upon being satisfied by the application under the paragraph (2), order that the premises of the member of the Service under investigation be searched and any relevant material evidence be seized.

(4) The Director-General may at any time order, in writing, that an inspection be conducted in the premises of a member of the Service.

5. (1) A member of the Service shall not—

Prohibited associations.

- (a) join, form, participate in or be associated with any organization or movement of a political character; or
- (b) remain or become a member of any association or society, except one whose activities are exclusively professional, sporting, recreational, educational, artistic or social.

(2) Despite paragraph (1), a member of the Service may register as a voter and vote by secret ballot in any election or referendum.

(3) If there is any doubt as to whether an organization under paragraph (1) (b) is of a political character, the matter shall be referred to the Director-General for determination.

6. (1) A member of the Service shall not engage in any trade, business or employment outside the scope of his or her duties as a member of the Service if the trade, business or employment results to a conflict of interest with the performance of the member's duties.

Prohibited trade.

(2) A member of the Service who intends to engage in any form of employment or business may apply to the Director-General for an approval

7. (1) A member of the Service's right of access to and disclosure of information held by the Service pursuant to Article 35 of the Constitution, the Access to Information Act and the Act, may be limited if the information—

Access to information.
No. 31 of 2016.

- (a) undermines the national security or interests of Kenya;
- (b) impedes the due process of law;
- (c) endangers the safety, health or life of any person;
- (d) involves the unwarranted invasion of the right of another member of the service, other than the applicant or the person on whose behalf an application has been made with the authority of the Director-General;
- (e) substantially prejudices the commercial interests, including intellectual property rights of the Service or third party from whom the information was obtained;
- (f) causes substantial harm to the ability of the Service to manage its functions under the Act;

- (g) damages the Service's position in any actual or contemplated legal proceedings; or
- (h) infringes professional confidentiality as recognized in law or by the rules of a registered association of a profession.

8. (1) A member of the Service shall not picket, join or form a trade union, anybody or association affiliated to a trade union whose object is to control or influence conditions of employment in the Service. Trade unions.

(2) The Director-General shall determine whether a body or association is a trade union.

SCHEDULE

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SEARCH AND SEIZURE FORM

In the Matter of the Search ofCase
No.....

(Briefly describe the property to be Searched and the Person by name, rank/designation and address).

Part I

IInvestigating
Officer

.....(Personal Number, Rank, Name), request for a Search Warrant
having a reason/reasons to believe that property seized shall be used a proof or evidence
of crime (describe the property to be seized/the type of evidence expected to be found in
the premises).

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The Search is related to violation of (Section and Offense Description)

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The application is based on these facts (Explain reason why you believe that the material to be sought may be found in the premises to be searched).

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How to carry out the Search and Seizure (briefly explain how the Search and Seizure will be carried out).

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Points to note: *The Officer executing this Warrant or an Officer present during the execution of the Warrant, must prepare an Inventory and must give a copy of the same to the person from whom, or from whose premises, the property was taken.*

Name of Investigating Officer (IO)/Officer Applying for the Search

Rank

Sign

Date

Part II

You are Comanded to execute this warrant on or before.....
(not to exceed 14 days) (a) in the day time 6:00.am. to 10:00.pm (b) at any time in the day or night because good cause has been established.

REQUEST APPROVED/NOT APPROVED (REASONS)

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Sign.....

Date.....

Time.....

Director-General

Dated the 15th January, 2021.

MARGARET KOBIA,
Cabinet Secretary for Public Service and Gender.