

Tanzania

Visiting Forces Act

Chapter 194

Legislation as at 31 July 2002

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Visiting Forces Act

Chapter 194

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[Note: This legislation has been thoroughly revised and consolidated under the supervision of the Attorney General's Office, in compliance with the Laws Revision Act No. 7 of 1994, the Revised Laws and Annual Revision Act (Chapter 356 (R.L.)), and the Interpretation of Laws and General Clauses Act No. 30 of 1972. This version is up-to-date as at 31st July 2002.]

[Acts Nos. 70 of 1962; R.L. Cap. 494; 24 of 1966]

An Act to make provision with respect to Military, Naval and Air Forces of certain other countries visiting Tanzania, to provide for the apprehension and disposal of deserters and absentees without leave in Tanzania from the Forces of such countries and for related matters.

1. Short title and extension

This Act may be cited as the Visiting Forces Act, and extends to Mainland Tanzania as well as Tanzania Zanzibar.

2. Omitted: Incorporated into s. 1

[Omitted: Incorporated into s. 1.]

[s. 1A]

3. Application

- (1) References in this Act to a country to which a provision of this Act applies are references to any country designated for the purposes of that provision by an order made under subsection (2).
- (2) The President may, as respects any country, if it appears to him expedient that the provisions of this Act, or any of them, should have effect in relation to that country, by order designate that country for the purposes of those provisions.
- (3) Where an order is made under subsection (2) in respect of any country, the President may, by the same or by another order, provide that in so far as this Act has effect in relation to that country it shall have effect subject to such limitations or modifications as may be specified in the order.
- (4) An order made under subsection (2) or subsection (3) shall be published in the *Gazette*.

[s. 2]

4. Interpretation

- (1) In this Act, unless the context otherwise requires—
"court" means a court exercising jurisdiction in Tanzania under the law of Tanzania otherwise than by virtue of section 5 of this Act;
"forces" in relation to a country means any of the military, naval or air forces of that country;

"**member**" in relation to a visiting force, means a person who is a member of the forces of the sending country or who is subject to the military law of that country, and who is for the time being appointed to serve with or attached to that visiting force;

"**Minister**" means the Minister responsible for matters relating to defence;

"**sending country**", in relation to a visiting force, means the country to whose forces the visiting force belongs;

"**service authorities**" means military, naval and air force authorities;

"**service court**", in relation to a country, means a court established under the law governing all or any of the forces of that country and includes any authority of a country who under the law thereof is empowered to review or confirm the proceedings of such a court or to try or investigate charges brought against persons subject to such law; and references to trial by, or to sentences passed by, service courts of a country shall be construed respectively as including references to trial by, and punishment imposed by, such an authority in the exercise of such powers;

"**visiting force**" means, for the purposes of any provision of this Act, any body, contingent or detachment of the forces of a country to which that provision applies, being a body, contingent or detachment for the time being present in Tanzania on the invitation of the Government.

- (2) References in any provision of this Act to the appropriate authority of a country are references to such authority as may be appointed by the Government of that country for the purposes of that provision, and the Minister shall cause notice to be given in the *Gazette* of each such authority so appointed.

[s. 3]

5. Exercise of powers by service courts of countries sending visiting forces

- (1) Subject to the provisions of subsection (3), the service courts and service authorities of a country to which this section applies may, within Tanzania, exercise powers over the members of any visiting force of that country all such powers as are exercisable by them according to the law of that country.
- (2) Subject to the provisions of subsection (3), where any sentence has, whether within or outside Tanzania, been passed by a service court of a country to which this section applies upon a person who immediately before the sentence was passed was a member of a visiting force of that country, then, for the purposes of any proceedings in a Tanzanian court the said sentence shall be deemed to be within the jurisdiction of that court and in accordance with the law of that country, and if executed according to the tenor of the sentence shall be deemed to have been lawfully executed.
- (3) Notwithstanding the provisions of subsections (1) and (2), a service court of a country to which this section applies shall not, unless the Attorney-General in writing otherwise directs, have jurisdiction to try or punish in Tanzania a member of any visiting force of that country for any offence the punishment for which is, under the civil law of Tanzania, death.
- (4) Any person who—
- (a) is detained in custody in pursuance of a sentence in respect of which subsection (2) has effect; or
 - (b) being a member of a visiting force of a country to which this section applies, is detained in custody pending or during the trial by a service court of that country of a charge brought against him,

shall for the purpose of any proceedings in any Tanzania court be deemed to be in lawful custody.

- (5) For the purpose of enabling the service courts and service authorities of a country to which this section applies more effectively to exercise the powers referred to in subsection (1), the Minister may, if so requested by the appropriate authority of that country, from time to time by general or special orders direct that members of the Tanzania Military Forces, and, with the concurrence of the

Minister for the time being responsible for the Police Force, Police Officers, shall arrest any person, being a member of a visiting force of that country, who is alleged to have committed an offence punishable under the law of that country and shall deliver him to such services authority of that country as may be designated by or under the orders.

[s. 4]

6. Tanzania courts to have regard to sentences of service courts

Where a person who has been convicted by a service court of a country to which this section applies in the exercise of the powers referred to in subsection (1) of section 5 is convicted by a Tanzania court of the same offence, or where such a person is convicted by such court of a different offence but it appears to such court that the conviction by the service court was wholly or partly in respect of acts or omissions in respect of which he is convicted by the Tanzania court, the Tanzania court shall have regard to the sentence of the service court.

[s. 5]

7. Arrest, etc., of offenders against Mainland Tanzania law

(1) The foregoing provisions of this Act shall not affect—

- (a) any powers of arrest, search, entry, seizure or custody exercisable under the law of Tanzania with respect to offences committed or believed to have been committed against that law;
- (b) any obligation of any person in respect of a recognised or bond entered into in consequence of his arrest, or the arrest of any other person, for such an offence; or
- (c) any power of any court to remand (whether on bail or in custody) a person brought before the court in connection with such an offence.

(2) Where a person has been taken into custody without a warrant for such an offence and there is reasonable ground for believing that in accordance with section 5 he is subject to the jurisdiction of the service courts of a country to which this section applies, then, with a view to its being determined whether he is to be dealt with for that offence under the law of Tanzania or dealt with by the service courts of that country for an offence against the law thereof he may, notwithstanding the provisions of section 34 of the Criminal Procedure Act¹, be detained in custody for a period not exceeding three days without being brought before a court; but if within that period he is not delivered into the custody of a service authority of that country he shall, in accordance with the provisions of the said section 34, be released on bail or brought before a court as soon as practicable after the expiration of that period.

[s. 6]

8. Restriction on proceedings relating to service of members of visiting force

No proceedings shall be entertained by any Tanzania court with regard to the terms of service of any person in respect of service as a member of a visiting force of a country to which this section applies or with regard to a person's discharge from such service.

[s. 7]

¹

9. Apprehension, etc., deserters and absentees without leave

- (1) Subject to the provisions of this section, the provisions of sections 77, 78, 79, 80 and 81 of the National Defence Act², other than those of subsection (2) of section 80 thereof, shall within Tanzania apply in relation to deserters and absentees without leave from the forces of any country to which this section applies in the same manner as they apply in relation to deserters and absentees without leave within the meaning of those provisions.
- (2) The powers conferred by the provisions of the National Defence Act referred to in subsection (1) as applied by that subsection shall not be exercised in relation to a person except in compliance with a request (whether specific or general) of the appropriate authority of the country to which he belongs.
- (3) References in the provisions of the National Defence Act referred to in subsection (1) as applied by that subsection to the delivery of a person into military custody shall be construed as references to the delivery of that person to such authority of the country to which he belongs as may be designated by the appropriate authority.
- (4) In this section references to a deserter or an absentee without leave from the forces of a country are references to a person who is suspected of being, or who appears from his admissions to be, a deserter or an absentee without leave from the forces of that country.

[s. 8]

10. Application of certain enactments to visiting forces

The Minister may, in respect of any visiting force to which this section applies, by order published in the *Gazette*—

- (a) exempt that force, or members or service courts thereof, or property used or to be used for the purposes thereof, from the operation of any enactment or of any provision of any enactment specified in the order to any extent to which the force, members, courts or property would be, or would be capable of being, exempted therefrom if the force were a part of the Tanzania Peoples Defence Forces;
- (b) confer on that force, or any such members, courts or property as aforesaid, any other privilege or immunity specified in the order, being a privilege or immunity which would be enjoyed by, or would be capable of being conferred on, the force, members, courts or property if the force were a part of the Tanzania Peoples Defence Forces,

subject however to such limitations and conditions as may be specified by or under the order.

[s. 9]

11. Evidence for purposes of section 6

For the purposes of section 6, a certificate purporting to be issued by or on behalf of the appropriate authority of a country, stating as respect a person specified in the certificate, that he has been tried, at a time and place specified in the certificate, by a service court of that country for an offence so specified and that on a date so specified he was sentenced by such court to such punishment as is so specified, shall in any proceedings in any Tanzania court be admissible in evidence without further proof and conclusive evidence of the facts so stated.

[s. 10]

12. Evidence for purposes of section 9

For the purposes of any proceedings under any of the provisions of the National Defence Act as applies by section 9—

- (a) a certificate purporting to be issued by or on behalf of the Minister stating that a request has been made for the exercise of the powers referred to in subsection (2) of that section and indicating the effect of the request shall be admissible in evidence without further proof and conclusive evidence of the facts stated therein;
- (b) a certificate purporting to be under the hand of the officer commanding a unit or detachment of any of the forces of a country to which that section applies stating that a person named therein was at a date specified therein a deserter or absentee without leave from those forces shall be admissible in evidence without further proof and sufficient evidence of the facts stated therein unless the contrary is proved.

[s. 11]

13. General provisions relating to evidence

For the purposes of this Act—

- (a) a certificate purporting to be issued by the appropriate authority of a country and stating that a body, contingent or detachment of the forces of that country is, or was at a time stated in the certificate, present in Tanzania shall in any proceedings in any Tanzania court, be admissible in evidence without further proof and be conclusive evidence of the facts stated therein;
- (b) where in any such proceedings it is admitted or proved that a body, contingent or detachment of the forces of a country is, or was at any time, present in Tanzania it shall be presumed in those proceedings unless the contrary is shown, that the body, contingent or detachment is, or was at that time, present in Tanzania on the invitation of the Government.

[s. 12]

14. Provisions of Act not to oust jurisdiction of Tanzania courts

Subject to the provisions of section 8, nothing in this Act shall confer upon any member of a visiting force any exemption from the civil law of Tanzania or from the jurisdiction of any civil court or authority in Tanzania.

[s. 13]

15. Maintenance of visiting force to be lawful

Notwithstanding the provisions of any other law, it shall be lawful for any country to which a provision of this Act applies to maintain a visiting force in Tanzania.

[s. 14]