

Tanzania

Criminal Procedure Act

Criminal Procedure (Habeas Corpus) Rules, 1930

Government Notice 150 of 1930

Legislation as at 31 July 2002

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Criminal Procedure (Habeas Corpus) Rules, 1930

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Commenced

[This is the version of this document at 31 July 2002.]

[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.]

[Section 390; G.N. No. 150 of 1930]

1. Short title

These Rules may be cited as the Criminal Procedure (*Habeas Corpus*) Rules.

2. Application to judge in chambers

An application for the issue of directions in the nature of *habeas corpus* shall be made in the first instance to a judge in chambers *ex parte* supported by affidavit in triplicate.

3. Issue of summons

If the application is not dismissed the judge shall order a summons to issue directed to the person in whose custody the person alleged to be improperly detained is said to be, requiring his appearance in person or by advocate together with the original of any warrant or order for the detention, at a place and time named therein to show cause why the person so detained should not be forthwith released.

4. Where custody is public copy of summons to be served on the Attorney-General

The summons shall be accompanied by a copy of all affidavits lodged in support of the application and where the person detained is in public custody a duplicate of the application, the summons, and of all affidavits lodged in support thereof shall be forwarded to the Attorney-General.

5. Affidavits in reply

Affidavits in reply shall be filed in duplicate of which one copy shall be served on the applicant.

6. Date of return to summons

The date fixed for the return of the summons shall be as soon as may be convenient after its issue to permit of the attendance of the parties served.

7. Admission to bail pending hearing

Pending the return to the summons the person detained may, if in public custody, be admitted to bail, and if in private custody be released on such terms and conditions as the court may deem fit.

8. Procedure at hearing

At the hearing on the summons the applicant shall begin, the party resisting the application shall then be heard and in such case the applicant shall be entitled to reply.

9. Order of release to be directed to Superintendent of Prisons

If the court orders the release of the person detained in any jail, the order of the court shall be drawn up and served on the Superintendent of Prisons or other person having the custody of the person so detained.

10. *Habeas corpus ad testificandum*

Where the evidence of a person who is in public custody is required at a trial or proceeding before a civil court or before a court martial or any commissioners acting under the authority of any commission from the President, any party to such trial or proceeding may make application *ex parte* to a judge in chambers supported by affidavit that the prisoner be brought before such court or commissioners for the purpose of giving evidence, and the judge may thereupon direct that the prisoner be produced accordingly and that the party requiring his production lodge a sufficient sum in court to meet the costs thereof.

11. Production of civil prisoner for trial by court martial or commissioners

In the case of a prisoner detained in public custody whose presence is required before a court martial or commissioners acting under the authority of any commission from the President for trial, a judge in chambers may on application made by the chief military authority or on behalf of such commissioners order the prisoner to be produced before such court martial or commissioners for trial but shall not do so without first hearing the prisoner or an advocate on his behalf.

12. Production of prisoner in court

A judge may in addition to any order that he may make under these Rules order the body of any person alleged to be improperly detained to be produced before him in court.