

Tanzania

Special Tribunals Act

Chapter 126

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Tanzania

Special Tribunals Act

Chapter 126

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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.]

[Act No. 21 of 1964; R.L. Cap. 556]

An Act to make provision for the establishment of Special Tribunals for the trial of members of the Police Force, Prisons Service and National Service charged with mutiny and certain other offences and for related matters.

1. Short title

This Act may be cited as the Special Tribunals Act.

2. Interpretation

In this Act, unless the context requires otherwise—

"**member**", in relation to a tribunal includes the president of the tribunal;

"**Service**", means the Police Force, the Prisons Service or the National Service;

"**Service law**" means the Police Force and Auxiliary Services Act¹, the Prisons Act² or the National Service Act³;

"**tribunal**" means a Special Tribunal established under [section 3](#).

3. Establishment of Special Tribunals

The President may, by warrant under his hand and the public seal, establish a Special Tribunal for the trial of any member of a Service charged with an offence of mutiny contrary to the relevant Service law.

4. Composition of Special Tribunals

- (1) Every Special Tribunal shall consist of a president and such other members, not being less than two, as may be appointed by the President.

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- (2) The President shall appoint the Chief Justice of Tanzania or some other person who holds or who has held high judicial office to be the president of a tribunal:

Provided that one of the members shall be a member of the same Service as any person who is charged before the tribunal.

- (3) The other members of a tribunal shall be appointed from amongst the gazetted officers or superior officers of the Services.
- (4) In this section, "high judicial office" means the office of a judge of a court, whether within or outside Tanzania having unlimited jurisdiction in civil or criminal matters or a court having jurisdiction in appeals from any such court.

5. Oath of members of a tribunal

Each of the members of a tribunal shall, before entering upon the duties of his office, take an oath in the form set out in the Schedule.

6. Immunities of members of tribunal

The members of a tribunal shall, in the exercise of and in relation to their functions as such, have the like immunities from suit and the like privileges as are conferred upon a judge of the High Court in the exercise of and in relation to the functions of his office.

7. Jurisdiction

- (1) Subject to the provisions of this Act and in particular to the provisions of [section 8](#), a tribunal shall have jurisdiction and power—
- (a) to try any person or class of person, being a member of a Service specified in the warrant establishing the tribunal for the offence of mutiny contrary to the relevant Service law and for any other offence contrary to the Penal Code⁴, the relevant Service law or other laws and regulations governing the Service of which the person charged is a member, which may be joined with any charge of mutiny; and
 - (b) to deal with any person tried by it in the like manner as if he had been tried by the High Court and as if, in the case of any charge of mutiny, the High Court had jurisdiction and, in the case of any person found guilty of an offence charged, to pass any sentence authorised by law.
- (2) A tribunal shall have the like power to convict a person of an offence other than that charged as is conferred on the High Court.
- (3) The Special Tribunal shall have the like powers of the High Court to summon witnesses, to require them to swear an oath, to give evidence, and produce documents, and the president of a tribunal shall have the like power to try and punish any person for contempt of the tribunal as is exercisable by a judge of the High Court.
- (4) A Special Tribunal shall have exclusive jurisdiction to hear and determine any prosecution for mutiny contrary to section 88 of the Prisons Act⁵, section 97 of the Police Force and Auxiliary Services Act⁶ and [section 16](#)⁷ of the National Service Act⁸, but its jurisdiction in relation to any

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other offence shall be concurrent with the courts having jurisdiction to try the same under the provisions of the Criminal Procedure Act⁹.

8. Practice, procedure and evidence

- (1) Subject to the provisions of this Act, the practice and procedure of, and the rules of evidence to be observed by, a tribunal shall be assimilated as nearly as may be to the substance of the practice and procedure of, and the rules of evidence observed by, the High Court in the exercise of its original criminal jurisdiction, save that—
 - (a) the trial shall be held without assessors and it shall not be necessary to sum up the evidence; and
 - (b) the tribunal shall not be required to deliver a judgment, but the president of the tribunal shall state in open court the tribunal's finding on the guilt or innocence of the accused.
- (2) Subject to the provisions of subsections (1) and (2) of [section 7](#), a tribunal shall have the like powers prior to, or in the course of, a trial under this Act to deal with a person charged under this Act as are conferred on the High Court in relation to an accused person prior to, or in the course of, a trial before the High Court in the exercise of its original criminal jurisdiction.
- (3) Without prejudice to the generality of the foregoing provisions of this section—
 - (a) a tribunal shall take evidence on oath save that, in those cases where the High Court may take evidence on affirmation, or without oath or affirmation, it may take evidence in similar fashion;
 - (b) a tribunal may sit in camera on the ground that it is necessary or expedient in the interests of justice so to do;
 - (c) a tribunal shall retire while deliberating on its finding or sentence on any charge, and may retire on any other deliberation amongst the members; where a tribunal retires to deliberate on any matter, no person who is not a member shall be present at its deliberations;
 - (d) an accused person shall have the same right to an advocate in his defence as is enjoyed by a person in the civil courts.

9. Death or absence of members

- (1) If, after the commencement of a trial by a tribunal—
 - (a) the president of the tribunal dies or is, for any other reason, unable to proceed with the trial; or
 - (b) the number of the other members of the tribunal is, by reason of death or otherwise, reduced below two, the trial shall be stopped, but save as provided in paragraph (b), the reduction in the number of members of the court, other than the president, shall not preclude the continuance and conclusion of the trial before the continuing members.
- (2) When a trial is stopped under this section, the accused may be tried again before another Special Tribunal.

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S. 16 was repealed by Act [No. 22 of 1975](#) s. 16

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10. Decisions of tribunal

- (1) Subject to the provisions of this section, every question to be determined on a trial by a tribunal shall be determined by a majority of the votes of the members of the tribunal.
- (2) In the case of an equality of votes on the finding, the tribunal shall acquit the accused.
- (3) In the case of an equality of votes on the sentence, or on any question arising after the commencement of a trial, except the finding, the president of the tribunal shall have a second or casting vote.

11. Functions of other authorities consequential upon certain actions by tribunal

Where, prior to, or in the course of, a trial by a tribunal, the tribunal deals with the accused or any matter in a similar manner to that in which the High Court is empowered by law to deal with a person accused of an offence or matter which the High Court has jurisdiction to entertain, any authority or person who is empowered to exercise any function consequential on it were the accused or matter to have been similarly dealt with by the High Court, shall have the like power to exercise the function in relation to the person or matter so dealt with by the tribunal.

12. Execution of sentences and duties of prisons officers, etc.

- (1) A person sentenced to death or imprisonment by a tribunal shall be committed to a civil prison and shall, while in that prison, be confined and otherwise dealt with in the same manner as a person confined there under a like sentence of the High Court:
Provided that—
 - (a) a sentence of death shall not be carried into effect unless it has been approved by the President; and
 - (b) the tribunal may direct that a sentence of death passed by it shall be carried out either by shooting or by hanging and, subject to any directions of the President that sentence shall be carried out in the manner so directed.
- (2) It shall be the duty of the superintendent or other person in charge of a prison to receive any person duly sent to that prison in pursuance of this Act and to confine him until execution of the sentence is completed or the prisoner is discharged or delivered over in due course of law.

13. Decision of tribunal final

- (1) The decision of a tribunal in any trial under this Act shall be final and, notwithstanding any other law, no appeal shall lie from it; and the proceedings before a tribunal under this Act shall not be subject to enquiry or review by any other court.
- (2) An acquittal or conviction by a Special Tribunal shall have the same effect in relation to the retrial before another Special Tribunal or any other court of the person acquitted or convicted as an acquittal or conviction by the High Court.

14. Powers of Director of Public Prosecutions

- (1) The Director of Public Prosecutions shall have the like power and authority in relation to a person whom a tribunal has jurisdiction to try and to the charges to be preferred as is conferred on him in relation to a person who may be tried by the High Court and the charges in that Court; and the Director shall be subject to like directions in relation to first named person as those to which he is subject in relation to a person who may be tried by the High Court.

- (2) The powers of the Director may be exercised by himself or, subject to his instructions, by any persons who may, in accordance with the provisions of the Criminal Procedure Act¹⁰, exercise the powers of the Director in the High Court.

15. Witnesses

A witness before a tribunal or any other person whose duty it is to attend on or before a tribunal shall be entitled to the like immunities and privileges as a witness before the High Court.

16. Custody of accused

Any person who has been charged under this Act with an offence which is to be tried by a tribunal may, unless the Director of Public Prosecutions determines that that or any other charge shall not be proceeded with, and pending the determination of the trial, be detained in custody, and every person so detained shall be deemed to be detained in lawful custody.

17. Regulations

- (1) The President may make regulations—
- (a) for the procedure to be followed in charging a person before a tribunal and for the taking of abstracts or summaries of evidence;
 - (b) prescribing the procedure to be taken prior to the trial of a person under this Act;
 - (c) modifying or adapting the rules of procedure relating to the making and use of depositions and prescribing the use of the abstracts or summaries of evidence in their place.
- (2) Regulations made under this section may apply to all Special Tribunals or to the tribunals which are specified there.

Schedule (Section 5)

Oath of a member of a Special Tribunal

I, _____ do swear that I will well and truly try all persons who are charged before the Tribunal according to the evidence, and that I will duly administer justice according to the Special Tribunals Act¹¹, without fear or favour, affection or ill will, and I do further swear that I will not on any account at any time disclose or discover the vote or opinion of any member of the Tribunal, unless I am so required in due course of law.

SO HELP ME GOD

¹⁰

[Cap. 20](#)

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[Cap. 126](#)