

THE UNITED REPUBLIC OF TANZANIA



No. 2 OF 1970

I ASSENT,

Julius K. Nyerere
President

30TH MARCH, 1970

An Act to amend certain Ordinances and Acts

[30TH MARCH, 1970]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Written Laws (Miscellaneous Amend- Short title
ments) Act, 1970. and
commence-
ment

2. The laws set forth in the first and second columns of Schedule Certain
hereto are amended in the manner specified opposite thereto in the laws
third column. amended

3. The Amendments to Excise Tariff Ordinance and the Customs Certain
Tariff Act, 1969 shall be deemed to have come into operation on the Amend-
1st January, 1970. ments to
have retro-
spective
effect
Cap. 332
Acts 1969
No. 54

SCHEDULE

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Cap. 16

The Penal Code

(a) Section 16 is repealed and replaced by the following section:—

"16. Save as is expressly provided by this Code, no act or thing done or omitted to be done by a judicial officer shall, if the act or omission was done or omitted *bona fide* in the exercise of his judicial function, render such judicial officer criminally liable for such act or omission."

(b) Sections 39, 40, 41, 42 and 43 of the Penal Code are repealed and replaced by the following sections:—

"Treason

39.—(1) Any person who, being under allegiance to the United Republic—

(a) in the United Republic or elsewhere, murders or attempts to murder the President; or

(b) in the United Republic, levies war against the United Republic, shall be guilty of treason and shall be liable on conviction to suffer death.

(2) Any person who, being under allegiance to the United Republic, in the United Republic or elsewhere, forms an intention to effect or to cause to be effected, or forms an intention to instigate, persuade, counsel or advise any person or group of persons to effect or to cause to be effected, any of the following acts, deeds or purposes, that is to say—

(a) the death, maiming or wounding, or the imprisonment or restraint, of the President; or

(b) the deposing by unlawful means of the President from his position as President or from the style, honour and name of Head of State and Commander-in-Chief of the Defence Forces of the United Republic; or

(c) the overthrow by unlawful means of the Government of the United Republic; or

(d) the intimidation of the Executive, the Legislature or the Judiciary of the United Republic,

and manifests such intention by publishing any writing or printing or by any overt act or deed whatsoever shall be guilty of treason and shall be liable on conviction to suffer death.

(3) Any person who, being under allegiance to the United Republic—

(a) adheres to the enemies of the United Republic or gives them aid or comfort, in the United Republic or elsewhere; or

(b) instigates, whether in the United Republic or elsewhere, any person to invade the United Republic with an armed force; or

SCHEDULE—*contd.*

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		(c) takes up arms within the United Republic in order, by force or constraint, to compel the Government of the United Republic to change its measures or counsels, or in order to put any force or constraint on, or in order to intimidate or overawe, the Government of the United Republic, shall be guilty of treason and shall be liable on conviction to suffer death.
		(4) Any person who, being under allegiance to the United Republic, in the United Republic or elsewhere, with intent to help any enemy of the United Republic does any act which is designed or likely to give assistance to such enemy, or to interfere with the maintenance of public order or the Government of the United Republic, or to impede the operation of the Defence Forces or the Police Force, or to endanger life, shall be guilty of treason and shall be liable on conviction to suffer death.
	"Treason- able felony	40. Any person who, not being under allegiance to the United Republic, in the United Republic or elsewhere, commits any act or combination of acts which, if it were committed by a person who is under allegiance to the United Republic, would amount to the offence of treason under section 39, shall be guilty of a felony and shall be liable on conviction to be sentenced to death.
	"Misprison of treason	41. Any person who— (a) becomes an accessory after the fact to treason or treasonable felony; or (b) knowing that any person intends to commit treason or treasonable felony, does not give information thereof with all reasonable despatch to an administrative officer or a magistrate or a police officer, or use other reasonable endeavours to prevent the commission of the offence, shall be guilty of the felony termed "misprison of treason" and shall be liable on conviction to imprisonment for life.
Retrospec- tive applica- tion of sections 39, 40 and 41 Acts 1970 No. 2		42. A person may be prosecuted for, and convicted of, an offence under section 39, section 40 or section 41 notwithstanding that any intention, act or omission constituting such offence was formed, done, omitted to be done or took place prior to the coming into operation of the Written Laws (Miscellaneous Amendments) Act, 1970.
"Promoting warlike undertaking		43. Any person who, without lawful authority, carries on or makes preparation for carrying on, or aids in or devises the carrying on of, or preparation for, any war or warlike undertaking with, for, by or against any person or body or group of persons in the United Republic, shall be guilty of a felony and shall be liable on conviction to imprisonment for life."

SCHEDULE—*contd.*

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(c) Add immediately below section 284 the following new section:—

“Loss occasioned by any wilful act or omission, or by his negligence or misconduct, or to Government or parastatal organization of his employer, shall, notwithstanding any written law to the contrary, by employees be guilty of an offence and be liable on conviction to imprisonment for a term not exceeding two years.

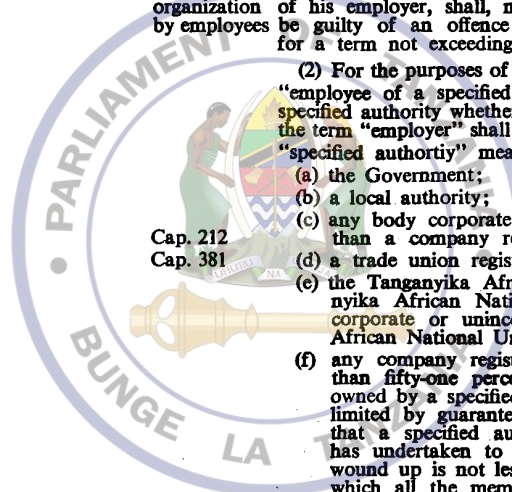
(2) For the purposes of subsection (1)—

“employee of a specified authority” includes an officer or member of a specified authority whether or not he is an employee of such authority and the term “employer” shall be construed accordingly.

“specified authority” means—

- (a) the Government;
 - (b) a local authority;
 - (c) any body corporate established by or under any written law other than a company registered under the Companies Ordinance;
 - (d) a trade union registered under the Trade Union Ordinance;
 - (e) the Tanganyika African National Union, any organ of the Tanganyika African National Union or any body of persons, whether corporate or unincorporate, which is affiliated to the Tanganyika African National Union;
 - (f) any company registered under the Companies Ordinance not less than fifty-one per centum of the issued share capital of which is owned by a specified authority or, where the company is a company limited by guarantee, a company in respect of which the amount that a specified authority which is a member of such company has undertaken to contribute in the event of the company being wound up is not less than fifty per centum of the aggregate amount which all the members of the company have undertaken to contribute; and references in this paragraph to a specified authority include references to any such company.
- (3) A specified authority shall, for the purposes of subsection (1), be deemed to have incurred a pecuniary loss notwithstanding—
- (a) that it has received or is entitled to receive any payment in respect of such loss under any policy of insurance; or
 - (b) that it has been otherwise compensated, or is entitled to be compensated, for such loss.
- (4) No prosecution under this section shall be commenced without the consent of the Director of Public Prosecutions.

Cap. 212
Cap. 381



SCHEDULE—*contd*

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Acts 1970
No. 2

(5) A person may be prosecuted for, and convicted of, an offence under this section notwithstanding the fact that the loss or damage was caused or that the act, omission, negligence, misconduct, failure to take reasonable care or to discharge any duty in reasonable manner, was done, omitted to be done or took place prior to the coming into operation of the Written Laws (Miscellaneous Amendments) Act, 1970.

(6) For the avoidance of doubts it is hereby declared that where any person charged with stealing anything or with any other offence under any section of this Code is acquitted, he may be subsequently charged and tried for an offence under this section even if the subsequent charge under this section is based on the same acts or omissions upon which the previous charge was based.

(7) Where the court convicts a person of an offence under this section, the court shall order such person to pay the specified authority compensation of an amount not exceeding the amount of the actual loss incurred by the specified authority and in assessing such compensation the court shall have regard to any extenuating circumstance it may consider relevant.

(8) Where an order is made under subsection (7) the specified authority in whose favour such order is made may file an authenticated copy thereof in the district court having jurisdiction over the area over which the court which made the order has jurisdiction, and upon being so filed the order shall be deemed to be a decree passed by such district court and may be executed in the same manner as if it were a decree passed under the provisions of the Civil Procedure Code, 1966 and the district court shall have jurisdiction to execute such decree notwithstanding that the amount of the compensation awarded may exceed the pecuniary jurisdiction of the district court."

Acts 1966
No. 49

Cap. 20

The Criminal Procedure Code

(a) In section 176 delete the colon at the end of subsection (1), substitute therefor a full-stop and delete the proviso to that subsection.

(b) Add immediately below section 224 the following new sections:—

"Court
may bind
witnesses
to appear
at trial

225.—(1) A prosecutor may at any time during a preliminary inquiry or, if the preliminary inquiry has been concluded, at any time before the trial before the High Court, apply to the court which is conducting or which conducted the inquiry to summon any person whose attendance may be required at the trial to give evidence or to produce any document and to bind such person to appear at the trial.

(2) Upon an application being made under subsection (1) the court shall summon the person in respect of whom such application is made to appear before it, and when he so appears the court shall bind him by recognizance, with or without surety or sureties, as it may deem requisite, to appear at the trial in compliance with any summons issued in accordance with section 246A.

SCHEDULE—*contd.*

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"Refusal
to be
bound
over

226. If a person required to enter into recognizance under section 225 refuses to enter into such recognizance, the court may commit him to prison or into the custody of any officer of the court, there to remain until such time as the trial has taken place or the case against the accused is otherwise disposed of, unless in the meantime such person enters into recognizance as required by the court."

(c) Add immediately below section 237 the following section:—

"D.P.P.

may direct
further
investigation

238. Where a preliminary inquiry has been concluded and the Director of Public Prosecutions is of the opinion that—

(a) the court which conducted the preliminary inquiry failed to comply with any of the provisions of this Code; or

(b) further investigation is necessary before the accused person is tried before the High Court,

he may, at any time before the trial before the High Court, direct that the original record of proceedings of the inquiry together with the statements and documents produced to the court during the inquiry be remitted to the court which committed the accused person for trial, and such court shall thereupon reopen the case and proceed to dispose of same in accordance with the provisions of this Code relating to preliminary inquiries."

(d) In section 319 add immediately below subsection (2) the following new subsection:—

"(3) Nothing in this section shall be construed as precluding the Court from inflicting a greater punishment than the punishment which might have been inflicted by the court which imposed the sentence."

(e) In section 329 delete subsection (3) and substitute therefor the following subsection:—

(3) Nothing in this section shall be construed as precluding the High Court in the exercise of its jurisdiction under this section from inflicting a greater punishment for the offence which, in the opinion of the High Court, the accused has committed, than the punishment which might have been inflicted by the court which imposed the sentence."

(f) In section 338:—

(i) insert the following marginal note to the section:—

"The powers of the High Court on an appeal";

(ii) Add the following subsection immediately below subsection (1)—

"(2) Where in an appeal under section 334 the High Court proceeds to sentence the respondent or to increase the sentence passed by the subordinate court, nothing in this section shall be construed as precluding the High Court from inflicting a greater punishment than the punishment which might have been inflicted by the subordinate court."

SCHEDULE—*contd.*

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Cap. 212

The Companies Ordinance

(g) Section 346 is repealed and replaced by the following section:—

"346.—(1) Subject to the provisions hereinbefore contained, no finding, sentence or order made or passed by a court of competent jurisdiction shall be reversed or altered on an appeal or revision on account of any error, omission or irregularity in the complaint, summons, warrant, charge, proclamation, order, judgment or in any inquiry or other proceedings under this Code:

Provided that where on an appeal or revision, the court is satisfied that such error, omission or irregularity has in fact occasioned a failure of justice, the court may order a retrial or make such other order as it may consider just and equitable.

(2) In determining whether any error, omission or irregularity has occasioned a failure of justice, the court shall have regard to the question as to whether an objection could and should have been raised at an earlier stage in the proceedings."

(a) add immediately below section 14 the following section:—

"14A.—(1) Notwithstanding the provisions of section 14, the registrar may refuse to register the memorandum and the articles delivered to him.

(2) Where the registrar refuses to register the memorandum and the articles delivered to him, he shall return the same to the person who tendered them for registration, and shall advise such person in writing that in the exercise of the power conferred upon him by subsection (1) of this section he refuses to register the memorandum and the articles.

(3) The registrar shall not be required to assign reasons for his refusal to register the memorandum and the articles."

(b) add immediately below section 320 the following:—

"320A.—(1) No company established outside Tanganyika shall establish a place of business within Tanganyika unless it has applied for and obtained approval of the registrar.

(2) Where an application is made to the registrar under subsection (1) he may, in his absolute discretion, and without assigning any reason therefor, refuse to give his approval to such company to establish a place of business within Tanganyika.

(3) Where any company incorporated outside Tanganyika establishes a place of business within Tanganyika without having first obtained the approval of the registrar, the company, as well as every director, agent or other officer of the company concerned with its management, or any agent of the company, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings, or, in the case of the director, agent or other officer, to imprisonment for a term not exceeding five years, or to both such fine and imprisonment:

SCHEDULE—*contd.*

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		Provided that in the case of a director, officer or agent it shall be a good defence if he satisfies the court that he had no knowledge, and could not, by the exercise of reasonable diligence, have had knowledge of the commission of the offence." (c) Section 331A is amended by deleting the full-stop at the end of paragraph (b), substituting therefor a comma and adding below paragraph (b) the following:— "or, in the case of a company limited by guarantee, a company of which a statutory corporation or a subsidiary company is a sole member." (d) Section 331B is amended— (i) in subsection (1) by deleting the full-stop and substituting therefor "and may become the sole member of any company."; (ii) in subsection (2) by inserting immediately after the words "in a company" in the second line the words "or becomes the sole member of a company". (e) Section 331D and Section 331E are repealed.
Cap. 332	The Excise Tariff Ordinance	In the First Schedule delete the figures "27" which occur under the column headed "Rate of Excise Duty" opposite item 13 (which relates to fabrics) and substitute therefor the figures "29".
Acts 1966 No. 24	The National Defence Act, 1966	In the First Schedule— (a) section C.7 is repealed; (b) section C.65 is amended— (i) in paragraph (a) of subsection (3), by inserting immediately after the word "treason" the words ", treasonable felony"; (ii) by adding immediately below subsection (4) the following subsection:— "(5) Notwithstanding the provisions of this section a person shall not be charged with, or tried by a service tribunal for, a civil offence— (a) if the civil offence is an offence in respect of which the Minister for the time being responsible for legal affairs has directed that it shall be triable by a civil court only; or (b) if the Minister for the time being responsible for legal affairs directs that such person shall be triable by a civil court only."
Act 1969 No. 30	The Sales Tax Act, 1969	(a) Section 62 is repealed. (b) References in the Sales Tax Act, 1969, to the Customs Tariff Act, 1968, shall be construed as references to the Customs Tariff Act, 1969, and any reference to any provision of the Customs Tariff Act, 1968, shall be construed as reference to the corresponding provision of the Customs Tariff Act, 1969.
Act 1969 No. 54	The Customs Tariff Act, 1969	In the First Schedule:— (a) in tariff item 07.01 delete "30%" in the column headed "Fiscal Entry" and substitute therefor "50%"; (b) in tariff item 76.08 delete the rates of fiscal entry in respect of sub-item A (which relates to structure, complete and parts thereof) and sub-item B and substitute therefor in the case of sub-item A "30%" and in the case of sub-item B "Free.";

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SCHEDULE—*contd.*

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(c) in tariff item 87.12 delete the rates of fiscal entry in respect of paragraph (7) (which relates to rims) and paragraph 8 of sub-item C and substitute therefor in the case of paragraph (7) "each Shs. 1/50 or 30%" and in the case of paragraph 8 "30%".

Passed in the National Assembly on the nineteenth day of March, 1970.




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Clerk of the National Assembly