

THE UNITED REPUBLIC OF TANZANIA



No. 31 OF 1972

I ASSENT,

Julius K. Nyerere
President

23RD NOVEMBER, 1972

An Act to amend certain Written Laws

[24TH NOVEMBER, 1972]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Written Laws (Miscellaneous Amendments) (No. 2) Act, 1972.

2. The written laws referred to in the first and second columns of the Schedule hereto are amended in the manner specified in the third column of the said Schedule.

SCHEDULE

COLUMN 1

COLUMN 2

COLUMN 3

Cap. 16

The Penal Code

(a) In Division III, the following new Chapter, heading, and section are added immediately below Chapter XVIII:

"CHAPTER XIX

HOARDING AND ALLIED OFFENCES

Hoarding 194A—(1) Where a person who carries on the business of selling goods of any description, either wholesale or retail, and having such goods in stock, refuses to sell the whole or any quantity thereof to any person offering to purchase the same, shall be guilty of an offence.

(2) For the purposes of this section—

(a) "person who carries on the business of selling goods of any description" includes any employee or agent of such person, and where such employee or agent is charged with an offence under this section the provisions of this sub-section and the provisions of sub-section (3), shall apply, *mutatis mutandis* to the employee or agent as they apply where the person charged is the employer or, as the case may be, the principal, and those provisions shall be construed accordingly;

(b) a person shall be deemed to be carrying on the business of selling goods of any description if he—

(i) at any time within three months prior to the date the offence under this section with which he is charged is alleged to have been committed or at any time after such date, has sold or offered for sale such goods; or

(ii) at any time within the period referred to in sub-paragraph (i), held himself out as being a person carrying on the business of selling such goods; or

(iii) being a person licensed to carry on wholesale or retail business, had, at the time when the offence is alleged to have been committed or at any time within three months immediately preceding or succeeding the date when the offence is alleged to have been committed, possession of a quantity of such goods in circumstances in which, in the opinion of the court, it may reasonably be inferred that such goods were intended by him to be sold in the course of his business;

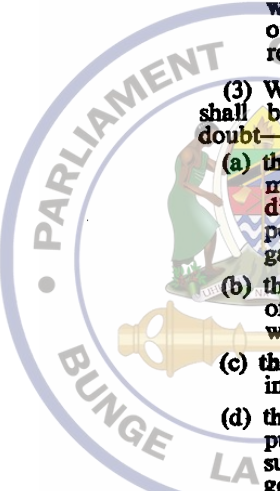
(c) a person shall be deemed to have in stock or to be in possession of goods of any description—

SCHEDULE—*contd.*

COLUMN 1

COLUMN 2

COLUMN 3

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- (i) if he has any quantity of such goods in any premises under his control or management; or
 - (ii) if he is the owner of any quantity of such goods or has a right to dispose of by sale any quantity of such goods;
 - (d) a person shall be deemed to have refused to sell any goods where he offered the goods for sale at a price or subject to a term or condition which, in the opinion of the Court, having regard to all relevant circumstances, was unreasonable.
 - (3) Where a person is charged with an offence under this section it shall be a good defence if he satisfies the court beyond reasonable doubt—
 - (a) that the goods found in any premises under his control or management did not belong to him and that he had no right to dispose of such goods by way of sale and that he did, at the earliest possible opportunity, advise the complainant or the officers investigating the case of the identity of the owner; or
 - (b) that the goods owned by him or which he had a right to dispose of by way of sale had, at the time when such offer to purchase was made, been sold to another person; or
 - (c) that the goods in stock were for his own use or were being used in connection with his business; or
 - (d) that he carries on wholesale business only and that the offer to purchase was by a person not carrying on the business of selling such goods in course of retail trade or that the quantity of the goods in respect of which the offer was made was so small as not to justify a sale on a wholesale basis; or
 - (e) that he had agreed to sell to the complainant a limited quantity of the goods and that the refusal to sell more than such limited quantity was to ensure, having regard to the scarcity of the goods in question and to the existing demand therefor, a fair distribution of the goods to all his customers.
 - (4) Any person found guilty of an offence under this section shall be liable on conviction to imprisonment for a term not exceeding fourteen years or to a fine not exceeding one hundred thousand shillings or to both such imprisonment and such fine, and the court may, in addition thereto, order all the goods of the same description as the goods to which the charge relates and held in stock by such person on the date on which the offence was committed to be forfeited.
 - (b) Section 268 and Section 279 are repealed and replaced by the following two sections respectively:

SCHEDULE—*contd.*

COLUMN 1

COLUMN 2

COLUMN 3

"Stealing
cattle

268.—(1) If the thing stolen is any of the animals to which this section applies, the offender shall be liable to imprisonment for fourteen years.

(2) Where any person kills any animal to which this section applies with intent to steal its skin or carcass, or any part of its skin or carcass, he shall for the purposes of section 258 and this section, be deemed to have stolen the animal and shall be liable to be proceeded against and punished accordingly.

(3) This section applies to a horse, mare, gelding, ass, mule, camel, ostrich, bull, cow, ox, ram, ewe, wether, goat or pig.

Killing
animals
with
intent
to steal

279. Any person who kills any animal capable of being stolen, other than an animal to which section 268 applies, with intent to steal its skin or carcass, or any part of its skin or carcass, shall be guilty of an offence and shall be liable on conviction to the same punishment as if he had stolen the animal."

(c) in Division VI, the following new Chapter, heading and section are added immediately before CHAPTER XXXIII:

"CHAPTER XXXIIA

OFFENCES AGAINST THE SAFETY OF AVIATION

Endangering
safety of
aviation

318A—(1) Any person who—

(a) performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; or

(b) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or

(c) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which would render it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or

(d) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight; or

(e) communicates information which he knows to be false, thereby endangering the safety of an aircraft in flight,

shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding twenty years.

No. 31 Written Laws (Miscellaneous Amendments) (No. 2) 1972 5

SCHEDULE—contd.

COLUMN 1

COLUMN 2

COLUMN 3

(2) For the purposes of this section—

(a) an aircraft shall be deemed to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation; in the case of forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board;

(b) an aircraft shall be deemed to be in service from the beginning of the preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight as defined in paragraph (a) of this section;

(c) an act of violence shall include any threat to use violence.

(3) A person may be prosecuted for an offence under this section notwithstanding that the offence was committed outside Tanganyika:

Provided that save where the offence was committed on or in relation to an aircraft registered in Tanganyika or owned by a citizen of the United Republic ordinarily resident in the United Republic or by a body corporate established by or under any written law, including a company incorporated under the Companies Ordinance, no person shall be tried and punished for an offence under this section if he has been prosecuted for and convicted or, as the case may be acquitted, for the same offence or for an offence involving the same facts, by any court or other judicial authority outside Tanganyika.

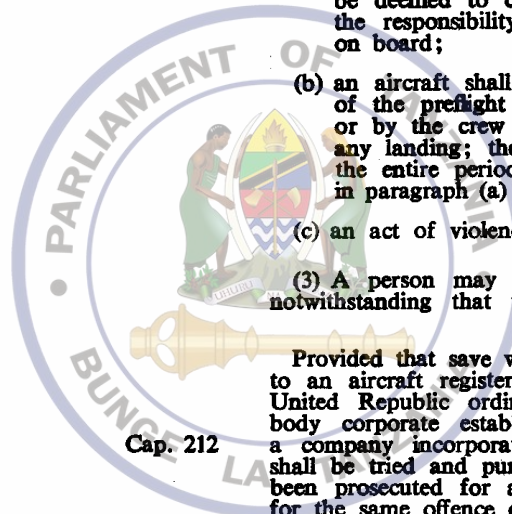
(4) No person shall be prosecuted for an offence under this section save with the consent of the Attorney-General."

Section 32 is amended in subsection (1) by deleting the words "Any gazetted officer, or inspector" which occur at the beginning and substituting therefor "An officer in charge of a police station, or a police officer".

(a) Section 15 is amended by deleting the word "Secretary" where it occurs in paragraph (b) of subsection (1) and substituting therefor the words "General Manager".

Cap. 322 The Police Force Ordinance

Cap. 481 The National Housing Corporation
Act, 1962



SCHEDULE—*contd.*

COLUMN 1

COLUMN 2

COLUMN 3

Cap. 537 The Magistrates' Courts Act, 1972

- (b) The First Schedule is amended in paragraph 11 by deleting the word "Secretary" wheresoever it occurs therein, and substituting therefor in each case the words "General Manager".
- (c) The Act is generally amended by deleting the word "Secretary" wheresoever it occurs therein and substituting therefor in each case the words "General Manager".

The Act is amended by adding, immediately below section 39, the following new section:

"Minister
may confer
extended
appellate
jurisdiction
on resident
magistrate

39A.—(1) The Minister may, after consultation with the Chief Justice and the Attorney-General, by order—

- (a) invest any resident magistrate, in relation to any class of cases specified in the order, with the appellate jurisdiction ordinarily exercisable by the High Court; or
- (b) invest any resident magistrate, in relation to any particular case specified in the order, with the appellate jurisdiction ordinarily exercisable by the High Court,

and such magistrate shall, by virtue of such order and notwithstanding the provisions of any written law to the contrary but subject to the limitations or restrictions if any specified in the order or any subsequent order, have power, in relation to such class of cases so specified or, as the case may be, such case so specified, to hear and determine appeals and exercise revisional and other jurisdiction exercisable by the High Court in its capacity as a court of appeal, in the same manner and to the same extent as the High Court, and in so far as it is necessary, expedient or desirable for the proper exercise by such resident magistrate of such extended jurisdiction, and for the purpose of any appeal from his decision in the exercise of such jurisdiction, such resident magistrate shall be deemed to be a judge of the High Court, and the court presided over by him while exercising such jurisdiction shall be deemed to be the High Court.

Cap. 20
Acts 1966
No. 49

(2) The provisions of this Act, the Criminal Procedure Code and the Civil Procedure Code, 1966 which govern the exercise by the High Court of its appellate and revisional jurisdiction shall, *mutatis mutandis* and to the extent that they are relevant, govern proceedings before a resident magistrate under this section in the same manner as they govern like proceedings before the High Court and the provisions of the said written laws which relate to appeals to the High Court, the powers of the High Court on such appeals, the revisional jurisdiction of the High Court and other matters relating to appeals, revisions, inspection and supervision to or by the High Court, shall be construed, in relation to proceedings under this section, as if the references to the High Court were references to such resident magistrate exercising extended jurisdiction conferred upon him under this section.

No. 31 Written Laws (Miscellaneous Amendments) (No. 2) 1972 7

SCHEDULE—contd.

COLUMN 1

COLUMN 2

COLUMN 3

Acts, 1972
No. 7

The Tobacco Industry Act, 1972

(3) No resident magistrate shall, in the exercise of any extended jurisdiction conferred upon him by an order under subsection (1), exercise such jurisdiction in relation to his own decision as a magistrate in any case or appeal.”.

Acts, 1972
No. 26

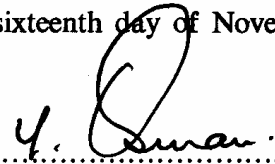
The Training Levy Act, 1972

The Act is amended in section 35, in subsection (3), by deleting the words “30th June, 1972” and substituting therefor the words 30th June, 1973.”.

Section 4 is amended and shall be deemed to have been so amended with effect from the 1st day of July, 1972, in section 4, in subsection (1) by deleting paragraph (b) and substituting therefor the following new paragraph:

“(b) in any other case, the salary, allowances and other income whatsoever accrued in or derived from the United Republic in respect of any employment.”.

Passed in the National Assembly on the sixteenth day of November, 1972.


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Clerk of the National Assembly