
THE UNITED REPUBLIC OF TANZANIA

BILL SUPPLIMENT

No.11

12th October, 2007

to the Gazette of the United Republic of Tanzania No. 41 Vol. 88 dated 12th October, 2007
Printed by the Government Printer, Dar es Salaam, by Order of Government

THE NATIONAL PROSECUTIONS SERVICE ACT, 2007

NOTICE

The following Bill to be submitted to the National Assembly is published for general information to the public together with a statement of its objects and reasons.

Dar es Salaam,
..... October, 2007

PHILLEMONT L. LUHANJO
Chief Secretary

A BILL

for

An Act to make provisions for the establishment of the National Prosecutions Service, to provide for the organisation, management, monitoring, supervision of prosecution and coordination of investigation with a view to promoting and enhancing dispensation of criminal justice, and to provide for related matters.

OBJECTS AND REASONS

The objective of this Bill is to make proposals for enactment of the National Prosecutions Service Act, 2007. The enactment of this Act is intend to streamline operations of the Directorate of Public Prosecutions with a view to upholding the rule of law through the effective administration of criminal justice. In order to enhance the role of dispensing criminal justice it has been necessary and important to structure the Directorate with a view to-

- (a) guarantee operational independence of the Director;
- (b) provide for appointment of the Director;
- (c) provide for security of tenure of office of the Director ;
- (d) re-state powers of the Director to institute, take over and continue or discontinue criminal proceedings; and
- (e) stipulate in more certain terms, principle guidance for the exercise of powers and performance of functions by the Director.

The Bill is divided into Six Parts. Part I provides for preliminary matters wherein provisions in relation to title, commencement, application and interpretation are provided.

Part II makes provisions for establishments of the National Prosecutions Service whose members would consist of the Director, Acting Director, State Attorneys, public prosecutors and such other officers as may be appointed to assist the Director in the execution of the functions of the Service. In the exercise of his powers, the Director shall be guided by the need to do justice, interest of administration of justice as well as the need to prevent abuse of legal process and the public interest.

In controlling prosecutions, the Director of Public Prosecution, shall have the power to decide to prosecute or not to prosecute an offence, institute, conduct and control prosecutions of criminal cases prosecution for an offence, institute, conduct and control of prosecution for an offence brought by another person or authority, discontinue and coordinate investigation of crimes generally. The Director may also institute, conduct or defend appeals, revision or any other proceedings relating to criminal matters. The powers bestowed on the Director may also be exercised by Law Officers, State Attorneys and public prosecutors appointed in accordance with the provisions of this Act. In the course of performance of his functions, the Director may procure or secure extraditions of persons in accordance with the provisions of the Extradition Act, the Mutual Assistance in Criminal Matters Act and other laws. The Director may trace, forfeit or recover assets which become due to Government in the course of conduct of criminal proceedings.

Part III makes provisions on the tenure of office of the Director, as well as terms and conditions of service of the Director which would now be similar to those of a judge of the High Court. The procedure for removal, retirement and resignation of the Director is also provided for.

Part IV contains provisions enabling the Director to coordinate investigation of crimes so that he may require certain information to be furnished to him by certain public officials.

Part V provides for general provisions. It is provided under section 26 that all persons holding or acting in judicial capacity shall take judicial notice of the signature of the Director and officials acting under his instruction or behalf. It is also proposed to set a National Criminal Justice Forum in order to avail opportunity for criminal justice institutions and other stakeholders to discuss strategic issues involved in the administration of criminal justice. The Forum to be constituted of a number of actors in the criminal justice system will meet twice annually. Sections 28 and 29 invest powers in the Minister to make regulations and stipulate transitional provisions.

Last but not least, is Part VI which makes proposals for consequential amendments to certain laws in order to align such laws with the changes brought by the enactment of the National Prosecutions Service Act. The amendments relates to the Criminal Procedure Act, Cap. 20; the Bankruptcy Act, Cap. 25; the National Lotteries Act, Cap. 41; the Social Security Fund Act, Cap.50; the Marine Park Act, Cap. 146; the Excise (Management and Tariff) Act Cap. 147; the Merchant Shipping Act, Cap. 165; the Economic and Organised Crimes Control Act, Cap, 200; the Companies Act, Cap. 212; the Bookeeping Act, Cap. 224; the Diary Industry Act, Cap. 262; the National Parks Act, Cap 282; the Wildlife Conservation Act, Cap. 283; the Ngorongoro Conservation Act, Cap. 284; the Factories Act, Cap. 297; the Forests Act, Cap, 323; the Income Tax Act Cap 332; the Public Health (Sewerage and Drainage) Act; the Public Service Retirement Benefits Act, Cap 371; the Parastatal Organisation and Pensions Scheme fund Act, Cap. 372; the National Health Insurance Fund Act, Cap. 395 and the Local Authorities Pensions Act, Cap. 407.