

THE UNITED REPUBLIC OF TANZANIA



No. 10 OF 1983

I ASSENT.

Julius K. Nyerere
President

2nd July, 1983.

An Act to amend the Economic Sabotage (Special Provisions) Act, 1983

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

1. Save as is provided in section 21, this Act may be cited as the Economic Sabotage (Special Provisions) (Amendment) Act, 1983, and shall be read as one with the Economic Sabotage (Special Provisions) Act, 1983, in this Act referred to as "the principal Act".

Short title
and construction
Acts, 1983
No. 9

2. Section 2 of the principal Act is hereby amended—

Amendment
of section 2

(a) by deleting the definition "economic sabotage" and substituting for it the following:

"economic sabotage" means any act or omission or a combination of acts, or of omissions and acts, which constitute or would constitute a scheduled offence";

(b) by deleting the definition "economic sabotage offence" and substituting for it the following:

"economic sabotage offence" means an offence triable under this Act";

(c) by inserting, immediately after the definition "necessary service", the following definitions:

"police officer" means any member of the police force of or above the rank of constable, and includes—

(i) a member of the people's militia and any other person acting under the directions of a police officer;

(ii) any public officer discharging functions, for the purposes of this Act, under any written law creating offences the investigation and prosecution of which is required to be conducted by public officers other than members of the police force;

"police public prosecutor" means a member of the police force who is a public prosecutor, and includes a public officer who is a police officer for the purposes of this Act";

3. Section 3 of the principal Act is hereby amended by deleting subsections (3) and (4) and substituting for them respectively, the following—

Amendment
of section 3

2 **No. 10 Economic Sabotage (Special Provision) (Amendment) 1983**

"(3) For the purposes of making an order under subsection (2), applying this Act to economic sabotage offences, the President may-

- (a) apply the Act to such area or areas of Mainland Tanzania as he may specify in the order;
- (b) apply the Act in respect of such persons or category of persons committing such economic sabotage offences as he may specify in the order;
- (c) specify economic sabotage offences which, or empower any other person or authority to determine which of the cases involving scheduled offences, shall be instituted before the Tribunal and which shall be dealt with otherwise;
- (d) specify the duration for which the order shall remain in force in the manner specified in the order.

"(4) The first order made by the President under subsection (2) shall remain in force for a period of twelve months from the date of its commencement and shall then expire, save that any investigation or legal proceeding under this Act pending before the police or the Tribunal shall continue until it is determined. A second order, if made, shall remain in force for a period of not more than six months from the date of the expiration of the first order unless the National Assembly by resolution in that behalf extends its application for a period to be specified in the resolution"

Amendment of section 4 4. Section 4 of the principal Act is hereby amended by deleting subsection (4) and substituting for it the following-

"(4) No person in respect of whom proceedings are instituted before the Tribunal shall at any time before the proceedings are concluded, be released from confinement by the Tribunal or by any other person, whether on bail or for any other reason."

Amendment Of section 5 5. Section 5 of the principal Act is hereby amended-

"(a) by inserting, immediately after subsection (3), the following subsections:

"(4) Where any member is, by reason of illness, incapacity or absence from the United Republic, unable to perform the functions of his office, the President may appoint any person as a temporary member to act in the place of such member until his recovery from incapacity or illness or his return, as the case may be, or until the expiration of his term of office, whichever first occurs; save that where the member is a Judge, the person to be appointed a temporary member in his place shall be a Judge of the High Court.";

-(b) by renumbering subsections (4), (5) (6)'and (7) of the Act as subsections (5), (6), (7) and (8), respectively; ,

(c) by deleting subsection (5) and substituting for it the following-

"(5) Where the Tribunal convicts a person of any economic sabotage offence it may order that he be detained in prison in accordance with the provisions of the Prisons Act, 1967, for any period not exceeding fifteen years, and shall make such orders as it may deem fit, relating to-

- (a) the settlement of that person, taking into account the need to ensure the security and productivity of the convict while serving the sentence; and
- (b) the disposal of any property to which the economic sabotage offence concerned related.;

No. 10 Economic Sabotage (Special Provisions) (Amendment) 1983.**3**

(d) by deleting subsection (6) and substituting for it the following-

- '(6) Where the Tribunal acquits a person of any economic sabotage offence it shall order that he be released and the property or the value Of the property involved in the alleged economic sabotage offence be restored to him."

6. The principal Act is hereby amended by repealing section 6 and substituting for it the following-

Repeal and replacement

Disposal and forfeiture of property

6.-(1) Where, before the institution or determination of proceedings before the Tribunal it appears to the Inspector-General of Police or a person authorized by him in writing or to the Tribunal, that any property seized under this Act or put in evidence in, Proceedings before the Tribunal, is subject to speedy decay or that for any other reasonable cause it is necessary that it be immediately disposed of, the Inspector-General of Police or the Tribunal, as the case may be, may cause or order that subject to subsection (6), that property be destroyed, disposed of or dealt with in such manner as he or the Tribunal may specify.

(2) Where any property is destroyed, disposed of or dealt with in any other manner before the institution or determination of proceedings in pursuance of subsection (1), a certificate signed by the Inspector-General of Police or any person authorised by him in writing shall in the absence of proof to the contrary be conclusive evidence of the reasons, the manner and circumstances in, and the value for, which the property was disposed of or dealt with, and shall be considered to be the rightful value of the property for the purposes of this Act.

(3) Where the Tribunal convicts any person of an economic sabotage offence involving or in respect of any property, movable or immovable, it shall order that the property be forfeited to the United Republic.

(4) Where the Tribunal orders the forfeiture of any property pursuant to subsection (3), the property may be kept or sold, and the same or the proceeds of its sale shall be paid into and form part of the Consolidated Fund and be kept or dealt with in accordance with the provisions of regulations made in that behalf by the Minister.

(5) Where before or after the determination of proceedings before the Tribunal any property seized or put in evidence is sold or disposed of in any other manner, except where the property is sold or disposed of in any other manner in a shop or through any other public marketing Utility or organ, no public officer having any duty to perform in connection with the sale of any property under this Act shall, directly or indirectly, purchase or bid for the property.

(6) No property ordered or required to be forfeited or disposed of under this section shall be sold by Public auction.

(7) For the purposes of this section, "property" includes not only the, property originally in the possession or under the control of the accused person but also any property into or for which that original property is converted or exchanged, and, any thing acquired by such conversion or exchange, whether before or after the accused was arrested."

7 Section 7 of the principal Act is hereby repealed and replaced by the following.-

Repeal and replacement of section 7

Disappearance of suspect

7.-(1) Where the Inspector-General of Police is satisfied that any person under arrest or liable to be investigated, searched or arrested in connection with any reasonable suspicion of the commission of an economic sabotage offence has absconded to any place outside the United Republic or, within the United Republic, concealed himself so that he may not be arrested, searched or otherwise investigated as to the alleged commission of the offence in question, the Inspector-General of Police may cause investigation measures to be taken in relation to the premises and any property in the possession or under the control of the suspect but abandoned by reason of his abscondence.

(2) Where, upon the completion of measures taken in pursuance of subsection (1), the commission of an economic sabotage offence is revealed for which the suspect would have been prosecuted before the Tribunal but for his abscondence, the Inspector-General shall by publication in the *Gazette*, give notice to the general public of not less than twenty-one clear days, that he intends to submit the property before the Tribunal for it to make orders in relation to the property or other goods involved.

(3) Upon the expiration of the period of the notice under subsection (2) the Inspector-General of Police shall prepare and lodge with the Tribunal a certificate stating-

- (a) the name of the absconding suspect;
- (b) the address of his deserted residence or the premises involved;
- (c) the details of the property abandoned in respect of which an economic sabotage offence is alleged to have been committed;
- (d) any evidence envisaged to be relied upon by the prosecution were the suspect to be found and charged before the Tribunal.

(4) Upon receipt of a certificate lodged with it in pursuance of subsection (3), and upon consideration of any representations made, if any, the Tribunal shall proceed to make orders for the forfeiture to the United Republic or disposal in any other manner, of the property or part of the property or goods abandoned by the absconding suspect.

(5) Where an absconding suspect subsequently returns to the United Republic or reveals his whereabouts within the United Republic, so long as an order under section 3 of this Act is in force, the suspect may be arrested and charged with the economic sabotage offence with which he would have been charged had he not absconded.

(6) Notwithstanding any written law for the time being in force within the United Republic and whether or not the absconding suspect subsequently reappears within the United Republic, no action, claim or demand of any kind shall be instituted in any court against any person in relation to any property or goods forfeited or disposed of by an order of the Tribunal in pursuance of the provisions of this section."

8. The marginal note to section 8 of the principal Act is hereby deleted and replaced by the following:-

"Responsibility for the conduct of prosecutions."

Substitution of marginal note

Repeal and replacement of section 9

9. Section (9) of the principal Act is hereby repealed and replaced by the following:-

"Conduct of inquiries before the Tribunal

9.-(1) All proceedings before the Tribunal shall be open to the members of the public generally in so far as the place in which the proceedings are conducted may contain them, but at any stage of the proceedings the Tribunal may, where it thinks fit, and shall, upon application in that behalf by the prosecution, order that the proceedings be conducted in camera.

(2) Notwithstanding that the proceedings or any part of them are held in camera pursuant to subsection (1), the judgment of the Tribunal at the conclusion of every proceeding shall be pronounced in the open by the Judge presiding over those proceedings."

10. The principal Act is hereby amended by adding, immediately after section 9, the following new section.-

Addition of new section

Manner of obtaining and sources of evidence

9A.-(1) Subject to compliance with the rules of natural justice, the Tribunal may obtain or hear any evidence which is pertinent to the inquiry before it from such person or persons as it deems necessary and just.

(2) Subject to compliance with the rules of natural justice, the Tribunal may receive any evidence which is worth of belief and is relevant and valuable for the just determination of the inquiry, whether or not the evidence in question is evidence within the meaning of the law for the time being in force in relation to the admissibility of evidence in courts of law.

(3) Nothing in this section shall be deemed to preclude the Minister from making regulations under this Act prescribing the procedure for the addition of evidence and the manner of proving facts relevant to inquiries before the Tribunal".

11. Section 10 of the principal Act is hereby amended-

Amendment of section 10

(a) by deleting subsection (2) and substituting for it the following-

- '(2) Where the Tribunal orders any person to be examined on oath, that person shall testify on oath or affirmation, and any member may administer the oath or affirmation"

(b) by deleting subsection (6) and substituting for it the following-

"(6) Where a person is arrested in pursuance of a warrant issued under this section and is not brought before the Tribunal within twenty-four hours of his arrest or earlier released by the Tribunal on his undertaking to attend at a time and place specified by it, he shall forthwith be taken before a police officer-in-charge of an area who shall-

- (a) if that person enters into a suitable recognizance for his appearance before the Tribunal, release him from custody; or .
- (b) order that person to be detained in custody until such time."

12. Section 12 of the principal Act is hereby repealed and replaced by the following-

Repeal and replacement of section 12

state privilege and laws relating to secrecy

12.-(1) Where the President certifies that the divulgence of any information before the Tribunal by making any statement, answering any question or producing any document, paper or thing-

- (a) might prejudice the security, defence or international relations of Tanzania, including Tanzania's, relations with the Government of any other country or with any international organization or the investigation or detection of offences;
- (b) might involve the disclosure of deliberations of the Cabinet, or of any of its committees; or

(c) might disclose matters of a secret or confidential nature the revelation of which would be injurious to the public interest, the Tribunal shall not require the statement to be made, the question to be answered or the document, paper or thing to be produced, as the case may be.

(2) No person bound by the National Security Act, 1970 the Judicial Service Act, 1961, the Civil Service Act, 1962, or the Local Government Service Act, 1982, to maintain secrecy in relation to any matter, shall be required to supply any information to or answer any question put by, the Tribunal in relation to that matter, or to produce before the Tribunal any document, paper or thing relating to it if compliance with that requirement would be in breach of the obligations of secrecy.

(3) Save as provided in the preceding provisions of this section, but notwithstanding any other written law:-

(a) no person may refuse to disclose any information, answer any question, produce any document, paper or other thing before the Tribunal on account only of any judicial, official or state privilege or any privilege relating to information as to the commission of an economic sabotage offence;

(b) the disclosure before the Tribunal of any matter in relation to which any person has taken the oath of secrecy shall be deemed to be a disclosure by that person in the course of his duties for an authorized purpose and with the authority of the person empowered to authorize the disclosure;

(c) except for prosecution for an offence under section 102, 103, 106, 108, or 109, of the Penal Code, a person shall not be liable to prosecution for any offence under the National Security Act, 1970, the Judicial Service Act, 1962, the Civil Service Act, 1962, the Local Government Service Act, 1982, or any other written law by reason only of his compliance with any requirement of the Tribunal under section 11."

Repeal and replacement of section 13 **13.** Section 13 of the principal Act is hereby repealed and replaced by the following:-

section 13 "Accused not to be assisted **13.** No person, other than the accused person, by whatever title or designation known, and whatever the position he holds in relation to the accused person, shall have a right to appear before the Tribunal and be heard for the purposes of advocating the case for the defence of the accused person"

Deletion of heading **14.** The principal Act is hereby amended by deleting the heading "Privileges of the Tribunal occurring immediately after section 13.

Repeal and replacement of section 14 **15.** Section 14 of the principal Act is hereby repealed and replaced by the following:-

Repeal and replacement of section 14 "Limitation of liability of President, Tribunal, etc. **14.**-(1) Notwithstanding the provisions of any other written law for the time being in force providing the contrary, no order or decision made and no act or thing done or omitted by the President or by any person acting on behalf or in the office of the President, in furtherance of the purposes and provisions of this Act shall subject the President or that person to any action, liability or demand of any kind.

(2) Save as is expressly provided by this Act, no act or thing done or omitted by a member shall, if the act or omission be done or omitted *bonafide* in the exercise of his functions under this Act

render that member liable in criminal or civil law for that act or omission.

(3) Subject to subsection (4), and without prejudice to the provisions of section 284A of the Penal Code or of the Specified Officers (Recovery of Debts) Act, 1970, or of the Parastatal Employees (Recovery of Debts) Act, 1974, no act or thing done or omitted by any officer, servant or agent of the Tribunal or any other public officer shall if done or omitted *bonafide* in the execution or purported execution of his duties as such officer, servant or agent of the Tribunal or such other public officer, subject him to any action, liability or demand of any kind.

(4) Nothing in this section shall be construed as protecting from liability any officer, servant or agent of the Tribunal or any other public officer who in purported performance of functions under this Act acts in excess of his authority or with undue negligence.

(5) Subject to any provisions regarding the making of appeals or petitions, no inquiry, proceeding, decision or process of the Tribunal shall be nullified for any error or irregularity of form and, except on the ground of lack of jurisdiction, no inquiry, proceeding or process of the Tribunal may be challenged, reviewed, quashed or called into question in any court."

16. Section 15 of the principal Act is hereby repealed and replaced by the following-

"Proceedings of the Tribunal privileged

15--(1) No member, officer, servant or agent of the Tribunal, and no public officer performing any function in connection with proceedings before the Tribunal, shall be required to adduce evidence in proceedings before any court of law or any other tribunal of a judicial nature, in respect of any proceeding, inquiry or other thing, or process transpiring before the Tribunal or coming into his knowledge by reason of his exercising any function under this Act in connection with the Tribunal.

(2) Every information, document or other thing said or produced by any person in the course, of any proceedings before the Tribunal shall be privileged in the same manner and to the same extent as if it were said or produced in proceedings before a court of law, and a judgment of the Tribunal shall have the same privilege and effect as a judgment of a court of law."

Repeal and replacement of section 15

17. The principal Act is hereby amended by deleting the heading "*Miscellaneous*" which occurs immediately after section 15.

Deletion of heading

18. Section 16 of the principal Act is hereby amended:-

(a) in subsection (1)-

Amendment of section 16

(i) by deleting the comma at the end of paragraph (f) and substituting for it a semi-colon;

(ii) by inserting, immediately after paragraph (f), the following new paragraph-

"(g) knowingly and without lawful justification makes a complaint or gives information to a police officer which he believes or should have known to be false or untrue, and which leads to the undeserved arrest and detention of any person for an alleged economic sabotage offence;"

8 **No. 10 Economic Sabotage (Special Provision) (Amendment) 1983**

(iii) by deleting the passage at the end of subsection (1) commencing with the word "shall" and ending with the word "imprisonment" and substituting for it the following passage:-

"shall be guilty of an offence triable by the Tribunal and liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three years or to both that fine and imprisonment.";

(b) by deleting subsection (2) and substituting for it the following:-

"(2) Any person shall be guilty of an offence who, otherwise than in the exercise of his official functions, publishes or discloses to any person the contents of any document, communication or other information which comes to his notice in the course of his duties in relation to the Tribunal, and shall be liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three years or to both that fine and imprisonment.";

(c) in subsection (4), by inserting immediately after the word "oath" the words "or affirmation";

(d) by deleting subsection (5) and substituting for it the following:-

,5) Every trial for an offence contrary to subsection (2) or (3) shall be before a court of a Resident Magistrate and be determined within sixty days, and no prosecution for such offence shall be instituted save with the consent of the Director of Public Prosecutions."

Repeal and replacement of section 17

19. Section 17 of the principal Act is hereby repealed and replaced by the following-

"Arrest for offences under section 16

17.-(1) Any person may with a warrant of arrest issued by a magistrate arrest any person whom he reasonably suspects of committing any offence contrary to paragraph (a), (c) or (d) of subsection (1) of section 16.

(2) Any member, officer, servant or agent of the Tribunal, and any police officer may arrest without warrant any person who in his presence commits an offence contrary to paragraph (b), (e), (f) or (g) of subsection (1) of section 16.

Amendment of section 18

20. Section 18 of the principal Act is hereby amended by inserting in the item being added to Part I of the Schedule to the National Archives Act, 1965, the word "Anti-" between the words "National" and "Economic" in reference to the Tribunal.

Repeal and replacement of section 19

21. Section 19 of the principal Act is hereby repealed and replaced by the following:-

19.-(1) This section shall be deemed to have come into operation on the 24th day of March, 1983.

(2) The offences specified in the Schedule to this Act are hereby designated as "scheduled offences" for the purposes of this Act.

Repeal and replacement of section 20

22. Section 20 of the principal Act is hereby repealed and replaced by the following-

Finality of Decisions of Tribunal

20.-The decision of the Tribunal in any proceedings before it shall be final and conclusive, shall not be subject to review, by any court or person in any capacity.

Substitution of Schedule to the Act

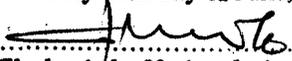
23.- (1) This section shall be deemed to have come into operation on the 24th day of March, 1983.

1. (2) The Schedule to the principal Act is hereby deleted and replaced by the following'

"SCHEDULE**(Section 19)***Scheduled Offences*

1. All offences under the Exchange Control Ordinance.
2. The offence of hoarding goods, contrary to section 194A of the Penal Code.
3. The offence of hoarding money, contrary to section 194B of the Penal Code.
4. The offence of conveying, possessing or having under control any property or anything which is reasonably suspected of having been stolen or otherwise unlawfully obtained, contrary to section 312 of the Penal Code.
5. The offence of occasioning loss to a specified authority through negligence, unreasonableness or misconduct, contrary to section 284A of the Penal Code.
6. All offences under the Prevention of Corruption Act, 1971.
7. Not being an authorized trader, selling or offering for sale any designated goods contrary to section 3 of the Regulation of Trade Act, 1980.
8. Being a supplier or distributor of designated goods, selling or distributing designated goods to a person who is not an authorized trader, contrary to section 4 of the Regulation of Trade Act, 1980.
9. Being a person in authority, knowingly and without lawful excuse, causing or procuring a supplier or distributor to supply designated goods to a person who is not an authorized trader or to supply designated goods in inordinate amounts or quantities, contrary to section 4A of the Regulation of Trade Act, 1980.
10. All offences under the Regulation of Prices Act, 1973.
11. All offences under the Locally Manufactured Products (Price Stability) Act, 1972
12. Damaging, hindering or interfering with, or doing any act which is likely to damage, hinder or interfere with, or the carrying on of, any necessary service contrary to section 3 (d) of the National Security Act, 1973.
13. Using firearms or explosives in the commission of any offence under any written law for the time being in force in the United Republic.
14. Possession of offensive weapons or materials, contrary to section 8 of the National Security Act, 1970.
15. All offences under the Stock Theft Ordinance.
16. Importing any goods or procuring the importation of any goods, contrary to section 4 of the Imports Control Ordinance.
17. Exporting or procuring the exportation of any export-controlled goods, contrary to section 4 of the Exports Control Ordinance.
18. Unlawfully capturing, hunting or trapping animals in a game reserve or game-controlled area; unlawfully dealing in trophies or in Government trophies; and unlawful possession of weapons in certain circumstances, contrary to sections 10, 11, 14, 35 Part VI, sections 67 and 71 of the Wildlife Conservation Act, 1974, or contrary to section 16 of the National Parks Ordinance.
19. Unlawful prospecting or mining for minerals, contrary to the provisions of the Mining Act, 1979.
20. All offences under the Gemstone Industry (Development and Protection) Act 1967
21. All offences under the Diamond Industry Protection Ordinance.

Passed in the National Assembly on the twenty-fifth day of June, 1983.


Clerk of the National Assembly