

CHAPTER 37

THE REFUGEES ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 37

THE REFUGEES ACT

An Act to make provision for the enactment of the Refugees Act, National Eligibility Committee, asylum seekers and refugee administration and to repeal the Refugee (Control) Act and for connected matters.

[15th April, 1999]

[G.N. No. 107 of 1999]

Act No. 9 of 1998

PART I

PRELIMINARY PROVISIONS (ss 1-4)

[PCh37s1]1. Short title

This Act may be cited as the Refugees Act.

[PCh37s2]2. Application

This Act shall apply throughout the United Republic of Tanzania.

[PCh37s3]3. Interpretation

In this Act, unless the context otherwise requires—

"area" means when a competent authority is a Regional Commissioner, the region of which he has the charge; and when the competent authority is a District Commissioner, the district of which he has the charge;

"asylum" means shelter granted by the Government to persons qualifying for refugee status in accordance with the provisions of this Act;

"asylum seeker" means a person seeking refugee status in accordance with the provisions of this Act and in accordance with other International Conventions relating to refugee matters of which Tanzania has acceded to;

"authorised officer" means the Director of Refugee Services, refugee officer, a settlement officer or immigration officer;

"Committee" means the National Eligibility Committee established under section 6 of this Act;

"competent authority" means a Regional Commissioner and for the purpose of sections 10, 11, 13 and 14 includes a District Commissioner;

"dependant" has the meaning ascribed to it by the Immigration Act, 1995;

"designated areas" means an area declared as such by the Minister or competent authority under subsections (1), (2) and (3) of section 16;

"Director" means the Director of Refugee Services appointed under section 5 of this Act;

"family" includes husband or wife or a lawfully recognised spouse, children below 18 years and any person living with the asylum seeker or refugee as a dependant;

"lock up" means any facility for holding or detaining remanded asylum seekers and refugees within the designated areas;

"Minister" means the Minister for the time being responsible for refugees matters;

"OAU" means the Organisation of African Unity;

"reception area" means an area declared as such by the Minister under section 16(1);

"Refugee Officer" means an officer responsible for refugees matters under this Act and answerable to the Director;

"refugee settlement" means a refugee settlement established in accordance with section 16(3);

"settlement officer" means a person appointed to be in charge of a designated area;

"Trust" means Tanzania Refugee Trust established under section 15 of this Act;

"UN" means the United Nations;

"UNHCR" means United Nations High Commissioner for Refugees.

[PCh37s4]4. Definition of refugee, cessation, exclusion

(1) Subject to the provisions of subsections (3) and (4) this section and for the purposes of this Act a refugee is any person who—

(a) is outside the country of his nationality or if he has no nationality, the country of his former habitual residence, because he has or had a well founded fear of persecution by reason of his race, religion, nationality membership of a particular social group or political opinion and is unable or, because of such fear, is unwilling to avail himself of the protection of the Government of the country of his nationality, or, if he has no nationality, to return to the country of his former habitual residence;

(b) owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or

nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality;

(c) belongs to a group of persons which by notice in the Government Gazette has been declared to be refugees for he has or had a well founded fear of persecution by reason of his race, the reasons set out in paragraphs (a) and (b) above.

(2) In the case of a person who has several nationalities the term "a country of which he is a national" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of which he is a national if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

(3) A person shall cease to be considered to be a refugee for the purposes of this Act if—

(a) he has voluntarily re-availed himself of the protection of the country of his nationality; or

(b) having lost his nationality he has voluntarily re-acquired it; or

(c) he has acquired a new nationality, and enjoys the protection of the country of his new nationality; or

(d) he has voluntarily re-established himself in the country which he remained owing to fear of persecution; or

(e) he can no longer because the circumstances in connection with which he was recognised as a refugee having ceased to exist, continue to refuse to avail himself of

the protection of the country of his nationality, or if he has no nationality the country of his former habitual residence;

(f) he has committed a serious non-political crime outside his country of refugee after his admission to that country as a refugee; or

(g) he has seriously infringed the purposes and objectives of the 1969 OAU Refugee convention governing the "Specific Aspects for Refugee Problems in Africa";

(h) he has involved himself in subversive activities whilst enjoying asylum in Tanzania.

(4) A person shall not be considered a refugee for the purposes of this Act if–

(a) he has committed a crime against peace, a war crime or a crime against humanity, as defined in International instruments drawn up to make provision in respect of such crimes; or

(b) he committed a serious non-political crime outside the country of refuge prior to his admission in Tanzania as a refugee; or

(c) he has been guilty of any act contrary to the purposes and principles of the OAU and/or UN;

(d) he has already been granted refugee status or asylum in another country prior to his entry to Tanzania provided that a person qualifying for resettlement or family re-unification in accordance with the provisions of this Act or a person arriving from a territory where there has been a serious breach of peace, shall have his application for asylum considered;

(e) prior to his entry into Tanzania he has transited through one or more countries and is unable to show reasonable cause for failure to seek asylum in those countries, provided that a person who has transited through a country or countries where there is a serious serviced breach of peace.

PART II

ADMINISTRATION PROVISIONS (ss 5-9)

[PCh37s5]5. Director of Refugee Services

(1) There shall be a Director of Refugee Services, who shall be appointed by the President.

(2) The functions of the Director shall be the following—

- (a) to convene meetings of the National Eligibility Committee;
- (b) to receive applications for refugees status and submit them to the Committee or the Ad-hoc Committee;
- (c) to register applications for refugee status and maintain a register status and maintain a register of recognised refugees. Alterations to any of those registers can only be done upon approval of the Minister;
- (d) to co-ordinate the provision of adequate facilities and services for the reception and care of refugees and asylum seekers within Tanzania;
- (e) to ensure that an applicant for refugee status is not ordered to leave the country before his claim for refugee status has been decided upon in accordance with the provisions of this Act;

(f) to receive applications for a resettlement of refugees in Tanzania from other countries of asylum, to submit them before the Committee and to keep all records thereof;

(g) to implement and communicate with applicants the decisions of the Minister;

(h) to exercise any other functions and duties that may be assigned to him by the Minister in terms of this Act.

(3) No destruction, variation or alteration of any record made or kept under the terms of this section shall be except with approval of the Minister and shall be published in the Government Gazette.

[PCh37s6]6. Establishment of a Committee

(1) There is established a National Eligibility Committee which shall consist of the following members—

(a) the Director;

(b) not less than seven other members appointed by the Minister from the following departments in consultation with their respective Ministers—

(i) the Director of Public Prosecutions, who shall be the Chairman;

(ii) the President's Officer;

(iii) the Prime Minister's Office;

(iv) the Chief Minister's office;

(v) the Ministry of Foreign Affairs and International Co-operation;

- (vi) the Inspector-General of Police; and
- (vii) the Director of Immigration Services.

(2) The Officer of the UNHCR Representative in Tanzania shall be invited to attend the meetings of the Committee as an observer.

(3) The Minister may, when he considers it necessary, co-opt for a specified period not more than two additional members to the Committee but co-opted members have no right of vote.

(4) The Committee shall elect annually by simple majority a Vice-Chairman from amongst its members. The Committee shall in the absence of the Chairman and Vice-Chairman, elect by a simple majority from among its permanent members an acting Chairman.

(5) The Office of the Director shall provide the Secretariat of the Committee.

[PCh37s7]7. Functions of the Committee

The functions of the Committee shall be as follows—

(a) to consider all applicants for refuge status and recommend to the Minister for—

- (i) grant of refugee status and asylum;
- (ii) denial of refugee status and asylum;

(b) to consider and make recommendations to the Minister on applications for family re-unification with recognised refugees in Tanzania;

(c) to consider and make recommendations to the Minister on requests from refugees for resettlement in Tanzania;

(d) to advise the Minister or the Director on any matter referred to it by either of them or both.

[PCh37s8]8. Ad-hoc Committee

(1) Where it is not feasible for the Committee to convene, the Minister shall direct that an Ad-hoc Committee be constituted to consider the refugee status of any group of persons claiming to be refugees and make recommendation to the Minister accordingly.

(2) An Ad-hoc Committee referred to in subsection (1) shall be in respect of the area where the asylum seekers are and shall be composed of the—

- (a) Member of Parliament;
- (b) Director;
- (c) Regional Administrative Secretary;
- (d) Regional Security Officer;
- (e) Regional Police Commander;
- (f) Regional Immigration Officer;
- (g) The State Attorney in charge of the area where the asylum is sought.

(3) The UNHCR Representative in Tanzania or in his absence any other UNHCR Official designated by the Representative in Tanzania shall be invited to attend as an observer.

(4) The Minister shall appoint a Chairman and Vice-Chairman of the Ad-hoc Committee.

(5) The Minister shall specify the group of persons whom the Ad-hoc Committee shall consider their status and a time frame within which the Committee shall accomplish its work.

(6) The Office of the Director shall provide the Secretariat.

[PCh37s9]9. Determination of status

(1) Any person entering or who is within Tanzania, whether lawfully or otherwise and who wishes to remain in Tanzania as a refugee within the meaning of section 4, shall immediately and not later than seven days after entry, unless he can show reasonable cause for delay, present himself or report to the nearest authorised officer, village Executive Officer, or a justice of peace and apply for recognition as a refugee.

(2) In the case of a person who is lawfully in Tanzania and is subsequently unable to return to his country of origin for the reasons within the meaning of section 4 he shall, prior to the expiration of his lawful stay, present himself or report and apply to an authorised officer for recognition as refugee in accordance with the provisions of this Act.

(3) Without prejudice to the provision of this section, no person claiming to be a refugee within the meaning of section 4 shall merely for reasons of his illegal entry be declared a prohibited immigrant, detained or penalised in any other way save that any person who after entering Tanzania or who is within Tanzania fails to comply with subsection (1) of this section shall be guilty of an offence.

(4) If the authority to whom the person reports or represents himself in accordance with subsection (1) of this section is not a authorised officer he shall instruct the person claiming to be a refugee to apply for recognition of his refugee status and refer him to an authorised officer.

(5) In applying for refugee status the applicant shall—

(a) immediately fill in a prescribed application form and the application shall be registered by an authorised officer within the local area of his point of entry into Tanzania. In addition to the application form, he shall be entitled to make any statement and submit evidence in support of his claim, if he so wishes;

(b) the authorised officer shall interview the applicant and reduce the interview into writing. The transcript shall be read to the applicant who may make corrections before it is signed by both the interviewing officer and the applicant. If the applicant does not wish to sign the transcript the reasons for declining shall be indicated;

(c) the authorised officer shall as soon as possible transmit the application forms and any statements, transcripts or evidence in support thereof to the Director;

(d) the Director shall upon receipt of the application submit the same before the Committee, ensure that the Committee convenes and considers the application within a period of sixty days from the time of making application, provided that the Director for reasonable cause may extend the period of sixty days;

(e) the office of the Director shall inform the UNHCR Representative in Tanzania of the presence in Tanzania of any person claiming to be a refugee and such person shall be informed of his right to contact the UNHCR office in Tanzania.

(6) The Committee shall–

(a) have before it application forms, statements, transcripts and any additional information previously given by the applicant the authorised officer the UNHCR representative in Tanzania;

(b) if deemed appropriate to investigate and seek all relevant information from appropriate sources within and outside the country, provided that the authorities shall not be contacted by the Committee;

(c) be at liberty to summon the applicant before it whenever deemed necessary to clarify or answer questions pertaining to his claim for refugee status and, or asylum;

(d) if deemed necessary call any other person to appear before it and may consider any other relevant or written submissions;

(e) the recommendations of the Committee shall be referred to the Minister who without delay shall decide on the recommendations and shall cause the applicant to be informed of his decision through the Director;

(f) the Director shall inform the UNHCR representative in Tanzania of the Minister's decision without delay;

(g) where refugee status has been, the Director shall inform the asylum seeker of his right to petition for a review to the Minister within seven days in accordance with subsection (7) of this section;

(h) in dealing with an application under this section, the asylum seeker may be permitted to bring along a competent interpreter if necessary.

(7) Any person dissatisfied by the decision of the Minister recognising any person or group or category of persons as refugees or rescinding or withdrawing the refugee status under this section, may petition for a review to the Minister within seven days from the day he is informed of such decision.

(8) Any petition under subsection (7) of this section shall be submitted in writing to the Minister whose decision on the matter shall be final.

(9) Any person whose application for refugee status and asylum has been rejected in accordance with this section, shall be deemed to be an illegal immigrant and shall be dealt with in accordance with the provisions of the Immigration Act * unless such person has been accorded a mandate refugee status by UNHCR pending his resettlement or relocation by UNHCR to another country within a specified period.

PART III

PROVISIONS APPLYING TO REFUGEES GENERALLY (ss 10-14)

[PCh37s10]10. Places of entry or departure and routes

(1) The Minister or, as the case may be the competent authority may, by order in writing—

(a) direct that any asylum seeker or refugee entering or leaving Tanzania shall enter or leave by specified routes or at specified places;

(b) direct that any asylum seeker or refugee moving from one part of Tanzania to another shall move by specified routes.

(2) The Minister or, as the case may be, the competent authority may specify terms or conditions for orders made under subsection (1) of this section as it deems fit.

(3) Any asylum seeker or refugee who contravenes an order made under this section or the terms or conditions thereof, shall be guilty of an offence against this Act.

[PCh37s11]11. Surrender of weapons

(1) Every asylum seeker or refugee who brings any arms or ammunition into Tanzania shall immediately surrender such arms or ammunition to an authorised officer.

(2) The competent authority may, by order in writing, direct that any asylum seeker or refugee in his area shall, within such time as may be specified in the order, surrender to an authorised officer any other weapon or weapons, or any instrument or tool so specified which is in, or come into, his possession unless the possessor thereof has written authority to retain the same signed by the competent authority in that behalf.

(3) Any asylum seeker or refugee who fails to surrender any arms, ammunition, weapon, instrument or tool in accordance with this section or any order made hereunder, shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding two years.

(4) In this section, "arms" and "ammunition" have the meanings respectively ascribed to those expressions in the Arms and Ammunition Act *, and the provisions of this section in relation to arms and ammunition are in addition to, and not a substitute of the provisions of the Act aforesaid.

[PCh37s12]12. Permit to remain in Tanzania

(1) No asylum seeker or refugee to whom this section applies shall remain in Tanzania unless—

(a) he is issued with a permit to remain in Tanzania;

(b) he complies with the terms or conditions from time to time annexed to such permit or issued to him in writing by the Director.

(2) An authorised officer appointed in that behalf shall not refuse an asylum seeker or refugee a permit under this section if the officer has reason to believe that the refusal of a permit will necessitate the return of the asylum seeker or refugee to the territory from which he entered Tanzania and that the asylum seeker or refugee will be tried or punished for an offence of a political character after arrival in that territory or is likely to be persecuted in that territory. The authorised officer may however, subject to assigning a valid reason after approval of the Director refuse to issue a permit.

(3) If any asylum seeker or refugee to whom this section applies fails to obtain or is denied a permit in accordance with this section, his presence in Tanzania shall, notwithstanding anything contained in section 2 of the Immigration Act *, be unlawful and an offence under this Act.

(4) Where a permit is denied under this section, the applicant may petition to the Director within seven days from the date of denial, for a review of his application of a permit to remain in Tanzania.

(5) Where the applicant elects to petition to the Director to review his case he shall put his grounds in writing and present them to the Director. The Director shall consider the grounds expressed in such petition and determine whether to grant the permit or not.

(6) Where the Director confirms the denial of grant of the permit to the applicant, such applicant may appeal to the Minister within seven days from the day he receives

results of his petition for review by presenting his grounds in writing to the Minister whose decision to grant or deny the permit shall be final:

Provided that such appellant shall be allowed to remain in the country until finalisation of his appeal and that the provisions of subsection (3) of this section shall apply immediately after the finalisation of the appeal.

(7) Any asylum seeker or refugee to whom a permit has been issued under this section who fails to comply with the terms and conditions thereof shall be guilty of an offence under this Act.

[PCh37s13]13. Detention and slaughter of animals

(1) The competent authority may direct that any animal imported into his area from outside Tanzania by any person whom he has reason to believe to be an asylum seeker or a refugee shall be kept in such place as he shall direct or shall be slaughtered or otherwise disposed of.

(2) If any animal is slaughtered or sold as a result of any direction given under the provisions of subsection (1) of this section the competent authority shall ensure that the proceeds of the sale less the expenses incurred thereof in the disposal of the animal was seized or the owner thereof.

(3) The proceeds of a sale directed under the provisions of subsection (2), less the expenses of the sale, shall, if they are not paid to the person from whom the animal was seized or the owner of the animal, be paid into the Refugees' Trust as provided for under section 15 of this Act.

(4) Notwithstanding any other provision of this section, if a veterinary officer in the service of the Government is of the opinion that in order to prevent the spread of disease it is necessary to slaughter any animal which he has reason to believe belongs to an asylum seeker or a refugee such animal shall be slaughtered as the veterinary officer directs.

(5) Any person who in any way obstructs the carrying out of any direction given under the provisions of this section shall be guilty of an offence against this Act.

[PCh37s14]14. Possession of vehicle of asylum seeker or refugee

The competent authority may take, or authorise an authorised officer to take, possession of any vehicle in which any person whom he has reasonable cause to believe to be an asylum seeker or a refugee arrived in his area and authorise its use in the area for the purpose of moving asylum seekers or refugees or any store or equipment for their use:

Provided that the ownership of the vehicle taken possession of under this section shall remain with the rightful owner or the person from whom it is taken and the vehicle shall be returned to him as soon as practicable.

PART IV

SPECIAL PROVISIONS WHICH MAY BE APPLIED TO REFUGEES (ss 15-21)

[PCh37s15]15. The Refugees' Trust Fund

(a) The Minister may establish a a public trust to be known as Tanzania Refugees' Trust Fund which shall be operated under the Trustees Incorporation Act * by trustees whose number shall not be less than five or more than eight members and comprise of:

(i) the Director who shall be the Chairman;

- (ii) the Representative of UNHCR Branch Office for Tanzania;
- (iii) a representative from Tanzania Red Cross;
- (iv) two refugees, one of whom shall be resident of a designated area;
- (v) and any other two persons with experience and keen interest in refugee matters.

(b) The Refugees' Trust Fund established under this section shall be a charitable body capable of suing and being sued and shall have power to hold fixed and movable property which shall be used in accordance with the recommendations of the Trustees.

(c) The property of any refugee who dies intestate, or which was unlawfully acquired or which cannot be lawfully repatriated by its refugee owner or possessor on voluntary repatriation or resettlement or deportation outside Tanzania which cannot be lawfully used or utilised by the refugee owner, possessor or beneficiary thereof for any reason whatsoever shall vest into the Refugees' Trust Fund.

(d) The Refugees' Trust Fund shall have power—

(i) to devise any lawful means of raising funds and property including receiving gifts, presents, donations from any person within or outside the country et cetera;

(ii) to utilise the funds or property in accordance with the recommendations of the Trustees.

(e) The Refugees' Trust Fund quorum shall be constituted by a minimum of half of existing members. In case of a tie up, the Chairman shall have a casting vote.

(1) The Minister may, by notice in the Gazette, declare any part of the United Republic of Tanzania to be a designated area.

(2) The Director of Refugees Services shall appoint a settlement officer to be in charge of such refugee settlement or of such reception, transit or residence areas for asylum seekers or refugees.

(3) Every settlement, reception, shall include all the land and buildings within the settlement, reception, transit, or residence boundaries or enclosure and also any other land or buildings belonging or attached thereto and used by the asylum seekers or the refugees.

(4) In any writ, warrant, instrument or other legal document in which it may be necessary, to describe a particular designated area by reference to the name of the place or town where it is situated, or other definite description such writ, warrant, instrument or legal document shall be valid and sufficient for all purposes:

Provided that geographical boundaries shall clearly be spelt out in the declaration and establishments referred to in subsection (1) of this section respectively.

[PCh37s17]17. Requirement to reside in a designated area

(1) The competent authority, in consultation with the Minister or the Director may by order, require any asylum seeker or refugee or group or category of refugees to whom this section applies who is within his area to reside within a designated area whether or not such area is within the jurisdiction of competent authority.

(2) The competent authority in consultation with the Minister, or the Director may require any asylum seeker or refugee or group or category of refugees to whom this section applies who is within a designated area within such competent authority's area to

move to or reside in any other designated area whether within such competent authority's area or not.

(3) Any asylum seeker or refugee to whom an order made under this section applies who—

(a) fails to comply with such order; or

(b) fails to move to or take up residence in a designated area in accordance with such order within reasonable time; or

(c) having arrived at a designated area, in pursuance of such order, leaves or attempts to leave such area, except in pursuance of some other order or permit made under this section, shall be guilty of an offence against this Act.

(4) The competent authority or the Director as the case may be, may vary, revise or cancel any order or requirement made by him under subsections (1) or (2) of this section.

(5)(a) No asylum seeker or refugee shall be allowed to leave a designated area as directed under this section unless he has sought and obtained a permit from the Director or Settlement Officer as the case may be, and, subject to such terms and conditions as the Director or a Settlement Officer may prescribe in the permit.

(b) No asylum seeker or refugee may be allowed to be out of a designated area for more than fourteen days unless the Director has allowed in the permit a longer period upon which an asylum seeker or refugee may stay outside the designated area.

(6) Any asylum seeker or refugee to whom a permit or travel document has been issued under this section who fails to comply with the terms and conditions thereof shall be guilty of an offence against this Act.

[PCh37s18]18. Control of designated area

(1) The Minister may make rules, and the Director may issue directions not inconsistent with such rules, for the control of a designated area and, without prejudice to the generality of the foregoing, such rules and directions may make provision in respect of all or any of the following matters—

- (a) the organisation, safety, discipline and administration of such area;
- (b) the reception, transfer, residence, settlements, treatment, health and wellbeing of asylum seeker or refugee;
- (c) the manner of inquiring into disciplinary offences and the payment of fine and other penalties;
- (d) the establishment and regulation of lock-ups and the custody of persons therein; and
- (e) the powers of settlement officers and the delegation of such powers.

(2) The Director or settlement officer may give such orders or directions, either orally or in writing, to any asylum seeker or refugee as may be necessary or expedient for the following purposes that is to say—

- (a) to ensure that the designated area is administered in an orderly and efficient manner;

(b) to ensure the performance of any work or duty necessary for the maintenance of essential services in the designated area or for the general welfare of the asylum seekers or refugees therein;

(c) to ensure that all proper precautions are taken to preserve the health and wellbeing of the asylum seekers or refugees therein;

(d) to preserve orderly conduct and discipline in the designated area.

(3) Any asylum seeker or refugee who—

(a) without a permit in that behalf issued under section 17 leaves or attempts to leave a designated area in which he has been earmarked to reside; or

(b) in a designated area disobeys any rules made by the Minister, any direction of the competent authority, the Director or any order or direction of a Settlement Officer, made or given under this section; or

(c) in a designated area conducts himself in a manner prejudicial to good order and discipline,

shall be deemed to have committed a disciplinary offence.

(4) The Director or a settlement officer may inquire into any disciplinary offence and if he finds that an asylum seeker or refugee has been guilty of such disciplinary offence may furnish him by—

(a) ordering his confinement in a settlement or camp lock-up for a period not exceeding three days; or

(b) fining him a sum not exceeding five thousand shillings.

[PCh37s19]19. Administration of a designated area

(1) The Minister where he deems appropriate, may establish by notice published in the Government Gazette an administrative organisation for asylum seekers or refugees in any designated area.

(2) Such administrative organisation for asylum seekers or refugees shall comprise ten cell leaders at the lowest level, road committees, village committees in designated areas or councils at the highest level.

(3) At every administrative level established under this section, there may be established any of the following committees or subcommittees for undertaking any activities relevant to the name of the committee:

- (a) Finance and administration;
- (b) law and order;
- (c) economic development and planning; and
- (d) community development and social welfare.

(4) Asylum seekers' or refugees' leaders and representatives at all levels of the administrative organisation established under this section or Act unless otherwise provided in this Act or other valid law, shall be elected by secret ballot based on the principles of equality and universal suffrage without any discrimination on a basis of sex, clan, tribe, nationality, race or religion.

(5)(a) Any designated area's council or village committee may apply to the Director for registration of their council or committee as corporation sole under the

relevant law capable of carrying out commercial or public enterprise, suing and being sued and of holding fixed and movable properties.

(b) In case the Director refuses to register or issue with a certificate of incorporation, the affected council or committee may appeal in writing within 14 days to the Minister who may confirm, or vary the decision of the Director as he deems appropriate and the decision of the Minister shall be final provided that the affected council or committee shall be allowed to apply de novo after expiration of one year from the time their previous application for incorporation was refused by the Director or on appeal.

(c) The Director shall keep registers for application and registration of corporation soles for this purpose which shall be treated as public records.

(6) The Minister may make regulations published in the Government Gazette providing for the functioning or better carrying out of any matter covered under this section.

[PCh37s20]20. Restriction on persons entering designated area or addressing asylum seekers or refugees in such areas

(1) No person other than a person employed in or an asylum seeker or refugee required to reside or residing in, a designated area shall enter or be within such designated area except with the general or special permission of the Minister, the competent authority, the Director or the Settlement Officer.

(2) No person other than the competent authority an authorised officer or a person authorised in that behalf by the competent authority or the settlement officer, may in a

designated area address an assembly or meeting of more than five asylum seekers or refugees whether or not such meeting is held in a public place.

(3) Any person who contravenes the provisions of this section shall be guilty of an offence against this Act and shall be liable on conviction to a sentence of imprisonment not exceeding five years or a fine not exceeding two hundred thousand shillings or both.

[PCh37s21]21. Powers of competent authorities outside their areas

(1) Where a competent authority having power in that behalf—

(a) orders any asylum seeker or refugee to be detained in prison under section 27; or

(b) orders any asylum seeker or refugee to reside in any designated area of section 17,

such order shall have effect throughout the United Republic of Tanzania.

(2) In making an order which is likely to affect the life or status of a person claiming to be a refugee, the Minister or the competent authority shall have regard to Part III of Chapter 1 of the Constitution of the United Republic, and the relevant International Conventions on refugees which stipulates on treatment of refugees.

PART V

MISCELLANEOUS PROVISIONS (ss 22-37)

[PCh37s22]22. Mode of giving rule, order or direction

Any rules, orders or directions made by the Minister under this Act shall be in the Government Gazette. Any other rules, orders or directions given by an authorised officer other than the Minister may be published in such manner as the authority making the same

considers appropriate in order to bring the same to the notice of the persons to whom they apply or who are affected thereby but, shall not be required to be published in the Gazette provided that any such rule, order or direction which is applied or directed to any individual person shall, if in writing, be served on, and if not in writing, be given to, the person or group of persons affected.

[PCh37s23]23. Communication between the Minister, the Director and competent authority and asylum seeker or refugee

(1) Any application, petition for review or appeal made by an asylum seeker or a refugee to the Minister, the Director or a competent authority must be done in writing in a prescribed manner.

(2) Any decision made on an application, petition for review or appeal must be communicated to the applicant in writing in a prescribed manner.

[PCh37s24]24. Offences and penalties

(1) Any asylum seeker or refugee who fails to obey any lawful order of the Minister, the competent authority, the Director or of a settlement officer or who obstructs any officer in exercise of his power under this Act, shall be guilty of an offence and shall be liable on conviction to imprisonment for a period not exceeding six months or a fine not exceeding fifty thousand shillings or both.

(2) Any person, who is guilty of an offence against this Act for which no penalty is specifically provided shall be liable on conviction to imprisonment for a period not exceeding six months or fine not exceeding fifty thousand shillings or both.

(3) Where any act or omission constitutes both a disciplinary offence under section 18 and an offence punishable under this Act on conviction, an asylum seeker or refugee shall not be punished for the same act or omission both as a disciplinary offence and a penal offence punishable on conviction.

[PCh37s25]25. Prevention, arrest, search, seizure and investigation

(1) A settlement officer may arrest without a warrant any person when he has reasonable ground for suspecting to have committed an offence or a disciplinary offence under this Act and such person may be detained in custody in a settlement or camp lock-up in accordance with this Act.

(2) A person detained under subsection (1) for a disciplinary offence, shall not remain in such custody for a period exceeding twenty-four hours before any disciplinary proceedings are completed against him:

Provided that a settlement officer may grant bail to a person who is otherwise subject to detention under subsection (1) and (2) of this section upon that person executing a bond with or without sureties to appear before him if so required.

(3) Where a person is detained under subsection (1) of this section for an offence under this Act, he shall be produced before the court within twenty four hours after the arrest or as soon as practicable thereafter and subsequently such person may be remanded or granted bail by the court in accordance with this Act the Criminal Procedure Act * or the Magistrates' Courts Act *.

(4) A settlement officer shall have the same powers as a police officer of the rank of constable for purposes of prevention, arrest, search, seizure and investigation of crime under this Act:

Provided that, a settlement officer or any other refugee officer acting on his behalf shall have the same powers as a police officer commanding section or of an Inspector of Police.

[PCh37s26]26. Use of force to effect arrest

An authorised officer or any to person acting with the authority of an authorised officer may use such force as may be necessary to compel any asylum seeker or refugee with any order or direction, whether oral or in writing, given under or pursuant to the provisions of this Act:

Provided that before any force is used an authorised officer or any person acting with the authority of an authorised officer shall inform the asylum seeker or refugee that he is about to use force to compel him to comply with any order or direction.

[PCh37s27]27. Detention of asylum seeker or refugee

(1) Where the Minister or, any competent authority appointed by the Minister in that behalf is satisfied that any asylum seeker or refugee is acting in a manner prejudicial to peace and good order or is prejudicing the relations between the Government of Tanzania and any other Government, he may, by order in writing, direct that asylum seeker or refugee be detained in prison for a period not exceeding three months except that for any excess period the provisions of the Preventive Detention Act * shall apply.

(2) If it appears to the Minister or, as the case may be, any competent authority appointed by the Minister in that behalf that it is likely that any asylum seeker or refugee has committed any offence in any other territory for which he has not been punished, being an offence which, if committed within Tanzania, would be punishable by imprisonment, the Minister or such competent authority may by order in writing, direct that such asylum seeker or refugee be detained in prison:

Provided that if no extradition proceedings under Extradition Act, 1965 are commenced against him for a period of three months thereof he shall be released.

(3) An order under subsection (1) or (2) shall be sufficient authority for any authorised officer to arrest the asylum seeker or refugee to whom it applies and to detain him in custody pending or during his transfer to prison and for the officer in charge of a prison to hold such asylum seeker or refugee in custody as an unconvicted prisoner until a release order is issued by the Minister or the period of three months has expired. Provided that where any such order is made by a competent authority the order shall, unless confirmed by the Minister, expire at the end of the fourteenth day from the day he was arrested and the asylum seeker or refugee to whom any order of detention under this section applies shall not be arrested again for the same reason after he has been released in accordance with this Act.

(4) The officer in charge of the prison on releasing any asylum seeker or refugee under this section, shall hand over an asylum seeker or refugee to the nearest authorised officer who shall take such person to the Director or designated area.

(5) For the avoidance of doubt, any officer in charge of a prison or any other place of confinement where any asylum seeker or refugee is kept under this section, shall have power to release such inmate without any further order from or reference to the Minister or competent authority provided he conforms with subsection (4) of this section.

[PCh37s28]28. Deportation of asylum seeker or refugee

(1)(a) The Minister or as the case may be, a competent authority appointed by the Minister on that behalf may at any time order in writing that—

(i) any asylum seeker who has not qualified to be granted refugee status under section 4 of this Act; or

(ii) a refugee who is dangerous to the security of the state or has ceased to be a refugee shall be deported from Tanzania by such means or route as he may direct;

(b) A refugee deported under subsection (a) of this section shall be informed in writing about his deportation;

(c) A refugee who is issued with a deportation order under this section may appeal to, or may petition for review to the Minister or a competent authority within seven days from the date he is served with the deportation order. Where the petition or review has been filed to the competent authority such competent authority shall immediately transmit the same to the Minister;

(d) The Minister in consultation with the Director may consider the appeal or review and shall have power to confirm or revoke the deportation order:

Provided that pending the determination of the appeal or review by the Minister the deportation order issued shall not be executed.

(2) A court convicting any asylum seeker or refugee of an offence under the provisions of this section, shall order the deportation of such asylum seeker or refugee to the territory from which he entered Tanzania or any other country of his choice which shall take effect immediately after conviction or after serving the sentence.

(3) When any person is deported under subsection (1) or (2) of this section he may be held in custody pending deportation.

(4) No order shall be made under subsection (1) or (2) in respect of an asylum seeker or refugee if the Minister, the competent authority or the court, as the case may be, is of the opinion that such a person will be tried or punished for an offence of a political character after arrival in the territory from which he came or is likely to be the subject of physical attack in such territory.

(5) Any asylum seeker or refugee who fails to comply with an order made under this section shall be guilty of an offence under this Act.

[PCh37s29]29. Protection of bona fide act

(1) No person who does or omits to do anything in the execution of his duty under this Act shall be subject to any personal liability whatsoever if the same act or omission was bona fide.

(2) Save as provided in subsection (2) of section 13, no compensation shall be payable and no action shall be brought against any person acting in the execution of his duty under this Act for any damage done or loss occasioned by, the detention or slaughter of any animal under the powers conferred by section 13, or the detention or use of any vehicle under the powers conferred by section 14.

[PCh37s30]30. Registration of asylum seekers and refugees

(1) The Director shall register and keep records of all asylum seekers and refugees present and the designated areas established in Tanzania and for this purpose he shall be deemed to be the Registrar of asylum seekers and refugees, provided that he may delegate in writing this function to settlement officers or refugee officers.

(2) The Minister may appoint any public officer to be assistant registrar of asylum seekers or refugees for any specific area by order published in the Government Gazette:

Provided that such appointed assistant registrars within the areas of their jurisdiction shall carry out their functions under the direction and supervision of the Director.

(3) Where a Ward Development Committee is established for asylum seekers or refugees in designated areas, the Chairman of the same shall be the Settlement Officer and where need arise for representation in any local government organ must be done by a citizen of Tanzania being the Settlement Officer or Refugee Officer appointed by the Director in that behalf and shall represent the organisation concerned:

Provided that representatives of refugees may be allowed to accompany the settlement officer or refugee officer as an observer.

(4) The Minister, where he deems appropriate, may by notice published in the Gazette, establish any administrative arrangement or non-political organisation for refugees or asylum seekers in any designated area with a ten cell leader system at the lowest level up to the Committee, Council or apex organised at the highest level:

Provided that representatives or leaders in such administrative arrangement or organisation shall conform as far as is practicable with the basic principles of election by universal suffrage and secret ballot.

(5) The registration of asylum seekers or refugees under this Act is without prejudice to any other registration laws requiring registration of persons resident or present in Tanzania.

(6) Any asylum seeker or refugee who fails to register himself under this Act, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for not more than three years or to both fine and imprisonment.

[PCh37s31]31. Education for refugees

(1) Every refugee child shall be entitled to Primary Education in accordance with the Education Act * and every refugee adult who desires to participate in adult education shall be entitled to do so in accordance with the Adult Education Act.

(2) Every refugee shall be entitled to post primary education in accordance with rules made by the Minister in accordance with subsection (3) of this section.

(3) The Minister in consultation with the Minister responsible for education as regards secondary education and in consultation with the Minister responsible for higher education other than secondary education shall make rules prescribing—

- (a) fees;
- (b) categories of schools, colleges or Universities in which a refugee student can be enrolled; and

(c) prescribing any matter that may need to be regulated for purposes of better and effective implementation of this section.

[PCh37s32]32. Work permit for refugees

(1) The Director may grant work permit to any refugee who qualifies for the same.

(2) The Director may revoke any work permit granted under this section for any good cause he deems appropriate provided that, before revocation the Director shall give thirty days notice of the intended revocation to the refugee and the employer of the refugee. The refugee and the employer affected by any permit revocation may make any presentation to the Director in relation to the revocation within twenty-one days upon receipt of such, the Director shall consider them and make his decision for or against such revocation within fourteen days.

(3) The Minister in consultation with Ministry responsible for Labour, may make rules on the model or type of permits to be issued under this Act, time limit of the permits and renewals, the qualifications and procedures for applying for or renewing the permits, and fees, their revocations or representation for review thereof and any forms ensuing therefrom.

(4) Any refugee who works or engages himself in any activity without permit, will be committing an offence under this Act, and shall be liable on conviction to a fine not exceeding two hundred thousand shillings or imprisonment for a period not exceeding three years or both fine and imprisonment.

[PCh37s33]33. Payment of taxes

Any asylum seeker or refugee residing in Tanzania shall be liable to pay any taxes according to the laws of this country.

[PCh37s34]34. Voluntary repatriation

(1) An asylum seeker or refugee shall have the right at any time to return voluntarily to the country of his nationality or from which he entered Tanzania and any action or omission intended to prevent or restrict or which has the effect of preventing or restricting any asylum seeker or refugee from voluntary repatriation except in the due process of the law is hereby prohibited.

(2) A refugee who leaves Tanzania on voluntary repatriation or who ceases to be a refugee for any other cause shall surrender all his travel documents, identity cards, permits or any other documents which he acquired by virtue of being a refugee and may take with him any movable property which he lawfully owns provided he complies with any existing procedures or laws covering such property or the exportation of such property.

(3) Any movable property or immovable property belonging to any asylum seeker or refugee who leaves the country permanently or on voluntary repatriation at the time of his departure shall be left to be disposed off lawfully and be deemed to be left under the safe custody and control of the Director and the Government shall pay fair and adequate compensation to the owner of the property prior to the time of his departure.

(4) Where fair and adequate compensation has not been paid to the refugee who owns such property within one year from the time the refugee leaves Tanzania such property shall vest into the Refugee Trust whose trustees shall be free to keep it as a refugee property in which case the Refugee Trust shall pay the requisite fair and adequate

compensation to the refugee owner or his legal representatives or shall sell it at the market price the proceeds of which after deduction of its necessary costs shall pay it to the refugee owner or his legal representatives.

(5) Any person who fails to comply with any provision of this section shall be guilty of an offence under this Act.

[PCh37s35]35. Family re-union

(1) A recognised refugee resident in Tanzania who wishes to join or to be joined by any member of his family outside or within Tanzania respectively shall make application for a family re-union to the Minister through the UNHCR or the Director who shall submit the application to the Committee which shall recommend to the Minister whether to allow the family re-union or not, provided that such family re-union shall not take place before permission is granted under this section. Failure to abide to this provision shall be an offence under this Act.

(2) Any affected or aggrieved person by the decision of the Minister refusing or granting family re-union may file a petition for review to the Minister.

(3) Where there is disunity in the family of a refugee as a result of divorce, separation, death, et cetera, any member of that family may remain in Tanzania and shall have to apply within a maximum period of 2 years from the time of disunity of the family for the acquisition of the refugee status on his own right or for a legalisation of the residence in Tanzania under the Immigration Act *, failure of which shall be an offence under this Act:

Provided that where such application is made for the purposes of this Act, members of a family shall only include a husband or wife lawfully married and their children who are below 18 years of age and dependent as ascribed by the Immigration Act *.

[PCh37s36]36. Resettlement

(1) A refugee residing in Tanzania shall have the right to resettle in any other country outside Tanzania and may apply in writing to the Minister for the same at any time.

(2) A refugee residing outside Tanzania may before entering Tanzania and through the UNHCR or OAU Refugee Bureau apply to the Minister for resettlement into Tanzania and it is hereby provided that he shall not be allowed to enter Tanzania until his resettlement into Tanzania has been granted, the disobedience of which shall be an offence under this Act.

(3) The Minister on receiving any application for resettlement in Tanzania shall consider the application and may submit it to the Committee which shall make recommendations for his further consideration.

[PCh37s37]37. Repeal of Act No. 2 of 1966

[Repeals the Refugees Control Act.]