

CHAPTER 361

THE PREVENTIVE DETENTION ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

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CHAPTER 361

THE PREVENTIVE DETENTION ACT

An Act to provide for preventive detention.

[5th October, 1962]

Act No. 60 of 1962

[R.L. Cap. 490]

C.A. Act No. 2 of 1985

[PCh361s1]1. Short title, interpretation and application C.A. Act No. 2 of 1985 ss. 2 and 3

(1) This Act may be cited as the Preventive Detention Act, and shall apply to Mainland Tanzania as well as Tanzania Zanzibar.

(2) In this Act, unless the context requires otherwise—

"the Committee" means the Advisory Committee established under section 7;

"detention order" means an order made under section 2;

"persons" includes a person who is not a citizen of the United Republic.

[PCh361s2]2. Power to make detention orders C.A. Act No. 2 of 1985 s. 36

Where—

(a) it is shown to the satisfaction of the President that any person is conducting himself so as to be dangerous to peace and good order in any part of the United Republic or is acting in a manner prejudicial to the defence of the United Republic or the security of the State; or

(b) the President is satisfied that an order under this section is necessary to prevent any person acting in a manner prejudicial to peace and good order in any part of the United Republic or to the defence of the United Republic or the security of the State, the President may, by order under his hand and the Public Seal, direct the detention of that person.

(2) Unless the President is satisfied that it is not feasible or practicable to require that any particular item of information shall be given on oath, he shall require that any information on which he satisfies himself that a person is conducting himself or acting in the manner aforesaid or that it is necessary that an order be made, as the case may be, shall be given on oath.

[PCh361s3]3. Right to challenge detention order C.A. Act No. 2 of 1985 s. 4

Any person who is detained under a detention order, may, by petition before the High Court, challenge the legality of that order on any ground.

[PCh361s4]4. Execution of detention orders C.A. Act No. 2 of 1985 s. 5

A detention order may be executed at any place within the United Republic in the manner provided for the execution of warrants of arrest under the Criminal Procedure Act *.

[PCh361s5]5. Arrest and detention C.A. Act No. 2 of 1985 s. 36

(1) An order under this Act shall constitute an authority to any police officer to arrest the person in respect of whom it is made and for any police officer or prison officer to detain that person as a civil prisoner in custody or in prison; and that person shall, while detained in pursuance of the order, be in lawful custody.

(2) The President may make regulations—

(a) applying to persons detained under orders made under this Act, any of the provisions of the Prisons Act * or of any rules made under it relating to convicted criminal prisoners and disapplying in relation to those persons any of those provisions relating to civil prisoners; and

(b) prohibiting, regulating and controlling visits to, and correspondence to or from, those persons,

and where the President makes any regulations, the Prisons Act * and any rules made under it shall have effect in relation to those persons subject to the provisions of the regulations.

[PCh361s6]6. Rescission and suspension C.A. Act No. 2 of 1985 s. 36

The President may—

(a) rescind any order made under this Act;

(b) direct that the operation of an order made under this Act be suspended subject to any conditions, if any, which may be specified in such direction—

(i) requiring the person in respect of whom the order is made to notify his movements in such manner, at the times and to such authority or person as may be so specified; and

(ii) requiring him to enter into a bond with or without securities for the observance of any such conditions aforesaid,

and if that person fails to comply with any condition attached to the a direction, he shall, whether or not the direction is revoked, be detained under the original order.

[PCh361s7]7. Persons detained may make representations C.A. Act No. 2 of 1985 ss. 6 and 36

(1) A person detained under this Act shall, not later than fifteen days from the beginning of his detention, be informed of the grounds on which he is being detained and shall be afforded an opportunity of making representations in writing to the President with respect to the order under which he is detained.

(2) Where after fifteen days, a person detained under this Act is not informed in writing of the grounds on which he is being detained he shall be released immediately.

[PCh361s8]8. Detention to be published in the Gazette C.A. Act No. 2 of 1985; G.N. No. 152 of 1987

Every person who is detained under this Act, shall have his name published in the Gazette.

[PCh361s9]9. Advisory Committee C.A. Act No. 2 of 1985 ss. 8 and 36

(1) There shall be an Advisory Committee which shall consist of—

- (a) a chairman and two members appointed by the President; and
- (b) two members appointed by the Chief Justice.

(2) A member of the Advisory Committee may resign his membership by writing under his hand addressed to the person by whom he was appointed.

(3) The quorum of the Advisory Committee shall be three, of whom one shall be the chairman, one shall be another member appointed by the President, and one shall be a member appointed by the Chief Justice.

(4) The President shall refer to the Advisory Committee every order made under this Act—

- (a) where representations have been made in pursuance of section 6, as soon as may be after the making of the representations;

- (b) where no representations have been made, within three months of the order being made,

and thereafter at intervals not exceeding a year (unless the order has previously been rescinded), and shall inform the Committee of the grounds on which the order was made and any other matters relating to the person detained which are relevant to his continued detention, and shall provide the Committee with a copy of all representations made by the person detained.

(5) Where no reference to the Committee is made within the time stipulated in subsection (4) the person detained shall be entitled to be released.

(6) The Committee shall advise the President whether, in their opinion, an order made under this Act should be continued or rescinded or suspended, but the President shall not be required to act in accordance with the advice of the Committee.