

THE UNITED REPUBLIC OF TANZANIA



No. 1 OF 1972

I ASSENT,

Julius K. Nyerere
President

8TH FEBRUARY, 1972

An Act to repeal and replace the Minimum Sentences Act, 1963

[1ST MARCH, 1972]

ENACTED by the Parliament of the United Republic of Tanzania.

1.-(1) This Act may be cited as the Minimum Sentences Act, 1972 and shall come into operation on the first day of March, 1972.

Short title
and com-
mencement

(2) Notwithstanding the provisions of subsection (1), subsection (1) of section 12 shall come into operation on the date on which this Act is enacted.

2. The provisions of this Act shall not apply to a juvenile.

Application

3. In this Act, unless the context otherwise requires-
"cattle" means any of the animals specified in section 268 of the Penal Code;

Interpretation

"juvenile" means any person under the apparent age of eighteen years;
"scheduled offence" means an offence specified in any of the Schedules to this Act;

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"specified authority" means-

- (a) the Government;
- (b) the Community;
- (c) a Corporation within the Community;
- (d) an institution of the Community;
- (e) a local authority;
- (f) a trade union registered under the Trades Union Ordinance;
- (g) the Tanganyika African National Union, an organ of the Tanganyika African National Union or a body of persons, corporate or unincorporated, affiliated to the Tanganyika African National Union;

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- Cap. 212 (h) any body corporate established by or under any written law other than the Companies Ordinance;
- (i) any subsidiary company;
- "subsidiary company" means a company registered under the Companies Ordinance not less than fifty per centum of the issued share capital of which is owned by a specified authority or two or more specified authorities and includes a company limited by guarantee where the amount which the specified authority which is a member will become liable to contribute in the event of the company being wound up is not less than fifty per centum of the aggregate amount which all the member's have undertaken to contribute; and references in this definition to a specified authority include references to any subsidiary company.
- Minimum sentences where persons convicted of scheduled offence
4. Where any person is, after the date on which this Act comes into operation, convicted by a court of a scheduled offence, whether such offence was committed before or after such date, the court shall sentence such person to a term of imprisonment which shall not be less than-
- (a) where the offence is an offence specified in the First Schedule to this Act, three years;
- (b) where the offence is an offence specified in the Second Schedule to this Act, one year;
- (c) where the offence is an offence specified in the Third Schedule to this Act, six months.
- Circumstances in which court shall award longer terms of imprisonment
5. Notwithstanding the provisions of section 4-
- (a) where any person is convicted of a scheduled offence specified in the First Schedule to this Act and the court is satisfied that such person was, at any time within seven years immediately preceding the date when he committed such offence, convicted of a like offence or a scheduled offence or of any of the offences provided for in Chapter XXVI to Chapter XXXII (inclusive) of the, Penal Code, the court shall sentence such person to imprisonment for a term of not less than five years;
- (b) where any person is convicted of robbery, the court shall sentence him to imprisonment for a term of not less than seven years;
- (c) where any person is convicted of stealing cattle, the court shall sentence him to imprisonment for a term of not less than five years;
- (d) where any person is convicted of an offence specified in the First Schedule to this Act and the court is satisfied that the value of the property obtained by the offender in the course of the commission of the offence, or which he attempted to so obtain, or in cases falling under section 3 or section 6 of the Prevention of Corruption Act, 1971, the value of the advantage accepted, given, solicited, offered or promised, exceeds the sum of five thousand shillings, the court shall sentence such person to imprisonment for a term of not less than five years;
- Acts 1971
No. 16

- (e) where any person is convicted of an offence specified in the Second or Third Schedule to this Act and the court is satisfied that such person was, at any time within seven years immediately preceding the date when he committed such offence, convicted of a like offence or of any scheduled offence or of any offence provided for in Chapter XXVI to Chapter XXXII (inclusive) of the Penal Code, the court shall sentence such person to imprisonment for a term of not less than-
- (i) in the case where the person is convicted of an offence specified in the Second Schedule to this Act, two years;
 - (ii) in the case where such person is convicted of an offence specified in the Third Schedule to this Act, one year.

6.-(1) Notwithstanding the provisions of section 4, where a person is convicted of a scheduled offence and the court is satisfied that-

- (a) the person so convicted is a first offender; and
- (b) the value of the property obtained by such person in the course of the commission of such offence or which he attempted to so obtain does not exceed or, in the case of an attempt, would not have exceeded, one hundred shillings; and
- (c) having regard to all the circumstances of the case, it is just and equitable so to do,

the court may, in lieu of sentencing such person to the minimum sentence of imprisonment provided for in section 4, proceed to deal with such person as if this Act had not been enacted.

(2) For the purposes of this section "first offender" means a person who was not, at any time within seven years immediately preceding his conviction, convicted of a scheduled offence or any offence provided for in Chapter XXVI to Chapter XXXII (inclusive) of the Penal Code.

(3) This section shall not apply where any person is convicted of an offence under section 3 or section 6 of the Prevention of Corruption Act, 1971, or of stealing cattle or of robbery.

7.-(1) Notwithstanding the provisions of section 176 of the Criminal Procedure Code, where a court convicts any person of a scheduled offence other than an offence under the Prevention of Corruption Act, 1971, the court shall, if it is of the opinion that such person has obtained any property as a result of the commission of the offence and that the owner of the property can be identified, make an order that the person convicted shall pay to the owner of the property compensation equal to, the value of the property as assessed by the court.

(2) An order under this section may be made at any time after the sentence has been passed, and where it has not been made immediately after the sentence has been passed, the court which passed the sentence or any court having revisional jurisdiction over it, may make such order at any subsequent time on the application of the owner of the property or on its own motion:

Circumstances in which court may not apply this Act

Compensation
Cap. 20

Provided that no such order shall be made save in the presence of the person against whom it is made.

Acts 1966
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(3) Where an order is made under this section, the person in whose favour such order is made may file an authenticated copy thereof in the district court having jurisdiction over the area over which the court which made the order has jurisdiction, and upon being so filed the order shall be deemed to be a decree passed by such district court and may be executed in the same manner as if it were a decree passed by such court under the provisions of the Civil Procedure Code, 1966, and the district court or any other district court to which the decree may be transferred for execution, shall have jurisdiction to execute such decree notwithstanding that the amount of the compensation awarded exceeds the pecuniary jurisdiction of the district court.

Remand
pending
conviction

8. Notwithstanding the provisions of section 11 of the Criminal Procedure Code, where any person is convicted of a scheduled offence and any part of the sentence imposed requires to be confirmed by the High Court, such person shall have no right to elect to remain on remand pending such confirmation.

Provisions
relating
to evidence

9. -(1) In any proceedings in which a person is charged with a scheduled offence, any document purporting to be a certificate under the hand of the Registrar of Companies or an Assistant Registrar of Companies to the effect that the company specified in such certificate is a subsidiary company within the meaning assigned to that expression by section 3, shall be admissible in evidence and shall be *prima facie* evidence that such company is a subsidiary company and that the signature to such certificate is a genuine and that the person signing it held the office which he professed to hold at the time when he signed it.

(2) Where in any proceedings in which a person is charged with a scheduled offence, a question arises as to whether any body of persons is affiliated to the Tanganyika African National Union, any document purporting to be a certificate under the hand of the National Executive Secretary or a Principal Assistant Secretary or a Regional Secretary of the Tanganyika African National Union to the effect that such body of persons is affiliated to the Tanganyika African National Union, shall be admissible in evidence and shall be *prima facie* evidence that such body of persons is so affiliated, and that the signature to such certificate is genuine and that the person signing it held the office which he professed to hold at the time when he signed it.

Court
may
impose
imprison-
ment for
longer term

10. (1) Nothing in this Act shall be construed as precluding a court from imposing, in relation to a scheduled offence, a sentence of imprisonment for a term longer than the minimum term of imprisonment prescribed for such offence by this Act:

Provided that the court's power to impose such longer term of imprisonment shall be subject to-

- (a) the: maximum term of imprisonment prescribed for the offence by the written law providing for the offence;
- (b) the limitation, if any, upon the court's powers to award punishments imposed by the Criminal Procedure Code or any other written law.

(2) Where the provision of the written law which provides for any of the offences specified in any of the Schedules to this Act is amended or repealed and re-enacted (whether with or without modification or whether by the re-enactment of the written law in which such provision occurs or by incorporation of the re-enacted provision in any other written law), the provisions of this Act shall, unless the amending or the repealing and re-enacting legislation, as the case may be, expressly provides to the contrary, apply to the corresponding offence or offences created by such amending or repealing and re-enacting legislation,, and the provisions of the Schedules to this Act shall be construed as if references therein to the offence provided for by the written law so amended or repealed and re-enacted, were references to such corresponding offence or offences so created.

(3) The provisions of subsection (2) shall be construed as being in addition to and not in derogation of the provisions of subsection (1) of section 10 of the Interpretation and General Clauses Ordinance. Cap. 1

11.-(1) The Minimum Sentences Act, 1963 is repealed.

Repeal
Cap. 526

(2) Every reference in any written law to any provision of the Minimum Sentences Act, 1963, shall be construed as if such reference were a reference to the corresponding provision of this Act.

12.-(1) No person convicted of a scheduled offence under the Minimum Sentences Act, 1963, shall, after the date on which this Act is enacted, be liable to receive any corporal punishment pursuant to a sentence passed under that Act:

Transitional
provision

Provided that any sentence of imprisonment passed under that Act shall take effect as if this Act had not been enacted.

(2) Where before the coming into operation of this Act, a person has been convicted of a scheduled offence and sentence is not passed until after the commencement of this Act, the court shall pass a sentence in accordance with the provisions of this Act.

FIRST SCHEDULE

1. Stealing by person in the public service contrary to sections 265 and 270 of the Penal Code (Cap. 16).
2. Stealing by a servant contrary to sections 265 and 271 of the Penal Code where the offender is a person employed by a specified authority.
3. Theft contrary to section 265 of the Penal Code where the thing stolen is the Property Of a specified authority.
4. Robbery contrary to section 286 of the Penal Code.
5. House-breaking or burglary contrary to section 294 of the Penal Code.
6. Breaking into a building and committing a felony therein, or breaking out of a building having committed a felony therein, contrary to section 296 of the Penal Code.

FIRST SCHEDULE-(contd.)

7. Stealing cattle contrary to sections 263 and 268 of the Penal Code.

8. Receiving or retaining stolen property contrary to section 311 of the Penal Code where the prop" was stolen in the course of the commission of one of the offences mentioned in items 1 to 6 (inclusive) of this Schedule, or where the property stolen is the property of a specified authority.

9. Taking in a corrupt transaction with an agent contrary to section 3 of the Prevention of Corruption Act, 1971, or obtaining an advantage without consideration or without adequate consideration contrary to section 6 of that Act.

10. Obtaining goods by false pretences contrary to section 302 of the Penal Code where the person from whom the goods are obtained is a specified authority or where the goods so obtained are the property of a specified authority.

11. Being in possession of stock suspected of having been stolen contrary to section 3 of the Stock Theft Ordinance (Cap. 422).

12. Attempt to commit any of the offences specified in this Schedule.

SECOND SCHEDULE

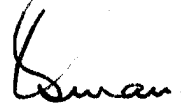
1. Trespassing with intent to steal contrary to section 4 of the Stock Theft Ordinance.
2. Any offence relating to brands contrary to section 7 of the Stock Theft Ordinance.

THIRD SCHEDULE

1. Being found near stock in suspicious circumstances contrary to section 5 of the Stock Theft Ordinance.

2. Passing through, over or under or tampering with, fences round a stock enclosure or cattle boma contrary to section 6 of the Stock Theft Ordinance.

Passed in the National Assembly on the twenty-fifth day of January, 1972.

v. 
Clerk of the National Assembly