

THE UNITED REPUBLIC OF TANZANIA



No. 9 OF 1983

I ASSENT,

Tulius K. Gweme
President

4th May, 1983.

An Act to make special provisions to deal with matters relating to economic sabotage and for connected matters

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Economic Sabotage (Special Provisions) Act, 1983, and shall be deemed to have come into operation on the twenty-fourth day of March, 1983. Short title and commencement

2. In this Act, unless the context requires otherwise—

Interpretation

“economic sabotage” means any act or omission or a combination of acts, or of omissions and acts, which—

- (a) constitute or would constitute a scheduled offence; or
- (b) if done or omitted without lawful excuse and for a purpose prejudicial to the economic safety or interests of the United Republic would or is likely to damage, hinder or interfere with a necessary service or its operation;

“economic sabotage offence” means any offence involving or amounting to economic sabotage;

“member” means a member of the Tribunal appointed under section 5 of this Act and includes the Chairman;

“Minister” means the Minister for the time being responsible for Home Affairs;

“necessary service” includes—

- (a) any service relating to the generation, supply or distribution of electricity;
- (b) any fire brigade or fire service;

- (c) any sewerage, rubbish disposal or other sanitation service.
- (d) any health, hospital or ambulance service;
- (e) any service relating to the supply or distribution of water;
- (f) any service relating to the production, supply, delivery or distribution of food or fuel;
- (g) mining;
- (h) any communications service;
- (i) any transport service;
- (j) any road, railway, bridge, ferry, pontoon, pipeline for the supply of water or fuel, airfield, harbour or dock;
- (k) any other service or facility, whether or not of a kind similar to the foregoing, declared by the President, by notice published in the *Gazette*, to be a necessary service for the purposes of the National Security Act, 1970.

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"scheduled offence" means an offence specified in the Schedule to this Act;

"the Tribunal" means the National Anti-Economic Sabotage Tribunal established by section 5.

Invocation
of section 4

3.-(1) Subject to this section and to the other provisions of this Act, this Act shall apply in relation to the investigation, hearing and determination of cases relating to any economic sabotage offence.

(2) Whenever the President is of the opinion that it is in the national interest that this Act be applied in respect of economic sabotage offences, he may, by order published in the *Gazette* provide that the investigation, hearing and determination of cases relating to economic sabotage offences shall be governed by the provisions of this Act.

(3) The President may apply the order made under sub-section (2) to such persons or category of offences and for such duration as may be specified in the order.

(4) The first order made by the President under sub-section (2) shall remain in force for a period of twelve months from the date of its commencement and shall then lapse; any subsequent order shall remain in force for a period of not more than six months from the date of its commencement unless the National Assembly by Resolution in that behalf extends its application for a period to be specified in the Resolution.

(5) With effect from the date of commencement of any order made under sub-section (2)-

(a) all legal provisions governing the investigation, hearing and disposal of cases relating to economic sabotage offences shall cease to apply; and

(b) every person who commits or has committed any scheduled offence or has committed any offence involving economic sabotage shall subject to subsections (2) and (3) be tried or otherwise dealt with in accordance with the provisions of this Act.

President to
authorized
arrest, search
of economic
saboteurs

4.-(I) Where the President invokes the provisions of section 3, the arrest, search or detention in custody of persons suspected of committing or having committed economic sabotage offence shall be executed by police officers in such manner as the President shall direct.

(2) Any person arrested under the provisions of this section shall be brought before the Tribunal as soon as possible after his arrest and, at any rate within not more than sixty days from the date of his arrest, whether or not the investigations in respect of the offence which he is alleged or have committed are completed.

(3) Any person arrested under subsection (1) may be detained as a civil prisoner in custody or in prison and such person shall, while detained in pursuance of the order, be in lawful custody.

(4) The President may-

(a) rescind any order made under subsection (1) of this section;

(b) direct that the operation of an order made under this Act be suspended subject to such conditions, if any, as 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 such times and to such authority or person as may be specified; and

(ii) requiring him to enter into a bond with or without sureties for the observance of any such conditions aforesaid; and if that person fails to comply with a condition attached to such a direction, he shall, whether or not the direction is revoked, be detained under the original order.

(5) Subject to any regulations which the Minister may make in that behalf, the regulations made under the Preventive Detention Act, 1962 controlling visits to and correspondence to or from detainees shall apply to visits and correspondence to detainees under this Act.

5.-(1) There is hereby established a Tribunal which shall be known as the National Anti-Economic Sabotage Tribunal which shall, subject to the provisions of this Act, have exclusive jurisdiction to bear and determine all cases involving economic sabotage offences.

(2) The Tribunal shall consist of a Chairman and not less than four nor more than twelve other members all of whom shall be appointed by the President. The Chairman of the Tribunal shall be a Judge of the High Court appointed in that behalf by the President.

(3) For the purposes of hearing and determining any matter brought before it, the Tribunal shall consist of three members one of whom shall be a judge of the High Court who shall preside over the proceedings, and any decision approved by the majority of the members shall be deemed to be the decision of the Tribunal; but any member who dissents shall put his reasons in writing and they shall form part of the record of the Tribunal relating to the case or matter concerned.

(4) The Tribunal shall be convened as often as may be necessary and without prejudice to the other provisions of this Act, it shall make such recommendation to the Minister to make regulations on a procedure to facilitate the carrying out of its functions under this Act as it may deem fit.

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Establishment
of the
National
Economic
Sabotage
Tribunal

(5) Where the Tribunal convicts a person of any economic sabotage offence it may order that he be detained for any period not exceeding fifteen years, and make such orders relating to-

- (a) the settlement of that person while serving sentence;
- (b) the disposal of any property to which the offence concerned related; as it may deem fit.

(6) The Tribunal shall make special recommendations to the President on how to deal with any person who gives any false statement which leads to the arrest and detention of any person under this Act.

(7) Nothing in this section or in any legislation enacted by Parliament for the purposes of this Act shall confer on the Tribunal any jurisdiction to inquire into or review any decision of any Judge, Magistrate or the Registrar where that decision was made by him in the exercise of the functions of his judicial office; similarly the Tribunal shall have no powers to inquire into or review any decision of any tribunal established by or under any legislation for the performance of judicial functions in the exercise of those functions.

Forfeiture 6. For the avoidance of doubt where the Tribunal is satisfied that an economic sabotage offence has been committed in respect of any Property seized and retained in pursuance of the provisions of section 4(1) it may order that the property be forfeited to the United Republic or be disposed of in such a manner as it may deem fair and just in the circumstances.

Duty to Act on recommendations 7. Where the Tribunal makes any recommendations to the President in pursuance of any provision of this Act, the President shall receive the recommendation and act on it in such manner as he may deem fair and just in the circumstance.

Duty of Police to bring cases before the Tribunal 8. Subject to such directions, exceptions or conditions as may be issued in that behalf by the Director of public Prosecutions, Police public Prosecutors shall be responsible for the conduct of prosecutions before the Tribunal.

Conduct of enquiries before the Tribunal 9.-(1) Subject to sub-section (2), the proceedings of the Tribunal shall be open to the members of the Public generally, so far as the place in which the proceedings are conducted can conveniently contain them.

(2) The Tribunal may if it thinks fit, order at any stage of any proceedings the public generally or any particular person shall not have access to or be or remain in the room or building used by the Tribunal -

(3) The Tribunal may hear or obtain information from such persons as it thinks fit.

(4) Subject to section 12, the Tribunal may obtain information whether or not the same be evidence within the meaning of the law for the time being regulating the admissibility of evidence in courts of law.

procuring information and the attendance of witnesses 10.-(1) The Tribunal may require any person who in its opinion, is able to give any information relating to any matter relevant to an enquiry to furnish it with any such information and to produce any documents, papers or things which may be in Possession or under the control of that person and may, by order under the hand of a member, require any such person to attend before the Tribunal at a time and place specified in such order and to be examined on oath or to produce any such document, paper or thing.

(2) Where the Tribunal orders any person to be examined on oath, any member may administer such oath.

(3) An order made under this section shall be served on the person to whom it is directed by a police officer in the manner prescribed for the service of a summons on a witness in civil proceedings before a court of law.

(4) If a person to whom an order under this section is directed does not attend at the time and place mentioned therein, the Tribunal may, upon being satisfied that the order was duly served or that the person to whom the order is directed willfully avoids service, issue a warrant under the hand of a member to apprehend such person and to bring him before the Tribunal at a time and place specified in the warrant.

(5) Every warrant issued under subsection (4) of this section shall be executed by a police officer.

(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 order of the Tribunal on his undertaking to attend at a time and place specified by it, he shall forthwith be taken before a magistrate and such magistrate shall—

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

11. Subject to section 10 of this Act and any Regulations which the Minister may, on the recommendation of the Tribunal make in that behalf, every person required to give any information, by, or ordered to attend to give evidence or to produce any document, paper or thing before the Tribunal shall be entitled in respect of such information, evidence, document, paper or thing to the same rights and privileges as witnesses have in a court of law.

Privilege
of witness

12.-(1) Where the President certifies that the giving of any information, the answering of any question or the production of any document, paper or thing—

State
privilege
and enact-
ments relating
to secrecy

- (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; or
- (b) might involve the disclosure of the deliberations of the Cabinet; or
- (c) might involve the disclosure of proceedings of the Cabinet, or of any Committee of the Cabinet, relating to matters of a secret or confidential nature, and would be injurious to the public interest,

the Tribunal shall not require the information or answer to be given or, as the case may be, the document, paper or thing to be produced.

(2) No person bound by the provisions of any written law, other than the National Security Act, 1970, the Judicial Services Act, 1962, or the Civil Service Act, 1962, to maintain secrecy in relation to, or not to disclose, any matter, shall be required to supply any information to or answer any question put by the Tribunal in relation to that matter, or

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to produce to the Tribunal any document, paper or thing relating to it, if compliance with that requirement would be in breach of the obligations of secrecy or non-disclosure:

Provided that, if an enquiry is made as a consequence of the complain, of any person and such complainant consents in writing to the disclosure any person bound as aforesaid may be required by the Tribunal to supply information, to answer any question or produce any document or thing relating only to the complainant, and it shall be the duty of such first mentioned person to comply with that requirement.

(3) Save as provided by the foregoing provisions of this section but notwithstanding the provisions Of any Other law-

- (a) no pa may refuse to disclose any information to, answer any question by, or produce any document, paper or other thing before the Tribunal on account of any judicial, official or state privilege or any privilege relating to information as to the commission of an offence.
- (b) the disclosure to the Tribunal of any matter in relation to which any person has taken an oath of secrecy shall be deemed to be a disclosure by such person in the course of his duties, for an authorized purpose, and with the authority of the person empowered to authorize the disclosure;
- (c) no person shall be liable to prosecution for an offence contrary to the National Security Act, 1970, the Judicial Service Act, 1962, the Civil Service Act, 1962, or any other written law, other than sections 102, 103, 106, 108 or 109 of the Penal Code or section 16 of this Act, by reason only of his compliance with any requirement of the Tribunal under section 10.

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Reports to
be confide-
ntial

13. Save as may be directed by the President, the Tribunal shall not disclose the contents of any recommendations made to the President.

Privileges of the Tribunal

14.-(1) Notwithstanding the provisions of any other written law to 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) 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 member or officer of the Tribunal shall, if done or omitted bonafide in the execution or purported execution of his duties as a member, officer, servant or agent of the Tribunal, subject any such persons to any action, liability or demand of any kind, subject to subsection (3).

(3) Nothing in this section shall be construed as protecting from liability any officer, or servant of the Tribunal or any other public officer, other than a member of the Tribunal, who acts in gross excess or neglect of the terms of his mandate.

(4) Subject to section 20, no enquiry, proceeding, decision or process of the Tribunal shall be bad for any error or irregularity of form and, except on the ground of lack of jurisdiction, no enquiry, proceeding or process of the Tribunal shall be liable to be challenged, reviewed, quashed, or called into question in any court.

15.-(1) Subject to subsection (3) of this section-

Proceedings
privileged

- (a) no proceedings, civil or criminal, shall lie against the Tribunal, any, person holding office under the Tribunal, or any police officer employed to serve or execute the orders or warrants of the Tribunal, for anything he may do or report or say in the course of the exercise or intended exercise of his functions under this Act, unless it is shown he acted in bad faith;
- (b) no Tribunal or any such person as aforesaid shall be called to give evidence in any court or any other proceedings of a judicial nature in respect of the proceedings in any enquiry or anything coming to his knowledge in the exercise of his functions under this Act.

(2) Anything said, any information supplied; or any document, paper or thing produced by any person in the course of any enquiry shall be privileged in the same manner as if the enquiry were a proceeding in a court, and a report of the Tribunal shall be privileged in the same manner as if it were the record and judgment of a proceeding in a court.

(3) Nothing in subsection (1) shall apply in the case of any proceeding for any offence against the National Security Act, 1970, for an offence contrary to section 102, 103, 106, 108 or 109 of the Penal Code in relation to an enquiry, or for an offence contrary to section 16 of this Act.

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Miscellaneous

16.-(1) Any person who-

Offences

- (a) without lawful justification or excuse, disobeys any order of the Tribunal for his attendance or the production of any document, paper or thing;
- (b) without lawful justification or excuse, refuses to be examined before or to answer any questions relating to an enquiry put to him by, the Tribunal;
- (c) willfully presents to the Tribunal any false, untrue, fabricated or falsified document or makes any false statement to the Tribunal with intent to deceive the Tribunal, or misleads or attempts to mislead the Tribunal;
- (d) publishes any false or scandalous libel on the Tribunal;
- (c) creates or joins in any disturbance which interrupts or is likely to interrupt the proceedings of the Tribunal;
- (f) without lawful justification or excuse, wilfully obstructs, hinders any member or any other person acting in the exercise of the powers conferred by this Act,

shall be guilty of an offence 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 such fine and imprisonment.

(2) No member or any person holding office under the Tribunal, or any other person, shall publish or disclose to any person otherwise than in the exercise of his official functions the contents of any document, communication or information whatsoever which has come to his notice in the course of his duties in relation to the Tribunal. Any person who knowingly acts in contravention of the provisions of this subsection shall be guilty of an offence 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 such fine and imprisonment.

(3) Any person who knows of any information which to his knowledge has been disclosed in contravention of the provisions of subsection (2) of this section and who publishes it or communicates it to any other person otherwise than for the purpose of any prosecution under this Act or in the course of his official duty, shall be guilty of an offence 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 such fine and imprisonment.

(4) Any proceedings at any enquiry at which a person gives evidence on oath or produces any document, paper or thing in accordance with an order of the Tribunal shall be deemed to be judicial proceedings for the purposes of sections 102, 103, 106, 108 and 109 of the Penal Code.

(5) A prosecution in respect of an offence contrary to subsection (2) or (3) of this section shall only be instituted with the consent of the Director of Public Prosecutions and shall be determined within sixty days from the day of its institution.

Arrest

17. Any member, any person holding office under the Tribunal or any police officer may arrest without warrant any person who commits in his presence any offence contrary to paragraph (e) of subsection (1) of section 16.

Records
Acts, 1965
No. 33

18. Part I of the Schedule to the National Archives Act, 1965 (which sets out certain public authorities the records of which are public records for the purposes of that Act) is hereby amended by inserting in the appropriate position the following new item:-

"The records of the National Economic Sabotage Tribunal".

Scheduled
offences

19. The Schedule to this Act shall constitute the offences to be dealt with by the Tribunal.

Appeals

20.-(1) Subject to the provisions of this Act and the regulations made under section 21, any person aggrieved by any order of the Tribunal may appeal to the President against the order on the ground of the severity of the sentence passed, after that person has been convicted.

(2) The decision of the President on any appeal shall be final and conclusive, and shall not be the subject of review by any court.

Regulations

21.-(1) The Minister may, on his own motion or upon the recommendation or advice by the Tribunal, make regulations for the better carrying out of the objects and provisions of this Act.

(2) Without prejudice to the generality of the power conferred by subsection (1), the Minister may make regulations—

- (a) providing for the conduct of the business of the Tribunal;
- (b) providing for the appeals procedure;
- (c) providing for the scheme of settlement of persons found to have committed any economic sabotage offence; and
- (d) providing for any other matter which, in the opinion of the Minister it is necessary that it be provided for so as to ensure the efficient performance of the functions of the Tribunal and, generally, the furtherance of the objects and provisions of this Act.

22.—(1) Every order made by the President, and every act, matter or thing done or omitted by any person in pursuance of the order of the President made prior to the enactment of this Act shall, subject to the provisions of this Act, be deemed to have been made or done under the provisions of this Act. Validation of acts

(2) For the avoidance of doubt, no order made or, act, matter or thing done or omitted to be done by any person prior to the enactment of this Act shall be invalid for the reason only that the order, act, matter or thing was made, done or omitted prior to the enactment of this Act.

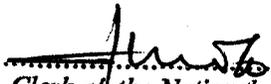
SCHEDULE

Scheduled Offences

(Section 18)

1. Offences under the Exchange Control Ordinance, Cap. 294.
2. Hoarding contrary to section 194 A of the Penal Code.
3. Conveying or having possession of goods suspected to have been stolen or unlawfully acquired contrary to section 312 of the Penal Code.
4. Occasioning loss to the Government or parastatal organization by employee contrary to section 284 A of the Penal Code.
5. Any trade conduct which violates any law governing matters relating to trade, price regulation and the distribution of goods.
6. Any act which for the purposes of facilitating unlawful acquisition of property violates any law governing the manufacture, sale, possession or use of firearms.
7. Any conduct which violates the law relating to the prevention of corruption.
8. Economic sabotage.

Passed in the National Assembly on the twenty-second day of April, 1983.


Clerk of the National Assembly