

THE PARLIAMENTARY IMMUNITIES, POWERS AND PRIVILEGES ACT, 1988

ARRANGEMENT OF SECTIONS

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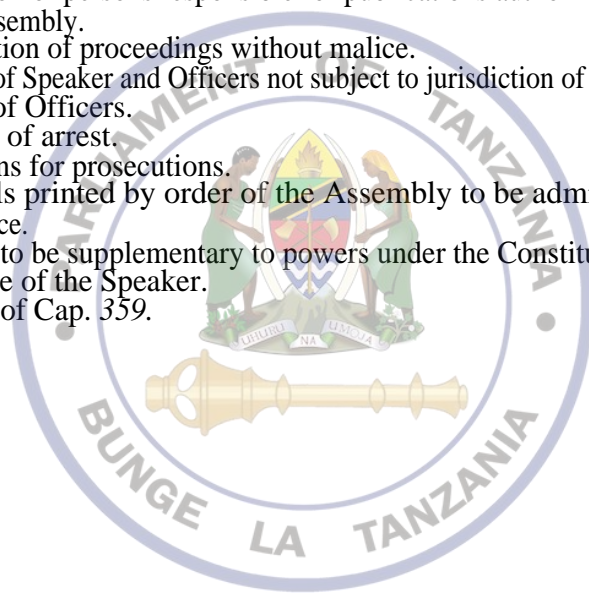
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THE UNITED REPUBLIC OF TANZANIA



No. 3 OF 1988

Al Hassan I ASSENT,
President

31st MARCH, 1988

An Act to declare and define the immunities, powers and privileges of Parliament and of the members and committees of the National Assembly and to provide for related purposes

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PART I

PRELIMINARY

Short title
and
commence-
ment

1. This Act may be cited as the Parliamentary Immunities, Powers and Privileges Act, 1988, and shall come into operation on such date as the Minister may, by notice in the Gazette appoint.

2. In this Act, unless the context otherwise requires:-

Interpreta-
tion

"Assembly" means the National Assembly;

"Committee" means a Standing Committee of the Assembly established in accordance with section 89 of the Constitution and includes any committee selected to exercise the powers of the Assembly;

"Clerk" means the Clerk of the Assembly and includes any person acting as such on the authority of the Speaker;

"Journals" means the minutes of the Assembly or the official record of the votes or proceedings of the Assembly;

the Speaker is not a member of the Assembly, the Speaker;

"Officer of the Assembly" means the Clerk or any other officer or person acting within the precincts of the Assembly under the orders of the Speaker and includes any police officer on duty within the precinct of the Assembly.

Cap. 322

"Police Officer" has the same meaning its in the Police Force Ordinance;
 "precinct of the Assembly" means the chamber in which the Assembly sits in section for the transaction of business, together with the offices, rooms, lobbies, galleries, courtyards, gardens and other places provided for the use or accomodation of members. officers or strangers, and any passages connecting such place, and any time be declared mediatly contiguous thereto as may from time to time be declared by the Speaker as being within the precincts of tile Assembly',
 "-Standing Orders- means the Standing Orders of the Assernbly made in according with the provision of section 89 of tile Constitution-,
 "-Speaker- means the Speaker of the Assembly and includes any Deputy Speaker and any other member elected, in accordance with section 93 of the Constitution, by the Assembly to act as;
 "stranger" means any person other than a member or an officer of the Assembly but does not include the Speaker where Such Speaker is not a member.

PART II

PRIVILEGES AND IMMUNITIES OF THE ASSEMBLY AND ITS OFFICERS

Freedom of
speech and
debate

3. There shall be freedom of speach and debate in the Assembly and such freedom of speech and debate shall not be liable to be questioned in any court or place outside the Assembly.

Freedom of
members to
hold
meetings
in consti-
tuences

4.-(1) Subject to this Act and to any statutory or other provisions regulating the convening and organisation of such meetings, a member shall be free to hold public meetings in his constituency and all respo-risible authorities shall facilitate them in a manner as convenient to the member as is possible under the circumstances.

(2) Any person who causes obstruction at such public meetings shall be guilty of an offence and liable to be proceeded against by the relevant authority in accordance with law.

Immunity
from legal
proceedings

5. No civil or criminal proceedings may be instituted against any member for words spoken before, or written in a report to the Assembly or a committee, or by reason of any matter or thing brought by him therein by petition, bill, or motion or otherwise or for words spoken or act done in *bona fide* pursuance of a decision or proceeding of the Assembly or a committee.

Freedom
from arrest -
for civil debts

6. No member shall be liable for arrest for any civil debt except for a debt the contraction of which constitutes a criminal offence.

Entry to As-
sembly

7.-(1) No stranger shall be entitled. as of right. to enter or to remain within the precincts of the Assembly.

(2) The Speaker may issue such orders as he may in his discretion deem necessary or desirable for the regulation of the admittance of strangers to, and the conduct of strangers within, the precincts of the Assembly chamber.

(3) Copies of orders made under this section shall be duly authenticated by the Clerk and exhibited in a conspicuous position in the precincts of the Assembly, and such copies when so authenticated and exhibited shall be deemed to be sufficient notice to all persons affected thereby.

8 The Speaker or any officer authorized by the Speaker may, at any time order any stranger to withdraw from the precincts of the Assembly

Order of withdrawal from Assembly

9.-(1) No member or officer and no person employed to take or transcribe minutes of evidence before the Assembly or any Committee shall give evidence elsewhere respecting the contents of such minutes or evidence, or of the contents of any document laid before the Assembly or committee, as the case may be, or respecting any proceedings or examination held before the Assembly or Committee, as the case may be, without the special leave of the Assembly first had and obtained.

Evidence of proceedings in Assembly or Committee not to be given without leave

(2) The special leave referred to in subsection (1) may be given during a recess or adjournment by the Speaker.

10. Subject to this Act and to any statutory or other provisions regulating the disclosure of information by public officers, a member may, on request by himself, be furnished with information by the public officer concerned. ¹¹

Member to be furnished with information

11. Notwithstanding anything to the contrary, no summons issued by any Court of the United Republic or outside the United Republic in the exercise of its civil jurisdiction shall be served or executed within the precinct of the Assembly while the Assembly is sitting, or through the Speaker or any officer of the Assembly, nor shall any member be arrested on civil process, save by the Leave of the Speaker first obtained, while he is within the precincts of the Assembly and while the Assembly is sitting.

Exercise of civil process

12.-(1) It is declared for the avoidance of doubt that subject to the Constitution and the Standing Orders of the Assembly, the Assembly has all such powers and jurisdiction as may be necessary for inquiring into judging and pronouncing upon the commission of any act, matter or thing, not amounting to an offence under this Act, which is a breach of Parliamentary privileges.

Jurisdiction and procedure in relation to breaches contempt etc.

(2) The Speaker shall have the power, subject to the Standing Orders of the Assembly, to determine whether or not any act, matter or thing is one into which the Assembly may inquire, judge and pronounce upon.

(3) The Assembly or, as the case may be, a committee may, in relation to any act, matter or thing, recommend to the Speaker that he requests the Attorney-General to take steps necessary to bring to trial before a court of competent jurisdiction any person connected with the commission of an offence under this Act.

(4) The Speaker shall, either of his own accord or upon a recommendation of a committee, report to the Attorney-General all acts, matters and things amounting to offences under this Act, committed by any person, and the Attorney-General shall proceed in relation to such report in accordance with law."

PART III

EVIDENCE

Power to
order atten-
dance of wit-
nesses

13.-(1) The Assembly, any standing committee or any sessional committee may, subject to provisions of section 18 and section 20 of this Act, order any person to attend before the Assembly or before such committee and to give evidence or to produce any document in the possession or under the control of such person.

(2) The powers conferred by subsection (1) of this section on a sessional committee may be exercised by any other committee which is specially authorized by a resolution of the Assembly to exercise such powers in respect of any matter or question specified in the resolution.

Attendant to
be notified by
summons

14.-(1) Any order to attend to give evidence or to produce documents before the Assembly or a committee shall be notified to the person required to attend or to produce the documents by a summons under the hand of the Clerk issued under the direction of the Speaker.

(2) In every summons under subsection (1) of this section there shall be stated the time when and the place where the person summoned is required to attend and the particular documents which he is required to produce and the summons shall be served on the person mentioned therein either by delivering to him a copy thereof or by leaving a copy thereof at his usual or last known place of abode in the United Republic, with some adult person; and there shall be paid or tendered to the person summoned, if he does not reside within four miles of the place of attendance specified in the summons, such sum for his expenses as may be prescribed by Standing Orders.

(3) A summons under this section may be served by an officer of the Assembly or by a police officer.

15.-(1) If a person to whom a summons section 14 is directed does not attend before the Assembly or the committee at the time and place mentioned therein, the Speaker may, upon being satisfied that the summons was duly served or that the person to whom the summons is directed willfully avoids service, issue a warrant to apprehend him and bring him, at a time and place to be stated in the warrant, before the Assembly or committee.

Power to
issue warrant
to compel at-
tendance

(2) A warrant issued under this section shall be executed by a police officer.

(3) The Speaker, on the issue of a warrant under this section, may, if he thinks fit, by an appropriate endorsement on the warrant, direct that the person named in the warrant be released after arrest on his entering into such a recognizance before a court for his appearance before the Assembly or committee as may be required in the endorsement.

16.-(1) The Assembly or an authorized committee may require that any facts, matters and things relating to the subject matter of inquiry before the Assembly or such committee be verified or otherwise ascertained by the oral examination of witnesses, and may cause any such witnesses to be examined upon oath.

Witness may
be examined
on oath

(2) An oath required to be taken under the provisions of this section may be administered by the Clerk or by any other person appointed by the assembly for that purpose, or, in the case of a witness before a committee, by the chairman of the committee or by the member presiding in the absence of the chairman, or by the secretary to the committee.

17.-(1) Where any person ordered to attend to give evidence or to produce any document before the Assembly refuses to answer any question that may be put to him or to produce any such document on the ground that the same is of a private nature and does not affect the subject of inquiry, the Speaker may excuse the answering of such question or the production of such document, or may order the answering or the production thereof.

Objection to
answer ques-
tion of to pro-
duce papers

(2) Where any person ordered to attend to give evidence or produce any document before any committee refuses to answer any question that may be put to him or to produce any such document on the ground that the same is of a private nature and does not affect the subject of inquiry, the chairman of the committee may report such refusal to the Speaker with the reasons therefor; and the Speaker may thereupon excuse the answering of such question or the production thereof.

18.-(1) Subject to the provisions of subsection (3), every person summoned to attend to give evidence or to produce any document before the Assembly or a committee thereof shall be entitled, in respect of such evidence or the disclosure of any communication or the production of any such document, to the same rights and privileges as before a court of law.

Privileges of
witnesses

(2) Without prejudice to the generality of the provisions of subsection (1), no public officer shall, except with the consent of the President-

- (it) give, before the Assembly or it committee thereof, any document.
- (b) ^{or} produce, before the Assembly or it committee, thereof, any document,
- (c) furnish to the Secretariat of the National Assembly any document or information.

relating to any naval, military or air force matter; nor shall secondary evidence be received by or produced before the Assembly or committee of the contents of any such document.

(3) Unless the President otherwise directs, no public officer shall refuse-

- (it) to give, before the Assembly or it committee thereof, any evidence;
- (b) ^{or} to produce, before the Assembly or it committee thereof, any document,
- (c) to furnish to the Secretariat of the National Assembly any information,

relating to the correspondence of any civil department or any matter affecting the public service - and secondary evidence shall not be received by or produced before the Assembly or a committee of the contents of any such document which the President has directed shall not be produced. such directions shall only be given when in the opinion of the President it would be contrary to the public interest to give Such evidence or to produce such document its aforesaid.

Cap. 10

(4) An answer by a person to a question put by the Assembly or a committee shall not, except in the case of criminal proceedings under section 102, 106, 108 and 109 of the Penal Code or of an offence against this Act, be in any proceedings, civil or criminal, admissible in evidence against him.

Evidence of proceedings in Assembly or committee not to be given without leave

19.-(1) Notwithstanding the provisions of any other law, no member or officer of the Assembly and no person employed to take minutes of evidence before the Assembly or any committee shall save as provided in this Act, give evidence elsewhere in respect of the contents of such minutes or evidence or of the contents of any document laid before the Assembly or such committee, as the case may be, or in respect of any proceedings or examination held before the Assembly or such committee, as the case may be, without the special leave of the Assembly first had and obtained.

(2) The special leave referred to in subsection (1) of this section may be given during it recess or adjournment by the Speaker or, in his absence or other incapacity or during any dissolution of the Assembly, by the Clerk.

20. (1) Every witness before the Assembly or an authorised committee who shall answer fully and faithfully any questions put to him by the Assembly or such Committee to its satisfaction shall be entitled to receive it certificate stating that such witness was upon his examination so required to answer and did answer any such question.

Certificate issued to witnesses making full disclosure to be a bar to civil or criminal proceedings

(2) Every certificate under subsection (1) shall, in the case of a witness before the Assembly, be under the hand of the Speaker, and in the case of a witness before a committee, be under the hand of the chairman thereof.

(3) On production of such certificate to any court of law, such court shall stay any proceedings, civil or criminal, against such witness for any act or thing done by him before the time and revealed by the evidence of such witness, and may, in its discretion, award to such witness the expenses to which he may have been put.

21. Any person who, before the Assembly or any authorised committee intentionally gives a false answer to any question material to the subject of inquiry which may be put to him during the course of any examination shall be guilty of an offence and shall be punishable as if he has committed an offence under section 122 of the Penal Code.

False evidence cap. 16

22. Any person who-

- (a) tampers with, deters, threatens, molests, beguiles or in any way unduly influences any witness in regard to any evidence to be given by him before the Assembly or any committee; or,
- (b) threatens, molests or in any way punishes, damnifies or injures or attempts to punish, damnify or injure any person for having given evidence before the Assembly or any committee or on account of any evidence which he has given before the Assembly or any committee, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

Interference with witnesses

23. Any person who presents to the Assembly or to any committee any false, untrue, fabricated or falsified document with intent to deceive the Assembly shall, where such presentation does not constitute an offence under section 21, be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings or for a term of imprisonment not exceeding twelve months, or to both such fine and imprisonment.

false documents

24. Any person shall be guilty of an offence who-

- (a) having been called upon to give evidence before the assembly or an authorised committee thereof refuses to be sworn or make an affirmation; or
- (b) being a witness misconducts himself; or

Contempt

- (c) causes an obstruction or disturbance within the precincts of the Assembly Chamber during a sitting of the Assembly or of a committee thereof; or
- (d) shows disrespect in speech or manner towards the Speaker, or
- (e) commits any other act of intentional disrespect to or with reference to the proceedings of the Assembly or of a committee of the Assembly or to any person presiding at such proceedings.

Questions relating to evidence and production of documents before the Assembly or a committee to be determined in accordance with usage of Parliament

25. Where at any time any questions arise in the Assembly or in a committee regarding-

- (a) the right or power of the Assembly or committee to hear, admit or receive oral evidence; or
- (b) the right or power of the Assembly or committee to peruse or examine any paper, book, record or document or to summon, direct or call upon any person to produce any paper, book, record or document before the Assembly or committee; or
- (c) the right or privilege of any person (including a member of the Assembly or committee); that question shall, subject to the preceding provisions of this Act, and except in so far as express provision is made in those provisions for the determination of that question, be determined in accordance with the usage and practice of Parliament.

PART IV

OFFENCES AND PENALTIES

Proceeding to be deemed judicial proceedings for certain purposes of Cap. 16

26. Any proceedings before the Assembly or a committee thereof at which any person gives evidence or produces any document, shall be deemed to be judicial proceedings for the purposes of sections 102, 106, 108 and 109 of the Penal Code.

Offences relating to admittance to the Assembly

27. Any person who-

- (a) being a stranger enters or attempts to enter the precincts of the Assembly in contravention of any order of the Speaker; or
- (b) being a stranger fails or refuses to withdraw from the precincts of the Assembly when ordered to withdraw therefrom by the speaker or
- (c) being a stranger, contravenes any order made under this Act by the Speaker regulating the admittance of strangers to the precincts of the Assembly or any rule made by the Speaker under the Standing Orders; or

(d) attends any sitting of the Assembly as the representative of any news reporter after the general permission granted under any order made under this Act or under the Standing Orders to the representative of that news reporter has been revoked, shall be guilty of an offence and shall, on conviction be liable to a fine not exceeding five thousand shillings or to imprisonment for any term not exceeding six months or to both such fine and imprisonment.

28.-(1) Any person who offers to any member or officer or to any person who is an employer, or a partner either directly or indirectly, any bribe, fee, compensation, gift or reward in order to influence such member or officer in his conduct as such member or officer or for or in respect of the promotion of or opposition to any Bill, resolution, matter, rule or thing submitted to, or intended to be submitted to, the Assembly shall be guilty of an offence.

Corrupt
or improp-
er prac-
tices

(2) Any member or officer or any person who is an employer, a partner who demands, accepts or receives, directly or indirectly, any bribe, fee ~ compensation, gift or reward the offering of which is or would be an offence under this section shall be guilty of an offence.

(3) Any person who commits an offence under this section shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

(4) In any proceedings against any person for an offence under this section. the court may, if it finds the offence proved-

- (a) order that the value or the amount of any bribe, fee, compensation, gift or reward offered or accepted or received in contravention of this section shall be forfeited; or
- (b) order that the amount or the value of any bribe, fee, compensation, gift or reward accepted or received in contravention of this section shall be repaid by the person accepting or receiving the same, or by the person on whose behalf the same was accepted or received to the persons from whom it was accepted or received, or to the person on whose behalf such latter person was acting.

29. Any person shall be guilty of an offence who-

- (i) assaults, obstructs or insults any member or officer going to or coming from the precincts of the Assembly Chamber; or
- (b) endeavors to compel, either directive or in directive any member by force, insult or menace to declare himself in favour of or against any Bill, resolution matter rule or thing submitted to. or intended to be submitted to. the Assembly; or
- (c) assaults, interfered with, resists or obstructs any officer while in the execution of his duty as Such officer, or
- (d) sends to any member any threatening letter, or challenges any member to a fight, on account of his conduct as such member.

Other of
fences against
member and
officer

Disobedience

30. Any person commits an offence who wilfully and without lawful cause fails to comply with, or contravenes, any order made under section 8 or 15 or who willfully fails to obey any other order of the Assembly whereby the Assembly is obstructed in the performance of its functions:

Provided that no offence is committed under this section unless the Speaker or an officer has drawn to the attention of the persons concerned the fact that such failure or contravention is contrary to such Order and the person thereafter continues in such failure or Contravention as aforesaid .

other offences

31. Any person who--

- (a) disobeys an order made by the Assembly or a committee for attendance or for production of documents unless such attendance or production be excused as herein before provided, or
- (b) refuses to be examined before, or to answer any lawful and relevant question put by the Assembly or its Committee unless such refusal be excused as herein before provided, or
- (c) creates or joins in any disturbance which interrupts or is likely to interrupt, the proceedings of the Assembly or any committee while the Assembly or such committee is sitting; or
- (d) presents to the Assembly or its committee any false, untrue, fabricated or falsified document with intent to deceive the Assembly or such committee; or
- (e) publishes any false or scandalous libel on the Assembly, or any report which willfully misrepresents in any way any proceedings of the Assembly or any committee.
- (f) publishes, save by the general or special leave of the Assembly, its report of any proceedings of the Assembly or any committee when proceedings have not been held in public; or
- (g) Publishes, save by the general or special leave of the Assembly, any paper, report or other document prepared expressly for submission to the Assembly before the same has been laid on the Table of the Assembly, or
- (h) prints or Causes to be printed a copy of any Act now or hereafter in force, or its copy of any report, paper or journals of the Assembly purporting to have been printed by the Government Printer, or by or under the Authority of the Assembly, or of the Speaker, and the same is not so printed; or
- (i) tenders in evidence any such Copy as purporting to be so printed knowing that the same was not so printed; or
- (j) publishes or prints any libels on any member concerning his character or conduct or any member and with regard to action performed or words uttered by him in the course of the transaction of the business of the Assembly,

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

32. Any member who accepts or agrees to accept or obtains or attempts to obtain for himself or for any other person any bribe, fee, compensation, reward or benefit of any kind for speaking, voting or acting as such member or for refraining from so speaking, voting or acting on account of his having so spoken, voted or acted or having so refrained, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for three years or to both. Such fine and imprisonment.

Acceptance
of bribes by
member

33. Any person, being a defendant in any civil or criminal proceedings instituted for or on account or in respect of the publication by such person or by his servant, by order or under the authority of the Assembly of any reports, papers, minutes, votes and proceedings, may, on giving to the plaintiff or prosecutor, as the case may be, twenty-four hours written notice of his intention, bring before the court in which such civil or criminal proceedings are being held a certificate under the hand of the Speaker that the reports, papers, minutes, votes and proceedings in respect whereof such civil or criminal proceedings have been instituted were published by such person or by his servants by order or under the authority of the Assembly together with an affidavit verifying such certificate, and the such court shall thereupon immediately stay such civil or criminal proceedings and the same and every process issued therein shall be deemed to be finally determined.

Protection of
person re-
sponsible for
publications
authorized
by the As-
sembly

34. In any civil proceedings instituted for publishing any report or summary of or any extract from or abstract of any report, paper, minutes, votes and proceedings of the Assembly, if the court be satisfied that such report, summary, extract or abstract was published *bona fide* and without malice, judgment shall be entered for the defendant.

Publications of
proceedings
without
malice

35. Neither the Speaker, nor any officer of the Assembly, shall be subject to the jurisdiction of any court in respect of the exercise of any power conferred on or vested in the speaker or such officers by this Act.

Power of
speaker and
officer not
subject to
jurisdiction of
court

36. Every officer of the Assembly shall, for the purposes of this Act and of the application of the provisions of the criminal law, have all the powers and enjoy all the privileges of a police officer,

37. Any officer of the Assembly may arrest without warrant-

- (a) any person who commits any offence contrary to section 31, or 32 in his presence;
- (b) any person within the precincts of the Assembly who he reasonably suspects of having committed, or being about to commit an offence contrary to any of the said section.

Power of arrest

Sanctions for prosecutions 38. No prosecution for an offence under this Act shall be instituted except with the written sanction of the Director of Public Prosecution.

Journals printed by order of the Assembly to be admitted as evidence 39. Upon any inquiry touching the privileges, immunities and powers of the Assembly or of any member, any copy of the journals or Standing Orders printed or purporting to be printed by the Government Printer, or any copy of the journals or Standing Orders dully authenticated as such under the hand of the Clerk shall be admitted as evidence of such journals or standing orders in all courts and places without any further proof being given.

Powers to be supplementary to powers under the constitution 40. The Powers of the Assembly and of the Speaker under this Act shall be supplementary to any powers conferred by the Constitution or Standing Orders.

Absence of the Speaker 41. (1) For the purposes of this section "absent" in relation to the Speaker or the Deputy Speaker, means—

- (a) that the office of Speaker or the office of Deputy Speaker is vacant; or
- (b) that the Speaker or the Deputy Speaker is incapable of, or is from any cause prevented from, performing the duties of the office of Speaker; or
- (c) that the Speaker or the Deputy Speaker is absent from the sit of Parliament.

(2) For the duration of any period during which the Speaker is absent, the powers and privileges vested in the Speaker by this Act shall be vested in the Deputy Speaker.

(3) For the duration of any period during which both the Speaker and the Deputy Speaker are absent—

- (a) the powers and privileges vested in the Speaker by the provisions, other than sections 20 and 33 of this Act shall—
 - (i) in so far as they relate to any matter arising at a sitting of the Assembly for the transaction of business, be vested in such member of the Assembly as may be elected by the Assembly by virtue of the provisions of section 93 of the Constitution to preside at the sitting of the Assembly when such matters arise; and
 - (ii) in so far as they relate to any other matter, be vested in such member of the Assembly as may be appointed for this purpose by the Assembly; and
- (b) the powers vested in the Speaker by sections 20 and 33 shall be vested in the Clerk.

Repeal of Cap. 359 42. The Legislative Council (Powers, and Privileges) Ordinance is hereby repealed.

Passed in the National Assembly on the twenty-first day of January, 1988.

M. M. M. M. M.
Clerk of the National Assembly