

THE UNITED REPUBLIC OF TANZANIA



No. 14 OF 1980

I ASSENT,

Julius Nyerere
.....
President

21 ST. MAY, 1980

An Act to amend the Penal Code and to make Provisions for connected matters

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Penal Code (Amendment) Act, 1980, and shall be read as one with the Penal Code, and shall come into operation on such date as the Minister for the time being responsible for legal affairs may, by notice in the Gazette, appoint.

Short title, construction and commencement
Cap. 16

2.-(1) All distinctions between felonies and misdemeanors in the Penal Code and in any other written law for the time being in force in Tanganyika are hereby abolished.

Abolition of distraction between felony and misdemeanour

(2) A reference to a "felony" or a "misdemeanour" in the Penal Code or in any other written law for the time being in force in Tanganyika, shall be construed as a reference to "an offence", and the term "the felony ..." or "the misdemeanour" shall be construed accordingly.

3. Section 4 of the Penal Code is repealed and replaced by the following: -

Repeal and replacement of section 4
Cap. 16

"General rule of construction
Cap. I

4. Subject to the provisions of the Interpretation and General Clauses Act, 1972, and the expressions specifically defined in this Code, the Code shall be construed as a complete statement of the criminal law contained in it. according to the words and expressions used in their natural and ordinary meaning as they apply to any facts and with regard to Tanzanian conditions and without applying any principle of strict construction relating to penal legislation."

Amendment
of section 5
Cap. 16

4. Section 5 of the Penal Code is amended-

(a) by deleting the definitions "felony" and "misdemeanour"; and

(b) in the definition "person employed in the public service",
by deleting item (ix) and substituting for it the following item: -

Acts 1969
No. 17
Cap. 212

"(ix) any person employed by or in the service of any public corporation established under the Public Corporations Act, 1969, or a corporation established by or under any written law other than the Companies Ordinance or a company incorporated under the Companies Ordinance which is wholly owned by the Government or which is a subsidiary of any public corporation."

Repeal and
replacement
of section 6
Cap. 16

5. Section 6 of the Penal Code is repealed and replaced by the following: -

"Extent of
jurisdiction
of local
courts
Acts 1966
No 31
2nd Sch.

6. The jurisdiction of the Courts of Tanganyika for the purposes of this Code extends to-

(a) every place within Tanganyika and within the Territorial waters;

(b) any offence committed by a citizen of Tanganyika, in any place outside Tanganyika;

(c) any offence committed by any person on an aircraft registered in Tanganyika."

Repeal and
replacement
of section 18
Cap. 16

6. Section 18 of the Penal Code is repealed and replaced by the following: -

"Defence of
person or
property

18. Subject to the provisions of section 18A a person is not criminally liable for an act done in the exercise of the right of self defence or the defence of another or the defence of property in accordance with the provisions of this Code."

Addition of
new sections
18A, 18B
and 18C
Cap. 16

7. The Penal Code is amended by adding immediately after section 18, the following new sections:-

"The right
of defence

18A.-(1) Subject to the provisions of this Code every person has the right-

(a) to defend himself or any other person against any unlawful act of assault or violence to the body; or

(b) to defend his own property or any property in his lawful possession, custody or under his care or the property of any other person against any unlawful act of seizure or destruction or violence.

(2) In this section, the expression "property of any other person" includes any property belonging to the Government or a public corporation or an employer or any property communally owned by members of the public as a co-operative society or a village, whether or not that village is registered under the Villages and Ujamaa Villages (Registration, Designation and Administration) Act, 1975.

Acts, 1975
No. 21

18B.-(1) In exercising the right of self defence or in defence of another or defence of property, a person shall be entitled only to use such reasonable force as may be necessary for that defence.

Use of
force in
defence

(2) Every person shall be criminally liable for any offence resulting from excessive force used in self defence or in defence of another or in defence of property.

(3) Any person who causes the death of another as the result of excessive force used in defence, shall be guilty of manslaughter.

When the
right of
defence
extends to
causing
death

18C. (1) The right of self defence or the defence of another or defence of property shall extend to a person who, in exercising that right, causes death or grievous harm to another and the person so acting, acts in good faith and with an honest belief based on reasonable grounds that his act is necessary for the preservation of his own life or limb or the life or limb of another or of property, in the circumstances where-

- (a) the unlawful act is of such a nature as may reasonably cause the apprehension that his own death or the death of another person could be the consequence of that act; or
- (b) the unlawful act is of such a nature as may reasonably cause the apprehension that grievous harm to his own body or the body of another could be the consequence of that unlawful act; or
- (c) the unlawful act is with the intention of committing rape or defilement or an unnatural offence; or
- (d) the unlawful act is with the intention of kidnaping or abducting; or
- (e) the unlawful act is burglary or robbery or arson or any offence which endangers life or property.

(2) If in the exercise of a right of defence in accordance with this section, the person exercising that right is in such a situation that he cannot effectively exercise that right without risk of harm to an innocent person or property, his right of defence extends to the running of that risk."

Repeal and
replacement
of section 66
Cap. 16

8. Section 66 of the Penal Code is repealed and replaced by the following

"Piracy

66.-(1) Any person who-

- (a) does any unlawful act Of violence against a ship Or vessel registered in Tanganyika or against persons or property on board that ship or vessel; Or
- (b) being a citizen of Tanganyika does any unlawful act of violence against any ship or vessel or against any person or property on board that ship or vessel', Or
- (c) voluntarily participates in the operation of a ship, vessel or aircraft for the purposes of doing any act referred to in paragraph (a) or (b).

shall be guilty of the offence termed -piracy" and shall be liable on conviction to imprisonment for life.

(2) No prosecution under this section shall be commenced without the consent of the Director Of Public Prosecutions.

Amendment
of section 89
Cap. 16

9. Section 66 of the Penal Code is amended in subsection (2) by deleting Paragraph (a) of that subsection and substituting for it the following, -

- (a) with intent to intimidate or annoy any person, threatens to injure assault, shoot at or kill any person or to burn. destroy or damage any property;,"

Amendment
of section 258
Cap. 16

10. Section 258 of the Penal Code is amended in subsection (2) by deleting the definition of the term "special owner" which occurs immediately below paragraph (e) of that subsection, and substituting for it the following: -

"The term "special owner means any person who has lawful possession or custody of, or any proprietary interest m, the thing in question-

Amendment
of
section 2"
cap 16

11. section 284 of the Penal Code is amended by deleting the expression "or any vehicle -or cycle however Propelled" which appears in that section, and substituting for it the following: -

"or any mechanically propelled cycle of any description

Amendment
of
section 284A
cap. 16

12. Section 284A of the Penal Code is amended m subsection 2 by deleting paragraphs (b), (e) and (f) of that subsection and substituting for them the following:-

- (b) a District Development council or a Council established, under the Urban Councils (Interim Provisions) Act, 1978;

Act 1978
No. 11

- (e) Chama Cha Mapinduzi or any Organization of Chama Cha Mapinduzi;
- (f) any Company registered under the companies Ordinance in which a specified authority, -owns any percentage of the issued share capital or has guaranteed to pay any sum in the event of that company being wound up.
- Acts 1975
No. 21 (g) a village registered under the Villages and Ujamaa Villages (Registration, Designation and Administration) Act, 1975;
- Acts 1968
No. 27 (h) a co-operative society registered under any written law for the time being relating to co-operatives."

13. Section 301 of the Penal Code is repealed and replaced by the following: -

"Definition of false pretence

301. Any representation made by words, writing or conduct of a matter of fact or of intention, which representation is false and the person making it knows to be false, or does not believe to be true, is false pretence."

Repeal and replacement of section 301 Cap. 16

14. Section 312 of the Penal Code is amended in paragraph (b) of subsection (1) by deleting the words "of or above the rank of Inspector which occur in that paragraph.

Amendment of section 312 Cap. 16

15. Section 335 of the Penal Code is amended by deleting paragraph (a) and substituting for it the following: -

Amendment of section 335 Cap. 16

"(a) makes, a document which is false or which he has reason to believe is untrue."

Passed in the National Assembly on the fifteenth day of April, 1980.


Clerk of the National Assembly