

Tanzania

Expulsion of Undesirables Act

Chapter 39

Legislation as at 31 July 2002

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Expulsion of Undesirables Act

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[Note: This legislation has been thoroughly revised and consolidated under the supervision of the Attorney General's Office, in compliance with the Laws Revision Act No. 7 of 1994, the Revised Laws and Annual Revision Act (Chapter 356 (R.L.)), and the Interpretation of Laws and General Clauses Act No. 30 of 1972. This version is up-to-date as at 31st July 2002.]

[Ords. Nos. 15 of 1930; 15 of 1940; R.L. [Cap. 39](#); Acts Nos. 32 of 1994; 12 of 1998]

An Act to make provision for the expulsion of undesirable persons.

1. Short title

This Act may be cited as the Expulsion of Undesirables Act.

2. Power to make expulsion order

- (1) The President may make an expulsion order requiring any person not being a citizen of the United Republic to leave within the time fixed by the order, and thereafter so long as the order is in force to remain out of the United Republic, in the following cases—
 - (a) if the person has been convicted of a felony by a court other than a primary court and the court recommends that an expulsion order should be made against him either in addition to or in lieu of sentence; or
 - (b) if the President deems it to be conducive to the public good or advisable in the interests of public morals that an order should be made.
- (2) It shall be lawful for the President to make any order subject to such conditions as he may think fit, and to rescind or suspend any order either absolutely or subject to conditions.

3. Detention pending decision of President

Any person with respect to whom a recommendation is made by a court that an expulsion order shall be made, but against whom no sentence has been passed, may be remanded to a prison until the decision of the President has been communicated to such court.

4. Effect of expulsion order

Any person with respect to whom an expulsion order is made shall leave the United Republic in accordance with the order, and shall thereafter so long as the order is in force remain out of the United Republic.

5. Contravention of expulsion order

- (1) If any person against whom an expulsion order has been made is found within the United Republic after the expiration of the time fixed by the order, he commits an offence.
- (2) Where a person has been convicted of an offence under subsection (1) of this section, the President may, if he thinks fit, order such person to comply with the expulsion order within such extended

time as the President may fix, and if that person is found within the United Republic after the expiration of the time so extended, he commits a further offence.

- (3) The President may, if he thinks fit, order that any person who has been convicted of an offence under either subsection (1) or (2) of this section shall, so soon as practicable after the expiration of his sentence, be deported from the United Republic in such manner as the President may direct and, in the meantime, be detained in custody.

6. Power of President to order arrest and deportation

It shall be lawful for the President, if he thinks fit, in an expulsion order, instead of requiring the person against whom it is made to leave the United Republic within a fixed time, to order that the person be arrested and deported from the United Republic in such manner as the President may direct.

7. Detention of person ordered to be deported

- (1) Any person arrested under an expulsion order, shall, pending his deportation from the United Republic, be detained in custody in such manner and place as the President shall direct.
- (2) No person in custody under an expulsion order shall be admitted to bail, except with the consent of the President.
- (3) An expulsion order whereby the arrest of any person is ordered shall be deemed to authorise any police officer to arrest that person in any part of the United Republic and to detain him in custody.
- (4) Any person against whom an expulsion order is made, may petition the High Court on any ground pertaining to compliance with the procedure prescribed or required by or under the Act.
- (5) A person against whom an expulsion order is made, shall not later than fourteen days from the date of commencement of execution of the order, be informed by the arresting authority of the grounds on which he is being expelled and shall be afforded an opportunity of making representation in writing to the President with respect to the expulsion order.
- (6) Where after fifteen days a person against whom an order is made under this Act is not informed in writing of the grounds on which he is being expelled, he shall be released.

8. Procedure where excuse or reason alleged for delay in complying with expulsion order

- (1) Where any person against whom an expulsion order has been made under [section 2\(1\)\(b\)](#) alleges any excuse for not complying with that order or any reason why the order should not be enforced or why further time than that specified in the order should be allowed to him, he may submit the same in the form of a memorial to the President, and where that person is in custody, whether by virtue of the order or otherwise, the officer having the custody of that person, on its being signified to him that any excuse or reason is alleged by that person, shall forthwith make known his excuse or reason to the President.
- (2) Where the President is informed that any excuse or reason is alleged by any person the President may suspend the further execution of the expulsion order until the matter is enquired into and determined as provided in this Act.
- (3) Any person, in custody under an expulsion order, shall remain in custody, and, if not in custody, may be arrested and detained in custody until the matter is determined.

9. Appointment and constitution of Board of Inquiry

- (1) The President may from time to time as occasion requires appoint a Board consisting of three or more persons as he may determine, one of whom at least shall be a person unconnected with the public service, for the purpose of enquiring into the subject matter of any memorial submitted under [section 8](#), and may direct where and when such enquiry shall be made.

- (2) The Chairman of the Board shall be designated by the President, and shall whenever possible be a Resident Magistrate.
- (3) The enquiry shall be in public and in the presence of the memorialist if he desires to appear, unless for good and proper reason the Board determined otherwise.
- (4) The memorialist shall have the right to be represented before the Board by an advocate.
- (5) The Board shall have the powers of a subordinate court to summon witnesses and to call for the production of documents and to examine the memorialist and all witnesses on oath or affirmation.
- (6) A summons for attendance of a witness or any other person or the production of documents may be in the same form as one ordinarily issued by a subordinate court under the Criminal Procedure Act¹ and shall be signed by the Chairman, by whom also oaths and affirmations may be administered.
- (7) Any person summoned to attend and give evidence or to produce documents at any sitting of the Board shall be bound to obey the summons served upon him as fully in all respects as a witness is bound to obey a summons issued from a subordinate court.
- (8) Any person who—
 - (a) refuses or omits without sufficient cause to attend at the time and place mentioned in the summons served on him;
 - (b) attends but leaves the sitting of the Board without the permission of the Board;
 - (c) refuses or omits without sufficient cause to produce any document in his possession or under his control as mentioned or referred to in the summons served on him;
 - (d) at any sitting of the Board wilfully insults any member of the Board;
 - (e) wilfully and improperly interrupt the proceedings of the Board,commits an offence and is liable upon conviction to a fine not exceeding two thousand shillings.
- (9) A person giving evidence before the Board shall not be compelled to incriminate himself, and that person shall, in respect of any evidence given by him before the Board, be entitled to all the privileges to which a witness giving evidence before any court is entitled in respect of evidence given by him before such court.

10. Board to report to the President

At the close of an enquiry it shall be the duty of the Board to make a full and impartial report in writing to the President on all matters as have been brought before it during the enquiry, its recommendations, and the reasons leading to the conclusions arrived at.

11. ***

[Repealed by Act [No. 32 of 1994](#) Sch.]

12. Order of President upon consideration of report

The President may upon consideration of the report of the Board confirm, rescind or vary the terms of the expulsion order, as he may consider expedient.

¹

13. Cases in which recommendation for the deportation shall not have effect

- (1) A recommendation by a court for the expulsion of any person shall be of no effect—
- (a) where on appeal against the conviction or sentence, the appellate court does not concur in the recommendation; and
 - (b) where the recommendation is by a magistrate, unless confirmed by the High Court.
- (2) Nothing in this section shall affect the power of the President to make an expulsion order under the provisions of paragraph (b) of [section 2](#)(1).

14. Duty of master of ship with regard to any person deported

The master of a ship about to call at any port outside Tanzania shall if so required by the Inspector-General of Police, receive on board the ship any person against whom an expulsion order has been made together with his dependants and afford him and his dependants passage to that port and proper accommodation and maintenance during the passage.

15. President may direct how expenses shall be defrayed

The expenses of expulsion, including expenses of maintenance of the person and his dependants shall be defrayed in such manner as the President directs, and for such purpose the President may, if he thinks fit, apply any money or property of the person in aid of such expenses.

16. Aiding and abetting

Any person who aids or abets any other person in contravention of this Act, or who harbours any other person whom he knows or has reasonable grounds for believing to have acted in contravention of this Act, commits an offence.

17. Offences and penalties

Any person who commits an offence under this Act is liable, upon conviction, to a fine not exceeding fifty thousand shillings, or to imprisonment, for any period not exceeding six months, or to both such fine and imprisonment.

18. Evidence

In any prosecution for an offence under this Act, the production of an expulsion order signed by, or by direction of the President, shall be conclusive evidence that the order is valid and was lawfully made.

19. Any person detained pending President's decision may seek compensation to the High Court

Any person in respect of whom an expulsion order has been issued and in pursuance where of has been detained pending the decision of the President may seek compensation in the High Court where it is established that his detention was not justified.

20. ***

[Repealed by Act [No. 12 of 1998](#) Sch.]

21. Restriction of jurisdiction of courts of law

No court of law in the United Republic shall have any jurisdiction to review, quash, reverse, or otherwise interfere with any proceedings held, act done or order made under this Act.