

THE UNITED REPUBLIC OF TANZANIA



No. 45 OF 1965

I ASSENT,

Julius K. Nyerere
.....
President

8TH JULY, 1965

An Act to make provision consequential upon the enactment of the Interim Constitution of Tanzania, 1965 and for connected matters, and to repeal and amend certain Laws

[9TH JULY, 1965]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Interim Constitution (Consequential, Transitional and Temporary Provisions) Act, 1965, shall be read as one with the Interim Constitution of Tanzania, 1965 and shall come into operation on the commencement of that Constitution.

Short title,
construction
and
commence-
ment
Act 1965
No. 43
Application

2. This Act shall extend to Zanzibar as well as to Tanganyika.

Interpretation

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

“existing law” (except in section 15) means the written and unwritten law of Tanzania as it exists immediately before the commencement of the Interim Constitution, and for the avoidance of doubts it is hereby declared that it includes a law enacted or made by an enactment or instrument passed or made before, and coming into operation on or after, the commencement of the Interim Constitution;

“the Interim Constitution” means the Interim Constitution of Tanzania, 1965;

“the 1964 Constitution” means the Interim Constitution of Tanganyika and Zanzibar, 1964, as in force immediately before the commencement of the Interim Constitution of Tanzania, 1965.

C.A. Act 1,
G.N. 1964
No. 246

4. The provisions of this Act and such of the provisions of the Republic of Tanganyika (Consequential, Transitional and Temporary Provisions) Act, 1962 as have not expired shall have effect notwithstanding anything contained in the Interim Constitution, or, in relation to section 14, anything contained in any law relating to the registration of and voting by, voters.

Act and
C.A. Act 2
to prevail
over Con-
stitution

Transitional Provisions

Existing
law

5.—(1) Without prejudice to the repeal, revocation or amendment of any existing law with effect from the commencement of this Act the existing law shall continue to be the law of Tanzania after the commencement of the Interim Constitution except insofar as it is thereafter amended, modified, repealed or revoked by competent authority or any provision thereof expires, but shall be construed with such modifications, adaptations, qualifications, and exceptions as may be necessary to bring it into conformity with the provisions of the Interim Constitution or as are provided in this Act; and for the avoidance of doubts it is hereby declared that, subject as aforesaid and to the other provisions of this Act, the operation of the existing law after the commencement of the Interim Constitution shall not be affected by the repeal or revocation of the laws specified in the First Schedule to this Act.

(2) The President may, at any time before the thirty first of October, 1965, by order published in the *Gazette*, make such amendments to any existing law as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of the Interim Constitution or otherwise for giving effect or enabling effect to be given to those provisions, and where the President makes an order under this section in relation to an Act of the Common Services Organization, that order shall have effect so as to amend that law in and in relation to any person or matter connected with Tanzania in respect of any matter within the legislative competence of the Parliament of the United Republic, notwithstanding any provision to the contrary in the Interpretation and General Clauses Ordinance.

Cap. 1

Constitutional
requirements
fulfilled by
existing
provisions

6. Where any matter that falls to be prescribed or otherwise provided for under the Interim Constitution by Act of Parliament or by any other authority or person, is prescribed or provided for by or under existing law (including any amendment made to such law under section 5) or is otherwise prescribed or provided for immediately before the commencement of the Interim Constitution by, under or for the purposes of the 1964 Constitution, that prescription or provision shall, as from the commencement of the Interim Constitution, have effect as if it had been made under the Interim Constitution by Act of Parliament or, as the case may be, by the other authority or person.

Pending
matters

7. Where any matter or thing has been commenced, or any step has been taken, before the commencement of this Act, by any person or authority having power in that behalf under existing law, such thing or matter may be carried on and completed and such further steps taken by the person or authority having power in that behalf on or after the commencement of this Act and it shall not be necessary for the latter person or authority to reconsider or commence such matter or thing, or take any such step, afresh.

Officers

8.—(1) Subject to the provisions of this section, every person who, immediately before the commencement of the Interim Constitution, holds or is acting in any office established by or under the 1964 Constitution or any former constitution shall, so far as is consistent with the provisions of the Interim Constitution, be deemed as from the

commencement thereof, to have been elected or appointed to or to act in the like office established by or under the Interim Constitution or otherwise in the service of the United Republic and to have complied with any requirement of the Interim Constitution, or of other written law, to take and subscribe any oath on election or appointment to office:

Provided that any person who, under the 1964 Constitution or any former constitution or existing law, would have been required to vacate his office at the expiration of any period or on the attainment of any age shall vacate his office at the expiration of that period or upon the attainment of that age.

(2) The provisions of this section shall be without prejudice to the powers conferred by or under any law upon any person or authority to make provision for the abolition of offices, to remove persons holding or acting in offices, or to require persons to retire from office.

9.—(1) Where, in accordance with the Interim Constitution or any law in force after the commencement of the Interim Constitution, any matter or thing is to be, or may be, done on or on account of a dissolution of Parliament, such matter or thing shall or, as the case may be, may be done on or on account of the dissolution of the Parliament established under the 1964 Constitution. Dissolution
of
Parliament
under the
1964
Constitution

(2) If any occasion arises before the declaration of the majority of the results in the general election to be held on the dissolution of the Parliament established under the 1964 Constitution—

- (a) for the summoning of Parliament under the powers contained in subsection (5) of section 40 of the Interim Constitution, the Speaker and the persons who, immediately before the said dissolution, were members of the National Assembly established under the 1964 Constitution may be summoned to such Parliament and, until midnight on the day on which such majority of results are declared, such persons shall be deemed to be the Speaker and members respectively of, and to constitute, the National Assembly;
- (b) for the appointment of any person to any office appointment to which is, at a time when Parliament is dissolved, restricted to persons who were members of the National Assembly immediately before dissolution, an appointment may be made to such office from among the persons who were members of the National Assembly immediately before the dissolution of the Parliament established by the 1964 Constitution.

10. Until provision is made by the rules of procedure of the National Assembly for the election of members of the National Assembly in accordance with section 30 of the Interim Constitution, the rules of procedure of the National Assembly for the election of elected members of the Central Legislative Assembly of the Common Services Organization shall apply, with any necessary modifications, for the election of such members of the National Assembly from among the persons approved for election by the National Executive Committee of the Party in accordance with that section. Rules of
procedure
for election
under section
30 of
Interim
Constitution

Legal
proceedings

11.—(1) Any proceeding pending immediately before the commencement of the Interim Constitution before the High Court established by the 1964 Constitution may be continued and concluded, and decrees, judgments and orders therein given and perfected after such commencement before and by the High Court established by the Interim Constitution.

(2) Every decree, judgment or order given or perfected by the High Court established by the 1964 Constitution or by any former High Court which shall not have been fully executed or enforced before the commencement of the Interim Constitution, may be executed and enforced after such commencement by the High Court established by the Interim Constitution and, insofar as they have jurisdiction, by courts subordinate thereto.

Temporary Provisions

Political
activities
of certain
organizations
Cap. 45

12. Nothing in subsection (3) of section 3 of the Interim Constitution shall apply in respect of political activity by any designated organization or designated agency (within the meanings respectively ascribed to those expressions in section 4A of the Official Secrets Ordinance) for the purposes of the objects set out in paragraph (b) of subsection (1) of the said section 4A.

Defects in
composition
of organs
of the
Party

13. Notwithstanding the provisions of the Interim Constitution or of any law regulating the election of a President or a member of the National Assembly, the validity of the election of a President or of a member of the National Assembly at the respective elections held on the dissolution of the Parliament established by the 1964 Constitution shall not be impeached on the grounds that any organ of the Party which exercised a function under the Interim Constitution for the purposes of any such election (or any organ of the Party which appointed delegates to such first mentioned organ) was not properly constituted for the exercise of such function or, as the case may be, the appointment of delegates, in accordance with the constitution of the Party.

Voting
by certain
non-citizens

14.—(1) Notwithstanding that he is not a citizen of Tanzania, a member of a tribe to which subsection (2) refers who has been ordinarily resident in Tanzania for a consecutive period of not less than five years immediately preceding his application for registration as a voter may if he is otherwise qualified for such registration, be registered as a voter and may vote at any election held on the dissolution of the Parliament established under the 1964 Constitution.

(2) This section applies to tribes which are indigenous to Tanzania, Kenya, Uganda, Zambia, Malawi, Rwanda, Burundi, Congo (Leopoldville) and Mozambique.

15. The powers conferred on the President of the United Republic of Tanganyika and Zanzibar, and by section 3 of the Interim Constitution (Amendment) Act, 1965 shall not be affected by the replacement of the 1964 Constitution by the Interim Constitution, but the President may exercise such powers in relation to the Interim Constitution, for the like purposes as he is thereby empowered to exercise the same in relation to the Constitution of Tanganyika, and may continue to exercise such powers in relation to existing law within the several meanings ascribed to that expression in such Acts.

Powers of the President under the Acts of Union 1964 No. 22 Acts 1965 No. 21

Repeals and Amendments

16.—(1) Subject to the provisions of this section, the laws specified in the First Schedule to this Act are hereby repealed and revoked.

Repeals

(2) Subject to the foregoing provisions of this Act, the provisions of section 10 of the Interpretation and General Clauses Ordinance shall have effect in relation to the repeal and revocation of the laws set out in the First Schedule as if the said laws were Acts of Parliament which are repealed and replaced by the Interim Constitution.

17. The laws set forth in the first and second columns of the Second Schedule to this Act are hereby amended in the manner specified opposite thereto in the third column of that Schedule.

Amendments

THE FIRST SCHEDULE

(Section 16)

LAWS REPEALED AND REVOKED

C.A. Act 1	The Interim Constitution of the United Republic of Tanganyika and Zanzibar, 1964.
Acts 1964 No. 44	Section 2 of the Constitution (Amendment) Act, 1964.
G.Ns. 1964 No. 246 and 266	The Interim Constitution Decree, 1964.
	The Interim Constitution (No. 2) Decree, 1964.
G.Ns. 1964 Nos. 360 and 668	Section 2 of the Interim Constitution (No. 3) Decree, 1964.
	The Interim Constitution (No. 4) Decree, 1964.
G.N. 1965 No. 181	Section 2 of the Interim Constitution Decree, 1965.

THE SECOND SCHEDULE

(Section 17)

LAWS AMENDED

Cap. 1	The Interpretation and General Clauses Ordinance	Insert, in its appropriate alphabetical position in subsection (1) of section 2, the following new definition:— “‘the Party’ has the meaning ascribed thereto in the Constitution;”
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LAWS AMENDED—*contd.*

- Cap. 337 The Societies Ordinance In the definition "society" in subsection (1) of section 2, insert, immediately below paragraph (g), the following new paragraph:—
 "(h) the Party or any organ thereof;"
- C.A. Act 6 The Public Seal Act, 1962 In section 2, delete the words "The Public Seal of the Republic shall" and substitute therefor the following "There shall be a Public Seal of the United Republic which shall, subject to any proclamation made under section 2A,".
 Insert immediately below section 2, the following new section:—
 "Proclamation 2A. The President may, by pro- of new seal clamation, prescribe some other device as the Public Seal of the United Republic in lieu of the Seal hitherto in use."
- C.A. Act 7 The Disqualification (National Assembly and Miscellaneous Offices) Act, 1962 Delete paragraph (b) of section 3 and substitute the following new paragraph:—
 "(b) holds or acts in an office in the Civil Service or in the office of area commissioner;"
 Delete section 6 and substitute therefor the following new section:—
 "Disqualifi- 6.—(1) A person shall be dis- cation and vacating of certain offices qualified for:—
 (a) election as the Speaker, Deputy Speaker or a presiding member of the National Assembly, if he holds or acts in any office in the Civil Service or the office of regional commissioner, or area commissioner, and those offices are hereby prescribed for the purposes of sections 37, 38 and 42 of the Constitution;
 (b) appointment as a member of the Judicial Service Commission or the Electoral Commission, if he holds or acts in the office of regional commissioner or area commissioner, and those offices are hereby prescribed for the purposes of sections 60 and 82 of the Constitution.
 (2) A person appointed a member of the Permanent Commission of Enquiry shall vacate any office in the Civil Service and any office of regional commissioner or area commissioner, and those offices are hereby prescribed for the purposes of section 68 of the Constitution."

LAWS AMENDED—*contd.*

Acts 1964 No. 63	The Disqualification (National Assembly and Miscellaneous Offices) (Amendment) Act, 1962	Delete section 2.
Acts 1965 No. 21	The Interim Constitution (Amendment) Act, 1965	Insert, immediately after the words "exchange control" in the fifth line of section 2 a full stop and delete the remainder of the section.

I hereby certify that the Bill for this Act was passed by the National Assembly in accordance with the provisions of section 35 of the Constitution.

Dar es Salaam,
8th July, 1965


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Speaker

Passed in the National Assembly on the fifth day of July, 1965.


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Clerk of the National Assembly