

Refugees (Control) Act, 1966

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An Act to Make Provision for the Control of Refugees and for Connected Matters

Enacted by the Parliament of the United Republic of Tanzania.

1. Short title

This Act may be cited as the Refugees (Control) Act, 1965.

2. Interpretation

In this Act, unless the context otherwise requires,

"area" in relation to a competent authority means

(a) when the competent authority is a regional commissioner, the region of which he has the charge; and

(b) when the competent authority is an area commissioner, the district of which he has the charge;

"authorized officer" means an administrative officer, a settlement commandant, a police officer, a prisons officer or a member of the Tanzania People's Defence Forces;

"competent authority" means a regional commissioner and, for the purposes of sections 5,6,7 and 8 includes an area commissioner;

"the Minister" means the Minister for the time being responsible for refugees;

"reception area" means an area declared as such by the Minister under section 4;

"refugee" means one of a class of persons declared to be refugees by the Minister under section 3 other than a person to whom subsection (2) of that section refers;

"refugee settlement" means a refugee settlement established in accordance with section 4;

"settlement commandant" means a person appointed to be in charge of a refugee settlement

3. Refugees

(1) Subject to the provisions of subsection (2), the Minister may-

(a) by order published in the Gazette, declare any class of persons who are, or prior to their entry into Tanganyika were, ordinarily resident outside Tanzania to be refugees for the purposes of this Act;

(b) by the same or any subsequent such order declare that the provisions of sections 11 and 12, or of either of them, shall apply to refugees or to any category of refugees.

(2) No declaration made under paragraph (a) of subsection (1) shall apply to

(a) any citizen of Tanzania;

(b) any person entitled in Tanzania to diplomatic immunity;

(c) any person in the employment of any state, government or local authority outside Tanzania, or of any international organization for the time being specified in the Third Schedule to the Immunities and Privileges (Extension and Miscellaneous Provisions) Ordinance, who enters Tanzania in the course of his duties;

(d) any member of a class of persons declared by the Minister, by order published in the Gazette, not to be refugees for the purposes of this Act.

(3) If any question arises in any proceedings, or with reference to anything done or proposed to be done, under this Act as to whether any person is a refugee or not, or is a refugee of a particular category or not, the onus of proving that such person is not a refugee or, as the case may be, is not a refugee of a particular category, shall lie upon that person.

4. Reception areas and refugee settlements

(1) The Minister may declare any part of Tanganyika to be an area for the reception or residence of any refugees or category thereof.

(2) The competent authority may establish in any reception area a refugee settlement for refugees or any category thereof, and may appoint a settlement commandant to be in charge of such settlement.

PROVISIONS APPLYING TO REFUGEES GENERALLY

5. Places of entry or departure and routes

(1) The Minister or, as respects his area, the competent authority may, by order in writing

(a) direct that any refugee entering or leaving Tanganyika shall enter or leave by specified routes or at specified places;

(b) direct that any refugee moving from one part of Tanganyika to another shall move by specified routes.

(2)Orders made under this section may be subject to such terms and conditions as the Minister or, as the case may be, the competent authority may think fit.

(3)Any refugee who contravenes an order made under this section or the terms of conditions thereof shall be guilty of an offence against this Act.

6. Surrender of weapons

(1)Every refugee who brings any arms or ammunition into Tanganyika shall immediately surrender such arms or ammunition to an authorized officer.

(2)The competent authority may, by order in writing, direct that any refugee in his area shall, within such time as may be specified in the order, surrender to an authorized officer any other weapon or weapons, or any instrument or tool so specified which is capable of being used as a weapon and which is in, or comes into, his possession unless the possessor thereof has written authority to retain the same signed by the competent authority or an authorized officer appointed by the competent authority in that behalf.

(3)Any refugee who fails to surrender any arms, ammunition, weapon, instrument or tool in accordance with this section or any order made hereunder shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding two years.

(4)In subsection (1) of this section, "arms" and "ammunition" have the meanings respectively ascribed to those expressions in the Arms and Ammunition Ordinance, and the provisions of this section in relation to arms and ammunition are in addition to, and not in substitution for the provisions of that Ordinance.

7. Detention and slaughter of animals

(1)The competent authority may direct that any animal imported into his area from outside Tanganyika by any person whom he has reason to believe to be a refugee shall be kept in such place as he shall direct or shall be slaughtered or otherwise disposed of.

(2)If any animal is slaughtered or sold as a result of any direction given under the provisions of subsection (1), the competent authority shall use his best endeavours to ensure that the person owning the animal sold shall be paid the proceeds of the sale less the expenses of the sale.

(3)The proceeds of a sale directed under the provisions of subsection (1), less the expenses of the sale, shall, if they are not paid to the owner of the animal, be paid into a fund which shall be used for the benefit of refugees.

(4)Notwithstanding any other provision of this section, if a veterinary officer in the service of the Government is of the opinion that in order to prevent the spread of disease it is necessary to slaughter any animals which he has reason to believe belong to refugees such animals shall be slaughtered as the veterinary officer directs.

(5)Any person who in any way obstructs the carrying out of any direction given under the provisions of this section shall be guilty of an offence against this Act.

8. Detention and use of vehicles

The competent authority may take, or authorize an authorized officer to take, possession of any vehicle in which any person whom he has reasonable cause to believe to be a refugee arrives in his area and may

authorize its use in that area for the purpose of moving refugees or any stores or equipment for their use.

9. Deportation of refugees

(1) The Minister or, as respects his area, any competent authority appointed by the Minister in that behalf may at any time order any refugee to return to such means or route as he shall direct to the territory from which he entered Tanganyika.

(2) A court convicting any refugee of an offence under the provisions of this section may order the deportation of such refugee to the territory from which he entered Tanganyika.

(3) Where any person is ordered to return to the territory from which he entered Tanganyika or to be deported under subsection (1) or (2) he may be held in custody and deported in accordance with such order.

(4) No order shall be made under subsection (1) or (2) in respect of a refugee if the Minister, the competent authority or the court, as the case may be, is of the opinion that such a refugee will be tried or punished for an offence of a political character after arrival in the territory from which he came or is likely to be the subject of physical attack in such territory.

(5) Any refugee failing to comply with an order made under subsection (1) shall be guilty of an offence against this Act.

(6) Where an order is made under this section in respect of a refugee who has been present in Tanzania for a continuous period of not less than three months immediately prior to the making of the order, the authority making the order shall inform the refugee, or cause him to be informed, that he may make representations against his deportation on the grounds that he is in danger of being tried or punished for an offence of a political character after arrival in the territory from which he came or is in danger of physical attack in such territory. A refugee to whom this subsection applies who wishes to make such representations shall make them forthwith to the person by whom he is so informed and that person shall reduce such representations to writing and forward them to the Minister; and the Minister shall consider the same and determine whether or not the refugee shall be deported in accordance with the order in that behalf or whether that order shall be revoked, and where the Minister determines that the order shall be revoked, he shall have power to revoke the same. Pending the determination of the Minister on any such representations, the order for the deportation of the refugee shall be suspended.

10. Detention of refugees who prejudice peace, order or foreign relations, or who are believed to have committed offences outside Tanzania

(1) If the Minister or, as respects his area, any competent authority appointed by the Minister in that behalf is satisfied that any refugee is acting in a manner prejudicial to peace and good order or is prejudicing the relations between the Government of Tanzania and any other Government, he may, by order in writing, direct that the refugee be detained in prison.

(2) If it appears to the Minister or, as respects his area, any competent authority appointed by the Minister in that behalf that it is likely that any refugee has committed any offence in any other territory for which he has not been punished, being an offence which, if committed within Tanganyika, would be punishable by imprisonment, the Minister or such competent authority may, by order in writing, direct that such refugee be detained in prison.

(3) An order under subsection (1) or (2) shall be sufficient authority for any authorized officer to arrest the

refugee to whom it applies and to detain him in custody pending or during his transportation to prison and for the officer in charge of a prison to hold such refugee in custody as an unconvicted prisoner until his release is ordered by the Minister:

Provided that where any such order is made by a competent authority the order shall, unless previously confirmed by the Minister, expire at the end of the fourteenth day after that on which the refugee was arrested.

(4)Where, in accordance with the proviso to subsection (3), any order expires on account of its not having been confirmed by the Minister, the refugee to whom the order applies shall not be arrested again by order of the competent authority for the same cause.

(5)The imprisonment of every refugee in accordance with this section shall be reviewed by the Minister at intervals of not less than three months or such lesser periods as the Minister shall direct.

SPECIAL PROVISIONS WHICH MAY BE APPLIED TO REFUGEES

11. Permits to remain in Tanganyika

(1)No refugee to whom this section applies shall remain in Tanganyika (a)unless within seven days of his entering Tanganyika or, if at the time of his entry this section does not apply to him, within seven days after its being applied to him, he is issued with a permit to remain by an authorized officer appointed by the competent authority in that behalf; (b)unless he complies with the terms or conditions from time to time annexed to such permit by the competent authority.

(2)An authorized officer appointed in that behalf shall not refuse a refugee a permit under his section if the officer has reason to believe that the refusal of a permit will necessitate the return of the refugee to the territory from which he entered Tanganyika and that the refugee will be tried or punished for an offence of a political character after arrival in that territory or is likely to be the subject of physical attack in that territory; but, save as aforesaid, such authorized officer may in his discretion and without assigning any reason refuse to issue a permit.

(3)If a refugee to whom this section applies fails to obtain or is refused a permit in accordance with this section, his presence in Tanganyika shall, notwithstanding anything contained in section 2 of the Immigration Act, 1963, be unlawful.

(4)Where a permit is refused under this section in respect of a refugee who has been present in Tanzania for a continuous period of not less than three months immediately prior to the refusal, the authorized officer shall inform the refugee that he may take representations against such refusal on the grounds that the refusal of the permit will necessitate the return of the refugee to the territory from which he entered Tanganyika and that he is in danger of being tried or punished for an offence of a political character after arrival in that territory or is in danger of physical attack in that territory. A refugee to whom this subsection applies who wishes to make such representations shall make them forthwith to the authorized officer and that officer shall reduce such representations to writing and forward them to the Minister; and the Minister shall consider the same and determine whether or not a permit shall be granted to the refugee, and where the Minister determines that a permit shall be granted, determination of the Minister on any such representations, subsection (3) shall not have effect respect to the refugee.

12. Requirement to reside in reception area or refugee settlement

(1)The competent authority may -

(a)by order, require any refugee to whom this section applies who is within his area to reside within a reception area or refugee settlement, whether such reception area or refugee settlement is within such competent authority's area or not;

(b)require any refugee to whom this section applies who is within a reception area or refugee settlement within such competent authority's area to remove to and reside in some other place being a reception area or refugee settlement, whether such other place is within such competent authority's area or not.

(2)Any refugee to whom an order made under this section applies who -

(a)fails to take steps forthwith to comply with such order; or

(b)fails to move to or take up residence in a reception area or refugee settlement in accordance with such order with reasonable despatch; or

(c)having arrived at a reception area or a refugee settlement in pursuance of such order, leaves or attempts to leave such area or settlement except in pursuance of some other order made under this section,

shall, unless he is in possession of a permit issued in that behalf under subsection (3), be guilty of an offence against this Act.

(3)The competent authority, or an authorized officer appointed by a competent authority in that behalf, may issue a permit to any refugee to whom an order made under subsection (1) applies, authorizing him -

(a)to reside in a reception area elsewhere than in the refugee settlement to which such order refers;

(b)to leave a reception area in which he has been required to reside.

(4)The competent authority or such authorized officer may issue a permit under this section subject to such terms and conditions as he thinks fit, and, without prejudice to the generality of the foregoing he may, where he issues a permit under paragraph (b) of subsection (3), specify the destination to which and the route by which such refugee may proceed.

(5)Any refugee to whom a permit has been issued under this section who fails to comply with the terms and conditions thereof shall be guilty of an offence against this Act.

13. Control of refugee settlements

(1)The Minister may make rules, and the competent authority may issue directions not inconsistent with such rules, for the control of refugee settlements and, without prejudice to the generality of the foregoing, such rules and directions may make provisions in respect of all or any of the following matters:

(a)the organization, safety, discipline and administration of such settlements;

(b)the reception, treatment, health and well-being of refugees;

(c)the manner of inquiring into disciplinary offences and the payment of fines;

(d)the establishment and regulation of settlement lock-ups and the custody of persons therein; and

(e) the powers of settlement commandants and the delegation of such powers.

(2) A settlement commandant may give such orders or directions, either orally or in writing, to any refugee as may be necessary or expedient for the following purposes, that is to say:

(a) to ensure that the settlement is administered in an orderly and efficient manner;

(b) to ensure the performance of any work or duty necessary for the maintenance of essential services in the settlement or for the general welfare of the refugees therein;

(c) to ensure that all proper precautions are taken to preserve the health and well-being of the refugees therein;

(d) to preserve orderly conduct and discipline in the settlement.

(3) Any refugee who -

(a) without a permit in that behalf issued under section 12, leaves or attempts to leave a refugee settlement in which he has been ordered to reside; or

(b) in a refugee settlement disobeys any rules made by the Minister, any direction of the competent authority, or any order or direction of a settlement commandant, made or given under this section; or

(c) in a refugee settlement conducts himself in a manner prejudicial to good order and discipline,

shall be deemed to have committed a disciplinary offence.

(4) The competent authority or a settlement commandant may inquire into any disciplinary offence and if he finds that a refugee has been guilty of such disciplinary offence may punish him by -

(a) ordering his confinement in a settlement lock-up for a period not exceeding thirty days; or

(b) fining him a sum not exceeding Shs.200/.

(5) Any refugee convicted of a disciplinary offence and sentenced by a settlement commandant to confinement for a period exceeding fourteen days or to a fine exceeding Shs.100/- may appeal to the competent authority whose decision shall be final.

MISCELLANEOUS

14. Restriction on persons entering refugee settlements or addressing refugees in settlements

(1) No person other than a refugee required to reside or residing in, or a person employed in, a refugee settlement, shall enter or be within such settlement except with the general or special permission of the Minister, the competent authority or the settlement commandant.

(2) No person other than the competent authority, an authorized officer or a person authorized in that behalf by the competent authority or the settlement commandant, may in a refugee settlement address an assembly or meeting of more than ten refugees whether or not such meeting is held in a public place.

(3) Any person who contravenes the provisions of this section shall be guilty of an offence against this Act.

15. Offences and penalties

(1) Any refugee who fails to obey any lawful order of the Minister, the competent authority or of a settlement commandant or who obstructs a competent authority or authorized officer in the exercise of his powers under this Act, shall be guilty of an offence and shall be liable on conviction to imprisonment for a period not exceeding three months.

(2) Any person who is guilty of an offence against this Act for which no penalty is specifically provided shall be liable on conviction to imprisonment for a period not exceeding three months.

(3) Where any act or omission constitutes both a disciplinary offence under section 13 and an offence punishable under this Act on conviction, a refugee shall not be punished for the same act or omission both as a disciplinary offence and as an offence punishable on conviction.

16. Arrest

An authorized officer may arrest without warrant any person whom he has reasonable grounds for suspecting to have committed an offence or a disciplinary offence under this Act and such person may be detained in custody in a settlement lock-up or in any prison or police station pending the institutions of proceedings for the offence or disciplinary offence.

17. Force

An authorized officer or any person acting with the authority of an authorized officer may use such force (including the use of firearms) as may be necessary to compel any refugee to comply with any order or direction, whether oral or in writing, given pursuant to the provisions of this Act.

18. Publications of, and powers in relation to, orders, etc.

(1) Any rules, orders or directions under this Act may be published in such manner as the authority making the same considers appropriate in order to bring the same to the notice of the persons to whom they apply or who are affected thereby but, save as may be expressly required by the Act, shall not be required to be published in the Gazette:

Provided that any such order or direction which is applied or directed to any individual person shall, if in writing, be served on, and if not in writing, be given to, the person affected personally.

(2) Where under sections 5, 6, 7, 8, 9, 11, 12 or 13 orders or directions may be given or applied to, or given or made in respect of refugees or a refugee, such rules, directions or orders may be given or applied to, or given or made in respect of, all refugees, or any particular refugee or category of refugees.

19. Protection of bona fide act

(1) No act or thing done or omitted to be done by any person shall, if the act or omission was done or omitted bona fide while acting in the execution of his duty under this Act, subject him personally to any liability, action, claim or demand whatever.

(2) Save as provided in subsection (2) of section 7, no compensation shall be payable and no action shall be brought against any person acting in the execution of his duty under this Act for any damage done or loss occasioned by, the detention or slaughter of any animal under the powers conferred by section 7, or the detention or use of any vehicle under the powers conferred by section 8.

20. Powers of competent authorities outside their areas

Where a competent authority having power in that behalf -

- (a) orders any refugee to be detained in prison under section 10; or
- (b) orders any refugee to reside in any reception area or refugee settlement under section 12,

the order shall have effect and be given effect to notwithstanding that the prison in which the refugee is to be, or is, detained, or that the reception area or refugee settlement in which the refugee is to reside or resides, is outside the area of such competent authority.

21. Repeal of Cap. 40

The War Refugees (Control and Expulsion) Ordinance is hereby repealed.

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