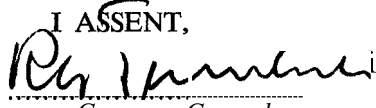


TANGANYIKA



No. 16 OF 1962

I ASSENT,


Governor-General

26TH JUNE, 1962

An Act to provide for the Appointment of Regional Local Courts Officers and to confer functions and powers under the Local Courts Ordinance upon the Minister for Justice and such Regional Local Courts Officers and to amend the Local Courts Ordinance

[.....]

ENACTED by the Parliament of Tanganyika.

1. (1) This Act may be cited as the Local Courts (Minister for Justice and Regional Local Courts Officers) Act, 1962, and shall be read as one with the Local Courts Ordinance (hereinafter referred to as the Ordinance).

Short title,
construction
and
commence-
ment
cap.299

(2) This Act shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint (hereinafter referred to as the appointed day).

2. (1) The following powers and duties under Parts I and VII of the Ordinance, that is to say-

- (a) the establishment of local courts and the definition of their respective areas of jurisdiction, of conferring appellate jurisdiction and of revoking, suspending and varying warrants and orders in that behalf,
- (b) the prescription and provision of the constitution of local courts and of the other matters provided for in subsection (1) of section 5 of the Ordinance;
- (c) the transmission of all warrants, orders and directions to the High Court;
- (d) the appointment and dismissal of members of local courts;
- (e) the direction that a local court shall sit at any specified time or place;
- (f) the declaration of appellate courts and authorities and the limitation of appeals,

Power
of the
Minister to
establish
and
constitute
local courts

are hereby transferred to and vested in the Minister, and such powers and duties may be exercised and performed by the Minister throughout Tanganyika.

(2) Any provision in a warrant establishing a local court whereby any power of appointing a member of such court is conferred on a regional commissioner or provincial commissioner or other officer of the regional administration or former provincial administration shall be read and construed in respect of any period commencing on or after the appointed day as if such power had been conferred on the Minister.

(3) The Minister may, by order published in the Gazette and subject to any restrictions or qualifications which he may impose, delegate any of the powers referred to in this section, other than the power to establish local courts, to define their respective jurisdiction, to confer appellate jurisdiction or to revoke or suspend warrants and orders in that behalf, to any Regional Local Courts Officer.

Powers of
Local
Courts
Officers

3.-(1) The Minister may appoint any magistrate to be a Regional Local Courts Officer.

(2) Subject to the provisions of this Act, every Regional Local Courts Officer may exercise jurisdiction throughout Tanganyika.

Cap. 3

(3) In this section "magistrate" means a magistrate appointed, or person on whom magistratorial functions have been conferred, under the Subordinate Courts Ordinance.

Power of
Regional
Local
Courts
Officers

4. (1) The powers and duties conferred and imposed on a District Commissioner by the Ordinance and all subsidiary legislation made and warrants issued thereunder are hereby transferred to and vested in the Regional Local Courts Officer and accordingly all references in the Ordinance to the District Commissioner shall, in respect of any period commencing on or after the appointed day, be read and construed as if they were references to the Regional Local Courts Officer:

Provided that where any person has, in the exercise of his powers as a District Commissioner commenced to hear any appeal or to perform any other function under the Ordinance and has not completed the same before the appointed day, that person may, notwithstanding the foregoing provisions of this section or his ceasing to hold office as the District Commissioner, complete and perfect such hearing or function as if this Act had not been passed and as if such person continued to hold such office.

(2) In this Act and in the Ordinance, the 'Regional Local Courts, Officer in relation to a local court means the Regional Local Courts Officer stationed in the district in which the local court concerned exercises jurisdiction, or, if there is no such Regional Local Courts Officer stationed in that district, the Regional Local Courts Officer stationed in a district which is grouped with such first mentioned district by order of the Minister, and includes a Regional Local Courts Officer temporarily assigned to any such district; and a Regional Local Courts Officer's district shall be deemed to include every such district aforesaid.

Cap. 299
amended

5,41) The Ordinance is hereby amended as follows: -

- (a) by deleting the second proviso to subsection (1) of section 16;
- (b) by adding immediately below section 16 the following new section:-

"Confirma-
tion of
certain
sentences

16A. (1) No order of a local court of corporal punishment on an adult, of supervision of an habitual offender or of forfeiture in cases of a criminal nature, shall be carried into effect unless it has been confirmed by the Regional Local Courts Officer.

(2) No, order of imprisonment (whether substantive or in default of payment of a fine) for a term-

- (a) exceeding three months, in the case of a court the powers of imprisonment of which are, by its warrant, limited to six months or less;
- (b) exceeding six months, in the case of a court the powers of imprisonment of which, as stated in its warrant, exceed six months,

shall be carried into, effect unless it has been confirmed by the Regional Local Courts, Officer.

(3) For the purposes of subsection (2) the aggregate of consecutive sentences of imprisonment (whether substantive or in default of payment of a fine) imposed in the case of convictions for two or more offences at one trial shall be deemed to be one sentence.

(4) Wherever a court makes an order which requires confirmation, the court may, in its discretion, release the offender on bail pending confirmation or such order as the Regional Local Courts Officer may make; and where an offender who, has been sentenced to a term of imprisonment which requires confirmation is released on bail, the term of imprisonment shall run from the date on which he begins to, serve his sentence after confirmation or other order by the Regional Local Courts Officer:

Provided that where a court makes an order of corporal punishment on an adult, then whether or not it also makes an order for imprisonment at the same trial, it shall not release the person to, whom the order applies pending confirmation, but shall, subject in the case of a person to whom an order of imprisonment applies to his right to make the election set out in subsection (5), remand him in custody.

(5) If an offender who has been sentenced to a term of imprisonment which requires confirmation is not released on bail he may elect either-

- (a) to serve his sentence, pending confirmation or other order, from the date upon which he is sentenced by the court, in which case the term of imprisonment shall run from such date; or
- (b) to postpone serving his sentence until the order is confirmed or other order is made by the Regional Local Courts Officer, in which case such offender shall be remanded in custody pending such confirmation or other order and the term of his imprisonment shall run from the date he begins to serve his sentence.

(6) The Regional Local Courts Officer may exercise the same powers in confirmation as, are conferred upon him in revision by Part VI, and may, in his discretion, where no order has been made by the court under subsection (4) of this section, release the person concerned on bail pending an order in revision.

(7) In this section "adult" means a person of the age of sixteen years and over.

(2) The provisions of section 3 of the Ordinance in so far as they relate to Regional Local Courts Officers and the provisions of Part VII whereby appeals may be transferred from the District Commissioner to the Regional Local Courts Officer shall cease to have effect.

(3) The Ordinance shall have effect subject to the foregoing provisions, of this Act and, subject as aforesaid the District Commissioner shall cease to exercise all functions and powers thereby conferred on him notwithstanding that, prior to the coming into operation of this Act, such powers and functions were conferred on him co-extensively with the Regional Local Courts Officer.

Saving
and
validation

6.-(1) Notwithstanding the provisions of section 2 of this Act, any matter or thing lawfully done under Parts I or VII of the Ordinance in pursuance of a power thereby transferred to the Minister, and having force and effect immediately prior to the appointed day, shall continue to be of force and effect on and after the appointed day as if the same had been done by the Minister, until revoked or amended in the exercise of the powers in that behalf conferred on the Minister.

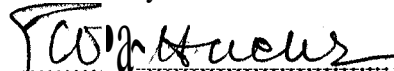
(2) Where—

- (a) immediately prior to the twenty-third day of February, 1962, any power or duty was conferred or imposed by or under the Ordinance on a provincial commissioner; and
- (b) between that day and the appointed day such power has been exercised or such duty performed by an administrative secretary in a region,

the administrative secretary shall be deemed to have had the power in that behalf of a regional commissioner and the exercise of such power or the performance of such duty shall not be questioned solely on the ground that he had no such power.

(3) For the avoidance of doubt it is hereby declared that the Minister shall be deemed to have had power under section 3 of the Ordinance to appoint more than one Regional Local Courts Officer for a region, and that every reference in the Ordinance to the Regional Local Courts Officer shall be read, in respect of any period prior to the coming into operation of this Act, as a reference to any Regional Local Courts Officer appointed for the region concerned.

Passed in the National Assembly on the sixth day of June, 1962.


Clerk of the National Assembly