



THE CRIMINAL PROCEDURE (AMENDMENT)
ACT, 1991.

ARRANGEMENT OF SECTIONS

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ACT NO.7 OF 1991

I ASSENT

Sal Amour
03/06/92

SALMIN AMOUR
PRESIDENT OF ZANZIBAR
AND
CHAIRMAN OF THE REVOLUTIONARY
COUNCIL.

..... 1991.

AN ACT TO AMEND THE CRIMINAL PROCEDURE DECREE
AND TO PROVIDE BETTER PROVISIONS RELATING TO
THE COMMITTAL OF THE ACCUSED PERSON BEFORE THE
HIGH COURT AND MATTERS CONNECTED THEREWITH.

ENACTED by the House of Representatives of
Zanzibar.

Short title and commencement. 1. This Act may be cited as the Criminal Procedure (Amendment) Act, 1991 and shall be read as one with the Criminal Procedure Decree, Chapter 14 of Laws of Zanzibar (hereinafter referred to as the principal Decree).

Cap.14 of
1934.

Repeal of
subheading
to Part VII.

2. The subheading to Part VII of the principal Decree is hereby repealed and substituted by the following new subheading :-

"Committal of accused person by subordinate courts to the High Court for Trial."

Repeal and
replacement
of section
188.

3. Section 188 of the principal Decree is hereby repealed and replaced by the following :-

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"Committal proceeding to be held by court.

188. Whenever any charge has been brought against any person of an offence not triable by court or as to which the subordinate court is informed by Attorney-General in writing or otherwise that it is not suitable to be disposed of upon summary trial, a committal proceeding shall be held according to the provisions hereinafter contained by a subordinate court of competent jurisdiction."

Amendment of the principal Decree, Cap.14.

4. The principal Decree is hereby amended by inserting new section 188A immediately after section 188 :-

"Procedure in arrest.

188A. After a person is arrested or upon the completion of investigation and the arrest of any person or persons, in respect of the commission of an offence triable by the High Court, the person arrested shall be brought within the period prescribed under section 28 of the principal Decree before a subordinate court of competent jurisdiction within whose local limits the arrest was made, together with the charge upon which it is preferred against him to be dealt with according to Law."

Repeal and replacement of section 189 of the principal Decree.

5. Section 189 of the principal Decree is hereby repealed and replaced with the following:-

"Charges to be read over to accused.

189.(1) Whenever a person is brought before a subordinate court pursuant to section 188A of the principal Decree, the Magistrate concerned shall read over and explain to the accused person the charge or charges set out in the charge sheet in respect of which it is proposed to prosecute the accused, but the accused person shall not be required to plead or make any reply to the charge.

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(2) After having read and explained to the accused the charge or charges the Magistrate shall address to him the following words or words to the like effect:-

"This is not your trial. If it is so decided you will be tried later on in the High Court and the evidence against you will then be adduced and you will be allowed to challenge them. You will then be able to make any statement you may wish or to give evidence, make your defence and to call any witness on your own behalf."

(3) After a person is committed to remand prison or on bail by a subordinate court or after the investigation have been completed but before the suspect is arrested, the police officer or other public officer in charge of the relevant criminal investigations under this Act shall forthwith cause the statements in quintuplicate of person intended to be called as witnesses at the trial to be properly typed out, conveniently compiled and sent, along with the police case file, to the Attorney-General or any other public officer designated by him in that behalf. Statements of witnesses so taken down in writing may be termed desposition or commital proceedings.

(4) If the Attorney-General or that other public officer after studying the police case file and the statements of the intended witnesses, is of the view that the evidence available is insufficient to warrant mounting a prosecution or it is otherwise inadvisable to establish a prosecution case, he shall, where the accused has already been charged, immediately enter nolle prosequi, unless he has reason to believe that further investigation can change the position, in which case he shall cause further investigation to be carried out.

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(5) If the Attorney-General or that other public officer after studying the police case file and the statement of the intended witnesses, decides that the evidence available or the case as such, warrants putting the suspect on trial he shall draw up or cause to be drawn up an information in accordance with law and when signed by him, submit it together with three copies of each of the statements of witnesses, sent to him under subsection (3) of this section including any document containing the substance of the evidence of any witness who has not made a written statement.

(6) After an information is filed in the High Court, the Registrar shall cause a copy of it to be delivered to the subordinate court where the accused was first presented or within the local limits of which the accused resides."

Amendment of section 190 of the principal Decree.

6. Section 190 of the principal Decree is repealed and substituted with the following :-

"Opportunity for cross-examination and transmission of statements.

190.(1) Where such statement is taken in the presence of an accused person such accused person or his advocate shall be given an opportunity to put questions to the statements and the answers of such statements thereto shall form part of the statements and if accused person is committed for trial, the statements shall be transmitted to the Registrar of the High Court, and a copy thereof to the Attorney-General.

(2) As the statement of each witness is completed, it shall be read over to him in the presence of accused person and shall, if necessary be corrected, and the statement shall then be signed by such witness and by magistrate holding the committal proceeding.

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(3) If the witness denies the correctness of any part of the statement when the same is read over to him the magistrate may, instead of correcting the statement make a memorandum thereon of the objection made to it by the witness and shall add such remarks as he thinks necessary.

(4) If the statement is taken down in a language different from which it has been given, and the witness does not understand the language in which it is taken down, the statement shall be interpreted to him in the language in which it was given or in a language which he understands."

Committal proceeding.

7. The words Preliminary Inquiry or inquiry appearing in Part VII of the principal Decree should read "committal proceeding or proceeding" respectively.

Repeal and of replacement of section 194 of the principal Decree. "Committal for trial by court.

8. Section 194 of the principal Decree is hereby repealed and replaced by the following :-

194(1) Upon receipt of the copy of information and notice the subordinate court shall summon the accused person from remand prison or if not yet arrested, order his arrest and appearance before to deliver to him or to his counsel a copy of the information and notice of trial delivered to it under section 189(5) of the principal Decree and commit him for trial by the court, and the committal order shall be sufficient authority for the person in charge of the remand prison concerned to remove the accused person from prison appearance before the court.



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(2) Upon appearance of the accused person before it, the subordinate court shall read and explain or cause to be read and explained to the accused person the information brought against him as well as the statements or documents containing the substance of the evidence of witnesses whom the Attorney-General intends to call at the trial.

(3) After complying with the provision of the foregoing subsections the court shall address to the accused person the following word or words to the like effect:

"You have now heard the substance of the evidence that the prosecution intends to call at your trial. You may either reserve your defence, which you are at liberty to do, or say anything which you may wish to say relevant to the charge against you. Anything you say will be taken down and may be used in evidence at your trial."

(4) Before the accused person makes any statement the court shall state to him and give clearly to understand that he has nothing to hope from any promise of favour and nothing to fear from any threat which may have been held out to him to induce him to make any admission or confession of being guilty but that whatsoever he then says may be given in evidence at his trial notwithstanding the threat or promise.

(5) Everything that the accused person says shall be recorded in full and shall be shown or read over to him and he shall be at liberty to explain or add to anything contained in the record thereof.

(6) When the record of the statement, if any, made by the accused is made confirmable to what he declares is the truth, the record shall be attested by the magistrate who shall certify that such statement was taken in his presence and hearing and contains accurately the whole statement made by the accused person. The accused person shall sign or attest by his mark such record. If he refuses the court shall add a note of his refusal and the record may be used as if the accused had signed or attested it."

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Repeal and replacement of section 196 of the principal Decree.

9. Section 196 of the principal Decree is hereby repealed and replaced by the following :-

"Discharge of the suspected person.

196.(1) If the Attorney-General after studying the police case file and the statement of the intended witness is of the view that the evidence available is insufficient to warrant mounting a prosecution or otherwise inadvisable to prosecute he shall where the suspect has not been charged immediately close the police case file, and order him to be discharged if he is under police custody, unless he has reason to believe that further investigations can change the position, in which case he shall cause further investigations to be carried out.

(2) Any discharge under this section shall not be a bar to any charge in respect of the same facts."

Repeal and replacement of section 197 of the principal Decree.

10. Section 197 of the principal Decree is hereby repealed and replaced thereof by the following :-

"Witness for prosecution and defence.

197. Immediately after complying with the provisions of sections 188 and 194 the court shall make the list of all witnesses whom the Attorney-General intends to call and shall ask the accused person whether he intends to call witnesses at the trial and, if so, whether he desires to give their names and addresses so that they may be summoned. The court shall thereupon, record the names and addresses of any such witnesses whom the accused may mention."

Repeal and replacement of section 198 of the principal Decree.

11. Section 198 of the principal Decree is hereby repealed and replaced with the following :-

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"Adjournment of proceedings. 198.(1) If from any reasonable cause to be recorded in the proceedings the court considers it necessary or advisable to adjourn the proceedings the court may, from time to time, by warrants, remand the accused for a reasonable time, not exceeding fifteen days at any one time to some prison or any other place of security.

(2) Where the remand is for not more than three days, the court may, by word of mouth, order the officer or person in whose custody the accused person is, or any other fit officer or person, to continue to keep the accused in his custody and to bring him up at the time appointed for the commencement or continuance of the inquiry.

(3) During a remand, a court may at any time order the accused to be brought up before it.

(4) Subject to the provision of section 117 the court may admit an accused on remand to bail."

Amendment of section 201 of the principal Decree. 12. Section 201 of the principal Decree is hereby amended by adding new subsection immediately after sub-principal section (2) :-

"(3) Every record of the proceeding supplied to the accused pursuant to this section shall contain a copy of the charge or charges, copies of the statements and documents provided to the Court during the committal proceedings and a copy of the record of the proceedings before the Court."

Passed in the House of Representatives on the 1st day of October, 1991.

K Chamde

KHAMIS JUMA CHANDE
CLERK TO THE HOUSE OF REPRESENTATIVES.