

# 坦桑尼亚 法律汇编

COMPILATION OF LAWS IN TANZANIA

(一)

中华人民共和国驻坦桑尼亚大使馆◎编



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书 名

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作 者

中华人民共和国驻坦桑尼亚大使馆◎编

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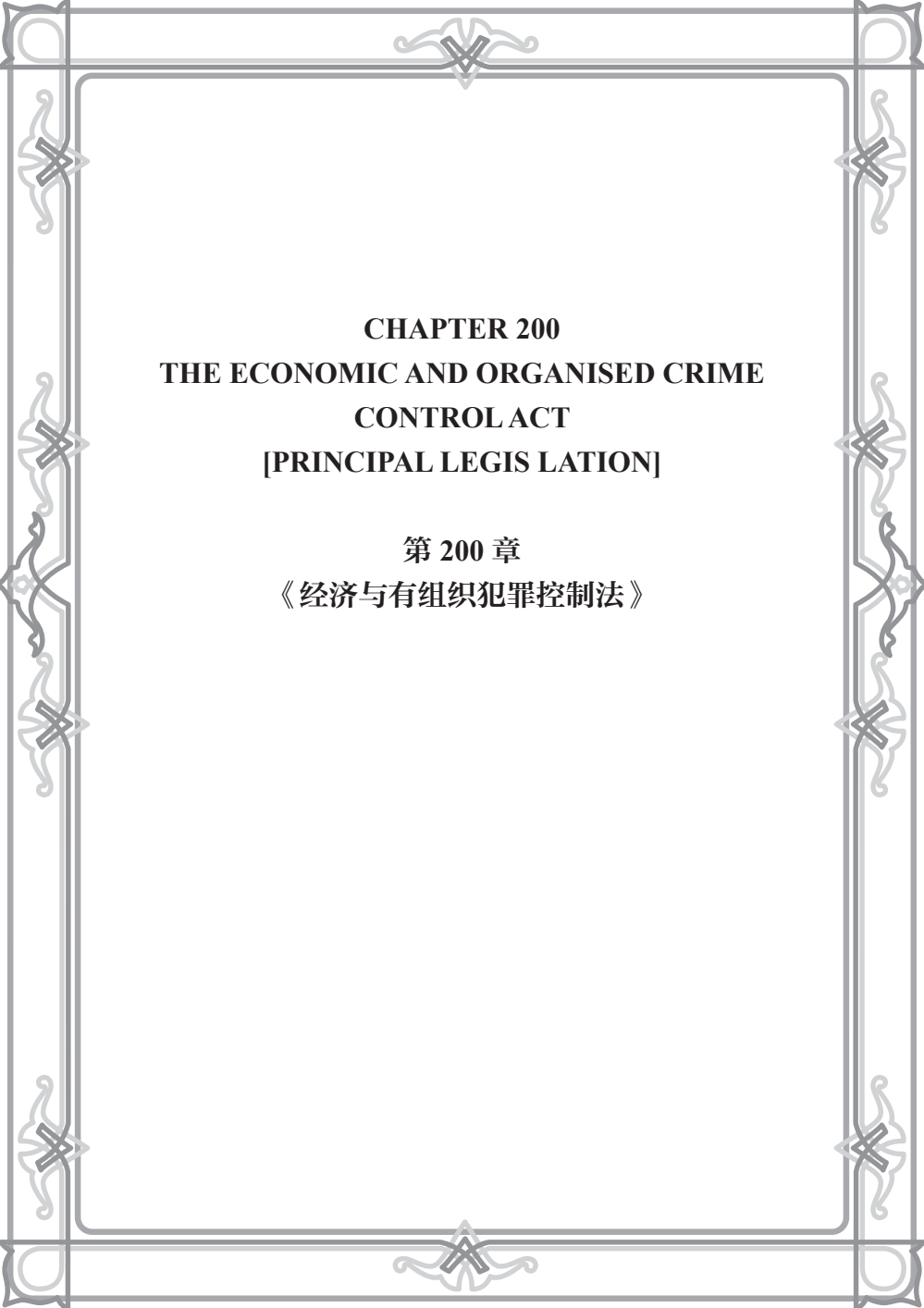
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**CHAPTER 200**  
**THE ECONOMIC AND ORGANISED CRIME**  
**CONTROL ACT**  
**[PRINCIPAL LEGIS LATION]**

**第 200 章**  
**《经济与有组织犯罪控制法》**



**CHAPTER 200**  
**THE ECONOMIC AND ORGANISED**  
**CRIME CONTROL ACT**

An Act to make better provision for the control and eradication of certain crime and culpable non-criminal misconduct through the prescription of modified investigation and trial procedures, and new penal prohibitions, the provision of enhanced sanctions and new remedies, and for related matters.

[25th September, 1984]

[s. 1 (2)]

Acts Nos. 13 of 1984

12 of 1987

13 of 1988

10 of 1989

27 of 1991

3 of 1992

9 of 1995

17 of 1996

31 of 1997

2 of 2007

27 of 2008

G.N. No.

658 of 1998



**第 200 章**  
**《经济和有组织犯罪控制法》**

为控制并根除特定犯罪行为以及具有可罚性的非刑事过错行为，通过对合理调查和审判程序、新的刑事禁令、加强制裁和补救措施等有关事项作出更为完善的规定，制定本法。

1984 年 9 月 25 日

法案编号

- 1984 年第 13 号法案
- 1987 年第 12 号法案
- 1988 年第 13 号法案
- 1989 年第 10 号法案
- 1991 年第 27 号法案
- 1992 年第 3 号法案
- 1995 年第 9 号法案
- 1996 年第 17 号法案
- 1997 年第 31 号法案
- 2007 年第 2 号法案
- 2008 年第 27 号法案
- G.N.NO.
- 1998 年第 658 号法案

## PART I PRELIMINARY PROVISIONS

### 第一部分 序则

1. This Act may be cited as the Economic and Organized Crime Control Act.

第一条【简称】本法可以《经济和有组织犯罪控制法》的名称援引。

2.-(1) In this Act, unless the context otherwise requires— “aircraft” means any machine that can derive support in the atmosphere from the reaction of the air other than the reaction of the air against the earth’s surface;

“aircraft facilities” shall have the meaning ascribed to it in any subsidiary legislation made under the Civil Aviation Act;

“appropriate judicial authority” means the Chief Justice and each judge of the High Court authorised in writing by the Chief Justice to exercise the functions of an appropriate judicial authority under this Act;

“business” includes a business not carried on for profit;

“carrier” means any person engaged in the transportation of passenger or property by land, air or sea, as a common contract or private carrier of freight, forwarder, and officers, agents or employees of such carrier;

“combination” means persons who collaborate in carrying out and furthering the activities or purposes of a criminal racket even though such persons may not know each other’s identity or the membership combination changes from time to time or one or more members may stand in a wholesaler-retailer or other arm’s length relationship with others as to activities or dealings between or among themselves in an illicit operation;

“confidence game” means any swindling operation whereby advantage is taken of the confidence reposed by the victim in the swindler;

“Court” means the High Court sitting as an Economic Crimes Court pursuant to section 3;

“criminal racket” means any combination of persons or enterprises engaging, or



having the purpose of engaging, whether once, occasionally or on a continuing basis, in conduct which amounts to an offence under this Act;

“dealer” means any person engaged in the business of distributing any goods for consumption or use by other at wholesale or retail, or the treatment or use of such goods for the purposes of manufacturing other goods for distribution by others;

“decision” includes a judgment, finding, acquittal, conviction, sentence or ruling;

“document” includes—

(a) a book, plan, paper, parchment or other material on which there is writing or printing, or on which there are marks, symbols, perforations having a meaning for persons qualified or intended to interpret them; and

(b) a disc, tape, paper or other device from which sounds or messages are capable of being reproduced;

“economic offence” means any offence triable under this Act;

“enterprise” includes any individual, partnership, corporation, association or other legal entity, and any union or group of individuals associated in fact although not a legal entity, carrying on any business whether or not for profit;

“explosive materials” includes explosives, blasting agents, detonators any material used in the manufacture of explosives;

“firearm” means—

(a) any weapon which is capable of expelling, or is designed or may readily be convened to expel, a projectile by the action of an explosive;

(b) the frame or receiver of any such weapon;

(c) any firearm muffler or firearm silencer;

(d) any destructive device,

and includes an antique or domestically manufactured firearm;

“foreign commerce” means commerce between the United Republic, or any citizen of or any firm or body corporate established in the United Republic, and any foreign country, firm, person or body of persons;



“game” means a sport;

“importer” means any person engaged in the business of importing or bringing any article or thing of commercial value into the United Republic;

“internal trade” means commerce amongst the citizens, firms and other persons or bodies of persons, whether or not corporate, within the United Republic;

“Judge” means a Judge of the High Court;

“lay member” means a member of the Court other than a Judge;

“local government authority” means a city, municipality, town, district or village council, and includes a township authority and any committee or other body established by and for the purposes of a local government authority;

“magistrate” means a magistrate performing or authorised to perform any function for the purposes of this Act;

“manufacturer” means any person engaged in the business of manufacturing any article or thing of commercial value;

“member” means a member of the Court, and includes the Judge presiding over the proceedings of the Court;

“Minister” means the Minister responsible for legal affairs;

“motor vehicle” and “motor vehicle facilities” means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers or passengers and property, whether publically or privately owned;

“official act” means any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in his official capacity;

“organised crime” means any offence or non-criminal culpable conduct which is committed in combination or from whose nature, a presumption may be raised that its commission is evidence of the existence of a criminal racket in respect of acts connected with, related to or capable of producing the offence in question;

“person” includes an individual, partnership, committee, association,



corporation, and any other organisation or group of persons whether or not a body corporate;

“prosecuting officer” means a person so designated under section 27;

“public official” means any person holding any office, whether appointive or elective, in the Government of the United Republic or any agency of the United Republic;

“racket” means any combination of persons or enterprises;

“Regional Judicial Board” means the Board appointed under the Judicial Service Act;

“Registrar” means the Registrar of the High Court;

“specified authority” means any department of the Government of the United Republic, a co-operative society, a local government authority or a parastatal organisation;

“sport” includes archery, athletics, bao, baseball, basketball, boxing, cards, chess, cricket, darts, dog-racing, draughts, football, hockey, horseracing, handball, netball, polo, squash, swimming, tennis, volleyball and any other game, play or sport, by whatever name called, involving bodily exercise or mental exertion, whether outdoor or indoor and whether played by amateurs or professionals;

“sports contest” means a sports competition of any kind;

“wildlife” and “wildlife resources” include resources which comprise wild mammals, wild birds, fish, and all other categories of wild creatures of any kind, and all types of aquatic and land vegetation upon which such wildlife resources are dependent.

(2) All offences created by or punishable under the First Schedule to this Act shall be referred to as economic offences.

(3) Except where the nature or circumstances of an offence indicate otherwise, where two or more persons are proved to have been jointly involved in the commission of an economic offence, or where it appears to the Court that the accused could not have committed the offence without the connivance or collaboration of a person or persons not known to the Court, the commission of the offence shall be deemed to have

been organised, and the offence to be an organised crime for the purposes of sentence.

第二条【名词解释】（1）在本法中，除条文另有规定，

“飞机”，是指除借助空气对地球表面的反作用力外，任何能在空中获得大气作用力的机器；

“航空器设施”，依据《民用航空法》及其附则确定其含义；

“适当司法机关”，是指高等法院首席法官和经首席法官书面授权行使本法规定的司法职能的高等法院法官；

“营业”，包括不以营利为目的的营业；

“承运人”，是指通过陆运、空运或海运从事旅客或财产运输的任何人，包括承包商、私人承运人、报关行，以及上述机构的管理人、代理人或者雇员；

“组织”，是指共同实现或促成犯罪目的的组织，其成员可能不知道彼此的身份，人员不稳定，或成员间以批发—零售商或其他中介机构的形式在其经营活动中与非法活动存在紧密关系；

“诈骗”，是指利用被害人的信任进行的欺诈行为；

“法庭”，是指依本法第3条开庭审理案件的高等法院经济犯罪法庭；

“敲诈勒索”，是指个人或企业（一次、偶尔或持续）实施或意图实施本法规定的犯罪行为；

“经销商”，是指任何以批发或零售方式向他人提供商品或服务，或基于销售目的使用商品或服务的人；

“判决”，包括判决、调查结论、无罪宣告、定罪、判处刑罚的裁定；

“文档”，包括

（a）以手写或印刷方式将文字或符号添加到书籍、图册、纸张、羊皮纸或其它物料之上，以供有资质或意愿的人进行解读；

（b）能够复制声音或信息的光盘、磁带、纸张或其他载体；

“经济犯罪”，是指应当依本法审理的犯罪行为；

“企业”，是指包括任何个人、合伙企业、公司、团体或其他法人，以及从事营利或非营利商业活动的非法人组织或团体；

“爆炸性材料”包括用于制造爆炸物的炸药、爆破剂、雷管；

“枪支”，是指



- (a) 任何通过爆炸作用发射弹丸，或任何设计用以发射弹丸的武器；
- (b) 任何此类武器的框架或结构；
- (c) 任何火器消声器或消音器；
- (d) 任何具有攻击性的装置，包括古董或手工制造的火器；

“对外贸易”，是指联合共和国或在联合共和国境内设立的公司或法人分支机构的成员，与外国、外国公司、个人或法人团体之间的贸易；

“运动”，是指体育运动；

“进口商”，是指任何从事进口业务或将任何具有商业价值的物品带入联合共和国的人；

“国内贸易”，是指联合共和国境内的公民、企业和其他法人或非法人组织之间的贸易活动；

“法官”，是指高等法院法官；

“非专业人员”，是指法官以外的法院工作人员；

“地方政府机关”，是指城市、镇、区、村理事会，包括乡行政机关和地方政府机关为实施本法设立的委员会或其他机构；

“治安法官”，是指为施行本法或获授权执行本法职能的法官；

“制造商”，是指从事制造任何具有商业价值物品的人；

“成员”，是指法庭成员，包括主持庭审的法官；

“部长”，是指负责法律事务的部长；

“机动车”和“机动车设备”，是指公众共有或私人所有的，依靠机械动力驱动或牵引，用于在公路上运送人员或财产的各种车辆或设备；

“官方行为”，是指公职人员依法或依职权处理问题、事项、原因、诉讼、程序或争议的任何决定或行动；

“有组织犯罪”，是指共同实施或在行为性质上有充分理由怀疑系共同实施的刑事或非刑事犯罪行为，即其犯罪行为可能被作为相关犯罪集团存在的证据；

“人”，包括具备或不具备法人资格的个人、合伙企业、委员会、协会、公司以及任何其他组织或团体；

“检察官”，是指依本法第 27 条获得授权的人；

“公职人员”，是指在联合共和国政府或联合共和国任何机构中，通过选举

或任命担任公职的人；

“团伙”，是指个人或者企业的组合；

“地区司法委员会”，是指根据《司法服务法》组建的委员会；

“书记官”，是指高等法院的书记官；

“特定机关”，是指联合共和国相关职能机构、社团、地方政府机关或半官方机构的任何部门；

“体育”，包括射箭、田径、斯瓦希里播棋、棒球、篮球、拳击、纸牌、国际象棋、板球、飞镖、赛狗、跳棋、足球、曲棍球、赛马、手球、网球、马球、壁球、游泳、网球、排球及其他由业余或专业人士参与的在户外或室内进行身体锻炼的体育运动；

“体育竞赛”，是指任何形式的体育比赛；

“野生动物”和“野生动物资源”，包括野生哺乳动物、野生鸟类、鱼类和所有其他任何种类的野生动物，以及此类野生动物资源所依附的所有类型的水生和陆地植被。

(2) 凡根据本法附表一所犯的或应受惩罚的犯罪行为均为经济犯罪。

(3) 除本法对犯罪行为的性质另有规定或法庭有理由认为嫌疑人在没有他人共谋的情况下不可能触犯罪名的，有证据证明两人或两人以上共同实施经济犯罪行为的，属于有组织犯罪，并应处以相应刑罚。

## PART II THE ECONOMIC CRIMES COURT

### 第二部分 经济犯罪法庭

#### Constitution of the Court

#### 法院章程

3.-(1) The jurisdiction to hear and determine cases involving economic offences under this Act is hereby vested in the High Court.

(2) The High Court when hearing charges against any person for the purposes of this Act shall be an Economic Crimes Court.

第三条【法庭的设立】(1) 高等法院依本法享有审理和裁定经济犯罪案件



的管辖权。

(2) 高等法院经济犯罪法庭审理以经济犯罪罪名提起的诉讼。

4. The Economic Crimes Court shall consist of a Judge of the High Court and two lay members.

第四条【法庭组成】高等法院经济犯罪法庭应当由一名高等法院法官和两名非专业人员组成。

5.-(1) The Regional Judicial Board shall at the beginning of each year compile and submit to the Registrar of the High Court as well as to the relevant District Registrar of the High Court a list containing the names of not more than ten persons who are resident in the region who may be summoned to be lay members of the Court.

(2) The Regional Judicial Board shall enlist persons who, in its opinion, are responsible and reasonable members of the community and are fit to perform the duties of the office of lay member.

(3) Every literate person of between the ages of thirty and sixty years who may serve as an assessor under the Magistrates' Court Act shall be liable to serve as a lay member of the Court.

(4) The High Court shall select and summon two persons from among the list submitted by the Regional Judicial Board to be lay members for the purposes of each session or, if one case only is to be heard, for the purposes of the case concerned.

(5) Where a lay member becomes unable to sit on the Court after proceedings in any case have commenced, and such inability is expected to last unduly long, the proceedings may continue until the conclusion of that case or, if at a session, of all the other cases, notwithstanding the absence of that member.

(6) In selecting and summoning persons to be lay members the High Court shall take into account the nature of the economic offences involved, the standard of literacy of the persons for the purposes of understanding any technicalities involved in the offences charged, the region in which the offences took place and any other relevant human factor which may possibly affect the outcome of the trial.

第五条【非专业人员的资格和召集】(1) 地区司法委员会应当在每年年初

编制非专业人员名单，该名单须包括不超过 10 名在该区域居住的能担任非专业人员的公民，并将该名单提交高等法院及其下辖法院的书记官。

(2) 地区司法委员会应当遴选有责任感、理性的、适合履行相应职责的公民担任非专业人员。

(3) 凡受过教育的年龄在三十至六十岁之间的人士，根据《治安法院法》可担任陪审员的公民，均有资格担任非专业人员。

(4) 高等法院应从地区司法委员会提交的名单中选出两名非专业人员参加某次或某件案件的庭审。

(5) 非专业人员在案件审理程序开始后，不能继续参与庭审且该状况可能持续过久的，则尽管该成员缺席，该案审理程序仍可继续进行。

(6) 高等法院选任非专业人员时，须考虑经济犯罪案件的性质、非人员的文化水平、犯罪行为发生地以及其他可能影响审理结果的因素。

6.-(1) Subject to subsection (2), a person whose name is submitted by the Regional Judicial Board shall be eligible to serve on the Court for one calendar year, but he may be included in the list for the next following year.

(2) Every lay member shall hold office during good behaviour but may be removed from the list of lay members by the Chief Justice or the appropriate judicial authority for good cause.

(3) A person removed from office of a lay member while serving on the Court shall be disqualified from subsequent enlistment as a lay member of the Court.

(4) Every lay member selected immediately after the commencement of this Act shall be eligible to serve on the Court only until the 31st day of December, 1984, but may be reselected.

第六条【非专业人员的服务期限】(1) 除本条第(2)款规定的情况外，被列入地区司法委员会名单的人员应当在法院任职一年，但可被列入下一年的名单。

(2) 每名非专业人员均须在任职期间保持行为良好，否则高等法院首席法官或相关司法机关可以正当理由将其从非专业人员名单中除名。

(3) 在法庭任职期间被免职的非专业人员，不得再担任法庭非专业人员。

(4) 本法施行后选任的非专业人员，只能在法院任职至 1984 年 12 月 31 日，

但可以被重选。

7.-(1) Every lay member shall, prior to the commencement of each session or the proceedings in a single case, take and subscribe the oath prescribed in the Second Schedule of this Act, in the presence of a Judge of the High Court.

(2) Where any lay member has no religious belief or the taking of an oath is contrary to his religious belief, he may make and subscribe a solemn affirmation in the form of the oath prescribed, substituting the words “solemnly and sincerely affirm” for the word “swear” and omitting the words “so help me God” .

(3) The record of the oath office shall after subscription by each member be kept as part of the record of the proceedings or session in respect of which the member is sworn.

第七条【宣誓就职】(1)非专业人员应当在参与审理案件的诉讼程序开始前，在高等法院法官面前宣誓并签署本法附表二所规定的誓言。

(2)非专业人员没有宗教信仰或本法规定的誓言有悖其信仰的，可以保证代替宣誓，以“郑重及真挚地确认”替代“宣誓”，并省略“宣誓”和“上帝保佑我”。

(3)宣誓办公室的笔录在每位非专业成员宣誓并确认后，作为诉讼程序或开庭笔录的组成部分予以保存。

8.-(1) Every member of the Court and every person, other than counsel for the defence, discharging duties connected with proceedings before the Court shall be paid such remuneration or allowances as the Minister may from time to time, by notice published in the Gazette, determine.

(2) The remuneration or allowances to be paid under subsection (1) shall be of such amount as may be sufficient to cover the cost of board, lodging, transport and travel likely to be incurred.

第八条【报酬和费用】(1)除辩护律师外，法院人员和执行与法院诉讼有关职责的人在诉讼程序完成后均应获得部长依公报授权发放的报酬或津贴。

(2)根据本条第(1)款须支付的薪酬或津贴，须足以支付可能产生的食宿费、交通费及旅费。



9. The Court shall use distinctive stamps and seals of such nature and pattern as the Chief Justice may direct.

第九条【法院印章】法院应使用按照高等法院首席法官要求制作的制式印章。

10.-(1) The Chief Justice shall make such man power arrangements as he may consider appropriate for ensuring the smooth co-ordination of the affairs of the Court.

(2) For the purposes of this section, the Chief Justice may select public officers employed in the Judiciary Department and assign to them such duties as he may determine for the purposes of ensuring the proper and efficient functioning of the Court.

(3) The Chief Justice may, from time to time, issue such directions as he may determine for the guidance of all officers, or a category of them, in the performance of duties in relation to matters arising under or connected with this Act and such directions shall be under the hand of the Chief Justice.

第十条【法院行政管理】高等法院首席法官可以做出他认为适当的人事安排，以确保法院正常及有效运作。

(2) 高等法院首席法官可以从司法机构聘用公职人员，并将他所决定的职责分配给他们，以确保法院正常及有效运作。

(3) 高等法院首席法官可以书面形式指示全部或部分工作人员履行与本法实施有直接或间接关联的职责。

## **Jurisdiction and Functions**

### **管辖和职能**

11.-(1) The Court shall have power to inquire into economic offences alleged to have been committed, and to make such decisions and orders for the purposes of this Act as it may in each case find fit and just.

(2) Allegations of commission of any economic offence may be brought to the attention of the Court through—

(a) the reference by any court subordinate to the High Court, with copies of records being sent to the Director of Public Prosecutions, of any case involving economic offence or offences previously instituted before that court;

(b) the institution of proceedings before the Court by the Director of Public Prosecutions or by his representative duly appointed in accordance with section 82 of the Criminal Procedure Act.

(3) Where the Court finds any accused person guilty of the economic offence charged it may pass such sentence on him as it deems fit and just in the circumstances of the case, subject to this Act, and explain to him his right of appeal.

(4) Where the Court finds any accused person not guilty of the offence charged or of any alternative economic offence disclosed by the evidence adduced it shall forthwith acquit and order the release of that person.

第十一条【法庭的权力和职责】(1) 法庭有权调查可能发生的经济犯罪行为，并依本法目的，在案件审理中作出其认为适当和公正的决定和命令。

(2) 经济犯罪指控可以下列方式提交法庭，

(a) 高等法院下辖法院正在审理或已经审结的案件中涉及经济犯罪的，向检察长提交记录副本；

(b) 由检察长或根据《刑事诉讼法》第 82 条任命的检察官向法庭提起诉讼。

(3) 法庭裁定嫌疑人被控经济犯罪罪名成立的，可依本法规定，对其作出法庭认为适当和公正的判决，并向嫌疑人说明其拥有的上诉权。

(4) 法庭裁定嫌疑人经济犯罪罪名不成立的，法庭应当宣判该人无罪释放。

12.-(1) Where the Court decides that an alleged economic offence is in fact not an economic offence which it has jurisdiction to try, it shall order that proceedings in respect of that offence be instituted in such court as it may deem proper to order, but shall make no order in relation to the accused person save for bail if an application is made in that behalf.

(2) Where the Court decides that it has no jurisdiction and makes an order under subsection(1), the accused shall be deemed to have been discharged for the purposes of proceedings before the Court, but the discharge shall not operate to preclude the arrest of the person for the purposes of proceedings in relation to him before an appropriate competent court in respect of the same facts on which he was brought before the Court.

(3) The Director of Public Prosecutions or any State Attorney duly authorised

by him, may, in each case in which he deems it necessary or appropriate in the public interest, by certificate under his hand, order that any case involving an offence triable by the Court under this Act be tried by such court subordinate to the High Court as he may specify in the certificate.

(4) The Director of Public Prosecutions or any State Attorney duly authorised by him, may, in each case in which he deems it necessary or appropriate in the public interest, by certificate under his hand order that any case instituted or to be instituted before a court subordinate to the High Court and which involves a non-economic offence or both an economic offence and a non-economic offence, be instituted in the Court. [ss. (3A)]

(5) Where a certificate is issued under subsection (3), it shall be lodged in the court concerned, and shall constitute full authority for, and confer jurisdiction upon, the court in which it is lodged to try the case in question. [ss. (4)]

(6) Where a person tried by a court subordinate to the High Court pursuant to the preceding provisions of this section is found guilty by that court, the court shall impose on that person the sentence provided for by this Act. [ss. (5)]

第十二条 【移送案件的权力】（1）嫌疑人以经济犯罪的罪名被起诉后，法庭认为其犯罪行为构成经济犯罪以外罪名的，法庭应当将该案移交有管辖权的法院审理，且不得作出保释决定。

（2）法庭依前款规定作出移送案件决定的，应当撤销对嫌疑人的指控。撤销指控决定的效力不影响对嫌疑人实施逮捕。逮捕嫌疑人应当作为另一案件审理的前置程序。

（3）检察长或其授权的检察官应当基于正当理由或公共利益，根据其掌握的证据，向有管辖权的法院提起诉讼。

（4）检察长或其授权的检察官应当基于正当理由或公共利益，根据其掌握的证据，向有管辖权的法院提起诉讼，犯罪行为涉及经济犯罪和非经济犯罪的，由同一法庭审理。

（5）依本条第（3）款提起诉讼的，相关文档应由法院登记存档。

（6）法庭判定依本条规定被提起诉讼的嫌疑人有罪的，应判处相应刑罚。

13. The proceedings of the Court shall be conducted in any building or room in which the sittings of the High Court are ordinarily held or, subject to the directions of the appropriate judicial authority, in such other place which is different from, but is fit for use as, a court room.

第十三条【开庭地点】法庭应当在高等法院或其他适合开庭的地点审理案件。

14.-(1) No member shall sit on the Court for the hearing and determination of any matter in which he has any interest other than that of seeing to the eradication of economic and organised crime through lawful means.

(2) A member who has an interest in the matter shall inform the presiding Judge of his interest before taking the oath for the purposes of the case, and the Judge shall cause a summons to be sent out for another person to replace that member.

第十四条【有关利害关系人的披露】（1）除愿意通过合法途径消灭经济及有组织犯罪行为的人以外，与案件有利害关系的人不得参与庭审和做出裁定。

（2）与案件有利害关系的人员应在宣誓前告知法官，由法官确定替代人选。

15.-(1) Save as is expressly provided by this Act no act or thing done or omitted by a member shall, if done or omitted bona fide in the exercise of his judicial functions under this Act, render such member criminally liable for such act or omission.

(2) Any advocate or other person appearing before the Court on behalf of a party shall have the same protection and immunity as an advocate has in appearing for a party in ordinary proceedings before the High Court.

(3) Subject to this Act, a person summoned to attend or appearing before the Court as a witness shall have the same protection, and shall, in addition to the penalties provided by this Act, be subject to the same liabilities, in any civil or criminal proceedings, as a witness in ordinary proceedings in the High Court.

第十五条【程序特权】（1）除非本法另有规定，任何人员依本法规定行使司法职能时的作为或不作为均不承担刑事责任。

（2）辩护人或其他代表当事人出庭的人应享有与律师在高等法院普通诉讼中为当事人出庭时相同的保护和豁免。

（3）除本法另有规定，被传唤或出庭作证的人均受保护并应承担与在普通

程序中作为证人同样的责任。

16.-(1) All questions to be decided by the Court, other than the question whether or not the accused is guilty of any offence, shall be decided by agreement of the majority of the members and the reasons for any member differing from the views held by the majority of the members shall be stated by him in open court and be recorded by the Judge presiding over the proceedings, and shall form a part of the record of the Court in those proceedings.

(2) The decision whether or not the accused is guilty shall be made by the Judge presiding over the proceedings after—

(a) summing up the evidence for the prosecution and the defence; and

(b) requiring each of the lay members to state his opinion orally as to the case generally and as to any specific question addressed to him by the Judge, and recording such opinion.

(3) The Judge shall not, in making the decision pursuant to subsection (2), be bound by the opinions of the lay members.

第十六条 【决定与裁定】（1）除嫌疑人是否构成犯罪以外，其他须由法庭决定的问题均须依多数成员意见决定，持少数意见者可以当庭陈述意见并说明理由，法庭应当将少数意见记录存档。

（2）嫌疑人罪名是否成立，在庭审后由主审法官通过下列程序判断，

（a）总结公诉方和辩护方的证据；

（b）要求每名非专业人员口头就案件情况和法官提出的具体问题陈述意见，并由法庭记录存档。

（3）法官根据本条第（2）款规定作出的决定，不受非专业人员意见的约束。

17.-(1) The Registrar and each District Registrar shall at intervals of six months, prepare and submit to the Minister a report specifying—

(a) the total number of economic offences brought before the Court for trial;

(b) the number of each type of economic offences inquired into;

(c) the number of persons tried for commission of each type of economic offence;

(d) the orders made by the Court in the trial of each economic offence;



(e) any recommendations for the control or eradication of any economic or other crime or crimes;

(f) any other matter which the Minister may require the Registrar to report upon.

(2) The Court may, in any appropriate case, after the trial, submit a special report to the Minister—

(a) concerning non-criminal or professional misconduct, abuse or misuse of office involving economic or organised criminal activity by any public official as the basis for a recommendation of his removal or disciplinary action being taken against him;

(b) regarding the state and conditions of economic and organised criminal activity within the area of the jurisdiction of the Court;

(c) and the Minister shall act upon the report in accordance with relevant law.

第十七条【法庭报告】书记官和地方法院的书记官每六个月向部长提交一份报告，报告中应当包括以下内容，

(a) 诉至法院的经济犯罪案件总数；

(b) 法院审理的经济犯罪案件总数；

(c) 各类经济犯罪嫌疑人的人数；

(d) 法院对审理的各项经济犯罪作出的命令；

(e) 关于控制或根除经济或其他犯罪或犯罪行为的建议；

(f) 部长要求报告的其他事项。

(2) 法院可在任何适当情况下，在审理某件案件后向部长提交一份特别报告，报告中应当包括以下内容，

(a) 涉及任何公职人员从事经济或有组织犯罪活动的非刑事或滥用职权行为，作为建议将其免职或采取纪律行动的依据；

(b) 关于法院管辖范围内经济和有组织犯罪活动的总体状况；

(c) 部长根据该报告应当依法采取的行动。

18.-(1) Any person who—

(a) wilfully disobeys any lawful order, process or requirement issued by the Court;

(b) publishes any proceedings or report of the Court or any part of it contrary to an order of the Court prohibiting publication;

(c) discloses or publishes a report of the evidence taken or deliberations of the Court held in camera or directed to be withheld from publication;

(d) within the premises in which any proceeding of the Court is being held or taken, or within the precincts of those premises, shows disrespect, in speech or manner, to or with reference to that proceeding;

(e) within the premises in which any proceeding of the Court is being held or taken, and in the face of the Court, conducts himself, in speech or manner, so as to be likely to threaten any witness or to disrupt the proceedings of the Court;

(f) with a view to preventing the giving of evidence or production of any thing before the Court, does any act intended or likely to intimidate a person summoned from giving evidence or producing the thing;

(g) with a view to punish or victimise a person, does any act to him after that person has given evidence or produced anything before the Court, which injures or is likely to injure that person or his property;

(h) publishes anything in any manner which scandalizes or is intended or likely to scandalize the Court;

(i) wilfully publishes or does any thing which is intended or tends to prejudice the fair trial of any person before the Court,

commits an offence of contempt of the Court and shall be liable on conviction to imprisonment for five months or to a fine not exceeding three thousand shillings.

(2) Save as is provided in section 19, all offences of contempt against the Court shall be triable by the district court.

第十八条【藐视法庭罪】(1)任何人,

(a) 故意违反法庭命令、程序或要求的;

(b) 出版的刊物或报告的全部或部分內容违反法院命令的;

(c) 公开或出版法庭命令秘密进行或不得对外披露的证据或庭审报告;

(d) 在庭审及其相关地点,以言语或行为不尊重法庭的;

(e) 在庭审及其相关地点,当庭以言语或行为威胁或可能威胁任何证人或干扰庭审的;

(f) 为阻挠证人向法庭提交证据或其他文件，以任何方式恐吓或可能恐吓被传唤的证人的；

(g) 为报复或伤害证人，在证人向法庭作证或提供文件后，伤害或可能伤害证人或其财产的；

(h) 发表诽谤或可能诽谤法庭言论的；

(i) 以出版或以其他方式使法庭对任何出庭的公民产生偏见的，藐视法庭一经定罪，处以五个月监禁或不超过三千先令的罚款。

(2) 除本法第十九条另有规定外，藐视法庭犯罪行为由地区法院审理。

19.-(1) When any offence under section 18 is committed in the face of the Court, the Court may cause the offender to be detained in custody, and at any time before the rising of the Court on the same day may take cognisance of the offence and sentence the offender to a fine of five hundred shillings or, in default of payment, to imprisonment for one month.

(2) Without prejudice to section 18, the Court shall have power to punish by fine or imprisonment such contempt of its authority as—

(a) misbehaviour of any kind by any person in its face or so near to it as to obstruct the administration of justice;

(b) misbehaviour of any of the officers of the Court in their official transactions;

(c) disobedience or resistance to its lawful authority.

第十九条 【法庭对藐视法庭罪的权力】 (1) 违反第十八条规定的，法庭可以命令羁押当事人并于当天的下次庭审前确认其犯罪行为，判处五百先令罚款，或不罚款处以一个月监禁。

(2) 在不违反第 18 条规定的情况下，法院有权对下列藐视法庭行为处以罚款或监禁，

(a) 当庭或在开庭地点以不当行为妨碍司法的；

(b) 以不当行为干扰法庭人员执行公务的；

(c) 不服从或抗拒法庭合法权力的。



## PART III INVESTIGATION OF ECONOMIC CRIMES

### 第三部分 经济犯罪的侦查

#### Investigation Process

#### 调查过程

20.-(1) Except as is provided in this Part, and in any other written law creating an economic offence in respect of which the Court has jurisdiction by virtue of this Act, the investigation of all economic offences triable by the Court shall be conducted in accordance with the provisions of the Criminal Procedure Act, subject to the following provisions of this section.

(2) Where in relation to any offence which is an economic offence under this Act, the law creating the offence expressly provides for specific acts to be done in the process of investigation, those acts shall be done in accordance with that law to the extent only to which that law derogates from the provisions of the Criminal Procedure Act.

(3) Where after the Court commences the hearing of any case it appears that some further investigations ought to be done in order for the Court to reach a just decision, the Court may, on its own instance or that of the prosecuting officer, adjourn the proceedings and order that investigations or further investigations be carried out into any matter or aspect of it and a report on the investigations be furnished to the Court within such time as it may specify.

(4) Where at the end of the trial the Court convicts the accused and decides that a custodial sentence be imposed, the period of adjournment for further investigations shall, if the accused person be in custody, be taken into account for the purposes of determining the length of the custodial sentence to be imposed.

第二十条 【刑事诉讼法的适用】（1）除本法和相关成文法另有规定外，法庭对经济犯罪的调查应按照刑事诉讼法的规定进行。

（2）立法对经济犯罪的调查有特别规定的，法庭调查应依特别规定进行。

（3）开庭后，法庭认为有必要进一步调查案件事实的，法庭可以决定或依

公诉方申请决定休庭以开展必要的调查并要求在规定时间内向法庭提交调查报告。

(4) 庭审结束后，法庭认定嫌疑人有罪并判处监禁刑的，庭审期间为调查休庭的嫌疑人羁押期折抵刑期。

21.-(1) The investigation of all economic offences reported to the police shall be conducted by police officers, with the assistance of such public officials or category of public officials as may be designated by the Director of Public Prosecutions after consultation with the Director of Criminal Investigation and by order published in the Gazette.

(2) Where in accordance with any other written law the investigation of any economic offence or category of economic offences, is ordinarily conducted by public officials other than police officers, then for the purposes of this Act the term “police officer” shall include any public officials in the discharge of functions in pursuance of this Act.

第二十一条【调查人员】(1) 对经济犯罪的调查须由警务人员或取得授权的公职人员进行，检察长在与警察总监协商后，可依公报授权指定公职人员或相关人员协助调查。

(2) 如依其他成文法规定，对经济犯罪或类似经济犯罪的调查可由除警官以外的公职人员进行，则在本法中，“警务人员”一词应包括相关公职人员。

22.-(1) Where a police officer is satisfied that there is reasonable ground for suspecting that there is in any building, vessel, carriage, box, receptacle or place—

(a) anything with respect to which any economic offence has been committed;

(b) anything in respect of which there are reasonable grounds to believe that it will afford evidence as to the commission of any economic offence;

(c) anything in respect of which there are reasonable grounds to believe that it is intended to be used for the purposes of committing any offence,

and that any delay would result in the removal or destruction of that thing or danger to life, or property he may search, or issue a written authority to any police officer under him to search the building, vessel, carriage, box, receptacle or place.

(2) Whenever any search is made or any such written authority is issued the police officer concerned shall, as soon as practicable, report the issue of the authority, the grounds on which it is issued and the results of any search made under it, to a district magistrate within whose area of jurisdiction the search is to be made or was made.

(3) Where anything is seized after a search conducted pursuant to this section, the police officer seizing it shall—

(i) forth with or as soon as it is practicable evaluate or cause the property to be evaluated so as to ascertain its value;

(ii) issue an official receipt evidencing such seizure and on which the value of the property as ascertained and bearing in addition to his signature, the signature of the owner of the premises searched and that of at least one independent person who witnessed the search;

(4) Where at any stage of the investigations it appears that anything seized is not related to any economic or other offence in respect of which any person is or is to be charged, the police officer in charge of the case shall forthwith cause the thing to be restored to its owner and shall in no case detain it longer than is necessary.

(5) Any person who being empowered by law to order, authorise or conduct the search of a building, vessel, carriage, box, receptacle or place, exercises such power without having a reasonable ground commits offence of abuse of office in terms of section 96 of the Penal Code.

(6) Where in the course of a search conducted under this section any premises or part of such premises are put under the custody of the police, then at least two locks or padlocks shall be fixed to the external doors of such premises, and the keys for one lock or padlock shall be kept by the owner or occupier of the premises or his agent who shall be specified for the purpose.

第二十二條【財產的搜查及沒收】（1）如警務人員有合理理由懷疑任何建築物、船舶、車廂、箱子、容器或地點，

（a）有與經濟犯罪行為有關的物品的；

（b）可以取得經濟犯罪行為證據的；



(c) 意图被用于经济犯罪行为的物品的；

且任何延误会导致该物品被转移、损毁或危及生命的，警务人员本人或有书面授权的下属警务人员可以搜查该建筑物、船舶、车厢、箱子、容器或地点。

(2) 搜查行为或命令作出后，警务人员应当尽快向地区法院治安法官报告搜查理由和结果。

(3) 依本条规定进行搜查的警务人员在扣押物品后，应当，

(i) 立即上缴，尽快评估或安排评估该物品，以确定其价值；

(ii) 出具正式收据，确定物品价值。收据上应由所有人和至少一名见证该项搜查的独立人士的签名；

(4) 在调查阶段，任何被扣押物品确定与经济犯罪行为无关的，负责案件的警务人员应当立即安排将该物品归还其所有人，在任何情况下，对物品的扣押不得超过所需的必要时间。

(5) 没有合理理由的情况下，命令、授权或进行搜查建筑物、船舶、车厢、箱子、容器或地点，属于触犯《刑事法典》第九十六条规定的滥用职权行为。

(6) 依本条扣押的任何物品应由警方保管，保管场地大门须装设至少两把锁或挂锁，其中一把锁或挂锁的钥匙须由所有人保管。

23.-(1) Where before the institution or determination of proceedings before the Court it appears to the Inspector-General of Police or a person authorised by him in writing, or to the Court, that any property seized under this Act or put in evidence in proceedings before the Court is subject to speedy decay or that for any other reasonable cause it is necessary that it be sooner disposed of, the Inspector-General of Police or the Court, as the case may be, may cause or order that, subject to subsection (8), that property be destroyed, disposed of or dealt with in such manner as inspector General of Police or the Court may specify.

(2) Where, before the institution or determination of proceedings, any property is destroyed, disposed of or dealt with in any other manner, other than the manner referred to in section 24(4), in pursuance of subsection (1), a certificate signed by the Inspector-General of Police or any person authorised by him in writing shall in the absence of proof to the contrary be conclusive evidence of the reasons, the manner and the

circumstances in and the value for, which the property was disposed of or dealt with, and shall be considered to be the rightful value of the property for the purposes of this Act.

(3) Where a person is convicted of an economic offence and the Court is satisfied that any property which was in his possession or under his control at the time of his apprehension—

(a) was used for the purposes of committing or facilitating the commission of the offence; or

(b) was intended by him to be used for that purpose; or

(c) was otherwise involved in the commission of the offence; and

(d) was so used or involved in the commission of the offence with the knowledge or consent of its owner,

the Court shall make an appropriate order under subsection (1).

(4) Where the Court is satisfied that any property which was in the possession of a person charged with but acquitted of an economic offence, at the time of his apprehension—

(a) was used for the purposes of committing or facilitating the commission of the offence; or,

(b) was otherwise involved in the commission of the offence,

whether or not it was so used or involved in the commission of the offence with the knowledge or consent of the owner, the Court shall, subject to subsection (5) make an order in respect of the property under subsection (3).

(5) Where the person charged with but acquitted of an economic offence as referred to under subsection (4) is not the owner of the property, no order shall be issued in respect of the property unless the owner, if he is not charged, is given an opportunity to show cause why an order by the court in respect of the property should not be issued, and if he is not before the court and his whereabouts cannot immediately be ascertained, the court may order the Inspector General to issue a notice in terms of subsection (2) of section 24 and the provisions of subsections (3), (4), (5) and (6) of



that section shall apply as if that owner had absconded.

(6) Facilitating the commission of an offence shall be taken, for the purposes of this section, to include the taking of any steps after it has been committed for the purpose of disposing of any property to which it relates or of avoiding apprehension or detection.

(7) An order under subsection (3) shall operate to deprive the offender of his rights, if any, in the property to which it relates, and the property shall, if not already in their possession, be taken into the possession of the police.

(8) Where the Court makes an order under subsection (3) in respect of any property, the property may be kept or sold, and the same or the proceeds of its sale shall be paid into and form part of the Consolidated Fund.

(9) Where before or after the determination of proceedings before the Court any property seized or put in evidence is sold or disposed of in any other manner, except where the property is sold or disposed of in any other manner in a shop or through any other public marketing utility or organ, no public official having any duty to perform in connection with the sale of any property under this Act shall directly or indirectly purchase or bid for the property.

(10) No property disposed of or in respect of which an order is made by the Court under subsection (3) shall be sold by public auction.

(11) For the purposes of this section “property” includes not only the property originally in the possession or under the control of the accused person but also any property into or for which that original property is converted or exchanged, and anything acquired by such conversion or exchange, whether before or after the accused was apprehended.

第二十三条【财产的没收和处置】（1）如果在法院提起诉讼或对诉讼作出裁定之前，警察总监、其书面授权的人员或法院认为根据本法被扣押的财产或在法院诉讼中被作为证据的财产为易腐物品或因合理理由有必要尽早处置的，警察总监或法院可在符合本条第（8）款规定的情况下，安排或命令将该财产销毁、处置。

（2）在诉讼程序终结前，依本条第（1）款或本法第二十四条第（4）款规

定以外的方式销毁、处置财产的，在没有相反证据的情况下，由警察总监或其书面授权的任何人签署的证明书，即为处置或处理该财产的理由、方式、情况及价值的证明。

(3) 法庭有理由认为，经济犯罪罪名成立的嫌疑人被捕时所拥有或控制的财产，

- (a) 被用于犯罪或协助犯罪的；
  - (b) 计划为犯罪目的使用的；
  - (c) 以其他方式参与犯罪行为的；
  - (d) 在其所有人知情或同意的情况下，被用于与犯罪行为有关事项的，
- 法庭须根据本条第(1)款作出适当命令。

(4) 法庭有理由认为，经济犯罪罪名不成立的嫌疑人被捕时所拥有或控制的财产，

- (a) 被用于犯罪或协助犯罪的；
- (b) 以其他方式参与犯罪的，

不论财产所有人是否知情或同意，法庭应当在不违反本条第(5)款规定的情况下，依本条第(3)款作出命令。

(5) 本条第(4)款规定的情形下，嫌疑人不是财产所有人且财产所有人未被指控犯罪的，在该财产所有人向法庭说明情况前，法庭不得依本条第(4)款规定作出相应决定。财产所有人未出庭说明情况或下落不明的，法庭可以要求警察总监依本法第二十四条第(2)款和第二十三条第(3)(4)(5)和(6)款规定发出通知。

(6) 协助实施犯罪或在犯罪行为实施后，处理财产以逃避制裁的，依本条规定处理。

(7) 依本条第(3)款命令剥夺嫌疑人相关财产权利，但嫌疑人不占有该项财产的，须由警方取得占有。

(8) 法庭根据本条第(3)款就财产作出命令，该财产可予以保留或出售，而该财产及其出售所得的收益须存入综合基金。

(9) 法庭裁定作出之前或之后，被扣押或作为证据的财产以任何方式出售的，除该财产在市场或其他交易场所公开出售，依本法与出售财产有关的任何公职人

员不得以直接或间接方式购买或参与投标。

(10) 法庭根据本法第(3)款作出命令所处置的财产或就其作出命令的财产,不得以公开拍卖方式出售。

(11) 本条中的“财产”包括, 嫌疑人占有或控制的财产, 嫌疑人在被捕之前或之后通过财产转移或交换取得的财产。

24.-(1) Where the Inspector-General of Police is satisfied that any person under arrest or liable to be investigated, searched or arrested in connection with any reasonable suspicion of the commission of an economic offence or who is on bail during trial or pending appeal for an economic offence has absconded to any place outside the United Republic or, within the United Republic, concealed himself so that he may not be searched, arrested or otherwise investigated as to the alleged commission of the economic offence in question, the Inspector-General of Police may cause investigation measures to be taken in relation to the premises and the property previously in the possession, occupation or under the control of the suspect but abandoned by reason of his abscondence.

(2) Where, upon the completion of measures taken in pursuance of subsection (1), the commission of an economic offence is revealed for which the suspect would have been prosecuted before the Court but for his abscondence, the Inspector-General of Police shall, by publication in the Gazette, give notice to the general public of not less than twenty-one clear days, that he intends to submit the property before the Court for it to make orders in relation to the property or other goods involved.

(3) Upon the expiration of the period of the notice under subsection (2), the Inspector-General of Police shall prepare and lodge with the Court a certificate stating—

- (a) the name of the absconding suspect;
- (b) the address of his deserted residence or the premises involved;
- (c) the details of the property abandoned involving or in respect of which an economic offence is alleged to have been committed; and
- (d) a sketch of the evidence envisaged to be relied upon by the prosecution where the suspect is found and charged before the Court.



(4) If upon receipt of certificate lodged with it in pursuance of subsection (3) and after considering any representations made after the notice was given, the Court is satisfied that the evidence envisaged to be relied upon as revealed to the Court would have been sufficient to disclose a criminal offence connected with the absconded suspect, it shall proceed to make orders such as may be made under section 23(3) in respect of the property or part of the property or goods left by the absconded suspect.

(5) Where an absconded suspect subsequently returns to the United Republic or reveals his whereabouts within the United Republic, he may be arrested and charged with the economic offence with which he would have been charged had he not previously absconded.

(6) Notwithstanding any written law for the time being in force in the United Republic and whether or not the absconded suspect subsequently reappears in the United Republic, no action, claim or demand of any kind shall be instituted in any Court against any person in relation to any property or goods forfeited or disposed of by an order of the Court in pursuance of the provisions of this section.

第二十四条【嫌疑人失踪】(1) 警察总监有合理怀疑因经济犯罪被逮捕或可能被调查、搜查或逮捕的人，在庭审或上诉期间被保释的人，潜逃或藏匿在联合共和国境内、外的任何地方以逃避搜查、逮捕或相关调查的，可以采取必要措施搜查其所有、占有或可能藏匿的地点或财产。

(2) 依本条第(1)款采取的措施完成后，发现经济犯罪行为且嫌疑人若非藏匿本应受审的，警察总监应当依公报授权发布不少于21日的通告，申明拟将涉案财产移交法院以作出处置财产的裁定。

(3) 依本条第(2)款发出通告的期间届满后，警察总监应当向法庭提交证明书，证明书中应当载明，

- (a) 潜逃嫌疑人的姓名；
- (b) 嫌疑人遗弃的住宅或住所的地址；
- (c) 被遗弃财产的详情及该财产涉及的经济犯罪行为；
- (d) 公诉方提起诉讼所依据的证据概要。

(4) 法庭收到依本条第(3)款提交的证明书后，经审查认为足以用于指控

嫌疑人经济犯罪行为的，可依本法第二十三条第（3）款对缺席嫌疑人的全部或部分财产作出裁定。

（5）如果潜逃的嫌疑人返回联合共和国或透露其在联合共和国境内下落的，他应当被逮捕，并被控以相应罪名。

（6）本法生效前，无论潜逃嫌疑人是否再次出现在联合共和国，法庭不得根据本条规定裁定没收或处置任何财产，公诉人不得提起任何种类的诉讼。

### **The Decision to Prosecute**

#### **公诉决定**

25.-(1) In this part the term “Director of Public Prosecutions” includes any public official or officials specified by the Director of Public Prosecutions by notice published in the Gazette to whom he has delegated any of his functions for the purposes of this Part of this Act.

(2) Whenever—

(a) a police officer in charge of the conduct of criminal investigations in a region;  
or

(b) any person in charge of a department of Government or other public authority empowered by any written law to conduct investigations into any offence or category of offences triable under this Act,

is informed of the occurrence of an economic offence in the region or any other area within which he or his department or public authority has jurisdiction, he shall forthwith communicate to the Director of Public Prosecutions, in addition to any other person whom he is required by law to communicate, any intelligence affecting or relating to the occurrence and to investigations connected with any economic offence arising from it.

(3) The Director of Public Prosecutions may whenever it is necessary in his opinion for a successful completion of investigations in any case the occurrence of which has been previously communicated to him, give such directions and advice on the matter as he may deem appropriate or proper in the circumstances.

第二十五条【公诉人的信息获取和指示】(1)本法中“检察长”，是指公职人员或检察长依公报授权指定代行其公诉职权的公职人员。

(2)下列人员在其辖区收到经济犯罪行为的相关信息后，将相关信息提交检察长或其他依法应当通知的机构，

(a)负责相关区域刑事调查的警官；

(b)依法有权调查经济犯罪行为的公职人员。

(3)检察长为完成调查，可以在他认为必要的情况下，根据他收到的信息作出指示或决定。

26.-(1) Subject to the provisions of this section, no trial in respect of an economic offence may be commenced under this Act save with the consent of the Director of Public Prosecutions.

(2) The Director of Public Prosecutions shall establish and maintain a system whereby the process of seeking and obtaining of his consent for prosecutions may be expedited and may, for that purpose, by notice published in the Gazette specify economic offences the prosecutions of which shall require the consent of the Director of Public Prosecutions in person and those the power of consenting to the prosecution of which may be exercised by such officer or officers subordinate to him as he may specify acting in accordance with his general or special instructions.

(3) The Director of Public Prosecutions shall have and may exercise in relation to prosecutions under this Act the same power which is conferred on him in respect of public and private prosecutions by the Criminal Procedure Act.

第二十六条【同意公诉】(1)在符合本条规定的情况下，未经检察长同意，不得根据本法对经济犯罪进行审判。

(2)检察长须制定并维持加快获得其同意起诉决定的规则。

(3)检察长依本法提起公诉过程中，享有《刑事诉讼法》规定的各项权力。

27. [Repealed by Act No.27 of 2008, s.37]

第二十七条【提起公诉的责任】本条依 2008 年第 27 号法令第 37 条废除。



**PART IV PROCEDURE PRIOR TO AND DURING  
TRIAL BEFORE THE COURT**

**第四部分 开庭前和开庭期间的程序**

**Preliminary Procedure**

**诉前准备程序**

28. Except as is provided in this Part to the contrary, the procedure for arraignment and for the hearing and determination of cases under this Act shall be in accordance with the provisions of the Criminal Procedure

第二十八条【刑事诉讼法的适用】除本法另有规定，应当依《刑事诉讼法》规定进行庭审、案件审理和裁判案件。

29.-(1) After a person is arrested, or upon the completion of investigations and the arrest of any person or persons, in respect of the commission of an economic offence, the person arrested shall as soon as practicable, and in any case within not more than forty-eight hours after his arrest, be taken before the district court within whose local limits the arrest was made, together with the charge upon which it is proposed to prosecute him, for him to be dealt with according to law, subject to this Act.

(2) Whenever a person is brought before a district court pursuant to subsection (1), 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.

(3) 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 in the High Court sitting as an Economic Crimes Court, and the evidence against you will then be adduced. You will then be able to make your defence and call witnesses on your behalf”.

(4) After the accused has been addressed as required by subsection

(3) the magistrate shall, before ordering that he be held in remand prison where

bail is not petitioned for or is not granted, explain to the accused person his right if he wishes, to petition for bail and for the purposes of this section the power to hear bail applications and grant bail—

(a) between the arrest and the committal of the accused for trial by the Court, is hereby vested in the district court and the court of a resident magistrate if the value of any property involved in the offence charged is less than ten million shillings;

(b) after committal of the accused for trial but before commencement of the trial before the court, is hereby vested in the High Court;

(c) after the trial has commenced before the Court, is hereby vested in the Court;

(d) in all cases where the value of any property involved in the offence charged is ten million shillings or more at any stage before commencement of the trial before the Court is hereby vested in the High Court.

(5) After a person is committed to remand prison by a district court or after the investigations have been completed but before the suspect is arrested, the police officer, or other public official in charge of the relevant criminal investigations under this Act, shall forthwith cause the statements in quintuplicate of persons 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 Director of Public Prosecutions or any other public official designated by him in that behalf.

(6) If the Director of Public Prosecutions or that other public official, 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 prosecute, he shall immediately enter nolle prosequi; 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.

(7) If the Director of Public Prosecutions or that other public official, after studying the police case file and the statements 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 caused to be drawn up, an information in accordance with law, and when

signed by him, submit it, together with three copies each of the statements of witnesses sent to him under subsection (5), in the registry of the High Court.

(8) After an information is filed in the High Court, the Registrar shall endorse on or annex to it and to every copy of information, notice of trial, and cause each copy to be delivered to the district court in which the accused was first presented, as well as to the Director of Public Prosecutions or other officer filing the information.

第二十九条【逮捕程序】(1) 嫌疑人被逮捕或完成调查之后，应当在被逮捕 48 小时内，尽快移送至有管辖权的地方法院。

(2) 嫌疑人依本条第(1)款被移送至地方法院后，法官应当向其宣读并解释被指控的罪名，但嫌疑人无须答辩。

(3) 裁判官宣读起诉书并向嫌疑人解释后，应当向嫌疑人宣读下列文字：

“这不是对你的审判。你将在高等法院经济犯罪法庭受审，届时将会出示对你不利的证据。届时你可以为自己辩护并传唤证人。”

(4) 完成本条第(3)款规定的程序后，法官应当向嫌疑人说明其享有的申请保释的权利并在嫌疑人未申请保释或保释申请被拒绝后裁定其羁押候审。保释申请的管辖依下列规定确定，

(a) 被控犯罪行为所涉财产的价值少于 1000 万先令的，在被捕至嫌疑人送交法院审判期间，由地区法院管辖；

(b) 在嫌疑人被移送审判后，庭审程序开始前，由高等法院管辖；

(c) 庭审程序开始后，由高等法院管辖；

(d) 被控犯罪行为所涉财产的价值高于 1000 万先令及以上，由高等法院管辖。

(5) 在区域法院将嫌疑人还押监狱后，或在调查完成后嫌疑人被捕前，依本法进行刑事调查的警官或其他公职人员应向法院提交说明。说明一式五份，列明拟在审讯中被传召为证人的人员名单，连同警方侦查案卷一并提交至检察长或有检察长授权提起诉讼的公职人员。

(6) 检察长或其他公职人员在阅卷后认为警方提供的证据不足以提起诉讼或不建议提起诉讼的，应当终止起诉。但是，检察长或其他公职人员有合理理由认为进一步调查可以改变这种情况的，应要求警方作进一步调查。

(7) 检察长或其他公职人员在阅卷后认为警方提供的证据足以提起诉讼的，应当起草或依授权起草起诉文件，并将签名的起诉文件和依本条第(5)款提交的说明中的三份提交书记官。

(8) 高等法院收到文件后，书记官应当签注文件，制作公告并将其送达公诉人、地方法院和嫌疑人。

30.-(1) Upon receipt of the copy of the information and the notice, the district court shall summon the accused person from remand prison or, if not yet arrested order his arrest and appearance before it, deliver to him, or to his counsel a copy of the information and notice of trial delivered to it under section 29(8), 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 on the specified date and to facilitate his appearance before the Court.

(2) The Registrar of the High Court shall be responsible for summoning all witnesses for the prosecution as well as those intended to be called by the defence.

第三十条【交付法庭审判】(1) 地方法院收到起诉书和公告副本后，须传唤被羁押的嫌疑人，如嫌疑人尚未被逮捕，应当裁定逮捕嫌疑人并传唤其出庭，依据本法第二十九条第(8)款的要求向嫌疑人及其律师送达控告和公告副本，对于已经收押的嫌疑人，监狱负责人应当在指定日期将嫌疑人送到指定地点以配合庭审。

(2) 高等法院书记官负责传唤控辩双方证人。

31.-(1) Every information shall contain such particulars as are necessary to give reasonable information as to the nature of the offence or offences including a statement of the law and the section, or other division of it, under which the accused person is charged.

(2) Every information shall be brought in the name of the Republic.

(3) An information may contain more than one offence if the offences charged are founded on the same facts or form part of a series of offences of the same or similar character, but where more than one offence is contained in the same information it shall be separately stated.



(4) The following persons may be joined in one information and may be tried together, namely—

(a) persons accused of the same offence committed in the course of the same transaction;

(b) persons accused of aiding or of an attempt to commit the offence

(c) persons accused of different offences committed in the course of the same transaction.

第三十一条【信息】(1) 指控书应当包括能说明嫌疑人犯罪行为的信息和需要援引的法律条文。

(2) 每项指控均应以联合共和国名义提起。

(3) 基于同一事实的指控可以涉及一个或多个罪名；一项指控涉及多项罪名的，应当分别说明理由。

(4) 下列嫌疑人可以一并指控或在被分别指控后合并审理，

(a) 在同一交易中触犯同一罪名的；

(b) 协助或意图实施被指控的犯罪行为的；

(c) 在同一交易过程中触犯不同罪名的。

32. After the accused person has pleaded guilty to the charge read to him in the court under this section the court shall obtain from him his permanent address and shall record and keep it. [s.31A]

第三十二条【嫌疑人住址须登记】嫌疑人承认依本法指控的罪名后，应当向法庭提供其永久地址，并由法庭记录存档。

33.-(1) If the accused person admits the truth of the information, or of any economic offence in it, his admission shall be recorded as nearly as possible in his own words and then read over to him. Any amendment or corrections by the accused shall also be recorded.

(2) After an accused person pleads guilty to the information, the Court shall require the prosecuting officer to give a brief description of the actual facts and other particulars constituting the offence which the accused person admits to have committed, and at the end ask the accused person whether or not he agrees with the facts and



particulars and what alterations, if any, he would like to be made.

(3) After the particulars of the offence or offences which the accused person admits to have committed have been settled, the Court shall convict the accused person of the offence or offences which he admits, and then proceed to pass sentence on him. Except that where the Court is satisfied that it is desirable that the passing of the sentence be deferred it may for reasons to be recorded, defer the same until some other time.

第三十三条【承认指控】(1) 嫌疑人承认指控属实或承认犯有被指控的罪名的, 应当尽可能记录其认罪的原话并由法庭向其宣读记录文本。嫌疑人的任何修改和补充应记录并存档。

(2) 嫌疑人承认有罪后, 检察官应当简要陈述嫌疑人承认的案件事实和有关事项, 并在陈述后询问嫌疑人是否同意上述事实 and 有关事项, 是否需要修改和补充。

(3) 在嫌疑人承认所犯的犯罪行为后, 法庭应判决嫌疑人犯有他所承认的犯罪行为并量刑。法庭有理由决定延期量刑的, 应在将理由记录在案后延期量刑。

34. Where the accused person does not admit the truth of the information or of any economic offence it in, the Court shall enter a plea of not guilty to that information or offence and proceed to the preliminary hearing in accordance with section 35, after which the Court shall hear the evidence of the witnesses for the prosecution and, if he so wishes, of the accused person and his witnesses; but where, during the preliminary hearing or the trial, the accused admits the truth of the information, or of any economic offence in it, the Court shall follow the procedure prescribed in section 33. [s.33]

第三十四条【否认指控】嫌疑人否认指控真实性或不承认犯有任何被控的经济犯罪的, 法庭应依本法第三十五条启动初审程序, 听取控辩双方的证人证言。初审程序中, 嫌疑人承认指控或其他任何经济犯罪的, 依本法第三十三条规定办理。

35.-(1) Notwithstanding the provisions of any other written law, if an accused person pleads not guilty, the Court shall as soon as practicable hold a preliminary hearing in open court in the presence of the accused and, where the accused is



represented, his advocate, and of the prosecuting officer to establish matters relating to the charge which are not in dispute so as to promote a fair and expeditious trial.

(2) At the conclusion of the preliminary hearing held under this section the Judge shall prepare a memorandum of the matters agreed as not disputed, read it over and explain it to the accused in a language that he understands, and have it signed by the accused and, if represented, his advocate and by the prosecuting officer and then filed.

(3) Any fact or document admitted or agreed in a memorandum filed under this section, whether such fact or document is mentioned in the summary of evidence or not, shall be deemed to have been duly proved and it shall not be necessary to call witnesses to prove it; but if during the course of the trial the Court is of the opinion that the interests of justice so demand, it may direct that any fact or document admitted or agreed in a memorandum filed under this section be formally proved.

(4) Wherever possible, the accused person shall be tried during the sessions of the Court at which he is charged, and if a case be adjourned after the preliminary hearing to a date more than a month later due to the absence of witnesses or any other cause, nothing in this section shall be read as requiring the same Judge who held the preliminary hearing under his section to preside at the trial.

(5) The Minister may, after consultation with the Chief Justice, make rules to be published in the Gazette for the better carrying out of the purposes of this section and without prejudice to the generality of the power of the Minister, the rules may provide for—

(a) delaying the summoning of witnesses until it is ascertained whether they will be required to give evidence on the trial or not;

(b) the giving of notice to witnesses, warning them that they may be required to attend the Court to give evidence at the trial.

第三十五条【初审程序】(1) 嫌疑人拒不认罪的, 法庭应当尽快组织检察官、嫌疑人及其律师进行初审, 确定控辩双方没有争议的案件事实。

(2) 法庭应当将初审中确定的无争议的案件事实制成备忘录, 以嫌疑人使

用的语言向其宣读并解释备忘录的内容，并由检察官、嫌疑人及其律师签名。

(3) 在本条存档的备忘录中载明的事实和文件，不论是否在证据摘要中，均应被视为已得到充分证明且无须传唤证人佐证；但法庭为维护司法公正认为上述事实 and 文件有必要再做证明的除外。

(4) 案件在初审后，由于证人缺席等原因延后开庭超过一个月的，本条规定不得被解读为要求同一法官主持初审后仍可以继续主持庭审。

(5) 为更好执行本条规定，在与首席大法官协商后，部长可制定规则并以公报公布，规则可规定：

(a) 推迟传唤证人，直到确定是否需要他们在审判中作证为止；

(b) 通知证人，预告其可能被要求出庭作证。

36.-(1) After a person is charged but before he is convicted by the Court, the Court may on its own motion or upon an application made by the accused person, subject to the following provisions of this section, admit the accused person to bail.

(2) Notwithstanding anything in this section contained no person shall be admitted to bail pending trial, if the Director of Public Prosecutions certifies that it is likely that the safety or interests of the Republic would thereby be prejudiced.

(3) A certificate issued by the Director of Public Prosecutions under subsection (2) shall take effect from the date it is fixed in court or notified to the officer in charge of a police station, and shall remain in effect until the proceedings concerned are concluded or the Director of Public Prosecutions withdraws it.

(4) The Court shall not admit any person to bail if—

(a) it appears to it that the accused person has previously been sentenced to imprisonment for a term exceeding three years;

(b) it appears to it that the accused person has previously been granted bail by a court and failed to comply with the conditions of the bail or absconded;

(c) the accused person is charged with an economic offence alleged to have been committed while he was released on bail by a court of law;

(d) it appears to the court that it is necessary that the accused person be kept in custody for his own protection or safety;



(e) the offence for which the person is charged involves property whose value exceeds ten million shillings, unless that person pays cash deposit equivalent to half the value of the property, and the rest is secured by execution of a bond;

(f) if he is charged with an offence under the Dangerous Drugs Act.

(5) Where the Court decides to admit an accused person to bail, it shall impose the following conditions on the bail, namely—

(a) execution of a bond to pay such sum of money as is commensurate to the monetary value and the gravity of the offence concerned:

Provided that where the offence for which the person is charged involves property whose value is ten million shillings or more, the court shall require that cash deposit equal to half the value be paid and the rest be secured by execution of a bond;

(b) appearance by the accused before the Court on a specified date at a specified time and place;

(c) surrender by the accused to the police of his passport or any other travel document; and

(d) restriction of the movement of the accused to the area of the town, village or other area of his residence.

(6) The Court may, in addition to the mandatory conditions prescribed in subsection (5) impose any one or more of the following conditions, namely—

(a) requiring the accused to report at specified intervals to a police station or other authority in his area of residence;

(b) requiring the accused to abstain from visiting a particular locality or premises, or association with certain specified persons;

(c) any other condition which the Court may deem fit to impose in addition to the preceding conditions,

which appear to the Court to be likely to result in the appearance of the accused for the trial or resumed trial at the time and place required or as may be necessary in the interest of justice or for the prevention of crime.

(7) For the purposes of this section, “the Court” includes every court which

has jurisdiction to hear a petition for and grant bail to a person under charges triable or being tried under this Act. [s.35]

第三十六条【保释】(1)嫌疑人在被起诉后、定罪前，在符合本条规定的情况下法院可自行或应嫌疑人提出的申请准许嫌疑人保释。

(2)检察长能够证明共和国的安全或利益相当可能受到损害的，则任何人不得获准保释等候审讯。

(3)由检察长根据本条第(2)款发出的证明，自提交至法庭或送达警察总监之日起生效，至相关法律程序结束或检察长撤回证明之日起失效。

(4)有下列情形之一的，法庭不得准予保释，

(a) 嫌疑人曾被判处三年以上徒刑的；

(b) 嫌疑人曾获准保释，但未遵守保释规则或潜逃的；

(c) 嫌疑人在保释期间有经济犯罪行为的；

(d) 法庭认为，为保护嫌疑人安全，有必要将其继续羁押的；

(e) 涉案金额超过一千万先令的，但嫌疑人缴纳涉案金额一半的现金并提供相同金额的付款保证书的除外；

(f) 嫌疑人依《危险药品法》被起诉的。

(5) 法庭决定准予保释的，应设定以下条件，

(a) 要求嫌疑人提供与案值或案件严重程度相当的付款保证书，涉案金额超过一千万先令的，嫌疑人应当缴纳涉案金额一半的现金并提供相同金额的付款保证书的；

(b) 在法庭规定的日期和时间到指定地点报到；

(c) 将护照和旅行证件上缴警方；

(d) 嫌疑人活动范围限定于特定城市、村镇或住所。

(6) 除上述强制性要求外，为确保嫌疑人在开庭时按时出庭受审，保证司法公正和防止犯罪，法庭可以要求嫌疑人，

(a) 按照规定的时间间隔到警局或其他指定地点报到；

(b) 不得到访特定场所或地点，不得与特定人员接触；

(c) 其他法庭认为必要的事项。

(7) 本条中的“法庭”包括所有有权受理保释申请的法庭。

37. Where an accused person has been admitted to bail and circumstances arise which, if the accused person had not been admitted to bail would, in the opinion of a law officer or a prosecuting officer, justify the Court in refusing bail or in requiring bail of a greater amount, the court which granted the bail may, on the circumstances being brought to its notice by a law officer or prosecuting officer issue a warrant for the arrest of the accused person and, after giving the accused person an opportunity of being heard may commit him to remand prison to await trial, but the accused person may appeal to the court against the order of the magistrate, and the Court may, on resumption of the trial, confirm the order or readmit him to bail for the same or varied conditions and on such an increased amount as the Court may think just. [s.36]

第三十七条【保释后情况变更】嫌疑人获准保释后，检察官或相关官员认为出现的情况足以向法庭说明不应允许其保释或应当提高保释金的，准予嫌疑人保释的法庭在知悉相关情况后，可以命令逮捕嫌疑人并在允许嫌疑人辩解之后决定将其羁押候审。但嫌疑人有权就治安法官的决定提起上诉，法庭恢复庭审后可以维持治安法官的决定或以相同或更高的保释金准予嫌疑人保释。

38.-(1) A police officer may arrest without warrant any person who has been admitted to bail—

(a) if the police officer has reasonable ground for believing that person is likely to break the condition that he will appear at the time and place required or any other condition on which he was admitted to bail, or has cause to suspect that person is breaking or has broken any such other condition; or

(b) on being notified in writing by any surety for that person that the surety believes that that person is likely to break the first mentioned condition and for that reason the surety wishes to be relieved of his obligation as a surety.

(2) A person arrested under subsection (1)—

(a) shall unless he is arrested within the period of twenty-four hours immediately preceding an occasion on which he is required by virtue of the condition of his bail to appear before the Court, be brought as soon as practicable after his arrest before a magistrate who, after giving him an opportunity to be heard, may commit him to

remand prison; and

(b) in the excepted case shall be brought before the Court for resumption of trial, and when the court next sits it shall first consider the question of the alleged contravention of bail conditions by the accused person.

(3) Where the Court is satisfied that a person arrested in accordance with subsection (1) was preparing for or was in the act of leaving any area to which he was restricted by the Court as a condition of his bail, or was leaving the United Republic, it shall not consider any appeal or petition by the accused for any further bail in the same case.

(4) Where a person admitted to bail absconds or fails to appear before the court before which he is required to appear on the date fixed and conceals himself so that a warrant of arrest may not be executed—

(a) the trial in respect of that person before such court shall continue, irrespective of the stage of trial when the accused absconds, after sufficient efforts have been made to trace him and compel his attendance; and

(b) such of the property, movable or immovable, involved in the alleged commission of the economic offence or in respect of which the economic offence is alleged to have been committed may, if the economic or other criminal offence is disclosed to be connected with the absconded or untraced accused, be forfeited to the United Republic as if the accused were an absconded suspect in terms of section 24. [s.37]

第三十八条【逮捕违反保释规则的嫌疑人】(1) 发生下列情况的，警察可以在没有逮捕令的情况下，逮捕获准保释的嫌疑人，

(a) 如警务人员有合理理由相信嫌疑人可能违反在规定时间内和地点出庭条件的，或有理由怀疑该人正在违反或已违反任何其他条件的；

(b) 得到保证人书面通知，保证人相信嫌疑人可能会违反前款规定，保证人因此希望解除其保证人责任的。

(2) 依本条第(1)款被捕的嫌疑人，

(a) 应当在被逮捕的24小时内向治安法庭说明其保释条件并在作出辩解后

收押；

(b) 在例外情况下，应移交法院恢复庭审，

法庭下次开庭时，应首先审议嫌疑人涉嫌违反保释规定的问题。

(3) 法庭确认按照本条第(1)款被逮捕的嫌疑人离开或正准备离开作为其保释条件的居留地或联合共和国的，不得在同一案件中准许嫌疑人保释。

(4) 被取保候审的人潜逃或者未按照规定日期到庭并隐匿以逃避逮捕的，

(a) 在作出充分努力追查后，对该嫌疑人的审判应继续进行，不论嫌疑人潜逃时的审判阶段如何；

(b) 经济犯罪行为所涉各项财产，包括动产和不动产，以本条第二十四条规定收归联合共和国所有。

### Procedure During Trial

#### 审判程序

39.-(1) Upon the conclusion of the preliminary hearing the Court shall in all proceedings take all necessary measures to ensure the early and just determination of cases brought before it.

(2) The Director of Public Prosecutions may in any proceeding before the Court file a certificate stating that in his opinion the case is of immense or general public importance; and the certificate shall forthwith be brought to the attention of the Court.

(3) Upon receipt of a certificate filed pursuant to subsection (2) the Court shall assign the case for preliminary hearing or for trial, as the case may be, as soon as practicable, conduct its hearing and determination, and cause the trial to be expedited in every way. [s.38]

第三十九条【程序的迅速执行】(1) 初审结束后，法院应在所有诉讼程序中采取必要措施，确保对提交法院的案件早日作出公正裁决。

(2) 检察长可在法庭程序中，提交他认为有关案件对公众具有重大或普遍重要性的证明；该证明应尽快提交法庭。

(3) 法庭收到依本条第(2)款提交的证明后，应视案件实际情况尽快对案件进行初审。



40 At any stage of the proceedings the Court may, if satisfied that the accused person has no case to answer, dismiss the charge and acquit the accused person.

[s.39]

第四十条【撤销指控】在庭审程序的任何阶段，法庭有理由相信嫌疑人无需对任何犯罪行为负责的，应当驳回指控，宣告嫌疑人无罪释放。

41.-(1) Where after the prosecution closes its case the Court finds that the evidence for the prosecution establishes a case sufficient to require the accused person to defend himself against the economic offence charged, it shall so inform the accused person and require him to adduce evidence in his defence.

(2) Where the Court is satisfied that the evidence adduced by the prosecution up to the close of its case is not sufficient to found a conviction of the economic offence charged, but that it established a case in relation to a cognate offence which is an economic offence and for which the accused person may be convicted in the alternative, or if the case for the prosecution establishes other economic offences in addition to that charged, the Court shall inform the accused of its finding and require him to defend himself against the offence established by the prosecution instead of the offence charged, or against those other economic offences established by the evidence as well as the offence charged.

(3) An accused person who elects to give evidence in his defence may do so either on oath or without taking the oath, but shall in either case be subject to cross-examination by the prosecution as well as the Court.

(4) Where an accused person who is required to defend himself elects with no apparent excuse not to say anything and, in addition, not to call any witness or witnesses, an inference adverse to him may be drawn, and the Court as well as the prosecution may comment on his failure to give evidence in his defence.

第四十一条【公诉程序的终结】(1) 公诉方陈词后，法庭认为公诉方提交的证据足以要求嫌疑人就所指控的经济犯罪进行辩护的，应当告知嫌疑人，并要求嫌疑人辩护并举证。

(2) 法庭认为依公诉方援引的证据不足以裁定嫌疑人罪名成立，但该证据

足以作为另一经济犯罪行为立案且嫌疑人需为其承担责任的，法庭应当向嫌疑人说明并允许其准备为自己辩护。

(3) 嫌疑人如选择在其辩护中作证，可在宣誓后或不宣誓的情况下作证，但在任何一种情况下，均须接受公诉方及法庭的交叉讯问。

(4) 为自己辩护的嫌疑人不做辩解且不传召任何证人的，法庭和检察官可以作出对他不利的推论。

42.-(1) Where a person charged with an economic offence intends to rely upon an alibi in his defence he shall first indicate to the Court the particulars of the alibi at the preliminary hearing.

(2) Where an accused person does not raise the defence of alibi at the preliminary hearing, he shall furnish the prosecution with the particulars of the alibi he intends to rely upon as a defence at any time before the case for the prosecution is closed.

(3) If the accused raises a defence of alibi without having first furnished the particulars of the alibi to the court or to the prosecution pursuant to this section, or after the case for the defence has opened, the Court may, in its discretion, accord no weight of any kind to the defence. [s.41]

第四十二条【不在场证据的辩护程序】(1) 嫌疑人以不在场证据抗辩的，应在初审时向法院说明不在场证据的详情。

(2) 嫌疑人在初审时未以不在场证据辩护的，可以在结案前的任何时候，向公诉方说明其拟作免责辩护的不在场证据的详情。

(3) 嫌疑人未依本条规定首先向法庭和公诉方说明不在场证据详情，或在辩护阶段直接以不在场证据辩护的，法庭可以对该不在场证据不予考虑。

43.-(1) After all the evidence has been heard, the Court shall proceed to pass judgment and convict or acquit and discharge the accused accordingly.

(2) Every judgment shall contain the point or points for decision, the decision on the point or points and the reasons for the decision, and shall be dated and signed by the majority of the members of the Court hearing the case who are in agreement as to the decisions reached.

(3) Where on a question to be decided by a majority of the members of the Court,

any member holds a view which is different from that of the majority, he shall state in open court his reasons for his difference and they shall be recorded by the Judge presiding over the proceedings and be also read out as part of the judgment.

(4) If, at any stage of the proceedings, the court acquits the accused, it shall require him to give his permanent address for service in case there is an appeal against his acquittal, and the court shall record or cause it to be recorded. [s.42]

第四十三条【判决与量刑】(1) 听证结束后, 法庭应当作出判决并量刑或宣告嫌疑人无罪释放。

(2) 每项判决均应当说明事实和理由, 并由支持该项判决的法庭人员签名。

(3) 就未达成一致意见的事项, 持少数意见的法庭人员应当庭陈述意见及其事实和理由, 由法庭记录存档并作为判决的一部分。

(4) 在诉讼的任何阶段, 法庭宣告嫌疑人无罪的, 应当要求嫌疑人提供永久性住址以备上诉程序的需要, 并记录存档。

44.-(1) When a person is charged with an economic offence and the Court is of the opinion that he is not guilty of that offence but is guilty of any other economic offence cognate to the one charged, the Court may convict that person of that other economic offence although he was not charged with it.

(2) Where the Court is of the opinion that, in addition to the economic offence charged, an accused person is guilty of any other economic offence or offences with which he could justly have been charged, it may, if it has previously complied with the provisions of section 41(2), convict that person of the other economic offence or offences, if it would have been just at law to charge him with the offence or offences together with the one with which he is charged; save that previous non-compliance with section 42(2) shall not invalidate a subsequent conviction under this section.

第四十四条【替代裁决】(1) 法庭认为嫌疑人被指控罪名不成立, 但触犯另一项经济犯罪罪名的, 可以该项罪名判决嫌疑人罪名成立。

(2) 法庭认为嫌疑人被控罪名成立, 且犯有其他经济犯罪或非经济犯罪的, 可依本法第四十一条第(2)款的规定, 在不违反本法第四十二条第(2)款规定的情况下, 判决嫌疑人罪名成立。



45.-(1) Where the Court convicts a person of any economic offence, it may make any order in respect of the property of that person such as it has power to make in respect of property under section 23.

(2) Notwithstanding the generality of subsection (1) the Court shall not make an order for the forfeiture of the property of any person convicted of an economic offence if the property in question or any part of it is not proved to have been involved at all in the commission or facilitation of the offence; and any such property or any part of it shall be disposed of in accordance with subsection (3) as if the owner or person in respect of whom it had been seized had been acquitted.

(3) Where the Court acquits a person of any economic offence it shall order that any property in respect of which he was charged or which was involved in the charge or the value of that property be restored to him.

(4) The Minister shall make regulations providing for the better and just disposal of property under this section and, without prejudice to the generality of the power of the Court such regulations may provide for the manner of the disposal of forfeited property as well as property in relation to which no orders of forfeiture are made or intended to be made by the Court.

第四十五条【有关财产的命令】（1）法庭认定嫌疑人罪名成立的，应当依本法第二十三条规定就其财产作出命令。

（2）依本条第（1）款作出的命令不适用于没收嫌疑人所有但非经参与或试图参与经济犯罪行为所获得的财产；此类财产适用本条第（3）款规定，与嫌疑人被宣告无罪作同样处理。

（3）法庭认定嫌疑人经济犯罪罪名不成立的，应当命令将该人被控或涉及该项指控的任何财产或相当于该项财产的价值归还嫌疑人。

（4）部长应制定规则以更好、更公正地处置本节规定的财产，在不影响法庭权力的情况下，相关规则可以规定处置被没收财产以及法院没有或没有计划没收的财产的处置方式。

## Provisions regarding Evidence

### 关于证据的规则

46. Except as is expressly provided otherwise in this Act, the rules of procedure for the adduction, reception and evaluation of evidence and the manner of proving relevant facts in any proceedings under this Act shall be as is provided by the Evidence Act.

第四十六条【《证据法》的适用】除本法另有规定外，诉讼中证据的举证、采信和采纳的程序以及证明相关事实的方式均应按照《证据法》的规定执行。

47-(1) Subject to compliance with the principles prescribed by this section, the Court may obtain or hear any evidence which is pertinent to the inquiry before it from such person or persons and in such manner as it deems necessary and just.

(2) Subject to compliance with the principles prescribed by this section, the Court may receive any evidence which is worth of belief and is relevant and valuable for the just determination of the inquiry whether or not the evidence in question is evidence within the meaning of the term under the Evidence Act.

(3) For the purposes of determining whether or not to hear or receive any evidence or whether or to what extent, any evidence received be relied upon in reaching its decision on any matter, the Court shall take into account and be guided by the principle that—

(a) no person should be involved in finally determining, or be regarded as a witness whose evidence may be relied upon in finally determining, any issue where that person has any kind of personal interest in the determination;

(b) a person shall not be tried for any offence unless he is previously fully informed of the intended accusation;

(c) every person charged before the Court shall, unless he becomes disruptive or absconds, be afforded a reasonable opportunity to defend himself including facilitating the attendance and appearance of his witness or witnesses, without which opportunity he shall not be condemned;

(d) the Court shall not do or omit to do any act or thing the doing or omission of which would impute bias against or for any side in its decision. [s.46]

第四十七条【证据取得方式和证据来源】(1)依本条规定,法庭可以其认为必要和公正的方式从相关人员处取得或听取与当前调查有关的证据。

(2)依本条规定,法庭可采信与公正裁定有关的、有价值的、有证明力的证据,有关证据是否属于《证据法》规定的证据范畴,在所不问。

(3)法庭为决定是否听取或接受证据,或是否以及在何种程度上采信收到的证据,应当考虑并遵循以下原则:

(a)提供关键证据或与案件裁定有利害关系的人,不得参与案件裁定决定过程;

(b)除非事先充分了解拟提出的指控,否则不得因任何犯罪行为而受审;

(c)任何嫌疑人,除非扰乱法庭或潜逃,都应获得合理的机会为自己辩护,包括协助其证人出庭作证,否则不应判其有罪;

(d)法庭的作为或不作为均不应含有偏见。

48.-(1) The evidence to be adduced by all parties and their witnesses in any trial or proceeding before the Court shall be given on oath or affirmation, except for a child of the apparent age of or below fourteen years, who, in the opinion of the Court does not understand the nature of the oath or affirmation.

(2) Depending on whether the person to give the evidence belongs to any religion or to none, the alternative forms of the oath and affirmation to be taken by all persons prior to giving any evidence before the Court for the purposes of this Act shall be as prescribed in the Second Schedule to this Act.

(3) Any person who, after taking the oath or affirmation, proceeds to give any false testimony or which he knows to be untrue in any material particular shall be guilty of the offence of perjury and punishable for it by the Court in accordance with the provisions of the Penal Code relating to that offence. [s.47]

第四十八条【宣誓或保证下的证据】(1)法庭庭审或其他程序中,各方及其证人所援引的证据须经宣誓或保证,但十四岁以下的儿童或法庭认为其不能理解宣誓或保证含义的人除外。

(2)根据证人的宗教信仰,本法附表二提供不同版本的誓词或保证词。

(3)在宣誓或保证后,作伪证或故意提供不真实证言的,依相关规定定罪

处罚。

49.-(1) The evidence shall be given in such order as the Court directs and, subject to section 50, the evidence for the prosecution shall be given in the presence of the accused person.

(2) Notwithstanding subsection (1)–

(a) without prejudice to the power of the Court to recall them, witnesses for the prosecution shall give evidence first;

(b) subject to paragraph (c), if the accused person wishes to give evidence, he shall give it before his witnesses do so; and

(c) the accused person shall be afforded an opportunity of giving evidence in rebuttal of any evidence given, after he himself has given evidence, by the witnesses for the prosecution or witnesses called on the instance of the Court.

(3) The Court as well as the accused person or the person appearing for him may put relevant questions to the witnesses for the prosecution.

(4) The Court and the prosecuting officer may put relevant questions to the witnesses of the accused person and, if he gives evidence, to the accused person.

(5) The accused person, or the person appearing for him, and the prosecuting officer may, with the consent of the Court, put questions to witnesses called by the Court.

(6) The Judge shall record the substance of the evidence of the witnesses for the prosecution, the accused person and his witnesses, and after each of them has given evidence the Judge and the lay members shall each affix his signature at the foot of the evidence. [s.48]

第四十九条【在嫌疑人面前出示证据并接受质证】（1）证据应按照国家指示和本法第五十条规定向嫌疑人出示。

（2）依本条第（1）款的规定，

（a）在不令法庭产生偏见的情况下，公诉方证人应首先作证；

（b）除本款第（c）项规定外，嫌疑人的证据应在其证人作证之前提交；

（c）嫌疑人在提交证据后，可以对公诉方提出的证据和证人证言质证。



(3) 法庭、嫌疑人、辩护人可以向控方证人发问。

(4) 法庭和检察官可以向辩方证人发问或对辩方证据质证。

(5) 经法庭同意，嫌疑人及其辩护人、检察官可以向法庭传唤的证人发问。

(6) 法官应当记录控辩双方证人证言的内容，在他们各自举证后，法官和非专业人员应当在证言的下方签名。

50.-(1) The Court may allow evidence to be given before it in the absence of the accused person if—

(a) it considers that by reason of his disruptive conduct in the face of the Court it is not practicable for the evidence to be taken in his presence; or

(b) he cannot be present for reasons of health, other than mental health, but is represented by an advocate, or a friend or relative and has consented to the evidence being given in his absence; or

(c) after being admitted to bail he absconds or conceals himself such that a warrant of arrest in relation to him may not be executed, and the Court proceeds in accordance with section 38(4)(b).

(2) Where an accused person conducts himself so disruptively in the face of the Court that the trial cannot proceed in an orderly manner, the Judge may cause him to be removed to another part of the court building and to remain there while the trial is in progress, and afford him an opportunity, at reasonable intervals, of learning of the trial proceedings through his advocate or other representative.

(3) A disruptive accused person removed from the court room shall, when informed of the trial proceedings, be informed also of the continuing opportunity for him to return to the court room during the trial upon his assurance of good behaviour; and he may be summoned to the court room at appropriate intervals and have the offer to permit him to remain there repeated in open court at each such interval.

(4) For the purposes of this Act, and the avoidance of doubt, the Court may deliver judgment in the absence of the accused person if he conducts himself so disruptively such that a judgment may not be conveniently delivered in his presence. [s.49]

第五十条 【嫌疑人缺席情况下的证据】（1）下列情况下，法庭可以允许证



据在嫌疑人缺席情况下提交，

(a) 法庭认为，嫌疑人在法庭上的破坏性行为可能影响证据提交的；

(b) 嫌疑人因精神或健康原因不能出席，但辩护人或代表其出庭的亲友同意在嫌疑人缺席情况下提交证据的；

(c) 嫌疑人获准保释后，潜逃或藏匿逃避逮捕的，法庭依本法第三十八条第(4)款规定处理。

(2) 嫌疑人当庭扰乱法庭秩序致审讯不能有序进行的，法官可安排嫌疑人到法庭大楼其他地方直至庭审结束。在此期间，法庭应以适当方式使嫌疑人了解庭审进展情况。

(3) 扰乱法庭秩序的嫌疑人离开法庭后，在可以了解庭审进展情况的同时，应被告知在确保行为良好的情况下，有机会返回法庭；可以在适当时间间隔后被传唤到法庭，并可以请求法庭允许其留在法庭。

(4) 为实施本法并避免异议，嫌疑人扰乱法庭秩序的，法庭可以在嫌疑人缺席情况下做出判决。

51.-(1) Where any evidence is given in a language not understood by the accused person, it shall be interpreted to him before the Court in a language understood by him.

(2) Before entering upon the duties of his office, an interpreter shall be sworn or affirmed by the court. [s.50]

第五十一条【证据翻译】(1) 嫌疑人不懂证据所用语言的，法庭应当将该证据翻译为嫌疑人能够理解的语言。

(2) 翻译人员在履行职责前，应向法庭宣誓或保证。

52.-(1) Where in any proceedings arising under this Act, the Court is satisfied that a person summoned as a witness in the proceedings is, without lawful cause, refusing to comply with an order to answer any question put to him, to testify or provide other information, including producing any document, record, recording or other material, it may upon such refusal or when the refusal is brought to its attention, summarily order him to be confined at a suitable place until such time as the witness may be willing to answer the question, give testimony or provide such information.

(2) Confinement of a witness under this section shall last for the duration of the



trial of the case concerned.

(3) Any person confined under this Act may appeal against the order of confinement to the Court of Appeal.

(4) A person may be granted bail pending the determination of his appeal; but no bail shall be granted if it appears that the appeal is frivolous, vexatious or taken for delaying tactics.

(5) An appeal from an order for confinement under this section shall be disposed of as soon as practicable, but in no case shall it remain undetermined for more than thirty days from the day of its filing.

第五十二条【拒不配合庭审的证人】（1）依本法提起的诉讼中，法庭认为在诉讼中被传唤的证人无合法理由拒绝回答问题、作证或提供信息的，法庭在被拒绝后可以将其拘禁，直至证人愿意回答问题、作证或提供信息为止。

（2）依本条对证人监禁的，监禁时间依庭审时间确定。

（3）依本条被监禁的证人，有权向上诉法院提起上诉。

（4）上诉期间，法庭可以准予证人保释；但是，如果上诉请求无根据、不合理或以拖延审判程序为目的的，不得保释。

（5）法庭应当尽快审理依本条提起的上诉，并在上诉提起后的三十日内做出决定。

53. Where he is satisfied on reasonable grounds that there is any danger or real possibility of danger of interference with any case under this Act through interference with or threats of harm to any witness or potential witness, the Inspector-General of Police may, on his own motion or after consultation with the Director of Public Prosecutions, arrange for the provision of security for the witness or potential witnesses concerned and, if necessary, the family or families of that witness or potential witness or witnesses. [s. 52]

第五十三条【证人保护】警察总监有合理理由认为证人或潜在证人面临干扰或威胁的，可自行或在与检察长协商后，为证人、潜在证人及其必要情况下的家人，提供安全保障。

54.-(1) Without prejudice to the provisions of any written law conferring a right

to refuse to disclose official secrets, where in any proceeding arising under this Act, any witness refuses to answer any question on the ground that the answer to it may incriminate him, or to testify or provide other information on the ground that the information is privileged or he is not authorised to disclose it, and the Court is of the opinion that such is not the case, the Court may make an order requiring the witness to answer the question, testify or provide that other information.

(2) Where a witness is required to do so pursuant to subsection (1), he may not refuse to comply with the order requiring him to answer a question, to testify or to provide that other information, save that no testimony or other information compelled under the order, or any information directly or indirectly derived from such testimony or other information, may be used against the witness in any criminal case, other than a prosecution for perjury, giving a false statement or otherwise failing to comply with the order.

(3) Where it appears to any party to any proceedings arising under this Act that any person who has been or may be summoned as a witness by him or the adverse party—

(a) has refused or is likely to refuse to answer any question to testify or provide other information on the basis of his privilege against self-incrimination; or

(b) where the information is privileged, that the information to be produced from that person may be necessary to the public interest,

that party may request that an order be made under subsection (1) compelling the person to answer a question, to testify or to provide such other information.

(4) Where a person is required to answer any question, to testify or give such other information pursuant to subsection (3), the provisions of subsection (2) as to immunity shall apply to him in relation to his testimony.

第五十四条 【证人豁免权】（1）在不会导致官方机密泄露的情况下，依本法实施的庭审程序中证人认为其证言可能自证其罪的，证言涉及机密的或者证言涉及其无权透露的信息的，法庭在认定上述情况不成立的情况下有权要求证人作证或提供相关信息。

(2) 证人依本条第(1)款作证或者提供信息的,不得拒绝回答问题、作证或提供信息的命令,证人证言及其提供的信息不得用于对证人提起刑事诉讼,但证人作伪证或提供虚假信息的除外。

(3) 诉讼任何一方传唤或可能被传唤的证人,

(a) 拒绝或可能拒绝回答问题或提供信息以免自证其罪的;

(b) 信息涉及机密的或公共利益的,

当事人可请求法庭依本条第(1)款作出命令,强制证人回答问题、作证或提供该等其他资料。

(4) 证人依本条第(3)款回答问题、作证或提供信息的,适用本条第(2)款有关豁免的规定。

55.-(1) Where upon application by any party to any proceedings under or arising under this Act, it appears to the Court or the district court, as the case may be that due to exceptional circumstances it is in the interest of justice that the testimony of a prospective witness for any party be taken and preserved, it may, at any time after proceedings have been instituted and after giving notice to the parties, order that the testimony of that witness be taken by deposition, and that any document or other thing not privileged be produced by that witness at that time and place. After the deposition has been subscribed by him the Court or the district court, as the case may be may discharge the witness.

(2) The party on whose application a deposition is to be taken shall give to every other party reasonable notice of the time and place for taking the deposition, stating the name and address of every person to be examined; and such other party may apply showing sufficient cause for extension or abridgment of the time or change of the place for taking the deposition. Any person having custody of an accused person or control over him shall be notified of the time and place set for the examination, and shall produce him or permit him to be present at the examination and in the presence of the witness.

(3) An accused person may appear with or be represented by his counsel during the examination of a witness for the purpose of this section.

(4) Where any witness being deposed has made a previous statement which is in the possession of the party calling for the deposition, that party shall make that statement available to the accused person for his examination and use at the taking of the deposition unless the statement is not one which that party would be required to make available to the accused person if the witness were testifying at the trial.

(5) All depositions for the purposes of this section shall be taken before any magistrate named by the court making the order for the taking of the deposition.

(6) At the trial or upon any hearing subsequent to the taking of a deposition, a part or the whole of a deposition, so far as it is admissible under the rules of evidence, may be used, if it appears that—

(a) the witness is dead; or

(b) the witness is outside the United Republic, unless the absence of the witness appears to be or to have been procured by or with the connivance of the party offering to use the deposition; or

(c) the witness is unable to attend or testify because of sickness or infirmity; or

(d) the witness is present but refuses to testify concerning the subject of the deposition or part of it.

(7) Any deposition may be used at the trial or hearing to contradict or impeach the testimony of the deponent as a witness.

(8) Where only a part of a deposition is offered in evidence by a party, any adverse party may require him to offer the whole of the deposition which is relevant to the part offered, and any party may offer other parts.

(9) Objections may be made to receiving in evidence a deposition or part of it in the same manner and to the same extent, subject to the provisions of this Act, as they are made in criminal trials before the High Court. [s. 54]

第五十五条 【证据保存】（1）法庭或地区法院为公正起见，可依当事人申请取证。在确认供词后，法院或区域法院允许证人退庭。

（2）申请当庭作证的一方当事人应当以合理方式通知对方当事人取证的时间和地点，并说明证人的姓名和地址；对方当事人经申请可以改变取证的时间和

地点。应当将取证时间和地点通知对证人有监护权或者控制权的人，并在取证过程中允许其在场。

(3) 为施行本条，取证期间嫌疑人可以与其律师一同出庭或由其律师代理出庭。

(4) 宣誓证人曾作出证言，且该证言由取证的一方保管的，该方须将该证言提供给嫌疑人，供其质证，但证人当庭作证的除外。

(5) 依本条规定进行的取证应当在地区法院治安法官监督下进行。

(6) 在取证后的庭审或听证中，除证据规则另有规定，以下情况可以使用取证所获得的全部或部分证据，

(a) 证人死亡；

(b) 该证人不在联合共和国境内，除非该证人缺席由使用供词一方促成或对其有利；

(c) 证人因病或虚弱而不能出席或作证；

(d) 证人在场，但拒绝就作证的事由或部分事由作证。

(7) 在审判、听证中，取证获得的证据均可用于反驳或者推翻宣誓证人的证言。

(8) 一方当事人仅提供部分证据的，对方当事人可以要求其或相关人员，提供完整证据。

(9) 在不违反本法规定的情况下，一方当事人可以对法庭采纳的全部或部分证据提出异议。

56.-(1) In every proceeding arising under this Act every party shall be entitled to apply that evidence be rejected on the ground of its source or the manner in which it was obtained.

(2) Evidence shall be rejected, or its admissibility shall depend on its being independently corroborated if it is proved to have been obtained –

(a) through torture, threats or fraud;

(b) after the commission by the person offering it or his agent of an unlawful act, save that no evidence shall be rejected on the allegation only that it was unlawfully obtained.

(3) No confession which is tendered as evidence shall be rejected on the ground only that a promise, threat or inducement was or has been held out to the person confessing unless the Court is of the opinion that the promise, threat or inducement, as the case may be, could have occasioned the making of an untrue admission. [s.55]

第五十六条【关于证据来源的诉讼】(1) 依本法提起的诉讼中, 各方均有权以证据来源或获取方式为由, 申请拒绝采信证据。

(2) 满足下列条件的, 证据应当被拒绝采信,

(a) 通过酷刑、威胁或欺诈等方式取得的;

(b) 提供者或其代理人通过非法行为取得的,

除非有证据证明获得证据方式非法的, 法庭不得予以拒绝。

(3) 不得仅以认罪人接受许诺、被威胁或引诱为理由拒绝接受作为证据提交的认罪供词, 除非法院认为承诺、威胁或引诱可能导致虚假认罪。

## PART V OFFENCES AND PENALTIES

### 第五部分 犯罪与刑罚

57.-(1) With effect from the 25th day of September, 1984, the offences prescribed in the First Schedule to this Act shall be known as economic offences and triable by the Court in accordance with the provisions of this Act.

(2) The Minister may, by order published in the Gazette, and with the prior approval by resolution of the National Assembly, amend or otherwise alter the First Schedule to this Act but no offence shall be removed from the First Schedule under this section except by an Act of Parliament. [s. 56]

第五十七条【犯罪行为】(1) 自1984年9月25日起, 本法第一个附表规定的犯罪行为被称为经济犯罪, 法庭应根据本法的规定审理。

(2) 部长依公报授权, 经国民大会批准, 可以修改或修正本法附表一, 但非经议会修正, 不得从本法附表一中删除任何犯罪行为。

58.-(1) The jurisdiction of the Court for the purposes of this Act shall extend to the same extent and apply in the same manner and respects as the jurisdiction of the courts



of law in the United Republic does for the purposes of the Penal Code.

(2) Except where it is expressly stated otherwise in the preceding provisions of this Act or in the substantive statement of any one economic offence, the general rules as to criminal responsibility contained in Chapter IV of the Penal Code, as well as the provisions of Chapter V of the Penal Code regarding parties to offences, shall apply in respect of offences for the purposes of this Act. [s.57]

第五十八条【刑法的适用】（1）法庭依本法享有的司法权与依《刑法》享有的司法权在范围与方式上相同。

（2）除本法和相关法律另有规定外，《刑法》第四章关于刑事责任的规定和第五章关于量刑的规定适用于本法规定的犯罪行为。

59.-(1) Where the Attorney-General is satisfied that any person has in his possession or to his credit any property or advantage involved in or arising out of the commission by any person of an economic offence, he may, by notice addressed to that person or to any other person to whom the property or advantage or the proceeds or value is believed to have been transferred or conveyed by that person or his agent, direct that person to whom the notice is addressed not to transfer, dispose of or part with the possession of the sum of money, property or other advantage specified in the notice, and every such notice shall remain in force and be binding upon the person to whom it is addressed and every other person to whom the money, property or other advantage may pass by operation of law for a period of six months from the date of the notice or, where proceedings for an offence under this Act or any other written law in relation to the property or other advantage have been commenced against any person, until the determination of those proceedings; save that the Minister may in any case, by order under his hand, extend that period for such further period or periods as he may specify.

(2) Any person who has been served with a notice under subsection

(1) and who, in contravention of such notice, transfers, disposes of or parts with the possession of the money, property or other advantage specified in the notice, is guilty of an offence and shall be liable on conviction to imprisonment for a term not



exceeding fifteen years.

(3) A person prosecuted for an offence under subsection (2) shall be acquitted if he satisfies the Court that—

(a) the money, property or other advantage concerned was delivered to a police officer, or to some other person as directed in the notice; or

(b) the money, property or other advantage was produced to a court and has been retained by that court; or

(c) the notice was subsequently withdrawn by the Attorney- General by notification in writing.

第五十九条【禁止转移涉及经济犯罪的利益或财产】(1) 检察长认为任何人占有或取得涉及或产生于经济犯罪行为的财产或利益的, 检察长有权通知该占有人、取得人以及交易或转移涉案财产、利益、收益或价值的经手人及其代理人, 要求接到通知的相关人员不得交易、处置或参与占有通知中指明的相关现金、财产及其收益。该项通知自送达相关人员之日起六个月内, 或依本法或其他法律规定的诉讼程序终结后有效; 部长有权命令延长通知的效力。

(2) 依本条第(1)款规定接到通知的人, 违反通知要求交易、处置或参与占有通知中指明的相关现金、财产及其收益的, 构成刑事犯罪并应当被处以十五年以下有期徒刑。

(3) 依本条第(2)款被提起公诉的嫌疑人, 满足下列条件的, 可以无罪释放,

(a) 相关金钱、财产或利益已按通知要求交付警察或其他人员的;

(b) 相关金钱、财产或其他利益已向法庭出示并由法院保留的;

(c) 司法部长以书面形式撤回该通知的。

60.-(1) Except where a different penalty, measure or penal procedure is expressly provided in this Act or in the statement of an offence, upon the conviction of any person of any economic or other offence falling under the penal jurisdiction of the Court, the Court may impose in relation to any person, in addition to any order respecting property, any of the penal measures prescribed by this section, but not any other.

(2) Subject to subsection (3), any person convicted of an economic offence shall be liable to imprisonment for a term not exceeding fifteen years, or to both that



imprisonment and any other penal measure provided for in this Act.

(3) In considering the propriety of the sentence to be imposed the Court shall comply with the principle that—

(a) a proved offence which is in the nature of an organised crime or one that is endangering the national economy or public property, in the absence of mitigating circumstances, deserves the maximum penalty;

(b) any other economic offence may be sentenced with a sentence that is suitably deterrent; and

(c) children and young persons shall be sentenced in accordance with the provisions of the Children and Young Persons Act.

(4) Where a person is convicted and sentenced to a term of imprisonment, or is to serve a sentence of imprisonment after failing to pay a fine, he shall serve the term as a common prisoner and the provisions of the Prisons Act, shall apply in respect of his imprisonment as if he had been sentenced by the High Court as ordinarily constituted.

(5) Every order made by the Court under this Act which authorises the forfeiture of property shall be sufficient authority for the Inspector- General of Police to seize all property or other interest declared forfeited upon such terms and conditions as the Court shall see fit to impose.

(6) If any forfeited property, right or other interest is not exercisable or capable of transfer for value by an agency of the United Republic it shall expire, and shall not revert to the person from whom the forfeiture is intended to divest it.

(7) The provisions of any written law relating to the disposition of property, or the proceeds from the sale of property, or the remission or mitigation of forfeitures for violation of customs and excise laws, and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to forfeitures incurred or alleged to have been incurred, under this section, so long as they are applicable and not inconsistent with the purposes and provisions of this Act.

(8) Such duties as are imposed upon the Commissioner for Customs or any of the person in relation to the disposition of property under customs, excise and taxation

legislation shall, in relation to matters arising from offences or proceedings under this Act, be performed by the Inspector- General of Police who shall dispose of all such property as soon as is commercially feasible, making due provision for the rights of innocent persons and in accordance with this Act.

第六十条【已证实犯罪的刑罚】(1)除法律另有规定,法庭对经济犯罪行为人的量刑方式及其过程、涉及财产的附加刑等事项,应当依据且仅依据本法及其相关文件中的规定进行。

(2)除本条第(3)款规定的情况外,经济犯罪罪名成立的嫌疑人应当处以十五年以下有期徒刑,或依本法另处附加刑。

(3)法庭考虑刑罚是否适当,应遵守下列原则,

(a)犯罪行为性质为有组织犯罪或危害国民经济或公共财产的,在没有减轻情节的情况下应判处最高刑罚;

(b)任何其他经济犯罪均可判处具有适当威慑的刑罚;

(c)儿童和青年应当依《儿童和青年法》的规定判处刑罚。

(4)被判处有期徒刑或者无力缴纳罚金而判处有期徒刑的,应当与普通罪犯一样服刑,并同被高等法院判处有期徒刑一样适用《监狱法》规定。

(5)法庭依本法作出的没收财产命令,具有授权警察总监依法庭命令中要求的条件和程序没收财产和相关利益的效力。

(6)任何被判令没收的财产、权利或利益的法庭命令不能由联合共和国的任何机构实施的,该命令失效。但相关财产、权利或利益不得归还被没收财产的人。

(7)成文法律中有关财产处置、出售的规定,减轻或免除因违反海关规则的没收决定,赔偿协议以及向举报人作出的补偿,在不违反本法规定的情况下,均从没收或应当予以没收的财产中支付。

(8)依本法规定涉及海关、消费税和其他税费的财产处置义务均应由警察总监承担。警察总监应当依据本法尽快以经济、合规的方式处置相关财产。

61.-(1) Where the Court is satisfied that the commission of the economic offence of which a person is convicted involved or caused or is likely to cause any injury or damage to any person, body of persons or other authority or to the property or interest in the property of any person, body of persons or other authority, the Court may—



(a) order that the person convicted pay such compensation for the injury or damage concerned as it may deem just;

(b) order the person convicted or any other person concerned to divest himself of any direct or indirect interest in any enterprise;

(c) impose such a restriction as it may consider reasonable on the future activities or investments of the person convicted or any other person, including but not limited to, prohibiting any person from engaging in the same type of endeavour as the enterprise engaged in, the activities of which facilitated or were connected to the commission of the economic offence in question, or do otherwise after internal trade or foreign commerce; or

(d) order the dissolution or reorganisation of any enterprise, making due provision for the rights of innocent persons; or

(e) make any other order in respect of the convicted person or his property, for the purpose of providing for adequate restitution of any public property or interest injured or damaged, and for the better control, averting, reduction or eradication of economic and organised crime.

(2) In making an order under subsection (1) involving the attachment of the property of any person, the Court shall comply with the provisions of section 48 of the Civil Procedure Code Act.

(3) An order made under subsection (1) shall be filed by the person or authority in whose favour it is made in the district court having jurisdiction over the area in which the convicted person, or the person against who it is made, ordinarily resides or in which the property concerned is situated, and upon being so filed the order shall be deemed to be a decree passed by the district court and may be executed in that same manner as if it were a decree passed under the provisions of the Civil Procedure Code and the district court shall have jurisdiction to execute the decree notwithstanding that the value of the property or the amount of the compensation awarded exceeds the pecuniary jurisdiction of the district court.

(4) For the purposes of this section, the Court may at any time pending the

determination of any proceedings, upon the application of the prosecution or of any other person or authority injured in his business or property by reason of the acts of the accused person, enter such restraining orders, prohibitions or injunctions, or take such other actions including the acceptance of satisfactory performance bonds, as it may deem just.

(5) Where an application is made under subsection (4) for the exercise by the Court of its powers under that subsection, the Court shall not make any order in favour of the applicant unless he proves the damage or injury and his own non-contribution to its occurrence or causation.

第六十一条【赔偿与恢复原状的命令】(1) 法庭认为经济犯罪行为导致或可能导致任何人、团体或其他机构受到损害，或对任何人、团体或其他机构的财产利益造成损害的，法院可以，

(a) 命令嫌疑人对其造成的损害作出合理赔偿；

(b) 命令嫌疑人或相关人员放弃自己在企业中的直接或间接利益；

(c) 对嫌疑人未来的行为或投资作出限制，包括但不限于，禁止其从事与企业相同类型的经营活动、有助于或与经济犯罪有关的活动或从事国内外贸易；

(d) 命令解散或改组任何企业，为普通权利人制定合理规则；

(e) 就被定罪的嫌疑人或其财产作出任何其他命令，以便对任何受损害或损毁的公共财产或利益作出足够的补偿，以及更好地控制、避免、减少或根除经济及有组织犯罪行为。

(2) 依本条第(1)款作出涉及扣押任何人财产的命令的，法庭应当遵守《民事诉讼法》第四十八条的规定。

(3) 根据本条第(1)款作出的命令，须由命令获益方向嫌疑人所在地的地方法院提出申请后作出。该命令作出后，具有依《民事诉讼法》规定作出的命令的同样效力。作出命令的地方法院有权执行该项命令，财产的价值、补偿金额等不影响地方法院的管辖权。

(4) 为执行本条规定，法庭可依公诉人、受害人或利害关系人申请，发出针对嫌疑人行为的限制令。

(5) 依本条第(4)款提出申请的，申请人能够证明损害发生与其行为无因

果关系的，法院应当作出有利于申请人的命令。

62.-(1) A person aggrieved by a decision of the Court may appeal to the Court of Appeal of the United Republic in accordance with established law in that behalf.

(2) Where a court subordinate to the High Court hears and determines a case the decision of which aggrieves a party, the appeal against that decision shall first be made to the High Court.

第六十二条【上诉的权利】(1) 当事人不服法庭判决的，可依相关立法向联合共和国上诉法院提起上诉。

(2) 当事人不服高等法院的下辖法院判决的，应当向高等法院提起上诉。

## PART VI MISCELLANEOUS PROVISIONS

### 第六部分 杂项规定

63. The Minister may make regulations providing for anything which is required or may be provided for under this Act, and generally for the better carrying out of the purposes and provisions of this Act.

第六十三条【规则】为更好执行本法目标和规定，部长有权制定实施本法的相关规则。

64. [Amendment of certain written laws.]

第六十四条【修正】本条已做修正。

65. [Repeal of Acts Nos. 9 and 10 of 1983.]

第六十五条【废除】本条已被废除。

66.-(1) Notwithstanding the repeal of the Economic Sabotage (Special Provisions) Act, where immediately prior to the commencement of this Act, the Tribunal had—

(a) commenced the hearing of any case relating to an economic sabotage offence, it shall continue the hearing until it determines the proceedings in that case,

(b) adjourned the hearing of any case relating to an economic sabotage offence, it shall resume the hearing on the fixed or earlier date and proceed to further hear and determine the proceedings in that case,

but the Tribunal shall not take a plea or pleas in respect of any fresh case not brought before the commencement of this Act.

(2) The repeal of the Economic Sabotage (Special Provisions) Act, shall not—

(a) affect the previous operation of that Act or anything duly done or suffered under it;

(b) revive anything not in force or existing at the time immediately before the commencement of this Act;

(c) affect any right, privilege, or obligation or liability acquired, accrued, or incurred under the repealed Act; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any economic sabotage or other offence committed and triable under the repealed Act.

第六十六条【重要过渡性修改】（1）《经济破坏（特别条款）法》废除后，本法开始前，法庭已经

（a）开始审理的经济破坏犯罪行为案件，应继续进行审理，直至确定该案件的诉讼程序；

（b）延期审理的经济破坏犯罪行为案件，应在确定的日期或提前开庭，确定该案件诉讼程序，但在本法生效前，不得实施仲裁程序，不得受理新的案件。

（2）《经济破坏（特别规定）法》的废止，不得，

（a）影响依该法作出的判决和刑罚；

（b）在本法生效前，赋予尚未生效或尚不存在的事项以任何效力；

（c）影响依《上诉法》取得、产生或发生的任何权利、特权、义务或责任；

（d）影响因根据已废除的法案作出因经济破坏行为或其他可处罚犯罪行为产生的刑罚、没收或处罚。

## FIRST SCHEDULE ECONOMIC OFFENCES (Section 57(1))

### 附表一 经济犯罪（57（1）节）

1. A person is guilty of an offence under this paragraph who commits any offence under the Prevention and combating of Corruption Act.



1. 触犯本条所规定的任何罪行的，属于违反《防止及打击腐败法》的行为。

2. A person is guilty of an offence under this paragraph who commits an offence under the Prevention and combating of Corruption Act, other than an offence under section 15 of that Act.

2. 触犯本条所规定的任何罪行的，属于违反《防止及打击腐败法》的行为，但该法第 15 条规定的犯罪行为除外。

3.-(1) A person, whether or not licensed to carry on the business of selling commodities of any description, is guilty against this paragraph of the offence of hoarding commodities if, not being a manufacturer or producer of the commodities—

(a) he is found in possession of commodities which are in demand by the public in the locality concerned of a value exceeding one million shillings in circumstances in which it can be inferred that they are not displayed or stocked for lawful sale or use or available for purchase by any persons offering the lawful price; or

(b) he sells or offers any commodity for sale at a price or subject to a term or condition which is unlawful or which, having regard to all relevant circumstances, is unreasonable; or

(c) in the course of carrying on the business of selling any commodity, he engages in any trade practice with is intended or likely—

(i) to create an artificial shortage in the supply of any commodity; or

(ii) to aggravate an actually existing shortage in the supply of any commodity; or

(iii) to cause an unlawful increase or decrease in the official or commercially accepted price of any commodity; or

(iv) to adversely affect the fair distribution of any commodity amongst the purchasing population of the area concerned.

(2) For the purposes of this paragraph—

(a) a person shall be deemed to have in stock any commodities of any description in any place if he is the owner of any amount or quantity of such commodities;

(b) “person” includes any employee or agent of such person (whether or not the employment agency would be such at law), and where such employee or agent



is charged with an offence under this paragraph the provisions of subparagraph (3) shall apply mutatis mutandis to the employee or agent as they apply where the person charged, the employer or, as the case may be, the agent;

(c) whether or not licensed to carry on business a person shall be deemed to be carrying on the business of selling commodities of any description if, at that time when the offence is alleged to have been committed or at any reasonable period preceding or succeeding the date when the offence is alleged to have been committed, he had possession of an amount or quantity of such commodities in circumstances in which it may reasonably be inferred that such commodities were intended by him to be sold by him or he had held himself out as being a seller of those commodities.

(3) Where a person is charged with an offence under this paragraph, it shall be a good defence for him to prove that—

(a) there was no shortage in the supply of the commodity or commodities concerned in the locality in question;

(b) the stocking of the amount or quantity of commodities concerned was not intended or likely to create any shortage in the supply of the commodities or to have any other adverse effect on the distribution of the commodities in the locality;

(c) the commodities found in any premises under his control or management did not belong to him and that he had no right to dispose of any of the commodities in any way and that he did, at the earliest possible opportunity, advise the authorities investigating the matter of the identity of the owner;

(d) the commodities owned by him or which he had the right to dispose of had at the time when they were found in his possession, been lawfully sold or otherwise lawfully disposed of to another person;

(e) the commodities in stock were for his own lawful use or were being used in connection with his lawful business; or

(f) he had kept them in store as a reasonable precaution, taken in the interests of his own household, against probable imminent future shortage or famine, or in order to meet a requirement of any future event reasonably important to him.



(4) The standard of proof by the accused of any of the facts or circumstances set out in subparagraph (3) shall be on a balance of probabilities.

(5) The Court may, in addition to any other penal measure it may impose, order the forfeiture of all the commodities of the same description as the commodities to which the charge relates and held in stock by such person on the date on which the offence was committed, unless any other person satisfies the Court that any of those commodities belonged to him and not to the accused, and that that other person is himself not guilty of an offence under this paragraph.

3. (1) 无论是否取得准予经营某类商品的许可，满足下列条件的，属于囤积居奇罪，但相关产品的生产者或制造者除外，

(a) 持有当地公众所需，价值超过一百万先令的商品，且未做陈列、储存以供合法销售、使用，或供任何人以合法价格购买的；

(b) 以不合法或不合理的价格或条件出售商品的；

(c) 在销售商品过程中，从事或试图从事，

(i) 人为造成任何商品供应短缺的；

(ii) 加剧任何商品供应短缺的；

(iii) 非法提高或者降低任何商品的官方价格或者市场价格的；

(iv) 对在有关地区购买人口中公平分配商品造成不利影响的。

(2) 为实现本法目标，

(a) 任何人在任何地点存放任何数量的任何种类的商品，须被视为该商品的所有人；

(b) “人”包括雇员或代理人，雇佣关系是否合法成立，在所不问。雇员或代理人违反本条第(3)款规定的，比照适用雇主及其代理人的规定确定责任；

(c) 不论是否获发牌照经营业务，在被指控进行犯罪行为之时，或在其之前或之后的任何合理期间，任何人占有一定金额或数量的商品，此种情况下可以合理地推断，他正在销售或是这些商品的卖方。

(3) 被控犯本条所规定罪行的，可以如下方式辩护，

(a) 在有关地点供应的商品并不短缺；

(b) 特定金额和数量商品的储存不会造成供应短缺，或对当地商品的分配

产生其他不利影响；

(c) 嫌疑人控制或管理的场地中存放的大宗商品并非归其所有，建议有关部门查明所有者的身份；

(d) 嫌疑人所有或有权处分的商品已合法地出售或以其他方式合法地处置；

(e) 存储的商品是供其本人合法使用，或与其合法业务有关；

(f) 嫌疑人存储商品是为其家庭利益以防可能发生的物资短缺或饥荒，或为满足本人需要而采取的合理预防措施。

(4) 依本条第(3)款所做辩护，应当在可能性的基础上进行权衡。

(5) 法庭在可决定刑罚外，应当命令没收该人在犯罪行为发生之日所持有的所有商品；但法庭有理由认为相关商品属于嫌疑人之外的其他人且该人并未触犯本款所规定罪行的除外。

4.-(1) A person is guilty of the offence of leading organised crime who—

(a) intentionally or willfully organises, manages, directs, supervises or finances a criminal racket;

(b) knowingly incites or induces others to engage in violence or fraud or intimidation for the purposes of promoting or furthering the objects of a criminal racket;

(c) knowingly furnishes advice, assistance or direction in the conduct, financing, execution or management of the business or affairs of a criminal racket with intent either to reap profit or other benefit from such act or to promote or further the criminal objectives of the criminal racket; or

(d) being a public official, and in violation of his official duty, or not being a public official but in collusion with such a public official, intentionally promotes or furthers the objectives of a criminal racket by inducing or committing any act or omission.

(2) A person shall not be convicted of an offence under this paragraph on the basis of accountability as an accomplice unless he aids or participates in the contravention of this paragraph in one of the ways specified.

4. (1) 下列行为属于领导有组织犯罪的犯罪行为，

(a) 故意组织、管理、指导、监督或资助犯罪组织的；



(b) 故意煽动或诱使他人从事与犯罪组织目的相关的暴力、欺诈或恐吓的；  
(c) 故意为进行、资助、执行或管理犯罪组织的业务或事务方面提供意见、协助或指示，以从中获利或促进犯罪目标实现的；

(d) 公职人员利用职务之便或非公职人员与公职人员勾结，故意以作为或不作为来促进或推进犯罪组织目标实现的。

(2) 除法律另有规定，履职行为不属于本条规定的犯罪，但参与或协助阻碍警方执法的除外。

5. Any person who, pursuant to a scheme or artifice to defraud—

(a) by means of false or fraudulent pretences, representations, promises or material omissions; or

(b) by means of false pretences, representations, or deception to gain the confidence of any person,

knowingly obtains from any person any benefit, is guilty of an offence under this paragraph.

5. 下列行为属于违反本条规定，故意以计划或诡计骗取任何人任何利益的行为，

(a) 作出虚假或欺骗性伪装、陈述、承诺或重大遗漏的；

(b) 作出虚假伪装、陈述或欺骗，取得他人的信任的。

6.-(1) Any person who—

(a) on being detained as a result of the exercise of the power conferred by section 24 of the Criminal Procedure Act, or section 22 of this Act, is found in possession of, or conveying in any manner, anything which may be reasonably suspected of having been stolen or otherwise unlawfully acquired; or

(b) is found by any police officer in possession of or having control over any property which may, having regard to all the circumstances, be reasonably suspected of having been stolen or otherwise unlawfully acquired,

may if the value of the thing or the property concerned exceeds one million shillings be charged with being in possession of, or conveying, or having control over as the case may be the property which is suspected of having been stolen or otherwise

unlawfully acquired and shall, if he fails to satisfy the Court that he did not steal or otherwise unlawfully acquire the property, be guilty of the offence with which he is charged and be liable, on conviction, to imprisonment in accordance with this Act.

(2) For the purposes of this paragraph “unlawfully acquired” means acquired in circumstances which constitute a criminal offence under any written law and also means acquired—

(a) as consideration of any sale, barter or other disposition of any property so unlawfully acquired; or

(b) by way of purchase with funds, the whole or any part of which was so unlawfully acquired.

(3) In proceedings for an offence under this paragraph—

(a) the accused shall not be entitled to acquittal by reason only of the fact that, on the evidence before the Court, he could have been charged with, or convicted of, theft or other like offence, which is not an economic offence, in respect of the property; save that an accused person convicted of an offence under this paragraph in respect of any property shall not be charged with or be convicted of an offence of stealing or other like offence, which is not an economic offence, in respect of the property; save that an accused person convicted of an offence under this paragraph in respect of any property shall not be charged with or be convicted of an offence of stealing or other like offence, which is not an economic offence, in respect of the same property;

(b) where the Court is satisfied that the accused was detained by a police officer in the exercise of the power conferred by section 25 of the Criminal Procedure Act, or section 22 of this Act, the Court may presume that the property found in his possession or being conveyed by him may reasonably be suspected of having been stolen or otherwise unlawfully acquired by him.

6. (1) 警方发现任何人管有、占有下列财产的，

(a) 依《刑事诉讼法》第二十四条或本法第二十二条规定被拘留的，被发现占有或以任何方式传递盗窃物或其他以非法方式取得的财产的；

(b) 被任何警务人员发现管有或占有任何可以合理怀疑为非法所得的财产

的；

如有关物品或财产的价值超过一百万先令，则可被控管有、转移或控制盗窃或以其他方式非法取得财产。嫌疑人未能向法庭说明取得财产的合法途径的，可依本条规定对其提起诉讼并定罪量刑。

(2) 本条中的“非法所得”，是指根据任何成文法规定构成刑事犯罪的行为，也包括，

(a) 销售、互易或以其他方式处置非法取得财产的对价；

(b) 以资金购买的全部或部分非法所得财产。

(3) 依本条审理犯罪行为法律程序中，

(a) 嫌疑人不得因以下事实而被判无罪：法庭依据其收到的证据，认定嫌疑人犯有不属经济犯罪的盗窃或其他类似犯罪行为；除非嫌疑人就任何财产被判犯有本条所述犯罪行为，不能认定嫌疑人犯有不属经济犯罪的盗窃或其他罪名；除非嫌疑人就同一财产被控犯有本条所述犯罪行为，不能认定嫌疑人犯有不属经济犯罪的盗窃或其他罪名；

(b) 警察依《刑事诉讼法》第二十五条或本法第二十二条逮捕嫌疑人的，法庭可以认为嫌疑人占有或转移的财产是以盗窃或其他非法手段取得。

7.-(1) A person is guilty of an economic offence, under this paragraph who, not being an authorised trader in terms of section 2 of the Regulation of Trade Act, sells or offers for sale any designated goods of any description contrary to the provisions of that Act.

(2) A person is guilty of an economic offence under this paragraph who, being a supplier or distributor of designated goods in accordance with the provisions of the Regulation of Trade Act, 1980, sells or distributes designated goods to a person who is not an authorised trader, contrary to section 4 of the Regulation of Trade Act.

7. (1) 未依《贸易法》第二条规定取得授权，销售或试图销售本法规定的指定商品的，属于违反本法规定的经济犯罪行为。

(2) 根据本款规定，违反《贸易法》规定向未依该法第四条规定取得授权的人销售或试图销售本法规定的指定商品的供应商或分销商，属于违反本法规定的经济犯罪行为。

8.-(1) Any person who, being in authority, knowingly and without lawful excuse, causes or procures a supplier or distributor to supply designated goods to a person who is not an authorised trader for purposes of resale, or to supply designated goods in inordinate amounts or quantities to any authorised trader, is guilty of an offence under this paragraph.

(2) A person shall be deemed to be in authority if, being the holder of any elective or appointive office in any specified authority, he gives a direction, suggestion or advice whether or not in writing, to a supplier or distributor in connection with the disposition, of any designated goods in the manner referred to in subparagraph (1), and the said supplier or distributor acts in accordance with the direction, suggestion or advice.

(3) An amount or quantity of designated goods shall be deemed to be inordinate if—

(a) where the supply is done once, the amount or quantity is in excess of the amount or quantity ordinarily supplied or sold to the majority of the other purchaser of the same goods in the same locality with the same right, financial ability and willingness to purchase the goods in question; or

(b) where the supply is done on more than one occasions, the frequency of such occasions is extraordinary compared to the frequency at which the same goods are supplied over a given period to other purchasers in the locality with the same right, financial ability and willingness to purchase the goods in question.

(4) It shall be a good defence for a person charged with an offence under this paragraph if he satisfies the Court that there existed any circumstances which constituted a reasonable or lawful excuse for his action or that his action was motivated by anything that was beneficial to the public interest.

8. (1) 公职人员明知且无正当理由推动或促使供应商或分销商向无授权贸易商供应指定货物以供其销售的，或向有授权的贸易商提供特定金额和数量的指定商品的，即属本条所规定的犯罪行为。

(2) 本条所指的公职人员是指，以选举或委任方式取得公权力机构负责人职位，有权就本条第(1)款规定的商品向供应商或分销商以书面或口头方式发



出指令、意见或建议，且相关供应商或分销商应当服从其指令、意见或建议的人。

(3) 下列指定的货物数量应被视为不合理，

(a) 供应一次的，商品数量超过通常供应给同一地方同一货品的其他人数量，且其他购买人的相关权利、经济能力及意愿相同的；

(b) 供应多次的，供应频率超过通常供应给同一地方同一货品的其他人数量，且其他购买人的相关权利、经济能力及意愿相同的。

(4) 依本条规定被指控的嫌疑人如能向法庭证明其行为有合理依据或为维护公共利益的，不构成犯罪。

9.-(1) Any person who whether or not he is an employee of a specified authority by any wilful act or omission, or by his negligence or misconduct, or by reason of his failure to take reasonable care or to discharge his duties in a reasonable manner, causes any specified authority to suffer a pecuniary loss or causes any damage to any property owned by or in the possession of any specified authority, is, notwithstanding any written law to the country, guilty of an offence under this paragraph, if the monetary value of the loss or damage exceeds one million shillings.

(2) A specified authority shall, for the purposes of subparagraph (1), be deemed to have incurred a pecuniary loss notwithstanding—

(a) that it has received or is entitled to receive any payment in respect of such loss under any policy of insurance; or

(b) that it has been otherwise compensated, or is entitled to be compensated, for that loss.

(3) For the avoidance of doubt it is hereby declared that where any person charged with stealing anything, or with any other offence under any written law, in relation to a specified authority, is acquitted, he may be subsequently charged and tried for an offence under this paragraph even if the subsequent charge under this paragraph is based on the same acts or omissions upon which the previous charge was based.

(4) Where the Court convicts a person of an offence under this paragraph, it shall, in addition to any other penal measure it imposes, order such person to pay to the specified authority compensation of an amount not exceeding the amount of the actual



loss incurred by the specified authority and in assessing such compensation the court shall have regard to any extenuating circumstances it may consider relevant.

(5) Where an order is made under subparagraph (4), the specified authority in whose favour such order is made may file an authenticated copy of the order in the district court having jurisdiction over the area over which the Court has jurisdiction, and upon being so filed the order shall be deemed to be a decree passed by that district court and may be executed in the same manner as if it were a decree passed under the provisions of the Civil Procedure Code, and the district court shall have jurisdiction to execute that decree notwithstanding that the amount of the compensation awarded exceeds the pecuniary jurisdiction of the district court.

9. (1) 任何人，不论是否为公职人员，因作为或不作为，疏忽或不当，未能采取合理谨慎或未能以合理方式履行其职责，使公职机构蒙受超过一百万先令的金钱或财产损失的，属于违反本法规定的犯罪行为。

(2) 下列情况下，公职机构视为蒙受金钱或财产损失，

(a) 收到或有权收到保险赔付的损失；

(b) 应当或有权得到补偿的损失。

(3) 为避免歧义，涉及公职机构的任何盗窃或其他犯罪行为被宣告无罪后，仍可依本条以相同事实和理由对嫌疑人提起诉讼。

(4) 法庭认定嫌疑人罪名成立后，如其行为造成公职机构财产损失的，法庭应当判令嫌疑人作出超过公职机构实际损失金额的赔偿，但须要考虑法庭认为有关的任何从轻或减免事由。

(5) 依本条第(4)款的命令作出后，胜诉的公职机构可以将命令副本提交到有管辖权的地方法院存档。命令存档后具有依《民事诉讼法》规定的地方法院判决效力，地方法院有权执行该项命令。

10. A person is guilty of an offence under this paragraph who commits any offence contrary to sections 146 and 147 of the Customs (Management and Tariff) Act—

(a) which is beyond the statutory power of the Commissioner of Customs to compound; or

(b) which, considering the circumstances of its commission, the Commissioner of



Customs is of the opinion, which he shall certify to the Director of Public Prosecutions, that it is unsuitable to compound; or

(c) which the Director of Public Prosecutions considers is unsuitable to compound and informs the Commissioner of Customs of his opinion.

10. 下列违反《海关（管理及关税）法》第一百四十六条、第一百四十七条的行为，属于违反本条规定的犯罪行为，

(a) 超出海关关长的法定权限的支付行为；

(b) 根据具体情况，海关关长在听取各方意见且在与检察长协商后，认为不适当的支付行为；

(c) 检察长认为不宜支付，且将其意见通知海关关长的。

11. A person is guilty of an offence under this paragraph who damages, hinders, interferes with or does any act which is likely to damage, hinder or interfere with, or the carrying on of a necessary service contrary to section 3(d) of the National Security Act.

11. 违反《国家安全法》第三条（d）款，损害、妨碍、干涉或可能损害、妨碍、干涉必要服务的行为，属于违反本条规定的犯罪行为。

12. Any person who, in the commission of any offence, other than assault or robbery or any other offence punishable with death or imprisonment of life, uses a firearm or any explosive materials is guilty of an offence under this paragraph.

12. 除伤害、抢劫等可以判处死刑或无期徒刑的犯罪行为以外，任何人在犯罪行为中使用枪支或爆炸物的，属于违反本条规定的罪行。

13. A person is guilty of an offence under this paragraph who—

(a) unlawfully captures, hunts or traps of animals in a game reserve or game-controlled area;

(b) unlawfully deals in trophies or in Government trophies;

(c) is found in unlawful possession of weapons in certain circumstances;

(d) is found in unlawful possession of a trophy, contrary to sections 13, 14, 17, 38, Part VI, sections 70 and 78 of the Wildlife Conservation Act, or contrary to section 16 of the National Parks Act.

13. 违反《野生动物保护法》第十三、十四、十七、三十八、第四部分、七十和七十八条规定和《国家公园法》第十六条规定的下列行为，属于违反本条规定的犯罪行为。

- (a) 在禁猎区或狩猎控制区非法捕捉、捕猎或诱捕动物的；
- (b) 非法买卖猎物或政府猎物的；
- (c) 特定情况下非法拥有武器的；
- (d) 非法拥有猎物的。

14. A person is guilty of an offence under this paragraph who unlawfully prospects or mines for minerals, contrary to the provisions of the Mining Act.

14. 违反《采矿业法》规定非法勘探或开采矿产资源的，属于违反本条规定的犯罪行为。

15. A person is guilty of an offence under this paragraph who commits any offence under the Gemstone Industry (Development and Protection) Act.

15. 违反《宝石业（发展与保护）法》规定的，属于违反本条规定的犯罪行为。

16. A person is guilty an offence under this paragraph who commits an offence under the Diamond Industry Protection Act other than an offence against any subsidiary legislation made under the Act.

16. 违反《钻石业保护法》规定的，属于违反本条规定的罪行，但违反该法附属法例的犯罪行为除外。

17.-(1) Any person who, whether or not an employee or officer of the Tanzania Posts Corporation—

(a) embezzles any letter, postal card, package, bag or mail or any article or thing contained in it, intended to be or being conveyed by mail or carried or delivered by any carrier, messenger, agent or other person acting on behalf of the postal authorities, or forwarded through or delivered from any Post office or its station; or

(b) steals, abstracts or removes from any such letter, package, bag or mail, any article or thing contained in it, is guilty of an offence under this paragraph.

(2) Where the Court convicts a person of an offence under this paragraph, it shall make an order for the complainant such as it is empowered to make in respect of the

offence of occasioning loss to a specified authority, and the provisions of paragraph 7 of this Schedule in relation to the order for compensation shall apply mutatis mutandis to the order compensation under this paragraph.

17. (1) 任何人，不论其是否为坦桑尼亚邮政公司的雇员或管理人员，做出下列行为，属于违反本条规定的犯罪行为，

(a) 侵吞由承运人、信差、代理人或代表邮局的其他承运人邮寄的信件、明信片、包裹、袋子、邮件或其中任何物品的；

(b) 盗窃由承运人、信差、代理人或代表邮局的其他承运人邮寄的信件、明信片、包裹、袋子、邮件或其中任何物品的。

(2) 法庭裁定嫌疑人犯有本条规定的犯罪行为的，应当依据本附表第七条规定命令嫌疑人向原告作出相应赔偿。

18. A person is guilty of an offence under this paragraph who is found in unauthorised possession of arms or ammunition contrary to the provisions of the Arms and Ammunition Act.

18. 违反《武器弹药法》规定非法持有武器、弹药的，属于违反本条规定的犯罪行为。

19. -(1) A person commits an offence under this paragraph who disrupts, damages, hinders or interferes with a property which is used or is intended to be used for the purpose of providing a necessary service.

(2) If the offence—

(a) is committed under the circumstance which is likely to result in danger to human life the offender shall be liable to imprisonment to a term of not less than twenty years but not more than a term of thirty years;

(b) is committed under the circumstance which is not likely to result in danger to human life the offender shall be liable to imprisonment to a term of not less than fifteen years but not more than a term of twenty years.

(3) In this paragraph, “necessary service” includes any—

(a) service relating to installation, transmission, supply or distribution of electricity or telecommunication;

- (b) fire service;
- (c) sewerage, rubbish disposal or other sanitation service;
- (d) health, hospital or ambulance service;
- (e) service relating to the supply or distribution of water, gas or petroleum;
- (f) road, railway, bridge, underground tunnel, car park, ferry, pontoon, any airfield, harbour or dock;
- (g) pipeline which is used for the supply of water or fuel.

19. (1) 影响、损毁、妨碍或干扰正在提供或拟用于提供必要服务的财产的行为，属于违反本条规定的犯罪行为。

(2) 该行为，

(a) 可能危及人身安全的，处二十年以上三十年以下有期徒刑；

(b) 不会危及人身安全的，处十五年以上二十年以下有期徒刑。

(3) 本条中的“必要服务”包括，

(a) 与安装、传输、供应或分配电力和通讯有关的服务；

(b) 消防；

(c) 污水、垃圾处理或其他卫生服务；

(d) 保健、医院或救护车服务；

(e) 与水、煤气或石油供应或分配有关的事务；

(f) 道路、铁路、桥梁、隧道、停车场、渡轮、趸船、机场、港口或码头；

(g) 供应水或燃料的管道。



## SECOND SCHEDULE

### 附表二

#### OATHS AND AFFIRMATIONS

(Sections 7 and 48(2))

宣誓与保证

(第7及48(2)条)

#### A: Oath of a Lay Member

The oath to be taken and subscribed by a lay member of the Court is as follows:

“I,..... having been summoned to serve as a member of the Economic Crimes Court in the Resident Magistrate’s Court for ..... region, do hereby swear that I will freely, and without fear or favour, affection or ill will discharge the functions of the member of the Court, and I will do justice in accordance with the Economic and Organised Crime Control Act” .

SO HELP ME GOD

.....

Signature of Member

Sworn/affirmed before me this ..... day of 20.....

.....

Resident Magistrate-in-Charge

#### 非专业人员誓言

法院非专业人员所作及签署的誓言如下：

“我……被传唤担任……地方法院经济犯罪法庭成员，在此庄严宣誓，我作为法庭成员，将自由地，放下恐惧、偏私、个人情感和恶意，履行法庭成员的职责，依据《经济和有组织犯罪控制法》公正行事。

上帝保佑我！

签名

签名的成员

在我面前宣誓（保证）的是（宣誓人姓名），日期

地方法院法官签名

### **B: Oath or Affirmation of Witnesses**

The alternative forms of the oath and affirmation of witnesses are as follows:

Christians: “I swear that I shall do my best to tell the truth SO HELP ME GOD” .

Muslims: “Wallah, Billahi, Ta Alahi:

I solemnly affirm that I shall do my best to tell the truth” .

Hindu: “I solemnly affirm that I shall do my best to tell the truth” . Others:  
“I solemnly affirm that I shall do my best to tell the truth” .

### **证人的誓词或保证词**

证人宣誓（保证）的誓言（保证词）如下：

基督徒：“我发誓我将尽我最大的努力说真话，所以上帝保佑我”。

穆斯林：“我郑重声明，我将尽最大努力讲真话。”

印度教徒：“我郑重声明，我将尽最大努力讲真话。”

其他：“我郑重声明，我将尽最大努力讲真话。”







**THE CRIMINAL PROCEDURE**

《刑事诉讼法》



**CHAPTER 20 THE CRIMINAL PROCEDURE ACT**

**第二十章 刑事诉讼法**

**An Act to provide for the procedure to be followed in the investigation of crimes and the conduct of criminal trials and for other related purposes.**

为规定刑事侦查和刑事审判所应遵循的程序以及其他相关目的，制定本法。

[1st November, 1985]

[G.N. No. 375 of 1985]

1985年11月1日

1985年第375号法案

Acts Nos.

9 and 12 of 1987

5 and 13 of 1988

10 of 1989

4 and 27 of 1991

19 of 1992

5 of 1993

32 of 1994

2, 9 and 17 of 1996

4 and 12 of 1998

5, 9 and 21 of 2002

4 of 2004

5 of 2005

2 of 2007

27 of 2008



法案编号：

1987 年第 9 号和 12 号法案

1988 年第 5 号和 13 号法案

1989 年第 10 号法案

1991 年第 4 号和 27 号法案

1992 年第 19 号法案

1993 年第 5 号法案

1994 年第 32 号法案

1996 年第 2 号、9 号和 17 号法案

1998 年第 4 号和 12 号法案

2002 年第 5 号、9 号和 21 号法案

2004 年第 4 号法案

2005 年第 5 号法案

2007 年第 2 号法案

2008 年第 27 号法案

## PART I PRELIMINARY PROVISIONS

### 第一部分 序则

Short title 1. This Act may be cited as the Criminal Procedure Act.

第一条【简称】

本法可以《刑事诉讼法》的名称援引。

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

“adult” means a person of or above the age of sixteen years; “arrestable offence” means an offence for which a police officer may, in accordance with the First Schedule to this Act or under any written law for the time being in force, arrest without warrant;

“child” means a person who has not attained the age of sixteen; “committal proceedings” means proceedings held by a subordinate court with a view to the committal of an accused person to the High Court;

“complainant” in a private prosecution, means the private prosecutor or the person making the complaint before the court and, in all public prosecutions, means the person presenting the case on behalf of the Republic before the court;

“complaint” means an allegation that some person known or unknown, has committed an offence;

“juvenile” means a person under the age of sixteen years; “Minister” means the Minister for the time being responsible for legal affairs;

“non-warrant offence” means an offence for which a police officer may arrest without a warrant;

“officer in charge of a police station” includes any officer superior in rank to an officer in charge of a police station and also includes, when the officer in charge of the police station is absent from the station house or unable from illness or other cause to perform his duties, the police officer present at the station house who is next in rank to that officer and is above the rank of constable or, when the Minister for the time being, responsible for home affairs so directs, any police officer so present;



“police officer” includes any member of the police force and, any member of the people’s militia when exercising police functions in accordance with the law for the time being in force;

“public prosecutor” means any person appointed under section 22(1) of the National Prosecutions Services Act, 2008 and includes the Director of Public Prosecutions, the Attorney General, the Deputy Attorney General, a Parliamentary Draftsman, a State Attorney and any other person acting in criminal proceedings under the directions of the Director of Public Prosecutions;

“subordinate court” means any court, other than a court martial, which is subordinate to the High Court;

“summary trial” means a trial held by a subordinate court under Part VII of this Act;

“Village Council” means a Village Council established under section 22 of the Local Government (District Authorities) Act;

“warrant offence” means an offence for which a police officer may not arrest without warrant.

## 第二条【解释】

本法所称成年人，除上下文另有规定外，是指十六岁以上的人；“可逮捕罪行”系指警察可根据本法第一附表或现行任何成文法律，在没有令状的情况下实施逮捕的罪行；

“儿童”是指未满十六岁的人；

“交付诉讼”系指下级法院为将被告人交付高等法院而进行的诉讼；

“控告人”，在自诉案件中是指自诉人或者在法庭上提出控诉的人，在所有的公诉案件中，是指在法庭上代表共和国提出控诉的人；

“控诉”是指对某个已知或未知的人已犯罪行的指控；

“未成年人”是指未满十六周岁的人；

“部长”是指负责法律事务的时任部长；

“非拘捕令罪行”指警察可在没有拘捕令的情况下逮捕的罪行；

“警署主管人员”包括任何比主管警署职级更高的人员，并包括当主管警署

的人员不在警署，或因疾病或其他原因不能履行其职责时，代表警署的次一级职级并比警官职级高的主管人员或者当时负责内政部部长指定任何能这样代表的主管人员。

“警察”包括警察部队的任何成员，以及依法行使警察职权的人民民兵的任何成员。

“公诉人”是指根据“2008年国家刑事检察官法”第22(1)条任命的任何人，包括检察长、司法部长、司法副部长、议会起草人、国家的律师和任何其他根据检察长的指示执行刑事程序的任何其他人。

“下级法院”系指隶属于高等法院的军事法庭以外的任何法院。

“简易审判”是指下级法院根据本法第七部分进行的审判。

“村议会”系指根据《地方政府(地区当局)法》第二十二條设立的村议会。

“令状罪行”指警察在没有令状的情况下不得拘捕的罪行。

3.-(1) Subject to subsection (2), nothing in this Act shall apply to any primary court or primary court magistrate or to the High Court, a district court or a resident magistrate in the exercise of their respective appellate, revisional, supervisory, or other jurisdiction and powers under Part III of the Magistrates' Courts Act.

(2) Notwithstanding the provisions of subsection (1)–

(a) the reference to a court in sections 27, 29, 30, 32 and 141 and the reference to a subordinate court in section 242 shall include reference to a primary court;

(b) the reference to a magistrate in section 36 and sections 70 to 88 shall include a reference to a primary court magistrate;

(c) the Director of Public Prosecutions and any person lawfully authorised by him, may exercise any of the powers conferred on him by section 91 in respect of proceedings in a primary court and proceedings in the High Court or a district court under Part III of the Magistrates' Courts Act; but nothing in this paragraph shall be construed as derogating from the provisions of section 29 of the Magistrates' Courts Act;

(d) sections 137, 138, 139, 140 and 141 shall apply to, and the High Court may exercise jurisdiction under section 148(3), 149, 348 and 349 in respect of primary



courts.

(3) In this section “primary court”, “district court” and “resident magistrate’s court” have the meaning respectively assigned to those expressions in the Magistrates’ Courts Act.

### 第三条【适用范围】

(1) 除第(2)款另有规定外，本法任何规定均不适用任何初级法院或初级法院裁判官，或高等法院、地区法院或驻地裁判官根据《裁判法院法》第三部分行使的各自上诉、修正、监督或其他的管辖权和权力。

(2) 尽管有第(1)款的规定

(a) 在第二十七、二十九、三十、三十二及一百四十一条中提及的法院及第两百四十二条中提及的下级法院应包括初级法院；

(b) 第三十六条及第七十至八十八条所指裁判官应包括初级法院裁判官；

(c) 根据《裁判法院法》第 III 部，检察长及其合法授权的任何人，可行使第九十一条就初级法院的程序及高等法院或地区法院的程序赋予他的任何权力；但本条任何规定不得被解释为对裁判法院法第二十九条规定的违背。

(d) 第一百三十七、一百三十八、一百三十九、一百四十和一百四十一条应适用于初级法院，高等法院可根据第一百四八第(3)款、一百四十九、三百四十八和三百四十九条就初级法院行使管辖权。

(3) 本条所称“初级法院”、“地区法院”和“驻地裁判官法院”分别具有《裁判法院法》中指定的含义。

4.-(1) All offences under the Penal Code shall be inquired into, tried and otherwise dealt with according to the provisions of this Act.

(2) All offences under any other law shall be inquired into, tried and otherwise dealt with according to the provisions of this Act, except where that other law provides differently for the regulation of the manner or place of investigation into, trial or dealing in any other way with those offences.

### 第四条【刑事审判程序】

(1) 根据《刑法》所犯的一切罪行均应依照本法的规定进行查讯、审判和以其他方式处理。



(2) 任何其他法律项下的所有罪行均应按照本法的规定进行查讯、审判和以其他方式处理，但另一法律对查讯、审判或以任何其他方式处理这些罪行的方式或地点另有规定的除外。

## PART II PROCEDURE RELATING TO CRIMINAL

### 第二部分 刑事侦查程序

#### A. - Arrest, Escape and Recapture, Search Warrants and Seizure

##### A. 逮捕、逃跑、回捕、搜查令及扣押

###### *(a) Preliminary Provisions*

###### (a) 基本规定

5.-(1) For the purposes of this Act, a person shall be under restraint if he is in the company of a police officer for a purpose connected with the investigation of an offence and the police officer would not allow him to leave if he wished to do so, whether or not the police officer has reasonable grounds for believing that that person has committed an offence, and whether or not he is in lawful custody in respect of the offence.

(2) For the purposes of this Act, a person shall be in lawful custody if he is under restraint—

- (a) as a result of his having been lawfully arrested; or
- (b) in respect of an offence and the police officer—
  - (i) believes on reasonable grounds that he has committed the offence; and
  - (ii) would be authorised under section 14 to arrest him for the offence.

(3) A person shall not be under restraint if he is in the company of a police officer by the roadside whether or not he is in a vehicle, for a purpose connected with the investigation of an offence, not being a serious offence, arising out of the use of a motor vehicle.

(4) For the purposes of this section, a person shall be deemed to be in the company of a police officer for a purpose connected with the investigation of an offence if the person is waiting at a place at the request of a police officer for that purpose.

第五条【被拘留和合法羁押时】

(1) 就本法而言，任何人出于警察要求配合侦查犯罪目的而受到限制，想离开而警察不同意其离开时，应被拘留，无论警察是否有合理理由相信该人犯了罪，以及他是否因该罪行而被合法羁押。

(2) 就本法而言，任何人如被拘禁，即属合法羁押—

(a) 由于他被合法逮捕；或

(b) 就罪行而言，警察 -

(i) 有合理的理由相信他实施了犯罪；和

(ii) 将根据第十四条获授权以该罪行逮捕他。

(3) 任何人在路旁配合警察侦查因使用机动车而产生的非严重罪行之时，不论该人是否在车内，均不得被拘禁。

(4) 就本条而言，任何人如应警察要求而在某地等候，则被视为具有配合警察侦查犯罪目的。

6.-(1) Every police officer shall, in exercising the powers conferred on him and in performing the duties imposed on him as a police officer, comply with the provisions of this Part.

(2) Where a police officer contravenes or fails to comply with a provision of this Part which is applicable to him, the contravention or failure shall not be punishable as an offence against this Act unless a penalty is expressly provided in respect of the contravention or failure.

(3) Nothing in this section shall be construed as a contravention of, or a failure to comply with, a provision of this Part by a police officer—

(a) constituting, under the Police Force and Auxiliary Services Act, a breach of discipline by the police officer for which he may be dealt with under that Act;

(b) constituting grounds for the exclusion of evidence under section 169; or

(c) constituting grounds for the institution of civil proceedings.

第六条【本部分适用于警察】

(1) 警察在行使赋予他的权力和履行作为警察的职责时，须遵守本部分的规定。

(2) 警察如违反或不遵守适用于其的本部分的规定，除非就违反或不遵守作出明确规定的处罚，否则不得将违反或不遵守视为违反本法的罪行。

(3) 本条任何内容均不得被解释为警察违反或未能遵守本部分规定，

(a) 根据《警察部队和辅助事务法》，构成警察违反纪律的行为，可根据《警察部队和辅助事务法》予以处理；

(b) 构成第一百六十九条排除证据的理由；或

(c) 构成提起民事诉讼的理由。

7.-(1) Every person who is or becomes aware—

(a) of the commission of or the intention of any other person to commit any offence punishable under the Penal Code; or

(b) of any sudden or unnatural death or death by violence or of any death under suspicious circumstances or of the body of any person being found dead without it being known how that person died, shall forthwith give information to a police officer or to a person in authority in the locality who shall convey the information to the officer in charge of the nearest police station.

(2) No criminal or civil proceedings shall be entertained by any court against any person for damages resulting from any information given by him in pursuance of subsection (1).

(3) When any person dies while in the custody of the police or in a mental hospital, leprosarium, home for the disabled or prison, the officer who had the custody of that person or was in charge of that place shall forthwith give information regarding the death to a coroner of the court within whose jurisdiction the body is found and that coroner or person authorised by him shall view the body and hold an inquiry into the cause of death, subject to any law for the time being in force governing such inquiries.

第七条【提供犯罪和猝死信息的义务】

(1) 凡是或知悉

(a) 任何其他人犯下或意图犯下任何可根据“刑法”受到惩罚的罪行的人；  
或者

(b) 突然或非正常死亡或暴力致死或任何可疑情况下死亡或遗体被发现而不明死亡原因的，应立即向当地警察或当局人员提供信息，后者应将信息转交给最近警署的负责人。

(2) 任何法院不得就任何人根据第（1）款所提供的信息而引致的损害，向其提出刑事或民事诉讼。

(3) 当任何人在警方羁押期间或在精神病院、麻风病院、残疾人家中或监狱中死亡时，实施羁押或负责该地方的官员应立即向法院的验尸官提供有关死亡的信息。在其管辖范围内的法院的验尸官及其授权的死因裁判官或人员，应根据当时有效管理此类勘验的任何法律，查看尸体并对死因进行勘验。

8. All inquiries into sudden deaths or other deaths reported under section 7 shall be carried out by such persons as are authorised under, and in such manner as is provided for by, the Inquests Act.

#### 第八条【勘验死亡】

对根据第七条所报告的突然死亡或其他死亡的一切勘验，应由根据《勘验法》授权的人员以《勘验法》规定的方式进行。

9.-(1) Information relating to the commission of an offence may be given orally or in writing to a police officer or to any other person in authority in the locality concerned.

(2) Any information under subsection (1) shall be recorded in the manner provided in subsection (3) of section 10.

(3) Where in pursuance of any information given under this section proceedings are instituted in a magistrate's court, the magistrate shall, if the person giving the information has been named as a witness, cause a copy of the information and of any statement made by him under subsection (3) of section 10, to be furnished to the accused forthwith.

(4) Any information given under this section by any person may be used in evidence in accordance with the provisions of the law for the time being in force

relating to the procedure for the adduction and reception of evidence in relation to the proceedings in respect of the offence concerned.

第九条【以口头或书面形式提供有关犯罪的信息】

(1) 有关犯罪的信息可以口头或书面形式提供给警察或有关当局的其他人。

(2) 根据第一款提供的任何信息，须以第十条第（3）款所规定的方式记录。

(3) 凡根据本条提供的信息而在裁判法院提起法律程序，如提供信息的人已被指名为证人，则裁判官须安排将该资料的副本及他根据第十条第（3）款所作任何陈述的副本，立即提供给被告人。

(4) 任何人根据本条提供的任何信息，均可根据当时生效的与罪行诉讼有关的举证和采纳证据的程序规定而被采纳为证据。

10.-(1) If from the information received or in any other way a police officer has reason to suspect the commission of an offence or to apprehend a breach of the peace he shall, where necessary, proceed in person to the place to investigate the facts and circumstances of the case and to take such measures as may be necessary for the discovery and arrest of the offender where the offence is one for which he may arrest without warrant.

(2) Any police officer making an investigation may by order in writing require the attendance before himself of any person living within the limits of the station of that police officer or any adjoining station, who, from information given or in any other way appears to be acquainted with the circumstances of the case, or who is in possession of a document or any other thing relevant to investigation of the case to attend or to produce such document or any other thing, and that person shall attend and produce a certified copy of the document or any other thing as so required:

Provided that where a police officer receives any certified copy of a document or any other thing he shall issue to the person from whom he received such document or that thing a receipt thereof.

(2A) Any person summoned to attend or to produce a document or any other thing relevant to investigation of the case under subsection (2), who refuses or wilfully



neglects so to do or who being a witness at such investigation refuses to answer any question put to him or to produce any document or any other thing relevant to investigation commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding three years or both.

(3) Any police officer making an investigation may, subject to the other provisions of this Part, examine orally any person supposed to be acquainted with the facts and circumstances of the case and shall reduce into writing any statement made by the person so examined. The whole of the statement, including any question in clarification asked by the police officer and the answer to it, shall be recorded in full in Kiswahili or in English or in any other language in which the person is examined, and the record shall be shown or read over to him or if he does not understand the language in which it is written it shall be interpreted to him in a language he understands and he shall be at liberty to explain or add to his statement. He shall then sign that statement immediately below the last line of the record of that statement and may call upon any person in attendance to sign as a witness to his signature. The police officer recording the statement shall append below each statement recorded by him the following certificate:

“I....., hereby declare that I have faithfully and accurately recorded the statement of the above-named.....”.

(4) It shall be the duty of a police officer before examining a person to inform him that he is bound to answer truly all questions relating to the case put to that person by him and that he may not decline to answer any question on the grounds only that the question has a tendency to expose him to a criminal charge, penalty or forfeiture.

(5) A police officer or person in authority shall not offer or make or cause to be offered or made any inducement, threat or promise to any person charged with an offence to induce him to make any statement with reference to the charge against him. But no police officer or person in authority shall prevent or discourage by any caution or in any other way any person from making, in the course of any investigation, any statement which he may be disposed to make of his own free will.

(6) A statement by any person to a police officer in the course of any investigation may be used in accordance with the provisions of the law for the time being in force relating to the procedure for the adduction and reception of evidence, but not for the purpose of corroborating the testimony of that person in court.

(7) In any proceedings under this Act, the production of a certified copy of the information referred to in section 9 or of any statement recorded under this section shall be prima facie evidence of the fact that the information was given or that the statement was made to the police officer by whom it was recorded; and notwithstanding the provisions of any other written law, it shall not be necessary to call that police officer as a witness solely for the purpose of producing the certified copy.

#### 第十条 【警察调查】

(1) 如果从收到的信息或以任何其他方式警察有理由怀疑犯罪或担心妨害治安，必要时，他必须亲自前往该地点调查该案件的事实和情况，并采取可能必要的措施，以发现和逮捕罪犯，如果罪行是他可以在没有逮捕令的情况下逮捕的罪行。

(2) 任何警察在进行调查时，可藉书面命令，要求居住在该警察的警署或任何毗邻警署范围内的任何人员到场。该人员，根据所提供的信息或以任何其他方式显示熟悉案件的情况，或者持有与调查案件有关的文件或任何其他物件而应该到场或者出示。该人应到场并出示所需的经核证的文件或任何其他物件的副本。

如果警察收到任何经核证的文件或任何其他物件的副本，则应向其收到该文件或该物件的人签发收据。

(2A) 根据第(2)款被传唤到场或出示与调查案件有关的文件或任何其他物件，拒绝或故意疏忽如此做或在该调查中作证的人，拒绝回答任何提交给他的问题或出示任何与调查有关的文件或任何其他物件，即属犯罪，一经定罪，可处不超过五十万先令的罚金或不超过三年的监禁刑或两者并罚。

(3) 任何进行调查的警察，在符合本部分其他规定的情况下，可以口头询问任何应该了解案件事实和情况的人，并将被询问人作出的任何口供减记为书面形式。整个陈述，包括警察要求澄清的任何问题及其回答，均应全部以被询问时的斯瓦希里语或英语或其他任何语言记录在案。口供应该显示或者向他宣读或者如

果被询问人不理解所写口供内容，则应以他理解的语言向他解释，并且他可以自由地解释或补充他的口供。然后，他应立即在该口供笔录的最后一行下面签名，并可以要求在场的任何人签名，作为其签名的见证人。记录口供的警察应在其记录的每份口供下面附上以下证明：

“我.....，特此声明，我已忠实准确地记录了上述.....的口供”。

(4) 询问前，警察有义务告知，被询问人必须如实回答警察提交给他的与案件有关的所有问题，并且他不得拒绝回答任何问题，理由仅是这个问题倾向于使他受到刑事指控、被处罚金或没收财产。

(5) 警察或当局者不得向任何被控罪行的人提供或作出任何引诱、威胁或承诺，以诱使他就对他的控罪作出任何陈述。但任何警察或当局者不得以任何警告或任何其他方式阻止或劝阻任何人在任何调查过程中作出任何他可能自愿作出的陈述。

(6) 任何人在调查过程中向警察所作的陈述，可按照当其时有效的有关证据举证和采纳程序规定使用，但不得用于印证该人在法庭上的证词。

(7) 在根据本法进行的任何诉讼程序中，第九条所述信息或根据本条记录的任何陈述的经核证副本的出示，应作为所提供信息或警察所记录陈述事实的初步证据；尽管有其他成文法的规定，但无须纯粹为出示核证副本的目的而请该警察作为证人出庭作证。

### *(b) Arrests and Warrant of Arrest*

#### *(b) 逮捕和逮捕令*

11.-(1) In making an arrest the police officer or other person making the arrest shall actually touch or confine the body of the person being arrested unless there be a submission to the custody by word or action.

(2) If the person to be arrested forcibly resists the endeavour to arrest him, or attempts to evade the arrest, the police officer or other person may use all means necessary to effect the arrest.

第十一条【逮捕、逮捕的方式】



(1) 逮捕时，警察或者其他实施逮捕的人应当触碰或者限制被逮捕人的身体，除非其有口头或者行动上的交付羁押的意思表示。

(2) 被逮捕人强行抗拒逮捕或者企图逃避逮捕的，警察或者其他人员可以采取一切必要手段实施逮捕。

12. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

第十二条【禁止不必要的拘留】

对被逮捕的人，不得超过防止其逃跑的必要限度。

13.-(1) Where information under oath is laid before a magistrate, Ward Secretary or a Secretary of a Village Council, alleging that there are reasonable grounds for believing that a person has committed an offence—

(a) the magistrate, the Ward Secretary or the Secretary of a Village Council, as the case may be, if the person is not then under restraint, but subject to subsection (3), may issue a warrant for the arrest of the person and for bringing him before a court specified in the warrant to answer to the information and to be further dealt with according to law; or

(b) the magistrate, the Ward Secretary or the Secretary of a Village Council, as the case may be, may issue a summons requiring the person to appear before a court to answer to the information.

(2) At any time after a magistrate, Ward Secretary or Secretary of a Village Council has issued a summons requiring a person to appear before a court to answer to an information under subsection (1) and before the summons has been duly served on the person, the Magistrate, Ward Secretary or Secretary of the Village Council, as the case may be, subject to subsection (3), issue a warrant for the arrest of the person and for bringing him before a court specified in the warrant to answer to the information and to be further dealt with according to law.

(3) A warrant shall not be issued under subsection (1) or (2) in relation to an information unless—

(a) an affidavit has been furnished setting out the grounds on which the issue of



the warrant is being sought;

(b) the informant or some other person furnishes such further information as the magistrate, Ward Secretary or Secretary of the Village Council requires concerning the grounds on which the issue of the warrant is being sought; or

(c) the magistrate, Ward Secretary or Secretary of the Village Council is satisfied that there are reasonable grounds for issuing the warrant.

(4) Where an informant furnishes information to a magistrate, Ward Secretary or Secretary of the Village Council for the purposes of subsection (3)(b) he shall furnish the information under oath.

(5) Where the magistrate, Ward Secretary or Secretary of the Village Council issues a warrant under subsection (1), he shall state on the affidavit furnished to him in accordance with subsection (3) which of the grounds (if any) specified in that affidavit and particulars of any other grounds on which he has relied to justify the issue of the warrant.

### 第十三条 【逮捕令】

(1) 如向裁判官、选区区长或村议会议长提供宣誓后的信息，声称有合理理由相信某人已犯了罪行 -

(a) 如有上述情况，该人未被拘禁，但根据第 3 款规定，裁判官、选区区长或村议会议长可发出对该人的逮捕令并带他至逮捕令指明的法院就有关信息作出回应和依法作进一步处理。或

(b) 裁判官、选区区长或村议会议长 (如有上述情况) 可发出传票，要求该人出庭就有关信息作出回应。

(2) 在传票发出要求某人出庭以回答根据第 (1) 款提供的信息之后，而在该传票已妥为送达该人之前的任何时候，视情况而定，裁判官、选区秘书或村议会议秘书可根据第 (3) 款的规定，发出逮捕令，以逮捕该人并将他带到逮捕令所指明的法院，以回应有关信息及进一步依法处理。

(3) 逮捕令不得根据第 (1) 或 (2) 款有关信息发出，除非

(a) 已提供宣誓书，列明发出逮捕令的理由；

(b) 举报人或其他人提供裁判官、选区区长或村议会议长所要求的有关发出

令状理由的进一步信息；或

(c) 裁判官、选区区长或村议会议长相信有合理理由发出逮捕令。

(4) 举报人如为第(3)(b)款的目的向裁判官、选区区长或村议会议长提供信息，须在宣誓后提供。

(5) 如果裁判官、选区区长或村议会议长根据第(1)款发出逮捕令，他应在上述法令中陈述根据第(3)款向他提供的誓章，即该誓章所指明的理由（如有的话），以及他所依据的任何其他理由的详情，以证明签发逮捕令是正当的。

14. A police officer may without a warrant arrest—

(a) any person who commits a breach of the peace in his presence;

(b) any person who wilfully obstructs a police officer while in the execution of his duty, or who has escaped or attempts to escape from lawful custody;

(c) any person in whose possession anything is found which may reasonably be suspected to be stolen property or who may reasonably be suspected of having committed an offence with reference to such thing;

(d) any person whom he finds lying or loitering in any highway, yard or garden or other place during the night and whom he suspects upon reasonable grounds of having committed or being about to commit an offence or who has in his possession without lawful excuse any offensive weapon or housebreaking implement;

(e) any person for whom he has reasonable cause to believe a warrant of arrest has been issued;

(f) any person whom he suspects upon reasonable grounds of having been concerned in any act committed at any place out of Tanzania which, if committed in Tanzania, would have been punishable as an offence, and for which he is, under the Extradition Act, or otherwise, liable to be apprehended and detained in Tanzania;

(g) any person who does any act which is calculated to insult the national emblem or the national flag;

(h) any person whom he suspects of being a loiterer.

(3) Where a person who has been arrested for an offence in accordance with subsection (1) or (2) is being held under restraint in connection with an investigation

of the offence but has not been charged with the offence, it shall be lawful to continue to hold the person under restraint for so long only as the police officer in charge of the investigation believes on reasonable grounds that it is necessary to hold him under restraint for any one or more of the reasons specified in subsections (1) and (2).

第十四条【无逮捕令的警方逮捕】

警察可在没有逮捕令的情况下，逮捕

- (a) 在自己面前犯扰乱治安罪的任何人；
- (b) 故意妨碍警察执行职务，逃避或者企图逃避法定羁押的任何人；
- (c) 在其管有权内发现可合理怀疑为失窃的财物，或可合理怀疑就该等财物已犯了罪行的任何人；
- (d) 发现在夜间躺或游荡在公路上、庭院、花园或其他地方以及基于已经实施犯罪或即将实施犯罪的合理怀疑的任何人或者在自己财产中无合法的理由拥有任何进攻性武器或入室盗窃工具的任何人；
- (e) 有合理理由认为逮捕令已被签发的任何人；
- (f) 基于合理怀疑在坦桑尼亚境外任何地方犯下任何相关行为的任何人，对这种行为，如果在坦桑尼亚境内犯下该罪行，将被判处犯罪，并根据“引渡法”或其他法律可在坦桑尼亚被逮捕和羁押；
- (g) 作出任何旨在侮辱国徽或国旗行为的任何人；
- (h) 任何被怀疑是游荡者的人。

(3) 凡因触犯第(1)或(2)款而被捕的人士，因调查该项罪行而被拘禁，但并无被控犯有该项罪行，只有当负责调查的警察基于合理理由认为有必要因第(1)、(2)款所指明的任何一项或多项理由而保持对他的拘禁时，将该人置于拘禁之下一段时间才是合法的。

15. When any officer in charge of a police station requires any officer subordinate to him to arrest without a warrant (otherwise than in such officer's presence) any person who may lawfully be arrested without a warrant under section 14, he shall deliver to the officer required to make the arrest an order in writing specifying the person to be arrested and the offence or other cause for which the arrest is to be made.

第十五条【警方在没有逮捕令的情况下委派下属实施逮捕的程序】

任何主管警署的人员，如要求其下属在没有逮捕令的情况下（在该人员在场的情况下除外）逮捕任何可在没有第十四条所指的逮捕令的情况下合法逮捕的人，须向该名被要求逮捕的人员交付书面命令，指明将被逮捕的人和逮捕的罪行或其他原因。

16.-(1) Any private person may arrest any person who in his presence commits any of the offences referred to in section 14.

(2) A person found committing an offence involving injury to property may be arrested without a warrant by the owner of the property or his servants or a person authorised by the owner of the property.

#### 第十六条【无逮捕令的私人逮捕】

(1) 任何私人可逮捕任何当场犯第十四条所提述的任何罪行的人。

(2) 任何人如被发现涉及财产损害的罪行，可由该财产的所有人或其雇员或该财产的所有人授权的人在无逮捕令的情况下将其逮捕。

17. Any magistrate may at any time arrest or issue a warrant directing the arrest of any person whom he reasonably believes has committed an offence within the local limits of his jurisdiction.

#### 第十七条【裁判官逮捕】

任何裁判官可随时逮捕或发出逮捕令，指示逮捕他合理地认为在其管辖范围内犯下罪行的任何人。

18. When any offence is committed in the presence of a magistrate within the local limits of his jurisdiction he may himself arrest or order any person to arrest the offender and may, subject to the provisions of this Act relating to the granting of bail, commit the offender to custody.

#### 第十八条【裁判官可当场逮捕实施犯罪的当事人】

当场实施任何罪行，在其司法管辖权范围内的裁判官可以自己逮捕或命令任何人逮捕罪犯，并可根据本法关于准予保释的规定将罪犯羁押。

19.-(1) If any person acting under a warrant of arrest or any police officer having authority to arrest, has reason to believe that the person to be arrested has entered into or is within any house or place, that person or police officer shall demand

of the person residing in or being in charge of the house or place admission into that house or place, and the person residing in or in charge of it shall allow him free entry into and afford all reasonable facilities for a search, within that house or place.

(2) If entry into that house or place cannot be obtained under subsection (1), it shall be lawful in any case for a person acting under a warrant, and in any case in which a warrant may issue but cannot be obtained without affording the person to be arrested an opportunity to escape, for a police officer, to enter the house or place and search within it and, in order to effect entry, to break any outer or inner door or window whether that of the person to be arrested or of any other person or otherwise effect entry into such house or place, if after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance, subject to subsection (3).

(3) If any such house or place is in an apartment in the actual occupancy of a woman (not the person to be arrested) who, according to custom, does not appear in public, the person or police officer shall, before entering the apartment, give notice to the woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

**第十九条【进入任何地方以实施逮捕的权利】**

(1) 任何根据逮捕令行事的人，或任何有权实施逮捕的警察，如有理由相信被逮捕者已进入或在任何房屋或场所内，则该人或警察应要求居住或管理该房屋或场所的人允许其进入该房屋或场所，而居住或管理者应容许其自由进入该房屋或场所，并提供一切合理设施，以便在该房屋或场所内进行搜查。

(2) 如不能根据第(1)款进入该房屋或场所，则在任何情况下，根据逮捕令行事的人，以及在任何可发出逮捕令，不给被逮捕者逃脱机会，但不能取得逮捕令的情况下，警察进入房屋或场所在内进行搜查，并且，为实施进入，打破任何内外的门或窗，无论是被逮捕者或任何其他人的门或窗，或以其他方式进入该房屋或场所都是合法的。如申请人在获正式通知其权限、目的及获准入的要求后，除第(3)款另有规定外，不能以其他方式获得准入。

(3) 如果任何此类房屋或场所在公寓内，而该公寓实际占用的女性（不是被

捕者)根据习俗不宜公开出现,则该人或警察在进入公寓之前应通知该女性可以自由离开,并应为她提供一切合理的撤离设施,然后可以破门进入公寓。

20. Any police officer or other person authorised to make an arrest may break out of any place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained inside the place.

**第二十条【为解救目的而突围任何地方的权力】**

警察和其他被授权实施逮捕的人,可从任何场所、地方突围出来,为解救自己或者任何其他为了逮捕而合法进入,被扣留在该场所、地方的人。

21.- (1) A police officer or other person shall not, in the course of arresting a person, use more force or subject the person to greater indignity than is necessary to make the arrest or to prevent the escape of the person after he has been arrested.

(2) Without limiting the application of subsection (1), a police officer shall not, in the course of arresting a person, do an act likely to cause the death of that person, unless the police officer believes on reasonable grounds that the doing of that act is necessary to protect life or to prevent serious injury to some other person.

**第二十一条【使用武力进行逮捕】**

(1) 警察或其他人员在执行逮捕任务时不得使用比逮捕或者阻止被逮捕者逃跑所必需的更大的武力或者更大的侮辱。

(2) 在不限制第(1)款适用范围的情况下,警察在实施逮捕过程中,不得作出可能导致该人死亡的行为,除非警察有合理理由相信,为了保护生命或防止对他人造成严重伤害,有必要作出这种行为。

22. Where a person who arrests another person for an offence otherwise than in pursuance of a warrant but in circumstances referred to in section 16, the arrest shall not be taken to be unlawful by reason only that it subsequently appears, or is found by a court, that the other person did not commit the offence.

**第二十二条【不视为非法的逮捕】**

因他人犯罪,非依据逮捕令而是依据第十六条所述的情况逮捕他人,逮捕不应因后来显现或法院认定他人没有犯罪而被视为非法。

23.-(1) A person who arrests another person shall, at the time of the arrest, inform



that other person of the offence for which he is arrested.

(2) A person who arrests another person shall be taken to have complied with subsection (1) if he informs the other person of the substance of the offence for which he is arrested; and it is not necessary for him to do so in a language of a precise or technical nature.

(3) Subsection (1) does not apply to or in relation to the arrest of a person—

(a) if, by reason of the circumstances in which he is arrested, that person ought to know the substance of the offence for which he is arrested; or

(b) if by reason of his actions the person arrested makes it impracticable for the person effecting the arrest to inform him of the offence for which he is arrested.

第二十三条【被告知逮捕理由的犯罪嫌疑人】

(1) 逮捕他人的人，应当在逮捕时将逮捕的犯罪事实告知被逮捕人。

(2) 逮捕他人的人如果告知他人所逮捕罪行的实质内容，则应视为已遵守第(1)款的规定；并且他没有必要用一种精确的或技术性的语言来表达。

(3) 第(1)款并不适用于或就逮捕某人而言，

(a) 如该人因其被逮捕的情况而应知道其被逮捕罪行的实质；或

(b) 如该人因其行为而使实施逮捕的人无法告知他所犯的罪行。

24. Whenever a person is arrested—

(a) by a police officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail; or (b) without a warrant, or by a private person under a warrant, and the person arrested cannot legally be admitted to bail or cannot furnish bail, the police officer making the arrest or, when the arrest is made by a private person, the police officer to whom that private person makes over the person arrested, may search such person and place in safe custody all articles, other than necessary wearing apparel, found upon him.

第二十四条【搜查被捕者】

任何人被捕时

(a) 警察根据没有规定保释的逮捕令或根据规定保释的逮捕令但被逮捕者不



能提供保释；或

(b) 没有逮捕令，或由私人根据逮捕令逮捕，而被捕者不能合法地获准保释或者不能提供保释，执行逮捕的警察或由私人实施逮捕，并将被捕者转交给的警察，除必需穿著的衣服外，在该名人士身上发现的所有物品，均可搜查，并妥善保管。

25.-(1) Subject to the provisions of sections 50 and 51 of this Act, any police officer may do any or all of the following things namely, stop, search and detain—

(a) any vessel, boat, aircraft or vehicle in or upon which there is reasonable cause to suspect that there are—

(i) any stolen goods;

(ii) any things used or intended to be used in the commission of an offence;

(iii) without lawful excuse, any offensive weapons, an article of disguise or any article prohibited under any law;

(b) any person who is reasonably suspected of having or conveying in any manner any of the articles mentioned in paragraph (a).

(2) Subject to the provisions of subsection (3), if at the expiry of

the time referred to in section 50 for interviewing a person no application for extension of time is made or if the application is made and refused, the vessel, boat, aircraft, vehicle, or the person, as the case may be, shall be released and in the case of the latter, any goods seized from him shall be restored to him.

(3) Where the time for interviewing a person is extended pursuant to an appropriate application referred to in subsection (2), a magistrate shall, where it is necessary, order that any vessel, boat, aircraft or vehicle be detained in order to facilitate further investigation or for use as an exhibit in court proceedings.

**第二十五条【警察扣押和搜查车辆等的权力】**

(1) 根据本法第五十条和第五十一条的规定，任何警察均可执行下列任何或全部任务，即：阻止、搜查和扣押—

(a) 任何船舶、船只、飞机或车辆有合理理由怀疑其上有 -

(i) 任何赃物；

(ii) 使用于或拟用于犯罪的任何物品；

(iii) 没有合法辩解，任何进攻性武器、伪装物品或任何法律禁止的物品；

(b) 合理地怀疑拥有或以任何方式运送 (a) 段提及的任何物品。

(2) 在符合第 (3) 款规定的情况下，如在第五十条所指的讯问期间届满时，并无提出延长时间的申请或者如果提出申请并被拒绝，则应当视情况而定，释放船舶，船只，飞机，车辆或人，而就后者而言，从他身上扣押的任何货物均应归还被扣押人。

(3) 根据第 (2) 款所提述的适当申请而延长讯问某人的时间。

如有需要，裁判官须命令扣押任何船舶、船只、飞机或车辆，以便进行进一步调查或在法庭程序中用作证物。

26. Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

#### 第二十六条【搜查女性的方式】

无论何时需要搜查一名女性，应由另一名女性在严格遵守礼仪的情况下进行搜查。

27. A police officer or other person making an arrest may take from the person arrested any offensive weapons which he has about his person, and shall deliver to the court or officer before which or whom the officer or person making the arrest is required by law to produce the person arrested all weapons taken.

#### 第二十七条【夺取进攻性武器的权力】

警察或其他逮捕者可从被捕者身上取走他所拥有的关于他自己的任何攻击性武器，并应交付法院或警察。警察或实施逮捕的人应按法律要求在法庭或警察面前出示被逮捕者的所有武器。

28. Any officer in charge of a police station may in like manner arrest or cause to be arrested—

(a) any person found taking precautions to conceal his presence within the limits of the station under circumstances which afford reason to believe that he is taking such precautions with a view to committing an arrestable offence;

(b) any person within the limits of the station who has no ostensible means of subsistence or who cannot give satisfactory account of himself;

(c) any person who is by repute a habitual robber, housebreaker, or thief or a habitual receiver of stolen property knowing it to be stolen, or who by repute habitually commits extortion or in order to commit extortion habitually puts or attempts to put persons in fear of injury.

第二十八条【逮捕流浪者、习惯性劫犯等】

任何任职于警署的警官都可以同样的方式逮捕或促使逮捕 -

(a) 发现有人采取预防措施以掩饰他在警署范围内的存在，在有理由相信他采取这种预防措施是为了犯下可逮捕罪行的情况下，

(b) 在该警署范围内没有明显的谋生手段或对自己的情况无法作出令人满意的交代的任何人；

(c) 习惯性劫犯、入室行窃者、窃贼或明知赃物将被偷走而惯于接受赃物的人，或以惯犯敲诈勒索或为了敲诈勒索习惯性地使人或企图使人害怕受到伤害的人。

29.-(1) When any person who in the presence of a police officer has committed or has been accused of committing a warrant offence refuses on the demand of the officer to give his name and residence, or gives a name or residence which the officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

(2) When the true name and residence of the person have been ascertained he shall be released on his executing a bond, with or without sureties, to appear before a court if so required; but if such person is not resident in Tanzania the bond shall be secured by a surety or sureties resident in Tanzania.

(3) Should the true name and residence of that person not be ascertained within twenty-four hours from the time of arrest, or should he fail to execute the bond or, if so required, to furnish sufficient sureties, he shall forthwith be taken to a court having jurisdiction.

第二十九条【拒绝提供姓名和居住地】

(1) 在警察在场实施或被控实施了令状罪行的任何人拒绝根据警察的要求提供姓名和居住地或者提供警察有理由认为是虚假的姓名和居住地的，可以由该警察逮捕，以便查明他的姓名或居住地。

(2) 被执行人的真实姓名、居住地已经查明的，在执行有保证人或者没有保证人的担保时，应当释放，必要时可以到庭；但非坦桑尼亚居民的，由居住在坦桑尼亚的一个或多个担保人担保。

(3) 被逮捕人的真实姓名、居住地自被逮捕之日起二十四小时内不能查明的，或者未能执行担保，或者在必要时未提供足够的担保人的，应当立即将其送交有管辖权的法院。

30. A police officer making an arrest without a warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail take or send the person arrested before a court having jurisdiction in the area of the police station.

### 第三十条【处置被警方逮捕的人】

警察在没有逮捕令的情况下实施逮捕，应当按照本法关于保释的规定，不受不必要的拖延，将被逮捕人带到警署辖区内有管辖权的法院。

31.- (1) Any private person arresting a person without a warrant shall without unnecessary delay hand over the person so arrested to a police officer or to the nearest police station or, in the absence of either, to the Ward Secretary or the Secretary of the Village Council for the area where the arrest is made.

(2) If there is no reason to believe that the provisions of section 14, do not apply to the person arrested, a police officer shall re-arrest him.

(3) If there is reason to believe that the person arrested has committed a warrant offence, and he refuses on the demand of a police officer to give his name and residence, or gives a name or residence which the officer has reason to believe to be false, he shall be dealt with under the provisions of section 29; but if there is no sufficient reason to believe that he has committed any offence he shall be at once released.

### 第三十一条【处置被私人逮捕的人】

(1) 任何个人在没有逮捕令的情况下逮捕他人，应立即将被逮捕者移交给警察或就近的警署，或者在没有任何一方的情况下，向被逮捕地区的选区区长或村议会议长移交。

(2) 没有理由认为第十四条的规定不适用被逮捕人的，应当重新逮捕。

(3) 如有理由相信被逮捕人已犯有令状罪行，而他拒绝根据警察的要求提供他的姓名和居住地，或提供警察有理由认为是虚假的姓名或居住地，应根据第二十九条的规定处理；但如果没有充分的理由认为他犯了任何罪行，应立即予以释放。

32.-(1) When any person has been taken into custody without a warrant for an offence other than an offence punishable with death, the officer in charge of the police station to which he is brought may, in any case, and shall if it does not appear practicable to bring him before an appropriate court within twenty-four hours after he was so taken into custody, inquire into the case and, unless the offence appears to that officer to be of a serious nature, release the person on his executing a bond with or without sureties, for a reasonable amount to appear before a court at a time and place to be named in the bond; but where he is retained in custody he shall be brought before a court as soon as practicable.

(2) Where any person has been taken into custody without a warrant for an offence punishable with death, he shall be brought before a court as soon as practicable.

(3) Where any person is arrested under a warrant of arrest he shall be brought before a court as soon as practicable.

(4) Notwithstanding anything contained in subsections (1), (2) and (3), an officer in charge of a police station may release a person arrested on suspicion of committing any offence if after due police inquiry insufficient evidence is, in his opinion, disclosed on which to proceed with a charge.

### 第三十二条【羁押被捕者】

(1) 任何人在没有逮捕令的情况下被羁押，而不是可判处死刑的罪行，如果将被羁押者自羁押时起 24 小时内带至适当的法院不切实际，则无论如何，其被带至的警署负责人应该查讯案件，并且，除非警署负责人认为该罪行具有严重性质，否则应释放执行以合理数额在所指定的时间和地点出庭的担保的被羁押者，无论是否有保证人或无保证人，但在实际可行的情况下，须尽快将他送交法院。

(2) 任何人在没有逮捕令的情况下被羁押，因为可判处死刑的罪行，须在切实可行的情况下尽快送交法院。

(3) 任何人根据逮捕令被捕，则应在切实可行的范围内尽快将其送交法院。

(4) 虽有第(1)、(2)及(3)款所载的规定，但警署负责人如认为在适当的警务查讯后，没有足够的证据披露可就哪项控罪进行检控，仍可释放涉嫌犯任何罪行而被捕的人。

33. An officer in charge of a police station shall report to the nearest magistrate, within twenty-four hours or as soon as practicable, the cases of all persons arrested without a warrant within the limits of his station, whether or not such persons have been admitted to bail.

**第三十三条【警察报告逮捕】**

警署负责人须在二十四小时内，或在切实可行的情况下，尽快向就近的裁判官报告所有在辖区范围内无令状而被捕者的案件，不论被逮捕者是否已获准保释。

*(c) Escape and Retaking*

(c) 脱逃与回捕

34. If a person in lawful custody escapes or is rescued, the person from whose custody he escapes or is rescued may immediately pursue and arrest him in any place in Tanzania.

**第三十四条【重新抓获脱逃者】**

被依法羁押的人脱逃或者被营救的，可以立即在坦桑尼亚的任何地方追捕、逮捕。

35. The provisions of sections 19 and 20 shall apply to arrests under section 34 although the person making any such arrest is not acting under a warrant and is not a police officer having authority to arrest.

**第三十五条【第十九条和二十条的规定适用于根据第三十四条进行的逮捕】**

第十九条和二十条的规定应适用于根据第三十四条进行逮捕的人，虽然进行逮捕的人不是根据逮捕令行事，也不是有权实施逮捕的警察。

36. Every person is bound to assist a magistrate or police officer reasonably demanding his aid—

(a) in taking or preventing the escape of any person whom the magistrate or police officer is authorised to arrest; or

(b) in the prevention or suppression of a breach of the peace, or in the prevention of any injury attempted to be committed to any railway, canal, telegraph or other public property.

第三十六条【协助裁判官或警察防止被捕者逃跑的责任】

任何人有责任协助裁判官或警察合理地要求他的协助：

(a) 逮捕或阻止任何获裁判官或警察有权逮捕的人逃走；或

(b) 防止或制止对治安的妨害，或防止企图对任何铁路、运河、电报或其他公共财产造成的任何伤害。

37.-(1) Where any person suffers material loss or personal injury, or dies in consequence of taking steps or in the cause of assisting a magistrate, a police officer or any other officer of the law to stop the commission of an offence or in arresting a person who has or is reasonably suspected to have committed an offence, he shall be entitled to receive compensation for the loss or injury and where he dies, his dependants or legal representative shall be entitled to receive the compensation that person would have received had he not died.

(2) The amount of compensation to be paid under subsection (1) shall be assessed, and all other matters regarding the payment of compensation shall be dealt with, in accordance with the provisions of the law for the time being in force regarding the payment of compensation to victims of crime.

(3) Any compensation to be paid under this section shall be paid in such manner and out of such funds as may be prescribed by the law referred to in subsection (2).

第三十七条【对协助警察造成的伤害、损失或死亡的赔偿，等等】

(1) 任何人因为采取措施或协助裁判官，警察或任何其他法律人员而遭受物质损失或人身伤害或死亡，以阻止犯罪或逮捕已经实施犯罪或有合理理由怀疑已经实施犯罪的人，有权就损失或伤害获得赔偿，如果死亡，其家属或法定代理人有权获得其没有死亡就能得到的赔偿。

(2) 根据第(1)款所须支付的赔偿金额须予评估，而所有其他有关支付赔偿的

事宜，均须按照现行有效的有关向犯罪被害人支付赔偿的法律规定处理。

(3) 根据本条须支付的任何赔偿，须以第(2)款所提述的法律所订明的方式及资金支付。

*(d) Search Warrants and Seizure*

(d) 搜查令与扣押

38.-(1) If a police officer in charge of a police station is satisfied that there is reasonable ground for suspecting that there is in any building, vessel, carriage, box, receptacle or place—

(a) anything with respect to which an offence has been committed;

(b) anything in respect of which there are reasonable grounds to believe that it will afford evidence as to the commission of an offence;

(c) anything in respect of which there are reasonable grounds to believe that it is intended to be used for the purpose of committing an offence,

and the officer is satisfied that any delay would result in the removal or destruction of that thing or would endanger life or property, he may search or issue a written authority to any police officer under him to search the building, vessel, carriage, box, receptacle or place as the case may be.

(2) When an authority referred to in subsection (1) is issued, the police officer concerned shall, as soon as practicable, report the issue of the authority, the grounds on which it was issued and the result of any search made under it to a magistrate.

(3) Where anything is seized in pursuance of the powers conferred by subsection (1) the officer seizing the thing shall issue a receipt acknowledging the seizure of that thing, being the signature of the owner or occupier of the premises or his near relative or other person for the time being in possession or control of the premises, and the signature of witnesses to the search, if any.

(4) Whoever, being empowered by law to order, authorise or conduct the search or any person, place, building, vessel, carriage or receptacle, vexatiously and without



having reasonable grounds for doing, orders, authorises or conducts such search is guilty of an offence and upon conviction is liable to a fine not exceeding three thousand shillings or imprisonment for a term not exceeding one year.

(5) No prosecution against any person for an offence under subsection (4) shall be instituted except with the written consent of the Director of Public Prosecutions.

### 第三十八条【发出搜查令或授权搜查的权力】

(1) 如负责警署的警察确信有合理理由怀疑任何建筑物、船只、车厢、箱子、容器或地方有一

- (a) 任何与犯罪有关的事项；
- (b) 有合理理由相信其将提供有关犯罪证据的任何事项；
- (c) 有合理理由相信其意图用作犯罪的任何事项，

并且，警察确信，任何延迟均会导致该事项被移走或毁坏，或危及生命或财产，他可搜查或向其属下的任何警察签发书面授权，搜查上述建筑物、船只、车厢、箱子、容器或地方。

(2) 签发第(1)款所述授权后，有关警察须在切实可行的情况下，尽快向裁判员报告授权的签发、签发的理由及根据授权进行搜索的结果。

(3) 凡依据第(1)款所赋予的权力而扣押任何物件，则扣押该物件的人员须签发收据，确认扣押该物件，该收据须有该物件所有人或占用人或其近亲属或其他暂时占有或控制该物件人的签名，以及搜查证人的签名（如有的话）。

(4) 无论是谁，均应依法律授权命令、授权或搜查任何人、地点、建筑物、船只、车厢或容器。无理由和无合理根据地进行命令、授权或进行搜索，均属犯罪，一经定罪，可处以不超过三千先令的罚金或不超过一年的监禁。

(5) 任何人如触犯第(4)款的罪行，除获检察长书面同意外，不得就该罪行向任何人提出检控。

### 39. For the purposes of this Part—

(a) anything with respect to which an offence has been or is purported on reasonable grounds to have been committed;

(b) anything as to which there are reasonable grounds for believing that it will afford evidence of the commission of any offence; and



(c) anything as to which there are reasonable grounds for believing that it is intended to be used for the purpose of committing any offence, shall be deemed to be a thing connected with the offence.

第三十九条【与犯罪有关的事项】

就本部分而言—

- (a) 与犯罪或据称有合理理由已经实施犯罪有关的任何事项；
- (b) 有合理理由相信其将提供有关犯罪证据的任何事项；
- (c) 有合理理由相信其意图用作犯罪的任何事项，应被视为与犯罪有关的事项。

40. A search warrant may be issued and executed on any day (including Sunday) and may be executed between the hours of sunrise and sunset but the court may, upon application by a police officer or other person to whom it is addressed, permit him to execute it at any hour.

第四十条【执行搜查令】

搜查令可在任何日子(包括星期日)签发及执行,并可在日出至日落期间执行,但经警察或其他接获搜查令的人士申请,法庭可准许他在任何时间执行搜查令。

41. A police officer may search the person or the clothing that is being worn by, or property in the immediate control of, a person and may seize any thing relating to an offence that is found in the course of the search, if the search and seizure is made by the police officer—

- (a) in pursuance of a warrant issued under this Part;
- (b) in accordance with section 24 upon taking the person into lawful custody in respect of an offence; (c) upon stopping the person in accordance with subsection (2) of section 42;
- (d) in pursuance of an order made by a court.

第四十一条【搜查与扣押】

警察可搜查人身或者该人所穿的衣服或直接控制的财产,并可扣押搜查过程中发现的与犯罪有关的任何物件,如果搜查和扣押是由警察作出一

- (a) 依据本部分签发的令状;

(b) 依据第 24 条在就某罪行将该人合法羁押后；

(c) 依据第 42 条第（2）款阻止该人；

(d) 依据法院作出的命令。

42.-(1) A police officer may—

(a) search a person suspected by him to be carrying anything concerned with an offence; or

(b) enter upon any land, or into any premises, vessel or vehicle, on or in which he believes on reasonable grounds that anything connected with an offence is situated, and may seize any such thing that he finds in the course of that search, or upon the land or in the premises, vessel or vehicle as the case may be—

(i) if the police officer believes on reasonable grounds that it is necessary to do so in order to prevent the loss or destruction of anything connected with an offence; and

(ii) the search or entry is made under circumstances of such seriousness and urgency as to require and justify immediate search or entry without the authority of an order of a court or of a warrant issued under this Part.

(2) A police officer who believes on reasonable grounds that that person is carrying an offensive weapon or anything connected with an offence may stop that person and seize any such weapon or thing that is found on the person.

(3) A police officer who believes on reasonable grounds that an offensive weapon, or anything connected with an offence is being carried in a vessel or vehicle, may stop and seize any such weapon or thing found in the vessel or vehicle.

#### 第四十二条【紧急情形下的搜查】

(1) 警察可 -

(a) 搜查涉嫌携带任何与罪行有关物件的人；或

(b) 进入他有合理理由认为与罪行有关的任何事情位于其中的任何土地、任何处所、船只或车辆，并可以扣押他在搜查过程中发现的任何物品。或视属何情况而定，可进入土地、处所、船只、车辆内—

(i) 如果警察有合理理由认为有必要这样做，以防止与罪行有关的任何事项遗失或毁坏；和

(ii) 搜查或进入是在严重和紧急的情况下进行，以致在没有法院命令或根据本部分签发令状的授权下，也需要和有理由立即进行搜查或进入。

(2) 警察有合理理由认为该人携带攻击性武器或任何与罪行有关的物件，可阻止并扣押在该人身上发现的任何此类武器或物件。

(3) 警察有合理理由认为船只或车辆携带进攻性武器或与犯罪有关的任何物件，可阻止并扣押在船只或车辆中发现的任何此类武器或物件。

43.-(1) Whenever any building or other place liable to search is closed, any person residing in or being in charge of that building or place shall, on demand of the police officer or other person executing a search warrant, and on production of the warrant, allow him free ingress into, afford all reasonable facilities for a search inside and allow him free egress from it.

(2) If ingress into or egress from the building or other place cannot be so obtained, the police officer or other person executing the search warrant may proceed in the manner prescribed by section 19 or section 20.

(3) Where any person in or about a building or place is reasonably suspected of concealing about his person any article for which search should be or is being made, he may be searched and if that person is a woman, the provisions of section 26 shall be complied with.

#### 第四十三条【负责封闭场所进出的人员】

(1) 任何可予搜查的建筑物或其它场所被封闭时，居住在该建筑物或管理该建筑物或场所的人，基于警察或其他执行搜查令的人的要求并出示搜查令后，须容许其自由进入，提供一切合理的内部搜查设施，并允许其自由离开。

(2) 如无法获得进出建筑物或其他场所的出入口，则执行搜查令的警察或其他人可按第十九条或第二十条所订明的方式进行。

(3) 凡在建筑物或场所内或附近的任何人有合理理由被怀疑为其隐瞒应搜查或正在搜查的任何物品，可对其进行搜查，如果为女性，则须遵守第二十六条的规定。

44.-(1) When an article is seized and is brought before a court it may, subject to section 353, be detained until the conclusion of the case or the investigation, reasonable

care being taken for its preservation.

(2) If an appeal is made, or if any person is committed for trial, the court may order the article to be further detained for the purpose of the appeal or the trial.

(3) If no appeal is made, or if no person is committed for trial, the court shall direct the article to be restored to the person from whom it was taken, unless the court sees fit or is authorised or required by law to dispose of it in any other manner.

#### 第四十四条【扣押被查获的财产】

(1) 在不违反第三百五十三条的情况下，当物品被查获并送交法院时，可将其扣押至案件结束或调查结束，并对其保存给予合理的注意。

(2) 如果提出上诉，或任何人被送交审判，法院可下令为上诉或审判的目的进一步扣押该物品。

(3) 如果无人提出上诉，或无人受审，除非法院认为合适，或法律授权或要求以任何其他方式处置物品，否则法院须指示将物品归还被扣押人。

45.-(1) The provisions of subsections (1) and (3) of section 112, sections 114, 116, 119, 120 and 121 shall, so far as may be, apply to all search warrants issued under section 38.

(2) Every search warrant shall be returned to the court with an endorsement in it showing the time and manner of its execution and what has been done under it.

#### 第四十五条【适用于搜查令的规定】

(1) 第一百一十二条第(1)款和(3)款、第一百一十四、一百一十六、一百一十九、一百二十和一百二十一条的规定，在可能的情况下，应适用于根据第三十八条签发的所有搜查令。

(2) 每一搜查令须交回法庭，并须在搜查令上背书，显示执行搜查令的时间和方式，以及根据搜查令所作的事情。



## **B. - Powers and Duties of Police Officers when Investigating Offences**

### **B. - 警方刑事侦查的权力和职责**

#### *(a) Preliminary Provisions*

##### *(a) 基本规定*

46.-(1) Where a police officer believes on reasonable grounds that a person whose name and address is unknown to him may be able to assist him in his inquiries in connection with an offence that has been, may have been or may be committed, the police officer may request the person to furnish to him his name and address.

(2) Where a police officer requests a person, under subsection (1), to furnish his name and address and informs the person of his reason for the request, the person—

(a) shall not refuse or fail to comply with the request;

(b) shall not furnish to the police officer a name or address that is false in any material particular;

(c) and may request the police officer to furnish to him his name, rank and ordinary place of duty.

(3) Where a police officer who makes a request of a person under subsection(1) is requested by the person, pursuant to paragraph (c) of subsection(2) to furnish to the person his name, rank and place of duty the police officer—

(a) shall not refuse or fail to comply with the request;

(b) shall not furnish to the person a name or rank that is false in a material particular; and

(c) shall not furnish to the person as his place of duty an address other than the full and correct address of the place that is his ordinary place of duty.

(4) Any person who contravenes this section is guilty of an offence and shall, on conviction, be liable to imprisonment for a term not exceeding six months or to a fine

not exceeding two thousand shillings or to both such fine and imprisonment.

第四十六条【要求提供姓名和地址】

(1) 警察有合理理由认为，其姓名和地址不明的人可能能够协助其调查与已经、可能已经或可能发生的犯罪有关的情况，警察可要求该人向其提供他的姓名和地址。

(2) 警察根据第(1)款要求某人提供他的姓名及地址，并告知该人他的要求理由，该人一

(a) 不得拒绝或不遵守该要求；

(b) 不得向警察提供任何详情方面虚假名称或地址；和

(c) 可要求警察向他提供他的姓名、职级和通常的工作地点。

(3) 凡根据第(1)款向某人提出要求的警察被该人要求根据第(2)款(c)段向该人提供其姓名、职级和工作地点，则该警察 -

(a) 不得拒绝或不遵从该要求；

(b) 不得向该人提供在详情上属虚假的姓名或职级，和

(c) 不得向该人提供其正常职位所在地的完整及正确地址以外的地址作为其职位。

(4) 任何人违反本条，即属犯罪，一经定罪，可处以不超过六个月的监禁或不超过两千先令的罚金或上述罚金及监禁并罚。

47. Every police officer may intervene for the purpose of preventing, and shall to the best of his ability prevent, a breach of the peace or the commission of any arrestable offence.

第四十七条【警察防止治安妨害或可逮捕罪行的实施】

警察可出于预防目的进行干预，并应尽其所能防止治安妨害或任何可逮捕罪行的实施。

*(b) Duration of Custodial Investigation by Police*

*(b) 警察羁押调查期*

48.-(1) Where a person is, or has been, under restraint in respect of an offence, a



police officer may—

- (a) ask the person questions; or
- (b) take other investigative action,

in connection with the investigation of the offence, during a period available for interviewing the person but not otherwise.

(2) The provisions of this Act relating to a period available for interviewing a person shall not be taken—

(a) to make lawful the holding of the person under restraint during any period during which it would, but for those provisions, be unlawful to hold him under restraint; or

(b) to authorise the asking of any questions or the taking of other investigative action in relation to the person during a period during which it would, but for those provisions, be unlawful to hold him under restraint.

#### 第四十八条【讯问的限制】

(1) 如某人因罪行被拘禁或已经被拘禁，警察可 -

- (a) 向该人提出问题；或
- (b) 采取其他调查行动，

就罪行的调查而言，须在有效的讯问期间内进行，但不得另作安排。

(2) 本法关于讯问期间规定，不得视为 -

(a) 在任何期间内将该人置于拘禁之下是合法的，但在除上述规定外，将他置于拘禁之下是非法的；

(b) 授权在该期间内就该人提出任何问题或采取其他调查行动，但在除上述规定外，将他置于拘禁之下是非法的。

49. A police officer shall not take under restraint in respect of any offence a person who has previously been under restraint in respect of the offence—

(a) unless he does so in consequence of matters that have come to the knowledge of the police officer in charge of investigation of the offence only after the person last ceased to be under restraint; or

(b) unless a reasonable period has elapsed since the person last ceased to be under



restraint.

第四十九条【禁止拘禁时间】

警察不得就任何罪行拘禁以前曾就该罪行被拘禁的人 -

(a) 除非这样做是由于在最后一次停止拘禁该人后，这样的事实才被负责调查该罪行的警察知悉。或

(b) 除非自该人最后一次停止受拘禁以来已经过了一段合理的时期。

50.-(1) For the purpose of this Act, the period available for interviewing a person who is in restraint in respect of an offence is—

(a) subject to paragraph (b), the basic period available for interviewing the person, that is to say, the period of four hours commencing at the time when he was taken under restraint in respect of the offence;

(b) if the basic period available for interviewing the person is extended under section 51, the basic period as so extended.

(2) In calculating a period available for interviewing a person who is under restraint in respect of an offence, there shall not be reckoned as part of that period any time while the police officer investigating the offence refrains from interviewing the person, or causing the person to do any act connected with the investigation of the offence—

(a) while the person is, after being taken under restraint, being conveyed to a police station or other place for any purpose connected with the investigation;

(b) for the purpose of—

(i) enabling the person to arrange, or attempt to arrange, for the attendance of a lawyer;

(ii) enabling the police officer to communicate, or attempt to communicate with any person whom he is required by section 54 to communicate in connection with the investigation of the offence;

(iii) enabling the person to communicate, or attempt to communicate, with any person with whom he is, under this Act, entitled to communicate; or

(iv) arranging, or attempting to arrange, for the attendance of a person who, under



the provisions of this Act is required to be present during an interview with the person under restraint or while the person under restraint is doing an act in connection with the investigation;

(c) while awaiting the arrival of a person referred to in subparagraph (iv) of paragraph (b); or

(d) while the person under restraint is consulting with a lawyer.

第五十条【有效的讯问期间】

(1) 就本法而言，讯问因罪行受拘禁者的期间是：

(a) 在符合 (b) 段的规定下，讯问的基本有效期间自该人就该罪行被拘禁时起计的 4 小时；

(b) 如根据第五十一条延长讯问的基本有效期间，则基本有效期间相应延长。

(2) 在计算就某罪行被拘禁者的询问期间时，调查该项罪行的警察避免讯问该人，或令该人作出与调查该项罪行有关的任何行为 - 的时间不应被视为该期间的一部分。

(a) 当该人受到拘禁后，出于与调查有关的任何目的被送往警署或其他地方时；

(b) 为以下目的一

(i) 使该人能够安排或尝试安排，律师的参与；

(ii) 使警察能够就有关罪行调查与根据第五十四条所要求的任何人进行沟通或尝试与其进行沟通；

(iii) 使该人能够与根据本法有权沟通的任何人沟通或尝试沟通；或

(iv) 安排或尝试安排根据本法规定，在与受拘禁者会见期间或受拘禁者在进行与罪行调查有关的行为期间被要求在场的人在场

(c) 在等待 (b) 段 (iv) 分段提及的人的到来时；或

(d) 受拘禁者正在咨询律师时。

51.-(1) Where a person is in lawful custody in respect of an offence during the basic period available for interviewing a person, but has not been charged with the offence, and it appears to the police officer in charge of investigating the offence, for reasonable cause, that it is necessary that the person be further interviewed, he may-

(a) extend the interview for a period not exceeding eight hours and inform the person concerned accordingly; or

(b) either before the expiration of the original period or that of the extended period, make application to a magistrate for a further extension of that period.

(2) A police officer shall not frivolously or vexatiously extend the basic period available for interviewing a person, but any person in respect of whose interview the basic period is extended pursuant to paragraph (a) of subsection (1), may petition for damages or compensation against frivolous or vexatious extension of the basic period, the burden of proof of which shall lie upon him.

(3) Where a magistrate to whom application has been made by a police officer under subsection (1), after having afforded the person, or a lawyer acting on his behalf, an opportunity to make submissions in relation to the application, is satisfied—

(a) that the person is in lawful custody;

(b) that the investigation of the offence by the police officer has been, and is being carried out as expeditiously as possible; and

(c) that it would be proper, in all circumstances to extend the relevant period,

(d) the magistrate may extend that period for such further period as he may deem reasonable.

#### 第五十一条【羁押调查无法在四小时内完成的】

(1) 如某人在有效讯问的基本期间内就某项罪行被合法羁押，但尚未被控该罪行，并且负责调查该罪行的警察认为，由于合理的理由，有必要对该人进行进一步的询问，他可能 -

(a) 将讯问延长不超过八小时，并据此通知有关的人；或

(b) 在原有期间届满或延长期间届满之前，向裁判官提出申请，要求再延长该期间。

(2) 警察不得轻率或无理地延长讯问的基本期限，但任何根据第(1)款(a)段规定被延长基本讯问期限的人，均可就无关紧要或无理延长基本询问期申请损害赔偿或补偿，举证责任由其承担。

(3) 警察根据第 (1) 款向裁判官提出申请，裁判官在给予该人或代表其行事的律师就该申请作出申述的机会后，令其确信 -

- (a) 该人被合法羁押；
- (b) 警察对该罪行的调查已经并且正在尽快进行；和
- (c) 在所有情况下延长有关期限是适当的；
- (d) 裁判官认为合理，可将该期限再延长一段时间。

*(c) Duties when Interviewing Suspects*

(c) 讯问犯罪嫌疑人的职责

52.-(1) Where a police officer suspects that a person may have committed a serious offence, or believes that information has been received by the police that may implicate a person in the commission of a serious offence, but that suspicion or belief is not such as would, under section 14, justify the arrest of the person without warrant, the police officer shall not ask him any questions, unless he has first informed him that he may refuse to answer any questions put to him by the police officer.

(2) A police officer who informs a person as provided under subsection (1) shall ask him to sign or thumb print an acknowledgement, in accordance with a prescribed form, of the fact that he has been so informed and of the date on which, and the time at which, he is so informed.

(3) Where it is necessary for a court, in any proceedings, to determine whether a police officer has informed a person as required by subsection (1), and an acknowledgement referred to in subsection (2) and signed by the person is not produced in evidence, the court shall assume, unless the contrary is proved, that the person was not so informed.

(4) Notwithstanding the provisions of subsections (1) to (3), where a police officer in the course of interrogating any person under this section believes that there is sufficient evidence to warrant that a person being charged with an offence, he shall proceed to charge him accordingly and caution him in writing and if practicable orally

in the prescribed manner, and to inform him that an inference adverse to him may be drawn from his failure or refusal to answer any question or from his failure or refusal to disclose at that stage any matter which may be material to the charge.

第五十二条【讯问犯罪嫌疑人】

(1) 如果警察怀疑某人可能犯了严重罪行，或认为警方收到的信息可能涉及某人犯下严重罪行，但根据第十四条，这种怀疑或信念并不足以作为在没有逮捕令的情况下逮捕此人的合理理由，警察不得向他提出任何问题，除非警察先告知他可以拒绝回答警察提出的任何问题。

(2) 警察通知第(1)款所指的人，须要求该人按照订明表格签署或拇指印上一份确认书，以确认他已获如此通知的事实、日期及时间。

(3) 凡法院在任何法律程序中有需要裁定警察是否已按第(1)款的规定通知某人，而第(2)款所提述并由该人签署的确认书并非作为证据而出示，则法院应认定，除非有相反的证据，该人并未如此告知。

(4) 尽管有第(1)至(3)款的规定，但在根据本条讯问的过程中，警察认为有足够证据证明某人被控犯罪，他须据此指控他并以书面形式警告提醒他，如可行，以规定的方式口头警告提醒他，并告知他，如他未能或拒绝回答任何问题，或他未能或拒绝披露在该阶段任何可能对控罪有重大影响的事宜，可作出对他不利的推论。

53. Where a person is under restraint, a police officer shall not ask him any questions, or ask him to do anything, for a purpose connected with the investigation of an offence, unless—

(a) the police officer has told him his name and rank;

(b) the person has been informed by a police officer, in a language in which he is fluent, in writing and, if practicable, orally, of the fact that he is under restraint and of the offence in respect of which he is under restraint; and

(c) the person has been cautioned by a police officer in the following manner, namely, by informing him, or causing him to be informed, in a language in which he is fluent, in writing in accordance with the prescribed form and, if practicable, orally—

(i) that he is not obliged to answer any question



asked of him by a police officer, other than a question seeking particulars of his name and address; and

(ii) that, subject to this Act, he may communicate with a lawyer, relative or friend.

第五十三条【被拘禁人的告知权】

在任何人受拘禁的情况下，警察不得就调查罪行的目的，向他提出任何问题，或要求他作出任何事，除非 -

(a) 警察已告诉他他的姓名和职级；

(b) 警察以一种他能流利的语言，以书面形式，如可行，亦以口头形式已告知他被拘禁及他被拘禁罪行的事实；和

(c) 警察已按以下方式提醒该人，即以他能流利的语言，根据订明的表格，以书面形式，如可行，亦以口头形式，通知他或使他获知—

(i) 他没有义务回答警察问及的任何问题，但寻求其姓名和地址详情的问题除外；和

(ii) 根据本法，他可与律师，亲属或朋友联系。

54.-(1) Subject to subsection (2), a police officer shall, upon request by a person who is under restraint, cause reasonable facilities to be provided to enable the person to communicate with a lawyer, a relative or friend of his choice.

(2) A police officer may refuse under subsection (1) for the provision of facilities for communicating with a person being a relative or friend of a person under restraint, if the police officer believes on reasonable grounds that it is necessary to prevent the person under restraint from communicating with the person for the purpose of preventing—

the escape of an accomplice of the person under restraint; or the loss, destruction or fabrication of evidence relating to the offence.

第五十四条【与律师、亲戚或朋友的沟通】

(1) 在符合第(2)款的规定下，应受拘禁者的要求，警察应提供合理的便利，使该人能够与他选择的律师，亲属或朋友沟通。

(2) 如果警察基于合理理由认为有必要阻止被拘禁者与与被拘禁者的亲戚、朋友沟通，警察可根据第(1)款的规定拒绝提供沟通便利，以防止 -

被拘禁者的同谋逃走；或  
与犯罪有关的证据的丢失、毁坏或伪造。

55.-(1) A person shall, while under restraint, be treated with humanity and with respect for human dignity.

(2) No person shall, while under restraint, be subjected to cruel, inhuman or degrading treatment.

(3) Where a person under restraint—

(a) makes a request to a police officer to be provided with medical treatment, advice or assistance in respect of an illness or an injury; or

(b) appears to the police officer to require medical treatment, advice or assistance in respect of illness or injury,

the police officer shall forthwith take such reasonable action as is necessary to ensure that the person is provided with medical treatment, advice or assistance.

#### 第五十五条【被拘禁人员的待遇】

(1) 任何人在被拘禁的情况下，应受到人道待遇并尊重人的尊严。

(2) 任何人在被拘禁时，不得受到残忍，不人道或有辱人格的待遇。

(3) 凡被拘禁者—

(a) 向警察提出要求，就疾病或伤害需要提供医疗、建议或帮助；或

(b) 在警察看来，因疾病或伤害而需要医疗、建议或帮助，

警察应立即采取必要的合理行动，以确保该人得到医疗、建议或帮助。

56.-(1) A police officer in charge of investigating an offence in respect of which a child is under restraint shall, forthwith after the child is placed under restraint, cause a parent or guardian of the child to be informed that he is under restraint and of the offence for which he is under restraint.

(2) In this section “child” means a person who has not attained the age of sixteen years.

#### 第五十六条【讯问儿童时的特殊职责】

(1) 负责调查儿童被拘犯罪行的警察应在儿童被拘禁后立即告知该儿童的父母或监护人，其被拘禁及拘禁的罪行。



(2) 在本条中，“儿童”指未满十六岁的人。

*(d) Recording of Interview*

(d) 讯问笔录

57.-(1) A police officer who interviews a person for the purpose of ascertaining whether the person has committed an offence shall, unless it is in all circumstances impracticable to do so, cause the interview to be recorded.

(2) Where a person who is being interviewed by a police officer for the purpose of ascertaining whether he has committed an offence makes, during the interview, either orally or in writing, a confession relating to an offence, the police officer shall make, or cause to be made, while the interview is being held or as soon as practicable after the interview is completed, a record in writing, setting out—

(a) so far as it is practicable to do so, the questions asked of the person during the interview and the answers given by the person to those questions;

(b) particulars of any statement made by the person orally during the interview otherwise than in answer to a question;

(c) whether the person wrote out any statement during the interview and, if so, the times when he commenced to write out the statement;

(d) whether a caution was given to the person before he made the confession and, if so, the terms in which the caution was given, the time when it was given and any response made by the person to the caution;

(e) the times when the interview was commenced and completed; and

(f) if the interview was interrupted, the time when it was interrupted and recommenced.

(3) A police officer who makes a record of an interview with a person in accordance with subsection (2) shall write, or cause to be written, at the end of the record a form of certificate in accordance with a prescribed form and shall then, unless the person is unable to read—



- (a) show the record to the person and ask him—
  - (i) to read the record and make any alteration or correction to it he wishes to make and add to it any further statement that he wishes to make;
  - (ii) to sign the certificate set out at the end of the record; and
  - (iii) if the record extends over more than one page, to initial each page that is not signed by him; and
- (b) if the person refuses, fails or appears to fail to comply with that request, certify on the record under his hand what he has done and in respect of what matters the person refused, failed or appeared to fail to comply with the request.

#### 第五十七条【讯问笔录】

(1) 警察为确定某人是否犯罪而讯问他，除非在任何情况下不切实可行，否则须将讯问记录在案。

(2) 任何人，接受警察基于查明其是否已实施犯罪的讯问，在讯问期间，以口头或书面形式作出与罪行有关的供认，则该警察须在讯问进行或讯问结束后，在切实可行的范围内，尽快以书面形式作出记录，并列明—

(a) 在切实可行的范围内，在讯问期间向该人提出的问题及该人对该等问题的回答；

(b) 该人在讯问期间以口头方式作出的任何陈述的详情，而非回答问题；

(c) 该人是否在讯问时写下任何陈述，若有，他开始写下陈述的时间；

(d) 在作出供述之前是否对该人作出提醒，若有，该等作出提醒的条款、时间及该人对该提醒所作出的任何回应；

(e) 讯问开始及完成的时间；和

(f) 若讯问中断，则讯问中断和重新开始的时间。

(3) 根据第(2)款记录讯问某人的警察，须在纪录的末尾以订明的形式书写或安排书面作出证明，并须，除非该人无法阅读 -

(a) 向该人出示记录，要求他—

(i) 阅读记录并作出任何他希望对其进行修正和添加进一步陈述的任何内容；

(ii) 签署记录末尾所列的证明；和

(iii) 如果记录超过一页，则签姓名的首字母于未经他签名的每页；和

(b) 如该人拒绝，未能或显示未能遵守该项要求，应就其所作的工作以及就该人所拒绝，不履行或显示不遵守要求的事项在其记录上签署作出证明。

58.-(1) Where a person under restraint informs a police officer that he wishes to write out a statement, the police officer—

(a) shall cause him to be furnished with any writing materials he requires for writing out the statement; and

(b) shall ask him, if he has been cautioned as required by paragraph (c) of section 53, to set out at the commencement of the statement the terms of the caution given to him, so far as he recalls them.

(2) Where a person under restraint furnishes to the police officer a statement that he has written out, the police officer shall write, or cause to be written, at the end of the statement a form of certificate in accordance with the prescribed form, and shall then—

(a) show the statement to the person and ask him—

(i) to read the statement and make any alteration or correction to it that he wishes to make and add to it any further statement that he wishes to make;

(ii) to sign the certificate set out at the end of the statement; and

(iii) if the statement extends to more than one page, to initial each page that is not signed by him; and

(b) if the person refuses, fails or appears to fail to comply with that request, certify, under his hand, on the statement what he has done and in respect of what matters the person refused, failed or appeared to fail to comply with the request.

(3) Where a person under restraint refuses to read, or appears to the police officer not to read a statement when it is shown to him in accordance with subsection (2), the police officer shall—

(a) read the statement to him, or cause the statement to be read to him;

(b) ask him whether he would like to correct or add anything to the statement;

(c) permit him to correct, alter or add to the statement, or make any corrections, alterations or additions to the statement that he requests the police officer to make;

(d) ask him to sign the certificate at the end of the statement; and

(e) certify under his hand, at the end of the statement, what he has done in pursuance to this subsection.

#### 第五十八条【嫌疑人的供述】

(1) 如受拘禁者告知警察，他希望书面供述，则该警察—

(a) 须向他提供他在书面供述时所需的任何书面材料；和

(b) 如他已被告知第五十三条(c)段规定的内容，须在供述开始时，就他所记起的给予他告知的条款作出说明。

(2) 如受拘禁者向警察提供他已书写的供述，则警察须在陈述书的末尾以订明的形式书面或安排书面作出证明，然后 -

(a) 向该人出示该供述，并要求他—

(i) 阅读供述并作出任何他希望对其进行修正和添加进一步陈述的任何内容；

(ii) 签署供述末尾所列的证明；和

(iii) 如果供述超过一页，则签姓名的首字母于未经他签名的每页；和

(b) 如该人拒绝，未能或显示未能遵守该项要求，应就其所作的供述以及就该人所拒绝，未能或显示未能遵守该项要求的事项签署作出证明。

(3) 受拘禁者拒绝阅读或在警察看来并无阅读根据第(2)款出示的供述书，警察须 -

(a) 向他宣读供述，或致使供述被宣读给他；

(b) 询问他是否愿意更正或增加供述中的任何内容；

(c) 允许他更正、更改或增加供述，或对他要求警察作出的供述作出任何更正、更改或增加；

(d) 要求他在供述末尾签署证明；和

(e) 在供述之末，签署证明他根据本条所作的工作。

#### *(e) Other Investigative Actions*

##### (e) 其他调查行为

59.-(1) Any police officer in charge of a police station or any police officer investigating an offence may take or cause to be taken measurements, prints of the



hand, fingers, feet or toes of, or recordings of the voice or, photographs of, or samples of the handwriting of any person who is charged with an offence, whether such person is in lawful custody of the police or otherwise where such measurements, prints, recordings, photographs or samples, as the case may be, are reasonably believed to be necessary for the identification of the person with respect to, or for affording evidence as to the commission of an offence for which he is in custody or charged.

(2) Any police officer in charge of a police station or any police officer investigating an offence may take or cause to be taken measurements, prints of the hands, fingers, feet or toes or recordings of the voice, photographs of or samples of the handwriting, of any person who is not charged with any crime where such measurements, prints, recordings, photographs or samples, as the case may be, are reasonably believed to be necessary for facilitating the investigation of any crime.

(3) No person who is charged or who is not charged with any crime shall be entitled to refuse or object to having his measurements, prints, recordings, photographs or samples taken, and where he so refuses or objects, the police officer concerned may take such reasonable steps, including the use of reasonable force, as may be necessary to ensure that the measurements, prints, recordings, photographs or samples, as the case may be, are taken.

(4) Any person who refuses to have his measurements, prints, recordings, photographs or samples taken as required under subsections (1) and (2) is guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding twenty-four months or to both such fine and imprisonment.

(5) Subject to the provisions of subsection (10), a person having the custody of measurements, prints, recordings, photographs or samples and each person having the custody of copies of measurements, prints, recordings, photographs or samples shall destroy them—

(a) in the case of a person who is in lawful custody upon a charge of committing an offence—

(i) if the prosecution of that person is not proceeded with; or  
(ii) where prosecution is proceeded with, but he is acquitted;  
(b) in the case of a person referred to in subsection (2), if those measurements, prints, recordings, photographs or samples, as the case may be, are no longer required for the purpose of facilitating the investigation.

(6) There shall be established at a place to be approved by the Minister responsible for criminal investigations, an office to be known as the Criminal Records Office for the preservation, comparison and indexing of fingerprint or forms.

(7) The Criminal Records Office shall, subject to the general supervision of the Inspector-General of Police, be under the control of a senior police officer, expert in comparison of fingerprints who shall be appointed from time to time by the Attorney-General by notice published in the Gazette.

(8) Completed fingerprint forms shall be sent to and preserved at the Criminal Records Office.

(9) All fingerprint forms shall be of the prescribed pattern.

(10) Notwithstanding the provisions of subsection (5), it shall be lawful to retain all records obtained pursuant to subsections (1) and (2) of this section in respect of any person with regard to whom an expulsion order under the Expulsion of Undesirables Act has been cancelled or rescinded.

#### 第五十九条【获取嫌犯的指纹、照片等的权力】

(1) 任何负责警署的警察或调查罪行的任何警察，均可对被控罪行人的指纹、手指、脚或脚趾、声音记录、照片或笔迹样本进行或安排进行检测，不论该人是否处于警方合法羁押状态还是其他状态，这类对指纹、声音记录、照片或笔迹样本的检测，如有合理理由认为，对指认该人，或就该人所犯处于羁押或被控的罪行提供证据是必要的。

(2) 任何负责警署的警察或调查罪行的任何警察，均可对未受到任何罪行指控的任何人的指纹、手指、脚或脚趾、声音记录、照片或笔迹样本进行或安排进行检测，这类对指纹、声音记录、照片或笔迹样本的检测，如有合理理由认为，对促进任何犯罪的调查是必要的。

(3) 任何被控或未被控犯罪的人，均有权拒绝或反对他的指纹、声音录音、照片或样本进行检测，而如他拒绝或反对，则有关的警察可采取合理、必要的步骤，包括使用合理、必要的武力，以确保对指纹、声音记录、照片或样本的检测能够进行。

(4) 任何人拒绝根据第(1)及(2)款的要求进行指纹、声音记录、照片或样本检测，即属犯罪，一经定罪，可处不超过一万先令的罚金或判处不超过二十四个月的监禁或并处上述罚金及监禁。

(5) 根据第(10)款的规定，管有指纹、声音记录、照片或样本检测的人，和管有指纹、声音记录、照片或样本检测副本的人，均须销毁该等物品 -

(a) 如某人因被控犯罪而被合法羁押 -

(i) 如果对该人的起诉没有继续进行；或

(ii) 起诉被提起，但该人被宣告无罪的；

(b) 就第(2)款所提述的人而言，如果对指纹、声音记录、照片或样本检测，根据案件情形，不再需要以促进调查犯罪为目的时。

(6) 应在负责刑事调查的部长批准的地方设立一个办公室，称为刑事记录（档案）办公室，用于保存、比对和索引指纹或图谱。

(7) 受警察总监的总监督，刑事记录办公室由一名高级警官管理，他是指纹比对的专家，由司法部长通过在公报上刊登的通知不时任命。

(8) 填妥的指纹图谱应送交刑事记录办公室并保存。

(9) 指纹图谱应当按照规定的式样制作。

(10) 尽管有第(5)款的规定，根据本条第(1)款及第(2)款取得的所有记录，对于根据《驱逐不受欢迎人士法》发出的驱逐令已被取消或撤销的任何人，均可合法保存。

60.-(1) Any police officer in charge of a police station or any police officer investigating an offence may hold an identification parade for the purpose of ascertaining whether a witness can identify a person suspected of the commission of an offence.

(2) Any police officer in charge of a police station or any police officer investigating an offence may require any person whose participation is necessary for

the investigation of an offence to attend and participate in an identification parade.

(3) No person who is required under subsection (2) to attend and participate in an identification parade shall be entitled to refuse or object to attend and participate in an identification parade.

(4) Any person who, without just cause or unreasonably, refuses to attend and participate in an identification parade is guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

#### 第六十条【辨认队列】

(1) 负责警署的警察或调查罪行的警察，均可主持辨认队列，以确定证人能否指认涉嫌犯罪的人。

(2) 负责警署的警察或调查罪行的警察，均可要求为调查罪行而有需要参与的人参加并参与到辨认队列。

(3) 凡根据第(2)款规定须参加并参与辨认队列的人，均无权拒绝或反对参加并参与辨认队列。

(4) 任何人在没有正当理由或不合理地拒绝参加并参与辨认队列的情况下，即属犯罪，一经定罪，可处不超过两千先令的罚金或判处不超过六个月的监禁或并处上述罚金和监禁。

61.-(1) Where it is established on evidence that a person has been convicted on a mistaken identification as a result of which he is prosecuted, punished or he suffers any loss or injury, that person or his legal representative if that person dies, shall be entitled to such reasonable compensation as if he were a victim of crime.

(2) The compensation payable under this section and all other matters to be followed regarding the amount of compensation, its assessment and manner of payment shall be governed by section 37.

#### 第六十一条【因辨认错误而被定罪的人应得到赔偿】

(1) 如果证据确定某人因错误的辨认而被定罪，并因此受到起诉，惩罚或遭受任何损失或伤害，则该人或如果该人死亡，其法定代理人，有权获得合理的赔偿，就像他是犯罪的受害者一样。

(2) 根据本条应付的赔偿以及有关赔偿金额、评估及付款方式的所有其他事项，均受第三十七条管限。

62.The Minister shall make regulations providing for the procedure to be followed in the conduct of identification parades, and the taking of fingerprints and photographs of suspect or accused persons.

第六十二条【部长制定辨认队列的规则等】

部长应制定规则，规定进行辨认队列时以及为嫌疑人或被告人采集指纹和拍照应遵循的程序。

63.-(1) A magistrate may, on the application of a police officer, allow a medical officer to examine a person in lawful custody in respect of an offence or may allow a medical officer to take and analyse any specimen from that person if he has reasonable grounds for believing that the examination or analysis would provide evidence relating to the offence.

(2) After the medical officer has made the examination and analysis as provided under subsection (1) he shall submit a written report on it to the court.

(3) In any proceedings, a court may order that any person who is a party to or a witness in the proceedings submits himself for medical examination and that person shall so submit himself.

(4) A medical officer shall, after examining a person in respect of whom the court has ordered that he submits himself for medical examination in accordance with the provisions of subsection (3) transmit to the court ordering the examination a written report pertaining to the examination.

第六十三条【医学检查】

(1) 裁判官应警察的申请，可允许医疗工作者为因某罪行而被合法羁押者进行检查，或可允许医疗工作人员提取和分析该人的任何样本，如果他有充分理由认为检查或分析会提供相关罪行的证据。

(2) 在医疗工作人员根据第(1)款作出检查及分析后，须向法院提交书面报告。

(3) 在诉讼中，法院可以责令诉讼当事人或者证人进行医学检查，诉讼当事人或者证人应当进行医学检查。



(4) 医疗工作人员在对法院根据第(3)款的规定责令接受医学检查的人进行检查后,须向下令进行医学检查的法院递交一份有关该项检查的书面报告。

*(f) Release and Bail*

(f) 释放和保释

64.-(1) Without prejudice to the provisions of any other written law for the time being in force relating to the grant of bail by police officers, a person brought under the custody of a police officer on reasonable suspicion of having committed an offence shall be released immediately, where—

(a) the police officer who arrested him believes that the person has in fact committed no offence or has no reasonable grounds on which to continue holding that person in custody;

(b) the police officer who arrested him believes that he arrested the wrong person;  
or

(c) after twenty-four hours after the person was arrested, no formal charge has been laid against that person unless the police officer in question reasonably believes that the offence suspected to have been committed is a serious one.

(2) Where a formal charge has been laid against any person under the custody of the police, a police officer in charge of a police station may, upon that person executing a bond, with or without sureties, to appear before a court if so required, release the person where—

(a) the person, though subject to prosecution, was arrested without warrant;

(b) after due inquiry, insufficient evidence in his opinion is disclosed upon which to proceed with the charge;

(c) the offence, though arrestable, is not of a serious nature; or

(d) it appears that further inquiries must be carried out, and they cannot be completed within a reasonably short time.

(3) Where the person arrested is under the age of fifteen years, that person may be

released after his parent, guardian, relative or any other reliable person has entered into a recognisance on his behalf.

(4) Notwithstanding any other written law for the time being in force relating to the grant of bail by police officers, no fee or duty shall be chargeable upon bail bonds in criminal cases, recognisance to prosecute or to give evidence or recognisance for personal appearance or otherwise issued or taken by a police officer.

(5) Every police officer arresting a person reasonably suspected of committing any offence shall inform that person of his right to bail under this section.

第六十四条【警方保释嫌疑人】

(1) 在不损害任何其他现行有效成文法律中有关警察准予保释规定的情况下，凡因合理怀疑犯了罪行而处于警察羁押之下的人，应立即获释，在下列情况下 -

(a) 逮捕他的警察认为该人实际上没有犯罪或没有合理理由继续羁押该人；

(b) 逮捕他的警察认为他逮捕了错误的人；或

(c) 在该人被逮捕 24 小时后，没有对该人提出正式指控，除非在讯问中警察合理地认为涉嫌犯下的罪行是严重的罪行。

(2) 对被警方羁押的人正式指控的，负责警署的警察可根据执行保证的人，无论有无保证人，根据需要到庭，在下列情况下释放该人 -

(a) 该人虽然受到起诉，但在没有逮捕令的情况下被逮捕；

(b) 在适当的查讯后，他认为没有足够的证据来进行指控；

(c) 该罪行虽可逮捕，但性质不严重；或

(d) 看来必须进行进一步的查讯，而这些查讯不能在合理的短时间内完成。

(3) 被逮捕的人未满十五周岁的，在其父母、监护人、亲属或者其他可靠的人代其签章保证书后，可以释放。

(4) 尽管有关于警察准予保释的现行有效的任何其他成文法，但在刑事案件中，保释金、保证金、作证、个人出庭保证或其他由警察签发或采取的担保，不应征收任何费用或税金。

(5) 警察逮捕有合理嫌疑实施罪行的人，均须告知该人根据本条享有保释的权利。

65. Matters relevant to the granting of bail by a police officer to a person charged

with an offence are—

(a) the probability of the person appearing in court in respect of the offence if granted bail, that is to say—

(i) the background and community ties or the residence, employment and family situation and his police record, if known; and

(ii) the circumstances in which the offence was committed, the nature and seriousness of the offence, the strength of the evidence against the person and other information relevant to the likelihood of his absconding;

(b) the interests of the person, that is to say—

(i) the period that the person may be obliged to spend in custody if bail is refused, and the conditions under which he would be held in custody;

(ii) the needs of the person to be free to prepare for his appearance before the court, to obtain legal advice and for other purposes; or

(iii) the need of the person for physical protection, whether the need arises because he is incapacitated by intoxication, injury or the use of drugs or arises from other causes; and

(c) the protection of the community, that is to say, the likelihood of the person interfering with evidence through intimidating witnesses or hindering police inquiries in any other way.

#### 第六十五条【准予警方保释的准则】

警察向被控犯罪的人准予保释的事宜如下—

(a) 如获准保释，该人就该罪行而在法庭上出庭的概率，即—

(i) 背景和社区关系或居住、就业和家庭情况及其警方记录（如果知道的话）；  
和

(ii) 该罪行的情节、性质和严重性、对该人不利的证据的强度以及与他潜逃可能性有关的其他信息；

(b) 该人的利益，也就是说——

(i) 被拒绝保释的人可能被羁押的期间，以及他被羁押的条件；

(ii) 该人有自由为出庭作准备、为取得法律意见及其他目的的需要；或

(iii) 人身保护的需要，不论是因醉酒、受伤或使用药物而丧失行为能力或其他原因而产生的需要；和

(c) 保护社会，也就是说，该人通过恐吓证人或以任何其他方式阻碍警方查讯来干扰证据的可能性。

66. person shall be entitled to be granted police bail if—

(a) he undertakes in writing to appear before a specified court at a specified time and place, or at such other time and place as is notified to him by a police officer;

(b) he undertakes in writing to observe specified requirements as to his conduct while released on bail, not being requirements with respect to the giving of security, the depositing of money or the forfeiture of money;

(c) another person acceptable to the police officer acknowledges in writing, that he is acquainted with the person charged and regards him as a responsible person who is likely to appear in court to answer the charge;

(c) the person charged, or another person acceptable to the police officer, enters into an agreement, with or without security, to forfeit a specified sum of money if the person charged fails to appear in court to answer the charge; or

(e) the person charged, or another person acceptable to the police officer, deposits with the police officer, a specified sum of money to be forfeited if the person charged fails to appear in court to answer the charge.

#### 第六十六条【警方保释的条件】

在下列情况下，任何人有权获得警察保释—

(a) 他以书面形式承诺在指定时间和地点，或警察通知他的其他时间和地点，在指定的法院出庭；

(b) 他以书面形式承诺在保释期间遵守有关其行为的具体要求，但不包括有关提供担保、交存款项或者没收款项的要求；

(c) 警察认可的其他人以书面形式确认，他熟悉被指控人，并视被指控人为可能出庭回应该项控罪的负责人；

(d) 被指控人或警察认可的其他人，达成无论是否有担保的协议，如果被指控人未能出庭回应指控，就没收指定数额的款项；

(e) 被指控人或警察认可的其他人，向警察交存指定数额款项，如果被指控人未能出庭接受指控，将没收该笔款项。

67.-(1) Where a police officer refuses to grant bail he shall record in writing the reasons for so refusing.

(2) Where a police officer refuses, under section 64, to grant bail to a person charged with an offence or grants bail but the person is unable or unwilling to comply, or arrange for another person to comply, with any of the conditions subject to which bail was granted, the person shall be brought before a magistrate to be dealt with according to law as soon as it is practicable to do so and not later than the first sitting of a court at a place to which it is practicable to take the person for that purpose.

(3) A person who is waiting in custody to be brought before a magistrate in accordance with subsection (2) may, at any time, request a police officer for facilities to make an application to a magistrate for bail and, if he does so, the police officer shall, within twenty four hours, or within such reasonable time as it is practicable after he makes the request, bring him before a magistrate.

#### 第六十七条【警方拒绝给予保释】

(1) 警察拒绝准予保释，他应以书面形式记录拒绝保释的理由。

(2) 警察根据第六十四条拒绝对被控犯罪的人准予保释或准予保释，但该人不能或不愿意遵守或安排他人遵守准予保释的任何条件，须在切实可行的情况下，尽快将该人送交裁判官，以便根据法律处理，而且不得迟于为该等目的而将该人带到切实可行的地方的法院首次开庭。

(3) 任何根据第(2)款处于羁押等待送交裁判官的人，可随时要求警察，提供便利向裁判官申请保释，如果该人提出要求，警察须在二十四小时内或在该人提出要求后，在切实可行的合理时间内，将他送交裁判官。

68. Where a police officer in charge of a police station believes on reasonable grounds that a person who has been released on bail granted under section 64—

(a) is absconding; or

(b) has failed to comply with, or is about or likely to fail to comply with an undertaking given by him as a condition of his release,

the police officer may revoke the bail and the person may then be arrested by a police officer.

第六十八条【撤销警方保释】

负责警署的警察有合理理由认为，根据第六十四条准予保释的人 -

(a) 正在潜逃；或

(b) 未能遵守，或即将或可能不遵守他作为释放条件所作的承诺，警察可撤销保释，该人随后可由警察逮捕。

69.-(1) Subject to subsection (2) where a person who has been released on bail granted by a police officer wilfully and unreasonably fails to comply with an undertaking given by him as a condition of his release, the person is guilty of an offence and shall be liable, on conviction, to a penalty not exceeding the maximum penalty that could be imposed on him upon conviction for the offence in respect of which he was arrested and then released on bail.

(2) Where a person who has been released on bail granted by a police officer in respect of two or more offences wilfully and unreasonably fails to comply with an undertaking given by him as a condition of his release, subsection (1) shall apply as if the reference to the offence in respect of which he was released on bail was a reference to the offence in relation to which he failed to comply with the undertaking or if he failed to comply with the undertaking in relation to two or more offences, to the more or most serious of those offences.

第六十九条【违反保释条件】

(1) 除第(2)款另有规定外，凡已获警察保释的人故意和无理地不遵守其作出的作为其获释条件的承诺，该人即属犯罪，一经定罪，可判处不超过他被逮捕后保释的罪行一经定罪可判处的最高刑罚。

(2) 凡已获警察就两项或多项罪行准予保释的人，故意和无理地不遵守其作出的作为获释条件的承诺，则第(1)款须适用，犹如提述他获准保释的罪行，即提述他不遵守该承诺的罪行，或提述他不遵守承诺的对两种或两种以上的罪行，即提述他对这些罪行中的更多或最严重的罪行。

**PART III PREVENTION OF OFFENCES****第三部分 犯罪的预防***(a) Security for Keeping the Peace and for Good Behaviour**(a) 治安与规范行为的担保*

70.-(1) Whenever a magistrate is informed on oath that any person is likely to commit a breach of the peace or to disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility, the magistrate may, in the manner provided in this Part, require that person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period, not exceeding one year, as the magistrate deems fit.

(2) Proceedings shall not be taken under this section unless either the person informed against or the place where the breach of the peace or disturbance is apprehended is within the local limits of the magistrate's jurisdiction.

**第七十条【裁判官要求执行保证的权力】**

(1) 任何时候，裁判官经宣誓获悉任何人有可能实施妨害治安或扰乱公众安宁，或做出任何可能导致妨害治安或扰乱公众安宁的错误行为，裁判官可根据本部分所规定的方式，要求该人出示理由，说明他为何不应被命令为维持治安而执行有或无保证人的保证，而保证的有效期不超过裁判官认为合适的一年。

(2) 除非被告知违反治安或扰乱的人或违反治安或扰乱的被逮捕地在裁判官管辖权的地方范围内，否则不得根据本条提起诉讼。

71. Whenever a magistrate is informed on oath that a person is within the limits of his jurisdiction and that that person, within or without those limits either orally or in writing or in any other manner, is disseminating or attempting to disseminate, or in any way abetting the dissemination of—

(a) any seditious matter, that is to say, any matter the publication of which is punishable under section 32 of the Newspapers Act;



(b) any matter concerning a judge or magistrate which amounts to libel under the Penal Code,

that the magistrate may, in the manner provided in this part, require that person to show cause why he should not be ordered to execute a bond with or without sureties for his good behaviour for such period, not exceeding one year, as the magistrate deems fit.

**第七十一条【担保传播煽动性事件组织者规范行为】**

任何时候，裁判官经宣誓获悉某人在其管辖范围内，而该人在或不在其管辖范围内以口头或书面或任何其他方式传播或试图传播，或以任何方式教唆传播 -

(a) 任何煽动事件，即根据《报刊法》第三十二条应予惩处的任何事件；

(b) 关于法官或裁判官的任何根据《刑法》构成诽谤的事项，

裁判官可根据本部分所规定的方式，要求该人出示理由，说明他为何不应因其良好行为而执行有或没有保证人的保证，而保证的有效期不超过裁判官认为合适的一年。

72. Whenever a magistrate is informed under oath that any person is taking precautions to conceal his presence within the local limits of the magistrate's jurisdiction, and that there is reason to believe that that person is taking those precautions with a view to committing any offence, the magistrate may, in the manner provided in this Part, require him to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding one year, as the magistrate deems fit.

**第 72 条【担保嫌疑人规范行为】**

任何时候，裁判官经宣誓获悉任何人正采取预防措施来掩饰他在其管辖范围内的存在，并且有理由认为该人采取这些预防措施是为了实施任何犯罪，裁判官可根据本部分所规定的方式，要求该人出示理由，说明他为何不应因其良好行为而执行有保证人的保证，而保证的有效期不超过裁判官认为合适的一年。

73. Whenever a magistrate is informed on oath that any person within the local limits of his jurisdiction,

(a) is by habit a robber, housebreaker or thief;

(b) is by habit a receiver of stolen property, knowing the same to have been stolen;



(c) habitually protects or harbours thieves, or aids in the concealment or disposal of stolen property;

(d) habitually commits or attempts to commit, or aids or abets in the commission of, any offence punishable under Chapters XXX, XXXIII or XXXIV of the Penal Code;

(e) habitually commits or attempts to commit, or aids or abets in the commission of, offences involving a breach of the peace;

(f) is a loiterer or vagabond; or

(g) is so desperate and dangerous as to render his being at large without security hazardous to the community,

the magistrate may, in the manner provided in this Part, require him to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the magistrate deems fit.

#### 第七十三条【担保惯犯规范行为】

任何时候，裁判官经宣誓获悉，在其管辖范围内的任何人，

(a) 习惯上是强盗、破门贼或小偷；

(b) 习惯上是受窃财产的人，并知道该财产被盗；

(c) 习惯性地保护或窝藏窃贼，或协助藏匿或处置被盗财物；

(d) 习惯性地犯下或企图犯下或协助或教唆根据《刑法》第三十、三十三或三十四章应予处罚的任何罪行；

(e) 习惯性地犯下或企图犯下或协助或教唆涉及妨害治安的罪行；

(f) 游荡者或流浪汉；或

(g) 如此绝望和危险，以致使他在没有担保的情况下逍遥法外对社会构成危险，裁判官可根据本部分所规定的方式，要求该人出示理由，说明他为何不应因良好行为而执行有保证人的保证，而保证的有效期不超过裁判官认为合适的三年。

74. When a magistrate acting under sections 70, 71, 72 or 73 of this Act deems it necessary to require any person to show cause under such section, he shall make an order in writing setting forth—

(a) the substance of the information received;

(b) the amount of the bond to be executed;

- (c) the term for which it is to be in force; and
- (d) the number, character and class of sureties, if any, required.

第七十四条【作出命令】

根据本法第七十条、第七十一条、第七十二条或第七十三条行事的裁判官认为有必要要求任何人根据该条提出理由时，须作出书面命令，列明 -

- (a) 所收到信息的实质内容；
- (b) 将要执行的保证金数额；
- (c) 该条款的有效期；和
- (d) 所需担保人的数目、性质和类别（如有的话）。

75. If the person in respect of whom the order is made is present in court, it shall be read over to him or, if he so desires, the substance of it shall be explained to him.

第七十五条【出庭人的程序】

传命某人出庭的，应当向他宣读命令；如果他愿意，应当向他解释命令的内容。

76. -(1) Subject to subsection (2), if the person in respect of whom an order is made is not present in court, the magistrate shall issue a summons requiring him to appear or, when that person is in custody, a warrant directing the officer in whose custody he is to bring him before the court.

(2) Whenever it appears to the magistrate, upon the report of a police officer or upon other information given on oath (the substance of which report or information shall be recorded by the magistrate), that there is reason to apprehend the commission of a breach of the peace, and that such breach of the peace cannot be prevented in any way other than by the immediate arrest of that person, the magistrate may at any time issue a warrant for his arrest.

第七十六条【未出庭人的程序】

(1) 除第(2)款另有规定外，如命令所针对的人未出庭，则裁判官须签发传票，要求该人出庭，或在该人被羁押时，签发令状，指示羁押者将该人带至法庭。

(2) 任何时候，根据警察的报告或经宣誓所提供的其他信息（报告或信息的内容应由裁判官记录），在裁判官看来，有理由逮捕妨害治安的罪行，而且这种妨害治安的行为不能以任何其他方式加以阻止，除非立即逮捕该人，裁判官可随时

签发逮捕令。

77. Every summons or warrant issued under section 76 shall be accompanied by a copy of the order made under section 74, and that copy shall be delivered by the officer serving or executing the summons or warrant to the person served with or arrested under it.

**第七十七条【附有传票或令状的命令副本】**

根据第七十六条签发的传票或令状，须附有根据第七十四条作出的命令的副本，而该副本须由送达或执行该传票或令状的人员交付予根据该传票或令状获送达或被逮捕的人。

78. A magistrate other than a primary court magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace and may permit him to appear by an advocate.

**第七十八条【免除个人出庭的权力】**

初级法院裁判官以外的地方裁判官，如认为有充分理由，可免除被传召人亲自出庭，以出示他不应被命令执行维持治安保证的理由，并可准许他由辩护人出庭。

79.-(1) When an order under section 74 has been read or explained under section 75 to a person present in court, or when any person appears or is brought before a magistrate in compliance with or in execution of a summons or warrant issued under section 76, the magistrate shall proceed to inquire into the truth of the information upon which the action has been taken, and to take such further evidence as may appear necessary.

(2) An inquiry under subsection (1) shall be made, as nearly as may be practicable, in the manner prescribed by or under this Act, or the Magistrates' Courts Act, for conducting trials and recording evidence in trials before subordinate courts or primary courts.

(3) For the purposes of this section the fact that the provisions of section 73 apply to a particular person may be proved by evidence of general repute or by any other

evidence.

(4) Where two or more persons have been associated together in the matter under inquiry, they may be dealt with in the same or separate inquiries as the magistrate thinks just.

**第七十九条【调查信息的真实性】**

(1) 当根据第七十四条作出的命令已根据第七十五条向出庭的人宣读或解释，或当任何人遵照或执行根据第七十六条签发的传票或令状出庭或被带至出庭时，裁判员须着手调查已采取行动的信息的真实性，并取得显示必要的进一步证据。

(2) 根据第(1)款的规定，应在尽可能可行的情况下，以本法或裁判法院法规规定的方式，就下级法院或初级法院的审判进行审讯和记录证据，作出调查。

(3) 就本条而言，第七十三条规定适用于特定类型人的事实，可由具有一般声誉的证据或任何其他证据证明。

(4) 如两名或两名以上的人就所调查的事项有关联，可按裁判员认为公正的方式，以相同或分开的方式处理。

80.-(1) If upon an inquiry it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the magistrate shall make an order accordingly, save that—

(a) no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than that specified in the order made under section 74;

(b) the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive;

(c) when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

(2) Any person ordered to give security for keeping the peace or maintaining good behaviour under this section may appeal to the High Court or the District Court, and the provisions of Part X of this Act (relating to appeals) or Part III of the Magistrates' Courts Act, as the case may be, shall apply to every such appeal.

## 第八十条【责令提供担保】

(1) 如经调查证明有必要维持治安或保持规范行为，被调查人应在有担保人或无担保人的情况下执行保证，则裁判官应作出相应的命令，但 -

(a) 任何人不得被命令提供与根据第七十四条作出的命令所规定的担保性质不同、数额大于或期限长于该命令所规定的担保；

(b) 每笔保证金的数额应视案件的情况而定，不得过高；

(c) 当被查讯的人是未成年人时，该保证只应由其保证人执行。

(2) 根据本条被责令为维护治安或保持规范行为提供担保的任何人可向高等法院或地区法院提出上诉，而本法第十部（有关上诉）或裁判法院法第 III 部的规定，视情况而定，应适用于每一项上诉。

81. If on an inquiry under section 79, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, the magistrate shall make an entry on the record to that effect, and if the person is in custody only for the purposes of the inquiry, shall release him, or if he is not in custody, shall discharge him.

## 第八十一条【释放被告发者】

如根据第七十九条进行调查，并未证明为维持治安或保持良好行为，被调查人执行保证是必要的，则裁判官应就此作出记录，并且，如该人仅为调查目的而被羁押，应释放他；如该人未被羁押，则应准予离开。

*(b) Proceedings Subsequent to Order to Furnish Security**(b) 要求提供担保后的诉讼程序*

82.-(1) If the person in respect of whom an order requiring security is made under section 74 or section 80 is, at the time the order is made, sentenced to or undergoing a sentence of imprisonment, the period for which the security is required shall commence on the expiration of the sentence.

(2) In other cases the period for which the security is required shall commence on the date of the order unless the magistrate, for sufficient reason, fixes a latter date.

第八十二条【需要担保的期间计算】

(1) 如根据第七十四条或第八十条作出要求提供担保的命令，在命令作出时，该人被判处监禁或正在服刑，需要担保的期间自刑期届满之日起计算。

(2) 在其他情况下，除非裁判官有充分理由确定了后面日期，否则需要提供担保的期间应自命令发出之日起计算。

83. The bond to be executed by any person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit or the aiding, abetting, counselling or procuring the commission of any offence punishable with imprisonment, wherever it may be committed, shall be a breach of the bond.

第八十三条【保证的内容】

任何人要执行的保证应约束他维持治安或保持规范行为（视情况而定），并在后一种情况下，实施或企图实施或协助、教唆、指使或促成任何可判处监禁罪行实施的，不论在何处实施，均属违反保证。

84. A magistrate may refuse to accept any surety offered under any of the preceding sections on the ground that, for reasons to be recorded by the magistrate, that surety is an unfit person.

第八十四条【拒绝保证人的权力】

裁判官可拒绝接受根据上述任何一条提供的任何保证人，理由是该保证人不适合作为保证人，裁判官须记录理由。

85.-(1) If any person ordered to give security does not give such security on or before the date on which the period for which the security is to be given commences, he shall, except in the case mentioned in subsection (2), be committed to prison or, if he is already in prison, be detained in prison until the period expires or until, within that period, he gives the security to the court or magistrate who made the order requiring it.

(2) When a person has been ordered by a magistrate to give security for a period exceeding one year, the magistrate shall, if the person does not give security, issue a warrant directing him to be detained in prison pending the orders of the District Court or the High Court, as the case may be, and the proceedings shall within one month be

laid as soon as conveniently may be before such court.

(3) The District Court or the High Court as the case may be, after examining the proceedings and requiring from the magistrate any further information or evidence which it thinks necessary, may make such order in the case as it thinks fit.

(4) The period, for which any person is imprisoned for failure to give security shall not exceed three years.

(5) If the security is tendered to the officer in charge of the prison, he shall forthwith refer the matter to the court or magistrate who made the order and shall await the orders of such court or magistrate.

#### 第八十五条【未能提供担保的程序】

(1) 被责令提供担保的人在担保期间开始之日或者之前未提供担保的,除第(2)款所述的情况外,他须被判入狱,或如他已在狱中,则须被押在狱中,直至监禁期满,或直至他在该期间向作出命令的法院或裁判官提供担保为止。

(2) 裁判官命令某人提供担保的期间超过一年,如该人并未提供担保,裁判官应签发令状,指示他被押在监狱内,等候地区法院或高等法院的命令(视情况而定),并应在方便时尽快在一个月内向该等法院提出诉讼。

(3) 地区法院或高等法院视乎案情而定,在审查诉讼程序及要求裁判官提供其认为有需要的任何进一步资料或证据后,可就案件作出其认为适当的命令。

(4) 任何人因未能提供担保而被监禁的期间,不得超过三年。

(5) 如果向监狱管理人员提供担保,他应立即将该事项提交作出该命令的法院或裁判官,并应等待该法院或裁判官的命令。

86. Whenever a district magistrate is of opinion that any person imprisoned for failure to give security may be released without hazard to the community, he shall make an immediate report of the case for the order of the High Court, which may, if it thinks fit, order the person to be discharged.

#### 第八十六条【释放未能提供担保而被监禁人的权力】

每当地区裁判官认为任何因未能提供担保而被监禁的人可在不对社会造成危害的情况下获释放,他须立即向高等法院报告有关案件,要求作出命令,而高等法院如认为适当,可命令将该人释放。

87. The High Court may, at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace or for good behaviour executed under this Part by order of any court.

**第 87 条【高等法院撤销保证的权力】**

高等法院可在任何时间，以所书面记录的充分理由，撤销任何法院根据本部分作出的为维持治安或保持良好行为而命令执行的保证。

88.-(1) Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a magistrate to cancel any bond executed under any of the preceding sections within the local limits of his jurisdiction.

(2) On an application being made, the magistrate shall issue his summons or warrant, as he thinks fit, requiring the person for whom the surety is bound to appear or to be brought before him.

(3) When a person appears or is brought before the magistrate the magistrate shall cancel the bond and shall order him to give, for the unexpired portion of the term of the bond, fresh security of the same description as the original security; and every order shall for the purposes of sections 83, 84, 85 and 86 be deemed to be an order made under section 80.

**第八十八条【担保人的解除】**

(1) 任何为他人的治安行为或规范行为提供担保的人，可随时向裁判官申请在其管辖的地方范围内，取消根据上述任何条款规定被执行的任何保证。

(2) 裁判官收到申请后，须发出其认为适当的传票或令状，要求被担保人必须出庭或被带到他面前。

(3) 当某人出庭或被带见裁判官时，裁判官须取消该保证，并命令他就该保证有效期的未届满部分，提供与原保证相同的新保证；为施行第八十三、八十四、八十五及八十六条，每项命令均应视为根据第八十条作出的命令。



**PART IV CONTROL OF CRIMINAL PROCEEDINGS****第四部分 刑事诉讼程序的管理****A. - The Director of Public Prosecutions****A. 检察长**

第八十九条【废除】

第九十条【废除】

91.-(1) In any criminal case and at any stage thereof before verdict or judgment, as the case may be, the Director of Public Prosecutions may enter a nolle prosequi, either by stating in court or by informing the court concerned in writing on behalf of the Republic that the proceedings shall not continue; and thereupon the accused shall at once be discharged in respect of the charge for which the nolle prosequi is entered, and if he has been committed to prison shall be released, or if on bail his recognisances shall be discharged; but such discharge of an accused person shall not operate as a bar to any subsequent proceedings against him on account of the same facts.

(2) If the accused is not before the court when the nolle prosequi is entered, the registrar or clerk of the court shall forthwith cause notice in writing of the entry of the nolle prosequi to be given to the keeper of the prison in which the accused person may be detained and if the accused person has been committed for trial, to the subordinate court by which he was so committed and that court shall forthwith cause a similar notice in writing to be given to any witnesses bound over to give evidence and to their sureties (if any) and also to the accused and his sureties in case he shall have been admitted to bail.

第九十一条【检察长终止诉讼程序的权力】

(1) 在任何刑事案件中，以及在裁决或判决前的任何阶段（视情况而定），检察长可提起终止程序，通过在法庭上陈述或以书面形式代表共和国通知有关法院诉讼不应继续；因此，被告人应立即被解除对其提出的进入终止程序的指控，如

果他已被投入监狱，应予以释放；如果被保释，则应解除对他的承认；但对被告人的这种释放不应成为以同样事实对他进行任何后续诉讼的障碍。

(2) 如被告人在提出不起诉时不在庭前，法庭的司法常务官或书记官须立即安排将提出不起诉的书面通知发给被告人可被拘禁的监狱的管理人员；如被告人已被交付下级法院审讯，则该法院须立即安排发出类似的书面通知，交给有作证义务的证人和他们的担保人（如果有的话），也交给被告人和他的担保人，以备他被准予保释。

92.-(1) The Director of Public Prosecutions may order in writing that all or any of the powers vested in him by sections 91 of and by Part VII of this Act may be exercised also by the Law Officers, a State Attorney or a Parliamentary Draftsman and the exercise of these powers by any of them shall operate as if they had been exercised by the Director of Public Prosecutions,

(2) The Director of Public Prosecutions may, in writing, revoke any order made by him under this section.

#### 第九十二条【检察长对权力的授权】

(1) 检察长可书面命令，本法第九十一条及本法第七部分赋予他的全部或任何权力也可由法律官员、国家检察官或议会起草人行使，其中任何一人行使这些权力的方式应与检察长行使这些权力的方式相同。

(2) 检察长可以书面形式撤销他根据本条作出的任何命令。

93.-(1) Notwithstanding anything contained in this Act, the Director of Public Prosecutions may, with the previous sanction of the President, exhibit to the High Court, against persons subject to the jurisdiction of the High Court information for all purposes for which the Director of Public Prosecutions may exhibit information on behalf of the Republic in the High Court in Tanzania.

(2) Such proceedings may be taken upon every such information exhibited by the Director of Public Prosecutions.

(3) The High Court may make rules for carrying into effect the provisions of this section.

#### 第九十三条【检察长出示犯罪信息】

(1) 不论本法有何规定，在事先获得总统的批准下，检察长可向高等法院出示受高等法院管辖人士的信息，供检察长代表坦桑尼亚共和国在高等法院出示信息的所有用途。

(2) 凡检察长所出示的信息，均可进行该项程序。

(3) 高等法院可制定实施本条规定的规则。

94.-(1) Subject to the other provisions of this section, proceedings for the trial of any person who is not a citizen of the United Republic for an offence committed on the open sea within two hundred nautical miles of the coast of the United Republic measured from the low-water mark shall not be instituted in any court except with the leave of the Director of Public Prosecutions and upon his certificate that it is expedient that such proceedings should be instituted.

(2) Proceedings before a subordinate court prior to the committal of an accused person for trial or to the determination of the court that the offender is to be put upon his trial shall not be deemed proceedings for the trial of the offence committed by the offender for the purposes of the consent and certificate under this section.

(3) It shall not be necessary to aver in any charge of information that the consent or certificate of the Director of Public Prosecutions required by this section has been given, and the fact of the same having been given shall be presumed unless disputed by the accused person at the trial.

(4) The production of a document purporting to be signed by the Director of Public Prosecutions and containing such consent and certificate shall be sufficient evidence, for the purposes of this section, of the consent and certificate required by this section.

(5) This section shall not prejudice or affect the trial of any act of piracy as defined by the Law of Nations.

(6) The term “offence” as used in this section means an act, neglect or default of such a description as would, if committed in any part of the territory of the United Republic, be punishable on indictment according to the law of Tanzania for the time being in force.

第九十四条【外国人在领海内实施的犯罪仅在检察长的许可下被起诉】

(1) 在不违反本条其他规定的情况下，对任何不是联合共和国公民的人在从低潮线开始计算，距联合共和国海岸 200 海里以内的公海上所犯的罪行进行审判的程序，不得在任何法院提起诉讼，但须经检察长许可，并在他证明采取这种诉讼是有利的，方可提起诉讼。

(2) 被告人交付审判前在下级法院进行的诉讼，或者由下级法院决定对罪犯进行审判不应被视为根据本条所述的同意和证明而审理罪犯所犯罪行的程序。

(3) 在任何一项控罪中，无须宣称已获提供本条所要求的检察长的同意或证明，除非被告人在审判中提出异议，否则应该推定同意或证明已获提供。

(4) 就本条而言，出示一份声称由检察长签署并载有该等同意及证明的文件，即足以证明该条所要求的同意及证明。

(5) 本条不得损害或影响对国际法所界定的任何海盗行为的审判。

(6) 本条所使用的“罪行”一词是指在联合共和国领土任何部分实施的犯罪行为、疏忽或不履行这类犯罪行为的描述，如经起诉，可根据坦桑尼亚现行有效的法律予以惩处。

## *B. - Appointment of Public Prosecutors and Conduct of Prosecutions*

### *B.- 委任公诉人及提起公诉*

95.[Repealed].

第九十五条【废除】

96.Repealed].

第九十六条【废除】

97. A public prosecutor may appear and plead without any written authority before any court in which any case of which he has charge is under inquiry, trial or appeal; and if any private person instructs an advocate to prosecute in any such case the public prosecutor may conduct the prosecution and the advocate so instructed shall act therein under his directions.

第九十七条【公诉人的权力】

检察官在没有任何书面授权的情况下，可以在其指控的任何案件正在调查、

审判或上诉的任何法院出庭和辩护；个人指示辩护人在任何此类案件中起诉的，检察官可以起诉，受指示的辩护人应当按照他的指示行事。

98. In any trial before a subordinate court any public prosecutor may with the consent of the court or on the instructions of the Director of Public Prosecutions, at any time before judgment is pronounced, withdraw from the prosecution of any person either generally or in respect of one or more of the offences with which such person is charged; and upon such withdrawal—

(a) if it is made before the accused person is called upon to make his defence, he shall be discharged, but such discharge of an accused person shall not operate as a bar to subsequent proceedings against him on account of the same facts;

(b) if it is made after the accused person is called upon to make his defence, he shall be acquitted.

#### 第九十八条【在下级法院审判中撤回公诉】

在下级法院进行的任何审判中，任何检察官可在征得法院同意或检察长指示的同时，在判决宣布前的任何时候，一般地或就某项或多项控罪而撤销对任何人的检控；并在撤销后—

(a) 如果是在被告人被要求提出辩护之前提出的，他应被释放，但对被告人的这种释放不应成为以同样事实对他进行后续诉讼的障碍；

(b) 如果是在被告被要求提出辩护后才提出的，则应判他无罪。

99.-(1) Any magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person, but no person other than a public prosecutor or other officer generally or specially authorised by the President in this behalf shall be entitled to conduct the prosecution without such permission.

(2) Any person or officer referred to in subsection (1) shall have the like power of withdrawing from the prosecution as provided in section 98, and the provisions of that section shall apply to any withdrawal by such person or officer.

(3) Any person conducting the prosecution may do so personally or by an advocate.

(4) In a summary trial, if the prosecutor is a private person, his name shall appear

in the title of the proceedings as the prosecutor and, if the prosecutor is a police officer, it shall be sufficient if, in the title of the proceedings, the prosecutor is described as the Inspector-General of Police.

第九十九条【准许起诉及适用简易程序的权力】

(1) 任何裁判官调查或审理任何案件，均可准许任何人进行起诉，但除检察官或获总统一般或特别授权代表该人进行起诉的其他官员外，任何人都无权在未经该等准许的情况下进行起诉。

(2) 第(1)款所提述的任何人或官员，均享有第九十八条所规定的撤回起诉的同等权力，而该条的规定亦适用于该人士或官员所作的任何撤销。

(3) 任何人都可以亲自或者由辩护人提起诉讼。

(4) 在简易程序审讯中，如起诉人是私人，其姓名须以起诉人的身份出现在诉讼程序的名称中；如起诉人是警察，则在诉讼程序的名称中，描述为警察总监，即已足够。

## PART V INSTITUTION OF PROCEEDINGS

### 第五部分 诉讼程序

#### A. - Process to Compel the Appearance of Accused Persons

##### A. - 强制被告人出庭的程序

###### *(a) Summons*

###### (a) 传票

100.-(1) Every summons issued by a court under this Act shall be in writing, in duplicate, signed and sealed by the presiding officer of the court or by such other officer as the High Court may, from time to time, by rules direct.

(2) Every summons shall be directed to the person summoned and shall require him to appear at a time and place to be appointed in the summons before a court having jurisdiction to inquire into or try the offence alleged to have been committed and shall

state shortly the offence with which the person against whom it is issued is charged.

#### 第一百条【传票的形式和内容】

(1) 法院根据本法发出的每一张传票均应采用书面形式，一式两份，由法院主审官员（法庭的审判长）或高等法院不时根据规则指示的其他官员签署和盖章。

(2) 每一张传票均须直接送交被传唤人，并须要求他在传票所指定的时间及地点出庭，以便具有司法管辖权的法院调查或审判据称已实施的罪行，并须于短期内陈述被指控人被指控的罪行。

101.-(1) Every summons shall be served by a police officer or by an officer of the court issuing it or other public servant or such other person as the court may direct and shall, if practicable, be served personally on the person summoned by delivering or tendering to him one of the duplicates of the summons.

(2) Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt for it on the back of the other duplicate.

#### 第一百零一条【传票送达】

(1) 每张传票应由警察或法院签发的人员或其他公务员或法院可指示的其他人员送达，如果切实可行，须亲自交付或提供传票的副本一份送达被传唤人。

(2) 受送达人，如送达人员要求，须在另一份副本的背面签署传票收据。

102. Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult member of his family or with an adult servant residing with him or with his employer; and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt for it on the back of the other duplicate.

#### 第一百零二条【无法找到被传唤人时的送达】

因尽职调查不能找到被传唤人的，送达传票时可将一份副本留给他的成年家属或者与他同住的成年仆人或者他的雇主；传票的受送达人，如送达人员要求，须在另一份副本的背面签署传票收据。

103. If the service in the manner provided by sections 101 or 102 cannot by the exercise of due diligence be effected, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the



person summoned ordinarily resides and thereupon the summons shall be deemed to have been duly served.

**第一百零三条【无法亲自送达时的程序】**

如果以第一百零一条或一百零二条规定的方式不能通过尽职调查进行，则送达人员应将传票的一份副本，贴于通常被传唤人所居住的房屋或宅基地的显眼地方，即视为传票已获妥为送达。

104. Where the person summoned is in the active service of any department of the Government or of a public corporation, the court issuing the summons shall ordinarily send it in duplicate to the head of the department or public corporation, as the case may be, in which the person is so employed, and the head shall thereupon cause the summons to be served in the manner provided by section 101 and shall return it to the court under his signature with the endorsement required by that section.

**第一百零四条【对政府公务人员的送达】**

如果被传唤的人在政府任何部门或公共公司的现职服务中，发出传票的法院通常须将传票一式两份地送交该人受雇的部门或公共公司的负责人，负责人须随即安排以第一百零一条所规定的方式送达传票，并按该条所规定的背书后将传票交回法院。

105. Service of summons on an incorporated company may be effected by serving it on the secretary, local manager or other principal officer of the company at the registered office of such company or by registered letter addressed to the chief executive officer of the company and in the case of a registered letter, service shall be deemed to have been effected when the letter would arrive in the ordinary course of post.

**第一百零五条【对公司的送达】**

向法人公司送达传票，以致本公司行政总裁的挂号信送达该等公司的注册人员处的法人秘书、本地经理或其他高级职员的有效。挂号信的情况下，当该信函在正常邮寄过程中到达时，该服务应视为已经生效。

106. Where, at the trial of a corporation, a representative does not appear at the time appointed in and by the summons or information or such representative having



appeared fails to enter any plea, the court shall order a plea of “not guilty” to be entered and the trial shall proceed as though the corporation had duly entered a plea of “not guilty”.

**第一百零六条【代表不出庭时，公司的外观和无罪辩护】**

在公司的审判中，如果一名代表在传票或信息指定的时间没有出庭，或者该代表出庭后没有提出任何抗辩，法院应命令提出“无罪”的抗辩，而审判应象公司已正式提出“无罪”抗辩一样进行。

107. When a court desires that a summons issued by it shall be served at any place outside the local limits of its jurisdiction, it shall send the summons in duplicate to a magistrate within the local limits of whose jurisdiction the person summoned resides or is to be served.

**第一百零七条【当地管辖权范围之外的送达】**

法院如欲将其发出的传票送达其司法管辖权范围以外的任何地方，须将传票一式两份送交被传唤人所居住或者将要被送达的管辖权范围内的裁判官。

108. Where the officer who has served a summons is not present at the hearing of the case, and in any case where a summons issued by a court has been served outside the local limits of its jurisdiction, an affidavit purporting to be made before a magistrate that such summons has been served, and a duplicate of the summons purporting to be endorsed, in the manner provided by this Act, by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence and the statements made therein shall be deemed to be correct unless the contrary is proved.

**第一百零八条【工作人员不在场时的送达证明】**

凡送达传票的人员不出席案件的聆讯，而任何情况下法院发出的传票已在其司法管辖权范围以外送达，则一份说明该传票已被送达，以及一份副本根据本法规定的方式，已由被交付或被递交传票的人或被留下传票的人背书而在裁判官席前作出的誓章，应被接受为证据，除非相反证明成立，否则该誓章中的陈述应被视为正确。

109.-(1) Appearance before a court by a corporation shall be by an advocate or by any officer of the corporation.



(2) Notwithstanding anything contained in the articles of association, by-laws or other documents governing the constitution of a corporation, and notwithstanding anything in any other law contained, an officer of a corporation appearing in court on behalf of the corporation under the provisions of this section shall be deemed so to appear with the full authority of the corporation and to have full powers to represent the corporation.

(3) In this section and in section 111, “officer” in relation to a corporation means any director, any member of the board of management by whatsoever name or style designated, the local manager or other principal officer of the corporation and the secretary.

第一百零九条【公司出庭】

(1) 公司在法院出庭应由辩护律师或公司的任何高级职员出庭。

(2) 即使公司章程、章程细则或其他有关公司章程的文件中有任何内容，即使任何其他法律载有任何内容，公司的高级职员根据本条规定代表公司出庭应被视为在公司的全权授权下出庭，并具有代表公司的全部权力。

(3) 在本条及第一百一十一条中，就某公司而言，“高级职员”指任何董事、任何指定名称或类型的管理委员会成员、该公司的本地经理或其他主要人员及该秘书。

(b) *Warrant of Arrest*

(b) 逮捕令

110. Notwithstanding the issue of summons, a warrant may be issued at any time before or after the time appointed in the summons for the appearance of the accused but no such warrant shall be issued unless a complaint has been made upon oath or by a police officer or an authorised officer of a local government authority.

第一百一十条【传票发出后的逮捕令】

即使发出传票，令状也可在传票所指定的时间以前或之后的任何时间发出，要求被告人出庭，但除非控告是经宣誓或由警察或获授权的地方政府人员作出，

否则不得发出该令状。

111.-(1) If the accused person, other than a corporation, does not appear at the time and place appointed in and by the summons and his personal attendance has not been dispensed with under section 193, the court may issue a warrant to apprehend him and cause him to be brought before it.

(2) If the accused, being a corporation, does not appear in the manner provided for by section 109, the court may cause any officer of the corporation to be brought before it in the manner provided under this Act for compelling the attendance of witnesses.

(3) No warrant of arrest shall be issued under this section unless a complaint has been made on oath or by a police officer or any authorised officer of a local government authority.

(4) Nothing in this section shall affect the power of the court to deal with any case in the absence of the accused, in the manner provided for by section 193, whether the accused is an individual or a corporation.

#### 第一百一十一条【不服从传票】

(1) 如被告人、公司除外，没有按传票所指定的时间和地点出庭，而他的个人出庭并未根据第一百九十三条予以免除，则法院可发出逮捕他的令状并让他出庭。

(2) 如被告人是公司，没有按照第一百零九条规定的方式出庭，法院可按照本法强迫证人出庭所规定的方式安排公司的任何高级职员出庭。

(3) 除非已经宣誓或由警察或地方政府当局的任何获授权人员作出控告，否则不得根据本条发出逮捕令。

(4) 本条的任何规定均不影响法院以第一百九十三条规定的方式，在被告人缺席的情况下处理任何案件的权力，无论被控人是个人还是公司。

112.-(1) Every warrant of arrest shall be under the hand of the judge or the magistrate issuing the same and shall bear the seal of the court.

(2) Every warrant shall state shortly the offence with which the person against whom it is issued is charged and shall name or otherwise describe such person, and it

shall order the person or persons to whom it is directed to apprehend the person against whom it is issued and bring him before the court issuing the warrant or before some other court having jurisdiction in the case to answer to the charge mentioned in the warrant and to be further dealt with according to law.

(3) Every warrant shall remain in force until it is executed or until it is cancelled by the court which issued it.

**第一百一十二条【逮捕令的形式、内容和期限】**

(1) 每一逮捕令应由签发逮捕令的法官或治安官签发，并应加盖法院印章。

(2) 每份令状均应迅速说明其所针对的人被控的罪行，并应指名或以其它方式描述该人，并须命令被指示的一个或多个人逮捕所发出的逮捕令针对的人，将其带到发出令状的法院或对该案有司法管辖权的其他法院，以回应令状所提述的指控和按照法律进一步处理。

(3) 每一令状应继续有效，直至执行或发出令状的法院撤销为止。

113.-(1) Any court issuing a warrant for the arrest of any person in respect of any offence other than murder or treason may, in its discretion, direct by endorsement on the warrant that, if he executes a bond with sufficient sureties for his attendance before the court at a specified time and thereafter until otherwise directed by the court, the officer to whom the warrant is directed shall take such security and shall release him from custody.

(2) The endorsement shall state—

(a) the number of sureties;

(b) the amount in which they and the persons for whose arrest the warrant is issued are to be respectively bound; and

(c) the time at which he has to attend before the court.

(3) Whenever security is taken under this section the officer to whom the warrant is directed shall forward the bond to the court.

**第一百一十三条【采取指示担保的权力】**

(1) 任何法院签发逮捕令，就谋杀或叛国罪以外的任何罪行逮捕任何人，可酌情在令状上背书，指示：如果该人执行有足够担保人的保证，使其在指定时间

出庭，直至法院另有指示为止，受令状指示的执行逮捕的人员应采取该担保，并将其释放。

- (2) 背书应当载明；
- (a) 担保人的数量；
- (b) 他们和被逮捕人分别受数额的约束；和
- (c) 他必须出庭的时间。
- (3) 凡根据本条采取担保，受令状指示的人员应将保证金转交法院。

114.(1) A warrant of arrest may be directed to one or more police officers, or to one police officer or to all other police officers of the area within which the court has jurisdiction, or generally to all police officers of that area; but any court issuing such a warrant may, if its immediate execution is necessary, and no police officer is immediately available, direct it to an authorised officer of a local government authority within its jurisdiction, or to any other person or persons, and such person or persons shall execute the warrant forthwith.

(2) When a warrant is directed to more officers or persons than one, it may be executed by any one or more than one of them.

#### 第一百一十四条【指示逮捕令】

(1) 逮捕令可直接发给法院管辖范围内的一名或多名警察，或一名警察或所有其他警察，或一般地发给该地区的所有警察；但任何法院发出这类逮捕令，如果立即执行是必要的，也没有警察立即可用，可指示其管辖范围内的地方政府当局的授权人员，或任何其他人员，并且这些人应立即执行搜查令。

(2) 当逮捕令指示多于一名的人员或者个人时，可以由其中的一人或者多人执行。

115.-(1) Any district or resident magistrate may direct a warrant to any landholder, manager of land or farmer within the local limits of his jurisdiction for the arrest of any escaped convict or person who has been accused of an arrestable offence and has eluded pursuit.

(2) The landholder, manager or farmer shall acknowledge in writing the receipt of the warrant and shall execute it if the person for whose arrest it was issued is in or

enters on his land or farm or the land under his charge.

(3) When the person against whom such warrant is issued is arrested, he shall be handed over with the warrant to the nearest police officer, who shall cause him to be taken before a magistrate having jurisdiction unless security is taken under section 113.

**第一百一十五条【指示土地所有者等的逮捕令】**

(1) 任何地区或常驻地方裁判官可向其管辖范围内的任何土地所有人、土地管理人或农民发出逮捕令，以逮捕任何被控犯有可逮捕罪行而逃避追捕的逃犯或人士。

(2) 土地所有人、管理人、农民应当书面承认收到逮捕令，并在被发出逮捕令被逮捕的人在或进入其土地、农场或者其管理的土地时，应当执行逮捕令。

(3) 被发出逮捕令被逮捕的人被逮捕时，应连同逮捕令被移交最近的警察，警察应将其送交有管辖权的裁判官，除非根据第一百一十三条采取了担保措施。

116. A warrant directed to any police officer may also be executed by any other police officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

**第一百一十六条【指示警察的逮捕令】**

向任何警察发出的逮捕令，亦可由任何其他警察执行，而该其他警察的姓名已由该逮捕令所指示或背书的警察在该令状上背书。

117. The police officer or other person executing a warrant of arrest shall notify the substance of the warrant to the person to be arrested and if so required, shall show him the warrant.

**第一百一十七条【逮捕令实质内容的通知】**

执行逮捕令的警察或者其他人员应当将逮捕令的内容通知被逮捕人，必要时应当出示逮捕令。

118. The police officer or other person executing a warrant of arrest shall, without unnecessary delay, and subject to the provisions of section 113 as to security, bring the person arrested before the court before which he is required by law to produce the person and shall return the warrant to the court with an endorsement on it showing the time and manner of execution.

## 第一百一十八条【被捕者毫无延迟被带至法庭】

警察或其他执行逮捕令的人,应当没有不必要的延迟,在不违反第一百一十三条关于担保规定的情况下,将法律要求出庭的被逮捕人带到法庭,并将附有执行时间和方式背书的逮捕令交回法院。

119. A warrant of arrest may be executed at any place within the United Republic of Tanzania.

## 第一百一十九条【可以执行逮捕令的范围】

逮捕令可在坦桑尼亚联合共和国境内任何地方执行。

120.-(1) When a warrant of arrest is to be executed outside the local limits of the jurisdiction of the court issuing it, such court may, instead of directing such warrant to a police officer, forward the same by post or otherwise to any magistrate within the local limits of whose jurisdiction it is to be executed.

(2) The magistrate to whom such warrant is so forwarded shall endorse his name on it and, if practicable, cause it to be executed in the manner provided under this Act within the local limits of his jurisdiction.

## 第一百二十条【转发管辖权外执行的逮捕令】

(1) 当逮捕令在签发逮捕令的法院管辖范围以外执行时,该法院可将该令状以邮递或其他方式转交其对令状执行有管辖权的任何裁判官,而不是直接向警察发出逮捕令。

(2) 接获该令状的裁判官须在令状上签名并在切实可行的情况下,使其在其管辖范围内按照本法规定的方式执行。

121.-(1) When a warrant of arrest directed to a police officer is to be executed outside the local limits of the jurisdiction of the court issuing it, he shall take it for endorsement to a magistrate within the local limits of whose jurisdiction it is to be executed.

(2) The magistrate shall endorse his name on it and the endorsement shall be sufficient authority to the police officer to whom the warrant is directed to execute it within such limits and local police officers shall, if so required, assist the officer in executing that warrant.

(3) Whenever there is reason to believe that the delay to be occasioned by obtaining the endorsement of the magistrate within the local limits of whose jurisdiction the warrant is to be executed will prevent its execution, the police officer to whom it is directed may execute the warrant without the endorsement in any place outside the local limits of jurisdiction of the court which issued it.

第一百二十一条【针对警察执行管辖权外逮捕令的程序】

(1) 向警察发出的逮捕令，在发出逮捕令法院的管辖范围以外执行的，警察应当将该令状交予执行该令状的司法管辖地方范围内的裁判员背书。

(2) 裁判员须在该令状上背书其姓名，而背书应足以授权受该令状指示的警察在其范围内执行令状，如有需要，当地警察须协助该警察执行该令状。

(3) 任何时候，有理由认为须经令状执行管辖范围内的裁判员批准而引致的延误会妨碍执行时，受指示的警察可以在发出令状的法院管辖范围以外的任何地方执行该逮捕令，而无须背书。

122.-(1) When a warrant of arrest is executed outside the local limits of the jurisdiction of the court by which it was issued the person arrested shall, unless the court which issued the warrant is within twenty miles of the place of arrest or is nearer than the magistrate within the local limits of whose jurisdiction the arrest was made or unless security is taken under section 113, be taken before the magistrate within the local limits of whose jurisdiction the arrest was made.

(2) The magistrate shall, if the person arrested appears to be the person intended by the court which issued the warrant, direct the removal in custody to such court.

(3) Subject to subsection (2) if the person has been arrested for an offence other than murder or treason and he is ready and willing to give bail to the satisfaction of the magistrate or if the direction has been endorsed under section 113 on the warrant and the person is ready and willing to give security required by the direction, the magistrate shall take such bail or security, as the case may be, and shall forward the bond to the court which issued the warrant.

(4) Nothing in this section shall be deemed to prevent a police officer from taking security under section 113.



## 第一百二十二条【逮捕管辖权外人员的程序】

(1) 在发出逮捕令的法院的管辖范围以外执行逮捕令的，除非发出逮捕令的法院离逮捕地点在二十英里以内或比逮捕地点管辖范围的裁判官更近或者除非根据第一百一十三条执行担保，否则，被逮捕者应当被带至逮捕地点管辖范围内的裁判官面前。

(2) 如果被逮捕者看来是发出逮捕令的法院所要逮捕的人，则裁判官应指示将被羁押者移送该法院。

(3) 除第(2)款另有规定外，如该人因谋杀或叛国罪以外的罪行而被捕，他已准备好并愿意保释至令裁判官满意的程度，或指示已根据第一百一十三条被背书，而该人已准备好并愿意提供指示所要求的担保，裁判官应视情况采取保释或担保，并须将保证转交发出令状的法院。

(4) 本条不得视为阻止警察根据第一百一十三条采取担保。

123. Any irregularity or defect in the substance or form of the warrant of arrest and any variance between it and any written complaint or between such complaint and the evidence produced on the part of the prosecution at an inquiry to trial, shall not affect the validity of any proceedings at or subsequent to the hearing of the case, but if any variance appears to the court to be such that the accused has been thereby deceived or misled, the court may, at the request of the accused, adjourn the hearing of the case to some future date and in the meantime remand the accused or admit him to bail.

## 第一百二十三条【逮捕令的偏差】

逮捕令的内容或形式有任何偏离或缺陷，以及与任何书面投诉之间或此类投诉与控方在审讯时提出的证据之间的任何差异，均不影响案件审理期间或之后的任何诉讼程序，但如果法院认为任何差异使被告人因此受到欺骗或误导，法院可应被告人的请求，将该案件的聆讯押后至某个日期，同时还押被告人或允许其保释。

*(c) Miscellaneous Provisions regarding Process*

(c) 程序的其他规定

124. When any person for whose appearance or arrest the officer presiding in any court is empowered to issue a summons or warrant is present in court, the officer may require the person to execute a bond, with or without sureties, for his appearance in that court.

第一百二十四条【采取出庭保释的权力】

任何人出庭，因其出庭或逮捕而获授权发出传票或逮捕令的法庭主审官可要求该人执行有或无担保人情况下的保释，以保证其在法庭上出庭。

125. Where any person who is bound by any bond taken under this Act to appear before a court does not so appear, the officer presiding in that court may issue a warrant directing that he be arrested and produced before him.

第一百二十五条【违反保释的逮捕】

凡根据本法执行保释出庭的任何人不出庭，法庭的主审官可发出逮捕令，指示将其逮捕并带至出庭。

126.-(1) When any person for whose appearance or arrest a court is empowered to issue summons or warrant is confined in any prison within the local limits of the jurisdiction of the court, the court may issue an order to the officer in charge of the prison requiring him to bring the prisoner in proper custody, at a time to be specified in the order, before the court.

(2) The officer so in charge, on receipt of the order, shall act in accordance with it and shall provide for the safe custody of the prisoner during the absence from the prison for the purpose aforesaid.

第一百二十六条【法院命令将刑事被告人带到法庭的权力】

(1) 当任何人被监禁在法院管辖范围内的任何监狱时，因被告人出庭或逮捕而获授权发出传票或逮捕令的法院可向监狱管理人员发出命令，要求他将犯人妥善羁押，并在命令规定的时间内带其出庭。

(2) 管理人员接到命令后，应当按照命令执行，并为上述目的，在罪犯离开监狱期间提供安全羁押。

127. The provisions contained in this Part relating to summons and warrants and their issue, service and execution shall, so far as may be practicable, apply to every summons and every warrant of arrest issued under this Act or by a justice of the peace and, save in so far as or; the same may be inconsistent with any other law, the powers of a magistrate or court in relation to the issuing or endorsing of summons or warrants may be exercised by a justice of the peace.

第一百二十七条【本部分规定一般可适用于传票和逮捕令；治安法官的权力】

本部分所载有关传票、逮捕令及其发出，送达及执行的规定，在切实可行的范围内，适用于根据本法或由治安法官发出的每份传票及每份逮捕令，除此之外，同样可能与任何其他法律不一致，裁判官或法院就传票或逮捕令的发出或背书的权力可由裁判官行使。

## B. – Proceedings

### B. 程序

#### (a) *Making a Complaint*

##### (a) 提出控诉

128.-(1) Proceedings may be instituted either by the making of a complaint or by the bringing before a magistrate of a person who has been arrested with or without a warrant.

(2) Any person who believes from a reasonable and probable cause that an offence has been committed by any person may make a complaint of the offence to a magistrate having competent jurisdiction.

(3) Where a complaint made under subsection (2) is made to a magistrate who is not competent to take cognizance of the offence, he shall-

(a) if the complaint is in writing, return it for presentation to the proper court with

an endorsement to that effect; or

(b) if the complaint is not in writing, direct the complainant to present the complaint to the proper court.

(4) A complaint may be made orally or in writing but, if made orally, shall be reduced to writing by the magistrate and, in either case, shall be signed by the complainant and the magistrate.

(5) The magistrate, upon receiving any complaint shall, subject to section 129, draw up or cause to be drawn up and shall sign a formal charge containing a statement of the offence with which the accused is charged, unless the charge has been signed and presented by a police officer.

(6) When an accused person who has been arrested without a warrant is brought before a magistrate, a formal charge containing a statement of the offence with which the accused is charged, shall be signed and presented by the police officer preferring the charge.

#### 第一百二十八条【提起诉讼】

(1) 提起诉讼的方式可以是提出投诉，也可以是将有或没有逮捕令而被逮捕的人送交裁判官提起诉讼。

(2) 任何人如有合理及可能的理由相信任何人已犯了罪行，可向有管辖权的裁判官投诉。

(3) 如根据第(2)款向无权认定该项罪行的裁判官提出投诉，裁判官须 -

(a) 如果投诉以书面提出，则将该投诉发还适当的法院，并加上表明此意的背书；或

(b) 如果投诉并非以书面提出，则指示投诉人向适当的法院提出投诉。

(4) 投诉可以口头或书面提出，但如以口头提出，则须由裁判官简化为书面形式，在任何一种情况下，均应由投诉人和裁判官签署。

(5) 裁判官在接获任何投诉后，须根据第一百二十九条的规定，拟备或要求拟备一份正式控罪书，并签署一份载有被告人被控罪行陈述的正式控罪书，除非控罪书已由警察签署及呈交。

(6) 没有逮捕令而被逮捕的被告人被带至裁判官面前时，载有被告人被控罪

行陈述的正式控罪书，应由倾向于该项控罪的警察签署和提出。

129. Where the magistrate is of the opinion that any complaint or formal charge made or presented under section 128 does not disclose any offence, the magistrate shall make an order refusing to admit the complaint or formal charge and shall record his reasons for such order.

**第一百二十九条【裁判官拒绝投诉或正式指控的权力】**

如果裁判官认为根据第一百二十八条作出或提出的任何投诉或正式指控并未披露任何罪行，裁判官须作出拒绝接受投诉或正式指控的命令，并须记录其作出命令的理由。

130. Upon receiving a complaint and having signed the charge in accordance with section 128, the magistrate may, in his discretion, issue either a summons or a warrant to compel the attendance of the accused person before a subordinate court having jurisdiction to inquire into or try the offence alleged to have been committed; save that a warrant shall not be issued in the first instance unless the complaint has been made upon oath either by the complainant or by a witness or witnesses.

**第一百三十条【签发传票或令状】**

在收到投诉并按照第一百二十八条签署指控后，裁判官可酌情发出传票或令状，强迫被控人出庭有管辖权进行调查或审判其涉嫌已犯罪行的下属法院；除非投诉是由投诉人或证人宣誓作出的，否则不得首先发出令状。

*(b) The Formal Charge*

*(b) 正式指控*

131. Immediately after a police officer charges a suspect with an offence, the police officer shall caution the person in writing and if practicable orally, in the prescribed manner.

**第一百三十一条【被控者受到警告】**

在警察控告疑犯罪行后，警察应立即以书面及如切实可行的话，以订明的方式口头警告该人。

132. Every charge or information shall contain, and shall be sufficient if it contains, a statement of the specific offence or offences with which the accused person is charged, together with such particulars as may be necessary for giving reasonable information as to the nature of the offence charged.

第一百三十二条【指明罪行及所需的详情】

每项控罪或材料均须载有一项或多项被指控具体罪行的陈述，以及就所控罪的性质提供合理材料所必需的详情，如此，该控罪或材料即属充分。

133.-(1) Any offences may be charged together in the same charge or information if the offences charged are founded on the same facts or if they form or are a part of, a series of offences of the same or a similar character.

(2) Where more than one offence is charged in a charge or information, a description of each offence so charged shall be set out in a separate paragraph of the charge or information called a count.

(3) Where, before trial or at any stage of a trial, the court is of the opinion that a person accused may be embarrassed or prejudiced in his defence by reason of being charged with more than one offence in the same charge or information, or that for any other reason it is desirable to direct that the person should be tried separately for any one or more offences charged in a charge or information, the court may order a separate trial of any count or counts of such charge or information.

第一百三十三条【控罪或罪状材料中的合并诉讼】

(1) 如所控罪行是基于相同事实，或构成或属于一系列性质相同或相似的罪行的一部分，则任何罪行均可同时以相同的罪名或材料被控。

(2) 在—项控罪或提供材料时被控逾—项罪行，每项被控罪行的描述，应在每项被控罪行或被称为罪状的材料单独一段内列明。

(3) 凡在审讯前或审讯的任何阶段，法院认为被告人因在同一指控或材料中被控以多项罪行而进行辩护时可能会感到困窘或不利，或者由于任何其他原因，有必要指示该人就—项控罪或—项材料所指控的任何—项或多项罪行分别受审，法院可命令对该项控罪或材料的任何—项或多项罪状分别进行审讯。

134.-(1) The following persons may be joined in one charge or information and

may be tried together, namely—

(a) persons accused of the same offence committed in the course of the same transaction;

(b) persons accused of an offence and persons accused of abetting or an attempt to commit such an offence;

(c) persons accused of different offences committed in the course of the same transaction;

(d) persons accused of any offence under Chapter XXV to XXXI of the Penal Code and persons accused of receiving or retaining property, possession of which is alleged to have been transferred by any such offence committed by the first-named persons, or on abetment of or attempting to commit either of such last-named offences;

(e) persons accused of any offence relating to counterfeit coin under Chapter XXXVI of the Penal Code, and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence; or

(f) persons accused of any economic offence under the Economic and Organised Crime Control Act.

(2) For the avoidance of doubt, it is hereby declared that nothing in this section or in this Act shall be construed as preventing persons who have been committed for trial separately from being joined in one charge or information and being tried together if they are persons who fall under any of the categories specified in subsection (1).

第一百三十四条【在同一控罪或材料中两名或多名被告人的共同受审】

(1) 以下被告人可因一项控罪或材料共同受审，即—

(a) 在同一交易过程中被控犯同一罪行的人；

(b) 被控犯罪的人及被控教唆或意图犯该罪的人；

(c) 在同一交易过程中被控犯有不同罪行的人；

(d) 被控犯有《刑法》第二十五章至第三十一章所订罪行的人，以及被控收受或保留财产的人，而该财产的管有据称已被最先提到的人实施的任何该类罪行转移，或被控教唆或意图犯下这些最后提到的罪行的人。

(e) 根据《刑法》第三十六章被控与伪造货币有关的任何罪行的人，以及根据该章被控与同一货币有关的任何其他罪行的人，或教唆或企图犯这种罪行的人；或

(f) 根据《经济和有组织犯罪控制法》，被控犯有任何经济罪行的人。

(2) 为免生疑问，在此声明，本条或本法的任何规定，均不得解释为阻止已分别被交付审判的人因同一项指控或材料而被合并审判，如果他们属于第(1)款指明的任何类别的人。

135. The following provisions of this section shall apply to all charges and informations and, notwithstanding any rule of law or practice, a charge or an information shall, subject to the provisions of this Act, not be open to objection in respect of its form or contents if it is framed in accordance with the provisions of this section—

(i) A count of a charge or information shall commence with a statement of the offence charged, called the statement of the offence;

(ii) the statement of offence shall describe the offence shortly in ordinary language avoiding as far as possible the use of technical terms and without necessarily stating all the essential elements of the offence and, if the offence charged is one created by enactment, shall contain a reference to the section of the enactment creating the offence;

(iii) after the statement of the offence, particulars of such offence shall be set out in ordinary language, in which the use of technical terms shall not be necessary, save that where any rule of law limits the particulars of an offence which are required to be given in a charge or an information, nothing in this paragraph shall require any more particulars to be given than those so required;

(iv) the forms set out in the Second Schedule to this Act, or forms conforming to them as nearly as may be, shall be used in cases to which they are applicable; and in other cases forms to the like effect, or conforming to them as nearly as may be, shall be used, the statement of offence and the particulars of offence being varied according to the circumstances in each case;



(v) where a charge or an information contains more than one count, the counts shall be numbered consecutively;

(b) (i) where an enactment constituting an offence states the offence to be the doing of or the omission to do any one of any different acts in the alternative, or the doing of or the omission to do any act in any one of any different capacities, or with any one of different intentions, or states any part of the offence in the alternative, the acts, omissions, capacities or intentions, or other matters stated in the alternative in the enactment may be stated in the alternative in the count charging the offence;

(ii) it shall not be necessary, in any count charging an offence constituted by an enactment, to negative any exception or exemption from, or qualification to, the operation of the enactment creating the offence;

(c) (i) the description of property in a charge or an information shall be in ordinary language and such as to indicate with reasonable clarity the property referred to, and, if the property is so described, it shall not be necessary (except when required for the purpose of describing an offence depending on any special ownership of property or special value of property) to name the person to whom the property belongs or the value of the property;

(ii) where property is vested in more than one person, and the owners of the property are referred to in a charge or an information, it shall be sufficient to describe the property as owned by one of those persons by name with the others, and if the persons owning the property are a body of persons with a collective name, such as a joint stock company or “Inhabitants”, “Trustees”, “Commissioners”, or a “Club” or other such name, it shall be sufficient to use the collective name without naming any individual;

(iv) coins, bank notes and currency notes may be described as money, and any allegation as to money, so far as regards the description of the property, shall be sustained by proof of any amount of coin or of any bank or currency note (although the particular species of coin of which such amount was composed, or the particular nature of the bank or currency note, shall not be proved); and in cases of stealing

and defrauding by false pretences, by proof that the accused persons dishonestly appropriated or obtained any coin or any bank or currency note, or any portion of the value thereof, although such coin or bank or currency note may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same or to any other person, and such part shall have been returned accordingly;

(v) where a person is charged with stealing money or any other thing, it shall be sufficient to specify the gross sum or the total number or quantity of things, as the case may be, in respect of which the offence is alleged to have been committed and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates;

(d) the description or designation in a charge or an information of the accused person, or of any other person to whom reference is made in the charge or information, shall be such as is reasonably sufficient to identify him without necessarily stating his correct name, or his abode, style, degree or occupation, and, if owing to the name of the person not being known or for any other reason, it is impracticable to give such a description or designation, such description or designation shall be given as is reasonably practicable in the circumstances, or such person may be described as “a person unknown”;

(e) where it is necessary to refer to any document or instrument in a charge or an information, it shall be sufficient to describe it by any name or designation by which it is usually known, or by the purport of it, without setting out any copy of it;

(f) subject to any other provision of this section, it shall be sufficient to describe any place, time, thing, matter, act or omission of any kind to which it is necessary to refer in any charge or information in ordinary language in such manner as to indicate with reasonable clarity the place, time, thing, matter, act or omission referred to;

(g) it shall not be necessary in stating any intent to defraud, deceive or injure to state an intent to defraud, deceive or injure any particular person, where the enactment creating the offence does not make an intent to defraud, deceive or injure a particular

person an essential ingredient of the offence;

(h) where a previous conviction of an offence is charged in a charge or information, it shall be charged at the end of the charge or information by means of a statement that the accused person has been previously convicted of that offence at a certain time and place without stating the particulars of the offence;

(i) figures and abbreviations may be used for expressing anything which is commonly expressed by them.

### 第一百三十五条【指控犯罪的方式】

本条下列规定适用于所有指控及材料，以及尽管有任何法律或惯例，根据本法的规定，如果一项指控或一项材料是按照本条的规定制定的，不得对其形式或内容提出异议—

(i) 控罪或材料罪状须以所指控的罪行的陈述开始，称为罪行陈述；

(ii) 罪行陈述须以一般用语简短地描述罪行，尽量避免使用专业术语，而无须说明罪行的所有基本要素；如所控罪行是由法例所订定的罪行，则须提及法例所订定罪行的条文；

(iii) 罪行陈述后，须以一般用语列明该罪行的详情，而无须使用专业术语。除法律规则限制须在控罪或材料中提供罪行详情外，本段任何条文均不得规定须提供的详情多于所要求的详情；

(iv) 本法附表2所列的表格，或尽可能符合该等表格的表格，应在适用的情况下使用；在其他情况下，应使用具有相同效力或尽可能符合该等表格的表格，罪行的陈述及罪行详情根据每宗案件的犯罪情况有所不同；

(v) 如果指控或材料多于一项，则罪状须连续编号；

(b) (i) 构成罪行的法例订明，作为或替代性的不作为任何不同行为之一，或者作为或不作为任何不同身份的行为，作为或不作为具不同意图的行为，或者替代性的罪行的其他要素，均属罪行。作为、不作为、身份或意图或其他要素可在所控罪行的罪状中予以替代性的陈述。

(ii) 在任何指控法例构成罪行的罪状中，均无须否定制定该罪行的法例实施的任何例外、豁免或限制；

(c) (i) 控罪或材料中财产的描述须采用普通用语，以便合理清楚地指明所提

及的财产，如果财产如此描述，则没有必要（除非在描述罪行时需要视乎任何财产的特别所有权或财产的特别价值而定）指明财产的所属人或财产的价值；

(ii) 财产属于一人以上的，而财产的所有者在控罪或材料中被提及，将该财产描述为该等人之一与其他人共同拥有的财产是足够的。财产所有人是具有集体名称的人的团体，如股份公司、“居民”、“受托人”、“专员”、“俱乐部”或者其他集体名称的，应当使用集体名称而不指明个人；

(iii) 属于或提供给任何公共机构、服务或部门使用的财产可称为联合共和国的财产；

(iv) 硬币、银行票据和流通币可被描述为金钱，关于金钱的任何指控，就财产的描述而言，须有任何数量的硬币或任何银行票据或流通币的证明（虽然组成该数额的特定币种，或者银行票据、流通币的特殊性质，无须证明）；在通过虚假借口偷窃和欺骗的情况下，须有被告人不诚实地侵吞或取得任何硬币、银行票据和流通币或其价值的任何部分的证明，虽然该等硬币、银行票据和流通币可能已交付该等人，以便将其价值的一部分退还给交付该等硬币、银行票据或流通币的一方或任何其他他人，并且该部分应已相应退还；

(v) 被控盗窃金钱或任何其他物品的人，应根据情况，列明涉嫌犯罪的物品的总额或总数或数量及指控罪行发生的日期，而无须指明特别的项目或精确的日期。

(d) 在控罪或材料中对被告人或在控罪或材料中对提及的任何其他人的描述或指明，须足以合理地识别他，而无须指明他的正确姓名、住所、作风、学位或职业，如因该人的姓名不为人所知或任何其他理由而无法作出该等描述或指明，则须以合理可行的方式作出该等描述或指明或者可将这样的人描述为“一个未知的人（无名氏）”；

(e) 凡有需要提述控罪或材料中的任何文件或法律文件，则只须以通常为人所知的任何名称或称号或其主旨来描述该文件或法律文件，而无须列出其任何副本；

(f) 在不违反本条任何其他规定的情况下，以普通用语和合理清晰的方式表明指控或材料提及的任何地点、时间、事物、事项、任何种类的作为或不作为，这种描述是足够的。

(g) 制定罪行的法例并没有将意图诈骗、欺诈或伤害特定人作为该罪行的基本构成要素，则陈述任何意图诈骗、欺诈或伤害时，无须陈述意图诈骗、欺诈或伤害任何特定人；

(h) 如果控告或材料中控告的罪行被先前定罪，则应在控罪或材料结尾处，陈述被告人曾在某时某地被定罪而无须说明罪行的详情；

(i) 数字和缩写可用来表示任何它们通常表示的事物。

136. When in any charge two or more persons are charged together with committing a crime, it shall not be necessary to allege that “both and each” or “one or other”, or that “all and each” or “one or more” of them committed the crime, or did or failed to do any particular act; but such alternatives shall be implied in all such charges.

第一百三十六条【两人或两人以上被指控的案件】

在任何指控中，如果两个或两个以上的人一起被指控犯罪，则无须指控“两人一人”或“一人或另一人”，或“所有人一人”或“一人或多人”实施了犯罪，或曾或未能实施任何特定的行为；但此类替代性的情形应包含在所有该类控罪中。

### *(c) Previous Conviction or Acquittal*

#### *(c) 以前的定罪或无罪释放*

137. A person who has once been tried by a court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal has not been reversed or set aside, not be liable to be tried again on the same facts for the same offence.

第一百三十七条【被判有罪或无罪的人不得因同一罪行再次受审】

曾因某项罪行被有管辖权的法院审判，并已被定罪或宣告无罪的人，虽然这种定罪或无罪的判决没有被推翻或撤销，但不应因同一罪行而再以同样的事实接受审讯。

138. A person convicted or acquitted of any offence may be afterwards tried for any other offence with which he might have been charged on the former trial under subsection (1) of section 134.

第一百三十八条【可因另行罪行再次受审】

任何被定罪或被判无罪的人，其后可就其在上一项审讯中根据第一百三十四条第(1)款可能被控的任何其他罪行，接受审讯。

139. A person convicted or acquitted of any act causing consequences which together with such act constitute a different offence from that for which such person was convicted or acquitted, may be afterwards tried for such last-mentioned offence if the consequences had not happened or were not known to the court to have happened at the time when he was convicted or acquitted.

第一百三十九条【原审判时发生或未知的结果】

被定罪或被宣告无罪的人，其造成后果的行为与被定罪或被宣告无罪的行为构成不同的罪行，事后可因上述最后提及的罪行而受审，如果这些后果在他被定罪或无罪释放时没有发生或法院不知道发生了。

140. A person convicted or acquitted of any offence constituted by any act may, notwithstanding such conviction or acquittal, be subsequently charged with and tried for any other offence constituted by the same acts which he may have committed, if the court by which he was first tried was not competent to try the offence with which he is subsequently charged.

第一百四十条【原法院无权审理后续指控】

因任何行为所构成的罪行而被定罪或被宣告无罪的人，即使被定罪或宣告无罪，如果最初审判该人的法院无权审判他随后被指控的罪行，则此人可由他可能犯下的同样行为构成的任何其他罪行被指控和审判。

141.-(1) In any inquiry, trial or other proceeding under this Act, a previous conviction may be proved, in addition to any other mode provided by any law for the time being in force—

(a) by an extract certified, under the hand of the officer having the custody of the records of the court in which such conviction was had, to be a copy of the sentence or order;

(b) by a certificate signed by the officer in charge of the prison in which the punishment or any part of it was inflicted;

(c) by production of the warrant of commitment under which the punishment was suffered; or

(d) by production of a final judgment of a competent court finally declaring a person to be guilty of the offence,

together with, in each such case, evidence as to the identity of the accused person with the person so convicted.

(2) A certificate in the form prescribed by the Director of Public Prosecutions given under the hand of an officer appointed by him in that behalf, who shall have compared the fingerprints of an accused person with the fingerprints of a person previously convicted, shall be prima facie evidence of all facts set forth in it provided it is produced by the person who took the fingerprints of the accused.

(3) A previous conviction in any place outside Tanzania may be proved by the production of a certificate purporting to be given under the hand of a police officer in the country where the conviction was had, containing a copy of the sentence or order and the fingerprints or photographs of the fingerprints of the persons so convicted, together with either—

(a) evidence that the fingerprints, or the photographs, of the person previously convicted are those of the accused person; or

(b) a certificate given under the hand of an officer appointed by the Director of Public Prosecutions under subsection (2) that he has compared the fingerprints, or the photographs, of the

person previously convicted with the fingerprints or the photographs of the accused person and that they are those of one and the same person.

(4) A certificate purporting to be given under the hand of a police officer in the country where the conviction was had and a certificate given in accordance with the provisions of paragraph (b) of subsection (3) shall, if in the case of the latter certificate it is produced by the person who took the fingerprints of the accused person, be prima facie evidence of all facts set forth in it without proof that the officer purporting to sign it did in fact sign it and was empowered to do so.



第一百四十一条【前科、证明的方式】

(1) 在根据本法进行的任何调查、审判或其他程序中，除现行有效的任何法律规定的任何其他方式外，可以证明先前的定罪—

(a) 由负责保管该等定罪的法院记录的官员签发的经核证的摘录，作为该判决或命令的副本；

(b) 由执行刑罚的监狱主管人员签署的证明书；

(c) 出示承诺书，根据承诺书受到了惩罚；或

(d) 出示由主管法院最终宣布某人有罪的最终判决，  
在每一种情况下，连同证明被告与被定罪者身份的证据。

(2) 由检察长委任代表该检察长的官员，该官员应已比对被告人的指纹与先前被定罪人的指纹，签发的其格式由检察长订明的证明书，如果指纹是由提取被告人指纹的人出示的，就应作为证明其中所列一切事实的初步证据。

(3) 以前在坦桑尼亚以外任何地方被定罪，可出示据称是由被定罪国家的警察签发的证明书来证明，载有判刑或命令的副本，以及被定罪人士的指纹或指纹照片，连同以下任何一项—

(a) 以前被定罪人的指纹或照片是被告人的指纹或照片的证据；或

(b) 由检察长委任的官员根据第 2 款签发的证明书，其已经比对先前被定罪人与被告人的指纹或照片，并且它们就是一个人的，他们就是同一人。

(4) 不论是声称由被定罪国家的警察签发的证明书，还是根据第 3 款 (b) 款的规定签发的证明书，在后种证明书情况下，指纹是由提取被告人指纹的人出示的，均应作为证明其中所列一切事实的初步证据，但并非证明声称签发证明书的该人事实上确实签发了该证明书和确实有权这样做。

*(d) Compelling Attendance of Witnesses*

(d) 强迫证人出庭

142.-(1) If it is made to appear that material evidence can be given by or is in the possession of any person, it shall be lawful for a court to issue summons to that person requiring his attendance before the court or requiring him to bring and produce to the



court for the purpose of evidence all documents and writings in his possession or power which may be specified or otherwise sufficiently described in the summons.

(2) Nothing in this section shall be deemed to affect the provisions of section 132 of the Evidence Act.

#### 第一百四十二条【传唤证人】

(1) 如果法院认为物证可由任何人提供或者属于任何人，其向该人发出传票要求其出庭或者要求其把他所有的文件或书面材料带至法庭并向法庭出示就应是合法的。

(2) 本条任何内容均不应被视为影响《证据法》第一百三十二条的规定。

143. If, without sufficient excuse, a witness does not appear in obedience to a summons of the court, on proof of the proper service of the summons a reasonable time before he is required to appear may issue a warrant to bring him before the court at such time and place as shall be specified in the warrant.

#### 第一百四十三条【证人无视传票令】

如证人无充分理由而不遵照法院传票出庭，则在证明传票已妥为送达后，须在证人出庭前一段合理时间内，可发出令状，在令状指定的时间及地点将其带至法庭。

144. If the court is satisfied by evidence on oath that a witness will not attend unless compelled to do so, it may at once issue a warrant for the arrest and production of the witness before the court at a time and place to be specified in the warrant of arrest.

#### 第一百四十四条【证人首次出庭令】

如果法庭对宣誓作证的证人除非被迫出庭，否则不会出庭的证据感到满意，它可以立即发出逮捕令，并在逮捕令规定的时间和地点向法庭出示证人。

145. When a witness is arrested under a warrant the court may, on his furnishing security by recognisance to the satisfaction of the court for his appearance at the hearing of the case, order him to be released from custody, or shall, on his failing to furnish security, order him to be detained for production at the hearing.

#### 第一百四十五条【根据逮捕令逮捕证人的处理方式】

当证人根据逮捕令被捕时，法院可在其提供令法院满意的担保保证出庭案件聆讯的情况下，命令将其释放，或者在其未能提供担保时，应将其拘禁以出庭案件审判。

146.-(1) Any court desirous of examining as a witness, in any case pending before it, any person confined in any prison within the local limits of its jurisdiction may issue an order to the officer in charge of the prison requiring him to bring that prisoner in proper custody, at a time to be named in the order, before the court for examination.

(2) The officer so in charge, on receipt of the order, shall act in accordance with it and shall provide for the safe custody of the prisoner during his absence from the prison for the purpose specified in the order.

**第一百四十六条【法院有权命令刑事被告人接受审讯】**

(1) 任何法院，在其审讯的任何案件中，希望以证人身份审查在其管辖范围内的任何监狱中被监禁的任何人，可向监狱管理人员发出命令，要求其将被监禁者在命令所指的时间带至庭前审讯。

(2) 管理人员收到命令之后，应当按命令执行，并应为命令订明的目的在罪犯离开监狱期间，提供安全羁押。

147.-(1) Any person summoned to attend as a witness who, without lawful excuse, fails to attend as required by the summons or who, having attended, departs without having obtained the permission of the court or fails to attend after adjournment of the court after being ordered to attend, shall be liable by order of the court to a fine not exceeding five hundred shillings.

(2) The fine imposed under subsection (1) may be levied by attachment and sale of any movable property belonging to the witness which is within the local limits of the jurisdiction of the court.

(3) In default of recovery of the fine by attachment and sale the witness may, by order of the court, be imprisoned as a civil prisoner for a term of fifteen days unless the fine is paid before the end of the said term.

(4) For good cause shown, the High Court may remit or reduce any fine imposed under this section by a subordinate court.

## 第一百四十七条【对不出庭证人的处罚】

(1) 作为证人被传唤出庭的任何人，无合法理由未按传票的要求出庭或，已经出庭，未经法庭许可擅自离庭或，法庭休庭后，被命令出庭不予出庭，可由法庭命令处以不超过 500 先令的罚款。

(2) 根据第 (1) 款所施加的罚款，可藉查封及变卖属于证人的在法院管辖范围内的任何动产而征收。

(3) 因查封、变卖等原因不能追缴罚款的，依照法院的命令，证人可作为民事犯被监禁十五日，但在该期间届满前缴纳罚款的除外。

(4) 如有充分理由，高等法院可免除或减少下级法院根据本条所施加的罚款。

*(e) Provisions as to Bail, Recognisances and Bonds**(e) 关于保释、保证金和保释金的规定*

148.-(1) When any person is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a court and is prepared at any time while in the custody of that officer or at any stage of the proceedings before that court to give bail the officer or the court, as the case may be, may, subject to the following provisions of this section, admit that person to bail; save that the officer or the court may, instead of taking bail from that person, release him on his executing a bond with or without sureties for his appearance as provided in this section.

(2) The amount of a bail shall be fixed with due regard to the gravity and other circumstances of the case, but shall not be excessive.

(3) The High Court may, subject to subsections (4) and (5) of this section, in any case direct that any person be admitted to bail or that the bail required by a subordinate court or a police officer be reduced.

(4) Notwithstanding anything in this section contained, no police officer or court shall, after a person is arrested and while he is awaiting trial or appeal, admit that person to bail if the Director of Public Prosecutions, certifies in writing that it is likely that the safety or interests of the Republic would thereby be prejudiced; and a certificate



issued by the Director of Public Prosecutions under this section shall take effect from the date it is filed in court or notified to the officer in charge of a police station and shall remain in effect until the proceedings concerned are concluded or the Director of Public Prosecutions withdraws it.

(5) A police officer in charge of a police station or a court before whom an accused person is brought or appears, shall not admit that person to bail if—

(a) that person is charged with—

(i) murder, treason, armed robbery, or defilement;

(ii) illicit trafficking in drugs against the Drugs and Prevention of Illicit Traffic in Drugs Act, but does not include a person charged for an offence of being in possession of drugs which taking into account all circumstances in which the offence was committed, was not meant for conveyance or commercial purpose;

(iii) an offence involving heroin, cocaine, prepared opium, opium poppy (*papaver setigerum*), poppy straw, coca plant, coca leaves, *cannabis sativa* or *cannabis resin* (Indian hemp), methaqualone (mandrax), *catha edulis* (khat) or any other narcotic drug or psychotropic substance specified in the Schedule to this Act which has an established value certified by the Commissioner for National Co- ordination of Drugs Control Commission, as exceeding ten million shillings;

(iv) terrorism against the Prevention of Terrorism Act, 2002;

(v) money laundering contrary to Anti-money Laundering Act, 2006;

(b) it appears that the accused person has previously been sentenced to imprisonment for a term exceeding three years;

(c) it appears that the accused person has previously been granted bail by a court and failed to comply with the conditions of the bail or absconded;

(d) it appears to the court that it is necessary that the accused person be kept in custody for his own protection or safety;

(e) the offence with which the person is charged involves actual money or property whose value exceeds ten million shillings unless that person deposits cash or other property equivalent to half the amount or value of actual money or property involved

and the rest is secured by execution of a bond:

Provided that where the property to be deposited is immovable, it shall be sufficient to deposit the title deed, or if the title deed is not available such other evidence as is satisfactory to the court in proof of existence of the property; save that this provision shall not apply in the case of police bail.

(6) Where a court decides to admit an accused person to bail, it shall impose the following conditions on the bail, namely—

(a) surrender by the accused person to the police of his passport or any other travel document; and

(b) restriction of the movement of the accused to the area of the town, village or other area of his residence.

(7) A court may, in addition to the mandatory conditions prescribed in subsection (6), impose any one or more of the following conditions which appear to the court to be likely to result in the appearance of the accused for the trial or resumption of the trial at the time and place required or as may be necessary in the interests of justice or for the prevention of crime, namely—

(a) requiring the accused to report at specified intervals to a police station or other authority within the area of his residence;

(b) requiring the accused to abstain from visiting a particular locality or premises, or associating with certain specified persons;

(c) any other condition which the court may deem proper and just to impose in addition to the preceding conditions.

#### 第一百四十八条【保释】

(1) 任何人在没有逮捕令的情况下被负责警署的警察逮捕或拘禁，或者出庭或被带至出庭，并随时准备在被警察羁押期间或在法院审理程序的任何阶段给予保释，在符合本条下列规定的情况下，警察或法院可视情况准许该人保释；但警察或法院可在执行本条所规定的有或无担保人的出庭保证时，将该人释放，而毋须对该人保释。

(2) 保释的数额应当根据情节轻重和其他情况确定，但不得过高。

(3) 在不违反本条第(4)及(5)款的情况下, 高等法院可在任何情况下指示准许任何人保释, 或减少下级法院或警察所要求的保释金。

(4) 不论本条有何规定, 他人被逮捕后, 在其等待审判或上诉期间, 如检察长以书面证明可能会因此损害共和国的安全或利益, 则警察或法院不得准许该人保释; 检察长根据本条发出的证明书, 由该证明书提交法庭或通知警署负责人之日起生效, 并在有关的程序完结或检察长撤销该程序前继续有效。

(5) 在下列情况下, 负责警署的警察或法院, 在被告人被带到或出现在他面前时, 不得准许他保释—

(a) 那个人被指控犯有一

(i) 谋杀、叛国、武装抢劫或污辱;

(ii) 违反《毒品和防止非法贩运毒品法》的非法贩运毒品, 但不包括考虑到所犯罪行的所有情况, 并不是为了运输或商业目的的持有毒品而被指控的人;

(iii) 涉及海洛因、可卡因、精制鸦片、罂粟(罂粟香)、罂粟杆、古柯植物、古柯叶、大麻或大麻树脂(印度大麻)、安眠酮(镇静剂)、卡他霉素(阿拉伯茶)或本法附表所列任何其他麻醉药品或精神药物的犯罪, 经国家药物管制委员会协调专员核证的确定价值超过一千万先令;

(iv) 违反 2002 年《防止恐怖主义法》恐怖主义;

(v) 违反 2006 年《反洗钱法》的洗钱行为;

(b) 被告人以前曾被判处三年以上监禁;

(c) 被告人曾获法院准予保释, 但未遵守保释条件或潜逃;

(d) 法院认为, 为了保护被告人或被告人的安全, 有必要将其羁押;

(e) 被控的罪行涉及实际价值超过一千万先令的金钱或财产, 除非该人存入的现金或其他财产相等于所涉实际金钱或财产数额或价值的一半, 其余的通过执行保证来担保;

如存交的财产是不动产的, 应当存交所有权契据; 没有契据的, 应当存交法院认为足以证明财产存在的其他证据; 但这一规定不适用于警方保释情形。

(6) 法院决定准予被告人保释的, 须就保释施加下列条件, 即 -

(a) 被告人向警方交出护照或任何其他旅行证件; 和

(b) 将被告人的行动限制在其居住的城镇、村庄或其他地区。

(7) 除第(6)款所订明的强制条件外，法院可施加下列任何一项或多项条件，而法院认为该等条件可能让被告人在规定的时间和地点出庭受审或恢复受审，或为维护正义或预防犯罪的需要，即 -

- (a) 要求被告人按规定的时间间隔向其居住所在地的警署或其他当局报告；
- (b) 要求被告人不得前往特定地方或处所，或不与特定人交往；
- (c) 除上述条件外，法院可认为适当和公正施加的任何其他条件。

149. Where in connection with any criminal proceedings a subordinate court has power to admit any person to bail but either refuses to do so or does so or offers to do so on terms unacceptable to him, the High Court may admit him or direct his admission to bail or, where he has been admitted to bail, may vary any conditions on which he was so admitted or reduce the amount in which he or any surety is bound to discharge any of the sureties.

#### 第一百四十九条【高等法院有权改变下级法院保释条款】

在涉及下级法院有权准许任何人保释，要么拒绝保释，要么同意保释，要么以该人无法接受的条件提出保释的任何刑事诉讼时，高等法院可准许或指示该人获得保释或，当该人获准保释时，高等法院可改变其获准保释的条件或者减少该人或任何担保人有义务解除任何担保人的数额。

150. Where an accused person has been admitted to bail and circumstances arise which, if the accused person had not been admitted to bail would, in the opinion of a prosecutor or police officer, justify the court in refusing bail or in requiring bail of greater amount, the judge or magistrate, as the case may be, on the circumstances being brought to his notice by a prosecutor or a police officer, issue a warrant for the arrest of the accused person and, after giving the accused person an opportunity of being heard, may either commit him to prison to await trial or admit him to bail for the same or on an increased amount as the judge or magistrate may think just.

#### 第一百五十条【获准保释后情形变更】

被告人已获准保释，如果出现了被告人不能获准保释的情形，检察官或警察认为，该等情形为法院拒绝保释或要求更大数额的保释金提供正当理由，则法官或裁判官，视情形而定，根据检察官或警察通知他的情况，发出逮捕被告人的逮



捕令，并在给予被告人聆讯机会后，可将他交付监狱等待审判，也可准许该人以法官或裁判官认为合理的数额或增加的数额保释。

151. Before any person is released on bail, or on his own recognisance, a bond for such sum as the court or police officer, as the case may be, thinks sufficient shall be executed by such person, and when he is released on bail, by one or more sufficient sureties, conditioned that he shall attend at the time and place mentioned in the bond and shall continue so to attend until otherwise directed by the court or police officer.

**第一百五十一条【保释金的执行】**

在任何人获准保释或自行保释之前，法院或警察，视情况而定，如认为保释金数额足够，则应由该人执行。当他由一名或多名足够的担保人担保而获准保释时，条件应是他应在保证中提到的时间和地点出庭，并继续参加，直至法院或警察另有指示为止。

152.-(1) As soon as the bond has been executed, the person for whose appearance it has been executed shall be released, and when he is in prison the court admitting him to bail shall issue an order of release to the officer in charge of the prison and the officer, on receipt of the order, shall release him.

(2) Nothing in this section or section 146 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

**第一百五十二条【解除羁押】**

(1) 保证一经执行，显示已被执行的该人即应被释放，当其在监狱中时，准许保释的法院应向监狱管理人员发出释放令，监狱管理人员收到该命令后应立即将其释放。

(2) 本条或第一百四十六条的任何规定均不应被视为要求释放任何因与执行保证无关的其他事项而被拘禁的人。

153. When any person is required by any court or officer to execute a bond, with or without sureties, the court or officer may, except in the case of a bond for good behaviour, permit him to deposit a sum of money of such amount as the court or officer may fix in lieu of executing the bond.



**第一百五十三条【保证金代替保证】**

当任何人被法院或其工作人员要求执行有担保人或无担保人的保证时，除对规范行为的保证外，法院或其工作人员可准许该人存入一笔款额，数额为法院或其工作人员厘定，以代替执行保证。

154. If, through mistake, fraud or for any other reason, insufficient sureties have been accepted, or if they afterwards become insufficient, the court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sureties and on his failing to do so may commit him to prison.

**第一百五十四条【首次保释不足时，有权命令足够的保释】**

因错误、欺诈或任何其他原因，不足够的保证人被接受，或如果他们后来变得不足够，法院可发出逮捕令，指示将获保释的人带至法院，并可命令他提出保证人，如果未能提出，可把他交付监狱。

155.-(1) All or any of the sureties for the appearance and attendance of a person released on bail may at any time apply to a magistrate to discharge the bond either wholly or so far as it relates to the applicant or applicants.

(2) On an application being made the magistrate shall issue a warrant of arrest directing that the person on bail be brought before him.

(3) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the magistrate shall direct the bond to be discharged either wholly or so far as it relates to the applicant or applicants, and shall call upon such person to find other sufficient sureties, and if he fails to do so may commit him to prison.

**第一百五十五条【担保人的解除】**

(1) 为被保释人出庭作担保的全部或任何担保人可随时向裁判官申请解除全部或与某申请人或某些申请人有关的保证。

(2) 经申请，裁判官应当发出逮捕令，指示将被保释人带至其面前。

(3) 在该等人根据逮捕令或基于其自愿出庭时，裁判官须指示解除全部或与某申请人或某些申请人有关的保证，并要求该人提出其他足够的担保人，如未能提出，可将他交付监狱。

156. Where a surety to a bond dies before the bond is forfeited, his estate shall be

discharged from all liability in respect of the bond, but the party who gave the bond may be required to find a new surety.

第一百五十六条【担保人死亡】

如果保证的担保人在保证金被没收前死亡，则其财产应免除对保证的所有责任，但提供保证的一方可能需要提出新的担保人。

157.-(1) A police officer may arrest without warrant any person who has been admitted to bail—

(a) if the police officer has reasonable grounds for believing that the person is likely to break the condition that he will appear at the time and place required or any other condition on which he was admitted to bail, or if the police officer has cause to suspect that that person is breaking or has broken any such other condition; or

(b) on being notified in writing by any surety for that person that the surety believes that that person is likely to break the first mentioned condition and for that reason the surety wishes to be relieved of his obligation as surety.

(2) A person arrested under subsection (1)—

(a) shall, unless he is arrested within the period of twenty-four hours immediately preceding an occasion on which he is required by virtue of a condition of his bail to appear before any court, be brought as soon as practicable, and in any event within twenty-four hours after his arrest, before a magistrate with jurisdiction of the area in which he was arrested; and

(b) in the excepted case shall be brought before the court before which he is required for resumption of the trial.

第一百五十七条【受保证约束的人潜逃或违反保释条件的，可以逮捕】

(1) 警察可在没有逮捕令的情况下逮捕任何获准保释的人—

(a) 如果警察有合理理由认为该人可能会违反他获准保释的将在所要求的时间和地点出庭的条件或任何其他条件，或者警察有理由怀疑，该人正在违反或已经违反任何其他此类条件；或

(b) 任何该人的担保人书面通知，担保人认为该人可能违反前面提及的条件，因此担保人希望免除其作为担保人的义务。

(2) 根据第(1)款被捕的人—

(a) 除非他在紧接着根据保释条件而被要求出庭的情况之前的二十四小时内被捕，应在切实可行的情况下，无论如何在他被捕后二十四小时内，尽快被送交被捕地区有管辖权的裁判官；和

(b) 在例外情况下，应将送交需要恢复审判的法院。

158. Any person who is on bail and who is arrested on the reasonable suspicion that he is preparing to break or is in the process of breaking his conditions of bail shall, if the court is satisfied that the was justly arrested, not be considered again for any further bail in the same case.

第一百五十八条【潜逃或违反保释条件的人不得考虑进一步保释】

被保释并被逮捕的任何人，基于合理的怀疑该人准备违反或正在违反获准保释的条件，如果法院认为被逮捕的人是被正当逮捕的，在同一案件中不再考虑为该人提供进一步的保释。

159. Where a person absconds while he is on bail or, not being on bail, fails to appear before the court on the date fixed and conceals himself so that a warrant of arrest may not be executed—

(a) such of his property, movable or immovable, as is commensurate to the monetary value of any property involved in the case may be confiscated by attachment; and

(b) the trial in respect of that person shall continue irrespective of the stage of the trial when the accused absconds, after sufficient efforts have been made to trace him and compel his attendance.

第一百五十九条【对违反保释条件或不出庭的处罚】

任何人在保释期间潜逃，或在不保释的情况下，未能在指定日期出庭，并隐瞒身份，以致不能执行逮捕令 -

(a) 与本案所涉任何财产的货币价值相称的动产或不动产该类财产，可以扣押没收；和

(b) 在作出充分努力追查被告人并迫使他出庭后，不论被告人潜逃的审判阶段如何，对他的审判应继续进行。



160.-(1) Whenever it is proved to the satisfaction of a court by which a recognisance under this Act or the Penal Code has been taken or when the recognisance has been taken by a police officer for appearance before the court that such recognisance has been forfeited, the court shall record the grounds of such proof and may call upon any person bound by the recognisance to pay the penalty thereof or to show cause why it should not be paid.

(2) If sufficient cause is not shown and the penalty is not paid, the court may proceed to recover the penalty by issuing a warrant for the attachment and sale of the movable property belonging to that person or his estate if he is dead.

(3) The warrant may be executed within the local limits of the jurisdiction of the court which issued it and it shall authorise the attachment and sale of the movable property belonging to that person outside such limits when endorsed by any magistrate within the local limits of whose jurisdiction that property is found.

(4) If that penalty is not paid and cannot be recovered by attachment and sale, the person so bound shall be liable, by order of the court which issued the warrant, to imprisonment for six months.

(5) The court may at its discretion remit any portion of the penalty and enforce payment in part only.

(6) Where a surety to a recognisance dies before the recognisance is forfeited, his estate shall be discharged from all liability in respect of the recognisance.

(7) When any person who has furnished security is convicted of an offence the commission of which constitutes a breach of the condition of his recognisance, a certified copy of the judgment of the court by which he was convicted of the offence may be used as evidence in the proceedings under this section against his surety or sureties and if the certified copy is so used the court shall presume that the offence was committed by him unless the contrary is proved.

#### 第一百六十条【没收保证金】

(1) 根据本法或刑法采取的保证或当警察采取的出庭的保证，而该保证金被没收时，如果证明符合法院的要求，法院须记录此类证据的理由，并可要求受到

保证约束的任何人支付其罚款，或说明为何不应支付。

(2) 没有充分的理由而又不支付罚款的，如果该人死亡，法院可以签发扣押令，扣押和变卖属于该人或者其遗产的动产，追偿罚款。

(3) 令状可在发出令状的法院管辖范围内执行，并且经财产发现地管辖范围内的任何裁判官背书（批准），应当授权对属于该范围以外的动产的扣押和变卖。

(4) 未缴纳罚款又不能通过扣押、变卖追偿的，则根据发出令状的法院的命令，受该罚款约束的人应被判处监禁 6 个月。

(5) 法院可酌情免除任何部分罚款，并只强制执行部分款项。

(6) 保证金被没收之前，保证的担保人死亡的，其遗产可免除与该保证有关的一切责任。

(7) 任何提供担保的人被判犯有违反其保证条件的罪行，其被定罪的法院判决书的核证副本，可在根据本条对其某位担保人或某些担保人进行的诉讼中作为证据使用，并且，如使用核证副本，除非有相反的证明，否则法院应推定该人犯了罪行。

161. All orders issued under sections 148 to 160 by any magistrate shall be appealable to, and may be reviewed by, the High Court.

#### 第一百六十一条【上诉和修改命令】

任何裁判官根据第 148 至 160 条发出的命令，均可向高等法院提出上诉，并可由高等法院审查。

162. The High Court may direct any magistrate to levy the amount due on the recognisance to appear and attend at the High Court.

#### 第一百六十二条【对某些保证金的应付金额直接征收的权力】

高等法院可指示任何裁判官征收应付的保证金，以出庭高等法院的聆讯。

163. In the case of proceedings for common assault or for any other offence of a personal or private nature the court may, if it is of the opinion that the public interest does not demand the infliction of the penalty, promote reconciliation and encourage and facilitate the settlement, in an amicable way, of the proceedings or on terms of payment of compensation or other terms approved by the court, and may thereupon order the proceedings to be stayed.

第一百六十三条【某些情况下的和解】

针对普通攻击或任何其他个人或私人性质罪行的诉讼，如果认为公共利益不要求施加刑罚，法院可促进和解并鼓励和促进以友好方式解决诉讼或根据赔偿条件或法院核准的其他条件解决，并可据此命令中止诉讼。

**PART VI TRIALS GENERAL PROVISIONS RELATING TO TRIALS**

**第六部分 审判的基本规定**

**A. - Powers of Courts**

**A.- 法院的权力**

*(a) Powers Generally*

*(a) 一般权力*

164.-(1) Subject to the other provisions of this Act, any offence under the Penal Code may be tried by the High Court or, where the offence is shown in the fifth column of Part A of the First Schedule to this Act, by a subordinate court.

(2) Notwithstanding subsection (1), where no provision is made in Part A of the First Schedule to this Act in respect of any offence under the Penal Code, the offence shall be triable, and shall be deemed to have always been triable, by the High Court as well as by a subordinate court.

第一百六十四条【刑法规定的罪行】

(1) 除本法另有规定外，《刑法》项下的任何罪行均可由高等法院审理，或如本法附表 1 A 部分第 5 栏所列罪行，可由下级法院审理。

(2) 尽管有第 (1) 款的规定，如果根据刑法典的任何罪行，本法案附表 1 A 部分没有作出任何规定，则该罪行应由高等法院及下级法院审理，并应被视为一直可审理。

165.-(1) Any offence under any law other than the Penal Code shall, when any court is specified in that behalf in that law, be tried by that court.

(2) Where no court is so mentioned it may, subject to the other provisions of this Act, be tried by the High Court or, where the offence is shown in the fifth column of Part B of the First Schedule to this Act to be an offence triable by subordinate court, by a subordinate court.

第一百六十五条【“刑法”以外的法律规定的罪行】

(1) 根据“刑法典”以外的任何法律规定的任何犯罪，在该法律中为此指明任何法院时，应由该法院审理。

(2) 如果没有提及任何法院，则在符合本法其他规定的情况下，可由高等法院审理，或者如果属于下级法院审理的本法附表 1 B 部分第 5 栏中的罪行，可由下级法院审理。

166. The High Court may pass sentence or make any other order authorised by law.

第一百六十六条【高等法院可作出的判决】

高等法院可判决或作出任何法律授权的其他命令。

167.-(1) Any court may pass lawful sentence combining any of the sentences which it is authorised by law to pass; but where a subordinate court presided over by a magistrate other than a resident magistrate or a senior district magistrate, imposes a sentence of corporal punishment in addition to a sentence of imprisonment, no such sentence of corporal punishment shall be carried into effect until confirmed by the High Court.

(2) In determining the extent of the court's jurisdiction under section 164 to pass a sentence of imprisonment, the court shall be deemed to have jurisdiction to pass the full sentence of imprisonment mentioned in the said section in addition to any term of imprisonment which may be awarded in default of payment of a fine.

(3) Where a court is passing sentence under subsection (1), it may prohibit the grant of parole to a prisoner and shall indicate the reasons for such prohibition.

第一百六十七条【刑的合并】

(1) 任何法院可结合法律授权的任何判决而作出合法判决；但由常驻裁判官、高级地区裁判官以外的裁判官主持的下级法院，除判处监禁外，还判处肉刑的，

未经高等法院核准，不得实施肉刑。

(2) 在确定法院根据第一百六十四条对判处监禁的司法管辖权的范围时，除具有因未缴付罚款而可判处任何刑期的监禁刑的司法管辖权外，法院还应被视为具有判处上述条文所述的全面监禁刑罚的司法管辖权。

(3) 法院根据第(1)款判决的，可以禁止罪犯假释，并应当说明禁止的理由。

168.-(1) Where a person is, at one trial by the High Court, convicted of two or more offences, the High Court may sentence him for those offences to the several punishments prescribed for them; and when consisting of imprisonment, such punishments shall commence the one after the expiration of the other in such order as the High Court may direct unless the High Court directs that those punishments shall run concurrently.

(2) Where a person is convicted at one trial of two or more offences by a subordinate court the court may, subject to the provisions of subsection (3), sentence him for those offences to the several punishments prescribed for them and which the court is competent to impose; and those punishments when consisting of imprisonment, shall commence the one after the expiration of the other in such order as the court may direct, unless the court directs that the punishments shall run concurrently.

(3) Notwithstanding the provisions of subsection (2), a subordinate court shall not, in any case in which it has convicted a person at one trial of two or more offences, be competent—

(a) where the court imposes substantive sentences of imprisonment only, to impose consecutive sentences of imprisonment which exceed in the aggregate—

(i) in any case in which of any of the offences of which the offender has been convicted is an offence in respect of which a subordinate court may lawfully pass a sentence of imprisonment for a term exceeding five years, a term of imprisonment for ten years; or

(ii) in any other case, a term of imprisonment for eight years;

(b) where the court imposes sentences of fines only, to impose sentences of fines which exceed in the aggregate—



(i) in any case in which any of the offences of which the offender is convicted is an offence in respect of which a subordinate court may lawfully impose a fine exceeding ten thousand shillings, a sum equal to thrice the amount of which the subordinate court may so lawfully impose;

(ii) in any other case, a sum of thirty thousand shillings:

Provided that the aggregate of consecutive sentences of imprisonment in default of payment of fines shall not exceed a term of imprisonment of eight years;

(c) where the court passes a combination of a substantive sentence or sentences of imprisonment and a fine or fines, to impose sentences which exceed—

(i) an aggregate of consecutive sentences of imprisonment whether substantive sentences of imprisonment or sentences of imprisonment in default of payment of fine, of ten years; and

(ii) a total of fines of thirty thousand shillings or where any of the offences of which the offender is convicted is an offence in respect of which a subordinate court may lawfully impose a fine exceeding ten thousand shillings, a sum equal to twice the amount of fine which the subordinate court may so lawfully impose.

(4) For the purpose of appeal or confirmation, the aggregate imposed under this section in cases of convictions for two or more offences at one trial shall be deemed to be a single sentence.

(5) Notwithstanding subsection (4), where two or more sentences of imprisonment are directed to run concurrently, only the longer term of those sentences of imprisonment shall be taken into account for computing the aggregate of sentences of imprisonment for the purposes of this section.

(6) Where a court convicts a person in a case which involves sexual offence under the Penal Code, the court shall pass a sentence as prescribed in that Act and in accordance with the Minimum Sentences Act.

第一百六十八条【在一次审判中定罪两项或两项以上罪行的判决】

(1) 凡任何人在高等法院的一次审判中被判犯有两项或两项以上罪行，高等法院可就该等罪行判处该人若干刑罚；由监禁刑组成的，该等刑罚应按高等法院所指示的先后次序，在一刑罚届满后开始执行另一刑罚，除非高等法院指示这些刑罚同时执行。

(2) 凡任何人在下级法院的一次审判中被判犯有两项或两项以上的罪行，在符合第(3)款规定的情况下，法院可判处该人为该等罪行所订明的法院亦有权判处的若干刑罚。刑罚由监禁刑组成的，除非法院指示刑罚同时执行，否则，应按照法院指示的顺序在一刑罚届满后开始执行另一刑罚。

(3) 尽管有第(2)款的规定，下级法院在一次审判中判定一人犯有两项或两项以上罪行的任何情况下，不应主管 -

(a) 法院只判处实质性监禁时，可判处连续的监禁，其刑期合计超过 -

(i) 在任何情况下，该罪犯已被定罪的任何罪行之一是下级法院可依法判处五年以上监禁、十年以下监禁的罪行；或

(ii) 在任何其他情况下，八年监禁期限；

(b) 法院只判处罚金时，其罚金合计超过一

(i) 在任何情况下，该罪犯已被定罪的任何罪行之一是下级法院可依法判处一万先令以上的罚金、下级法院可如此依法判处三倍金额以下罚金的罪行；

(ii) 在任何其他情况下，三万先令的金额；

前提是因未缴纳罚金而连续被判监禁的总和不得超过八年的监禁期限。

(c) 法院作出一项或多项监禁刑和一项或多项罚金刑的合并判决，超过一

(i) 合计连续判处 10 年的监禁刑，无论是实际判处监禁刑或未履行罚金的监禁刑；和

(ii) 总计三万先令的罚金或该罪犯已被定罪的任何罪行之一是下级法院可依法判处一万先令以上的罚金、下级法院可如此依法判处二倍金额以下罚金的罪行。

(4) 为上诉或确认的目的，在一次审判中，因两项或两项以上罪行而定罪的案件，根据本条所加的总和应被视为一项判决。

(5) 即使有第(4)款的规定，若两项或两项以上监禁刑同时执行，则只应考虑到这些监禁刑的较长刑期，以计算本条所述监禁刑期的总和。

(6) 法院根据《刑法》对涉及性犯罪案件的人定罪的，应当依照《刑法》和《最

低刑法》的规定作出判决。

169.-(1) Where, in any proceedings in a court in respect of an offence, objection is taken to the admission of evidence on the ground that the evidence was obtained in contravention of, or in consequence of a contravention of, or of a failure to comply with a provision of this Act or any other law, in relation to a person, the court shall, in its absolute discretion, not admit the evidence unless it is, on the balance of probabilities, satisfied that the admission of the evidence would specifically and substantially benefit the public interest without unduly prejudicing the rights and freedom of any person.

(2) The matters that a court may have regard to in deciding whether, in proceedings in respect of any offence, it is satisfied as required by subsection (1) include—

(a) the seriousness of the offence in the course of the investigation of which the provision was contravened, or was not complied with, the urgency and difficulty of detecting the offender and the urgency or the need to preserve evidence of the fact;

(b) the nature and seriousness of the contravention or failure; and

(c) the extent to which the evidence that was obtained in contravention of or in consequence of the failure to comply with the provision of any law, might have been lawfully obtained.

(3) The burden of satisfying the court that evidence obtained in contravention of, in consequence of the contravention of, or in consequence of the failure to comply with a provision of this Act should be admitted in proceedings lies on the party who seeks to have the evidence admitted.

(4) This section is in addition to, and not in derogation of, any other law or rule under which a court may refuse to admit evidence in proceedings.

#### 第一百六十九条【排除非法取得的证据】

(1) 在法院就某项罪行进行的任何诉讼中，对证据的采信提出异议，理由是该证据是在违反或因违反或不遵守本法或任何其他法律的规定而获得的，就某人而言，法院应全权酌情决定不采信该证据，除非在各种可能性的平衡下，法院确信该证据的采信将具体和实质性地有利于公共利益，而不会过分损害任何个人的权利和自由。



(2) 在就任何罪行进行的法律诉讼中，法院在决定是否符合第(1)款的规定时，可考虑的事项包括 -

(a) 在调查过程中违反或未遵守该项规定的罪行的严重程度、查明罪犯的迫切性和困难程度以及保存事实证据的迫切性或必要性；

(b) 违反或未遵守的性质和严重性；和

(c) 在何种程度上，因违反或不遵守任何法律规定取得的证据可能是合法取得的。

(3) 要求法院在诉讼中承认在违反、因违反或因不遵守本法规定而获得的证据的责任应由寻求承认证据的一方承担。

(4) 本条是对法院可在诉讼中拒绝接受证据的任何其他法律或规则的补充，而不是减损。

### *(b) Subordinate Courts*

#### *(b) 下级法院*

170.-(1) A subordinate court may, in the cases in which such sentences are authorised by law, pass any of the following sentences—

(a) imprisonment for a term not exceeding five years; save that where a court convicts a person of an offence specified in any of the Schedules to the Minimum Sentences Act which it has jurisdiction to hear, it shall have the jurisdiction to pass the minimum sentence of imprisonment;

(b) a fine not exceeding twenty million shillings;

(c) subject to the provisions of the Corporal Punishment Act, corporal punishment;

(2) Notwithstanding the provisions of subsection (1)—

(a) a sentence of imprisonment—

(i) for a scheduled offence (as defined in subsection (5), which exceeds the minimum term of imprisonment prescribed in respect of it by the Minimum Sentences Act;

(ii) for any other offence, which exceeds twelve months;

(b) a sentence of corporal punishment which exceeds twelve strokes;

(c) a sentence of a fine or for the payment of money (other than payment of compensation under the Minimum Sentences Act, which exceeds six thousand shillings, shall not be carried into effect, executed or levied until the record of the case, or a certified copy of it, has been transmitted to the High Court and the sentence or order has been confirmed by a Judge:

Provided that this section shall not apply in respect of any sentence passed by a Senior Resident Magistrate of any grade or rank.

(3) The provisions of subsection (1) shall be without prejudice to the provisions of any written law authorising a subordinate court to impose in relation to any offence specified in such written law, a sentence in excess of the sentences provided for in that subsection.

(4) The provisions of subsection (2) shall apply in relation to a sentence of imprisonment whether such sentence is a substantive sentence of imprisonment in default of a payment of a fine or a combination of two sentences.

(5) In this section “scheduled offence” shall have the meaning assigned to that expression by the Minimum Sentences Act.

(6) The police officer in charge of a police station may, where he is satisfied that any person has committed an offence of which the penalty does not exceed two hundred thousand shillings by order under his hand compound such offence by requiring such person to make payment of a sum of money:

Provided that—

(a) such sum of money shall be half the maximum fine provided for such offence;

(b) the power conferred by this subsection shall only be exercised where the person admits in writing that he has committed the offence;

(c) the police officer shall issue to the person from whom he received such sum of money a receipt thereof.

第一百七十条【下级法院可作出的判决】

(1) 在法律授权的情况下，下级法院可作出以下任何一项判决—

(a) 刑期不超过五年的监禁刑；但法院对其有管辖权审理的《最低刑罚法》附表所列罪行的人判处刑罚时，应有权作出最低监禁刑期的判决；

(b) 罚金不超过 2 000 万先令；

(c) 根据《肉刑法》的规定，判处肉刑；

(2) 尽管有第 (1) 款的规定

(a) 但监禁刑的判处 -

(i) 对表列的罪行（如第 (5) 款所界定）而言，其刑期超过《最低刑罚法》就该罪行订明的最低监禁期限；

(ii) 对任何其他罪行而言，超过十二个月的监禁期限；

击打超过十二下的肉刑。

超过六千先令的罚金的判决或支付金钱的判决（不是《最低刑罚法》规定的支付赔偿金）

在案件的记录或核证副本送交高等法院，并经法官确认判决或命令后，才可生效、执行或征收；

但任何级别或职级的高级常驻裁判官作出的判刑，不适用本条。

(3) 第 (1) 款的条文，须不影响任何成文法律的条文授权下级法院就该成文法律所指明的罪行，判处超过该条文所规定的刑罚。

(4) 第 (2) 款的规定应适用于监禁刑的判决，不论该判决是未支付罚金的实质的监禁，还是两者刑的合并。

(5) 在本条中，“表列罪行”应具有《最低刑罚法》赋予该用语的含义。

(6) 负责警署的警察如信纳任何人已实施罪行，而该罪行的刑罚不超过二十万先令，则可亲自签署命令要求该人支付一笔和解金以和解该罪行。

条件是一

(a) 该笔和解金须为该罪行所规定最高罚金额的一半；

(b) 本款所赋予的权力应只在该人以书面形式承认他已实施犯罪的情形下被执行。

(c) 警察应向收到该笔款项的人签发收据。

171.-(1) Where under the provisions of this Act a subordinate court presided over by a District Magistrate convicts any adult of an offence if, on obtaining information as

to the character and antecedents of such adult or as to the circumstances of the offence, the court is of the opinion that they are such that greater punishment should be inflicted for the offence than the court has power to inflict, the court may, instead of dealing with him in any other manner, commit the offender in custody to the High Court for sentence in accordance with the following provisions of this section.

(2) Where an offender is committed to the High Court for sentence under the provisions of this section, the High Court shall inquire into the circumstances of the case and shall deal with the offender in any manner in which he could have been dealt with by the High Court if he had been convicted by the High Court of the offence in question.

(3) If the High Court imposes a sentence on the offender, the provisions of this Act with regard to an appeal against conviction only shall apply as for any other case tried by a subordinate court.

(4) The High Court may in its discretion postpone its inquiry under the provisions of subsection (2) of this section until the expiration of the time for filing notice of appeal against conviction, and if such notice has been filed before the High Court commences such inquiry until final determination of such appeal or subsequent appeals or for such lesser period as the court may deem fit.

(5) Where a person, who has been committed in custody to the High Court for sentence in accordance with the provisions of subsection (1), files a notice of appeal against his conviction, the High Court or the subordinate court which convicted him may, for reasons to be recorded by it in writing, grant bail with or without sureties pending the hearing of the appeal.

(6) The provisions of this section shall be so construed as to enable the High Court in its consideration of any case thereunder to exercise its power of revision under section 373 of this Act in the same manner as if the record of the proceedings had under that section been reported to the High Court for orders.

第一百七十一条【下级法院可以向高等法院提起判决】

(1) 根据本法的规定，由地区法官主持的下级法院如果在获得有关成年人的

品质和前科或该罪行情节的资料后，判定该成年人有罪，并认为综合各种情节，应该对罪行施加比法院有权施加的更严厉的刑罚，法院可以，而不是以任何其他方式处理，将在押罪犯送交高等法院根据本条下列规定判刑。

(2) 如罪犯根据本条的规定被送交高等法院判刑，高等法院应查讯案件的情况，并应以高等法院本可审结的任何方式审结该罪犯，如果该罪犯已被高等法院判定有关罪行成立。

(3) 如高等法院判处罪犯刑罚，则本法关于不服判决的上诉规定，仅应适用于下级法院审理的任何其他案件。

(4) 高等法院可酌情推迟根据本条第(2)款的规定进行的查讯，直至就定罪提起上诉的期限届满时止，如该等上诉已在高等法院开始查讯前提起，直至最终裁决此类上诉或后续上诉或法院认为适当的较短期间时止。

(5) 根据第(1)款的规定被送交高等法院判刑的在押罪犯，对他的定罪提出上诉，高等法院或判定他有罪的下级法院，在上诉聆讯前，可在有或无保证人的情况下，对其以书面理由准予保释。

(6) 本条的规定应解释为使高等法院根据本法第三百七十三条在考虑任何情形时能据此行使修改的权利，如同根据该条诉讼记录已向高等法院提出汇报，要求作出命令一样。

172.-(1) Whenever a subordinate court passes a sentence which requires confirmation, the court imposing the sentence may in its discretion release the person sentenced on bail pending confirmation or such order as the confirming court may make.

(2) Where—

(a) a person is committed in custody for sentence by the High Court;

(b) a person is remanded in custody awaiting the confirmation of his sentence by a higher court; or

(c) a person has been in remand custody for a period awaiting his trial,

his sentence whether it is under the Minimum Sentences Act, or any other law, shall start to run when such sentence imposed is confirmed, as the case may be, and such sentence shall take into account the period the person spent in remand.



(4) If the person sentenced is, at the time sentence is passed, serving a sentence of imprisonment for another offence the term of imprisonment to which he is sentenced shall, unless the court otherwise orders, run from the date of the expiry of the sentence for such other offence, subject to subsection (5).

(5) The High Court may exercise the same powers in confirmation as are conferred upon it in revision by Part X of this Act.

(6) The confirming court may in its discretion where no order has been made under subsection (1) of this section by the convicting court, release the person sentenced on bail pending an order in revision made by the High Court in exercise of its powers under section 385 of this Act.

(7) Where a person is convicted of an offence specified in any of the Schedules to the Minimum Sentences Act, the provisions of this section shall have effect subject to provisions of section 8 of that Act.

第一百七十二条【保释候审，等待确认和确认法院的权力】

(1) 任何时候，下级法院作出需要确认的判决时，判处刑罚的法院可酌情决定释放被保释者，等待确认或确认法院作出的命令。

(2) 凡—

(a) 任何人被羁押，送交高等法院判刑；

(b) 任何人被还押候审，等待高级法院对他判决的确认；或

(c) 任何被还押候审一段时间的人，

根据《最低刑罚法》或任何其他法律，其刑期应在判决确定后开始执行，视情况而定，并应将还羁押期间计算在内。

(4) 被判处刑罚的人，正在执行另罪的监禁刑，其被判处刑罚的监禁期限，除非法院另有命令，应根据第(5)款的规定，从执行该等其他罪行的刑期届满之日起执行。

(5) 高等法院可行使相同的权力作出确认，正如本法第十部分修改时所赋予的那样。

(6) 如定罪法庭没有根据本条第(1)款作出命令，确认法院可以酌情释放被判保释的人，等待高等法院根据本法第三百八十五条行使其权力作出修改命令。



(7) 被判犯有《最低刑法》任何附表所列罪行，则本条的规定应根据该法第 8 条的规定生效。

*(c) Extended Jurisdiction of Subordinate Courts*

(c) 下级法院扩展的管辖权

173.-(1) The Minister may after consultation with the Chief Justice and the Attorney General, by order published in the Gazette—

(a) invest any resident magistrate with power to try any category of offences which, but for the provisions of this section, would ordinarily be tried by the High Court and may specify the, area within which he may exercise such extended powers; or

(b) invest any such magistrate with power to try any, specified case or cases of such offences and such magistrate shall, by virtue of the order, have the power, in respect of the offences specified in the order to impose any sentence which could lawfully be imposed by the High Court.

(2) Nothing in this section shall affect the power of the High Court to order the transfer of cases.

(3) For the purposes of any appeal from or revision of his decision in the exercise of such jurisdiction, such the resident magistrate shall be deemed to be a judge of the High Court, and the court presided over by him while exercising such jurisdiction shall be deemed to be the High Court.

第一百七十三条【长臂管辖权】

(1) 部长可经与首席法官和司法部长协商后，在宪报刊登命令 -

(a) 赋予任何常驻裁判官权力，审理任何种类的罪行，而该等罪行，除依照本条的规定外，通常会由高等法院审理，并可指明他可行使该等扩展权力的范围；或

(b) 赋予任何该等裁判官权力，以审理任何指明的或有关该等罪行的案件，并且该等裁判官，根据该命令，有权就该命令所指明的罪行判处高等法院可依法

判处的任何刑罚。

(2) 本条的任何规定均不应影响高等法院命令案件移交的权力。

(3) 就其在行使该等司法管辖权时所作决定提出的任何上诉或作出的任何修订而言，该常驻裁判官应被视为高等法院的法官，在行使该司法管辖权时由其主持的法院应被视为高等法院。

174. All offences tried under the provisions of section 173 shall be tried with the aid of two or more assessors and in the manner prescribed for the trial of offences by the High Court.

第一百七十四条【审判由陪审员协助进行】

根据第 173 条审讯的任何罪行，均须在两名或两名以上陪审员的协助下，以高等法院为审讯罪行所订明的方式进行审讯。

175. [Repealed by Act No. 32 of 1994 Sch.]

第一百七十五条【废除】

176. In every case where a sentence of death is confirmed by the High Court, the judge confirming the sentence shall, as soon as may be, transmit the record of the case or a certified true copy of it to the President together with a report in writing signed by him containing any recommendation or observations which he may think fit to make and forwarding with it any recommendation or observations made by the Court which sentenced the accused; and after that the matter shall be dealt with under section 325 of this Act.

第一百七十六条【记录和报告发送总统】

在每个由高等法院核准死刑判决的案件中，核准死刑判决的法官应尽快将案件记录或其核证无误的副本连同一份由其签署的书面报告一并转交总统。书面报告载有其认为适宜作出死刑核准的任何建议或意见，并附随法院判处被告人死刑的任何建议或意见；之后，该事项应根据本法第三百二十五条处理。



## B. - Trials Generally

### B. – 普通审判

#### *(a) Place of Inquiry or Trial*

##### (a) 审讯的地点

177. Every court has authority to cause to be brought before it any person who is within the local limits of its jurisdiction and is charged with an offence committed within Tanzania or which according to law may be dealt with as if it had been committed within Tanzania and to deal with the accused person according to its jurisdiction.

#### 第一百七十七条【坦桑尼亚法院的一般权力】

任何法院均有权要求将任何在其司法管辖范围内并在坦桑尼亚境内犯下罪行或根据法律可被视为在坦桑尼亚境内犯下罪行的人带至庭前，并根据其司法管辖权审讯被告人。

178. The High Court may inquire into and try any offence subject to its jurisdiction in any place where it has power to hold sittings; and, except as provided under section 93, no criminal case shall be brought under cognizance of the High Court unless it has been previously investigated by a subordinate court and the accused person has been committed for trial before the High Court.

#### 第一百七十八条【高等法院讯问和审理罪行的权力】

高等法院有权在任何地方开庭讯问与审理其管辖范围内的任何罪行；除第九十三条规定外，除非事先由下级法院进行了讯问，被告人已被移交高等法院受审，否则不得由高等法院审理任何刑事案件。

179.-(1) For the exercise of its original criminal jurisdiction the High Court shall hold sittings at such places and on such days as the Chief Justice may direct.

(2) The Registrar of the High Court shall ordinarily give notice beforehand of all sittings.

**第一百七十九条【高等法院开庭的地点与日期】**

(1) 高等法院为行使其初始意义上的刑事管辖权，应在首席法官指示的地点和日期开庭。

(2) 高等法院司法常务官通常应事先通知开庭事宜。

180. Subject to the provisions of section 178 and to the powers of transfer conferred by sections 189, 190 and 191, every offence shall be inquired into and tried, as the case may be, by a court within the local limits of whose jurisdiction it was committed or within the local limits of whose jurisdiction the accused person was apprehended, or is in custody on a charge for the offence, or has appeared in answer to a summons lawfully issued charging him with the offence.

**第一百八十条【通常的讯问与审判场所】**

在不违反第一百七十八条的规定和第一百八十九、一百九十和一百九十一条所授予的移交权力的情况下，每项罪行均须由法院进行讯问与审理，视情形而定，或由罪行实施所在地或由被告人被逮捕地或由因罪行指控被羁押地或由回应合法发出传票被指控犯罪而出庭的有司法管辖权的范围内的法院管辖。

181. When a person is accused of the commission of any offence by reason of anything which has been done or of any consequence which has ensued, the offence may be inquired into or tried, as the case may be, by a court within the local limits of whose jurisdiction any such thing has been done or any such consequence has ensued.

**第一百八十一条【在犯罪行为发生或犯罪结果地审判】**

当某人因所作的任何事或其后的任何后果而被控犯任何罪行时，该罪行可视情况由其已作出任何此种行为或已产生任何此种后果的司法管辖权范围内的法院讯问或审判。

182. When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were capable of committing an offence, a charge of the mentioned offence may be inquired into or tried by a court within the local limits of whose jurisdiction either act was done.

**第一百八十二条【与另一罪行相关的罪行审判】**

当行为因其与其他任何属罪行的或者如行为人有能力实施犯罪，则行为将属

罪行的行为关联，则该行为是一种罪行。对上述罪行的指控，可由两种实施行为之一的有司法管辖范围内的法院讯问或审判。

183. When it is uncertain in which of several local areas an offence was committed or when an offence is committed partly in one local area and partly in another or when it consists of several acts done in different local areas, it may be inquired into or tried by a court having jurisdiction over any of such local areas.

**第一百八十三条【罪行地点不确定的审判】**

当不确定是在若干地方中的哪个地方实施罪行，或当罪行部分在一个地方，部分在另一个地方实施，或当罪行由在不同地方实施的若干行为组成，可由对其中任何一个地方有司法管辖权的法院讯问或审判。

184. An offence committed whilst the offender is in the course of performing a journey or voyage may be inquired into or tried by a court through or into the local limits of whose jurisdiction the offender or the person against whom or the thing in respect of which the offence was committed passed in the course of that journey or voyage.

**第一百八十四条【旅途中犯下的罪行】**

罪犯在旅行或航行过程中所犯的罪行，由在该旅程或航程中，罪犯或与其实施罪行针对的人或物通过或进入其司法管辖权范围的当地法院讯问或审判。

185. Whenever a doubt arises as to the court by which an offence should be inquired into or tried any court entertaining the doubt may, in its discretion, report the circumstances to the High Court and the High Court shall decide by which court the offence shall be inquired into or tried; and a decision of the High Court shall be final and conclusive except that it shall be open to an accused person to show that no court in Tanzania has jurisdiction in the case.

**第一百八十五条【高等法院可在有疑问的情况下决定适当的法院】**

凡对罪行应予以讯问或审理的法院有疑问，任何受理该疑问的法院均可酌情向高等法院报告有关情况，高等法院须决定由哪一法院讯问或审理有关罪行；高等法院的决定应是终局性的和决定性的，但是，应允许被告人证明坦桑尼亚的任何法院对该案件均没有管辖权。

186.-(1) The place in which any court is held for the purpose of inquiring into or trying any offence shall unless the contrary is expressly provided in any written law, be deemed an open court to which the public generally may have access so far as the same can conveniently contain them, save that the presiding judge or magistrate may, if he considers it necessary or expedient—

(a) in interlocutory proceedings; or

(b) in circumstances where publicity would be prejudicial to the interest of—

(i) justice, defence, public safety, public order or public morality; or

(ii) the welfare of persons under the age of eighteen years or the protection of private lives of persons concerned in the proceedings,

(c) order at any stage of the inquiry into or trial of any particular case that persons generally or any particular person other than the parties thereto or their legal representative shall not have access to or be or remain in the room or building used by the court.

(2) Any court may, for the purpose of inquiring into or trying any offence, sit on Sunday or on a public holiday and no finding, sentence or order passed by a court of competent jurisdiction shall be reversed or altered only by reason of the fact that the same was made or passed on a Sunday or public holiday; but a court shall not sit on Sunday or on a public holiday unless in the opinion of the court the omission to do so would cause an amount of delay, expense or inconvenience which in the circumstances of the case would be unreasonable.

(3) Notwithstanding the provisions of any other law, the evidence of all persons in all trials involving sexual offences shall be received by the court in camera, and the evidence and witnesses involved in these proceedings shall not be published by or in any newspaper or other media, but this subsection shall not prohibit the printing or publishing of any such matter in a bona fide series of law reports or in a newspaper or periodical of a technical character bona fide intended for circulation among members of the legal or medical professions.

第一百八十六条【法庭须公开审理】

为调查或审判任何罪行而开庭的场所，除非任何成文法律有明文相反的规定，否则应被视为公开法庭。只要能方便地容纳他们，公众通常可进入该法庭，但主审法官或裁判官如认为有必要或适宜，可一

(a) 在中间程序中；或

(b) 在公开开庭有损 - 的利益的情况下

(i) 司法、国防、公共安全、公共秩序或公众道德；或

(ii) 诉讼中十八岁以下未成年人的福利或个人隐私的保护，

(c) 在讯问或审理任何特定案件的任何阶段命令，当事人或其法定代理人以外的一般人或者特定人不得进入、不得在或者停留在法庭使用的房间或者建筑物内。

(2) 任何法庭为讯问或审理任何罪行，可在星期日或公众假期开庭，有管辖权的法院作出的裁定、判决、命令，不得仅因是在星期日或公众假期作出或通过的事实而予以撤销或更改；但法庭不得在星期日或公众假期开庭，除非法庭认为不开庭会造成在案件情况下不合理的延误、费用或不便。

(3) 虽有其他法律的规定，法院在审理涉及性犯罪的所有案件中，对所有人的证据均应秘密收集，不得在报纸或其他媒体上发表或刊登涉及这些案件的证据和证人；但本条并不禁止善意的以法律报告系列或善意的以技术性质的报纸或期刊印刷或发表任何此等事宜，以供法律或医疗专业人士传阅。

187. No child shall be permitted to be present in court during the trial of any other person charged with an offence or during any proceedings preliminary thereto except during such time as his presence is required as a witness or otherwise for the purposes of justice; and any child present in court when under this section he is not permitted to be present shall be ordered to be removed; but this section shall not apply to messengers, law officers, clerks and other persons required to attend to a court for the purposes connected with their employment.

#### 第一百八十七条【禁止儿童参加法庭诉讼】

在对任何其他被控犯罪的人进行审判或进行任何初步程序期间，不得允许任何儿童到庭，除非在需要他出庭作证或为司法目的而须出庭的期间；任何在法庭上的儿童，如根据本条规定不被允许出庭，则应命令将其带离法庭；但本条不适用于信使、法律人员、职员和为与其受雇有关的目的而必须出庭的其他人。



188. The court may prohibit the publication of names or identities of parties or of witnesses for the furtherance of or in the interests of the administration of justice.

第一百八十八条【法院可禁止公布当事人或证人的姓名等】

法院可禁止公布当事人或证人的姓名或身分，以促进或有利于司法的执行。

*(b) Transfer of Cases*

(b) 移送案件

189.-(1) If upon the hearing of any complaint it appears that the cause of complaint arose out of the limits of the jurisdiction of the court before which the complaint has been brought, the court may in its discretion direct the case to be transferred to the court having jurisdiction where the cause of complaint arose.

(2) If the accused person is in custody, and the court directing the transfer thinks it expedient that such custody should be continued or if he is not in custody, that he should be placed in such custody, the court shall direct the offender to be taken by a police officer before the court having jurisdiction where the cause of complaint arose and shall give a warrant for that purpose to the officer, and shall deliver to him the complaint and recognisances, if any, taken by the court, to be delivered to the court before whom the accused person is to be taken, and the complaint and recognisances, shall be treated to all intents and purposes as if they had been taken by the last-mentioned court.

(3) If the accused person is not continued or placed in custody as aforesaid, the court shall inform him that it has directed the transfer of the case and thereupon the provisions of subsection 2 respecting the transmission and validity of the documents in the case shall apply.

第一百八十九条【移送管辖范围以外犯罪的案件】

(1) 在听取任何投诉后，显示诉因产生于在提出投诉之前的法院司法管辖权范围，法院可酌情指示该案件移到对投诉产生的诉因有管辖权的法院。

(2) 如果被告人已被羁押，而指示移送的法院认为继续羁押是合宜的，或被

告人未被羁押而应当被羁押，法院须指示警察将其带至对诉因有管辖权的法院并须向其发出为此目的的令状，向其交付法院所收到的投诉书及保证书（如有的话），该等投诉书及保证书须交付被告人被带至的法院，对于投诉书和保证书，应将其视为最后提及的法院所作的处理。

(3) 如被告人不按上述方式继续或被羁押，法院应通知他已指示移送案件，并据此适用第 2 款有关案件文件的传递和效力的规定。

190. Any district magistrate—

(a) may transfer any case of which he has taken cognizance for inquiry or trial to any subordinate court empowered to enquire into or try such case within the local limits of such magistrate's jurisdiction; and

(b) may, where the general convenience of the parties or witnesses require it, transfer any case of which he has taken cognizance for inquiry or trial to any subordinate court beyond the limits of his jurisdiction which has power to inquire into or try that case.

第一百九十条【裁判官之间案件的移交】

任何地区裁判官—

(a) 可将任何他已经认定进行讯问或审理的案件移交在该裁判官司法管辖权范围内获授权讯问或审理该案件的任何下属法院；和

(b) 在便利当事人或证人的要求下，可将任何他已经认定进行讯问或审理的案件移交给司法管辖权范围以外有权讯问或审理该案件的任何下属法院。

191.-(1) Whenever it is made to appear to the High Court—

(a) that a fair and impartial inquiry or trial cannot be had in any court subordinate thereto;

(b) that some question of law of unusual difficulty is likely to arise;

(c) that a view of the place in or near which an offence has been committed may be required for the satisfactory inquiry into or trial of the offence;

(d) that an order under this section will tend to the general convenience of the parties or witnesses; or

(e) that an order under this section is expedient for the ends of justice or is

required by any provision of this Act;

it may order—

(i) that any offence be inquired into or tried by any court not empowered under sections 164 to 190 but in other respects competent to inquire into or try such offence;

(ii) that any particular criminal case or class of cases be transferred from court subordinate to its authority to any other court of equal or superior jurisdiction;

(iii) that an accused person be committed for trial to itself.

(2) The High Court may act either on the report of the lower court or on the application of a party interested or on its own initiative.

(3) Every application for the exercise of the power conferred by this section shall be made by motion which shall, except where the applicant is the Director of Public prosecutions, be supported by an affidavit.

(4) Every accused person making an application shall give to the Director of Public Prosecutions notice in writing of the application, together with a copy of the grounds on which it is made and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

(5) Where an accused person makes an application the High Court may direct him to execute a bond, with or without sureties, conditioned that he will, if convicted, pay the costs of the prosecutor.

第一百九十一条【高等法院更改审判地点的权力】

(1) 无论何时提交高等法院 -

(a) 不能在其所属的任何法院进行公平和公正的讯问或审判；

(b) 可能存在一些异常困难的法律问题；

(c) 为了对罪行进行令人满意的讯问或审判，可能需要了解罪行发生的地点或附近的情况；

(d) 根据本条作出的命令将有利于当事各方或证人的一般便利；或

(e) 根据本条作出的命令有利于司法目的，或符合本法任何规定的要求；

可命令 -

(i) 任何罪行须由，根据第一百六十四至一百九十条虽未获授权但在其他方面有权讯问或审判该类罪行的任何法院，讯问或审判；

(ii) 任何特定的刑事案件或类别的案件，须由隶属于其职权的法院移送至任何其他具有同等或以上司法管辖权的法院；

(iii) 被告人须自行受审。

(2) 高等法院可根据下级法院的报告或利害关系方的申请或自行采取行动。

(3) 凡申请行使本条所赋予的权力，均须以动议提出。除申请人是检察长外，动议须附有誓章。

(4) 每名提出申请的被告人，须将书面的申请通知书，并连同提出申请的理由副本提交给检察长。除非在提交申请与审查申请之间至少已经过二十四小时，否则不得就申请人的案情作出命令。

(5) 被告人提出申请，高等法院可指示该人执行有保证人或者没有保证人的保证，条件是如果被定罪，该人须支付检察官的费用。

### *(c) Accelerated Trial and Disposal of Cases*

#### *(c) 加速审判和处理案件*

192.-(1) Notwithstanding the provisions of section 229, if an accused person pleads not guilty the court shall as soon as is convenient, hold a preliminary hearing in open court in the presence of the accused or his advocate (if he is represented by an advocate) and the public prosecutor to consider such matters as are not in dispute between the parties and which will promote a fair and expeditious trial.

(2) In ascertaining such matters that are not in dispute the court shall explain to an accused who is not represented by an advocate about the nature and purpose of the preliminary hearing and may put questions to the parties as it thinks fit; and the answers to the questions may be given without oath or affirmation.

(3) At the conclusion of a preliminary hearing held under this section, the court shall prepare a memorandum of the matters agreed and the memorandum shall be read over and explained to the accused in a language that he understands, signed by the

accused and his advocate (if any) and by the public prosecutor, and then filed.

(4) Any fact or document admitted or agreed (whether such fact or document is mentioned in the summary of evidence or not) in a memorandum filed under this section shall be deemed to have been duly proved; save that if, during the course of the trial, the court is of the opinion that the interests of justice so demand, the court may direct that any fact or document admitted or agreed in a memorandum filed under this section be formally proved.

(5) Wherever possible, the accused person shall be tried immediately after the preliminary hearing and if the case is to be adjourned due to the absence of witnesses or any other cause, nothing in this section shall be construed as requiring the same judge or magistrate who held the preliminary hearing under this section to preside at the trial.

(6) The Minister may, after consultation with the Chief Justice, by order published in the Gazette make rules for the better carrying out of the purposes of this section and without prejudice to the generality of the foregoing, the rules may provide for—

(a) delaying the summoning of witnesses until it is ascertained whether they will be required to give evidence on the trial or not;

(b) the giving of notice to witnesses warning them that they may be required to attend court to give evidence at the trial.

#### 第一百九十二条【刑事预审，以确定无争议的事项】

(1) 虽有第两百二十九条的规定，如被告人仍不认罪，法院应在方便时，在被告人或其辩护律师（如由辩护律师代理）和检察官出庭的情况下，尽快在公开法庭举行预审，审议双方之间无争议并将有助于公正和迅速审判的事项。

(2) 法院查明无争议事项时，应当向没有辩护律师代理的被告人说明预审的性质和目的，并可向当事人提出它认为适当的问题；对这些问题的回答可以不经宣誓或确认。

(3) 根据本条举行的预审结束时，法院应拟备协议事项备忘录，备忘录应以被告人能理解的语言向被告人宣读和解释，并由被告人及其辩护律师（如有）和检察官签署后提交。

(4) 根据本条提交的备忘录中承认或同意的任何事实或文件（不论该事实或文

件是否在证据摘要中提及), 均应视为已妥为证明; 除非在审讯过程中, 法院认为司法利益需要, 可指示在根据本条提交的备忘录中承认或同意的任何事实或文件须得到正式证明。

(5) 在可能的情况下, 应当在预审后立即审讯被告人, 如因证人缺席或任何其他原因而休庭, 本条任何规定均不得解释为须由根据本条举行预审的同一法官或裁判官主持审讯。

(6) 部长可在与首席大法官磋商后, 通过宪报刊登的命令, 订定规则, 以便更好地执行本条的目的, 而在不损害前述一般性原则的情况下, 该规则可订定 -

- (a) 推迟传唤证人, 直到确定是否需要他们在审讯中作证为止;
- (b) 通知证人, 警告他们在审讯时可能需要出庭作证。

193.-(1) A person formally charged with a warrant offence which is punishable only by a fine or by imprisonment not exceeding six months or by a combination of such sentences may, in writing or through an advocate, plead guilty to the charge whether that person is summoned or not and the magistrate shall dispense with the personal attendance of the accused unless his personal attendance is required for any other reason in which case he may direct the personal attendance of the accused.

(2) If a magistrate imposes a fine on an accused person whose personal attendance has been dispensed with under this section, and such fine is not paid within the time prescribed for its payment the magistrate may forthwith issue a summons calling upon the accused person to show cause why he should not be committed to prison for such term as the magistrate may then prescribe; but if the accused person does not attend upon the return of such summons the magistrate may forthwith issue a warrant and commit him to prison for such terms as the magistrate may determine.

(3) If, in any case in which under this section the attendance of an accused person is dispensed with, previous convictions are alleged against him and are not admitted in writing or through such person's advocate the magistrate may adjourn the proceedings and direct the personal attendance of the accused and, if necessary, enforce his attendance in the manner provided under this Act.

(4) Whenever the attendance of an accused person has been dispensed with and his

attendance is subsequently required, the cost of any adjournment for the purpose shall be borne in any event by the accused.

第一百九十三条【被控犯令状罪行的人可在不出庭的情况下认罪】

(1) 被正式控以令状罪行，只处以罚金或不超过6个月的监禁刑，或同时被判处以以上两种刑罚的人，可以书面或通过辩护律师的方式认罪，无论该人是否被传唤，裁判官须免除被告人的个人出庭，除非出于任何其他原因需要被告人亲自出庭，则可指示被告人亲自出庭。

(2) 如裁判官对根据本条无须亲自出庭的被告人处以罚金，而该等罚金并没有在裁判官所规定的支付期限内支付，裁判官可立即发出传票，要求被告出示理由，说明他为何不应被判处裁判官所订明刑期的监禁刑；但是，如被告人在收到传票后不出庭，裁判官可立即签发逮捕令，以裁判官所决定的刑期将他交付监狱。

(3) 在任何情况下，根据本条无须被告人出庭，但如先前的定罪指控被告人，且未以书面形式或通过该人的辩护律师予以承认，裁判官可休庭并指示被告人亲自出庭，必要时，可以本法规定的方式强制其出庭。

(4) 无论何时免除被告人的出庭，并随后要求他出庭，为此目的而进行的任何休庭的费用，无论如何应由被告人承担。

194.-(1) Where an accused person charged with a non-warrant offence, other than an offence punishable with death or life imprisonment, intends to plead guilty to the charge and desires to have his case disposed of at once he may give a written notice to that effect to the magistrate before whom the case is to be heard, and it shall be lawful for the magistrate to serve the person with a formal charge and a notice to appear, not less than four clear days, before the magistrate for the purpose of pleading to the charge and final disposition of the case.

(2) If the accused in pursuance of a notice served upon him under subsection (1) appears and pleads guilty to the charge, the magistrate shall deal with the case in like manner as a case where the accused pleads guilty under section 229 save that if the case is such as can be tried only in the High Court or is of such an aggravated nature that the magistrate holds that the question of punishment shall be disposed of by that court, the

magistrate shall remit the accused to that court for sentence, and such remittal shall be a sufficient warrant to bring the accused, without any further notice, before the High Court for sentence; and the original warrant of commitment for such period until he is liberated in due course of law shall remain in force until he is brought before the High Court for sentencing.

(3) If the accused when brought before the magistrate to plead does not plead guilty to the charge or pleads guilty only to a part of the charge, the magistrate shall not accept such restricted plea, and the plea shall be deserted pro loco et tempore, and thereafter the procedure against the accused shall be continued according to the other provisions of this Act.

(4) Where an accused person intends to rely upon an alibi in his defence, he shall give to the court and the prosecution notice of his intention to rely on such defence before the hearing of the case.

(5) Where an accused person does not give notice of his intention to rely on the defence of alibi before the hearing of the case, he shall furnish the prosecution with the particulars of the alibi at any time before the case for the prosecution is closed.

(6) If the accused raises a defence of alibi without having first furnished the prosecution pursuant to this section, the court may in its discretion, accord no weight of any kind to the defence.

第一百九十四条【被告人希望就非令状罪行认罪或意图依靠不在犯罪现场辩护的程序】

(1) 被控犯有非令状罪行而非死刑或无期徒刑的被告人，意图对该项指控认罪，并希望立即处理该案，可就此向聆讯案件的裁判官提交书面通知，而裁判官为该案指控认罪和最终处理目的之前，在不少于四个完整工作日时间内，将正式指控书和出庭通知书送达该人应是合法的。

(2) 如被告人根据第(1)款送达他的通知书出庭，并认罪，裁判官应以根据第二百二十九条被告人认罪的方式处理该案件，除非案件只能在高等法院审理或案件性质严重到裁判官认为应由高等法院处理刑罚问题，则应将被告人送交高等法院判刑，该类送交即为将被告人送交高等法院判刑的足够的令状，而无须另行通



知，并在正当的法律程序中被释放之前，该期限的原送交令状的效力将保持到其被带至高等法院判刑为止。

(3) 被告人被带至裁判官面前进行辩护时，如不认罪，或只对部分控罪认罪，裁判官不得接受此种限制抗辩，该抗辩应暂时放弃，此后对被告人的程序应按照本法的其他规定继续进行。

(4) 被告人拟以不在场证明为抗辩事由的，应当在开庭前将其拟以不在场证明为抗辩事由的意向通知法院和起诉方。

(5) 被告人在案件审讯前未通知拟以不在场证明辩护的，应当在起诉案件终结前的任何时候向起诉方提供不在场证明的详情。

(6) 没有依照本条事先提供给起诉方，被告人以不在场证明提出辩护，法院可酌情不给予辩护以任何形式的效力。

## C. - Examination of Witnesses

### C. 对证人的审查

#### (a) *General Provisions*

##### (a) 基本规定

195.-(1) Any court may, at any stage of a trial or other proceeding under this Act, summon any person as a witness or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case.

(2) The prosecutor or the defendant or his advocate, shall have the right to cross-examine any such person, and the court shall adjourn the case for that purpose if it considers it necessary.

#### 第一百九十五条【传唤重要证人或询问出庭者的权力】

(1) 任何法院可在根据本法进行的审判或其他程序的任何阶段传唤任何证人或询问虽未被传唤作证人但出庭的任何人，或重新传唤、重新询问任何已被询问

的人；法院应当传唤、询问或重新传唤、重新询问任何人，如果该人的证据对案件的公正判决具有重要意义。

(2) 检察官、被告人或其辩护人有权交叉询问任何该等人，法院如认为有必要，应为此休庭。

196. Except as otherwise expressly provided, all evidence taken in any trial under this Act shall be taken in the presence of the accused, save where his personal attendance has been dispensed with.

**第一百九十六条【证据当在被告人面前提交】**

除非另有明确规定，否则根据本法进行的任何审判中所有证据均应在被告人出庭的情况下提交，除非被告人不必亲自出庭。

197. Notwithstanding the provisions of section 196, evidence may be taken in any trial under this Act in the absence of the accused if—

(a) the examining judge or magistrate considers that by reason of his disorderly conduct before him it is not practicable for the evidence to be given in his presence; or

(b) he cannot be present for reasons of health but is represented by counsel and has consented to the evidence being given in his absence,

and it shall be lawful for the court to continue with the trial and give judgment in the absence of the accused.

**第一百九十七条【在某些情况下，证据可在被告人缺席的情况下提交】**

尽管有第一百九十六条的规定，在被告人缺席的情况下，如，可在本法规定的任何审判中提交证据

(a) 审讯法官或裁判官认为，由于他在自己面前的行为失当，在他在场的情况下提供证据是不切实可行的；或

(b) 由于健康原因，他不能出席，但由律师代理，并同意他在缺席时提供的证据。

法庭在被告人缺席的情况下继续审判和判决，是合法的。

198.-(1) Every witness in a criminal cause or matter shall, subject to the provisions of any other written law to the contrary, be examined upon oath or affirmation in accordance with the provisions of the Oaths and Statutory Declarations Act.

(2) Where an accused person, upon being examined, elects to keep silent the court shall have the right to draw an adverse inference against him and the court and the prosecution may comment on the failure by the accused to give evidence.

#### 第一百九十八条【宣誓证据】

(1) 刑事案件或事项中的任何证人，在符合任何其他相反成文法规定的情况下，应根据《宣誓和法定声明法》的规定，经宣誓或誓词确认后接受询问。

(2) 被告人经讯问选择保持沉默，法庭有权作出对其不利的推论，并且，法庭和控方可对被告人未能提供证据的情况发表意见。

199.-(1) Whenever any person, appearing either in obedience to a summons or by virtue of a warrant, or being present in court and being verbally required by the court to give evidence—

(a) refuses to be sworn or affirmed;

(b) having been sworn or affirmed, refuses to answer any question put to him;

(c) refuses or neglects to produce any document or thing which he is required to produce; or

(d) refuses to sign his depositions,

without, in any case, offering sufficient excuse for such refusal or neglect, the court may adjourn the case for a period not exceeding eight days and may in the meantime commit him to prison, unless he sooner consents to do what is required of him.

(2) If such person, upon being brought before the court at or before an adjourned hearing, again refuses to do what is required of him the court may, if it sees fit, again adjourn the case and commit him for the like period; and so again from time to time until he consents to do what is so required of him.

#### 第一百九十九条【拒不配合庭审的证人】

(1) 无论何时，任何人以服从传票或凭借令状出庭，或出庭并被法庭口头要求提供证据 -

(a) 拒绝宣誓或确认；

(b) 经宣誓或确认，拒绝回答对他提出的任何问题；

(c) 拒绝或忽略出示任何须出示的文件或物件；

(d) 拒绝签署他的证词，

在任何情况下，没有为这种拒绝或忽略提供充分的理由，法庭可将案件休庭不超过八天，并可在此期间将他交付监狱，除非他很快同意对他所作的要求。

(2) 如该人在延期审讯或在延期审讯之前被带至法庭，再次拒绝作出他被要求的要求，则法庭如认为合适，可再次将该案延期并交付羁押一段相同的时间，不时如此，直至他同意按要求行事为止。

200. Where the only witness to the facts of the case called by the defence is the person charged, he shall be called as a witness after the close of the evidence for the prosecution, but it shall be lawful for the court in its discretion to adjourn the hearing of the case to a certain time and place to be then appointed and stated in the presence and hearing of the person charged.

第两百条【被告人是辩护方所称唯一证人的程序】

如辩护方所称案件事实的唯一证人是被告人，则在起诉方证据结束后，他应被传唤为起诉方的证人，但法院可酌情将案件的审讯延期至指定的时间和地点，然后在被告人出庭和聆讯中获取被告人作为证人的陈述，这是合法的。

201. In cases where the right of reply under section 296 depends upon the question whether evidence has been called for the defence, the fact that the person charged has been called as a witness shall not of itself confer on the prosecution the right of reply save that the Attorney-General, the Deputy Attorney-General and the Director of Public Prosecutions or any person acting under his instruction for the prosecution shall in all cases have the right of reply.

第两百零一条【答复辩论权】

任何情形下，第两百九十六条的答辩权取决于辩护方是否要求提出证据，被告人作证人的事实本身不应赋予控方答辩权，但对控方而言，司法部长、副部长和检察长或根据其指示作为的任何人在所有案件中均享有答辩权。

202.-(1) In any inquiry, trial or other proceeding under this Act a certificate in the form in the Third Schedule to this Act, given under the hand of an officer appointed by order of the Attorney-General for the purpose, who shall have prepared a photographic print or a photographic enlargement from exposed film together with any photographic

prints, photographic enlargements and any other annexures referred to therein, shall be evidence of all facts stated in the certificate

(2) The court may presume that the signature to any such certificate is genuine.

(3) When any such certificate is used in any trial or proceeding under this Act other than an inquiry the court may, if it thinks fit, summon and examine the person who gave the certificate.

#### 第二百零二条【关于照片等可作为证据的制备证明】

(1) 根据本法所进行的任何质询、审判或其他程序，本法附表3表格中的证明，由应已准备感光胶卷上的照片或放大照片，连同照片、放大照片及其中所提述的任何其他附件的由司法部长为此目的通过命令而指定的官员提供，应当是证明中所列所有事实的证据。

(2) 法院可推定该等证明书的签署是真实的。

(3) 在本法规定的除质询外的任何审判或程序中使用该证明时，法院如认为适当，可传唤并询问提供该证明的人。

203.-(1) Any document purporting to be a report under the hand of any Government analyst upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Act, may be used as evidence in any inquiry, trial or other proceeding under this Act.

(2) The court may presume that the signature to any such document is genuine and that the person signing it held the office which he professed to hold at the time when he signed it.

(3) When any report is so used in any proceeding other than an inquiry the court may, if it thinks fit, summon and examine the analyst as to the subject matter of that report.

(4) In this section “Government analyst” includes a senior pathologist, a pathologist and any person appointed by the Minister responsible for health to perform the duties of a Government analyst under this section.

#### 第二百零三条【政府分析员的报告】

(1) 在根据本法进行的任何程序中，由任何政府分析员所签署的任何文件，

声称是关于正式提交予他的任何事项或事物进行检查或分析并形成报告的报告，可在本法项下的任何质询、审判或其他程序中作为证据使用。

(2) 法院可推定任何该类文件的签署是真实的，签署该文件的人担任他在签署该文件时声称担任的职务。

(3) 在除质询以外的任何程序中如此使用该类报告时，法院如认为适当，可就该报告的主题事项传唤并询问该分析员。

(4) 本条“政府分析员”包括高级病理学家、病理学家以及卫生部部长任命的其他履行政府分析员职责的任何人。

204.-(1) Any document under the hand of an officer appointed for that purpose by order of the Director of Public Prosecutions, which purports to be a report upon any fingerprint, or any photographic representation of fingerprints submitted to him for examination or comparison, shall be receivable in evidence in any inquiry, trial or other proceeding under this Act and shall be evidence of all facts stated in that document.

(2) The court may presume that the signature to any such report is genuine.

(3) When any such report is received as evidence in any trial or proceeding under this Act other than an inquiry the court may, if it thinks fit, and shall if so requested by the accused or his advocate, summon and examine or make available for cross-examination the person who gave such report.

(4) In this section “fingerprint” includes palm print, a toe print and the impression of a foot.

#### 第二百零四条【指纹专家的报告】

(1) 检察长为该目的通过命令指定的官员所签署的任何文件，声称是关于提交予他的任何指纹或指纹拍照进行检查或比对的报告，在本法项下的任何质询、审判和其他程序中，均应作为证据，并应作为该文件所述所有事实的证据。

(2) 法院可推定该类报告的签署是真实的。

(3) 在本法规定的除质询以外的任何审判或者程序中，该类报告被采纳作为证据的，法院如认为适当可以，并且如被告人或辩护律师如此要求，则应当，对提出该报告的人进行传唤并询问或进行有效的交叉询问。

(4) 本条的“指纹”包括手掌印、脚趾印和脚印。

205.-(1) In any committal proceedings, trial or other proceedings by or before a magistrate or a judge under this Act, a report in the form set out in the Third Schedule to this Act, given under the hand of an officer appointed by order of the Director of Public Prosecutions for the purpose, being a report upon any handwriting, or any photographic representation of any handwriting, submitted to him for examination or comparison, together with any photographic prints, enlargements or other annexures referred to in it and signed by such officer, shall be receivable in evidence and shall be evidence of the matters stated in it.

(2) The court may presume that the signature to any report under this section, print, enlargement or annexure is genuine.

(3) When any report under this section is received in evidence in any trial or proceeding under this Act other than an inquiry, the court shall, if the accused or his advocate so requests and may if it thinks fit summon and examine the person who made the report or make it available for cross-examination.

#### 第二百零五条【笔迹专家的报告】

(1) 在根据本法由裁判官或法官进行的任何交付诉讼、审判或其他诉讼中，由检察长通过命令指定的官员签署的，就提交予他的任何笔迹或任何笔迹的任何拍照进行检查或比对的以本法附表三所列格式的报告，连同其中提及的并由该官员签署的任何照片、放大照片或其他附件，应当作为证据采纳，并应作为其中所述事项的证据。

(2) 法院可推定根据本条提出的报告，照片、放大照片或附件的签署均属真实。

(3) 在根据本法进行的除质询外的任何审判或程序中，该类报告被采纳作为证据的，法院如认为适当可以，并且如被告人或辩护律师如此要求，则应当，对提出该报告的人进行传唤并询问或进行有效的交叉询问。

#### *(b) Issue of Commission for Examination of Witnesses*

##### *(b) 询问证人令的签发*

206.-(1) Whenever in the course of any proceeding under this Act, the High Court



or a district magistrate is satisfied that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, the court or magistrate may issue a commission to any magistrate within the local limits of whose jurisdiction the witness resides to take the evidence of that witness.

(2) The magistrate to whom the commission is issued shall proceed to the place where the witness is or shall summon the witness before him and shall take down his evidence in the same manner and may, for this purpose, exercise the same powers as in the case of a trial.

#### 第二百零六条【委托令的签发】

(1) 无论何时, 在根据本法进行的任何诉讼过程中, 高等法院或地区法官确信, 为达到司法目的, 有必要询问证人, 而且, 如果要获得该类证人出庭, 必须有一定的延误、费用或不便, 而在该案的情形下, 延误、费用或不便是不合理的。法院或裁判官可向证人居住地管辖范围内的任何裁判官发出委托书, 以取得该证人的证据。

(2) 获发委托令的裁判官应前往证人所在地, 或将证人传唤至面前, 并须以同样方式记录其证据, 并可为此目的行使与审讯时相同的权力。

207.-(1) The parties to any proceeding under this Act in which a commission is issued shall be informed by the court or magistrate issuing the commission that they may respectively forward any interrogatories in writing which the court or magistrate directing the commission may think relevant to the issue, and the magistrate to whom the commission is directed shall examine the witness upon such interrogatories.

(2) Any party may appear before the magistrate by advocate or, if not in custody, in person and may examine, cross-examine and re-examine, as the case may be, the witness.

#### 第二百零七条【当事人可询问证人】

(1) 签发委托令的法院或裁判官应当告知根据本法签发委托令程序的当事人, 他们可分别转交指示委托令法院或裁判官认为与问题相关的任何书面质询, 并且



受指示委托令的裁判官须就该类质询问证人。

(2) 当事人可由辩护律师出庭，或如未被羁押，也可亲自出庭，并可以视情况对证人进行询问、交叉询问、重新询问。

208.-(1) After any commission issued under section 206 has been duly executed it shall be returned, together with the deposition of the witness examined thereunder, to the High Court or the magistrate who issued it, as the case may be, and the commission, the return thereto, and the deposition shall be open at all reasonable times to inspection of the parties and may, subject to all just exceptions, be read in evidence in the case by either party and shall form part of the record.

(2) Any deposition so taken, if it satisfies the conditions of section 132 of the Evidence Act, may also be received in evidence at any subsequent stage of the case before another court.

#### 第二百零八条【交回委托令】

(1) 根据第二百零六条签发的任何委托令经妥为执行后，连同根据该条所询问证人的证词，视情形而定，须交回签发该委托令的高等法院或裁判官。而委托令、回执及证词须在任何合理时间向各方当事人开放，供其检查，并在所有公正的例外情况下，由任何一方作为证据阅读，并应构成记录的一部分。

(2) 所作的任何证词，如果符合《证据法》第一百三十二条的条件，也可在另一法院该案件的任何后续阶段被采纳为证据。

209. In every case in which a commission is issued under section 206 the proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

#### 第二百零九条【暂停诉讼程序】

根据第二百零六条签发委托令的任何案件，可将诉讼延期一段合理地足以执行和交回委托令的指定时间。

210.-(1) In trials, other than trials under section 213, by or before a magistrate, the evidence of the witnesses shall be recorded in the following manner—

(a) the evidence of each witness shall be taken down in writing in the language of the court by the magistrate or in his presence and hearing and under his personal



direction and superintendence and shall be signed by him and shall form part of the record; and

(b) the evidence shall not ordinarily be taken down in the form of question and answer but, subject to subsection (2), in the form of a narrative.

(2) The magistrate may, in his discretion, take down or cause to be taken down any particular question and answer.

(3) The magistrate shall inform each witness that he is entitled to have his evidence read over to him and if a witness asks that his evidence be read over to him, the magistrate shall record any comments which the witness may make concerning his evidence.

#### 第两百一十条【法官记录证据的方式】

(1) 除第两百一十三条规定的审判外，在由治安法官（治安法官）主持或参与的审判中，证人的证据应按以下方式记录 -

(a) 每名证人的证据，应由治安法官以法庭专用语言进行书面记录，或在其出席及审理（听审）下，在其个人指示及监督下以书面记录，并应由其签署，构成记录的一部分；及

(b) 除第(2)款另有规定外，证据不得以问答形式记录，应以叙述形式记录。

(2) 治安法官可运用其裁量权，记录或安排记录任何特定的问题及答案。

(3) 治安法官应告知每名证人，证人有权要求将所记录的本人的证据向其宣读；如证人要求将其证据向他宣读，治安法官应记录证人就其证据所作的评论。

211.-(1) Whenever any evidence is given in a language not understood by the accused and he is present in person, it shall be interpreted to him in open court in a language understood by him.

(2) If he is represented by an advocate and the evidence is given in a language other than the language of the court, and not understood by the advocate, it shall be interpreted to such advocate in the language of the court.

(3) When documents are produced for the purpose of formal proof it shall be in the discretion of the court to interpret as much of them as appears necessary.

#### 第两百一十一条【向被告或其辩护人解释证据】

(1) 当任何证据以被告人不理解的语言提供，并且他本人在场时，应以被告人理解的语言在公开法庭上对他进行解释。

(2) 如被告人由一名辩护人进行辩护，而证据是以法庭专用语言以外的语言提供，而该名辩护人不理解的，则应以法庭专用语言向辩护人进行解释。

(3) 当文件作为正式证明而出示，法院有权根据需要解释其中的内容。

212. When a magistrate has recorded the evidence of a witness he shall also record such remarks, if any, as he thinks material respecting the demeanour of the witness whilst under examination.

第二百零一十二条【关于作证行为的规定】

治安法官记录证人的证据后，如果发现证人在接受讯问时有特殊的行为举止，而治安法官认为有必要的情况下，应对此进行记录。

213.-(1) Notwithstanding anything contained in this Act every magistrate may, if he thinks fit, try any of the offences mentioned in subsection

(1) without recording the evidence as hereinbefore provided, but in any such case he shall enter in such form as the High Court may direct, the following particulars—

(a) the serial number;

(b) the date of the commission of the offence;

(c) the date of the complaint;

(d) the name of the complainant;

(e) the name, parentage and residence of the accused;

(f) the offence complained of and the offence (if any) proved, and, in cases under paragraph (c), (d) or (e) of subsection (2), the value of the property in respect of which the offence has been committed;

(g) the plea of the accused;

(h) the finding and, where evidence has been taken, a judgment embodying the substance of such evidence;

(i) the sentence or other final order; and

(j) the date on which the proceedings terminated.

(2) The offences referred to in subsection (1) are as follows—



(a) offences punishable with imprisonment for a term not exceeding six months or a fine not exceeding one thousand shillings;

(b) common assault under section 240 of the Penal Code;

(c) theft under Chapter XXVII of the Penal Code where the value of the property stolen does not exceed one hundred shillings;

(d) receiving or retaining stolen property under Chapter XXXII of the Penal Code where the value of such property does not exceed one hundred shillings;

(e) malicious injury to property where the value of such property does not exceed one hundred shillings;

(f) aiding, abetting, counselling or procuring the commission of any of offences referred to in this subsection;

(g) attempting to commit any of the offences referred to in this subsection.

(h) any other offence which the Chief Justice may, by order published in the Gazette, direct to be tried in accordance with the provisions of this section.

(3) When in the course of a trial under the provisions of this section it appears to the magistrate that the case is of a character which renders it undesirable that it should be so tried, the magistrate shall recall any witnesses and proceed to rehear the case in the manner otherwise provided by this Part.

(4) No sentence of imprisonment for a term exceeding six months or of a fine of an amount exceeding one thousand shillings shall be imposed in the case of any conviction under this section.

第两百一十三条【处理轻微罪行的程序】

(1) 即使本法有相关规定，任何治安法官如认为合适，可在不记录上文所述的证据的情况下，审讯第(1)款所述的罪行，但在此情况下，应以高等法院所规定的下述形式记录详情：

(a) 序列号；

(b) 犯罪日期；

(c) 控告日期；

(d) 控告人的姓名；

- (e) 被告人的姓名、父母及住所；
  - (f) 所控告的罪行及其证明（如有的话），而在第（2）款（c）、（d）或（e）的情况下，则涉案财产的价值；
  - (g) 被告人的答辩；
  - (h) 调查结果，并在有证据的情况下，做出体现该证据实质内容的判决；
  - (i) 判刑或其它最终命令；及
  - (j) 诉讼程序终止的日期。
- (2) 第(1)款所指的罪行如下 -
- (a) 可判处监禁不超过 6 个月或罚款不超过 1000 先令的罪行；
  - (b) 根据《刑法》第二百四十条的普通企图伤害罪；
  - (c) 根据《刑法》第二十七章的规定盗窃，盗窃的财产价值不超过一百先令；
  - (d) 根据《刑法》第三十二章接收或保留被盗财产，但该财产的价值不超过一百先令；
  - (e) 恶意损害财产，而该财产的价值不超过一百先令；
  - (f) 协助、教唆、怂恿或诱导犯本款所提述的任何罪行；
  - (g) 企图犯本款所提述的任何罪行。
  - (h) 首席法官可藉在宪报刊登的命令指示按照本条条文审讯的任何其它罪行。
- (3) 在根据本条条文进行审理的过程中，如治安法官认为该案件的性质不宜根据本条的程序进行审讯，则治安法官须召回证人，并由治安法官依照其他规定进行重新审讯。
- (4) 如被告根据本条被定罪，不得判处监禁超过 6 个月或罚款超过 1000 先令。

214.-(1) Where any magistrate, after having heard and recorded the whole or any part of the evidence in any trial or conducted in whole or part any committal proceedings is for any reason unable to complete the trial or the committal proceedings within a reasonable time, another magistrate who has and who exercises jurisdiction may take over and continue the trial or committal proceedings, as the case may be, and the magistrate so taking over may act on the evidence or proceeding recorded by his predecessor and may, in the case of a trial and if he considers it necessary, resummon the witnesses and recommence the trial or the committal proceedings.

(2) Whenever the provisions of subsection (1) apply the High Court may, whether there be an appeal or not, set aside any conviction passed on evidence not wholly recorded by the magistrate before the conviction was had, if it is of the opinion that the accused has been materially prejudiced thereby and may order a new trial.

(3) Nothing in subsection (1) shall be construed as preventing a magistrate who has recorded the whole of the evidence in any trial and who, before passing the judgment is unable to complete the trial, from writing the judgment and forwarding the record of the proceedings together with the judgment to the magistrate who has succeeded him for the judgment to be read over and, in the case of conviction, for the sentence to be passed by that other magistrate.

**第两百一十四条【由两名法官各审理一部分诉讼的定罪与移交】**

(1) 治安法官在任何案件审理中听取并记录全部或部分证据后，或在进行任何全部或部分初级侦讯后，因任何原因不能在合理时间内完成审讯或初级侦讯，则另一名治安法官行使司法管辖权可接管并继续进行审讯或初级侦讯（根据具体情况而定），接管的治安法官可根据其之前记录的证据或程序继续进行，如属审讯，并认为有必要，可重新传唤证人，并重新开始审讯或初级侦讯。

(2) 在第(1)款的条文适用时，不论是否有上诉，高等法院如认为被告人因此而受到重大损害，可根据在定罪前并非完全由治安法官记录的证据而进行的定罪予以撤销，并应要求进行重新审判。

(3) 第(1)款不得解释为阻止在审讯中已将全部证据记录的治安法官、以及在作出判决前不能完成审讯的治安法官，做出判决并将诉讼程序纪录连同判决书一并递交给接替他的治安法官，由接替他的治安法官宣读判决，如定罪，则由该另一名治安法官判刑。

215. The High Court may, from time to time, by rules prescribe the manner in which evidence shall be recorded in cases coming before the court and the evidence or the substance thereof shall be taken down in accordance with those rules.

**第两百一十五条【高等法院记录证据的方式】**

高等法院在庭审中可按照有关规则随时规定记录证据的方式，相关证据或案件的实质内容均应按照这些规则被记录在案。

**D. - Procedure in Case of the Insanity or Incapacity of an Accused Person****D. - 被告人精神错乱或无行为能力的程序**

216.-(1) When in the course of a trial the court has reason to believe that the accused is of unsound mind and consequently incapable of making his defence it shall, before inquiring into the fact of such unsoundness of mind and notwithstanding the fact that the accused may not have pleaded to the charge, call on the prosecution to give or adduce evidence in support of the charge.

第两百一十六条【控方在法庭调查被告人患有精神病前的举证或引证】

(1) 当在审判过程中，法院有理由相信被告精神不健全，因而不能为自身辩护时，法院应在询问这种精神不健全的事实之前，尽管被告可能没有对指控进行辩护，要求控方提供或援引证据支持指控。

(2) If at the close of the evidence in support of the charge it appears to the court that a case is not made out against the accused person the court shall dismiss the charge and acquit the accused person and may then proceed to deal with him under the Mental Diseases Act.

(2) 如在提交支持指控的证据结束后，法庭认为案件并非针对被告人提出，则法庭须驳回指控并宣告被告人无罪，然后可根据《精神疾病法》对被告人进行处理。

(3) If at the close of the evidence in support of the charge it appears to the court that a case has been made out against the accused person, it shall then proceed to inquire into the fact of the unsoundness of mind of the accused and, for this purpose, may order him to be detained in a mental hospital for medical examination or, in case where bail may be granted, may admit him to bail on sufficient security as to his personal safety and that of the public and on condition that he submits himself to medical examination or observation by a medical officer as may be directed by the court.

(3) 如在提交支持指控的证据结束后，法庭认为案件针对被告人提出，则法

庭须继而调查被告人精神不健全的事实，并为此目的，可命令将被告人拘留在精神病院内接受体格检查，或在可准予保释的情况下，准许保释前应确保其人身安全及公众安全，并应在法庭指示下接受医务人员的体格检查或观察。

(4) The medical officer in charge of the mental hospital in which an accused person has been ordered to be detained or a medical officer to whom he has been ordered to submit himself for mental examination or observation pursuant to subsection (3) shall, within forty-two days of such detention or submission, prepare and transmit to the court ordering the detention or submission, a written report on the mental condition of the accused stating whether in his opinion the accused is of unsound mind and consequently incapable of making his defence.

(4) 根据第(3)款被命令拘留被告人的精神病院的主管医生，或依据第(3)款被命令进行精神检查或观察的主管医生，应在拘留或接收后42天内，准备并向法院转交一份关于被告精神状况的书面报告，说明被告是否精神不健全，因而无法为自身辩护。

(5) On the receipt by the court of the written report provided for by subsection (4) it shall resume its inquiry into the question of the unsoundness of mind of the accused and may admit as evidence for this purpose any such written report purporting to be signed by the medical officer who prepared it unless it is proved that the medical officer purporting to sign it in fact did not sign it.

(5) 法庭在接获第(4)款所规定的书面报告后，应恢复对被告人精神不健全问题的讯问，并接纳由上述主管医生为此专门做出并签署的书面报告作为证据，除非另有证据证明签名非由主管医生本人做出。

(6) Where the court having considered any written report admitted in evidence under subsection (5) and any other evidence that may be available to it regarding the state of mind of the accused is of the opinion that the accused is of unsound mind and consequently incapable of making his defence it shall record a finding to that effect, postpone further proceedings in the case, order the accused to be detained as a criminal lunatic in a mental hospital or other suitable place of custody until released or otherwise dealt with in the manner provided for in sections 217 or 218.



(6) 法庭接获根据第(5)款而作为证据的书面报告以及涉及被告人精神状况的任何其它证据, 经过认定, 认为被告人精神不健全, 因而无能力为其辩护, 则应记录一项表明此意的裁断, 推迟案件的进一步审理, 命令将被告人以刑事精神病犯的身份被拘留在精神病院或其它适当的羁押地点, 直至被释放或根据第二百一十七或第二百一十八条所规定的方式处理。

(7) Where the written report required by subsection (4) is to the effect that the accused is of sound mind and capable of making his defence, proceedings shall be resumed as provided for by section 218.

(7) 凡第(4)款所规定的书面报告表示被告人心智健全, 并有能力为自身辩护, 则应按第二百一十八条规定的诉讼程序恢复进行。

217.-(1) Where an accused person detained in pursuance of a warrant issued under section 216 or section 281 is found by the medical officer in whose charge he is to have recovered his soundness of mind sufficiently to be capable of making his defence, the medical officer shall forthwith forward to the respective court a certificate stating therein also whether the accused would, but for the charge against him, be fit to stand trial, and a certified copy of such certificate to the Director of Public Prosecutions.

**第二百一十七条【被告人被证明有能力进行辩护的程序】**

(1) 凡依据第二百一十六条或第二百八十一条发出的令状而被拘留的被告人, 相应的主管医生发现被告人精神状况已恢复至足以为自身辩护的程度, 则该主管医生应立即向相应法庭提交证明书且在证明书内述明被告人即使没有针对他的指控, 是否适宜受审, 并须将该证明书的核证副本送交检察长。

(2) Where the Director of Public Prosecutions intends to continue proceedings against the accused, he may within fourteen days from the date of receiving a certified copy of a certificate issued under subsection (1), inform the court which issued the warrant under section 216 or 218 that he wishes to continue proceedings against the accused.

(2) 凡检察长拟继续对被告人起诉, 他可在接获根据第(1)款发出的证明书的核证副本的日期起的14天内, 将其继续起诉被告的意愿通知根据第二百一十六或第二百一十八条发出令状的法院。

(3) Where the court receives a certificate provided for in subsection (1), or where the court is informed by the Director of Public Prosecutions that the Republic intends to continue proceedings against the accused, it shall order removal of the person from the place where he is detained and shall cause him to be brought before it in the manner provided by section 218.

(3) 凡法院接获第(1)款所规定的证明书, 或如法院接获检察长通知, 国家拟继续对被告人提起诉讼, 则法院应命令将该人从被拘留处移送, 并应根据第二百一十八条规定的方式将被告人带到法庭席前。

(4) Where the court is informed by the Director of Public Prosecutions that the Republic does not intend to continue proceedings against the accused, the court shall—

(a) in cases where the certificate provided for in subsection (1) states that the accused is fit for unconditional discharge forthwith, make an order for his discharge; or

(b) in all other cases, record the fact that proceedings have been discontinued, discharge the accused of the charge and forthwith proceed to deal with him under section 8 of the Mental Diseases Act as a person deemed to have been brought before it under that Act.

(4) 如果检察长通知法院, 国家放弃对被告人提起诉讼, 法院应 -

(a) 如根据第(1)款规定的证明书说明被告人应立即无条件释放, 则可做出释放被告人的命令; 或

(b) 在任何其它情况下, 记录诉讼已中止的事实, 撤销对被告人的指控, 并立即根据《精神疾病法》第八条, 视为已经过开庭审理的人进行处理。

(5) Notwithstanding the provisions of subsection (4), any discharge of the accused pursuant to this section shall not operate as a bar to any subsequent proceedings against him on account of the same facts.

(5) 尽管有第(4)款的规定, 依据本条对被告人作出的任何释放决定, 不得视为禁止因同一事实而针对被告人提起诉讼。

218.-(1) Whenever a written report under subsection (4) of section 216 or information under subsection (3) of section 217 is received by the court, it shall, subject to subsection (4) resume the trial and require the accused to appear or be brought before

it.

**第二百一十八条【恢复审判或调查】**

(1) 凡法院已收到根据第二百一十六条第(4)款提交的书面报告或根据第二百一十七条第(3)款提供的起诉书,则在符合第(4)款的规定下,法院应恢复审判,并要求被告出庭或被带到法庭席前。

(2) Where proceedings are resumed under subsection (1) the court shall, in all cases where the proceedings are resumed by virtue of subsection (3) of section 217, proceed to hear the case de novo, and in any other case it may in its discretion treat the case as partly heard and may then proceed to hear further evidence in the case.

(2) 凡根据第(1)款恢复审判,在根据第二百一十七条第(3)款恢复审判的情况下,法院须重新审理案件,而在任何其他情况下,酌情决定将案件视为部分审理,然后可以继续审理案件中的其他证据。

(3) Any written report given under subsection (4) of section 216 or the production of a certificate issued under subsection (1) of section 217, it may, if still not satisfied that the accused is of sound mind and capable of making his defence record a finding to that effect and proceed to make a fresh order under subsection (6) of section 216.

(3) 根据第二百一十六条第(4)款作出的任何书面报告或根据第二百一十七条第(1)款作出的证明书,如果仍然不能证明被告精神健全并能为自己辩护,应记录表明此意的裁断并根据第二百一十六条第(6)款做出新的命令。

219.-(1) Where any act or omission is charged against any person as an offence and it is intended at the trial of that person to raise the defence of insanity, that defence shall be raised at the time when the person is called upon to plead.

**第二百一十九条【庭审中针对被告人患有精神病的辩护】**

(1) 凡任何人的作为或不作为被指控为罪行,而在该人的审讯中,意图提出精神错乱的抗辩,则该抗辩须在该人进行抗辩时提出。

(2) If, on the evidence on record, it appears to the court that the accused did the act or made the Commission charged but was insane so as not to be responsible for his action at the time when the act was done or the omission was made, the court shall make a special finding to the effect that the accused did the act or made the omission

charged but by reason of his insanity, is not guilty of the offence.

(2) 如法院根据经记录的证据，认为被告人做出犯罪行为或被指控犯罪，但因精神错乱，以致在作为或不作为时不应对其行动负责，则法院应作出一项特别裁定，说明被告的作为或不作为被指控，但由于其精神错乱，不属犯罪。

(3) When a special finding pursuant to subsection (2), is made by the court it shall—

(a) where the person against whom a special finding is made was charged with an offence under the Penal Code involving physical violence or damage to property for which, but for his insanity, at the time of doing the act or making the omission he would on conviction be liable to sentence of death or to suffer imprisonment for a term not less than seven years, order the person to be kept in a mental hospital, prison or other suitable place of custody as a criminal lunatic; or

(3) 法院根据第(2)款作出特别裁定时，应 -

(a) 被作出特别裁定的被告人在该作为或不作为涉及身体暴力或财产损失时，根据《刑法》的规定，该人如无精神错乱，一经定罪，可判处死刑或被判处七年以上有期徒刑，应命令将该被告以刑事精神病人的身份，将该人关押在精神病院、监狱或其他适当的羁押场所；或

(b) in any other case, in its discretion, either proceed to deal with the person under section 8 of the Mental Diseases Act or discharge or otherwise deal with him, subject to such conditions as his remaining under supervision in any place or by any person and to such other condition for ensuring his safety and welfare and that of the public as the court shall think fit.

(b) 在任何其它情况下，法院可酌情决定根据《精神病法令》第八条处理被告人，或将被告人释放或以其它方式处理，但法院应在考虑被告人和公众的安全和利益后决定将被告人留在有人监管的地方或由某人负责监管。

(4) The superintendent of a mental hospital, prison or other place in which any criminal lunatic is detained by an order of the court under subsection (3)(a), shall make a report in writing to the Minister of the condition, history and circumstances of any such lunatic at the expiration of a period of three years from the period of the court's order and thereafter at the expiration of a period of two years from the date of the last

report.

(4) 法院根据第 (3) (a) 款命令而被扣留的刑事精神病犯人所在的精神病院、监狱或其他任何地方的负责人，在法院命令作出之日起三年期满后，以及在最后一次报告之日起两年期满后，应以书面形式向部长报告任何此类精神病人的状况、历史和情况。

(5) On the consideration of a report under subsection (5), the Minister may order that the criminal lunatic be discharged or otherwise dealt with, subject to such conditions as to his remaining under supervision in any place or by any person and to such other conditions for ensuring the safety and welfare of the criminal lunatic and the public, as the Minister shall think fit.

(5) 在审议根据第 (5) 款提交的报告时，部长可命令释放或以其他方式处理该刑事精神病犯人，但应考虑被告人和公众的安全和利益后决定将被告人留在有人监管的地方或由某人负责监管。

(6) Notwithstanding the provisions of subsection (4) of this section, any person authorised by the Minister may at any time, after a criminal lunatic has been detained, report to the Minister on the condition, history and circumstances of that criminal lunatic and the Minister, on consideration of the report, may order that the criminal lunatic be discharged or otherwise dealt with, subject to such conditions as to his remaining under supervision in any place or by any person and to such other conditions for ensuring the safety and welfare of the said criminal lunatic and the public as the Minister shall think fit.

(6) 尽管有本条第 (4) 款的规定，任何由部长授权的人可以在刑事精神病犯人被拘留后的任何时间向部长报告该罪犯的状况、履历和情况。部长在审议报告时，可以命令将刑事精神病犯人释放或以其他方式处理，但应考虑被告人和公众的安全和利益后决定将被告人留在有人监管的地方或由某人负责监管。

(7) The court may, at any time, order that a criminal lunatic be transferred from a mental hospital to a prison or from any place in which he is detained or remains under supervision to either a prison or a mental hospital.

(7) 法院可随时命令将刑事精神病犯人从精神病院转往监狱，或从拘留或监

管他的任何地方转往监狱或精神病院。

220.-(1) Where any act or omission is charged against any person as an offence and it appears to the court during the trial of such person for that offence that such person may have been insane so as not to be responsible for his action at the time when the act was done or omission made, a court may, notwithstanding that no evidence has been adduced or given of such insanity, adjourn the proceedings and order the accused person to be detained in a mental hospital for medical examination.

第二百零二十条【法院调查被告人患有精神病的权力】

(1) 凡任何人的作为或不作为被指控为罪行，而在法庭审讯期间，法庭认为该人可能已经精神错乱，以致在作为或不作为时不应对自身行为负责，尽管就此精神错乱没有提出任何证据，但法院仍可暂停诉讼程序，并命令将被告人拘留在精神病院接受体格检查。

(2) A medical officer in charge of the mental hospital in which an accused person has been ordered to be detained pursuant to subsection (1) shall, within forty-two days of the detention prepare and transmit to the court ordering the detention a written report on the mental condition of the accused setting out whether, in his opinion, at the time when the offence was committed the accused was insane so as not to be responsible for his action and such written report purporting to be signed by the medical officer who prepared it may be admitted as evidence unless it is proved that the medical officer purporting to sign it did not in fact sign it.

(2) 依据第(1)款被命令拘留被告人的精神病院主管医生，须在拘留后四十二天内，拟备并向下达拘留命令的法庭送交一份关于被告人精神状况的书面报告。报告应列明被告在做出犯罪行为时，是否精神错乱，以致不应对自身行为负责。除非证明声称已由主管医生签字的报告实际上并没有在上面签字，则该已由主管医生签字的报告可作为证据。

(3) Where the court admits a medical report signed by the medical officer in charge of the mental hospital where the accused was detained the accused and the prosecution shall be entitled to adduce such evidence relevant to the issue of insanity as they may consider fit.

(3) 凡法庭接纳一份由被告人所被拘留的精神病院的主管医生签署的医学报告，则被告人及公诉人，只要他们认为恰当，均有权援引该项报告中与精神错乱有关的内容作为证据。

(4) If, on the evidence on record, it appears to the court that the accused did the act or made the omission charged but was insane so as not to be responsible for his action at the time when the act was done or omission made, the court shall make a special finding in accordance with the provisions of subsection (2) of section 219 and all the provisions of section 219 shall apply to every such case.

(4) 如法院根据经记录的证据，认为被告人做出犯罪行为或被指控犯罪，但因精神错乱，以致在作为或不作为时不应对其行动负责，则法庭应根据第二百一十九条第(2)款作出特别裁决，且第二百一十九条的所有规定均适用于本条所述情况。

221.-(1) If the accused, though not insane, cannot be made to understand the proceedings—

(a) in cases tried by a subordinate court, the court shall proceed to hear the evidence and, if at the close of the evidence for the prosecution and, if the defence has been called upon, at the close of any evidence for the defence, the court is of the opinion that the evidence which it has heard would justify a conviction, it shall sentence the accused to be detained during the President's pleasure; but if the evidence does not justify a conviction it shall acquit and discharge the accused;

第二百二十一条【被告人不了解诉讼程序的审理程序】

(1) 如果被告虽然没有精神错乱，但不能理解诉讼程序 -

(a) 在下级法院审讯的案件中，法院须继续审理本案证据，如在公诉方提交证据完毕，以及被告结束抗辩，则在抗辩的证据提交完毕时，法院根据所审理的证据认为有罪，则应判决无限期拘留被告；但如果证据不能证明有罪，法院应宣判被告人无罪并释放被告人；

(b) in cases which are the subject of committal proceedings by a subordinate court and of trial by the High Court, the subordinate court, shall commit the accused for trial by the High Court and either admit him to bail or send him to prison for safe



keeping, and the High Court shall, if the Director of Public Prosecutions has filed an information, proceed to hear all the evidence available both for the prosecution and the defence, and if satisfied that the accused is guilty of the offence charged shall sentence him to be detained during the President's pleasure; or

(b) 如属下级法院进行初级侦讯、高等法院进行审讯的案件，则下级法院须将被告人移交高等法院审讯，并允许被告人保释或将被告人押交监狱妥善看管，而如果检察长已经将提交起诉书，高等法院应继续审理控辩双方的所有证据，如信纳被告人犯了所指控的罪行，则应判决无限期拘留；或

(c) if the Director of Public Prosecutions states to the committing court that he does not intend to file information, the accused shall be at once discharged in respect of the charge made against him and, if he has been committed to prison, shall be released or, if on bail, his recognisance shall be discharged; but such discharge of the accused shall not operate as a bar to any subsequent proceedings against him on account of the same facts.

(c) 如检察长向提审法庭陈述他不拟提交起诉书，则被告人须立即就针对他的指控获释；如被告人已押交监狱，则应获释，如被告人已获保释，则应解除担保；对被告人作出的该释放决定，不得视为禁止因同一事实而针对被告人提起诉讼。

(2) A person sentenced to be detained during the President's pleasure shall be liable to be detained in such place and under such conditions as the Minister may, by order from time to time, direct and whilst so detained shall be deemed to be in legal custody.

(2) 被判决无限期拘留人，可被拘留在部长随时通过命令指示的地点和条件下，这种拘留应被视作合法羁押。

(3) The Minister may at any time, of his own motion or after receiving a report from any person authorised by him, order that a person so detained in accordance with subsection (2) be discharged or otherwise dealt with, subject to such conditions as to his remaining under supervision in any place or by any person and such other conditions for ensuring the safety and welfare of the said person and the public as the Minister



shall think fit.

(3) 部长可随时自行或在收到其授权的任何人的报告后，命令将根据第(2)款被拘留的人释放或以其他方式处理，但部长应在考虑被告人和公众的安全和利益后决定将被告人留在有人监管的地方或由某人负责监管。

(4) When a person has been detained during the President's pleasure under paragraph (a) or (b) of subsection (1), the presiding judge or magistrate shall forward to the Attorney-General a copy of the record of evidence taken on trial, with a report in writing signed by him containing any recommendation or observations on the case which he may think fit.

(4) 如任何人根据第(1)款(a)或(b)段被判决无限期拘留，则主审法官或治安法官须将审讯时所作证据纪录的副本，连同一份由他签署的、可载明本人对案件意见或建议的书面报告送交首席检察长。

## PART VII PROCEDURE IN TRIALS BEFORE SUBORDINATE COURTS 第七部分下级法院审判程序

### *(a) Provisions Relating to the Hearing and Determination of Cases*

#### (a) 与案件的审理及裁定有关的条文

222. If, in any case which a subordinate court has jurisdiction to hear and determine, the accused person appears in obedience to the summons served upon him at the time and place appointed in the summons for the hearing of the case, or is brought before the court under arrest, then, if the complaint, having had notice of the time and place appointed for the hearing of the charge does not appear, the court shall dismiss the charge and acquit the accused person, unless for some reason, it shall think it proper to adjourn hearing, of the case until some other date and, pending the adjourned hearing, either admit the accused person to bail or remand him to prison, or take such security for his appearance as the court thinks fit.



**第二百二十二条【原告缺席的审理】**

下级法院有司法管辖权进行审理及裁定的案件中，如果被告人遵从向其送达的传票，在传票所指定审理的时间及地点出庭，或经逮捕被带到法庭，则如果控方在收到载明指定审理的时间及地点的通知后没有出庭，则法院应驳回指控，并宣告被告无罪。除非因某些原因，法院将有关案件延期至其他日期进行审理，在延期审理的情况下，应允许被告保释，或被押送回监狱，或者提供法院认为合适的担保以保证被告人出庭。

223. If at a time appointed for hearing of the case both the complainant and the accused person appear before the court which is to hear and determine the charge, or if the complainant appears and the personal attendance of the accused person has been dispensed with under section 193, the court shall proceed to hear the case.

**第二百二十三条【双方当事人均出庭的审理】**

如在指定审理案件的时间，原告及被告均出席审理及裁定该项指控的法庭，或如原告出席，而被告人已根据第一百九十三条获免除亲自出席，则法庭应继续审理该案。

224. If a complainant, at any time before a final order is passed in any case under this Part, satisfies the court that there are sufficient grounds for permitting him to withdraw his complaint, against the accused or, if there be more than one accused person, or any of them, the court may permit him to withdraw the complaint and shall thereupon acquit the accused against whom the complaint is so withdrawn; save that this section shall apply only in cases of minor offences.

**第二百二十四条【原告撤诉】**

根据本部分，如果控告人在任何案件做出最终判决前的任何时间内，有足够理由令法庭信纳准许他撤回对被告人的指控，或者如果就多名被告人或仅就其中任何一人撤回指控，法庭可准许他撤回控告，并须随即宣告指控所针对的被告人无罪；但本条只适用于轻微罪行。

224A. Every trial under this Part shall abate on the death of the accused person.

**第二百二十四 A 条【撤销下级法院的审判】**

224A. 根据本部分进行的任何审讯，如果被告人死亡则应终止审理。

225.-(1) Subject to subsections (3) and (6), before or during the hearing of any case, complainant in its discretion to adjourn the hearing to a certain time and place to be then appointed and stated in the presence and hearing of the party or parties or their respective advocates then present, and in the meantime the court may suffer the accused person to go at large, or may commit him to prison, or may release him upon his entering into a recognisance with or without sureties at the discretion of the court, conditioned for his appearance at the time and place to which such hearing or further hearing shall be adjourned.

第二百二十五条【休庭与还押被告人】

(1) 在符合第(3)及(6)款的规定下，在审理任何案件之前或期间，法院可酌情决定将案件延期至某一时间及地点进行审理，并在一方或双方当事人或其各自的辩护人出席和审理时决定并述明该时间和地点。同时法院可允许被告人不在羁留中，或可交付监狱，或在由法庭酌情决定在其做出保证书后，无论是否有担保，将其释放，条件是他在延期的该审理或进一步审理中述明的时间和地点出庭。

(2) Notwithstanding the provisions of subsection (1), no adjournment shall be for more than thirty clear days or, if the accused person has been committed to prison, for more than fifteen clear days, the day, following that on which the adjournment is made being counted as the first day.

(2) 尽管有第(1)款的规定，延期不得超过30整天，或如被告人已被押交监狱，则延期不得超过15整天，延期之后起的第二天算为第一天。

(3) The court may commit the accused person to police custody—

(a) for not more than three clear days if there is no prison within five miles of the court house and may from time to time further commit the accused person to police custody for a period of not more than fifteen days in the aggregate;

(b) for not more than seven clear days if there is no prison within five miles of the court house and the court does not intend to sit again at such court house within three days, and may from time to time further commit the accused person to police custody for a period of not more than fifteen days in the aggregate; or

(c) at the request of the accused person, for not more than fifteen clear days.

(3) 法院可将被告人交由警方羁押—

(a) 如在法院 5 英里范围内并无监狱，则为期不超过 3 整天，并可连续将被告人进一步交付警方羁押，为期合计不超过 15 天；

(b) 如在法院 5 英里范围内并无监狱，而法院无意在 3 天内再次在该法院开庭，则为期不超过 7 整天，并可连续将被告人进一步交付警方羁押，为期合计不超过 15 天；或

(c) 应被告人的要求，不超过十五整天。

(4) Except for cases involving offences under sections 39, 40, 41, 43, 45, 48(a) and 59, of the Penal Code or offences involving fraud, conspiracy to defraud or forgery, it shall not be lawful for a court to adjourn a case in respect of offences specified in the First Schedule to this Act under the provisions of subsection (1) of this section for an aggregate exceeding sixty days except under the following circumstances—

(4) 除涉及《刑法典》第三十九、四十、四十一、四十三、四十五、四十八(a)和五十九条所述罪行或涉及欺诈、共谋诈骗或伪造文书的罪行外，法院根据本条第(1)款的规定将本法附表 1 中规定的犯罪案件延期总计不得超过 60 天，但以下情况除外 -

(a) wherever a certificate by a Regional Crimes Officer is filed in court stating the need and grounds for adjourning the case, the court may adjourn the case for a further period not exceeding an aggregate of sixty days in respect of offences stated in the First Schedule to this Act;

(a) 凡区域犯罪官员在法庭上提出延期审理案件的必要性和理由并出具相应证明，法庭可就本法附表 1 所述的犯罪将案件延期不超过 60 天；

(b) wherever a certificate is filed in court by the State Attorney stating the need and grounds for seeking a further adjournment beyond the adjournment made under paragraph (a), the court shall adjourn the case for a further period not exceeding, in the aggregate, sixty days;

(b) 如果州检察官向法院提交了一份证明，说明在(a)段所述的延期之后寻求进一步延期的必要性和理由，法院应将案件延期但不得超过 60 天；

(c) wherever a certificate is filed in court by the Director of Public Prosecutions or

a person authorised by him in that behalf stating the need for and grounds for a further adjournment beyond the adjournment made under paragraph (b), the court shall not adjourn such case for a period exceeding an aggregate of twenty four months since the date of the first adjournment given under paragraph (a).

(c) 凡检察长或获其就此授权的人向法院提交一份证明书，说明在（b）段所述的延期之后，有必要进一步延期，并说明进一步延期的理由，法院不得将该案件延期超过自（a）段所述的第一次延期之日起二十四个月。

(5) Where no certificate is filed under the provisions of subsection (4), the court shall proceed to hear the case or, where the prosecution is unable to proceed with the hearing discharge the accused in the court save that any discharge under this section shall not operate as a bar to a subsequent charge being brought against the accused for the same offence.

(5) 凡没有根据第（4）款提交证明书，法庭应继续审理该案，或如控方不能继续参加审理，则法庭应释放被告人，但根据本条释放被告人，不得视为禁止继续指控被告人犯有同一罪。

(6) Nothing in this section shall be construed as providing for the application of this section to any proceedings in a subordinate court in relation to any offence triable only by the High Court under the Economic and Organised Crime Control Act.

(6) 本条的任何规定均不得解释为根据“经济和有组织犯罪管制法”任何只有高等法院可审理的罪行的诉讼程序由下级法院适用。

226.-(1) If at the time or place to which the hearing or further hearing is adjourned, the accused person does not appear before the court in which the order of adjournment was made, it shall be lawful for the court to proceed with the hearing or further hearing as if the accused were present; and if the complainant does not appear, the court may dismiss the charge and acquit the accused with or without costs as the court thinks fit.

#### 第二百二十六条【休庭后当事人均缺席】

(1) 如果在某一时间或地点案件的审理或进一步审理被延期，法庭做出延期决定后被告人缺席，则法院可视为被告到庭继续进行审理或进一步审理；以及如原告不出庭，且法庭认为合适，则法院可驳回指控，在有费用或无费用的情况下



宣告被告无罪。

(2) If the court convicts the accused person in his absence, it may set aside the conviction, upon being satisfied that his absence was from causes over which he had no control and that he had a probable defence on the merit.

(2) 如法庭在被告人缺席的情况下将他定罪，则法庭在信纳他缺席是由于他无法控制的原因，并信纳他有可能进行具有法律意义的抗辩后，可宣布该项定罪无效。

(3) Any sentence passed under subsection (1) shall be deemed to commence from the date of apprehension and the person effecting such apprehension, shall endorse the date thereof on the back of the warrant of commitment.

(3) 根据第(1)款判处的任何刑罚，应视作自逮捕之日起执行，而完成逮捕的人，须在交付羁押令的背面注明逮捕日期。

(4) The court, in its discretion, may refrain from convicting the accused in his absence, and in every such case the court shall issue a warrant for the apprehension of the accused person and cause him to be brought before the court.

(4) 法庭可运用其酌情决定权，避免在被告人缺席的情况下将其定罪，而在任何该等案件中，法庭应发出拘捕被告人的命令，并安排将被告人带到法庭席前。

227. Where in any case to which section 226 does not apply, an accused being tried by a subordinate court fails to appear on the date fixed for the continuation of the hearing after the close of the prosecution case or on the date fixed for the passing of sentence, the court may, if it is satisfied that the accused's attendance cannot be secured without undue delay or expense, proceed to dispose of the case in accordance with the provisions of section 231 as if the accused, being present, had failed to make any statement or adduce any evidence or, as the case may be, make any further statement or adduce further evidence in relation to any sentence which the court may pass:

#### 第两百二十七条【被告人缺席的定罪与判刑】

凡在第两百二十六条不适用的任何案件中，被下级法院审判的被告人，在起诉案件终结后确定的继续审理日期或者确定的宣判日期没有出庭，法庭如信纳被告不能在没有不当的延误或费用的情况下出庭，法庭应视作被告人出庭并且未作

出任何陈述或援引任何证据，或者被告人出庭并且未就法庭有可能作出的判决作出任何进一步的陈述或援引进一步的证据（根据具体情况而定），依照第 231 节的规定着手处理案件：

Provided that—

(a) where the accused so fails to appear but his advocate appears, the advocate, subject to the provisions of this Act, be entitled to call any defence witness and to address the court as if the accused had been or is convicted, and the advocate shall be entitled to call any witness and to address the court on matters relevant to any sentence which the court may pass; and

除以下情况外 -

(a) 如果被告未能出庭，但其辩护人出庭，根据本法规定，辩护人可视同被告已被定罪有权传唤任何辩护证人并在法庭上发言，辩护人可就法庭有可能判处的任何刑罚有权传唤任何证人并在法庭上发言；及

(b) where the accused appears on any subsequent date to which the proceedings may have been adjourned, the proceedings under this section on the day or days on which the accused was absent shall not be invalid by reason only of his absence.

(b) 凡被告人在诉讼延期之日起的任何后续日期出庭（已延期进行的诉讼要审理多日），在被告缺席的一日或几日，已经根据本条进行的诉讼不得仅因被告人缺席而无效。

228.-(1) The substance of the charge shall be stated to the accused person by the court, and he shall be asked whether he admits or denies the truth of the charge.

第两百二十八条【被告人被传唤辩护】

(1) 法庭应向被告人说明指控的实质内容，并询问被告人是否承认指控的真实性。

(2) If the accused person admits the truth of the charge, his admission shall be recorded as nearly as possible in the words he uses and the magistrate shall convict him and pass sentence upon or make an order against him, unless there appears to be sufficient cause to the contrary.

(2) 如被告人承认指控的真实性，则应尽可能用他本人的原话进行记录，而





除非有充分相反的理由，否则治安法官应作出有罪判决，并针对他判处刑罚或作出命令。

(3) If the accused person does not admit the truth of the charge, the court shall proceed to hear the case as hereinafter provided.

(4) If the accused person refuses to plead, the court shall order a plea of “not guilty” to be entered for him.

(3) 如被告人不承认指控的真实性，法庭须按以下规定进行审理。

(4) 如被告人拒绝认罪，法院应命令他进行“无罪”辩护。

(5)(a) If the accused pleads—

(i) that he has been previously acquitted of the same offence;

or

(ii) he has obtained a pardon at law for his offence,

the court shall first try whether or not in fact such plea is true.

(b) If the court holds that the evidence adduced in support of such plea does not sustain the plea, or if it finds that such plea is false in fact, the accused person shall be required to plead to the charge.

(5) (a) 如果被告辩护 -

(i) 他曾因同一罪行被判无罪；

或

(ii) 其罪行已依法获得赦免，

法院应首先审理该答辩是否属实。

(b) 如法院裁定为支持该项答辩而援引的证据并不支持该项答辩，或如法院裁定该项答辩事实上是虚假的，则被告人应就其控罪作出答辩。

(6) After the accused has pleaded to the charge read to him in court under this section, the court shall obtain from him his permanent address and shall record and keep it.

(6) 在被告人就根据本条在法庭上向他宣读的控罪作出答辩后，法庭应取得被告人常住地址，并应记录及保存该地址。

229.-(1) If the accused person does not admit the truth of the charge, the prosecutor



shall open the case against the accused person and shall call witnesses and adduce evidence in support of the charge

第二百二十九条【“无罪”抗辩程序】

(1) 如果被告人不承认指控的真实性，公诉人应针对被告人提起诉讼，并传唤证人和援引证据支持指控。

(2) The accused person or his advocate may put questions to each witness produced against him

(2) 被告人或其辩护人可向每名针对被告人而出示的证人提出问题。

(3) If the accused person does not employ an advocate, the court shall, at the close of the examination of each witness for the prosecution, ask the accused person whether he wishes to put any questions to that witness or make any statement.

(3) 如被告人没有聘用辩护人，法庭须在每名控方传唤的证人讯问完结时，都应询问被告人是否向该证人提出任何问题或作出任何陈述。

(4) If the accused person asks any question, the magistrate shall record the answer and, if he makes a statement the magistrate shall, if he thinks it desirable in the interest of the accused person, put the substance of such statement to the witness in the form of a question and record his answer.

(4) 如被告人提出任何问题，治安法官须将答案记录在案；如被告人作出陈述，治安法官如为被告人的利益且认为有必要，可将该陈述的实质内容以问题的形式提交证人，应将其证人的回答记录在案。

230. If at the close of the evidence in support of the charge, it appears to the court that a case is not made out against the accused person sufficiently to require him to make a defence either in relation to the offence with which he is charged or in relation to any other offence of which, under the provisions of sections 300 to 309 of this Act, he is liable to be convicted the court shall dismiss the charge and acquit the accused person.

第二百三十条【无辩可答情况下释放被告人】

如在提交支持指控的证据结束后，法庭认为针对被告人提起的案件并不足以要求被告人就其被指控的罪行或被告人所犯的“任何其它罪行”作出抗辩，而

根据本法第 300 至 309 节的规定，这些“任何其他罪行”使被告人有可能被定罪，则法院应驳回指控并宣告被告人无罪。

231.-(1) At the close of the evidence in support of the charge, if it appears to the court that a case is made against the accused person sufficiently to require him to make a defence either in relation to the offence with which he is charged or in relation to any other offence of which, under the provisions of sections 300 to 309 of this Act, he is liable to be convicted the court shall again explain the substance of the charge to the accused and inform him of his right—

第两百三十一条【答辩】

(1) 在提交支持指控的证据结束时，如果法院认为针对被告人提起的案件足以要求被告就其被控的罪行或被告人所犯的“任何其它罪行”作出抗辩，而根据本法第 300 至 309 节的规定，这些“任何其他罪行”使被告人有可能被定罪，法庭应再次向被告解释指控的实质内容，并告知被告人有以下权利 -

(a) to give evidence whether or not on oath or affirmation, on his own behalf; and

(a) 为自己作证，不论是否经宗教式或非宗教式宣誓；及

(b) to call witness in his defence,

(b) 为自身辩护而传召证人，

and shall then ask the accused person or his advocate if it is intended to exercise any of the above rights and shall record the answer; and the court shall then call on the accused person to enter on his defence save where the accused person does not wish to exercise any of those rights.

然后，应询问被告人或其辩护人是否拟行使上述任何权利，并应记录答案；除被告人不欲行使上述任何权利外，法庭应要求被告进行辩护。

(2) Notwithstanding that an accused person elects to give evidence not on oath or affirmation, he shall be subject to cross-examination by the prosecution.

(2) 即使被告人选择不经宗教式或非宗教式宣誓而提供证据，他仍须接受控方的交叉询问。

(3) If the accused, after he has been informed in terms of subsection (1), elects to remain silent the court shall be entitled to draw an adverse inference against him and

the court as well as the prosecution shall be permitted to comment on the failure by the accused to give evidence.

(3) 如被告人在接获第(1)款所述的通知后选择保持沉默, 法庭有权作出对他不利的推论, 而法庭及控方均获准就被告人没有提供证据作出评论。

(4) If the accused person states that he has witnesses to call but that they are not present in court, and the court is satisfied that the absence of such witnesses is not due to any fault or neglect of the accused person and that there is likelihood that they could, if present, give material evidence on behalf of the accused person, the court may adjourn the trial and issue process or take other steps to compel attendance of such witnesses.

(4) 如被告人述明他有证人可传召, 但他们并未出庭, 而法庭信纳该等证人的缺席并非由于被告人的任何过失或疏忽所致, 并信纳该等证人如果出庭有可能为被告人提供具关键性的证据, 法院可延期审理, 并发出传票或采取其他措施勒令该等证人出庭。

232. If the accused person examines any witnesses or gives any evidence other than as to his general character, the court may grant leave to the prosecutor to give or adduce evidence in reply.

#### 第两百三十二条【答复证据】

如果被告对任何证人进行询问或提供除其一般品格以外的任何证据, 法院可准许公诉人提供或援引证据答辩。

233. The prosecutor or his advocate and the accused or his advocate shall be entitled to address the court in the same manner and order as in the trial under the provisions of this Act before the High Court.

#### 第两百三十三条【答辩顺序】

公诉人或其代理人 and 被告人或其辩护人有权以与本法规定的相同方式和顺序向高等法院发言。

234.-(1) Where at any stage of a trial, it appears to the court that the charge is defective, either in substance or form, the court may make such order for alteration of the charge either by way of amendment of the charge or by substitution or addition of a



new charge as the court thinks necessary to meet the circumstances of the case unless, having regard to the merits of the case, the required amendments cannot be made without injustice; and all amendments made under the provisions of this subsection shall be made upon such terms as to the court shall seem just.

第二百三十四条【控罪与证据的差异及控罪的修正】

(1) 凡在审理的任何阶段，法庭认为该项控罪在实质上或形式上有欠妥之处，法庭如果认为有必要，可以根据案件的情况通过修改指控或替换或增加新的指控作出更改指控的命令，除非在考虑案件的实质情况后，作出变更将导致不公正；而根据本款规定作出的所有变更，均应在法庭认可其公正性的前提下作出。

(2) Subject to subsection (1), where a charge is altered under that subsection—

(2) 除第(1)款另有规定外，凡根据该款更改指控—

(a) the court shall thereupon call upon the accused person to plead to the altered charge;

(a) 法院应随即传唤被告人就经更改的指控作出答辩；

(b) the accused may demand that the witnesses or any of them be recalled and give their evidence afresh or be further crossexamined by the accused or his advocate and, in such last mentioned event, the prosecution shall have the right to reexamine any such witness on matters arising out of such further cross-examination; and

(b) 被告人可要求召回任何一名或多名证人并重新提供证据，或由被告人或其辩护人进一步交叉询问，而在第二种情况下，控方有权就进一步交叉询问所引起的事项对该名证人进行重新询问；以及

(c) the court may permit the prosecution to recall and examine, with reference to any alteration of or addition to the charge that may be allowed, any witness who may have been examined unless the court for any reason to be recorded in writing considers that the application is made for the purpose of vexation, delay or for defeating the ends of justice.

(c) 法庭根据所批准的已修改的指控或新增的指控，可准许控方召回和询问任何可能已接受询问的证人，除非法院根据任何以书面形式记录的理由，认为该申请是故意滋扰，拖延或挫败司法正义而作出的。

(3) Variance between the charge and the evidence adduced in support of it with respect to the time at which the alleged offence was committed is not material and the charge need not be amended for such variance if it is proved that the proceedings were in fact instituted within the time, if any, limited by law for the institution thereof.

(3) 该项指控的时间与为支持该项指控的时间而提出的证据不一致并不关键，如能证明，该等诉讼事实上是在法律限定的提起诉讼的时间（如有）内提起的，则该项指控无需因该等变更而加以修改。

(4) Where an alteration of the charge is made under subsection (1) or there is a variance between the charge and the evidence as described in subsection (2) the court shall, if it is of the opinion that the accused has been thereby misled or deceived, adjourn the trial for such period as may be reasonably necessary.

(4) 凡根据第(1)款对控罪作出更改，或控罪与第(2)款所描述的证据不符，如法院认为被告人因此而被误导或欺骗，可将审判延期至合理必要的期限。

(5) Where an alteration of the charge is made under subsection (1), the prosecution may demand that the witnesses or any of them be recalled and give their evidence afresh or be further examined by the prosecution and the court shall call such witness or witnesses unless the court, for reasons to be recorded in writing, considers that the application is made for the purpose of vexation, delay or defeating the ends of justice.

(5) 凡根据第(1)款对控罪作出更改，控方可申请（要求）将任何一名或多名证人召回，并重新提供证据，或由控方进一步询问，法庭应传唤所要求的证人，除非法院根据任何以书面形式记录的理由，认为该申请是故意滋扰，拖延或挫败司法正义而作出的。

235.-(1) The court, having heard both the complainant and the accused person and their witnesses and the evidence, shall convict the accused and pass sentence upon or make an order against him according to law or shall acquit him or shall dismiss the charge under section 38 of the Penal Code.

#### 第两百三十五条【判决】

(1) 法院在听取了原告人、被告人及相关证人和证据后，应将被告人定罪，并依法对其判处刑罚或作出命令，或将其无罪释放，或根据《刑法典》第38条



规定驳回指控。

(2) If the court acquits the accused, it shall require him to give his permanent address for service in case there is an appeal against his acquittal and the court shall record or cause it to be recorded.

(2) 如法庭宣判被告人无罪，则在有人就被告人的无罪宣判提出上诉时，法庭须规定被告人提供其永久送达地址，而法庭应记录或安排记录该地址。

236. The court may, before passing sentence, receive such evidence as it thinks fit, in order to inform itself as to the proper sentence to be passed.

第两百三十六条【与恰当判决或命令有关的证据】

法院在作出判决前，可取得其认为适当的证据，以量刑适当。

237. Without prejudice to the generality of section 236, a subordinate court presided over by a resident magistrate may, subject to the provisions of this section, for the purpose of assessing the proper sentence to be passed, take into consideration any other offence committed by the accused—

第两百三十七条【有其他罪行】

在不损害第两百三十六条的一般性的情况下，由常驻治安法官主持的下级法院，在符合本条规定的情况下，为了评估将要通过的适当判决，可以考虑被告犯下的任何其他罪行 -

(a) if it has been explained by the court to the accused person in ordinary language that the sentence to be passed upon him for the offence of which he has been convicted in those proceedings may be greater if the other offence is taken into consideration; and

(a) 如法庭已用日常用语向被告解释，被告已经就被起诉的罪行定罪，如考虑到另一罪行，被告人可能会被判处更严重的刑罚；及

(b) after the explanation the accused person—

(i) admits the commission of the other offence; and

(ii) asks the court to take the other offence into consideration.

(b) 在作出解释后，被告人 -

(i) 承认犯了其他罪行；以及

(ii) 要求法院考虑其他罪行。

(3) Nothing in this section shall entitle a court which has taken an offence into consideration to pass upon an accused person any sentence in excess of the maximum sentence which may be awarded by that court for the offence of which that person was convicted in those proceedings.

(3) 法庭不得根据本条的任何规定作为依据，使在考虑该罪行后判处被告人超过就被告人已被起诉的罪行经定罪后所能判处的最高刑罚。

238. The conviction or acquittal or other order may, if required, be drawn up and shall be signed by the court or by the clerk or other officer of the court.

**第二百三十八条【定罪或宣告无罪】**

定罪、无罪释放或其他命令应由法庭或法庭书记员或其他官员起草并签署。

239. The production of the copy of the order of acquittal certified by the clerk or other officer of the court shall, without other proof, be a bar to any subsequent charge for the same matter against the same accused.

**第二百三十九条【撤销进一步指控】**

经书记员或法庭其他官员核证的无罪判决书副本一经出示，无需其他证据即禁止对同一被告人就同一事项提出任何后续指控。

240.-(1) In any trial before a subordinate court, any document purporting to be a report signed by a medical witness upon any purely medical or surgical matter shall be receivable in evidence.

**第二百四十条【医疗证人陈述】**

(1) 在下级法院进行的任何审讯中，任何由医学证人就纯粹的医疗或外科事宜签署的报告，均应作为证据予以接受。

(2) The court may presume that the signature to any such document is genuine and that the person signing the same held the office or had the qualifications which he possessed to hold or to have when he signed it.

(2) 法院可推定任何该等文件的签名是真实的，且签署该等文件的人在签署文件时具有相应的官职或相应的资格。

(3) When a report referred to in this section is received in evidence the court may if it thinks fit, and shall, if so requested by the accused or his advocate, summon and



examine or make available for cross-examination the person who made the report; and the court shall inform the accused of his right to require the person who made the report to be summoned in accordance with the provisions of this subsection.

(3) 当本条所提述的报告作为证据时，法庭如认为适当，可传唤和询问作出报告的人或让作出报告的人接受交叉询问，而如果被告人或其辩护人要求，则法庭应当传唤和询问或质证作出报告的人，或让作出报告的人接受交叉询问，且法庭应告知被告人其有权要求作出报告的人按照本款规定被传唤。

*(b) Limitations and Exceptions relating to Trials Before Subordinate Courts*

(b) 与下级法院审判有关的限制和例外

241. Except where a longer time is specially allowed by law, no offence, the maximum punishment for which does not exceed imprisonment for six months or a fine of five thousand shillings, or both, shall be triable by a subordinate court unless the charge or complaint relating to it is laid within twelve months from the time when the matter of such charge or complaint arose.

第二百四十一条【适用简易程序案件的时间限制】

除法律另有规定外，下级法院不得审理最高刑罚不超过六个月监禁、不超过五千先令罚金或二者兼有的任何罪行，除非与此有关的指控或控告是在指控或控告事项发生之日起十二个月内提出的。

242. If in the course of a trial it appears to the magistrate at any stage of the proceedings that the case is one which ought to be tried by the High Court, he shall stop further proceedings and commit the accused person for trial upon information before the High Court, and in that case he shall apply the procedure provided in this Act in relation to committal of accused persons for trial to the High Court.

第二百四十二条【经证实不适用简易程序罪行的审理程序】

在审讯过程中，如治安法官在诉讼程序的任何阶段认为该案件应由高等法院审理，治安法官应停止进一步的诉讼程序，并根据起诉书将被告人交付高等法院审讯，而在此情况下，他应根据本法规定的程序将被告交付高等法院审判。



*(c) Committal of Accused Persons by Subordinate Courts to the High Court  
for Trial*

(c) 下属法院将被告人送交高等法院审判

(a) Provisions relating to Committal of Accused Persons for Trial to the High Court

(a) 关于将被告人送交高等法院审判的规定

243.-(1) Any magistrate may, unless precluded from so doing by the terms of his appointment, commit any person for trial to the High Court.

第两百四十三条【移送审理的权力】

(1) 除非委任条款禁止，任何治安法官可将任何人交付高等法院审判，

(2) Where, at any time during trial before a subordinate court, but before conviction, the facts of the case reveal that the accused had committed an offence for which he would have been charged under the Economic and Organised Crime Control Act, the magistrate shall stop the proceedings, direct the prosecutor of the case to frame a fresh charge under the appropriate section of the Economic and Organised Crime Control Act, and then proceed to deal with him in accordance with sections 29 and 30 of that Act.

(2) 凡在下级法院审讯期间，但在定罪前，案件事实显示被告人犯了根据《经济及有组织犯罪管制法》本应被指控的罪行，则治安法官须停止诉讼程序，并指示本案公诉人根据《经济及有组织犯罪控制法》的相应条款重新提出指控，然后按照《经济及有组织犯罪控制法》第二十九和三十条处理。

244. Whenever any charge has been brought against any person of an offence not triable by a subordinate court or as to which the court is advised by the Director of Public Prosecutions in writing or otherwise that it is not suitable to be disposed of upon summary trial, committal proceedings shall be held according to the provisions hereinafter contained by a subordinate court of competent jurisdiction.

第二百四十四条【有权审理移送案件的法院】

任何人就某人的罪行提出指控，而该罪行不可由下级法院审讯，或检察长以书面或其它方式告知法庭，不适宜在简易程序审讯中予以处置，初级侦讯应根据以下条款交由具有管辖权的下级法院进行。

245.-(1) After a person is arrested or upon the completion of investigations and the arrest of any person 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 32 of this Act before a subordinate court of competent jurisdiction within whose local limits the arrest was made, together with the charge upon which it is proposed to prosecute him, for him to be dealt with according to law, subject to this Act.

第二百四十五条【逮捕程序】

(1) 在逮捕某人后，或在调查完成后，如被逮捕的人所犯罪行可由高等法院审理，在本法第三十二条规定的期限内，将该被逮捕的人应连同将要起诉他的指控带到被逮捕当地范围内具有管辖权的下级法院，以便根据本法对被逮捕人依法处理。

(2) Whenever a person is brought before a subordinate court pursuant to subsection (1), 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.

(2) 任何人依据第(1)款被带到下级法院席前，有关的治安法官须向被告人宣读和解释控罪书内所列的一项或多项控罪，而该项控罪书是针对被告人提出的，但被告人不应被要求对指控进行辩护或作出任何答复。

(3) After having read and explained to the accused the charge or charges the magistrate shall address him in the following words or words to the like effect:

“This is not your trial. If it is so decided, you will be tried later in the High Court, and the evidence against you will then be adduced. You will then be able to make your defence and call witnesses on your behalf”.

(3) 治安法官在向被告人宣读并解释该项或多项控罪后，应以意思相同的字

句向被告人宣读：“这不是你的审讯。如作出决定，之后你将在的高等法院受审，然后将举出对你不利的证据，你可以为自己辩护并传唤证人。

(4) After a person is committed to remand prison or on bail by a subordinate court or after the investigations 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 persons 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 Director of Public Prosecutions or any other public officer designated by him in that behalf.

(4) 在下级法院将某人还押监狱或保释后，或在调查完成后但在嫌疑人被捕前，负责本法项下相关刑事调查的警官或其他公职人员应立即将拟在审讯中被传召为证人的陈述打印成一式五份，需方便编纂，并连同警方案件档案送交检察长或检察长为此而指定的任何其他公职人员。

(5) If the Director of Public Prosecutions 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 the institution of a prosecution, or it is otherwise inadvisable to prosecute, he shall, where the accused has already been charged, immediately enter a nolleprosequi 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.

(5) 如检察长或其他公职人员在研究警方的案卷及拟用证人的陈述后，认为现有的证据不足以支持提出检控，或认为在其他方面不适宜提出检控，在被告已被起诉的情况下，他应立即终止检控，除非他有理由相信进一步的调查可以改变这种情况，如此他应安排进行进一步的调查。

(6) If the Director of Public Prosecutions or that other public officer, after studying the police case file and the statements 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 (4), including any document containing the substance of the evidence of any witness who has not made a written statement.

(6) 如检察长或其他公职人员在研究警方的案卷及拟出庭的证人的陈述后，认为所提供的证据或案件本身足以令该嫌疑犯受审，他应起草或安排起草一份法定格式的起诉书，并在由他签署后，连同根据第(4)款送交他的每位证人陈述书的三份副本一并呈交，包括任何未作书面陈述的证人提供的文件，该文件含有证据的实质内容。

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

(7) 在向高等法院提交起诉书后，司法常务官应安排将该起诉书的副本交付最先向被告提起诉讼的或被告人居住地范围内的地方法院。

246.-(1) Upon receipt of the copy of the information and the notice, the subordinate court shall summon the accused person from remand prison or, if not yet arrested, order his arrest and appearance before it and deliver to him or to his counsel a copy of the information and notice of trial delivered to it under subsection (7) of section 245 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 on the specified date and to facilitate his appearance before the court.

第两百四十六条【移送法院审理】

(1) 下级法院在收到起诉书和通知书的副本后，应从还押监狱传唤被告人，如果尚未逮捕，则应下令逮捕被告人交付法庭应诉，并将根据第两百四十五条第(7)款收到的起诉书和审判通知书交付被告人或其律师，并将被告人交付法院审讯；而交付羁押令应有足够的效力要求有关还押监狱的主管人在指明日期将被告人从监狱移交至法庭出庭。

(2) Upon appearance of the accused person before it, the subordinate court shall read and explain or cause to be read 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 Director of Public Prosecutions intends to call at the

trial.

(2) 在被告人出庭后，下级法院须向被告宣读、解释或安排向被告宣读针对被告人的起诉书，以及载有由检察长准备在审判时将传唤的证人的陈述或含有证据的实质内容的文件。

(3) After complying with the provision of subsections (1) and (2) the court shall address the accused person in the following words or words to the like effect:

(3) 法庭在遵从第(1)及(2)款的条文后，应以意思相同的字句向被告宣读：

“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.”

“你现在已经听到控方准备在你的审判中出示的证据的实质内容。你有保留抗辩的自由，你也可以说任何你想说的与对你的指控有关的话。你所说的任何话都将被记录下来，并在审判中作为证据。

(4) Before the accused person makes any statement the court shall state to him and make him understand clearly 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 his guilt, but that whatsoever he then says may be given in evidence on his trial notwithstanding the promise or threat.

(4) 在被告人作出任何陈述前，法庭须向被告述明，并使被告人清楚的理解，他所得到的任何承诺都无效，亦无须害怕任何诱使被告人承认或供认其罪行的威胁。但无论他将要说什么，即使有承诺或被威胁，他所说的都可以在审判时作为证据。

(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.

(5) 被告人所说的一切，均须全部记录，并须向他出示或宣读，而被告人可自由解释或在其纪录内所载的任何事项上进行补充。

(6) When the record of the statement, if any, made by the accused person is

confirmed to be what he declares is the truth, the record shall be attested by the magistrate who shall certify that the statement was taken in his presence and hearing and contains accurately the whole statement made by the accused person; and the accused person shall sign or attest the record by his mark but if he refuses the court shall record his refusal and the record may be used as if the accused had signed or attested it.

(6) 当被告人所作的陈述（如有的话）的纪录经本人确认并声明属实，该纪录须由治安法官见证，治安法官须核证该陈述是在他出席和审理的情况下作出的，并准确地载有被告人所作的全部陈述；被告人须以其标记签署或见证该纪录，但如他拒绝，法庭应记录其拒绝，并视作被告人已签署或见证该记录。

247. Immediately after complying with the provisions of sections 245 and 246, the court shall make a list of all witnesses whom the Director of Public Prosecutions 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 and if he does the court shall record the names and addresses of the witness whom the accused mentions.

**第两百四十七条【控方和辩方证人】**

法院在遵从第两百四十五及两百四十六条的条文后，须立即列出检察长拟传唤的所有证人的名单，并须询问被告人是否拟在审讯中传唤证人，如拟传唤证人，则须询问被告人是否提供证人的姓名和地址，以便法庭传唤，如果被告愿意提供，法庭应记录被告所提供的证人的姓名和地址。

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

**第两百四十八条【延期审理程序】**

(1) 如果出于任何合理的原因，法院认为有必要或适宜将诉讼延期，法院可随时通过令状，将被告还押至监狱或其他安全的地方一段合理的时间，每次不得超过 15 天。

(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.

(2) 凡还押不超过 3 天，法庭可口头命令由羁押被告人的一名或多名公职人员或个人，或任何其他合适的公职人员或个人继续羁押被告人，并在指定的时间对被告人开始或继续调查。

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

(3) 在还押期间，法庭可随时命令将被告人带到法庭席前。

(4) Subject to the provisions of section 148 the court may admit an accused on remand to bail.

(4) 在符合第一百四十八条的规定的的前提下，法院可以准许被告人还押候审。

249.-(1) A person who has been committed for trial before the High Court shall be entitled at any time before the trial to have a copy of the record of the committal proceedings without payment.

第两百四十九条【被告人有权获得初级侦讯的纪录副本】

(1) 在高等法院受审的人，有权在受审前的任何时间免费获得初级侦讯的笔录副本。

(2) The court shall, at the time of committing him for trial, inform the accused person of his right to a copy of the record of committal proceedings without payment.

(2) 法庭在将被告人交付审讯时，应告知被告人他有权免费取得初级侦讯的笔录副本。

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

(3) 依据本条向被告人提供的每份初级侦讯笔录，均应载有一份一项或多项指控的副本、在初级侦讯中向法院出示的陈述书及文件的副本，以及一份开庭的



诉讼笔录副本。

250.-(1) A prosecutor may at any time during the trial before the High Court, apply to the court to summon any person whose attendance may be required at the trial to give evidence or to produce any document and to bind such person to appear at the trial.

**第两百五十条【法院可强制证人出庭】**

(1) 在高等法院审判期间，公诉人可随时向法院申请传唤任何可能需要出庭作证或出示任何文件的人，并约束该人出庭。

(2) Upon an application being made under subsection (1) the court shall summon the person in respect of whom the application is made to appear before it and, when he so appears, the court shall bind him by recognisance with or without sureties as it may deem requisite, to appear at the trial in compliance with any summons issued in accordance with section 263.

(2) 法院在接获根据第(1)款提出的申请后，应传唤该项申请所涉及的人出庭，而当该人出庭时，法庭根据需要，无论是否有担保，约束该人遵从根据第两百六十三条发出的任何传票在法庭的审讯中出庭。

251. If a person required to enter into recognisance under section 250 refuses to enter into such recognisance, the court may commit him to prison or into the custody of any other officer of the court, there to remain until such time as the trial has taken place or the case against the accused is otherwise disposed of, unless in the meantime he enters into recognisance as required by the court.

**第两百五十一条【拒绝出具保证书】**

如根据第两百五十条应做出保证书的人拒绝做出保证书，法庭可将该人交付监狱或交由法庭任何其它公职人员羁押，直至审讯进行或针对被告的案件经过处理，除非在此期间他按照法院的要求做出保证书。



*(b) Preservation of Testimony in Certain Cases*

## (b) 在某些情况下保全证人证言

252. Where it appears to a magistrate that any person who is seriously ill or hurt and not likely to recover or who, for any other reason whatsoever, may not be available to give evidence at the trial but is able and willing to give material evidence relating to any offence, the court may take in writing his statement on oath or affirmation and shall subscribe the same and certify that it contains accurately the whole of the statement made by him; and the magistrate recording the statement shall certify his reason for recording it and shall state the date and place when and where it was taken, preserve the statement and file it for record:

## 第两百五十二条【患有重疾或不能出庭者的证词】

凡治安法官认为任何人因患有严重疾病或受重伤，很难康复，或因任何其它理由，可能不能在审讯中（到庭）提供证据，但能够且愿意提供与任何罪行有关的具关键性的证据，法庭可在其经过宗教式或非宗教式宣誓后以书面形式记录他本人的陈述，并应在该陈述上签署，核证该陈述准确地载有所作的完整陈述；而记录该陈述的治安法官应核证其记录该陈述的理由，且应说明作出该陈述的日期及地点，保存并归档备案：

Provided that where the statement is that of a person who, by reason of immature age or want of religious belief ought not, in the opinion of the magistrate, to be sworn or affirmed, the statement may be taken without oath or affirmation.

假如该项陈述是治安法官认为因未成年或缺乏宗教信仰而不应宣誓或确认的人所作，则该项陈述可无须经过宗教式或非宗教式宣誓。

253.-(1) Where any person is under a charge or has been committed for trial in respect of the offence to which a statement referred to in section 252 is expected to relate (in sections 257 and 258 referred to as “the accused person”), reasonable notice shall be given of intention to take that statement both to the prosecutor and to that person.

第两百五十三条【通知】

(1) 凡任何人已就第两百五十二条所述陈述所涉及的罪行被指控或受审（在第两百五十七和两百五十八条中称为“被告人”），应给予公诉人和被告人合理的通知，表示有意取得第两百五十二条所述陈述。

(2) If the person is in custody, he may, and shall if he so requests, be brought by the officer in whose charge he is, under an order in writing of the magistrate, to the place where the statement is to be taken.

(2) 如该人（证人）正在被羁押，则该人可根据治安法官的书面命令，由负责该人的公职人员将该人带往拟作出陈述的地方，如该人提出要求，则应将该人带往拟作出陈述的地方。

254. Where the statement is taken in the presence of an accused person, the person or his advocate (the prosecutor also if he is present) shall be given an opportunity to put questions to the deponent and the answers of the deponent shall form part of the statement; and, if the accused person is committed for trial, the statement shall be transmitted to the Registrar of the High Court and a copy thereof to the Director of Public Prosecutions.

第两百五十四条【质证的机会与移交陈述书】

如在被告人面前作出陈述，则被告人或其辩护人（如公诉人在场，则包括公诉人）有权获得机会向宣誓证人提出问题，宣誓证人的回答即为陈述的一部分；如果被告人被交付审讯，则该陈述书应送交高等法院司法常务官，并应将副本送交检察长。

255.-(1) Every statement made under section 252 and duly subscribed and certified by the magistrate in the manner required by that section shall, without further proof, be admissible in evidence at any trial, whether before the High Court or a subordinate court in which the accused person is charged with the offence to which the statement relates if—

第两百五十五条【使用陈述作为证据】

(1) 根据第两百五十二条所作的每项陈述，如经治安法官按该条所规定的方式妥为签署及核证，在任何审讯中，不论是在被告人被指控的高等法院或下级法

院，均应接纳为证据，无须再加证明，如果 -

(a) the court is satisfied that the person who made the statement is dead, or that his attendance cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable; and

(a) 法院信纳作出陈述的人已去世，或如根据案件情况，促使作出陈述的人出庭将导致大量的延误、开支或不便；及

(b) the accused received notice of the court to take the statement as provided in section 253 and had, or might have had if he had chosen to be present, full opportunity of crossexamining the deponent.

(b) 被告人已接获法院通知，按第两百五十三条的规定接收陈述书，或如他选择出庭，本可有充分机会交叉询问宣誓证人。

(2) When any case in the court of which such statement has been admitted in evidence is finally disposed of, the statement shall be returned to the magistrate who recorded it for filing in accordance with the provisions of section 252.

(2) 如该陈述书已获法庭接纳为证据的任何案件最终获得处理，则按照第两百五十二条记录的陈述书应交还给治安法官以供存档。

(3) Nothing in this section shall be construed as affecting the provisions of section 34 of the Evidence Act.

(3) 本条不对《证据法》第三十四条的规定造成任何影响。

### *(c) Proceedings after Committal for Trial*

#### (c) 交付审判后的法律程序

256. When an accused person has been committed for trial the record of committal proceedings, duly signed and authenticated by the magistrate, shall be transmitted without delay by the committing court to the Registrar of the High Court and authenticated copies of the charge and proceedings shall be forwarded to the Director of Public Prosecutions.

第两百五十六条【将庭审记录移送高等法院】

如被告人已被交付审判，则提审法庭应立即将经治安法官妥为签署及认证的交付审判程序纪录，送交高等法院司法常务官，而经认证的指控及诉讼程序副本，应送交检察长。

256A.-(1) The High Court may direct that the taking of a plea and the trial of an accused person committed for trial by the High Court, be transferred to, and be conducted by a resident magistrate upon whom extended jurisdiction has been granted under subsection (1) of section 173.

第二百五十六 A 条【享有扩展审判权的的常驻治安法官的审理】

(1) 高等法院可指示将答辩和对交付由高等法院审判的被告人的审判移交给根据第一百七十三条第(1)款被授予扩展管辖权的常驻治安法官进行。

(2) For avoidance of doubt, any proceedings or decision conducted or made by a resident magistrate with extended jurisdiction, prior to the coming into, effect of the provisions of this subsection, shall be deemed to have been conducted or made in accordance with the provisions of subsection (1) of this section.

(2) 为避免产生疑问，在本款条文生效前，具有扩展管辖权的常驻治安法官进行或作出的任何诉讼程序或决定，应视作是按照本条第(1)款进行或作出的。

(3) The provisions of this Act which governs the exercise by the High Court of its original jurisdiction shall mutatis mutandis, and to the extent that they are relevant, govern proceedings before a resident magistrate under this section in the same manner as they govern like proceedings before the High Court.

(3) 本法关于高等法院行使其原管辖权的规定，应经必要的变更，扩展至与相应高等法院有关的区域，根据本条常驻治安法官的管理程序应与高等法院进行管理的类似程序相一致。

257. After receipt of the copies of the record of committal proceedings in the High Court the Registrar or his deputy shall endorse or annex to every information filed and to every copy of it delivered to the officer of the court or police officer for service, a notice of trial which shall specify the particular sessions of the High Court at which the accused person is to be tried on the information, and which shall be in the following form or as near thereto as may be:

“A.B.

Take notice that you will be tried in the information whereof this is a true copy at the sessions of the High Court to be held at ..... on the ..... day of ..... 20.....”.

#### 第两百五十七条【审讯通知书】

司法常务官或其副手在收到高等法院交付审判程序记录副本后，须在每一份已提交的资料上，以及在交付法院人员或警务人员以供送达的每份起诉书上，批注或附连一份审讯通知书，该通知书须指明对被告人进行审讯的高等法院开庭期，应采用以下形式或尽可能接近以下形式：

“A.B.（姓名）

请注意，根据附连的起诉书副本，您将在……（地点）于（几点）……日……月 20……年在高等法院开庭期接受审判。”

258. The Registrar shall deliver or cause to be delivered to the officer of the court or police officer serving the information a copy thereof with the notice of trial endorsed on or annexed thereto and, if there are more accused persons committed for trial than one, as many copies as there are accused persons; and the officer of the court or police officer shall, as soon as may be after having received the copy or copies of the information and the notice or notices of trial and three days at least before the day specified therein for trial, by himself or his deputy or other officer, deliver to the accused person or persons committed for trial the said copy or copies of the information and notice or notices, and explain to him or them the nature and exigency thereof; and when any accused person has been admitted to bail and cannot readily be found, he shall leave a copy of the information and notice of trial with someone of his household for him at his dwelling house or with someone of his bail for him, and if none such can be found, shall affix the copy and notice to the outer or principal door of the dwelling house or dwelling houses of the accused person or of any of his bail:

#### 第两百五十八条【交付起诉书副本与审讯通知书】

司法常务官须将一份载有经批注或附连审讯通知书的起诉书副本，交付或安排交付送达该资料的法院人员或警务人员，如被告人多于一人，则每名被告人应

交付或安排交付一份副本。法庭人员或警务人员应在接获一份或多份起诉书的副本及一份或多份审讯通知书后，以及在该起诉书副本或审讯通知书所指明的审讯日期前至少三天，由其本人或其副手或其它人员，尽快将一份或多份起诉书副本和审讯通知书副本送交一名或多名被告人，并向他或他们解释其性质及紧急情况；当任何被告人获准保释但不易寻获时，他（递送人）应给被告人的家人或保释他的人留下一份起诉书副本和审讯通知书副本，如果被告人家人和保释他的人都找不到，则应贴在被告人或任何保释他的人的住宅或住宅的外门或正门上：

Provided that nothing herein shall prevent any person committed for trial, and in custody at the opening of or during any sessions to be so tried thereat if he gives his consent and no special objection is made on the part of the Republic.

但本条不得视为禁止任何人被交付审讯以及在审讯时或在审讯期间被交付羁押，只要该人表示同意，而国家方面并无特别反对。

259. The officer serving the copy or copies of the information and notice or notices of trial shall forthwith make to the registrar a return of the service made.

第两百五十九条【送达回执】

送达一份或多份起诉书及审讯通知书副本的公职人员，应随即向治安法官提交送达回件。

260.-(1) It shall be lawful for the High Court upon the application of the prosecutor or the accused person, if the court considers that there is sufficient cause for the delay, to postpone the trial of any accused person to the next session of the court held in the district or at some other convenient place, or to a subsequent session.

第两百六十条【延期审理】

(1) 高等法院应公诉人或被告人的申请，如认为有充分理由延期，有权将对任何被告人的审判推迟到在该区或其他适当地方进行的后面一次或几次法院开庭期。

(2) The High Court may give such directions of the amendment of information and the service of any notices as the court may deem necessary in consequence of any order made under subsection (1).

(2) 高等法院可就因根据第(1)款作出的命令而认为需要修改起诉书及送达任

何通知，发出指示。

261. All informations drawn up in pursuance of section 257 shall be in the name of and, subject to the provisions of section 92, signed by the Director of Public Prosecutions.

**第两百六十一条【检察长签署起诉书】**

依据第两百五十七条拟定的所有起诉书，应以检察长的名义拟定，并在符合第九十二条的规定下由检察长签署。

262. Every information shall bear the date of the day when it is signed and, with such modifications as shall be necessary to adapt it to the circumstances of each case, may commence in the following form:

“In the High Court of Tanzania

The ..... day of ..... 20.....

At the sessions holden at ..... on the ..... day of ..... 20..... the Court is informed by the Director of Public Prosecutions on behalf of the United Republic that A.B. is charged with the following offence (or offences)”.

**第两百六十二条【起诉书格式】**

所有起诉书均须注明签署日期，并可按以下格式作为开头，但作必要的修改，使其适应情况不同案件：

“坦桑尼亚高等法院

某日某月 20……年

在……，某日某月 20……年法院处理司法事务期间，收到代表联合共和国的检察长的通知，A.B.（姓名）被指控以下罪行”

263. The Registrar of the High Court shall, before the commencement of the trial, issue summons for the attendance of the trial of all witnesses whose statements were produced during the Committal proceedings and all witnesses whose names and addresses were given to the committing magistrate by the accused.

**第两百六十三条【传唤证人】**

高等法院司法常务官应在审讯开始前发出传票，要求在初级侦讯中已做出陈述的所有证人，以及由被告人向预审法官提供了姓名及地址的所有证人出席审讯。



## PART VIII PROCEDURE IN TRIALS BEFORE THE HIGH COURT

### 第八部分 高等法院审判程序

#### *(a) Practice and the Mode of Trial*

##### (a) 审判实践和审判方式

264. The High Court may, subject to the provisions of this Act and any other written laws, regulate its own practice in the exercise of its criminal jurisdiction.

#### 第两百六十四条【高等法院刑事审判实践】

根据本法和任何其他成文法律的规定，高等法院在行使其刑事管辖权时，可以规范其实践。

265. All trials before the High Court shall be with the aid of assessors the number of whom shall be two or more as the court thinks fit.

#### 第两百六十五条【陪审员协助高等法院审理】

在高等法院进行的所有审讯，均应有陪审员的协助，而陪审员的人数由法院决定，须为两名或两名以上。

#### *(b) Assessors*

##### (b) 陪审员

266.-(1) Subject to the exemptions under the provisions of section 267 and subsection (3) of this section, all persons between the ages of twenty-one and sixty years shall be liable to serve as assessors.

#### 第两百六十六条【陪审员的义务】

(1) 除根据第两百六十七条和本条第(3)小节的规定被免除义务，21至60岁之间的所有人都有责任担任陪审员。

(2) The High Court shall from time to time make rules regulating the area within which a person may be summoned to serve as an assessor.



(2) 高等法院应不时订立规则，规定可被传召并担任陪审员的人员范围。

(3) A person shall be disqualified to serve as an assessor if he was convicted and sentenced to a term of imprisonment exceeding six months for an offence involving moral turpitude.

(3) 任何人如因涉及道德败坏的罪行而被定罪及判处监禁超过 6 个月，即丧失担任陪审员的资格。

(4) No proceedings shall be invalid only by the reason that any of the assessors was disqualified or exempt from serving as an assessor.

(4) 任何诉讼程序不得仅因任何陪审员丧失资格或被免除担任陪审员的义务而无效

267. The following persons are exempted from liability to serve as assessors, namely—

(a) Ministers and Members of National Assembly;

(b) Judges and Magistrates;

(c) persons actively discharging the duties of priests or ministers of their respective religions;

(d) physicians, surgeons, dentists and apothecaries in actual practice;

(e) legal practitioners in actual practice;

(f) officers and men in the Armed Forces of the United Republic;

(g) persons exempted from personal appearance in court under the provisions of the Civil Procedure Code or any rules made thereunder;

(h) persons disabled by mental or bodily infirmity;

(i) officers of the Police and Prisons services;

(j) such other officers of the Government and such persons as may be exempted by the Chief Justice from liability to serve.

第两百六十七条【免除担任陪审员的义务】

下列人员免除担任陪审员的义务，即 -

(a) 国民议会的部长和成员；

(b) 法官及治安法官；

- (c) 积极履行各自宗教职责的神父或牧师；
- (d) 实际执业的医生、外科医生、牙医及药剂师；
- (e) 实际执业的法律执业者；
- (f) 联合共和国武装部队的官兵；
- (g) 根据《民事诉讼法》或根据《民事诉讼法》订立的任何规则被豁免出庭的人；
- (h) 因精神或身体残疾而没有能力担任陪审员的人；
- (i) 警务人员及监狱事务人员；
- (j) 政府的其它人员及获得首席法官免除义务的人。

268. A person shall not be exempted by sex or marriage from liability to serve as an assessor but any judge or magistrate may, in his discretion on an application made by or on behalf of the prosecution or the accused or at his own instance, make an order that the assessors shall be composed of men only or of women only, as the case may require or may, on an application made by a woman to be exempted from service as an assessor in respect of any case by reason of the nature of the evidence to be given or of the issues to be tried, grant such exemption.

第两百六十八条【不因性别或婚姻而免除担任陪审员的义务】

任何人不得因性别或婚姻而被免除担任陪审员的义务，但任何法官或治安法官在公诉人或被告人提出或代公诉人或被告人提出申请时，或在其本人的决定，可酌情作出命令，规定陪审员仅由男性或女性（视情况所需而定）组成，或可应女性因拟提供证据或拟审讯的问题的性质而就任何个案提出的免除担任陪审员义务的申请而准予免除该义务。

*(c) Attendance of Assessors*

(c) 陪审员的出席

269.-(1) The Registrar of the High Court shall, ordinarily not less than fourteen days before the day fixed for holding any sessions of the High Court, direct a resident or district magistrate for the time being exercising jurisdiction in the district in which

the sessions are to be held to summon such number of persons to serve as assessors at the said sessions as to the Registrar may appear necessary, and the magistrate shall comply with the direction accordingly.

#### 第两百六十九条【传唤陪审员】

(1) 高等法院司法常务官通常应在高等法院任何一次开庭的特定日期前不少于 14 天，指示开庭所在地区的地区治安法官或常驻治安法官行使管辖权传唤其认为需要的人数作为陪审员在开庭期间出席，治安法官应遵从该指示。

(2) Where in accordance with the provisions of subsection (1), a resident or district magistrate is directed to summon assessors, he shall select and summon persons whom he considers to be suitable and to be liable under section 266 to serve as assessors.

(2) 凡按照第(1)款的条文，地区治安法官或常驻治安法官被指示传召陪审员，他应根据第两百六十六条选出并传召他认为合适且有义务担任陪审员的人。

(3) Subject to the provisions of subsections (1) and (2), a resident or district magistrate if so directed by the Registrar may delegate such selection to an administrative officer having jurisdiction in the same district or region.

(3) 除第(1)及(2)款另有规定外，地区治安法官或常驻治安法官如收到司法常务官指示，可将该项选择权转授予在同一行政区或地区具有司法管辖权的行政人员。

270. Every summons to an assessor shall be in writing and shall require his attendance at a time and place to be specified therein.

#### 第两百七十条【传唤方式】

每份向陪审员发出的传票，均应以书面的形式作出，并应规定陪审员在传票指定的时间及地点出席。

271.-(1) Any person who has been served with a summons issued under section 269 may, if he is of the opinion that he is not liable under section 267 to serve as an assessor, appear without delay before a district or resident magistrate prior to the date when he is required by summons to attend and object to the summons and if the magistrate is satisfied that the said person is not liable to serve as an assessor he shall thereupon rescind the summons and discharge him from attendance.

第二百七十一条【对于被传唤担任陪审员的异议】

(1) 任何人如已接到根据第二百六十九条送达的传票，而认为根据第二百六十七条他无须担任陪审员，则可在传票规定他应出席的日期前，毫不延误地到地区治安法官或常驻治安法官席前反对该传票，而治安法官如信纳该人没有担任陪审员的义务，则应随即撤销该传票，并免于他出席。

(2) Appearance before a district or resident magistrate under the provisions of subsection (1) shall be by the person objecting personally except in the case of a person objecting under the provisions of paragraph (g) of section 267 in which case a person who satisfies the magistrate that he is duly authorised to appear may appear on his behalf.

(2) 根据第(1)款到地区治安法官或常驻治安法官席前的人，应亲自提出反对，但根据第二百六十七条(g)段提出反对的人，如已妥为授权给另一人并令治安法官信纳，则另一人可代表他出席。

272. The High Court may, for reasonable cause, excuse any assessor from attendance at any particular sessions and may, if it shall think fit, at the conclusion of any trial, direct that the assessors who have served at the trial shall not be summoned to serve again for the period of twelve months.

第二百七十二条【免除陪审员出庭的义务】

高等法院如有合理理由，可免除任何陪审员在任何特定开庭期出庭的义务，并可在审讯结束时，如认为适当，指示已在审讯中担任过陪审员的在12个月内不得再次传召。

273. At each session the High Court shall cause to be made a list of the names of those who have attended as assessors at the sessions.

第二百七十三条【出庭陪审员名单】

高等法院每次开庭时，均须安排列明曾以陪审员身份出席开庭的人的姓名。

274.-(1) Any person summoned to attend as an assessor who, without lawful excuse, fails to attend as required by the summons or who, having attended, departs without having obtained the permission of the High Court, or fails to attend after adjournment of the court after being ordered to attend, shall be liable by order of the

High Court to a fine not exceeding five hundred shillings.

第百七十四条【对未出庭陪审员的处罚】

(1) 被传唤作为陪审员出席的任何人，无合法理由，未按传票要求出席，或出席后未经高等法院许可而离开，或在法庭休庭后被命令出席而未出席，高等法院应命令处以不超过 500 先令的罚款。

(2) The fine imposed under subsection (1) shall be levied by the district or resident magistrate on movable property belonging to the assessor within the local limits of jurisdiction of the magistrate.

(2) 根据第 (1) 款施加的罚款，须由地区治安法官或常驻治安法官在该治安法官的本地有管辖权的范围内，对属于陪审员的动产征收。

(3) For good cause shown, the High Court may remit or reduce any fine imposed under subsection (1).

(3) 如有合理理由，高等法院可减免根据第 (1) 款施加的罚款。

(4) In default of recovery of the fine by attachment and sale an assessor may, by order of the High Court, be imprisoned as a civil prisoner for a term of fifteen days unless the fine is paid before the end of that period.

(4) 扣押、变卖不足抵扣罚款，根据高等法院的命令，可以民事罪犯的身份监禁陪审员十五日，但在监禁期满前缴纳罚款的除外。

*(d) Arraignment*

*(d) 提审*

275.-(1) The accused person to be tried before the High Court upon an information shall be placed at the bar unfettered, unless the court shall see cause otherwise to order, and the information shall be read over to him by the Registrar or other officer of the court, and explained, if need be, by that officer or interpreted by the interpreter of the court and he shall be required to plead instantly thereto, unless, where the accused person is entitled to service of a copy of the information, he objects to the want of such service, and the court shall find that he has not been duly served therewith.

**第二百七十五条【被告人针对起诉书的答辩】**

(1) 除非法院认为有其他理由作出命令，否则根据起诉书在高等法院受审的被告人应不被拷住，而该起诉书应由司法常务官或法院其他人员向他宣读，并在需要时由该宣读人员或法庭的翻译人员向他解释。而被告人应立即就该起诉内容作出答辩，但如被告人有权获送达起诉书的副本，而他表示并未送达，则法院应裁定他未获妥为送达。

(2) After the accused has pleaded to the charge read to him in court under this section, the court shall obtain from him his permanent address and shall record and keep it.

(2) 在被告人就根据本条在法庭上向他宣读的指控作出答辩后，法庭应向他取得其永久地址，并应将该地址记录和保存。

276.-(1) Every objection to any formal defect on the face of an information shall be taken immediately after the information has been read over to the accused person and not later.

**第二百七十六条【修改起诉书、单独审理及延期审理】**

(1) 对起诉书任何形式上的瑕疵的异议应在起诉书被移交给被告后立即提出，不得迟于此。

(2) Where before a trial upon information or at any stage of the trial of trial it appears to the court that the information is defective, the court shall make an order for the amendment of the information as it thinks necessary to meet the circumstances of the case unless, having regard to the merits of the case, the required amendment cannot be made without injustice; and all such amendments shall be made upon such terms as to the court shall seem just.

(2) 凡在根据起诉书进行的审讯前，或在审讯的任何阶段，法庭认为起诉书欠妥，则法庭应作出命令，按其要求修改起诉书，以符合案件的情况，除非在考虑案件的实质情况后，作出变更将导致不公正；而所有修订均应根据本条在法庭认可其公正性的前提下作出。

(3) Where an information is amended, a note of the order for amendment shall be endorsed on the information and the information shall be treated for the purposes of all

proceedings in connection therewith as having been filed in the amended form.

(3) 凡起诉书经修改，修改命令的记录应附在起诉书背面，而就所有与此有关的诉讼而言，该起诉书须视为已以经修改后的形式提交。

(4) Where, before a trial upon information or at any stage of such trial, the court is of the opinion that the accused may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence in the same information, or that for any reason it is desirable to direct that the accused should be tried separately for any one or more offences charged in an information, the court may order a separate trial on any count or counts of such information.

(4) 凡法庭在根据起诉书进行的审讯前或在审讯的任何阶段，认为被告人可能因在同一起诉书中被指控多项罪行而在其辩护中受到侵害或偏见，或因任何理由而适宜指示被告人应就一项或多项在起诉书中被指控的罪行分别受审，法院可命令对该起诉书的任何一项或多项控罪分别受审。

(5) Where, before a trial upon information or at any stage of such trial, the court is of the opinion that the postponement of the trial of the accused is expedient as a consequence of the exercise of any power of the court under this Act, the court shall make such order as to the postponement of the trial as appears necessary.

(5) 凡法庭在根据起诉书进行的审讯前或在审讯的任何阶段，法庭认为，根据本法行使法庭的任何权力，推迟对被告的审判是适宜的，则法庭必要时应做出推迟审判的命令。

(6) Where an order of the court is made under this section for a separate trial or for postponement of a trial—

(6) 如果法庭根据本条做出单独审理或延期审理的命令 -

(a) the court may order that the assessors are to be discharged from giving opinions on the count or counts the trial of which is postponed, or on the information, as the case may be;

(a) 法院可命令陪审员免于提出关于被延期的一项或多项审判的意见或提出关于起诉书的意见，根据具体情况而定；

(b) the procedure on the separate trial of a count shall be the same in all respects



as if the count had been founded in a separate information, and the procedure in the postponed trial shall be the same in all respects (provided that the assessors, if any have been discharged) as if the trial had not commenced; and

(b) 单独审理的一项控罪的程序在所有方面都应相同，即应将该项控罪视为在一个独立的起诉书被起诉，而延期审理的程序在所有方面都应相同（除有陪审员被免除（如有的话）其作为陪审员的义务外），即视作审判还未开始而进行。

(c) the court may make such order as to admitting the accused to bail and as to the enlargement of recognisances and otherwise as the court thinks fit.

(c) 法庭可作出其认为适当的命令，准许被告人保释，以及扩大至保证书，或作出法庭认为适当的其他命令。

(7) Any power of the court under this section shall be in addition to and not in derogation of any other power of the court for the same or similar purposes.

(7) 法院根据本条所具有的任何权力，须为相同或类似的目的增补而非减损法院的任何其它权力。

277.-(1) If an information does not state, and cannot, by an amendment authorised by section 276, be made to state any offence of which the accused has had notice, it shall be quashed either on a motion made before the accused pleads or on a motion made in arrest of judgment.

#### 第两百七十七条【撤销起诉】

(1) 如果一项起诉书没有说明，并且不能通过第 276 条授权的（对起诉书的）修改对被告已注意到的任何（有异议）罪行做出说明，则应根据在被告答辩前提出的申请或进行的逮捕判决申请予以撤销。

(2) A written statement of every motion under subsection (1) shall be delivered to the Registrar or other officer of the court by or on behalf of the accused and shall be entered upon the record.

(2) 根据第 (1) 款提出的每项申请的书面陈述，须由被告人或代被告人交付司法常务官或法院其它人员，并应记入记录。

278.-(1) Subject to subsection (2), where an information contains a count charging an accused person with having been previously convicted of any offence, the procedure



shall be as follows—

第二百七十八条【对已判罪行的审理程序】

(1) 根据第(2)款，如果起诉书包含指控被告曾被判犯有任何罪行的罪名，程序如下 -

(a) the part of the information stating the previous conviction shall not be read out in court, nor shall the accused be asked whether he has been previously convicted as alleged in the information, unless and until he has either pleaded guilty to or been convicted of the subsequent offence;

(a) 起诉书陈述（被告）曾被定罪的部分，不得在法庭上宣读，亦不得询问被告人是否曾如起诉书所指称般被定罪，除非及直至被告人已就其后的罪行认罪或被定罪；

(b) if he pleads guilty to or is convicted of the subsequent offence, he shall then be asked whether he has been previously convicted as alleged in the information; and

(b) 如被告就其后的罪行认罪或被定罪，则应被问及他以前是否如陈述书所指称般被定罪；及

(c) if he answers that he has been previously convicted, the judge may proceed to pass sentence on him accordingly; but if he denies that he has been so previously convicted, or refuses to or does not answer such question, the court shall then hear evidence concerning such previous conviction.

(c) 如被告人回答他曾被定罪，法官可据此对他判刑；但如他否认自己曾被如此定罪，或拒绝回答或不回答该问题，则法庭应继而审理与曾被定罪有关的证据。

(2) If upon the trial of an accused person for a subsequent offence, he gives evidence of his own good character, it shall be lawful for the advocate for the prosecution, in answer thereto, to give evidence of the conviction of such person for the previous offence or offences before he is convicted of the subsequent offence, and the court shall inquire concerning such previous conviction or convictions at the same time that it inquires into the subsequent offence.

(2) 被告人就其后的罪行接受审讯时，如提供其本人良好品格的证据，则控

方的出庭代讼人可在该人被定罪前，就该罪行作出答辩，提供该人就先前的罪行被定罪的证据。而法庭应在调查其后的罪行的同时，就先前的一项或多项定罪进行调查。

279. Every accused person upon being arraigned upon any information by pleading generally thereto the plea of “not guilty” shall, without further form, be deemed to have put himself upon his trial.

第二百七十九条【“无罪”辩护】

每一被告人在被传讯后，如就任何起诉书作一般性的“无罪”的辩护，则无须进一步表示，即应视作已接受审讯。

280.-(1) Any accused person upon whom an information is filed may plead—

(a) that he has been previously convicted or acquitted, as the case may be, of the same offence; or

(b) that he has obtained a pardon at law for his offence.

(2) If either of any plea referred to in subsection (1) is pleaded in any case and by the prosecution to be true in fact, the court shall try whether such plea is true in fact or not.

(3) If the court holds that the facts alleged by the accused do not prove the plea, or finds that it is false in fact, the accused shall be required to plead to the information.

第二百八十条【对已判无罪或有罪的辩护】

(1) 任何被告人在被起诉书指控时，可提出以下辩护：

(a) 他曾因同一罪行被定罪或无罪释放（根据具体情况而定）；或

(b) 他已因其罪行获得法律赦免。

(2) 如第(1)款所提述的任何一项答辩在任何案件中被控方对该项答辩的真实性提出异议，则法庭须对该项答辩事实上是否真实进行审讯。

(3) 如法院裁定被告人所指称的事实不能证明该项答辩，或裁定该项答辩事实上是虚假的，则须要求被告人就起诉书进行答辩。

281.-(1) If any accused person being arraigned upon any information stands mute of malice, or neither will, nor by reason of infirmity can, answer directly to the information, the court if it thinks fit, shall order the Registrar or other officer of the

court to enter a plea of “not guilty” on behalf of such accused person, and the plea so entered shall have the same force and effect as if the accused person had actually pleaded the same, or else the court shall thereupon proceed to try whether the accused person is of sound or unsound mind, and, if he is found to be of sound mind, shall proceed with the trial, and if he is found to be of unsound mind and consequently incapable of making his defence shall order the trial to be postponed, and the accused person to be kept meanwhile in safe custody in such place and manner as the court thinks fit and shall transmit the court record to the Attorney-General for consideration by the Minister; and the Minister may order the accused person to be detained in a mental hospital or other suitable place of safe custody.

#### 第两百八十一条【拒绝答辩】

(1) 如果被传讯的被告人对任何起诉书故意缄默，或既不愿意对起诉书进行答辩，也不是因为虚弱无法对起诉书进行答辩，则法庭如认为合适，应命令司法常务官或法庭其他公职人员代表被告人对行为作出“无罪”的答辩，而如此作出的答辩，其效力与由被告人本人提出的答辩相同，犹如被指控人确实提出了同样的答辩一样，否则，法庭应立即着手审理被告人的精神是否健全；如被认定为精神健全，则法庭应继续审理，如果发现被告精神不健全，因而不能为自身辩护，应命令延期审理，同时在法庭认为合适的地点以合适的方式，将被告人安全羁押，并将法庭记录转交司法部由部长审议；部长可命令将被告拘留在精神病院或其他适当的安全羁押场所。

(2) Any subsequent proceedings in relation to the accused person shall be regulated by sections 217 and 218 of this Act.

(2) 与被告人有关的任何后续诉讼程序应受到本法第二百一十七和第二百一十八条管制。

282. If the accused person pleads “guilty”, the plea shall be recorded and he may be convicted thereon.

#### 第两百八十二条【“有罪”辩护】

如果被告认罪，应记录认罪，并可据此定罪。

283. If the accused person pleads “not guilty” or if the plea of “not guilty” is

entered in accordance with the provisions of section 281, the court shall proceed to choose assessors, as provided in section 285, and to try the case.

第二百八十三条【被告做“不认罪”抗辩的审理程序】

如果被告做“不认罪”抗辩，或如果根据第二百八十一条的规定做“不认罪”抗辩，法院应依照第二百八十五条的规定选择陪审员，并审理案件。

284.-(1) If, from the absence of witnesses or any other reasonable cause to be recorded in the proceedings, the court considers it necessary or advisable to postpone the commencement of or to adjourn any trial, the court may from time to time postpone or adjourn the trial on such terms as it thinks fit for such time as it considers reasonable and may, by warrant, remand the accused to a prison or other place of security.

第二百八十四条【推迟或延期审理的决定权】

(1) 如果由于证人缺席或在诉讼中记录的任何其他合理原因，法院认为有必要或适宜推迟任何审判的开始时间或延期审理，法院认为合适时可根据本条不时推迟或延期至其认为合理的时间进行审判；并可通过命令将被告还押至监狱或其他安全地点。

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

(3) The court may on remand admit the accused to bail.

(2) 在还押期间，法庭可随时命令将被告人带到法庭席前。

(3) 法庭在还押后，可准许被告人保释。

284A. Every trial before the High Court shall abate on the death of the accused person.

第二百八十四条 A 条【高等法院终止审理】

284A. 被告人死亡时，在高等法院进行的每宗审讯均应终止。

*(e) Selection of Assessors*

(e) 陪审员的选择

285.-(1) When a trial is to be held with the aid of assessors, the assessors shall be

selected by the court.

(2) An assessor may aid in more than one trial, successively.

第二百八十五条【选择陪审员】

(1) 在陪审员协助下进行审判时，由法庭选定陪审员。

(2) 陪审员可先后协助进行多宗审讯。

286. If in the course of a trial with the aid of assessors but at any time before they state their opinions any assessor is, from any sufficient cause, prevented from attending throughout the trial or absents himself and it is not practicable immediately to enforce his attendance, the trial shall proceed before the remaining assessors but if only they are not less than two in number; and where the trial so proceeds the remaining assessors shall be deemed in all respects to be properly constituted for the purpose of the trial and shall have power to return a verdict accordingly whether unanimous or by majority.

第二百八十六条【陪审员缺席】

如在陪审员协助下进行的审讯中，但在陪审员陈述意见前的任何时间，任何陪审员因任何充分理由而不能亲自出席整个审讯或缺席，而立即强制其出席并不切实可行，如果陪审员的人数不少于两人，则审讯应在其余的陪审员前继续进行，并且在审判进行的情况下，其余的陪审员应在各方面被视为是为审判的目的而适当组成的，并且有权相应地返回经全体一致同意或简单多数同意的裁决。

287. If the trial is adjourned, the assessors shall be required to attend at the adjourned sitting and at any subsequent sitting until the conclusion of the trial.

第二百八十七条【陪审员出席延期审理】

如果庭审延期，则应要求陪审员出席延期的庭审和随后的任何庭审，直至庭审结束。

### *(f) Case for the Prosecution*

#### *(f) 案件起诉*

288. When the assessors have been chosen, the advocate for the prosecution shall open the case against the accused person and shall call witnesses and adduce evidence

in support of the charge.

**第两百八十八条【提起诉讼】**

选定陪审员后，控方的出庭代讼人应当对被告人提起诉讼，传唤证人，援引证据支持指控。

289.-(1) No witness whose statement or substance of evidence was not read at committal proceedings shall be called by the prosecution at the trial unless the prosecution has given a reasonable notice in writing to the accused person or his advocate of the intention to call such witness.

**第两百八十九条【传唤新证人】**

(1) 除非控方已向被告人或其辩护人发出合理的书面通知，表示有意传唤证人，否则控方不得在审判时传唤其陈述或其证据的实质内容未在初级侦讯中宣读的证人。

(2) The notice shall state the name and address of the witness and the substance of the evidence which he intends to give.

(2) 该通知须说明证人的姓名及地址，以及他拟提供的证据的实质内容。

(3) The court shall determine what notice is reasonable, regard being had to the time when and the circumstances under which the prosecution became acquainted with the nature of the witness's evidence and determined to call him as a witness; but no such notice need be given if the prosecution first became aware of the evidence which the witness would give on the date on which he is called.

(3) 法庭应考虑控方获悉证人的证据的性质并决定传召他为证人的时间及情况，裁定何种通知是合理的；但是，如果控方在证人被传唤之日第一次意识到会提供的证据，则无须发出此类通知。

290. The witnesses called for the prosecution shall be subject to cross-examination by the accused person or his advocate and to reexamination by the advocate for the prosecution.

**第两百九十条【控方接受质证】**

控方传唤的证人，应当接受被告人或者他的辩护人的质证，并接受控方的出庭代讼人的覆问。

291.-(1) In any trial before the High Court, any document purporting to be a report signed by a medical witness upon a purely medical or surgical matter, shall be receivable in evidence save that this subsection shall not apply unless reasonable notice of the intention to produce the document at the trial, together with a copy of the document, has been given to the accused or his advocate.

第两百九十一条【医学证人报告】

(1) 在高等法院进行的任何审判中，任何由医学证人就纯粹的医疗或外科事宜签署的报告，均应作为证据予以接受，但前提是已将在审讯中出示文件的意向，连同该文件的副本，以合理方式交给被告人或其辩护人，否则本款不得适用。

(2) The court may presume that the signature to any such document is genuine and that the person signing it holds the office or had the qualifications which he professed to hold or to have when he signed it.

(2) 法院可推定任何该等文件的签名是真实的，且签署该等文件的人在签署文件时具有相应的官职或相应的资格。

(3) Where the evidence is received by the court, the court may, if it thinks fit, and shall, if so requested by the accused or his advocate, summon and examine or make available for cross-examination, the person who made the report; and the court shall inform the accused of his right to require the person who made the report to be summoned in accordance with the provisions of this subsection.

(3) 凡法庭接获证据，法庭如认为适当，可传唤和询问作出报告的人或让作出报告的人接受交叉询问，而如果被告人或其辩护人要求，则法庭应当传唤和询问或质证作出报告的人，或让作出报告的人接受交叉询问，且法庭应告知被告人其有权要求作出报告的人按照本款规定被传唤。

(4) Notwithstanding the provisions of subsection (3), the court may dispense with the requirement of this subsection where it is satisfied that the person who made the report is dead or that his attendance cannot be procured without undue delay or expense.

(4) 尽管有第(3)款的条文，如法院信纳作出报告的人已去世，或不能在有不适当的延误或费用的情况下出庭，则法院可免除该第(3)款做出的规定。

292. Any statement of the accused person duly certified by the committing magistrate in the manner provided by section 246 may, whether signed by the accused person or not, be given in evidence without further proof thereof, unless it is proved that the magistrate purporting to certify the same did not in fact certify it.

第两百九十二条【被告人陈述】

被告人的任何陈述，不论是否由被告人签署，均可按第二百四十六条所规定的方式，由预审法官妥为核证，而无须再作证明，除非经证明，声称核证该文件的治安法官事实上并没有核证该文件。

293.-(1) When the evidence of the witnesses for the prosecution has been concluded, and the statement, if any, of the accused person before the committing court has been given in evidence, the court, if it considers after hearing the advocates for the prosecution and for the defence, that there is no evidence that the accused or any one of several accused committed the offence or any other offence of which, under the provisions of section 300 to 309 of this Act he is liable to be convicted, shall record a finding of not guilty.

第两百九十三条【起诉结束】

(1) 当控方证人的证据已经提交完毕，并且在提审法庭前被告人的陈述（如果有的话）已经提供证据的，法院如果在听取控方的出庭代诉人和被告的辩护律师意见后认为，没有证据表明被告人或多名被告人中的任何一人犯的罪行应被定罪或根据本法第 300 至 309 条规定的任何罪行应被定罪，则应记录无罪判决。

(2) When the evidence of the witnesses for the prosecution has been concluded and the statement, if any, of the accused person before the committing court has been given in evidence, the court, if it considers that there is evidence that the accused person committed the offence or any other offence of which, under the provisions of section 300 to 309 he is liable to be convicted, shall inform the accused person of his right—

(2) 当控方证人的证据已经提交完毕，在提审法庭前被告人的陈述（如果有的话）已经提供证据的，法院如果认为有证据表明被告或多名被告中的某人犯的罪行应被定罪或根据本法第三百至三百零九条规定的任何罪行应被定罪，应告知被告人其有权 -



(a) to give evidence on his own behalf; and

(b) to call witnesses in his defence,

and shall then ask the accused person or his advocate if it is intended to exercise any of those rights and record the answer; and thereafter the court shall call on the accused person to enter on his defence save where he does not wish to exercise either of those rights.

(a) 为自己作证；及

(b) 传召证人为自己辩护，

然后，须询问被告人或其辩护人是否拟行使任何上述权利，并记录答案；之后法庭应传唤被告人进行辩护，除非被告人不欲行使任何上述权利外，

(3) If the accused person, after he has been informed in terms of subsection (2), elects to remain silent the court shall be entitled to draw an adverse inference against him and the court as well as the prosecution shall be permitted to comment on the failure by the accused to give evidence.

(3) 如被告人在接获第(2)款所述的通知后，选择保持沉默，法庭有权对他作出不利的推论，而法庭及控方均获准就被告人没有提供证据作出评论。

(4) Notwithstanding that the accused person accepts or gives any evidence not on oath or affirmation he shall be subject to cross-examination by the prosecution.

(4) 即使被告人接受或提供任何并非经宗教式或非宗教式宣誓的证据，他仍须接受控方的交叉询问。

### *(g) Case for the Defence*

#### *(g) 辩护理由*

294.-(1) The accused person or his advocate may then open his case stating the fact or law on which he intends to rely, and making such comments as he thinks necessary on the evidence for the prosecution.

#### 第两百九十四条【被告人辩护】

(1) 被告人或其辩护人可做开场陈述，说明事实或法律依据，并对控方起诉

证据提出他认为必要的评论。

(2) The accused person may then give evidence on his own behalf and he or his advocate may examine his witnesses, if any, and after their cross-examination or re-examination, if any, may sum up his case.

(2) 被告人随后可为自己作证，而他或其辩护人可询问其证人（如有的话），并可在盘问或覆问（如有的话）后，对其案件进行总结。

295.-(1) In addition to the witnesses summoned pursuant to the provisions of section 263 the accused shall be allowed to examine any witness who is in attendance at the trial.

**第两百九十五条【被告人的新证人】**

(1) 除依据第两百六十三条的规定传唤的证人外，还应允许被告对任何出席庭审的证人进行询问。

(2) The accused person shall not be entitled as of right to have any witness summoned other than the witnesses whose names and address were given by him to the magistrate at the committal proceedings but any subordinate court may, after committal for trial and before the trial begins, and the court of trial may, either before or during the trial, issue a summons for the attendance of any person as a witness for the defence if the court is satisfied that the evidence is in any way material to the case.

(2) 就传唤证人的权利而言，被告人无权传唤任何证人，但被告人已在初级侦讯中向治安法官提供姓名及地址的证人除外，但任何下级法院可在交付审判后及审讯开始前，以及法庭在审讯之前或审讯期间，如法庭信纳任何人以任何方式出庭作证对案件具关键性，可向任何人签发传票作为辩护人的证人参加庭审。

296. If the person, or any one of several accused persons, adduces any evidence, the prosecutor shall be entitled to reply subject to the provisions of section 201.

**第两百九十六条【控方答辩】**

如被告人或多名被告人中的任何一人援引任何证据，公诉人有权在符合第二百零一条的规定下作出答复。

297. If the accused person says that he does not wish to give or adduce evidence and the court considers that there is evidence that he committed the offence, the

advocate for the prosecution shall then sum up the case against the accused person and the court shall then call on the accused person, personally or by his advocate, to address the court.

第二百九十七条【被告人无证据情形】

如果被告人表明不愿意提供或援引证据，而法院认为有证据表明他犯了罪，控方的出庭代讼人应当对被告人的案件进行总结，然后法院应当传唤被告人，由本人或其辩护人向法院陈述。

*(h) Close of Hearing*

*(h) 审理结束*

298.-(1) When the case on both sides is closed, the judge may sum up the evidence for the prosecution and the defence and shall then require each of the assessors to state his opinion orally as to the case generally and as to any specific question of fact addressed to him by the judge, and record the opinion.

第二百九十八条【陪审员发表意见与法官判决】

(1) 当双方质证和辩论结束时，法官可以对控方和辩方的证据进行总结，然后要求每一位陪审员口头陈述其对案件的总体意见和法官向其提出的任何具体事实问题的意见，并将意见记录在案。

(2) The judge shall then give judgment, but, in doing so, shall not be bound to conform to the opinions of the assessors.

(2) 法官须继而作出判决，但在作出判决时，不要求与陪审员的意见相一致。

(3) If the accused person is convicted, the judge shall pass sentence on him according to law.

(3) 被告人被定罪的，法官应当依法对被告人量刑。

(4) Nothing in this section shall be construed as prohibiting the assessors, or any of them, from retiring to consider their opinions if they so wish or, during any such retirement or at any time during the trial, from consultation with one another.

(4) 本条的任何规定均不得解释为禁止陪审员或其中任何人（如果本人希望）



退席以考虑对案件的意见,或在任何考虑期间或在审讯期间的任何时间彼此磋商。

299.-(1) Where any judge, after having heard and recorded the whole or any part of the evidence in any trial, is for any reason unable to complete the trial or he is unable to complete the trial within a reasonable time, another judge who has and who exercises jurisdiction may take over and continue the trial and the judge so taking over may act on the evidence or proceedings recorded by his predecessor, and may, in the case of a trial re-summon the witnesses and recommence the trial; save that in any trial the accused may, when the second judge commences his proceedings, demand that the witnesses or any of them be re-summoned and re-heard and shall be informed of such right by the second judge when he commences proceedings.

第两百九十九条【两名法官各审理案件一部分的判决】

(1) 任何法官在案件审理中听取并记录了全部或部分证据后,因任何原因不能完成审判或不能在合理时间内完成审判的,另一名有管辖权的法官可以行使管辖权接管并继续审理,如此接管审讯的法官可根据其前任人所记录的证据或法律程序行事,如属审讯,可重新传唤证人及重新开始审讯;但在任何审讯中,被告人可在第二名法官开始法律程序时,要求法庭重新传唤一名或多名证人并重新聆听,并第二名法官开始法律程序时应告知被告该项权利。

(2) Nothing in subsection (1) shall be construed as preventing a judge who has recorded the whole of the evidence in any trial and who, before passing judgment and forwarding the record of the proceedings together with the judgment to the judge who has succeeded him, the judgment to be read over and, in the case of conviction, for the sentence to be passed by such other judge.

(2) 第(1)款不得解释为阻止任何审讯中已将全部证据记录的法官,以及在作出判决前,将法律程序记录连同判决一并转交继其之后的法官,宣读该判决且如果已定罪的情况下,由另一名法官判刑。

**PART IX CONVICTIONS, JUDGMENT, SENTENCES AND THEIR EXECUTION IN THE SUBORDINATE COURTS AND HIGH COURT****第九部分 下级法院和高等法院的定罪、判决、判刑及其执行****A. - Miscellaneous Provisions Relating to Convictions****A.- 与定罪有关的杂项条文**

300.-(1) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved but the remaining particulars are not proved, he may be convicted of the minor offence although he was not charged with it.

第三百条【经证实的罪名已包含在指控罪名中的情形】

(1) 任何人被控以一项由若干项详情构成的罪行，其中某些详情只构成一项完整的较轻罪行，并且已获证明，但其余详情未获证明，则即使该人没有被控犯该项较轻罪行，但他仍可被判犯该项较轻罪行。

(2) When a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence although he was not charged with it.

(2) 当某人被控犯有某项罪行，并证明事实足以将该项罪行减为较轻罪行时，即使该人没有被控犯该项较轻罪行，但他仍可被判犯该项较轻罪行。

(3) For the purpose of this section the offences specified in section 222 of the Penal Code shall, where a person is charged with the offence of attempted murder under section 211 thereof, be deemed to be minor offences.

(3) 本条款的目的在于，《刑法》第两百二十二条所指明的罪行如根据《刑法》第两百一十一条被控谋杀未遂罪，应视为较轻罪行。

301. When a person is charged with an offence, he may be convicted of having attempted to commit that offence although he was not charged with the attempt.

第三百零一条【对被控犯罪者宣判有罪】

当某人被控犯有某项罪行时，尽管他没有被控该罪未遂，但他仍可被判为该罪未遂。

302.-(1) When a woman is charged with the murder of her newly born child and the court is of the opinion that she, by any wilful act or omission, caused its death but at the time of the act or omission she had not fully recovered from the effect of giving birth to the child and that by reason thereof or by reason of the effect of lactation consequent upon the birth of the child, the balance of her mind was then disturbed, she may, notwithstanding that the circumstances were such that but for the provisions of section 199 of the Penal Code she might be convicted of murder, be convicted of the offence of infanticide although she was not charged with it.

第三百零二条【各种误杀儿童罪的判定】

(1) 当一名妇女被控谋杀其新生子女，而法院认为该妇女因任何故意的作为或不作为而导致其死亡，但在该作为或不作为发生时，该妇女并未完全从生下子女的影响中恢复过来，或受到其子女出生后哺乳期的影响，她的心理平衡随之受到干扰，尽管根据《刑法》第一百九十九条的规定应判谋杀罪，但在前述情形下，可以判处她杀婴罪（而非谋杀罪），尽管没有指控她杀婴罪。

(2) When a person is charged with the murder or manslaughter of any child or with infanticide, or with an offence under section 150 or section 151 of the Penal Code (relating to the procuring of abortion or miscarriage), and the court is of the opinion that he is not guilty of murder, manslaughter or infanticide or of an offence under section 150 or section 151 of the Penal Code, but that he is guilty of the offence of child destruction under section 219 of the Penal Code, he may be convicted of that offence although he was not charged with it.

(2) 当某人被控谋杀或误杀儿童或杀婴，或被控犯有《刑法》第一百五十或第一百五十一条所定罪行（与堕胎或流产有关），而法庭认为他并无谋杀、误杀或违反刑法第一百五十条或第一百五十一条的规定，但他仍犯了刑法第两百一十九条规定的堕胎罪，尽管他没有因此被指控，但他仍可被判犯有该罪行。

(3) When a person is charged with the offence of child destruction and the court is of the opinion that he is not guilty of that offence but that he is guilty of an offence

under either section 150 or section 151 of the Penal Code, he may be convicted of that offence although he was not charged with it.

(3) 当某人被控犯有堕胎罪，而法院认为他没有犯有该罪行，但又犯有《刑法》第一百五十条或第一百五十一条所定罪行，尽管他没有因此被指控，但他仍可被判犯有该罪行。

(4) When a person is charged with the murder or infanticide of any child or with child destruction and the court is of the opinion that he is not guilty of any of the said offences but that he is guilty of the offence of concealment of birth, he may be convicted of that offence although he was not charged with it.

(4) 当某人被控谋杀儿童或杀婴，或被控犯堕胎罪，而法院认为他没有犯上述任何罪行，但又认为该人犯了隐瞒婴儿出生罪时，尽管他没有因此被指控，但他仍可被判犯有该罪行。

303. When a person is charged with manslaughter in connection with the driving of a motor vehicle by him and the court is of the opinion that he is not guilty of that offence, but that he is guilty of an offence under section 50 of the Road Traffic Act (relating to reckless or dangerous driving or careless driving), he may be convicted of an offence under either of those sections although he was not charged with it.

**第三百零三条【犯有《道路交通安全法》规定的过失杀人罪的判定】**

当某人被控与因其驾驶汽车致使的过失杀人，而法院认为他没有犯有该罪行，但他犯了《道路交通安全法》第五十条所定罪行（与鲁莽、危险或疏忽驾驶有关）时，尽管他没有因此被指控，他仍可能被判犯有上述任何一条所定罪行。

304.-(1) When a person is charged with an offence under section 130 or section 132 of the Penal Code and the court is of the opinion that he is not guilty of that offence but that he is guilty of an offence under section 135, 140 or 158 of the Penal Code, he may be convicted of that offence although he was not charged with it.

**第三百零四条【犯有强奸及相似罪行的判定】**

(1) 当某人被控犯有《刑法》第一百三十条或第一百三十二条所定罪行，而法院认为他没有犯有该罪行，但他犯了《刑法》第一百三十五、一百四十或一百五十八条所定罪行时，尽管他没有因此被指控，他仍可能被判犯有该罪行。

(2) When a person is charged with an offence under section 158 of the Penal Code and the court is of the opinion that he is not guilty of that offence but that he is guilty of an offence under section 137 of the Penal Code, he may be convicted of that offence although he was not charged with it.

(2) 当某人被控犯《刑法》第一百五十八条所定罪行，而法院认为他没有犯有该罪行，但又犯了《刑法》第一百三十七条所定罪行，则即使该人没有被控该罪行，他仍可能被判犯有该罪行。

(3) When a person is charged with an offence under section 136 of the Penal Code and the court is of opinion that he is not guilty of that offence but that he is guilty of an offence under subsection (1) or subsection (3) of section 135 or under section 140 of the Penal Code, he may be convicted of that offence although he was not charged with it.

(3) 当某人被控犯有《刑法》第一百三十六条所述罪行，而法院认为他没有犯有该罪行，但他犯有《刑法》第一百三十五条第(1)款或第(3)款或第一百四十条所述罪行时，则即使该人没有被控该罪行，他仍可能被判犯有该罪行。

305. When a person is charged with an offence under one of the sections 294 to 298 of the Penal Code and the court is of the opinion that he is not guilty of that offence but that he is guilty of any other offence under another of the said sections he may be convicted of that other offence although he was not charged with it.

**第三百零五条【犯有入室盗窃等罪者可能被判同类罪行】**

当某人被控犯《刑法》第二百九十四至二百九十八条中任意一条所定罪行，而法院认为他没有犯有该罪行，但他犯了上述条款中所定的任一其他罪行时，尽管该人没有因该罪行被起诉，他仍可能被判犯有该罪行。

306.-(1) When a person is charged with stealing anything and the court is of the opinion that he is not guilty of that offence but that he is guilty of an offence in respect of that thing under one of the sections 302, 304, 311 and 312 of the Penal Code, he may be convicted of that offence although he was not charged with it.

**第三百零六条【犯有盗窃及相似罪行的判定】**

(1) 当某人被指控偷窃，而法院认为他没有犯有该罪行，但他犯了《刑法》



第三百零二、三百零四、三百一十一和三百一十二条所述之罪时，则即使他没有因此被指控，他仍可能会被判犯有该罪行。

(2) When a person is charged with an offence under section 304 of the Penal Code and the court is of the opinion that he is not guilty of that offence but that he is guilty of the offence of stealing the thing in respect of which he is charged, he may be convicted of that offence although he was not charged with it.

(2) 当某人被控犯有《刑法》第三百零四条所定罪行，而法院认为他没有犯有该罪行，但他犯了盗窃其被指控物品的罪行时，即使他没有因此被指控，他仍可能会被判犯有该罪行。

(3) Where a person is charged with an offence under section 302 of the Penal Code and the court is of the opinion that he is not guilty of that offence but that he is guilty of an offence under section 304 of the Penal Code, he may be convicted of that offence although he was not charged with it; and where a person is charged with an offence under section 304 of the Penal Code and the court is of the opinion that he is not guilty of that offence but that he is guilty of an offence under section 302 of the Penal Code, he may be convicted of that offence although he was not charged with it.

(3) 凡任何人被控犯《刑法》第三百零二条所定罪行，而法院认为他没有犯该罪行，但又认为该人犯了《刑法》第三百零四条所定罪行，则即使该人没有被控该罪行，该人仍可就该罪行被定罪；当某人被指控犯有《刑法》第三百零四条所定罪行，法院认为他没有犯有该罪行，但又认为他犯了《刑法》第三百零二条所定罪行时，即使他没有因此被指控，他仍可能会被判犯有该罪行。

(4) When a person is charged under section 311 of the Penal Code with the offence of receiving anything and the court is of the opinion that he is not guilty of that offence but that he is guilty of retaining the thing, and when a person is charged under the said section with the offence of retaining anything and the court is of the opinion that he is not guilty of that offence but that he is guilty of receiving the thing, then he may be convicted under the provisions of the said section of retaining or receiving, as the case may be, although he was not so charged.

(4) 当某人被指控犯《刑法》第三百一十一条受贿罪，而法庭认为他没有犯

有该罪行，但他犯有保留该物品的罪行时，以及根据该条款，当某人被控犯有保留物品的罪行，而法庭认为该人没有犯该罪行，而是犯了接收该物品的罪行时，根据上述接受或保留物品的条款规定，尽管他没有因此被指控，他仍可能被定罪（除非另有规定）。

307. Where any person is charged with an offence under section 27 of the Prevention and combating of Corruption Act and the court is of the opinion that he did not corruptly acquire or receive the property but that he is guilty of an offence under section 312 of the Penal Code in respect of that property, the court may convict him of the latter offence although he was not charged with it.

**第三百零七条【持有疑为贪污财产罪行的判定】**

凡任何人被控犯有《预防及打击腐败犯罪法》第二十七条所定罪行，而法庭认为他并非以贪污方式取得或收取该财产，但他犯了《刑法》第三百一十二条所定有关财产的罪行时，即使他没有被指控犯后一罪行，他仍可能会被判犯有该罪行。

308. The provisions of sections 300 to 307 shall be construed as in addition to, and not derogation of, the provisions of any other Act and the other provisions of this Code, and the provisions of sections 301 to 307 shall be construed as being without prejudice to the generality of the provisions of section 300.

**第三百零八条【对第三百至三百零七条规定的解释】**

第三百至三百零七条款的规定应解释为对其他法律的规定和本法的其他条款的补充，而非减损。第三百零一至三百零七条的条文应不妨碍第三百条的一般性规定。

309. If in any trial for a warrant offence the facts proved in evidence amount to a non-warrant offence, the accused shall not for that reason be acquitted of such a warrant offence; and no person tried for such warrant offence shall be liable afterwards to be prosecuted for a warrant offence on the same facts, unless the court shall think fit, in its discretion, to direct such person to be prosecuted for a non-warrant offence, whereupon such person may be dealt with as if he had previously been put on trial for a warrant offence.

第三百零九条【对需要逮捕令但证实为不需要逮捕令的控罪，不得宣判无罪】

如果在对需要逮捕令的犯罪的审判中，证据证明事实其为不需要逮捕令的犯罪，则被告人不得因此而被判无罪；某人如因需要逮捕令的犯罪而受审，其后不得因同一需要逮捕令的犯罪事实而被检控，除非法庭认为合适可酌情决定，要求该人因不需要逮捕令的犯罪而被检控，据此，将视作该人曾因需要逮捕令的犯罪而受审一样接受处理。

310. Any person, accused before any criminal court, other than a primary court, may of right be defended by an advocate of the High Court subject to the provisions of any written law relating to the provision of professional services by advocate.

第三百一十条【被告人获得辩护的权利】

在任何刑事法庭（非初级法院）受审的任何人，均可由高等法院的辩护人为其进行辩护，但须符合与辩护人提供专业服务有关的成文法律的规定。

311.-(1) The Decision of every trial of any criminal case or matter shall be delivered in an open court immediately or as soon as possible after termination of trial, but in any case not exceeding ninety days, of which notice shall be given to the parties or their advocates, if any, but where the decision is in writing at the time of pronouncement, the Judge or Magistrate may, unless objection to that that course is taken by either the prosecution or the defence, explain the substance of the decision in an open court in lieu of reading such decision in full.

第三百一十一条【判决书的送达方式】

(1) 任何刑事案件或事项的每次审判的判决应立即或在审判终止后尽快在公开法庭宣判，在任何情况下都不得延期超过九十天，该项判决应通知各方或其辩护人、代诉人（如有的话），但如宣布该项判决时采用的是书面形式，除非控方或辩护方对此提出异议，否则法官或治安法官可在公开法庭上解释该判决的实质内容，而无须完整宣读该判决。

(2) The accused person shall, if in custody, be brought up or, if not in custody, be required by the court to attend to hear judgment delivered except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or he is acquitted.

(2) 被告人在押的，应当提审；未在押的，法院则要求其出席听取判决。但是，被告人在审判过程中出庭后又退庭的、仅被处罚金或者无罪的除外。

(3) Subject to subsection (2), where there is more than one accused person, and one or more of them does not attend the court on the date on which the judgment is to be delivered, the judge or magistrate may, in order to avoid undue delay in the disposal of the case, deliver the judgment notwithstanding his or their absence.

(3) 除第(2)款外，在有多名被告且其中一人或多人在宣判当日没有出庭的情况下，法官或治安法官为避免在处置案件方面有不当延误，尽管一名或多名被告缺席，仍可作出判决。

(4) No judgment delivered by any court shall be deemed to be invalid by reason only of the absence of any party or his advocate on the day or from the place notified for the delivery thereof, or of any omission to serve, or defect in serving, on the parties or their advocates, or any of them, the notice of such day and place.

(4) 任何法庭作出的判决，不得仅因任何一方或其辩护人、代诉人在已送达的通知书上注明的时间或地点缺席，或因在任何一方或其辩护人、代诉人的通知书送达上有任何遗漏之处、在送达的通知书上注明的时间或地点有任何欠妥之处而被视为无效。

(5) Nothing in this section shall be construed as to limit in any way the provisions of section 299.

(5) 本条的任何内容均不得解释为以任何方式限制第两百九十九条的规定。

312.-(1) Every judgment under the provisions of section 311 shall, except as otherwise expressly provided by this Act, be written by or reduced to writing under the personal direction and superintendence of the presiding judge or magistrate in the language of the court and shall contain the point or points for determination, the decision thereon and the reasons for the decision, and shall be dated and signed by the presiding officer as of the date on which it is pronounced in open court.

### 第三百一十二条【判决书内容】

(1) 除本法另有明文规定外，根据第三百一十一条规定作出的每项判决，均应在主审法官或治安法官的亲自指导和监督下，以法庭语言记录或以书面形式表

达，并且判决书应包括一个或多个争议点、判决及其理由，审判官应在公开法庭宣布当日注明日期并进行签署。

(2) In the case of conviction the judgment shall specify the offence of which, and the section of the Penal Code or other law under which, the accused person is convicted and the punishment to which he is sentenced.

(2) 在被定罪的情况下，应在判决书上写明被告人被定罪的罪行及被判处的刑罚，以及在《刑法》或其他法律中的依据。

(3) In the case of an acquittal the judgment shall state the offence of which the accused person is acquitted and shall direct that he be set at liberty.

(3) 在宣判无罪的情况下，判决书应写明被告人被起诉的罪行，宣判其无罪并指示将其释放。

(4) Where at any stage of the trial, a court acquits an accused person, it shall require him to give his permanent address for service in case there is an appeal against his acquittal and the court shall record or cause it to be recorded.

(4) 法庭在审判的任何阶段宣判被告人无罪时，由于可对其无罪释放提出上诉，应要求被告人提供其永久地址，并由法庭记录或安排记录。

313.-(1) On the application of the accused person a copy of the judgment or, when he so desires, a translation in his own language, if practicable, shall be given to him without delay and free of cost.

第三百一十三条【向被告人或经申请的相关方送达判决书副本】

(1) 在被告人提出申请或有此意愿时，应将判决书的副本或以被告人的母语（如切实可行）向其提供译本，不得延误，亦不得收取费用。

(2) Any interested party or person affected by the judgment may be provided with a copy of the judgment on application if he pays the prescribed fee unless the court, if it thinks fit for some reason, gives it to him free of cost.

(2) 任何利害关系方或受判决影响的人如支付规定的费用，即可以申请一份判决书副本，除非法庭认为可基于某种原因向其免费提供。

314. If the judge convicts the accused person or if he pleads guilty, it shall be the duty of the Registrar or other officer of the court to ask him whether he has anything to

say why sentence should not be passed upon him according to law, but the omission so to ask him shall have no effect on the validity of the proceedings.

**第三百一十四条【询问被告人】**

如法官判决被告人有罪或被告人认罪，司法常务官或法庭公职人员有责任询问被告人是否需要不应依法判处其刑罚的原因进行说明，但不询问被告人不影响诉讼程序的有效性。

315.-(1) The accused person may, at any time before sentence, whether on plea of guilty or otherwise, move in arrest of judgment on the ground that the information does not, after any amendment which the court is willing and has power to make, state any offence which the court has power to try.

**第三百一十五条【阻止判决的动议】**

(1) 在判决前的任何时间，不论被告人是否认罪，都可以提出阻止判决的动议。理由是起诉书在法庭愿意并有权做出修订后并没有说明法院有权审讯任何罪行。

(2) The court may, in its discretion, either hear and determine the matter during the same sitting or adjourn the hearing thereof to a future time to be fixed for that purpose.

(2) 法庭可酌情考虑是否在一次庭审期间对该事项进行审理并做出判决，或将审理和判决延期至某一时间。

(3) If the court decides in favour of the accused he shall be discharged from that information.

(3) 如果法院的判决为支持被告，他将被释放。

316. If no motion in arrest of judgment is made or if the court decides against the accused person upon such motion, the court may sentence the accused person at any time during the sessions.

**第三百一十六条【判决】**

如果没有提出阻止判决的动议，或者法庭根据该动议对被告人作出判决，法院可以在开庭期间的任何时间对被告人进行判决。

317. The court before which any person is tried for an offence may reserve the giving of its final decision on questions raised at the trial and its decision whenever

given shall be considered as given at the time of trial.

**第三百一十七条【审讯中争议事项的判决保留权】**

某人因罪行而被审讯时，法庭可保留审讯中产生的争议事项的判决结果，而不论何时宣布该判决，均应视为在庭审时做出的判决。

318.-(1) When any person has, in a trial before the High Court, been convicted of an offence, the judge may reserve and refer for the decision of a court consisting of two or more judges of the High Court any question which has arisen trial and the determination of which would affect the event of the trial.

**第三百一十八条【审讯过程中出现的问题的保留权】**

(1) 在高等法院进行的审讯中，某人如被判有罪，法官可将审讯过程中出现的任何问题以及会影响审判结果的事件保留并提交给由两名或两名以上高等法院法官组成的法庭，由其作出最终判决。

(2) If the judge reserves any such question, the person convicted shall, pending the decision thereon, be remanded in prison or, if the judge thinks fit, be admitted to bail and the High Court shall have power to review the case or such part thereof as may be necessary and finally determine such question and thereupon to alter the sentence passed by the trial judge and to pass such judgment or order as the High Court may think fit.

(2) 如法官保留任意此类问题，则被定罪的人须在该项决定作出前被还押监狱，或如法官认为恰当，则可获准保释，而高等法院有权根据需要复查全案或其中某部分，就此类问题进行最终判决，并且高等法院如认为适当，有权更改主审法官所作的判决或命令，并在更改后通过该判决或命令。

319. No judgment shall be stayed or reserved on the ground of any objection which, if stated after the information was read over to the accused person or during the progress of the trial, might have been cured by amendment by the court, nor for any informality in swearing the witnesses or any of them.

**第三百一十九条【判决解决异议】**

如在向被告人宣读起诉书后或在审讯进行期间有异议被提出，法庭可能已经通过更改而纠正该异议，任何判决不得以其为理由而搁置或保留；也不得以证人





或其中任何人的宣誓不符合法定形式为理由而搁置或保留。

320. The court may, before passing the sentence, receive such evidence as it thinks fit in order to inform itself as to the sentence proper to be passed.

第三百二十条【搜集证据证明判决的合理性】

宣判前，法庭可搜集其认为适当的证据以证明其宣判结果的合理性。

321.-(1) Without prejudice to the generality of section 320 the High Court may subject to the provisions of this section, for the purpose of assessing the proper sentence to be passed, take into consideration any other offence committed by the accused person but of which he has not been convicted.

第三百二十一条【考量其他罪行】

(1) 在不损害第三百二十条的一般性的情况下，为评估将判处的刑罚是否恰当，高等法院可根据本条条文，将被告所犯但尚未被定罪的任何其他罪行纳入考虑。

(2) The High Court shall not take any offence into consideration unless—

(2) 高等法院不得考虑任何其他罪行，除非符合以下规定—

(a) it has been explained by the court to the accused person in ordinary language that the sentence to be passed upon him for the offence of which he has been convicted in those proceedings may be greater if the other offence is taken into consideration; and

(a) 法院已用日常用语向被告说明如考虑到另一项罪行，对被告在该诉讼程序中被定罪的罪行所判处的刑罚可能会更大；及

(b) after that explanation the accused person—

(b) 在法院进行说明后，被告

(i) admits the commission of the other offence; and

(i) 承认犯有其他罪行：并且

(ii) asks the court to take the other offence into consideration.

(ii) 要求法院将其他罪行纳入考虑

(3) Nothing in this section shall entitle the court, after taking another offence into consideration, to pass upon an accused person any sentence in excess of the maximum sentence which could be awarded for the offence of which that person was convicted in



those proceedings.

(3) 本条的任何规定均不得视作使已考虑其他罪行的法庭判处被告人超过最高刑罚的依据，而该最高刑罚是指法庭就被告人已被起诉的罪行经定罪后所能判处的最高刑罚。

322.-(1) When any person is sentenced to death, he shall suffer death by hanging.

第三百二十二条【死刑判决】

(1) 被判处死刑的，应当施以绞刑。

(2) When any person is sentenced to death the sentence shall direct that he suffers death by hanging.

(2) 任何人被判处死刑时，判决应当直接指示施以绞刑。

323. When an accused person is sentenced to death, the court shall inform him of the period within which, if he wishes to appeal, his appeal should be preferred.

第三百二十三条【被告人的上诉知情权】

被告人被判处死刑时，法院应当告知其上诉的期限，如果被告有上诉请求，应给予其上诉请求优先权。

324. A certificate under the hand of the Registrar or other officer of the court that sentence of death has been passed, and naming the condemned person, shall be sufficient authority for the detention of that person.

第三百二十四条【拘留权】

由司法常务官或法院公职人员签署证明书，证明已判处死刑，并指明被宣告死刑的人的姓名，即有权对该人进行拘留。

325.-(1) As soon as conveniently as may be, after sentence of death has been pronounced, if no appeal from a sentence of death passed by the High Court is preferred or if an appeal from any sentence of death is preferred and the sentence is upheld on appeal, then as soon as conveniently may be after the determination of the appeal the presiding judge or magistrate exercising powers conferred on him by section 173 shall forward to the President a copy of the notes of evidence taken on the trial with a report in writing signed by him containing any recommendation or observations on the case he may think fit to make.

第三百二十五条【向庭长送交报告与证据记录】

(1) 在宣告判处死刑后，如没有就高等法院所宣判的死刑提出的上诉给予优先权，或就任何死刑提出的上诉给予优先权，并在上诉中维持该判决，则应尽快判决。主审法官或治安法官在行使第一百七十三条赋予他的权力时，应尽快向庭长送交一份审讯时所作的证据记录副本，连同一份由他（主审法官或治安法官本人）签署的书面报告，该报告须载有他觉得适合本案的建议或意见。

(2) After the report has been considered, the President shall communicate to the said judge or magistrate or his successor in office, the terms of any decision to which he has made, and such judge or magistrate shall cause the tenor and substance of that decision to be entered in the records of the court.

(2) 在审议该报告后，庭长应将他作出的任何判决传达给上述法官或治安法官或其继任者，该法官或治安法官应将该判决的意旨和实质内容记入法庭记录。

(3) The President shall issue a death warrant, or an order of the sentence of death to be commuted, or a pardon, under his hand and the seal of the United Republic to give effect to that decision. If the sentence of death is to be carried out, the warrant shall state the place where and the time when execution is to be had, and shall give directions as to the place of burial of the body of the person executed. If the sentence is commuted for any other punishment, the order shall specify that punishment. If the person sentenced is pardoned, the pardon shall state whether it is free or to what conditions, if any, it is subject.

(3) 庭长应签发死刑执行令、死刑改判令或赦免令，由其亲笔签署并加盖（坦桑尼亚）联合共和国印章，以执行该判决。执行死刑的，执行令应当写明执行死刑的地点和时间，并指示被执行人的尸体埋葬的地点。改判并减刑执行其他刑罚的，死刑改判令应当写明改成什么刑罚。如果被判刑的人被赦免，赦免书应述明该人是自由还是有需要遵守的前提条件。

(4) Subject to subsection (3), the warrant may direct that the execution shall take place at such time and at such place and that the body of the person executed shall be buried or cremated at such place, as shall be appointed by some officer specified in the warrant.

(4) 根据第(3)款条令,死刑执行令应指示在其所指明的时间及地点进行处决,并指示由指定的人员将被处决的人的尸体埋葬或火葬在指定的地点。

(5) The warrant or order, or pardon of the President shall be sufficient authority in law to all persons to whom it is directed to execute the sentence of death or other punishment awarded and to carry out the directions therein given in accordance with its terms.

(5) 庭长的令状、命令或赦免,对所有受指示被执行死刑或接收其他刑罚的人,及根据相应条款执行其中的指示方面都应具有充分的法律效力。

326.-(1) Where any court thinks that the charge is proved but is of the opinion that, having regard to the character, antecedents, age, health, or mental condition of the person charged or to the trivial nature of the offence or to the extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment or that it is expedient to discharge the offender conditionally as hereinafter provided, the court may, without proceeding to convict, either—

#### 第三百二十六条【附条件释放】

(1) 凡任何法庭认为控罪已获证明,但认为考虑到被告人的品格、犯罪经历、年龄、健康或精神状况,或该罪行的性质轻微,或犯罪行为发生时有从轻处罚的情节后,对其处以任何刑罚都是不恰当的,或者根据下文规定法庭有条件地释放罪犯而不进行定罪是恰当的:

order the offender to be discharged after such admonition as to the court as shall seem fit; or

(a) 令罪犯在接受法院认为恰当的训诫后获释;或

(b) discharge the offender conditionally on his executing a bond, with or without sureties, to be of good behaviour and to appear for conviction and sentence when called on at any time during such period, not exceeding three years, as may be specified in the order of the court.

(b) 如罪犯签立保证书,无论是否有担保,保证在期限内表现良好并随时在传唤时出庭接受定罪量刑,该期限由法庭命令确定且不得超过三年。

(2) An order under subsection (1) shall, for the purpose of revesting or restoring

stolen property, or in respect of matters relating to the restitution or delivery of property to the owner, have the like effect as a conviction.

(2) 根据本条作出的命令，将被盗财产原物返还或恢复原状以及与将财产返还给所有者或恢复原状有关的事宜的效力应与犯罪行为人已经被定罪相同。

(3) A bond executed under this section may contain such conditions as the court may, having regard to the particular circumstances of the case, order to be inserted therein with respect to all or any of the following matters—

(3) 考虑到案件的特殊情况，法院可命令将下列所有或任意事项添加至根据本条所签署的保证书中 -

(a) for prohibition of the offender from associating with undesirable persons or from frequenting undesirable places;

(a) 禁止罪犯与不良分子交往或频繁出入不良场所；

(b) as to abstention from intoxicating liquor, where the offence is connected with drunkenness or an offence committed under the influence of drink;

(b) 如该罪行与酗酒有关，或其犯罪行为受酒后影响，则应戒酒；

(c) generally for securing that the offender shall lead an honest and industrious life;

(c) 一般来说，保证书内容应以确保罪犯过上诚实和勤勉的生活为目的；

(d) providing that the offender with his surety or sureties, if any, shall appear in chambers before the judge of the court at such intervals as may be specified in the order.

(d) 但犯罪者及其担保人（如有的话）应按命令指定的时间间隔定期在法庭法官办公室出席。

327. A warrant under the hand of the judge or magistrate by whom any person is to be sentenced to imprisonment, ordering that the sentence shall be carried out in any prison within Tanzania Mainland, shall be issued by the sentencing judge or magistrate, and shall be full authority to the officer in charge of such prison and to all other persons for carrying into effect the sentence described in such warrant, not being a sentence of death; and every sentence shall be deemed to commence from, and to, include the

whole of the day of the date on which it was pronounced, except where otherwise provided in this Act or in the Penal Code .

### 第三百二十七条【监禁判令状】

法官或治安法官有权处以任何人监禁惩罚，其令状应在坦桑尼亚境内的任何监狱内执行，并应由判刑法官或治安法官签署，对该监狱的主管人员及所有其他执行该令状所述刑罚（非死刑）的人具有完全权限，除非本法或《刑法》另有规定，否则令状中每一项审判均应视为从其宣布之日当日起生效。

328.-(1) Where a court orders money to be paid by an accused person or by a prosecutor or complainant for fine, penalty, compensation, costs, expenses or otherwise, the money may be levied on the movable and immovable property of the person ordered to pay the same by distress and the sale under warrant; but if he shows sufficient movable property to satisfy the order his immovable property shall not be sold.

### 第三百二十八条【罚款判令状】

(1) 凡法庭命令被告人、公诉人或原告缴付罚款、罚金、补偿、费用、开支或其它款项，该款项可根据令状扣押并出售被下令支付该款项的人的动产和不动产而征收；但如该人出示其足够的动产以支付该款项，则不得出售其不动产。

(2) A person ordered under subsection (1) to pay money may pay or tender to the officer having the execution of the warrant the sum therein mentioned, together with the amount of the expenses of the distress up to the time of payment or tender, and thereupon the officer shall cease to execute the same.

(2) 根据此条款，该人支付款项，可向执行该令状的公职人员支付或履行上述全部款项以及扣押财物产生的所有费用，直至支付或履行所述的全部款项为止，而该公职人员须随即停止执行令状。

(3) A warrant under this section may be executed within the local limits of jurisdiction of the court issuing it, and it shall authorise the distress and sale of any property belonging to such person when endorsed by a district or resident magistrate within the local limits of whose jurisdiction such property is found.

(3) 根据此条发出的令状可在签发该令状的法庭的管辖权范围内执行，在找

到属于该人财产后，经过对财产所在地有管辖权的地区治安法官或常驻治安法官同意，该令状应批准扣押和出售此财产。

329.-(1) Any person claiming to be entitled to have a legal or equitable interest in whole or part of any property attached in execution of a warrant issued under section 327 may, at any time prior to the receipt by the court of the proceeds of sale of such property, give notice in writing to the court of his objection to the attachment of the property and the notice shall set out shortly the nature of the claim which the person (in this section called “the objector”) makes to the whole or part of the property attached and certify the value of the property claimed by him, such value being supported by an affidavit which shall be filed with the notice.

第三百二十九条【对扣押财产的异议】

(1) 任何声称有权对全部或部分在执行根据第三百二十七条款签署的令状时扣押的财产享有法律或衡平法上的权益的人可，在法庭收到出售该财产的款项之前的任何时间向法庭发出书面通知，说明其对财产扣押持反对意见，该书面通知应简要说明该人（在本条中称为“反对者”）对所扣押全部或部分财产所主张的权力的性质，并需与书面通知一并提交一份宣誓书以证实所主张的财产的价值。

(2) Upon receipt of a valid notice given under subsection (1) the court shall, by an order in writing addressed to the officer having the execution of the warrant, direct a stay of the execution proceedings.

(2) 在收到根据条款（1）签署的有效通知后，法庭应通过书面命令的形式指令执行该令状的公职人员中止执行该程序。

(3) Upon the issue of an order under subsection (2) the court shall, by notice in writing direct the objector to appear before such court and establish his claim upon a date to be specified in the notice.

(3) 法庭根据第（2）款发出命令后，须藉书面通知指示反对者出席，并在该通知所指明的日期确定其主张。

(4) A notice shall be served upon the person whose property was, by the warrant issued under section 328, directed to be attached and, unless the property is to be applied to the payment of a fine, upon the person entitled to the proceeds of the sale of

property and the notice shall specify the time and place fixed for the appearance of the objector and shall direct the person upon whom the notice is served to appear before the court at the same time and place if he wishes to be heard upon the hearing of the objection.

(4) 如根据第三百二十八条签署的令状指示将某人财产扣押，则应向该人送达通知书，除非该财产须用于支付罚款，否则亦须对有权享有出售财产所得收益的人送达通知书，而该通知书应指明为反对者的出庭而确定的时间和地点，如该人希望在审讯反对意见时发表的意见被聆听，则应指示接获通知书的人（被扣押财产的人）在同一时间及地点到法庭席前。

(5) Upon the date fixed for the hearing of the objection, the court shall investigate the claim and, for that purpose, may hear any evidence which the objector may give or adduce and any evidence given or adduced by any person served with a notice in accordance with subsection (4).

(5) 在审理异议的日期确定之后，法庭应对该主张进行调查，为此，法庭应听取异议人提出或援引的任何证据，听取任何根据第（4）款获得通知的人提出或援引的任何证据。

(6) If, upon investigation of the claim, the court is satisfied that the property, attached was not, when attached, in the possession of the person ordered to pay the money or of some person in trust for him, or in the occupancy of a tenant, or other person paying rent to him, or that, being in the possession of the person ordered to pay the money at such time it was so in his possession、not on his own account or as his own property、but on account of or in trust for、some other person or party on his own account and partly on account of some other person, the court shall make an order releasing the property, wholly or to such extent as it thinks fit, from attachment.

(6) 如果法院在对该主张进行调查后，发现所主张的财产在进行该主张时并非为被命令缴付款项的人或该人的信托人所持有，或被其租客所占用，或者被其他向他支付租金的人所持有，或者说，应缴付款项的人在该主张时确实拥有该财产，但不在本人账户上或由本人持有该财产，而是在其他个人或团体账户上或由其信托人或信托团体持有，或在本人账户上但部分在他人账户上，法院则应命令



解除所扣押的全部财产或解除其认为适当的所扣押的部分财产。

(7) If, upon the date fixed for his appearance, the objector fails to appear or if, upon investigation of the claim in accordance with subsection (5), the court is of the opinion that the objector has failed to establish his claim, the court shall order the attachment and execution to proceed and shall make such order as to costs as it deems proper.

(7) 如在该确定的出庭日期反对者没有出庭，或在按照第（5）款对该主张进行调查后，法庭认为反对者未能证实其主张，则法庭应命令继续扣押并执行程序，并令其（反对者）缴付适当的费用。

(8) Nothing in this section shall be deemed to deprive a person who has failed to comply with the requirements of subsection (1) of the right to take any other proceedings which, apart from the provisions of this section, may lawfully be taken by a person claiming an interest in property attached under a warrant.

(8) 本条的任何规定均不得视为剥夺未能遵守第（1）款要求的人采取任何其他法律程序的权利，除本条款外，任何人对根据令状扣押的财产主张其财产上的权益是合法的。

330.-(1) When an offender has been sentenced to a fine only and to imprisonment in default of payment of the fine, the court may suspend the execution of the sentence of imprisonment and may release the offender on his executing a bond, with or without sureties, as the court thinks fit, conditioned for his appearance before such court on a date not being more than fifteen days from the time of executing the bond; and in the event of the fine not having been realised the court may direct the sentence of imprisonment to be carried into execution at once or may from time to time extend the operation of the bond for a further period of not more than fifteen days.

### 第三百三十条【未交罚金情形下的暂缓监禁】

(1) 如果罪犯只被处罚款，且其因未支付罚款而被监禁，则法庭可以暂停执行监禁刑罚，如果法庭认为恰当，无论是否有担保，都可以在罪犯签立保证书后释放罪犯，但罪犯务必在签立保证书之日起十五天内出庭；如果未能按时支付罚款，法庭可立即执行监禁刑罚，或将保证书的执行期延长不超过十五天。



(2) In any case in which an order for the payment of money has been made the court may require the person ordered to make such payment to enter into a bond as prescribed in subsection (1), and in default of his so doing may at once pass sentence of imprisonment as if the money had not been recovered.

(2) 在任何已作出支付款项命令的案件中，法庭可命令应支付款项的罪犯根据条款（1）所述签立保证书；如该人未能支付，则视作该笔款项未被追回，法庭可立即判处监禁刑罚。

(3) Without prejudice to the provisions of subsections (1) and (2), in any case in which an order for the payment of money has been made, and whether or not any order has been made for imprisonment in default of payment, the court may, in its direction, either at the time such order is made or subsequently, direct that the money may be paid by instalments at such times and in such amounts as the court may think fit.

(3) 在不损害第（1）及（2）款的条文的情况下，在任何已作出支付款项命令的案件中，不论是否已作出任何因未支付款项而被判入狱的命令，法庭可在其作出该命令时，或在其作出命令后，指示该款项可按照法院认为合适的时间及金额进行分期支付。

(4) Where under subsection (3), the court directs that money may be paid by instalments the whole of the amount outstanding shall, unless the court extends the period within which such instalments is to be paid, become due and payable and all the provisions of this Act and of the Penal Code applicable in the case of non-payment of a fine shall apply to and in respect of the amount outstanding.

(4) 根据条款（3），法庭指示可以分期支付款项，除非法庭延长分期付款的支付期限，否则到期应全额支付未支付款项，本法和刑法的所有条款中涉及未缴纳罚款的以及未全额支付罚款的均应适用。

331. If the officer having the execution of a warrant of distress reports that he can find no property or not sufficient property whereupon to levy the money mentioned in the warrant with expenses, the court may by the same or a subsequent warrant commit the person ordered to pay to prison for a time specified in the warrant, unless the money and all expenses of the distress, to be specified in the warrant, are sooner paid.

第三百三十一条【执行扣押令】

如执行扣押令的公职人员报告称他查明没有任何财产或没有足够的财产，以致无法征收令状中提及的款项及执行扣押的费用，法庭可根据该令状或随后的令状判处对被命令支付的人监禁，监禁的时长在令状中进行规定，除非在扣押令中指明的金钱和所有执行扣押的费用随即支付完毕。

332. When it appears to the court that distress and sale of property would be ruinous to the person ordered to pay the money or his family or (by his confession or otherwise) that he has no property whereon the distress may be levied, or when other sufficient reason appears to the court, the court may, if it thinks fit, instead of or after issuing a warrant of distress, commit him to prison for a time specified in the warrant unless the money and all expenses of the commitment and conveyance to prison, to be specified in the warrant, are sooner paid.

第三百三十二条【扣押的替代性惩罚】

当法庭认为扣押并出售其财产对被命令处支付罚款人或其家人来说是无法承担的，或（通过其供认或其他方式）法庭认为他没有财产可供扣押，或当法院认为有其他充分理由时，如法院认为恰当，则可替代扣押或推迟执行扣押令，按照令状中所确定的时间将该人交付监狱，除非令状中指明的款项及交付监狱和转监的所有费用随即支付完毕。

333. Any person committed for non-payment may pay the sum mentioned in the warrant, with the amount of expenses therein authorised, if any, to the person in whose custody he is and that person shall thereupon release him if he is in custody for no other matter.

第三百三十三条【被监禁后付清全部费用】

如某人因未支付款项而被监禁，该人支付令状中提及的款项和令状所批准的费用（如果有）给羁押他的人，羁押他的人应立即释放该人，前提是该人没有因其他事项需被羁押。

334.-(1) If any person who is confined in any prison for nonpayment of any sum adjudged by a court in its criminal jurisdiction to be paid under this Act or under any other Act, pays any sum in part satisfaction of the sum adjudged to be paid, the term

of his imprisonment shall be reduced by a number of days bearing nearly as possible the same proportion to for which such person is committed as the sum paid bears to the sum for which he is liable.

**第三百三十四条【被监禁后付清部分费用】**

(1) 如某人因未支付法院在其刑事管辖区范围内根据本法或任何其他法律已判决支付的任何款项而被监禁在任何监狱，则其支付的已判决支付的任何款项的一部分后，关押期限应按该人已支付的部分与其有责任支付的款项比例减少，该比例尽可能相同并按天计算。

(2) The officer in charge of a prison in which a person is confined who is desirous of taking advantage of the provisions of the subsection (1) shall, on application being made to him by such person, at once take him before a court and such court shall certify the amount by which the term of imprisonment originally awarded is reduced by such payment in part satisfaction, and shall make such order as is required in the circumstances.

(2) 监禁某人的监狱主管人员如欲利用第(1)款获利，法庭在收到该人针对主管人员的申请后，应立即将该人带到法庭席前，并核证原判的监禁刑期因部分清偿而减少的比例并应根据情况要求作出相应命令。

335. Every warrant for the execution of any sentence may be issued either by the judge or magistrate who passed the sentence or by his successor in office or jurisdiction.

**第三百三十五条【签发令状者】**

执行任何刑罚的令状，可由判处该刑罚的法官或治安法官签发，或由其职位或管辖权的继任者签发。

336. No commitment for non-payment shall be for a longer period than six months unless the law under which the conviction has taken place enjoins or allows a longer period.

**第三百三十六条【支付款项的监禁限制】**

除非定罪所依据的法律要求或允许判处更长的期限，否则未支付款项的处罚期限不得超过六个月。

337.-(1) In any case in which a person is convicted before any court of an offence not punishable with death and no previous conviction is proved against him, if it appears to the court before which he is convicted that, having regard to the youth, character, antecedents, health or mental condition, of the offender or to the trivial nature of the offence or to any extenuating circumstances under which the offence was committed, it is expedient to release the offender on probation the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, and during that period (not exceeding three years, as the court may direct), to appear and receive sentence when called upon and in the meantime to keep the peace and be of good behaviour.

第三百三十七条【无需监禁、适用缓刑而释放罪犯的权力】

(1) 在任何案件中，如某人被法庭判有非死刑的刑罚，也没有证据表明以前被定罪，如为其审判的法庭在考虑到其年龄、品格、犯罪经历、健康状况或精神状况，或该罪行的性质轻微，或犯罪行为发生时有从轻处罚的情节后，认为缓刑释放罪犯而非立即对他判处任何刑罚是恰当的，则可指示在他签立保证书后，无论是否有担保，将其释放，在此期间（如法院所指示，不得超过三年）罪犯在被传唤时应出庭接受判决，同时应遵守社会秩序并表现规范行为。

(2) An order under this section may be made by the High Court when exercising its power of revision.

(2) 高等法院在行使其复审权时，可根据本条款作出命令。

338.-(1) If at any time the court which convicted the offender is satisfied that the offender has failed to observe any of the conditions of his recognisance, it may issue a warrant for his arrest.

第三百三十八条【罪犯违反保证书条件的规定】

(1) 如果为犯罪者定罪的法庭在任何时候认为犯罪者没有遵守其保证书中的任何条件，则法院可以签发逮捕令。

(2) An offender when arrested on a warrant under subsection (1) shall be brought forthwith before the court by which the warrant was issued and the court may either remand him in custody until the case is heard or admit him to bail with sufficient surety

conditioned for his appearing for sentence and the court may, after hearing the case, pass sentence.

(2) 根据条款(1)授权而被逮捕的罪犯,应随即被带到签发该令状的法庭席前,法庭可将他还押至案件审理为止,或准许罪犯提供足够的担保进行保释,但应以其出庭受审为条件,法院在审理案件后可判刑。

339. The court, before directing the release of an offender under section 338, shall be satisfied that the offender or his surety, if any, has a fixed place of abode or regular occupation in the place for which the court acts, or in which the offender is likely to live during the period named for his observance of the condition.

### 第三百三十九条【罪犯居住地条件】

法院在根据第三百三十八条指示释放罪犯前,应信纳罪犯或其担保人(如有的话)在法院所行事的地方有固定的居住地或有正当职业,或罪犯在法庭指定的期间内可能居住的地方能遵守(担保书中的)条件。

339A.-(1) In cases in which a person is convicted before any court of any offence not punishable with death either on its own motion, or application by the offender or any other competent authority, it appears to the court before which he is convicted that, having regard to the youth, character, antecedents, or health condition of the offender or to the trivial nature of the offence, or to any extenuating circumstances under which the offence was committed, it is expedient to release the offender on community service under the Community Service Act, the court may instead of committing the offender to prison, direct that he be released to community service on his entering into a bond, with or without sureties, and for a period to be specified by the court in the community service order.

### 第三百三十九 A 条【释放罪犯到社区服务】

(1) 如某人在被任何法庭判犯有任何非死刑的罪行前,经过本人请求或者罪犯或任何其他主管当局提出申请,为其审判的法庭在考虑到被告人的品格、犯罪经历、年龄、健康或精神状况,或该罪行的性质轻微,或犯罪行为发生时有从轻处罚的情节后,认为根据《社区服务法》,释放罪犯到社区服务中是恰当的,法庭可命令罪犯订立保证书后,无论是否有担保,释放罪犯到社区服务,而不是判



处其监禁，服务期限在社区服务令中由法庭指定。

(2) Nothing under subsection (1) of this section shall preclude the court from making an order under this section on an application for review under this Act or the Magistrates' Courts Act.

(2) 本条第(1)款下的任何规定均不妨碍法庭根据本法或《地方法院法》的复审申请根据本条作出命令。

(3) An order under this section may be made by any other court in the exercise of its appellate or revision powers over the case.

(3) 任何其他法院在行使受理上诉的权力或复审的权力时，可根据本条作出命令。

(4) For the purposes of this section, the term “competent authority” has the same meaning ascribed to it under the Community Service Act.

(4) 就本条而言，“主管当局”一词的含义与《社区服务法》对其赋予的含义相同。

340. Sections 337, 338 and 339 of this Act shall not apply in any area of Mainland Tanzania to which the Probation of Offenders Act applies.

第三百四十条【不适用第三百三十七、三百三十八、三百三十九条规定的情形】  
本法第三百三十七、三百三十八和三百三十九条不适用于《罪犯缓刑法》适用的坦桑尼亚大陆的任何地区。

341.-(1) When any person—

第三百四十一条【警察的监督权】

(1) 当某人—

(a) has been convicted of any offence against sections 59 or 60 of the Penal Code or section 25, 26 or 27 of the Societies Act; or

(a) 已被宣判犯有《刑法》第五十九或六十条或《社团法》第二十五、二十六或二十七条规定的任何罪行；或

(b) having been convicted of any offence punishable with imprisonment for a term of three years or more or of an offence under section 343 of this Act, the court may, if it thinks fit, at the time of passing sentence of imprisonment on such person, also order

that he shall be subject to police supervision as hereinafter provided for a period not exceeding five years from the date of his release from prison.

(b) 根据本法第三百四十三条，已被宣判犯有任何可判处三年或以上监禁的罪行，如法院认为恰当，可在对该人判处监禁时，同时命令该人接受警方的监督，监督时长自其获释之日起计算且不得超过五年。

(2) If the conviction is set aside on appeal or for any other reason, the order shall become void.

(2) 如因上诉或任何其它理由而撤销定罪，该命令即告无效。

(3) An order under this section may be made by the High Court when exercising its powers of revision.

(3) 高等法院在行使其复审权时，可以根据本条作出命令。

(4) Every order made under this section shall be made out in the prescribed form and in addition be stated in the warrant of commitment.

(4) 根据本条作出的每项命令，均应以规定的格式作出，并应另在拘押令内述明。

342.-(1) A court may at any time direct that a person shall, whilst subject to police supervision and at large in Tanzania, comply with all or any of the following requirements and may vary any such direction at any time—

第三百四十二条【对接受警察监督者的要求】

(1) 如果某人在坦桑尼亚接受警察监管，法院可随时指示该人应遵守以下一项或多项要求，并且法院可随时更改指示内容。

to reside within the limits of any specified district;

(a) 居住在指定地区的范围内

(b) not to transfer his residence to any other district without the written consent of the administrative officer or police officer in charge of the district where he resides;

(b) 未经负责其居住地区的行政官员或警察的书面同意，不得将其住所转移到任何其他地区；

(c) not to leave the district in which he resides without the written consent of the administrative officer or police in charge of such district;

(c) 未经负责其居住地区的行政官员或警察的书面同意，不得离开该地区；

(d) at all times to keep the police officer or, if there is no police officer, the administrative officer in charge of the district in which he resides notified of the house or place in which he resides;

(d) 随时将其居住地址通知警察或（如无警察）负责该地区的行政官员；

(e) to present himself, whenever called upon so to do by the administrative officer or police officer in charge of the district in which he resides, at any place in such district.

(e) 无论何时，如该人居住地区负责的行政官员或警察要求其出席该地区内的任何地方，该人应照做。

(2) For the purpose of giving any directions or of varying any directions under subsection (1) of this section, a court may issue a summons to a person to whom the subsection relates and who is within the jurisdiction of that court requiring his attendance before it at such time and place as may be specified; and the provisions of sections 143, 144, 145, 146 and 147 of this Act shall apply mutatis mutandis to him as they apply to a witness.

(2) 为根据本条第（1）款做出指示或更改指示，法院可向与本款有关的人以及在该法院管辖范围内的人签发传票，要求其在规定的时间和地点出庭；且本法第一百四十三、一百四十四、一百四十五、一百四十六和一百四十七条适用于证人的规定，在经必要的变更后同样对该人适用。

(3) The Minister may make rules for carrying out the provisions of this section.

(3) 部长可制定实施本条的规定。

343. If any person subject to police supervision who is at large in Tanzania refuses or neglects to comply with any requirement prescribed by section 342 or by any rules made thereunder he shall, unless he proves to the satisfaction of the court before which he is tried that he did his best to act in conformity with the law, be guilty of an offence and liable to imprisonment for a term not exceeding six months or, on a second or subsequent conviction for such offence, to imprisonment for a term not exceeding twelve months.



**第三百四十三条【未履行第三百四十二条要求的处罚】**

任何在坦桑尼亚接受警察监管的人，如拒绝或忽略遵从第三百四十二条或根据第三百四十二条订立的任何规定，除非在接受审判前向法庭证明并使法院信纳他已尽力按照法律行事，否则即属犯罪。可判处该人不超过6个月的监禁，若在第2次及2次以后就该罪行被定罪，则可判处不超过12个月的监禁。

344. The court may at any time amend any defect in substance or in form in any order or warrant and no omission or error as to time and place and no defect in form in any order or warrant given under this Act, shall be held to render void or unlawful any act done or intended to be done by virtue or such order or warrant, provided that it is therein mentioned or may be inferred therefrom that it is founded on a conviction or judgment and there is a valid conviction or judgment to sustain the order or warrant.

**第三百四十四条【命令或令状中的错误与遗漏】**

法院可在任何时候修改任何命令或令状中的任何实质或形式上的缺陷，而根据本法做出的任何命令或令状中的任何时间和地点的遗漏或错误，以及任何形式上的缺陷，均不得视为使凭借或拟过该命令或令状做出任何行为无效或非法；除非在该命令或令状中提及（将该令状或命令作出的行为无效或非法）或可以从中推断出其建立在进行了定罪或判决的基础上，且命令或令状中作出了有效的定罪或判决。

345.-(1) It shall be lawful for a judge of the High Court or any magistrate to order any person convicted before him of an offence to pay to the public or private prosecutor, as the case may be, such reasonable costs as to the judge or magistrate may see fit, in addition to any other penalty imposed; save that such costs shall not exceed four thousand shillings in the case of the High Court or two thousand shillings in the case of a subordinate court.

**第三百四十五条【被告人支付诉讼费】**

(1) 除了任何其他惩罚外，高等法院法官或任何治安法官有权命令任何被其定罪的人向公诉人或刑事自诉人支付法官或治安法官认为合理的费用（该费用视情况而定），但在高等法院的案件中其支付的费用不得超过四千先令，在下级法院的案件中其支付的费用不得超过两千先令。

(2) It shall be lawful for a judge of the High Court or any magistrate who acquits or discharges a person accused of an offence, if the prosecution for such offence was originally instituted on a summons or warrant issued by a court on the application of a private prosecutor, to order the private prosecutor to pay to the accused such reasonable costs as to the judge or magistrate may see fit; save that such costs shall not exceed two thousand shillings in the case of an acquittal or discharge by the High Court or one thousand shillings in the case or an acquittal or discharge by a subordinate Court; save further that no such order shall be made if the judge or magistrate considers that the private prosecutor had reasonable grounds for making his complaint.

(2) 高等法院法官或任何治安法官，如对被指控犯罪的人宣告无罪或解除责任，而对该罪行的检控最初是根据法院应刑事自诉人的申请而发出的传票或手令开始的，则可命令该名刑事自诉人向被告支付法官或治安法官认为合适的合理费用；在高等法院宣告无罪或解除责任的案件中，支付的费用不得超过 2000 先令；在下级法院宣告无罪或解除责任的情况下，支付的费用不得超过 1000 先令；但如法官或治安法官认为刑事自诉人有合理理由提出控告，则不得作出上述命令。

(3) The costs awarded under this section may be awarded in addition to any compensation awarded under section 347.

(3) 除根据第三百四十七条判给的任何补偿外，根据本条裁定的费用也可判给。

(4) In this section— “public prosecutor” means any person prosecuting for or on behalf of the United Republic or for or on behalf of a public authority; “private prosecutor” means any prosecutor other than a public prosecutor.

(4) 在本条中，“公诉人”指为联合共和国或代表联合共和国或为公共当局或代表公共当局起诉的任何人；“刑事自诉人”指除公诉人以外的任何原告。

346. An appeal shall lie against any order awarding costs under section 345 if made by a magistrate, to the High Court and, if by a judge, to the Court of Appeal and the court to which the appeal is made shall have power to give such costs of the appeal as it shall deem reasonable.

第三百四十六条【判令支付上诉费】

如根据第三百四十五条判给费用的命令是由治安法官作出的，则针对该命令的上诉应向高等法院提出，如是由法官作出的，则针对该命令的上诉应向上诉法庭提出，而接获上诉的法院有权就上诉做出判决，要求支付法院认为合理的费用。

347. If on the acquittal of an accused person a court is of the opinion that the charge was frivolous or vexatious, the court may order the complainant to pay to the accused person a reasonable sum as compensation for the trouble and expense to which he may have been put by reason of such charge, in addition to his costs.

#### 第三百四十七条【轻率或无理判令费用的补偿】

在被告无罪释放后，如法院认为对其的指控是轻率的或无理的，法院可命令原告向被告支付除其自身花销外的一笔合理的款项，将其作为对被告因此招致的麻烦以及因被控告而可能被收取的费用的补偿。

348.-(1) Where an accused person is convicted by any court of any offence not punishable with death and it appears from the evidence that some other person, whether or not he is the prosecutor or a witness in the case, has suffered material loss or personal injury in consequence of the offence committed and that substantial compensation is, in the opinion of the court, recoverable by that person by civil suit, the court may, in its discretion and in addition to any other lawful punishment, order the convicted person to pay to that other person such compensation, in kind or in money, as the court deems fair and reasonable.

#### 第三百四十八条【判令被告人支付补偿金的权力】

(1) 凡被告人被任何法庭判决犯有非死刑的罪行，而证据表明，任何其他人（不论是否为该案件中的控方或证人）因其所犯的罪行而遭受重大财产损失或人身伤害，法庭认为该人可通过民事诉讼追讨实质补偿，除其他合法刑罚外，法院可命令罪犯向该人支付法院认为公平合理的实物补偿或金钱补偿。

(2) Where any person is convicted of any offence under Chapters XXVII to XXXII of the Penal Code, the power conferred by subsection (1) shall be deemed to include a power to award compensation to any bona fide purchaser of any property in relation to which the offence was committed for the loss of such property if the property is restored to the possession of the person entitled thereto.

(2) 如果任何人犯有《刑法》第二十七章至第三十二章所定的任何罪行，如果财产已归还为有权获得该财产的人所有，则第(1)款所赋予的权力应被视为包括与罪行有关的对善意买受人造成的任何财产损失给予赔偿的权力。

(3) Any order for compensation under this section shall be subject to appeal if an order for the payment of a fine of a similar amount would have been subject to appeal and no payment of compensation shall be made before the period allowed for presenting the appeal has elapsed or, if an appeal is presented, before the decision on the appeal.

(3) 根据本条作出的任何补偿命令，如支付类似数额罚款的命令本应可被上诉，则该命令可予上诉；在准许提出上诉的期限届满前不得支付补偿，或如有上诉提出，则在上诉判决之前不得支付补偿。

348A.-(1) Notwithstanding the provisions of section 348 of this Act, when a court convicts, an accused person of a sexual offence, it shall in addition to any penalty which it imposes make an order requiring the convict to pay such effective compensation as the court may determine to be commensurate to possible damages obtainable by a civil suit by the victim of the sexual offence for injuries sustained by the victim in the course of the offence being perpetrated against him or her.

#### 第三百四十八 A 条【性犯罪的赔偿】

(1) 尽管有本法第三百四十八条的规定，当法庭判定被告人性犯罪时，除了已判决的刑罚外，法庭还应命令罪犯支付有效赔偿金，赔偿金的数额应相当于被害人在其实施犯罪过程中受到的伤害在民事诉讼中可能获得的损害赔偿。

(2) For the purposes of this section “sexual offence” means any of the offences created in Chapter XV of the Penal Code.

(2) 就本条而言，“性犯罪”是指“刑法”第十五章规定的任何犯罪。

349. The sums allowed for costs or compensation shall in all cases be specified in the conviction or order, and they shall be recoverable in like manner as any penalty may be recoverable under this Act; and in default of payment of such costs or compensation and in default of distress as hereinafter provided the person in default shall be liable to imprisonment for a term not exceeding six months unless the costs or compensation are

sooner paid.

### 第三百四十九条【判令费用与赔偿以及追回方式】

在任何案件中，需支付费用或补偿的款额均应在有罪判决中或命令中指明，并且应以与根据本法可追回的任何罚款相同的方式追回；在未支付此类费用或补偿的情况下，以及在在下文所述的扣押的情况下，除非该费用或赔偿金已尽快支付，否则该人应被处以不超过六个月的监禁。

350.-(1) Where a court imposes a fine or confirms, on appeal, revision or otherwise, a sentence of fine, or a sentence of which a fine forms part the court may, when passing judgment, order the whole or any part of the fine recovered to be applied—

### 第三百五十条【法庭判令以罚款支付诉讼费与赔偿金的权力】

(1) 凡法庭处罚款或在上诉、复审或其他程序中确认罚款，处罚款或判处包含罚款的刑罚，判决通过时，法庭在做出判决时可命令将全部或者部分追缴回的罚款用于 -

(a) in defraying expenses properly incurred in the prosecution;

(a) 支付起诉过程中的合理费用

(b) in the payment to any person of compensation for any loss or injury caused by the offence when substantial compensation is, in the opinion of the court, recoverable by civil suit.

(b) 在法庭认为可通过民事诉讼获得实质赔偿时，向任何人支付因该罪行而造成的任何损失或伤害的赔偿。

(2) If the fine is imposed in a case which is subject to appeal no such payment shall be made before the period allowed for presenting the appeal has elapsed or, if an appeal is presented, before the decision of the appeal.

(2) 如在可上诉的案件中处以罚款，在容许提出上诉的期限届满前不得支付补偿，或如有上诉提出，则在上诉判决之前不得支付补偿。

(3) At the time of awarding any compensation in any subsequent civil suit relating to the same matter, the court hearing the civil suit shall take into account any compensation paid or recovered under section 348.

(3) 在后续就同一事项提起的任何民事诉讼中判给任何赔偿时，受理民事诉



讼的法院应将其根据第三百四十八条支付或追回的补偿考虑在内。

351.-(1) Where a person is convicted of an offence and the court which passes sentence is satisfied that any property which was in his possession or under his control at the time of his apprehension—

第三百五十一条【判令没收财产的权力】

(1) 凡某人因某项罪行而被定罪，而宣判的法庭信纳在他被捕时他所管有或控制下的任何财产 -

(a) has been used for the purpose of committing or facilitating the commission of any offence; or

(a) 曾被用作犯罪或协助犯罪；或

(b) was intended by him to be used for that purpose, that property shall be liable to forfeiture and confiscation and any property so forfeited under this section shall be disposed of as the court may direct.

(b) 被该人打算用作该用途，则该财产可予没收及充公，而根据本条没收的任何财产应按法院的指示予以处置。

(2) Where the court orders the forfeiture or confiscation of any property as provided in subsection (1) of this section but does not make an order for its destruction or for its delivery to any person, the court may direct that the property shall be kept or sold and that the property or, if sold, the proceeds thereof shall be held as it directs until some person establishes to the court's satisfaction a right thereto; but if no person establishes such a right within six months from the date of forfeiture or confiscation, the property or the proceeds thereof shall be paid into and form part of the Consolidated Fund.

(b) 凡法庭命令按本条第(1)款的规定没收或充公任何财产，但并无作出将该财产销毁或交付任何人的命令，则法庭可指示该财产应予保存或出售，而该财产如出售，则按照指示，收益应被保留直至有人令法院信纳其对财产的权利为止；但如自没收或充公日期起6个月内没有人确立该权利，则该财产或其收益应拨入基金并作为统一基金的一部分。

(3) The power conferred by this section upon the court shall include the power to

make an order for the forfeiture or confiscation or for the destruction or for the delivery to any person of such property, but shall be exercised subject to any special provisions regarding forfeiture, confiscation, destruction, detention or delivery contained in the written law under which the conviction was had or in any other written law applicable to the case.

(3) 本条赋予法庭的权力包括可作出没收或充公、销毁或交付任何人该财产的命令，但该权利的行使应符合关于没收、充公、销毁、扣留或交付所依据的成文法中的特殊规定或任何其他适用于该案的成文法。

(4) When an order is made under this section in a case in which an appeal lies the order shall not, except when the property is livestock or is subject to speedy and natural decay, be carried out until the period allowed for presenting the appeal has passed or, when an appeal has been presented, until the disposal of the appeal.

(4) 在有上诉的情况下，根据本条作出命令时，除非该财产是牲畜或将迅速而自然地腐烂，否则直至容许提出上诉的期限届满，或上诉提出至上诉被处理为止，该命令不得进行，

(5) In this section any reference to—

(5) 在本条中，任何提及 -

(a) “property” includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which it is exchanged and anything acquired by such conversion or exchange, whether immediately or otherwise;

(a) “财产”，包括在财产涉及发生犯罪的情况下，最初由任何一方占有或控制的财产，还包括交换的财产，以及通过这种转换或交换而取得的任何财产，无论是立即获得还是延迟获得的；

(b) facilitating the commission of an offence includes the taking of any steps after it has been committed for the purpose of disposing of any property to which it relates or of avoiding apprehension or detection.

(b) 协助犯罪包括在犯罪后采取任何步骤以处置与犯罪有关的任何财产，或



在犯罪后采取任何步骤以避免逮捕或侦查。

352. Where a court has made an order for the forfeiture or confiscation of an article the court or any justice of the peace may, if satisfied on information on oath—

第三百五十二条【搜查被判没收或充公物品的命令】

如果法庭已作出没收或充公物品的命令，法庭或任何法官在收到并信纳起誓告发后，可以 -

(a) that there is reasonable cause to believe that the article is to be found in any place or premises; and

(a) 有合理理由相信将在任何地方或处所发现该物品；及

(b) that admission to the place or premises has been refused or that a refusal of such admission is apprehended, issue a warrant of search which may be executed according to law.

(b) 进入该地方或处所的已被拒绝，或该地方或处所的拒绝已被逮捕，则可发出搜查令，该搜查令可依法执行。

353.-(1) Where anything which has been tendered or put in evidence in any criminal proceedings before any court has not been claimed by any person who appears to the court to be entitled thereto within a period of twelve months after the final disposal of the proceedings or if any appeal is entered in respect thereof, the thing may be sold, destroyed or otherwise disposed of in such manner as the court may by order direct and the proceeds of its sale shall be paid into the general revenues of the Republic.

第三百五十三条【处置财产】

(1) 凡在任何法庭进行的刑事诉讼程序中偿还的或提出作为证据的任何财产，在诉讼程序最终财产处置决定后 12 个月内，或在有人提出上诉时，法院认为可对该财产主张权利的人，没有主张其权利，因此，法院可通过命令指示出售、销毁或以其他方式处置财产，其出售的收益应作为一般收入支付给共和国。

(2) If anything which has been tendered or put in evidence in any criminal proceedings before any court is subject to speedy and natural decay the court may, at any stage of the proceedings or at any time after the final disposal of such proceedings,



order that it be sold or otherwise disposed of but shall hold the proceeds of the sale and, if unclaimed at the expiration of a period of twelve months after the final disposal of such proceedings or any appeal entered in respect thereof, shall pay such proceeds into the general revenues of the Republic.

(2) 如果在任何法庭进行的刑事诉讼程序中偿还的或提出作为证据的任何财产，将迅速而自然地腐烂，则法庭可在该诉讼程序的任何阶段，或在该诉讼程序最终财产处置决定后的任何时间，命令将其出售或以其他方式处理，但应保留出售的收益，在诉讼程序最终财产处置决定后 12 个月内，或在有人提出上诉时，没有人对该财产主张其权利，则应将此类收益作为一般收入支付给共和国。

(3) Notwithstanding the provisions of subsection (1), the court may, if it is satisfied that it would be just and equitable so to do, order that anything tendered, or put in evidence in criminal proceedings before it should be returned at any stage of the proceedings or at any time after the final disposal of such proceedings to the person who appears to be entitled thereto, subject to such conditions as the court may see fit to impose.

(4) 尽管有第（1）款的规定，法院如认为这样做是公平公正的，可命令在刑事诉讼程序中偿还的任何财产或在刑事诉讼程序中提出作为证据的任何财产，应在诉讼程序的任何阶段或在最终争议解决后的任何时间归还给享有财产权利的人，但应受法院认为适合施加的条件规限。

(4) Any order of a court made under the provisions of subsection (1) or (2) shall be final and shall operate as a bar to any claim by or of any interest in the thing by virtue of any title arising prior to the date of the order.

(4) 法院根据第（1）或（2）款作出的任何命令，即为最终命令，并应根据该命令禁止任何依据在做出命令的日期之前产生的物权对某物的权益主张权利，或禁止任何依据在做出命令的日期之前产生的对某物的权益主张物权。

(5) Where an order is made under this section in a case in which an appeal has been lodged the order shall not (except when the property is livestock or is subject to speedy and natural decay) be carried out until the period allowed for lodging an appeal has elapsed or, when an appeal is lodged, until the appeal has been disposed of.

(5) 凡在某案件中根据本条作出命令，而就该案提出了上诉，则该命令不得执行（除非该财产是家畜或会迅速而自然地腐烂），直至允许提出上诉的期限届满为止，已经提出上诉的，则直至上诉解决。

(6) In this section the term “property” includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party but also any property into or for which it has been converted or exchanged and anything acquired by such conversion or exchange whether immediate or otherwise.

(6) 在本条中，任何提及“财产”的，包括在财产涉及发生犯罪的情况下，最初由任何一方占有或控制的财产，还包括已转换或交换的财产，以及通过这种转换或交换而取得的任何财产，无论是立即获得还是延迟获得的；

354.-(1) On a conviction in respect of any obscene or defamatory publication, the court may order destruction of all the copies of the thing in respect of which the conviction was had and which are in the custody of the court or remain in the possession or power of the person convicted.

第三百五十四条【处置淫秽、诽谤性刊物或有毒、掺假食物等】

(1) 一旦就任何淫秽性或诽谤性刊物定罪，法庭可命令将定罪所关乎的、由法庭保管或仍由被定罪人管有或在其控制下的所有该物品毁灭。

(2) The Court may in like manner on a conviction in respect of any noxious or adulterated food, drink, drug or medical preparation order the thing in respect of which the conviction was had to be destroyed

(2) 法院一经定罪，可将与定罪有关的任何有毒或掺假的食物、饮料、药物或医疗制剂，应当命令以类似的方式销毁。

355.-(1) Where any person is convicted of any offence attended by criminal force and it appears to the court that by such force any person has been dispossessed of any movable property the court may, if it thinks fit, order that the property be restored to the possession of that other person.

第三百五十五条【将财产归还给被剥夺动产者】

(1) 凡某人被判犯有暴力犯罪，而法院认为有人因该罪行而被剥夺任何动产，

则法院如认为适当，可命令将该财产归还给被剥夺动产的人管有。

(2) No order made under subsection (1) shall prejudice any right or interest in the movable property which any person may be able to establish in a civil suit.

(2) 根据第(1)款作出的命令，不得损害任何人可在民事诉讼中确立的动产权利或权益。

356.-(1) No public officer having any duty connected with the sale of any property under this Act shall, directly or indirectly, purchase or bid for that property.

**第三百五十六条【禁止公职人员购买或竞购出售的财产】**

(1) 任何公职人员不得直接或间接购买或竞购与本法项下任何财产出售相关的任何财产。

(2) A public officer who, contrary to subsection (1), purchases or bids for any property is guilty of an offence and liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a period of two years or both.

(2) 公职人员违反第(1)款的规定，购买或竞买任何财产，即属犯罪，可处不超过五十万先令的罚款或监禁两年或二者兼有。

357. Where, upon the apprehension of a person charged with an offence, any property is taken from him, the court before which he is charged may order—

(a) that the property or part thereof be restored to the person who appears to the court to be entitled thereto and, if he is the person charged, that it be restored either to him or to such other person as he may direct; or

(b) if the property belongs to him, that the property or part thereof be applied to the payment of any fine or any costs or compensation directed to be paid by the person charged.

**第三百五十七条【从被告人身上发现的财产】**

当某人被控犯有某项罪行且被逮捕时，从该人身上取得任何财产，处理该指控的法庭可命令—

(a) 将该财产或其部分归还给该法庭觉得有权享有该全部或部分财产的人，如果此人是被指控的人，则应将该全部或部分财产归还给他或他指示的其它人；  
或



(b) 如该财产属于他，则应将该财产或其部分用以支付任何罚款或按指示由被告人支付的任何费用或补偿。

358.-(1) If any person guilty of an offence mentioned in Chapters XXVII to XXXII of the Penal Code, involving stealing, taking, obtaining, extorting, converting, or disposing of, or knowingly receiving any property, is prosecuted to conviction by or on behalf of the owner of such property, the property shall be restored to the owner or his representative.

第三百五十八条【被盗财产】

(1) 如果任何犯有《刑法》第二十七章至第三十二章所述罪行的人，涉及盗窃、夺取、占有、敲诈、挪用或处置或明知而收受任何财产，而被该财产的所有人或其代理人起诉而定罪，则该财产应归还给所有人或其诉讼代理人。

(2) In every case referred to in this section the court before which an offender is convicted shall have power to award from time to time writs of restitution for the property or to order its restitution in a summary manner, save that—

(2) 在本条所述的任何案件中，某人被定罪时，法院有权随时做出返还原物判决命令或以简易方式下令返还原物，除 -

(a) where goods, as defined in the Sale of Goods Act, have been obtained by fraud or other wrongful means not amounting to stealing, the property in such goods shall not revert in the person who was the owner of the goods or his personal representative by reason only of the conviction of the offender; and

(a) 根据《货物销售法》所界定的货物，如果是以欺诈或其他不构成偷窃的不当手段取得的，则该货物的所有权不得仅因犯罪者被定罪而给予该货物的所有人或其遗产代理人；以及

(b) nothing in this section shall apply to the case of any valuable security which has been in good faith paid or discharged by some person liable to the payment thereof or which being a negotiable instrument, has been in good faith taken or received by transfer or delivery by some person for just and valuable consideration without any notice or without reasonable cause to suspect that the same has been stolen.

(b) 本条不适用于任何有价证券，而该有价证券是指由负有支付该有价证券

的法律责任的人善意支付或履行的，或该有价证券是可转让票据，已善意地由某人以公正和有价值的对价以转让或交付的方式取得或收到且没有任何通知或合理的理由怀疑该票据被盗。

(3) On the restitution of any stolen property if it appears to the court by the evidence that the offender has sold the stolen property to any person and that such other person has had no knowledge that the same was stolen, and that money has been found in possession of and taken from the offender on his apprehension the court may, on application of the purchaser, order that out of that money a sum not exceeding the amount of the proceeds of the sale be delivered to the purchaser.

(3) 在将任何被盗财产返还原物时，如法院认为有证据显示，罪犯已将赃物出售给任何人，而另一人并不知道赃物是盗窃所得，并在罪犯的财产中发现了那笔钱且在罪犯被逮捕后被收走，则法院可应购买人的申请，命令从该笔款项中，将不超过出售所得获利交付购买人。

(4) The operation of any order under this section shall, unless the court before which conviction takes place directs to the contrary in any case in which the title to the property is not in dispute, be suspended—

(4) 除非在任何案件中进行定罪的法院有相反的指示且在该案件中，财产的所有权没有争议，否则应暂停实施根据本条做出的任何命令 -

(a) in any case, until the time for appeal has elapsed; and

(a) 在任何情况下，直至允许提出上诉的期限届满为止；及

(b) in any case where an appeal is lodged, until the determination of the appeal and, in cases

where the operation of the order is suspended, until the determination of the appeal the order shall not take effect as to property in question if the conviction is quashed on appeal. The High Court may make provision by rules for securing the safe custody of any property, pending the suspension of the operation of any such order.

(b) 在任何情况下，如有上诉提出，则直至上诉获裁定为止，而在该命令暂停实施的情况下，直至上诉获裁定为止，如上诉撤销定罪，则该命令对有关财产无效。高等法院可依法作出规定，在任何该等命令暂停实施前，确保安全保管任

何财产。

(5) Any person aggrieved by an order made under this section may appeal to the High Court and upon the hearing of the appeal the court may, by order annul or vary any order made on a trial for the restitution of any property to any person, although the conviction is not quashed; and the order, if annulled, shall not take effect and, if varied, shall take effect as so varied.

(5) 任何人如因根据本条做出的命令而受到损害，可向高等法院提出上诉，而在上诉的审理中，法院可通过命令取消或更改在审讯中做出的将任何财产归还任何人的命令，尽管该项定罪并未被推翻；而该命令如被取消，则该命令不得生效，如有变更，应按变更生效。

359.-(1) Save as hereinafter provided, any person aggrieved by any finding, sentence or order made or passed by a subordinate court other than a subordinate court exercising its extended powers by virtue of an order made under section 173 of this Act may appeal to the High Court and the subordinate court shall at the time when such finding, sentence or order is made or passed, inform that person of the period of time within which, if he wishes to appeal, he is required to give notice of his intention to appeal and to lodge his petition of appeal.

#### 第三百五十九条【上诉至高等法院】

(1) 除下文另有规定外，任何人如因下级法院（根据本法第一百七十三条作出的命令行使其扩展权力的下级法院除外）做出或通过的任何裁决、判决或命令而受到损害，可向高等法院提出上诉，下级法院在做出或通过该等裁决、判决或命令时，均须告知该人如欲上诉，应于规定的期间内发出上诉意向通知及递交上诉状。

(2) Any appeal to the High Court may be on a matter of fact as well as on a matter of law.

(2) 向高等法院提出的上诉，可以是事实上的，也可以是法律上的。

#### 第三百六十条【已认罪者禁止上诉】

(1) No appeal shall be allowed in the case of any accused person who has pleaded guilty and has been convicted on such plea by a subordinate court except as to the

extent or legality of the sentence.

(1) 除非判决的程度或合法性外，不得就任何已认罪并已由下级法院就该认罪而定罪的被告人提出上诉。

(2) Except with the leave of the High Court, no appeal shall be allowed in cases in which a subordinate court has passed a sentence of a fine not exceeding one thousand shillings only, or of corporal punishment only imposed on a person under sixteen years of age, or from a sentence of imprisonment in default of the payment of a fine if no substantive sentence of imprisonment has been passed.

(2) 除经高等法院许可外，凡下级法院仅判处不超过一千先令的罚款，或只对未满十六岁的人判处体罚，或对未缴纳罚款的人判处监禁，如果没有通过其他实质性监禁判决则不得上诉。

(3) No sentence which would not otherwise be liable to appeal shall be appealable on the ground that the person convicted is ordered to find security to keep the peace.

(3) 对于不得上诉的判决，不得以被定罪人被命令寻求安全以维持治安为由上诉。

361.-(1) Subject to subsection (2), no appeal from any finding, sentence or order referred to in section 359 shall be entertained unless the appellant—

### 第三百六十一条【上诉的限制】

(1) 除第(2)款另有规定外，对第三百五十九条所述的任何裁决、判决或命令的上诉不得受理，除非上诉人 -

(a) has given notice of his intention to appeal within ten days from the date of the finding, sentence or order or, in the case of a sentence of corporal punishment only, within three days of the date of such sentence; and

(a) 自裁决、判决或命令之日起十日内，或者仅适用体罚的，自判决之日起三日内，发出上诉意向通知；

(b) has lodged his petition of appeal within forty-five days from the date of the finding, sentence or order,

(b) 自裁决、判决或命令之日起四十五日内提交上诉状，

(c) save that in computing the period of forty-five days the time required for



obtaining a copy of the proceedings, judgment or order appealed against shall be excluded.

(c) 但在计算四十五天期间时，不包括取得上诉所针对的法律程序、判决或命令副本所需的时间。

(2) The High Court may, for good cause, admit an appeal notwithstanding that the period of limitation prescribed in this section has elapsed.

(2) 即使本条所订明的时效期间已过，高等法院仍可基于恰当的理由接纳上诉。

362.-(1) Every appeal shall be made in the form of a petition in writing presented by the appellant or his advocate, and every petition shall, unless the High Court otherwise directs, be accompanied by a copy of the proceedings judgment or order appealed against.

#### 第三百六十二条【上诉状】

(1) 每宗上诉均须以上诉人或其代理人以书面申请的形式提出，除非高等法院另有指示，否则每份上诉状均应附有上诉所针对的法律程序、判决或命令的副本。

(2) The petition shall contain particulars of the matters of law or of fact in regard to which the subordinate court appealed from is alleged to have erred.

(2) 上诉状应载有指称下级法院有错误而提出上诉的相关法律问题或事实问题的详情。

363. If the appellant is in prison, he may present his petition of appeal and the copies accompanying the same to the officer in charge of the prison, who shall thereupon forward the petition and copies to the Registrar of the High Court.

#### 第三百六十三条【服刑人员的上诉】

上诉人如在监狱内，可向监狱主管提交上诉状及附同上诉状的副本，而监狱主管应随即将上诉状及副本送交高等法院司法常务官。

364.-(1) On receiving the petition and copy required by section 362, the High Court shall peruse them and—

#### 第三百六十四条【驳回上诉】



(1) 高等法院收到第三百六十二条所要求的上诉状和副本后, 应仔细阅读, 并 -

(a) if the appeal is against sentence and is brought on the grounds that the sentence is excessive and it appears to the court that there is no material in the circumstances of the case which could lead it to consider that the sentence ought to be reduced;

(a) 如果上诉是针对判决的, 并且是基于判决过重的理由提出的, 并且法院根据案件的情况认为没有任何材料表明应当减刑的;

(b) if the appeal is against conviction and the court considers that the evidence before the lower court leaves no reasonable doubt as to the accused's guilt and that the appeal is frivolous or is without substance; or

(b) 如果上诉是反对定罪的, 而法院认为在下级法院席前的证据可对被告的罪行的排除合理怀疑, 且上诉是轻率的或无实质内容的; 或

(c) if the appeal is against conviction and the sentence and the court considers that the evidence before the lower court leaves no reasonable doubt as to the accused's guilt and that the appeal is frivolous or is without substance and that there is no material in the judgment for which the sentence ought to be reduced, the court may forthwith summarily reject the appeal by an order certifying that upon perusing the record, the court is satisfied that the appeal has been lodged without any sufficient ground of complaint.

(c) 如果上诉是反对定罪和判刑的, 并且法院认为在下级法院审理的证据可对被告的罪行排除合理怀疑, 上诉是轻率的或无实质内容的, 并且判决中没有任何材料表明应当减刑的, 则法院认为法院可随即通过命令, 证明经仔细阅读有关记录后, 信纳该项上诉是在没有任何充分的上诉理由的情况下提出的, 可立即驳回该项上诉。

(2) Notice of any order made under the provisions of this section shall be forthwith given to the Director of Public Prosecutions.

(2) 根据本条作出的任何命令的通知, 应随即发给检察长。

365.-(1) If the High Court does not dismiss the appeal summarily, it shall cause notice to be given to the appellant or his advocate, and to the Director of Public Prosecutions, of the time and place at which the appeal will be heard and shall furnish

the Director of Public Prosecutions with a copy of the proceedings and of the grounds of appeal; save that notice need not be given to the appellant or his advocate if it has been stated in the petition of appeal that the appellant does not wish to be present and does not intend to engage an advocate to represent him at the hearing of the appeal.

**第三百六十五条【审讯时间与地点的通知】**

(1) 高等法院没有立即驳回上诉，应安排将上诉的审理时间及地点通知上诉人或其代理人及检察长，并须向检察长提交一份法律程序及上诉理由的副本；但如上诉状已述明上诉人不愿意出席，亦不打算聘用一名代理人代表上诉人出席上诉审讯，则无须向上诉人或其辩护人发出通知。

(2) Where notice of time, place of hearing cannot be served on any person because he cannot be found through the address obtained from him by the court under section 228 or 275, the notice shall be brought to his attention in the manner prescribed by section 381.

(2) 凡无法通过法院根据第两百二十八或两百七十五条向任何人取得的地址找到该人因而无法向该人送达审讯时间、地点的通知，则该通知应按第三百八十一条订明的方式提请该人注意。

366.-(1) At the hearing of the appeal, the appellant or his advocate may address the court in support of the particulars set out in the petition of appeal and the public prosecutor, if he appears, may then address the court and thereafter, the court may invite the appellant or his advocate to reply upon any matters of law or of fact raised by the public prosecutor in his address and the court may then, if it considers there is no sufficient ground for interfering, dismiss the appeal or may-

**第三百六十六条【高等法院审理上诉案件的权力与上诉人出庭的权利】**

(1) 在上诉的审讯中，上诉人或其代理人可向法院陈词，以支持上诉状所载的详情，而公诉人如出庭，则可向法院陈词，其后，法院可邀请上诉人或其代理人就任何公诉人在其发言中提出的法律或事实事项进行反驳答辩，法院如认为没有充分理由加以干涉，可驳回上诉，或 -

*(a) in an appeal from a conviction—**(a) 在对定罪的上訴中——*

(i) reverse the finding and sentence and acquit the accused or discharge him under section 38 of the Penal Code or order him to be re-tried by a court of competent jurisdiction or direct the subordinate court to hold committal proceedings;

(i) 撤銷判決和量刑，宣布被告無罪，或根據《刑法》第三十八條將其釋放，或命令有管轄權的法院對其重新審判，或指示下級法院進行初級偵訊；

(ii) alter the finding, maintaining the sentence or, with or without altering the finding, reduce or increase the sentence; or

(ii) 改變判決結果、維持量刑，或者在改變或不改變判決結果的情況下減輕或加重量刑；或

(iii) with or without such reduction or increase of sentence and with or without altering the finding, alter the nature of the sentence;

(iii) 在有或沒有減刑或增刑、有或沒有改變判決結果的情況下改變量刑的性質；

(b) in an appeal against sentence, increase or reduce the sentence or alter the nature of the sentence;

(b) 在就量刑提起的上訴中，增加或減少量刑，或者改變量刑的性質；

(c) in an appeal from any other order, alter or reverse such order and, in any such case, may make any amendment or any consequential or incidental order that may appear just and proper.

(c) 在就任何其它命令提出的上訴中，更改或推翻該命令，且在任何該等情況下，可做出任何法庭認為公正及適當的修改或任何間接的或附帶的命令。

(2) An appellant, whether in custody or not, shall be entitled to be present at the hearing of his appeal.

(2) 上訴人不論是否在押，均有权出席其上訴的審訊。

(3) The right of an appellant who is in custody to be present at the hearing of the appeal shall be subject to his paying all expenses incidental to his transfer to and from

the place where the court sits for the determination of the appeal; save that the court may direct that the appellant be brought before the court in any case in which, in the opinion of the court, his presence is desirable for the due determination of the appeal, in which case such expenses shall be defrayed by the Government.

(3) 被羁押的上诉人有权出席上诉的审讯，前提是上诉人本人支付因将他送往法院所在地以裁定上诉并接回而附带的一切开支；但如果法院认为上诉人的出席对上诉的判决是必要的，可指示要求上诉人出席任何案件，则该等开支应由政府支付。

(4) Nothing in this section shall be construed as precluding the court from inflicting a greater punishment than the punishment which might have been inflicted by the court which imposed the sentence.

(4) 本条不得解释为阻止法院施加比判处刑罚的法院可能施加的刑罚更重的刑罚。

367.-(1) When a case is decided on appeal by the High Court, it shall certify its judgment or order to the court by which the conviction, sentence or order appealed against was recorded or passed.

**第三百六十七条【高等法院核证下级法院判决的命令】**

(1) 高等法院对上诉案件作出判决时，应向记录或通过上诉所针对的定罪、判决或命令的法院核证其判决或命令。

(2) The court to which the High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the High Court and, if necessary, the records shall be amended accordingly.

(2) 接受高等法院证明其判决或命令的法院须随即作出符合高等法院判决或命令的命令，如有必要，该等记录应据此修订。

368.-(1) After the entering of an appeal by a person entitled to appeal, the High Court or the subordinate court which convicted or sentenced such person may, for reasonable cause to be recorded by it in writing—

**第三百六十八条【中止执行判决与上诉期间的假释】**

(1) 有权上诉的人提出上诉后，对该人定罪或判刑的高等法院或下级法院可

基于合理理由，以书面形式记录 -

(a) in the case of a person sentenced to a term of imprisonment, order-

(a) 对于被判处有期徒刑的人，命令 -

(i) that such person be released on bail with or without sureties pending the hearing of his appeal; or

(i) 在上诉审讯待决前，无论是否有担保，该人均获保释；或

(ii) that the execution of the sentence appealed against be suspended pending the hearing of his appeal in which case he shall be treated as a remand prisoner pending the hearing of his appeal; and

(ii) 在上诉审讯待决前暂停执行上诉所针对的刑罚，在此情况下，在上诉审讯待决前，他应被视为还押囚犯；及

(b) in any other case, order that the execution of the sentence or order appealed against be suspended pending the hearing of his appeal.

(b) 在任何其他情况下，命令暂停执行上诉所针对的判决或命令，等待上诉的审理。

(2) If the appeal is ultimately dismissed and the original sentence (being a sentence of imprisonment) is confirmed or some other sentence of imprisonment substituted therefor, the time during which the appellant has been released on bail or during which the sentence has been suspended shall be excluded in computing the term of imprisonment to which he is finally sentenced.

(2) 上诉最终被驳回，原判（有期徒刑）确定或者以其他有期徒刑代替的，上诉人已通过保释或缓刑被释放的时间，不应计算在他最终被判刑的刑期内。

369.-(1) In dealing with an appeal from a subordinate court, the High Court if it thinks additional evidence is necessary, shall record its reasons and may either take such evidence itself or direct it to be taken by a subordinate court.

第三百六十九条【补充证据】

(1) 高等法院审理下级法院的上诉，认为需要补充证据的，应当记明理由，可以自行录取，也可以指示下级法院录取。

(2) When the additional evidence is taken by a subordinate court, that court shall



certify the evidence to the High Court which shall thereupon proceed to dispose of the appeal.

(2) 下级法院录取补充证据时，应当向高等法院核证证据，高等法院应随即着手处理上诉。

(3) Unless the High Court otherwise directs, the appellant or his advocate shall be present when the additional evidence is taken.

(3) 除高等法院另有指示外，上诉人或其代理人在录取补充证据时，须在场。

(4) Evidence taken in pursuance of this section shall be taken as if it were evidence taken at a trial before a subordinate court.

(4) 依据本条取得的证据，应视作是在下级法院进行的审讯中取得的证据一样而取得。

370.-(1) Appeals from subordinate courts shall be heard by one judge of the High Court except when in any particular case the Chief Justice directs that an appeal be heard by two or more judges of the High Court and such direction shall be given before the hearing of the appeal or at any time before judgment is delivered.

#### 第三百七十条【审理上诉案件的法官人数】

(1) 从下级法院提出的上诉，应由高等法院一名法官审理，但在任何特殊案件中，首席法官指示由两名或两名以上的高等法院法官审理上诉，而该项指示应在上诉的审讯前或在判决作出前的任何时间内做出指示。

(2) If on the hearing of an appeal the High Court is equally divided in opinion the appeal shall be dismissed.

(2) 高等法院在审理上诉时，如意见均等，应驳回上诉。

371.-(1) An appeal may be withdrawn at any time before hearing by a written notice to the Registrar signed by the appellant or his advocate, and upon that notice being given the appeal shall be marked withdrawn.

#### 第三百七十一条【撤回上诉】

(1) 上诉可在审讯前的任何时间，藉一份由上诉人或其代理人签署的向司法常务官发出的书面通知而撤回，而该通知一经发出，上诉即应标明撤回。

(2) When any appeal is withdrawn, the Registrar shall forthwith notify the

respondent and the subordinate court in which that case originated.

(2) 当任何上诉被撤回时，司法常务官应立即通知被上诉人及该案对应的下级法院。

(3) An appeal which has been withdrawn may be restored by leave of the court on the application of the appellant if the court is satisfied that there are sufficient reasons that the appeal be heard.

(3) 已被撤回的上诉，如法院信纳有充分理由审讯该上诉，可应上诉人的申请，经法庭许可而恢复。

371A. Every appeal from a subordinate court (except an appeal from a sentence of fine) shall abate on the death of the appellant.

**第三百七十一 A 条【上诉案件因上诉人死亡而终止】**

从下级法院提出的每项上诉（就罚款判决提出的上诉除外），应在上诉人死亡时终止。

372. The High Court may call for and examine the record of any criminal proceedings before any subordinate court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of any subordinate court.

**第三百七十二 条【高等法院要求查阅庭审记录的权力】**

高等法院可要求和审查在任何下级法院进行的任何刑事诉讼的记录，目的是确保记录或通过的任何裁决、判决或命令的正确性、合法性或适当性，以及任何下级法院任何程序的合法性。

373.-(1) In the case of any proceedings in a subordinate court, the record of which has been called for or which has been reported for orders or which otherwise comes to its knowledge, the High Court may—

**第三百七十三条【高等法院改判的权力】**

(1) 在下级法院进行的任何诉讼中，高等法院如果已要求诉讼记录或已接获对诉讼情况的报告以请求命令或据其所知，可以 -

(a) in the case of conviction, exercise any of the powers conferred on it as a court of appeal by sections 366, 368 and 369 and may enhance the sentence; or

(a) 在定罪的情况下，行使第三百六十六、三百六十八及三百六十九条授予上诉法庭的任何权力，并可加重刑罚；或

(b) in the case of any other order other than an order of acquittal, alter or reverse such order, save that for the purposes of this paragraph a special finding under subsection (1) of section 219 of this Act shall be deemed not to be an order of acquittal.

(b) 改变或推翻除判决无罪以外的任何其他命令，但就本段而言，根据本法第两百一十九条第(1)款作出的特别裁决不得视为无罪判决。

(2) No order under this section shall be made to the prejudice of an accused person unless he has had an opportunity of being heard either personally or by an advocate in his own defence; save that an order reversing an order of a magistrate made under section 129 shall be deemed not to have been made to the prejudice of an accused person within the meaning of this subsection.

(2) 除非被告人有机会由本人或其辩护人为自己辩护，否则不得根据本条作出损害被告人的命令；但做出推翻治安法官根据第一百二十九条作出的命令的命令，应视作没有本款意义上对被告人的损害。

(3) Where the sentence dealt with under this section has been passed by a subordinate court, except if the matter involved a sexual offence, the High Court shall not inflict a greater punishment for the offence, which in the opinion of the High Court the accused has committed, than might have been inflicted by the court which imposed the sentence.

(3) 凡下级法院已通过的判决根据本条进行处理，除非该事项涉及性犯罪，高等法院认为应对被告人的罪行所加重的刑罚，不得超过判处该刑罚的法院所可能加重的刑罚。

(4) Nothing in this section shall be deemed to preclude the High Court converting a finding of acquittal into one of conviction where it deems necessary so to do in the interests of justice.

(4) 高等法院认为为司法公正而有必要的，本条不得视为阻止高等法院将无罪判决转为有罪判决。

(5) Where the High Court revises the record of proceedings in a subordinate court



involving a sexual offence, it may if it considers that the justice of the case so requires inflict a punishment greater than that which the convicting court might have imposed but which the High Court could impose if the matter were to come to it on appeal as if the matter were in fact on appeal.

(5) 凡高等法院修正在下级法院进行的涉及性罪行的法律程序记录，高等法院如认为为维持本案的公正，可判处比定罪法庭本可判处的刑罚更重的刑罚，但如果该事项是在上诉时提交高等法院的，则可视作事实上已经上诉并判处更重的刑罚。

(6) In this section the term “sexual offence” means any of the offences created in Chapter XV of the Penal Code.

(6) 在本节中，“性犯罪”一词是指《刑法》第十五章规定的任何犯罪。

374. No party has any right to be heard either personally or by advocate before the High Court when exercising its power of revision; save that the Court may, if it thinks fit when exercising such powers, hear any party either personally or by advocate, and that nothing in this section shall be deemed to affect subsection (2) of section 373.

第三百七十四条【法院针对听审当事人的自由裁量权】

高等法院行使修正权时，任何一方的本人或其代理人均无权要求参加审理；但高等法院在行使该权利时认为合适可审理任何一方的本人或其代理人，且本条的任何规定均不得对第三百七十三条第(2)款有影响。

375. All proceedings of the High Court in the exercise of its revisional jurisdiction may be heard and any judgment or order thereon may be made or passed by one judge: Provided that when the court is composed of more than one judge and is equally divided in opinion, the sentence or order of the subordinate court shall be upheld.

第三百七十五条【改判法官的人数】

高等法院行使其修正管辖权而进行的一切法律程序，均可由一名法官进行审理，并可就该等法律程序而做出或通过任何判决或命令：但如法庭由多名法官组成，意见一致的，维持下级法院的判决或者裁定。

376. When a case is revised by the High Court it shall certify its decision or order to the court by which the sentence or order so revised was recorded or passed, and the

court to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision certified and, if necessary, the record shall be amended in accordance therewith.

**第三百七十六条【高等法院核证下级法院判决】**

高等法院修正案件时，应向记录或做出该判决或命令的法院核证其（高等法院的）判决或命令，而获如此核证的法院应随即作出与经核证的判决相符的命令，且如有必要，应当按照规定对记录进行修改。

377. In the following section of this Part unless the context otherwise requires—“Director of Public Prosecutions” includes any officer subordinate to him acting in accordance with his general or special instructions; “respondent” means the person who was the accused in the proceedings to which the appeal under section 378 relates and who may be affected by any order of the High Court on such appeal.

**第三百七十七条【解释】**

除文意另有所指外，在本部分以下各条中 - “检察长” 包括任何按照其一般指示或特别指示行事的下属人员；“被上诉人” 指在根据第三百七十八条提出的上诉所关乎的（原）法律程序中的被告人，而该人可能受到高等法院就该上诉做出的任何命令的影响。

378.-(1) Where the Director of Public Prosecutions is dissatisfied with an acquittal, finding, sentence or order made or passed by a subordinate court, other than a subordinate court exercising its extended powers by virtue of an order made under section 173 of this Act, he may appeal to the High Court.

**第三百七十八条【检察长提起上诉】**

(1) 检察长如对下级法院（根据本法第一百七十三条作出的命令行使其扩展权力的下级法院除外）作出或通过的无罪判决、裁决、判决或命令不满，可向高等法院上诉。

(2) An appeal to the High Court under this section may be on a matter of fact as well as on a matter of law.

(2) 根据本条向高等法院提出的上诉，可以是事实上的，也可以是法律上的。

379.-(1) Subject to subsection (2), no appeal under section 378 shall be entertained

unless the Director of Public Prosecutions or any person acting under his instructions in terms of sections 22 and 23 of the National Prosecutions Service Act—

### 第三百七十九条【提起上诉的限制】

(1) 除第(2)款另有规定外，根据第三百七十八条提出的上诉不得受理，除非检察长或根据其指示行事的任何人，根据《国家检控服务法》第二十二和二十三条-

(a) has given notice of his intention to appeal to the subordinate court within thirty days of the acquittal, finding, sentence or order against which he wishes to appeal and the notice of appeal shall institute the appeal; and

(a) 在其上诉所针对的无罪判决、裁决、判决或命令作出后三十日内，已将其上诉意向通知下级法院，上诉通知应（视为已经）提起上诉；

(b) has lodged his petition of appeal within forty-five days from the date of such acquittal, finding, sentence or order; save that in computing the said period of forty-five days the time requisite for obtaining a copy of the proceedings, judgment or order appealed against or of the record of proceedings in the case shall be excluded.

(b) 已于上述无罪、裁决、判决或命令之日起四十五天内提出上诉状；但在计算四十五天期间时，不包括取得上诉所针对的法律程序、判决或命令副本所需的时间。

(2) The High Court may, for good cause, admit an appeal notwithstanding that the periods of limitation prescribed in this section have elapsed.

(2) 即使本条所订明的时效期间已过，高等法院仍可基于恰当的理由接纳上诉。

380.-(1) Every appeal under section 378 shall be made in the form of a petition in writing presented by the Director of Public Prosecutions and shall, unless the High Court otherwise directs, be accompanied by a copy of the proceedings, judgment or order appealed against.

### 第三百八十条【上诉状】

(1) 根据第三百七十八条提出的每项上诉，均应以检察长提出的书面请愿书的形式提出，除非高等法院另有指示，并须附有上诉所针对的法律程序、判决或命令的副本。

(2) The petition shall contain particulars of the matters of law or fact in regard to



which the subordinate court appealed from is alleged to have erred.

(2) 上诉状应载有指称下级法院有错误而提出上诉的相关法律问题或事实问题的详情。

381.-(1) Where a petition of appeal is lodged with the High Court in accordance with the provisions of section 380 the High Court shall cause notice to be given to the respondent or to his advocate, and every such notice shall state the time and place at which the appeal will be heard and shall be accompanied by a copy of the petition of appeal and a copy of the proceedings, judgment or order appealed against.

第三百八十一条【审讯时间与地点的通知】

(1) 凡按照第三百八十条的规定向高等法院提出上诉状，高等法院应安排向被上诉人或其代理人发出通知，每份通知均须述明上诉的审理时间及地点，并应连同上诉状副本及上诉所针对的法律程序、判决或命令副本一并呈交。

(2) Where notice of time, place and hearing cannot be served on the respondent because he cannot be found through the address obtained by the court under section 228 and 275 the notice shall be brought to his attention through publication in a newspaper three times, and at the end of that service the court shall proceed with the appeal in the absence of the respondent.

(2) 如因无法通过法院根据第二百二十八及二百七十五条取得的地址找到被上诉人，因此无法将时间、地点及审讯通知送达被上诉人，则该通知应在报纸刊登三次以引起被上诉人注意，在该项送达结束时，法院应在被上诉人缺席的情况下继续进行上诉程序。

382.-(1) At the hearing of an appeal under section 378 the Director of Public Prosecutions may address the court in support of the particulars set out in the petition of appeal and the respondent or his advocate may then address the court and thereafter the court may invite the Director of Public Prosecutions to reply upon any matter of law or fact raised by the respondent or his advocate and the court may then, if it considers there is not sufficient ground for interfering, dismiss the appeal or may—

第三百八十二条【检察长向法院提议】

(1) 在根据第三百七十八条进行的上诉的审讯中，检察长可向法院发言，以

支持上诉状所列的详情，而被上诉人或其代理人则可向法院发言，其后法院可邀请检察长就被上诉人或其代理人提出的任何法律或事实问题应予以答复，法院如认为没有充分理由进行干预，可驳回上诉，或 -

(a) in an appeal from acquittal-

(a) 在对无罪判决的上诉中

(i) reverse the finding, convict the respondent of the offence with which he could have been convicted by the subordinate court, and either proceed to sentence him or remit the case to the subordinate court for passing the sentence;

(i) 推翻判决，将被告人定罪，判他本可被下级法院定罪的罪行成立，并继续对被告人判处刑罚或将案件转交下级法院判处刑罚；

(ii) order the respondent to be tried by a court of competent jurisdiction; or

(ii) 命令有管辖权的法院对被告进行审判；或

(iii) direct the subordinate court to hold committal proceedings;

(iii) 指示下级法院进行交付审判程序；

(b) in an appeal against sentence, increase or reduce the sentence or alter the nature of the sentence; or

(b) 在对判决的上诉中，加重或减轻刑罚，或者改变量刑的性质；

(c) in an appeal from any other order, alter or reverse such order and, in any case, may make any amendment or any consequential or incidental order that may appear just and proper.

(c) 在就任何其它命令提出的上诉中，更改或推翻该命令，且在任何情况下，可做出任何法庭认为公正及适当的修改或任何间接的或附带的命令。

383.-(1) Where, on the day fixed for the hearing of an appeal under section 378 or any other date to which the hearing may be adjourned the Director of Public Prosecutions does not appear when the appeal is called on for hearing, the High Court may make an order that the appeal be dismissed.

第三百八十三条【当事人缺席】

(1) 凡在为根据第三百七十八条提出的上诉的审讯而确定日期，或在可延期审理的任何其它日期，在该项上诉进行审讯时，检察长没有出席，高等法院可作

出命令，将该项上诉驳回。

(2) Where the Director of Public Prosecutions appears and the respondent or his advocate does not appear and the High Court is satisfied that the respondent or his advocate was duly served with notice of appeal, the High Court may proceed to hear the appeal ex-parte or may adjourn the hearing to another date and give notice thereof to the respondent or his advocate.

(2) 凡检察长出庭，而被上诉人或其代理人没有出庭，而高等法院信纳被上诉人或其代理人已获妥为送达上诉通知书，高等法院可单方面进行上诉审理，或将审理延期至某日，并通知被上诉人或其代理人。

(3) When an appeal is dismissed under subsection (1) the Director of Public Prosecutions may apply to the court for the re-admission of the appeal and, where he satisfies the court that he was prevented by any sufficient cause from appearing when the appeal was called on for hearing the High Court, may re-admit the appeal.

(3) 当上诉根据第(1)款被驳回时，检察长可向法院申请重新接纳上诉，而凡检察长令法院信纳，在该项上诉进行审讯时，有任何充分的理由不能出庭，则可重新接纳上诉。

(4) Where at the hearing of an appeal the respondent does not appear personally the High Court may make an order requiring the personal attendance of the respondent and, if the respondent fails to comply with such order, may issue a warrant for the arrest and production of the respondent before the High Court on a date and time specified in the warrant.

(4) 凡在上诉的审讯中，被上诉人没有亲自出席，高等法院可作出命令，要求被上诉人亲自出席；如被上诉人没有遵从该命令，高等法院可发出逮捕令逮捕上诉人，并在逮捕令中指定的日期和时间将其带上法庭。

384.-(1) In dealing with an appeal under section 378 the High Court, if it thinks additional evidence is necessary, shall record its reasons and may either take such evidence itself or direct it to be taken by a subordinate court.

#### 第三百八十四条【补充证据】

(1) 高等法院在处理根据第三百七十八条提出的上诉时，如认为需要补充证

据，应记录其理由，并可自行录取或指示由下级法院录取。

(2) When the additional evidence is taken by a subordinate court that court shall certify the evidence to the High Court which shall thereupon proceed to dispose of the appeal.

(2) 下级法院录取补充证据时，应当向高等法院核证证据，高等法院应随即着手处理上诉。

(3) No additional evidence shall be taken under this subsection save in the presence of the respondent or his advocate and such evidence shall be taken as if it were evidence taken at a trial before a subordinate court.

(3) 除被上诉人或其代理人在场，不得根据本款录取补充证据，而该等证据应视作是在下级法院进行的审讯中取得的证据一样而取得。

385. The provisions of section 370 shall apply to appeals under section 378.

第三百八十五条【检察长提起上诉案件的法官人数】

第三百七十条适用于根据第三百七十八条提出的上诉。

386.-(1) The Director of Public Prosecutions may at any time before the hearing withdraw an appeal by a written notice to the Registrar, and upon that notice being given the appeal shall be marked withdrawn.

第三百八十六条【检察长提起上诉案件的撤诉】

(1) 检察长可在审讯前的任何时间，以书面通知司法常务官撤回上诉，而该通知一经发出，上诉即应标明撤回。

(2) When an appeal is withdrawn, the Registrar shall forthwith notify the respondent and the subordinate court in which that case originated.

(2) 当上诉被撤回时，司法常务官应立即通知被上诉人及该案对应的下级法院。

(3) An appeal withdrawn under subsection (2), may be restored by leave of the court on the application by the Director of Public Prosecutions if the court is satisfied there are sufficient reasons that the appeal be heard.

(3) 根据第(2)款撤回的上诉，如法庭信纳有充分理由审理该上诉，可应检察长的申请，经法庭许可而予以恢复。



386A. Every appeal under section 378 shall abate on the death of the respondent.

第三百八十六 A 条【上诉案件因被上诉人死亡而终止】

根据第三百七十八条提出的每项上诉，应在被上诉人死亡时终止。

387. No finding, sentence or order of any criminal court shall be set aside merely on the ground that the inquiry, trial or other proceeding in the course of which it was arrived at or passed, took place in a wrong region, district or other local area, unless it appears that such error has in fact occasioned a failure of justice.

第三百八十七条【管辖权法院错误的诉讼】

任何刑事法院的裁决、判决或命令，不得仅以该项裁决、判决或命令或其他法律程序是在错误的区域、地区或其他地方进行、通过或发生为理由而撤销，但如果该项错误事实上导致司法不公除外。

388. Subject to the provisions of section 387, no finding sentence or order made or passed by a court of competent jurisdiction shall be reversed or altered on appeal or revision on account of any error, omission or irregularity in the complaint, summons, warrant, charge, proclamation, order, judgment or in any inquiry or other proceedings under this Act; save that where on appeal or revision, the court is satisfied that such error, omission or irregularity has in fact occasioned a failure of justice, the court may order a retrial or make such other order as it may consider just and equitable.

第三百八十八条【因有管辖权法院的错误、疏忽或另案处理而被撤销的裁定或判决】

除第三百八十七条另有规定外，具有管辖权的法院做出或通过的任何裁决、判决或命令，不得因本法中规定的控告、传票、令状、指控、公告、命令、判决或任何调查或其他程序中的任何错误、遗漏或不规范而在上诉或修正时予以撤销或更改；除非在上诉或修正时，法院确信此类错误、遗漏或不规范事实上导致了司法不公，法院可以命令重审或做出其认为公正和公平的其他命令。

389. No distress made under this Act shall be deemed unlawful, nor shall a person making it be deemed a trespasser on account of any defect or want of form in the summons, conviction, warrant of distress or other proceeding relating thereto.

第三百八十九条【合法扣押与诉讼中有缺陷或缺乏形式要件的人侵者】



根据本法做出的扣押不得被视为非法，作出扣押行为的人也不得因传票、定罪、扣押令或其他相关法律程序中的任何形式上的缺陷或缺缺而被视为非法侵入者。

390.-(1) The High Court may, whenever it thinks fit, direct—

第三百九十条【签署具有人身保护法性质指示的权力】

(1) 高等法院可在其认为适当的时候，指示——

(a) that any person within the limits of Mainland Tanzania be brought up before the court to be dealt with according to law;

(a) 将在坦桑尼亚大陆范围内的任何人带到法院依法接受处理；

(b) that any person illegally or improperly detained in public or private custody within such limits be set at liberty;

(b) 将被非法或不正当地拘禁在公共或私人场所的任何人释放；

(c) that any prisoner detained in any prison situate within such limits be brought before the court to be there examined as a witness in any matter pending or to be inquired into in such court;

(c) 将任何被拘留在上述范围内的监狱的囚犯带到法院，在该法院待决事项中作为证人接受询问或审问；

(d) that any prisoner detained as aforesaid be brought before a court-martial or any commissioner acting under the authority or any commission from the President for trial or be examined touching any matter pending before such courtmartial or commissioner respectively;

(d) 将前所述被拘留的任何囚犯，带到军事法庭或任何军事法庭庭长或其授权下行使的委员席前受审，或接受上述军事法庭或庭长席就待决事宜的审理；

(e) that any prisoner within such limits be removed from one custody to another for the purpose of trial; and

(e) 将上述范围内的任何囚犯，以审讯的目的，从一个监管区转移至另一间监管区；

(f) that the body of a defendant within such limits be brought in on a return of cepi corpus to a writ of attachment.

(f) 将上述范围内的被告人拘留后将“我已逮捕被告人”的逮捕令还回。

(2) The High Court may from time to time make rules to regulate the procedure in cases under this section.

(2) 高等法院可随时订立规则，以规管本条所订的案件程序。

391. The High Court may in the exercise of its criminal jurisdiction, issue any writ which may be issued by such court.

**第三百九十一条【高等法院签署法令的权力】**

高等法院在行使刑事司法管辖权时，可由其发出任何令状。

392. Affidavits and affirmation to be used before the High Court may be sworn and affirmed before a judge of the High Court or any magistrate or the Registrar of Deputy Registrar of the High Court or any justice of the peace or commissioner for oaths.

**第三百九十二条【接受宣誓者】**

在高等法院席前使用的宣誓书及非宗教式宣誓，可在高等法院法官或任何治安法官或高等法院司法常务副官或任何太平绅士或庭长席前宣誓及确认。

393. If any person affected by any judgment or order passed in any proceedings under this Act desires to have a copy of the judgment or order or any deposition or other part of the record he shall, on applying for such copy, be furnished therewith; provided, as respects any deposition or part of the record other than the judgment or order, he pays for it unless the court for some special reason thinks fit to furnish it free of cost.

**第三百九十三条【庭审记录副本】**

如果任何人受到根据本法进行的任何诉讼中通过的任何判决或命令影响，并希望获得判决或命令或任何书面证词或记录的其他部分的副本，则在申请该副本时，应向其提供；但就任何证词或记录的一部分而言，除判决或命令外，除非法院因特殊原因认为适宜免费提供，否则他应为此支付费用。

394. Such forms as the High Court may from time to time approve, with such variations as the circumstances of each may require, may be used for the respective purposes therein mentioned and, if used, shall be sufficient.

**第三百九十四条【关于表格的规定】**

高等法院可随时批准的表格，为上述相应目的而使用，但应按情况所需进行更改，而如使用，该表格应足够。

395. Subject to any rules which may be made by the Minister, any court may order payment on the part of Government of the reasonable expenses of any assessor, complainant or witness attending before the court for the purposes of an inquiry, trial or other proceedings under this Act.

**第三百九十五条【陪审员、证人等的费用】**

根据部长可能制定的任何规则，任何法院都可以命令政府支付任何陪审员、原告或证人为本法规定的调查、审判或其他法律程序而出庭的合理费用。

396. [Repeals the Criminal Procedure Code with savings.]

**第三百九十六条【《刑事诉讼法》的废止】**

[废除《刑事诉讼法》，节省开支。]



1972 年 2 号法案；1976 年 3 号法案	附表一 (第 2,164,165 和 225 条)
A 部分 刑法中的罪行	
注释 - 本附表第 2 及 4 栏中分别以“罪行”及“刑法中的惩罚”为首的记项，并非拟用作刑法若干相应部分所述罪行及惩罚的定义，亦非拟用作该等条款的摘要，而仅作为对条款主题的索引，其编号在第 1 栏中给出。	

第五章 共同犯罪人

1	2	3	4	5
条款编号	罪行	警察是否可以在没有逮捕令的情况下逮捕	刑法规定的刑罚（注意：详见刑法第 27 和 35 条）	有权审理罪行的法院（高等法院除外）
22...	协助、教唆、怂恿或引诱犯罪	如因协助、教唆、怂恿或引诱犯罪的罪行而逮捕，可以在没有逮捕令的情况下逮捕，但不得以其他方式逮捕	与协助、教唆、怂恿或引诱犯罪的处罚相同	协助、教唆、怂恿或引诱犯罪，任何法庭均可审讯

第一部分 违反公共秩序罪  
第七章 叛国罪和其他危害共和国罪

39	叛国罪	可以在没有逮捕令的情况下逮捕	死刑	
40	叛国重罪	do.	do.	
41	包庇叛国罪	do.	终生监禁	
43	促进战争罪	do.	do.	

45	煽动兵变罪	do.	do.	
46	协助兵变罪	没有逮捕令 不得逮捕	监禁两年	下级法院
47	诱导擅离职 守罪	do.	监禁六个月	do.
48(a)	协助战俘逃 跑罪	可以在没有 逮捕令的情况 下逮捕	终生监禁	
(b)	允许战俘逃 跑罪	没有逮捕令 不得逮捕	监禁两年	do.
59	实施或宣誓 实施重罪	可以在没有 逮捕令的情况 下逮捕	终生监禁	下级法院
60	实施或做出 非法宣誓	do.	监禁七年	do.
62(1)	非法操练	do.	do.	do.
(2)	被非法操练	do.	监禁两年	
63B	以非法目的 煽动不满引起 恶意	没有逮捕令 不得逮捕	监禁 12 个月	

## 第八章 影响对外关系和外部安宁的罪行

65	接受外国征 募罪	没有逮捕令 不得逮捕	监禁两年	下级法院
66	海盗罪	可以在没有 逮捕令的情况 下逮捕	终生监禁	do.

## 第九章 非法集会、暴乱和其他危害公共安全的犯罪

74	非法集会罪	可以在没有 逮捕令的情况 下逮捕	监禁一年	下级法院
74	暴乱罪	do.	监禁两年	do.
79	公告后暴 乱罪	do.	监禁五年	do.

80	扰乱公告罪	do.	监禁五年或十年	do.
81	暴乱者损害建筑物罪	do.	终生监禁	
82	肆意干扰铁路等罪	do.	监禁七年	do.
83	公共场所持有武器罪	可以在没有逮捕令的情况下逮捕	监禁两年	下级法院
84	强行闯入罪	do.	do.	do.
86	聚众斗殴罪	do.	do.	
87	聚众滋事罪	do.	监禁两个月	do.
88	挑战决斗罪	没有逮捕令不得逮捕	监禁两年	
89(1)	辱骂及妨害秩序罪	可以在没有逮捕令的情况下逮捕	监禁六个月	do.
89(2)	暴力相威胁罪	do.	监禁一年	do.
	如果犯罪发生在晚上	do.	监禁两年	do.
89B	恐吓罪	没有逮捕令不得逮捕	监禁一年	do.
89C	劝阻他人不要协助自助计划	没有逮捕令不得逮捕	处以一千先令的罚款或监禁六个月或两者兼有	do.
90	共同走私罪	do.	监禁两年	do.

第二部分 侵犯合法权力罪  
第十章 滥用职权罪

94	公职人员履职时存在与其有利害关系的财产	没有逮捕令不得逮捕	监禁一年	下级法院
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95	公职人员虚假陈述罪	do.	监禁两年	do.
96	滥用职权罪	do.	do.	do.
	(如果以取得收益为目的)	do.	监禁三年	do.
97	公职人员出具虚假证明罪	do.	监禁两年	do.
98	未经授权宣誓罪	do.	监禁一年	do.
99	冒充权威	do.	监禁两年	do.
100	冒充公职人员	可以在没有逮捕令的情况下逮捕	do.	do.
101	以致伤威胁国家雇佣的公职人员	没有逮捕令不得逮捕	do.	do.

## 第十一章 与司法有关的罪行

103	传译员虚假陈述罪	没有逮捕令不得逮捕	刑期与伪证罪相同	下级法院
104	伪证或教唆伪证罪	do.	监禁七年	do.
106	伪造证据罪	do.	do.	do.
107	伪证罪	do.	监禁两年	do.
108	欺骗证人罪	do.	do.	do.
110	合谋破坏正义和干扰证人罪	do.	监禁五年	do.
111	包庇罪	do.	监禁两年	do.
112	惩罚性诉讼私下和解罪	do.	do.	do.
113	刊登赃物广告罪	do.	do.	do.



114(1)	藐视法庭罪	do.	监禁六个月或处罚款五万先令	do.
114(2)	藐视法庭罪 (如果是在法庭上犯的)	do.	判处四百先令罚款, 在没有交付罚款的情况下监禁一个月	do.
114A	阻止或阻碍法律程序的送达或执行	可以在没有逮捕令的情况下逮捕	监禁一年	下级法院

第十二章 解救、逃跑和妨碍法院公职人员

115	解救			
(a)	被解救的人被判处死刑、无期徒刑或者被指控犯有死刑、无期徒刑的	可以在没有逮捕令的情况下逮捕	终生监禁	
(b)	被解救的人被指控或因任何其他罪行而被监禁	do.	监禁七年	下级法院
(c)	其他情况	do.	监禁两年	do.
116	逃跑	do.	do.	do.
116A(1)	社会雇佣人员缺席	do.	监禁两年或罚款或兼有	do.
117	协助囚犯逃跑	do.	监禁七年	do.

第十三章 危害公共权力的杂项罪行

120	公职人员的欺诈和失信行为	没有逮捕令不得逮捕	监禁七年	do.
121	玩忽职守	do.	do.	do.



122	向公职人员 提供虚假信息	do.	监禁六个月 或判处一千先 令罚款	do.
123	不服从法定 义务	do.	监禁两年	do.
124	不服从合法 命令	do.	do.	do.

第三部分 一般危害公众罪  
第十四章 与宗教有关的罪行

125	侮辱任何阶 层的宗教	可以在没有 逮捕令的情况 下逮捕	监禁两年	下级法院
126	扰乱宗教集 会罪	do.	do.	do.
127	非法侵入墓 地罪	do.	do.	do.
128	妨碍埋葬尸 体等	do.	do.	do.
129	使用言语故 意伤害宗教感 情罪	没有逮捕令 不得逮捕	监禁一年	do.

第十五章 违反道德的罪行

131	强奸	可以在没有 逮捕令的情况 下逮捕	终身监禁， 有体罚或者无 体罚。	下级法院
132	强奸未遂	do.	监禁三十年 以上，有体罚 或者无体罚	do.
133	绑架	do.	监禁七年	do.
134	绑架 16 岁 以下的女孩	do.	监禁两年	do.
(3)	侮辱女性	do.	监禁一年	do.



136(1)	玷污 12 岁以下的女孩	do.	终身监禁，有体罚或者无体罚	do.
(2)	企图玷污 12 岁以下的女孩	do.	监禁十四年，有体罚或者无体罚。	do.
137	侮辱白痴或弱智	do.	do.	do.
138(1)	玷污 12 岁以下的妻子的丈夫	do	监禁五年	
(2)	父母或监护人放弃对 12 岁以下女孩的占有权，以便丈夫与其发生性关系	可以在没有逮捕令的情况下逮捕	监禁两年	下级法院
138A	人与人之间的严重猥亵行为	do.	监禁十年以上、体罚和赔偿	do.
138B	对儿童的性剥削	do.	监禁五年以上二十年以下	do.
138C	严重性虐待	do.	监禁二十年以上三十年以下	do.
138D	性骚扰	do.	监禁五年以下或者二十万先令以下罚金，或者并处罚金、监禁和赔偿金。	do.
139	卖淫嫖娼	可以在没有逮捕令的情况下逮捕	监禁十年以上二十年以下或者十万先令以上三十万先令以下罚金	do.

(3)	引诱 12 岁以下女孩，以便丈夫与其发生性关系	do	do	do
140	引诱玷污	do.	监禁十年以上二十年以下，或者处十万先令以上三十万先令以下罚金或者并处赔偿金	do
141	户主允许在其房屋内玷污 12 岁以下女孩的	do.	监禁五年	do.
142	户主允许在其房屋内玷污 16 岁以下女孩的	do.	监禁两年	do.
143	以非法目的拘留或者拘留在妓院	do.	do.	do.
145	靠卖淫或持续拉客为生的男性	do.	do.	do.
146	帮助（等）其他妇女卖淫的妇女	do.	do.	do.
148	开妓院	do.	do.	do.
149	共谋玷污	do.	监禁三年	do.
150	试图诱使堕胎	do.	监禁十四年	do.
151	妇女试图致使自身堕胎	do.	监禁七年	do.

152	为故意堕胎 提供药品或工 具	do.	监禁三年	do.	
	1	2	3	4	5
	条款编号	罪行	警察是 否可以在没 有逮捕令的 情况下逮捕	刑法规 定的刑罚(注 意: 详见刑 法第 27 和 35 条)	有权审 理罪行的法 院(高等法 院除外)
	(2)	do.	do.	终生监 禁	do.
	155	企图犯 反常罪行	do.	监禁不 少于三十年	do.
	156(1)	猥 亵 十四岁以 下的男孩	do.	终生监禁	do.
	(2)		do.	监 禁 十五年	do.
	157	男性之间 的猥亵行为	do.	监禁五年	do.
Act No.4 of 2004 sch.	158(1)(a)	男 性 参 与乱伦(如 果女方小于 十八岁)	do.	监禁不 少于三十年	下 级 法 院
	(1)(b)	男 性 参 与乱伦(如 果女方大于 等于十八岁)	do.	监禁不 少于二十年 或罚款不超 过三百先令, 或同时判处 罚款、监禁 和赔偿。	do.
	(2)	如 果 女 方小于 12 岁	do.	终生监禁	

	(3)	试图乱伦	do.	监禁两年	
Act No.4 of 2004 sch.	160	女性参与乱伦	do.	终生监禁或监禁不少于三十年和赔偿	下级法院

1	2	3	4	5
条款编号	罪行	警察是否可以在没有逮捕令的情况下逮捕	刑法规定的刑罚（注意：详见刑法第 27 和 35 条）	有权审理罪行的法院（高等法院除外）
163	欺诈性虚假结婚	可以在没有逮捕令的情况下逮捕	监禁十年	
165	不诚实的或欺诈性的进行婚礼	do.	监禁五年	
166	遗弃儿童罪	没有逮捕令不得逮捕	监禁两年	
167	忽视为儿童提供食物等	do.	do.	下级法院
169	拐带儿童罪	可以在没有逮捕令的情况下逮捕	监禁七年	do.
169A	虐待儿童罪	do.	监禁五年以上十五年以下	do.

第十七章 妨害及危害健康及方便的罪行

170	犯公害罪	没有逮捕令不得逮捕	监禁一年	下级法院
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171(3)	经营公共游乐室	do.	监禁两年	do.
(4)	在公共游乐室中被发现	do.	第一次犯罪处以一百先令的罚款，以后每次犯罪处以四百先令的罚款或三个月监禁或两者兼有	do.
172	经营或允许经营公共赌场	do.	监禁一年	do.
173B	连锁信	do.	罚款四千先令或监禁六个月或两者兼有	do.
175	贩卖淫秽出版物	可以在没有逮捕令的情况下逮捕	监禁两年或罚款两千先令	do.
176	扰乱或危害社会治安人员	do.	监禁三个月或罚款不超过五百先令或两者兼有	do.
176A	窝藏共同卖淫罪	没有逮捕令不得逮捕	第一次犯罪处以五百先令罚款，以后每次犯罪处以一千先令罚款	do.
177	流氓或游手好闲者	可以在没有逮捕令的情况下逮捕	第一次犯罪判处三个月监禁，以后每次犯罪判处一年监禁	下级法院
178(1)	未经授权穿着制服	do.	监禁一个月或罚款二百先令	下级法院
(2)	蔑视制服罪	do.	监禁三个月或罚款四百先令	do.

(3)	未经授权进口或销售制服	do.	监禁六个月或罚款两千先令	do.
179	做任何可能传播危险疾病的行为	do.	监禁两年	do.
180	拟出售的食品或饮料的掺假	没有逮捕令不得逮捕	do.	do.
181	出售、提供或展示有毒食品或饮料以供出售	do.	do.	do.
182	药品掺假后准备出售	do.	do.	do.
183	出售掺假药品	do.	do.	do.
184	污染公共泉水或水库	可以在没有逮捕令的情况下逮捕	do.	do.
185	使大气对健康有害	没有逮捕令不得逮捕	do.	do.
186	经营厌恶性的行业	do.	监禁一年	do.

第四部分 对人的犯罪  
第二十章 谋杀和非预谋杀入罪

197	谋杀	可以在没有逮捕令的情况下逮捕	死刑	
	谋杀（被定罪的女性处于怀孕期间）	do.	终生监禁	
198	非预谋杀入	do.	do.	
199	杀婴罪	do.	do.	

第二十一章 与谋杀和自杀有关的罪行

213	谋杀案的从犯	do.	监禁七年	
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214	书面威胁 谋杀	do.	do.	下级法院
215	密谋谋杀	do.	监禁十四年	
216	协助自杀	do.	终生监禁	
217	试图自杀	do.	监禁两年	下级法院
218	隐瞒婴儿的 出生	do.	do.	do.
219	堕胎	do.	终生监禁	

第二十三章 危害生命或健康的罪行

220	因犯罪而 致残	可以在没有 逮捕令的情况下 逮捕	终身监禁	
221	因重罪或轻 罪而使其昏迷	do.	终身监禁	
222	意图造成严 重伤害或阻止逮 捕的行为	do.	do.	
223	防止从沉船 中逃跑	do.	do.	
224(1)	故意危害铁 路旅客安全	do.	终身监禁	
(2)	无心危害	do.	监禁两年	下级法院
225	造成严重 伤害	do.	监禁七年	下级法院
226	企图用爆炸 性物质造成伤害	do.	监禁十四年	
227	意图造成伤 害而施毒	do.	do.	
228	伤人以及类 似行为	do.	监禁三年	下级法院
229	无法提供生 活必需品的	do.	do.	do.



## 第二十四章 鲁莽与疏忽大意犯罪

233	鲁莽并造成过失的行为	可以在没有逮捕令的情况下逮捕	监禁两年	下级法院
234	其他造成伤害的过失行为	do.	监禁六年	do.
235	处理有毒物质时疏忽大意	如无逮捕令不得逮捕	监禁六个月或罚款两千先令	do.
237	歪曲报道、标识或浮标	可以在没有逮捕令的情况下逮捕	监禁七年	下级法院
238	用不安全或超载的船舶上载客	do.	监禁两年	do.
239	在公共道路或航线上造成危险或障碍	如无逮捕令不得逮捕	罚款	do.

## 第二十五章 攻击罪

240	普通企图伤害罪	如无逮捕令不得逮捕	监禁一年	下级法院
241	袭击以致造成实际身体伤害	可以在没有逮捕令的情况下逮捕	监禁五年	do.
242	袭击保护沉船货物的人	do.	监禁七年	do.
243	各种企图伤害的行为	do.	监禁五年	do.

## 第二十六章 剥夺自由罪

247	绑架罪	可以在没有逮捕令的情况下逮捕	监禁七年	下级法院
248	绑架或诱拐以谋杀	do.	监禁十年	

249	蓄意绑架或诱拐意图某人	do.	监禁七年	下级法院
250	为使人遭受严重伤害、奴役等而绑架或诱拐	do.	监禁十年	
251	不正当的藏匿或者关押被绑架、诱拐的人	do.	与绑架或诱拐相同的惩罚	
252	蓄意绑架或诱拐十四岁以下儿童，以从其身上偷窃	do.	监禁七年	下级法院
253	对非法拘禁的惩罚	do.	监禁一年或罚款三千先令	do.
254	买卖或使任何人作为奴隶	do.	监禁七年	
255	习惯性买卖奴隶	do.	监禁十年	
256	非法强制劳动	do.	监禁两年	下级法院

第五部分 财产类犯罪  
第二十七章 盗窃罪

258	盗窃罪	可以在没有逮捕令的情况下逮捕	监禁三年	下级法院
266	偷窃遗嘱	do.	监禁十年	do.
268	偷窃某些特定动物	do.	监禁十五年	do.
269	从他人身上、他人住宅、在运输途中等情况下偷窃	do.	监禁十年	do.
270	公职人员偷窃	do.	监禁十四年	

271	职员和服务员偷窃	do.	监禁十年	do.
272	公司董事或高管偷窃	do.	监禁十四年	do.
273	代理人等偷窃	do.	监禁十年	do.
274	居住者或租住者偷窃	do.	监禁七年	do.
275	前科后偷窃	do.	监禁十四年	do.

## 第二十八章 与盗窃相关的犯罪

276	藏匿登记册	可以在没有逮捕令的情况下逮捕	监禁十年	
277	藏匿遗嘱	do.	do.	
278	藏匿契据	do.	监禁三年	
279	为了偷窃而杀害动物	do.	同偷窃动物相同惩罚	任何可以审理动物盗窃案的法庭
280	中止蓄意偷窃	do.	同该物品已被偷相同惩罚	任何可以审理盗窃案的法庭
281	欺诈性处置抵押物	do.	监禁两年	下级法院
282	欺诈性地处理矿山中的矿石或矿物	do.	监禁五年	do.
283	欺诈性挪用机械或电力资源	do.	do.	do.
284	侵占而非盗窃	do.	监禁六个月或罚款一千先令	do.
284A	雇员对政府或半官方组织造成的损失	如无逮捕令不得逮捕	罚款金额不超过五万先令或监禁两年	下级法院



第二十九章 抢劫罪与敲诈勒索罪

286	抢劫罪	可以在没有逮捕令的情况下逮捕	监禁二十年	下级法院
286	暴力抢劫	do.	终身监禁伴随或不伴随体罚	do.
287	企图抢劫	do.	监禁不少于七年不多于二十年	do.
287	企图暴力抢劫	do.	终身监禁，或监禁不少于十五年并伴随体罚	do.
288	意图盗窃而袭击	do.	监禁不少于五年不超过十四年，并伴随体罚	do.
289	以书面威胁索取财产	do.	监禁十四年	do.
290	以勒索为目的的威胁	do.	do.	do.
290	在某些特定情况下和任何其他情况下	do.	监禁三年	下级法院
291	以威胁的方式要求执行契约等	do.	监禁十四年	do.
292	以窃取为目的的威胁勒索财产	do.	监禁五年	下级法院

第三十章 入户盗窃类罪

294 (1)	破屋入户罪	可以在没有逮捕令的情况下逮捕	监禁十四年	下级法院
(2)	普通法夜盗罪	do.	监禁二十年	do.

295	侵入民宅并有犯重罪的意图	do.	监禁十年	do.
295	如犯罪行为发生在晚上	do.	监禁十四年	do.
296	闯入建筑物并犯罪	do.	监禁十年	do.
297	闯入建筑物并有犯罪意图	do.	监禁五年	do.
298	被发现携带武器等，并意图犯罪	do.	监禁五年	do.
298	如罪犯曾被判决犯与财产有关的罪行	do.	监禁十四年	do.
299	非法侵入罪	do.	监禁三个月	do.
299	如果犯罪相关的财产是用于人类住所、进行崇拜仪式的场所或财产保管场所的建筑物	do.	监禁一年	do.

## 第三十一章 诈骗罪

302	通过诈骗获取财产	可以在没有逮捕令的情况下逮捕	监禁七年	下级法院
303	通过诈骗取得证券的执行权	do.		do.
304	诈骗罪	do.	监禁三年	do.
305	通过诈骗获得信用等	do.	监禁五年	
306	串谋欺诈罪	do.	监禁五年	下级法院
307	出售或抵押财产的欺诈行为	do.	监禁五年	do.

308	假装算命	do.	监禁两年	do.
309	通过诈骗取得注册等	do.	监禁两年	do.
310	申报假护照	如无逮捕令 不得逮捕	监禁两年	

第三十二章 收受赃物或非法所得类罪

311	收受或扣留被盗或非法获得的财产	可以在没有逮捕令的情况下逮捕	监禁十年	下级法院
312	对涉嫌被盗或者非法取得的财产的占有解释不明	do.	监禁三年 下级法院	
312A (2)	非法占有政府和铁路备用品	do.	监禁两年	do.
(3)	非法占有服务备用品	do.		do.
313	接收坦桑尼亚境外被盗物品	do.	监禁七年	do.

第三十三章 基于信任的受托人和代理人的欺诈罪和伪造账目罪

314	欺诈性地处置信托财产	可以在没有逮捕令的情况下逮捕	监禁七年	下级法院
315	公司的董事和高级管理人员欺诈性地侵占财产，或开设欺诈性账户，或伪造账簿或账户	do.	监禁十四年	do.
316	公司官员的虚假陈述	do.	监禁七年	do.
317	职员或雇员欺诈性伪造账目	do.	监禁十四年	do.

318	公职人员伪造虚假账单	do.	监禁七年	do.
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第六部分 恶意侵害财产罪  
第三十四章 侵害财产罪

319	纵火罪	可以在没有逮捕令的情况下逮捕	终身监禁	下级法院
320	企图放火	do.	监禁十四年	do.
321	放火烧庄稼或正在生长的植物	do.	监禁十四年	do.
322	企图放火烧庄稼或正在生长的植物	do.	监禁七年	下级法院
323	弃船	do.	监禁十四年	
324	企图弃船	do.	监禁七年	下级法院
325	伤害动物	do.	监禁两年	do.
326 (1)	一般性的破坏或损坏财产	do.	监禁七年	do.
(2)	用炸药毁坏或损坏住宅或船只	do.	终身监禁	
(3)	毁坏或损坏河岸、墙壁、航行工程或桥梁	do.	终身监禁	
3 (c)	破坏或损坏坦赞管道或相关财产	do.		下级法院
(4)	毁坏或损坏遗嘱或登记簿	do.	监禁十四年	下级法院
(5)	毁坏或损坏船只残骸。	do.	监禁七年	do.
(6)	毁坏或损坏铁路	do.	监禁十四年	do.

(7)	毁坏或损坏供电用财产	可以在没有逮捕令的情况下逮捕	如罪行可能危及人身安全，可处十四年监禁，否则可处七年监禁	下级法院
(8)	毁坏或者损坏具有特殊价值的财产	do.	监禁七年	do.
(9)	毁坏或损坏契约或档案	do.	do.	do.
327	企图用爆炸物毁坏或损坏财产	do.	监禁十四年	do.
328	向动物传播传染病	do.	监禁七年	do.
329	意图诈骗而移除边界标记	do.	监禁三年	下级法院
331	损害或妨碍铁路工程等	do.	监禁三个月或罚款四百先令	下级法院
332	威胁要烧毁任何建筑物等，或杀死或伤害任何牛	do.	监禁七年	下级法院
332A	毁损银行券/钞票	如无逮捕令不得逮捕	每涂污一张票据，罚款五千先令，否则处以一年监禁	下级法院

第七部分 伪造类犯罪  
第三十五章 伪造罪的惩处

337	伪造文书罪（没有特别处罚的）	可以在没有逮捕令的情况下逮捕	监禁七年	下级法院
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338	伪造遗嘱的所有权、担保、支票等文件	do.	终身监禁	do.
339	伪造司法或官方文件	do.	监禁七年	do.
340	伪造邮票等	do.		do.
341	制造或持有伪造纸币等的纸张或工具	do.	监禁七年	do.
342	发出虚假文件	do.	与伪造文件相同惩罚	任意可审判伪造文件的法庭
343	发出作废或失效的文件	do.	do.	do.
344	以虚假托词取得文件的执行权	do.	do.	do.
345	毁掉或改动支票上的划线	do.	监禁七年	do.
346	未经授权制作或执行文件	do.	do.	do.
347	索取伪造遗嘱文书上的财产	do.	与伪造文书一样的惩罚	任何可以审讯伪造文书的法庭
348	购买或接收伪造的银行票据	do.	监禁七年	下级法院
349	伪造根据公共权力支付的款项的许可证	do.	do.	do.
350	允许伪造登记册或记录	do.	do.	do.
351	向婚姻登记处寄送假结婚证书	do.	do.	do.

352	在出生、死亡或婚姻登记册上作虚假陈述	do.	监禁三年	下级法院
352A	错误签发票据	do.	监禁五年	下级法院

第三十六章 货币类犯罪

354	伪造货币	可以在没有逮捕令的情况下逮捕	终身监禁	
355	准备铸币	do.	do.	
356	变造金（或银）币罪	do.	监禁七年	下级法院
359	持有变造的货币	do.	do.	do.
360	买卖假币	do.	监禁两年	do.
361	重复买卖假币	do.	监禁三年	do.
362	使用金属片为硬币	do.	监禁一年	do.
363	出口假币	do.	监禁两年	do.

第三十七章 伪造邮票罪

365	拥有用于制作印花税的模具或纸张等	可以在没有逮捕令的情况下逮捕	监禁七年	下级法院
366	拥有用于邮票的模具或纸张等	do.	监禁一年或罚款一千先令	do.

第三十八章 假冒商标罪

367	假冒商标等	可以在没有逮捕令的情况下逮捕	监禁两年	下级法院
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第三十九章 假冒他人罪

368	一般性的假冒人名罪	可以在没有逮捕令的情况下逮捕	监禁两年	下级法院
	罪犯陈述他是根据遗嘱或法律的实施而有权享有任何特定财产的人，而他为了取得该财产而犯罪	do.	监禁七年	下级法院
370	欺诈性地公证契据、做出担保等	do.	监禁两年	下级法院
371	假冒证书中的人	do.	与伪造证书同样惩罚	任意可以审判假冒证书的法 庭
372	以冒名为目的借出证明	do.	监禁两年	下级法院
373	冒充性格证明信中的人	do.	监禁一年	do.
374	以冒名为目的借出性格证明信	do.	监禁两年	do.

第八部分 未遂犯、共犯及事后从犯  
第四十章 未遂犯

381	企图犯罪	根据该罪行是否为警方可无须逮捕令而逮捕的罪行	监禁两年	任意可审判企图犯罪的法 庭
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382	企图犯下可判处死刑或十四年以上监禁的罪行。	可以在没有逮捕令的情况下逮捕	监禁七年	任意可审判企图犯罪的法庭
383	没有阻止犯罪得实施或犯罪的完成	如无逮捕令不得逮捕	监禁两年	下级法院
第四十一章 共谋罪				
384	共谋犯罪	可以在没有逮捕令的情况下逮捕	监禁七年	任意可审判罪行的法庭
385	共谋犯罪	根据该罪行是否为警方可无须逮捕令而逮捕的罪行	监禁两年	任意可审判罪行的法庭
386	共谋达到某些特定目的	如无逮捕令不得逮捕	监禁两年	下级法院
第四十二章 事后从犯				
388	犯罪事实发生后的从犯	可以在没有逮捕令的情况下逮捕	监禁七年	下级法院
389	犯罪事实发生后的从犯	如无逮捕令不得逮捕	监禁两年	
390	引诱或煽动犯罪	可以在没有逮捕令的情况下逮捕	监禁两年	
B 部分 刑法以外法律规定的罪行				
	如可判处死刑或者十五年以上有期徒刑	可以在没有逮捕令的情况下逮捕		
	如可处两年及以上十五年以下有期徒刑			下级法院

	如可处两年 以下有期徒刑或 仅处罚金	没有逮捕令 不得逮捕，除非 犯罪的成文法另 有特殊规定		下级法院
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## 附表二 起诉说明罪行的表格（第 135 条）

### 1 - 谋杀

谋杀，违反刑法第 196 条。

犯罪详情

A.B.（人名，被告人）在某年月日，在某地区，谋杀 J.S.（人名，被害人）。

### 2- 谋杀后从犯

谋杀后从犯，违反刑法第 213 条。

犯罪详情

A.B.，明知 H.C.（人名，另一名被告人），在某年月日，在某地区，谋杀 C.C.，在某年月日，在某地区及其后的其他时间，接纳或协助 H.C.，使他能逃脱惩罚。

### 3 - 过失杀人

过失杀人，违反刑法第 195 条。

犯罪详情

A.B.，在某年月日，在某地区，非法杀害 J.S.。

### 4- 强奸

强奸，违反刑法第 130 条。

犯罪详情

A.B.，在某年月日，在某地区，在未经她同意的情况下，与 E.F. 性交。



## 5- 伤害

第一个罪项 - 故意伤害，违反刑法第 222 条。

A.B.，在某年月日，在某地区，对 C.D. 造成伤害，意图致伤、毁容或致残，或造成严重伤害，或抵抗 A.B. 的合法逮捕。

第二个罪项 - 伤害，违反刑法第 228 条。

犯罪详情

A.B.，在某年月日，在某地区，对 C.D. 造成非法伤害

## 6- 盗窃

第一个罪项 - 盗窃，违反刑法第 265 条。

犯罪详情

A.B.，在某年月日，在某地区，偷了某包。

第二个罪项 -，收受赃物，违反刑法第 311 条

犯罪详情

A.B.，在某年月日，在某地区，收到了同样被偷的包。

## 7- 职员盗窃

由职员、服务人员盗窃，违反《刑法》第 265 条和第 271 条。

犯罪详情

A.B.，在某年月日，在某地区，作为 M.N.（被盗方）的职员或服务人员，从 M.N. 处偷了 10 码布。

## 8- 暴力抢劫

暴力抢劫，违反刑法第 285 条。

犯罪详情

A.B.，在某年月日，在某地区，偷了一块表，而且在偷表时及在偷表前后立即对 C.D. 实施个人暴力。

### 9- 入室盗窃

入室盗窃，违反第 294 条；盗窃，违反刑法第 269 条。

#### 犯罪详情

A.B.，在某年月日，在某地区，闯入了 C.D. 的住宅，意图在里面偷东西，并且在里面偷了一块表，是 S.T. 的财产，那块表价值二百先令。

### 10- 威胁

以书面威胁索取财产，违反刑法第 289 条。

#### 犯罪详情

A.B.，在某年月日，在某地区，意图向 C.D. 勒索钱财，让 C.D. 收到一封信，信中载有对 E.F. 造成（生理或心理）伤害或（人身或财产）损害的威胁。

### 11- 企图勒索

企图以威胁方式勒索，违反刑法第 290 条。

#### 犯罪详情

A.B.，在某年月日，在某地区，意图向 C.D. 勒索钱财，指控或威胁指控 C.D. 犯下反常罪行。

### 12- 诈骗罪

通过诈骗取得货物，违反《刑法》第 302 条。

#### 犯罪详情

A.B.，在某年月日，在某地区，以欺诈的故意，从 S.P. 处诈骗取得 5 米布，而 A.B. 冒充是 J.S. 的服务人员，A.B. 声称被 J.S. 派往 S.P. 处拿这 5 米布，A.B. 声称经过 J.S. 授权代表 J.S. 收取这 5 米布。

### 13- 共谋诈骗

共谋诈骗，违反刑法第 306 条。

#### 犯罪详情

A.B. 和 C.D.，在某年月日至某年月日之间某几日，在某地区，共同密谋意



图通过在报纸上插入广告诈骗，在 H.S. 的报纸上虚假的声称 A.B. 和 C.D. 在某地区从事大型珠宝生意，只要愿意付款 40 先令，能在这一地区向任何人提供某些特定款式的珠宝。

#### 14- 纵火

纵火，违反刑法第 319 条。

犯罪详情

A.B.，在某年月日，在某地区，故意非法放火烧房子。

#### 15- 损害

损害树木，违反刑法第 326 条。

犯罪详情

A.B.，在某年月日，在某地区，故意非法损害那里生长的一棵芒果树。

#### 16- 伪造

第一个罪项 - 伪造，违反刑法第 338 条。

犯罪详情

A.B.，在某年月日，在某地区，意图诈骗或欺诈，伪造了某一遗嘱，声称是 C.D. 的遗嘱。

第二个罪项 - 伪造文书，违反刑法第 342 条。

犯罪详情

A.B.，在某年月日，在某地区，明知而欺诈性地使用一份伪造的遗嘱，声称是 C.D. 的遗嘱。

#### 17- 使用伪币

使用伪币，违反刑法第 360 条。

犯罪详情

A.B.，在某年月日，在某地区的市场，明知是伪造的货币而使用了该伪造的先令。



## 18 - 伪证罪

做伪证，违反刑法第 102 条。

犯罪详情

A.B.，在某年月日，在某地区，在坦桑尼亚达累斯萨拉姆高等法院审判一项诉讼中作为证人，其中某某是原告，另一个某某是被告，A.B. 于某年月日在某街上，明明看到一个叫 M.W. 的人但做了伪证。

## 19- 诽谤名誉

公开诽谤某事，违反刑法第 187 条。

[省略：1976 年第 3 号法令废除的《刑法》第 187 条。]

## 20- 伪造账目

第一个罪项 - 欺诈性伪造账目，违反刑法第 317 条。

犯罪详情

A.B.，在某年月日，在某地区，是 C.D. 的职员或雇员，意图诈骗、伪造或参与伪造属于该 C.D. 雇主的现金簿，其目的是证明在上述日期已向 L.M. 支付了 2000 先令。

第二个罪项 - 与第一个罪项相同。

犯罪详情

A.B.，在某年月日，在某地区，身为 C.D. 的职员或雇员，意图从属于该 C.D. 的现金簿中骗取、遗漏或明知遗漏其雇主的一个重要细节，即在上述日期收到 H.S. 的 1000 先令。

## 21- 代理人行窃

第一个罪项 - 代理人和其他人行窃，违反刑法第 273 条。

犯罪详情

A.B.，在某年月日，在某地区，偷了 2000 先令，这些先令是 H.S. 托付给他的，由 A.B. 保管。



第二个罪项 - 代理人和其他人行窃，违反刑法第 273 条。

犯罪详情

A.B.，在某年月日，在某地区，为 L.M 收到记入 L.M. 账户的两千先令，偷窃了这笔钱。

## 22- 前科

（刑法第 275 条）

在上述罪行发生前，上述 A.B. 曾因某罪定罪，该项定罪发生在某年月日某地某法庭。

**附表三**  
**有关照片印刷品的证明文件**  
**《刑事诉讼法》（第 202 条）**

本人，某机构的某职位，根据《刑事诉讼法》第 202 条委任的公职人员，兹证明如下：

（1）在某年月日，在某地点我收到一份由某人亲手交付的密封包裹，编号为：XXX，声称是由某人送来的包裹，包含曝光 / 加工过的照相底片，封面编号为：XXX，日期：XXX，准备由某人签名，请求我处理上述胶卷，并 / 从中制备照片印刷品和放大照片。

（2）上述信件和包裹均由我签署并注明日期，并作为附件附于本协议之后，分别是 XXX 和 XXX。

（3）根据上述要求，我对上述胶卷进行了处理，并 / 从中制备了照片印刷品和 / 放大照片，每一张均已签字并作为附件附于本协议之后，分别是 XXX 以及 XXX。

（4）作为附件 XXX 随附的照片印刷品和 / 放大图如前所述，是从提交给我的曝光 / 和处理过的胶片中准确复制的，并且在制备过程中没有任何修饰、更改或其他干扰。

在某处经我手做出，于某年月日。

签字 XXX



**附表四**  
**刑事诉讼法（第 205 条）**  
**笔迹专家报告**

本人，某机构的某职位，根据某年第 XXX 号政府令《刑事诉讼法》第 154 条 c 款委任的公职人员，兹证明如下：

（1）在某年月日，在某地点我收到一份由某人亲手交付的密封包裹，编号为：XXX，声称是由某人送来的包裹，包含 XXX，封面编号为：XXX，日期：XXX，准备由某人签名，上述包裹、信和 AAA 均由我签署并注明日期，并作为附件附于本协议之后，分别是 XXX、XXX 和 AAA。

（2）在某年月日，在某地点我收到一份由某人亲手交付的密封包裹 1，编号为：XXX，声称是由某人送来的包裹（2 在同一个包中），包含 XXX、XXX，3 封面编号为：XXX，日期：XXX，准备由某人签名。

上述 AAA，4 和包裹、信均由我签署并注明日期，并作为附件附于本协议之后，分别是 AAA、XXX 和 XXX。

（3）我对上述附件 AAA 上的笔迹与上述附件 XXX 上的笔迹做了检查和比较，并作为 6 附件 BBB，5 包括上述附件 AAA 和附件 XXX 上的笔迹之间的比较说明和照片的相似性对比，以及我对其的评论。

我在此声明，在我看来 XXXXXXXXXXXXXXXXXXXX

在某处经我手做出，于某年月日。

签字 XXX

**THE UNITED REPUBLIC OF TANZANIA**  
**ACT SUPPLEMENT**  
**坦桑尼亚联合共和国**  
**增补法案**

No.10  
第 10 号

22<sup>nd</sup> May, 2015  
2015 年 5 月 22 日

*to the Gazette of the United Republic of Tanzania No.22. Vol.96 dated 22ndMay, 2015*

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**THE TAX ADMINISTRATION ACT, 2015**

《2015 年税收管理法》





THE TAX ADMINISTRATION ACT, 2015  
《2015 年税收管理法》

THE UNITED REPUBLIC OF TANZANIA

坦桑尼亚联合共和国

NO.10 OF 2015

2015 年第 10 号

I ASSENT,

批准

JAKAYA MRISHO KIKWETE

贾卡亚·姆里绍·基奎特

President

总统

11th May, 2015

2015.05.11

An Act to consolidate provisions relating to tax administration with a view to easing the administration of tax and enforcement of tax laws by the Tanzania Revenue Authority; to introduce currency point system in tax administration; and to provide matters incidental thereto.

为了简化坦桑尼亚税务局的税务管理和税法的执行，在税务管理中引入货币点制度，并规定附属事项，整合税务管理的相关规定，制定本法。

ENACTED by the Parliament of the United Republic of Tanzania.

坦桑尼亚联合共和国议会颁布。



## PART I PRELIMINARY PROVISIONS

### 第一部分 序则

This Act may be cited as the Tax Administration Act, 2015 and shall come into operation on such a date as the Minister may, by notice published in the Gazette, appoint.

第一条【简称和施行日期】本法可以《2015年税收管理法》的名称援引，自部长在宪报刊登公告中指定之日起施行。

This Act shall apply to Mainland Tanzania, and Tanzania Zanzibar in respect of tax laws which apply to both parts of the United Republic of Tanzania.

第二条【适用范围】凡本法适用于坦桑尼亚联合共和国两部分的有关税法，均适用于坦桑尼亚大陆和坦桑尼亚桑给巴尔岛。

-(1) The provisions of this Act shall, for better carrying out and giving effect to the purposes of this Act, apply to all other tax laws.

(2) Any term which is not defined in this Act shall, to the extent necessary give effect to the purposes of this Act, has a meaning ascribed to it in the relevant tax law.

(3) In this Act, unless the context requires otherwise-

“adjusted assessment” means an assessment made in pursuant to section 48;

“arrangement” means an action, agreement, arrangement, course of conduct, dealing, promise, transaction, understanding or undertaking involving more than one person and it includes a part of an arrangement;

“assessment” means a determination of the amount of a tax liability made under a tax law by the Commissioner General or by way of self-assessment and it includes matters prescribed in the First Schedule;

“Authority” means the Tanzania Revenue Authority established under the Tanzania Revenue Authority Act;

“authorised officer” means an officer of the Authority dealing with tax matters in relation to tax laws and who has been authorised in writing to perform special functions

in relation to any tax law;

“Board” means the Tax Revenue Appeals Board established under the Tax Revenue Appeals Act;

“Commissioner General” means the Commissioner General appointed under the Tanzania Revenue Authority Act;

“charged assets owned by a taxpayer” means assets held by a withholding agent on trust under section 60 or assets charged under section 61;

“class ruling” means a decision by the Commissioner General on tax issues raised by a group of persons with common interest;

“costs of charge and sale” with respect to assets, means any expenditure incurred or to be incurred by the Commissioner General or an authorised agent with respect to-

- (a) creating or releasing a charge over the assets; or
- (b) taking possession, holding and selling the charged assets;

“customs law” means the East African Community Customs Management Act and any regulations made under that Act;

“currency point” means a value prescribed by a tax law for the purpose of protecting value of currency against the effects of inflation;

“document” means a statement in writing or in electronic forms which include an account, assessment, book, certificate, claim, note, notice, order, record, return or ruling;

“file” in relation to a document, includes lodging or furnishing a document in writing or in electronic form;

“generally accepted accounting principles” means the accounting principles adopted by the National Board of Accountants and Auditors;

“guarantor” means a person who grants the Commissioner General the security for tax payable or to become payable by another taxpayer;

“manager” in relation to an entity, includes-

- (a) a councillor, director, manager, member, officer or other person who participates alone or jointly with other persons in making senior management decisions



on behalf of the entity;

(b) a partner and a trustee;

(c) a person treated as a manager of an entity by any other tax law; and

(d) a person whose directions and instructions affects the entity;

“Minister” means the Minister responsible for finance;

“objection decision” means a decision in respect of a tax decision made under section 52;

“other tax laws” means any tax laws other than this Act, administered by the Tanzania Revenue Authority;

“owner of assets” means includes a person who have been issued with the licence under Excise (Management and Tariff) with respect to ownership of any plant, vehicle, animal or other article used for manufacturing, selling or distributing excisable goods or any article found on any premises used by that person for that purpose;

“possessor of an asset” includes-

(a) in relation to premises or a place, the owner, manager or any other person on the premises or place; and

(b) in relation to any other asset, a person from whom the asset is seized or taken;

“private ruling” means a decision by the Commissioner General on tax issues raised by a person;

“restrain” includes detaining, locking up, marking, sealing, seizing, stopping, taking away or otherwise securing;

“self-assessment” means an assessment made under a tax law by a person who is obliged to file a tax return;

“statutory rate” means the prevailing discount rate determined by the Bank of Tanzania;

“tax” for purposes of administration under this Act, includes a tax, charges, fees, tolls, rates, levies, duties, penalty and interest imposed under any tax law;

“tax benefit” in relation to a person means a benefit earned by-

(a) avoiding, reducing or postponing a tax liability of that person;

- (b) increasing a claim of the person for a refund of tax;
- (c) preventing or obstructing collection of tax from the person; or
- (d) any other act for which the Commissioner General is of the opinion that it might result into the reduction of a person's tax liability;

“tax debtor” means a person who owes tax to the Government;

“tax law” includes-

- (a) a law listed in the First Schedule to the Tanzania Revenue Authority Act but does not include the East African Community Customs Management Act;
- (b) any other law providing for administration of tax by the Authority;
- (c) any international agreement concluded under section 7; and
- (d) any regulations made under this Act or made under any Act mentioned in paragraph (a) or (b);

“tax return” means a return prescribed in the First Schedule to this Act;

“tax officer” means any officer of the Authority dealing with tax matters in relation to any tax law;

“taxpayer” means any person who is liable to pay tax;

“tax shortfall” means underpayment of tax which in the Commissioner General's opinion may have resulted into inaccuracy statement had it gone undetected;

“vehicle” includes every description of conveyance for the transport of persons or goods by land;

“vessel” includes every description of conveyance for the transport of persons or goods by water;

“withholding agent” means a person obliged to withhold tax from a payment; and

“withholding tax” means the income tax which is required to be withheld by a withholding agent from a payment under Subdivision A of Division II of Part VII of the Income Tax Act.

### 第三条 【说明】

为了更好地执行和实现本法的目的，本法的规定应适用于所有其他税法。

本法未规定的用语，在为实现本法的目的必要时，具有有关税法赋予的含义。

本法中用语的含义作下列规定，但另有规定的除外：

调整评税，是指依据第四十八条作出的评税；

安排，是指涉及一人以上的行动、协议、安排、行为过程、交易、承诺、业务、谅解或经营，也包括安排的一部分；

纳税评估，是指总专员依据税法或者以自行评税方式确定的应纳税额，包括附表一规定的事项；

机关，是指依据《坦桑尼亚税务局法》设立的坦桑尼亚税务局；

被授权人员，是指处理与税法有关的税务事宜，并已获得书面授权执行有关税法的特殊职能的机关工作人员；

委员会，是指依据《税收申诉法》设立的税收申诉委员会；

总专员，是指依据《坦桑尼亚税务局法》任命的总专员；

纳税人所有的抵押资产，是指扣缴义务人依据本法第六十条的规定信托持有的资产，或者依据本法第六十一条的规定押记的资产；

集体决定，是指总专员就一群具有共同利益的人员提出的税务问题作出的决定；

有关资产抵押和出售的费用，是指总专员或者被授权代理人实施下列行为产生的所有开支；

设立或者解除资产抵押；

取得、占有、出售抵押资产；

海关法，是指《东非共同体海关管理法》和依据该法制定的所有法规；

货币点，是指税法为保护货币价值不受通货膨胀影响而规定的价值；

文件，是指以书面或电子形式作出的陈述，包括帐户、评核、簿册、证书、请求书、通知书、通知单（票据）、命令、纪录、申报表或决定；

文件的提交，包括以书面或电子形式递交或提供文件；

公认会计准则，是指会计师和审计师全国委员会通过的会计准则；

担保人，是指向总专员提供应纳税款担保，或者提供由其他纳税人缴纳应纳税款担保的人员；

单位管理人员，包括下列人员：

代表单位单独或与他人共同作出高级管理层决定的议员、董事、经理、成员、

官员或其他人员；

合伙人和受托人；

被其他税法视为单位管理人员的人；

其指示和指令对单位产生影响的人；

部长，是指财政部长；

异议决定，是指有关依据第五十二条作出的税务决定的决定；

其他税法，是指本法外由坦桑尼亚税务局实施的税法；

资产所有权人，是指依照消费税（管理和税率），就其所有的设备、车辆、动物以及其他用于生产、销售或者配送应税货物的物品，或者就其为该目在任何场所使用的所有物品，被颁发所有权证书的个人或者单位；

资产占有人，包括：

有关处所或者地方的，该处所或地方的业主、经理或任何其他他人；

有关其他资产的，其资产被扣押或者没收的人；

个别决定，是指总专员就个人提出的税务问题作出的决定；

限制，包括扣留、锁定、标记、密封、查封、停止、没收，以及以其他方式确保实现（担保）；

自行评税，是指纳税申报义务人依照税法规定作出的纳税评估；

法定利率，是指坦桑尼亚银行确定的现行贴现率；

税收，为了依据本法进行管理，包括依据税法征收的税款、规费、服务费、通行费、差饷、征收、关税、罚款和利息；

与个人有关的税收优惠，是指通过下列行为所获得的利益：

避免、减轻或延缓个人的纳税义务；

增加个人的退税请求权；

防止或阻止对个人征税；

总专员认为可能导致个人税务义务减轻的其他行为；

税收债务人，是指欠缴税款的人；

税法，包括下列法律、法规：

《坦桑尼亚税务局法》附表一列举的法律，但不包括《东非共同体海关管理法》；

规定该机关税务管理的其他法律；

依据第七条缔结的国际协定；

依据本法、依据（a）款或者（b）款规定的法律制定的法规；

纳税申报表，是指本法附表一规定的纳税申报表；

税务人员，是指税务机关处理有关税法的税务事宜的人员；

纳税人，是指应当履行纳税义务的人；

税收不足，是指少缴税款，总专员认为如果少缴税款未被发现，可能会导致申报不准确；

车辆，包括用于陆路运输人员或货物的各种运输工具；

船舶，包括用于水上运输人员或货物的各种运输工具；

扣缴义务人，是指负有代扣代缴税款义务的人；

代扣税款，是指扣缴义务人依照《所得税法》第七部分第二分部 A 子分部的规定代扣的所得税税款。

-(1) An amount of money referred to in a specific tax law shall, for purposes of the promotion of fairness in the tax system and protection against the effects of inflation, be expressed in terms of currency points.

(2) The currency point system shall apply in respect of penalties and fines prescribed under this Act and any other tax law.

(3) The initial value of a currency point shall be set out in the Second Schedule to this Act.

(4) The Minister may, by order published in the Gazette, adjust the value of the currency point to reflect changes in the index of the consumer prices.

#### 第四条【货币点制度】

为了促进税收制度的公平和防止通货膨胀的影响，特定税法规定的货币数额，应当以货币点数表示。

本法和其他税法规定的处罚和罚款，适用货币记分制度。

货币点的初始价值应当在本法附表二中规定。

部长可以通过在宪报上发布命令，调整货币点的价值，以反映居民消费价格指数的变动。



## PART II TAX LAWS AND THEIR INTERPRETATION

### 第二部分 税法及其解释

#### (a) *Tax Laws*

#### (a) 税法

(1) The powers of the Commissioner General shall, in addition to the powers granted under this Act, be exercised in respect of any tax laws.

(2) A tax officer may, in performing the functions under this Act-

(a) act for the purposes of more than one tax law at the same time; and

(b) gather information for the purposes of any tax law in the proper execution of duties under a particular tax law.

#### 第五条 【总专员和税务人员的职权】

除依据本法授予的权力外，总专员应当依照有关税法行使权力。

税务人员在依据本法履行职责时，可以

同时为了多部税法而实施行为；

为了实施税法，在适当履行特定税法规定的职责时收集信息。

(1) Where the customs law applies to the Value Added Tax or the Excise Duty on imported or exported goods and for matters related thereto, Parts I, II, III, IV and V of this Act shall apply.

(2) The Commissioner General may, subject to subsection (3) and where a tax law has provided for certain administrative provisions of the customs law, apply relevant provisions of this Act instead of the provisions of the customs law.

(3) The Commissioner General shall exercise the powers in subsection (2) in a manner consistent with the customs law.

(4) The provision of Part II (b), Parts III and VII of this Act shall, to the extent that they are inconsistent with the provisions of the customs law, apply to the customs law.

#### 第六条 【与海关法的关系】

进出口货物的增值税或者消费税及其有关事项，适用海关法的，应当适用本法第一部分至第五部分的规定。

税法对海关法的某些管理规定已经作出了规定的，总专员可以适用本法的有关规定，而不适用海关法的规定，但第（3）款规定的除外。

总专员应当以符合海关法的方式行使第（2）款规定的权力。

本法第二部分 (b)、第三部分和第七部分的规定，与海关法的规定不一致的，适用海关法。

-(1) The provisions of an international agreement which the United Republic is a party shall, to the extent that the provisions of the agreement are inconsistent with the provisions of any tax law, prevail over the provisions of the tax laws.

(2) For the purposes of this section; “international agreement” means a treaty or other agreement which the United Republic signed with a foreign government for the purpose of providing reciprocal assistance for the administration or enforcement of tax laws.

#### 第七条【国际协定】

联合共和国是国际协定的缔约国，该协定的规定与税法的规定不一致的，适用该协定的规定。

本条所称“国际协定”，是指联合共和国与外国政府签订的为实施或执行税法提供相互协助的条约或其他协定。

### *(b) Interpretation of tax laws*

#### *(b) 税法的解释*

-(1) Notwithstanding any provision of this Act, where the Commissioner General is satisfied that any scheme that has the effect of conferring tax benefit on any person was entered into or carried out-

(a) solely or mainly for the purpose of obtaining that benefit; and

(b) by means or in a manner that would not normally be employed for bonafide business purposes, or by means or in a manner of the creation of rights or obligations

that would not normally be created between persons dealing at arm's length,

the Commissioner General may determine the liability for any tax imposed by this Act, and its amount, as if the scheme had not been entered into or carried out, or in such manner as, in the circumstances of the case, he considers appropriate for the prevention or diminution of the tax benefits sought to be obtained by the scheme.

(2) A determination under subsection (1) shall be deemed to be an assessment, of tax and the provisions of this Act and any other provisions of tax law in relation to assessments, shall apply accordingly.

(3) In this section "bona fide business purposes" does not include obtaining "tax benefit".

#### 第八条【获取不正当税收优惠的计划】

即使本法有其他规定，如果总专员确信，具有给予税收优惠效果的计划已经订立或者实施，且有下列情形的，总专员可以参照该计划尚未订立或者实施的情形，决定本法规定的纳税义务及其数量；或者以他认为适当的方式排除、减少该计划谋取税收优惠：

完全或者主要为了取得该项优惠；

以通常不用于善意商业目的的方式，或者以正常条件下交易各方通常不会创设有关权利义务的方式；

依据第（1）款作出的决定应当被视为纳税评估，并应当相应地适用本法和其他税法中有关纳税评估的规定。

本条中的善意商业目的，不包括谋取税收优惠。

#### Issuance of practice notes

(1) The Commissioner General may, issue practice notes with a view to ensuring consistency in the administration of tax laws and to provide guidance to persons affected by such laws.

(2) A practice note shall-

(a) be made by a way of a circular;

(b) categorically state that it is a practice note;

(c) have a number and subject heading by which it can be identified; and



(d) apply from the date specified in such note, or from the date of the issuance.

#### 第九条【业务指引的发布】

总专员可以签发业务指引，以确保税收管理的一致性，并向受税法影响的人提供指引。

业务指引应当符合下列要求：

以通告方式作出；

明确规定为业务指引；

有一个编号和主题标题，以供识别；

自该指引规定之日或者自签发之日起适用。

-(1) The Commissioner General may, revoke a practice note in whole or part.

(2) The enactment of an Act of Parliament or issuance of a practice note that is inconsistent with an existing practice notes, revokes the existing practice note to the extent of the inconsistency.

#### 第十条【业务指引的撤销】

总专员可以撤销或者部分撤销业务指引。

已经颁布的议会法律或已经签发的业务指引与现行业务指引不一致的，撤销现行业务指引不一致的规定。

-(1) The Commissioner General may, on application in writing by a person, issue a private ruling or a class ruling setting out position on the application of a tax law to an arrangement proposed or entered into-

(a) in the case of a private ruling, by that person; or

(b) in the case of a class ruling, by persons in a specified class.

(2) A private or class ruling may apply to multiple arrangements or multiple tax laws.

(3) Where the Commissioner General issues a private or class ruling in respect of the application of a tax law to a proposed arrangement in favour of the applicant or a person in a specified class, such ruling shall bind the Commissioner General.

(4) The ruling issued under this section shall be binding-

(a) if prior to its issue, the applicant makes-

(i) full and true disclosure of all aspects of the arrangement to which the ruling applies to the Commissioner General; and

(ii) the arrangement proceeds in all material respects as described in the application for the ruling;

(b) if it clearly states in its heading to be a private ruling or class ruling; and

(c) from date of issue for the period specified in the ruling.

(5) A private or class ruling shall not have binding effect to the Commissioner General with respect to any person other than the applicant or persons in the specified class.

(6) A person shall not challenge a private or class ruling, unless the challenge is in respect of a tax decision made with respect to an arrangement which is the subject of a ruling.

(7) For the purposes of this section, a class of persons includes-

(a) members of an entity; and

(b) such persons who, in the opinion of the Commissioner General, may be identified with respect to the application of particular provisions of a tax laws.

#### 第十一条【个别和集体决定】

针对申请人的书面申请，总专员可以作出个别决定或者集体决定，阐明就拟订或者订立的安排适用税法的立场：

申请人为个人的，作出个别决定；

申请人为特定群体人员的，作出集体决定。

个别决定或者集体决定可以适用于多种安排或多种税法。

总专员就某项拟订的安排适用税法时，作出有利于申请人或者有利于属于特定群体人员的申请人的个别决定或者集体决定，该决定对总专员具有约束力。

依据本条作出的决定，符合下列条件的，具有约束力：

决定作出前，申请人作出下列行为的：

全面和真实地向总专员披露本决定所适用安排的各方面的信息；

该项安排形成过程中，申请人就该项决定提出申请时所陈述的各个重要方面都涉及到了；



在其标题中载明为个别决定或者集体决定；

自作出之日起，适用于本决定规定的期间。

就申请人或特定群体人员外的任何人而言，个别或集体决定对总专员不具约束力。

任何人不得对个别或集体决定提出异议，但该异议涉及与作为决定对象的某项安排有关的税务决定的除外。

本条所称群体人员，包括：

单位的成员；

总专员认为，在适用税法的具体规定时可以确定的人员。

-(1) The Commissioner General may refuse an application for a private or class ruling if-

(a) in the case of a private ruling-

(i) the arrangement has already been the subject of a tax decision; or

(ii) the Commissioner General has commenced an investigation of the applicant's tax affairs that covers the arrangement or, before the application, has notified the applicant in writing of an intention to do so;

(b) the Commissioner General is of the opinion that an existing practice note adequately covers the arrangement;

(c) the application is frivolous or vexatious;

(d) the arrangement has not been carried out and there are reasonable grounds to believe that it will not be carried out;

(e) the applicant has not provided the Commissioner General with sufficient information to make a ruling; or

(f) in the opinion of the Commissioner General, it would be unreasonable to comply with the application having regard to the resources needed to comply and any other matters the Commissioner General considers relevant.

(2) Where the Commissioner General refuses to grant private or class a ruling, he shall serve the applicant with a written notice stating the reasons for the refusal.

第十二条 【拒绝适用个别或集体决定】

符合下列情形的，总专员可以拒绝个别或集体决定的申请：

申请个别决定的，

该项安排已经成为税务决定的对象；

总专员已经就申请人的税务事项启动调查，而该事项包括该项安排，或者在申请人提出申请前，总专员已经书面通知其调查的意图；

总专员认为现行的业务指引足以涵盖该项安排；

申请无意义或者无根据；

该项安排尚未执行，且有合理理由相信其不被执行；

申请人未向总专员提供充分的资料以作出决定；

总专员认为，鉴于准予申请需要的资源和总干事所认为的其他有关事项，准予申请是不合理的。

总专员拒绝作出个别或集体决定的，应当向申请人送达书面通知，说明拒绝的理由。

-(1) The Commissioner General may issue-

(a) a private ruling by serving a written notice of the ruling to the applicant; or

(b) a class ruling by serving a written notice of the ruling to the applicant and making the ruling publicly available.

(2) The Commissioner General may, in issuing a private or class ruling, base on the assumptions of a future event or other matters he considered appropriate.

(3) A private or class ruling shall-

(a) set out the matters ruled on, identify the tax laws, periods and arrangements to which the ruling applies and any assumptions that affect the ruling;

(b) in the case of a private ruling, identify the applicant and his Taxpayer Identification Number; and

(c) in the case of a class ruling, refrain from revealing the identity of-

(i) the applicant, unless the applicant has consented in writing; or

(ii) the applicant's Taxpayer Identification Number, the class members or any other person identified or referred to in the ruling but an applicant may instruct in writing that his identity be revealed.

**第十三条【个别和集体决定的作出】**

总专员可以作出下列决定：

向申请人送达决定的书面通知，作出个别决定；

向申请人送达决定的书面通知，并将该决定予以公开。

总专员可以根据对未来事件或者其认为适当的其他事项的假设，作出个别或集体的决定。

个别或者集体决定应当符合下列要求：

载明决定事项、税法依据、期间、决定所适用的安排，以及影响该决定的所有假设；

涉及个别决定的，明确申请人及其纳税人识别号；

涉及集体决定的，不得泄露下列信息：

申请人的身份，但经申请人书面同意的除外；

申请人的纳税人识别号、集体成员或者决定中确认或者提及的其他人员，但申请人可以书面请求披露其身份。

(1) The Commissioner General may, by a notice in writing, revoke a private or class ruling in whole or in part.

(2) Where the ruling is revoked under subsection (1), the Commissioner General shall-

(a) in the case of a private ruling, serve the applicant with a revocation notice; and

(b) in the case of a class ruling, serve the applicants and make the revocation notice publicly available.

**第十四条【撤销个别和集体决定】**

总专员可以通过书面通知，撤销或者部分撤销个别或者集体决定。

依据第（1）款撤销决定的，总专员应当：

涉及个别决定的，向申请人送达撤销的书面通知；和

涉及集体决定的，向申请人送达并公开撤销通知。



**PART III THE AUTHORITY, TAXPAYERS AND TAX  
CONSULTANTS**

**第三部分 税务机关、纳税人和税务顾问**

*(a) The Authority*

*(a) 税务机关*

The Authority shall be responsible for administering and giving effect to the tax laws in accordance with the provisions of the Tanzania Revenue Authority Act.

第十五条【税法管理】税务机关负责依照《坦桑尼亚税务局法》的规定管理和实施税法。

-(1) The Commissioner General may, pursuant to section 16 of the Tanzania Revenue Authority Act, delegate his functions to tax officers in relation to tax laws.

(2) The Commissioner General shall not delegate the functions referred to under subsection (1) to any persons referred to under sections 18 and 19.

(3) The tax officer may, in some circumstances or where the officer is authorised to exercise such powers, exercise particular power under a tax law.

(4) The Revenue Commissioner appointed under the Tanzania Revenue Authority Act and vested with the responsibility of administering any tax law may exercise the powers to-

(a) compound offences under section 92; and

(b) remit penalties and interest under section 70; or

(c) refund tax under section 73.

第十六条【税务人员的授权】

总专员可以依据《坦桑尼亚税务局法》第十六条，将其有关税法职责授权给税务人员。

总专员不得将第(1)款所述的职责委托给第十八条和第十九条所述的人员。

在某些情况下，或者在被授权行使特定权力的情况下，税务人员可以依照税



法行使特定的权力。

依据《坦桑尼亚税务局法》任命的被授权负责管理税法的税务专员可以行使下列权力：

依据第九十二条，对犯罪和解结案；

依据第七十条，减免罚款和利息；

依据第七十三条，办理退税。

-(1) The Authority shall issue an identity card to each tax officer or authorised officer.

(2) An identity card shall bear the logo of the Authority and a passport size photograph of the tax or authorised officer.

(3) When a tax or authorised officer exercises powers or performs functions for purposes of the administration of tax law, that officer shall at all times wear and produce the identity card upon request by a member of the public.

(4) Where the tax or authorised officer fails to produce the identity card as requested, that tax or authorised officer is not authorised to perform any of the function under a tax law, and such member of the public may refuse to deal with the officer.

第十七条【税务人员或被授权人员的身份证明】

税务机关应当向税务人员被授权人员签发身份证件。

身份证件应当印有税务机关的标志，和税务人员或者被授权人员的护照大小的照片。

税务人员、被授权人员为税法管理行使职权或者履行职责时，应当佩带身份证件和应公众的要求出示证件。

税务人员或被授权人员未按要求出示身份证件的，该税务人员或被授权人员无权依照税法履行职责，公众人员可以拒绝。

-(1) The Authority may engage an expert on such terms and conditions as the Commissioner General thinks fit, to assist the Authority in the proper performance of its functions.

(2) The Commissioner General shall supervise such an expert.

(3) A tax payer may with reasonable cause refuse to deal directly with an expert

and write a complain to the Commissioner General.

(4) Where an expert is engaged and it is discovered that his engagement may result into a conflict of interest, the Authority may terminate the engagement of such expert upon discovery of such conflict of interest.

(5) A person who has reasonable grounds to believe that the expert engaged under subsection (1) has a conflict of interest shall, in writing, complain to the Commissioner General.

(6) Where a complaint is made under subsection(3) and (5) the Commissioner General shall, within seven days from the date of the receipt of the complaint, make a decision on the complaint.

#### 第十八条【专家】

税务机关可以根据总专员认为合适的条款及条件聘任专家，协助税务机关适当履行职责。

总专员应当须督导专家。

纳税人可以依据合理理由拒绝直接与专家交涉，并向总专员提起投诉。

聘任专家后，发现可能导致利益冲突的，税务机关可以在发现利益冲突后终止聘任。

任何人有合理理由相信依据第（1）款聘任的专家存在利益冲突的，应当以书面形式向总专员提起投诉。

对依据第（3）款和第（5）款提起的投诉，总专员应当在收到投诉之日起七日内作出决定。

-(1) The Commissioner General may request for an officer from a public institution to assist or protect the Authority in the proper performance of its functions under this Act.

(2) The Commissioner General shall supervise the public officer referred to under subsection (1) to assist him in the performance of such functions.

#### 第十九条【公职人员的协助】

总专员可以要求公职人员协助或者保障税务机关适当履行本法规定的职责。

总专员应当监督第（1）款所指的公职人员，协助其履行上述职责。



(1) A person shall not, unless expressly provided for in a tax law, be entitled to any remuneration or reimbursement of expenses from the Authority for complying with the provisions of a tax law.

(2) Subsection (1) shall not apply to the remuneration of-

(a) an officer; or

(b) an expert or a public officer who is assisting the Authority in the performance of its functions.

(3) The remuneration of persons referred to in subsection (2) shall be determined in accordance with the Tanzania Revenue Authority Act.

#### 第二十条【遵守税法的报酬】

除税法明文规定外，任何人均无权因为遵守税法的规定从税务机关获得报酬或者费用补偿。

第（1）款不适用于下列人员的报酬：

税务人员；

专家或者协助税务机关履行职责的公职人员。

第（2）款所述人员的薪酬应当依据《坦桑尼亚税务局法》确定。

(1) A person who is or was employed or engaged by the Authority to provide assistance to the Authority shall treat all information and documents that, by reason of his employment or engagement, came into his possession or knowledge in connection with any tax law, as secret and confidential.

(2) Notwithstanding the provisions of subsection (1), a person may disclose information or documents referred to in subsection (1) if such disclosure is-

(a) made to a person who is currently employed or engaged by the Authority and the information is required in the performance of his employment or engagement;

(b) for the purposes of a tax law;

(c) authorised by the Commissioner General; or

(d) made before a court or tribunal.

(3) A person may disclose information and documents referred to in subsection (1) to-

(a) the Minister;

(b) any person in the service of the Government of the United Republic of Tanzania or the Revolutionary Government of Zanzibar, in a revenue or statistical department where such disclosure is necessary for the performance of the person's official duties;

(c) the Controller and Auditor-General or any person authorised by the Controller and Auditor-General where such disclosure is necessary for the performance of official duties; or

(d) the competent authority of the Government of another country with which the United Republic of Tanzania has entered into an international agreement, to the extent permitted under that agreement.

(4) This section does not apply to information that may be published under section 97.

(5) This section does not prevent disclosure of information relating to a specific taxpayer to the taxpayer concerned or, with the taxpayer's written consent, to another person.

#### 第二十一条【保密】

税务机关已经或者曾经雇佣、聘任的提供协助的人员，应当将因为受雇、受聘而取得或者知悉的所有有关税法的资料 and 文件视为机密。

尽管存在第（1）款的规定，如果存在下列情形，仍然可以披露该款所述的资料或者文件：

税务机关向正被雇佣、聘任的人员披露的，且该资料为执行雇佣、聘任工作必需的；

就税法作出的披露；

获得总专员的授权；

在法庭或者裁判所作出的披露。

任何人可以向下列人员披露第（1）款所述的资料 and 文件：

部长；

为坦桑尼亚联合共和国政府或者桑给巴尔革命政府工作的人员，在税务、统

计部门工作的人员，为了履行公务，有必要进行披露；

总会计师和总审计长，及其授权的人员，为了履行公务，有必要进行披露；依据坦桑尼亚联合共和国与另一个国家的政府主管机关已经签订的国际协定，准许披露的。

本条不适用于依据第九十七条可能公开的资料。

本条不阻止向有关纳税人，或者经纳税人书面同意，向他人披露特定纳税人的资料。

*(b) Taxpayer Identification Number*

(b) 纳税人识别号

(1) A person who becomes potentially liable to tax by reason of carrying a business or investment shall apply for a Taxpayer Identification Number within fifteen days from the date of commencing the business.

(2) Notwithstanding the provision of subsection (1), the Commissioner General may require any person to apply for a Taxpayer Identification Number within the period the Commissioner General may determine.

(3) Person who owns a Taxpayer Identification Number shall not apply for another Taxpayer Identification Number.

(4) An application for a Taxpayer Identification Number shall be-

- (a) in the prescribed form;
- (b) supported by documentary evidence of the applicant's identity; and
- (c) filed in the prescribed manner.

第二十二条【纳税人识别号的申请】

因经营、投资可能负有纳税义务的人，应当自开业之日起十五日内申请纳税人识别号。

尽管存在第（1）款的规定，总专员仍然可以要求任何人在其确定的期间内申请纳税人识别号。

已有纳税人识别号的，不得申请其他纳税人识别号。

纳税人识别号的申请应当符合下列条件：

以法定的形式；

申请人身份证明文件；

以法定的方式提出。

(1) The Commissioner General may, for the purposes of identification and cross-checking and in the case of an application made under section 22, issue a person with the Taxpayer Identification Number, within seven days upon receipt of the application.

(2) A Taxpayer Identification Number shall not be transferred or used by another person.

(3) A person shall own one Taxpayer Identification Number and use such Taxpayer Identification Number for the purposes of all tax laws.

(4) The Commissioner General shall not issue a Taxpayer Identification Number to a person unless he is satisfied-

(a) as to the person's true identity; and

(b) that the person does not have an existing Taxpayer Identification Number.

(5) Where the Commissioner General refuses an application for a Taxpayer Identification Number, he shall serve the applicant with written notice of refusal within fourteen days from the date of receipt of the application giving reasons for such refusal.

### 第二十三条【纳税人识别号的赋予】

为了识别和核对身份，对于依据第二十二条提出的申请，总专员可以自收到申请之日起七日内，赋予申请人纳税人识别号。

纳税人识别号不得转让或者给予他人使用。

纳税人只能拥有一个纳税人识别号，仅为了税法的目的使用纳税人识别号。

纳税人符合下列条件的，总专员应当赋予其纳税人识别号码：

纳税人的真实身份；

尚未取得纳税人识别号。

总专员拒绝纳税人识别号的申请的，应当在收到申请后十四天内，向申请人送达书面拒绝通知书，并说明拒绝的理由。

(1) A person who has been issued with the Taxpayer Identification Number by



the Authority shall include the number in any claim, notice, return, statement or other document submitted to the Authority or used for the purposes of tax law.

(2) Unless directed otherwise by the Commissioner General, institution mentioned in the Third Schedule shall, when transacting with any person in respect of any matters prescribed in the Third Schedule, require from such person a Taxpayer Identification Number.

(3) A person who intend to conduct any transaction under subsection (2) shall produce to the institution, the person's Taxpayer Identification Number certificate or a certified copy of that certificate.

(4) The Commissioner General may, in writing, require an institution mentioned in the Third Schedule to furnish him with information relating to-

(a) the value of the transaction prescribed in the Second Column of the Third Schedule conducted with that institution during the period specified in the Commissioner General's notice; and

(b) the names, addresses and Taxpayer Identification Numbers of the persons with which those transactions were conducted.

(5) An institution which has been required to furnish information under subsection (4) shall, within seven days from the date of receipt of the notice, furnish the Commissioner General with the information required.

(6) A person or institution that contravenes this section commits an offence.

#### 第二十四条【纳税人识别号的使用】

取得税务机关赋予的纳税人识别号后，应当在提交给税务机关或者用于税法目的的权利请求书、通知书、申报表、报表以及其他文件中载明纳税人识别号。

附表三所述机构，在就附表三规定的事项与他人进行交易时，应当向其索取纳税人识别号，但总专员另有指示的除外

拟依照第（2）款进行交易的人士，应当向该机构出示其纳税人识别号证书或该证书的核证副本。

总专员可以书面要求附表三所述机构向其提供下列有关资料：

在总专员通知规定的期间内，与该机构进行附表三第二栏规定的交易的价值；



交易对方的姓名、地址和纳税人识别号。

依据第（4）款规定被要求提供资料的机构，应当自收到通知之日起七日内，向总专员提供所需要的资料。

违反本条的，即属犯罪。

-(1) The Commissioner General shall, cancel a Taxpayer Identification Number where he is satisfied that-

(a) the bearer of the number is dead or, in the case of a body corporate, is wound up;

(b) a person described in Taxpayer Identification Number certificate is fictitious;

(c) the identity of a person holding the certificate is different from the identity of a person to whom the certificate was issued;

(d) the person to whom the Taxpayer Identification Number certificate was issued is a holder of another number;

(e) there is reasonable grounds to warrant cancellation of Taxpayer Identification Number.

(2) A person who owns a Taxpayer Identification Number shall, in writing and within thirty days from the date of any change of details referred to in the Taxpayer Identification Number Certificate, notify the Commissioner of the changes in the certificate.

(3) The Commissioner General may, without cancelling a Taxpayer Identification Number, issue a person with an amended Taxpayer Identification Number certificate when appropriate.

第二十五条【纳税人识别号的注销、更换和变更】

有下列情形之一的，总专员应当注销纳税人识别号：

号码持有人死亡，或者法人持有人解散；

纳税人识别号登记的人是虚假的；

证书持有人的身份与被签发人的身份不一致；

纳税人识别号证书被签发人持有另一个号码；

有合理的根据证明有必要注销纳税人识别号。

纳税人识别号持有人应当在纳税人识别号证书登记事项发生变更之日起三十日内，将变更事项书面通知总专员。

在适当情况下，总专员可以不注销纳税人识别号，向申请人签发经修正的纳税人识别号证书。

The Authority shall provide to the taxpayer information regarding the taxpayer's position in accordance with the provisions of the respective tax law.

第二十六条【知情权】税务机关应当依照税法的规定向纳税人提供有关纳税人状况的资料。

-(1) A taxpayer-

(a) has the right to be represented in tax matters; and

(b) shall notify the Commissioner General in writing upon appointing a representative.

(2) The Authority is not obliged to communicate with a taxpayer through the taxpayer's representative.

第二十七条【代表权】

纳税人

有权在处理税务事宜中指定代表人；

指定代表人后，应当书面通知总专员。

税务机关没有义务通过纳税人的代表人与纳税人进行沟通。

*(c) Tax Consultants*

(c) 税务顾问

The Minister may make regulations for the registration and deregistration of tax consultants and the conduct of their activities.

第二十八条【税务顾问】部长可以对税务顾问的登记和撤销登记，及其活动的管理作出规定。

**PART IV OFFICIAL COMMUNICATIONS AND  
DOCUMENTATION**

**第四部分 官方通信和文件**

-(1) The official languages for the purposes of tax administration shall be both Kiswahili and English language.

(2) Where any communication or document which is relevant in applying a tax law to a taxpayer is not in an official language, the Commissioner General may, in writing require the taxpayer to provide an official translation of the communication or document.

**第二十九条【官方语言】**

税务管理的官方语言为基斯瓦希里语和英语；

有关将税法适用于纳税人的通讯或文件非以官方语言提供的，总专员可以书面要求纳税人提供该通讯或文件的正式译本。

The Commissioner General may, prescribe the forms required under a tax law and he shall cause such forms to be available to the public at offices of the Authority and at such other locations and places or by such other medium as he may determine.

**第三十条【表格和通知】**总专员可以就税法所要求的表格作出规定，并应当在行政机关办事处、其他位置和地点，以及由其决定的其他媒介向公众提供表格。

-(1) A document issued by the Commissioner General under a tax law is sufficiently authenticated if the name or title of the Commissioner General or of the authorised officer of the Authority is-

(a) in the case of a paper document, printed, signed and stamped; or

(b) in the case of an electronic document, imbedded in the document by way of electronic signature.

(2) A declaration made by a person under a tax law is sufficiently authenticated if it duly signed by that person.

(3) A document issued under a tax law is not invalid or defective if-



(a) it is in substance and effect in conformity with the tax law; and

(b) the person to whom the document is addressed or applies is designated in the document according to common understanding.

(4) Where a document issued by the Commissioner General under a tax law contains a defect that does not involve a dispute as to the interpretation of the tax law or facts involving a particular person, the Commissioner General may, for the purposes of rectifying the defect, amend the document.

### 第三十一条【授权和有缺陷的文件】

总专员或者税务机关被授权人员的姓名、职衔符合下列情形的，总专员依照税法签发的文件视为得到充分认证：

涉及纸质文件的，印刷，签名和盖章；

涉及电子文件的，以电子签署方式嵌入文件内。

个人依照税法作出的声明，如果经其正式签署，即具有充分的证明效力。

有下列情形之一的，依照税法签发的文件不属于无效或者有缺陷：

实质和效力上符合税法；

按照通常理解，文件指定了收件人或者适用主体。

总专员依照税法签发的文件存在缺陷的，而该缺陷不涉及有关税法解释争议或者特定人的事实争议，总专员可以修改文档以纠正缺陷。

-(1) A paper document shall be considered to have been filed with the Commissioner General under a tax law when-

(a) physically delivered to the office of the Authority;

(b) sent by way of a registered post to an office of the Authority; or

(c) sent at any other place as the Commissioner General may specify.

(2) A document referred to in subsection (1) shall be treated to have been received by the Commissioner General-

(a) in the case of service by fax or electronic mail, at the time the transmission is sent;

(b) in the case of service by handing to an officer of the Authority or leaving at a place, at the time of handing or leaving;

(c) in the case of service by registered post, at the time the document is delivered or the Authority is informed that the document awaits the Authority;

(d) in the case of other service by post ten days after posting; and

(e) in the case of other services by the post from an address outside the United Republic, the time at which the document would normally be delivered in the ordinary course of post.

第三十二条【向总专员提交的书面文件】

有下列情形之一的，书面文件应当被视为已依照税法向总专员提交：

实际送交税务机关；

以挂号邮寄方式送交税务机关；

在总专员指定的其他地点发送。

有下列情形之一的，应当视为总专员已经收到第（1）款所述的文件：

通过传真或者电子邮件送达的，传送时；

将文件交给税务机关人员或者离开某地的，提交或离开时；

以挂号邮寄方式送达的，在文件送达时或者在税务机关获知该文件待签收时；

以其他邮寄方式送达的，自邮寄之日起满十日；

从联合共和国境外的地址以其他邮寄方式送达的，按照普通邮寄程序，文件将被送达的时间。

-(1) A paper document is sufficiently served on a person by the Commissioner General under a tax law if it is-

(a) handed to the person or, in the case of an entity, a manager of the entity; or

(b) left at, or sent by post to the usual or last known place of abode, business, office, post office box or other address of the person including-

(i) where the document is sent by registered post and the person has been informed that the document awaits the person, the post office; or

(ii) the address referred to in the person's Taxpayer Identification Number.

(2) A document shall be considered to have been received in the following circumstances-

(a) in the case of service by handing to a person or leaving at a place, at the time of



handing or leaving;

(b) in the case of service by registered post, at the time the document is delivered or the person is informed that the document awaits the person;

(c) in the case of other service by post to an address within the United Republic, ten days after posting; and

(d) in the case of other service by post to an address outside the United Republic, the time at which the document would normally be delivered in the ordinary course of post.

### 第三十三条【总专员送达的书面文件】

符合下列情形之一的，视为总专员依照税法，有效送达了书面文件：

交给个人，或者单位管理人员；

留在或者以邮递方式发送到受送达人通常或者最后为人所知的居所、营业所、办公室、邮政信箱，以及其他地址，包括下列情形：

以挂号邮寄方式发送，且受送达人获知该文件待签收的，即邮政局；

在纳税人识别号证书中指定的地址。

符合下列情形的，文件应当被视为已经收到：

直接交付送达或者留置送达的，交付或者留置时；

以挂号邮寄方式送达的，交付文件时或者受送达人获知该文件待签收时；

以其他邮寄方式送达至联合共和国境内地址的，自邮寄之日起满十日；

以其他邮寄方式送达至联合共和国境外地址的，按照普通邮寄程序，文件通常将被送达的时间。

-(1) The Commissioner General may establish and operate an electronic system for filing and furnishing of documents and servicing documents.

(2) An electronic document is considered to be filed by a person and received by the Commissioner General under a tax law when a document registration number is created by using the person's authentication code.

(3) Subsection (2) shall not apply to a person who has proved to the satisfaction of the Commissioner General that he did not send the document or the document was sent without his authority.

(4) An electronic document is considered to be served on a person by the Commissioner General under a tax law when a document registration number is created and the document can be accessed by using the person's authentication code.

(5) The Commissioner General may authorise a printed document to be treated as a copy of an electronic document filed under subsection (3) or served under this subsection.

(6) A court or tribunal shall accept a copy authorised under subsection (5) as conclusive evidence of the nature and contents of an electronic document, unless the contrary is proved.

#### 第三十四条【电子文件系统】

总专员可以通过建立和运行电子系统实现文件的提交、提供和送达。

当使用个人或者单位认证码生成文件登记号时，依据税法，电子文件被视为经个人或单位提交，并由总专员接收。

个人或者单位已向总专员证明并未发送文件的，或者文件的发出未经其授权的，不得适用第（2）款。

文件登记号已生成，且个人或单位可以使用认证码取得文件的，依据税法，电子文件被视为已送达。

总专员可以授权，将印刷文件视为依据第（3）款提交或者送达的电子文件的副本。

法庭或者裁判所应当认可依据第（5）款授权的副本可以作为电子文件性质和内容的确凿证据，但有相反证据证明的除外。



**PART V MAINTANANCE OF DOCUMENTS  
AND PROVISION OF INFORMATION**

**第五部分 文件的保存和资料的提供**

*(a) Maintaining Documents*

*(a) 文件的保存*

(1) Every taxable or liable person shall, within the United Republic, maintain documents in paper or electronic form which-

(a) contain information to be provided or filed with the Commissioner General under any tax law;

(b) enable an accurate determination of tax payable under any tax law;

(c) can be prescribed by the Commissioner General or by regulations.

(2) Every taxable person or a person liable to tax shall keep records and accounts in accordance with generally accepted accounting principles and the requirements of a respect tax law.

(3) The documents referred to in subsections (1) and (2) shall be retained for a period of five years from the relevant date or for a further period as prescribed in the tax law.

(4) Where a person-

(a) files an objection or appeal, all documents relevant to the matter in dispute shall be retained until the matter is finally determined and the decision is executed;

(b) makes an application to the Commissioner General, all documents relevant to the application shall be retained until the application is finally decided;

(c) applies for a refund of tax, all documents relevant to calculation of the refund shall be retained until the refund is made; and

(d) has received notice of an investigation or audit by the Commissioner General, all documents relevant to the investigation or audit shall be retained until the



Commissioner General notifies the person in writing that the investigation or audit is finalised.

(5) The Commissioner General may, by notice in writing-

(a) relieve a person from the obligation to maintain documents or the time for which the documents are to be retained;

(b) require a person to retain documents as prescribed in the notice.

(6) In this section, “relevant date” means-

(a) in the case of income tax, the end of the year of income for which the document is relevant;

(b) in the case of value added tax, the end of the prescribed accounting period for which the document is relevant; and

(c) in the case of other taxes, the last date on which the taxpayer is obliged to lodge a document with the Commissioner General for which the document is relevant.

### 第三十五条【文件的保存】

纳税人或者责任人应当在联合共和国境内,以纸质或电子形式保存下列文件:  
载有依据税法应当向总专员提供或者提交的资料的;  
可以准确地确定依据税法应纳税款的;  
总专员或者法规规定的。

纳税人和扣缴义务人应当依照公认会计准则和有关税法的规定保存记录和账户。

第(1)项和第(2)项规定的文件,自有关日期起保存五年,或者依照税法规定再保存五年。

下列情形中,个人或者单位应当留存文件的期限分别为:

提出异议或申诉的,应当留存所有有关争议事项的文件,至最终决定作出并执行时止;

向总专员提出申请的,在最终决定作出之前,应当留存所有有关申请的文件;  
申请退税的,在退税完成之前,应当留存所有有关退税计算的文件;

已收到总专员发出的调查或者审核通知书的,在总专员书面通知调查或者审核终结之前,应当留存所有有关调查或者审核的文件。



总专员可以通过书面通知：

免除个人或者单位保存文件的义务，或者留存文件的时间；

要求个人或者单位留存通知规定的文件。

本条中的有关日期，

涉及所得税的，是指有关文件的收入年度的终止之日；

涉及增值税的，是指有关文件的会计期间的终止之日；

涉及其他税种的，是指纳税人有义务向总专员提交有关文件的截止日。

-(1) A person who supplies goods, renders services or receives payment in respect of goods supplied or services rendered shall issue fiscal receipt or fiscal invoice by using electronic fiscal device.

(2) Notwithstanding subsection (1), the Commissioner General may publish in the newspaper with wide circulation or any other public media issue a list of persons or class of persons who are excluded from the requirement of the use of electronic fiscal device or the use of fiscal receipt or invoice.

(3) A person who is excluded from acquiring and using electronic fiscal device shall issue manual receipt.

(4) A person issuing the manual receipt shall enter or cause to be entered in the receipt and duplicate copy the following particulars-

(a) the date on which the payment is made;

(b) full name and address of the person who sold the goods or rendered the services;

(c) full description of the goods sold or the services rendered and a statement of the quality and value of the goods or, the amount charged in respect of the services rendered;

(d) full name and address of the person to whom the goods were sold or to whom the services were rendered;

(e) Taxpayer Identification Number; and

(f) such other particulars as the Commissioner General may, by a notice, specify.

第三十六条【电子财务装置】

提供货物、服务或者就提供的货物、服务收取价款的，应当使用电子财务装置开具财政收据或者财政发票。

即使有第（1）款的规定，总专员可以在广泛流通的报纸和其他公共媒体上发布不要求使用电子财务装置或者财政票据的个人或群体的名单。

被排除取得和使用电子财务装置的个人或单位，应当出具手工票据。

出具手工票据的，应当在票据上填写或者要求在收据上填写和复制下列内容：

付款日期；

销售货物或者提供服务的个人或单位的全称和地址；

销售的货物或者提供的服务的详细说明，以及货物的质量和价值，或者有关服务收费额的报表；

购买货物或者接受服务的个人或者单位的全称和地址；

纳税人识别号；

总专员通过通知指定的其他内容。

### *(b) Regular Provision of Information*

#### *(b) 定期提供资料*

-(1) A tax return to be filed by an individual shall declare that the return is complete and accurate and be signed by a person who made it.

(2) A tax return to be filed by an entity shall be signed by-

(a) in the case of the income tax, manager of the entity and a certified public accountant who is in public practice declaring that the return is complete and accurate; and

(b) in any other tax, a manager and declare that the return is complete and accurate.

(3) Where-

(a) a person becomes bankrupt or the company is wound-up or goes into liquidation;

(b) the Commissioner General has reasonable grounds to believe that a person-

(i) is about to leave the United Republic indefinitely;



(ii) intends to cease carrying on activity in the United Republic; or  
(iii) has committed an offence under a tax law; or  
(c) a person fails to maintain adequate documentation as required by this Act,  
the Commissioner General may require that person to file a tax return at earlier  
date than the date for filing a tax return.

(4) The Commissioner General's requirement shall be in writing and served on the  
person specifying the period, part of a period or other events to be covered by the tax  
return and the date by which the return shall be filed.

第三十七条【纳税申报表】

个人申报纳税的，应当声明纳税申报完整、准确，并由申报人签名。

单位申报纳税的，由下列人员签名：

涉及所得税的，由单位管理人员和一名声明申报完整、准确的从事公共业务  
的注册会计师签名；

涉及其他税种的，管理人员签名，并声明纳税申报完整、准确。

有如下情形之一的，总专员可以要求该个人或者单位在提交纳税申报表的日  
期之前进行纳税申报：

个人破产，或者公司解散或者进入破产清算程序；

总专员有合理理由认为个人或单位符合下列情形之一的：

即将无限期离开联合共和国；

拟停止在联合共和国境内的活动；

违反税法的；

未能依照本法要求保存充分的文件资料的。

总专员的要求应当以书面形式提出，并送达个人或者单位，指明纳税申报表  
包括的期间、部分期间或者其他事项，以及纳税申报表提交的日期。

-(1) A person who prepares a tax return or an attachment to a tax return on behalf  
of another person shall sign the return or an attachment certifying that-

(a) the person has examined the relevant documents of that other person  
maintained under this Act; and

(b) to his knowledge, the return or attachment presents a true and fair view of the

circumstances to which it relates.

(2) Subsection (1) shall not apply to an employee of the person obliged to file the tax return.

(3) Where a person who prepared a tax return or an attachment under subsection (1) is not satisfied with the information contained in the documents relevant for the preparation of the return or an attachment, the person shall furnish that other person with a statement in writing stating the reasons for his desertification and proceed to sign the return noting that the signature is subject to such a statement.

### 第三十八条【协助准备纳税申报表】

代表他人准备纳税申报表或者申报表附件的人员，应当在纳税申报表或附件上签字，证明下列事项：

已经对该他人依照本法保存的有关文件加以审查；

据他所知，申报表或者附件对有关情形提供了真实和公正的观点。

第（1）款不适用于纳税申报义务人的雇员。

依照第（1）款的规定准备纳税申报表或附件的人员，对用于准备纳税申报表或者附件的有关文件包含的信息持异议的，应当向该他人书面声明否定代表资格的原因，在申报表上签字，并说明签字效力限于该声明。

-(1) A person who is required to file a tax return under a tax law may apply to the Commissioner General for an extension of the time by which the return shall be filed.

(2) The application under subsection (1) shall be in writing and be made within fifteen days before the due date for filing the return.

(3) Upon the receipt of an application made under subsection (1), the Commissioner General-

(a) may extend the time upon which the return has to be filed;

(b) shall serve the person with written notice of his decision on the application.

(4) The extension of time to file a return shall not exceed thirty days from the due date of filing the return.

(5) The granting of an extension of time under this section shall not alter the date for payment of tax as specified in the tax law under which the return is filed.

**第三十九条【提交纳税申报表时限的延长】**

依据税法规定应当提交纳税申报表的个人或者单位，可以向总专员申请延长提交纳税申报表的期限。

依据第（1）款提出的申请应当采取书面形式，并在提交申报表的到期日前十五天内提出。

收到依据第（1）款提出的申请后，总专员应当作出下列行为：

可以延长提交申报表的期限；

应当将其对申请作出的决定以书面通知的形式送达申请人。

延期申报的期限，自提交申报表的到期日起计算，不得超过三十日。

依照本条规定准予延期的，不得改变申报表提交所依据的税法规定的纳税日期。

- (1) Where a person fails to file a tax return by the due date stated by a tax law or as may be extended under section 39, the Commissioner General may use the power under this Act to appoint another person to prepare and file information.

(2) Any purported filing of a tax return after the due date or in a manner other than that specified in the relevant tax law shall be ineffective.

(3) The Commissioner General shall, make an assessment of the tax liability of the person as required by the tax law, including by way of adjusted assessment, and for this purpose may use any information in the Commissioner General's possession including any information obtained under subsection (1) or (2).

**第四十条【未按时提交纳税申报表】**

个人或者单位未在税法规定的到期日前提交纳税申报表的，或者依据第三十九条的规定可以延期提交的，总专员可以依据本法的授权指定他人准备和提交资料。

逾期提交纳税申报表的，或者以有关税法规定以外的其他方式提交的，该申报无效。

总专员应当依照税法的规定，对个人或者单位的税收义务作出评估，包括以调整后的评估方式进行评估。为此，总专员可以使用其掌握的所有资料，包括依据第（1）款或者（2）款取得的资料。

(1) Where the Commissioner General is not satisfied with a tax return filed under a tax law, he shall use appropriate powers, including those in Subpart (c) of this Part for acquiring further information as is necessary in the issuance of an assessment.

(2) A tax return which has been filed shall not be amended or corrected unless as specified under the relevant tax law.

(3) The Commissioner General may, in making an assessment or adjusted assessment, take into account any information received under subsection (1).

#### 第四十一条【更正纳税申报表和其他信息】

总专员认为依照税法规定提交的纳税申报表不符合要求的，应当适当地行使权力，包括本部分第三分部的权力，以进一步获取作出纳税评估所需的资料。

已经提交的纳税申报表不得修改或者更正，但有关税法规定的除外。

总专员在作出纳税评估或者调整纳税评估时，可以考虑依据第（1）款收到的任何资料。

#### Access to Information and Assets

##### 获取资料和资产

(1) The Commissioner General shall, without a prior notice, be granted free access to any premises, documents, goods, vessels, vehicles, aircrafts or any other assets-

(a) in the case of a dwelling house or where a document or asset is located in a dwelling house-

(i) between 9:00am and 6:00pm; and

(ii) at other times as permitted by an order of a court;

(b) in any other case, at any time.

(2) The powers of the Commissioner General stipulated under subsection (1) may be delegated to a tax officer.

(3) When exercising the power under subsection (1), the Commissioner General or tax officer may-

(a) make an extract or copy of any document to which access is obtained;



(b) seize any document which affords evidence that-

- (i) may be material in determining the tax liability of any person; or
- (ii) an offence has been committed under a tax law;

(c) seize an asset to which access is obtained that contains or stores the document in any form;

(d) where a document is not available or a copy is not provided on request by a person having access to the document, seize an asset to which access is obtained under subsection (1) that the Commissioner General or tax officer reasonably suspects contains or stores the document in any form;

(e) take samples of goods; and

(f) park, moor or store, at any premises or place, any vehicle, aircraft, vessel or other equipment in use by the Commissioner General or a tax officer.

(4) Any document, asset or sample seized under subsection (3), shall be issued with an inventory of seized properties signed by the Commissioner General or the tax officer and may be-

(a) in the case of seized document retained for a period required for the determination of the person's tax liability or for any proceedings under a tax law;

(b) in the case of seized asset retained for as long as is necessary to obtain access to the document; or

(c) in the case of samples, retained and disposed of in the manner directed by the Commissioner General.

(5) An authorised officer exercising power under this section may be assisted and accompanied by any employee of the Authority expert appointed under section 18 or public officer required to assist under section 19.

#### 第四十二条【获取资料和资产】

符合下列情形的，总专员可以无需事先通知，自由进入或者检查场所、文件、货物、船只、车辆、航空器或者其他资产：

涉及住房或者住房内的文件或资产的，

上午九时至下午六时；



法院命令许可的其他时间；

涉及其他情形的，任何时间。

总专员可以授权税务人员行使第（1）款规定的权力。

行使第（1）款规定的权力时，总专员或者税务人员可以作出下列行为：

摘录或复制有权查阅的任何文件；

扣押能证明下列情形的文件：

确定任何个人或者单位的税收义务的重要证据；

已犯税法规定之罪；

扣押有权检查的以任何形式包含或者存放文件的资产；

有权查阅文件的人员未取得该文件的，或者个人、单位未按要求提供该文件的复本的，可以依据第（1）款扣押总专员或者税务人员合理怀疑包含、存放该文件的资产；

抽取货物样品；

将总专员或者税务人员使用的车辆、飞机、船舶以及其他设备，停放、停泊或者存放于某一场所、地点。

依据第（3）款扣押文件、资产或者样品的，应当出具由总专员或者税务人员签署的被扣押财产清单，并可以按照下列情形留存：

查封的文件，依照税法规定期限留存，用于被查封人纳税义务的确定，或者税法程序的进行；

查封的资产，只要有必要，保留该资产以查阅文件；

涉及样品的，以总专员指示的方式留存和处置样。

被授权人员依据本条行使权力时，可以得到依据第十八条委任的税务机关专家，或者依据第十九条要求提供协助的公职人员的协助和陪同。

-(1) A person who possesses any premise, place, document, goods, equipment, vessel, vehicle, aircraft or asset to which a tax officer seeks or has obtained access under this Part may require the tax officer to produce the authorisation.

(2) Where the tax officer fails to comply with a request under subsection (1), the person may refuse the officer an access or require the tax officer to leave the premises or place to which the tax officer has obtained access on that occasion.



(3) A person who possesses any premise, document, good, vessel, vehicle, aircraft or asset to which an exercise of powers under this Part refers, shall provide all reasonable facilities and assistance for the effective exercise of the powers under this section.

(4) Where a person fails to comply with subsection (3), the tax officer shall exercise the powers stipulated under section 63 and apply for search warrant under section 94.

(5) A person who owns documents or assets retained pursuant to this Part may, at his own expenses, examine the documents and make copies or extracts of documents during regular office hours under the supervision as the Commissioner General may determine.

(6) Where a document, asset or sample is lost or damaged as the result of exercising the powers under this Act, the Commissioner General shall pay the owner of the document, asset or sample a reasonable compensation.

#### 第四十三条【占有人的权利和义务】

税务人员依照本部分规定进入、检查场所、地点、文件、货物、设备、船舶、车辆、航空器以及其他资产的，占有人可以要求税务人员出示授权书。

税务人员不遵守第（1）款要求的，占有人可以拒绝税务人员进入，或者要求当时有权进入的税务人员离开进入的场所、地点。

占有依照本部分规定行使权力涉及的场所、文件、货品、船舶、车辆、飞机或资产的个人或者单位，应当为有效行使本条所述权力提供一切合理的便利和协助。

个人或者单位不遵守第（3）款要求的，税务人员应当行使第六十三条规定的权力，并依据第九十四条申请搜查令。

依据本部分规定留存文件、资产的个人或者单位，可以在日常工作时间和总专员决定的监督下，自费查阅文件和复制、摘录文件。

文件、资产或者样本因为依照本法行使权力丢失或损坏的，总专员应当向文件、资产或者样本的所有人提供合理的补偿。

-(1) The Commissioner General may, by a notice in writing, require a person who

is not liable for tax-

(a) to produce any information prescribed in the notice;

(b) to attend at the time and place stated in the notice for the purposes of being examined by the Commissioner General or by an officer authorised by the Commissioner General; or

(c) to produce any document in his control during the examination.

(2) Any person to be examined under subsection (1)(b) is entitled to representation.

(3) A notice under subsection (1) shall be served by hand to the person to whom it is directed or leaving it at the person's usual place of business or abode, or by any other means as the Commissioner General may determine.

#### 第四十四条【获取资料通知书】

总专员可以通过书面通知，要求非纳税义务人作出下列行为：

提供通知规定的资料；

在通知书规定的时间和地点出席，接受总专员或者总专员授权的税务人员的调查；

在接受调查时出示他所控制的文件。

依据第（1）款（b）项接受调查的个人或者单位有权派遣代表出席。

依据第（1）款发出的通知书，应当由专人送达，或者将通知书留在个人、单位的经常营业场所、住所，或者以总专员决定的其他方式送达。

(1) The Commissioner General may use powers conferred on him under this Act, to audit or investigate a person's tax affairs.

(2) The Commissioner General may select a person to be audited having regard to-

(a) that person's history of compliance or non-compliance with any tax law;

(b) the amount of tax payable by that person;

(c) the class of business or other activity conducted by that person; or

(d) any other matter that the Commissioner General considers relevant for ensuring the collection of tax due.

(3) Where a person has been audited or investigated for any particular period, such audit or investigation shall not preclude that person from being audited or investigated



in the following period if there are reasonable grounds for auditing or investigating the person.

(4) The audit or investigation may be conducted for the purpose of more than one tax law.

**第四十五条【税务稽核或者调查】**

总专员可以行使依据本法授予他的权力，审计、调查个人、单位的涉税业务。

总专员可以选择个人或者单位，就其下列情形进行审计：

遵守或者不遵守税法的历史；

应缴的税款；

业务类别或者从事的其他活动；

总专员认为与确保征收应缴税款有关的其他事项。

个人、单位在特定期间接受审计或者调查的，如果存在合理理由，不排除其在后续期间再次接受审计或者调查。

可以为了多部税法的目的实施审计或者调查。

**PART VI PRIMARY TAX LIABILITY**

**第六部分 主要纳税义务**

-(1) An assessment of tax shall be made by way of self-assessment where a person liable to pay tax is obliged to file a tax return.

(2) A person other than the Commissioner General shall not adjust any assessment.

**第四十六条【纳税评估和自行评税】**

纳税义务人有纳税义务的，应当通过自行评税进行纳税评估。

总专员以外的任何人不得调整纳税评估。

-(1) The Commissioner General may make a jeopardy assessment of tax payable or has become payable by a person under the respective tax law-

(a) whether or not the person is required to file a tax return, in the circumstances specified in section 40(3); and

(b) in any other case, where a person fails to file a tax return on time.

(2) The Commissioner General shall use best judgment and available information in making a jeopardy assessment.

(3) A jeopardy assessment may be valid for such period or periods or with respect to such events or subject matter as the Commissioner General may specify in the notice of assessment.

(4) A jeopardy assessment shall not, unless the Commissioner General specifies otherwise in the notice of assessment, relieve a person of the obligation to file a tax return or report a taxable event as required by a tax law.

(5) The filing of tax return, shall not affect a jeopardy assessment.

(6) Where a jeopardy assessment covers the period or events covered by a self-assessment of a person with respect to the same tax, any tax paid with respect to the jeopardy assessment shall be credited against tax payable with respect to the self-assessment.

(7) A jeopardy assessment shall be deemed to be made under the tax law which charges the person or subject matter assessed.

#### 第四十七条【危险性评估】

有下列情形的，总专员可以依据有关税法对个人或者单位的应纳税款、到期应纳税款作出危险性评估。

第四十条第三款规定的，无论个人或者单位是否需要提交纳税申报表；

个人或者单位未按时提交纳税申报表的其他情形。

总专员应当运用最佳判断和可利用资料作出危险性评估。

总专员可以在评税通知书中规定危险性评估在一段或数段期间内有效，或者适用于某些事件、事项。

危险性评估不得免除个人、单位依照税法规定提交纳税申报表或者报告应纳税事项的义务，但总专员在纳税评估通知书中另有规定的除外。

纳税申报不应当影响危险性评估。

危险性评估所涉期间或者事件，已经被个人、单位同一税收的自行评税包含的，其所缴纳的有关危险性评估的税款，应当从自评应纳税款中扣减。

危险性评估，应当依据税法对被评估人或者被评估事项收取费用。



(1) The Commissioner General may adjust an assessment to ensure the taxpayer is liable for the correct amount of tax in the circumstances to which the assessment refers.

(2) Where, in the opinion of the Commissioner General, a taxpayer has failed to pay any of the tax payable by him by reason of-

(a) his failure to keep proper books of accounts, records or document as required under a tax law, or the incorrectness of the books, records or documents; or

(b) his failure to make, or delay in making any return required under a tax law or the incorrectness or inadequacy of any return,

the Commissioner General may assess the tax due and any interest payable on that tax both of which shall be due for payment within one month of the date of the assessment, unless a longer period is allowed by the Commissioner General.

(3) The Commissioner General shall use best judgment and available information in making an adjusted assessment.

(4) The powers of the Commissioner General to adjust an assessment expires five years from-

(a) in the case of a self-assessment, the due date for filing the tax return that gives rise to the assessment;

(b) in the case of any other original assessment, the date on which the Commissioner General serves notice of assessment on the taxpayer; and

(c) in the case of an adjusted assessment, the date referred to in paragraph (a) or (b) of the original assessment that is adjusted.

(5) Notwithstanding subsection (4), there shall be no time limit on the Commissioner General to adjust an assessment in the case of fraud, willful neglect or serious omission by or on behalf of the taxpayer.

(6) The Commissioner General shall not adjust an assessment that has been adjusted or reduced pursuant to a decision of the Board or Tribunal under the Tax Revenue Appeals Act or an order of the court of competent jurisdiction.

(7) An adjusted assessment shall cease to have effect to the extent to which it is adjusted.

(8) An adjusted assessment shall be deemed to be made under the tax law which charges the person or subject matter assessed.

(9) In this section, “original assessment” means an assessment that is not an adjusted assessment.

#### 第四十八条【调整评税】

总专员可以通过调整纳税评估，确保纳税人缴纳评估所涉正确的税额。

总专员认为，纳税人由于下列原因未缴纳应纳税款的，总专员可以对到期应纳税款和应付利息作出评估，两者均应当自评税日起一个月内缴付，但总专员准许延长的除外：

未依照税法的要求妥善保管帐簿、记录、文件，或者帐簿、记录、文件不正确的；  
未作出或者迟延作出税法规定的纳税申报，或者申报不正确、不充分的。

总专员应当运用最佳判断和可利用资料作出调整评税。

总专员调整纳税评估的权力，自下列日期起满五年后到期：

涉及自行评税的，提交引起评估的纳税申报表的截止日；

涉及其他初始评税的，总专员向纳税人送达评税通知单之日；

涉及调整评税的，（a）项或者（b）项规定的调整之前的初始评税日期。

即使有第（4）款的规定，纳税人或者其代表人有欺诈、故意疏忽或者严重遗漏行为的，总专员对评税的调整不受时间限制。

委员会、裁判所依据《税收申诉法》作出的决定，或者有管辖权的法院的命令，已经对纳税评估作出调整、降低的，总专员不得对其再作调整。

调整的评税，在被调整的范围不再有效。

调整的评税，应当被视为依据有关被评估人或者被评估事项收费的税法作出的评税。

本条所称初始评税，是指不属于调整评税的评税。

-(1) Where the Commissioner General makes an assessment under a tax law, he shall serve a written notice of the assessment on the taxpayer in a manner provided for under sections 33 and 34.

(2) In addition to anything prescribed by the respective tax law, a notice of assessment shall state-



- (a) the name of the taxpayer and the Taxpayer Identification Number;
- (b) the Commissioner General's assessment of the tax payable by the taxpayer for the period, event or matter to which the assessment relates and the amount remaining to be paid;
- (c) the reasons why the Commissioner General has made the assessment;
- (d) the date by which the tax shall be paid; and
- (e) the time, place and manner of objecting the assessment.

第四十九条 【纳税评估通知书】

总专员依据税法作出纳税评估时，应当以第三十三条和第三十四条规定的方式将书面评税通知书送达纳税人。

除税法规定的相应事项外，纳税评估通知书应当载明下列事项：

纳税人的名称（姓名）和纳税人识别号；

总专员就有关评税的纳税人应纳税款的期间、应税事件或者事项，和待缴纳税额作出的评税；

总专员作出评税的理由；

应当缴纳税款的日期；

对评税提出异议的时间、地点和方式。

## PART VII DISPUTE RESOLUTION

### 第七部分 争议解决

-(1) The Commissioner General may, subject to subsection (2), make any tax decision including assessment or other decision or omission on a matter left to the discretion, judgement, direction, opinion, approval, consent, satisfaction or determination of the Commissioner General under a tax law that directly affects a person.

(2) An assessment or decision made under subsection (1) shall not include-

(a) a practice note or a decision or omission to issue, refuse or revoke a practice note;



(b) a decision or omission that affects a person as a tax officer or employee or agent of the Authority; or

(c) the compoundment of an offence under any tax law.

(3) A tax decision under this section is considered to have been made-

(a) in the case of self-assessment, on the due date of filing the tax return;

(b) in the case of other assessments, when the notice of assessment is served on the taxpayer; and

(c) in the case of any other tax decision-

(i) where the tax law specifies a time by which the Commissioner General is to make the decision; or

(ii) when the Commissioner General serves the affected person with written notice of the decision.

(4) For the purposes of this Act, the following informations or documents shall be considered as conclusive evidence that a tax decision has been made and the decision is correct-

(a) in the case of self-assessment, the tax return that causes the assessment or a document under the hand of the Commissioner General purporting to be a copy of the tax return;

(b) in the case of other assessments, the notice of assessment or a document under the hand of the Commissioner General purporting to be a copy of the notice; and

(c) in the case of any other tax decision, a written notice of the decision under the hand of the Commissioner General or a document under the hand of the Commissioner General purporting to be a memorandum of the decision.

#### 第五十条【税务决定】

依据第（2）款的规定，总专员可以作出的税务决定包括纳税评估或者其他决定、留待裁量的遗漏事项、裁决、指示、意见、批准、同意、履行，或者总专员依据税法作出的直接影响个人、单位的决定。

依据第（1）款作出的纳税评估或者决定不包括下列内容：

发布业务指引、决定，或者未发布，拒绝、撤销业务指引；

影响税务人员，或者税务机关雇员、代理人的决定或者不作为；  
依据税法对犯罪和解结案。

依据本条作出的税务决定，被视为在下列日期作出：

涉及自行评税的，提交纳税申报表的截止日期；

涉及其他评税的，纳税评估通知书送达纳税人的日期；

涉及其他纳税决定的，为下列时间：

税法规定的总专员作出决定的时间；

总专员向受决定影响的个人或者单位送达决定通知书的时间。

为本法目的，下列资料或者文件应当被视为税务决定已作出且正确的确凿证据：

涉及自行评税的，引起评税的纳税申报表，或者总专员掌握的名为纳税申报表副本的文件；

涉及其他评税的，纳税评估通知书，或者总专员签发的名为通知书副本的文件；

涉及其他税务决定的，总专员签发的决定通知书，或者总专员签发的名为决定备忘录的文件。

(1) A person who is aggrieved by a tax decision made by the Commissioner General, may object the decision by filing an objection to the Commissioner General, within thirty days from the date of service of the tax decision.

(2) A person who has reasonable ground to warrant extension of time to file an objection against a tax decision may apply for an extension of time.

(3) Where the Commissioner General is satisfied by the reason stated in the application made under subsection (2), he shall grant the extension of time and serve the notice of his decision to the applicant.

(4) An objection to a tax decision shall be in writing stating the grounds upon which it is made.

(5) An objection to any tax decision shall not be admitted unless the taxpayer has paid the amount of tax which is not in dispute or one third of the assessed tax whichever amount is greater.

(6) Where the Commissioner General is satisfied that there exist good reasons warranting reduction or waiver, he may waive the amount to be paid under subsection (5) or accept a lesser amount.

(7) Where a taxpayer files an objection and makes payment under subsection (5), the liability to pay the remaining assessed tax shall be suspended until the objection is finally determined.

(8) In this section, “tax not in dispute” with respect to an assessment or any tax decision means-

(a) the amount that ought to be charged where the assessment or a tax decision is amended in accordance with the objection; and

(b) the whole of duty or any tax assessed on imports.

#### 第五十一条【对税务决定提出异议】

个人或者单位对总专员的税务决定不服的，可以自税务决定送达之日起三十日内，向总专员提出异议。

个人或者单位有合理理由对税务决定延期提出异议的，可以申请延期。

总专员认为依据第（2）款提出的申请所述的理由成立的，应当准予延期，并将决定通知书送达申请人。

对税务决定提出异议的，应当书面说明提出异议的理由。

纳税义务人未缴纳无争议税款的，或者缴纳的核定税款未达到三分之一以上的，对纳税决定的异议，不被接纳。

总专员确信有充分的减税或者免税理由的，可以免征依据第（5）款应当缴纳的税额，或者接受较低的税额。

纳税人依据第（5）款提出异议并缴纳税款的，在就该异议作出最终决定前，暂缓缴纳其余的核定税额。

本条中，有关纳税评估或者其他税务决定的“无争议税款”，是指下列情形：

按照异议修正纳税评估或者税收决定，应当征收的税额；

对进口货物核定征收的所有关税或者其他税收。

-(1) The Commissioner General may, upon admission of an objection pursuant to section 51, make a decision by determining the objection or call for any evidence or



any other information as may appear necessary for the determination of the objection and may, in that respects-

(a) amend the assessment in accordance with the objection and any further evidence that has been received; or

(b) refuse to amend the assessment.

(2) Where the Commissioner General agrees to amend the assessment in accordance with the objection, he shall serve a notice of the final assessment to the objector.

(3) Where the Commissioner General-

(a) intends to amend the assessment in accordance with the objection and any further evidence; or

(b) decides to refuse to amend the assessment,

he shall serve the objector with a notice setting out the reasons for the intention or decision.

(4) The objector shall, within thirty days from the receipt of the notice pursuant to subsection (3), make submission in writing to the Commissioner General on his agreement or disagreement with the amended assessment or the refusal.

(5) The Commissioner General may, after the receipt of the submissions by the objector made pursuant to subsection (4)-

(a) determine the objection in the light of the amended assessment or refusal and any submission made by the objector; or

(b) determine the objection partially in accordance with the submission by the objector.

#### 第五十二条【异议决定】

总专员接纳依据第五十一条提出的异议后，可以作出认定异议的决定，或者要求提供认定异议必需的证据或者其他资料；并可以作出下列行为：

按照异议和收到的进一步证据，修正纳税评估；

拒绝修正纳税评估；

总专员同意按照异议修正纳税评估的，应当将最终纳税评估通知书送达异议

人。

总专员有下列行为的，应当向异议人送达通知书，说明其意向或者决定的理由：

拟按照异议和收到的进一步证据，修正纳税评估的；

决定拒绝修正纳税评估的；

异议人应当自收到依据第（3）款发出的通知后三十日内，就修正的纳税评估或者拒绝修正纳税评估，向总专员提交同意或者不同意的书面意见。

总专员收到异议人依据第（4）款提交的意见书后，可以作出下列决定：

按照修正或者拒绝修正纳税评估，以及异议人提交的意见，认定异议；

按照异议人提交的意见，部分认定异议。

(1) A person who is aggrieved by an objection decision or other decision or omission of the Commissioner General under this Part may appeal to the Board in accordance with the provisions of the Tax Revenue Appeals Act.

(2) Subsection (1) shall also apply to a decision or omission made under the customs law.

(3) For the purposes of this section, the Board shall be deemed to be the Tax Appeals Tribunal established under section 231 of the East African Community Customs Management Act.

#### 第五十三条【对异议决定提起申诉】

个人或者单位对总专员依据本部分作出的异议决定、其他决定或者不作为不服的，可以依据《税收申诉法》的规定，向委员会提出申诉。

第（1）款也适用于依据海关法作出的决定或者不作为。

本条所称委员会，应当被视为依据《东非共同体关税管理法》第二百三十一条设立的税收申诉裁判所。



## PART VIII PAYMENT AND RECOVERY OF TAX

### 第八部分 缴纳和追缴税款

#### *(a) Regular Payment of Tax*

#### (a) 定期纳税

-(1) A taxpayer shall pay any tax-

(a) at the time specified in the tax law under which the tax is charged;

(b) in the case of tax payable-

(i) on a jeopardy assessment under section 47, on the date specified in the notice of assessment served under section 49; or

(ii) on an adjusted assessment under section 48, within thirty days from the date on which the person assessed is served with a notice of assessment under section 49;

(c) in the case of interest and penalties under Part X, on the date specified in the notice of assessment served under section 81;

(d) with respect to amount required to be paid to the Commissioner General under section 62(9), 68(2), 69(2) or (5), on the date set out in the notice;

(e) with respect to a liability under section 65, at the time the tax is payable by the entity;

(f) with respect to amounts required to be paid to the Commissioner General under section 67(3) or (4), seven days after the sale from which the amount is set aside or the failure to set aside, respectively; or

(g) with respect to amount required to be paid to the Commissioner General under section 68(5), on the date provided for in the security.

#### 第五十四条【纳税时间】

纳税人应当按照下列时间缴纳税款：

有关税法规定的时间；

应纳税款

涉及依据第四十七条作出的危险性评估的，为依据第四十九条送达的评估通知书指明的日期；

涉及依据第四十八条作出的调整评估的，为依据第四十九条向被评估人送达评估通知书之日起三十日内；

依据第十部分应当缴纳利息和罚款的，为依据第八十一条送达的评估通知书规定的日期；

依据第六十二条第（9）款、第六十八条第（2）款、第六十九条第（2）款或者第（5）款应当向总专员缴纳款额的，为通知书规定的日期；

有关第六十五条规定的债务，为单位应缴纳税款的时间；

依据第六十七条第（3）款或者第（4）款应当向总专员缴纳款额的，为留存或者未留存应纳款额的销售完成后七日内；

依据第六十八条第（5）款应当向总专员缴纳款额的，为保证书中规定的日期。

-(1) A taxpayer may, in writing, apply to the Commissioner General for an extension of time to pay tax under a tax law.

(2) The Commissioner General may, upon the receipt of the application and where good cause is shown, extend the date on which tax or part of tax shall be paid.

(3) The Commissioner General shall serve the applicant with written notice of the decision on the application.

(4) Where an extension is granted by permitting the taxpayer to pay tax by instalments and the taxpayer has defaulted in paying any of the instalments, the whole balance of the tax outstanding plus the interest shall become payable immediately.

#### 第五十五条【纳税期限的延长】

纳税人可以依照税法向总专员书面申请延长纳税期限。

总专员收到申请后，有正当理由的，可以延长缴纳全部或者部分税款的期限。

总专员应当向申请人送达延期申请决定的书面通知书。

准予纳税人延期申请而分期缴纳税款的，纳税人逾期不缴纳任何一期分期税款的，应当立即缴纳所有税款余额和利息。

-(1) A taxpayer shall pay tax-

(a) at any tax office;



(b) at any bank approved for that purpose by the Commissioner General;

(c) through a mobile phone payment system; or

(d) in any other manner prescribed by the Commissioner General.

(2) Where a taxpayer pays tax in accordance with subsection (1), he shall notify the tax office where the taxpayer is registered of the payment.

(3) A taxpayer shall pay tax in one of the following forms-

(a) where the payment is made at a tax office in cash; or

(b) where the payment is made at a bank-

(i) in cash;

(ii) by cheque; or

(iii) by direct account transfer.

(4) The payment of tax shall be considered to be ineffective where the cheque tendered to the bank is dishonoured.

#### 第五十六条【纳税方式和地点】

纳税人应当通过下列方式缴纳税款：

向税务机关缴纳；

向总专员为此目的批准的银行缴纳；

通过移动电话支付系统缴纳；

以总专员规定的其它方式缴纳。

纳税人依照第（1）款缴纳税款的，应当将缴纳情况通知纳税人登记地税务机关。

纳税人应当以下列形式缴纳税款：

在税务机关以现金缴纳税款；

以下列形式在银行缴纳税款：

现金；

支票；

直接转账；

提交给银行的支票被拒付的，视为缴纳税款无效

Where a taxpayer has tax payable under one or more tax laws and makes payment



than the total outstanding amount, the Commissioner General may, notwithstanding the system established under section 58, determine the amount of tax to be considered as the paid amount.

第五十七条【纳税令】依据一部或者多部税法，纳税人应当缴纳税款，且已缴纳税款超过未缴税款总额的，即使依据第五十八条设立的制度，总专员仍然可以决定视为已缴纳税款的款额。

(1) The Commissioner General may establish and operate an electronic system of taxpayer's account.

(2) The system may be established and operated separately or as part of the electronic document system established under section 34.

(3) For the better carrying out of the purpose of this section, the Commissioner General may make rules prescribing-

(a) when the tax becomes payable;

(b) the tax paid; and

(c) other matters similar to matters described under section 34.

第五十八条【纳税人税务账户】

总专员可以设立和运行纳税人账户电子系统。

该系统可以单独设立和运行，也可以作为依据第三十四条设立的电子文件系统的组成部分。

为了更好地实现本条的目的，总专员可以制定规则规定下列事项：

应当缴纳税款的时间；

已经缴纳的税款；

与第三十四条规定事项类似的其他事项。

*(b) Recovery of Tax from Taxpayer*

*(b) 向纳税人追缴税款*

Where-

(a) payment of any tax has not been made on or before the due date; or



(b) a notice which has been served to any person under section 81 has not been complied with,

the tax due and payable by such person may be recovered as a debt due to the Government in any proceeding before a court of competent jurisdiction.

第五十九条【欠税诉讼】有下列情形之一的，个人或者单位的到期应纳税款，作为欠政府的到期债务，可以通过有管辖权法院的诉讼程序予以追缴：

未在到期日或者到期日之前缴纳税款；

依据第八十一条向个人或者单位送达的通知书未得到遵守。

-(1) Withholding tax, including any assets acquired by the withholding agent, may be traced from assets or amounts-

(a) held in trust for the Government of the United Republic;

(b) not the subject of attachment in respect of a debt or liability of the agent; and

(c) not forming part of the estate in liquidation or bankruptcy of the agent.

(2) The Commissioner General shall have a first claim over the tax or assets before any distribution in liquidation or bankruptcy of a withholding agent is made.

第六十条【代扣税款的担保】

包括扣缴义务人获得的所有资产在内的代扣税款，可以从下列资产或者款额中追索：

为联合共和国政府托管的；

非有关扣缴义务人欠款或者债务保全的标的物；

非扣缴义务人清算或者破产程序中的部分财产；

在对扣缴义务人清算或者破产分配之前，总专员就税款或者资产具有优先受偿权。

-(1) Where a taxpayer fails to pay tax on time, the Commissioner General may create a charge in favour of the Government over assets owned by that taxpayer.

(2) The Commissioner General shall be considered to have created the charge if he serves the taxpayer with a notice in writing specifying that taxpayer's name and Taxpayer Identification Number, the assets charged, the extent of the charge, the tax to which the charge relates and details regarding the Commissioner General's power of

sale under section 62.

(3) The assets of a taxpayer shall be charged to the extent of the unpaid tax, interest accruing with respect to that tax under section 76 and any costs of charge and sale.

(4) A charge created under subsection (2) shall not have effect until-

(a) where an interest in land or buildings is charged, the Commissioner General files an application to register the charge under subsection (6); and

(b) in any other case, the notice creating the charge is served on the taxpayer.

(5) A charge shall be released when the taxpayer pays in full the amounts referred under subsection (3) to the Commissioner General.

(6) Where the Commissioner General creates a charge over an interest in land or buildings, the Registrar of Titles shall, without fee, register the charge on the title of the interest in land or buildings.

(7) Where a charge over an interest in land or buildings is released, the Registrar of Titles shall, within thirty days and without fee, remove the entry of the charge from the title of the interest in land or buildings.

(8) Any transaction by the Commissioner General under this section shall be exempted from stamp duty and any other transaction taxes.

(9) The Commissioner General may serve on a taxpayer a notice in writing-

(a) specifying any costs of charge and sale with respect to assets of the taxpayer incurred by the Commissioner General prior to the date of service; and

(b) requiring the taxpayer to pay such costs to the Commissioner General by the date specified in the notice.

#### 第六十一条 【资产抵押】

纳税人未按时缴纳税款的，总专员可以在纳税人所有的资产上为政府设立抵押；

总专员向纳税人送达的通知书中指明了纳税人名称（姓名）、纳税人识别号、抵押资产、抵押范围、抵押的税款，以及第六十二条规定的有关总专员的出售权等项目的，应当视为总专员已经设立了抵押。



在纳税人的资产上设立的抵押，应当限于未缴纳的税款、依据第七十六条有关税款产生的利息，以及抵押和出售费用的范围之内。

符合下列条件的，依据第（2）款设立的抵押生效：

在土地或者建筑物权益上设立抵押的，总专员依据第（6）款申请抵押权登记；在其他情形下，设立抵押的通知书送达纳税人的。

纳税人向总专员全额缴纳第（3）款所指的款额的，抵押权消灭。

总专员在土地或建筑物权益上设立抵押的，不动产登记人员应当对土地或者建筑物权益上设立的抵押权予以免费登记。

土地或者建筑物权益上设立的抵押权消灭的，不动产登记人员应当在三十日内，对土地或者建筑物权益上设立的抵押权登记事项予以免费注销。

对总专员依据本条实施的交易免征印花税以及其他交易税。

总专员可以通过向纳税人送达书面通知，指定下列事项：

在送达日期之前总专员就纳税人的资产设立抵押和出售抵押物所支出的费用；

要求纳税人在通知书指定的日期之前向总专员支付该费用。

-(1) The Commissioner General shall serve a taxpayer with written notice of intention to sell charged assets owned by such taxpayer.

(2) The notice served under subsection (1) may accompany a notice referred to under section 67 and it shall specify-

(a) the taxpayer's name and Taxpayer Identification Number;

(b) the charged assets, the Commissioner General's intention to sell those assets and the proposed method and timing of sale; and

(c) in the case of tangible assets that the Commissioner General intends to take possession of, the manner in which and place at which the possession will take place.

(3) In exercising of his powers under subsection (1), the Commissioner General-

(a) may exercise such powers directly or through an authorised agent;

(b) shall serve the person with a copy of the notice prior to taking possession;

(c) may, for the purpose of taking possession with the assistance of the police enter any premises or place described in the notice;

(d) shall, at the time of taking possession, provide the taxpayer with an inventory of assets seized; and

(e) in the case of movable assets, may store the assets, at the cost of the taxpayer, at any place that the Commissioner General considers appropriate.

(4) The Commissioner General shall, after serving a taxpayer with a notice under subsection (1), sell the charged assets by public auction.

(5) The sale under subsection (4) shall not take place before-

(a) in the case of an interest in land or buildings, thirty days after taking possession;

(b) in the case of perishable goods, one day after taking possession;

(c) in the case where charged assets are tangible assets other than assets referred to under paragraph (a) and (b), fourteen days after taking possession; and

(d) in any other case, ten days after the service of the notice under subsection (1).

(6) The proceeds of sale shall be used to pay-

(a) the costs of charge and sale of the assets sold;

(b) the outstanding tax and interest accrued with respect to that tax under section 76; and

(c) any other unpaid tax.

(7) The Commissioner General shall, after disbursing proceeds for sale pursuant to subsection (6), serve the taxpayer with a written notice stating the manner in which the sale proceeds were applied.

(8) Where there is any balance of money after making payment under subsection (6), such balance shall be paid to the taxpayer.

(9) Where the sale proceeds are insufficient to pay in full the costs of charge and sale, the tax due and interest accrued with respect to that tax, the Commissioner General may proceed to collect the insufficiency with fresh actions under this Part or Subpart (C).

(10) This section shall not be construed to restrict the exercise of any rights that the Commissioner General has over a security created under section 60 or 61.

(11) The activities of the Commissioner General under this section shall be exempted from stamp duty and any other transaction taxes.

第六十二条【出售抵押资产】

总专员应当向纳税人送达书面通知书，通知纳税人拟出售其所有的抵押资产。依据第（1）款送达的通知书可以与第六十七条规定的通知书一并送达，且载明下列事项：

纳税人名称（姓名）和纳税人识别号；

抵押资产、总专员出售资产的意向、拟出售方式和出售时间；

涉及总专员拟占有的有形资产的，占有发生的方式和地点。

总专员可以通过下列方式行使第（1）款规定的权力：

可以直接或者通过被授权代理人行使权利；

在占有之前应当向个人或者单位送达通知书；

为了占有，可以在警察的协助下进入通知书指定的场所或者地点；

在占有时，应当向纳税人出具资产占有清单；

涉及动产的，可以将资产储存在总专员认为适当的地方，费用由纳税人承担。

总专员应当依据第（1）款向纳税人送达通知书后，通过公开拍卖出售抵押资产。

第（4）款规定的出售不得在下列期间之前实施：

涉及土地或者权益的，占有之日起三十日内；

涉及不易保管的物品的，占有之日起一日内；

涉及（a）、（b）项规定资产外的有形抵押资产的，占有之日起十四日内；

其他情形的，依据第（1）款送达通知书之日起十日内。

出售抵押资产所得应当用于支付下列款项：

已出售资产的抵押和出售费用；

有关第七十六条规定税收的欠缴税款及其产生的利息；

其他欠缴税款。

总专员在依据第（6）款支出出售所得款项后，向纳税人送达书面通知，说明出售所得款项的使用情况。

依据第（6）款支付后有余额的，应当归还纳税人。

出售资产所得款项不足以支付抵押和出售费用、应纳税款及其产生的利息的，总专员可以依据本部分或者（C）分部采取新措施，继续征收不足部分款项。

本条不得解释为限制总专员行使对依据第六十条或者六十一条设立的担保的权利。

对总专员依据本条实施的行为免征印花税以及其他交易税。

(1) Where a person fails to pay tax on time and such person is likely to flee from the United Republic, the Commissioner General may, by notice in writing or any other means of official communication to the Director of Immigration Services, order the Director of Immigration Services to prevent that person from leaving the United Republic.

(2) The Director of Immigration Services shall, on receiving the notice, prevent the person from leaving the United Republic for a period of fourteen days from the date the notice is served.

(3) The Commissioner General shall, where the person pays the tax or arranges for payment in a manner satisfactory to him, withdraw a notice issued under subsection (1).

(4) The High Court may, on application by the Commissioner General, extend the period referred under subsection (2).

### 第六十三条【对人的限制】

纳税人未按时缴纳税款，且可能逃离联合共和国的，总专员可以通过书面通知，或者其他正式沟通方式通知入境事务处处长，指令其阻止该人员离开联合共和国。

入境事务处处长收到通知后，应当阻止该人员自通知送达之日起十四日内离开联合共和国。

该人员已经纳税或者以总专员认可的方式安排纳税的，总专员应当撤回依据第（1）款签发的通知。

高等法院可以依照总专员的申请，延长第（2）款规定的期间。

(1) The Commissioner General may, subject to subsection (2)-

(a) restrain the goods, vehicle, vessel or any other asset;

(b) restrain and search any premises, place, vehicle, vessel or any other asset which



he believes the goods, vessel or vehicle are located;

(c) mark, lock up or seal any building, room, place, receptacles or item of plant in any factory, exercisable goods, or materials in a factory; and

(d) use reasonable force for the purposes of paragraphs (a) and (b).

(2) The powers of the Commissioner General under subsection (1) shall be exercised if the Commissioner General is satisfied that-

(a) the value added tax has not been paid in respect of the supply or import of goods;

(b) a vehicle contains any fuel on which road and fuel tolls has not been paid;

(c) transit charges have not been paid with respect to a foreign vehicle;

(d) motor vehicle registration or transfer tax has not been paid with respect to a vehicle; or

(e) any provision of the Excise (Management and Tariff) Act has been breached with respect to excisable goods.

(3) The Commissioner General may exercise the powers referred to under subsection (1) in conjunction with any other powers of the Commissioner General granted under this Act.

(4) Where the Commissioner General has restrained an asset under subsection (1), he shall-

(a) serve a written notice to the possessor of the asset; or

(b) in the absence of the possessor, leave the notice at the premises or place where the restraining takes place.

(5) The notice shall-

(a) identify and list the assets restrained;

(b) state that the assets have been restrained under this section and the reason for the restraint; and

(c) set out the conditions for release and terms for disposal of any assets seized.

(6) The Commissioner General may restrain an asset for period sufficient to raise a jeopardy or adjusted assessment and exercise the powers under sections 66 and 67.



(7) Where there is no person who, within the period referred to under subsection (6), has proved to the satisfaction of the Commissioner General that he owns assets referred under subsection (1)(a), the Commissioner General may treat the assets as charged assets and sell them in accordance with section 62.

#### 第六十四条【对资产的限制】

总专员可以依据第(2)款作出下列行为:

对货物、车辆、船舶或其他资产采取限制措施;

限制和搜查场所、地点、车辆、船舶,或者其认为安置货物、船舶、车辆的其他资产;

在工厂内的建筑物、房间、场所、容器、车间物品上,或者工厂内的可操作物品、材料上标记、锁定或者密封;

为(a)、(b)项目的使用合理的强制。

有下列情形的,总专员应当行使第(1)款规定的权力:

供应或者进口货物未缴纳增值税;

车辆载有未缴付道路和燃油费的燃油;

外国车辆未缴纳过境费;

未为车辆缴纳机动车登记税或者转让税;

违反《消费税(管理和关税)法》中有关应缴纳消费税货物的规定的。

总专员可以将第(1)款规定的权力和本法授予总专员的其他权力结合起来行使;

总专员依据第(1)款对资产采取限制措施的,应当依照下列方式送达通知书:

向资产占有人送达书面通知;

占有人不在的,将通知书留在采取限制措施的场所或者地点。

通知书应当载明下列事项:

确定和编列受限制的资产;

说明依据本条限制的资产和限制的理由;

规定解除限制的条件和处置被查封资产的条件。

为了提起危险性评估或者调整评估,以及依据第六十六条和六十七条行使权力,总专员可以在充分的期间内限制资产。

在第（6）款规定的时间内，无人向总专员证明其拥有第（1）款（a）项规定的资产的，总专员可以将该资产作为抵押资产，并依据第六十二条予以出售。

*(c) Recovery from Third Parties*

*(c) 向第三方追缴税款*

(1) Where an entity fails to pay tax on time, a manager or a person who was the manager of that entity within a period of twelve months prior to the entity default shall be jointly and severally liable with the entity for payment of the tax.

(2) The provisions of subsection (1) shall not apply where the manager has exercised the degree of care, diligence, and skill that would have been exercised in preventing the failure to pay tax.

(3) Where a person pays tax under subsection (1)-

(a) that person may recover the payment from such entity;

(b) for the purposes of paragraph (a), the person may retain out of any assets of the entity in or coming into the possession of the person an amount not exceeding the payment; and

(c) no claim may be made against that person by the entity or any other person with respect to the retention.

第六十五条【单位管理人员的责任】

单位未按时缴纳税款的，单位总管或者不履行纳税义务之前十二个月内该单位的管理人员，应当就应纳税款与单位承担连带责任。

单位管理人员为预防未纳税尽了注意、勤勉和技能义务的，不适用第（1）款的规定。

依据第（1）款缴纳税款的个人，可以作出下列行为：

可以向单位追偿其为单位缴纳的税款；

为了（a）项的目的，该个人可以从其占有或者即将占有的单位资产中保留不超过已缴纳税款的款额；

单位或者其他人员不得就该保留行为向该个人提出索赔请求。

(1) A person who has been appointed to be a receiver shall, notify the Commissioner General of his appointment in writing and within fourteen days from being appointed or taking possession of an asset situated in the United Republic.

(2) The Commissioner General may serve a receiver with a notice in writing specifying an amount that appears to be sufficient to provide for any tax due or that will become due by the taxpayer whose assets come into the receiver's possession.

(3) After receiving a notice under subsection (2), a receiver-

(a) shall sell sufficient of the assets that come into the receiver's possession under the receivership to set aside, after payment of any debts having priority over the tax referred to in the notice, the amount notified by the Commissioner General under that subsection; and

(b) is liable to pay to the Commissioner General on account of the taxpayer's tax liability the amount set aside.

(4) The receiver shall, to the extent that he fails to set aside an amount as required by subsection (3), be personally liable to pay to the Commissioner General on account of the taxpayer's tax liability the amount that should have been set aside but may recover any amount paid from the taxpayer.

(5) For the purposes of this section-

“receiver” means any person who, with respect to an asset situated in the United Republic, is-

- (a) a liquidator of an entity;
- (b) a receiver appointed out of court or by a court in respect of an asset or entity;
- (c) a trustee for a bankrupt persons;
- (d) a mortgagee in possession;
- (e) an executor or administrator of a deceased individual's estate; or
- (f) conducting the affairs of an incapacitated individual.

第六十六条【接管人】

被任命为接管人的人员，应当自被任命之日起或者占有联合共和国境内资产之日起十四日内，将其任命书面通知总专员。

总专员可以向接管人送达书面通知，指定足以缴纳到期应纳税款的款额，或者其资产由接管人占有的纳税人将要到期税款的款额。

接管人收到第（2）款规定的通知书后，应当作出下列行为：

在清偿优先于通知书指定税款的债务后，应当从其依照接管职权占有的资产中出售充足的资产，并预留总专员依据该款通知的款额；

就纳税人的应纳税款，有义务向总专员缴纳预留的款额。

接管人应当在其未预留第（3）款规定的款额的范围内，就纳税人的应纳税款，承担向总专员缴纳应当预留款额的个人责任，并可以向纳税人追偿。

本条所称接管人，是指有关联合共和国境内资产的下列人员：

单位清算人；

未经法院或者由法院任命的有关资产或者单位的接管人；

破产人的受托人；

实际占有的不动产抵押权人；

已故个人遗产的执行人或者管理人；

无行为能力人事务的管理人。

(1) Where a taxpayer fails to pay tax on time, the Commissioner General may serve on the third party debtor who owes money to that taxpayer a notice in writing requiring that person to pay the money to the Commissioner General.

(2) The third party debtor shall, upon the receipt of the notice under subsection (1), pay the money equivalent to the amount of tax due to the Commissioner General on the account of the taxpayer's tax liability and on the date specified in the notice.

(3) The date specified in the notice shall not be before-

(a) the date the money becomes payable to the taxpayer or is held on behalf of the taxpayer; or

(b) the date the third party debtor is served with the notice.

(4) The Commissioner General shall serve the taxpayer with a copy of the notice after service of the notice on the third party debtor.

(5) Amounts payable to the Commissioner General by a third party debtor under subsection (2) or by a guarantor under a security shall be treated as tax and, once due,

may be recovered as tax.

(6) The following shall be treated as money owed to a taxpayer-

(a) money currently owing or that may subsequently become owing to the taxpayer;

(b) money held or that may subsequently be held for or on account of the taxpayer;

(c) money held or that may subsequently be held on account of a third person for payment to the taxpayer; and

(d) money held by a person who has authority from a third person to pay the money to the taxpayer.

第六十七条【第三方债务人和担保人】

纳税人未按时缴纳税款的，总专员可以向纳税人的债务人送达书面通知，要求该债务人向总专员缴纳相应款额。

第三方债务人应当在收到第（1）款规定的通知书后，就纳税人的应纳税款，于通知书指定的日期，向总专员缴纳与应纳税款相等的款额。

通知指定的日期不得早于下列日期：

应当向纳税人偿还款项的日期或者代表纳税人持有款项的日期；

通知送达第三方债务人的日期。

总专员将通知书送达第三方债务人后，应当将通知书副本送达纳税人。

第（2）款规定的第三方债务人或者担保项下的保证人，其应当向总专员缴纳的款额，应当被视为税款，到期即可追缴。

下列款项，应当被视为欠纳税人的款项：

当前或者以后可能欠纳税人的款项；

代表或者因为纳税人持有的款项；

为了向纳税人付款而由第三人持有或者以后可能由第三者持有的款项；

第三人授权其向纳税人支付款项的人持有的款项。

-(1) A third party debtor or guarantor who pays the Commissioner General pursuant to section 67 shall be treated as having acted with the authority of the taxpayer.

(2) A notice served under section 67 shall cease to have effect once the tax referred

to is paid or otherwise satisfied.

(3) Where a third party debtor who is served with a notice under section 67 is unable to comply with the notice by reason of lack of money owing to, or held for the taxpayer, such third party debtor shall notify the Commissioner General on his inability to pay.

(4) The notice under subsection (3) shall be-

(a) in writing setting out the reasons for the inability;

(b) filed with the Commissioner General within seven days from the notice issued under section 67 after the third party debtor becomes aware of the inability.

(5) The Commissioner General may, upon the receipt of a notice by a third party debtor, accept the notification and cancel or amend the notice under section 67 or reject the notice of the third party debtor.

(6) The notice filed by a third party debtor under this section shall have no effect unless the Commissioner General cancels or amends the third party debtor notice issued under section 67.

(7) Where a third party debtor fails to pay an amount of tax specified in a notice within 30 days of the date-

(a) of service of such notice in him; or

(b) on which any money comes into his hands or becomes due by him to, his tax debtor whichever event is the latter and the payer has-

(i) not given a notification under subsection 3 of this section; or

(ii) given such notification which has been rejected by the Commissioner General, the provisions of this Act relating to recovery of tax shall apply to the collection and recovery of such amount as if it were tax due and payable by the third part debtor, the due date for the payment of which was the date upon which such amount should have been paid to the Commissioner General under this section.

#### 第六十八条 【遵守通知或者担保】

依据第六十七条向总专员缴纳税款的第三方债务人或者保证人，应当被视为依照纳税人的授权行事。

依据第六十七条送达的通知书，在缴纳税款或者以其他方式履行税款缴纳义务后，即告失效。

收到依据第六十七条送达的通知书的第三方债务人，因无力偿还欠纳税人的款项或者为纳税人持有的款项而不能履行通知书指定的义务的，第三方债务人应当将其无力偿还款项的情况通知总专员。

第（3）款规定的通知应当符合下列条件：

以书面形式说明无力偿还的理由；

第三方债务人发现无偿还能力后，应当在第六十七条规定的通知书签发之日起七日内向总专员发出。

总专员可以在收到第三方债务人的通知后接受该通知，依据第六十七条撤销或者修正该通知，或者拒绝第三方债务人的通知。

第三方债务人依据本条发出的通知书不发生效力，但总专员撤销或者修正依据第六十七条向第三方债务人发出的通知的除外。

自下列日期起三十日内，第三方债务人未缴纳通知指定的税款金额的，应当适用本法有关税款追缴的规定，将该税款视为第三方债务人的到期应纳税款，对其征缴该数额，缴纳税额到期日为依据本条应当向总专员缴纳税款的日期：

该通知送达第三方债务人之日；

第三方债务人取得该数额之日，或者应当向该第三方债务人的税收债务人支付该数额之日；有下列情形之一的，应当依照后者处理：

付款人没有收到依据本条第（3）款送达的通知书；

付款人收到了总专员的拒绝通知书。

-(1) Where-

(a) a non-resident taxpayer fails to pay tax on time; or

(b) the Commissioner General has good reasons to believe that a non-resident taxpayer shall not pay tax on time,

the Commissioner General may, by notice in writing, require the agent who is in possession of an asset owned by the non-resident taxpayer to pay tax on behalf of that taxpayer.

(2) An agent shall, without prejudice to subsection (1), be required to pay tax up to



the market value of the asset but not exceeding the amount of the taxpayer's unpaid tax.

(3) For the purposes of this section-

(a) a taxpayer who charters an aircraft or ship under a charter for period exceeding three years shall be treated as the owner of the aircraft or ship during that period; and

(b) the captain of any aircraft or ship shall be treated as being in possession of the aircraft or ship.

(4) The Commissioner General may, by notice in writing, require a resident partnership or a resident partner to pay tax due or that may become due by a non-resident partner.

(5) The resident partnership and any resident partner shall be jointly and severally liable to pay the tax up to the amount of the non-resident partner's share in the net assets of the partnership.

(6) Where a person makes payment to the Commissioner General pursuant to a notice issued under subsection (1) or (4) that-

(a) person may recover the payment from the taxpayer or non-resident partner;

(b) person may for the purposes of paragraph (a), retain out of any assets of the taxpayer or non-resident partner in or coming into the possession of the person an amount not exceeding the payment; and

(c) taxpayer, non-resident partner or any other person, may not make a claim against the person with respect to the retention.

#### 第六十九条 【非居民的代理人】

有下列情形之一的，总专员可以书面通知占有非居民纳税人资产的代理人，要求其代为缴纳税款：

非居民纳税人未及时缴纳税款；

总专员有充分的理由认为非居民纳税人不能及时缴纳税款。

代理人缴纳的税款应当相当于资产的市场价值，不得超过纳税人欠缴税款的款额，但第（1）款规定的情形除外。

为了本条的目的，

纳税人包租航空器、船舶超过三年的，应当被视为此期间内该航空器或者船



船的所有人；

航空器或者船舶的机（船）长应当被视为该航空器或者船舶的占有人；

总专员可以书面通知居民合伙企业或者居民合伙人，要求其缴纳非居民合伙人应当缴纳的到期或者将要到期的税款。

居民合伙企业和居民合伙人应当按照非居民合伙人在合伙企业净资产中所占的份额，承担缴纳税款的连带责任。

个人或者单位依据第（1）款或者第（4）款向总专员支付款额的，可以作出下列行为：

可以向纳税人或者非居民合伙人追偿该款额；

为了（a）项的目的，可以从该个人、单位占有或者将要占有的纳税人或者非居民合伙人的资产中保留不超过其支付数额的款额；

纳税人、非居民合伙人以及其他人员，不得要求该个人或者单位偿还其保留的款额。

## **PART IX REMISSION AND REFUND OF TAX**

### **第九部分 税收减免和退税**

Where the Commissioner General is satisfied that there is good cause to remit penalty or interest imposed under any tax law, he may remit the whole or part of the penalty or interest payable by that person.

第七十条【税收减免】总专员有充分理由减免依据税法加处的罚款、利息的，可以减免个人、单位应当缴纳的全部或者部分罚款、利息。

(1) A person may apply to the Commissioner General for refund of tax paid in excess.

(2) The application for refund shall be in writing, indicating the correct tax calculation and be supported by the documentary evidence to support the claim.

第七十一条【退税申请】

个人或者单位可以向总专员申请退还超额缴纳的税款。

退税申请应当采取书面形式，说明正确的计税方法，并提供支持退税申请的



书证。

(1) The Commissioner General shall consider and make a refund decision on an application made under section 71 within ninety days from the date of the receipt of the application.

(2) The Commissioner General may make the appropriate decision without limiting his discretion-

(a) where he is of the opinion that the applicant has not paid excess tax, reject the application;

(b) where he is not satisfied that the applicant has paid excess tax-

(i) request for further information as may be reasonable in order to make a final decision on the application; or

(ii) refund the money paid in the excess subject to the application; or

(c) where he is satisfied that the applicant has paid excess tax, to refund to the extent to which the Commissioner General is satisfied.

(3) The Commissioner General shall serve the applicant with a written notice of the refund decision within the time prescribed in subsection (1).

(4) Where the Commissioner General makes a decision under subsection (2)(b), the Commissioner General shall reconsider the application after the applicant provides the information or where the applicant rejects the offer.

(5) The Commissioner General shall serve the applicant with notice of that decision within thirty days of receiving the information requested under subsection (2).

#### 第七十二条【对申请作出的决定】

总专员应当自收到申请之日起九十日内，对依据第七十一条提出的申请作出退税决定。

有下列情形之一的，总专员可以行使裁量权，作出适当的决定：

总专员认为申请人未超额缴纳税款的，拒绝该申请；

总专员不认为申请人已超额缴纳税款的，可以作出下列行为：

合理地要求申请人提供更多的资料，以对该申请作出最终决定；

依照申请退回超额缴纳的税款；

总专员认为申请人超额缴纳税款的，可以在其认可的范围内作出退税决定。

总专员应当在第（1）款规定的时间内向申请人送达退税决定的书面通知。

依据第（2）款（b）项作出决定的，总专员应当在申请人提供资料后或者申请人拒绝该要求后，重新审查申请。

总专员应当自收到第（2）款规定的资料之日起三十日内，向申请人送达该决定的通知书。

(1) Where the Commissioner General is satisfied that the taxpayer has paid excess tax, he shall-

(a) apply the excess to offset any tax due from the taxpayer under any tax law; and

(b) refund the balance, within fourteen days of making the decision.

(2) Where the Commissioner General accepts a taxpayer's refund application in part, he shall refund the amount accepted.

(3) Where the Commissioner General refunds an amount of tax to a person, he shall be liable to pay that person an interest in accordance with the provisions of the relevant tax law.

(4) The interest under this section shall be calculated at the statutory rate and shall be for the period commencing on the date the refund decision is issued and ending on the day the refund is made.

(5) The interest paid by a person under a tax law with respect to tax which has not been paid on time shall, to the extent that the tax is found to have been paid, be refunded to that person with any interest at the rate stipulated under subsection (4).

(6) The Commissioner General shall maintain a separate bank account and ensure that there are sufficient funds that account for the purposes of this section.

### 第七十三条【支付退税】

总专员确信纳税人已经超额缴纳税款的，应当作出下列行为：

将超额部分用于抵扣纳税人依据税法应当缴纳的税款；

自决定作出之日起十四日内退还余额。

总专员部分接受纳税人的退税申请的，应当退还接受的款额。

总专员向纳税人退还款额的，应当依据有关税法的规定向纳税人支付利息。

本条规定的利息应当按照法定利率计算，利息计算期间自作出退税决定之日起至退税日止。

单位、个人因未及时缴纳税款而依据税法支付的利息，在发现税款已经缴纳的情况下，应当按照第（4）款规定的利率向该单位或者个人退还利息。

总专员应当持有有一个独立银行账户，并且为本条的目的确保该账户有足够的资金。

-(1) Where any duty has been shortlevied or erroneously refunded, a person who ought to have paid the amount short-levied or to whom the refund has erroneously been made, shall, on demand by the Commissioner General, pay the amount short-levied or repay the amount erroneously refunded.

(2) The amount referred under subsection (1) may be recovered as if it were a tax in relation to which the amount was short-levied or erroneously refunded:

Provided that, the Commissioner General shall not make any such demand after five years from the date of such short levy or erroneous refund, unless such short levy or erroneous refund had been caused by fraud on the part of the person who has to paid the amount short-levied or to whom the refund was erroneously made.

#### 第七十四条【少征或者错误退税】

少征应征税款或者错误退税的，应当缴纳少征的税款或者被错误退税的单位或者个人，应当依照总专员的要求，缴纳少征的税款或者偿还错误退税。

第（1）款涉及的款额，可以视同少征或者错误退税的税款，予以追缴。但是，自少征税款或者错误退税之日起满五年的，总专员不得追缴，除非少征税款或者错误退税是由于应当缴纳少征税款或者被错误退税的单位、个人的欺诈行为造成的。

**PART X INTEREST, PENALTIES AND OFFENCES**

**第十部分 利息，处罚和犯罪**

*(a) Interest*

*(a) 利息*

- (1) The amount of interest that an instalment payer shall pay for each period under subsection (4) shall be calculated at the statutory rate compounded monthly, applied to the excess of-

(a) eighty percent of the total amount that would have been paid by way of instalments during the year of income to the start of the period had the person's estimate or revised estimate equaled the correct amount; or

(b) the amount of income tax paid by instalments during the year of income to the start of the period.

(2) For the purposes of calculating interest payable under subsection (1), any extension granted under section 39 or 55 or suspension under section 51(7) shall not be taken in consideration.

(3) This section applies where an instalment payer's estimate or revised estimate of income tax payable for a year of income under section 88 of the Income Tax Act is less than eighty percent of the correct amount.

(4) Where this section applies, the instalment payer shall be liable for interest for each month or part of a month from the date the first instalment for the year of income is payable until the due date by which the person shall file a return of income for the year of income under section 91(1) of the Income Tax Act.

(5) For the purposes of this section, "correct amount" means the income tax payable by the payer for the year of income under section 4(1)(a) and (b) of the Income Tax Act.

第七十五条【低估应缴税款的利息】

分期缴纳人依照第（4）款应当分期缴纳的利息额，应当按照法定利率按月计算复利，适用于下列情形：

分期缴纳人的估算税额或者修正后的估算税额与正确的税额相等的，在收入年度至该分期期间开始时本来应当通过分期付款支付的总额的百分之八十；

在收入年度至该分期期间开始时，分期缴纳的所得税款额。

在计算依据第（1）款应当支付的利息时，不得将依据第三十九条、第五十五条批准的延期申报或者延期纳税期间，或者依据第五十一条第（7）款批准的暂缓缴纳期间计算在内。

依据《所得税法》第八十八条的规定，分期缴纳人在收入年度应纳税的估算数额或者修正后的估算数额低于正确税额的百分之八十的，适用本条的规定。

适用本条的规定的，分期缴纳人应当依据《所得税法》第九十一条第（1）款的规定，对自收入年度第一期分期应当缴纳之日起至提交收入年度所得税纳税申报表到期日该段期间的月利息额或者月利息额的部分，承担缴纳义务。

本条所称正确的税额，是指纳税人依据《所得税法》第四条第（1）款（a）、（b）项应当缴纳的收入年度的所得税。

(1) Where any amount of tax imposed under a tax law remains unpaid after the due date prescribed in a tax law or its regulations, the interest at the statutory rate shall be payable to the Commissioner General on the amount for the time being due and unpaid.

(2) For the purposes of calculating interest payable under subsection (1), any extension granted under section 39 or 55 or suspension under section 51(7) shall not be applied.

(3) A withholding agent may not recover from a withholder an interest payable by the agent in respect of a failure to comply with section 81, 82 or 83 of the Income Tax Act.

#### 第七十六条【未缴纳税款的利息】

依据税法征收的税款在税法或者其条例规定的到期日后仍未缴纳的，应当按照法定利率向总专员缴纳到期未缴税款的利息。

在计算依据第（1）款应当支付的利息时，不得将依据第三十九条、第

五十五条批准的延期申报或者延期纳税期间，或者依据第五十一条第（7）款批准的暂缓缴纳期间计算在内。

扣缴义务人因违反《所得税法》第八十一条、第八十二条或者第八十三条而应当缴纳的利息，不得向被扣缴义务人追偿。

*(b) Penalties*

*(b) 处罚*

(1) A person who fails to maintain proper documents as required by a tax law is liable for a penalty for each month or part of a month during which the failure continues.

(2) The penalty shall, in the case of an individual, be 1 currency point or, in the case of a body corporate 10 currency points.

(3) The Commissioner General shall determine tax attributable to a period on a just and reasonable basis including apportioning tax assessed with respect to a larger period or by reference to taxable events happening within the period.

第七十七条【对未保存文件的处罚】

未依照税法规定保存适当文件的，在违法行为持续期间内按月或者每月的部分处以罚款。

涉及个人的，处罚一货币点；涉及法人的，处罚十货币点。

总专员应当在公平合理的基础上，确定一定期间的税款，包括参考更长的期间分配应纳税款，以及参考该期间内发生的应税事项。

(1) A person who fails to file a tax return or pay tax on due date as required by a tax law is liable for a penalty for each month or part of a month during which the failure continues.

(2) The penalty is-

(a) two point five percent of the amount of tax assessable with respect to the tax return less tax paid by the start of the period towards that amount;

(b) in the case of an individual, 5 currency points; or in the case of a body



corporate, 15 currency points, whichever is higher.

(3) The penalty applies separately for a failure to file a tax return that is an estimate or provisional amount and a failure to file a tax return incorporating the final amount.

第七十八条【对未办理纳税申报的处罚】

未在税法规定的到期日之前提交纳税申报表或者缴纳税款的，在违法行为持续期间内按月或者每月的部分处以罚款。

可以作出下列处罚：

自期间开始后减少缴纳税款达到有关纳税申报表申报的应纳税额的百分之二点五；

涉及个人的，处罚五货币点；或者涉及法人的，处罚十五货币点，按照两者之中较高者确定。

对未提交估算或者暂定税额的纳税申报表的，和未提交纳入最终税额的纳税申报表的，分别适用罚款。

(1) A person is liable for a penalty if he-

(a) makes a statement to a tax officer which is false or misleading in a material particular; or

(b) omits to include in the statement made to the tax officer, any matter or thing without which the statement is misleading in a material particular.

(2) The penalty shall be-

(a) where the statement or omission is made without reasonable excuse, fifty percent of the tax shortfall; or

(b) where the statement or omission is made knowingly or recklessly, seventy five percent of the tax shortfall.

(3) Notwithstanding subsection (2), the penalty shall be-

(a) increased by ten percent for the second or subsequent application of this section to the person; and

(b) reduced by ten percent if the person voluntarily discloses the statement prior to its discovery by the tax officer or the next tax audit of the person.

(4) A statement shall be considered to have been made to the tax officer in the



performance of duties under a tax law when it is made orally, in writing or in any other form and it includes a statement made-

- (a) in any document or information required to be filed under a tax law;
- (b) in a document furnished to the tax officer otherwise than under a tax law; or
- (c) in an answer to a question put to a person by the tax officer;
- (d) to another person with the knowledge or reasonable expectation that the statement shall be passed to the tax officer.

(5) A person who contravenes section 23(3) or 24(5) shall be considered to have made a false or misleading statement to a tax officer.

#### 第七十九条【对虚假陈述或者误导性陈述的处罚】

有下列情形之一的，应当处以罚款：

向税务人员作出重大事项虚假或者误导性陈述；

向税务人员作出的陈述遗漏事项或者事物，将导致陈述的重大事项具有误导性。

有上述违法行为之一的，应当作出下列罚款：

作出虚假陈述或者遗漏事项无合理辩解的，处补缴税款百分之五十的罚款；

故意或者轻率作出虚假陈述或者遗漏事项的，处补缴税款百分之七十五的罚款；

虽有第（2）款的规定，仍应当作出下列处罚：

第二次或者后续将本条适用于同一单位或者个人的，加处百分之十的罚款；

在被税务机关或者在税务稽查中发现之前，单位、个人主动披露陈述的，减处百分之十的罚款。

以口头、书面或者其他形式作出，且包含于下列情形之中的陈述，应当视为在履行税法规定的义务时已经向税务人员作出的陈述：

税法要求提交的文件或者资料；

非依据税法向税务人员提供的文件；

回答税务人员提出的问题；

向他人作出时明知或者可以合理预期该陈述应当被转送到税务人员。

违反第二十三条第（3）款或者第二十四条第（5）款的，应当被视为向税务



人员作出了虚假或误导性陈述。

A person who aids, abets, counsels or induces another person to commit an offence and shall be liable on conviction, for a penalty equal to onehundred percent of the tax shortfall.

第八十条【对帮助和教唆行为的处罚】帮助、教唆、劝告或者诱导他人犯罪的，一经定罪，处补缴税款百分之一百的罚款。

### *(c) Assessment of Interest and Penalties*

#### (c) 利息和处罚的评估

(1) The Commissioner General shall assess the interest and penalties for which a person is liable under this Part.

(2) Liability for interest and penalties under this Part with respect to a particular failure or statement is calculated separately for each section of this Part.

(3) The imposition of interest and penalties under this Part is in addition to any other tax imposed by a tax law and does not relieve any person from liability to criminal proceedings.

(4) Where a particular failure or statement incurs interest or a penalty both under this Act and any other tax law, the Commissioner General shall assess the person under one law only with the higher rate of interest or penalty.

(5) Where an assessment is made under this section, the Commissioner General shall serve a written notice of the assessment, which may be incorporated with another notice of assessment under a tax law on the person, stating-

- (a) the name of the person and the person's Taxpayer Identification Number;
- (b) the amount of the interest or penalty assessed by the Commissioner General;
- (c) the manner in which the assessment is calculated;
- (d) the reasons for making the assessment;
- (e) the date on which the interest or penalties shall be paid; and
- (f) the time, place and manner of objecting to the assessment.

(6) An assessment made under this section is an original assessment for the purposes of section 48.

#### 第八十一条【利息和处罚的评估】

总专员应当对单位、个人依据本部分应当缴纳的利息和接受的处罚进行评估。

本部分有关未缴纳税款或者违法陈述科处的利息和罚款，按照本部分各条分别计算。

依据本部分科处的利息和罚款，在依据税法征收的税款之外科处，且不免除单位、个人的刑事诉讼责任。

本法和其他税法对未缴纳税款或者违法陈述，均规定科处利息或者罚款的，总专员应当依据对利率或者罚款作出较高规定的法律，对违法行为人作出评估。

依据本条作出纳税评估的，总专员应当向单位、个人送达纳税评估通知书，该通知书可以和另一份依据税法作出的纳税评估通知书合并，载明下列事项：

纳税人名称（姓名）和纳税人识别号；

总专员评定的利息或者罚款数额；

纳税评估的计算方式；

作出纳税评估的理由；

缴纳利息或者罚款的日期；

对纳税评估提出异议的时间、地点和方式。

依据本条作出的纳税评估是第四十八条所称的初始评税。

#### (d) *Offences*

##### (d) 犯罪

A person who fails to comply with a provision of this Act commits an offence and shall be liable, on conviction -

(a) where the failure results or, if undetected may have resulted in an underpayment of tax in an amount exceeding 50 currency points, to a fine of not less than 20 currency points and not more than 50 currency points, or to imprisonment for a term of not more than six months, or to both; and

(b) in any other case, to a fine of not less than 10 currency points and not more than 20 currency points.

第八十二条【未遵守税法罪】违反本法规定，构成犯罪的，一经定罪，应当承担下列法律责任：

犯罪行为导致，或者若犯罪行为未被发现可能导致少缴税款数额超过五十货币点的，处二十货币点以上五十货币点以下罚金，或者处六个月以下有期徒刑，或者并处；

有其他情形的，处十货币点以上二十货币点以下罚金。

Any person who fails to pay any tax on, or before the date on which the tax is payable commits an offence and shall be liable on conviction-

(a) where the failure is to pay tax in excess of 50 currency points, to a fine of not less than 25 currency points and not more than 100 currency points or imprisonment for a term of not less than three months and not more than one year, or to both; and

(b) in any other case, to a fine of not less than 10 currency points and not more than 25 currency points or imprisonment for a term of not less than one month and not more than three months, or to both.

第八十三条【未缴纳税款罪】未在应纳税款的日期或者之前缴纳税款，构成犯罪的，一经定罪，应当承担下列法律责任：

未缴纳税款超过五十货币点的，处二十五货币点以上一百货币点以下罚金，或者处三个月以上一年以下有期徒刑，或者并处；

有其他情形的，处十货币点以上二十五货币点以下罚金，或者处一个月以上三个月以下有期徒刑，或者并处。

-(1) Any person who, in any matter relating to the excise duty-

(a) makes any entry of any building, room, place, or item of plant, which is false or incorrect in any material particular;

(b) makes or causes to be made any declaration, certificate, application, return, account, or other documents, which is false or incorrect in any material particular;

(c) when required to answer any question put to that person by an officer, refuses to answer such question or makes any false or incorrect statement in reply thereto;

(d) is in any way knowingly involved in any fraudulent evasion of the payment of any duty;

(e) obtains any remission, rebate, or refund, of duty which to his knowledge is not entitled to obtain;

(f) makes any false statement or false representation in order to obtain any remission, rebate or refund, of duty;

(g) acquires possession of, keeps, conceals, removes or in any way deals with, any excisable goods which have been manufactured or on which the full duties have not been paid; or

(h) counterfeits or in any way falsifies or knowingly uses when counterfeited or in any way falsified, any document required or issued by, or used for the purposes of, the excise, commits an offence.

(2) Any person who in any matter relating to any tax law-

(a) makes a statement to a tax officer which is false or misleading in material particular; or

(b) omits to include in the statement made to a tax officer, any matter or thing without which the statement is misleading in material particular,  
commits an offence.

(3) The person who commits an offence under this section shall be liable, on conviction,-

(a) where the statement or omission is made without reasonable excuse-

(i) and, if the inaccuracy of the statement is undetected, and may have resulted in an underpayment of tax in an amount exceeding 50 currency points, to a fine of not less than 25 currency points and not more than 100 currency points or imprisonment for a term of not less than three months and not more than one year, or to both; and

(ii) in any other case, to a fine of not less than 10 currency point and not more than 25 currency points or imprisonment for a term of not less than one month and not more than three months, or to both; or

(b) where the statement or omission is made knowingly or recklessly-



(i) and, if the inaccuracy of the statement is undetected, and may have resulted in an underpayment of tax in an amount exceeding 50 currency points, to a fine of not less than 50 currency points and not more than 200 currency points or imprisonment for a term of not less than one year and not more than two years, or to both; and

(ii) in any other case, to a fine of not less than 20 currency point and not more than 50 currency points or imprisonment for a term of not less than six months and not more than one year, or to both.

(3) For the purposes of determining whether or not a statement is made to a tax officer, or when such statement is considered to be false or misleading, the provisions of section 79(4) and (5) shall apply.

第八十四条【作出、使用虚假或者误导性陈述、文件罪】

有关消费税事项，单位、个人有下列行为的，构成犯罪：

建筑物、房间、地点或者车间物品记载存在重大事项记载虚假或者不正确；

作出或者促使作出的声明、证明、申请、申报表、账户以及其他文件存在重要事项虚假或不正确；

在被工作人员要求回答向其提出的问题，拒绝回答或者回答时作出虚假、不正确陈述；

以任何方式故意参与欺诈性偷税；

谋取明知无权获得的税收减免、退款或者退税；

提交虚假报表、作出虚假陈述以谋取税收减免、退款或者退税；

取得、保存、隐匿、转移以及以其他方式处置已制造或者未缴纳全部税款的应税货物；

仿冒、以任何方式伪造，或者故意使用仿冒、以任何方式伪造的有关消费税征纳应当提交、签发的文件，以及为消费税目的而使用的文件。

有关税法事项，单位、个人有下列行为的，构成犯罪：

向税务人员作出重大事项虚假或者误导性陈述；

向税务人员作出的陈述遗漏事项或者事物，将导致陈述的重大事项具有误导性。

犯本条规定之罪，一经定罪，应当承担下列法律责任：

作出虚假陈述或者遗漏事项无合理辩解的，承担下列法律责任：

若陈述不准确未被发现可能导致少缴税款数额超过五十货币点的，处二十五货币点以上一百货币点以下罚金，或者处三个月以上一年以下有期徒刑，或者并处；

有其他情形的，处十货币点以上二十五货币点以下罚金，或者处一个月以上三个月以下有期徒刑，或者并处。

故意或者轻率作出虚假陈述或者遗漏事项的，承担下列法律责任：

若陈述不准确未被发现可能导致少缴税款数额超过五十货币点的，处五十货币点以上二百货币点以下罚金，或者处一年以上二年以下有期徒刑，或者并处；

有其他情形的，处二十货币点以上五十货币点以下罚金，或者处六个月以上一年以下有期徒刑，或者并处。

确定陈述是否向税务人员作出，或者该陈述何时被认定为虚假或者误导性陈述，应当适用第七十九条第（4）款和第（5）款的规定。

-(1) A person who impedes or attempts to impede the administration of a tax law commits an offence.

(2) The person who commits an offence under this section shall be liable, on conviction-

(a) where the offence involves fraud or undue force, to a fine of twice the amount sought to be evaded or recovered or 200 currency points, whichever is greater or imprisonment for a term of not less than two years and not more than four years, or to both; and

(b) in any other case, to a fine of not less than 10 currency points and not more than 200 currency points or imprisonment for a term of not more than two years, or to both.

(3) In this section, “impeding administration of a tax law” includes-

(a) where a tax officer is acting in the performance of duties under a tax law, assaulting, obstructing or attempting to assault or obstruct the officer or interfering with any asset used by the officer;

(b) failing to comply with a notice under section 44 or answer truthfully when



being interrogated under section 94;

(c) evading or recovering tax;

(d) fraudulently dealing with an asset charged under section 61 so as to prevent seizure;

(e) recovering an asset seized under section 42, 62, 64 or 94;

(f) interfering with any lock, seal, mark, fastening or other security used to restrain an asset under section 64 or 94;

(g) with the intent of evading any obligation under a tax law, knowingly dealing in any way with a document or asset that is or contains or produces information (including by way of measurement) that is false or misleading in a material particular;

(h) disguising, warning or hiding a person with the intent that a liability, obligation or arrest of any person under a tax law is evaded;

(i) committing any offence under a tax law where the person has already been convicted of an offence under a tax law or had an offence compounded under section 92;

(j) refusal to produce documents;

(k) destroying, damaging, cutting away, casting adrift, defacing or interfering with any instrument or a property used for the purpose of tax authority;

(l) uses, keeps, or provides, any false or unjust scales, weighing or measuring instruments, weights or measures; or

(m) by any means prevents or contrives to prevent, the proper officer from taking a just and true account or making proper examination of, any excisable goods or materials.

#### 第八十五条【妨害税务管理罪】

妨害或者试图妨害税务管理的行为，构成犯罪。

犯本条规定之罪，一经定罪，应当承担下列法律责任：

犯罪行为涉及欺诈或者滥用武力的，处试图偷税数额或者追缴数额两倍的罚金，或者处二百货币点，按较重者处；或者处二年以上四年以下有期徒刑，或者并处；



有其他情形的，处十货币点以上二百货币点以下罚金，或者处二年以下有期徒刑，或者并处。

本条所称妨害税务管理，包括下列行为：

在税务人员依法执行职务时，攻击、阻挠或者试图攻击、阻挠税务人员，或者干扰税务人员使用的任何资产；

不遵守依据第四十四条发出的通知书的要求，或者在接受第九十四条规定的讯问时不如实作答；

偷税或者收回税款；

欺诈性地处理依据第六十一条抵押的资产，以阻止查封；

擅自拆封依据第四十二条、第六十二条、第六十四条或者第九十四条查封的资产；

干扰依据第六十四条或者九十四条作出的锁定、密封、标记、紧固或其他用于限制资产的保障行为；

为了逃避税法规定的义务，故意以任何方式处理属于、包含、产生重大事项虚假或者误导性信息（包括采用计量方式）的文件或者资产；

为了逃避税法规定的单位、个人的法律责任、义务或者对个人的逮捕，对其伪装、警告或者藏匿；

已依据税法被定罪或者依据第九十二条对其犯罪和解结案的单位、个人，又实施税法规定的犯罪；

拒绝提供文件；

销毁、损坏、切断、抛撒、污损、干扰税务机关使用的文件或者财产；

使用、保存、提供伪造或者不公平的标尺、称重或者测量仪器、砝码或者量器；

阻止或者设法阻止有关工作人员对应税货物或者材料作出公正和真实的考量或者进行适当的检查。

Any person who fails to acquire or use electronic fiscal device or issue fiscal receipt or fiscal invoice commits an offence and shall be liable, on conviction, to a fine of not less than 100 currency points and not more than 150 currency points, or to imprisonment for a term not exceeding three years, or to both.

第八十六条【未使用电子财务装置罪】未取得、使用电子财务装置，或者未

出具财务收据、财务发票，构成犯罪的，一经定罪，处一百货币点以上一百五十货币点以下罚金，或者处三年以下有期徒刑，或者并处。

(1) A person authorised by the Authority to perform any function or carry on any duty under a tax law commits an offence where that person-

(a) directly or indirectly asks for or takes in connection with the person's duties, any payment or reward or promise or security for any such payment or reward, not being a payment or reward that the person is lawfully entitled to receive; or

(b) agrees to, permits, conceals, connives at or acquiesces in any act or thing whereby the Government is or may be defrauded with respect to any matter under a tax law, including the payment of tax.

(2) A person who is not authorised by the Authority commits an offence if that person-

(a) collects or attempts to collect an amount of tax payable under a tax law or an amount which that person describes as tax; or

(b) makes representations with the intent to make another person to believe that, that person is a tax officer.

(3) A person who commits an offence under subsection (1) or (2) shall be liable, on conviction, to a fine of not less than 200 currency points or imprisonment for a term of not less than twelve months and not more than five years, or to both.

(4) Any person who contravenes section 24 commits an offence and is liable, on conviction, to a fine not exceeding 100 currency points or imprisonment for a term not exceeding one year, or to both.

#### 第八十七条 【授权人员和未授权人员的犯罪】

税务局授权人员依据税法在行使职权、履行职责过程中，有下列行为的，构成犯罪：

直接或者间接要求或接受与其职责有关但无权收受的款项、报酬，或者支付该款项、报酬的承诺或者保证；

同意、许可、隐瞒、纵容或者默许就有关税法事项（包括纳税）作出的欺骗或者可能欺骗政府的的行为或者事情。

未经税务局授权的人员，有下列行为的，构成犯罪：

依据税法征收或者试图征收应纳税款，或者该人员所称税款的款项；

为了使他人相信其为税务人员而作出陈述。

犯第（1）款或者第（2）款规定之罪，一经定罪，处二百货币点以上罚金，或者处十二个月以上五年以下有期徒刑，或者并处。

违反第二十四条，构成犯罪的，一经定罪，处一百货币点以下罚金，或者处一年以下有期徒刑，或者并处。

(1) Where an entity has committed an offence under a tax law, every person who is a manager of the entity at the time of commission of that offence shall be treated to have committed that offence.

(2) Subsection (1) shall not apply where the manager has exercised the degree of care, diligence, and skill that would have been exercised by a reasonable person in preventing the commission of that offence.

#### 第八十八条【单位犯罪】

单位实施税法规定的犯罪的，实施犯罪时该单位的管理人，应当被视为实施了该犯罪。

管理人已尽了理性人在防止该罪行发生时应尽的注意、勤勉和技能义务的，不适用第（1）款的规定。

Any person who aids, abets, counsels or induces another person to commit an offence under a tax law commits an offence and shall be liable, on conviction,-

(a) where the original offence involves a statement of the kind prescribed in section 84(1) and, if the inaccuracy of the statement were undetected, may have resulted in an underpayment of tax to a fine of not less than 100 and not more than 200 currency points, imprisonment for a term of not less than one year and not more than two years, or to both;

(b) where the original offence involves inducing an authorised person to commit an offence under section 87, to a fine of not less than 200 currency points, or imprisonment for a term of not less than twelve months and not more than five years, or to both; or

(c) in any other case, to a fine of not less than 50 currency points and not more



than 100 currency points, or to imprisonment for a term of not less than six months and not more than one year, or to both.

第八十九条【帮助或教唆犯罪】帮助、教唆、劝告或者诱导他人犯税法规定之罪的，一经定罪，应当按照下列规定承担责任：

原犯罪行为涉及第八十四条第（1）款规定的该类陈述的，若陈述不准确未被发现可能导致少缴税款数额的，处一百货币点以上二百货币点以下罚金，或者处一年以上二年以下有期徒刑，或者并处；

原犯罪行为涉及诱导被授权人员犯第八十七条规定之罪的，处二百货币点以上罚金，或者处十二个月以上五年以下有期徒刑，或者并处；

有其他情形的，处五十货币点以上一百货币点以下罚金，或者处六个月以上一年以下有期徒刑，或者并处。

-(1) A person commits an offence if that person-

(a) fails to apply for registration as required under the Value Added Tax Act;

(b) fails to notify the Commissioner General of ceasing to be liable for value added tax as required under the Value Added Tax Act;

(c) fails to notify the Commissioner General of a change in circumstances as required under the Value Added Tax Act;

(d) fails to notify the Commissioner General the change in interest or ownership of property or control of business by reason of death, bankruptcy, winding-up or other legal process that vests in another person interest or ownership of property as required under the Value Added Tax Act;

(e) fails to notify the Commissioner General of a transfer as required under the Value Added Tax Act; or

(f) holds himself out as a taxable person under the Value Added Tax Act, where that person is not.

(2) The person who commits an offence under this section shall be liable, on conviction-

(a) where the failure or holding out is made knowingly or recklessly, to a fine of not less than 100 currency points and not more than 200 currency points or

imprisonment for a term of not less than one year and not more than two years, or to both; or

(b) in any other case, to a fine of not less than 50 currency points and not more than 100 currency points or imprisonment for a term of not less than one month and not more than three months, or to both.

#### 第九十条【增值税犯罪】

单位、个人有下列行为的，构成犯罪：

未依照《增值税法》的规定，申请登记的；

未依照《增值税法》的规定，通知总专员停止缴纳增值税的；

未依照《增值税法》的规定，将情况变化通知总专员的；

未依照《增值税法》的规定，将因死亡、破产、清算以及其他法律程序授予他人财产利益或者所有权而导致的财产利益、所有权或者企业控制权的变化通知总专员的；

未依照《增值税法》的规定，将转让通知总专员的；

非应纳税人声称自己为《增值税法》规定的应纳税人的；

犯本条规定之罪的，一经定罪，应当按照下列规定承担责任：

故意或者轻率地作出前款规定行为的，处一百货币点以上二百货币点以下罚金，或者处一年以上二年以下有期徒刑，或者并处；

有其他情形的，处五十货币点以上一百货币点以下罚金，或者处一个月以上三个月以下有期徒刑，或者并处。

-(1) A person commits an offence if that person-

(a) draws, signs or deals in any manner with any instrument, bill of exchange, cheque or promissory note that has not been duly stamped;

(b) votes or attempts to vote under any proxy not duly stamped;

(c) issues any share warrant not duly stamped;

(d) fails to cancel a stamp as required under the Stamp Duty Act;

(e) executes or assists in the preparation of an instrument that breaches the requirements of the Stamp Duty Act;

(f) fails to give a receipt that is properly stamped as required under the Stamp Duty



Act;

(g) is a person appointed to sell stamps who disobeys a lawful direction given by the Commissioner General;

(h) is not a person appointed to sell stamps but the person sells or offers for sale, other than by way of surrender to a stamp duty officer, any stamp other than adhesive stamps each of the value of fifty cents or less; or

(i) fails to comply with the terms of any composition agreement made under the Stamp Duty Act.

(2) The person who commits an offence under this section shall be liable, on conviction-

(a) where the action or failure is made knowingly or recklessly, to a fine of not less than 100 currency points and not more than 200 currency points or imprisonment for a term of not less than one year and not more than two years, or to both; or

(b) in any other case, to a fine of not less than 20 currency points and not more than 50 currency points or imprisonment for a term of not less than one month and not more than three months, or to both.

#### 第九十一条【印花税犯罪】

单位、个人有下列行为的，构成犯罪：

以任何方式，对未适当盖章的票据、汇票、支票或者本票进行出票、签署或者交易；

依据未适当盖章的委托书参与投票或者试图参与投票；

签发未适当盖章的认股权证；

未依照《印花税法》的规定，注销印花税票的；

签署或协助制作违反《印花税法》规定的票据；

未依照《印花税法》的规定，出具适当盖章的收据；

被任命出售印花税票的人员，不遵守总专员发出的合法指令；

未被任命出售印花税票的人员，出售或者要约出售粘贴印花之外的面值不超过五十分的印花税票，但采取交付给印花税工作人员方式的除外；

未遵守依据《印花税法》订立的和解协议的条款。

犯本条规定之罪的，一经定罪，应当按照下列规定承担责任：

故意或者轻率地作出前款规定行为的，处一百货币点以上二百货币点以下罚金，或者处一年以上二年以下有期徒刑，或者并处；

有其他情形的，处二十货币点以上五十货币点以下罚金，或者处一个月以上三个月以下有期徒刑，或者并处。

-(1) Where a person commits an offence under a tax law, the Commissioner General may compound the offence and order that person to pay a sum of money to be specified by the Commissioner General and surrender any asset liable for forfeiture in respect of the offence.

(2) The Commissioner General shall not compound an offence-

(a) unless the person admits in writing that has committed the offence and accepts the proposed terms of compoundment;

(b) in respect of conduct of a transaction referred to in section 87; or

(c) after court proceedings commence with respect to the offence unless the consent of the Director of Public Prosecutions is obtained.

(3) The Commissioner General's order-

(a) shall be in writing specify-

(i) the offence committed;

(ii) the sum of money to be paid;

(iii) any asset forfeited; and

(iv) the date for payment of the money and surrender of the asset;

(b) shall have attached to the written admission referred to in paragraph (a) of subsection (2);

(c) shall be served on the person who committed the offence;

(d) shall be final and shall not be subject to appeal; and

(e) may be enforced in the same manner as an order of the High Court for the payment of the amount and delivery of any asset stated in the order.

(4) Where the Commissioner General compounds an offence under this section, a person whose offence is compounded shall not be liable for prosecution for that



offence.

**第九十二条【犯罪的和解】**

单位、个人实施了税法规定的犯罪的，总专员可以决定和解，并指令其缴纳由总专员指定的款项，交出有关犯罪应当没收的资产。

有下列情形之一的，总专员不得决定和解：

除非书面认罪，并接受拟定的和解条件；

第八十七条涉及的有关交易行为；

在有关犯罪的审判程序开始之后决定和解的，但获得检察长同意的除外。

总专员的命令，应当符合下列要求：

应当以书面形式载明下列内容：

实施的犯罪；

应当缴纳的款项；

没收的资产；

缴纳款项和交出资产的日期。

应当已附于第（2）款（a）项规定的认罪书后。

应当向犯罪行为人为送达；

是终局决定，不得对其提起申诉；

可以采取与执行高等法院命令相同的方式，强制执行命令规定应当缴纳的款项和交付的资产。

总专员依据本条对犯罪和解结案的，不得就该犯罪对犯罪行为人提起诉讼。

## **PART XI TAX PROCEEDINGS**

### **第十一部分 税务程序**

-(1) The proceedings to recover tax or prosecution of a person under one provision of a tax law does not restrict simultaneous or separate proceedings to recover the same tax or to prosecute a person under a different provision of that law or a provision of a different tax law.

(2) Notwithstanding the provisions of tax law, a person may be convicted or fined



for more than one offence with respect to same course of conduct or omission.

(3) Where two or more provisions which create an offence apply to the same part of a course of conduct or omission of a person, the adjudicator may choose under which provision the person is to be convicted or fined.

### 第九十三条【多种诉讼程序】

依照税法的一项规定对单位、个人提起追缴税款的诉讼或者刑事诉讼，不限制同时或者单独提起追缴同一税款的诉讼，以及同时或者单独依据税法的另一项规定或者不同税法的规定对其提起刑事诉讼。

虽有税法的规定，对同一作为或者不作为，仍可以因多于一项犯罪被定罪或者处以罚金。

对单位、个人的行为或者不作为，适用两项或者两项以上构成犯罪的规定的，审判人员可以选择作为定罪或者处以罚金的依据的规定。

(1) A tax officer authorised to search, seize or arrest may apply to a magistrate for an order to arrest a person.

(2) The application under subsection (1), shall state the reasons which make an authorised tax officer to believe that a person-

(a) has committed an offence under a tax law;

(b) will abscond before the person is charged or stands trial for an offence under a tax law;

(c) will destroy, tamper or otherwise dispose of evidence of an offence under a tax law; or

(d) has in possession any good to which any offence under a tax law has been committed or full duty has not been paid as required by a tax law.

(3) The magistrate may, after being satisfied that the situation represents a serious risk to the collection of tax or the administration of justice, make an order authorising the tax officer, to be accompanied by the police officer, to-

(a) enter any premises or place and restrain assets that may reasonably provide evidence that an offence has been committed under a tax law;

(b) restrain and search any premises, place, vehicle or other asset on or in which



the tax officer believes on reasonable grounds there is such evidence;

(c) interrogate and search or cause to be interrogated and searched a person who the tax officer believes on reasonable grounds has committed an offence under a tax law or to be in possession of assets mentioned in paragraph (a);

(d) arrest a person who the tax officer believes on reasonable grounds has committed an offence under a tax law; and

(e) use reasonable force for the purposes of the preceding paragraphs including by way of breaking into any premises, place or asset that may reasonably contain evidence referred to in paragraph (a).

(4) Upon restraining an asset under subsection (3), the tax officer shall-

(a) serve a written notice on the possessor of the asset and, where there is more than one possessor, service on a single possessor is sufficient; or

(b) where no possessor is available, leave the notice at the premises or place where the restraining takes place.

(5) The notice shall-

(a) identify and list the assets restrained;

(b) state the assets have been restrained under this section and the reason for the restraint; and

(c) set out the terms for release, including any as to security required, and terms for disposal of any assets seized.

(6) A tax officer arresting a person shall immediately take that person to the nearest police station.

(7) A person shall be searched by another person of the same sex.

(8) A tax officer may exercise any of the powers granted by a magistrate under this section in conjunction with any other of his powers granted under this Act.

#### 第九十四条 【搜查、扣押和逮捕的权力】

有权搜查、扣押和逮捕的税务人员，可以向治安法官申请逮捕令。

依据第（1）款提出的申请，应当说明被授权税务人员认为单位、个人实施下列行为的理由：

犯税法规定之罪；

可能在依据税法被指控犯罪或受审之前潜逃；

可能毁灭、篡改或者以其他方式处置税法规定的犯罪证据；

占有实施税法规定犯罪的物品，或者未按照税法规定缴纳全部税款。

治安法官在确信有关情形对征税或者司法工作构成严重风险后，可以发出命令，授权税务人员在警务人员陪同下从事下列行为：

进入场所或者地点，限制可以提供合理证据证明已犯税法规定之罪的资产；

限制和搜查税务人员有合理理由认为存在该证据的场所、地点、车辆以及其他资产；

讯问和搜查，或使得税务人员有合理理由认为已犯税法规定之罪，或者占有（a）项所述资产的人员被讯问和搜查；

逮捕税务人员有合理理由认为已犯税法规定之罪的人员；

为前述各项的目的使用合理武力，包括闯入可能合理包含（a）项所述证据的场所、地点以及资产。

依据第（3）款对资产加以限制后，税务人员应当作出下列行为：

向该资产的占有人送达书面通知；有多个占有人的，向一个占有人送达通知即可；

无占有人可通知的，将通知书留在被限制的场所或者地点。

通知应当载明下列事项：

确定和载明受限制的资产；

说明依据本条已限制的资产和限制的理由；

说明解除限制的条件，包括必要的担保，以及处置被查封资产的条件。

税务人员实施逮捕后，应当立即将被逮捕人员带到最近的警察局。

对人身进行搜查，应当由其他同性别人员进行。

税务人员行使治安法官依据本条授予的权力时，可以将其与本法授予的其他权力一并行使。

-(1) An officer may, without a warrant, exercise the powers referred under section 94 where-

(a) the owner or person in control of the premises consented in writing; or



(b) he is on reasonable grounds satisfied that-

(i) there may be an imminent removal or destruction of relevant material likely to be found on the premises;

(ii) the delay in obtaining a warrant would defeat the object of the search and seizure.

(2) The officer shall, before carrying out the search, inform the owner or person in control of the premises-

(a) that the search is being conducted under this section; and

(b) the law or tax offence that is the basis for the search.

(3) The provisions of section 94(3) to (7) shall apply to a search to be conducted under this section.

#### 第九十五条【无证搜查】

有下列情形的，执法人员可以在无搜查令的情况下行使第九十四条规定的权力：

经场所所有人或者控制人书面同意；

被授权人员有合理理由相信

在场所内有可能发现的有关材料也许即将被转移或者毁坏；

取得搜查令导致的延误可能妨碍搜查和扣押目的的实现。

执法人员应当在实施搜查前，将下列事项通知场所的所有人或者控制人：

依据本条进行的搜查；

作为搜查依据的法律或者涉税犯罪。

第九十四条第（3）款至第（7）款的规定，应当适用于依据本条实施的搜查。

A Security provided by any person for the purposes of complying with any provision of a tax law shall not act as a defence in any proceeding for recovery of tax or with respect to an offence under that tax law or any other tax law.

第九十六条【提供担保】为遵守税法规定提供担保的单位、个人，不得在税款追缴程序，或者有关本法以及其他税法规定的犯罪的程序中，以该担保作为抗辩理由。

-(1) The Commissioner General may publish in a newspaper or any other media of

wide circulation within the United Republic, a list of persons who-

(a) have repeatedly failed to pay tax on time after been notified of his obligation to pay tax by the Commissioner General;

(b) have been convicted of an offence under a tax law, where the time for appeal has expired; or

(c) had repeatedly such an offence compounded under section 92.

(2) The list may specify-

(a) the name and address of the person;

(b) the offence committed;

(c) the period during which the offence occurred;

(d) the amount of tax involved; and

(e) particulars of any fine or sentence imposed.

第九十七条【公布犯罪人员】

总专员可以在联合共和国的报纸或者广泛流通的媒体上公布有下列情形的单位、个人的名单：

在总专员通知其履行纳税义务后，多次未按时缴纳税款；

依据税法被判有罪，但已过追诉期限；

多次依据第九十二条对其犯罪和解结案。

名单应当载明下列内容：

名称（姓名）和地址；

实施的犯罪；

犯罪的期间；

涉税款额；

处以罚金或者有期徒刑的内容。

-(1) The Minister may make regulations under any tax law for the better carrying into effect of the principles, purposes and provisions of that tax law.

(2) Regulations made under subsection (1) may relate to a tax law or tax laws.

第九十八条【行政法规】

部长可以根据税法制定行政法规，以更好地执行税法的原则、目的和规定。



依据第（1）款制定的行政法规可以涉及一部或者多部税法。

The Minister may, in consultation with the Commissioner General, by order published in the Gazette, amend, vary, add or replace any Schedule to this Act.

第九十九条【部长的修正案】部长可以与总专员协商，在宪报刊登命令，修正、更改、增加或者更换本法的附表。

## PART XII TRANSITION AND SAVINGS PROVISIONS

### 第十二部分 过渡和保留条款

(1) Subject to this section, the respective tax laws shall continue to apply for periods and events occurring before the date on which this Act comes into effect.

(2) All appointments made under the respective tax laws and subsisting at the date this Act comes into effect are deemed to be appointments made under this Act.

(3) Any international agreement made by the Government of the United Republic that is effective under the respective tax laws at the time this Act comes into effect continue to have effect under this Act.

(4) Regulations, rules, practice notes, rulings, orders and notices made under the respective tax laws and in force at the commencement of this Act shall continue to be in force as if they were made under this Act until such time as they are amended or revoked.

(5) All blank forms and documents used in relation to the respective tax laws may continue to be used under this Act and all references in those forms and documents to provisions of and expressions appropriate to the prior law shall be deemed to refer to the corresponding provisions and expressions of this Act.

(6) Any appeal, prosecution or other proceedings commenced before of this Act comes into operation shall continue and be disposed of as if this Act had not come into force.

(7) Any tax liability that arose before this Act comes into operation may be recovered by fresh proceedings under this Act, but without prejudice to any action

already taken for the recovery of the tax.

(8) A reference in this Act to “this Act” or to a provision of “this Act” includes, where the context requires, a reference to the prior law or to a corresponding provision of the prior law, respectively.

**第一百条【过渡和保留条款】**

除本条外，在本法生效日期之前发生的期间和事件，仍适用有关的税法。

依据相关税法作出的任命，在本法生效之日继续存在的，应当视为依据本法作出的任命。

本法生效时，联合共和国政府签订的国际协定，依据相关税法有效的，应当依据本法继续有效。

依据相关税法制定并在本法施行时有效的行政法规、规章、业务指引、规定、命令和通知，在其被修正或者撤销之前，视同依据本法制定，应当继续有效。

有关税法使用的空白表单和文件可以依据本法继续使用，所有在表单和文件中涉及的适合于先前法律的规定和表述，应当被视为本法相应的规定和表述。

本法施行前已提起申诉、起诉以及其他诉讼程序，应当继续进行，并按照本法未生效时处理。

本法施行前产生的应纳税款，可以依据本法规定的新的法律程序予以追缴，但不得损害为追缴税款已采取的行动。

本法所指本法或本法的规定，视上下文的需要，包括相应的前法或者前法的规定。

**PART XIII CONSEQUENTIAL AMENDMENTS**

**第十三部分 相应的修正案**

(a) Sub Part I



AMENDMENT OF THE TANZANIA REVENUE AUTHORITY  
ACT,CAP. 399

第一分部 《坦桑尼亚税务局法》修正案

This Sub Part shall be read as one with the Tanzania Revenue Authority Act, hereinafter referred to as the “principal Act”.

第一百零一条【说明】本分部是《坦桑尼亚税务局法》(以下简称本法)的组成部分。

Section 6 of the principal Act is repealed.

第一百零二条【废止第六条】废止本法第六条。

Section 7 of the principal Act is amended by deleting subsection (2) and substituting for it the following new subsection-

“(2) The system referred to in subsection (1) shall be for the purposes of the provisions of Part III (b) of the Tax Administration Act.”

第一百零三条【修正第七条】删除本法第七条第(2)款,修改为:“(2)第(1)款所指的制度应当适用于《税收管理法》第三部分(b)的规定。”

Section 8 of the principal Act is amended by deleting subsection (2) and substituting for it the following-

“(2) The provisions of sections 21 of the Tax Administration Act which relates to official secrecy shall apply to this Act.”

第一百零四条【修正第八条】删除本法第八条第(2)款,修改为:“(2)《税收管理法》第二十一条有关官方机密的规定适用于本法。”

The principal Act is amended by revoking the First Schedule and replacing it with the following new Schedule-

“FIRST SCHEDULE

(Made under section 5(1)(a))

The Income Tax Act, Cap. 332.



The Value Added Tax Act, Cap. 148.

The East African Customs Management Act, (No. 1 of 2005)

The Excise (Management and Tariff) Act, Cap. 147

The Stamp Duty Act, Cap. 189

The Road and Fuel Tolls Act, Cap. 220

The Airport Service Charges Act, Cap. 365.

The Motor Vehicle (Tax on Registration and Transfer) Act, Cap. 124

The Port Service Charges Act, Cap. 264

The Cashewnut Board of Tanzania Act, Cap. 203

Vocational Education And Training Act, Cap. 82

The Foreign Vehicles Transit Charges Act, Cap. 84

The Gaming Act, Cap. 41

The Tax Administration Act, 2014

The Road Traffic Act, Cap.168.

Any other law authorising the Authority to administer or collect revenue.”.

第一百零五条【修正附表一】撤销本法附表一，修改为：

“附表一

（依据第五条第（1）款（a）项）

《所得税法》；

《增值税法》；

《东非关税管理法》；

《消费税（管理和税率）法》；

《印花税法》；

《道路和燃油费法》；

《机场服务费法》；

《机动车（登记转让税）法》；

《港口服务费法》；

《坦桑尼亚腰果商会法》；

《职业教育和培训法》；



《外国车辆过境费法》；  
《博彩法》；  
《税收管理法》；  
《道路交通安全法》；  
其他授权机关管理或者征收税收的法律。”

**Sub Part II AMENDMENT OF THE TAX REVENUE APPEALS  
ACT, CAP. 408  
第二分部 《税收申诉法》修正案**

This Sub Part shall be read as one with the Tax Revenue Appeals Act, hereinafter referred to as the “principal Act”.

第一百零六条【说明】本分部是《税收申诉法》(以下简称本法)的组成部分。

Section 7A of the principal Act is amended by deleting the words “section 12 of this Act” and substituting for the words “Part VII of the Tax Administration Act”.

第一百零七条【修正第七 A 条】删除“本法第十二条”，修改为“《税收管理法》第七部分”。

The principal Act is amended by repealing sections 12, 13 and 14.

第一百零八条【废止第十二条、第十三条和第十四条】废止本法第十二条、第十三条和第十四条。

Section 15(1) of the principal Act is amended:

in paragraph (b) (i) by deleting the figure “12” and substituting for it the figure “52”;  
in paragraph (b) (ii) by deleting the phrase “subsection (4) of section 12” and substituting for it the phrase “subsection (3) of section 52”

第一百零九条【修正第十五条】本法第十五条第(1)款作以下修正:

将(b)项、(i)项中的表格“十二”修改为表格“五十二”。

将(b)项、(ii)项中的“第十二条第(4)款”修改为“第五十二条第(3)款”。

Section 16 of the principal Act is amended by-

(a) deleting subsection (1) and substituting for it the following-

“(1) Any person who is aggrieved by an objection decision of the Commissioner General made under the Tax Administration Act may appeal to the Board.”;

(b) deleting subsection (2); and

(c) deleting the phrase “section 12(3)” appearing in subsection (6) and substituting for them the phrase “section 51(5) of the Tax Administration Act”.

(d) deleting the phrase “by the Board or, as the case may be, the Tribunal.”

第一百一十条【修正第十六条】本法第十六条作以下修正：

删除第（1）款，修改为：“（1）个人或者单位对总专员依据《税收管理法》作出的异议决定不服的，可以向委员会申诉。”

删除第（2）款；和

将第（6）款中的“第十二条第（3）款”修改为“《税收管理法》第五十一条第（5）款”。

删除“由委员会，或者视情况可能由裁判所”。

The principal Act is amended in section 19 by deleting the words “the liability of ” appearing at the chapeau.

第一百一十一条【修正第十九条】删除本法第十九条前言中的“的义务”。

### **Sub Part III AMENDMENT OF THE INCOME TAX ACT, CAP. 332** **第三分部 《所得税法》修正案**

This Sub Part shall be read as one with the Income Tax Act, hereinafter referred to as the “principal Act”.

第一百一十二条【说明】本分部是《所得税法》(以下简称本法)的组成部分。

Section 3 of the principal Act is amended by deleting-

(a) the definition of the term “adjusted assessment” and “assessment” and substituting for them the following new definitions:

“adjusted assessment” means an assessment adjusted in accordance with section 48 of the Tax Administration Act; and



“assessment” means an assessment made in terms of section 94 of this Act or sections 46, 47, 48 or 81 of the Tax Administration Act;”;

(b) the words “Commissioner of Income Tax” appearing in the definition of the term “Commissioner”, and substituting for them the designation “Commissioner General”;

(c) the definition of the terms “document”, “Minister”, “notice of assessment”, “officer”, “penalty”, “Tanzania Revenue Authority”, “tax payable on assessment” and “Tax Identification Number”; and

(d) the words “section 136” appearing in the definition of the term “service” and substituting for it the phrase “sections 32 and 33 of the Tax Administration Act”;

第一百一十三条【修正第三条】本法第三条作以下修正：

删除“调整评税”和“纳税评估”的原有定义，修改为：

调整评税，是指依据《税务管理法》第四十八条作出调整的纳税评估；

纳税评估，是指总专员依据本法九十四条或者《税务管理法》第四十六条至四十八条、第八十一条作出的评估；

将“委员会”定义中的“所得税专员”修改为“总专员”；

删除“文件”、“部长”、“纳税评估通知书”、“工作人员”、“处罚”、“坦桑尼亚税务局”、“评估的应纳税额”、“纳税识别号”的定义，和

将“服务”定义中的“第一百三十六条”修改为“《税务管理法》第三十二条和第三十三条”。

The principal Act is amended in section 15(5) by deleting -

(a) the phrase “section 96” appearing in paragraph (a) and substituting for them the phrase “section 48 of the Tax Administration Act”;

(b) the phrase reference to the phrase “sections 99 and 100” and the appearing in paragraph (b)(i) and substituting for them the phrase “sections 75 and 76 of the Tax Administration Act”; and

(c) by deleting the reference to section 101 appearing in paragraph (b)(ii) and substituting for it the phrase “section 79” of the Tax Administration Act”.

第一百一十四条【修正第十五条】本法第十五条第（5）款作如下修正：

将(a)项中的“第九十六条”修改为“《税务管理法》第四十八条”；

将(b)项、(i)项中的“第九十九条和第一百条”修改为“《税务管理法》第七十五条和第七十六条”；和

将(b)项、(ii)项中的“第一百零一条”修改为“《税务管理法》第七十九条”。

Section 21 of the principal Act is amended by adding immediately after subsection (6), the following new subsection-

“(7) In this section, “generally accepted accounting principles” means the principles adopted by the National Board of Accountants and Auditors.”.

第一百一十五条【修正第二十一条】在本法第二十一条第(6)款后增加第(7)款，“本条中的‘公认会计准则’，是指会计师和审计师全国委员会通过的会计准则。”

Section 35 of the principal Act is repealed.

第一百一十六条【废止第三十五条】废止本法第三十五条。

The principal Act is amended in section 52(5) by deleting the figure “116(5)” and substituting for it the words “66(5) of the Tax Administration Act”.

第一百一十七条【修正第五十二条】将本法第五十二条第(5)款中的“第一百一十六条第(5)款”修改为“《税务管理法》第六十六条第(5)款”。

The principal Act is amended in section 64(8)(b) by deleting the figure “131” and substituting for it the phrase “11 of the Tax Administration Act”.

第一百一十八条【修正第六十四条】将本法第六十四条第(8)款(b)项中的“第一百三十一条”修改为“《税务管理法》第十一条”。

Section 79 of the principal Act is amended by deleting-

(a) paragraph (c), (d), (e), (f) and (g) of subsection (1) and substituting for them the following new paragraph:

“(c) in the case of income tax payable on an assessment under section 94, on the date by which the return of income must be filed;” and

(b) subsections (2) and (3).

第一百一十九条【修正第七十九条】本法第七十九条作以下修改：

删除第(1)款(c)至(g)项，修改为(c)项，“(c)涉及依据第九十四

条的评税应缴纳的所得税的，提交所得税申报表的终止之日；”

删除第（2）款和第（3）款。

Sections 80 and 80A of the principal Act are repealed.

第一百二十条【废止第八十条和第八十 A 条】废止本法第八十条和第八十 A 条。

Section 89 of the principal Act is amended by deleting-

(a) the figure “93” appearing in subsection (1) and substituting for it the words “39 of the Tax Administration Act”;

(b) paragraph (b) of subsection (2) and substituting for it the following new paragraph-

“(c) be signed by the person and includes a declaration that, to the best of that person’s knowledge and belief, the estimate is full and true; and”

(c) the figure “93” appearing in subsection (7(b)) and substituting for it the phrase “section 39 of the Tax Administration Act”.

第一百二十一条【修正第八十九条】本法第八十九条作以下修正：

将第（1）款中的“第九十三条”修改为“《税务管理法》第三十九条”；

删除第（2）款中的（b）项，修改为：“（c）由本人签署，并包括一份声明，据本人所知和所信，估计数值是完整和真实的；和”；

将第（7）款（b）项中的“第九十三条”修改为“《税务管理法》第三十九条”。

Section 91 of the principal Act is amended by deleting-

(a) the figures “92, 93, 94 and 96” appearing in subsection (1) and substituting for them words “92 and 94 of this Act and sections 39 and 48 of the Tax Administration Act”;

(b) paragraph (d)(ii) of subsection (2) and substituting for it the following-

“(ii) a person specified in section 37(2)(a) of the Tax Administration Act;”;

(c) the figure “135(2)” appearing in paragraph (e)(ii) of subsection (2) and substituting for it the phrase “38(3) of the Tax Administration Act” ; and

(d) subsection (3).

第一百二十二条【修正第九十一条】本法第九十一条作以下修正：

将第(1)款中的“第九十二条至九十四条、第九十六条”修改为“本法第九十二条和第九十四条,和《税务管理法》第三十九条和第四十八条”;

将第(2)款(d)项、(ii)项修改为“(ii)《税务管理法》第三十七条第(2)款(a)项规定的个人或者单位”;

将第(2)款(e)项、(ii)项中的“第一百三十五条第(2)款”修改为“《税务管理法》第三十八条第(3)款”;

删除第(3)款。

Section 94 of the principal Act is amended by deleting the words “under this Act” appearing in subsection (6) and substituting for them the words “under subsections (3), (4) or (5)”.

第一百二十三条【修正第九十四条】将本法第九十四条第(6)款中的“依据本法”修改为“依据第(3)款、第(4)款或者第(5)款”。

The following Sections of the principal Act are repealed 93, 95 up to 127, 129 up to 140.

第一百二十四条【废止多个条文】废止本法第九十三条、第九十五条至一百二十七条,第一百二十九条至一百四十条。

The Fourth Schedule to the principal Act is revoked.

第一百二十五条【废止附表四】废止本法附表四。

## **Sub Part IV AMENDMENT OF THE ROAD AND FUEL TOLLS ACT, CAP. 220**

### **第四分部《道路和燃油费法》修正案**

This Sub Part shall be read as one with the Road and Fuel Tolls Act, hereinafter referred to as the “principal Act”.

第一百二十六条【说明】本分部是《道路和燃油费法》(以下简称本法)的组成部分。

Section 3 of the principal Act is amended by deleting the definition of the term “Commissioner” and substituting for it the following new definition-

““Commissioner” means the Commissioner General appointed under the Tanzania Revenue Authority Act;”.

第一百二十七条【修正第三条】删除本法第三条中“专员”的原有定义，修改为：“专员，是指依据《坦桑尼亚税务局法》任命的总专员。”

Section 13 of the principal Act is amended by deleting subsection (2) and substituting for it the following new subsection-

“(2) In the discharge of duties under this Act, a road and fuel toll inspector shall have and exercise like powers granted under section 42 of the Tax Administration Act.”.

第一百二十八条【修正第十三条】删除本法第十三条第(2)款，修改为：“(2) 道路和燃油收费检查人员在依照本法履行职责时，应当有权行使《税务管理法》第四十二条规定的类似权力”

Section 14 is repealed and replaced by the following new section-

“14.-(1) A person shall not-

(a) drive a vehicle through a toll station except by the route designated for the passage of that vehicle;

(b) refuse to stop a vehicle at a toll station when requested to do so by the owner or operator of the station;

(c) sell or offer for sale, in an area in which road and fuel tolls are paid upon purchase of fuel, any fuel in respect of which it is not required that any road and fuel toll be paid upon its purchase; or

(d) sell or offer for sale, in any area of Mainland Tanzania, any fuel upon the purchase of which road and fuel tolls are to be paid, without the road and fuel toll payable in respect of it having been previously paid.

(2) A person who commits an act or omission in violation of subsection (1) shall be treated as impeding the administration of this Act for the purposes of section 85 of the Tax Administration Act.”.

第一百二十九条【修正第十四条】废止本法第十四条，修改为：

第十四条(1) 个人或者单位不得有下列行为：

驾驶机动车通过收费站，但按指定路线通行的除外；



收费站所有者或经营者要求停车时，拒绝停车的；

在购买燃油时应当缴纳道路和燃油费的地区，出售或者要约出售购买时无须缴纳道路和燃油费的燃料；

在坦桑尼亚大陆任何地区，出售或者要约出售购买时应当缴纳道路和燃油费的燃油，而有关燃油的道路和燃油费又未在事先予以缴纳的。

违反第（1）款的作为或者不作为，依据《税务管理法》第八十五条的规定，应当视为妨碍本法实施的行为。

Sections 15 of the principal Act is repealed.

第一百三十条【废止第十五条】废止本法第十五条。

### **Sub Part V AMENDMENT OF THE FOREIGN VEHICLES TRANSIT CHARGES ACT, CAP. 84 第五分部《外国车辆过境费法》修正案**

This Sub Part shall be read as one with the Foreign Vehicles Transit Charges Act, hereinafter referred to as the “principal Act”.

第一百三十一条【说明】本分部是《外国车辆过境费法》（以下简称本法）的组成部分。

Section 2 of the principal Act is amended by deleting the definition of the term “Commissioner” and substituting for it the following new definition-

““Commissioner” means the Commissioner General appointed under the Tanzania Revenue Authority Act; ”.

第一百三十二条【修正第二条】删除本法第二条中“专员”的原有定义，修改为：“专员，是指依据《坦桑尼亚税务局法》任命的总专员。”

Section 6 of the principal Act is amended by-

(a) deleting subsection (1) and substituting for it the following new subsections -

“(1) The Commissioner shall be responsible for the administration and collection of the transit charges payable under this Act.

(2) The Commissioner may appoint public officers to be transit charge and



assistant transit charge collectors.

(3) The transit charge and assistant transit charge collectors shall collect transit charges at every entry point and perform such other functions and duties as may be specified by the Commissioner for the purposes of this Act.”; and

(b) renumbering subsection (2) as subsection (4).

第一百三十三条【修正第六条】本法第六条作以下修正：

删除第（1）款，修改为：

专员应当负责管理和征收依据本法应当缴纳的过境费。

总专员可以任命公职人员为过境费征收和助征人员。

过境费征收和助征人员应当在入境点征收过境费，并履行总专员为本法目的规定的其他职责；和

将第（2）款编号修改为第（4）款。

Section 8 of the principal Act is amended by deleting subsection (2) and substituting for it the following new subsection-

“(2) In the discharge of duties under this Act, a transit charge inspector shall have and exercise like powers granted by section 42 of the Tax Administration Act.”.

第一百三十四条【修正第八条】删除本法第八条第（2）款，修改为：“（2）过境收费检查人员在依照本法履行职责时，应当有权行使《税务管理法》第四十二条规定的类似权力”

The principal Act is amended by repealing sections 9 and 10.

第一百三十五条【废止第九条和第十条】废止本法第九条和第十条。

Section 11 of the principal Act is repealed and replaced with the following new section-

“11.- (1) A person shall not-

(a) drive a foreign vehicle through an entry point except by the route designated for the passage of that vehicle; or

(b) refuse to stop a foreign vehicle at an entry point when requested to do so by a transit charge inspector.

(2) A person who commits an act or omission in violation of subsection (1) shall

be treated as impeding the administration of this Act for the purposes of section 85 of the Tax Administration Act.”

第一百三十六条【修正第十一条】废止本法第十一条，修改为：

第十一条（1）个人或者单位不得有下列行为：

驾驶外国车辆通过过境点，但按指定路线通行的除外；

过境收费检查人员要求外国车辆驾驶人员停车时，拒绝停车的；

违反第（1）款的作为或者不作为，依据《税务管理法》第八十五条的规定，应当视为妨碍本法实施的行为。

## **Sub Part VI AMENDMENT OF THE AIRPORT SERVICE CHARGES ACT, CAP. 365 第六分部《机场服务费法》修正案**

This Sub Part shall be read as one with the Airport Service Charges Act, hereinafter referred to as the “principal Act”.

第一百三十七条【说明】本分部是《机场服务费法》（以下简称本法）的组成部分。

Section 7 of the principal Act is amended by-

(a) deleting the designation “Commissioner for Value Added Tax” appearing in subsection (1) and substituting for them the designation “Commissioner General of the Tanzania Revenue Authority”;

(b) deleting subsections (3), (4) and (5);

(c) adding immediately after subsection (2) the following new subsection-

“(3) Any agent who fails to collect a charge as required by subsections (1) and (2) shall be required to remit to the Commissioner General the amount that should have been collected from the passenger.”.

第一百三十八条【修正第七条】本法第七条作以下修正：

将第（1）款中的“增值税专员”修改为“坦桑尼亚税务局总专员”；

删除第（3）款、第（4）款和第（5）款；

在第（2）款后增加第（3）款，“（3）扣缴义务人未依据第（1）款和第（2）款的规定收费的，应当向总专员解缴应当向乘客征收的款项。”

The principal Act is amended in section 8 by deleting subsection (2).

第一百三十九条【修正第八条】删除本法第八条第（2）款。

Sections 10, 10A and 11 of the principal Act are repealed.

第一百四十条【废止第十条、第十 A 条和第十一条】废止本法第十条、第十 A 条和第十一条。

## **Sub Part VII AMENDMENT OF THE PORT SERVICE CHARGES ACT, CAP. 264**

### **第七分部《港口服务费法》修正案**

This Sub Part shall be read as one with the Port Service Charges Act, hereinafter referred to as the “principal Act”.

第一百四十一条【说明】本分部是《港口服务费法》（以下简称本法）的组成部分。

Section 7 of the principal Act is amended by-

(a) deleting the phrase “Commissioner of the Value Added Tax (VAT)” appearing in subsection (2) and substituting for them the phrase “Commissioner General of the Tanzania Revenue Authority”;

(b) deleting subsections (3), (4), (5), (6) and (7); and

(c) adding immediately after subsection (2), the following new subsection-

“(3) Any agent who fails to collect a charge as required by subsection

(1) shall be required to remit to the Commissioner General the amount that would have been collected from the passenger.”.

第一百四十一条【修正第七条】本法本法第七条作以下修正：

将第（2）款中的“增值税专员”修改为“坦桑尼亚税务局总专员”；

删除第（3）款、第（4）款、第（5）款、第（6）款和第（7）款；和

在第（2）款后增加第（3）款，“（3）扣缴义务人未依据第（1）款的规定

收费的，应当向总专员解缴应当向乘客征收的款项。”

Sections 10, 10A and 11 of the principal Act are repealed.

第一百四十三条【废止第十条、第十 A 条和第十一条】废止本法第十条、第十 A 条和第十一条。

## **Sub Part VIII AMENDMENT OF THE VOCATIONAL EDUCATION AND TRAINING ACT, CAP. 82 第八分部《职业教育和培训法》修正案**

This Sub Part shall be read as one with the Vocational Education and Training Act, hereinafter referred to as the “principal Act” .

第一百四十四条【说明】本分部是《职业教育和培训法》(以下简称本法)的组成部分。

Section 2 of the principal Act is amended by deleting the definition of the term “Commissioner” and substituting for it the following new definition-

““Commissioner” means the Commissioner General appointed under the Tanzania Revenue Authority Act;” .

第一百四十五条【修正第二条】删除本法第二条中“专员”的原有定义，修改为：“专员，是指依据《坦桑尼亚税务局法》任命的总专员。”

Section 16 of the principal Act is repealed and replaced with the following-

“16.-(1) Every employer shall file with the Commissioner on or before the seventh day of each month a return setting out the total gross monthly emoluments payable by the employer to employees in respect of the preceding month and the levy payable with respect thereto.

(2) The employer shall pay to the Commissioner the levy that is due with respect to those emoluments on the date specified under subsection (1)”.

第一百四十六条【修正第十六条】废止本法第十六条，修改为：

第十六条（1）雇主应当于每月第七日或者七日前，向专员提交纳税申报表，载明雇主上月向雇员支付的月薪酬总额和应纳税款。



雇主应当于第（1）款规定的日期，向专员缴纳有关薪酬的应纳税款。

Sections 17, 18 and 20 of the principal Act are repealed.

第一百四十七条【废止第十七条、第十八条和第二十条】废止本法第十七条、第十八条和第二十条。

The principal Act is amended in section 21 by deleting subsection (1).

第一百四十八条【修正第二十一条】删除本法第二十一条第（1）款。

## **Sub Part IX AMENDMENT OF THE MOTOR VEHICLE (TAX ON REGISTRATION AND TRANSFER) ACT, CAP. 124**

### **第九分部《机动车（登记转让税）法》修正案**

This Sub Part shall be read as one with the Motor Vehicle (Tax on Registration and Transfer) Act, hereinafter referred to as the “principal Act”.

第一百四十九条【说明】本分部是《机动车（登记转让税）法》（以下简称本法）的组成部分。

Section 2 of the principal Act is amended by deleting -

(a) the definition of the term “Commissioner” and substituting for it the following new definition-

““Commissioner” means the Commissioner General appointed under the Tanzania Revenue Authority Act;” and

(b) subsection (3).

第一百五十条【修正第二条】本法第二条作以下修正：

删除第二条中“专员”的原有定义，修改为：“专员，是指依据《坦桑尼亚税务局法》任命的总专员。”

删除第（3）款。

Section 5 of the principal Act is amended by deleting subsections (3), (5), (6) and (7).

第一百五十一条【修正第五条】删除本法第五条第（3）款、第（5）款、第（6）款和第（7）款。

Section 9 of the principal Act is amended by deleting subsection (2).

第一百五十二条【修正第九条】删除本法第九条第（2）款。

Sections 12 and 15 of the principal Act are repealed.

第一百五十三条【废止第十二条和第十五条】废止本法第十二条和第十五条。

Section 16 of the principal Act is repealed and replaced with the following new section-

16. Where a person is convicted of an offence under the Tax Administration Act with respect to tax payable under this Act, the court may in addition to any tax, penalty or fine imposed if the offence involves willful non-payment or evasion of tax, may order that the motor vehicle in relation to which the tax was not paid or was evaded be forfeited to the United Republic.

第一百五十四条【修正第十六条】废止本法第十六条，修改为：“第十六条个人或者单位因有关本法规定的应纳税款被判犯有《税务管理法》规定的罪行的，如果该罪行涉及故意不缴纳税款或者偷税的，除责令缴纳税款、判处罚款或者罚金外，法院可以判令没收有关未缴纳税款或者偷税的机动车，归联合共和国所有。”

Sections 17, 18, 19 and 21 of the principal Act are repealed.

第一百五十五条【废止第十七条、第十八条、第十九条和第二十一条】废止本法第十七条、第十八条、第十九条和第二十一条。

## **Sub Part X AMENDMENT OF THE GAMING ACT, CAP. 41** **第十分部《博彩法》修正案**

This Sub Part shall be read as one with the Gaming Act, hereinafter referred to as the “principal Act”.

第一百五十六条【说明】本分部是《博彩法》（以下简称本法）的组成部分。

Section 3 of the principal Act is amended by deleting the definition of the term “Commissioner” and substituting for it the following new definition-

““Commissioner” means the Commissioner General appointed under the Tanzania Revenue Authority Act;”.



第一百五十七条【修正第三条】删除本法第三条中“专员”的原有定义，修改为：“专员，是指依据《坦桑尼亚税务局法》任命的总专员。”

Section 31 of the principal Act is amended by deleting subsection (6).

第一百五十八条【修正第三十一条】删除本法第三十一条第（6）款。

Sections 35 of the principal Act are repealed.

第一百五十九条【废止第三十五条】废止本法第三十五条。

## Sub Part XI AMENDMENT OF THE STAMP DUTY ACT, CAP. 189 第十一分部《印花税法》修正案

This Sub Part shall be read as one with the Stamp Duty Act, hereinafter referred to as the “principal Act”.

第一百六十条【说明】本分部是《印花税法》(以下简称本法)的组成部分。

Section 14 of the principal Act is repealed and replaced with the following new provision-

“14.Any sum of money due under a composition agreement, or an order under section 13 whether by way of compounded duty, additional compounded duty or penalty shall be a debt due to the United Republic and recovered as duty or tax under the provisions of this Act or the Tax Administration Act.”

第一百六十一条【修正第十四条】废止本法第十四条，修改为：“第十四条根据和解协议应当支付的款项，或者依据第十三条指令支付的复合关税、追加复合关税或者罚款，均属于应当向联合共和国支付的到期债务，应当依据本法的规定或者《税务管理法》，作为关税或者其他税收收回。”

Section 53 of the principal Act is amended by adding immediately after the words “this Act”, the phrase “or the Tax Administration Act”.

第一百六十二条【修正第五十三条】将本法第五十三条中的“本法”修改为“本法或者《税收管理法》”。

Section 58 of the principal Act is repealed.

第一百六十三条【废止第五十八条】废止本法第五十八条。



The principal Act is amended by adding immediately after section 66 the following new section-

“66A. Where a person is granted an allowance under this Part, the Commissioner General may direct that, the allowance be applied in reduction of any tax due payable by the person under any tax law.”.

第一百六十四条【增加第六十六A条】在本法第六十六条后增加第六十六A条，“第六十六A条依据本部分给予个人或者单位免税额的，总专员可以指令，将免税额用于扣减个人或者单位依据税法应当缴纳的税款。”

The principal Act is amended in section 72 by deleting the designation “A Stamp Duty Officer” appearing in subsection (5) and substituting for them the designation “the Commissioner General”.

第一百六十五条【修正第七十二条】将本法七十二条款中的“印花税税务人员”修改为“总专员”。

## **Sub Part XII AMENDMENT OF THE EXCISE (MANAGEMENT AND TARIFF) ACT, CAP. 147**

### **第十二分部《消费税（管理和税率）法》修正案**

This Sub Part shall be read as one with the Excise (Management and Tariff) Act, hereinafter referred to as the “principal Act”.

第一百六十六条【说明】本分部是《消费税（管理和税率）法》（以下简称本法）的组成部分。

Section 2 of the principal Act is amended-

(a) in subsection (1), by-

(i) deleting the definition of the terms “Commissioner General”, “Excise and the Excise”, and “officer” and substituting for them the following new definitions in their appropriate alphabetical order-

““Commissioner General” means the Commissioner General appointed under the Tanzania Revenue Authority Act;” and



“Excise” or “the Excise” means the Tanzania Revenue Authority established under the Tanzania Revenue Authority Act acting under the authority of this Act;”;

(ii) adding in its appropriate alphabetical order the following new definition-

““customs law or the East African Customs and Transfer Tax Management Act shall be construed as referring to the East African Community Customs Management Act, and any regulations made under that Act;”.

(iii) adding immediately after the words “this Act” appearing in the definition of the term “regulations”, the phrase “or under the Tax Administration Act”; and

(b) by deleting subsection (2).

第一百六十七条【修正第二条】本法第二条作以下修正：

第（1）款作以下修改：

删除“总专员”、“消费税”和“工作人员”的原有定义，依次修改为：

总专员，是指依据《坦桑尼亚税务局法》任命的总专员；

消费税，是指依据《坦桑尼亚税务局法》设立的坦桑尼亚税务局依照本法的授权实施的税种；

按字母顺序在适当位置增加：“海关法或者《东非关税和转让税管理法》应当解释为《东非共同体关税管理法》，和根据该法制定的法规；”

将“法规”定义中的“本法”修改为“本法或者《税务管理法》”；

删除第（2）款。

The following sections of the principal Act are repealed-

3, 7, 56, 57, 58, 66, 73, 74, 75, 76, 77, 78, 79, 80, 82, 83, 84, 85, 86, 87, 88, 89, 90, 99, 101, 103, 104, 108, 109, 110, 111, 112, 114, 137(5), 138 and 144.

第一百六十八条【废止多个条文】废止本法第三条、第七条、第五十六条、第五十七条、第五十八条、第六十六条、第七十三条、第七十四条、第七十五条、第七十六条、第七十七条、第七十八条、第七十九条、第八十条、第八十二条、第八十三条、第八十四条、第八十五条、第八十六条、第八十七条、第八十八条、第八十九条、第九十条、第九十九条、第一百零一条、第一百零三条、第一百零四条、第一百零八条、第一百零九条、第一百一十条、第一百一十一条、第一百一十二条、第一百一十四条、第一百三十七条第（5）款、第一百三十八

条和第一百四十四条。

The principal Act is amended by adding the following new section-

“76A. In any proceedings for a breach of this Act, the onus of proving that-

(a) the place of manufacture of any excisable goods;

(b) any spirits in respect of which duty has been remitted for a particular purpose, have been used for that purpose;

(c) the lawful manufacture, removal, conveyance or exportation of any excisable goods;

(d) any materials or plant have been unlawfully seized; and

(e) a certificate of an analyst or chemist in the employment of the United Republic is inaccurate in any respect, is on the person against whom proceedings have been commenced or person claiming for goods or things which were seized.”.

第一百六十九条【新增第七十六 A 条】增加一条，作为第七十六 A 条：违反本法引起诉讼的，由被提起诉讼的个人、单位，或者被查封货物、物品的权利请求人承担下列举证责任：

应纳消费税货物的制造地；

为特定目的被免税的酒精，为该目的已被使用；

依法制造、转移、运送或者出口应纳消费税货物；

材料、设备被违法查封；

受雇于联合共和国的分析师或者化验师资格证的信息不准确。

Section 127 of the principal Act is amended by adding immediately after the words “this Act” appearing in paragraph (a) the phrase “or the Tax Administration Act”.

第一百七十条【修正第一百二十七条】将本法第一百二十七条(a)项中的“本法”修改为“本法或者《税收管理法》”。



## SCHEDULES

### FIRST SCHEDULE

(Under section 3)

#### TAX RETURNS AND ASSESSMENTS

1. The following are tax returns for the purposes of this Act:

(a) in relation to income tax-

(i) a statement of tax withheld or treated as withheld filed under section 84 of the Income Tax Act;

(ii) a statement of estimated tax payable filed under section 89 of the Income Tax Act; and

(iii) a return of income filed under section 91 of the Income Tax Act;

(b) in relation to Value Added Tax, a return filed under section 26 of the Value Added Tax Act;

(c) in relation to Vocational Education and Training Levy, a return filed under section 16 of the Vocational Education and Training Act;

(d) in relation to Gaming Tax, a return filed under section 31 of the Gaming Act; and

(e) in relation to Excise Duty, a return filed under section 137 of the Excise (Management and Tariff) Act.

2.-(1) For the purposes of this Act, “assessment” includes-

(a) in relation to income tax, an assessment made under section 94 of the Income Tax Act;

(b) in relation to the taxes referred to in paragraphs 1(b) to (f), an assessment made under paragraph 3 of this Schedule in respect of the obligation to file a tax return;

(c) in relation to gaming tax, a demand notice of the Board made under section 31 of the Gaming Act;

(d) in relation to stamp duty, a note, certificate, decision or requirement of a Stamp

Duty Officer under section 23, 24, 44 or 50 of the Stamp Duty Act; and

(e) in relation to this Act, an assessment made under sections 55 (jeopardy assessment), 56 (adjusted assessment) or 88 (interest and penalty assessment) of this Act.

(2) The Commissioner General may exercise all powers under this Act with respect to any assessment (including a self-assessment), including powers under Part VI of this Act.

3.-(1) Where a person files a tax return in accordance with an obligation to which this paragraph applies, an assessment is treated as made on the due date for filing the tax return.

(2) The assessment is in an amount equal to the net amount of tax due, if any, as shown in the tax return.

(3) An “obligation to which this paragraph applies” means an obligation to file a tax return in accordance with the provisions referred to in paragraphs 1(b) to (f).

## 附表 附表一

(依据第三条)

纳税申报和评估

下列为本法所称纳税申报表:

涉及所得税的,

依据《所得税法》第八十四条提交的代扣代缴税款或者视为代扣代缴税款的报表;

依据《所得税法》第八十九条提交的预估应纳税额报表;

依据《所得税法》第九十一条提交的收入申报表;

涉及增值稅的,依据《增值稅法》第二十六条提交的申报表;

涉及职业教育和培训稅的,依据《职业教育和培训法》第十六条提交的申报表;

涉及博彩稅的,依据《博彩法》第三十一条提交的申报表;

涉及消费税的,依据《消费税(管理和税率)法》第一百三十七条提交的申报表。

(1) 下列为本法所称纳税评估:

涉及所得税的,依据《所得税法》第九十四条作出的评估;

涉及第一条(b)项至(f)项规定的税种,依据本附表有关提交纳税申报义务第三条作出的评估;

涉及博彩税的,委员会依据《博彩法》第三十一条发出的缴款通知书;

涉及印花税的,印花税工作人员依据《印花税法》第二十三条、第二十四条、第四十四条或者第五十条作出的说明、证明、决定或者要求;

涉及本法的,依据本法第五十五条(危险性评估)、第五十六条(调整后的纳税评估)或者第八十八条(利息和处罚评估)作出的评估。

总专员可以针对所有评估(包括自评)行使本法规定的所有权力,包括本法第六部分规定的权力。

(1) 个人或者单位依照本条适用的义务提交纳税申报表的,视为在纳税申报的到期日作出纳税评估。

评税金额等于纳税申报表所示的应纳税款净额。

本条适用的义务,是指依照第一条(b)项至(f)项规定的提交纳税申报表的义务。

**SECOND SCHEDULE (Under section 4(3)) CURRENCY POINT**

1 currency point equals to 15,000/=Tanzania Shillings.

附表二（依据第四条第（3）款）货币点  
1 货币点等于 15,000/= 坦桑尼亚先令。

**THIRD SCHEDULE**

**(Under section 24(2) and (4))**

**TRANSACTIONS FOR WHICH TAXPAYER IDENTIFICATION NUMBER IS REQUIRED**

INSTITUTION	PURPOSE OF TRANSACTION
Commissioner General of the Tax Authority	New registrations under the Value Added Tax Act. Importation of goods; customs clearing and forwarding.
	Registration of ownership or transfer of vehicles under the Road Traffic Act.
	Licensing of motor vehicles under the Transport Licensing Act.
Commissioner for Lands	Registration of title upon transfer of ownership.
Central and Local Government	Trade licence
Business Registration and Licensing Authority	New registrations
Registrar of Patents and Trade Service Marks	New registrations
Ministry of Industry and Trade	Trade licensing and industrial licensing
Ministry of Natural Resources and Tourism	Licensing



Ministry of Energy and Minerals	Licensing
All Government Ministries, Government Agencies, Local Government Authorities, Financial Institutions, Cooperative Societies and Public Bodies	All contracts, including contracts of supply of goods and services

**附表三**  
**(依据第二十四条第(2)款和第(4)款)**  
**要求纳税人识别号的交易**

机构	交易目的
税务局总专员	依据《增值税法》的新登记进口货物；清关和转运
	依据《道路交通安全法》的车辆所有权登记或者转让
	依据《运输许可法》发放机动车许可证
土地专员	所有权转让后的所有权登记
中央和地方政府	贸易许可证
商业登记和许可管理局	新登记
专利和贸易服务商标登记员	新登记
工业和贸易部	贸易许可和工业许可
自然资源和旅游部	许可
能源和矿业部	许可
所有政府部门、政府机构、地方政府机关、金融机构、合作社和公共机构	所有合同，包括供货合同和服务合同

国民议会于 2015 年 3 月 26 日通过

托马斯·迪迪姆·卡西里拉

国民议会秘书









**THE TAX REVENUE APPEALS ACT**  
**《税收上诉法》**



**THE TAX REVENUE APPEALS ACT**  
**税收上诉法**  
**THE TAX REVENUE APPEALS TRIBUNAL RULES**  
**税收上诉法庭规则**

**PART I PRELIMINARY PROVISIONS**  
**第一部分 序则**

*Citation*

援引

1. These Rules may be cited as the Tax Revenue Appeals Tribunal Rules, 2018.
1. 本法可以《2018 税收上诉法庭规则》的名称援引。

*Interpretation*

解释

2. In these Rules, unless the context requires otherwise-  
“Act” means the Tax Revenue Appeals Act; “applicant” means any person who institutes an application before the Tribunal;  
“appellant” means any person who institutes an appeal before the Tribunal;  
“Board” means the Tax Revenue Appeals Board established by section 4(1) of the Act;  
“Chairman” includes a Chairman and the Vice-chairman appointed under the Act;  
“Commissioner General” means the Commissioner General appointed under section 15 of the Tanzania Revenue Authority Act, and includes any person appointed as Commissioner in respect of any tax;



“member” means the Chairman and other members of the Tribunal appointed in accordance with section 8(2) of the Act;

“Minister” means the Minister responsible for finance;

“Registrar” means the Registrar of the Tribunal appointed in accordance with section 10(1) of the Act;

“Respondent” means any person against whom an appeal or an application as the case may be, is instituted;

“Tribunal” means the Tax Revenue Appeals Tribunal established by section 8(1) of the Act.

2. 在本法中，除另有规定外，

“本法”指《税收上诉法》；

“申请人”指向法庭提出申请的任何人；

“上诉人”指向法庭提出上诉的任何人；

“委员会”指根据本法第 4 条第 1 款设立的“税收上诉委员会”；

“审判长”包括根据本法任命的审判长与副审判长；

“主任专员”指根据《坦桑尼亚税务局法》第 15 条任命的主任专员，包括所任命的与任何税收制度有关的专员；

“成员”指主席及根据本法第 8 条第 2 款任命的法庭成员；

“部长”指财政部长；

“登记员”指根据本法第 10 条第 1 款任命的法庭登记员；

“答辩人”指上诉或申诉所针对的任何人；

“法庭”指根据本法第 8 条第 1 款设立的税收上诉法庭。

**PART II INSTITUTION OF APPEALS TO THE TRIBUNAL****第二部分 向法庭提起上诉制度***Filing of notice of appeal*

## 填写上诉意向书

3.-(1) Any person who wishes to appeal against a decision of the Board shall file a written notice of intention to appeal within fifteen days from the date on which the decision in respect of which it is intended to appeal against was made.

3. (1) 任何希望针对委员会的决定提起上诉的人，均须在该决定做出后 15 日内，填写书面的上诉意向书。

(2) The appellant shall file notice of intention to appeal in the Tribunal and serve copies to the Board, the respondent and all parties who are likely to be affected by the decision of the Tribunal on the matter intended to be appealed against.

(2) 上诉人须向法庭提交上诉意向书，并向委员会、答辩人及可能受到法庭针对上诉所做判决影响的所有当事人提供上诉意向书副本。

(3) The notice of intention to appeal shall be made in the Form TRT. 1 prescribed in the First Schedule to these Rules and shall be signed by or on behalf of the appellant.

(3) 上诉意向书须以附表一中的 TRT.1 形式做出，并须由上诉人本人或其代理人签名。

*Registrar to endorse notice of intention to appeal*

## 登记员签署上诉意向书

4. Where the Registrar has received a notice of intention to appeal, the Registrar shall endorse the date on which it was received and shall immediately send one copy of the notice to the appropriate zonal centre where the appeal shall be determined.

4. 登记员收到上诉意向书后应记载接受日期，并立即将意向书副本递交对上诉做出决定的部门。



*Institution of appeal*

上诉制度

5.-(1) An appeal to the Tribunal shall be instituted by lodging a statement of appeal at the registry of the Tribunal within thirty days from the date of service of the decision and proceedings of the Board in respect of which it is intended to appeal against.

5.（1）上诉须以上诉状的形式向法庭登记处提出，且应在委员会做出上诉所针对事项的决定后 30 日内提出。

(2) Every appeal shall be made in the Form TRT. 2 prescribed in the First Schedule to these Rules and shall be accompanied by all material documents which are necessary for the determination of the appeal.

(2) 上诉须以附表一中的 TRT.2 形式做出，并一同提交（法庭）针对上诉做出决定所需要的所有实质性材料。

(3) Without prejudice to sub-rule (2), the appeal shall be accompanied by-

- (a) a certified copy of the proceedings of the Board;
- (b) a certified copy of the decision of the Board;
- (c) a copy of the decision of the Commissioner;
- (d) certified copy of the decree or order of the Board; and
- (e) a copy of the notice of intention to appeal to the Tribunal.

(3) 前述第（2）款中的随附材料包括：

经证明的委员会审理程序副本；

经证明的委员会决定副本；

专员决定的副本；

经证明的委员会判决或命令的副本；

向法庭提交的上诉意向书副本。

(4) For the purpose of sub-rule (3), proceedings shall not necessary include exhibits and annexure presented during the hearing of the appeal.

(4) 法庭在审理上诉时，前述第（3）款中的“审理程序”不必包括有关证据



与附录。

### *Extension of period to institute appeal*

#### 提起上诉期限的延长

6. The Tribunal may, where it deems just and equitable and having regard to the nature of the intended appeal and after the opposite party has been given opportunity to be heard, by order extend the period within which the appellant may institute an appeal to the Tribunal.

6. 法庭如果认为公平公正，且对上诉具有实质影响，则在通知对方当事人后，可以法令的形式延长上诉人向法庭提起上诉的期限。

### *Payment of fees and effect of non-payment of appropriate fees*

#### 上诉费的支付与拒不支付上诉费的影响

7.-(1) The appellant shall, when instituting an appeal to the Tribunal, pay appropriate fees as specified in the Second Schedule to these Rules.

7. (1) 上诉人向法庭提起上诉时，应根据附表二的规定支付相应费用。

(2) The Registrar shall, where the appropriate fees prescribed in the Second Schedule to these Rules have not been paid, reject the appeal.

(2) 上诉人拒不根据附表二的规定支付相应费用的，登记员可驳回上诉。

### *Strike out appeal*

#### 终止审理

8.-(1) The Tribunal may, in its discretion strike out an appeal where it is satisfied that any condition regarding institution of an appeal has not been complied with.

8. (1) 如果法庭认为上诉不符合要求的条件，可以决定终止审理。

(2) Where an appeal is struck out pursuant to subrule (1), the Tribunal shall give reasons for rejection of such appeal.

(2) 法庭根据前述第(1)款终止审理上诉的，应给出理由。

(3) The striking out of the appeal on any ground shall not of its own force preclude



the appellant from presenting a fresh appeal in respect of the same matter, subject to the law on limitation.

(3) 法庭以任何理由终止审理上诉的，不影响上诉人就同一案件重新提起上诉，但应受到法律的限制。

### *Statement in reply*

#### 答辩状

9. The respondent may, within twenty one days from the day of service of the statement of appeal, lodge to the Tribunal a statement in reply.

9. 答辩人须在收到上诉状 20 日内，向法庭提交答辩状。

## **PART III ATTENDANCE OF PARTIES**

### **第三部分 当事人出庭**

### *Notice of hearing*

#### 庭审通知

10.-(1) The Registrar shall issue a fourteen –day notice of hearing to all parties to the appeal at least fourteen days before the hearing date.

10. (1) 至少在庭审之日的 14 日前，登记员须向所有当事人签发 14 日期限的上诉庭审通知。

(2) A notice of hearing signed by the Registrar shall specify the date, time and place of hearing and shall be served to the parties by way of summons in the Form TRT. 3 prescribed in the First Schedule to these Rules.

(2) 登记员签发的庭审通知须载明庭审日期、时间与地点，且应以附表一中的 TRT.3 的传票形式做出。

### *Proof of notice of hearing*

#### 庭审通知证明

11. The party served with a notice of hearing for purposes of determination of the

appeal shall endorse each copy of the summons and submit one copy to the Tribunal.

11. 当事人收到上诉庭审通知后须在每份传票的副本上签字，并应将其中的一份副本提交法庭。

### *Appearance and representation of parties*

#### 当事人及其代理人出庭

12. In every proceeding before the Tribunal, parties other than the Commissioner General may be represented by a person registered as tax consultant, accountant, auditor or advocate and the Commissioner General may be represented by any person duly authorized in that behalf.

12. 法庭审理过程中，除主任专员外，所有当事人均可由纳税顾问、会计师、审计师或律师等代为出庭，主任专员可由经合法授权的人代为出庭。

### *Failure to appear*

#### 缺席

13.-(1) Where, on any day fixed for the hearing of an appeal-

(a) the appellant does not appear, the appeal may be dismissed, unless the Tribunal sees it fit to adjourn the hearing; and

(b) the appellant appear and the respondent does not appear, the appeal shall proceed in the absence of the respondent unless the Tribunal sees it fit to adjourn the hearing.

13. (1) 上诉庭审日缺席的：

(a) 上诉人缺席的，则终止审理，除非法庭认为应延期审理；

(b) 上诉人出庭、答辩人缺席的，庭审可继续进行，除非法庭认为应延期审理。

(2) Any party aggrieved by sub-rule (1) may upon showing good cause, within thirty days from the date of the decision or order, apply to the Tribunal to rescind, vary or set it aside, upon good cause shown.

(2) 任何当事人对前述第(1)款不满的，可在法庭做出判决或命令之日起30日内，提出正当理由请求法庭撤销或变更决定。



## PART IV PROCEEDINGS OF THE TRIBUNAL

### 第四部分 庭审活动

#### Quorum

#### 法定人数

14.-(1) The quorum of the Tribunal shall be three members of whom one shall be the Chairman.

14. (1) 庭审的法定审判人员为 3 人，包括一名审判长。

(2) The proceedings of the Tribunal shall be presided over by the Chairman.

(2) 庭审活动由审判长主持。

(3) For the purpose of determining any matter, the Chairman shall not be bound by the opinion of any member but, if he disagrees with the opinion of any member, he shall record the opinion of such member or members differing with him and reasons for his disagreement.

(3) 决定任何事项时，审判长不受任何审判人员意见的约束，但是，审判长与其他审判人员意见不一致的，须记录该审判人员的意见，并应注明自己意见不一致的原因。

#### Hearing of appeal

#### 审理上诉案件

15.-(1) The hearing before the Tribunal shall be open to the public unless the Tribunal, at the request of either party or on its own motion, directs that the hearing be closed to the public.

15. (1) 法庭审理应公开进行，经任何当事人申请或法庭决定，可不公开审理。

(2) Where the nature of the appeal permits, the Tribunal may order that the appeal be disposed of by way of written submissions.

(2) 根据上诉案件的性质，法庭可决定以书面意见书的形式处理该案件。

(3) For the purpose of proceedings before the Tribunal, the Tribunal may take additional evidence on oath, either orally or by affidavit, as it shall deem fit.

(3) 庭审过程中，法庭认为适当的，可采纳口头或书面形式的宣誓作为证据。

(4) Except with the consent of the Tribunal and upon such terms and conditions as the Tribunal may determine, the appellant may not at the hearing rely on any grounds other than the ground stated in the statement of appeal and may not adduce any evidence other than the evidence which was previously made available before the Board.

(4) 庭审过程中，除非获得法庭的同意并据以审理案件，否则上诉人只能以上诉状中所做的陈述作为依据，且只得提出此前已经向委员会提供的证据。

(5) Notwithstanding the provisions of the preceding sub-rule, the Tribunal may, on an application by either party or at his own instance, call witnesses and such additional evidence as is necessary for further clarification of the issues raised at the hearing of the appeal.

(5) 尽管有前款规定，如果有必要进一步澄清庭审中出现的问题，法庭可根据任何一方当事人的申请或自行决定，传唤证人。

(6) At the conclusion of the submission and of any evidence on behalf of the appellant, the respondent shall be entitled to make such submissions, supported by such relevant evidence, as may be necessary.

(6) 针对上诉人的最后陈词及提交的证据，如果有必要，答辩人有权提出自己的意见，但须提供相关证据。

(7) The appellant shall be entitled to reply but may not rely on any ground or evidence not stated or adduced at the earlier stages of hearing.

(7) 上诉人有权答辩，但不得凭借在庭审早期阶段未陈述或举出的任何理由或证据。

(8) In hearing the appeal, the Tribunal may determine the matter through mediation, conciliation or arbitration as provided by the Act, but the rules of procedure under the Civil Procedure Code and under the Arbitration Act with regard to the conduct of mediation, conciliation and arbitration shall not apply.



(8) 在审理上诉时，审裁处可依照本法规定通过调解、和解或仲裁作出裁决，但不适用《民事诉讼法》和《仲裁法》关于调解、和解和仲裁行为的程序规则。

16.-(1) Subject to the Act and these Rules, the procedure of the proceedings before the Tribunal, shall be in the discretion of the Tribunal.

16. (1) 法庭根据本法规定，对审理程序拥有自由裁量权。

(2) The proceeding before the Tribunal shall be conducted with as little formality and technicality as possible, and the Tribunal shall not be bound by rules of evidence but may inform itself on any matter in such manner as it deems appropriate.

(2) 法庭的审理程序不必拘泥于形式和技术，且不受证据规则的约束，但其认为适当的情形除外。

(3) Where the Act and these Rules are silent in relation to any particular practice or procedure, the proceedings of the Tribunal shall be conducted in accordance with such rules of practice and procedure as the Tribunal may specify.

(3) 本法对于特定惯例或程序未作规定的，法庭可以根据自己认定的惯例或程序规则审理案件。

(4) The Tribunal shall have such assistance in carrying out its lawful processes, orders, rules, decrees, or commands as is available to an ordinary court in Tanzania.

(4) 法庭在执行合法程序、命令、规则、法令或指令时，坦桑尼亚的普通法院应提供协助。

### *Records of appeal*

#### 上诉案件审理的记录

17.-(1) The records of proceedings on appeal shall be taken down in writing by the Chairman of the Tribunal at that proceeding or by any person authorized to do so, in the form to be decided upon by the Chairman.

17. (1) 庭审过程中，审判长或经审判长确定的适格人员负责审理上诉案件的书面记录工作。

(2) The records of every proceedings of the Tribunal shall be signed by the Chairman and the members present.

(2) 庭审程序的所有记录均须由审判长及出庭的审判人员签字。

(3) Notwithstanding sub-rule (1), the proceedings of appeal at the hearing of an appeal may be recorded in short hand or by mechanical means or electronic means and if certified by the Tribunal be deemed to be a true record of such proceedings.

(3) 尽管有前述第(1)款的规定，只要法庭认定为真实记录，可以手写、机械或电子手段记录上诉案件的审理程序。

### *Amendment of statement of appeal*

#### 修改上诉状

18. The Tribunal may at any stage, on its own motion or on an application by either party, direct that the statement of appeal or statement in reply as the case may be, be amended in such terms as it deems fit.

18. 在处理案件的任何阶段，经法庭自行决定或任何一方当事人申请，法庭可以对其认为合适的上诉状或答辩状内容予以修改。

### *Witnesses and production of evidence*

#### 证人与证据的制作

19.-(1) The Tribunal may call any person to attend at the hearing and give evidence including the production of any document if the Tribunal is of the view that evidence may assist its deliberations.

19. (1) 法庭可以传唤任何人出庭作证，如果法庭认为某一证据可以支持自己所做的判断，也可以要求证人制作证据文件。

(2) The summons for attendance of witnesses shall be issued by the Tribunal in the Form TRT. 4 prescribed in the First Schedule to these Rules.

(2) 传唤证人的传票由法庭以附表一中的 TRT.4 的形式做出。

(3) A witness attending hearing shall be paid allowances and expenses at the rate specified by the Tribunal.

(2) 根据法庭确定的费用标准，向出庭作证的证人支付津贴与开支。

(4) The Tribunal shall issue a warrant of arrest in the Form TRT. 5 prescribed in

the First Schedule to these Rules to procure attendance before it of a person who, being served with summons to appear and without reasonable excuse, fails to do so.

(4) 对于被传唤出庭作证、无正当理由拒不出庭的人，法庭可以附表一中的 TRT.5 的形式签发拘传令强制其到庭。

### *Withdrawal of appeal*

#### 撤回上诉

20.-(1) An appellant may at any time in the course of hearing, informally apply to the Tribunal for leave to withdraw the appeal and the Tribunal may grant the application upon such terms as to costs or other conditions as it deems fit.

20. (1) 在庭审中的任何时间，上诉人可以非正式方式请求法庭撤回上诉，法庭可基于上诉人已支付诉讼费或符合其他合适条件批准申请。

(2) Notwithstanding the provisions of sub-rule (1), an appellant may at any time after instituting his appeal and before the appeal is called on for hearing, lodge in the registry a written notice that he does not intend further to proceed with the appeal and upon receiving such notice the Registrar shall mark the appeal withdrawn.

(2) 尽管有第(1)款规定，上诉人在提出上诉后、庭审开始前，可随时向登记处提交书面通知，表明不愿继续上诉，登记员收到通知后，应即登记撤销上诉。

(3) The appellant shall, before or within seven days after lodging the notice of withdrawal, serve copies of it on each respondent.

(2) 上诉人提交撤诉通知前或7日内，应向所有答辩人发出撤诉通知副本。

(4) If all the parties to the appeal consent to the withdrawal of the appeal, the appellant may lodge in the registry the document or documents signifying the consent of the parties and thereupon the appeal shall be struck out of the list of pending appeals.

(4) 如果各方当事人均同意撤诉，上诉人可向登记处提交表明各当事人同意撤诉的文件，则该上诉案件可以在未决案件名单中消掉。

(5) If all the parties to the appeal do not consent to the withdrawal of the appeal, the appeal shall stand dismissed with costs, except as against any party who has consented, unless the court, on the application of the appellant, otherwise orders” .



(5) 如果并非所有案件当事人均同意撤诉，法庭收取诉讼费后可终结案件，但经上诉人申请、法庭批准，可对同意撤诉的当事人做另案处理。

(6) An application under sub-rule (5) shall be made within fourteen days after the lodging of the notice of withdrawal.

(6) 上述第(5)款中的申请须在提交撤诉通知后14日内做出。

### *Decision*

#### 判决

21.-(1) After conclusion of the hearing of the evidence if any and submissions of the parties the Chairman shall, as soon as is practicable, pronounce its decision in the presence of the parties or their advocates or representatives and shall cause certified copies duly signed by the members of the Tribunal who heard the appeal or their successor in office to be served on each party to the proceeding.

21. (1) 质证结束后，审判长应尽快向各方当事人、律师或代理人宣布判决，审理案件的法官或其在职继任者均须在判决书副本上签字。

(2) The Chairman or the Registrar, as the case may be or their successors in office may certify copies of decision or decree of the Tribunal and furnish such copies to the parties.

(2) 审判长、书记官长或其继任者须将有效的判决书副本交给各方当事人。

### *Contents of decision*

#### 判决的内容

22. The decision of the Tribunal shall be in writing and shall contain:

- (a) a brief description of the nature of the appeal;
- (b) affirmation or varying or setting aside the decision of the Board;
- (c) the reasons for the decision;
- (d) the relief or remedy, if any, to which the parties are entitled; and
- (e) An order as to costs.

22、法庭判决应为书面形式，且应包括：

- (1) 对上诉案件的简要说明；
- (2) 维持、变更或撤销委员会的决定；
- (3) 作出判决的理由；
- (4) 对当事人的救济或补救办法；
- (5) 诉讼费问题。

*Decree*

法令

23. (1) A decree shall be extracted from the decision and shall be signed by the Chairman or the Registrar, as the case may be or their successors, in office.

23. (1) 法庭根据判决颁布法令，并由审判长、登记员或其继任者签字。

(2) The decree shall agree with the decision; it shall contain the number of the appeal, the names and descriptions of the parties and particulars of the claim and shall specify clearly the relief granted or other determination of the appeal.

(2) 法令须与判决相一致，包括上诉人的人数、姓名、各当事人的简介、诉求详情，并应详细载明判令的救济方式或针对上诉案件的其他决定。

(3) The Tribunal may direct that the costs payable to one party by the other shall be set off against any sum which is admitted or found to be due from the former to the latter.

(3) 法庭可判令一方当事人向另一方当事人赔偿其所遭受的损失，如果双方承认或法庭发现前者已经向后者有所赔偿，则可以抵消该部分赔偿额。

(4) The decree shall bear the date of the day on which the decision was pronounced and, when the Chairman or Registrar as the case may be or their successors in office, has satisfied himself that the decree has been drawn up in accordance with the decision sign the decree.

(4) 法庭发布法令的日期应与其宣布判决的日期一致，即审判长、登记员或他们的继任者认为法令是以判决为依据制作之时。

*Execution of decision*

## 执行判决

24.-(1) The decision of the Tribunal shall be enforced by making application to the Tribunal in the Form TRT. 6 as set out in the First Schedule, and the Chairman or Registrar as the case may be shall thereafter issue an order authorizing execution.

24.(1) (当事人)可以附表一中 TRT.6 的形式向法庭提出强制执行判决的申请, 审判长或登记员可签署强制执行的法令。

(2) Execution of the decree or order issued by the Tribunal shall be in accordance with the provisions of the Civil Procedure Code or any other law.

(2) 法庭应根据《民事诉讼法》等法律的规定签署强制执行的法令或命令。

(3) The application for execution shall be made upon expiry of thirty days from the date on which the decision of the Tribunal was made.

(3) (当事人)须在法庭作出判决之日起 30 日后申请强制执行。

*Appeal to the Court of Appeal*

## 向上诉法院提起上诉

25.- (1) A person who desires to appeal to the Court of Appeal shall lodge a notice of intention to appeal in triplicate at the Tribunal within fourteen days and the Registrar of the Tribunal shall within seven days, transmit the same to the Court of Appeal.

25.(1) 希望向上诉法院提出上诉者, 须于判决作出之日起 14 日内向法庭提交一式三份的上诉通知书, 法庭登记员应在收到上诉通知书 7 日内转交上诉法院。

(2) A notice of intention to appeal to the Court of Appeal shall not operate as a bar to the execution of the decree or order appealed from.

(2) 向上诉法院提出的上诉通知书不影响法庭法令或命令的执行。



## PART V MISCELLANEOUS PROVISIONS

### 第五部分 其他规定

#### *Application*

##### 申请

26.- The Tribunal may entertain any application pursuant to these Rules by way of chamber summons supported by an affidavit.

26. 法庭应依法受理由宣誓支持的分庭审讯方式的审理申请。

#### *Saving provision*

##### 保留条款

27. In all proceedings pending whether in the Tribunal or Board, preparatory or incidental to, or consequential upon any proceeding in Tribunal at the time of the coming into force of these rules, the provisions of these rules shall thereafter apply, but without prejudice to the validity of anything previously done: Provided that,

27. 本法规定生效后，在法庭或委员会审理的所有未决案件时，不论处于准备阶段、后续阶段还是审理期间，以下规定均具有适用效力，但不影响已经做出的决定的效力：

(a) if and so far as it is impracticable in any such proceedings to apply the provisions of these rules, the practice and procedure heretofore obtaining shall be followed; or

(1) 如果无法适用本法规定审理案件，则可以适用以前的惯例和程序；

(b) in any case of difficulty or doubt the practice applicable to a civil court in such circumstance may be adopted

(2) 适用本法规定存在困难或存疑时，民事法庭可以援引惯例审理案件。

28. The Tax Revenue Appeals Tribunal Rules, 2001 are hereby revoked.

28. 2001年《税收上诉法庭规则》自此废止。

**FIRST SCHEDULE  
(Made under rule 3)  
FORM TRT. 1**

**THE UNITED REPUBLIC OF TANZANIA  
IN THE TAX REVENUE APPEALS TRIBUNAL AT.....  
IN THE MATTER OF INTENDED APPEAL NO.....OF.....  
BETWEEN**

.....APPELLANT

**AND**

.....RESPONDENT

**NOTICE OF INTENTION TO APPEAL**

**(Made under section 16(4) and rule 3(3))**

TAKE NOTICE that the Appellant being aggrieved by the decision of the Board issued on.....day of.....year.....Intends to appeal to the Tribunal against the whole/part of the decision.

The address of service of the Appellant is.....

Dated this.....day of.....year.....

Signed.....

By or on behalf of the Appellant/Advocate/Tax Consultant/Accountant.

To: The Registrar of the Tribunal at.....

Lodged in the Tribunal at.....on the day of.....year.....

*Registrar/Officer In-charge*

Copy served to the Secretary to the Board this.....day of.....year.....

*Secretary*

Copy be served to the Respond



附表一  
表 TRT.1

坦桑尼亚联合共和国

税收上诉法庭 (地址) \_\_\_\_\_

拟上诉案件号 \_\_\_\_\_

上诉人 \_\_\_\_\_

答辩人 \_\_\_\_\_

上诉意向书

上诉人因对委员会 \_\_\_\_年\_\_月\_\_日所做的决定不服，特对决定的全部  
(或部分) 提起上诉。

上诉人住址 \_\_\_\_\_

上诉日期 \_\_\_\_\_

签名 \_\_\_\_\_

(本人签名或由律师、纳税顾问或会计师代签)

收件人：法庭登记处 (地址) \_\_\_\_\_

\_\_\_\_年\_\_月\_\_日递交法庭

登记员 (或负责人) \_\_\_\_\_

\_\_\_\_年\_\_月\_\_日将意向书副本交予委员会秘书

秘书 \_\_\_\_\_ (签名) \_\_\_\_\_

意向书副本交予答辩人

**FORMTRT.2**

*(To be filled in triplicate)*

*THE UNITED REPUBLIC OF TANZANIA  
IN THE TAX REVENUE APPEALS TRIBUNAL AT.....*

*APPEAL No.....YEAR.....*

*IN THE MATTER OF*

*.....APPELLANT*

*AND*

*..... RESPONDENT*

*STATEMENT OF APPEAL*

*(Made under section 16(4) and rule 5(2))*

**1. PARTICULARS OF APPELLANT:**

- (a) Name.....
- (b) Nature of business.....
- (c) Postal address.....
- (d) Physical address of appellant: Plot.....Street.....Town/City.....
- (e) Telephone o Fax No E-mail.....
- (f) TIN No.....
- (g) Income Tax File N0.....
- (h) VAT Number, (if registered) .....

**2. PARTICULARS OF THE TAX DISPUTE:**

- (a) Office where taxation decision was made .
- (b) Type of tax (specify by a tick in the box below as appropriate)

INCOME TAX

EXCISE DUTY

IMPORT DUTY

WITHHOLDING TAX VAT



STAMP DUTY OTHERS (specify)

(c) Assessment No.....Year income.....

(d) Customs Single Bill of Entry No.....Date.....

(e) Bank Payment Advice Form No.....Date.....

(f) Amount of tax in dispute or objected to.....

(g) Date of service of taxation decision: Day..... Month.....Year.....

3.STATEMENT OF FACTS AND REASONS IN SUPPORT OF THE APPEAL:

(If space provided is not adequate, attach as many additional pages as needed for the statement)

.....

Dated this.....day of..... year.....

Signed by or on behalf of the Appellant! Advocate/Tax Consultant/Auditor/

Accountant

(For official use only)

4.BY REGISTRAR:

Date of filing appeal.....

Signature.....

Official stamp of Registrar.....

5. Copy be served to the Respondent.



## 表 TRT.2

(一式三份)

坦桑尼亚联合共和国

税收上诉法庭(地址) \_\_\_\_\_

案卷号 \_\_\_\_\_, \_\_\_\_\_ 年

上诉人 \_\_\_\_\_

答辩人 \_\_\_\_\_

上诉状

## 1、上诉人情况:

(1) 姓名 \_\_\_\_\_

(2) 职业 \_\_\_\_\_

(3) 邮编 \_\_\_\_\_

(4) 住址 \_\_\_\_\_ 市(镇) \_\_\_\_\_ 街 \_\_\_\_\_ 号 \_\_\_\_\_

(5) 手机号 \_\_\_\_\_ 传真号 \_\_\_\_\_ 邮箱 \_\_\_\_\_

(6) 税务登记证号 \_\_\_\_\_

(7) 个人所得税账号 \_\_\_\_\_

(8) 增值税税号(如已登记) \_\_\_\_\_

## 2、税收争议:

(1) 税收决定部门 \_\_\_\_\_

(2) 税收类型(在下表的相应位置打钩)

所得税 \_\_\_\_\_ 消费税 \_\_\_\_\_ 进口税 \_\_\_\_\_

预提增值税 \_\_\_\_\_ 印花税 \_\_\_\_\_ 其他(请说明) \_\_\_\_\_

(3) 估值 \_\_\_\_\_, 年收入 \_\_\_\_\_

(4) 进口报关单号码 \_\_\_\_\_, 日期 \_\_\_\_\_

(5) 银行付款通知单号码 \_\_\_\_\_, 日期 \_\_\_\_\_

(6) 争议税收数额或事项 \_\_\_\_\_

(7) 做出税收决定的日期 \_\_\_\_\_ 年 \_\_\_\_\_ 月 \_\_\_\_\_ 日



3、上诉的事实与理由

(空间不足, 尽可加页)

---

---

---

日期: \_\_\_\_\_年\_\_\_\_月\_\_\_\_日

\_\_\_\_\_ (本人签名或由律师、纳税顾问、审计师或会计师代签)

(仅作正式用途)

4、登记员填写

受理上诉日期\_\_\_\_\_

签名\_\_\_\_\_

登记处公章\_\_\_\_\_

5、交予答辩人的副本

**FORM TRT. 3**

*THE UNITED REPUBLIC OF TANZANIA  
IN THE TAX REVENUE APPEALS TRIBUNAL  
AT.....  
APPLICATION/ APPEAL NO.....OF YEAR.....  
IN THE MATTER OF  
.....APPLICANT/APELLANT  
AND  
.....RESPONDENT  
NOTICE TO PARTIES TO APPEAR  
(Made under rule 9(3))*

TAKE NOTICE that the above application/appeal will be heard/mentioned by the Tribunal on the.....day of.....at.....O'clock in the forenoon/afternoon at..... (Indicate place).

You are accordingly required to appear before the Tribunal

If no appearance is made by you or by any person authorized by you to act on your behalf, the application/appeal may be heard and decided or dismissed in your absence.

Given under my hand and seal of the Tribunal this.....day of.....year.....

Registrar

ACKNOWLEDGE OF RECEIPT OF NOTICE

Name: .....

Signature: .....



表 TRT.3

坦桑尼亚联合共和国

税收上诉法庭（地址）\_\_\_\_\_

申请（或上诉）号\_\_\_\_\_，\_\_\_\_\_年

上诉人\_\_\_\_\_

答辩人\_\_\_\_\_

庭审通知

通知：本庭将于\_\_\_\_\_年\_\_\_\_\_月\_\_\_\_\_日\_\_\_\_\_（时间）在  
（指定地点）审理上述申请（上诉）。

请据以出庭。

如您本人或授权代理者未能出庭，本庭将缺席审理。

本庭于\_\_\_\_\_年\_\_\_\_\_月\_\_\_\_\_日制作。

登记员\_\_\_\_\_

回执

姓名\_\_\_\_\_

签名\_\_\_\_\_

**FORM TRT.4**

*THE UNITED REPUBLIC OF TANZANIA  
IN THE TAX REVENUE APPEALS TRIBUNAL*

*AT.....*

*APPLICATION/APEAL NO.....OF.....YEAR.....*

*IN THE MATTER OF*

*.....APPLICANT/APELLANT*

*AND*

*.....RESPONDENT*

*WITNESS SUMMONS*

*(Made under rule 19(2))*

TO

.....

WHEREAS your attendance is required as a witness on behalf of the.....during the hearing of the above application/appeal, you are by this summons required to appear before this Tribunal on the.....day of.....year.....

at.....O'clock in the forenoon/afternoon and bring with you or send the following books, documents or things to the Tribunal.

.....

Failure to respond or obey this summons renders you liable to penalties under the Act.

Given under my hand and the seal of the Tribunal this.....day of.....year.....

Registrar

ACKNOWLEDGEMENT OF SERVICE OF SUMMONS

Full Name.....

Address.....

Date and Time signature.....



表 TRT.4

坦桑尼亚联合共和国

税收上诉法庭（地址）

申请（或上诉）号 \_\_\_\_\_， \_\_\_\_\_ 年

上诉人 \_\_\_\_\_

答辩人 \_\_\_\_\_

传唤证人

致： \_\_\_\_\_

收到本传唤后，请于 \_\_\_\_\_ 年 \_\_\_\_\_ 月 \_\_\_\_\_ 日 \_\_\_\_\_（时间）携带或递送以下账簿、文件或物品至法庭 \_\_\_\_\_，以 \_\_\_\_\_ 证人的身份出庭，参加本庭对上述申请（上诉）的审理。

未能回复或服从传唤的，将依本法受到处罚。

本庭于 \_\_\_\_\_ 年 \_\_\_\_\_ 月 \_\_\_\_\_ 日制作。

登记员 \_\_\_\_\_

回执

姓名 \_\_\_\_\_

住址 \_\_\_\_\_

日期与时间 \_\_\_\_\_

签名 \_\_\_\_\_

**FORM TRT.5**

THE UNITED REPUBLIC OF TANZANIA  
IN THE TAX REVENUE APPEALS TRIBUNAL  
AT.....

APPLICATION/APPEAL NO.....YEAR.....

IN THE MA TIER OF

.....APPLICANT/ APPELLANT

AND

.....RESPONDENT

WARRANT OF ARREST OF WITNESS

(Made under rule 19(4))

TO

.....

WHEREAS.....has been duly

served with summons (certified copy attached) but has failed to attend, you are by this warrant ordered to arrest and bring the said.....before the Tribunal.

Your are further ordered to return this warrant on or before the.....day of.....  
.....year.....with an endorsement certifying the day on and manner in which this  
warrant has been executed.

Given under my hand and the seal of the Tribunal this.....day of.....ye  
ar.....

Registrar



表 TRT.5

坦桑尼亚联合共和国

税收上诉法庭（地址）\_\_\_\_\_

申请（或上诉）号\_\_\_\_\_，\_\_\_\_\_年

上诉人\_\_\_\_\_

答辩人\_\_\_\_\_

拘传证人

致：\_\_\_\_\_

就\_\_\_\_\_一案，本庭已传唤（附传唤通知副本）你出庭作证，因你未出庭作证，本庭特拘传并命你携带\_\_\_\_\_（账簿、文件或物品等）到庭。

你须于\_\_\_\_\_年\_\_\_\_\_月\_\_\_\_\_日前返还本拘传令，且须注明本拘传令的生效时间与方式。

本庭于\_\_\_\_\_年\_\_\_\_\_月\_\_\_\_\_日制作。

登记员\_\_\_\_\_



**FORM TRT.6**

Application for execution of decree.....

THE UNITED REPUBLIC OF TANZANIA

IN THE TAX REVENUE APPEALS TRIBUNAL

AT DAR ES SALAAM

IN THE MATTER OF

.....DECREE HOLDER

AND

..... JUDGMENT DEBTOR

APPLICA TION FOR EXECUTION OF DECREE

(Made under rule 24(1))

I, .....decree holder, hereby apply for execution of the decree herein as set forth below

Date of decree:.....

Whether any appeal preferred from decree:.....

Payment or adjustment, if any:.....

Previous application, if any, with date and result:

.....

Amount with interest due upon

The decree or other relief granted

Thereby together with particulars

If any cross decree.....

Amount of costs. If any,

Awarded: .....

Against whom to be executed:

Mode in which the assistance of the Court is required:

.....



	Shs.	Cts.	Shs.	Cts.
Principal				
Interest at %				
Less subsequent				
Payment				
Less amount of cross decree if any				
Total or balance costs as in the decree				
Costs subsequently incurred				
Total				

I, .....decree that what is stated herein is true to the best of my knowledge and belief.

Dated this.....Day of.....20.....

.....

Decree holder

表 TRT.6

申请强制执行法令\_\_\_\_\_

坦桑尼亚达累斯萨拉姆税收上诉法庭

法令持有人\_\_\_\_\_

判决债务人\_\_\_\_\_

执行法令申请书

本人\_\_\_\_\_作为法令持有人，特申请执行\_\_\_\_\_年\_\_月\_\_日的法令。

是否有优先执行的法令：\_\_\_\_\_。

支付或调整：\_\_\_\_\_。

此前是否申请过，如果有，申请日期与结果：

\_\_\_\_\_。

应支付的含利息金额；准予减免的法令；如有其他法令，则其具体内容：

\_\_\_\_\_。

诉讼费数额；如果有减免，则其数额：\_\_\_\_\_。

被执行人：\_\_\_\_\_。

法院所要求的协助执行方式：\_\_\_\_\_。

	先令	分	先令	分
主债				
利息 %				
减免数额				
已付数额				
依其他法令减免数额				
依本法令的余额				
后续产生的费用				
总计				

谨此声明，据本人\_\_\_\_\_所知所信，本申请表中所陈述的信息均属实无误。

日期：\_\_\_\_\_年\_\_月\_\_日，法令持有人：\_\_\_\_\_。



**SECOND SCHEDULE FEES**  
**(Made under rule 7)**

1. Upon lodging notice of appeal..... Shs. 30,000.00
2. Upon lodging statement of appeal..... Shs. 150,000.00
3. Upon lodging statement in reply..... Shs. 30,000.00
4. Upon lodging additional statement..... Shs. 30,000.00
5. Application for extension of time to appeal..... Shs. 40,000.00
6. Application for execution of a decree or order..... Shs. 20,000.00
7. Perusal fee..... Shs. 20,000.00

Dodoma,

04th April, 2018

PHILIP I. MPANGO, Minister for Finance and Planning

## 附表二 费用

- |                 |         |
|-----------------|---------|
| 1. 提交上诉意向书:     | 3 万先令;  |
| 2. 提交上诉状:       | 15 万先令; |
| 3. 提交答辩状:       | 3 万先令;  |
| 4. 提交补充陈述:      | 3 万先令;  |
| 5. 申请延长提起上诉的期限: | 4 万先令;  |
| 6. 申请执行法令或命令:   | 2 万先令;  |
| 7. 材料费:         | 2 万先令。  |

财政与计划部部长菲利普·姆潘戈

多多马

2018 年 4 月 1 日



**THE UNITED REPUBLIC OF TANZANIA**  
**BILL SUPPLEMENT**  
**坦桑尼亚联合共和国**  
**增补法案**

No.6

第 6 号

20th May, 2016

2016 年 5 月 20 日

to the Gazette of the United Republic of Tanzania No.21. Vol.97 dated 20thMay,  
2016

坦桑尼亚联合共和国第 21 号公报 2016 年 5 月 20 日第 97 卷

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**THE WRITTEN LAWS  
(MISCELLANEOUS AMENDMENT) ACT, 2016**

《2016 年成文法（杂项修正）案》



## NOTICE

### 声明

This Bill to be submitted to the National Assembly is published for general information to the general public together with a statement of its objects and reasons.

本法案提交国民大会的同时，法案全文连同立法理由书一并向社会公布。

Dar es Salaam,  
达累斯萨拉姆  
17th May, 2016  
2016.05.17

JOHN W. H. KIJAZI  
约翰·W·H·基贾兹  
Secretary to the Cabinet  
内阁秘书



A BILL

for

An Act to amend certain written laws.

ENACTED by Parliament of the United Republic of Tanzania.

本议案为成文法部分法条之修正案。

坦桑尼亚联合共和国议会颁布。

## PART I PRELIMINARY PROVISIONS

### 第一部分 序则

1.This Act may be cited as the Written Laws (Miscellaneous Amendments) Act, 2016.

第一条【简称】本法可以《2016年成文法（杂项修正）案》的名称援引。

2.The Written Laws specified in various Parts of this Act are amended in the manner specified in their respective Parts.

第二条【修正成文法】本修正案所涉条文，依本修正案作相应修正。

## PART II AMENDMENT OF THE APPELLATE JURISDICTION ACT, (CAP.141)

### 第二部分《上诉管辖法》修正案

3. This Part shall be read as one with the Appellate Jurisdiction Act, hereinafter referred to as “the principal Act” .

第三条【说明】本部分为《上诉管辖法》（以下简称本法）之组成部分。

4. The principal Act is amended in section 4 by-

(a) adding immediately after subsection (3) the following new subsection-

“(4) The Court of Appeal shall have the power to review its own decisions.”

(b) re-numbering subsection(4) and (5) as subsections(5) and(6) respectively.

第四条【修正第4条】本法第4条作以下修改：

- (a) 在第(3)款后增加第(4)款。“(4)上诉法院有权复审自己的判决。”
- (b) 将第(4)(5)款编号分别修改为第(5)(6)款。

### **PART III AMENDMENT OF THE ECONOMIC AND ORGANISED CRIME CONTROL ACT, (CAP. 200)**

#### **第三部分《经济和有组织犯罪控制法》修正案**

5. This Part shall be read as one with the Economic and Organized Crime Control Act, hereinafter referred to as the “principal Act” .

第五条【说明】本部分为《经济和有组织犯罪控制法》（以下简称本法）之组成部分。

6. The principal Act is amended in section 2 by-

(a) deleting the definition of the term “Court” and substituting for it the following -

“Court” means the Corruption and Economic Crimes Division of the High Court established under section 3;

(b) deleting the definition of the term “document” and substituting for it the following-

“document” has the meaning ascribed to it under the Evidence Act;

(c) inserting in the appropriate alphabetical order the following new definition -

“corruption offence” means an offence under the Prevention and Combating of Corruption Act specified in the First Schedule;

第六条【修正第2条】本法第2条作以下修改：

(a) 删除“法庭”原有定义，修改为：“法庭，是指根据本法第3条设立的高等法院贪污及经济犯罪法庭”。

(b) 删除“文件”原有定义，修改为：“文件的定义依《证据法》的规定”。

(c) 依字母表顺序，加入以下新的定义：“贪污罪，是指违反《防止和打击腐败法》附表1规定的犯罪行为”。

7. The principal Act is amended by deleting the heading and sub-heading



appearing under Part II and substituting for them the following-

“THE CORRUPTION AND ECONOMIC CRIMES DIVISION OF THE HIGH COURT

Establishment and composition of the Court”

第七条【修正第二部分】删除本法第二部分标题及其子标题。第二部分标题修改为“高等法院贪污及经济犯罪法庭”，第二部分子标题修改为“法庭的成立和组成”。

8. The principal Act is amended by repealing section 3 and replacing for it the following-

“Establishment and composition of the Court

3.-(1) There is established the Corruption and Economic Crimes Division of the High Court within the Registry and sub-registry as may be determined by the Chief Justice, in which proceedings concerning corruption and economic cases under this Act may be instituted.

(2) The Corruption and Economic Crimes Division of the High Court shall consist of a Judge or such number of Judges of the High Court as may be determined by the Chief Justice.

(3) The Court shall have jurisdiction to hear and determine cases involving-

(a) corruption and economic offences specified under paragraphs 3 to 21 and paragraphs 29, 33 and 38 of the Schedule whose value is not less than one billion shillings;

(b) economic offences specified under paragraphs 22,23, 24,25, 26, 27, 28, 30, 31,32, 34, 35, 36, 37 and 39of the Schedule regardless of their value; and

(c) such other offences as may be referred to, or instituted in the Court in terms of the provisions of this Act.”

第八条【修正第3条】删除本法第3条，修改为：“法庭的设立和组成”。

第3条（1）根据首席法官的决定，在其辖区和下辖法院辖区设立高等法院贪污及经济犯罪法庭，该法庭依本法规定审理贪污和经济犯罪案件。

（2）高等法院贪污及经济犯罪法庭由一名或若干名高等法院法官组成，人

选由首席法官决定。

(3) 法院对下列案件有审理裁判管辖权：

(a) 附表第 3 至 21 款和第 29、33 及 38 款所规定的贪污及经济犯罪案件，涉案金额不少于 10 亿先令；

(b) 附表第 22、23、24、25、26、27、28、30、31、32、34、35、36、37 和 39 条规定的经济犯罪案件，涉案金额不限；

(c) 高等法院贪污及经济犯罪法庭依本法有管辖权的其他案件。

9. Section 29 of the principal Act is amended -

(a) in subsection (3) by deleting the words “High Court sitting as the Economic Crimes Court” and substituting for them the words “Corruption and Economic Crimes Division of the High Court” ;

(b) in subsections (7) and (8) by deleting the words “High Court” and substituting for them the word “Court” respectively.

第九条【修正第 29 条】本法第 29 条作如下修正，

(a) 第 (3) 款“高等法院经济犯罪法庭”修改为“高等法院贪污及经济犯罪法庭”；

(b) 在第 (7) 款和第 (8) 款中，“高等法院”修改为“法院”。

10. The principal Act is amended in section 36(5) by deleting paragraph (a) and substituting for it the following:

“(a) where the offence with which the person is charged involves actual money or property whose value exceeds ten million shillings unless that person deposits cash or other property equivalent to half the amount or value of actual money or property involved and the rest is secured by execution of a bond:

Provided that where the property to be deposited is immovable, it shall be sufficient to deposit the title deed, or if the title deed is not available such other evidence as is satisfactory to the court in proof of existence of the property; save that this provision shall not apply in the case of police bail.”

第十条【修正第 36 条】删除本法第 36 条第 (5) 款 (a) 项，修改为：

“(a) 被告犯罪行为涉案金额超过一千万先令的，被告应缴纳不少于涉案



金额一半的现金或与其价值相当的付款保证书。其他财产为不动产的，应当交付契据；没有契据的，应当提交法院认为足以证明财产存在的其他证据。本条规定不适用于警察保释。”

11. The principal Act is amended in section 53 by-

(a) designating the contents of section 53 as subsection (1);

(b) adding immediately after subsection (1) as designated the following new subsection:

“(2) Subject to subsection (1), the provisions of the Whistleblower and Witness Protection Act, and any other relevant law shall apply in matters relating to witness protection under this Act.”

第十一条【修正第 53 条】本法第 53 条作以下修正，

(a) 第 53 条的内容修改为第 (1) 款；

(b) 在第 (1) 款后增加第 (2) 款，“(2) 依本条第 (1) 款规定，本法中有关证人保护的事项，适用《举报人与证人保护法》及相关法律规定。”

12. The principal Act is amended by adding immediately after section 59 the following new section:

59A.-(1) Notwithstanding the provision of any other law, the provisions governing bankruptcy or filing of any insolvency proceedings shall not apply to property which is subject of an investigation or trial under this Act.

(2) Winding up resolutions passed by the company for its voluntary winding up, and the functions of the liquidator shall not be performed in relation to property which is subject of an investigation or trial under this Act.”

第十二条【增加第 59A 条】本法第 59 条后增加第 59A 条：“破产禁止事项”

59A. (1) 其他法律规定的破产或申请破产程序不适用于依本法正在调查或审理的案件所涉财产。

(2) 公司清算决议和公司清算人履职行为的效力不适用于依本法正在调查或审理的案件所涉财产。

13. Section 60 of the principal Act is amended-

(a) in subsection (3), by deleting paragraph (c) and substituting for it the



following:

“(c) a child shall be sentenced in accordance with the provisions of the Law of the child Act” .

(b) by deleting subsections (2), (3) and (4) and substituting for it the following-

“(2) Notwithstanding provision of a different penalty under any other law and subject to subsection (3), a person convicted of corruption or economic offence shall be liable to imprisonment for a term of not less than twenty years but not exceeding thirty years, or to both that imprisonment and any other penal measure provided for under this Act:

Provided that, where the law imposes penal measures greater than those provided by this Act, the Court shall impose such sentence.

(3) In addition to the penalty imposed under subsection (2), the court shall order the confiscation and forfeiture, to the Government of all instrumentalities and proceeds derived from the offence committed under this Act.

(4) All awards for compensation shall be taken from the personal properties or joint owned properties, where such properties are insufficient to cover the award, such balance shall be a civil debt due to the Government recoverable by civil process.

(5) Where the proceeds and instrumentalities in respect of which the offence was committed are destroyed, diminished in value or otherwise rendered worthless by any act or omission, directly or indirectly of the offender, or it has been concealed, removed, converted or transferred to prevent the same from being found or to avoid forfeiture or confiscation, the offender shall be ordered to pay the amount equal to the value of the proceeds or instrumentalities of the offence.”

第十三条【修正第 60 条】本法第 60 条作以下修正，

(a) 在第 (3) 款中，删除第 (c) 款，修正为：“(c) 对儿童量刑应依照《儿童法》的规定”。

(b) 删除第 (2)、(3) 和 (4) 款，修改为：

“(2) 符合本条第 (3) 款规定构成贪污或经济犯罪的，处 20 年以上 30 年以下有期徒刑，或处有期徒刑和附加刑，但有法律规定的刑罚重于本法的，依其



规定量刑。

(3) 除根据第(2)款所判处的刑罚外,法院应判令没收其犯罪工具和违法所得。

(4) 赔偿金额应当全部从被告个人财产或者其共同所有的财产中支出,如个人财产不足以赔偿的,政府可以通过民事诉讼程序追偿。

(5) 被告以直接或者间接的作为或者不作为导致犯罪工具或犯罪所得灭失、贬值或者因其他原因丧失价值,或为避免被发现或被没收,而隐匿、转换或者转移犯罪工具或犯罪所得的,应判令被告支付与犯罪所得或工具价值相等的金钱补偿。”

14. The principal Act is amended by inserting immediately after section 63 the following new section-

63A.-(1) The Chief Justice may, by Order published in the Gazette, make rules for the better performance of the duties of the Court.

(2) Without prejudice to the generality of subsection (1), the rules may prescribe-

(a) the contents and manner in which various court reports shall be prepared and submitted;

(b) contents of records of committal proceedings;

(c) procedures governing preliminary hearing;

(d) procedure for summoning of witnesses and for hearing of cases under this Act;

(e) procedure and conduct of the Registrar in the performance of functions under this Act;

(f) protection of witnesses under this Act; and

(g) anything which needs to be prescribed by rules under this Act.”

第十四条【增加第 63A 条】本法在第 63 条后增加第 63A 条:“规则制定权”。

63A. (1) 终审法院首席法官可根据公报命令,制定规则,以更好地履行法院的职责。

(2) 依本条第(1)款规定,规则可以包括,

(a) 编制和提交各种法庭报告的内容和方式;

(b) 提交审判程序记录的内容;

- (c) 预审程序；
- (d) 根据本法传唤证人和审理案件的程序；
- (e) 书记官履行本法规定职责的程序和行为规范；
- (f) 根据本法保护证人；
- (g) 依本法需要由规则规定的任何事项。

15. The principal Act is amended by repealing section 66 and replacing for it the following-

66.-(1) Notwithstanding the establishment of the Corruption and Economic Crimes Division of the High Court, where the Economic Crimes Court had-

(a) commenced the hearing of any case relating to economic offences, it shall continue with the hearing until it determines the proceedings in that case; or

(b) adjourned the hearing of any case relating to an economic offence, it shall resume the hearing on the fixed or earlier date and proceed to further hear and determine the proceedings in that case, but the court shall not take a plea or pleas in respect of any fresh case not brought before the commencement of this Act.

(2) The coming into operation of the amending Act shall not -

(a) affect the previous operation of the amended Act or anything duly done or suffered under it;

(b) revive anything not in force or existing at the time immediately before the commencement of this Act;

(c) affect any right, privilege, or obligation or liability acquired, accrued, or incurred under the amended Act; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any economic offence or other offence committed and triable under the amended Act.

(3) For the purpose of this

section “amending Act” means the Written Laws (Miscellaneous Amendment) Act, 2016.”

第十五条【废止第66条】废止第66条，修改为：

66. (1) 高等法院贪污与经济犯罪法庭成立后，经济犯罪法庭仍然可以，

(a) 继续审理已经进入听证程序的经济犯罪案件，并就该案件的法律程序作出裁定；或

(b) 继续审理已休庭的案件，并就该案法律程序作出进一步裁定，但在本法生效后，不得受理新的案件。

(2) 本法修正的效力不及于，

(a) 依在先立法作出的判决和刑罚；

(b) 恢复在本法生效前未生效或存在的任何决定；

(c) 根据修正法案获得、产生或发生的任何权利、特权、义务或责任；

(d) 因任何经济犯罪或根据修正案触犯的其他犯罪行为而产生的处罚、没收决定或刑罚。

(3) 本法中的“修正案”，是指《2016年成文法（杂项修正）案》。

16. The principal Act is amended in the First Schedule by-

(a) deleting paragraph 14 and substituting for it the following:

14. A person is guilty of an offence under this paragraph who-

(a) unlawfully captures, hunts or traps animals in a game reserve or game-controlled area;

(b) unlawfully deals in trophies or in Government trophy;

(c) is found in unlawful possession of weapons in certain circumstances;

(d) is found in unlawful possession of a trophy, contrary to sections 17, 19, 24, 26, 28, 47, 53, 103, 105, Part X or Part XI of the Wildlife Conservation Act, or contrary to section 16 of the National Parks Act.”

(b) adding immediately after paragraph 20 the following:

21. A person is guilty of an offence under this paragraph who commits any offence under the Prevention and Combating of Corruption

22. A person is guilty of an offence under this paragraph who commits the following offence:

(a) Money

Laundering contrary to section 12;

(b) failure to furnish returns contrary to section 17;

(c) tipping off

Contrary to section 20.

23. A person is guilty of an offence under this paragraph who commits any offence:

(a) possession, trafficking, purchasing or manufacturing of narcotic drugs or psychotropic substance and precursor chemicals contrary to section 15;

(b) possession of machines, equipment and laboratory for narcotic drugs and psychotropic substances contrary to section 16;

(c) under section 23 relating to finance of illegal activities.

24. A person is guilty of an offence under this paragraph who commits any offence under the Prevention of Terrorism Act.

25. A person is guilty of an offence under this paragraph who commits any offence under the Territorial Sea and Exclusive Economic Zone Act.

26. A person is guilty of an offence under this paragraph who commits any offence under section 18.

27. A person is guilty of an offence under this paragraph who commits any offence:

(a) unauthorized trade in minerals contrary to section 18.

(b) furnishing of false information during making of applications, filing of false returns, hiding and intermingling of minerals contrary to section 114.

28. A person is guilty of an offence under this paragraph who commits any offence:

(a) use, possession, storing, transporting or importing

“ionizing radiation sources contrary to section 11” ;

(b) installation, use or possession of apparatus capable of producing, using, storing, accumulating or disposal of radioactive waste contrary to section 13;

(c) importation of nuclear plants contrary to section 14;

(d) destruction or damaging plant or equipment, causing leakage or emission of uncontrolled radiations that causes damage to persons or properties contrary to section



72.

29. A person is guilty of an offence under this paragraph who commits any offence:

(a) importation, manufacturing, distribution or sale of food unfit for human consumption contrary to section 32;

(b) manufacturing, importing, supplying, possessing or offering for sale any counterfeit drug, herbal drug or medical devices contrary to section 76.

30. A person is guilty of an offence under this paragraph who commits any offence under section 23 or 24.

31. A person is guilty of an offence under this paragraph who commits any offence:

(a) unauthorized possession of firearms or ammunition contrary to section 20 and 21;

(b) unauthorized importation or exportation of firearms or ammunition in or from the United Republic of Tanzania contrary to section 45.

32. A person is guilty of an offence under this paragraph who commits any offence under this Act.

33. A person is guilty of an offence under this paragraph who commits any offence under section 86 or 89.

34. A person is guilty of an offence under this paragraph who commits any offence under section 239 or 240.

35. A person is guilty of an offence under this paragraph who commits any offence under section 21.

36. A person is guilty of an offence under this paragraph who commits any offence under section 6, 7, 8, 9, 10, 11, 12 or 19.

37. A person is guilty of an offence under this paragraph who commits any offence under section 120, 122, 123 or 124.

38. A person is guilty of an offence under this paragraph who commits any offence under section 66, 96, 194, 217, 284A or 318A.

39. A person is guilty of an offence under this paragraph who commits any offence under section 16.

第十六条【修正附表一】本法附表一作以下修正：

(a) 第 14 条修改为：

14. 下列行为属于违反本条规定的犯罪行为，

(a) 在禁猎区或狩猎控制区非法捕捉、捕猎或诱捕动物；

(b) 非法买卖猎物或政府猎物；

(c) 特定情况下非法拥有武器；

(d) 非法占有猎物，违反《野生动物保护法》第 17、19、24、26、28、47、53、103、105、第 10 部分、第 11 部分，或违反《国家公园法》第 16 条。

(b) 在第 20 段之后增加一条：“违反《防止与打击腐败法》的犯罪行为”。

21. 违反本条规定的行为属于违反《防止与打击腐败法》规定的犯罪行为，但该法第 15 条规定的行为除外。

22. 下列行为属于违反《反洗钱条例》规定的犯罪行为：

(a) 违反第 12 条，洗钱；

(b) 违反第 17 条，未提交申报表；

(c) 违反第 20 条，通风报信。

23. 下列行为属于违反《药物管制及执行条例》规定的犯罪行为：

(a) 违反第 15 条，持有、贩运、购买或制造麻醉药品或精神药物及易制毒化学品；

(b) 违反第 16 条，拥有可制作麻醉药品和精神药物的机器、设备和实验室；

(c) 违反第 23 条，为非法活动提供资金。

24. 违反本条规定的行为属于违反《防止恐怖主义法》规定的犯罪行为。

25. 违反本条规定的行为属于违反《领海及专属经济区法》规定的犯罪行为。

26. 违反本法第 18 条规定的行为属于违反《深海捕鱼法》规定的犯罪行为。

27. 下列行为属于违反《采矿法》规定的犯罪行为：

(a) 违反第 18 条，非法矿物贸易。

(b) 违反第 114 条，在提出申请过程中提交虚假申报表、隐藏和混合矿物的过程中提供虚假资料。

28. 下列行为属于违反《原子能法》规定的犯罪行为：
- (a) 使用、拥有、储存、运输或进口违反第 11 条规定的电离辐射源；
  - (b) 安装、使用或拥有能够生产、使用、储存、积累或处置违反第 13 条规定的放射性废物的设备；
  - (c) 进口违反第 14 条规定的核电站；
  - (d) 违反第 72 条，破坏或损坏工厂或设备，造成不受控制的辐射泄漏或发射，对人或财产造成损害。
29. 下列行为属于违反《坦桑尼亚食品和药物控制法》规定的犯罪行为：
- (a) 违反第 32 条规定进口、制造、分销或销售不宜供人食用的食物；
  - (b) 制造、进口、供应、拥有或出售任何违反第 76 条的假药、草药或医疗仪器。
30. 违反本条规定的行为属于违反《坦桑尼亚采掘业（透明度问责制）法》第 23 或第 24 条规定的犯罪行为。
31. 下列行为属于违反《枪械及弹药管制条例》规定的犯罪行为：
- (a) 违反第 20 条和第 21 条，未经授权持有枪支或弹药；
  - (b) 违反第 45 条，在坦桑尼亚联合共和国境内或从坦桑尼亚联合共和国境内非法进口或出口军火或弹药。
32. 违反本条规定的行为属于违反《军备控制法》规定的犯罪行为。
33. 违反本法第 86 或第 89 条的行为属于违反《森林法》规定的犯罪行为。
34. 违反本法第 239 或第 240 条的行为属于违反《石油法》规定的犯罪行为。
35. 违反本法第 21 条规定的行为属于违反《石油和天然气收入管理法》规定的犯罪行为。
36. 违反本法第 6、7、8、9、10、11、12 或 19 条的行为属于违反《网络罪行条例》规定的犯罪行为。
37. 违反本法第 120、122、123 或 124 条的行为属于违反《电子及邮政通讯法》规定的犯罪行为。
38. 违反本法第 66、96、194、217、284A 或 318A 条规定的行为即属于违反《刑法典》规定的犯罪行为。
39. 违反本法第 16 条规定的行为属于违反《举报人及证人保护法》规定的犯罪行为。



**PART IV AMENDMENT OF THE JUDICATURE AND  
APPLICATION OF LAWS ACT, (CAP. 358)  
第四部分《司法与法律适用法》修正案**

17. This Part shall be read as one with the Judicature and Application of Laws Act, hereinafter referred to as the “principal Act” .

第十七条【说明】本部分为《司法与法律适用法》(以下简称本法)的组成部分。

18. The principal Act is amended by adding immediately after section 4 the following new section: “Power to establish High Court divisions or registries.”

4A.-(1) The Chief Justice may, after consultation with the President, by Order published in the Gazette, establish such number of divisions of the High Court as may be required for the purpose of facilitating the discharge of judicial functions in respect of specific matters as may be determined by the Chief Justice.

(2) The division established under subsection (1) shall, notwithstanding any other written law, exercise jurisdiction over such judicial functions as may be prescribed in the establishment Order.

(3) The Chief Justice may by Order published in the Gazette, establish such number of registries or sub-registries of the High Court as may be required.

(4) For avoidance of doubt, any division or registry or sub-registry which was established by Chief Justice prior to the coming into operation of the provisions of this section shall be deemed to have been established in accordance with the provisions of this section.

(5) The Chief Justice may, by Order published in the Gazette, make rules prescribing practice and procedure of the division established under this section or for such other matters as may be required.”

第十八条【新增第4A条】本法在第4条之后增加一条：“设立高等法院特别法庭或登记处的权力”

“（1）根据公报授权，首席大法官在与总统协商后有权根据高等法院履职

和分案的需要设立特别法庭。

(2) 根据第(1)款设立的特别法庭,依据成文法和设立的命令审理相关案件。

(3) 高等法院首席法官可根据公报授权,根据需要设立若干个高等法院登记处或分登记处。

(4) 为免生疑问,高等法院首席法官在本条生效前设立的任何特别法庭、登记处或分登记处,均应视为依本条的条文设立。

(5) 高等法院首席法官可根据公报授权,制定规则,为特别法庭制定行为及程序规则,以及保证其履职的其他相关规则。”

## PART V AMENDMENT OF THE MAGISTRATES' COURTS ACT (CAP.11)

### 第五部分《地方法院法》修正案

19. This Part shall be read as one with the Magistrates' Courts Act, hereinafter referred to as “the principal Act” .

第十九条【说明】本部分为《地方法院法》(以下简称本法)的组成部分。

20. Section 18 of the principal Act is amended in subsection (1), by-

(a) deleting the words “five million” appearing in paragraph (a) (ii) and substituting for it the words “fifty million” ; and

(b) deleting the words “three million” appearing in paragraph (a) (iii) and substituting for it the words “thirty million” .

第二十条【修正第18条】本法第18条在第(1)款作以下修正,

(a) 删除第(a)项第(ii)目中的“500万”,修正为“5000万”;

(b) 删除第(a)项第(iii)目中的“300万”,修正为“3000万”。

21. The principal Act is amended in section 19 by deleting the words “Minister may” appearing in subsection(2) and substituting for it the phrase “Chief Justice may upon consultation with the Minister” .

第二十一条【修正第19条】删除第19条第(2)款中的“部长可以”,修正为“首席法官与部长协商后可以”。

22. Section 40 of the principal Act is amended in subsection (2), by -

(a) deleting the words “one hundred and fifty” appearing in paragraph (a) and substituting for it the words “three hundred” ; and

(b) deleting the words “one hundred” appearing in paragraph (b) and substituting for it the words “two hundred” .

第二十二条【修正第40条】本法第40条在第（2）款作以下修正

（a）删除（a）款内的“150”，修正为“300”；

（b）删除（b）款内的“100”，修正为“200”。

## **PART VI AMENDMENT OF THE TAX REVENUE APPEALS ACT, (CAP. 408)**

### **第六部分《税收上诉法》修正案**

23. This Part shall be read as one with the Tax Revenue Appeals Act, hereinafter referred to as the “principal Act” .

第二十三条【说明】本部分为《税收上诉法》（以下简称本法）之组成部分。

24. Section 4 of the principal Act is amended-

(a) in subsection (2)(b), by deleting the word “two” and substituting for it the word “three” ;

(b) in subsection (2)(c), by deleting the word “four” and substituting for it the words “not more than twelve” ;

(c) in subsection (3)(b), by inserting immediately after the word “taxation,” the word “law,” .

第二十四条【修正第4条】本法第4条修正为，

（a）第（2）（b）款，删去“2”，修正为“3”；

（b）第（2）（c）款，删去“4”，修正为“不超过12”；

（c）在第（3）（b）款中，在“税收”一词之后加上“法律”。

25. The principal Act is amended in section 6 by deleting subsection (1) and substituting for it the following-



“(1) The Minister shall appoint a suitable person from amongst senior judicial officer or law officer from the Government or public sector to be the Secretary of the Board.”

第二十五条【修正第6条】第6条第（1）款，修改为：

（1）部长应从高级司法官员或政府或公共部门的官员中任命一名合适的人选担任董事会秘书。

26. Section 8 of the principal Act is amended-

(a) in subsection (2)(b), by deleting the word “two” and substituting for it the word “three” ;

(b) in subsection (2)(c), by deleting the word “four” and substituting for it the words “not more than ten” ;

(c) in subsection (3),-

(i) by deleting paragraph (a) and substituting for it the following:

“(a) chairman if he holds or has previously held or is qualified for appointment to a higher judicial office in the United Republic.” ;

(ii) by inserting immediately after the word “taxation,” appearing in paragraph (b) the word “law,” .

第二十六条【修正第8条】本法第8条修改为，

（a）第（2）款（b）项，删去“2”，修改为“3”；

（b）第（2）款（c）项，删去“4”，修改为“不超过10”；

（c）第（3）款，

（i）删除（a）项，修改为：（a）主席，正在或曾经担任，或有资格被任命为联合共和国的高级司法官员。”

（ii）在第（b）项“税收”之后加上“法律”。

27.The principal Act is amended in section 10(1), by deleting the words “senior lawyer” and substituting for them the words “a senior judicial officer or law officer” .

第二十七条【修正第10条】第10条第（1）款删除“高级律师”，修改为“高级司法官员或法律官员”。

28. The principal Act is amended in section 25(1), by inserting immediately after the word “decision” appearing in the first line, the words “and decree.”

第二十八条【修正第25条】本法在第25条第（1）款第一行“决定”之后增加“和法令”。

### *OBJECTS AND REASONS*

#### 目标和理由

This Bill proposes to amend Five Laws namely the Appellate Jurisdiction Act, Cap.141; the Economic and Organized Crimes Control Act, Cap.200; the Judicature and Application of Laws Act, Cap. 358; the Magistrates’ Courts Act, Cap.11 and the Tax Revenue Appeals Act, Cap. 408.

本法案拟修正五部法律，即《上诉管辖法》（CAP.141）；《经济和有组织犯罪控制法》（CAP.100）；《司法与法律适用法》（CAP.358）；《地方法院法》（CAP.11）及《税收上诉法》（CAP.408）。

The proposed amendments intend to keep the respective laws with changes so far observed in their implementation.

修正案旨在使相关法律与其实施过程中的发展变化相适应。

Part II proposes amendment to the Appellate Jurisdiction Act, Cap.141, whereby section 4 is amended for purposes of empowering the Court of Appeal to have statutory powers to review its previous decisions. The proposed amendments will provide an antidote to the Court of Appeal in case of any mistakes it has previously done in its decisions. Currently, the Court of Appeal exercise such powers through the Court of Appeal Rules, 2009 as well as principles laid in its previous judgments.

第二部分是《上诉管辖法》（CAP.141）修正案。第4条的修改赋予上诉法院审查其先前判决的权力，从而使上诉法院能够纠正其以往的错误判决。目前，上诉法院行使该项权利的依据是2009年颁布的《上诉法院规则》及其以往的判例中确立的规则。

Part III proposes to amend the Economic and Organized Crime Control Act.

The amendments are intended to accommodate the introduction of the Corruption and Economic Crimes Division of the Court which shall deal with corruption and economic cases. The amendment of section 3 is intended to establish the Corruption and Economic Crimes Division of the High Court, its composition and its pecuniary jurisdiction to corruption and economic offences which is proposed to be of not less than one billion shillings and economic offences regardless of their value. It also proposes the application of procedures for protecting witness under the in relation to the provisions of the Whistleblowers and Witness Protection Act and any other relevant law. Prohibition of insolvency, power to make rules and corruption and economic offences to be dealt with under this Act are matters provided for under this Part.

第三部分是《经济与有组织犯罪控制法》（CAP.200）修正案。此次修正的目的在于设立贪污及经济犯罪特别法庭，负责审理贪污和经济犯罪案件。修正第3条的目的是设立高等法院贪污及经济犯罪法庭，规定其成立方式及对贪污和经济犯罪案件的管辖。该法庭审理涉案金额不少于10亿先令的贪污案件，对于经济犯罪案件的涉案金额没有限制。根据《举报人与证人保护法》及其他相关法律的规定，规定了证人保护程序。此外，规定了破产禁止事项、相关规则制定以及根据本法审理贪污和经济犯罪的有关规则。

Part IV proposes amendments to the Judicature and Application of Laws Act, Cap.358. The amendments proposes the addition of new section 4A that empowers the Chief Justice to establish such number of divisions of the High Court as may be required for the purpose of discharging judicial functions in respect of specific matters as may be determined by the Chief Justice. The proposed amendments create an overriding effect of the division established over other courts or bodies in case of conflict.

第四部分是《司法与法律适用法》（CAP.358）修正案。增加第4A条，赋予首席大法官设立高等法院若干特别法庭的权力，以便最高法院根据履职需要审理特定类型案件。在判决发生冲突的情况下，特别法庭裁判的效力高于其他法院。

Part V proposes amendments to the Magistrates' Courts Act, Cap.11. Section 8(1)(ii) is amended to extend the pecuniary jurisdiction of a primary court for recovery

of civil debts arising out of rent or interest extends from five million shilling to fifty million shillings and incase of recovery of civil debt arising out of contract, extends from three million shillings to thirty million shillings. This section is further amended to empower the Chief Justice to extend the pecuniary jurisdiction of the primary court by Order published in the Gazette. Section 19 is proposed to be amended to empower Chief Justice to make regulations in consultation with the Minister. Currently the power to make regulation are vested to the Minister.

第五部分是《地方法院法》（CAP.11）修正案。第8条第（1）款第（ii）项修正后，将初审法院对因租金或利息争议产生的民事案件管辖标的额从5百万先令提高到5千万先令，对因合同争议产生的民事案件管辖标的额从3百万先令提高到3千万先令。修正案授权首席大法官可依公报授权提高初审法院审理民事案件管辖标的额。修正后的第19条规定，首席大法官在与司法部长磋商后可以制定规则。而在修正前，该项权力属于司法部长。

This Part further proposes amendment to section 40 for the purposes of extending the pecuniary jurisdiction of a resident magistrate court for recovery of civil debts arising out of rent or interests from one hundred and fifty million to three hundred million. It is also proposed to increase the pecuniary jurisdiction for the recovery of civil debts arising out of contract, from one hundred million shillings to two hundred million shillings. This section also proposes to empower the Chief Justice to amend pecuniary jurisdiction for the primary court by Order published in the Gazette.

修正第40条，将治安法院对因租金或利息争议产生的民事案件管辖标的额从1.5亿先令提高到3亿先令，对因合同争议产生的民事案件管辖标的额从1亿先令提高到2亿先令，并授权首席大法官依据公报授权提高治安法院审理民事案件管辖标的额。

Part VI proposes amendments to the Tax Revenue Appeals Act, Cap.408 whereby section 4(2)(c) is proposed to be amended by increasing the number of members of the Board from four to twelve for purposes of speeding up the disposal of Tax appeals. In addition, subsection 3(b) of section 4 is also proposed to be amended for purpose of enabling the Board to have a member, other than the Chairman, who has knowledge

of law so as to hasten litigation. Section 6 is proposed to be amended in subsection (1) for purposes of widening the scope of officers who are qualified to be appointed as Secretary to the Board.

第六部分是《税收上诉法》(CAP.408)修正案。修正后的第4(2)(c)条规定,委员会成员从4人增加到12人,以便加快处理税收上诉案件。此外,第4条第3款第(b)项规定,委员会应在主席外有一名有法律专业背景的委员,以加快审查程序。第6条第(1)款规定,扩大委员会秘书人选遴选范围。

Section 8 is proposed to be amended in subsection 2(c) by increasing the number of members of Tribunal from four to ten (10) members, the rationale being to speed up the disposal of tax appeals. Further, subsection 3(a) is amended so as to introduce the new requirement to the effect that the chairman of the Tribunal should be a person qualified to hold a higher judicial office. This is aimed at enabling the Tribunal to have a chairman who is experienced in the judicial decision making process.

第8条第2款第(c)项规定,将特别法庭的法官人数由4名增至10名,以加快审理税务上诉案件。此外,第3条第(a)款亦作修正,要求特别法庭主席应当有资格担任较高级别的司法职务。修正目标是使法庭能够在位资深主席指导下作出司法决策。

Section 10 is proposed to be amended in subsection (1) by widening the scope of officers from which the Registrar of the Tribunal shall be appointed.

第10条第(1)款中加以修正,扩大任命法庭书记官人选遴选范围。

Further, the amendments are intended in respect of the Chairman and the Registrar, also he provisions in relation to right of appeals to an aggrieved person in relation to the Board's decisions.

此外,本次修正还涉及主席和书记官,他们需要向因委员会决定而权利受损的当事人提供上诉的权利。