

Organic Law on the Internment Tribunal.



CHAPTER NO. 1.

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CHAPTER NO. 1.

Organic Law on the Internment Tribunal,

Being an Organic Law to implement Section 245(1)(e) (*internment*) of the *Constitution* by providing for the establishment of an independent and impartial Tribunal to review the cases of internees (other than enemy aliens), and for related purposes.

1. INTERPRETATION.

In this Organic Law, unless the contrary intention appears -

“Chairman” means the Chairman of a sitting of the Tribunal;

“internee” means a person interned under an Internment Act;

“Internment Act” means an Act of the Parliament passed in accordance with Section 244 (*laws providing for internment*) of the *Constitution*;

“national emergency” means a national emergency declared under Section 228 (*declaration of national emergency*) of the *Constitution*;

“President of the Tribunal” means the President of the Tribunal appointed under Section 2(4);

“Tribunal” means an Internment Tribunal established under Section 2.

2. INTERNMENT TRIBUNAL.

(1) Where-

(a) a national emergency has been declared; and

(b) the Parliament has passed an Internment Act,

there shall be established, as soon as practicable, for the purposes of reviewing the cases of internees under that Internment Act, an Internment Tribunal.

(2) The Tribunal shall consist of 12 members appointed by the Head of State, acting on advice, by notice in the National Gazette from a list of names approved by the Judicial and Legal Services Commission.

(3) At least three of the members shall be -

(a) qualified to be a Judge of the National Court; or

(b) a person who holds office as a magistrate of the highest grade or classification.

(4) The Head of State, acting on advice, shall appoint one of the members qualified under Subsection (3) to be President of the Tribunal.

3. CONDITIONS OF SERVICE OF MEMBER.

The terms and conditions of employment of the members of the Tribunal are as determined from time to time by the Head of State, acting with, and in accordance with, the advice of the Public Services Commission.

4. TERM OF OFFICE.

A member of the Tribunal shall be appointed for the duration of the Tribunal.

5. DECLARATION OF OFFICE.

Before entering upon the duties of his office, a member of the Tribunal shall make the Declaration of Office before the Chief Justice or a Judge of the National Court appointed by the Chief Justice.

6. DISQUALIFICATIONS FROM OFFICE.

A person is not qualified to be, or to remain a member of the Tribunal if he is -

- (a) interned under an Internment Act; or
- (b) of unsound mind within the meaning of any law relating to the protection of the person or property of persons of unsound mind; or
- (c) under sentence of death or imprisonment.

7. RESIGNATION.

A member of the Tribunal may resign by giving written notice of his intention to do so to the appointing authority.

8. SITTING OF THE TRIBUNAL.

(1) A sitting of the Tribunal may be held by three members of the Tribunal, at least one of whom shall be qualified to be a Chairman of the Tribunal in accordance with Section 9(1).

(2) Simultaneous sittings of the Tribunal may be held in different places.

9. CHAIRMAN.

(1) A person who -

- (a) is qualified to be a Judge of the National Court; and
- (b) until 16 September 1985, holds office as a magistrate of the highest grade or classification,

is qualified to be a Chairman of the Tribunal.

(2) Subject to Subsection (3), the member of a sitting of the Tribunal qualified to be a Chairman shall be the Chairman.

(3) Where, at a sitting of the Tribunal, more than one member of the Tribunal is qualified to be a Chairman, the members present shall elect the Chairman from the members so qualified.

10. FUNCTIONS OF THE TRIBUNAL.

The functions of the Tribunal are as specified in Section 245 (*internment*) of the *Constitution*.

11. PROCEDURES OF THE TRIBUNAL.

(1) The Tribunal shall sit at such times and places as are fixed by the President of the Tribunal.

(2) The Chairman shall preside at all sittings of the Tribunal.

(3) All matters before a sitting of the Tribunal shall be decided in accordance with a majority of votes.

(4) The Tribunal shall cause reports of its findings to be recorded and kept.

(5) A sitting of the Tribunal may, if the Tribunal so decides, be conducted in private.

(6) The Tribunal may hear or obtain information from any person who the Tribunal considers can assist and may make whatever inquiries it thinks fit.

(7) Subject to this Organic Law the procedures of the Tribunal are as determined by it.

12. POWERS OF THE TRIBUNAL.

(1) For the purposes of the exercise of and performance of its functions the Tribunal may -

- (a) summon witnesses, by instrument under the hand of a member of the Tribunal; and
- (b) take evidence on oath or affirmation and administer oaths and affirmations for the purpose; and
- (c) by instrument under the hand of a member of the Tribunal, require a person to produce a document, book or paper in his possession or control.

(2) Subject to Subsection (3), a person who, when summoned or required under this section to give evidence or to produce a document, book or paper in his possession or control, fails without reasonable excuse (proof of which is on him) -

- (a) to attend before the Tribunal at the time and place appointed in the summons or requirement; or
- (b) to be sworn or make an affirmation; or
- (c) to answer any question put to him by a member of the Tribunal; or
- (d) to produce the document, book or paper,

is guilty of an offence.

Penalty: A fine not exceeding K500.00.

(3) It is a defence to a charge of an offence against Subsection (2) for failing without reasonable excuse to answer a question, or to produce a book or paper, if the defendant proves that the question, document, book or paper was not relevant to the matter in connexion with which the question was asked or the production of the document, book or paper was required, as the case may be.

13. CONSTITUTION OF TRIBUNAL WHERE CASE OF AN INTERNEE IS BEING REVIEWED ON A SECOND OR SUBSEQUENT OCCASION.

Where the case of an internee is being reviewed on a second or subsequent occasion, a majority of the members (including the Chairman) of the sitting of the Tribunal which conducts

that review shall, as far as practicable, be different from the members of the sitting of the Tribunal which previously reviewed the case of that internee.

14. MEMBER RELATED, ETC., TO INTERNEE NOT TO REVIEW CASE OF THAT INTERNEE.

Where a member of a tribunal -

- (a) is related by kinship to; or
- (b) has any business connexion with; or
- (c) considers that there are any factors which might preclude his being impartial in relation to,

an internee whose case is to be reviewed by that Tribunal, that member shall not sit on that case.

15. CONTEMPT OF THE TRIBUNAL.

A person who wilfully insults a member of the Tribunal, or wilfully interrupts the proceedings of the Tribunal, or is in any manner guilty of wilful contempt of the Tribunal, is guilty of an offence.

Penalty: K500.00 or imprisonment for three months.

16. GIVING FALSE EVIDENCE.

A person appearing as a witness before the Tribunal, who wilfully gives false evidence, is guilty of perjury and is liable to prosecution and punishment accordingly.

17. PRIVILEGE.

(1) A member of the Tribunal is not liable for any act or omission done or made *bona fide* and without negligence under or for the purposes of this Organic Law.

(2) A member of the Tribunal shall not be called to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions as a member.

(3) Anything said or any information supplied or any document, paper or thing produced by any person in the course of an inquiry by or proceedings before the Tribunal under this Organic Law are privileged in the same manner as if the inquiry or proceedings were proceedings in a court.

18. PRESERVATION OF SECRECY.

(1) The Tribunal may direct that any evidence given before it, or any document, book or writing produced to it, be not published.

- (2) A person who publishes or discloses to any person -
 - (a) any evidence given before the Tribunal in private; or
 - (b) any evidence which the Tribunal has directed not to be published; or

(c) any of the contents of any document, book or writing which the Tribunal has directed not to be published, without the consent of the Tribunal, is guilty of an offence.

Penalty: K1, 000.00 or imprisonment for 12 months or both.

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