

THE UNITED REPUBLIC OF TANZANIA



No. 39 OF 1969

I ASSENT,


President

6TH NOVEMBER, 1969

An Act to amend the Advocates Ordinance

[7TH NOVEMBER, 1969]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Advocates Ordinance (Amendment) Act, 1969 and shall be read as one with the Advocates Ordinance.

Short title
Cap. 341

2. Section 4 of the Advocates Ordinance is repealed and replaced by the following section:—

Section 4
repealed and
replaced

“Advocates
Committee

4.—(1) There shall be established for the purposes of this Ordinance a committee to be called the Advocates Committee consisting of—

- (a) a Judge of the High Court of the United Republic nominated by the Chief Justice;
- (b) the Attorney-General;
- (c) a practising advocate nominated by the Council of the Law Society.

(2) During the temporary incapacity or absence from Tanganyika of the member nominated by the Council of the Law Society, such Council may nominate any practising advocate to act as a temporary member in the place of such member until his recovery from incapacity or his return, as the case may be, or until the expiration of his period of office, whichever first occurs.

(3) During the temporary incapacity or absence from Tanganyika of the High Court Judge nominated by the Chief Justice, the Chief Justice may nominate another Judge of the High Court to act as a member of the Committee and such Judge may so act.

(4) The High Court Judge shall be the chairman of the Committee and shall preside at all meetings of the Committee. In the absence from any meeting of the High Court Judge duly nominated by the Chief Justice either under subsection (1) or subsection (3), the Attorney-General shall be the chairman of the meeting.

(5) Two members of the Committee, one of whom shall be the Attorney-General, shall form a quorum.

(6) Any question before the Committee shall be decided by a majority of votes of the members present and voting; in the event of equality of votes the chairman of the meeting shall, in addition to his deliberative vote as a member of the Committee, have a casting vote.

(7) Where the conduct of the member nominated by the Council of the Law Society is the subject matter of an application or allegation made under the provisions of section 13, such member shall be disqualified to sit as a member of, or vote at, any meeting during which such application or allegation is considered or determined by the Committee, and in any such case the Committee may nominate any practising advocate to act as a temporary member in the place of such nominated member for the purposes of such meeting.”

(8) The Committee may appoint any public officer to be a secretary of the Committee.

Sections 10 and 11 of the Ordinance repealed and replaced

3. Sections 10 and 11 of the Advocates Ordinance are repealed and replaced by the following sections:—

“Meetings of the Committee

10. The Attorney-General may at any time, and shall when requested to do so by the chairman of the Committee, convene a meeting of the Committee for the purpose of enquiring into any allegation of misconduct made against any advocate.

Information upon which the Committee may act

11. In the exercise of his power under section 10, the Attorney-General may act upon information which is brought to his notice in any manner whatsoever.”

Section 13 of the Ordinance repealed and replaced

4. Section 13 of the Advocates Ordinance is repealed and replaced by the following section:—

“Powers of the Committee

13.—(1) The Committee shall have jurisdiction to hear and determine—

- (a) any application by an advocate to procure the removal of his name from the Roll; or
- (b) any application by any person to remove the name of any advocate from the Roll; or
- (c) any allegation of misconduct made against any advocate by any person.

(2) Where an application or allegation of misconduct is made under paragraph (b) or paragraph (c) of subsection (1), the Committee shall have power to require the advocate in respect of whom such application is made, or in respect of whom such allegation is made, to show cause why his name should not be removed from the Roll of advocates or to answer the allegation made, as the case may be:

Provided that where, in the opinion of the Committee, an application under paragraph (b) of subsection (1), or an allegation under paragraph (c) of that subsection does not disclose a *prima facie* case, the Committee may refuse such application or may dismiss the allegation without requiring the advocate to whom the application or allegation relates to show cause why his name should not be removed from the Roll or to answer the allegation, as the case may be.

(3) On the hearing of an application under paragraph (b) of subsection (1) or any allegation under paragraph (c) of that subsection—

(a) The Committee shall give the advocate to whom the application relates or against whom the allegation is made an opportunity to appear and be heard by it, and for that purpose shall, not less than seven days before the date fixed for the hearing, inform him of such date and of the particulars of the application or allegation, furnish to him a copy of any affidavit made in respect of the application or allegation, and notify him of the time and place when and where he may inspect and make a copy of any other document in the possession of the Committee which it deems relevant to the application or allegation;

(b) the Committee may, in the course of the hearing, hear such witnesses and receive such documentary evidence as in its opinion may assist it in coming to a conclusion as to the truth or otherwise of any allegation made against the advocate.

(4) Upon the conclusion of a hearing under subsection (3) the Committee may, if it is satisfied of the truth of the allegations upon which an application under paragraph (b) of subsection (1) is founded or of any allegation of misconduct made against the advocate—

- (a) direct that the name of the advocate be removed from the Roll; or
- (b) admonish the advocate; or
- (c) suspend the advocate from practising for such period as the Committee may direct.

(5) In any proceedings under this section the Committee shall have power to make any such order as to payment by any party of any costs or witness expenses as it may think fit, and any such order shall be deemed to be an order of the High Court and may be enforced in like manner.

(6) If in the course of any hearing before the Committee after the whole or any part of the evidence has been heard and recorded, there is for any reason a change in the personnel of the Committee, the Committee may act on the evidence so recorded before such change, or partly recorded before and partly recorded after such change, as the case may be, or the Committee may re-summon the witnesses and recommence the hearing:

Provided that the advocate whose misconduct is the subject matter of the proceedings may, when the Committee resumes its proceedings after such change, demand that all the witnesses or any of them be re-summoned and reheard and shall be informed of such right by the Committee when it so resumes its proceedings.”.

Section 14
of the
Ordinance
amended

Cap. 16

5. Section 14 of the Advocates Ordinance is amended by deleting subsection (3) and substituting therefor the following subsection:—

“(3) Every proceeding before the Committee under section 13 shall, for the purposes of Chapter XI of the Penal Code, be deemed to be judicial proceeding.”.

Sections 16,
17, 18, 19, 20
and 21 of the
Ordinance
to be
repealed

6. Sections 16, 17, 18, 19, 20 and 21 of the Advocates Ordinance are repealed.

Section 23
of the
Ordinance
repealed

7. Section 23 of the Advocates Ordinance is repealed.

Section 24
of the
Ordinance
amended

8. Section 24 of the Advocates Ordinance is amended in subsection (1)—

- (a) by deleting the words “High Court” which occur in the second and third lines and substituting therefor the word “Committee”;
- (b) by deleting the words “a fine or” which occur in the fourth line.

New section
24A added

9. The Advocates Ordinance is amended by adding immediately below section 24 the following new section:—

“Appeals

24A.—(1) Any advocate aggrieved by any decision or order of the Committee under this Ordinance may, within thirty days of such decision or order, appeal to the High Court against such decision or order.

(2) On any appeal under this section the High Court may affirm, reverse or vary the decision or order appealed against, and may in addition thereto exercise all the powers conferred upon the High Court by the Civil Procedure Code, 1966 in relation to an appeal from civil suits.

(3) In any appeal under this section the Committee shall be made a party thereto and shall have a right to be represented at the hearing and to oppose the appeal.

(4) Every appeal under this section shall be heard by a full bench of the High Court composed of not less than three Judges:

Provided that the Judge who participated as a member of the Committee in the proceedings from which the appeal arises shall not sit to hear the appeal.

(5) Any party to an appeal under this section may, if aggrieved by the decision of the High Court, appeal therefrom to the Court of Appeal for East Africa within thirty days of such decision.”.

10. Section 28 of the Advocates Ordinance is amended in subsection (2) by deleting the proviso and substituting therefor the following proviso: Section 28 of
the Ordina-
nance
amended

“Provided that in the event of any new material fact coming to light since the making of the original order of suspension or removal from the Roll, which fact might have influenced the Court or the Committee in making the order, the person affected may, at any time, apply to a Judge in Chambers for permission to apply for reconsideration of the original order, and if the Judge is of the opinion that such fact should be placed before the Court or the Committee which made the original order, whether or not he considers that such fact would have influenced the original decision, he may grant such application, and where such application is granted—

- (a) if the original order was an order made by the High Court, the High Court shall proceed to reconsider the order;
- (b) if the original order was an order made by the Committee, the Committee shall proceed to reconsider the order.”.

Passed in the National Assembly on the twenty-first day of October, 1969.


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Clerk of the National Assembly