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The Malaŵi Gazette Supplement, dated 28th August, 1992, containing  
Acts (No. 4C)

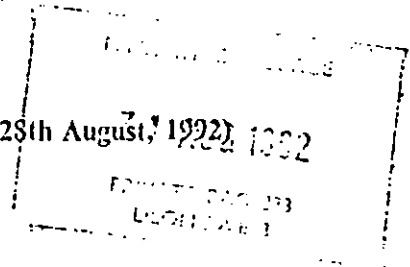
MALAWI GOVERNMENT

PRESERVATION OF  
PUBLIC SECURITY  
(AMENDMENT) ACT  
1992

(Published 28th August, 1992)

Act

No. 17 of 1992



I assent

H. KAMUZU BANDA

LIFE PRESIDENT

25th August, 1992

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Replacement of s. 2 of Cap. 14:02
3. Amendment of s. 3 (2) of the principal Act
4. New ss. 7, 8, 9, 10 and 11 of the principal Act

An Act to amend the Preservation of Public Security Act

ENACTED by the Parliament of Malaŵi as follows—

1. This Act may be cited as the Preservation of Public Security (Amendment) Act, 1992. Short title

2. The Preservation of Public Security Act (hereinafter referred to as the "principal Act") is amended by deleting section 2 and substituting therefor the following new section— Replacement of s. 2 of Cap. 14:02

"Interpretation

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

"authorized person" means a police officer not below the rank of Inspector, a person holding a commission in the armed forces of Malaŵi and any person duly authorized in that behalf in writing by the Minister or the Inspector General of Police;

"Detentions Review Tribunal" or "Tribunal" means the tribunal established by section 10;

"public security" includes the securing of the safety of persons and property, the maintenance of supplies and services essential to the life of the community, the prevention and suppression of violence, intimidation, disorder and crime, the maintenance of the administration of justice and the prevention and suppression of mutiny, rebellion and concerted defiance of and disobedience to lawfully constituted authority and the laws in force in Malaŵi."

Amendment  
of s. 3 (2)  
of the  
principal Act

3. Section 3 (2) of the principal Act is amended by deleting paragraph (e) and substituting therefor the following new paragraph—

"(e) subject to the provisions of sections 7, 8, 9, 10 and 11, make provisions for the detention of persons;"

Addition of  
new ss. 7, 8,  
9, 10 and 11  
to the  
principal Act

4. The principal Act is amended by adding thereto the following new sections—

"Detention  
of persons

7. Save as provided in section 8, no person shall be detained under regulations made under this Act except under an order (hereinafter referred to as a "detention order") issued under the hand of the Minister.

Arrest  
pending a  
detention  
order

8. An authorized officer may, without warrant, arrest any person in respect of whom he has reasonable cause to believe that there are grounds which would justify his detention under a detention order and any such person may be detained pending a decision whether a detention order should be made against him and whilst being so detained such person shall be deemed to be in lawful custody; but so, however, that nothing in this section shall be construed as authorizing the detention of any person under the authority of this section for a period longer than is reasonably necessary in the circumstances (taking into account the need to allow an authorized officer reasonable time to carry out some investigation) to obtain the Minister's decision whether a detention order should be made against that person.

Trial of  
persons  
detained or  
arrested  
under this  
Act

9. A person detained under a detention order or arrested pending a detention order shall be charged with a relevant offence under any written law and be brought to court for trial in accordance with the applicable laws:

Provided that where in the opinion of the Minister it would be prejudicial to the interests of national security to bring the case of such person for trial

in a court his case shall be subject to review by the Detentions Review Tribunal in accordance with this Act.

Review of  
detention  
orders, etc.;  
the  
Detentions  
Review  
Tribunal

19.—(1) There is hereby established a tribunal to be known as the Detentions Review Tribunal which shall consist of a Judge of the High Court as Chairman and four other persons, appointed by the Minister.

(2) The Minister shall appoint an officer in the public service to act as the registrar of the Tribunal.

(3) The appointment of the Detentions Review Tribunal and of the registrar shall be notified in the *Gazette*.

(4) The Detentions Review Tribunal shall meet as often as the Chairman shall determine to review cases of persons detained under detention orders or arrested pending detention orders and shall give its opinion on the merits of its own findings of fact as far as it could ascertain from the evidence before it and shall, in that opinion, make its recommendations to the Minister as to whether or not there is ground for a person to continue to be so detained or arrested and the Tribunal shall submit such opinion to the Minister under the hand of its Chairman.

(5) A person detained under a detention order or arrested pending a detention order shall have the right to apply to the Detentions Review Tribunal to have his case reviewed under subsection (4) and further shall have the right to legal representation before the Tribunal and to be brought before it to be heard in person.

(6) The Detentions Review Tribunal shall sit at such places and at such times as the Chairman shall determine.

(7) In reviewing any case of the detention of a person, the Detentions Review Tribunal shall consider information presented to it by the Inspector General of Police or referred to it by the Minister, and may also consider or hear the evidence of the person detained or arrested pending a detention order or any other information that may otherwise be presented to it and for this purpose it shall have the powers of the High Court in hearing evidence, summoning of witnesses and compelling the attendance of any person.

(8) The Minister may at any time revoke a detention order and similarly an authorized officer

may at any time release a person arrested pending a detention order.

Rules of  
procedure

11. The Chief Justice may, by rules made with the approval of the Minister, prescribe procedures for the conduct of proceedings before the Detentions Review Tribunal, but until such rules are made or save as otherwise provided in such rules, the Detentions Review Tribunal shall have power to determine its own procedures."

Passed in Parliament this twenty-fourth day of August, one thousand, nine hundred and ninety-two.

R. L. GONDWE  
*Clerk of Parliament*