



LAWS OF KENYA



CHIEFS' ACT

CHAPTER 128

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CHAPTER 128

CHIEFS' ACT

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CHAPTER 128**CHIEFS' ACT**

[Date of commencement: 24th March, 1937.]

[Cap. 97 (1948), Act No. 12 of 1950, Act No. 43 of 1952, L.N. 362/1956, L.N. 172/1960, L.N. 461/1963, L.N. 101/1964, Act No. 9 of 1967, Act No. 17 of 1967, Act No. 13 of 1978, Act No. 10 of 1997.]

An Act of Parliament to make provision in regard to the powers and duties of chiefs and to provide for matters incidental thereto**PART I – PRELIMINARY****1. Short title**

This Act may be cited as the Chiefs' Act.

[L.N. 101/1964, Sch., Act No. 10 of 1997, Sch.]

2. Interpretation

In this Act, unless the context otherwise requires—

“**chief**” and “**assistant chief**” respectively mean the persons appointed for any area to the offices of chief and assistant chief, respectively, in the public service.

[L.N. 461/1963, Sch., L.N. 101/1964, Sch., Act No. 17 of 1967, 1st Sch., Act No. 13 of 1978, Sch.]

3. Repealed by Act No. 10 of 1997, Sch.

[L.N. 461/1963, Sch., L.N. 101/1964, Sch.]

PART II – GENERAL**4. Repealed by L.N. 461/1963, Sch.****5. Repealed by L.N. 461/1963, Sch.****6. Duty of chief to maintain order**

It shall be the duty of every chief or assistant chief to maintain order in the area in respect of which he is appointed, and for such purpose he shall have and exercise the jurisdiction and powers by this Act conferred upon him over persons residing or being within such area.

[Act No. 43 of 1952, Sch., L.N. 101/1964, Sch., Act No. 13 of 1978, Sch.]

7. Chief may employ persons to assist him in carrying out duties

A chief or assistant chief may employ any person or persons subject to his jurisdiction to assist him in carrying out the duties imposed upon him by this Act or otherwise by law, and any person so employed may carry out and give effect to any lawful order given by a chief or assistant chief.

[Act No. 43 of 1952, Sch., Act No. 13 of 1978, Sch.]

8. Powers of chief in prevention of crime

(1) Any chief or assistant chief may interpose for the purpose of preventing, and shall to the best of his ability prevent, the commission of any offence by any person within the local limits of his jurisdiction.

(2) Any chief or assistant chief knowing of a design by any person to commit an offence within the local limits of his jurisdiction may, if it appears to such chief or assistant chief that the commission of the offence cannot be otherwise prevented, arrest or direct the arrest of such person; and any person arrested under the powers conferred by this subsection shall, without delay, be taken to the nearest police station.

(3) Every chief or assistant chief receiving information that any person who has committed a cognizable offence triable by any court or for whose arrest a warrant has been issued, is within the local limits of his jurisdiction shall cause such person to be arrested and to be taken forthwith before a court having jurisdiction in the matter.

(4) Every chief or assistant chief receiving information that any cattle or other livestock or other property of any description which has been stolen outside the local limits of his jurisdiction has been brought and is within such local limits shall cause such cattle or other livestock or other property to be seized and detained pending the orders of an administrative officer, and shall forthwith report such seizure and detention to an administrative officer.

[Act No. 43 of 1952, Sch., L.N. 461/1963, Sch., L.N. 101/1964, Sch., Act No. 9 of 1967, Sch., Act No. 17 of 1967, First Sch., Act No. 13 of 1978, Sch., Act No. 10 of 1997, Sch.]

9. Repealed by Act No. 10 of 1997, Sch.

[Act No. 43 of 1952, Sch., L.N. 101/1964, Sch., Act No. 17 of 1967, First Sch., Act No. 13 of 1978, Sch., Act No. 10 of 1997, Sch.]

10. Power of chief to issue orders for certain purposes

Any chief may from time to time issue orders to be obeyed by the persons residing or being within the local limits of his jurisdiction for any of the following purposes—

- (a) prohibiting or restricting the consumption or possession of intoxicating liquor by, and the supply of such liquor to, young persons;
- (b) prohibiting or restricting the holding of drinking bouts;
- (c) prohibiting or restricting the cultivation of poisonous or noxious plants, and the manufacture, transfer, sale and possession of noxious drugs or poisons;
- (d) prohibiting or restricting the carrying of arms;
- (e) prohibiting any act or conduct which in the opinion of the chief might cause a riot or a disturbance or a breach of the peace;
- (f) preventing the pollution of the water in any stream, watercourse or water-hole, and preventing the obstruction of any stream or watercourse;

- (g) regulating the cutting of timber and prohibiting the wasteful destruction of trees;
- (h) preventing the spread of disease, whether of human beings or animals;
- (i) prohibiting any act or thing which may cause damage to any public road or to any work constructed or maintained for the benefit of the community;
- (j) *repealed by Act No. 10 of 1997, Sch.;*
- (k) *repealed by Act No. 10 of 1997, Sch.;*
- (l) destroying locusts in any stage of development;
- (m) *repealed by Act No. 10 of 1997, Sch.;*
- (n) controlling grass fires;
- (o) regulating the use of artificial water supplies constructed from public funds; and
- (p) for any other purpose authorized by this Act.

[L.N. 362/1956, Sch., L.N. 172/1960, Sch., L.N. 461/1963, Sch., L.N. 101/1964, Sch.,
Act No. 10 of 1997, Sch.]

11. Further powers of chiefs to issue orders

Any chief may from time to time issue orders to be obeyed by the persons residing within the local limits of his jurisdiction for any of the following purposes—

- (a) *repealed by Act No. 10 of 1997, Sch.;*
- (b) *repealed by Act No. 10 of 1997, Sch.;*
- (c) requiring persons to report the presence within the local limits of his jurisdiction of any property stolen or believed to have been stolen outside such local limits;
- (d) suppressing or controlling animal or insect pests or plant pests, noxious weeds or diseases;
- (e) *repealed by Act No. 10 of 1997, Sch.;*
- (f) requiring any person to report to his chief without delay the arrival in or the passage through his location from without of any cattle;
- (g) *repealed by Act No. 10 of 1997, Sch.;*
- (h) requiring the proper burial of deceased persons in cemeteries or otherwise;
- (i) forbidding the deliberate exposure of persons supposed to be dying;
- (j) restricting or prohibiting the use of grazing by any form of stock in any area which has been set apart for the purpose of reconditioning or which has been planted with any fodder-producing plants or grass;
- (k) *deleted by L.N. 101/1964, Sch.;*
- (l) *repealed by Act No. 10 of 1997, Sch.;*
- (m) for any of the purposes authorized by this Act.

[Act No. 43 of 1952, Sch., L.N. 362/1956, Sch., L.N. 172/1960, Sch., L.N. 461/1963, Sch.,
L.N. 101/1964, Sch, Act No. 10 of 1997, Sch.]

12. Power to require work or services in emergency

Whenever it appears to the Minister that it is necessary for any work or service in connexion with an emergency consequent on fire, flood, earthquake, violent epidemic or epizootic disease, invasion by animal or insect pests or plant diseases or pests, or arising from circumstances which would endanger the existence of the whole or any part of the population, to be done or rendered, he may, in writing, authorize any chief to issue orders under this section to persons within the jurisdiction of such chief, and any chief so authorized may by any such order require any able-bodied adult person to perform any such work or render any such service as aforesaid specified in such order:

Provided that—

- (i) the Minister shall provide such food, housing and transport as he may consider necessary for persons engaged in performing any work or rendering any service under this section, while so engaged;
- (ii) the Minister shall pay to any person who performs any work or renders any service under this section, and who by reason thereof is obliged to absent himself from his usual place of residence for a continuous period exceeding twelve hours, remuneration for such work or service at a rate not less favourable than the rate prevailing for similar work or service in the district in which the work is performed or the service rendered; and in any other case, if the Minister considers that it would be unjust or unreasonable to pay no remuneration for work performed or service rendered under this section, he may pay therefor such remuneration as he may consider just and reasonable;
- (iii) any remuneration paid, and the cost of any food, housing or transport provided, under this section shall be paid from public funds.

[Act No. 43 of 1952, s. 3, L.N. 461/1963, Sch., L.N. 101/1964, Sch., Act No. 9 of 1967, Sch.]

13. Power to require work or services for conservation of natural resources

Whenever it appears to the Minister that it is necessary for any work or service in connexion with the conservation of natural resources to be done or rendered, the Minister may, by notice in the *Gazette*, authorize any chief to issue orders under this section to persons within the jurisdiction of such chief, and any chief so authorized may by any such order require any able-bodied adult male to perform any such work or to render any such service as aforesaid specified in such order:

Provided that a notice under this section shall not be issued unless the Minister is satisfied—

- (i) that the work to be done or the service to be rendered is of important direct interest to the community called upon to do the work or render the service;
- (ii) that the work or service is of present or imminent necessity;
- (iii) that it has been impossible to obtain voluntary labour for carrying out the work or rendering the service by the offer of rates of wages and

conditions of employment not less favourable than those prevailing in the area concerned for similar work or service;

- (iv) that the work or service will lay too heavy a burden on the community concerned, having regard to the labour available and its capacity to undertake the work; and
- (v) that the members of the community concerned, or their representatives, have been consulted in regard to the need for the work or service to be done or performed.

[Act No. 43 of 1952, s. 3.]

14. Remuneration and limitation on duration of work or services under section 13

(1) Any person required to do any work or render any service under section 13 shall be remunerated at a rate not less favourable than the rate prevailing for similar work or service in the district in which such work is performed or such service is rendered, and shall not be called upon to do any such work or render any such service for any period exceeding, or for any periods exceeding in the aggregate, sixty days, inclusive of any time spent in going to and returning from the place of work, in any one period of twelve months.

(2) Every person who performs any work or renders any service under section 13 shall be furnished with a certificate showing the period or periods during which he has performed such work or rendered such service.

[Act No. 43 of 1952, s. 3, L.N. 101/1964, Sch.]

15. Exemptions from section 13

The following persons shall be exempt from the provisions of section 13 of this Act and from any order issued thereunder—

- (a) any person under the age of eighteen years or over the age of fifty years;
- (b) any teacher or student in a public school within the meaning of the Education Act (Cap. 211) or a school registered under Part IV of that Act;
- (c) any person employed by the Government or any public local authority;
- (d) any person employed under the Employment Act (Cap. 226);
- (e) any person certified unfit for such work on health grounds by a medical practitioner or a medical officer.

[Act No. 43 of 1952, s. 3. Act No. 10 of 1997, s. 3.]

16. Compensation for death or injury

Any person engaged in performing any work or rendering any service under section 12 or section 13 shall, while so engaged, be deemed, for the purposes of the Workmen's Compensation Act (Cap. 236) to be a workman employed by the Government, and, notwithstanding anything to the contrary contained therein, the provisions of that Act shall apply in respect of such person accordingly:

Provided that, for the purposes of calculating the amount of any compensation payable under that Act by virtue of the provisions of this section, the rate of earnings of such person shall be deemed to be the rate of

remuneration paid or payable to such person under section 12 or section 14, as the case may be, and, where no remuneration is so paid or payable, shall be the rate of remuneration prevailing in the district in which work was being performed or service rendered by such person under this Act for work or service similar thereto.

[Act No. 43 of 1952, s. 3.]

17. Administrative officer may require chief to issue or cancel orders

Whenever an administrative officer, considers that any order issued by a chief should not have been issued or should not be enforced he may direct the chief to cancel the order or to refrain from enforcing the order.

[Act No. 43 of 1952, Sch., L.N. 461/1963, Sch., Act No. 10 of 1997, Sch.]

18. Penalty for disobeying orders

Any person who, without lawful excuse, disobeys or fails to comply with any lawful order issued or given by a chief or assistant chief under this Act shall be guilty of an offence and liable to a fine not exceeding five hundred shillings and in default of payment, to extra mural penal employment for a period not exceeding fourteen days.

[Act No. 43 of 1952, Sch., L.N. 461/1963, Sch., L.N. 101/1964, Sch., Act No. 17 of 1967, First Sch., Act No. 13 of 1978, Sch., Act No. 10 of 1997, s. 8.]

19. Repealed by Act No. 10 of 1997, Sch.;

20. Conduct of chiefs

(1) No chief shall—

- (a) engage in the activities of any political party or act as an agent of any such party; or
- (b) in the performance of his functions or the exercise of his powers under this Act—
 - (i) subject any person to torture or to any other cruel, inhuman or degrading treatment;
 - (ii) enter or search any private premises with a warrant duly issued by a magistrate; or
 - (iii) demand or solicit any donations or collections in a manner likely to suggest that such donations or collections are a pre-condition for any service; or
- (c) maintain a cell or other place of confinement of persons.

(2) Without prejudice to the provisions of subsection (1), the minister may, in rules, prescribe a code of conduct to govern the conduct of chiefs in the exercise of their powers and the performance of their functions under this Act.

(3) A chief who contravenes any of the provisions of this section or the provisions of any code of conduct prescribed under subsection (2) shall, without prejudice to any other penalty prescribed by law, be guilty of an offence and liable to a fine not exceeding ten thousand shillings, or to imprisonment for a term not exceeding one month, or to both.

PART III – FAMINE RELIEF

21. *Repealed by Act No. 10 of 1997, Sch.;*
22. *Repealed by Act No. 10 of 1997, Sch.;*
23. *Repealed by Act No. 10 of 1997, Sch.;*
24. *Repealed by Act No. 10 of 1997, Sch.;*
25. *Repealed by Act No. 10 of 1997, Sch.;*

PART IV – RULES

26. Rules

The Minister may make rules for the better carrying into effect of the provisions of this Act.

[L.N. 461/1963, Sch.]
