

1972

Indemnity Act

Truth, Justice, and Reconciliation Commission

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CHAPTER 44

5 of 1970.

THE INDEMNITY ACT

Commencement: 5th June, 1970

An Act of Parliament to restrict the taking of legal proceedings in respect of certain acts and matters done in certain areas between the 25th December, 1963, and the 1st December, 1967, and to make provision for matters incidental thereto or connected therewith

Short title.

1. This Act may be cited as the Indemnity Act.

Interpretation.

2. In this Act, "the prescribed area" means the North-Eastern Province and the Isiolo, Marsabit, Tana River and Lamu Districts.

Restriction on proceedings in respect of acts done in prescribed area.

3. (1) No proceeding or claim to compensation or indemnity shall be instituted or made in or entertained by any court, or by any authority or tribunal established by or under any law, for or on account of or in respect of any act, matter or thing done within or in respect of the prescribed area after the 25th December, 1963, and before 1st December, 1967, if it was—

(a) done in good faith; and

(b) done or purported to be done in the execution of duty in the interests of public safety or of the maintenance of public order, or otherwise in the public interest,

by a public officer or by a member of the armed forces, or by a person acting under the authority of a public officer or of a member of the armed forces.

(2) If any proceeding or claim such as is referred to in subsection (1) of this section has been instituted before the commencement of this Act, it shall be discharged, subject in the case of proceedings instituted before the 1st June, 1969, to such order as to costs as the court may think fit to make.

Saving for certain proceedings.

4. Section 3 of this Act does not prevent—

(a) the institution or prosecution of proceedings on behalf of the Government; or

(b) the institution or prosecution of proceedings in respect of any rights under, or alleged breaches of, contract, if the proceedings are instituted within one year after the commencement of this Act.

5. (1) The Minister shall appoint a Committee in each administrative district, consisting of the District Commissioner and the local elected leaders, which shall scrutinize every aggrieved case, and shall report their findings to the Minister, who shall issue the necessary certificate.

Evidence.

(2) A certificate under subsection (1) of this section purporting to be signed by a Minister shall be presumed to have been so signed unless the contrary is proved.

(3) The Minister may make regulations generally for the implementation of this Act and in particular such regulations may—

(a) prescribe the constitution and rules of procedure of committees established under subsection (1) of this section; and

(b) prescribe the purposes for which the Minister's certificate shall be sufficient evidence.

6. Nothing in this Act shall prejudice or prevent the institution or prosecution of proceedings for giving effect to a final judgment, decree or order given or made before the commencement of this Act by any court of final resort, or by any other court where the judgment, decree or order of such court is not then the subject of a pending appeal.

Saving for judgments.