

CHAPTER 308

THE VISITING FORCES ACT.

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CHAPTER 308

THE VISITING FORCES ACT.

Commencement: 1 January, 1964.

An Act to enable service courts and authorities of sending States to which visiting forces belong to exercise jurisdiction and other powers over members of such forces and for other purposes connected therewith.

1. Interpretation.

In this Act, unless the context otherwise requires—

- (a) “civil court” means a court in Uganda having jurisdiction in criminal matters;
- (b) “home force” means the Uganda Peoples’ Defence Forces or any part of it;
- (c) “magistrate” means a chief magistrate or magistrate grade I;
- (d) “sending State” means the State to which a visiting force belongs;
- (e) “service authority” means any army, navy or air force authority;
- (f) “service court” includes any army, navy or air force court, a service court of inquiry, and any officer of a visiting force who is empowered by the sending State to review the proceedings of a service court of the sending State or to investigate charges or to dispose of charges himself or herself;
- (g) “visiting force” means any body, contingent, detachment or member, including a dependent of a member, of the army, navy or air force of any State which, with the consent of the President, is lawfully present in Uganda or on board any aircraft of Uganda.

2. Exercise of powers.

Subject to the other provisions of this Act, when a visiting force is present in Uganda or on board any aircraft of Uganda the service courts and service authorities of the sending State may exercise within Uganda, or on board any such aircraft, in relation to members of that force, all such powers as are conferred upon them by the law of the sending State.

3. Primary right of civil courts to exercise jurisdiction, etc.

(1) Except in respect of offences mentioned in subsection (2), the civil courts shall have the primary right to exercise jurisdiction in respect of any act or omission constituting an offence against any law in force in Uganda alleged to have been committed by a member of a visiting force.

(2) With respect to the alleged commission by a member of a visiting force of an offence relating to—

- (a) the property or security of the sending State;
- (b) the person or property of another member of the visiting force;
- (c) the person or property of a dependent of another member of the visiting force; or
- (d) an act done or anything omitted by the performance of official duty,

the service courts of the visiting force shall have the primary right to exercise jurisdiction; except that where the offence of a member of a visiting force relates to paragraph (d) of this subsection and has been committed against a civilian, the Minister responsible for defence shall decide whether a service or civil court shall have the primary right to exercise jurisdiction in the trial of the offence, and the court selected by the Minister shall have the primary right to exercise that jurisdiction.

4. Restriction on jurisdiction.

(1) Where a member of a visiting force has been tried by a service court of that visiting force and has been convicted or acquitted, he or she shall not be tried again by a civil court for the same offence.

(2) Where a member of a visiting force has been tried by a civil court and has been convicted or acquitted, he or she shall not be tried again within Uganda for the same offence by a service court of that visiting force.

(3) Nothing in subsection (2) shall prevent that service court from trying within Uganda a member of the visiting force for any violation of rules of discipline arising from an act or omission which constituted an offence for which he or she was tried by the civil court.

5. Waiver of primary right to exercise jurisdiction.

Where under section 3 a civil court or a service court of a visiting force has

the primary right to exercise jurisdiction, the court having the primary right shall have the right to deal with charges against the alleged offender in the first instance, but that right may be waived.

6. Summoning of witnesses.

(1) A person required to give evidence before a service court shall be summoned only by a magistrate.

(2) A magistrate shall summon, in the manner prescribed by the President or any other person authorised in that behalf by him or her, a witness to appear before a service court when requested so to do by—

- (a) the authority by whom the service court was convened;
- (b) the officer presiding at the service court; or
- (c) an officer designated by the presiding officer referred to in paragraph (b) of this subsection.

(3) A person summoned under subsection (2) may be required to bring with him or her and produce at a service court any documents in his or her possession or under his or her control relating to the matters in issue before the service court.

(4) Subsection (3) shall not apply to a document in respect of which the person concerned could have claimed privilege if the court to which he or she had been summoned was a civil court.

(5) A witness summoned or attending to give evidence before a service court shall be entitled to receive from the visiting force such fees and allowances for his or her expenses of attendance as he or she would have received if his or her evidence had been given in a civil court.

7. Offences by witnesses, etc.

- (1) Any person who—
 - (a) on being duly summoned as a witness under section 6 and after payment or tender of the fees and expenses of his or her attendance, makes default in attending;
 - (b) being in attendance as a witness before a service court, refuses to—
 - (i) take an oath or affirmation legally required of him or her;
 - (ii) produce any documents in his or her power or under his or

- her control legally required to be produced by him or her; or
- (iii) answer any question which legally requires an answer;
- (c) uses insulting or threatening language before a service court, or causes any interference or disturbance in its proceedings, or prints observations or uses words likely to influence improperly the members of or witnesses before that service court or to bring that service court into disrepute, or in any other manner displays contempt of that service court; or
- (d) being in attendance as counsel before a service court commits an act which if committed before a civil court would constitute a contempt of the civil court,

commits an offence, and the service court may, by a certificate setting forth the facts of the offence, refer the offence of that person to a civil court which has power to punish witnesses and counsel guilty of like offences if committed in that civil court.

(2) A civil court to which an offence mentioned in this section has been referred shall cause to be brought before it the person certified to have committed that offence and shall inquire into the facts set forth in the certificate mentioned in subsection (1), and—

- (a) after examination of any witnesses who may be produced for or against the person so accused; and
 - (b) after hearing any statement that may be offered in defence,
- shall, if it seems just, punish the person in like manner as if he or she had committed the offence in a proceeding in that civil court.

8. Privileges of members of service courts, etc.

The members of any service court exercising jurisdiction under this Act and witnesses appearing before that court shall enjoy the like immunities and privileges as are enjoyed by members of, and witnesses before, a court-martial exercising jurisdiction under the law for the time being in force relating to the Uganda Peoples' Defence Forces.

9. Effect of certificate of service authority.

A certificate of a service authority of a sending State, stating that anything alleged to have been done or omitted by a member of a visiting force of that State was not done in the performance of official duty shall be receivable in evidence in any civil court and shall be prima facie evidence of that fact.

10. Due constitution of service courts, etc.

(1) For the purposes of legal proceedings within Uganda, where a sentence has, whether within or without Uganda, been passed upon a member of a visiting force by a service court—

- (a) the court shall be deemed to have been properly constituted;
- (b) the proceedings of the court shall be deemed to have been regularly conducted; and
- (c) the sentence shall be deemed to be within the jurisdiction of the court and in accordance with the law of the sending State and, if executed according to the tenor thereof, shall be deemed to have been lawfully executed.

(2) A member of a visiting force who is detained in custody—

- (a) under a sentence mentioned in subsection (1); or
- (b) pending the determination by a service court of a charge brought against him or her,

shall, for the purposes of legal proceedings within Uganda, be deemed to be in lawful custody.

(3) For the purposes of legal proceedings within Uganda, a certificate under the hand of the officer commanding a visiting force that a member of that force is being detained in either of the circumstances described in subsection (2) shall be conclusive evidence of the cause of his or her detention, but not of his or her being such a member; and a certificate under the hand of such an officer that the persons specified in the certificate sat as a service court of the sending State shall be conclusive evidence of that fact.

11. Assistance by home force to civil courts and authorities.

For the purposes of enabling the service courts and service authorities of the sending State to exercise more effectively the powers conferred upon them by this Act, the President, if so requested by the sending State, may from time to time by general or special orders to a home force, direct the members of that force to arrest members of the visiting force alleged to have been guilty of offences against the law of the sending State and to hand over any person so arrested to the appropriate authorities of the visiting force.

12. Detention of sentenced members of visiting forces.

(1) A member of a visiting force, if sentenced by a service court of the sending State to imprisonment or detention, may, under the authority of the President, given at the request of the sending State, be temporarily detained in custody in a detention barrack in Uganda.

(2) Where a member of a visiting force is in custody in a detention barrack in Uganda under subsection (1), the laws for the time being in force relating to the reception of prisoners from and their return to the service authorities of the home forces, their treatment while in custody in the detention barrack and the circumstances in which they are to be released shall, with the necessary modifications, apply in relation to the member of the visiting force in like manner as those laws apply to a member of a home force.

13. Provisions of Penal Code Act not applying to visiting forces.

The provisions of the Penal Code Act relating to military training and exercises and to the carrying of offensive weapons shall not apply to a member of a visiting force acting in the course of his or her official duty.

14. Rank of members of visiting forces, etc.

(1) Insofar as powers of command depend on rank, a member of a visiting force who—

- (a) is acting with any part of a home force; or
- (b) is a member of a body of a visiting force which is acting with any part of a home force,

shall have the same powers as a member of the home force of like rank.

(2) If the whole or any part of a home force is required to act with any other military, naval or air force, the President may place the home force, or a part of it, under the command of the officer commanding a visiting force, if that officer is senior in rank to all the officers of the home force or such part of it.

(3) Where any part of a home force is acting in cooperation with any other force, the commander of that part of the home force may, in agreement with the commander of that other force, define the powers of command and the order of precedence of the officers, warrant officers, noncommissioned

officers and other ranks of the home force in relation to an officer, warrant officer, noncommissioned officer and other ranks of the other force who are of the same or equivalent rank.

15. Application of other Acts.

Any provision of the Law Reform (Miscellaneous Provisions) Act, and of the Uganda Peoples' Defence Forces Act, insofar as it relates to any matter dealt with in this Act, shall cease to have effect; and accordingly if there is any conflict between the provisions of those Acts and this Act, the provisions of this Act shall prevail.

History: Cap. 297; S.I. 135/1968.

Cross References

Law Reform (Miscellaneous Provisions) Act, Cap. 79.

Penal Code Act, Cap. 120.

Uganda Peoples' Defence Force Act, Cap. 307.