

THE EAST AFRICAN LEGISLATIVE ASSEMBLY (POWERS AND
PRIVILEGES) ACT, 2003

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THE EAST AFRICAN COMMUNITY

Date of assent 9th October, 2003

Date of commencement 31st January, 2004

An Act to declare and define powers, privileges and immunities of the East African Legislative Assembly and of the Members of the Committees of the Assembly, to regulate admittance to the precincts of the Assembly, to secure freedom of speech in the Assembly, to provide for summoning of witnesses and protection of officers of the Assembly and to provide for related matters.

ENACTED by the East African Community and assented to by the President of the United Republic of Tanzania, the President of the Republic of Kenya and the President of the Republic of Uganda.

PART I
PRELIMINARY

1. This Act may be cited as the East African Legislative Assembly (Powers and Privileges) Act, 2003 Short title

2. In this Act, unless the context otherwise provides— Inter-pretation

“Assembly”, Means the East African Legislative Assembly Established under Article 9 of the Treaty;

“Clerk” means the Clerk of the Assembly appointed under Article 48 of the Treaty and includes any person acting as such on the authority of the Speaker;

“committee” means any committee of the Assembly established under Article 48 of the Treaty;

“Court” means a court of competent jurisdiction in the Partner States;

“document” includes any paper, book, record or written matter of any description;

“Head of State” means a person designated as such by a Partner State's constitution;

“Journals” means the minutes of the Assembly or the official record of the proceedings;

“Member” means member of the Assembly provided for under Article 48 of the Treaty;

“Officer of the Assembly” means the Clerk or any other Officer or person acting within the precincts of the Assembly under the orders of the Speaker and includes any police officer on duty within the precincts of the Assembly;

“Partner State” means the United Republic of Tanzania, the Republic of Kenya, and the Republic of Uganda, and any other country granted the membership to the Community under Article 3 of the Treaty;

“Police Officer” means any member of a police force of and above the rank of constable in the police force established by law of the Partner States;

“Precincts of the Assembly” means the chamber, officers of the Assembly, National Assemblies of Partner States, rooms, lobbies, galleries, place provided for use or accommodation of strangers, members of the public and representatives of the press and any passages connecting such places the entire building in which the Assembly may sit, any land appurtenant or adjacent to the building in which the Assembly may meet or adjacent to any forecourt, yard or garden or enclosure appurtenant to such building in the partner states as may from time to time be declared by the Assembly as being within the precincts of the Assembly;

“Rules of Procedure” means rules of procedure of the Assembly;

“Speaker” has the same meaning as in Article 53 of the Treaty;

“Stranger” means any person other than the Speaker, member of the Assembly or an officer of the Assembly; and

“Treaty” means the Treaty for the establishment of the East African Community.

PART II
PRIVILEGES AND IMMUNITIES

3. There shall be freedom of speech and debate in the Assembly and its Committees and such freedom of speech shall not be questioned in any court of law or place outside the Assembly.

Freedom of
Speech

4. No civil or criminal proceedings may be instituted against any member for words spoken before, or written in a report to the Assembly or a Committee, or by reason of any matter or any thing brought by petition, bill, motion or otherwise.

Immunities
from Legal
Proceedings

5. No member performing any function of the Assembly shall personally be liable to any court proceedings for any act or omission on his or her part done in good faith in the performance of those functions.

Immunity
from Civil
Process

6. No member shall be liable to arrest for any civil debt except a debt the contraction of which constitutes a criminal offence.

Freedom
from Arrest
for Civil
Debts

7. (1) No process issued by any court in exercise of its civil jurisdiction shall be served or executed on a member within the precincts of the Assembly or while the Assembly or its Committee is meeting.

Exercise of
Civil
Process

(2) Notwithstanding the provisions of the Civil Procedure Acts in the Partner States on the mode of civil process all service on a member arising out of any civil process shall be through personal service.

Admittance
of Strangers
to the
Assembly

8. No stranger shall be entitled, as of right, to enter or remain in the precincts of the Assembly.

Entry to
Assembly

9. (1) The Speaker may in his or her discretion issue orders as he or she may deem necessary for admittance and conduct of strangers in the chamber and precincts of the Assembly.

(2) Copies of orders made by the Speaker under this section shall be authenticated by the Clerk and exhibited in conspicuous places in the precincts of the Assembly and the copies when so authenticated and exhibited shall be deemed to be sufficient notice to all persons attended by it.

Order to
withdraw
from
Assembly

10. The Speaker or any officer authorized by the Speaker may at any time order any stranger to withdraw from the precincts of the Assembly.

Conduct of
Members

11. The Speaker may issue directions in the form of a Code of Conduct regulating the conduct of the members of the Assembly within the precincts of the Assembly.

Speakers
Orders

12. The Speaker may from time to time issue such orders, as he or she may deem necessary or expedient for the better carrying out the purposes of this Act.

PART III OATHS OF ALLEGIANCE

Oath of
Allegiance
of Members
and Speaker

13. (1) Immediately following the election of a Speaker, the Clerk shall administer the Oath or Affirmation of Allegiance of Office as specified in the First and Second Schedules to this Act.

(2) Every person elected to the Assembly shall at the first sitting of the Assembly take and subscribe to the Oath or Affirmation of Allegiance to the Treaty administered by the Speaker as specified in the Third Schedule to this Act.

Objection of
Witnesses

14. (1) Where any person ordered to attend to give evidence or to produce any document before the Assembly refuses to answer any question that may be put to him or her or to produce any such document on the ground that the document is of a private nature and does not affect the subject of inquiry, the

Speaker may excuse the answering of such question or the production of such document, or may order the answering of the question or production of the document.

(2) Where any person ordered to attend or to give evidence or to produce any document before any committee refuses to answer any question that may be put to him or her or to produce any such document on the ground that the document is of a private nature and does not affect the subject of inquiry, the Chairperson of the Committee may report such refusal to the Speaker may there upon excuse the answering of such question or the production of such document or may order the answering of such question or the production of such document or may order the answering of the question or production of the document.

15. Every person summoned to attend to give evidence or to produce any document before the Assembly or any of its Committee shall be entitled, in respect of such evidence or the disclosure of any communication or the production of any document, to the same rights and privileges as before a court of law.

Privileges
of
Witnesses

16. The Assembly or any of its Committees is empowered to—

(a) order the attendance of a member of the Council of Ministers, Secretary General or any person holding office in the Community or private individuals to submit memoranda or appear before the Assembly or its Committee to give evidence; and

(b) co-opt or employ qualified persons to assist in the discharge of their functions.

Power to
order
attendance
of witnesses

17. The Assembly or any of its Committees shall have the powers of the High Courts of the three Partner States for—

(a) enforcing the attendance of witnesses or persons and may cause any such witnesses or persons to be examined upon oath or affirmation which the Clerk or the Chairperson of the Committee or other person specially appointed for that purpose is authorized to administer;

Powers to
compel
attendance
or
production
of
documents
and
issuance of
commission

- (b) compelling the production of documents, in the possession or under the control of such witnesses or persons; and
- (c) issuing a commission to examine witnesses or persons abroad or in any place in the Partner States.

Witness to
be notified
by
summons
and mode of
service

18. (1) Any order to attend to give evidence or produce documents before the Assembly or a Committee shall be notified to a person required to attend or produce the document by a summons signed by the Clerk issued under the direction of the Speaker.

(2) In every summons under subsection (1) there shall be stated the time when and the place where the person summoned is required to attend and the particular documents which he or she is required to produce and the summons shall be served on the person mentioned in it, either by delivering to him or her a copy of it or by leaving a copy with another usual or last known place of abode in the Partner States; and there shall be paid or tendered to the person summoned, if he or she does not reside within ten kilometres of the of the place of attendance specified in the summons, such sum for his or her expenses as may be considered reasonable by the Speaker.

(3) A summons under this section may be served by an officer of the Assembly or by a Police Officer.

Power to
apprehend
witnesses

19. (1) If a person to whom a summons under section 18 is directed does not attend before the Assembly or the Committee at the time and place mentioned in the summons the Speaker may, upon being satisfied that the summons was duly served or that the person to whom the summons is directed willfully avoids services, issue a warrant to apprehend him or her and bring him or her, at a time and place to be stated in the warrant.

(2) A warrant issued under this section shall be executed by a police officer.

(3) The Speaker, on the issuance of a warrant under this section, may, if he or she thins fit, by an appropriate endorsement on the warrant, direct that the person named in the warrant be released after arrest on his or her entering into such a cognizance before a court for his or her appearance before the Assembly or Committee as may be required by the endorsement.

20. (1) Notwithstanding the provisions of any other law, no member or officer of the Assembly and no person employed to take minutes or record evidence before the Assembly or any Committee shall, except as provided in this Act, give evidence else-where in respect of the contents of such minutes or evidence or of the contents of any documents laid before the Assembly or such Committee, as the case may be, or in respect of any proceedings or examination held before the Assembly or such Committee, as the case may be, without the special leave of the Assembly first hand and obtained in writing.

Evidence of Proceedings in Assembly or Committee not to be given without leave

(2) The special leave referred to in subsection (1) may be given during recess or adjournment by the Speaker or in his or her absence or incapacity or during any dissolution of the Assembly by the Clerk.

21. (1) Every witness before the Assembly or a Committee who shall answer fully and faithfully any questions put to him or her by the Assembly or such Committee to its satisfaction shall be entitled to receive a certificate stating that such witness was upon his or her examination so required to answer and did answer any such question.

Certificates issued to witnesses making full disclosure to be a bar to civil or criminal proceedings

(2) Every certificate under subsection (1) shall, in the case of a witness before the Assembly, be signed by the Speaker, and in the case of a witness before a Committee, be signed by the Chairperson.

(3) On production of the certificate referred to in subsection (1) to any court of law, such court shall stay any proceedings, civil or criminal, against such witness for any act or thing done by him or her before the time, and revealed by the evidence of such witness, and may, in its discretion, award such witness the expenses to which he or she may have been put.

22. Any person who, before the Assembly or any Committee intentionally gives a false answer to any question material to the subject of inquiry which may be put to him or her during the course of any examination commits an offence and shall be punishable as if he or she has committed an offence under the Penal Code of any Partner States.

False documents

Other offences

23. Any person who—

- (a) tempers with, deters, threatens, molests, or in any way unduly influences any witness in regard to any evidence to be given by him or her before the Assembly or any of its Committee;
- (b) threatens, molests or in any way punishes, or injures or attempts to punish, or injure any person for having given evidence before the Assembly or any Committee or on account of any evidence which he or she has given before the Assembly or any Committee;

commits an offence and is on conviction liable to a fine not exceeding United States dollars five hundred or to imprisonment for a term not exceeding twelve months or both.

Presentation of false document

24. Any person who presents to the Assembly or Committee any false, untrue, fabricated or falsified document with intent to deceive the Assembly or Committee shall, where such presentation does not constitute an offence under section 22 commits an offence and is on conviction liable to a fine not exceeding United States dollars five hundred or for a term of imprisonment not exceeding twelve months, or both.

Contempt

25. Any person who—

- (a) having been called upon to give evidence before the Assembly or a Committee refuses to be sworn or make an affirmation; or
- (b) being witness misconducts himself or herself, or
- (c) causes an obstruction or disturbance within the precincts of the Assembly during a sitting of the Assembly or of a Committee; or
- (d) shows disrespecting speech or manner towards the Speaker; or
- (e) commits any other act of intentional disrespect to or with reference to the proceedings of the Assembly or a Committee or any person presiding at such proceedings;

commits an offence and is n conviction, liable to a fine not exceeding United States dollars one thousand or to an imprisonment for two years or both.

26. Where at any time any question arise in the Assembly or in a committee regarding—

- (a) the right or power of the Assembly or Committee to hear, admit or receive oral evidence; or
- (b) the right or power of the Assembly or Committee to peruse or examine any paper, book, record or document or to summon, direct or call upon any person to produce any paper, book, record or document before the Assembly or Committee; or
- (c) the right or privilege of any person including a member of the Assembly or committee;

Questions relating to evidence and production of documents to be determined

That question shall, subject to the preceding provisions of this Act, and except in so far as express provision is made in those provisions for the determination of that question, be determined in accordance with the usage and practice of the Assembly.

PART V
OFFENCES AND PENALTIES

27. Any proceedings before the Assembly or its Committee at which any person gives evidence shall be deemed to be judicial proceedings for the purposes of the Penal Codes of the Partner States and the power to summarily punish an offender vested in the courts therefore shall be vested in the Assembly or Committee as the case may be.

Proceedings to be deemed judicial proceedings

28. Any person who—

- (a) disobeys an order of the Assembly or Committee to produce documents; or
- (b) refuses to be examined or to answer any question put by the Assembly or Committee unless such refusal is excused; or

Other offences

- (c) publishes any false or scandalous libel on the Assembly or Committee, or any report which willfully misrepresents in any way any proceedings of the Assembly or any Committee; or
- (d) publishes, except by the general or special leave of the Assembly, a report of any proceedings of the Assembly or any Committee when proceedings have not been held in public; or
- (e) publishes or prints any libels on any member concerning his or her character or conduct as a member and with regard to his or her action performed or words uttered by him or her in the course of the transaction of the business of the Assembly;

commits an offence and is on conviction liable to a fine not exceeding United States dollars five hundred or to a term of imprisonment not exceeding twelve months or both.

Offences of assault, obstruction, etc.

29. Any person who—

- (a) assaults, obstructs, molests or insults any member coming to, being within or going from the precincts of the Assembly or Committee; or
- (b) assaults, interferes with, molests, resists or obstructs any officer of the Assembly while in execution of his or her duty; or
- (c) creates or joins in any disturbance which interrupts or is likely to interrupt the proceedings of the Assembly or Committee;

commits an offence and is on conviction liable to a fine not exceeding United States dollars five hundred or to a term of imprisonment not exceeding twelve months or both.

Offences relating to admittance to the Assembly

30. Any person who—

- (a) being a member of the public enters or attempts to enter the precincts of the Assembly in contravention of any order of the Speaker; or

- (b) being a member of the public fails or refuses to withdraw from the precincts of the Assembly when ordered to do so by the Speaker; or
- (c) being a member of the public contravenes any order made under this Act by the Speaker regulating the admittance of members of the public to the precincts of the Assembly or any order made by the Speaker under the Rules of Procedure; or
- (d) attends any sitting of the Assembly as the representative of any print or electronic media, after the general permission granted under any order made under this Act or under the Rules of Procedure to that representative has been revoked;

commits an offence and is on conviction liable to a fine not exceeding United States dollars Two Hundred or to imprisonment for a term not exceeding three months or both.

31. Any member who accepts or agrees to accept or obtains or attempts to obtain for himself or herself or for any other person any bribe, fee, compensation, reward or benefit of any kind for speaking, voting or acting as such member or for refraining from so speaking, voting or acting or on account of his or her, having so spoken, voted or acted or having so refrained, commits an offence and is on conviction liable to a fine not exceeding United States dollars two hundred or to imprisonment not exceeding three months or both.

Acceptance
of bribes by
members

PART VI
MISCELLANEOUS

32. Neither the Speaker, nor any officer of the Assembly shall be subject to the jurisdiction of any court in respect of the exercise of any power conferred on or vested in the Speaker or such officer under this Act.

Court not to
exercise
jurisdiction
in respect of
acts Speaker
and Officers
of the
Assembly

33. Every officer of the Assembly shall for the purposes of this Act and of the application of the provisions of the criminal law have all the powers and enjoy all the privileges of a police officer.

Powers of
Officers

Protection
of bona fide
publication

34. In any civil proceedings instituted for publishing any report or summary of or an extract from or an abstract of publication of proceedings without malice any report, paper, minutes, votes and proceedings of the Assembly, if the court be satisfied that such report, summary, extract or abstract was published bona fide and without malice, judgment shall be entered for the defendant.

Absence of
the speaker

35. For the duration of any period when the Speaker is absent, the powers and privileges vested in the Speaker in so far as they relate to the sittings of the Assembly shall be vested in such member of the Assembly as may be elected by the Assembly under article 56 of the Treaty.

Journal
printed by
order of
Assembly to
be admitted
as evidence

36. A copy of the Journal printed or purporting to be printed in the Official Gazette of the Community shall be admitted in evidence in all courts and places without any proof being given that such copy was so printed.

Penalty for
printing
false Acts or
Reports

37. A person who prints or causes to be printed a copy of any Act, report, paper, minutes or proceedings of the Assembly as purporting to have been printed by the Official Gazette of the Community or under authority of the Speaker or Assembly and the same is not so printed or tenders it as evidence, commits an offence and is on conviction liable to a fine not exceeding United States three thousand dollars or to imprisonment not exceeding five years or both.

Protection
of persons
responsible
for
publications
authorized
by the
Assembly

38. Any person, being a defendant in any civil or criminal proceedings instituted for or on account or in respect of the publication by him or her or by his or her servant, by order or under the authority of the Assembly, or any reports, papers, minutes, votes or proceedings, may on giving the plaintiff or prosecutor twenty-four hours written notice of his or her intention, bring before the court in which the proceedings are being held a certificate signed by the Speaker stating that the reports, papers, minutes, votes or proceedings in respect the proceedings have been instituted were published by him or her or by his or her servant by order or under the authority of the Assembly together with an affidavit verifying the certificate, and the court shall immediately stay the proceedings, and every process issued shall be deemed to be finally determined.

East African Legislative Assembly (Powers and Privileges) Act, 2003

39. An offence under this Act shall be prosecuted in any of the national courts of the Partner States irrespective of where the offence is committed.

Prosecution
in national
courts
Partner
States

40. Except for offences under sections 25 and 28 no prosecution for an offence under this Act shall be instituted without the written consent of the Attorney General or Director of Public Prosecutions of the Partner States as the case may be.

Sanctions
for
prosecutions

—————
SCHEDULE
—————

FIRST SCHEDULE
—————

SPEAKER OF THE ASSEMBLY

THE OATH OR AFFIRMATION OF ALLEGIANCE BY SPEAKER

Under Section 13(1)

I, do swear or affirm
that, I will give true and faithful service to this Assembly and that I will
be faithful and bear true allegiance to the East African Community and
will preserve, protect and defend the Treaty for the Establishment of
the East African Community as by law established. So help me God.

Sworn or affirmed before the Assembly onday of
.....20.....

.....
Speaker

Before me

.....
Clerk

SECOND SCHEDULE

SPEAKER OF THE ASSEMBLY

THE OATH OR AFFIRMATION OF OFFICE OF SPEAKER

Under Section. 13(1)

I, do swear or affirm that, I will truly and faithfully serve the East African Legislative Assembly in the Office of the Speaker and that, in the exercise of the roles and functions of this Office, I will do right to all manner of persons according to the Treaty for the Establishment of the East African Community, Rules of Procedure, Privileges, Conventions and Traditions of this Assembly and that I will not directly or indirectly reveal any matter referred to the Assembly and committed to my secrecy. So help me God.

Sworn or affirmed before the Assembly on day of.....20.....

.....
Speaker

Before me

.....
Clerk

THIRD SCHEDULE

THE OATH OR AFFIRMATION OF ALLEGIANCE BY A
MEMBER

Under Section 13(2)

I, do swear or affirm that, I will GIVE TRUE AND FAITHFUL SERVICE TO THIS Assembly and that I will be faithful and bear true allegiance to the East African Community and will preserve, protect and defend the Treaty for the Establishment of the East African Community as by law established. So help me God.

Sworn or affirmed before the Assembly on..... day
of.....20.....

.....
Member

Before me

.....
Speaker