

THE CRIMINAL LAW AMENDMENT ACT, 1971

No. 25 of 1971

Date of Assent: 22nd October, 1971

Date of Commencement: 23rd October, 1971

An Act of Parliament to provide for the death penalty for armed robbery, or attempt thereat, in the course of which grievous harm is inflicted upon any person; to make minor amendments to the criminal and penal law; and for matters incidental to and connected with the foregoing

ENACTED by the Parliament of Kenya, as follows:—

Short title.

1. This Act may be cited as the Criminal Law Amendment Act, 1971.

Amendment of section 278 of Cap. 63.

2. Section 278 of the Penal Code is hereby amended—

(a) by the deletion of the word “fowl”;

(b) by the deletion of the words “for fourteen years” and the substitution thereof of the words “with hard labour for a term not less than seven and not more than fourteen years”.

Amendment of sections 296 and 297 of Cap. 63.

3. Section 296 and section 297 of the Penal Code are hereby amended by the addition to each section of the following new subsection—

(3) If, during the course of, or immediately after, the commission of an offence under this section, any grievous harm is inflicted upon any person other than a participant in such offence, every person convicted of that offence who is shown to have inflicted such harm shall be sentenced to death.

Amendment of section 14 of Cap. 75.

4. Section 14 of the Criminal Procedure Code is hereby amended—

(a) in subsection (1), by the deletion of the words “When a person” and the substitution therefor of the words “Subject to the provisions of subsection (2A) of this section, when a person”;

(b) by the deletion of the proviso to subsection (2);

(c) by the insertion after subsection (2) of the following new subsection—

(2A) Except in cases to which subsection (1A) of section 7 of this Code applies, nothing in this section shall authorize a subordinate court to pass, on any person at one trial, consecutive sentences—

(a) of imprisonment which amount in the aggregate to more than fourteen years, or twice the amount of imprisonment which the court, in the exercise of its ordinary jurisdiction, is competent to impose, whichever is the less; or

(b) of fines which amount in the aggregate to twice the amount which the court is so competent to impose.

5. Section 46 of the Criminal Procedure Code is hereby amended—

Amendment of
section 46
of Cap. 75.

(a) by the deletion of the words “subsection (2) of section 70 of the Penal Code” and the substitution therefor of the words “subsection (1) of section 4 of the Societies Act, 1968”;

No. 4 of 1968.

(b) by the addition at the end thereof of the following—

“or why an order (hereinafter in this Part referred to as a restriction order) should not be made that such person be taken to the district in which his home is situated and be restricted to that district during a period of three years:

Provided that where a magistrate is of the opinion that, having regard to all the circumstances of the case, it is desirable that such person be restricted to some other district he may specify that such person shall be so restricted.”

6. Section 47 of the Criminal Procedure Code is hereby amended by the deletion of paragraphs (b), (c) and (d) and the substitution therefor of the following—

Amendment of
section 47
of Cap. 75.

(b) in the case of a restriction order, the district to which the person concerned is to be restricted for a period of three years;

(c) in any other case—

(i) the amount of the bond to be executed;

- (ii) the term for which it is to be in force; and
 (iii) the number, character and class of securities, if any, required.

Insertion of
 new section
 61A in Cap. 75.

7. The Criminal Procedure Code is hereby amended by the insertion immediately after section 61 of the following new section—

Breach of
 restriction
 order.

61A. Any person who, whilst subject to a restriction order, is found outside the district named in such order without the written permission of the chief officer of police of such district, or who fails to comply with any condition attached to such permission, shall be guilty of an offence and liable to imprisonment for a term not exceeding twelve months.

Amendment of
 section 205
 of Cap. 75.

8. Section 205 of the Criminal Procedure Code is hereby amended by the addition of the following new subsection—

(3) For the purposes of this section, in relation to any case where the maximum sentence for the offence with which the accused person is charged is punishable only by fine, or by imprisonment not exceeding twelve months with or without a fine, "prison" shall be deemed to include a detention camp established in accordance with the Detention Camps Act.

Cap. 91.

Miscellaneous
 amendments.

9. The Acts specified in the first column of the Schedule to this Act are hereby amended, in relation to the provisions thereof specified in the second column of that Schedule, in the manner specified in the third column of that Schedule.

SCHEDULE

(s. 11)

<i>Act</i>	<i>Provision</i>	<i>Amendment</i>
The Criminal Procedure Code (Cap. 75).	s. 7	Insert "278" before "296".
	s. 53 (1)	Insert "should be made subject to a restriction order or" after "inquiry is made".
	s. 53 (2)	Delete "ordered to give security for keeping the peace or maintaining good behaviour" and substitute "in respect of whom an order is made".
	s. 54	Insert "should be subject to a restriction order or" after "inquiry is made".

SCHEDULE—(Contd.)

<i>Act</i>	<i>Provision</i>	<i>Amendment</i>
The Criminal Procedure Code (Cap. 75) —(Contd.).	s. 55 (1)	(a) Delete "requiring security"; (b) Delete "which such security is required" and substitute "of such order".
	s. 60	Delete all words after "writing" and substitute "cancel any order made under section 47 or section 53 of this Code".
	First Schedule.	In the item relating to section 281 of the Penal Code, delete "Any magistrate" and substitute "Any subordinate court".
The Prisons Act (Cap. 90).	s. 2	In the definition "unconvicted person" delete "or vagrant".
	s. 55 (5)	Delete "or over the age of forty-five years".
The Detention Camps Act (Cap. 91).	s. 2	Delete the definition of "detainee" and substitute— "detainee" means any person, whether convicted or not, lawfully detained in a detention camp.
	s. 15	Insert "31" after "30".