

THE PRESIDENTIAL AFFAIRS ACT, Cap. 9 (RE: 2002)

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An Act to provide for certain matters relating to the functions and offices of the President, Vice-President and the Prime Minister.

[9th December, 1962]

C.A. Act No. 4 of 1962

R.L. Cap. 502

Acts Nos.

10 of 1980

26 of 1980

10 of 2001

PART I: PRELIMINARY PROVISIONS (ss 1-2)

1. Short title

This Act may be cited as the Presidential Affairs Act.

1A. Interpretation

In this Act unless the context requires otherwise—

"*President*" means the President of the United Republic;

"*Vice-President*" means the Vice-President of the United Republic;

"*Prime Minister*" means the Prime Minister of the United Republic;

"*household*" means a fully furnished house, outbuildings and surrounding land that is used as a dwelling house and includes bedding, cooking, laundry and other domestic equipment necessary for the day to day use.

PART II: PRESIDENTIAL FUNCTIONS AND AFFAIRS (ss 3-5)

2. Signification of orders

(1) Whereby or under any written law, other than the Constitution, any power, duty or function is conferred or imposed on, or is vested in the President, the exercise of such power or the performance of such duty or function by the President may, unless a contrary intention appears, be signified under the hand of a Minister, a Deputy Minister or a Permanent Secretary:

Provided that nothing in this section shall apply to the power of the President to make proclamations or shall restrict the manner in which the power of the President in relation to the executive functions of the Republic, other than any such function which is conferred by any written law, may be exercised through officers in the service of the Republic subordinate to him.

3. Advisory Committee on the Prerogative of Mercy

- (1) There shall be an Advisory Committee on the Prerogative of Mercy which shall consist of—
- (a) a Minister appointed by the President;
 - (b) the Attorney-General; and
 - (c) not less than three nor more than five other members appointed by the President, and the President shall preside at the meetings of the Committee.
- (2) The President may appoint different Ministers to be members of the Advisory Committee in relation to persons convicted by a civil court and persons convicted by a court-martial.
- (3) Where any person has been sentenced to death (otherwise than by a court-martial) for any offence, the President shall cause a written report of the case from the trial judge or magistrate, together with such other information derived from the record of the case or elsewhere as he may require, to be considered at a meeting of the Advisory Committee; and after obtaining the advice of the Committee, the President shall decide in his own deliberate judgement whether to exercise any of his powers under section 45 of the Constitution.
- (4) the President may consult with the Advisory Committee before exercising any of his powers under section 45 of the Constitution in any case not falling within subsection (3) of this section.
- (5) Subject to any directions of the President, the Advisory Committee may regulate its own procedure.

4. Honours and awards

The President may institute and confer honours, dignities and awards.

PART III: LEGAL PROCEEDINGS (ss 6-10)

5. Civil proceedings in High Court only

No civil proceedings which may be instituted against the President shall be instituted in any court other than the High Court.

6. Civil proceedings in personal capacity

(1) Where any person proposes to institute any proceedings against the President as are referred to in subsection (2) of section 46 of the Constitution—

- (a) the notice of proceedings referred to therein shall be accompanied by the plaint;
- (b) the notice and plaint shall be delivered to the Chief Secretary or to a Permanent or Private Secretary to the President, or sent by prepaid registered post to the Chief Secretary at the State House.

(2) Where any such civil proceedings against the President as are referred to in subsection (2) of section 46 of the Constitution are instituted and the Court is satisfied that the plaintiff would, but for this subsection, be entitled to any order, judgement or decree or other relief, no order, judgement, decree or relief, other than by way of a declaratory order, judgement or decree shall be awarded against the President:

Provided that if any subsisting order, judgement or decree is not satisfied after the defendant has ceased to hold the office of President, the plaintiff may, within ninety days of the defendant ceasing to hold office as President, apply to the High Court for such order, judgement or decree as would,

but for the provisions of this subsection, have issued in the original proceedings, and the Court shall make such order, judgement or decree as in the circumstances is just and reasonable.

7. Other civil proceedings

(1) All process in any legal proceedings against the President, other than those referred to in subsection (2) of section 46 of the Constitution, shall be delivered to or served on the Attorney-General.

(2) Where, in any proceedings to which this section refers the Court is satisfied that the plaintiff would, but for this subsection, be entitled to any order, judgement, decree or other relief, no order, judgement, decree or relief, other than by way of a declaratory order, judgement or decree, shall be awarded against the President.

8. Immunity from arrest and from process to compel appearance of President

(1) The President shall be immune from arrest.

(2) Subject to the provisions of subsection (3), no process shall be issued by any court or other person or authority empowered to issue process in that behalf—

(a) requiring or compelling the personal appearance or attendance of the President in any capacity; or

(b) requiring or compelling the President to produce any person or thing.

(3) Where a party to any proceedings in any court or before some other person or authority empowered to issue process in that behalf, applies for any process requiring or compelling the appearance of the President as a witness or requiring or compelling the President to produce any person or thing, the court or other person or authority may if, but for this section, it would have issued such process, notify the President of the application, but shall not make any other order or issue any other process on such application.

9. Service of process generally in State House and other official residence

(1) No legal process shall be served or executed within the State House, its lodges or grounds or, while he is resident therein, within other official residences of the President except by or under the directions of the Chief Secretary or a Permanent or Private Secretary to the President; and the Chief Secretary and Permanent or Private Secretary shall, when requested by a court to assist in the service or execution of any such process, give all reasonable and necessary assistance.

(2) No local government authority or public utility shall have any jurisdiction or power in regard to any matter or thing relating to the State House, its lodges or grounds or other official residences of the President.

PART IV: THE HOUSEHOLD OF THE PRESIDENT, VICE-PRESIDENT AND THE PRIME MINISTER (ss 11-14)

10. Expenses of President's household

There shall, in respect of each financial year, be charged on and paid out of the Consolidated Fund such sum of money as may be certified by the Treasury as being the sum required for and in respect of the salaries, allowances and expenses of the President's household and the upkeep of the State House and other official residences of the President.

10A. Expenses for the Vice-President's Household

There shall, in respect of each financial year, be charged on and paid out of the Consolidated Fund such sum of money as may be certified by the Paymaster-General as being the sum required for and in respect of expenses of the Vice-President's household and the upkeep of the Vice-President's house, lodges and grounds and other official residences of the Vice-President.

10B. Expenses for Prime Minister's Household

There shall, in respect of each financial year, be charged on and paid out of the consolidated Fund such sum of money as may be certified by the Paymaster-General as being the sum required for and in respect of expenses of the Prime Minister's household and the upkeep of the Prime Minister's house, lodges and grounds and other official residences of the Prime Minister.

11. Amendment of R.L. Cap. 1

[Repeals section 21(1) of R.L. Cap 1.]