

An unofficial translation of the problematic articles of the National Security Act reforms passed in December 2009.

The National Security Act 2009

Section 25

Powers of the Apparatus

The Apparatus shall exercise, according to the law, the following powers:

- A.** To request information, details, documents, or things from anybody to read or keep them, or do with them whatever it deems necessary.
- B.** To summon persons, interrogate them, and take their testimonies.
- C.** Surveillance and investigation.
- D.** To seize properties in accordance with the law.
- E.** To detain and arrest individuals in accordance with the provisions of Section 50 of this Act.

Section 50

Powers of Members

1- Any member designated by an order from the Director shall have, for the purposes of implementing the jurisdiction provided for in this Act, the following powers:

- A.** Any of the powers provided for in Section 25.
- B.** To search after obtaining an order in writing from the Director.
- C.** Powers of a police man as they are provided for in the Sudan Police Act and the Criminal Procedure Act.
- D.** Exercise of any legal powers which shall be necessary for the implementation of the provisions of this Act.
- E.** Detention or arrest of any suspected person for a period not exceeding thirty days provided that his or her family is notified.
- F.** After the elapse of the thirty days mentioned in Sub-section (E), the authorities of the Apparatus shall notify the competent attorney to obtain his/her approval to renew the detention in accordance with the provisions of the Criminal Procedure Act provided that there are reasons that require keeping the detained person in custody.

G. If it has become clear to the Apparatus after investigation that there is prima facie evidence against the suspect, the Apparatus shall submit the accused and all documents and appendages to the Attorney General to proceed with and complete the proceedings and in situations where there is no prima facie evidence, the Apparatus should immediately release the suspect.

H. If the suspect is handed over to the Attorney General according to the above-mentioned Sub-section 6, the Attorney shall, according to the authorities vested in him/her, take any measures s/he might deem necessary.

I. If the Attorney does not complete investigation proceedings in accordance with the provisions of the Criminal Procedure Act, s/he could request an extension of the detention period of the suspect.

2- For the purposes of this Section, the Apparatus shall take into consideration the provisions of Article 33 of the National Interim Constitution 2005.

3- The Director shall issue the permanent orders that are necessary to organize the exercise of the powers mentioned in Sub-section 1.

Section 52

Immunities of Members and Collaborators

The members and the collaborators shall have the following immunities:

1- No act of an Apparatus member done in good faith and in the course or because of carrying out his/her duties, or in implementation of an obligation, or as a result of an act to which s/he is entitled by this Act or any other act in effect or by a regulation or order issued in accordance with any of such acts shall be deemed a crime provided that the act is within the limits of the duties or acts required from him/her in accordance with this Act.

2- No member or collaborator of the Apparatus shall be obliged to furnish any information on the situations, activities, or acts of the Apparatus to which he/she might have had access in the course of carrying out his/her duties unless there is a court decision to that effect.

3- Without prejudice to the provisions of this Act, or any compensation right against the Apparatus, no criminal or civil proceedings shall be taken against a member or collaborator of the Apparatus without the approval of the Director. The Director shall give such approval whenever it becomes clear that the accountability issue is not related to any official work provided that the trial of any member or collaborator is conducted in a secret criminal court during or after the expiration of his service.

4- Without prejudice to the provisions of Section 46 of this Act, or any compensation right against the Apparatus, no criminal or civil proceedings shall be taken against a member for any act related to his/her official work without the approval of the Director General, and the Director General shall give such approval whenever it

becomes clear that the issue of the trial has nothing to do with the work of the Apparatus.