

**REJEA ZA SERA, SHERIA, KANUNI NA NYARAKA
MBALIMBALI KUHUSU MASWALA YA AJIRA
KATIKA UTUMISHI WA UMMA**

YALIYOMO

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OFISI YA RAIS
IDARA KUU YA UTUMISHI
SERA YA MENEJIMENTI NA AJIRA KATIKA
UTUMISHI WA UMMA

LENGO

Kuboresha Huduma zitolewazo na Serikali kupita Utumishi unaozingatia Sifa na Usimamizi unaopima Matokeo ya Kazi

Januari 1999

1. SERA YA MENEJIMENTI NA AJIRA KATIKA UTUMISHI WA UMMA, 1999

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Dibaji

Sera ya Menejimenti na Ajira katika utumishi wa Umma ni chombo muhimu hasa kwa kipindi hiki ambapo Serikali imenuia kuchukua hatua thabiti za kuimarisha utendaji kazi na kuboresha huduma za utumishi kwa wananchi na kwa vyombo vingine vya uzalishaji mali na utoaji huduma. Kwa muda mrefu tumekuwa tukitumia utaratibu wa utawala na uendeshaji Serikali ambao tuliurithi kutoka serikali ya wakoloni ambao saa hauwezi kukidhi mahitaji na matarajio ya kiendeshaji katika Serikali ya wakati huu. Sera hii inaweka kwanza, misingi na taratibu mpya za uendeshaji wa Serikali kwa kulingana na wakati huu. Pili, Sera inazingatia mabadiliko makubwa yanayotokea katika nyanja za kiuchumi, kisiasa na kimaendeleo. Mabadiliko haya yanahitaji utawala wenye viongozi na wasimamizi imara, waadilifu, wasikivu na wenye uwezo wa kujiendeleza na kuwajibika kikamilifu katika utendaji wa kazi zao.

Sababu ya tatu inatokana na mabadiliko makubwa na ya haraka yanaotokea katika majukumu na shughuli za Serilikali. Sera na dira ya chama tawala (CCM) ya miaka ya 1990, iliyopitishwa mwaka 1992, inaelekeza mabadiliko ya mtazamo wa majukumu ya Serikali kutoka ule wa Serikali kujishughulisha moja kwa moja na uzalishaji mali na kutoa huduma zote za kiuchumi na kijamii, na kuwa chombo cha kuwawezesha au kuwapa uwezo wananchi na vyombo vingine visivyo vya kiserikali kufanya kazi hizo, na kujenga mazingira yanayowawezesha wananchi na vyombo hivi kushirikiana na Serikali katika kutoa huduma hizi. Moja ya matokeo muhimu ya mwelekeo huu, ni kuiondolea Serikali wajibu wa kuwa mwajiri mkuu. Kwa maana nyingine ni kwamba, Serikali haina uwezo wa kumhakikishia ajira kila Mtanzania aliyemaliza masomo katika ngazi yoyote. Hata hivyo, Serikali inalo jukumu la kuhakikisha kuwa ajira, uteuzi na kupandishwa ngazi katika Utumishi wa Umma ni wa ushindani na wenye uwazi, na unaozingatia misingi ya kuchagua watu wenye ujuzi na uadilifu wa hali ya juu. Hili ni badiliko muhimu katika Sera hii. Nne, Sera hii, inahimiza utendaji mzuri wa kazi na

wenye matokeo mazuri katika huduma zote za Utumishi wa Umma. Kwa mfano, Sera inaeleza wazi kuwa pamoja na ufinyu wa bajeti ya kuendeshea Serikali, lazima kila senti inayotolewa na Serikali inaonshesha matokeo yanayounufaisha Umma. Matokeo hayo yaweze kutumika au kuonekana kwa macho au katika ubora wa kazi au katika kupunguza kero au katika ubora wa hali ya wananchi.

Kwa kuzingatia sababu hizi na mabadiliko yaya watumishi wote wa Umma wanatakiwa kuelewa umuhimu wa mabadiliko haya na kubadili tabia na mienendo yao na kuongeza nidhamu katika utendaji wao wa kazi. Nidhamu ni ujuzi, utii na kuwepo kwa taratibu nzuri za kazi. Lazima watumishi turejeshe uadilifu na ustahifu katika kazi na utoaji wa huduma kwa wananchi ili kupunguza malalamiko na kuongeza kasi ya maendeleo nchini. Maana yake ni kwamba, lazima kanuni zote na masharti ya kiutendaji kazi yanayokwamisha utendaji mzuri wa kazi yabadilishwe ili yalingane na Sera hii. Kwa mfano, katika ujenzi wa barabara au madaraja zinatakiwa kanuni na masharti yanayohakikisha kuwa fedha za walipa kodi wa ndani na nje ya nchi zinatumiwa kwa uangalifu na zinaleta matokeo mazuri; lakini hatutaki kanuni na masharti hayo yawe visingizio vya ucheleweshaji wa utoaji wa huduma hizi. Tunataka kanuni zitumike kulinda fedha za wananchi na kuhakikisha kuwa fedha za walipa kodi zinatumiwa kwa kazi iliyopangwa, kwa wakati wake na kwa uaminifu. Hakuna haja ya kusesitiza zaidi kuwa mameneja na wasimamizi wa Utumishi wa Umma, wanatakiwa kubadilika na kujiimarisha kimawazo ili waweze kulielekeza Taifa letu katika maendeleo yenye mafanikio na fahari katika karne ya 21. Wakati tunaingia katika karne hiyo mpya, utumishi wetu unakabiliwa na mapambano mapya na magumu. Njia ni kubadilika kwani hakuna kinachodumu isipokuwa mabadiliko.

Baadhi ya asasi zisizo za Serikali (AZISE) hapa nchini zimeongeza sana mchango wao katika shughuli za kiuchumi na katika huduma za kijamii. Asasi hizi sio tu zinahitaji taaluma na usimamizi wa aina tofauti na ulotulio nao, bali pia zinahitaji mtazamo tofauti wa tabia na desturi za Utumishi wa Umma. Kwa upande mwingine, hali ya

ushirikiano na uhusiano wa kimataifa, ukijumuisha mabadiliko ya haraka ya teknolojia na ushindani unaoongezeka kwa kasi kubwa. Vyote vinahitaji maamuzi ya haraka, uwezo mkubwa wa kuelewa mambo, mbinu mpya na ujuzi mpya wa kiuendeshaji. Lango la Sera hii ni kwenda na wakati yaani kupokea mabadiliko kwa haraka, kwa usahihi na kwa wakati wake.

Nia yetu ni kuwa na Serikali imara na inayokwenda na wakati. Kwa hiyo, Sera hii ni nguzo muhimu yenye lengo la kujenga misingi ya uendeshaji wa Serikali kwa misingi ya Sheria, ukweli, uwazi na haki kwa watu wote. Serikali imara ni sheria, kanuni imara na watumishi imara.

Kubadili kanuni za kazi au miundo ya Wizara au kupunguza watumishi au kuongeza mishahara peke yake hakutoshi. Lazima hatua hizi ziambatane na mabadiliko ya kweli ndani ya vichwa vya watumishi kuhusu mtazamo na mwelekeo wa mambo, pamoja na mbinu, mikakati na mabadiliko katika kasi ya utoaji maamuzi na utendaji kazi.

Ni kweli kuwa mabadiliko ya kweli hayawezi kunyesha kama mvua au kupandikizwa kama mti wa matunda au kuingizwa toka nje ya nchi kama bidhaa za kutoa viwandani. Lazima mabadiliko ya kweli yatokane na mahitaji ya watu wenyewe na kutekelezwa na watu wenyewe kwa faida ya watu wenyewe. Ni kwa njia hiyo tu mabadiliko kama hayo yataweza kudumu na kuendelezwa. Mabadiliko haya ni zoezi la kudumu na siyo “operasheni” kama ya zimamoto. Kwa hiyo, yanahitaji kusimamiwa na watu wanaoona mbali na wenye uwezo wa kujifunza. Jambo muhimu ni kubadili miundo, kanuni, njia za utendaji kazi, mtazamo wa mambo, maslahi, kasi ya kuamua na kutenda na kadhalika. Bila hivyo tutaandika makaratasi mengi na kutumia fedha nyingi bila kuleta mabadiliko yanayotegemewa. Lazima watumishi wajue kazi zao, wawe na taratibu za kazi na watii taratibu za kazi. Kama uongozi wa Wakuu wa Idara za Serikali watakubali mabadiliko haya, naamini mabadiliko makubwa yata-

tokea katika uendeshaji wa Serikali hapa nchini. Haya ndiyo mategemea na matumaini yangu.

Nasisitiza kuwa Serikali imedhamiria kurejesha nidhamu, ufanisi, uadilifu, ustahifu, uwezo na utendaji bora wa kazi katika Utumishi wa Umma kwa kusisitiza mwelekeo, misingi na taratibu zilizoainishwa katika Sera hii. Kwa hiyo, watumishi wote wa Umma katika ngazi zote wanatakiwa kupokea changamoto hii na kuweka mikakati thabiti ya utekelezaji wa dhamira ya Serikali ya kujenga Taifa imara kiutawala na kiuchumi. Lengo kuu ni kudumisha amani, maendeleo na haki kwa kuzingatia misingi imara ya uendeshaji wa Serikali.

Kwa hiyo, twende pamoja,

Tushirikiane,

Tuimarishe Utawala na Uendeshaji Serikali,

Tujenge nchi yetu, Tanzania.

JACKSON M. MAKWETTA (MB.),

Waziri wa Nchi, Ofisi ya Rais (UTUMISHI)

A .

"

UTANGULIZI

Watumishi walio wengi waliomo katika Utumishi wa Umma wamejitoa kuwatumikia wananchi wenzao. Wengi wana uwezo na elimu ya kutosha. Kwa bahati mbaya mifumo ya utawala, sera na utendaji imedidimiza uwezo wao na motisha ya kazi na matokeo yake ni kupoteza ari ya kazi na kupungua kwa ujuzi wa utendaji kazi. Serikali inakusudia kubadilisha hali hii kwa kuanzisha mwelekeo mpya katika uendeshaji wa utumishi serikalini na katika sera za uendeshaji wa rasilimali watu, kanuni na taratibu zinazohakikisha kuwa watumishi wa Umma wana motisha na wanazingatia kiwango cha juu cha maadili, na kwamba wanao uwezo wa kutumia ujuzi na vipaji vyao katika utoaji wa huduma bora kwa wananchi.

Utumishi wa Umma, kama ulivyotafsiriwa katika sera hii unajumuisha makundi mbalimbali ya utumishi na kila kundi linataratibu zake za uendeshaji na masharti ya kazi kwa kuzingatia aina na mazingira ya kazi inayohusika. Sera hii inalenga kutoa dira na malengo ya jumla, maadili ya msingi na misingi ya usimamizi itakayotumika katika utoaji wa huduma za serikali. Kutokana na misingi hii ya jumla kila kundi la utumishi litaandaa dira, malengo, maadili na taratibu zake za kazi kulingana na aina ya kazi, taaluma na mazingira yake.

Sera hii ni mwanzo wa jitihada madhubuti za pamoja za kujenga uwezo wa utendaji, na za kuleta usimamizi wa kisasa wa Utumishi wa Umma wenye uwezo wa kuitumikia serikali iliyoko madarakani na serikali zijazo za karne ijayo.

1. FASILI YA UTUMISHI WA UMMA

1.1 Kwa ufafanuzi, Utumishi wa Umma katika Jamhuri ya Muungano wa Tanzania ni utumishi katika moja ya makundi ya utumishi yafuatayo:-

- ◆ Utumishi katika Serikali Kuu (Civil Service)
- ◆ Utumishi wa Sheria na Mahakama
- ◆ Utumishi wa Serikali za Mitaa
- ◆ Utumishi wa Afya
- ◆ Utumishi wa Walimu
- ◆ Utumishi wa Polisi, Magereza, Uhamiaji na Zimamoto
- ◆ Utumishi wa Kisiasa
- ◆ Utumishi wa Huduma za Kawaida
- ◆ Utumishi wa Taasisi na Wakala Tendaji za Serikali zina-
zojitegemea (Executive Agencies) na vyombo vingine
vya Umma
- ◆ Utumishi wa Bunge

1.2 Kwa makusudi Utumishi wa Jeshi haukujumuishwa katika fasili hii.

2. MISINGI NA MALENGO

Matatizo

2.1 Kwa muda mrefu sasa huduma nyingi za Serikali zimekuwa haziwaridhishi wananchi na badala yake kuonekana kuwa kero. Sababu kubwa za kuwepo kwa hali hii ni kushuka kwa tija kwa kiwango kikubwa, kupotea kwa maadili ya kazi, kutofuatwa kwa sheria, kanuni na taratibu za kazi, udhibiti hafifu wa watendaji pamoja na rushwa iliyokithiri. Kati ya sababu kubwa za kuwepo matatizo haya

ni taratibu zinazotumika kuajiri watumishi na kuwasimamia. Matatizo yaliyobainishwa ni haya yafuatayo:-

- ◆ Ajira na uteuzi wa watumishi wa Umma kutozingatia sifa na uwezo. Pia utaratibu wa kuajiri wahitimu toka vyuoni ambao haukuwachuja ili kuhakikisha ni wale wenye sifa tu ndio wanaajiriwa na kuwaacha wasiofaa
- ◆ Ukosefu wa vigezo vya kubaini nafasi za kazi zilizowazi Serikalini.
- ◆ Kupanda daraja au cheo kwa kutegemea muda wa mtumishi kazini na siyo uwezo. Maamuzi ya nani apandishwe yanategemea vigezo vya ubunifu na udhanifu kuliko kuangalia maendeleo ya Wizara au Taasisi inayohusika.
- ◆ Kuwepo mamlaka kadhaa za ajira kwa vyeo mbalimbali na kwa vyombo mbalimbali, ambazo hazikusimamiwa ipasavyo.
- ◆ Uhamisho au kubadilisha kazi toka sehemu ya kazi moja kwenda nyingine bila mpango maalumu.
- ◆ Udhaifu katika usimamizi wa utendaji kazi na nidhamu. Utaratibu wa kumchukulia mtumishi wa Umma hatua za kinidhamu wenye urasimu mwingi na mrefu.
- ◆ Utendaji wa Kamati za Utumishi Serikalini (KAMUS) usio wa wazi na hivyo kutoa mwanya wa kuwepo na upendeleo.
- ◆ Ajira katika Utumishi wa Umma kutotilia maanani mtazamo wa kumjali mteja ambaye ni mwananchi wa kawaida, na kuhakikisha kuwa anapata huduma bora inayolingana na gharama anayoilipia kwa njia ya kodi.

- ◆ Kuwepo mifumo ya utawala na uongozi ambayo imepitwa na wakati na ambayo haiwezi kumudu mabadiliko ya sasa hivi ya kimaendeleo nchini na ulimwenguni.
- ◆ Kutokuwa na kumbukumbu za watumishi zinazoamini-ka, na mifumo ya taarifa zisizo sahihi ambazo hazisaidii kufanya maamuzi sahihi juu ya watumishi.
- ◆ Viwango vidogo vya mishahara kulingana na gharama halisi ya maisha kwa ujumla na kupishana sana na mishahara inayolipwa na waajiri wengine nchini.
- ◆ Taratibu za ajira na usimamizi katika Utumishi wa Umma ambazo hazitoi uhuru kwa watumishi kuacha na kuondoka kazini bila kupoteza haki zao za malipo ya uzeeni.
- ◆ Upangaji mbaya wa mgawanyo wa watumishi usio na uwiano kati ya Wizara mbalimbali, Mikoa na hata kati ya sehemu za kazi kutokana na kuwapanga kuwa mikononi mwa vyombo vya juu tu na siyo kwa wasimamizi au viongozi wa sehemu za kazi zinazohusika.
- ◆ Utaratibu wa kupima utendaji kazi wa watumishi usio na malengo yaliyo wazi, na ambao hautoi nafasi ya kushirikisha mtumishi anayepimwa.
- ◆ Kutokuwepo mipango thabiti ya kuwaendeleza wafanyakazi katika uwezo wa utendaji. Mafunzo yanayoendeshwa hayana uhusiano na kuongeza uwezo wa utendaji kazi.
- ◆ Kutokuwepo mipango ya kuwapa motisha ya kazi au kutambua utendaji kazi mzuri ili kuongeza ari ya kufanya kazi.

Changamoto Mpya

- 1.2 Licha ya matatizo yaliyotambuliwa, hali iliyopo nchini inaleta msukumo wa ziada wa kuwa na Sera mpya ya usimamiaji wa Utumishi wa Umma. Kwanza, kuna mabadiliko yaharaka ya kiuchumi na kijamii, tumeanzisha mfumo wa vyama vingi vya siasa, tumeruhusu utaratibu wa soko huria ambao umesababisha kupanuka haraka kwa sekta binafsi katika uendeshaji wa uchumi na kupanuka kwa biashara ya kimataifa. Ili kuyakabili mabadiliko haya kikamilifu patahitajika usimamizi wa Utumishi wa Umma wa aina mpya. Pili, mabadiliko ya haraka ya kiteknolojia yanahitaji ubunifu wa haraka na uwezo wa kubadilika na kuanzisha miundombinu mipya katika uendeshaji wa mambo ya umma kwa karne ijayo. Urasimu usiobadilika ambao ulituwezesha kumudu mambo yetu wakati uliopita hautaweza kuhimili mabadiliko ya haraka ya teknolojia. Hivyo upo ulazima wa kubadilisha mfumo wa uendeshaji kutoka mfumo wa urasimu, mfumo wa kutoa amri na uthibiti kwenda kwenye mfumo wa ubunifu unaokidhi mabadiliko yanayotokea na unaotoa madaraka zaidi kwa vyombo vinavyohusika moja kwa moja na utoaji wa huduma na usimamizi.

Malengo

- 1.3 Nia kubwa ya Sera ya Usimamizi na Ajira katika Utumishi wa Umma ni kuweka misingi na taratibu zitakazobadilisha usimamizi wa Utumishi wa Umma katika Tanzania ili ulete ufanisi wa hali ya juu katika utendaji na unaozingatia sifa na wenye maadili.
- 1.4 Malengo ya Sera mpya ya Usimamizi na Ajira katika Utumishi wa Umma ni:
- ◆ Kuwa na idadi ya watumishi wa Umma inayolingana na uwezo wa Serikali na inayokidhi majukumu ya msingi ya Serikali.

- ◆ Kuongeza ujuzi na uwezo wa watumishi wa umma kwa kiwango kinachotakiwa na kuhakikisha kuwa watumishi waliomo katika Utumishi wa Umma ni wale tu wenye taaluma, uwezo, ubunifu na uhodari vinavyoambatana na uaminifu, uadilifu na uwajibikaji.
- ◆ Kuweka kiwango maalum cha sifa zitakiwazo ili kujiunga na Utumishi wa Umma kwa madhumuni ya kuhakikisha kuwa watumishi wanaojiriwa ni wale tu walio bora na wenye sifa, ujuzi na nia ya kufanya kazi katika utumishi wa Umma.
- ◆ Kujenga tabia kwa watumishi kuwa na moyo wa kutumikia Umma na watakaoisshauri Serikali na kutekeleza Sera na maamuzi yake kwa uaminifu na uadilifu mkubwa kufuatana na misingi ya sheria na taratibu zilizopo.
- ◆ Kukuza uwezo wa viongozi waliopo na watumishi watakaodhihirisha kuwa na sifa za uongozi.
- ◆ Kutambua, kuhimiza na kutunza utendaji na tabia nzuri na kuadhimisha utendaji mbovu na tabia isiyoridhisha kwa watumishi wa Umma.
- ◆ Kuweka mwongozo unaoziruhusu Taasisi za Sekta ya Umma kubuni taratibu za usimamizi wa watumishi zinazozingatia hali ya kila Taasisi.
- ◆ Kuhimiza Utumishi wa Umma kukuza na kuendeleza sekta binafsi na ushirikishaji wa jamii katika utoaji wa huduma muhimu.
- ◆ Kuweka utaratibu wa kubadilishana watumishi kati ya sekta ya Umma na sekta binafsi ili kuifanarisha ujuzi na uzoefu.
- ◆ Kuweka taratibu za kisasa za usimamizi katika Utumishi

wa Umma ikiwa ni pamoja na kutoa madaraka zaidi kwa vyombo vingine vya utoaji huduma.

- ◆ Kuwa na utaratibu unaoruhusu ajira ya mikataba kwa kipindi maalumu kwa watumishi wenye taaluma, ujuzi na uzoefu unaotakiwa.
- ◆ Kuwa na Chuo cha Mafunzo kwa watumishi wa Umma (Public Service College) kitakachotoa mafunzo ya mara kwa mara ya aina na ngazi zote kwa watumishi wa Umma.
- ◆ Kuunganisha Tume tofauti za Utumishi zilizopo na kuunda Tume moja ya Utumishi wa Umma itakayosi-mamia taratibu zote za ajira na nidhamu katika Utumishi wa Umma.

3. DIRA, LENGU NA MAADILI YA MSINGI

SEHEMU ZOTE KUWA NA DIRA SAWA YA PAMOJA

- 3.1 Taasisi zote katika Utumishi wa Umma zitaongozwa na dira na lengo moja:-

Dira

Utumishi wa Umma nchini Tanzania utabadilishwa kuwa chombo chenye kutukuka ambacho kitaiwezesha Tanzania kufikia uchumi unaoendelea kukua, wenye kuleta matumaini na unaoweza kutokomeza umaskini katika karne ya 21.

Shabaha na Madhumuni

Shabaha ya pamoja ya vyombo vya Utumishi wa Umma ni kuimarisha Serikali ili iwape uwezo raia na taasisi zisizo za Umma, taasisi za binafsi, ili ziweze kuchangia kwa uwezo wao wote katika maendeleo ya Taifa kwa kujenga hali ya maelewano, haki na usawa, ili kuleta maendeleo ya Taifa yanayoendeleza hali ya maisha, kuondoa umaskini, kuongeza ustawi wa jamii na hifadhi ya mazingira.

Lengo la kila taasisi ya Umma ni kutoa huduma bora kwa wananchi wa Tanzania kwa ufanisi na kwa viwango vya juu vya uadilifu na heshima.

Uadilifu Unaojumuisha Watumishi Wote

- 3.2 Katika kulenga kwenye dira ya pamoja na kwa madhumuni ya kuwa na lengo moja, watumishi wote wa Umma watatakiwa kufuata tabia za msingi za kimaadili. Tabia hizi za kimaadili ndizo zitakuwa msingi wa kanuni na taratibu ambazo zitafafanua mwenendo ambao watumishi wa Umma watatakiwa kuuzingatia.

Uadilifu wa Msingi

Kutoa Huduma Bora

Watumishi wa Umma daima watatakiwa kulenga kufikia kiwango cha juu kabisa katika utendaji wao na kila mara watajibidisha kuongeza viwango vya utendaji.

Utii kwa Serikali

Watumishi wa Umma watafanya kazi kwa kuitii Serikali iliyoko madarakani na watatimiza malengo na maelekezo wanayopewa na Mawaziri na Viongozi wao kwa uwezo wao wote.

Bidii ya Kazi

Watumishi wa Umma watafanya kazi kulingana na muda wa kazi waliopangiwa ambao watatumia kwa kazi ya Umma tu.

Uadilifu Katika Kazi

Watumishi wa umma katika kutoa huduma hawataruhusiwa kuomba wala kupokea zawadi au fadhila za kifedha au nyinginezo. Pia hawatatoa zawadi au fadhila. Hawatatumia mali ya umma au muda wa kazi kwa manufaa yao binafsi. Watajiepusha na tabia za ufujaji mali na ubadhirifu. Pia hawatatumia taarifa wanazozipata katika nafasi zao kazini kwa kujinufaisha wenyewe.

Ustahifu kwa Wote

Watumishi wa Umma watatakiwa kutoa huduma kwa watu wote kwa heshima. Watumishi wa Umma watajihesabu kama watumishi wa Watanzania na watakuwa makini hasa katika kuwahudumia watu wenye mahitaji ya kipekee katika jamii kama vile wazee, wagonjwa na watu wenye kasoro za kimwili.

Kuheshimu Sheria

Watumishi wa Umma hawaruhusiwi kuvunja sheria yoyote wakati wakitekeleza majukumu yao na hawatamshawishi mtu mwingine kufanya hivyo. Ikiwa mtumishi wa Umma atatakiwa au kuelekezwa afanye kitendo kilicho kinyume na

sheria anapaswa kukataa na kutoa taarifa kwa viongozi wake wa kazi. Kama hakuna hatua inayochukuliwa, mtumishi anayehusika ana wajibu wa kutoa taarifa yeye mwenyewe kwa mkuu wake wa kazi au hata kwa Mkuu wa Utumishi wa Umma.

Matumizi Sahihi ya Taarifa

Watumishi wa umma hawataficha kwa makusudi taarifa zozote ambazo Umma una haki ya kuzijua au zinazohitajiwa na watumishi wengine wa Umma.

Hata hivyo, watumishi hawana ruhusa kutoa siri za Serikali au kutumia vibaya taarifa zozote walizo, nazo kwa matumizi yasiyoruhusiwa.

- 3.2 Kila chombo cha Utumishi wa Umma kitafanya juhudi za kuelezea na kuwaelimisha watumishi wake juu ya dira ya pamoja, malengo ya wote, uadilifu wa msingi na kanuni.

4. MWONGOZO JUU YA MISINGI YA USIMAMIZI

Misingi ya Usimamizi

- 4.1 Utaratibu wa kusimamia utendaji wa watumishi wa Umma unahitaji mabadiliko makubwa ili uweze kuongeza ufanisi katika kila sehemu ya utendaji na ili uweze kumudu mabadiliko makubwa yanayotokana na uchumi wa soko huria, itikadi ya vyama vingi vya siasa na mabadiliko yanayotokea katika uchumi duniani na maendeleo ya haraka ya teknolojia. Ili kufikia hali hii inabidi utaratibu wa kupima utendaji kazi ulenge katika matokeo ya kazi yenye vigezo kamili (Results Oriented Management). Utaratibu huu utatekelezwa katika misingi ifuatayo:-

Misingi ya Usimamizi

1. Lengo ni Matokeo

Utendaji kazi katika Taasisi za Utumishi wa Umma utapimwa kwa kuzingatia matokeo ya kazi yaliyofikiwa na huduma iliyotolewa kwa kuzingatia malengo yaliyowekwa bayana kwa ajili hiyo.

2. Mwongozo Ndiyo Chanzo cha Msukumo

Malengo na shabaha ya kila Taasisi katika Utumishi wa Umma zitakuwa ndiyo msukumo wa maamuzi yote muhimu na si sheria peke yake, wala kanuni za kudumu.

3. Kumlenga Mteja

Malengo na utendaji wa vyombo vya Utumishi wa Umma daima yataelekezwa katika kufikia mahitaji ya wateja wake.

4. UShirikishwaji wa Walengwa

Kila Taasisi katika Utumishi wa Umma italenga kuongeza uwezo wa walengwa katika utoaji huduma na kuwapa uwezo ili waweze kuchangia zaidi katika maendeleo yao wenyewe.

5. Utendaji Wenye Mikakati

Kila Taasisi katika Utumishi wa Umma itajiwekea mipango na mikakati madhubuti ya usimamizi wa shughuli zake.

6. Huduma kwa Gharama Nafuu

Taasisi zote katika Utumishi wa Umma daima zitalenga kutoa huduma bora zaidi kwa gharama nafuu. Patatakiwa tabia ya kulinganisha gharama zinazohusika kwa kila huduma inayotolewa ili kubana matumizi.

7. Ubunifu

Taasisi zote katika Utumishi wa Umma daima zitajitahidi kubuni mbinu mpya za kuongeza ubora wa huduma zao na mbinu za kupunguza gharama kwa kutumia njia ya teknolojia.

8. Tathmini na Ufuatiliaji

Serikali na Taasisi zote katika Utumishi wa Umma zitajenga mifumo na taratibu za kutathmini utendaji kazi kila wakati ili kutafuta ufumbuzi wa matatizo ya kiutendaji kwa wakati mwafaka.

9. Kuchochea Maendeleo

Serikali na Taasisi zote katika Utumishi wa umma zitachukua hatua za makusudi za kukuza na kuwezesha vyombo visivyo vya Umma kutoa huduma za kiwango cha juu kwa raia.

10. Walengwa Kupewa Madaraka

Serikali na Taasisi katika Utumishi wa Umma zitakuwa na utaratibu wa kutoa madaraka zaidi kwa vyombo na taasisi zilizo karibu na walengwa ili ziweze kuchukua maamuzi na ziweze kuwajibika moja kwa moja kwa huduma zinazozitoa.

Misingi ya Marekebisho ya Utendaji

- 4.2 Kila Taasisi katika Utumishi wa Umma itakuwa na wajibu wa kuandaa muundo na mfumo wa usimamizi kulingana na uwezo wake kifedha. Katika kuandaa miundo yao, taasisi zitaongozwa na misingi ifuatayo:-

- ◆ Kazi itatafsiriwa kwa matokeo yatakayopatikana na siyo utaratibu utakaofuatwa kufikia matokeo hayo.
- ◆ Kwa kadiri itakavyowezekana na kwa kuzingatia ubora wa ufanisi utakaopatikana shughuli zisizo za msingi zitatekelezwa na vyombo vya sekta ya binafsi kupitia ushindani wa zabuni.
- ◆ Kwa shughuli za kiutendaji na huduma ambazo haziwezi kutolewa na sekta binafsi zitaundwa Wakala Tendaji za Serikali (Executive Agencies) ambazo zitapewa uhuru mkubwa kiutendaji na kiusimamizi na pia zitapangiwa viwango vya utendaji ambavyo itabidi vifikiwe. Mwongozo wa kuunda Wakala za serikali uko katika Sheria ya Wakala za Serikali ya mwaka 1997.
- ◆ Kwa kila shughuli ya kiutendaji patakuwa na mipaka ya wazi kuhusu wajibu na uwajibikaji.
- ◆ Taratibu za kutoa taarifa za utekelezaji zitakuwa fupi iwezekanavyo na kila ngazi ya usimamizi lazima ionyeshe jinsi itakavyoongeza ufanisi.
- ◆ Mamlaka ya kufanya maamuzi kuhusu rasilimali na uwajibikaji kwa matokeo yatakuwa juu ya mtu aliyekabidhiwa wajibu wa utendaji wa shughuli hiyo.

Mifumo ya Usimamizi Inayolenga Katika Utendaji Wenye Matokeo

4.3 Serikali na vyombo vyote katika Utumishi wa Umma vinatakiwa kuwa na mfumo wa usimamizi wa utendaji kazi (Performance Management System) unaolenga kupima matokeo ya utendaji kazi. Mfumo huo utakuwa na mambo muhimu yafuatayo:-

Mkakati wa Mpango wa Kitaifa

Mpango huu utaandaliwa na kurekebishwa kila mwaka na Tume ya Mipango ukiwa na maeneo ya mkakati ya kila sekta. Kila eneo la matokeo ya mkakati (Strategic Result Area) linaweza kuhusisha Wizara zaidi ya moja kukiwa na Mchango wa Vyombo mbalimbali kufikia mafanikio ya Eneo la matokeo ya mkakati. Kwa kuzingatia maeneo ya matokeo ya mkakati Wizara zinaweza kuweka vipaumbele vyao au maeneo yale muhimu (Key Result Areas) ambayo Wizara zitaonyesha kwa upana malengo makuu ya utendaji yatakayofikiwa katika kipindi cha miaka mitatu.

maeneo ya matokeo ya mkakati Wizara zinaweza kuweka vipaumbele vyao au maeneo yale muhimu (Key Result Areas) ambayo Wizara zitaonyesha kwa upana malengo makuu ya utendaji yatakayofikiwa katika kipindi cha miaka mitatu.

- ◆ Kila chombo katika Utumishi wa Umma kitakuwa na orodha ya huduma maalumu zinazopewa kipaumbele na ambazo zitaombewa fedha Serikalini. Bajeti zitakuwa zinalenga kwenye matokeo (output based) na siyo katika nyenzo (input based). Fedha zitatengwa kwa vyombo vya Umma kwa kuzingatia matokeo mahususi yatakayopatikana.
- ◆ Bajeti italenga katika matokeo ya utendaji na itapangwa kulingana na huduma zinazopewa kipaumbele.
- ◆ Kila chombo karika Utumishi wa Umma kitakuwa na dira na malengo ya wazi. Dira na malengo hayo lazima yawe yanakubalika na kumilikiwa kwa pamoja na watumishi wa ngazi zote za chombo hicho toka ngazi za chini hadi ngazi za juu.
- ◆ Kulingana na Dira na lengo, kila chombo kitaandaa mpango wa utekelezaji wa miaka mitatu mitatu ambao pamoja na mambo mengine utaonyesha:
 - ◆ Mtazamo wa kimkakati wa Taasisi.
 - ◆ Maeneo yanayopewa kipaumbele.
 - ◆ Viwango na kiasi cha huduma inayotolewa.
 - ◆ Viwango vya upimaji wa utendaji kazi.
 - ◆ Hali ya matumizi ya fedha.
 - ◆ Tathmini ya utendaji kazi wa mwaka uliotangulia.
- ◆ Mikataba ya utendaji ya kila mwaka (Annual Performance Agreements) itaanzishwa kwa maafisa wote wa ngazi za uongozi, Mikataba hii:
 - (a) Itatoa utaratibu ambapo viongozi wakuu wataweka wazi viwango vya utendaji kwa watu wanaoawaongoza kwa kila mwaka wa fedha unaofuata na kipaumbele cha matokeo wanayotarajia kutokana na shughuli za chombo hicho.

- (b) Itatoa vipimo vya malengo ya utendaji vilivyokubaliwa ambavyo kila mara vinaweza kutumika kutathmini utendaji. Vipimo hivyo vitakuwa vyenye mkakati unaojumuisha mahitaji ya jumla ya Serikali na yale ya chombo cheneyewe.
- (c) Itajumuishwa katika mfumo wa mpango wa Serikali. Pia itatumika kama mojawapo ya mbinu za utekelezaji wa mipango ya maendeleo ya kijamii, kiuchumi na kisiasa ya Serikali. Kwa mfano kutakuwa na mikataba ya utendaji ya kila mwaka kati ya Makatibu Wakuu na Mawaziri, na pia kati ya Makatibu Wakuu na Wakurugenzi, kati ya Wakurugenzi na Wakuu wa Sehemu na kati ya Wakuu wa Sehemu na Maaifisa wanaowasimamia.

5. SERA YA USIMAMIZI WA WATUMISHI

- 5.1 Mafanikio ya mabadiliko katika Utumishi wa Umma nchini yatategemea zaidi ya yote mbinu za usimamizi wa rasilimali muhimu ambayo ni watumishi. Kwa sababu hii, usimamizi wa watumishi wa Umma utatawaliwa na Sera kama ilivyoainishwa hapa chini.

Mpango wa Watumishi

- 5.2 Kila chombo katika Utumishi wa Umma kitaandaa mpango wa kati (miaka mitatu) na mpango wa kila mwaka wa watumishi wake kutokana na malengo yake. Idadi ya mahitaji ya watumishi itakadiriwa kulingana na wingi na uzito wa kazi ambazo uongozi unatarajia kutekeleza, ukilinganishwa na ujuzi na uwezo unaohitajika pamoja na fedha zitakazopatikana kwa ajili ya kuwalipa watumishi. Mpango wa watumishi utahusisha ajira mpya, kupandisha vyeo, kutoa mafunzo na maendeleo, kustaafu au kuacha kazi. Kwa hiyo, mpango wa watumishi utakuwa ni sehemu ya mfumo wa gharama za matumizi ya chombo husika.

Madaraja ya Utumishi

- 5.3 Mfumo wa sasa wa kada za utumishi utabadilishwa na kuwa na utaratibu ulio rahisi kwa nia na malengo ya:

- ◆ Kupunguza idadi ya ngazi na madaraja na vilevile kupunguza mfumo wa utawala msonge.
- ◆ Kubadilisha utaratibu wa kupandisha vyeo kwa mserekeo na kuweka utaratibu wa kutumia uwezo ili kunufaisha maendeleo ya haraka kwa watendaji kazi hodari.
- ◆ Kufanikisha watumishi kuridhika kazini kwa kupanua upeo wa kazi wa kila mtumishi na kumwongezea ujuzi wa aina mbalimbali.
- ◆ Kuhamasisha ujuzi mpya.
- ◆ Kuondoa udhibiti wa makao makuu na kuweka mfumo wa udhibiti unaozingatia mahitaji halisi ya kila chombo na utendaji kazi wake.

5.4 Utaratibu huu utachukua miaka kadhaa kuanzisha. Kwa wakati huu chombo kinachotaka kutumia mfumo mpya wa utumishi kitapata idhini kutoka Idara Kuu ya Utumishi wa Umma ili kufanya hivyo, ili mradi wathibitishe kuwa watazingatia misingi iliyomo katika Sera hii.

Ajira na Uteuzi

5.5 Vyombo vyote vya Utumishi wa Umma vitatakiwa kutoa taarifa ya nafasi zote zilizo wazi katika Idara Kuu ya Utumishi na Wizara ya Fedha. Vyombo hivi vitakuwa na hiari ya kufuta nafasi zilizo wazi na kutumia fedha walizookoa kwa matumizi mengine.

5.6 Nafasi yoyote ya kazi katika Utumishi wa Umma itajazwa kama tu kuna fedha zilizotengwa kwa ajili hiyo.

5.7 Ajira inatafsiriwa kuwa ni kuingia kwa mara ya kwanza katika Utumishi wa Umma. Uajiri utafanyika kwa ushindani ulio wazi kwa kutangaza nafasi ili kuhakikisha kuwa waombaji wenye sifa kutoka ndani au nje ya Utumishi wa Umma wanajitokeza. Vigezo vinavyozingatia sifa vitaandaliwa mapema kwa ajili ya kuvapima

waombaji. Vigezo hivyo vitahifadhiwa kwenye kumbukumbu za kudumu ajili ya ukaguzi wa baadaye.

5.8 Vigezo vya uteuzi vitazingatia uwiano kari ya taaluma na ujuzi wa kikazi na sifa nyingine kama uzoefu kazini, rekodi zake kazini na uwezo wa kujifunza. Hata hivyo, vigezo vitahusu tu masuala ambayo yanahusiana moja kwa moja na utendaji wa kazi inayotarajiwa kufanywa. Hata hivyo, patakuwepo na uangalifu mkubwa ili kuleta uwiano mzuri wa ajira baina ya makundi mbalimbali katika jamii.

5.9 Waombaji wote wenye sifa kulingana na vigezo watafikiriwa kwa uteuzi.

5.10 Waombaji wore waliofaulu na wasiofaulu wataarifiwa kwa maandishi juu ya matokeo ya maombi yao katika kipindi maalumu kitakachowekwa.

Masharti ya Kujiunga na Utumishi wa Umma

5.11 Kujiunga na Utumishi wa Umma kutakuwa na masharti yafuatayo:-

- ◆ Raia wa kigeni watafikiriwa kuajiriwa katika Utumishi wa Umma pale ambapo raia wenye sifa zinazotakiwa hawapatikani. Hawa wataajiriwa kwa masharti ya mkataba wa muda maalumu usiozidi miaka mitatu na kwa kibali cha Mkuu wa Utumishi wa Umma. Mwongozo mpya wa ajira ya wageni utatolewa na Serikali kila inapolazimu kufanya hivyo.
- ◆ Kiwango cha chini cha elimu cha kumwezesha mtumishi kuajiriwa kwa masharti ya kudumu katika Utumishi wa Umma kitakuwa kidato cha nne (4).
- ◆ Ili kuajiriwa katika Utumishi wa Umma itahitajika mtumishi awe mwenye tabia njema.

- ◆ Umri wa chini wa kuingia katika Utumishi wa Umma utakuwa miaka kumi na nane (18) na umri wa juu wa kuacha Utumishi wa Umma ni miaka (60).
- ◆ Afya ya mtu au urimamu wa kiungo haitamzuia mtu kuaji riwa katika Utumishi wa Umma isipokuwa tu kama hali hii itaathiri moja kwa moja utendaji wa kazi inayohusika.

Mikataba ya Ajira

- 5.12 Ajira haitatolewa na wala mwajiriwa hataanza kazi mpaka taratibu zote za uajiri zimekamilika. Hii ni pamoja na kuonyesha ushahidi wa vyeti vinavyoonyesha sifa zake, kazi alizofanya nyuma, tabia yake na baada ya kukamilisha taratibu zote za upekuzi na kuthibitisha kuwa mhusika ni raia mwema.
- 5.13 Watumishi wote wa Umma watakuwa na mikataba ya ajira ya maandishi. Mikataba itakuwa ya kudumu au ya muda maalumu. Mikataba ya kudumu itatolewa kwa watumishi wanaojiriwa kufanya kazi za msingi, na ambazo zinaendelea na zinaweza kuendelea kwa kipindi cha baadaye. Mikataba ya muda maalumu itatumika katika Utumishi wa Umma katika mojawapo ya mazingira yafuatayo:-
- 5.14 Waajiriwa wapya katika Utumishi wa Umma pamoja na wale wa mikataba ya muda maalumu watatakiwa kuwa katika kipindi cha majaribio. Lengo la kipindi cha majaribio ni kutoa nafasi ya kutathmini uwezo wa mtumishi kufanya kazi na kama anastahili kuwa katika Utumishi wa Umma. Muda wa majaribio unaweza kutofautiana kutegemea na kiwango na ugumu wa kazi yenyewe. Hata hivyo, hautakuwa chini ya miezi mitatu wala zaidi ya miezi kumi na miwili.
- 5.15 Barua za ajira karika Utumishi wa Umma zitaweka bayana kinachotarajiwa kwa kila mwajiriwa katika utendaji kazi. Pia zitaonyesha kwa ufupi wajibu, uwajibikaji na vigezo vya utendaji vinavyotegemewa kutoka kwa mwajiriwa.

5.16 Mwisho wa kipindi cha majaribio mwajiriwa ataarifiwa kwa maandishi iwapo amekamilisha vizuri kipindi chake cha majaribio au la. Taarifa ya kufanikiwa kumaliza vizuri itakuwa moja kwa moja inamthibitisha mwajiriwa katika ajira kwenye Utumishi wa Umma. Mwajiriwa anayeshindwa kipindi cha majaribio anaweza kuongezewa muda wa majaribio mara moja tu kwa muda usiozidi nusu ya kipindi cha majaribio cha mwanzo mradi tu kuwe na matumaini ya kuboresha utendaji. Mtumishi asiyedhihirisha utendaji mzuri katika kipindi cha nyongeza cha majaribio ataondolewa kazini.

Usimamizi wa Tathmini ya Utendaji Kazi

5.17 Kila chombo cha Utumishi wa Umma kitatakiwa kiwe na mfumo wa kutathmini utendaji kazi kwa watumishi wake wote. Mfumo unaweza kutofautiana kutoka chombo kimoja hadi kingine na kutoka kiwango kimoja hadi kingine, lakini utakuwa na vipengele vya msingi vifuatavyo:-

- ◆ Kila mtumishi, ikiwa ni pamoja na Makatibu Wakuu na Wakuu wa Idara zinazojitegemea atakuwa na majukumu ya kazi yanayojumuisha malengo maalumu yanayopimika kulingana na matokeo yanayotarajiwa katika kipindi cha miezi 12. Majukumu ya kazi na malengo ya utendaji yataandaliwa kwa kushauriana na mtumishi na yataonyesha malengo ya kuendeleza ujuzi wa mtumishi pamoja na malengo ya utekelezaji.
- ◆ Wafanyakazi watapcwa taarifa ya utendaji wao mara kwa mara kwa kipindi kisichozidi miezi sita inayoliganishwa na malengo, na watashauriwa na kupatiwa msaada wa kurekebisha upungufu wowote utakaojitokeza.
- ◆ Taarifa ya maandalizi ya tathmini ya utendaji kazi itajazwa

kila mwaka, na yaliyomo yatajadiliwa baina ya mtumishi na msirnamizi wake wa kazi. Mahojiano ya tathmini ya utendaji yatatoa fursa ya kujadili mahitaji ya rnafunzo na maendeleo ya mtumishi, pamoja na kutambua utendaji mzuri na kutafuta hatua zinazofaa kuchukuliwa itakapotokea kuwa utendaji kazi hauridhishi.

- ◆ Mtumishi atakuwa na fursa ya kujieleza juu ya taarifa hiyo, na atapewa nakala ya binafsi ya taarifa hiyo baada ya kujaza. Taarifa hiyo itatunzwa katika jalada binafsi la mtumishi.
- ◆ Tathmini zote za utendaji kazi zitakaguliwa na afisa mfawidhi ili kuhakikisha kuwa haki inatendeka na kuwa utoaji wa taarifa unafuata mfumo mahususi unaofanana.

Mafunzo na Maendeleo ya Watumishi

5.18. Kwa nia ya kuendeleza na kuimarisha ujuzi wa watumishi vyombo vyote vya Umma vitakuwa na programu ya mafunzo na maendeleo kulingana na mahitaji ya ujuzi na stadi yaliyobainishwa katika mpango wao wa utumishi. Programu hiyo itatengewa fedha kwenye bajeti na italenga katika kuleta maendeleo ya chombo husika na yale ya kila mtumishi.

5.19 Mafunzo yatatofautiana kutoka chombo kimoja hadi kingine, lakini ni lazima yahusishe mambo yafuatayo:-

- ◆ Mafunzo ya awali ya watumishi wapya ya kuelekeza taratibu za Utumishi wa Umma, mikakati na shughuli za vyombo vyao, na kazi wanazokufanya.
- ◆ Kupandishwa vyeo: kuwaelekeza watumishi waliopanda vyeo majukumu yao mapya na shughuli zinazohusu ngazi maalumu za uongozi.

- ◆ Utaalamu wa stadi: kujifunza mbinu mpya na kuimarisha stadi.
- ◆ Uongozi: kuwapatia viongozi ujuzi muhimu.
- ◆ Mafunzo ya jumla: kuwawezesha watumishi wa ngazi zote kumudu mabadiliko makubwa ya kisera na harakati mpya za uongozi na pia kujenga na kutunza maadili ya Utumishi wa Umma.

5.20 Patakuwa na mpango wa mafunzo na maendeleo kwa kila mtumishi uliokubalika wakati wa kutathmini utendaji kazi kila mwaka.

Chuo cha Mafunzo ya Utumishi wa Umma

5.21 Serikali itaanzisha Chuo cha Mafunzo ya Utumishi wa Umma kitakachokuwa na vituo kadhaa ili kiweze kutoa mafunzo yanayohitajika kwa watumishi wote wa ngazi mbalimbali za utendaji. Lengo litakuwa kufanya chuo hiki kujitegemea chenyewe na kitafanya juhudi za kuvutia mafunzo ya watumishi wa Umma na wa vyombo vingine. Vyombo vya Umma vitakuwa huru kukitumia chuo hiki au chuo chochote kingine kinachokidhi mahitaji ya ujuzi wa watumishi wao.

Kupanda Daraja

5.22 Kupanda daraja ni kupanda kutoka ngazi moja kwenda kwenye ngazi ya juu yake kikazi. Upandishwaji daraja utazingatia sifa katika hali ya ushindani wa wazi kwa ajili ya kuwania nafasi wazi. Mashindano hayo yatakuwa wazi kwa waombaji. wa ndani na wa nje. Kigezo kikuu cha kumfikiria mwombaji kwa ajili ya ngazi ya juu kitakuwa ni uwezo wa mwombaji kushika cheo hicho kutokana na sifa zake, ujuzi, stadi na haiba. Uchaguzi kwa ajili ya kupandisha cheo utafuata taratibu sawa na za uajiri.

Kubadilisha Sehemu ya Kazi

- 5.23 Kutakuwa na uhuru wa kubadilisha kazi ndani ya Utumishi wa Umma na baina ya Utumishi wa Umma na sekta binafsi. Mtumishi wa Umma mwenye sifa zinazofaa anaweza kuomba kazi inayotangazwa ndani ya chombo chake au katika chombo kingine cha Umma. Hata hivyo, watumishi walio katika mikataba ya muda maalumu watatakiwa kutimiza masharti ya mikataba yao kabla ya kuhamia kazi nyingine. Watumishi wa kudumu watalazimika kukubaliana na waajiri wao juu ya muda wa kuhamia. Mwajiri hataruhusiwa kumzuia mtumishi asibadilishe kazi hila sababu ya kuridhisha, hasa kama kazi mpya ya mtumishi huyo ni ya kupanda cheo au ni ya maslahi mazuri zaidi ya kikazi.

Ujira

- 5.24 Gharama ya matumizi kwa ajili ya malipo ya watumishi wa Umma zitatayarishwa kila mwaka na Wizara ya Fedha, kwa kuzingatia makusanyo ya Serikali. Kila chombo cha Utumishi wa Umma kitatengewa kiasi cha bajeti hiyo, kulingana na makadirio ya mahitaji yake na sehemu zinazopewa kipaumbele serikalini. Watumishi wa Umma watalipwa kulingana na stadi, uwezo na majukumu yao, na kutokana na uwezo wa Serikali. Mishahara italipwa kila mwisho wa mwezi.
- 5.25 Taratibu mpya za ujira zitawekwa ili kuoanisha mishahara na ufanisi wa kazi, na kuwezesha kila chombo kutengeneza mfumo wake wa mishahara kulingana na shughuli zake. Vyombo vinavyotaka kutengeneza miundo yao ya mishahara vinaweza kuomba kufanya hivyo, ili mradi vinafuata kanuni na Sera zilizowekwa kwenye Sera hii na vinaoanisha malipo na thamani ya kazi. Hata hivyo, Idara Kuu ya Utumishi ndiyo itakayoainisha na kuidhinisha mifumo yote ya Utumishi wa Umma.
- 5.26 Viwango vya malipo ya mishahara vitajadiliwa kila mwaka baina ya Serikali na vyama vya wafanyakazi vinavyowakilisha wafanyakazi na maamuzi yatafikiwa kwa makubaliano.

Saa za Kazi

- 5.27 Juma la kawaida katika Utumishi wa Umma litakuwa na saa zisizopungua arobaini za kazi. Vyombo vya Umma vitaweza kupanga saa za kazi kwa kadiri vitakavyoona inafaa kulingana na mahitaji ya wale wanaowahudumia na mahitaji ya waajiriwa wao.
- 5.28 Inawezekana kufanya mabadiliko ya muda wa kazi ili kuwawezesha baadhi ya watumishi wenye majukumu ya kijamii kutimiza majukumu hayo.

Likizo ya Mwaka

- 5.29 Kila mtumishi wa Umma atakuwa na haki ya kupewa likizo ya mwaka yenye malipo kwa siku ambazo zitapangwa na Serikali.
- 5.30 Likizo isiyochukuliwa haitafidiwa na itafutwa. Katika mazingira maalumu, mwajiriwa atakubaliwa kuahirisha likizo yake kwa kiasi kisichozidi siku 10 za likizo ya mwaka mmoja kwenda mwaka mwingine.

Likizo Bila Malipo

- 5.31 Mfanyakazi anaweza kupewa likizo bila malipo kwa muda usiozidi siku 90 kwa kila miaka miwili ili aweze kuchukua masomo au mafunzo ama kujiendeleza, pale itakapokubaliwa kuwa ni kwa ajili ya manufaa ya Umma.

Likizo ya Ugonjwa

- 5.32 Mtumishi wa Umma ataruhusiwa kuchukua likizo ya ugonjwa, ikiwa daktari amependekeza iwe hivyo katika masharti yatakayopangwa na Serikali.

Likizo ya Uzazi

- 5.33 Mtumishi wa Umma wa kike ana haki ya likizo ya uzazi yenye idadi ya siku ambazo zitakubaliwa na Serikali mara moja kila miaka mitatu, akiwa na uthibitisho wa daktari.

Mahusiano ya Kazini na Ushirikishwaji

- 5.34 Vyombo vya Utumishi wa Umma vitaanzisha utaratibu wa ushirikishwaji wa watumishi katika mambo yanayohusu kazi, haki zao za utumishi na maslahi yao kwa kutumia wawakilishi wao katika chama cha wafanyakazi. Kila mara watumishi watahimizwa kutoa mchango wa mawazo jinsi ya kuongeza tija na ufanisi na kutoa huduma bora kwa gharama nafuu.
- 5.35 Watumishi wa Umma watakuwa huru kujiunga na chama chochote cha wafanyakazi, isipokuwa kwa sekta chache maalumu, kama vile polisi na magereza. Vyama vya Wafanyakazi vitawakilisha mawazo ya wafanyakazi na vitakuwa na mashauriano ya mara kwa mara na Serikali yanayohusu maslahi ya watumishi pamoja na masharti na kanuni za kazi.

Mwenendo na Nidhamu

- 5.36 Watumishi wote wanatakiwa kufuata maadili ya kazi. Maadili hayo yataweka wazi taratibu na tabia zinazotakiwa kuhakikisha kanuni zilizoelezwa katika Sera hii zinafuatwa.
- 5.37 Kutofuata maadili kutachukuliwa kuwa ni utovu wa nidhamu na kutashughulikiwa ipasayyo.
- 5.38 Utovu wa nidhamu unaelezwa kuwa ni:-
- ◆ Vitendo vya jinai au vinayyovunja sheria.
 - ◆ Vitendo vina vyokwenda kinyume na maadili ya Utumishi wa Umma.
 - ◆ Kutofuata kanuni na masharti ya kazi.
 - ◆ Kutotekeleza kazi kama inavyoelekezwa.
- 5.39 Vyombo vya Utumishi wa Umma vitaweka wazi taratibu za kushughulikia utovu wa nidhamu kwa haraka na vitahakikisha kuwa taratibu hizo zinaeleweka na wafanyakazi wote. Utaratibu huo utazingatia yafuatayo:

- ◆ Itakuwa ni wajibu wa kila mfanyakazi kumjulisha msimamizi wake dalili zozote za utovu wa nidhamu, bila kujali kama zimetokea katika sehemu yake ya kazi ama la, na bila kujali cheo cha anayehusika. Kutofanya hivyo kutachukuliwa kuwa ni utovu wa nidhamu.
- ◆ Hakuna mfanyakazi atakayeadhibiwa kwa kutoa taarifa za dalili za utovu wa nidhamu.
- ◆ Polisi wataarifiwa kuhusu kitendo cha jinai kilichofanywa na mtumishi wa Umma.
- ◆ Dalili zozote za utovu wa nidhamu zitachunguzwa mara moja.
- ◆ Mtu anayechunguzwa atajulishwa kwa maandishi makosa anayotuhumiwa.
- ◆ Maelezo yote ya uchunguzi yataandikwa na kutunzwa kwa ajili ya ukaguzi wa siku za baadaye.
- ◆ Mtu anayechunguzwa atapewa fursa ya kujieleza.
- ◆ Uamuzi utatolewa haraka iwezekanavyo na anayehusika atapewa taarifa ya uamuzi huo kwa maandishi.
- ◆ Kutakuwa na adhabu zilizoandaliwa kwa makini kulingana na uzito wa makosa.
- ◆ Mtu anayehusika atapewa fursa ya kukata rufaa dhidi ya uamuzi uliotolewa, na adhabu yoyote iliyotolewa, kwa chombo chochote kingine cha sheria.

Mafao ya Kustaafu

- 5.40 Kila chombo cha Utumishi wa Umma kitakuwa na utaratibu wa malipo ya kustaafu kwa wafanyakazi wake ambao utagharimiwa na mfuko wa pamoja kati ya waajiriwa na waajiri. Michango ya mafao ya kustaafu itapewa kipaumbele katika matumizi ya vyombo vyote vya Utumishi wa Umma.

Kuacha Kazi

- 5.41 Mtumishi wa Umma anaweza kuacha kazi wakati wowote, kwa kutoa taarifa ya maandishi ya mwezi mmoja. Watumishi wa Umma watakaoacha kazi kabla ya kutimiza miaka mitano kazini hawatakuwa na haki ya kupata mafao yoyote. Watumishi wa Umma walioajiriwa kwa miaka 5 na zaidi na ambao wanaacha kazi kabla ya kutimiza umri wa miaka 50 wana haki ya kupata mafao ya kustaafu watakapofikia umri wa kawaida wa kustaafu.

Kustaafu kwa Kawaida

- 5.42 Umri wa kawaida wa kustaafu utakuwa miaka 60. Watumishi wa Umma wanaweza kubakishwa kazini baada ya umri wa kawaida wa kustaafu pale tu ambapo kuna sababu maalumu yenye manufaa kwa Umma, na kama hakuna mwombaji anayefaa kujaza nafasi hiyo. Mtumishi yeyote atakayeendelea na kazi baada ya miaka 60 hawezi kuchukua mafao yake ya kustaafu hadi atakapoacha kabisa Utumishi wa Umma.

Kustaafu kwa Hiari

- 5.43 Mtumishi wa Umma anaweza kuomba kustaafu kwa hiari wakati wowote baada ya umri wa miaka 50. Atakuwa na haki ya kupokea mafao ya kustaafu mara anapofanya hivyo.

Kustaafu kwa Ugonjwa

- 5.44 Mtumishi wa Umma anaweza kustaafishwa mapema kama afya yake inamfanya asiweze kutimiza wajibu wake wa kazi na kama hakuna matumaini ya kupona.

Kufukuzwa Kazi

- 5.45 Mtumishi wa Umma anaweza kufukuzwa kazi wakati wowote baada ya taratibu kufuatwa kwa sababu zifuatazo:-
- ◆ Kuhukumiwa kwa kosa la jinai.
 - ◆ Hujuma au ubadhirifu.
 - ◆ Kuharibu kazi.

- ◆ Kutokuwepo kazini kwa muda maalumu.
- ◆ Udhaifu uliokithiri katika utendaji kazi.

5.46 Mtumishi wa Umma atakayefukuzwa kazi atapoteza mafao yake ya kustaafu.

6. MAJUKUMU NA WAJIBU

6.1 Utekelezaji wa kanuni na taratibu zilizomo katika Sera hii unatarajiwa kuleta mabadiliko ya msingi katika uendeshaji wa Utumishi wa Umma katika nchi yetu, hususan katika usimamizi wa wafanyakazi. Dhana ya "usimamizi wa wafanyakazi" inachukua nafasi ya "utawala wa waajiriwa". Idara Kuu ya Utumishi wa Umma itakuwa Idara ndogo ya kubuni na kusimamia Sera yenye wajibu wa kuhakikisha kwamba, vyombo vya Utumishi wa Umma vinafuata kanuni za usimamizi na uendeshaji zinazoviwezesha vyombo mbalimbali kutumia vyema rasilimali chache za umma, na kuajiri, kupanga, kuwahamasisha na kuwaendeleza wafanyakazi wao ili walete ufanisi wa hali ya juu katika utendaji. Mamlaka na Taasisi zitakazohusika na utekelezaji wa Sera hii zinaelezwa kama ifuatavyo:-

Rais wa Jamhuri

6.2 Watumishi wote wa Umma wanaajiriwa kwa ridhaa ya Rais wa Serikali ya Jamhuri ya Muungano wa Tanzania, ambaye ndiye anayewajibika na usimamizi na mwenendo wa Utumishi wa Umma. Hata hivyo, Rais atahusika na uteuzi wa watumishi wa Umma katika ngazi za juu za utendaji kwa Wizara na Idara zinazojitegemea (yaani Makatibu wakuu na Manaibu Makatibu Wakuu, Makatibu Tawala wa Mikoa, Wajumbe wa Tume ya Utumishi wa Umma, Mabalozi, Wakuu wa Mikoa na Wilaya na Wakuu wa vyombo mbalimbali katika Utumishi wa Umma. Rais atakasimu madaraka yake ya kuteua watumishi wengine wa Umma kwa Tume ya Utumishi wa Umma, Idara Kuu ya Utumishi wa Umma, na vyombo vingine vya Utumishi wa Umma.

Tume ya Utumishi wa Umma

- 6.3 Tume ya Utumishi wa Umma itakuwa na jukumu kubwa na la pekee katika kufuata kanuni na msingi wa Sera hii. Wajibu mkubwa wa usimamizi wa wafanyakazi utabaki mikononi mwa kila sehemu ya ajira.
- 6.4 Tume tofauti za Utumishi zilizopo zitaunganishwa kuunda Tume moja ya Utumishi wa Umma. Jukumu la Tume ya Utumishi wa Umma litakuwa kulinda misingi ya kuajiri kwa kufuata sifa.
- 6.5 Tume itakuwa na wajumbe wasiozidi saba, ambao watateuliwa na Rais. Watakuwa watu huru na wenye uadilifu wa hali ya juu ambao wanaheshimika katika jumuiya na ambao wameonekana kuwa wanajitolea kikweli kwa kazi za Umma. Watafanya kazi bila kushinikizwa na kikundi chochote cha siasa, na watawakilisha vikundi mbalimbali vya jamii. Wanasiasa wa kuchaguliwa au kuteuliwa, wanajeshi na watumishi wa Umma hawataweza kuteuliwa kuwa Wajumbe wa Tume. Wajumbe wanaoteuliwa watafanya kazi kwa muda wa vipindi visivyozidi viwili vya miaka mitatunitatu.
- 6.6 **Kazi za Tume ya Utumishi wa Umma zitakuwa:-**
 - ◆ Kufanya kazi kama mamlaka ya kuajiri na kupandisha daraja watumishi katika ngazi zitakazoelezwa kwenye sheria zinazohusika. Hiyo itakuwa ni pamoja na kutangaza nafasi zilizo wazi, kuwahoji waombaji na kuwashauri waajiri juu ya waombaji wanaofaa kuajiriwa.
 - ◆ Kutoa mwongozo wa vyombo vya Utumishi wa Umma kuhusu utekelezaji wa misingi ya ajira ya ushindani wa haki na wazi, na unaofuata sifa.
 - ◆ Kumshauri Rais atakapowataka kufanya hivyo kupitia Idara Kuu ya Utumishi wa Umma juu ya watu wanaofaa kuteuliwa kwa ajili ya nafasi za kazi ambazo Rais ndiye mamlaka ya uteuzi.

- ◆ Kutoa taarifa kwa Rais juu ya kazi za Tume mara moja kwa mwaka na kuchapisha taarifa ya mwaka ya shughuli zao.

6.7 Wakati Tume mpya ya Utumishi wa Umma haijaundwa, Tume za Utumishi Serikalini zilizopo zitakuwa na muundo kama ilivyoonyeshwa katika aya ya 6.5 isipokuwa idadi ya wajumbe itakuwa watano badala ya saba. Tume zitafanya kazi zilizotajwa hapo juu na kutekeleza wajibu wao kama ilivyoelezwa kwenye aya.

Katibu Mkuu wa Rais

6.8 Katibu Mkuu wa Rais ambaye pia ndiye Mkuu wa Utumishi wa Umma atawajibika kwa Rais juu ya ufanisi wa utendaji kazi na usimamizi mzuri katika Utumishi wa Umma. Akiwa mtumishi mkuu wa Umma, Katibu Mkuu wa Rais atamshauri Rais juu ya mambo yanayohusu Sera zinazoathiri ufanisi na utekelezaji wa Utumishi wa Umma na uhusiano baina ya watumishi na Mawaziri. Atawajibika kwa Rais katika kuhakikisha kuwa Sera za Serikali ya usimamizi na utumishi inatekelezwa na vyombo vyote vya Utumishi wa Umma.

6.9 Akiwa Mkuu wa Utumishi wa Umma, Katibu Mkuu wa Rais atakuwa na wajibu wa kuhakikisha kwamba Wakuu wa vyombo vya Utumishi wa Umma wanafahamu kikamilifu wajibu wao na wanauelewa uongozi, na kuwa anatekeleza kazi zao kwa makini.

Idara Kuu ya Utumishi wa Umma

6.10 Idara Kuu ya Utumishi Serikalini itaitwa Idara Kuu ya Utumishi wa Umma. Kazi zake zitakuwa ni kuhakikisha kuwa Sera za usimamizi na utekelezaji wake zinaviwezesha vyombo vya Utumishi wa Umma kuajiri, kuhamasisha na kuwa na wafanyakazi stadi wanaofaa kufanya kazi za Serikali. Idara Kuu ya Utumishi wa Umma itahusika kuhakikisha kuwa Sera hii inatekelezwa kwa ufanisi, na kuifanyia marekebisho inapobidi.

6.11 Idara Kuu ya Utumishi wa Umma itatoa pia huduma za uongozi kwa ajili ya Utumishi wote wa Umma, zitakapohitajika. Idara itashughulika hasa na:-

- ◆ Kutunga Sera za Utumishi na kufuatilia utekelezaji wake.
- ◆ Kufuatilia, kutathmini na kutoa ushauri mara kwa mara kuhusu malipo na masharti ya kazi kwa ajili ya kazi zote katika Utumishi wa Umma.
- ◆ Kutunza Tange kuu na kumbukumbu za wafanyakazi wote katika Utumishi wa Umma.
- ◆ Kutoa mafunzo na kufuatilia maendeleo ya watumishi katika vyombo vya Umma.
- ◆ Kutoa mwongozo wa kanuni na Sera za usimamizi kama inavyoelezwa kwenye Sera hii.
- ◆ Kutoa huduma za ushauri wa usimamizi kama itakavyohitajika na vyombo vingine vya Utumishi wa Umma kwa utaratibu wa kufidiwa gharama.

Wizara, Idara na Vyombo Vingine vya Umma

6.12 Vyombo vya Utumishi wa Umma ikiwa ni pamoja na Halmashauri za Serikali za Mitaa vitakuwa huru kuunda taratibu na kanuni za utekelezaji zitakazofaa mahitaji yao ya usimamizi wa wafanyakazi, ili mradi ziendane na kanuni na sera zilizomo kwenye Sera hii na zilenge katika ufanisi wa utendaji na za gharama ndogo. Vyombo vya Utumishi wa Umma vina wajibu maalumu wa kuwaarifu na kuwashirikisha wafanyakazi wao kwa pamoja juu ya mambo anayohusu masharti yao ya kazi na matarajio ya maendeleo ya kazi zao.

7. UTEKELEZAJI

7.1 Utekelezaji wa Sera hii utaanza mara moja na vyombo vyote vinavyohusika vitaanza kuchukua hatua za kuhakikisha utekelezaji wake.

Katibu Mkuu wa Rais

- 7.2 Katibu Mkuu wa Rais atakutana mara kwa mara na Mwenyekiti wa Tume ya Utumishi Serikalini na Katibu Mkuu, Idara Kuu ya Utumishi wa Umma, kuangalia maendeleo, na atatoa taarifa kwa Rais juu ya matokeo yaliyokwisha kufikiwa.

Idara Kuu ya Utumishi wa Umma

- 7.3 Katibu Mkuu, Idara Kuu ya Utumishi wa Umma, ataongoza katika kuratibu na kutoa maelekezo ya utekelezaji na tathmini ya utekelezaji.

Wizara, Idara na Vyombo Vingine vya Umma

- 7.4 Wakuu wa vyombo vya Utumishi wa Umma wanatakiwa kutekeleza, kusimamia, kueneza na kuhimiza kufuatwa kwa dira na malengo ya pamoja, na misingi na kanuni za usimamizi za vyombo vyao kama ilivyoainishwa katika Sera hii.

Watumishi wa Umma

- 7.5 Watumishi wa Umma wanatakiwa kuielewa dira, malengo na maadili na wanawajibika kufuata taratibu za usimamizi zilizowekwa kwenye Sera hii. Wanao wajibu maalumu wa kutafuta, na kuchukua fursa inapotolewa, kuendeleza stadi zao na kuendeleza ujuzi wa kazi zao. Wanao wajibu pia wa kutafuta taarifa juu ya mambo yanayohusu maendeleo yao ya kazi, na kutoa mawazo na mapendekezo jinsi ya kurekebisha usimamizi wa wafanyakazi pale inapobidi.

2. SHERIA YA UTUMISHI WA UMMA NA. 8, 2002

THE PUBLIC SERVICE ACT, 2002

ARRANGEMENT OF SECTIONS

<i>Section</i>	<i>Title</i>
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2. Date of commencement.
3. Interpretation.

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5. Other executives in the Service.
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SCHEDULE

Oaths/Affirmation of Chairman and Members.

THE UNITED REPUBLIC OF TANZANIA.



No. 8 OF 2002

I ASSENT,

BENJAMIN W. MKAPA,
President

27th MAY, 2002

An Act to constitute the public service of the United Republic, to provide for its functions and obligations, to establish the Public Service Commission and provide for matters related to it.

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

- | | |
|---|----------------------|
| 1. This Act may be cited as the Public Service Act, 2002. | Short title |
| 2. The Act shall come into operation on such date as the Minister may, by notice published in the <i>Gazette</i> , appoint. | Date of commencement |
| 3. In this Act, unless the context requires otherwise - | Interpretation |
- “appointing authority” means any person or authority exercising powers of making appointment to any public service office;
- “Chairman” means the chairman of the Commission and includes a person acting in that office;

- Chief Secretary” means the public servant referred to in section 4 appointed to hold that office;
- “Commission” means the Public Service Commission established by section 9 and includes any department or division of the Commission;
- “Constitution” means the Constitution of the United Republic of Tanzania, 1977;
- “Council” has the meaning ascribed to it by the Local Government (District Authorities) Act, 1982, or the Local Government (Urban Authorities) Act, 1982;
- “disciplinary authority” means any person or authority vested with powers under the Constitution, this Act or any other law to take disciplinary action against any public servant appointed by or subordinate to him;
- “judicial office” means an office to which Article 113 of the Constitution applies;
- “judicial officer” means any person who holds or acts in a judicial office;
- “local government authority” has the meaning ascribed to it by the Local Government (District Authorities) Act, 1982, or the Local Government (Urban Authorities) Act, 1982;
- “member” in relation to the Commission means a member of the Commission and includes the chairman and, in relation to a committee, a member of the committee, and includes the Chairman of the committee;
- “Minister” means the Minister for the time being responsible for Public Service matters;
- “officer grade” means the lowest entry grade in the Public Service of a holder of a degree of a recognised University or equivalent qualification;
- “operational service” means the cadre of supporting staff not employed in the executive or officer grades;
- “parliamentary office” means an office constituted under the Parliamentary Services Commission Act, 1997;
- “parliamentary officer” has the meaning ascribed to it by the Parliamentary Services Commission Act, 1997;
- “Permanent Secretary” means the officer appointed as Permanent Secretary under section 5 and includes the Deputy Attorney-General and the Clerk of the National Assembly;
- “public servant” for the purpose of this Act means a person holding or acting in a public service office;
- “public service office” for the purpose of this Act means:

- (a) a paid public office in the United Republic charged with the formulation of Government policy and delivery of public services other than—
- (i) a parliamentary office;
 - (ii) an office of a member of a council, board, panel, committee or other similar body whether or not corporate, established by or under any written law;
 - (iii) an office the emoluments of which are payable at an hourly rate, daily rate or term contract;
 - (iv) an office of a judge or other judicial office;
 - (v) an office in the police force or prisons service;
- (b) any office declared by or under any other written law to be a public service office;

“the Service” means the public service of the United Republic of Tanzania.

PART II

ADMINISTRATION OF THE PUBLIC SERVICE

4.—(1) There shall be the Chief Secretary appointed by the President who shall be the chief executive officer of the Service.

The Chief
Secretary

(2) The Chief Secretary shall be the head of the Public Service and the Secretary to the Cabinet.

(3) The Chief Secretary shall, as head of the Service, provide leadership, direction and image to the Service and shall:

- (a) ensure that public servants in the Service are trained, motivated, efficient and effectively performing, and the Service is free of corruption and other unethical tendencies;
- (b) improve public accountability by promoting focus on result, service quality and customer satisfaction in public Service performance;
- (c) be responsible for confirmation of public servants appointed by the President;

- (d) be a disciplinary authority in respect of public servants appointed by the President.

(4) In addition to functions specified by the provisions of subsection (3), the Chief Secretary shall be the highest ranking disciplinary authority in the service and may, in that capacity, in relation to any servant exercise all or any of the powers delegated to a disciplinary authority.

Other executives in the Service

5.—(1) Except where the President determines otherwise, there shall be appointed by the President—

- (a) a chief executive officer in respect of each ministry, extra ministerial department, region or local government authority, in the Government of the United Republic, who shall be known as the Permanent Secretary for that Ministry, the Head of that extra ministerial department or Regional Administrative Secretary for the Region or the Director of the local government authority, as the case may be, save that -

- (i) in the case of the office of the National Assembly, the person appointed to be the Clerk to the National Assembly shall also be the chief executive officer;
- (ii) in the case of the Ministry of Justice and Constitutional Affairs, the person appointed to be the Deputy Attorney General shall also be the Permanent Secretary.
- (iii) in the case of Local Government, the Minister responsible for Local Government shall be the authority in respect of appointment, promotion and discipline of Directors of Local Government Authorities.

- (b) a Chief Commanding Officer in respect of—

- (i) The immigration service, to be known as the Director of immigration services;
- (ii) The fire and rescue services, to be known as the Commissioner of Fire and Rescue Services;

- (c) ^{note} deputy Permanent Secretaries and Ambassadors;

(d) the Regional and District Commissioners.

(2) For the purposes of subsection (1) the Director of Local Government Authority means an Executive Director of any Local Government Authority other than Directors of City Councils or Commissions.

(3) The President may appoint such number of other public servants known by such titles as may, from time to time, be determined or provided for by any other written law.

6.—(1) Every Permanent Secretary, Head of extra-ministerial department, Regional Administrative Secretary and Director of a Local Government Authority shall-

Duties of
executives
in relation
to the
Service

- (a) pursue results oriented management and ensure that the Service is mission driven and performing effectively and efficiently;
- (b) be the authority in respect of the appointment, confirmation and discipline of public servants other than those appointed by the President.

(2) Every Permanent Secretary shall, after Consultation with the Chief Secretary, sign an annual performance contract with the respective Minister.

(3) Every head of department or division shall be the authority in respect of the appointment, confirmation and discipline of employees in the operational service under his department or division.

(4) The authority in respect of^{ca} appointment, promotion, discipline and registration of teachers shall be the Teachers Service Department established under section 15 of this Act.

(5) The authority in respect of the appointment and confirmation of appointment in relation to-

- (a) immigration officers, below the rank of assistant inspector shall be the Director of Immigration Services;
- (b) fire and rescue officers, below the rank of Assistant Inspector shall be the Commissioner of Fire and Rescue Services.^{db}

(6) The Authority for appointment, confirmation, promotion and discipline of public servants in the local government service other than those for whom the appointing authority is the President shall be the Local Government Authority concerned.

The Public
Service
Scheme

7.—(1) The Minister shall formulate a Public Service Scheme which shall govern all service schemes.

(2) For the purpose of this section service schemes shall be formulated by the Minister responsible for each service in consultation with the Minister.

(3) For the purpose of this section Service Schemes include—

- (i) Public Service Scheme;
- (ii) Civil Service Scheme;
- (iii) Local Government Service Scheme;
- (iv) Teachers Service Scheme;
- (v) Health Service Scheme;
- (vi) Fire and Rescue services scheme;

Adminis-
tration and
terms of
Service

8.—(1) Subject to any written law and to the instructions of the President, the administration of the service and the ordering of the terms and conditions of service of public servants is hereby vested in the Chief Secretary.

(2) Subject to any general or specific directions of the Chief Secretary, the Permanent Secretary (Establishment) shall be the principal assistant to the Chief Secretary in relation to the administration of the Service and shall, in addition to the functions under sub-section (2) of section 6, be vested with, have the duty and exercise the power to—

(a) after consultation with the Minister, notify the Chief Secretary of vacancies in public service offices in respect of which the President is the appointing authority;

(b) formulate, promulgate, monitor, evaluate, review and interpret administrative and personnel policies;

- (c) prescribe the code of conduct for public servants;
- (d) constitute and abolish public service offices, except the office of Permanent Secretary;
- (e) coordinate recruitment and appointments of persons from outside the United Republic.

(3) Except where the Chief Secretary directs otherwise, the Permanent Secretary (Establishment) shall-

- (a) conduct investigations and studies concerning development and improvement of the efficiency of public servants and shall take appropriate steps to ensure the attainment of public service efficiency;
- (b) carry out a review of annual personal emoluments to ensure that personal emoluments expenditure conforms to budget ceiling;
- (c) coordinate and ensure proper upkeep of personnel information for all public servants;
- (d) be a change agent in relation to the image, mission, ethics, conduct and role of the Service;
- (e) carry out job evaluation and regrading and determine remunerations of public servants;
- (f) facilitate labour mobility of employees among employers.

PART III

THE PUBLIC SERVICE COMMISSION

9.-(1) There is hereby established a commission which shall be known as the Public Service Commission, whose membership shall be composed of a chairman and not more than six other members who shall be appointed by the President.

Establishment of the Commission

(2) In appointing members of the Commission, the President shall ensure that it consists of both men and women appointed only on grounds of merit.

(3) The Commission shall cater for public servants in the following services -

- (i) the civil service;
- (ii) the local government service;
- (iii) the health service;
- (iv) the teachers service;
- (v) the immigration and the fire and rescue services;
- (vi) the executive agencies and the public institutions service;
- (vii) the operational service.

(4) A member of the Commission shall serve for a period of three years and may be re-appointed for another term of three years.

(5) A person appointed to be member of the Commission shall be a person respected in the community in which he belongs, who is serving or has served in any profession, with experience at a senior management level in a public sector organisation and is of a proved or provable personal probity and integrity of the highest standard.

(6) A person shall not be qualified for appointment as member of the Commission if he is -

- (a) holding a political office;
- (b) a member of any employing authority;
- (c) a Regional Commissioner or a District Commissioner.

(7) For avoidance of any doubt a person who was appointed a member of the Commission while still in the Service shall upon ceasing to be a member, be reinstated to the Service and his service be regarded as continuous save that-

(a) his cessation was caused by circumstances provided under paragraph (b) and (c) of subsection (8) of section 9;

(b) he has been removed from office by the President under subsection (10) of Section 9.

(8) Subject to the provisions of this section, the office of a member shall become vacant -

- (a) at the expiration of three years from the date of his appointment;
or
- (b) has been removed from office by the President under subsection (10) of section 9;
- (c) if circumstances arise causing the member to be disqualified from holding, or being appointed to hold the office of a member or by being removed by the President.

(9) Any member may at anytime resign from office by giving notice in writing to the Chief Secretary, and the member shall cease to hold office from the date of receipt of the notice by the Chief Secretary.

(10) A member may only be removed from office by the President for inability to discharge functions of a member, whether arising from infirmity of body or mind or any other cause.

(11) If the office of Chairman is vacant or if the person holding it is for any reason unable to discharge the functions of the office, then until a person is appointed and assumes the functions of the office or until the person holding the office resumes discharge of those functions, as the case may be, those functions may be performed by an Acting Chairman who shall be appointed by the Chief Secretary from amongst the members.

(12) The quorum at any meeting of the Commission shall be five members, including the Chairman.

(13) Subject to the provisions of this Act, the Commission may regulate its own procedure.

(14) Subject to its rules of procedure, the Commission may act notwithstanding any vacancy in its membership or the absence of any member, but any decision of the Commission shall be by a majority of the members in office and attending.

**Functions
of the Com-
mission**

10.—(1) The functions of the Commission shall be -

- (a) to advise the President through the Public Service Department on the exercise of such of the functions conferred on the President by Article 36 of the Constitution, and sections 4(1) and 5(1) of this Act and in respect of the filling of such vacancies in the public service as the President may require;
- (b) to assist the President in relation to such matters relating to the Service as the President may require;
- (c) to issue guidance, to monitor and to conduct merit based recruitment in the public service;
- (d) to facilitate the appointment to posts in the public service of -
 - (i) officer grade or equivalent grade to director and commissioner grades;
 - (ii) officer grade or its equivalent to a director of a council in a local government authority;
 - (iii) the rank of assistant inspector to the rank of commissioner in the immigration Service;
 - (iv) the rank of assistant inspector to the rank of commissioner in the fire and rescue services;
- (e) to receive and act on appeals from the decisions of other delegates and disciplinary authorities;
- (f) to exercise any other functions which may be conferred upon it under Part VI of this Act;
- (g) to facilitate, monitor and evaluate performance by officials in the Service to secure results oriented management;
- (h) to call upon all executives in the Service to account for their performance should the Commission be seized with evidence or complaints indicating mismanagement or non performance of mission;
- (i) to ensure that service schemes are formulated and implemented effectively.
- (j) to take measures in relation to any executive who fails to take action concerning public servants under him in accordance with the requirements of the law for the service;

(k) to exercise such other function as may be conferred upon the commission by or under any other written laws.

(2) The Commission may require any employing authority to provide information which the Commission may need for carrying out its functions.

(3) Where any employing authority fails to provide information as required by the Commission, the Commission shall report the failure to the Chief Secretary who shall take appropriate action.

(4) In performing its functions the Commission shall observe regulations made under this Act or any other written law relating to the Service;

11.—(1) The Chairman and members of the Commission shall each on first appointment take and subscribe to an oath or make affirmation, in the form set out in the Schedule to this Act, which shall be administered by the President.

Oath of
members

(2) The Secretary of the Commission shall on first appointment take and subscribe to an oath or make an affirmation before the President.

(3) The Chairman may require any officer of the Commission on first appointment, to take an oath or make an affirmation in the form set out in the Schedule to this Act, which shall be administered by the Chairman.

12.—(1) The members shall be paid such allowances and other benefits as may be determined by the Permanent Secretary (Establishment) out of moneys provided by Parliament in that behalf.

Remunera-
tion of
members

13.—(1) No act or thing done or omitted to be done, by any member of the Commission, shall, if done or omitted *bona fide* in the execution or purported execution of his duties as a member, subject any such member to any action, liability or demand of any kind, subject to subsection (2).

Protection
of members

(2) Where in any proceeding a question arises respecting the *bona fide* of any act done in the purported execution or pursuance of the functions of the Commission, the burden of proving that the act in question was done *bona fide* shall lie on the person alleging that it was so done.⁽¹⁾

The Secretary and staff of the Commission

14.—(1) The President shall appoint a public servant to be the Secretary of the Commission.

(2) The Secretary shall be the chief executive and accounting officer of the Commission and shall attend all meetings of the Commission but shall not vote at such meetings.

(3) The Commission may appoint such number of public servants to be deputies or assistants to the Secretary.

(4) There shall be recruited and employed in such offices of the Commission, such number of persons as the Commission may, with the prior approval of the Permanent Secretary (Establishment), establish.

(5) The offices of the Commission shall be public service offices and their holders shall be public servants.

Departments of the Commission

15.—(1) There shall be the following Departments of the Commission, namely-

- (a) the Civil Service Department;
- (b) the Teachers Services Department;
- (c) the Local Government Service Department;
- (d) the Fire and Rescue Services Department;
- (e) the Health Service Department.

(2) The Commission may, with the prior approval of the President, establish such other departments, divisions, subdivisions, committees or offices within its organizational structure as may be necessary for the better and more efficient carrying out of the objectives and purposes of this Act, and in so doing the Commission may establish such offices in Regions, as well as in Zanzibar in relation to Union Government servants.

Annual report

16.—(1) The Commission shall each financial year prepare and submit to the President an annual report dealing generally with its activities and operations during the previous year, as well as touching on its financial affairs.

(2) The Minister shall, as soon as practicable after the report is submitted to the President, lay the report before the National Assembly.

17. Every report, statement or other communication, written or oral which the Commission may in the exercise of its functions under this Act make to the President or to any public servant or which may have taken place between the Commission, or any member or officer of the Commission or any public servant and the Chairman or between any members or officers of the Commission in connection with the exercise of the functions of the Commission shall be privileged in that, unless the President consents in writing in that behalf, its production or disclosure in any legal proceedings may not be compelled.

Communi-
cations of
Commis-
sion privi-
leged

18.—(1) No member, officer of the Commission or any other person shall without the written permission of the President, publish or disclose to any unauthorized person or otherwise than in the course of duty, the contents of any document, communication or information of any kind which has come to his knowledge in the course of the performance of duties under this Act.

Prohibiti-
on of una-
uthorized
disclosure
of informa-
tion

(2) Any person who knows of any information which to his knowledge has been disclosed in contravention of this section and who published or communicates it to any other person for purposes other than any prosecution under this Act or the exercise of official functions, is guilty of an offence.

(3) The provisions of the National Security Act, 1970, shall apply in relation to the offence committed under this section.

Act No. 3
Of 1970

19.—(1) Without prejudice to the provisions of any other written law, every person who, otherwise than in the course of duty, directly or indirectly, personally or by any other person in any manner influences or attempts to influence any decision of the Commission is guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Offence of
attempt to
influence
the Commi-
ssion

(2) Nothing in subsection (1) shall be construed as prohibiting any person from giving a certificate or testimonial to any applicant or candidate for any office or from supplying any information or assistance at the request of the Commission.

(3) A prosecution in respect of any offence under this section shall not be instituted except with the consent of the Director of Public Prosecutions.

Rules for
exercise of
the func-
tions of the
Commis-
sion

20.—(1) The Commission may, subject to the consent of the Minister make rules to be published in the *Gazette*, providing for-

- (a) the discharge by the Commission, whether of any person or body of persons, of any additional function and duties;
- (b) the time, place and manner, when in which and how the Commission shall exercise its functions and duties;
- (c) the interviewing of public servants or candidates for the public service by the Commission or by such boards and persons as may be prescribed;
- (d) forms and fees in connection with applications to the Commission's reports or communication from the Commission or any other matter required by or under this Act;
- (e) any matter or thing which is required or may be prescribed for the purposes of facilitating the effective performance by the Commission of its functions

(2) For the avoidance of doubt it is hereby declared that the Commission may by rules under this section provide for the manner in which it shall proceed in any case in which the advice tendered to the President or any department of Government is not the unanimous advice of the Commission, or, as the case may be, of the majority of the members of whom the matter advised upon has been considered.

PART IV

PROVISIONS RELATING TO FUNCTIONS OF THE PRESIDENT

Delegation
of functions

21.—(1) Subject to the provisions of this Act, the President may, by regulations-

- (a) delegate the exercise of any of the functions conferred upon the President by Articles 36 of the Constitution, other than the power of removal referred to in section 24 of this Act, to the Commission; and

- (b) delegate to a public servant the exercise of any such functions in relation to a public servant or a public service office.

(2) The President may, by regulations, authorise the Commission or any public servant to whom the President has delegated the exercise of the functions under this section to depute to the public servants to whom the President is authorized by this section to delegate the exercise of such functions to exercise on behalf of the Commission or the public servant such of the functions, the exercise of which has been delegated to the Commission or public servant as may be specified in the regulations.

(3) In the regulations made for the purpose of this section the President shall specify the offices to which each delegation or authorization applies.

(4) A delegation or authorization made under this section shall not preclude the President from himself exercising any function which is the subject of any delegation or authorization.

22. For the avoidance of doubt it is hereby declared that the conferment on the Commission of the duty of giving advice to the President in respect of the exercise of any of the functions vested in the President, shall not preclude the President from seeking advice in respect of the exercise of any functions from any other person.

Advice not
binding the
President

23.—(1) The power to dismiss public servants shall be exercised in accordance with the provisions of this section.

Powers of
dismissal

(2) The power to dismiss a public servant shall not be exercised unless—

- (a) a disciplinary charge is preferred against the public servant;
- (b) the public servant is afforded an adequate opportunity to answer the charge; and
- (c) an inquiry is held into the charge in accordance with regulations made under section 34.

(3) Where on the conclusion of the inquiry or consequently upon conviction on a criminal charge, the public servant is punished by dismissal, the dismissal shall take effect from the date on which that public servant was found guilty.

Powers of
removal

24.—(1) The President may remove any public servant from the service of the Republic if the President considers it in the public interest so to do. Except in the case of removal of a judge or other judicial officers, the procedure for the exercise of these powers shall be provided for in the Regulations.

(2) Nothing in subsection (1) of this section shall be construed as restricting-

Act No. 2 of
1999

- (a) the compulsory retirement of any person under the provisions of the Public service Retirement Benefits Act, 1999;
- (b) the termination, otherwise than by dismissal, of the service of any public servant other than the substantive holder of a pensionable office, in accordance with the terms of employment, or the dismissal of any person from any office on the personal or domestic staff of the President or any person holding an office the emoluments of which are payable at an hourly or daily rates.

(3) A justice of appeal or a judge of the High Court may only be removed from office in exercise of power and in pursuit of the procedure set out in the Constitution; save that where the President removes a justice of appeal or a judge from office, the judge shall be deemed to have retired from the public service from the date of such removal from office.

Appeals

25.—(1) Where -

- (a) the Chief Secretary exercises disciplinary authority in respect of a public servant who is an appointee of the President by reducing the rank other than reversion from the rank to which the public servant has been promoted or appointed on trial, or reduces the salary or dismisses that public servant, that public servant may appeal to the President against the decision of the disciplinary authority and the President shall consider the appeal and may confirm, vary or rescind the decision of that disciplinary authority;
- (b) a Permanent Secretary, Head of Independent Department, Regional Administrative Secretary or a Local Government Authority exercises disciplinary authority as stipulated under subsection (1) and (2) of section 6 by reducing the rank of a public servant other than reversion from a rank to which the public servant had been pro-

- moted or appointed on trial, or reduces the salary or dismisses the public servant, that public servant may appeal to the Commission against the decision of the disciplinary authority and the Commission may confirm, vary or rescind the decision of that disciplinary authority;
- (c) the Director of Immigration or the Commissioner of Fire and Rescue Services exercises disciplinary authority as stipulated under subsection (5) of section 6 by reducing the rank of a public servant other than reversion from a rank to which the public servant had been promoted or appointed on trial or reduces the salary or dismisses the public servant, that public servant may appeal to the Commission against the decision of the disciplinary authority and the Commission may confirm, vary or rescind the decision of that disciplinary authority;
- (d) where a public servant or the disciplinary authority is aggrieved with the decision in (a), (b) and (c) shall appeal to the President whose decision shall be final;
- (e) the President or the Commission varies or rescinds any decision of dismissing any public servant from the public service and substitutes any other decision of dismissing that public servant, the variation or rescission shall have effect from the date of the original decision and the public servant shall unless sooner have ceased to be a public servant for any other cause, be deemed to have remained a public servant notwithstanding the original decision.
- (2) The President may, in regulations made under section 20 provide for appeals in cases other than those provided for in section 23.

PART V

PROVISIONS RELATING TO RETIREMENT BENEFITS

26.—(1) The law applicable to any benefits to which this section applies shall, in relation to any public servant who has been granted or is eligible for the grant of those benefits, be that in force at the relevant date or any later law which is not less favourable to that person.

Protection
of pension
rights

(2) Any benefits to which this section applies, not being benefits which are charged upon some other public fund, shall constitute a charge on the consolidated fund.

(3) Where a public servant is entitled to exercise an option as to which of two or more laws shall apply on his case, the law for which he opts shall, for the purposes of this section, be deemed to be more favourable to him than the other law or laws.

(4) The benefits to which this section applies are any benefits payable under any law providing for the grant of any pension, compensation, gratuities or other like allowances to persons in respect of their service as public servants to the widow, widowers, children, dependants, or personal representatives of such persons in respect of that service.

(5) References to the law applicable to any benefits to which this section applies include, without prejudice to their generality, references to any law or regulation, for the purposes of determining whether any public servant is eligible for the grant of such benefits on his retirement from the public service, the circumstances in which the public servant is required or permitted to retire.

Powers of
the Chief
Secretary in
relation to
pensions
and other
benefits

27.—(1) Where under any law any person or authority has a discretion-

- (a) to decide whether or not any benefits to which this Act applies shall be granted; or
- (b) to withhold, reduce in amount or suspend any such benefits to which this Act applies that may be granted, those benefits shall be granted and may not be withheld, reduced in amount or suspended unless the Chief Secretary concurs in the refusal to grant the benefits or, as the case may be, the decision to withhold them, reduce them in amount or suspend them.

(2) Where the amount of any benefits to which this section applies that may be granted to any public servant is not fixed by law, the amount of the benefits to be granted shall be the greatest amount for which that public servant is eligible, unless the Chief Secretary concurs in the grant of benefits of a smaller amount.

(3) The Chief Secretary shall not concur under subsection (1) or (2) of this section in action taken on the ground that any person who holds or has held office of the Controller and Auditor General has been guilty of misbehaviour unless the person has been removed from that office by reason of that misbehaviour.

(4) The Chief Secretary shall have power to exempt a public servant from fulfilling any condition or requirement for the grant to him of a pension or other terminal benefits.

(5) This section applies to any benefits payable under any law providing for the grant of pensions, compensations, gratuities, or other like allowances to persons in respect of their service as public servants or to the widows, widowers, children, dependants or personal representatives of those persons in respect of that service.

28. Notwithstanding the generality of section 27, the Chief Secretary shall have powers to exempt a public servant from any condition required for grant of pension or other terminal benefits.

Exemption
from condi-
tions

PART VI

SPECIAL PROVISIONS

(a) Teachers' Service

29.—(1) In this part unless the context requires otherwise- “Regional Committee” means a Committee established for a region; “Teachers' Service” means the unified service of all teachers; “service post” means-

Functions
of Com-
mission in
relation to
teachers'
service

- (a) a teaching post in a public school;
- (b) any private or public post assigned to a teacher while on secondment;
- (c) an aided educational post approved by the Minister responsible for education;
- (d) a teaching post in an unaided school, or unaided by an agreement to be bound by the Act, and for purposes of this definition, the terms “aided” and “unaided” shall be construed as relating to a grant-in-aid within the meaning ascribed to that expression under the Education Act, 1978;
- (e) an education post approved by the Minister responsible for education for the purpose of this Act;

“teacher” means a person registered as a teacher under section 46 of the Education Act, 1978.

(2) The functions of the Commission in relation to teachers Service shall be-

- (a) to maintain a system of direct communication with Regional or District Committees through the Department on all or any matter relating to the development of teachers service;
- (b) To establish, for each region a Regional Committee and for each district a District Committee, after consultation with the Minister responsible for education.

(3) The Regional and District Committees shall be responsible for advising the Commission through the Department on such matters as may be referred to it by the Commission and shall carry out such other functions as may be prescribed or conferred on the Committee by the Commission.

(4) The composition and procedure of the Regional and District Committees shall be as may be prescribed by regulations made by the Minister.

(b) Executive Agencies and Public Institutions Service

Public servants in Executive Agencies and Public Institutions

30. Servants in the Executive Agencies and Government Institutions shall be governed by provisions of the Laws establishing the respective executive agency or institutions.

(c) Operational Service

Public servants in the Operational Service, Cap. 366, Act No... of 1964

31. Public Servants in the Operational Service shall a part from being governed by this Act, continue to be governed by the Employment Ordinance and by the Security of Employment Act.

Legal Proceedings

32.—(1) No proceedings shall be brought in any court on the ground only that the provisions of this Act, other than the provisions of subsection (2) and (4) of section 21, Part IV or any regulations made under this Act, have not been complied with, save that nothing in this section shall apply to any criminal proceedings for an offence against any of the provisions of this Act.

(2) The question whether -

(a) the President validly performed any function conferred on the President by Article 36 of the Constitution or by this Act; or

(b) the Commission or other delegate has validly performed any functions the exercise of which has been delegated or deputed to the Commission or delegate,
shall not be inquired into by or in any court, subject to the provisions of subsection (3).

(3) Where a person is dismissed or removed from the public service, the provisions of subsection (2) above shall not apply in relation to that dismissal or removal unless prior to the dismissal or removal the provisions of section 23 or 24 are complied with.

(4) Nothing in this section shall apply to any criminal proceedings for an offence against any of the provisions of this Act or regulations.

33.—(1) Where a public servant sustains injuries or dies as a result of injuries-

Compensation for injuries and death

- (a) suffered in the actual discharge of duties; and
- (b) without default on the part of the public servant; and
- (c) on account of circumstances specifically attributable to the nature of the duty while in the Service,
shall be compensated.

(2) The terms and rates of compensation to be paid under subsection (1) of this section shall be prescribed by the Minister by regulations made under paragraph (e) of subsection (2) of section 34 of this Act.

(3) Where compensation has been paid under this Act, no benefits may be paid under any other law in respect of the same injuries or death.

34.—(1) The Minister shall make regulations providing for the administration of the service, discipline, regulating the conduct of disciplinary proceedings and ordering of terms and conditions of services of public servants.

Regulations

(2) The Minister may in the exercise of powers under subsection (1), make regulations -

- (a) providing for any matter which by this Act, may be provided for by regulations;
- (b) providing for the regulation of Ethics and Code of Conduct of public servants;
- (c) regulating the performance of the functions conferred upon the President by Article 36 of the Constitution and by this Act, and the exercise of those functions by any delegate;
- (d) providing for the administration of the public service, and the discipline and ordering of the terms and conditions of service of public servants;
- (e) providing for the terms and rates of compensation for injuries or death payable under section 33 of this Act.

(3) Without prejudice to the generality of the preceding provisions, regulations made under this Act may -

- (a) prescribe disciplinary penalties and awards;
- (b) impose duties on delegates and public servants;
- (c) require persons to attend before the Commission to answer questions relating to the exercise of its functions;
- (d) prescribe for professional qualification;
- (e) describe maintenance of professional standards, professional conduct and professional discipline;
- (f) prescribe in relation to any profession of public servants-
 - (i) the qualifications or conditions in relation to membership and service terms appropriate to such membership;
 - (ii) prescribe registration, suspension and dismissal of members;
 - (iii) prescribe the establishment, management and control of any provident fund, superannuation fund or pension scheme;
- (g) prescribe the duties of employers in relation to service posts, the persons whom they may appoint thereto and conditions under which such appointments may be made and terms and conditions of services of persons appointed thereto.

(4) All regulations and rules made in pursuance of the provisions of this Act shall be published in the *Gazette*.

(5) Nothing in this section shall detract from any power to issue or make administrative or instructive instructions or orders in relation to persons in the public Service.

35. The following Acts are hereby repealed-

Repeals

- (a) The Civil Service Act, 1989;
- (b) The Fire and Rescue Services Act, 1985;
- (c) The Local Government Service Commission Act, 1982;
- (d) The Teachers Service Commission Act, 1989;

36.—(1) Notwithstanding the repeal of the Acts specified in section 35-

Savings
and transi-
tional Pro-
visions

- (a) subsidiary legislation made under the Acts repealed by this section shall continue in force until revoked or replaced by appropriate authority;
- (b) each Commission under the repealed Acts shall continue to exercise the functions conferred upon it by the repealed Act;
- (c) in carrying out functions under paragraph (b) each Commission shall be deemed to be under the Public Service Commission.

(2) For the purposes of the smooth operation of the provisions of subsection (1) and of other provisions of this Act as well as facilitating the Commission to take over and fully discharge its functions, the Minister may, within a period not exceeding thirty six months from the commencement of this Act, make such consequential, transitional or supplementary provisions as may be necessary.

SCHEDULE

(Made Under S. 11(1))

OATH OF CHAIRMAN/MEMBERS

I..... having been appointed as Chairman /member of the Public Service Commission, do hereby swear/affirm that I will freely and without fear or favour, affection or ill will, discharge the functions of a Chairman/ members, and that I will not directly or indirectly reveal any matters related to such functions to any unauthorised person or otherwise than in the course of duty.

SO HELP ME GOD

Sworn/Declared before me this.....day of.....200.....

.....
President

Passed in the National Assembly on the 12th April, 2002.

KIPENKA M. MUSSA
Clerk of the National Assembly.

3. KANUNI ZA UTUMISHI WA UMMA, 2003

GOVERNMENT NOTICE NO. 168 published on 20/6/2003

THE PUBLIC SERVICE REGULATIONS, 2003

ARRANGEMENT OF REGULATIONS

PART I

PRELIMINARY REGULATIONS

<i>Regulation</i>	<i>Title</i>
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- | | |
|----|----------------------------|
| 1. | Citation and Commencement. |
| 2. | Application. |
| 3. | Interpretation. |

PART II A

APPOINTMENTS, CONFIRMATION OF APPOINTMENTS AND PROMOTIONS

- | | |
|-----|---|
| 4. | Powers of appointment and confirmation. |
| 5. | Powers of the President to make appointments. |
| 6. | Powers of other appointing authorities. |
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LOCAL GOVERNMENT AUTHORITIES

THE PUBLIC SERVICE ACT, 2002

(No. 8 OF 2002)

REGULATIONS

Made under section 34 (1)

THE PUBLIC SERVICE REGULATIONS, 2003

PART I

PRELIMINARY REGULATIONS

1. These Regulations may be cited as the Public Service Regulations, 2003 and shall come into operation on the date of publication.

Citation
and
Comme-
ncement

2. These Regulations shall apply to all public servants in the following services.

Applica-
tion.

- (a) the Civil Service;
- (b) the Local Government Service;
- (c) the Teachers Service;
- (d) the Immigration Service and Fire and Rescue Service;
- (e) the Health Service; and
- (f) the Executive Agencies Service and the Public Institutions Service.

3. In these Regulations, unless the context otherwise requires:-

Interpre-
tation

"Act" means the Public Service Act, No. 8 of 2002;

"Ad hoc Committee" means a committee appointed by the chief executive officer to facilitate appointment of public servants below officer grade;

"After consultation with" as used in these Regulations, means after seeking or after obtaining the advice, or recommendations or the comments or the suggestions on any matter in question;

"Appellate Authority" means a body or organ or a person authorised by these regulations to decide upon public servants' appeals;

"Appointment" includes:-

Public Service Regulations

G.N. No. 168 (contd.)

- (a) Appointment on Contract;
- (b) Temporary appointment;
- (c) Part time appointment;
- (d) Acting appointment;
- (e) Permanent appointment;
- (f) Appointment on promotion.

"Appointing authority means a body or organ or a person empowered by the Act to make appointments of Public Servants in the Service;

"Approved Establishment" means the establishment of posts in the Public Service which there is provision in the approved budget for their establishment;

"Authorised public servant" means a public servant who is authorised in writing by his organisation either generally or specifically to act on matters of any specified kind or to perform any duty or any responsibility.

"Chairman" when used in relation to the Commission, means the Chairman of the Commission and includes a person acting in that office; when used in relation to the Committee, means the Chairman of that Committee; and when used in relation to the Board, means the Chairman of the Board;

"Chief Executive Officer of the Service" means the Chief Secretary;

"Chief Executive Officer" means the Permanent Secretary, Head of Independent Department, Regional Administrative Secretary, Director of Local Government Authority, Clerk of the National Assembly, Director of Immigration Service, Commissioner of Fire and Rescue Service, Deputy Permanent Secretary and Ambassador;

"Code of Ethics and Conduct" means the Code of Ethics and Conduct for the Public Service, and shall include the Professional Codes of Ethics and Conduct and the Public Service Leadership Code of Ethics and Conduct;

"Commission" means the Public Service Commission established under Section 9 of the Act;

"Committee" when used in relation to an inquiry, means an inquiry committee in the disciplinary proceedings and when used in relation to teachers, means the Regional and District Committees for teachers;

"Criminal Offence" means an offence chargeable in the Criminal Court as defined under the Criminal Procedures Act, 1985;

"Department" means an identified entity within the organisational structure for management purposes;

"Dependant" means a member of the family of a public servant who is wholly or partially dependant upon the earnings of the public servant.

"Director of a Local Government Authority" means the Chief Executive Officer of a Local Government Authority and shall include the Director of a Local Government Authority Commission.

"Disciplinary Authority" means any person or authority vested with powers under part V of these Regulations to take disciplinary measures against any public servant and includes any person to whom those powers have been delegated;

"Disciplinary Offence" means any act or omission or misconduct or failure to take reasonable care or failure to meet set targets or to discharge duties in a reasonable or satisfactory manner by or on the part of a public servant which warrants disciplinary proceedings under these Regulations being taken against that public servant, and includes:

- (i) Contravention of any of the requirements of the Code of Ethics and Conduct for the public service and the Professional Codes of Ethics and Conducts for various services, and in case of a Public Servant who is a leader, the Public Leadership Code of Ethics Act, 1995;
- (ii) Any of the offence specified in the First Schedule to these Regulations;

"Employee" for the purpose of these Regulations, means any person termed by the Act as a public servant.

"Employer" means a person or organisation, in the public service, with whom a public servant entered into a contract of service and who is responsible for the payment of salaries of such a public servant.

"Employment Board" means the Board established under Regulation 127 of these Regulations to facilitate appointments of Public Servants in the Local Government Authorities;

"Independent Department" means a Department of the Government that is not under the direct control of the Ministry;

"Interdiction" means a temporary removal of a public servant from exercising the duties of his office;

"Local Government Authority" shall have the meaning ascribed to it by the Local Government (District Authorities) Act, 1982 or the Local Government (Urban Authorities), Act 1982;

"Leave" shall include, annual leave, maternity leave, sabbatical leave, sick leave, leave pending retirement, leave without pay and convalescent leave;

Public Service Regulations

G.N. No. 168 (contd.)

- "Medical Board" means a Board established under sub- regulation (1) of Regulation 30 of these Regulations;
- "Medical Practitioner" means any person professing to practise medicine or surgery, or holding himself out as ready and willing to give medical or surgical treatment to patients for gain;
- "Member" means in relation to a Commission, a member of the Commission and includes the Chairman, and in relation to a Committee, a member of the Committee and includes a Chairman of a Committee, and in relation to a Board means a member of a Board and includes a Chairman of a Board;
- "Minister" means the Minister for the time being responsible for the Public Service;
- "Operational Service" means the cadre of supporting staff not employed in the executive or officer grade;
- "Promotion" means the appointment of a public servant to a higher grade with an immediate or potential increase in salary;
- "Public Service" means the system or organisation entrusted with the responsibility of overseeing the provision or directly providing the general public with what they need from their government or any other institution on behalf of the government as permissible by laws; and include the service in the civil service; the teachers service; the local government service; the health service; the immigration and the fire and rescue service, the executive agencies and the public institutions service and the operational service;
- "Public Service Office" shall have the meaning ascribed to it by the Act;
- "Public Service Post" means a post in the public service;
- "Public Service Regulations" means a legal document or instrument spelling out the rules, procedures, and restrictions or sanctions aimed at controlling the actions of public servants in their day to day conduct of public business.
- "Public Servant" means a person holding or acting in the public service office;
- "Removal in Public interest" means termination of appointment other than on disciplinary grounds for the purpose of facilitating improvement in the organisation of the department to which one belongs by which greater efficiency or economy may be effective.
- "Secondment" means a temporary transfer to another employment or to another position in the public organisation having different terminal benefits scheme.

"Sick period" means the period the length of which is three years from date of first appointment, new "Sick period" commencing thereafter. In case, however, where a public servant's sick leave extends from one "sick period" to another, his fresh "sick period" will commence on his return to duty on completion of such sick leave.

"Sick leave" means the approved absence of a public servant from duty on account of illness.

"Suspension" means a temporary removal of a public servant from exercising the duties of his office after he has been convicted of a criminal offence until such a time when the result of disciplinary proceedings against him are known;

"Tenure of office" means a specified length period of holding office;

"Transfer" means posting of a public servant from one station to another or from one Ministry or Independent Department or Region or Local Authority to another;

"United Republic" means the United Republic of Tanzania;

PART II

APPOINTMENTS CONFIRMATION OF APPOINTMENTS AND PROMOTION

4. This Regulation applies to the following powers vested in the appointing authorities and authorised public servants, including powers:-

Powers of appointment and confirmation.

- (a) To make appointment of public servants;
- (b) To confirm the appointment of a public servant appointed on probation;
- (c) To extend the probationary period of any public servant appointed on probation.

5. (1) The President shall appoint the Chief Secretary, Permanent Secretaries, Heads of Independent Departments, Deputy Permanent Secretaries, Regional Administrative Secretaries, Clerk to the National Assembly, Director of Immigration, Commissioner of Fire and Rescue Services, Directors of City Councils or Local Government Authority Commission, Ambassadors and such other public servants as the President may from time to time determine.

Powers of the President to make appointment

(2) Powers of the President to make appointments shall be facilitated by the Chief Secretary through Permanent Secretary (Establishments). Provided that the Permanent Secretary (Establishments) shall consult the Minister before forwarding recommendations for appointments to the Chief Secretary.

Public Service Regulations

G.N. No. 168 (contd.)

(3) The Chief Secretary shall be responsible for confirmation of public servants appointed by the President.

Powers
of Other
Appoi-
nting
Authori-
ties

6. Subject to the procedures laid down in these regulations, powers of appointments, confirmation of appointments and promotion of public servants other than those appointed by the President are vested in:

- (a) Permanent Secretary in respect of each Ministry in consultation with respective Minister;
- (b) Head of Independent Department in respect of such Department;
- (c) Regional Administrative Secretary in respect of each region;
- (d) Director of Immigration Services in respect of public servants in the immigration service;
- (e) Commissioner of Fire and Rescue Services in respect of Public Servants in the Fire and Rescue service below the rank of Assistant Inspector;
- (f) Minister responsible for Local Government after consultation with the local government authority concerned in respect of Directors of Local Government Authorities other than Directors of City or Commission;
- (g) Director of a Local Government Authority in respect of the Local Government Authority concerned
- (h) Head of Teachers Service Department in respect of teachers.

Notifica-
tion of
vacan-
cies
which
appoin-
ting
authority
is the
President

7.-(1) Where a vacancy occurs or it is known that a vacancy will occur in a post of Permanent Secretary and Deputy Permanent Secretary, the Permanent Secretary (Establishments) shall after consultation with the Minister notify the Chief Secretary who in turn shall notify the President with recommendations of possible candidates to fill the post.

(2) Where a vacancy occurs or is likely to occur in a post other than the post of the Permanent Secretary or the Deputy Permanent Secretary, the Permanent Secretary of the Ministry concerned shall, after consultation with the Minister responsible for the Ministry, in relation to which a vacancy has occurred or is likely to occur notify the Chief Secretary through the Permanent Secretary (Establishments) who will then consult the Minister.

(3) The Permanent Secretary (Establishments) shall, after consultation with the Minister in accordance with sub-regulation (2), subsequently forward recommendations to the Chief Secretary as to whether-

Public Service Regulations

G.N. No. 168 (contd.)

- (a) the vacancy should be filled by promotion of a public servant serving in the Ministry, Independent Department or Region in which the vacancy exists; or
- (b) by transfer if it is likely that a suitable candidate will be found in some other Ministries, Independent Departments or Region.

8.-(1) Where a vacancy occurs or it is likely that a vacancy will occur in a post of Director of a Local Government Authority, the Permanent Secretary responsible for Local Government shall, after consultation with the Minister responsible for Local Government, notify the Public Service Commission and the Permanent Secretary (Establishments).

Notification of vacancies which appointing authority is the Minister responsible for Local Government.

(2) After notification pursuant to sub-regulation (1) of this Regulation, the Commission shall apply *mutatis mutandis* the procedures provided for under Regulations 11 and 12 of these Regulations.

(3) The Commission shall forward the findings to the Permanent Secretary responsible for Local Government Authority who shall, after consultation with the Permanent Secretary (Establishments), forward the findings with recommendations to the Minister responsible for Local Government regarding the appointment.

(4) Notwithstanding the provisions of sub-regulation (3), the Minister responsible for Local Government shall make appointment after consultation with the Local Government Authority concerned.

9. (1) Where a vacancy occurs or it is likely that a vacancy will occur in a post with respect to which the appointing authority is the Chief Executive, the Chief Executive concerned shall notify the Commission and the Permanent Secretary (Establishments) with a notification specifying the necessary requirements for such post.

Notification of vacancies which appointing authority is the Chief Executive.

(2) Where a vacancy occurs or it is known that a vacancy will occur in a post of below officer grade, the Chief Executive Officer concerned shall follow the procedures laid down in Regulation 11 and 12 of these Regulations to fill that vacancy.

(3) In order to ensure that selection of candidates in the posts under sub-regulation (2) of this Regulation is based on merit through open competition, the Chief Executive Officer shall appoint *ad hoc* committee to interview the candidates. Members of the Committee shall be from within the organisation and shall consist of both women and men

Public Service Regulations

G.N. No. 168 (contd.)

Notifica-
tion of
vacan-
cies
-which
the
appoint-
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authority
is the
Director
of a
Local
Govern-
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Autho-
rity.

10. Where a vacancy occurs or it is known that a vacancy will occur in a post, which the appointing authority is a Director of a Local Government Authority, the procedures provided for under Regulation 140 of these Regulations shall apply to fill that vacancy.

Adverti-
sement

11. (1) Subject to the proceeding provisions in this part of these Regulations, applications for appointment to vacant posts other than those which appointing authority is the President shall be invited by public advertisement in the United Republic in such manner as may be determined by the Commission in consultation with the appointing authority, provided that such advertisement is not discriminative based on gender and disability.

(2) Where the vacant post need to be filled by promotion, transfer or re-engagement of a public servant serving in a Ministry, Independent Department, or Region in which the vacancy exists the procedure laid down in sub regulation (1) of this Regulation shall apply.

Selection
of candi-
dates

12.- (1) Selection of candidates in different posts in the Public Service shall be based on merits through an open competition by conducting interviews.

(2) The Public Service Commission shall prepare and issue guidelines to be followed in conducting interviews, and shall conduct interviews for appointments in the Public Service, so as to ensure objectivity, consistency and to attain the right qualities of the applicants.

(3) In selecting candidates for appointment (including appointments on promotion or transfer) the appointing authority shall have regard primarily to the efficiency of the Service.

(4) Candidates having the same degree of preference, qualifications and experience, proved merit and suitability for the posts in question shall be accorded greater weight than seniority.

Provided that where the respective candidates are men and women priority shall be given to women.

(5) Notwithstanding the provisions of sub regulation (4) of this Regulation, selected candidate shall, before being appointed in the Public Service, undergo medical examination to prove his medical fitness or otherwise.

13. The public servant shall, on first appointment, be entitled to:-

- (a) free transport for himself, spouse and not more than four children and two dependants from his home to the working station.
- (b) subsistence allowance at rates and days to be determined from time to time by the Permanent Secretary (Establishments).

Transportation and subsistence allowance on first appointment.

14. (1) Where any person is first appointed to an office in the Public Service on pensionable terms, he shall serve a probationary period. The probationary period shall depend on the scheme of service and shall not exceed twelve months.

Probationary appointments.

(2) Immediate supervisor or an authorised Public Servant shall, not later than three months before the expiration of any probationary period, consider whether:-

- (a) The public servant should be confirmed in his office; or
- (b) The probationary period should be extended to afford the public servant an opportunity of improving in any respect in which his work or conduct have been adversely reported on; or
- (c) The public servant's appointment should be terminated.

(3) Where the immediate supervisor or an authorised Public Servant is of the opinion that the probationary period should be extended under paragraph (b), or an appointment terminated under paragraph (c), of sub-regulation (2) of this Regulation, he shall, before extending such period or terminating such appointment, inform the public servant in writing of his intention.

Public Service Regulations

G.N. No. 168 (contd.)

(4) The public servant shall be informed of his rights to make representations thereon within a period to be specified in the letter of information and shall be required to acknowledge receipt of the letter, in writing within that period.

(5) Notwithstanding the provisions of sub-regulation (2) of this Regulation, but subject to the provisions of sub-regulation (3) of this Regulation, the immediate supervisor or authorized public servant may terminate a probationary appointment at any time.

(6) The immediate supervisor or authorised public servant may reduce a probationary period if the public servant concerned has fulfilled all the requirements necessary to be fulfilled before he is confirmed in his appointment and if, either-

(a) he has previously served in that office or in a similar office on non-pensionable terms; or

(b) The reduction of the probationary period is necessary for administrative reasons.

Provided that no probationary period shall be reduced under this regulation by a period exceeding the period which the public servant concerned has served in such office or a similar office on pensionable terms or a period of six months whichever shall be the less.

(7) Where the authorized public servant is of the opinion that a public servant has successfully completed a probationary period, he shall confirm such a public servant to the appointment with effect from the date of his probationary appointment.

Promo-
tion of a
Merit

15. Promotion of a public servant shall be based on merit, effective and efficient performance, qualification, skills and personal qualities. The procedure shall be as laid down under Regulations 7, 8, 9 and 10 of these Regulations.

Promo-
tion on
trial

16. (1) Where a public servant is promoted to any post in the Public Service, that public servant shall, for the period of six months (exclusive of any period of leave) from the date upon which the promotion became effective, be deemed to be on trial and where the immediate supervisor is of the opinion that the public servant has failed to perform satisfactorily all the duties of the post to which he was promoted, he shall give the public servant a notice in writing calling upon him to show cause, in writing, why his promotion shall not be withdrawn.

Public Service Regulations

G.N. No. 168 (contd.)

- (2) Where a notice is given to a public servant under sub regulation (1) of this Regulation, the immediate supervisor shall:-
- (a) If the public servant has made any representations in writing pursuant to the notice, forward such representations together with his own report upon the public servant's conduct, ability, diligence, aptitude and any other relevant factor to the appointing authority.
 - (b) If the public servant fails to make any representation, report such failure to the appointing authority and also furnish the appointing authority with a report on the public servant's conduct, ability, diligence, aptitude and any other relevant factor.
- (3) After considering the report and representations, if any, forwarded under sub- regulation (2) of this Regulation, the appointing authority may direct that:-
- (a) The public servant's promotion not be interfered with; or
 - (b) A decision in the matter be deferred, for such further period as the appointing authority may direct so as to allow the public servant further opportunity to prove his suitability for the post to which he was promoted.
 - (c) The public servant's promotion be withdrawn; or
- (4) Where no notice has been given under sub-regulation (1) of this Regulation within the period of six months (exclusive of any period of leave) the public servant shall be deemed to have completed his trial period satisfactorily and he shall be served with a letter of confirmation within one month after expiration of the trial period.
- (5) Subject to the provision of sub-regulation (4) of this Regulation, where a public servant is not confirmed within the prescribed period, he shall have the right to enquire on his confirmation status.
- (6) Where a public servant who is a presidential appointee fails to complete his trial period successfully he shall be referred to the bar in his scheme of service.

Public Service Regulations

G.N. No. 168 (contd.)

Certain
persons
not to be
appointed.

17. (1) No person who has been convicted of a criminal offence involving moral turpitude or who has been dismissed from the public service previously, may be appointed to any public service post without the prior sanction of the Chief Secretary.

(2) Offences involving moral turpitude shall include:-

(a) An act or behaviour that gravely violates the moral sentiment or accepted moral standard of the community; or

(b) The immorally culpable quality held to be inherent in some criminal offences as distinguished from others.

(3) No person who has been removed or retired from the Service in public interest or by retrenchment or redundancy, shall be appointed in the Service without prior sanction of the Chief Secretary.

Provided that any person who is retired by retrenchment or redundancy from the Public Service shall, after the sanction of the Chief Secretary be reappointed to the service on contract terms.

(4) Where a person has been appointed in contravention of sub regulation (1) or (3) of this Regulation, it shall be lawful for the appointing authority to dismiss such person at any time, and every such dismissal shall have the same effect as dismissal following disciplinary proceedings.

(5) No person shall be appointed, promoted or transferred to any public service post unless he holds such qualifications as may from time to time be specified as qualifications necessary for an appointment to the post in any approved scheme of service.

Provided that the minimum entry qualifications into the Service shall be National Form Four Certificate plus training into the relevant field.

(6) No person who is of unsound mind shall be appointed in the public service.

(7) No person who is not a citizen of the United Republic shall be appointed (otherwise than on transfer or promotion) on pensionable terms to any public service post without prior approval of the Chief Secretary.

Public Service Regulations

G.N. No. 168 (contd.)

(8) Subject to the provisions of sub regulation (7) of this Regulation, no person who is not a citizen of the United Republic shall be appointed to any public service post unless the appointing authority is satisfied that no citizen of the United Republic who is qualified and suitable for appointment is available and the Minister responsible for that Service certifies that it will be against the public interest for the post to remain vacant.

(9) Where the appointing authority specified under sub regulation (8) of this Regulation, is the Minister responsible for Local Government, the Minister responsible for Public Service shall certify whether it will be against the public interest for the post to remain vacant.

(10) Whenever a need arises to employ a person who is not a citizen of the United Republic to a public service post, the appointing authority concerned shall, after consultation with the respective Minister, notify the Permanent Secretary (Establishments) who shall forward to the Chief Secretary for approval.

18. The terms and conditions of service of all public servants shall be determined by the Chief Secretary provided that these powers may be exercised by the Permanent Secretary (Establishments) under directives of the Chief Secretary.

Terms of
Service

19.-(1) No public servant shall be permitted to continue in the service on contract after attaining the age of sixty years, save that the Chief Secretary may approve the re-engagement of a public servant if he is satisfied that it is in the public interest so to do.

further
engage-
ment on
contract.

(2) Under special circumstances certain persons may be engaged in the Public Service to serve on contract terms. These shall include:-

(a) a non-citizen who is engaged for some projects or on expatriate requirements;

(b) a citizen from outside the Public Service who is engaged to the Service under expatriate or consultancy requirements;

(c) a retired public servant who has been re-engaged in the Service;

(d) a citizen who is first appointed to the Public Service after he has attained the age of forty years.

Public Service Regulations

G.N. No. 168 (contd.)

(3) Where it is in the opinion of the appointing authority that a public servant be re-engaged on further terms of contract, the appointing authority shall notify the Permanent Secretary (Establishments) who shall forward to the Chief Secretary with recommendations.

Provided that no public servant may be re-engaged into the Service after he has attained the age of 60 years.

Remun-
erations.

20.- (1) The Permanent Secretary (Establishments) shall, after consultation with the Minister determine remunerations of public servants.

(2) In determining salaries and salary scales for the public servants, the Permanent Secretary (Establishments) shall have regard to any other relevant laws, the National Pay Policy and directives given from time to time by the Chief Secretary.

Special
proce-
dures.

21. Where the appointing authority or authorized public servant is satisfied that it is in the public interest that any matter relating to the appointment (including appointment on promotion or transfer or confirmation) of a public servant, be dealt with otherwise than in accordance with the procedures laid down in this part, he shall refer the matter to the Chief Secretary through the Permanent Secretary (Establishments) and shall deal with the matter in accordance with such directions as may be given by the Chief Secretary.

PART III

PERFORMANCE APPRAISAL

Perform-
ance
appraisal
and evalu-
ation sys-
tem.

22. (1) Every organisation within the Public Service shall operate an Open Performance Appraisal System for all its public servants.

(2) For the purpose of this Part the "performance appraisal of public servants" is to discover, evaluate and document the potential and shortcomings of individuals to enable measures to be taken for improvement of the efficiency and effectiveness of the Public Service as a continuous objective.

(3) The information obtained through performance appraisal should be used in awarding or withholding increments, planning job rotation and training programmes, and in making appointments to higher posts or in demotions or termination of appointment to that particular post.

(4) Every public servant shall be given a job description incorporating specific objectives and measurable indicators for the results to be achieved within 12 months. The job description shall be drawn up in consultation with the public servant and shall include personal and skills development objectives as well as operational objectives.

(5) Public servants shall be given feedback at regular intervals of not less than six months on their performance against the objectives, and shall be given advice and support to improve any shortcomings.

(6) Written performance assessment shall be completed each year, and its contents discussed between the public servant and his supervisor.

(7) The assessment interview shall provide the opportunity to discuss the public servants training and career development needs, and shall recognise good performance, agree on remedial action and examine the reasons where performance has not matched the required standard.

(8) Subject to the information obtained under sub-regulation (3) of this Regulation, where the performance of a public servant is adjudged unsatisfactory and there is a need to withhold increments or making demotions or terminate the appointment in the interest of the employer, the employer or any authorised public servant shall notify the public servant concerned informing him in writing, the area or areas in which his performance is deficient and giving him an opportunity to improve on his performance within a period to be determined by the employer or such authorised public servant.

(9) If after the expiry of period determined to afford the public servant an opportunity to improve upon his performance as provided for under sub-regulation 8 of this Regulation, the public servant's performance shows no improvement the employer or the authorised public servant shall decide on the matter and

Public Service Regulations

G.N. No. 168 (contd.)

(a) in case of public servants appointed by the President, after consultation with the Minister of that Ministry, submit his recommendations to demote or terminate the appointment or withhold the increment of the public servant for unsatisfactory performance; and

(b) in case of other public servants demote or terminate or withhold his increment on unsatisfactory performance.

(10) Termination of appointment under sub regulations (8) and (9) of this Regulation shall be considered as a disciplinary action against the public servant, and shall follow the procedure provided for under PART V of these Regulations.

Performance
Contracts

23. The public servant and his supervisor shall sign a performance contract every year.

Performance
Contracts of
Chief
Executives.

24. Every Chief Executive Officer shall sign a performance contract with his respective supervisor, that is:-

(a) the Permanent Secretary shall sign with his Minister after consultation with the Chief Secretary.

(b) the Head of Independent Department shall sign with the Chief Secretary after consultation with the Permanent Secretary of his respective Ministry.

(c) the Regional Administrative Secretary shall sign with the Regional Commissioner after consultation with Permanent Secretary responsible for Regional Administration.

(d) the Director of a Local Government Authority shall sign with his Chairman or Mayor as the case may be.

Performance
Contracts of
other
Public
Servants.

25. Public servants other than the chief executive officers shall sign performance contracts with their respective supervisors.

26- (1) Chief Executive Officers shall be appraised in the following manner:-

Performance
Appraisal of
Chief
Executive
Officers.

(a) in case of Permanent Secretary, by a Minister responsible for that Ministry.

(b) in case of a Regional Administrative Secretary by the Regional Commissioner after consultation with the Permanent Secretary responsible for Regional Administration.

(c) in case of the Director of Immigration Service and the Commissioner of Fire and Rescue Service, by the Permanent Secretary of the Ministry of Home Affairs.

(d) in case of a Head of an Independent Department, by the Minister responsible for that Independent Department after consultation with the respective Chairman.

(2) On Performance appraisal process, the Appraisee and the Supervisor have the right to make use of observers who are vested members within the organisation to witness that, the discussions are conducted fairly, openly, frankly and constructively.

(3) Where there are disagreements on the performance appraisal process, the Supervisor shall advise the Appraisee to report to the immediate superior of the supervisor.

(4) Notwithstanding the provisions of sub regulation (3) of this Regulation, where there are disagreements on the performance appraisal process between the Minister and the Permanent Secretary, the Minister shall invite a member of the Public Service Commission to advise them. Upon receipt of such advice, if there is still no agreement between them, that member of the Commission shall submit his advice to the Commission which in turn shall submit its findings with recommendations to the Chief Secretary for the final determination of the matter.

27-(1) Every Permanent Secretary, Head of Independent Department, Regional Administrative Secretary, Director of the Local Government Authority, Director of Immigration Service, Commissioner of Fire and Rescue Service shall ensure that all public servants under them are appraised.

Performance
appraisal of
other
public
servants.

(2) The provisions of Regulation 28 of these Regulations shall apply to all public servants.

Public Service Regulations

G.N. No. 168 (conid.)

Performance
appraisal
report

28. Every performance appraisal report shall be duly completed. The supervisor shall make sure that one copy remains in the public servants personal file and another copy is retained by a public servant who is appraised. Provided that the supervisor shall make sure that:-

- (a) in case of Permanent Secretary, one copy shall be forwarded to the Chief Secretary.
- (b) in case of a Regional Administrative Secretary, one copy shall be forwarded to the Permanent Secretary responsible for Regional Administration, one copy to the Permanent Secretary (Establishments).
- (c) in case of the Director of Immigration service and the Commissioner of Fire and Rescue Service, one copy shall be forwarded to the Permanent Secretary (Establishments).
- (d) in case of a public servant in a principal level, one copy shall be forwarded to Permanent Secretary (Establishments).
- (e) in case of a public servant serving in the Department or Division, one copy shall be forwarded to the Permanent Secretary of his respective Ministry and shall be kept in his personal file.
- (f) in case of a teacher one copy shall be forwarded to the Teachers Department of the Public Service Commission.
- (g) in case of a Director of Local Government Authority, one copy shall be forwarded to the Permanent Secretary responsible for Local Government and another copy to the Permanent Secretary (Establishments).

PART IV

TERMINATION OF APPOINTMENT(OTHER THAN ON DISCIPLINARY GROUNDS)

Removal
in public
interest.

29. (1) Where the appointing authority is of the opinion that the President should be invited in the exercise of the powers conferred upon him by sub-section (1) of section 24 of the Act, the appointing authority shall, after consultation with the respective Minister, furnish to the Chief Secretary through the Permanent Secretary (Establishments) particulars of the grounds warranting the exercise of powers of the President.

(2) On receipt of particulars and reasons from the appointing authority, the Permanent Secretary (Establishments) shall, after consultation with the Minister, forward them to the Chief Secretary together with his recommendations.

(3) The Chief Secretary may, on receipt of particulars and reasons together with the recommendations of the Permanent Secretary (Establishments), submit the same to the President with his recommendations. If he is of the opinion that removal of the public servant should be dealt with otherwise than by involving the powers of the President he shall refer the matter back to the Permanent Secretary (Establishments) with his directives who shall also refer the matter back to the respective appointing authority.

30. (1) Where the appointing authority is of the opinion that a public servant is incapable, by reason of any infirmity of mind or body, of satisfactorily discharging the functions of his office or if that public servant so request, may call upon such public servant to present himself before a medical practitioner approved by the Chief Medical Officer or a Medical Board appointed in that behalf by the Chief Medical Officer, to ascertain whether or not such public servant is incapable by reason of that infirmity of mind or body.

Retire-
ment on
medical
grounds

(2) After the public servant has been examined by the medical practitioner or the Board, as the case may be, the Chief Medical Officer shall forward the report of the examination together with his recommendations to the appointing authority for his decision.

(3) The decision of the appointing authority made under sub-regulation (2) of this Regulation shall be copied to the Permanent Secretary (Establishments).

(4) The functions of the appointing authority under this Regulation may be exercised by the senior public servant of the relevant Ministry, Independent Department or Region, and, the functions of the Chief Medical Officer in a Region may be exercised by the public servant of the Ministry of Health who holds the senior most rank in the medical profession in the Region.

31. Where the appointing authority decides to require a public servant to retire from the public service in consequence of the abolition of his office or for facilitating improvements in the organization of the office to which he belongs, by which greater efficiency or economy may be effective, the appointing authority shall forward his recommendations to the Permanent Secretary (Establishments) who shall, after consultation with the Minister decide whether or not such public servant shall be called upon to retire.

Retire-
ment on
abolition
of office
or re-
organiza-
tion of
depart-
ment.

Public Service Regulations

G.N. No. 168 (contd.)

Termination by age of retirement

Act No. 2 of 1999.

32.- (1) A public servant may retire voluntarily from the service upon attaining the age of fifty five years and compulsory after attaining the age of sixty years as provided for by the Public Service Retirement Benefits Act.

(2) Appointing authorities are required to review the records of all public servants under their control from time to time, in order to ensure that public servants are aware that they must cease from duty on attaining the age of retirement.

(3) Notwithstanding the provisions of sub-regulation (2) of this Regulation, a public servant who attains the age of voluntary or compulsory retirement should give notice of his impending retirement in writing to his appointing authority at least six months before date of cessation of duty.

(4) Where the appointing authority is of the opinion that a reason exists, why a public servant serving on pensionable terms and who has attained the age of voluntary retirement should be called upon to retire, he may request the public servant concerned to show cause why he should not be compulsorily retired.

(5) The appointing authority shall forward any representations made by the public servant pursuant to notice given to him under sub-regulation (4) of this Regulation together with his own recommendations to the Chief Secretary through the Permanent Secretary (Establishments). The Chief Secretary shall decide whether or not such public servant should be called upon to retire.

(6) Where the public servant serving on pensionable terms and who has attained the age of voluntary retirement with the option to retire is barred by any reason to do so, he may apply to the Chief Secretary through the Permanent Secretary (Establishments). The Chief Secretary may approve the application if he is satisfied that it is in the public interest that the applicant should retire.

Termination of appointment of non-pensionable public servants.

33. Where the appointing authority is of the opinion that it is desirable that the appointment of any public servant serving on non-pensionable terms be terminated in accordance with the terms of appointment otherwise than by dismissal or on medical grounds, he may notify the Permanent Secretary (Establishments).

34. The appointment of a public servant may be terminated upon contesting any constitutional leadership post or any elective political post provided for under the Constitution of the United Republic of Tanzania or of any Political Party except where the Chief Secretary directs otherwise.

Termination upon contesting constitutional leadership or elective political post.

PART V
DISCIPLINE
A: General

35. (1) The Disciplinary Authority of the Chief Secretary shall be the President.

Disciplinary authorities and powers.

(2) Subject to the provisions of this Part, the powers vested in the Chief Secretary for disciplinary control, shall be exercised by himself or delegated to other disciplinary authorities:

- (a) in case of the Permanent Secretaries, Heads of Independent Departments, Deputy Permanent Secretaries, Regional Administrative Secretaries, Clerk to the National Assembly, Director of Immigration, Commissioner of Fire and Rescue Services, Director of a City Council or a Commission, Ambassadors and other public servants as shall be appointed by the President from time to time, shall be the Chief Secretary.
- (b) in case of public servants other than those appointed by the President, shall be the Minister responsible for Local Government, Permanent Secretaries, Heads of Independent Departments, Regional Administrative Secretaries, the Director of Immigration service, the Directors of Local Government Authorities, the Commissioner of Fire and Rescue Services and the Teachers Service Department of the Public Service Commission.
- (c) in case of public servants in the Operational Service, shall be the Heads of Departments or Divisions.

(3) The disciplinary powers of the Chief Secretary in relation to the Chief Executive Officers other than a Permanent Secretary, a Clerk of the National Assembly and a Deputy Permanent Secretary shall be facilitated through the Permanent Secretary (Establishments) who shall, in relation therewith, consult the Minister.

Public Service Regulations

G.N. No. 168 (contd.)

(4) Notwithstanding the provisions of sub-regulation (1) and (2) of this Regulation the Chief Secretary shall, in relation to any public servant whosoever, be the highest-ranking disciplinary authority in the Service and may exercise all or any of the powers delegated to a disciplinary authority by these Regulations.

Preliminary investigations.

36. Where it is necessary to institute disciplinary proceedings against a public servant, the disciplinary authority shall make preliminary investigations before instituting disciplinary proceedings.

Suspect may be relieved of his duties administratively. Interdiction.

37. Where the disciplinary authority considers that permitting the suspect to continue with his duties and functions, or any particular duty or function with which he is normally charged, amounts to commission of the offence or is not in the public interest, he may immediately relieve him of his duties and functions or that particular duty or function pending the outcome of the investigation or by the Police or the disciplinary authority.

Provided that the disciplinary action under this Regulation shall be taken administratively without resorting to interdiction and will not affect the suspect's pay.

Interdiction

38.- (1) Where the disciplinary authority considers that it is in the public interest that a public servant should cease forthwith to perform the duties and functions of his office, the disciplinary authority or any delegated disciplinary authority as the case may be, may interdict the public servant from performing those duties and functions, save that the charges have been served against that public servant.

(2) Where the public servant is interdicted under this Regulation, such public servant shall be informed in writing of the reasons for such interdiction.

(3) Where the charges served against a public servant are defective, the disciplinary authority shall be allowed to substitute them with the proper charges not later than thirty days from the date when the former charges were served.

(4) A public servant who is interdicted shall receive such salary not less than half of his salary as the disciplinary authority shall determine.

(5) Where any disciplinary or criminal proceedings have been instituted and concluded against a public servant under interdiction and such public servant is not dismissed or otherwise punished, the whole of any salary withheld shall be restored to him upon the termination of proceedings.

(6) Notwithstanding the provisions of sub-regulation (5) of this Regulation where the public servant is punished otherwise than by dismissal, half of the half of his salary withheld shall be restored to him upon the termination of such proceedings.

(7) A public servant under interdiction may not leave his duty station without the prior permission, in writing, of the disciplinary authority.

39.-(1) Where a public servant has been convicted of a criminal offence the disciplinary authority may suspend that public servant from performing his duties and functions pending consideration of the case on disciplinary grounds under the provisions of these Regulations.

Suspension of a public servant convicted of a criminal offence.

(2) A public servant under suspension shall not be entitled to any salary with effect from the date of suspension, but shall be paid by the appointing authority an alimentary allowance equivalent to one third of his gross salary.

40. (1) Subject to the provisions of any written law for the time being in force, a public servant who is dismissed from the Public Service, shall be paid a lump sum pension, if prior to his dismissal he qualifies for pension or gratuity under the provisions of any Pension Scheme and shall be granted passages. That public servant shall not be paid a monthly pension.

Loss of privileges on dismissal.

(2) Notwithstanding the provision of sub-regulation (1) of this Regulation, any public servant who is convicted of any criminal offence, which involves corruption or embezzlement of the public funds, shall forfeit all his rights or claims.

B. DISCIPLINARY PROCEEDINGS

41. Disciplinary proceedings under these Regulations may be either formal or summary.

Types of disciplinary proceedings.

42. (1) Formal proceedings shall be instituted where, in the opinion of the disciplinary authority, the disciplinary offence which a public servant is alleged to have committed is of such gravity of the offence which may warrant his dismissal, reduction in rank or reduction in salary.

Cases where formal proceedings applicable.

Public Service Regulations

G.N. No. 168 (contd.)

(2) Notwithstanding the provisions of sub-regulation (1) of this Regulation, in determining the gravity of disciplinary offence alleged to have been committed by a public servant, the disciplinary authority shall have regard to the definition of disciplinary offence under Regulation 3 and the list of disciplinary offences under Part A of the First Schedule to these Regulations.

Cases
where
summary
proceed-
ings
applica-
ble.

43. (1) Summary proceedings shall be instituted where, in the opinion of the disciplinary authority, the offence that the public servant is alleged to have committed is not of such gravity as to warrant, in the event of his being found guilty thereof, his dismissal, reduction in rank or reduction in salary.

(2) Notwithstanding the provisions of sub-regulation (1) of this Regulation, in determining the gravity of a disciplinary offence alleged to have been committed by a public servant, the disciplinary authority shall have regard to the definition of disciplinary offence under Regulation 3 and the list of disciplinary offences under Part B of the First Schedule to these Regulations.

Commencement
of formal
proceed-
ings.

44. (1) No formal proceedings for a disciplinary offence shall be instituted against a public servant, unless he has been served with a charge or charges stating the nature of the offence, which he is alleged to have committed.

(2) The charge or charges shall be prepared by the disciplinary authority after such preliminary investigations, as he may consider necessary.

(3) A disciplinary charge or charges may be in the form laid down in Part A of the Second Schedule to these Regulations, and shall state briefly the nature of the offence which the accused public servant is alleged to have committed, together with a statement of the allegations on which each charge is based.

(4) The disciplinary authority may consult the Attorney General on the formulation of the disciplinary charge or charges where it is considered necessary.

(4)th Where a disciplinary charge or charges have been drawn up, the disciplinary authority shall ensure that the charge or charges are served upon the public servant.

(5) A charge or charges shall be accompanied by notice which may be in the form laid down in Part B of the Second Schedule to these Regulations and the notice shall be addressed to the accused public servant inviting him to state in writing, within such period as may be specified in the notice, the grounds upon which he relies to exculpate himself.

(6) No formal proceedings instituted under this Regulation shall be invalid by reason only of any irregularity in the charge or charges save that such irregularity may be corrected pursuant to the provisions of sub-regulation (3) of Regulation 38 of these Regulations.

45. (1) Where a public servant has been served with a charge in accordance with the provisions of Regulation 44 of these Regulations and fails to make representations in writing giving the grounds upon which he relied to exculpate himself within the period specified in the notice accompanying the charge or charges, or makes representations which in the opinion of the disciplinary authority do not amount to a complete defence of the offence of which the accused public servant is charged, the disciplinary authority shall appoint two or more members, to hold an inquiry into the charge or charges.

Inquiry
into dis-
ciplinary
charge.

(2) Every inquiry into a charge or charges under sub-regulation (1) of this Regulation shall be in accordance with the procedure prescribed in these Regulations.

(3) Where the disciplinary authority is satisfied that the representations made by the accused public servant under sub-regulation (1) of Regulation 45 of these Regulations, amounts to a complete admission of the charge or charges against him, it shall not be necessary to hold any further inquiry or investigations in respect of such charge or charges, but the disciplinary authority shall record a finding of guilty and the proceedings shall proceed as if the accused officer had been found guilty after an inquiry.

46. (1) No public servant shall be appointed a member of an Inquiry Committee unless he is:

Inquiry
Commit-
tee.

(a) in the Senior Grade and above;

(b) of a rank higher than the rank held by the accused public servant.

Public Service Regulations

G.N. No. 168 (contd.)

(2) Notwithstanding the provisions of sub-regulation (1) of this Regulation where the appointing authority of the accused public servant is the President, no person shall be appointed a member of an inquiry committee for conducting an inquiry into a charge or charges against such public servant unless he is a Judge, the Permanent

Secretary, a Head of Independent Department, a Regional Administrative Secretary, a Senior or a Principal Resident Magistrate.

Regulation shall consist of not more than four and not less than two members.

(4) In appointing members of the Inquiry Committee, the disciplinary authority concerned shall ensure that it consists of both men and women.

(5) Where the Committee is of the opinion that it will be desirable for them to be assisted in the conduct of the inquiry by persons who may be more conversant with any professional or technical matter likely to arise in the course of proceedings, they may request the disciplinary authority to assign not more than two public servants with the necessary qualifications or experience to assist them, and the disciplinary authority shall comply with any such requests.

Procedu-
re on
inquiry
in formal
proceed-
ings.

47.- (1) The Committee conducting the inquiry shall notify the accused public servant of the day, date, time and place upon and at which the inquiry shall be held.

(2) The public servant shall have a right to be present, examine witness and be heard at the inquiry unless the accused public servant shows reasonable cause for his failure to be present or to send a representative at the inquiry. Provided that failure by the accused public servant to be present or represented at the inquiry shall not vitiate the proceedings unless the accused public servant shows reasonable cause or his failure to be presented or represented.

(3) The Committee conducting the inquiry may permit the accused public servant and the disciplinary authority to be represented by any public servant or advocate or a representative of a trade union.

(4) The accused public servant or his representative shall have a right:

- (a) to cross-examine any witness examined by the committee conducting the inquiry or by the disciplinary authority or his representative;

(b) to examine and be provided with copies of any document produced as evidence against him;

(c) to call witnesses on his own behalf and produce any document relevant to the inquiry.

(5) The committee conducting the inquiry may take into consideration any evidence, which they consider relevant to the subject of the inquiry even where that evidence would not be admissible under the law relating to evidence.

(6) The Committee conducting the inquiry shall record the gist of the evidence adduced before it.

(7) Any inquiry under this Regulation shall be conducted in camera.

(8) Where, during the course of the inquiry, it appears that the evidence adduced discloses grounds for an additional charge or charges, the disciplinary authority or his representative may cause the additional charge or charges to be formulated and shall give a copy of the charge or charges to the accused public servant.

(9) Where any additional charge or charges are formulated in accordance with the provisions of sub-regulation (8) of this Regulation, the committee conducting the inquiry shall proceed to inquire into the charge or charges and may recall any witness for further examination or cross-examination.

(10) Where the disciplinary authority has served a charge or charges to an accused public servant in accordance with the provisions of Regulation 44 of these Regulations, the inquiry shall commence not later than sixty days from the day the accused public servant was served with the charge or charges.

(11) Subject to the provisions of this Regulation, a Committee conducting an inquiry may regulate the procedure at the inquiry in the manner it may think fit. The inquiry shall be concluded within a period of sixty days from its commencement.

Provided that where the inquiry Committee fails to complete the inquiry within the prescribed period, under certain circumstances, it may apply for extension of that period, to the disciplinary authority who shall extend that period for not more than thirty days.

Public Service Regulations

G.N. No. 168 (contd.)

(12) No extension of the inquiry period under sub-regulation (11) of this Regulation shall be more than thirty days unless approved by the Permanent Secretary (Establishments).

Procedu-
re on the
conclu-
sion of
inquiry

48. (1) Upon the conclusion of inquiry the Committee conducting the inquiry shall, forward the record of proceedings together with its report on the inquiry to the disciplinary authority.

(2) Every report under sub-regulation (1) of this Regulation shall:-

(a) state whether in the opinion of the Committee the charges against the accused public servant have been proved or not and state reasons for that opinion;

(b) state any fact which, in the opinion of the Committee aggravates or mitigates the gravity of the act or omission which was the subject matter of any charge;

(c) state any other fact which in the opinion of the Committee, is relevant;

(3) The Report made under sub-regulation (1) of this Regulation shall not contain any recommendations as to the form or nature of the punishment to be awarded.

(4) Where on receipt of the record of proceedings and the report of the Committee, the disciplinary authority is of the opinion that further investigations into the case is necessary, that disciplinary authority may refer the matter back to the Committee with such directions as he may consider necessary.

(5) The Committee, upon receipt of reference and directions provided for under sub-regulations (4) of this Regulation, shall re-open the inquiry and proceedings in accordance with regulation 47 of these Regulations.

(6) Upon receipt of the record of proceedings and the report, the disciplinary authority after considering the evidence and such report of the Committee, shall make and record findings whether or not in his opinion, the accused public servant is guilty of the disciplinary offence with which he was charged, and shall inform the accused public servant of the decision within a period of thirty days.

(7) Where the disciplinary authority's findings as to the guilty or innocence of the accused is contrary to the opinion of the Committee conducting the inquiry as expressed in the report, the disciplinary authority shall record his reasons for the findings.

(8) Where the disciplinary authority finds the accused public servant guilty, he shall proceed to award punishment.

Provided that where the accused public servant is punished by dismissal, his dismissal shall take effect from the date upon which the disciplinary authority found the accused public servant guilty.

(9) Failure to comply with the requirements of sub-regulation (6) of this Regulation shall be considered that the accused public servant is not guilty of the offence.

49. (1) Where the disciplinary authority decides to institute summary proceedings against the accused public servant, he shall cause charges to be prepared and served upon the accused public servant;

Proce-
dure on
summary
proceed-
ings.

(2) The charge shall specify the period within which the accused public servant is required to make his defence.

(3) Where the disciplinary authority is of the opinion that investigation has to be conducted, the accused public servant shall have a right to be present at the investigation and make his defence.

(4) Where the public servant has been served with a charge or charges in accordance with the provisions of this Regulation and fails to make representation in writing giving the grounds upon which he relies to exculpate himself, or make representations which in the opinion of the disciplinary authority do not amount to a complete defence of the offence of which the accused public servant is charged, the disciplinary authority shall record a finding of guilty, and proceed to award appropriate punishment corresponding to the offence as provided for in Part B of the First Schedule to these Regulations.

(5) The disciplinary authority may authorise any public servant who is senior to the rank held by the accused public servant, to exercise all or any of the powers under sub-regulations (1), (2) and (3) of this Regulation.

(6) The disciplinary authority may, at any time before imposing punishment, institute formal proceedings against the accused public servant if he is of the opinion that, the representations adduced by the accused public servant discloses facts which add to the gravity of the offence or offences or which show that the accused public servant has or may have committed other disciplinary offences warranting formal proceedings.

C. Where Criminal Proceedings against a Public Servant are pending or concluded

Rules
where
discipli-
nary
offence
amounts
to criminal
offence

50. Where a public servant is alleged to have committed a disciplinary offence and the act or omission constituting such offence also constitutes a criminal offence under any written law, the following rules shall apply:-

- (a) if no disciplinary proceedings under these Regulations have been commenced in respect of the disciplinary offence, but proceedings for the criminal offence in these Regulations referred to as "criminal proceedings" are instituted against the accused public servant in any court of law, no disciplinary proceedings shall be commenced until after the conclusion of the criminal proceedings;
- (b) if disciplinary proceedings have been commenced and during the pendency of such proceedings, criminal proceedings for the criminal offence are instituted, the disciplinary proceedings shall be stayed and no further step shall be taken in respect of that disciplinary proceedings until after the conclusion of the criminal proceedings;
- (c) where criminal proceedings have been commenced and concluded against the accused public servant and the public servant is acquitted of the criminal charge on a legal technicality, the acquittal shall not be a bar to disciplinary proceedings against the accused public servant on the same facts. Disciplinary proceedings may be instituted or continued against the public servant and the public servant may be punished for that disciplinary offence as if no criminal proceedings had been instituted and concluded against him;

- (d) where criminal proceedings have been commenced and concluded against the accused public servant and the public servant is convicted of the criminal offence, the disciplinary authority may suspend the public servant from the exercise of the powers and functions of his office pending consideration of the case under the provisions of these Regulations;
- (e) where the public servant has been convicted of a criminal offence, he shall be deemed to have been found guilty under the provisions of these Regulations of a disciplinary offence based upon the same charge or charges or the same facts which formed the grounds of the criminal charge or charges of which he was convicted, and the disciplinary authority shall, without instituting or continuing any disciplinary proceedings,
- (f) no public servant shall be punished under this sub-regulation until after he has been served with a notice specifying; the disciplinary offence which he is deemed to have been found guilty, the punishment which the disciplinary authority proposes to impose and the time within which such public servant may make such plea in mitigation as he may consider fit without the disciplinary authority having taken into consideration any plea made by the public servant within the time specified in the notice.
- (g) where the accused public servant has been convicted of a criminal offence which in the opinion of the disciplinary authority, may warrant his dismissal from service, formal disciplinary proceedings may be instituted against that public servant or where such proceedings were instituted prior to the commencement of the criminal proceedings, they may be continued and the accused public servant may, subject to the provisions of paragraph (h) of this sub-regulation be tried on such formal disciplinary proceedings in accordance with the provisions of Regulations 44, 45, 46, 47 and 48 of these Regulations.
- (h) where a notice under paragraph (f) of this sub-regulation is given to the public servant, the disciplinary authority shall not be bound to impose the same punishment as specified in the notice but may impose any lesser punishment;

Public Service Regulations

G.N. No. 168 (contd.)

- (i) if any formal disciplinary proceedings under paragraph (g) of this sub-regulation, proves that the accused public servant has been convicted of the criminal offence, such a proof shall be conclusive evidence of the fact that he has committed the disciplinary offence based on the same facts;
- (j) where a public servant has been convicted of a criminal offence and prior to the commencement of the criminal proceedings he was found guilty by the disciplinary authority of a disciplinary offence based on the facts upon which the subsequent criminal charge or charges was based, it shall be lawful for the disciplinary authority, upon the conclusion of the criminal proceedings, to substitute for the disciplinary punishment imposed upon the accused public servant in respect of the disciplinary offence, any other disciplinary punishment which in the opinion of the disciplinary authority is warranted in view of the conviction of the public servant of the criminal offence or in view of any evidence adduced at the criminal proceedings.

Rules
where
Criminal
Procee-
dings
have
been
Comme-
nced and
Conclu-
ded

51. (1) For the purpose of this Regulation, criminal proceedings shall be deemed to have been concluded:

- (a) where there has been no appeal against conviction or acquittal upon the expiry of the time allowed for such appeal by or under any written law;
- (b) where there has been an appeal against the conviction or acquittal upon the expiry of time allowed by or under any written law for any further appeal.

(2) Where there has been an appeal or a further appeal against any conviction or acquittal, the judgement of appellate tribunal shall be taken into consideration in determining whether the public servant has been convicted or acquitted.

(3) Nothing in the provisions of paragraph (f) of Regulation 50 of these Regulations shall be construed as precluding the disciplinary authority from instituting disciplinary proceedings against the public servant convicted of a criminal offence independent of his conviction of such criminal offence. Provided that where a disciplinary authority

institutes disciplinary proceedings against a public servant independent of his conviction of a criminal offence in the event of an appeal or further appeal against such conviction, the provisions of paragraph (a) (b) and (c) of Regulation 50 of these Regulations, shall apply.

(4) Where consequent upon his conviction on a criminal charge involving fraud or dishonesty on his part the accused public servant is, pursuant to the provisions of Regulation 52 of these Regulations, punished by dismissal from the service for a similar disciplinary offence or for a disciplinary offence based on the same facts after formal proceedings have been taken against him, his dismissal shall take effect from the date upon which he was convicted of the criminal offence.

52. Any public servant who commits a disciplinary offence or a disciplinary offence which amounts to a criminal offence under this part of these regulations, shall be awarded appropriate punishment corresponding to the offence as provided for in the First Schedule to these Regulations.

Punish-
ments.

53. -(1) Where a public servant by his act or omission or by his negligence or misconduct or by reason of his failure to take reasonable care or to discharge his duties in a reasonable manner, causes the Government to suffer any loss or causes damage to any property of the Government, the amount of such loss or the value of the property damaged or an amount equal to the cost of repairing such property or such portion of such amount or value, as the appropriate authority may determine, may be recovered from such public servant under the provisions of the Specified Officers (Recovery of Debts) Act 1970 independently of these Regulations.

Loss occasioned by a public servant may be recovered from him independently of these Regulations

(2) Where steps have been taken to recover any of the amount or value as provided for under the Specified Officers (Recovery of Debts) Act, 1970, it shall be lawful for disciplinary proceedings for the act or omission or, negligence or failure to take reasonable care or failure to discharge a duty in a reasonable manner, being instituted under these Regulations.

Provided that where such proceedings are instituted, the punishment specified in the First Schedule to these Regulations shall not be awarded, save to the extent of the difference between the actual amount of

Public Service Regulations

G.N. No. 168 (contd.)

the loss incurred by the Government or, as the case may be, the actual value of the property or the actual cost of repairing such property, and the amount to be authorised to be recovered under the Specified Officers (Recovery of Debts) Act, 1970.

(3) Where a public servant has been held liable to pay any amount to the Government by reason of his negligence or misconduct or failure to take care to discharge his duties in a reasonable manner or other act or omission, is convicted under the provisions of the Penal Code for those offences giving rise to such liability, and if the court has ordered that public servant to pay to the Government compensation, any amount ordered to be recovered from a public servant by a disciplinary authority or appropriate authority under the provisions of the Specified Officers (Recovery of Debts) Act, 1970, the order of the disciplinary authority or, as the case may be, of the appropriate authority shall-

- (a) if the amount ordered to be recovered by the disciplinary authority or the appropriate authority, exceeds the amount of the compensation ordered under provisions of the Penal Code, the amount shall be effective only to the extent of the difference between the two amounts;
- (b) if the amount ordered to be recovered by the disciplinary authority or the appropriate authority, is less than the amount of the compensation ordered under the provisions of the Penal Code, the amount shall cease to have effect.

(4) Notwithstanding the provisions of sub-regulation (3) of this Regulation, where disciplinary proceedings are instituted or a public servant is punished under these Regulations after his conviction under the provisions of the Penal Code, it shall be lawful for the disciplinary authority to order that an amount equal to the difference between the actual amount of the loss or the value of the property or the cost of repair and: -

- (a) the amount of the compensation awarded under the provisions of the Penal Code; or
- (b) where steps have also been taken to recover any amount from the public servant under the Specified Officers (Recovery of Debts) Act, 1970;

the aggregate of the amount which may, subject to the provisions of sub-regulation (3) of this Regulation recovered under that Act and the amount of compensation awarded under the provisions of the Penal Code, be recovered from the public servant by way of punishment.

(5) In this Regulation the term "appropriate authority" shall have the meaning assigned to that term by the Specified Officers (Recovery of Debts) Act, 1970.

54. - (1) Notwithstanding any other provisions in this Part of these Regulations, where a disciplinary authority is satisfied that the increment of a public servant should be withheld on the grounds:-

Withhold
ing of
incre-
ments
for
unsati-
sfactory
perform-
ance.

- (a) of unsatisfactory performance not amounting to misconduct; or
- (b) that the public servant has failed to pass any examination, the passing of which is a pre-requisite to the grant of an increment;

he may withhold that increment.

(2) Where the disciplinary authority is satisfied that an increment withheld under sub-regulation (1) of this Regulation should be restored, he shall inform the public servant concerned that his increment shall be restored with effect from such date as he may specify.

(3) Where an increment is restored under sub-regulation (2) of this Regulation, any further increments which may be granted to the public servant concerned shall, subject to any other proceedings which may be taken under this part, take effect from such public servant's normal incremental date.

55. (1) Notwithstanding any other provisions in this Part of these Regulations, the disciplinary authority may suspend the payment of an increment which is due to be granted to a public servant where: -

Suspen-
sion of
incre-
ments

- (a) disciplinary or criminal proceedings have been instituted against the public servant, or
- (b) disciplinary authority has reason to believe that grounds exist for withholding the increment under Regulation 54 of these Regulations.

Public Service Regulations

G.N. No. 168 (contd.)

(2) Where an increment, the payment of which has been suspended under this Regulation, is not withheld under Regulation 54 of these Regulations or otherwise, it shall be restored with effect from the date upon which it would have been granted had it not been suspended.

Reprimand and warning

56. Nothing in these Regulations shall prohibit any disciplinary authority from issuing a reprimand for, or a warning for unsatisfactory work or conduct to a public servant or any authorised public servant from issuing that reprimand or warning to any public servant directly subordinate to him.

Absent without leave.

57.- (1) Where a public servant is absent from duty without leave or reasonable cause for a period exceeding five days, that public servant may be charged with the disciplinary offence of being absent without leave and punished by dismissal.

(2) If the whereabouts of the public servant charged under sub-regulation (1) of this Regulation are not known, a copy of the charge shall be served by leaving it at the place where such public servant is known to have resided prior to the absence or by sending it to the public servant's last known address.

(3) Service in accordance with the provisions of sub-regulation (2) of this Regulation shall be deemed to be good service of the charge for the purpose of disciplinary proceedings being proceeded with in accordance with these Regulations.

Absent on account of illness

58. Absence from duty on account of illness must be reported by the public servant concerned to his employer and must be supported by a document certified by a government medical practitioner or a private practitioner.

Disciplinary proceedings for public servants in the operational service.

59. The procedures in the disciplinary proceedings for the public servants in the Operational Service shall be as laid down in the Security of Employment Act.

No. 62 of 1964

PART VI

APPEALS

60.-(1) Where the Chief Secretary exercises disciplinary authority in accordance with part V of these Regulations, in respect of a public servant who is an appointee of the President, that public servant may appeal to the President against the decision of the disciplinary authority and the President shall consider the appeal and may confirm, vary or rescind the decision of that disciplinary authority. Appeals

(2) Where the Minister responsible for Local Government, a Permanent Secretary, Head of Independent Department, Regional Administrative Secretary or a Director of the Local Government Authority exercises disciplinary authority in accordance with the provisions of part V of these Regulations, that public servant may appeal to the Commission against the decision of the disciplinary authority and the Commission may confirm, vary or rescind the decision of that disciplinary authority.

(3) Where the Director of Immigration or the Commissioner of Fire and Rescue Services exercises disciplinary authority as stipulated under the provisions of Part V of these Regulations against the public servant, that public servant may appeal to the Commission against the decisions of the disciplinary authority and the Commission may confirm, vary or rescind the decision of that disciplinary authority.

(4) Where the head of department exercises his disciplinary powers in accordance with the provisions of part V of these Regulations against any public servant in the operational service, that public servant may appeal in accordance with the procedures under the Security of Employment Act; 1964.

(5) Where a public servant or the disciplinary authority is aggrieved with the decision in sub regulation (1), (2) and (3) of this Regulation he shall appeal to the President whose decision shall be final.

(6) Where the President or the Commission varies or rescinds any decision of dismissing any public servant from the Public Service and substitutes any other decision of dismissing that public servant, the variation or rescission, shall have effect from the date of the original decision and the public servant shall unless sooner have ceased to be a public servant for any other cause, be deemed to have remained a public servant notwithstanding the original decision.

Public Service Regulations

G.N. No. 168 (contd.)

Time for
Appeal

61- (1) Where any public servant desires to appeal under section 25 of the Act or under Regulation 60 of these Regulations, against any decision, he shall, within forty five days of the receipt of the decision, appeal to the appellate authority in writing copied to the disciplinary authority.

(2) Except where the appellate authority is satisfied that the disciplinary authority is in possession of a copy of the appeal, the appellate authority shall serve a copy upon the disciplinary authority.

(3) Upon receipt of a copy of the appeal, whether from the public servant or from the appellate authority, the disciplinary authority shall within fourteen days of the receipt, submit to the appellate authority its representations in writing with a copy to the concerned public servant.

(4) The appellate authority may accept an appeal made by the public servant out of time where it is satisfied that special circumstances precluded the submission of the appeal within the prescribed time.

Appeals
Proce-
dure

62. (1) On appeal under section 25 of the Act, or under Regulation 60 of these Regulations the appellate authority may, allow both the appellant and the disciplinary authority whose decision is being appealed against, or either of them, an opportunity to be heard by presenting himself or in writing in support of, or against the appeal, as the case may be.

(2) Notwithstanding the provisions of sub-regulation (1) of this Regulation, the appellate authority may determine the appeal in the absence of the appellant and in any case, unless exceptional circumstances exists, the appellate authority shall ensure that every appeal is concluded within ninety days from the date of receipt of representations made under sub-regulation (3) of Regulation 61.

(3) No findings made or punishment imposed by a disciplinary authority under the provisions of these Regulations shall be reversed or set aside on the grounds only of any irregularity in the appointment of the inquiry committee or the conduct of the disciplinary proceedings, but in any case where there is a reversal, and the appellate authority is of the opinion that irregularity has occasioned injustice, the appellate authority may direct that the disciplinary proceedings commence de novo.

63. In every appeal when the decision is served to the appellant, the other party shall be entitled to a copy of that decision.

Entitle-
ment to a
copy of
decision

64.-(1) Any person who refuses or fails or neglects to comply with a decision of the President or Commission on appeal to which he is a party may be charged with the disciplinary offence of failure to perform a duty imposed upon him.

Decision
of the
appellate
authority

Provided that no person shall be charged for an offence against this Regulation in respect of decision of the Commission during a period in which he may appeal from that decision to the President.

(2) Where the President or the Commission varies or rescinds any decision of dismissing any public servant from the Public Service and substitutes any other decision other than of dismissing that public servant, the variation or rescission shall have effect from the date of the original decision and the public servant shall unless sooner has ceased to be a public servant for any other cause, be deemed to have remained a public servant notwithstanding the original decision.

PART VII

CODE OF ETHICS AND CONDUCT FOR THE PUBLIC SERVICE

65. (1) There shall be a Code of Ethics and Conduct for the Public Service in the form shown in the Third Schedule to these Regulations.

The
Code of
Ethics
and
Conduct

(2) Notwithstanding the provisions of sub-regulation (1) of this Regulation, where necessary there shall be formulated Professional Codes of Conducts for professions governed by the Act.

Provided that such Professional Codes of Ethics and Conducts do not contradict with the Code of Ethics and Conducts for the Public Service or the Public Leadership Code of Ethics in any way.

66. (1) Where any person is first appointed to a public service post he shall be provided with a copy of the Code of Ethics and Conducts for the Public Service.

Public
servants
aware-
ness of
the Code

(2) Every public servant shall be required to sign a declaration of compliance with the code.

67. A breach of the Code by a public servant shall have serious consequences including disciplinary action or criminal prosecution.

Effect of
breach of
the code

PART VIII

PUBLIC SERVICE COMMISSION

Composition of the Public Service Commission

68.-(1) The Commission shall consist of the Chairman and not more than six other members who shall be appointed by the President pursuant to the provisions of sub-section (1) of section 9 of the Act. In appointing members of the Commission, the President shall ensure that it consists of both men and women appointed only on grounds of merit.

(2) A person appointed to be a member of the Commission shall be a person respected in the community in which he belongs, who is serving or has served in any profession with experience at a senior management level in a public sector organization and is of a proved or provable personal probity and integrity of the highest standard. Provided that such person does not hold a political office, or is not a member of any employing authority and is not a Regional or a District Commissioner.

(3) If the office of Chairman is vacant or if the person holding it is for any reason unable to discharge the functions of the office, then until a person is appointed and assumes the functions of the office or until the person holding the office resumes discharge of those functions, as the case may be, those functions may be performed by an Acting Chairman who shall be appointed by the Chief Secretary from amongst the members.

Tenure of office and conditions of service

69. A person appointed to be a Chairman or to be a member of the Commission shall hold office on part time basis for a period not exceeding three years. On the termination of appointment, the Chairman or any other member shall be eligible for re-appointment for a further period or periods, non of which shall exceed three years.

Vacation of office

70. -(1) A Chairman or a member of the Commission may at any time resign from his office.

(2) The office of a Chairman or a member of the Commission shall become vacant:-

- (a) if he dies;
- (b) if he resigns;
- (c) if he is removed from the office by the President upon being satisfied that he is unable to perform the functions of his office due to illness or misbehaviour inconsistent with ethics of office or any law concerning ethics of public leaders or any other reason.

Public Service Regulations

G.N. No. 168 (contd.)

71. (1) The President shall appoint the Secretary of the Commission who shall be the Chief Executive and the Accounting Officer of the Commission.

Appointment of Secretary and other staff

(2) The Secretary to the Commission shall attend all meetings of the Commission but shall not vote in its deliberations.

(3) The staff of the Commission shall be employed by the Commission on such terms of service as the Commission shall determine after the approval of the Permanent Secretary (Establishments).

(4) The Secretary to the Commission shall, in consultation with the Permanent Secretary (Establishments) and, in accordance with the provisions of the Act, be responsible for the appointment, confirmation, promotion, control and discipline of the staff of the Commission

(5) The Secretary to the Commission shall be the disciplinary authority of the staff of the Commission.

72.-(1) Chairman and members of the Commission shall, on first appointment take an oath in the form set out in the Fifth Schedule to these Regulations.

Oath of Chairman and members of the Commission

(2) The Secretary to the Commission shall, on first appointment, take an oath in the form set out in the sixth schedule to these Regulations.

(3) Other staff of the Commission shall on the first appointment, take an oath in the form set out in the Sixth Schedule to these Regulations.

(4) Every oath or affirmation taken by a member and Secretary to the Commission shall be administered by the President, and every oath or affirmation taken by any other staff of the Commission shall be administered by the Chairman of the Commission.

73. The Commission may delegate its powers and functions to any of its department or any of its staff except the powers and functions of:-

Delegation of powers and functions

(a) tendering of advice to the President on matters of appointments, promotions, termination of appointment and disciplinary action.

(b) deciding on appeals

Public Service Regulations

G.N. No. 168 (contd.)

Decision
of the
Commis-
sion

74.- (1) Decisions of the Commission shall be made in a properly convened meeting of the Commission through consensus or three quarters vote of members attending.

(2) Without prejudice to the provisions of sub-regulation (1) of this regulation, where circumstances necessitate, decisions may be made by the Commission without a meeting by circulation of the relevant papers among members and the expression of their views in writing.

(3) Where a decision is made by the Commission without a meeting as provided for in sub-regulation (2) of this Regulation, any member shall be entitled to require that any such decision be deferred until the subject matter is considered at the meeting of the Commission.

(4) Any member shall be entitled to dissent from a decision of the Commission and his dissent and reasons thereof shall be set out in the records of the Commission.

The qu-
orum at
the
Commis-
sion's
meetings

75. The quorum at any meeting shall be five members including the Chairman.

The
Commis-
sion
may
co-opt
members

76. The Commission may invite any person who is not a member to participate in the deliberations of the Commission, but such person shall not have the right to vote.

Records
of the
Commis-
sion's
meetings

77. There shall be kept a record of members present and of business transacted at every meeting of the Commission.

Correspo-
ndence

78. All correspondence to the Commission shall be addressed to the Secretary.

- | | |
|--|--|
| <p>79. No person shall, in any legal proceedings, be permitted or compelled to produce or disclose any communication, written or oral, which has taken place between the Commission or any member or a staff and the Government or the President or the Chief Secretary or any officer of the Government, or between any member or a staff of the Commission and the Chairman or in connection with the exercise of the functions of the Commission, unless the Chief Secretary consents in writing to such production or disclosure.</p> | <p>Communications of Commission to be privileged</p> |
| <p>80. Every member of the Commission shall have such and the like protection and privilege in case of any action or suit brought against him for any act done or omitted to be done in the bona fide execution of his duties.</p> | <p>Protection of members</p> |
| <p>81. (1) The Commission may require any person to attend and give information before it, concerning any matter which it is required to consider in exercise of its functions under these Regulations and may require the production of any official documents relating to any such matter by any person attending before it.</p> <p>(2) A person who without lawful cause, refuses or fails to attend before the Commission upon being summoned, or refuses to answer questions after he has been ordered to appear before the Commission, commits an offence and is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year or both such fine and imprisonment.</p> | <p>Commission may require attendance</p> |
| <p>82. Without prejudice to the provisions of any other law, any person who otherwise than in the course of his duty, directly or indirectly by himself, or by any other person in any manner whatsoever influences or attempts to influence any decision of the Commission, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.</p> | <p>Offence to influence or attempt to influence the Commission</p> |
| <p>83. Any person who in connection with the exercise by the Commission of its functions or duties, wilfully gives to the Commission any information which he knows to be false or does not believe to be true, or which he knows to be false by reason of the omission of any material particulars, shall be guilty of an offence, and on conviction, shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.</p> | <p>Offence of false information to the Commission</p> |

Public Service Regulations

G.N. No. 168 (contd.)

Interpre-
tation of
"Commis-
sion" in
regula-
tion 82
and 83

84. For the purpose of Regulation 82 and 83, the term "Commission" shall include any member of the Commission, the Secretary, any member of the staff of the Commission, or any person or body of persons appointed to assist the Commission in the exercise of its functions or duties.

PART IX RETIREMENT BENEFITS

Protecti-
on of
pensions
rights
and other
terminal
benefits

85-(1) Where a public servant's service is terminated on grounds other than disciplinary, he shall be granted his retirement benefits in accordance with the law applicable to the grant of those benefits for the time being in force.

(2) Public servants retirement benefits shall be governed under;

(a) the Public Service Pensions Fund for all public servants other than those employed in the Local Government Authorities;

(b) the Local Authority Provident Fund, for all public servants employed in the Local Government Authorities;

(c) the National Social Security Fund for public servants in the Operational Service;

(d) the Government Employees Provident Fund.

(3) Teachers Pensions rights shall be governed by the Public Service Pensions Fund notwithstanding that a teacher works in a school under a Local Government Authority.

Terminal
Benefits
where a
public
servant
is trans-
ferred

86.- (1) Where a public servant is transferred from one service to another within the Public Service, his terminal benefits, in respect of the service he is transferred from, may be frozen and shall be payable on his retirement on grounds allowing payment of terminal benefits.

(2) The public servant transferred pursuant to the provisions of sub-regulation (1) of this Regulation shall decide whether to continue with his membership in the scheme he was formerly governed with or join and contribute to the scheme governing the service to which he is transferred.

87. The benefits payable under these Regulations are any benefits payable under any law providing for the grants of any pension, compensation, gratuities or other allowances to persons in respect of their service as public servants to their widow, widowers, children, dependants or personal representatives of such persons in respect of that service.

Benefits payable to public servants engaged on permanent and pensionable terms

88. Subject to the provisions of Regulation 19 of these Regulations, a person who is engaged on contract shall, on termination of his service, be paid a gratuity payable either in accordance with the terms of contract he entered in, or in accordance with the provisions of the laws applicable for retirement benefits in force for the time being.

Benefits payable to Public servants engaged on contract terms

89.-(1) It shall be the duty of both employer and employee to keep employment records for the purposes of reference for calculation of the employee terminal benefits.

Duty to keep records

(2) Employment records kept by both employer and employee shall be regarded as original copies duly signed by authorised person.

(3) Where there is no possibility to get hold of employment records from the employer's end, records in custody of the employee shall be used for any purpose provided that such records are in the original form.

PART X MISCELLANEOUS

A. GENERAL

90. -(1) The Minister shall be a leader and overseer in the implementation of these Regulations and policies governing the Public Service.

Role of Minister in the Public Service

(2) Ministers for each Ministry within the Public Service shall ensure effective implementation of these Regulations and their respective Ministerial and Sectoral policies governing the Service.

Public Service Regulations

G.N. No. 168 (contd.)

Communica-
tion from
Ministry
and to
Heads of
Independent
Depart-
ment

91. Where ministries communicate with each other, they shall not communicate by passing files. Communications shall be through letters which should be in simple forms and self-contained and where legal advice is required, ministries may pass files to the Attorney-General.

Powers
of the
Chief
Secretary

92. The Chief Secretary who is the head of Public Service shall exercise his powers provided for in these Regulations through the Permanent Secretary (Establishments)

Communica-
tion from the
Head of
Independent
Depart-
ment,
Execu-
tive
Agency
and
Regional
Secreta-
riat to
the
Ministries
and other
Organisa-
tions

93. -(1) Communication from the Head of Independent Department, Executive Agency and Regional Secretariat shall be made directly to the Ministry or Organisation concerned provided that it is copied to the Permanent Secretary of the Ministry to which that Independent Department or Executive Agency is grouped or in case of the Regional Secretariat to the Ministry responsible for Regional Administration and Local Government.

Communica-
tion from the
Local
Govern-
ment
Authority

94. Communication from the Local Government Authority shall be addressed directly to the organisation concerned provided that a copy of such communication is served to the Regional Administrative Secretary and the Permanent Secretary of the Ministry responsible for Regional Administration and Local Government.

95 -(1) Where a Ministry or a Public Service Organisation communicates with a Foreign Government or Agency, their correspondence shall be routed through the Ministry of Foreign Affairs and International Cooperation.

Communica-
tion
with a
Foreign
Govern-
ment and
Agency

(2) Where the communication is on establishment matters it shall be addressed or copied to the Permanent Secretary (Establishments).

96. Where legal advice is to be sought by any Public Service Organisation, it shall always be sought in writing except where the circumstances of the case dictate otherwise. The public servant making the request shall ensure that:

Communi-
cation
with the
Attorney
General's
Chambers

- (a) the facts are given to the Attorney General;
- (b) the attention is drawn to any previous legal opinion, which might have a bearing on the case;
- (c) he sets out in a separate paragraph the specific question or questions of law on which advice is desired.

97. (1) Every public servant shall be entitled to annual leave, which shall be granted once a year in accordance with the public servant's leave cycle.

Annual
leave

(2) The leave cycle shall commence from the date the public servant was first appointed to the Public Service, and shall be earned and calculated at an annual rate of twenty eight days for all public servants, except those serving on contract terms whose leave shall be earned and calculated as stipulated in their contracts.

(3) Leave shall be respected as a right and when not granted by the employer, a public servant shall be paid a one month salary in lieu thereof.

(4) No public servant may be granted leave before completing eight (8) months of service from the date of first appointment.

(5) Every public servant shall be granted once during the two years leave cycle, free transport in the form of a cash grant calculated on the basis of the prevailing fare rate by available public transport for himself, spouse and up to four children under 18 years of age or dependants who are wholly dependent upon that public servant.

Public Service Regulations

G.N. No. 168 (contd.)

Maternity
leave

98.- (1) A female public servant shall be granted a paid maternity leave of 84 days once in three years from the date she completed her last maternity leave. Maternity leave shall not be carried forward and shall be exclusive of her annual leave for the calendar year in which maternity leave is taken.

(2) Where a female public servant has availed herself of the whole or part of her maternity leave in relation to any pregnancy and the pregnancy results in abortion or a child dies within twelve months of the delivery, the female public servant shall be entitled to maternity leave in relation to the subsequent pregnancy notwithstanding the restriction referred to in sub-regulation (1) of this Regulation.

(3) A female public servant shall, within a period not exceeding six months after maternity leave, be allowed to leave office two hours before the end of the office hours everyday to breast feed her child. This leave shall only be granted to a female public servant who has a breast feeding child.

Leave
without
pay

99.-(1) The Permanent Secretary (Establishments) may grant a leave without pay to a public servant provided he is satisfied that it is in the public interest so to do. The grant of such leave shall take into consideration the Government policy.

(2) The application for leave without pay shall be made through the employer who shall forward it to the Permanent Secretary (Establishments) with his recommendations.

Sick
leave
and con-
valescent
leave

100. -(1) Subject to the recommendations of the Government medical practitioner or a private practitioner, the appointing authority may grant a sick leave or a convalescent leave provided that such approval shall be copied to the Permanent Secretary (Establishments).

(2) Sick or convalescent leave shall be granted on conditions that it does not exceed six months on full pay and six months on half pay in any sick period. Where a sick public servant does not recover within such period, consideration may be given to the termination of a public servant's appointment on medical grounds in accordance with Regulation 30 of these Regulations.

Sabbati-
cal leave

101. -(1) A public servant may be eligible for the grant of sabbatical leave where necessary to broaden his experience and increase his potential value to the service if he is confirmed in his appointment.

(2) The sabbatical leave shall be approved by the Permanent Secretary (Establishments) except for the Chief Executive Officers in which case the approval shall be given by the Chief Secretary.

(3) Applications for sabbatical leave will be submitted to the Permanent Secretary (Establishments) through the appointing authorities who shall forward with recommendations indicating clearly the benefits expected therefrom.

(4) The sabbatical leave shall be limited to twelve months and shall be granted once in every five years.

102. A public servant shall be granted a leave pending retirement which shall be taken before the date of his retirement.

Leave
pending
retire-
ment

103. (1) Every Employer shall be responsible for training and development of his staff.

Training
and staff
develop-
ment

(2) In undertaking the responsibility provided for under sub-regulation (1) of this Regulation, the Employer may be assisted and supported by the Public Service Department subject to such directives as may be given from time to time by the Government.

(3) Every Employer shall, on the basis of job descriptions, personnel audit, forecasts in the human resource plans and performance appraisal findings, introduce a staff development programme for the public servants.

(4) Staff development for the purpose of this Regulation, shall be aimed at developing individuals in the skills required for the performance of their present duties or for the performance of future jobs.

(5) Adequate provision in the annual budget for funding training programmes shall be made by every Appointing Authority.

(6) Employers shall prescribe terms and conditions for the public servants attendance at various training courses and the Public Service Management and Administration shall monitor and coordinate the training of all public servants in order to avoid unwarranted disparities within the Public Service.

Public Service Regulations

G.N. No. 168 (contd.)

Provision of housing 104. (1) Provision of housing accommodation shall be restricted to the following categories:

- (a) executives whose terms of service include an entitlement to free housing;
- (b) tied houses for duty posts.

(2) Notwithstanding the provision of sub-regulation (1) of this Regulation, each employer may facilitate the process for his employees to secure housing accommodation.

Medical services 105.-(1) All public servants serving on whatever terms shall be entitled to free medical attention except where such provision is governed by National Social Security Act, National Health Insurance Act, or any other scheme.

(2) Notwithstanding the provision of sub-regulation (1) of this Regulation, every public servant shall take all reasonable precautions in accordance with modern health practices for the proper protection of his health.

Employers duty to protect the health of public servants 106 -(1) Every employer shall take all reasonable precautions to ensure occupational safety standards in order to avoid unnecessary causes of health hazards and shall facilitate annual medical check up for every public servant in jurisdiction.

(2) Notwithstanding the provisions of sub-regulation (1) of this regulation, every public servant shall take all reasonable precautions in accordance with the modern health practices for proper protection of his health.

Transfers 107. -(1) For the purpose of improving efficiency of the service, public servants may be transferred from one Department to another, or from one Ministry to another, or from one Region to another or from one Local Government Authority to another where necessary and when it is in the public interest.

(2) Notwithstanding the provisions of sub-regulation (1) of this regulation a public servant shall not be transferred from one service to another with different terms and conditions of service without his consent.

(3) Where a public servant is transferred, he shall be entitled to free transport for himself, spouse and children or dependants as well as his personal belongings.

(4) Transfer costs shall be met by the receiving employer provided that half of the amount shall be paid by the incumbent employer on reimbursable basis.

(5) Transfer costs shall be met by the receiving employer provided that half of the amount shall be paid by the incumbent employer on reimbursable basis.

108. The participation of public servants in discussing and making decisions pertaining to their employment welfare shall be through the workers' councils and negotiating machinery.

Workers'
Councils
and the
Joint
Staff
Council

109. The Standing Orders for the Public Service and Circulars shall be applicable to all public servants.

The
applica-
tion of
Standing
Orders
and
Circulars

110. (1) Where the public servant's injuries or death has been caused by an accident or an occupational disease arising out of and in the course of his employment, he shall be compensated for such injuries or death in accordance with the procedures provided for under Regulation 111 of these Regulations.

Compe-
nsation
for
injuries
or death

(2) Notwithstanding the provisions of sub-regulation (1) of this regulation every public servant shall have duty to protect himself from any health hazards.

111.- (1) Where a public servant sustains injuries or dies while in the course of his duties, the appointing authority shall notify the Permanent Secretary (Establishments) and proceed to formulate a committee to inquire and establish the circumstances of the accident.

Procedu-
res for
compe-
nsation
for
injuries
or death

Public Service Regulations

G.N. No. 168 (contd.)

(2) Among members of the committee formulated pursuant to the provisions of sub-regulation (1) of this Regulation, there shall be a Labour Officer and a Medical Practitioner.

(3) Where an inquest is to be held or where criminal proceedings have been instituted or likely to be instituted in connection with the accident, the inquiry under the provisions of this Regulation shall not be held until after the inquest or the criminal proceedings have been concluded.

(4) The report of the committee submitted to the appointing authority shall state among other things:-

- (a) whether the accident occurred in the actual discharge of the public servant's duty;
- (b) whether there was no any negligence or default on part of the public servant;
- (c) whether the accident was specifically attributable to the nature of the public servant's duty;
- (d) the extent of incapacitation where no death occurred.

(5) The appointing authority shall on receipt of the report, submit it with his recommendations to the Permanent Secretary (Establishments).

The
authority
for com-
pensa-
tion in
case of
injuries
or death

112. -(1) The Chief Secretary shall be the authority for compensation for injuries or death of public servants and shall have power to determine the amount of compensation in accordance with the extent or percentage of incapacitation.

Provided that the compensation for death of a public servant shall not be less than ten million shillings and for injuries shall range between one million and ten million shillings.

(2) The Chief Secretary shall determine the compensation after receiving the report and the advice from the Permanent Secretary (Establishments).

B. TEACHERS' SERVICE

- | | |
|--|---|
| <p>113. The Regional Teachers Committee established under paragraph (b) of sub-section (2) of Section 29 of the Act, shall consist of the Chairman, Secretary and three other members appointed by the Commission.</p> | <p>Composition of the regional teachers committee</p> |
| <p>114. The District Teachers Committee shall consist of a Chairman, Secretary and three other members appointed by the Commission.</p> | <p>Composition of the district teachers committee</p> |
| <p>115. A person may qualify to be appointed a member of the Regional or District Committee if he is a resident and working in a respective Region or District. The composition shall be in a combination of both men and women having experience in Education, Management, Administration and Law.</p> <p>Provided that the Commission may appoint any person with any other acceptable qualifications to be a member where there is no person possessing any of the qualifications required under this Regulation or where a member with such qualifications fails to perform his duties properly.</p> | <p>Qualification for membership of the Regional and District Committees</p> |
| <p>116. A member of the Regional or District Committee shall serve for such period as shall be determined by the Commission.</p> | <p>Tenure of office of members of the Regional and District Committees</p> |
| <p>117. A member of the Regional or District Committee, shall cease to hold the office if;</p> <p>(a) he fails to perform satisfactorily his duties due to inability whether arising from infirmity of body or mind or any other cause;</p> | <p>Cessation of membership of Regional or District Committee</p> |

Public Service Regulations

G.N. No. 168 (contd.)

- (b) he retires from the Public Service or is transferred from that Region or District;
- (c) the period of his membership, as shall be fixed by the Commission, has expired;
- (d) circumstance arises causing the member to be disqualified from holding or being reappointed to hold the office of a member;
- (e) he resigns from office by giving notice in writing to the **Executive Secretary to the Commission.**

Delegation of powers of the Commission

118.- (1) Subject to the provisions of sub-section (2) of Section 21 of the Act, the Commission may delegate the exercise of its powers and functions to the heads of public and private schools, and to the principals of the teachers' colleges on the matters relating to the administration of Teachers Service within their jurisdiction.

(2) Delegated powers on matters relating to discipline of teachers shall be executed by the authorities prescribed under sub-regulation (1) of this Regulation only for the offence punishable by warning, withholding of an increment and the recovery of costs or part of the cost of any loss or breakage caused by the teacher's default or negligence.

(3) Delegated powers relating to teaching performance shall be executed by authorities provided for under sub-regulation (1) of this Regulation, in consultation with:-

- (a) the Local Government Authorities, in respect of primary school teachers;
- (b) the Ministry responsible for Education, in respect of secondary school teachers and teachers colleges tutors.

Supervision and administration of welfare of teachers

119- (1) The supervision and administration of the welfare of primary school teachers shall be the responsibility of the Local Government Authorities.

(2) The supervision and administration of welfare of secondary school teachers and college tutors shall be the responsibility of the Ministry responsible for Education.

(3) In administering the welfare of a teacher the Local Government Authorities and the Ministry responsible for Education shall comply with the terms and conditions pertaining to employment welfare of the teachers as shall from time to time be prescribed by the Commission through the Teachers Service Department.

120. In performing the responsibilities conferred by sub-section (3) of Section 29 of the Act, the Regional and District Committees shall:-

Functions of the Regional and District Teachers committees

- (a) keep and maintain an up to date register of all teachers under their jurisdiction who are registered in Part I and Part II of the register of teachers;
- (b) keep and maintain an up to date seniority list for all teachers under their jurisdiction;
- (c) ensure that teachers registered in Part I or Part II of the Register of teachers fill and sign the agreement forms before they report to their respective stations after they have been certified fit for appointment;
- (d) may recommend to the Regional Committee for approval of reappointment of teachers formerly dismissed from the service post, provided that such a teacher shall have stayed out of the service post for a period not less than twelve months from the date of receipt of the letter of dismissal;
- (e) shall maintain records in open and confidential files and send service particulars to another region in the event of the teacher's transfer;
- (f) shall uphold and maintain the Professional Code of Conduct and exercise its disciplinary powers to that end.

121.-(1) The Regional and District Committees shall be responsible for disciplinary proceedings against teachers within their jurisdiction.

Disciplinary powers of the Regional and District committees

(2) Notwithstanding the provisions of sub-regulation (1) of this Regulation, disciplinary offences which shall be determined by those committees will be those offences of such gravity that should the teacher be found guilty of the offence, may warrant:-

- (a) reduction in rank;
- (b) stoppage of an increment;
- (c) withholding of an increment;
- (d) the recovery of the cost or part of the cost of any loss or breakage caused by his default or negligence;
- (e) reprimand;
- (f) warning.

Public Service Regulations

G.N. No. 168 (contd.)

Procedu-
re for
discipli-
nary pro-
ceedings
conduct-
ed by the
commi-
ttees

122. The procedure of conducting disciplinary proceedings in Regional and District Committees shall be such procedure as provided for under Part V B of these Regulations.

Quorum
at the
commi-
ttee
meetings

123.-(1) The quorum at any meeting of the Regional or District Committee shall be four members including the chairman.

(2) All matters that may come before a Regional and District Committees shall be decided by vote of the majority of members of the meeting and in the event of equality of votes a chairman shall in addition to his vote as a member, have a casting vote.

Decision
s of the
commi-
ttee on
matters
other
than dis-
ciplinary

124.-(1) The decision of the District Committee on any matter other than disciplinary matters shall be reported to the Regional Committee and copied to the Commission, and the decision of the Regional Committee shall be reported to the Commission.

(2) The Regional Committee may uphold or vary the decision of the District Committee and shall forward it to the Commission copied to the District Committee and the Commission may uphold or vary the decision of the Regional and District Committees.

Decisions
of the
commi-
ttee on
discipli-
nary
matters

125.-(1) Disciplinary action may be instituted by any delegate exercising powers whether or not that delegate has power to impose a penalty commensurate with indiscipline, misconduct or lack of efficiency alleged against a teacher.

(2) Where in the opinion of the authority instituting the disciplinary action, any allegation against a member would, if substantiated, merit a penalty which that authority has no power to award, that authority shall refer the matter to a disciplinary authority having power.

(3) Where the authority exercising the delegated disciplinary powers has awarded a penalty which, in the opinion of another delegate having extensive powers, was inadequate or excessive, the latter may call the case to be reviewed and vary the decision.

126. (1) Where a teacher is aggrieved by the decision of the head of school or the Principal of the teachers' college, he may appeal to the District Committee. Where he is aggrieved by the decision of the District Committee, he may appeal to the Regional Committee, and where he is aggrieved by the decision of the Regional Committee, he may appeal to the Commission.

Appeals
for
teachers

(2) Where a teacher is aggrieved by the decision of the Commission he may appeal to the President whose decision thereon shall be final.

(3) Any appeal made under the provisions of this Regulation shall set forth the grounds of the appeal in writing and shall be forwarded to the District Committee, the Regional Committee, the Commission or the President, as the case may be, within forty five days from the date of receipt of the decision against which a teacher is appealing.

C. LOCAL GOVERNMENT SERVICE

127. Every Local Government Authority, shall establish a Board which shall be responsible for facilitation of appointment of the public servants of the Local Government Authority concerned in accordance with provisions of these Regulations.

Establi-
shment
of
employ-
ment
boards of
Local
Govern-
ment
Authori-
ties

128.- (1) Subject to the provisions of sub-section (2) of section 21 of the Act, the Commission may delegate the powers conferred upon it under paragraph (d) of sub-section 1 of section 10 of the Act to the employment boards in every Local Government Authority concerned.

Appoint-
ments of
public
servants
in the
Local
Govern-
ment
Authori-
ties

(2) Employment Board in every Local Government Authority shall be responsible for facilitation of appointments of all public servants within the Local Government Authority concerned, other than those appointed by the President and the Minister responsible for Local Government.

(3) Every employment board shall be answerable to the Local Government Authority and guided by directives issued to it by the Commission and the Local Government Authority concerned.

Provided that the Commission and the Local Government Authority directives do not contravene the provisions of these Regulations.

Public Service Regulations

G.N. No. 168 (contd.)

(4) The Board shall consist of:-

- (a) a Chairman who shall be appointed by the Local Government Authority from amongst people who are ordinary resident in the area of jurisdiction of that Local Government Authority, knowledgeable in personnel management or public administration or law;
- (b) one member to be appointed by the Local Government Authority from amongst its members who shall in any case not be the Chairman of the Local Government Authority;
- (c) the District Administrative Secretary or his representative;
- (d) an expert from the relevant Regional Secretariat responsible for Local Government matters;
- (e) a representative from the Public Service Commission.

(5) The Head of Department responsible for personnel matters in a respective Local Government Authority, shall be the Secretary to the Board but shall not be entitled to vote.

Oath of
Chairman
and
members
of the
employ-
ment
board

129. The chairman, members and the secretary to the Board, shall before entering upon the exercise of the functions of their office, take and subscribe to the appropriate oath prescribed in the Seventh Schedule to these Regulations, to be administered by the Commissioner for Oaths.

Tenure
of office
for mem-
bers of
the
Board

130.-(1) A member of the Board appointed under these Regulations shall, unless his appointment is sooner terminated by the Local Government Authority or otherwise ceases to be a member, hold office for a period not exceeding five years.

Provided that the Board shall stand dissolved at the end of tenure of office of the Local Government Authority or on the dissolution of the Local Government Authority.

(2) Where any member of the Board ceases to be a member for any reason before the expiration of tenure of office, the Local Government Authority concerned shall appoint another person in his place and the person so appointed shall hold office for the remaining term of office of the Board.

Meetings
of the
Board

131.-(1) The frequency, place and time of the meeting shall be determined by the Local Government Authority concerned.

Public Service Regulations

G.N. No. 168 (contd.)

(2) A meeting of the Board shall be convened by the secretary to the Board and the notice specifying the place, date and time of the meeting shall be sent to each member's contact address or to the usual place of business or residence not less than fourteen days before the date of such meeting.

132. Three members shall form a quorum for any meeting of the Board.

Quorum
at the
meeting
of the
Board

133. The Board may invite any person who is not a member to participate in the deliberations of the Board, but such person shall not have the right to vote.

Co-
option of
members

134.- (1) There shall preside at any meeting of the Board:-

(a) the chairman;

(b) in the absence of the chairman, members present shall nominate one amongst them to preside.

Procedu-
res of the
Board

(2) At any meeting of the Board a decision of the majority of members present shall be deemed to be a decision of the Board.

(3) In the event of equality of votes the chairman shall have a casting vote in addition to his vote as a member.

(4) The Board shall have powers to regulate its own proceedings.

135. (1) All decisions of the Board shall be made at a properly convened meeting.

Decisions
of the
Board

(2) Minutes of each meeting shall be kept and be confirmed by the Board at the next meeting and signed by the chairman and secretary of the meeting.

136. Subject to the provisions of Regulation 130 of these Regulations, the Board may act notwithstanding any vacancies in the membership thereof and no act or proceedings of the Board shall be invalid by reason only of some existence of a vacancy in the Board or defect in the appointment of a person who propounds to be a member thereof.

Vacancies
not to
invali-
date pro-
ceedings
of the
board

137. All orders, directions, notices, decisions or other documents made or issued by the Board shall be signed by:-

Signing
of docu-
ments

Public Service Regulations

G.N. No. 168 (contd.)

- (a) the chairman; or
- (b) the secretary or any person authorised in writing in that behalf by the secretary.

Functions
of the
Board

138. (1) The functions of the Board shall be to conduct merit-based selection of staff and submit proposals to the Local Government Authority concerned as part of the appointment procedures set out in these Regulations.

(2) The Board shall, in discharging the function under sub-regulation (1) of this Regulation:-

- (a) observe the Public Service Management and Employment Policy, Schemes of Service and Guidelines issued by the Commission and the Local Government Authority concerned;
- (b) abide by principles of equality and transparency in staff appointments, and abstain from being influenced by anybody outside the Board;
- (c) observe principles of equal opportunity to all, including gender equality.

Expenses
of the
Board

139. Expenses for the operations and management of the affairs of the Board shall be budgeted for and paid by the Local Government Authority concerned.

Appoint-
ment
proce-
dure of
public
servants
in the
Local
Govern-
ment
Authori-
ties

140.-(1) Where there is a vacancy in a post to which the appointing authority is the Director of a Local Government Authority, the Local Government Authority concerned shall notify the Board and the Board shall, after consultation with the Commission advertise the vacant post in a newspaper circulating nationally, or in such other manner including advertising the post in public notice boards in and outside the area of jurisdiction of the Local Government Authority concerned, calling upon interested and qualified applicants to apply for the post.

(2) Applicants for the post shall be required to submit their letters of application together with copies of certificates, testimonials, curriculum vitae and other relevant documents to the Director of a Local Government Authority concerned.

Public Service Regulations

G.N. No. 168 (contd.)

(3) The Director shall, after receiving applications in accordance with sub-regulation (2) of this Regulation, prepare a full list of all the applicants indicating those best qualified to appear before the Board for interview on a specific date, time and place.

141. (1) The Board shall prepare questions and marking schemes to be used for interview so as to ensure objectivity, consistency and to measure the right qualities of the applicants.

Inter-
views

(2) The applicants who appear before the Board for interview in accordance with sub-regulation (1) of this Regulation shall be required to submit their original certificates, testimonials and other relevant documents.

142. (1) The Board shall after the interviews, select suitable candidates for the post and submit their names in order of merit to appointing authority, who shall make appointments in accordance with the number required after consultation with the local government authority concerned.

Selection
of candi-
dates

(2) Where the Board fails to get suitable candidates, the vacancy shall be re-advertised.

143. (1) In selecting candidates for appointment (including appointment on promotion), the employment board shall have regard to the qualifications and experience of the candidates, and the needs and priorities of the Local Government Authority concerned.

Emple-
yment
in the
Local
Govern-
ment
Authori-
ties

(2) In employing the selected candidates the Director of the Local Government Authority shall:-

- (a) take into account any technical advice given by the Board; and
- (b) be guided by national policies, standards and professional requirements of the post.
- (c) Consult with the Local Government authority concerned.

Public Service Regulations

G.N. No. 168 (contd.)

Letters
of
appoint-
ment for
public
servants
in the
Local
Governm
ent
Authori-
ties

144. The Director shall under his hand, issue the letter of appointment to the candidates appointed.

Probati-
onary
period
for pub-
lic serva-
nts in
the Local
Govern-
ment
Authori-
ties

145. The probationary period for public servants employed in the Local Government Authorities shall be as provided for under Regulation 14 of these Regulations.

Terms of
service

146. (1) Terms of service for the public servants in the Local Government Authorities shall be as provided for under Regulation 18 and 85 of these Regulations.

(2) The Local Government Authority may, in addition to the terms of service under sub-regulation (1) of this Regulation, offer to the employee an additional incentive package.

Terms of
service
for non-
citizens
emplo-
yed in
the Local
Govern-
ment
Authori-
ties

147. Where the Local Government Authority has employed a non-citizen, the terms of service of such employment shall be governed by the provisions of sub-regulation (2) of Regulation 19 of these Regulations.

148. Where the Director of a Local Government Authority considers it necessary to institute disciplinary proceedings against a public servant under his jurisdiction, he shall conduct a disciplinary proceedings in accordance with the procedure provided for in Part V of these Regulations.

Disciplinary proceedings for public servants in the Local Government Authorities.

D. HEALTH SERVICE

149. (1) The service of the public servants in the Health Service is governed by the provisions of these Regulations together with the laws which govern their respective professions as provided for in the Fourth Schedule to these Regulations.

Public servants in the Health Service

(2) A person shall be appointed as a public servant in the Health Service only if he is duly registered by the relevant Professional Council established by the laws governing such profession and, is recognised professionally as legally qualifying person to practice his profession.

(3) Notwithstanding the provisions of sub-regulations (1) and (2) of this Regulation, non-professional public servants in the Health Service shall not be governed by the provisions of this Regulation.

150.- (1) Registration of public servants by their professional councils shall have effect to confine such public servants in safeguarding and adhering to the Professional Code of Ethics and Conduct governing their professions and to qualify as recognised members of such professions.

Effects of professional registration

(2) Subject to the provisions of sub-regulation (1) of this Regulation, no person shall be appointed as a professional health servant without producing a certificate of registration in his profession.

151. (1) Where a registered public servant in the Health Service commits a disciplinary offence which amounts to the breach of Professional Code of Ethics and Conduct, and when the Professional Council has instituted actions against him, he shall be interdicted and the disciplinary proceedings shall be stayed pending the decision of the Professional Council concerned.

Disciplinary proceedings where offence amounts to breach of professional Code of Ethics and Conduct

(2) In conducting inquiry on the breach of Professional Code of Ethics and Conduct by a public servant in the Health Service, the Professional Council concerned shall ensure that the inquiry is concluded within sixty days and the report thereon submitted to the disciplinary authority.

Public Service Regulations

G.N. No. 168 (contd.)

(3) Upon receipt of the report of the Professional Council, the disciplinary authority shall, if he finds it proper, proceed to institute the disciplinary proceedings against a public servant in accordance with the provisions of Part V of these Regulations.

E. SCOPE OF THE REGULATIONS

Scope of
the
Regula-
tions

152. -(1) These Regulations do not provide for every eventuality. Where a solution cannot be found by applying a Regulation, the public servant concerned shall apply his best judgement, and where the matter is of sufficient importance as to require a decision by the chief executive officer, the matter shall be referred to the chief executive officer with an explanation of the inability to resolve it by applying these Regulations and the chief executive officer may consult other relevant Laws or Regulations or Administrative Orders and Instructions which relate to the matter.

(2) Where further guidance is required, the chief executive officer shall consult the Permanent Secretary (Establishments).

FIRST SCHEDULE

PART A

Offences Warranting Formal Proceedings(Regulation 42)

1. Act or omission involving moral turpitude e.g. theft, corrupt practices.
2. Act or omission, which tends to bring the Public Service into disrepute.
3. Insubordination.
4. Absent from duty for more than five days without leave or reasonable cause.
5. Using without consent of the prescribed authority, any property or facilities provided for the purpose of the Public Service, for some purposes not connected with official duties.
6. Engaging in any activity outside the official duties, which is likely to lead to taking improper advantage of one's position in the Public Service.
7. Refusal to comply with an order regarding a posting to a station.
8. Failure to perform satisfactorily duties assigned to the public servant.
9. Disclosure of information in contravention of the National Security Act, 1970.
10. Act or omission, which is against public interest.
11. Inability to perform duties efficiently by reason of the use of alcohol or drug abuse.
12. Negligence occasioning loss to the employer.
13. Gross negligence in the performance of duty.
14. Contravention of the Code of Ethics and Conduct for the Public Service, Professional Code of Ethics and Conduct or the Public Leadership Code of Ethics.
15. Any fourth and subsequent commission of the offences provided for under Part B of the First Schedule to these Regulations.

Public Service Regulations

G.N. No. 168 (contd.)

PART B

**Offences Warranting Summary Proceedings
(Regulation 43)**

NATURE OF OFFENCE	PERMISSIBLE PENALTIES		
	1 st commission of the offence	2 nd commission of the offence	3 rd commission of the offence
Being late for duty without leave or reasonable cause Late attendance being recorded from one hour after official commencing time for three days consecutively.	Written warning	Reprimand	Stoppage of increment
Absence from work place during working hours without leave. Actual time of absence recorded.	Written warning	Reprimand	Stoppage of increment
Absence from duty without leave. Two days of absence being counted as separate breach.	Written warning	Reprimand	Stoppage of increment
Failure to complete a task. Teckoned relatively on the time or cost for making good the harm occasioned thereby.	Written warning	Reprimand	Stoppage of increment
Negligence in the performance of duties not endangering the safety of persons or property. Reckoned relatively	Written warning	Reprimand	Stoppage of increment

Public Service Regulations

G.N. No. 168 (contd.)

on the time or cost for making good the harm occasioned thereby.			
Failure to comply with instructions not amounting to insubordination Reckoned relatively on the time or cost for making good the harm occasioned thereby.	Written warning	Reprimand	Stoppage of increment

- NOTE: (1) There shall be opened a register of offence in which there will be recorded the name of the public servant, the offence committed, the time and date of commission.
- (2) Commission of the offence shall be reckoned at the end of each calendar month and the public servant charged in the following month.
- (3) Fourth and subsequent commission of the offences under this part shall warrant formal proceedings.

SECOND SCHEDULE

CHARGE (Regulation 44 (3))

PART A

An example of a charge
(Example where the charge is "absent from duty without leave")

STATEMENT OF OFFENCE

Absence from duty for more than five (5) days without leave or reasonable cause contrary to Regulation 59 and paragraph (4) of Part A of the First Schedule of the Public Service Regulations 2003.

PARTICULARS OF OFFENCE

Mr/Mrs/Miss of P.O. Box
(name of town) being a public servant namely, (Substantive title/duty post), and at the material time employed at duty office), on the day of (month), (year) was absent from duty without leave or reasonable cause.

Date:

.....
Signature of Disciplinary Authority

Public Service Regulations

G.N. No. 168 (contd.)

PART B

NOTICE

An example of Notice
(Regulation 44 (5))

Mr/Mrs/Miss of
(insert address). Take notice that I intend to institute disciplinary proceedings against you. A copy of the charge is enclosed herewith.

You are required to state in writing the grounds upon which you rely to exculpate yourself and your representations should reach me within fourteen days from the date you receive this notice.

Take further notice that if your representations do not reach me within the time specified above and having regard to the provisions of Regulation 45 of the Public Service Regulations 2003 I will proceed with the disciplinary proceedings without any further notice to you.

Date

.....
Signature of the disciplinary authority

I certify that I have received a copy of this Notice.

Date

.....
Signature of the accused public servant

THIRD SCHEDULE

.....
(Regulation 65 (1))

CODE OF ETHICS AND CONDUCT FOR THE PUBLIC SERVICE

1. Ethical Conduct and Behaviour:

In order for the Public Service to be efficient and respected, public servants must behave and conduct themselves in a manner as stipulated below:-

1. Respect all Human Rights and be courteous;
2. Perform diligently and in a disciplined manner;
3. Promote teamwork;

Public Service Regulations

G.N. No. 168 (contd.)

4. Pursue excellency in the service;
 5. Exercise responsibility and good stewardship;
 6. Promote transparency and accountability;
 7. Discharge duties with integrity, and
 8. Maintain political neutrality.
- This code will explain each of these expectations in more detail.

II. Respect Human Rights and being courteous:

- | | |
|------------------------------------|--|
| Democra-
tic
Rights | 1. A Public Servant has the right of being a member of any Political Party and can vote both for his/her Political Party and in general elections. |
| Religion | 2. A Public Servant can become a member of any religious sect provided that he/she does not contravene the existing laws. However, since the government has no religion, religious beliefs should not be advocated in Public Service Offices. |
| Discrimi-
nation | 3. A Public Servant shall not discriminate or harass a member of the public or a fellow employee on grounds of sex, tribe, religion, nationality, ethnicity, marital status or disability. |
| Courtesy
to all | 4. A Public Servant shall be courteous to senior and fellow employees as well as to all clients and particularly the clients being served. If a public servant is requested to clarify or to provide direction on issues/arising from laws, regulations and procedures, the employee will do so with clarity and promptness. |
| Respect
for all | 5. A Public Servant will respect other employees, their rights, as well as their right to privacy especially when handling private and personal information. |
| Sexual
Harass-
ment | 6. A Public Servant shall refrain from having sexual relationships at the work place. Likewise he/she will avoid all types of conduct which may constitute sexual harassment which include:- <ol style="list-style-type: none">(i) Pressure for sexual activity or sexual favors with a fellow employee;(ii) Rape, sexual battery and molestation or any sexual assault;(iii) Intentional physical conduct which is sexual in nature such as unwelcome touching, pinching, patting, grabbing and or brushing against another employee's body, hair or clothes;(iv) Sexual innuendoes, gestures, noises, jokes, comments or remarks to another person about one's sexuality or body;(v) offering or receiving preferential treatment, promises or rewards and offering or submitting to sexual favours. |

III. Discipline and Diligence

- | | |
|-----------------|--|
| Diligent | 1. For efficient performance a public servant will perform his/her duties diligently and with a high degree of discipline. An employee shall therefore use the time, skills and expertise one has so as to attain the expected goals. Public servants are expected to: |
|-----------------|--|

Public Service Regulations

G.N. No. 168 (contd.)

- (i) Obey the law. Decisions should not be biased because of religion, ethnicity sex, personal interests or any relationship; Discipline
 - (ii) Obey and effect lawful directives;
 - (iii) Carry out assigned duties efficiently. Where a public servant considers that he/she is being asked to act improperly he/she shall report the matter to his/her superiors in accordance with the laid down procedures;
 - (iv) Be ready to work at any duty station;
 - (v) Refrain from any conduct which might impair one's work performance;
 - (vi) Keep punctuality with respect to hours of arrival at work, at all official appointments or engagements and not absent oneself from duty without proper authorization or reasonable cause;
 - (vii) Avoid the use of rude and abusive language.
 - (viii) Finish assigned duties within required time and standards.
2. An employee will maintain personal hygiene, dress in respectable attire in accordance with the acceptable norms of the office as stipulated in staff circulars. Attire
3. While out of office, an employee will conduct his/her personal life in such a manner that it does not affect his/her services or bring the Public Service into disrepute. He/she is therefore required to refrain from becoming drunk, using narcotic drugs and any other unacceptable behaviour. Private life
- A Public Servant shall not disclose confidential or official information which has been communicated to or has been availed while discharging official duties without due permission. An employee shall continue to maintaining secrecy and confidentiality of official information even after one has left the Public Service. Secrecy and Confidentiality
5. (i) A Public Servant shall not use any official document or photocopy such as letter or any other document or information obtained in the course of discharging his/her duties for personal ends; Disclosure of Information
- (ii) Public Servant shall not communicate with the media on issues related to work or official policy without due permission;
 - (iii) Official information will be released to the media by officials who have been authorized to do so according to the laid down procedures.

IV Team Work

- Public Servants will strive to promote teamwork by offering help to co-employees whenever the need so arises. Team work will be achieved by public servants observing the following:- Team Work
- (i) Giving instructions which are clear and undistorted;
 - (ii) Giving due weight and consideration to official views submitted by fellow employees and subordinates;
 - (iii) Ensuring that subordinates clearly understand the scope of their work and encourage them to enhance their competence and skills;
 - (iv) Giving credit to an employee with outstanding performance and not seeking personal credit at the employee's expense.
 - (v) Avoid malicious actions or words intended to ridicule either subordinates or superiors.
 - (vi) Reporting on his/her subordinates to be done fairly and without any fear.

Public Service Regulations

G.N. No. 168 (contd.)

V. Pursuing of Excellence in Service

Excellence in Service

Since the Public service is geared towards provision of excellent services, public servants will do the following:-

- (i) Strive to achieve the highest standards of performance;
- (ii) If a member of a professional body (doctors, teachers, pharmacists, engineers or lawyers) then adhere to their respective professional Code of Conduct;
- (iii) Strive to acquire new knowledge and skills continuously and use them effectively; and
- (iv) Recognize the need for training and strive to get such training.

VI. Exercise Responsibility and Good Stewardship

Exercising Responsibilities

A Public Servant shall act within the boundaries of the authority and the responsibilities delegated. In doing so, he/she shall:-

- (i) Make decisions in line with authorized standards and procedures; and
- (ii) Discharge duties effectively and be accountable for one's own actions.

Public property

2. A Public Servant shall safeguard public funds and other properties of the public, entrusted to him/her and shall ensure that no damage, loss, misappropriation occurs to the funds or public property;

VII. Transparency and Accountability

Transparency and Accountability

1. A public Servant will adhere to and practice meritocratic principles in appointments, promotions and while delivering any service, he/she will be accountable both for actions and inactions through normal tiers of authority.

2. (i) A Public Servant shall conduct meetings for the purpose of promoting efficiency and shall not use meetings as a way of avoiding being responsible for the decision he/she is supposed to have made on her/his own;

- (ii) A Public Servant shall not engage in unofficial activities or projects during official hours or conduct such activities or projects within the office premises or by using public property; and

- (iii) A Public Servant shall be ready to declare his/her property or that of his/her spouse when required to do so.

Corruption

3. A Public Servant shall be Loyal to the duly constituted Government of the day and will therefore implement policies and decisions given by the Minister or any other Government leader.

Gifts

Public Service Regulations

G.N. No. 168 (contd.)

VIII. Discharge Duties with Integrity

1. A Public Servant shall not fear to abide to Laws, Regulations and Procedures when discharging his/her duties. Conflict of interest
2. A Public Servant shall not solicit, force or accept bribes from a person whom he/she is serving, has already served or will be serving either by doing so in person or by using another person. Pecuniary Embarrassment
3. (i) A Public Servant or any member of his/her family shall not receive presents in form of money, entertainments or any service from a person that may be regarded as geared towards compromising his/her integrity.
(ii) A Public Servant may accept or give nominal gifts such as pens, calendar and diaries in small amount. Political Participation
(iii) A Public Servant will return to the donor any other gift or handle them over to the government, in which case a receipt will be issued.
4. A Public Servant shall perform his/her duties honestly and impartially to avoid circumstances that may lead to conflict of interest. If conflict of interest arises he/she shall inform his/her superiors who will decide upon the best course of action to resolve it.
5. A Public Servant shall not borrow to the extent of not being able to repay the debts as this will discredit the public service as well as affect his/her ability to make unbiased decisions. Political Influence

IX. Political Neutrality

1. A Public Servant can participate in politics provided that when so doing he/she observes the following limitations:-
 - (i) Shall not conduct or engage oneself with political activities during official hours or at work premises.
 - (ii) Shall not take part in political activity, which will compromise or be seen to compromise his/her loyalty to the Government.
 - (iii) Shall not provide services with bias due to his/her political affiliation.
 - iv) Shall not pass information or documents availed through his/her position in the service to his/her political party.
2. Although public servants have a right to communicate with their political representatives they:-
 - (i) Shall not use such influence to intervene on matters affecting him/her, which are in dispute between the government, and him/her.
 - (ii) Shall not use such influence for furthering personal ends, which are not part of the Government policy.

Public Service Regulations

G.N. No. 168 (contd.)

X. Conclusion:

The Code of Ethics and Conduct has been issued pursuant to the Public Service Act. A breach of the Code will be dealt with under the Public Service Act, National Security Act, Prevention of Corruption Act or any other relevant law.

On its part the government has the obligations to provide the following things:-

- Establish meritocratic principles and procedures to be used in appointments, promotions and in all other service delivery activities.
- Establish a system which specifies the authority, responsibilities and expected actions of each public servant which can then be assessed after a specific time.
- Effect an appraisal system which will enable a public employee to participate in assessing his/her performance.
- Ensure that safe working conditions prevail which will enable the public employee to discharge his/her duties without undue risk of fear; and
- Remunerate public servants on the basis of skills, responsibilities and working conditions.

For efficient, effective and courteous delivery of services to the public, all Public Servants must observe this Code.

FOURTH SCHEDULE

Regulation 65 (2)

PART A

LAWS GOVERNING PROFESSIONAL CODES OF ETHICS AND CONDUCT

1. Nurses and Midwives Registration Act, 1997
2. The Health Laboratory Technologist Registration Act, 1997
3. Pharmacy Act, 2002
4. Medical Practitioners and Dentists Chapter 409 of the Laws
5. Opticians Act, 1966

PART B

Teachers Code of Professional Conduct

Every teacher shall recognize that he has certain responsibilities to the child under his care;
the community in which he lives;
the profession;
the employer;
the state.

Public Service Regulations

G.N. No. 168 (contd.)

1. To the Child:

A teacher agrees that his chief responsibility is towards the child under his care, and that he has at all times duty to guide each child in his full mental and physical development, both as an individual and as a member of the community.

2. To the Community:

A teacher must therefore fully understand the community in which he works, he must explain to them their duty to obey all lawful authority and he should by his own personal conduct set them an example in these matters.

3. To the Profession:

A teacher recognises that teaching is vocation and more than mere gainful employment. He therefore undertakes to conduct himself according to the following rules:

- (a) To follow at all times the highest standard of professional conduct;
- (b) To work conscientiously and with diligence and regularity;
- (c) To set a good example in his conduct and his person at all time to the children under his care;
- (d) To try continually to improve his standard of work and ability;
- (e) To abuse no right or privilege contained in his conditions of service.

4. To the Employer:

A teacher agrees to serve his employer faithfully and in accordance with the terms of his employment.

5. To the State:

A teacher must fully understand and be prepared to fulfil his obligation to the state. A teacher accepts the code set out above as the code of professional conduct for teachers and shall adhere to its provisions.

FIFTH SCHEDULE

(Regulation 72 (1))

OATH OF CHAIRMAN/MEMBERS OF THE COMMISSION

I having been appointed as Chairman/member of the Public Service Commission, do hereby swear/affirm that I will freely and without fear or favour, affection or ill will, discharge the functions of a Chairman/members, and that I will not directly or indirectly reveal any matters related to such functions to any unauthorised person or otherwise than in the course of duty.

SO HELP ME GOD

Sworn/Declared before me this day of 200.....

.....
President

Public Service Regulations

G.N. No. 168 (contd.)

SIXTH SCHEDULE

(Regulation 72 (2))

OATH OF STAFF OF THE COMMISSION

I, having been appointed a Secretary to the Public Service Commission, do hereby swear/affirm/declare that I will freely and without fear or favour, affection or ill will, discharge the functions of a Secretary and that I will not directly or indirectly reveal any matters related to such functions to any unauthorised person or otherwise than in the course of duty.

SO HELP ME GOD

SWORN/AFFIRMED this day of 200.....

Before me

CHAIRMAN

(PUBLIC SERVICE COMMISSION)

SEVENTH SCHEDULE

(Regulation 72 (3))

OATH OF STAFF OF THE COMMISSION

I, being called upon to exercise the functions of the office of of the Public Service Commission, do solemnly and sincerely declare and swear /affirm that I will not directly or indirectly, reveal to any unauthorised person or otherwise than in the course of duty the contents or any part of the documents communications or information of any kind which may come to my knowledge in the course of my duties as a public servant of the Commission or under the provisions of the Public Service Act, 2002.

SO HELP ME GOD

SWORN/AFFIRMED this day of 200.....

Before me

CHAIRMAN

(PUBLIC SERVICE COMMISSION)

Public Service Regulations

G.N. No. 168 (contd.)

EIGHTH SCHEDULE

(Regulation 127)

OATH OF CHAIRMAN AND MEMBERS OF THE EMPLOYMENT BOARDS OF
THE LOCAL GOVERNMENT AUTHORITIES

I,being called upon to exercise the functions of
Chairperson/Member of the (name of the Authority con-
cerned) Employment Board do swear/affirm/declare that I will faithfully serve, and I
will not directly or indirectly reveal to any authorized person or otherwise in the cause
of my duty of the contents or any part of the contents of any document communica-
tion or information whatsoever, which may come to my knowledge in the course of
my duties as Chairperson/member of the Board,

SO HELP ME GOD

Sworn/affirmed/Declared this
By the said Deponent
This Day of
.....

Before me:

Name:
Designation:
Address:
Signature:

COMMISSIONER FOR OATHS

Dar es Salaam,
14th June, 2003

MARY M. NAGU, (MP)
*Minister of State, President's office,
Public Service Management*

Public Service Scheme

GOVERNMENT NOTICE NO. 169 published on 20/6/2003

THE PUBLIC SERVICE SCHEME

ARRANGEMENT OF CLAUSES

PART I

PRELIMINARY PROVISIONS

<i>No. of Clause</i>	<i>Subject</i>
1.	Citation
2.	Application
3.	Interpretation

PART II

ADMINISTRATION OF THE SERVICE

4. Powers of the President in relation to Public Service
5. Role of the Minister in the Public Service
6. The Administrative Powers of the Chief Secretary
7. The Disciplinary powers of the Chief Secretary
8. Administrative powers of the Chief Executive Officers in relation to the Service.
9. Administrative Powers of a District Administrative Secretary.
10. Administrative Powers of the Head of Department, Division or Unit
11. Administrative Powers of the Heads of Sections
12. Duties of the Chief Executive Officer in relation to the Service.
13. Other duties of the Permanent Secretary (Establishments)
14. Composition of the Commission.

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THE COMMISSION

15. Services under the Commission
16. Tenure of Office and Conditions of Service
17. Cessation of membership

18. Secretary and other staff
19. Oath of Members, Secretary and Staff
20. Delegation of powers and functions
21. Departments of the Commission
22. Decisions of the Commission
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28. Powers of the Commission in relation to the Service.

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29. Terms and Conditions of the Service
30. Appointments in the Public Service
31. Qualifications for appointment and promotion
32. Persons not to be appointed in the Service
33. Approved Establishment
34. The appointing Authorities' Responsibility
35. Appointment principles.
36. Notification of Vacancies
37. Complaints regarding appointments or recruitments.
38. Constitution and Abolition of posts
39. Public servants accountability
40. Relationship between Public servants and their supervisors.
41. Relationship between political leaders and executives.
42. Relationship between the Commission and the President.
43. Relationships between Ministries, Independent Departments, Regions, Local Government Authorities and other Public Organisations.
44. Communications within the Public Service
45. Termination of appointments.
46. Preliminary investigations.
47. Discipline of public servants
48. Appeals
49. Political involvement of public servants
50. Political neutrality and Impartiality of public servants
51. Political influence

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52. Public servants' integrity
53. Confidentiality
54. Intervention of Political Leaders
55. The Public Service Working Documents.
56. Age of retirement
57. Grievances handling mechanism
58. Performance appraisal system
59. Performance contracts
60. Transfers
61. Leave
62. Compensation for injuries or death
63. Employers duty to protect the health of public servants
64. Public servants' representation
65. Duty to keep records.

This Service Scheme is made pursuant to section 7 of the Public Service Act, 2002 (No. 8 of 2002) and each of the Clauses therein shall be construed as complimentary to the Act and to the Public Service Regulations, 2003.

THE PUBLIC SERVICE SCHEME, 2003

PART I

PRELIMINARY PROVISION

1. This Scheme may be cited as the Public Service Scheme, 2003 and shall come into operation on the 20th day of June, 2003. Citation

2. This scheme shall apply to and in respect of all public servants employed and working in:- Applica-
tion

- (a) The Civil Service;
- (b) The Local Government Service;
- (c) The Teachers Service;
- (d) The Immigration Service and the Fire and Rescue Service
- (e) The Health Service; and
- (f) The Executive Agencies Service and the Public Institutions Service.

3. In this scheme, unless the context requires otherwise:-

"Act" means the Public Service Act.

"Appellate Authority" Means a body or organ or a person empowered by the Act to decide upon Public servants' appeals;

"Appointments" means recruitment of Persons in the Public Service and shall include first appointments or appointments on promotion;

"Appointing authority" means a body or organ or a person empowered by the Act to make appointments of Public servants in the Service;

Interpre-
tation

No. 8 of
2002

Public Service Scheme

G.N. No. 169 (contd.)

"Approved Establishments" means the establishment of posts in the Public Service which there is provision in the approved budget for their establishment;

"Chairman" means the Chairman of the Commission and includes any person acting in the office of the Chairman;

"Chief Secretary" means a Public Servant appointed by the President under Section 4 of the Act to assist the President on the Administration of the Public Service;

"Chief Executive officer of the Service" means the Chief Secretary;

"Chief Executive Officers" means the Permanent Secretaries, Deputy Permanent Secretaries Heads of Independent Departments, Regional Administrative Secretaries, Directors of Local Government Authorities, Clerk of the National Assembly, Director of Immigration Services, Commissioner of Fire and Rescue Services, and Ambassadors; and Ambassadors;

"Code of Ethics and Conducts" means the Code of Ethics and Conducts applicable to Public servants;

"Commission" means the Public Service Commission established the by Act;

"Constitution" means the Constitution of the United Republic of Tanzania, 1977;

"Criminal Offence" means an offence chargeable in the criminal court as defined under the Criminal Procedures Act, 1985;

"Department" or "Division" or "Unit" means an identified entity within the organisational structure for management purposes;

"Dependent" means a member of the family of a public servant who is wholly or partially dependant upon his earnings;

"Director of a Local Government Authority" means a chief executive officer of the local government authority and shall include the Director of the Local Government Authority of the City Council or Commission;

"Disciplinary Authority" means any person vested with powers by the Act to take disciplinary measures against any Public Servant and includes any person to whom those powers have been delegated;

"Disciplinary Offence" means an offence which is specified in the Act as warranting disciplinary proceedings;

"Employing Authority" means the authority under which a public servant works and shall also be known as the employer;

Public Service Scheme

G.N. No. 169 (contd.)

- "Employee" for the purpose of those Regulations, means any person termed by the Act as a public servant;
- "Employer" means a person or organisation, in the public service, with whom a public servant entered into a contract of service and who is responsible for the payment of salaries of such a public servant;
- "Independent Department" means a Department of the Government which is not under the direct control of the Ministry;
- "Local Government Authority " means the Local Government Authority as defined in the Act;
- "Member" means in relation to a Commission, a member of the Commission and includes the Chairman, and in relation to a Committee, a member of the Committee and includes a Chairman of a Committee, and in relation to a Board means a member of a Board and includes a Chairman of a Board;
- "Minister" means the Minister for the time being responsible for the Public Service;
- "Operational Service" means the cadre of supporting staff of employed in the executive or officer grade;
- "Promotion" means the appointment of a public servant to a higher grade with an immediate or potential increase in salary;
- "Public Service" means the system or organisation entrusted with the responsibility or overseeing the provision or directly providing the general public with what they need directly from their government or any other institution on behalf of the government as permissible by laws; and include the Service in the Civil Service; the teachers service; the local government service; the health service; the immigration and the fire and rescue service, the executive agencies and the public institutions service and the operational service;
- "Public Service post" means a post in the Public Service;
- "Public Servant" means a person holding or acting in the Public Service office;
- "Public Service Scheme" means a Government Administrative legal document stipulating a formal or official order or way of doing things for the purpose of enabling Public Servants to serve the Public in an orderly and accountable manner;
- "Scheme of Service" means a career path development which enables a hard working and ambitious Public Servant to work his way up from the lowest to the highest levels of the Service;

Public Service Scheme

G.N. No. 169 (contd.)

"Service" means the Public Service of the United Republic of Tanzania;

"Tenure of office" means a specified length of a period of holding office.

PART II

ADMINISTRATION OF THE SERVICE

Powers of the President in relation to Public Service

4.-(1) All executive functions of the Government of the United Republic of Tanzania are vested in the President by virtue of Article 35 of the Constitution;

(2) The executive functions shall be performed through the Public Service by public servants on behalf of the President.

(3) All Authorities in the Public Service vested with powers under the Act, shall exercise those powers on behalf of the President and shall act with obedience abiding to the directives issued in that respect.

(4) The President shall make appointments of the Chief Secretary, other Chief Executive Officers, Members and Secretary of the Public Service Commission and any other public servants to be known by such titles as may, from time to time, be determined.

Role of the Minister in the Public Service

5.-(1) The Minister shall be a leader and overseer in the implementation of this Scheme and policies governing the Public Service.

(2) Ministers for each Ministry within the Public Service shall ensure effective implementation of this Scheme, their respective sectoral policies and service schemes governing the service.

The Administrative Powers of the Chief Secretary

6.-(1) The Chief Secretary shall be the Head and the Chief Executive Officer of the Service and shall provide leadership, direction and image to the Service.

(2) The Chief Secretary shall have powers of administration of the Service and the ordering of terms and conditions of service of Public servants.

The Disciplinary Powers of the Chief Secretary

7.-(1) The Chief Secretary shall be the highest ranking disciplinary authority in the Service and may in that capacity, in relation to any servant, exercise all or any of the powers delegated to a disciplinary authority.

(2) Notwithstanding the provisions of sub-clause (1) of this clause, the Chief Secretary shall be a disciplinary authority in respect of public servants appointed by the President.

(3) The exercise of powers of the President as the appellate authority, shall be facilitated by the Chief Secretary.

(4) The Chief Secretary shall through the Permanent Secretary (Establishments), facilitate the exercise of powers of the President to make appointments, and he shall confirm to the Service all public servants appointed by the President.

8.-(1) Every Chief Executive Officer shall be the overall in charge of the administration of all public servants under his jurisdiction.

Administrative Powers of the Chief Executive Officers in relation to the Service

(2) In case of the Region, the Regional Administrative Secretary shall be the overall in charge of the Administration of public servants in the Region.

(3) In case of a Local Government Authority, the Director of a Local Government Authorities shall be the in-charge of the administration of public servants in the Local Government Authority concerned.

9.-(1) The District Administrative Secretary shall be in-charge of the Administration of public servants in the District Commissioner's office including the office of the Divisional Secretary.

Administrative powers of a District Administrative Secretary

(2) The District Administrative Secretary shall assist public servants and other authorities within the District in the proper interpretation of the Public Service Laws, Regulations, Orders, Directives and Instructions.

10.-(1) The Head of Department, Division or Unit shall be the Disciplinary Authority in respect of public servants in the operational service, agreement or contract, temporary month-to-month and daily paid.

Administrative powers of the Head of Department, Division, or Unit

(2) When exercising his disciplinary powers the Head of Department, Division or Unit shall observe the procedures governing the services mentioned in sub-clause (1) of this clause.

11. The Head of Section shall have powers of supervision of public servants under him and shall give directives and ensure proper performance of the Public Service activities in his respective section.

Administrative powers of the Head of Section

Public Service Schemes

G.N. No. 169 (contd.)

Duties of
the Chief
Execu-
tive
Officer
in rela-
tion to
the
Service

12. Every Chief Executive Officer shall;
- (a) pursue results oriented management and ensure that the Service is mission-driven and performing effectively and efficiently;
 - (b) be the authority in respect of the appointment, confirmation of appointments, promotion and discipline of public servants other than those appointed by the President.

Other
duties of
the
Perma-
nent
Secretary
(Establis-
hments)

13.-(1) In addition to his duties as a Chief Executive Officer, the Permanent Secretary (Establishments) shall be the principal assistant to the Chief Secretary in relation to the administration of the Service and shall have duty to:-

- (a) notify the Chief Secretary of vacancies in the public service offices in respect of which the President is the appointing authority;
- (b) Formulate, promulgate, monitor, evaluate, review and interpret administrative and personnel policies;
- (c) Prescribe the Code of Conduct for the public servants;
- (d) Constitute and abolish public service offices except the office of the Permanent Secretary and Deputy Permanent Secretary;
- (e) Coordinate recruitment and appointments of persons from outside the United Republic of Tanzania;
- (f) Conduct investigations and studies concerning development and improvement of the efficiency of public servants and shall take appropriate steps to ensure the attainment of efficiency in the Public Service;
- (g) Carry out a review of annual personal emoluments to ensure that personal emoluments expenditure conforms to budget ceiling;
- (h) coordinate and ensure proper upkeep of personnel information for all public servants;
- (i) be a change agent in relation to the image, mission, ethics, conduct and role of the Service;
- (j) carry out job evaluation and re-grading and determine remunerations of public servants;
- (k) facilitate labour mobility of employees among employers;
- (l) issue the professional qualification standards for appointments in the Public Service.

(2) In performing the duties mentioned under clause 11 and 12 of this Service Scheme, Chief Executive Officers shall observe and adhere to the procedures governing the Public Service which shall be provided for in the Regulations, Standing Orders, Policies, Circulars, and other Directives.

PART III
THE COMMISSION

14. The Commission shall consist of members appointed in pursuant to section 9(1), (2), (5) and (6) of the Act.

Composi-
tion of the
Commis-
sion

15. The Commission shall cater for public servants in the following services:-

Services
under the
Commis-
sion

- (a) the civil service;
- (b) the local government service;
- (c) the teachers service;
- (d) the health service;
- (e) the immigration and fire and rescue services;
- (f) the executive agencies and the public institutions services;
- (g) the operational service.

16. A period of holding office for members of the Commission including the Chairman shall not exceed three years and they shall be eligible for re-appointment for a further term or terms none of which shall exceed three years.

Tenure of
Office
and
Condi-
tionals of
Service

17. The chairman or any Member of the Commission shall cease to hold office on the following grounds:-

Cessation
of
member-
ship

- (a) death;
- (b) resignation;
- (c) abolition of office;
- (d) removal from office by the President for disability to perform the functions of his office due to illness or misbehaviour;
- (e) contesting constitutional leadership or elective political post.

Public Service Schemes

G.N. No. 169 (contd.)

Secretary
and other
staff

18.-(1) The Secretary of the Commission shall be appointed by the President.

(2) The appointment of the Secretary of the Commission shall be facilitated in accordance with the provisions of section 8 (2) (a) of the Act and as shall be provided for in the Public Service Regulations.

(3) The Secretary of the Commission shall be the Chief Executive Officer, the Accounting Officer and the Appointing Authority of the staff of the Commission.

(4) The Secretary to the Commission shall appoint confirm and promote the staff of the Commission after consultation with the Permanent Secretary (Establishments).

(5) The Secretary to the Commission shall be the disciplinary authority of the staff of the Commission.

Oath of
members,
Secretary
and Staff

19. Members, Secretary and Staff of the Commission shall take Oath on first appointment. Oath of members and Secretary shall be administered by the President and Oath of Staff shall be administered by the Chairman of the Commission.

Delega-
tion of
powers
and
functions

20. The Commission may delegate its powers and functions to any of its department or any of its staff except the powers and functions of:-

- (a) tendering of advice to the President on matters of appointment, termination of appointment and disciplinary action.
- (b) deciding on appeals.

Depart-
ments of
the
Commis-
sion

21.-(1) The commission shall have the following Departments:-

- (a) the civil service department;
- (b) the teachers service department;
- (c) the local government service department;
- (d) the fire and rescue service and immigration service department;
- (e) the health service department.

(2) The Commission may, with the prior approval of the President, establish such other departments, divisions, subdivisions, committees or offices within its organisational structure as may be necessary for the better and more efficient carrying out of the objectives and purposes of this Act, and in so doing the Commission may establish such offices in Regions as well as in Zanzibar in relation to Union Government servants.

(3) The departments of the Public Service Commission shall be responsible for facilitation of the functions of the Commission.

(4) The teachers service department of the Commission shall be the authority for appointments, confirmation of appointments, promotions, registration and discipline of all teachers in the Service.

22.—(1) Decisions of the Commission shall be made in properly convened meeting of the Commission through consensus of three quarters vote of members attending.

Decisions
of the
Commis-
sion

(2) Without prejudice to the provisions of sub-clause (1) of this clause, where circumstances necessitate, decisions may be made by the Commission without a meeting by circulation of the relevant papers among members and the expression of their view in writing.

(3) Where a decision is made by the Commission without a meeting as provided for in sub-clause (2) of this clause, any member shall be entitled to require that any such decision be deferred until the subject matter is considered at the meeting of the Commission.

(4) Any member shall be entitled to dissent from a decision of the Commission and his dissent and reasons thereof shall be set out in the records of the Commission.

23.—(1) All correspondence for the Commission shall be addressed to the Secretary and all correspondence from the Commission shall be signed by the Secretary or on behalf of the Secretary.

Correspo-
dence

(2) Without prejudice to the provisions of sub-clause (1) of this clause, where circumstances necessitate correspondence may be addressed to any signed by the Chairman.

Public Service Schemes

G.N. No. 169 (contd.)

(3) The Secretary shall sign the records of the meetings of the Commission and the reports on the activities of the Commission in all matters.

(4) The Chairman shall sign the records of the meetings of the Commission and the reports on the activities of the Commission.

Communica-
tions
of
Commis-
sion to be
privi-
leged

24. No person shall, in any legal proceedings, be permitted or compelled to produce or disclose any communication, written or oral, which has taken place between the Commission, or any member or a staff and the Government or the President, or between any member or staff of the Commission and the Chairman, or in connection with the exercise of the functions of the Commission, unless the Chief Secretary consents in writing to such production or disclosure.

Commis-
sion may
require
attendance

25.-(1) Any person may be required to attend and give information before the Commission concerning any matter which the Commission is required to consider in exercise of its functions under this Service Scheme and the Commission may require the production of any official documents relating to any such matter by any person attending before it.

(2) A person who without lawful cause refuses or fails to abide with the requirements of the provisions of sub-clause (1) of this clause, commits an offence and is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year or both such fine and imprisonment.

Influence
or
attempt
to
influence
the
Commis-
sion

26.-(1) It shall be an offence to influence or attempt to influence any decision of the Commission by any person in whatsoever manner otherwise than in the cause of his duty.

(2) Any person who commits an offence under sub-clause (1) of this clause shall be liable on conviction for a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or both for such fine and imprisonment.

(3) The Secretary of the Commission shall take action against any person who is suspected to have violated the provisions of this clause. Provided that where the action to be taken involves prosecution, he shall seek the consent of the Director of Public Prosecutions.

(4) The Provisions of this clause shall not be construed as prohibiting any person from giving a certificate or testimonial to any applicant or candidate for any office or from supplying any information or assistance at the request of the Commission.

27. Any person who wilfully gives to the Commission any information which he knows to be false or does not believe to be true, or which he knows to be false by reasons of the omission of any material particulars, shall be guilty of an offence, and on conviction, shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment not exceeding two years or to both such fine and imprisonment.

False
infor-
mation
to
the
Com-
mission

28.-(1) Subject to section 10 of the Act, the Commission shall have power:-

Powers of
the
Commis-
sion in
relation to
the
Service

- (a) to advise the President through the Public Service Department in respect of the exercise of his powers of appointment as the President may require;
- (b) to issue guidance, to monitor implementation of the guidance and to facilitate merit based recruitment in the Public Service. In the guidance, the Commission shall set out guidelines and criteria to be adhered to by appointing authorities to ensure that all appointments are merit based;
- (c) to monitor the professional qualification standards issued by the Permanent Secretary (Establishments);
- (d) to facilitate appointments in the service by advertising vacancies after being notified by the appointing authorities, conducting interviews and advising appointing authorities on the suitable candidates to be appointed;
- (e) to ensure the accountability of all executives in the Service and shall call upon any of them to account for his performance if the Commission receives complaints or has evidence indicating mis-management or non performance;
- (f) to take measure in relation to any executive who fails to take action concerning public servant under him in accordance with the requirements of the Law by reporting him to the Chief Secretary.

(2) While exercising its powers under sub-clause (1) of this clause the Commission shall involve the appointing authority concerned.

(3) Where appropriate, the Commission shall handle appeals from the decision of all disciplinary authorities in the Service other than the decision of the Chief Secretary and President the decision made in respect of any appeal shall be binding upon both the authority and the Public Servant concerned and shall be appealable to the President.

(4) Any employing authority in the Service may be called upon by the Commission to provide information required for carrying out the functions of the Commission. Failure by the employing authority to comply with the requirements of this sub-clause shall be reported to the Chief Secretary who shall take appropriate action.

PART IV THE SERVICE

Terms
and
condi-
tions of
the
service

29.-(1) The terms and conditions of the Service shall be:-

- (a) Permanent and Pensionable;
- (b) Agreement or Contract;
- (c) Temporary month to month;
- (d) Operational Service;
- (e) Daily paid.

(2) The terms and conditions of the Service provided for under sub-clause (1) of this clause may be modified by any special terms contained in the agreements, contracts or letters of appointment of individual public servants.

Appoint-
ments in
the
Public
Service

30. Appointments in the Public Service shall be governed by the Constitution, the Act, the Public Service Regulations, the Public Service Recruitments Code of Practice, the Public Service Code of Ethics and Conduct, Public Service Professional Codes of Ethics and Conduct and Administration Instructions or Orders.

Qualifi-
cations
for
appoint-
ment and
promo-
tion

31. No person shall be appointed or promoted to the Service unless he meets the following necessary requirements:-

- (a) academic qualification determined by a certain level of education required in the post concerned as indicated in the relevant Scheme of Service;

- (b) professional competency determined by the skill level of that profession;
- (c) age qualification determined by the date of birth shown either in a birth certificate or any other document relevant and legally acceptable;
- (d) good character and integrity by his appearance, interaction with other people, the manner he conducts himself, the manner he expresses himself and his track record;
- (e) experience determined by length of time he has served in the same post or equivalent post;
- (f) Citizenship determined by birth certificate or registration certificate.

32.-(1) Any person who has been convicted of a criminal offence involving moral turpitude or who has been dismissed from the Public Service previously, shall not be appointed in the Service, without prior sanction of the Chief Secretary.

Persons
not to be
appointed
in the
service

(2) Offences involving moral turpitude shall include:-

- (a) an act or behaviour that gravely violates the moral sentiment or accepted moral standard of the Community;
- (b) the immorally culpate quality held to be inherent in some criminal offences as distinguished from other.

(3) Any person who has been removed or retired in public interest or retired by retrenchment or redundancy from the service shall not be appointed in the Public Service without prior sanction of the Chief Secretary.

Provided that any person who is retired by retrenchment or redundancy from the Public Services, after the sanction of the Chief Secretary be reappointed to the service on contract terms.

(4) Any person of unsound mind shall not be appointed in the Public Service.

33.-(1) No appointment may be made in the Public Service, whether temporarily or otherwise, for which no provision has been made in the estimates.

Approved
Establish-
ment

(2) No increase in the number of posts may be made above the authorised establishment without prior approval of the Permanent Secretary (Establishments).

The
Appoint-
ing
Authori-
ties
Respon-
sibility

34. The ultimate responsibility for appointments shall rest to the appointing authorities.

Appoint-
ment
Principles

35.-(1) All appointments in the Public Service' shall be governed by the overring principles of selection based on merit, the well informed choice of individuals who through their abilities, experience and qualities match the need of the vacant post concerned.

(2) The principles of selection for appointments of public servants shall be provided for in the Public Service Recruitments Code of Practice.

(3) The appointment procedures shall be subject to the principles of proportionality and shall be appropriate for the nature of the post, the size and weight of responsibility.

(4) Appointments in the Public Service shall be free from religious beliefs or political partiality and shall be based on:-

- (a) merit, fairness and open competition;
- (b) the prescribed qualifications.

Notifica-
tion of
vacancies

36.-(1) All appointing authorities in the Public Service shall be obliged to notify the Commission on vacancies within their respective organisations.

(2) Notification of vacancies shall specify the necessary requirements for the vacant posts and shall follow the procedures which shall be provided for in the Public Service Regulations and Administrative or Instructions or Orders.

37.-(1) Where a candidate is dissatisfied with the way appointment procedure is conducted to any post which he is interested and which he was a candidate, he shall complain to the appointing authority concerned and if not satisfied with the decision of the appointing authority he shall appeal to the Commission and there after to the Chief Secretary.

Com-
plaints
regarding
appoint-
ments or
recruit-
ments

(2) The recruitment competition proves shall be fully documented and the document shall be kept for a period of not less than twelve months from the date when such recruitment process ended.

38.-(1) The powers of constituting and abolishing posts or upgrading and downgrading posts other than the post of the Chief Secretary, the Permanent Secretary and Deputy Permanent Secretary, shall be exercise by the Permanent Secretary (Establishments).

Constitu-
tion and
abolition
of posts

(2) For the purpose of the provisions of sub-clause (1) of this clause, the words "upgrading" and "downgrading" of posts shall mean change in the salary scale or entry point.

(3) The powers under sub-clause (1) of this clause may be exercised by the Permanent Secretary (Establishments) either after being directed by the Chief Secretary or on his own motion or after the application from the Chief Executives.

(4) The Permanent Secretary (Establishments) may constitute or abolish or upgrade or downgrade any post on his own motion only where there is a policy or administrative or establishment necessity. Under these circumstances, he shall consult the Chief Secretary.

(5) In case of the application from any Chief Executive for constitution of any public service posts, the application shall be made to the Permanent Secretary (Establishments) stating:-

- (a) the title of the proposed post;
- (b) the salary or the salary scale to be attached to the proposed post;
- (c) whether or not the proposed post is to be a pensionable post;
- (d) the reason why the constitution of the proposed post is considered desirable;

Public Service Schemes

G.N. No. 169 (contd.)

- (e) the qualifications of any holder of the proposed post and the duties which such holder will be required to perform;
- (f) where the post is to be created and filled during a financial year, whether or not funds are available to meet the expenses involved until the expiry of the financial year;
- (g) such other matters as the Permanent Secretary (Establishments) may direct.

(6) In case of the application for the abolition of any public service post, the application made to the Permanent Secretary (Establishments) shall state:—

- (a) the reason why it is considered that the post should be abolished; and
- (b) such other matters as the Permanent Secretary (Establishments) may direct.

Public
servants
account-
ability

39.—(1) The accountability in the Public Service shall be hierarchical and public servants shall be accountable according to arrangements from lower to higher ranks and shall be based on the hierarchy of authority and responsibility.

(2) In the higher rank there shall be the Permanent Secretaries, Heads of Independent Departments, Regional Administrative Secretaries and Directors of Local Government Authorities who are the chief executives according to section 5 (1) (a) of the Act.

(3) Below the Chief Executives there shall be the Heads of Divisions or Departments followed by Section Heads then by the supporting administrative professional and technical staff comprising senior middle and junior level public servants.

(4) Every Chief Executive Officer shall be accountable for the functioning of his Institution.

(5) Every Divisional or Departmental and Section Head shall be accountable for the functioning of his area of responsibility and every public servant in charge of any specific area such as a supervisor, a schedule officer and an auxiliary officer shall be accountable for the efficient performance in his area of responsibility.

(6) The most senior public servant is accountable for the actions of all public servants below him.

(7) Notwithstanding the provisions of sub-clause (1) of this clause every public servant shall be accountable for his own performance and action provided that no pressure, undue influence or interference is exerted upon him by his senior or any public leader.

(8) Without prejudice to the provisions of sub-clause (2) to (4), (5), (6) and (7) of this clause, every public servant working in the Local Government Authority, shall be accountable to his respective Local Government Authority in the discharge of his functions in the following manner:-

- (a) in case of the Director of a Local Government Authority, he shall be accountable for the proper discharge of his functions and responsibilities and those of public servants under him;
- (b) in case of other public servants, their accountability to the Local Government Authority shall be co-ordinated through the Director of the Local Government Authority concerned and shall at all times and in such a manner as may be directed by a Local Government Authority, deliver an account of the functioning of their responsibilities to the Local Government Authority Concerned.

40.-(1) All public servants shall be loyal to the President of the United Republic of Tanzania and shall perform their duties with regard to the requirements of the Constitution, Laws, Regulations, Orders, Directives and Instructions.

Relation-
ship
between
Public
servants
and their
supervi-
sors

(2) Public servants shall regard themselves as servants under the same Service and shall strive to serve loyally and to comply with lawful instructions of their supervisors.

(3) Relationship in the Public Service shall observe that every public servant is entitled to recognition and respect for his dignity regardless of hierarchy in the Service.

(4) Every Public Servant shall respect and co-operate with his fellow public at work place and elsewhere within the Public Service in order to achieve the objectives of the Public Service.

Public Service Scheme

G.N. No. 169 (contd.)

(5) Subject to the laid down procedures a civil servant shall have the right to claim and enquire on any issue pertaining his service and his employer or supervisor shall grant the right claimed or avail him with the appropriate or necessary information enquired.

Relation-
ship
between
political
leaders
and
executives

41.—(1) The relationship between a political leader and a public servant while performing their duties and functions, shall be governed by the Constitution and the relevant laws conferring powers on them.

(2) Matters of administration in every Ministry, Independent Department, Region, District and a local Government Authority shall be under the powers of the executive officer in charge and matters of leadership shall be under the powers of the political leader.

(3) In performing their executive duties and functions, public servants shall not be interfered with except through the appropriate supervisors.

Relation-
ship
between
the
Commis-
sion and
the
President

42. —(1) The Public Service Commission shall perform its functions under the President and shall account for all its functions to the President.

(2) All members of the Commission including the Chairman shall be loyal to the President of the United Republic of Tanzania and shall perform their duties in conformity with the requirements of the Constitution, the Public Service Act, Public Service Regulations, Directives and Instructions of the President or any other person acting on behalf of the President.

Relation-
ship
between
Minist-
ries,
Indepe-
ndent
Depart-
ments,
Regions,
Local
Govern-
ment
Authori-
ties and
other
Public
Organi-
sations

43. —(1) The Commission shall be independent and shall not be under the direct control of any Ministry but shall keep good working relationship and co-operation with Ministries, Independent Departments, Regions, Local Government Authorities and other Public Organisations.

(2) Ministries, Independent Department, Regions, Local Government Authorities and other Public Organisations shall also keep good working relationship and co-operation with the Commission for smooth operations of their activities.

(3) Ministries, Independent Departments, Regions, Local Government Authorities and other Public Organisations shall not interfere with the functioning of the Commission except through the President where necessary.

(4) Ministries, Independent Departments, Regions, Local Government Authorities and other Public Organisations shall respond without any delay where the Commission requires any information crucial for the performance of its functions.

44. Communications within the Public Service shall be in accordance with the procedures to be provided for in the Public Service Regulations, Administrative Directives or Instructions or Orders.

Commis-
sions
within
the
Public
Service

(2) Notification of vacancies shall specify the necessary requirements for the vacant posts and shall follow the procedures which shall be provided for in the Public Service Regulations and Administrative Directives or Instructions or Orders.

45.—(1) Termination of appointments of Public servants shall include:—

Termina-
tion of
appoint-
ments

- (a) removal or retirement on public interest;
- (b) retirement on medical grounds;
- (c) retirement on abolition of office or re-organisation of department;
- (d) termination by age of retirement;
- (e) termination upon contesting constitutional leadership or elective political post;
- (f) retrenchment or redundancy by reason of:—
 - (i) abolition of office or post
 - (ii) re-organisation of office
 - (iii) dissolution of the organisation
 - (iv) employers incapability to remunerate a public servant.
- (g) termination on disciplinary ground.

(2) Procedures for termination of appointments mentioned in subclause (1) of this clause shall be provided for in the Public Service Regulations.

(3) Suggestions for removal or retirement in public interest shall be made by the Chief Executive himself in accordance with the procedures to be provided for in the Public Service Regulations and shall only be made where the Chief Executive is of the opinion that grounds for such a suggestion do not warrant disciplinary actions.

46. Where the disciplinary authority considers necessary to institute disciplinary proceedings against a public servant, the disciplinary authority shall make preliminary investigations before instituting disciplinary proceedings.

Prelimi-
nary
investiga-
tion

Public Service Scheme

G.N. No. 169 (contd.)

Disci-
pline of
public
servants

47.—(1) Every public servant shall conduct himself with integrity, impartiality and honesty. He shall give honest and impartial advice to the President or, as the case may be, to the Minister, to the Chief Executive or to the Head of his Department or to his Supervisor without fear or favour and shall make all information relevant for decision available to them.

(2) A public servant shall not deceive or knowingly mislead the President, Minister, his Head of Department, his Supervisor or any member of the Public.

(3) Every Public Servant shall not conduct himself in a way which:-

- (a) is illegal;
- (b) is improper;
- (c) is unethical;
- (d) is in breach of Constitutional Convention or a Professional Code of Ethics and Conduct;
- (e) is inconsistent with the Public Service Code of Ethics and Conduct and the Public Service Leadership Code of Ethics and Conduct;
- (f) involves possible maladministration.

(4) Public servants shall conduct themselves in accordance with the provisions of:-

- (a) the Public Service Codes of Ethics and Conduct;
- (b) the Public Service Leadership Code of Ethics and Conduct;
- (c) various Professional Codes of Ethics and Conduct;
- (d) the public service Regulations, the Administrative Directives or Instructions and Orders.

(5) Any public servant who contravenes the provisions of sub-clause (1), (2), (3) and (4) of this clause shall commit a disciplinary offence and shall be subject to disciplinary proceedings which shall be conducted in accordance with the procedures to be provided for in the Public Service Regulations.

(6) Every Public Servant who is aware of any breaches or who has been required by any other public servant, whether senior or junior, to act in a way which raise a fundamental issue of conscience for that public servant, may report that breach to his supervisor or his employer as the case may be.

48.—(1) The Appellate Authorities of public servants and the procedures for appeals shall be as provided for in the Public Service Regulations.

Appeals

(2) Both the employers or the disciplinary authority and a civil servant shall have the right to appeal if aggrieved with any decision.

49.—(1) A public servant has the right of being a member of any political party and can vote both for his political party and in general elections except where he is prohibited by any Law, Regulations or Administrative Directives or Instructions or Orders.

Political
involvement of
public
servants

(2) Notwithstanding the provisions of sub-clause (1) of this clause, a public servant shall obediently implement the policies of the ruling party and shall observe the following limitations:—

- (a) shall not conduct or engage himself with political activities during official hours or at work place;
- (b) shall not be employed or hold office in any political party;
- (c) shall not identify himself by dressing in his political party's uniform or wear his political party's medal or badge during official hours or at his work place;
- (d) shall not utter any words which may embarrass the Government due to his political affiliation;
- (e) shall not actively participate in the affairs of political parties such as holding a political party's office or speaking or addressing on political platforms.

50. A public servant shall be neutral and impartial while delivering service to the public without any bias due to his political affiliation and shall observe the following limitations:—

Political
neutrality
and
impartial-
ity of
public
servants

- (a) shall not take part in political activities which can compromise or be seen to compromise his loyalty to government activities;
- (b) shall not pass information or documents availed through his position in the service to his political party.

Public Service Scheme

G.N. No. 169 (contd.)

Political influence **51.** A public servant has the right to communicate with his political representatives provided he observes the following limitations:-

(a) shall not use such influence to intervene on matters, affecting him, which are in dispute between the Government and him;

(b) shall not use such influence for furthering personal ends or interests which are not part of the Government Policy.

Public servants integrity **52.** Every public servant shall serve with high standard of wisdom and integrity.

Confidentiality **53.** A public servant shall not without authority disclose official information which has been communicated confidentially within the administration or received confidentially from other public servants.

Intervention of political leaders **54.-(1)** A public servant shall not seek any political leaders intervention when pursuing matters of his service unless he proves that he has exhausted the executive administrative leader.

(2) Where a public servant pursues any matter concerning his service, he shall do so by starting from his immediate supervisor before going to the higher level of the Public Service Administration, provided that he shall not be bound to start from his immediate supervisor where he thinks that justice shall not be done.

(3) Where in any way, a public servant seeks any political leaders intervention, a political leader whose intervention has been sought, shall before intervening, communicate the matter to the Chief Executive of that public servant.

The Public Service Working Documents **55. -(1)** The necessary Public Service Working Documents shall include:-

(a) the Constitution of the United Republic of Tanzania;

(b) the Public Service Act;

(c) the Public Service Retirement Benefits Act, No. 2 of 1999;

(d) the Political Leaders Retirement Benefits Act, No. 3 of 1999.

- (e) the Local Authorities Provident Fund Act, No. 6 of 2000;
- (f) the Employment Ordinance Cap. 366;
- (g) the Security of Employment Act, No. 62 of 1964;
- (h) the Executive Agencies Act, No. 30 of 1997;
- (i) the Regional Administration Act, No. 19 of 1997;
- (j) the Public Service Regulations;
- (k) the Public Service Code of Ethics and Conduct;
- (l) various Professional Codes of Ethics and Conduct;
- (m) Standing Orders for the Public Service;
- (n) the Public Service Recruitment Code of Practice;
- (o) the Public Service Disciplinary Code of Practice;
- (p) the Public Service Arbitration and Reconciliation Code of Practice;
- (q) the Public Service Retrenchment and Redundancy Code of Practice;
- (r) the Public Service Management and Employment Policy;
- (s) any other Laws and documents relevant for reference in relation to specific matters;

(2) Every employer shall ensure the availability and accessibility of all necessary Public Service working documents for public servants under him.

(3) Every public servant shall make sure that the he has all necessary public Service working documents, he understands them and make use of them.

(4) Every public servant shall make correct interpretation and reference of the working documents in order to reach proper decisions.

(5) Where a public servant fails to interpret or wants to confirm the interpretation of a provision of any law or any document, he shall seek assistance of any government legal expert available in the area.

(6) A public servant shall behave as a public servant and not as a public master and shall show normal courtesy.

(7) A public servant shall display an attitude of responsibility to public property.

Public Service Scheme

G.N. No. 169 (contd.)

Age of
retire-
ment

56. —(1) Age of retirement for Public servants shall be as provided for by the Retirement Benefits, laws applicable for the time being.

(2) Where there is ambiguity on the date of birth of a public servant and where there is argument between the employer and a public servant as to the accurate date of birth, the date on record disclosed by a public servant during his first employment, shall be recognised as the accurate date of birth of such a public servant.

(3) Where only the year and not the actual date of birth of a public servant has been recorded, his date of birth shall be deemed to be the first day of July of that year.

(4) Where only the month of birth has been recorded, the date of birth shall be deemed to be the 16th day of that month and the 15th in the case of February.

Griev-
ances
handling
mecha-
nism

57. It shall be the role of every supervisor and every chief executive to establish a grievances handling mechanism and he shall receive, solve or seek solutions for the grievances of public servants under his jurisdiction.

Perfor-
mance
appraisal
system

58. There shall be operated an open appraisal system by every organisation within the Public Service in accordance with the procedures as shall be provided for in the Public Service Regulations.

Performa-
nce
contracts

59. Every public servant shall sign a performance contract with his supervisor in accordance with the procedures as shall be provided for in the Public Service Regulations.

Transfers

60. —(1) Where necessary and where it is in the public interest, transfers of public servants shall be conducted within the Service for the purpose of improving efficiency of the Service.

(2) Where a public servant is transferred, he shall be entitled to free transport for himself, spouse and four children or dependants as well as his personal belongings.

Leave

61. —(1) Every public servant shall be entitled to annual leave which shall be granted by the employer or supervisor once a year in accordance with the public servant's leave cycle.

(2) Non-grant of a public servant's annual leave by the employer, shall entitle such a public servant a one month salary payment in lieu thereof.

(3) There shall be other leave available for the public servant in accordance with the provisions of the Public Service Regulations.

62.—(1) Where a public servant sustains injuries or dies in the course of his employment, he shall be entitled to compensation which shall be paid in accordance with the procedures to be provided for in the Public Service Regulations.

Compensation for injuries or death

63.—(1) Every employer shall take all reasonable precautions to ensure occupational safety standards in order to avoid unnecessary cause of health hazards and shall facilitate annual medical check up for public servants within this jurisdiction.

Employers duty to protect the health of a public servant

(2) Notwithstanding the provisions of sub-clause (1), every public servant shall take reasonable precautions in accordance with modern health practices for proper protection of his health.

64. The representation of public servants in the discussions with the employers on matters of the employment welfare in general, shall be through the worker's councils and the Joint Staff Council.

Public servants' representation

65.—(1) It shall be the duty of both employer and employee to keep employment records for the purposes of reference for calculation of the employees terminal benefits.

Duty to keep records

(2) Employment records kept by both employer and employee shall be regarded as original copies duly signed by authorised person.

(3) Where there is no possibility to get hold of employment records from the employer's end, records in custody of the employee shall be used for any purpose provided that such records are in the original form.

Dar es Salaam,
14th June, 2003

MARY M. NAGU, (MP),
Minister of State, President's Office,
Public Service Management

**4. WARAKA WA UTUMISHI WA UMMA
NA. 1 WA MWAKA 2004**



JAMHURI YA MUUNGANO WA TANZANIA

OFISI YA RAIS

Menejimenti ya Utumishi wa Umma,
S.L.P. 2483,
Dar es Salaam,
TANZANIA.

Kumb. Na. C/AC 45/257/01/60

15 Aprili, 2004

**WARAKA WA UTUMISHI WA UMMA NA. 1 WA
MWAKA 2004 KUHUSU UTEKELEZAJI WA SHERIA YA
UTUMISHI WA UMMA, 2002
(SHERIA NA. 8 YA 2002)**

1.0 UTANGULIZI:

Kutokana na Serikali kutunga Sheria ya Utumishi wa Umma Na. 8 ya mwaka 2002 na Kanuni za Utumishi wa Umma za 2003, Waraka huu unatolewa kama mwongozo wa utekelezaji wa Sheria na Kanuni ambayo ndio chimbuko la utaratibu mpya wa uwajibikaji na usimamizi wa utumishi wa umma. Mambo ya msingi ya Sheria na Kanuni hizi ni kuonyesha mwelekeo wa utendaji kazi katika utumishi wa umma kwa kuzingatia malengo na matokeo (Performance Contracts), na usimamizi thabiti wa watumishi wa umma.

2.0 MABADILIKO YA MSINGI:

2.1 Kuundwa kwa Utumishi wa Umma:

Serikali imeunda utumishi wa umma mmoja ambao umeunganisha makundi mbalimbali yafuatayo:-

- (a) Utumishi wa Serikali Kuu;
- (b) Utumishi wa Serikali za Mitaa;

- (c) Utumishi wa Afya;
- (d) Utumishi wa Ualimu;
- (e) Utumishi wa Huduma za Zimamoto na Uokoaji na Utumishi wa Uhamiaji; na
- (f) Utumishi wa Wakala wa Serikali na Taasisi za Serikali.

2.2 Kuanzishwa kwa Tume ya Utumishi wa Umma:

Sheria imeanzisha Tume ya Utumishi wa Umma (PUBLIC SERVICE COMMISSION) ambayo kwa sasa ina Idara tano kulingana na makundi ya utumishi yaliyotajwa hapa juu. Tume hii ndiyo inayohakikisha kuwa utumishi wa umma ni mmoja na kuwa watumishi wote wana taratibu za usimamizi, hadhi, haki na maslahi yanayofanana. Hivyo, kazi kubwa ya Tume ya Utumishi wa Umma ni kuhakikisha kuwa masuala ya utumishi yanaendeshwa kwa haki na usawa na yanalenga katika utendaji wenye malengo maalum.

2.3 Usimamizi wa Kazi:

Viongozi na Watendaji sehemu za kazi ndio wasimamizi wa kazi na watakuwa mamlaka ya ajira, upandishaji vyeo na kusimamia nidhamu ili kuimarisha uwajibikaji.

Ili kuleta utendaji mzuri, mikataba ya utendaji (Performance Contracts) itatumika, na watumishi wote watasaini mikataba hiyo na wasimamizi wao wa kazi.

3. MAMLAKA ZA AJIRA NA NIDHAMU:

Utaratibu wa Usimamizi, Ajira na Nidhamu katika Utumishi wa Umma utakuwa kama ifuatavyo:-

- **Rais:** Kwa mujibu wa Katiba ya Jamhuri ya Muungano wa Tanzania ya mwaka 1977, Rais ndiye msimamizi mkuu wa Utumishi wa Umma. Ndiye mwenye mamlaka ya juu kabisa katika utumishi wa umma na watumishi wote wanatekeleza majukumu yao kwa niaba ya Rais. Rais ndiye mamlaka ya uteuzi ya Viongozi Wakuu Serikalini.

- **Katibu Mkuu Kiongozi:** Ndiye Mkuu wa Utumishi wa Umma. Anatoa dira ya uongozi na sura ya utumishi wa umma. Anahakikisha kuwa ndani ya Utumishi wa Umma kuna uwajibikaji na utendaji unaozingatia matokeo ya kazi na huduma bora inayoridhisha. Pia yeye ni mamlaka ya kuwathibitisha kazini na ya nidhamu kwa watumishi wanaoteuliwa na Rais. Vilevile ni mamlaka ya nidhamu ya watumishi wote wa umma pale ambapo ataona inafaa kuchukua hatua za kinidhamu. Hivyo ni mamlaka ya juu ya kiutawala katika kutoa masharti ya utendaji kazi katika utumishi wa umma.
- **Waziri mwenye dhamana ya Utumishi wa Umma:** Sheria, hususan Kifungu Na. 34 (1), inampa mamlaka ya kutunga Kanuni za Utumishi wa Umma (Public Service Regulations). Kanuni za Utumishi wa Umma za 2003 ndizo zinazotoa mwongozo wa utekelezaji wa Sheria ya Utumishi wa Umma, kuhusiana na taratibu mbalimbali za ajira na usimamizi katika Utumishi wa Umma. Kadhalika ndiye mwenye mamlaka ya kutunga Taratibu za uendeshaji wa Utumishi wa Umma (Public Service Scheme): Taratibu za Uendeshaji wa Utumishi wa Umma za 2003, zilizotungwa chini ya Kifungu cha 7(1) cha Sheria, ndizo zinazotoa maelekezo ya matumizi ya madaraka na mamlaka kama ilivyofafanuliwa kwenye Sheria, Kanuni, maagizo na maelezo ya Serikali yaliyopo na yatakavyokuwa yakitolewa mara kwa mara.
- **Waziri Mwenye Dhamana ya Serikali za Mitaa:** Ni mamlaka ya ajira na nidhamu ya Wakurugenzi wa Halmashuri isipokuwa wale wa Majiji na Tume ambao huteuliwa na Rais.
- **Makatibu Wakuu, Wakuu wa Idara Zinazojitegemea na Makatibu Tawala wa Mikoa, Kamishna wa Huduma za Zimamoto na Uokoaji, Mkurugenzi wa Uhamiaji, Wakurugenzi wa Halmashauri za Serikali za Mitaa:** Hawa ni mamlaka ya ajira, kuthibitisha kazini na nidhamu kwa utumishi walio chini yao isipokuwa wale wanaoteuliwa na Rais na wale wanaoteuliwa na Waziri mwenye dhamana ya Serikali za Mitaa.

- **Katibu Mkuu wa Ofisi ya Rais, Menejimenti ya Utumishi wa Umma:** Mbali na majukumu yaliyotajwa hapa juu, ana madaraka ya kuunda, kusimamia, kutathmini, kuhuisha na kutafsiri Sera za Utawala na Utumishi, kuunda Kanuni za Maadili ya Utumishi wa Umma, kusimamia ajira za wageni na kupanga viwango vya mishahara. Huyu ndiye msaidizi mkuu wa Katibu Mkjuu Kiongozi katika masuala ya Utawala wa Utumishi wa Umma (Public Service Administration).
- **Idara ya Utumishi wa Walimu (Teachers Service Department) katika Tume ya Utumishi wa Umma:** Ni mamlaka ya usajili wa walimu wote pamoja na mamlaka ya ajira na nidhamu ya walimu wote walio katika utumishi wa umma.

4.0 UTARATIBU WA AJIRA:

Katika kutekeleza majukumu yao, Mamlaka za Ajira katika Utumishi wa Umma zitatumika Bodi za Ajira kwa upande wa Utumishi wa Serikali za Mitaa na Kamati Maalum za Ajira kwa upande wa Utumishi wa Serikali Kuu, Watumishi wa Afya, Watumishi wa Huduma za Zimamoto na Uokoaji na Uhamiaji na watumishi wa Huduma za kawaida (Operational Service). Aidha kutakuwa na Kamati za Ajira katika Mikoa na Wilaya kwa ajili ya Utumishi wa Walimu. Bodi na Kamati za Ajira ni kama zifuatazo:-

(i) Halmashauri za Serikali za Mitaa:

Kutakuwa na Bodi za Ajira katika Halmashauri za Serikali za Mitaa. Bodi hizi zitaundwa na Halmashauri husika na zitakuwa na majukumu ya kusimamia ajira katika Serikali za Mitaa kama ilivyoainishwa katika Kanuni za Utumishi wa Umma za mwaka 2003. Majukumu ya Bodi ni pamoja na kusaili na hatimaye kuwasilisha majina ya waliofaulu usaili kwa Mkurugenzi Mtendaji wa Halmashauri. Mkurugenzi Mtendaji wa Halmashauri ataajiri mtumishi/watumishi miongoni mwa waombaji waliofaulu usaili baada ya kushauriana na Halmashauri husika. Bodi hizi zitakuwa na wajumbe kama ifuatavyo:

- Mwenyekiti - ambaye atateuliwa na Halmashauri husika kwa mujibu wa Kanuni za Utumishi wa Umma.

- Mjumbe mmoja - atateuliwa na Halmashauri husika miongoni mwa wajumbe wa Halmashauri hiyo ili mradi asiwe ni Mwenyekiti wa Halmashauri husika.
- Katibu Tawala wa Wilaya au mwakilishi wake.
- Mtaalam anayehusika na masuala ya Serikali za Mitaa katika Sekretarieti ya Mkoa.
- Mwakilishi wa Tume ya Utumishi wa Umma.
- Mkuu wa Idara ya Utawala katika Halmashauri husika atakuwa Katibu na hatakuwa na haki ya kupiga kura.

(ii) Wizara, Idara zinazojitegemea na Mikoa:

Kutakuwa na Kamati Maalum za Ajira ambazo zitawezesha ajira za watumishi wa Umma kufanyika kwa njia ya ushindani katika sehemu hizo kama ilivyoainishwa katika Kanuni Na. 9(3) ya Kanuni za Utumishi wa Umma za mwaka 2003. Kamati hizi zitaundwa na Mamlaka za Ajira yaani Watendaji Wakuu katika Wizara, Idara Zinazojitegemea na Mikoa. Majukumu ya Kamati ni pamoja na kusaili na hatimaye kuwasilisha majina ya waliofaulu kwa Mamlaka ya Ajira ambayo itaajiri mtumishi/watumishi miongoni mwa waombaji waliofaulu usaili baada ya kushauriana na Kiongozi wa sehemu ya kazi.

Wizarani:

Kamati Maalum za Ajira katika Wizara zitakuwa na wajumbe wafuatao:-

- Mwenyekiti - atateuliwa na Mtendaji Mkuu husika.
- Mjumbe/Katibu - Mkurugenzi wa Idara ya Utumishi na Utawala.
- Wajumbe watatu watateuliwa na Mtendaji husika.
- Mwakilishi wa Tume ya Utumishi wa Umma.
- Mkuu wa Idara/Kitengo ambayo/ambacho nafasi iliyowazi inatakiwa kujazwa.
- Mjumbe - Afisa Tawala/Utumishi Mkuu mmoja kutoka Idara ya Utawala na Utumishi.

Idara zinazojitegemea:

Kamati Maalum za Ajira katika Idara zinazojitegemea ambazo zitakuwa na wajumbe wafuatao:-

- Mwenyekiti - atateuliwa na Mtendaji Mkuu husika.
- Wajumbe wawili - watateuliwa na Mtendaji Mkuu husika.
- Mwakilishi wa Tume ya Utumishi wa Umma.
- Mkuu wa Idara/Kitengo ambayo/ambacho nafasi iliyowazi inatakiwa kujazwa.
- Afisa mfawidhi msimamizi mkuu wa Utumishi na Utawala wa Idara inayojitegemea atakuwa **Katibu**.

Mkoani:

Kamati Maalum za Ajira katika Mikoa zitakuwa na wajumbe wafuatao:-

- Mwenyekiti - atateuliwa na Katibu Tawala wa Mkoa husika.
- Wajumbe watatu - watateuliwa na Katibu Tawala wa Mkoa husika.
- Mwakilishi wa Tume ya Utumishi wa Umma.
- Afisa anayesimamia Utumishi na Utawala Mkoani ambaye atakuwa Katibu.
- Katibu Tawala wa Wilaya yenye nafasi wazi inayotakiwa kujazwa.

(iii) Idara ya Utumishi wa Walimu katika Tume ya Utumishi wa Umma:

Itakuwa na Kamati za Ajira kwa ajili ya Walimu. Kamati hizi zitaundwa na Tume ya Utumishi wa Umma baada ya kushauriana na Waziri anayeshughulikia masuala ya Elimu kwa mujibu wa Kifungu cha 29(2) cha Sheria ya Utumishi wa Umma Na. 8 ya mwaka 2002, ikisomwa kwa pamoja na sehemu ya kumi (Part X B) ya Kanuni za Utumishi wa Umma za Mwaka 2003. Kamati husika zitakuwa na Wajumbe wafuatao:-

—Kamati za Mikoa:

- Mwenyekiti;
- Katibu; na

- Wajumbe watatu.
- Kamati za Wilaya:
- Mwenyekiti;
- Katibu; na
- Wajumbe watatu.

(iv) Vikao vya Bodi na Kamati za Ajira:

Bodi na Kamati za ajira zitakutana pale Mamlaka za Ajira zitakapotaka kuajiri watumishi wa Umma au kushughulikia masuala mengine ya kiutumishi.

5.0 MAMLAKA ZA RUFAA:

- (i) Kwa Watumishi wa Umma ambao Mamlaka yao ya Nidhamu ni Katibu Mkuu Koingozi, Mamlaka ya Rufaa ni **RAIS**.
- (ii) Kwa Watumishi wa Umma ambao Mamlaka zao za Nidhamu ni Waziri wa Tawala za Mikoa na Serikali za Mitaa, Makatibu Wakuu wa Wizara, Wakuu wa Idara za Serikali Zinazojitegemea, Makatibu wa Tawala za Mikoa na Wakurugenzi wa Halmashauri za Serikali za Mitaa, Mamlaka ya Rufaa ni **TUME YA UTUMISHI WA UMMA**.
- (iii) kwa Watumishi wa Umma ambao Mamlaka zao za Nidhamu ni Kamishna wa Huduma za Zimamoto na Uokoaji na Mkurugenzi wa Uhamiaji, Mamlaka ya Rufaa ni **TUME YA UTUMISHI WA UMMA**.
- (iv) Kwa watumishi ambao wapo katika kundi la “Operational Service” na Mamlaka yao ya Nidhamu ni Mkuu wa Idara, Rufaa zao zitashughulikiwa kwa mujibu wa Sheria ya Usalama Kazini ya Mwaka 1964 (Sheria Na. 16 ya 1964) au Sheria yoyote itakayokuwa inatumika kuhusiana na watumishi hawa.
- (v) Kwa Walimu waliopo katika Utumishi wa Umma, Mamlaka ya Rufaa ni **TUME YA UTUMISHI WA UMMA**. Rufaa za Walimu zitashughulikiwa kwa mujibu wa Kanuni ya 126 ya Kanuni za Utumishi wa Umma za mwaka 2003.
- (vi) **RAIS** atakuwa Mamlaka ya mwisho ya Rufaa kwa maamuzi yatakayofanywa na Tume.

6.0 MAMLAKA YA ZIADA YA RAIS:

6.1 Inasisitizwa hapa kuwa bado Rais ni:-

- (a) Mamlaka ya kuanzisha na kufuta madaraka ya namna mbalimbali katika Utumishi wa Umma; na
- (b) Mamlaka ya kumstaafisha/kumuondoa Kazini kwa Manufaa ya Umma kutumishi katika Utumishi wa Umma.

7.0 SHERIA TANGULIZI ZILIZOFUTWA:

7.1 Katika mabadiliko haya, Sheria ya Utumishi wa Umma Na.8 ya 2002 imezifuta Sheria zifuatazo, pamoja na Kanuni (Regulations) na Taratibu za Uendeshaji wa Utumishi (Service Scheme) zilizotengenezwa kwa mujibu wa matakwa ya Sheria hizi:-

- (a) Sheria ya Utumishi Serikalini (Civil Service Act), 1989.
- (b) Sheria ya Utumishi wa Serikali za Mitaa (Local Government Service Act), 1989.
- (c) Sheria ya Tume ya Utumishi wa Walimu (Teachers Service Commission Act), 1989.
- (d) Sheria ya Utumishi wa Huduma za Zimamoto na Uokoaji (Fire and Rescue Force Service Act), 1985.

7.2 **Watumishi wa Umma ambao Hawakujumuishwa katika Sheria ya Utumishi wa Umma:** Wapo watumishi wa umma walioruhusiwa kuendelea kutumia Sheria na Kanuni zao ingawa wanaongozwa na Sera ya Menejimenti na Ajira katika Utumishi wa Umma. Watumishi hao ni Askari Polisi na Magereza, Watumishi wa Tume ya Utumishi wa Bunge na Watumishi wa Tume ya Utumishi wa Mahakama. Sheria za Makundi zitaainishwa ili ziendane na Sera bila kuathiri uhuru na utendaji kazi wa makundi husika.

8.0 WANAOHUSIKA MOJA KWA MOJA NA SHERIA YA UTUMISHI WA UMMA NA. 8 YA 2002 NA KANUNI NA TARATIBU ZAKE ZA UENDESHAJI:

Hivyo basi, sasa watumishi wote wa umma watatumia Sheria inayotawala Utumishi wa Umma na Kanuni zake pamoja na Taratibu za

Uendeshaji wa Utumishi wa Umma yaani **“PUBLIC SERVICE ACT, 2002”, “PUBLIC SERVICE REGULATIONS, 2003”, na “PUBLIC SERVICE SCHEME, 2003”.**

Aidha Taratibu za Uendeshaji wa Utumishi wa Umma (Public Service Scheme) za mwaka 2003 ambazo zimetayarishwa kwa mujibu wa Sheria hii mpya ya Utumishi wa Umma zitakuwa mhimili wa utayarishaji wa Taratibu za Uendeshaji wa Utumishi wa Makundi yote yanayojumuishwa katika Utumishi wa Umma ambazo ni pamoja na Taratibu za Uendeshaji katika Utumishi wa Serikali Kuu (**CIVIL SERVICE SCHEME**), Utumishi wa Serikali za Mitaa (**LOCAL GOVERNMENT SERVICE SCHEME**), Utumishi wa Afya (**HEALTH SERVICE SCHEME**), Utumishi wa Walimu (**TEACHERS SERVICE SCHEME**), Utumishi wa Huduma za Zimamoto na Uokoaji na Utumishi wa Uhamiaji (**FIRE AND RESCUE SERVICE AND IMMIGRATION SERVICE SCHEME**). Ili kuharakisha utekelezaji wa Sheria hii; Wizara zinazohusika na utayarishaji wa Taratibu za Uendeshaji wa Utumishi wa Makundi yote ya Utumishi wa Umma wanatakiwa kutayarisha taratibu hizo katika kipindi kisichozidi miezi mitatu (3) kuanzia tarehe ambayo Waraka huu utaanza kutumika.

9.0 MFUMO WA MAWASILIANO, UWAJIBIKAJI NA UTII:

Mfumo mzima wa mawasiliano, uwajibikaji na utii katika utumishi wa Umma utaendelea kuzingatia mtiririko wa Mamlaka na madaraka katika utumishi wa Umma bila kusahau dhana ya kuaminiana na kuheshimiana (Mutual Trust and Confidence) wakati wote wa kutekeleza majukumu yoyote yanayohusu utawala na utumishi wa Umma.

10.0 Kanuni za Kudumu (Standing Orders), 1994 zinafanyiwa marekebisho ili kukidhi mabadiliko na matakwa ya Sheria Na. 8 ya 2002.

11.0 Waraka huu hauna budi kusomwa kwa pamoja na Sera ya Menejimenti ya Ajira katika Utumishi wa Umma ya 1999 na unafuta Waraka wa Watumishi wa Serikali Na. 1 wa mwaka 1977 na Na. 16 wa 1990 na unaanza kutumika tarehe 15 Aprili, 2004.

JOSEPH A. M. RUGUMYAMHETO,
Katibu Mkuu (Utumishi)

**5. SHERIA YA HITIMISHO LA KAZI KATIKA
UTUMISHI WA UMMA, NA. 2, 1999**

**THE PUBLIC SERVICE RETIREMENT
BENEFITS ACT, 1999
ARRANGEMENT OF SECTIONS**

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THE UNITED REPUBLIC OF TANZANIA



No. 2 of 1999

I ASSENT

BENJAMIN W. MKAPA,
President

14th April, 1999

An Act to establish the Public Service Pensions Scheme, to provide for contributions to and payment of pensions, gratuities and other benefits in respect of the Service of officers in the Government and to provide for the related matters.

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY PROVISIONS

1.-(1) This Act may be cited as the Public Service Retirement Benefits Act, 1999.

Short title and commencement

(2) This Act shall come into operation on the First day of July, 1999.

2. This Act shall apply to all Government employees employed in Tanzania as well as to employees employed by Executive Agencies established under an Act of Parliament.

Application

Interpretation

3. In this Act unless the context otherwise requires -
"annual pensionable emoluments" means the emoluments which would be taken for the purposes of computing any pension or gratuity granted to the member under this Act if he had retired from the Service in circumstances described in section 16.

"benefit" means a retirement benefit payable under this Act;

"Board" means the Board of Trustees of the Public Service Pensions Fund established by section 32;

"child" includes a step-child, a child born out of wedlock and an adopted child;

"Constitutional office" means an office which is established by or under the Constitution of the United Republic of Tanzania of 1977;

"contract terms" in relation to employment means the terms whereby a person is employed on contract for a period of service with an eligibility for payment of a sum of money upon satisfactory completion of that period of service;

"commencement date" means the first day of July,

1999;

"commuted pension gratuity"

means the gratuity which might have been granted to the member under section 22 if he had retired from the Service at the date of his death in circumstances described in paragraph (e) of section 16;

"compulsory retirement age"

means the age referred to in subsection (3) of section 17, upon the attainment of which an officer shall retire;

"dependant" in relation to a deceased officer, means -

(a) where the deceased officer was a male, his

widow or if he
was married to
two or more
wives, his
widows;

(b) where the
deceased officer
was a female, the
husband of such
deceased officer;

(c) every child of the
deceased officer
who was wholly
or substantially
dependent upon
the deceased
officer's income
for his livelihood
immediately
preceding the
death of the
deceased officer;

- (d) the immediate parents of the deceased officer, who satisfies the deceased officer's employer that they were wholly or substantially dependent upon the deceased officer's income for their livelihood;

"Director General" means the Director General of the Public Service Pensions Fund appointed under section 34;

"employee" means any person who -

- (a) is employed in

Tanzania under contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work or otherwise and howsoever paid;

- (b) is permanently resident in Tanzania and is employed under a contract of service;
- (c) is permanently resident in Tanzania and is employed outside

Tanzania under a contract of Service with an employer in Tanzania by whom he is paid, but does not include any person of eighteen years and twenty one years receiving full time education or receiving full time training in respect of which he does not receive salaries, or any person under the apparent age of eighteen years;

"employee's contribution" means that portion of a statutory contribution declared under section 41 to be the employee's contribution;

"employer" means the person with whom the employee entered into a contract of

service or apprenticeship,
and who is responsible
for the payment of
salaries of the employee;

"employer's contribution"
means the fifteen
percentum of the
employee's salary which
is provided under section
40 to be the employer's
contribution;

"Fund" means the Public
Service Pensions Fund
established by section 31;

"incapable of work" and
cognate expressions
mean, in relation to any
person, incapacity for
work by reason of some
specific disease or
bodily or mental
disablement, and also

includes references to any person deemed to be so incapable under this Act;

"member of the family" when used in relation to a person not generally subject to local customary law means the wife, husband, father, mother, grandfather, grandmother, step-father, step-mother, child, grandchild, brother, sister, half-brother or half-sister, and when used in relation to a person generally subject to local customary law means such persons as

local customary law
recognizes as members
of the family;

"member of the Fund" means
an employee who is a
member of the Public
Service Pensions Fund
or a person registered as
a member of the Fund;

"Minister" means the Minister
responsible for Finance;

"month" means a period of
consecutive thirty days;

"non-pensionable office" means
an office which is not a
pensionable office;

"paid" means paid in money or
money's worth, and
where it has reference
to a date of payment
means the date on
which the payment was

made in cash, or as the case may be, the bills of exchange or promissory note was met;

"pensionable emoluments" -

(a) in respect of Service in the Public Service includes salary in terms of the provisions of this Act;

(b) in respect of other public service, means emoluments which count for pension in accordance with the laws or regulations in force in that

Service;

- (c) when used in relation to an officer not holding a pensionable office, means the emoluments enjoyed by him which would have been pensionable emoluments if the office held by him had been a pensionable office;

"pensionable office" means -

- (a) in respect of service in Tanzania, an office in the

Service to which any person has been appointed or promoted on pensionable terms and that office shall be deemed to be a pensionable office for so long as the person who is appointed or promoted thereto on pensionable terms continues to hold the office;

- (b) in respect of other public service, an office which is a

pensionable
office under the
laws or
regulations in
force in that
Service;

Cap.371

"Pensions Ordinance" means
the Pensions Ordinance;

"Public Service" means service
in the Government;

"qualifying pensionable service"
means -

- (a) any period of
continuous
service rendered
by a member
since his
becoming a
member of the
scheme and
includes periods
of absence from

duty or leave
with not less than
half salary; and

- (b) any period of
continuous
Service rendered
by a member
immediately
prior to his
becoming a
member of the
scheme during
which he was
employed by a
Government on
contract terms or
on other than
temporary terms,
daily paid or
casual basis and
during which he
was governed by

any employees' terminal benefits scheme under which the terminal benefit or retirement took the form of payment of a pension, and includes any periods of absence from duty or leave with not less than half salary;

"Reserve Account" means the Reserve Account established under section 64;

"salary" means salary attached to a pensionable office, or, where provision is

made for taking service in a non-pensionable office into account as pensionable service, the salary attached to that office, including cost of living allowance, incentive allowance, or any other additional emoluments as may be determined by the appropriate authority;

"Scheme" means the Public Service Pensions Scheme established by section 4;

"Service" means the Civil Service of the United Republic;

"Service of Tanganyika" means Service in a civil capacity under the Government of

Tanganyika or under the then East African Community before the 1st day of July, 1977 on permanent and pensionable terms under the General Fund Service and being a citizen of Tanganyika;

"specified amount" means -

- (a) in relation to the period of service an annual amount equal to one five hundred and fortieth of the member's annual pensionable emoluments for each completed month of his

- pensionable
service;
- (b) in relation to the
period of service
an annual amount
equal to the
pension
computation
factor (which is
applied to the
member under
the employee's
terminal benefit
scheme by which
he was governed
prior to his
becoming a
member under
this Act) of the
member's annual
pensionable
emoluments for

each completed
month of his
pensionable
service.

"specified office" means any
office which the Minister
for Finance may, by
order published in the
Gazette, specify for the
purposes of this Act;

"survivor" means any person
who on the death of a
member is entitled to a
survivor's benefit under
this Act;

"transition period" means the
period between 1st July,
1999 to 30th June, 2004;

"trustee" means a member of
the Board including the
Chairman;

"year" means a period of
consecutive twelve
months.

PART II

THE PENSION SCHEME

4. There is hereby established a Scheme to be known as the Public Service Pensions Scheme.

5. All employees who are confirmed in a pensionable office in the Service shall become members of the Scheme with effect from the date of commencement of this Act.

PART III

BENEFITS CONFERRED UNDER THE SCHEME

6.-(1) A pension, gratuity or other benefits which may be granted under this Act shall consist of -

- (a) contribution of a member;
(b) contribution of an employer;

- (c) other grants or interests which may be received by the Fund or which may accrue from the investments made by the Scheme.

(2) The contribution of a member and the contribution of an employer to the pension, gratuity or other benefits shall, to the extent that a member retires in accordance with the provisions of section 16 or is otherwise made to cease to becoming an employee in the service in circumstances which does not injure or lower the esteem of or render the public service in disrepute, be of right.

Exemption
from Income
tax
Act No.33
of 1973

7. The pension, gratuity allowance or any other additional retirement benefits granted under this Act shall be exempted from income tax.

Benefits in
respect of age,
invalidity
survivors etc.

8. Subject to the provisions of this Act, the following classes of benefits shall be payable under the Scheme -

- (a) benefits in
respect of

retirement age,
survivorship and
invalidity;

(b) benefits in
respect of
sickness and
funeral;

(c) benefits in
respect of
marriage,
maternity or in
respect of
emigration or
withdrawal of
any member
which are
withdrawal
benefits.

Benefit as to
compulsory
age of
retirement

9. Subject to
section 17 of this Act retire-
ment benefit shall be payable
to any person who being a member
attains the age of sixty years and sat-
isfies the Director General that he
has retired from regular employ-
ment.

Death
gratuity

10.-(1) Where a member dies while in the service, the Board shall grant to his legal personal representative a gratuity of an amount not exceeding either his annual pensionable emoluments, or his commuted pension gratuity, if any, whichever is the greater.

(2) Where a deceased member does not leave a widow, widower, or if no pension is granted to his widow, widower and if his parents were wholly or mainly dependent on him for support and without adequate means of

support, the Board shall grant an amount not exceeding the pension which might have been granted to his widow.

(3) Where a deceased member leaves a child who is or children who are, wholly or mainly dependent upon him for support at the time of his death, a pension in respect of each child, until such child attains the age of twenty-one year's the Board shall grant to a child or children the amount not exceeding the pension which might have been granted to his widow.

(4) Where a member who has retired from the service on pension dies before he has received by way of pension or reduced pension and

gratuity or other benefits under this Act an amount which is equivalent to the amount which might have been granted to his legal personal representative under sub-section (1) of this section had that member died while still in Service, the Board shall grant to the legal personal representative of that member a gratuity of an amount not exceeding the difference between the amount which has already been paid to that member by way of pension or reduced pension and gratuity or other benefits under this Act and the amount which might have been granted to his legal personal representative.

Survivors
benefit

11.-(1) Subject to the provisions of section 10 of this Act, where a survivors benefit is payable, and no notice such as is prescribed by subsection (4) of this section has been received, the Director General may on such evidence as he may require -

- (a) pay the moneys direct to the widow for the maintenance of herself and the deceased's children who are dependent on him or disabled;
- (b) if there is no widow, pay the moneys, in such proportions as he

may think fit,
direct to a
guardian of the
deceased's infant
children to be
applied to their
maintenance; or
to any
child of the
deceased who is
of full age but
who is incapable
of work by
reason of some
specific disease
or bodily or
mental
disablement; or
to any other
dependant;

- (c) if there are more
claimants than

one as widow or dependant, or any of them, pay the moneys to the executor or administrator of the deceased's estate; or

- (d) in any other case, pay the moneys to the Administrator-General who shall hold them on trust for the members of the family or other person found to be entitled under this section.

(2) The provisions of subsection (1) of this section shall not apply to any case in which an interested party has given notice to the Director General before he has made payment of benefit that application has been or is being made to the court for the estate of the deceased member to be dealt with in accordance with the law of inheritance and where such an application is not made within three month of the date of death of the deceased member, the Director General may proceed to deal with the benefit under the provisions of subsection (1) of this section.

(3) For the purposes of this section "maintenance" shall be deemed to include in the case of a child education suited to the child's station.

(4) Where moneys are paid to the Administrator-General under the authority of this section, the Administrator-General shall by such means as he may think fit give public notice of the payment, having regard to the amount of payment; and claims made after the time limited by notice may be ignored under the authority of this subsection, and the amount may be paid accordingly to the members of the family and other entitled persons who have given notice of their claims to the

Administrator- General within the time limited.

(5) Moneys paid under the authority of this section to the Administrator-General shall, if unclaimed for a period of two years from the date of payment, be paid into the Reserve Account of the Fund.

Sickness
benefit

12.-(1) Where a member falls sick in circumstances which renders him incapable of continuing to discharge his duties and that incapacity to work continues for a period of more than six months, he shall, on medical evidence to the satisfaction of the employer, be entitled in respect of his incapacity thereafter to a sickness benefit

at the rate prescribed in the Schedule to this Act.

(2) Where a member or his dependant dies, his dependants or as the case may be, a member shall be entitled to a grant of funeral benefits at the rate prescribed in the Schedule to this Act.

(3) Nothing in this section shall authorize payment of any sickness benefit which together with other payments of sickness benefit is in excess of the amount represented by the employee's contributions and his payments to the Scheme.

Invalidity
benefit

13. An invalidity benefit granted under section 16 of this Act shall be payable to any member who is so physically or mentally disabled as to be unemployable.

Withdrawal
because
of marriage,
or maternity

14. A withdrawal benefit prescribed in this Act shall be payable to -

- (a) a female member who proves to the satisfaction of the Director General that in consequence of her marriage has permanently given up employment and does not intend to seek further

g a i n f u l
employment in
the public
service;

- (b) a member who
proves to the
satisfaction of the
Director General
t h a t i n
consequence of
her giving birth
to a child has
permanently
g i v e n u p
employment and
does not intend
to seek further
employment in
the public
service.

- (c) a member who
proves to the

satisfaction of the
Director General
t h a t i n
consequence of
his wife giving
birth to a child
h e h a s
permanently
g i v e n u p
employment and
does not intend
to seek further
employment in
t h e P u b l i c
Service.

Withdrawal
because of
emigration or
unemployment
in the service

15.-(1) A withdrawal
benefit to the extent prescribed
in this Act shall be payable to
a member-

(a) who proves to the
satisfaction of the

Director General
in the Service that
he is emigrating or
has emigrated
from and has no
present intention
of returning to the
United Republic;

- (b) who proves to
the satisfaction of
the Director
General that he
has not been
employed by an
employer liable
to make a
contribution in
respect of
himself for at
least six months
immediately
preceding the

application and
has reached the
age of fifty five
years or more.

Scope of
entitlement
pension,
gratuity etc.

16. Except for payments made pursuant to the provisions of sections 8, 9, 10, 11, 12, 13, 14, and 15 of this Act, no pension, gratuity or similar benefits shall be granted under this Act to any member except on his retirement from the Service in any one of the following cases

- (a) on or after
attaining the age
of fifty five
years;
- (b) in the case of
transfer to other
public service,

in circumstances
in which he is
permitted by
law or
regulations of the
service in which
he is last
employed to
retire on pension
or gratuity;

- (c) on the abolition
of his office;
- (d) on compulsory
retirement;
- (e) on medical
evidence to the
satisfaction of the
employer that he
is incapable of
discharging the
duties of his
office by reason

- of becoming
invalid;
- (f) on termination of
employment in
the public
interest;
- (g) upon cessation to
hold office
pursuant to the
provisions of
Article 72 of the
Constitution.

**Retirement
age**

17.-(1) The age of
voluntary retirement from
Service shall be fifty five years.

(2) Subject to subsections
(3) and (4) of this section and
section 16(e) an officer who
attains the age of fifty five
years may at any time
thereafter opt to retire but an

officer who does not so opt shall continue in office in the Service on pensionable terms until he attains the age of sixty years which is the age of compulsory retirement.

(3) During the transition period, an officer who does not retire from Service upon attainment of fifty five years shall not retire from Service except on the following cases-

- (a) on medical evidence to the satisfaction of the employer that he is incapable of discharging his duties by reason of becoming invalid;

- (b) on the satisfaction of the employer that retirement is otherwise necessary or unavoidable;
- (c) on abolition of an office or on cessation to hold office in pursuance to the provisions of Article 72 of the Constitution; or
- (d) on the motion of the employer.

(4) The provisions of this section shall not apply to an officer who has been appointed to hold the office of Judge of the High Court, or Justice of Court of Appeal or Controller and Auditor General.

(5) The age for voluntary or compulsory retirement for Judge of High Court, Justice of Appeal or the Controller and Auditor-General shall be as is provided for under Constitution.

Service not
qualifying
for pension

18. No pension or gratuity shall be awarded under this Act to any member in respect of any service -

- (a) while on probation unless immediately following that period of probation, the member shall have been confirmed in his appointment; or
- (b) while he was absent from duty on leave without

salary unless it is established to the satisfaction of the Board that -

- (i) such leave
w a s
granted on
grounds of
p u b l i c
interest;
and
- (ii) t h e
employer
undertakes
to p a y
into the
Fund both
the emp-
loyee's
and the
emplo-
yer's

contribution for the period the employee was absent, or

- (c) while under the age of eighteen years.

Emoluments to be taken into account when computing pension or gratuity

19. For the purposes of computing the amount of the pension or gratuity of a member under this Act, the highest pensionable emoluments enjoyed by him within the twelve months preceding his retirement shall be used for calculating his pension.

salary he received while holding a constitutional office shall be, if it is the highest, taken into account when computing his pension, gratuity and other allowances.

(2) A person holding a constitutional office shall not be granted the pension, gratuity or other terminal benefits applicable to the holder of that office if when he relinquishes that office he enters upon another constitutional office or a non-constitutional office, until the

time when he finally retires from the Service, upon which occasion the pension, gratuity or other terminal benefits shall be granted to him, subject to the provisions of subsection (1).

(3) Notwithstanding the provisions of this Act-

(a) Justice of Appeal and a Judge;

(b) the Attorney General, the Chief Secretary, the Director General of Intelligence, the Inspector General of Police and the Controller and Auditor-General;

(c) the Principal Commissioner of Prisons and the Director General of Prevention of Corruption Bureau,

shall each retire on a pension which shall be equal to eighty per cent of the salary of the incumbent holder of the office in which he was serving and from which he retires.:

(4) In addition to the benefits granted under subsection (3) the public officers mentioned thereunder shall be granted by the appropriate authority-

(a) a diplomatic passport for him and his spouse;

(b) one motor vehicle given once, of a value not exceeding such amount as the President may from time to time determine;

(c) a total sum of money granted once as a lumpsum which shall be sufficient to remunerate one driver for a period of four years;

(d) a total sum of money sufficient to purchase fifty litres of fuel per week granted once as a lumpsum which shall cover a period of four years;

(e) a total sum of money being maintenance allowance for a motor vehicle to be granted once as a lumpsum at a rate equal to forty percent of fuel allowance;

(f) use of VIP lounge.:

(5) The pension, gratuity, allowances and services granted under this section shall be paid out of the Consolidated Fund and shall not be subject to income tax.

(6) Notwithstanding Subsection (5) any person who after being transferred or appointed to a Constitutional Office or such other public office mentioned under this section and section 21 shall

continue to be a member of the Fund and the provisions of section 6 which relate to the contributions to pension shall apply as if that person has not been transferred or appointed to a Constitutional Office or such other public office.

(7) A person who holds the office of Regional Commissioner shall, upon ceasing to hold office in circumstances set out by the Political Service Retirement Act, 1999,

- (i) if the person is qualified for payment of pension or gratuity under this Act, be entitled to grant

of pension or
gratuity in
accordance with
the provisions of
this Act; or

- (ii) if the person is not
qualified for payment
of pension or gratuity
under this Act, be en-
titled to a grant of
gratuity payable at a
rate of forty per -
cent.

Benefits
conferred
to Chief
Justice

21.-(1) A person who
held the office of the Chief
Justice shall upon ceasing to
hold office, be granted-

- (a) a n a n n u a l
pension granted
monthly of a sum
equal to eighty
percent of the
salary of the
Incumbent Chief
Justice;

(b) a winding-up allowance of a sum equal to fifty percent of the total sum of the salaries he received while he held office as Chief Justice;

(c) a gratuity of a sum-
equal to
f i f t y
percent of
the total
sum of the
salaries he
received
while he
held office
as Chief
Justice;

(2) The appropriate authority shall arrange and provide to the Chief Justice

upon ceasing to hold that office-

- (a) a diplomatic passport for him and for his spouse;
- (b) a health insurance policy that covers medical treatment within the United Republic; and
- (c) one motor vehicle, of a value not exceeding such amount as the President may from time to time determine, which shall be

granted to him
once in his
retirement.

(d) seventy litres of fuel
per week;

(e) maintenance allowa-
nce for a motor
vehicle at a rate equ-
al to forty percent of
fuel allowance;

(f) a driver.

(3) Payments for pension,
gratuity and other retirement
benefits in respect of the Chief
Justice in pursuance of this
section shall be paid out of the
Consolidated Fund and shall
not be subjected to income tax.

Rates of
pension and
gratuity

22.-(1) Subject to the
provisions of this Act, a
member who shall have had not

less than an aggregate of fifteen years qualifying service may, on retirement, be granted -

- (a) a commuted pension gratuity equal to fifteen and one-half times the one-half of the specified amount, unless the said member exercises an option in writing to be paid in lieu of such reduced pension and commuted pension gratuity, of the specified amount;

(b) a reduced annual pension of an amount equal to one-half of the specified amount;

(2) Every officer holding a pensionable office under the Government who has been in the service in a civil capacity for fifteen years or more may on retirement be granted a pension at the annual rate of one five hundred and fortieth of his pensionable emoluments for each complete month of his pensionable service.

Restriction
on double
benefit

23. No person being a member shall be entitled at any time to receive more than one benefit and in the event of a member qualifying for more

than one benefit at the same time, the Board may in its discretion approve or seek the opinion of a member so qualified as to which one of the benefit was suitable to a member and the decision of the Board shall be final:

Provided that the benefit to be granted shall be limited to an amount not exceeding the aggregate of his pensionable emoluments.

Computation
of
pension
upon
transfer
appointment

24.- (1) Where an officer who holds a pensionable office joins the Service in a specified office or a parastatal organization, or having served in a specified office or a parastatal organization joins the Service on pensionable terms

and his aggregate service would have qualified him, on retirement, for a pension had that Service been wholly under the Government he may, on his retirement from the Service, the Service of the specified office or the parastatal organization, as the case may be, in circumstances in which he is permitted by the law or regulation of the service in which he is last employed to retire on pension, be granted in respect of the Service a pension which shall be calculated with reference to the provisions of this Act.

(2) Where the officer is not in the Service at the time of such retirement, his pensionable emoluments for

the purposes of this section shall be those which are currently taken for computing the pension of the holder of the office he last held when he was last employed in Service.

(3) Where, immediately before he was appointed, nominated or elected, as the case may be, to a specified office or a parastatal organization an officer employed on pensionable terms or his employment was governed by an employees' terminal benefits scheme under which the terminal benefits on retirement took form of payment of a pension, that officer shall not be eligible to receive a pension or gratuity under this Act during all that

period in which he was employed to such a specified office or a parastatal organization and such officer shall, on taking such office be deemed to be on leave without salary from Service for the purpose of computation of his pension and gratuity.

Gratuity
where
length of
service
does not
qualify
for pension

25. Every officer, otherwise qualified for a pension, who has not been in the Service for fifteen years, may be granted on retirement a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period might have been granted to him under the Act.

Where Service
is terminated
in public
interest
President may
grant pension

26. Where an officer's Service is terminated on the ground that, having regard to the conditions of the public service, the usefulness of the officer and all the other circumstances of the case, such termination is desirable in the public interest, and the benefits cannot otherwise be granted to him under provisions of this Act, the President may, if he thinks fit, grant such benefits as he thinks just and proper, not exceeding in amount that for which the officer would be eligible if he retired from the public service in the circumstances described in paragraph (e) of section 16.

President may
exempt from
certain
conditions

27.-(1) Any public officer to whom this Act applies may by application to the President, supported by an affidavit and the recommendation of a specified authority, apply for exemption from the application to him of any condition under this Act or under any other written law relating to the granting of pension or gratuity, and the President may grant the exemption if he is satisfied that the application of such condition under the Act or under any other written law in relation to the public officer or a category of public officers would unfairly disqualify the officer or category of public officers from being granted such pension or gratuity.

(2) There shall be formed a Retirement Benefits Committee whose functions shall be to advise the President on matters relating to pension.

(3) For the purposes of this section the expression "specified authority" means-

- (a) in relation to a public officer serving under a district or regional administration, the Regional Administrative Secretary.
- (b) in relation to a public officer serving in a Ministry, the Permanent Secretary; and
- (c) in relation to a public officer

serving in an
extra-Ministerial
Department, the
Head of the
Department.

(4) The Retirement
Benefits Committee shall
consist of-

- (a) the Chief
Secretary, who
shall be the
Chairman;
- (b) the Permanent
Secretary to the
Treasury;
- (c) the Permanent
Secretary for the
time being
responsible for
Civil Service;

(d) the Deputy
Attorney
General,

and it shall generally be responsible for advising the President on matters relating to the provisions of this section.

(5) All the retirement benefits granted under this section shall be paid out of the Consolidated Fund.

Pensions,
gratuity or
allowance
not to be
assignable

28. A pension, gratuity or other allowance granted under this Act shall not be assignable or transferable except for the purposes of satisfying -

- (a) a debt due to the Government; or
- (b) an order of any competent court

for the periodical
payment of sums
o f m o n e y
towards the
maintenance of
the wife or
former wife or a
child of the
officer to whom
the pension,
gratuity or other
allowance has
been granted,

and shall not be liable to be
attached, be questered or levied
upon for or in respect of any
debt or claim except a debt,
including a debt of income tax
due to the Government.

Pensions
when
serving
sentence

29.-(1) If any person to whom benefits have been granted under this Act is sentenced to a term of imprisonment by any competent court for any offence, it shall be lawful for the Board, to direct all or any part of the moneys to which that person would have been entitled by way of pension or allowance had he not been sentenced, to be paid, or applied, for the maintenance or benefit of, all or any to the exclusion of the other or others, of the following, that is to say, such person and any wife, child or children of that person in such proportions and manner as the Board thinks proper, and such moneys shall be paid or applied accordingly.:

(2) If that person after conviction at any time receives a free pardon, the benefits shall be restored with retrospective effect; but in determining amount of benefits payable to that person, account shall be taken of all moneys paid or applied under subsection (1).

Ap-
proval
of the
Na-
tional
As-
sem-
bly to
in-
crease,
vary
or
modify
ben-
efits

Cap.
371

30.—(1) If the President, after consultation with the Retirement Benefits Committee, considers it necessary, desirable or in the national interest, and is minded that any retirement benefits payable under the provisions of this Act, be increased or otherwise varied or modified in such manner and to such extent as he may determine, he may in writing signify his intention to the Minister in that behalf.

(2) Where the Minister-

(a) receives a writing signifying to him the intention of the President in pursuance of subsection (1); or

(b) after consultation with the Retirement Benefits Committee, considers it necessary or desirable that the minimum pension payable to persons enjoying retirement benefits under the provisions of the Pensions Ordinance be increased,

he shall submit to the National Assembly the intention of the President referred to in subsection (1) or, as the case may be, that of the Minister referred to in paragraph (b), for the Assembly to approve of the intention by resolution.

(3) Where the National Assembly approves of the intention of the President or of the Minister submitted to it under subsection (2), the President or, as the case may be, the Minister shall then, by order published in the *Gazette*, increase, vary or modify otherwise the retirement benefit or the minimum pension, as the case may be.

(4) The retirement benefits granted in pursuance of this section shall be charged on the Consolidated Fund.

PART IV

THE FUND

Establishment
of the Fund

31.-(1) There is hereby established a Fund to be known as the Public Service Pensions Fund into which shall be paid -

- (a) all contributions required to be made under this Act;
- (b) money earned by carrying out any project, scheme or enterprise

f i n a n c e d
pursuance to this
Act;

(c) moneys earned
or arising from
any property,
investments,
mortgages,
charges or
debentures
acquired by or
vested in the
Fund;

(d) all other sums or
property which
may in any
manner become
payable to or
vested in the
Board in respect
of any matter
incidental to i t s

powers and
duties.

(2) There may be charged on and paid out of the Fund all such sums of money as may be granted by way of pension, gratuity or other benefits, including the expenses of administration, as are authorized by this Act.

Establishment
of the Board

32.-(1) There is hereby established a Board of Trustees of the Public Service Pensions Fund.

(2) The Board shall be a body corporate with perpetual succession and a common seal and in its corporate name, be capable of-

- (a) suing and being sued;
- (b) acquiring, purchasing, taking, holding and enjoying movable and immovable property; and
- (c) entering into contracts and doing and performing all such things or acts for the proper performance of its functions under this Act which may lawfully be done or performed by

a body corporate.

(3) The constitution, functions, duties, powers and any other matters in relation to the Board shall be as prescribed in Part VI of this Act.

Management
of the Fund

33. The Board shall be responsible for the management and control of the Fund in accordance with the provisions of this Act.

Appointment of
the Director
General

34.-(1) The President shall appoint a person to be the Director-General of the Fund who shall serve upon terms and conditions which shall be specified in the instrument of his appointment.

(2) The Board may, with the consent in writing of the Minister, appoint such other officers and employees of such designation as it considers necessary for the efficient conduct of the business of the Fund and upon the salaries and other terms and conditions as may be determined by the Board.

(3) Without prejudice to any provision in this Act, the Director General shall be the Secretary of the Board and subject to the directions of the Board, be responsible for the day to day administration of the Fund and the Scheme.

Fund to be
held by
the Board
of Trustees

35.-(1) For the avoidance of doubt, it is hereby declared that the money in the Fund shall, for the purposes of this Act and all other written laws, be deemed to be funds held by the Board in trust for the members of the Scheme to be administered by the Board in accordance with the provisions of this Act.

(2) Notwithstanding the provisions of subsection (1), it shall be lawful for the Board to authorize payments out of the Fund for any of the purposes for which payments out of the Fund are expressly authorised by the Act.

Minister's
powers to
make regula-
tions

36. The Minister may,
on recommendation of the
Board, make regulations -

- (a) to provide for the
manner of
payment and
collection of
contributions;
- (b) to provide for
forms in which
particulars and
returns shall be
submitted;
- (c) to provide for the
procedure for
dealing with
unclaimed
moneys in the
Fund;
- (d) to provide that
any provisions of
this Act shall not

- apply or shall apply with such modifications as may be specified in the regulations to any persons or class of persons.
- (e) to provide for anything which may be necessary for the better carrying out of any of the provisions of this Act.

PART V

CONTRIBUTIONS AND PAYMENTS

Sources of
the Fund

37. The sources of the
Fund shall be from -

- (a) employees
contributions;
- (b) employer's
contributions;
- (c) moneys accrued
from the
investment of the
Fund;
- (d) such sums as
may be
appropriated by
Parliament for
the purposes of
the Fund.

Contributions
and payments
to the Fund

38.-(1) All sums
collected, recovered or
transferred on account of
contribution under this Act shall
be paid into the Fund in such
manner as the Board shall
direct.

(2) The Board shall cause to be credited to each member's account -

- (a) the amount of any contributions paid in his respect by the employer on his own behalf and on behalf of such member;
- (b) any other moneys paid on behalf of that member under this Act.

Failure of
employer to
pay contri-
bution to
the Fund

39.-(1) Where any employer fails to pay any contribution which he has deducted from the wages of an employee, the Board shall, on being satisfied that such

deduction has been made, credit the employee with the amount of that contribution and charge the amount so credited to the general revenues of the Fund.

(2) Nothing in this section shall prejudice the right of the Board to recover the amount of such contribution from the employer.

(3) Notwithstanding anything to the contrary any amount recovered under subsection (1) shall be disbursed in the following manner -

(a) to be credited to the general revenues of the Fund such sum that has been paid out from the

general revenues
of the Fund
under subsection
(1);

- (b) the balance
thereof shall be
credited to the
r e s p e c t i v e
e m p l o y e e s
a c c o u n t s
rateably.

**Employer's
contribution**

40. Every employer of
a member shall be liable to pay
monthly contributions in respect
of the member at the rate of
fifteen per-centum of the
member's salary.

**Employee's
contribution**

41.-(1) Each member
shall make, as from the date of
becoming a member, a

contribution to the Fund at the rate of five per-centum of his salary and that contribution shall be deducted from his salary monthly.

(2) An employer shall contribute in respect of a member by deducting that member's contribution from his salary at the end of each month.

(3) Where an employer deducts a member's contribution from the member's salary in pursuance of this section in advance of the payment of that contribution to the Fund, the employer shall hold that contribution on trust for the purposes of this Act.

(4) Where the Board is satisfied that an employer has deducted the member's contributions from the member's salary but has failed to pay the contribution to the Fund, the Board may whether or not that contribution is recovered from the employer, credit to the member's account in the Fund, the amount of the member's contribution and charge the cost to the employer.

Contribution
not transfer-
rable

42. Notwithstanding
anything to the contrary
contained in any written law -

- (a) no sum deducted
from the salary
of the member of
the Fund;

(b) no amount payable by the employer as his contribution in respect of a member; and

(c) no amount standing otherwise to the credit of a member of the Fund,

shall be assignable, transferrable or liable to be attached, or levied upon for or in respect of any debt or claim against a member.

Refund of
excess
contributions

43. Any moneys paid to the Fund in excess of the amount for which any employer is liable in respect of an

employee or in excess or in excess of the contribution payable for a contribution period may be refunded to the employer or a member or both, as the case may be, in such manner as the Board may determine.

Accounts of
members

44.-(1) The Board shall establish and maintain for each member of the Fund an account to which shall be credited all contributions made to the Fund in respect of such member.

(2) All the payments made by that member and all interest credited under this Act, shall be charged all the benefits granted or refund made in respect of that member.

**Members rights
to their
accounts**

45. It shall be the duty of the Director General to inform any member of the Fund on request about the welfare of the member's account.

**Contribution
to the Fund
to be drawn
from the
Consolidated
Fund**

46. If the Fund is at any time unable to pay any sum which the Fund is required to pay under this Act, the sum required to be so paid shall be charged on and advanced to the Fund from the Consolidated Fund and the Fund shall as soon as practicable repay to the Government the sum so advanced.

**Exemption
from stamp
duty and
income tax**

47.-(1) No stamp duty and no value added tax shall be payable on any receipt, contract, instrument or other

document given or executed by the Board on behalf of the Fund or by any person in respect of benefits or refunds of contributions under this Act.

Act No.20
of 1972

(2) Notwithstanding subsection (1) nothing in this section shall be construed to exempt any person from liability to pay stamp duty on any power of attorney or on any document otherwise liable under the Stamp Duty Act.

(3) No income tax on the contributions and benefits payable under the Scheme or corporate tax or any other tax which would have otherwise been levied on the Fund, be levied on the Fund.

Annual
accounts
and audit

48.-(1) The Board shall
cause to be kept and
maintained proper books of
accounts and records with
respect to -

(a) the receipt and
expenditure of
moneys and other
f i n a n c i a l
transactions of
the Fund;

(b) the assets and
liabilities of the
Fund,

and shall cause to be made out,
for every financial year, a
balance sheet and a statement
showing details of the income
and expenditure of the Fund
and all its assets and
liabilities.

(2) Not later than six

months after the close of every financial year, the accounts including the balance sheet of the Fund relating to that financial year shall be audited by the Controller and Auditor General.

(3) As soon as the accounts of the Fund have been audited, and in any case not later than six months after such audit, the Board shall submit to the Minister a copy of the audited statement of accounts, together with a copy of the report made by the auditors.

(4) As soon as practicable after receipt by him of the copy of the statement together with the copy of the report submitted pursuant to subsection (3), the Minister

shall lay a copy of the statement together with a copy of the auditors' report before the National Assembly.

Authority

for withdrawals
from the
Fund

49.-(1) Subject to sections 11, 12, 13 and 14 and any regulations and rules made under this Act, no sum of money standing to the credit of a member of the Fund may be withdrawn except with the authority of the Board and, such authority shall not be given unless the Board is satisfied that -

- (a) the member of the Fund has died;
- (b) the member of the Fund has attained the age

of sixty years;

(c) the member of the Fund is physically or mentally incapacitated from engaging in any further employment;

(d) the member of the Fund is about to leave the country with no intention of returning thereto or of residing in the United Republic of Tanzania.

(2) When a withdrawal under subsection (1) has been made of any amount standing

to the credit of the member of the Fund, the member shall not thereafter be treated as an employee.

**Report by
the Board**

50. The Board shall, within six months after the end of each financial year, make a report to the Minister on the operations of the Fund during that financial year, and the Minister shall lay a copy of that report before the National Assembly together with a copy of the statement of accounts required to be laid before the National Assembly by section 48.

Actuarial
evaluation
of the Fund
and Board's
recommenda-
tion to the
Minister

51.-(1) The Board shall, at intervals of not less than five years or at any time when the Minister so directs, cause the assets and liabilities of the Fund to be evaluated by an actuary.

(2) Any report or findings of an actuary made under subsection (1) shall be submitted before the Board as soon as possible and the Board upon receipt of the report or findings shall make necessary recommendations to the Minister.

(3) Recommendations of the Board arising from the report of the evaluation carried out in terms of subsection (1) shall be submitted to the Minister within that time and

in that report, the Minister shall take measures as he may consider necessary or expedient for the avoidance of any current or future deficiency in the Fund, and may advise the employers as well as the employees to increase their contributions to the Fund by the revised rate as he may determine or make any steps or measure geared at ameliorating the deficiency or loss to the Fund.

(4) The word "actuary" as used under this section means an expert who calculates insurance risks and premiums by studying rates of mortality and frequency of accidents, fires, thefts and the like incidents.

PART VI

THE BOARD

Composition of the Board

**52.-(1) The Board shall
comprise of -**

- (a) Chairman, who
s h a l l b e
P e r m a n e n t
Secretary of the
Ministry of
Finance;
- (b) the Permanent
Secretary to the
Civil Service;
- (c) the Attorney-
General;
- (d) the Governor of
the Bank of
Tanzania;
- (e) the Secretary
General of the
Trade Union of
Government
Employees;

(f) the Treasury Registrar;

(g) three other members appointed by the Minister being-

(i) two representative from the trade union of Government employees one of whom shall be a woman;

(ii) one representative from the Civil Service;

(2) The appointments to be made by the Minister under subsection (1)(g) shall be made from amongst persons who have had experience of, and shown capacity in, social security, law, insurance, financial matters or administration.

(3) Members of the Board shall not be entitled to any remuneration but may be paid such allowances as the Minister may upon

recommendation of the Board, determine.

(4) The Board shall ordinarily meet four times in a year but the Chairman may convene an extra-ordinary meeting when the need to do so arise.

Functions
of the
Board

53. The functions of the Board shall be -

- (a) to manage and administer the Fund;
- (b) to invest moneys available in the Fund;
- (c) to be responsible for disbursement of pension, gratuity and other benefits in

accordance with
the provisions of
this Act;

- (d) to advise the
Minister on
matters relating
to the
administration of
this Act; and

- (e) to do all such
acts and things
and to enter into
all such
transactions as,
in the opinion of
the Board, may
be necessary for
the proper and
efficient
administration of
the Fund.

Duties of
the Board

54. It shall be the duty
of the Board -

- (a) to manage and administer the Fund in accordance with the highest standards which a person holding any fund in a fiduciary capacity on behalf of another may reasonably be expected to conform to;
- (b) to protect, safeguard and promote the interests of the members of the Fund;

- (c) to do all such acts and things as the Board may reasonably be expected to do -
 - (i) to uphold
a n d
s u p p o r t
the credit
o f t h e
Fund;
 - (ii) to obtain
and justify
t h e
confidence
o f t h e
people of
the United
Republic
o f
Tanzania
and of the

members
of the
Fund in
particular;
and

- (iii) to avert
and
minimize
any loss
to the
Board.

Powers of
the Board
to appoint
and delegate

55.-(1) The Board shall
have such powers as are
given or imposed under this
Act.

(2) The Board may, by
instrument under its seal,
appoint and delegate to such
terms, conditions and
restrictions as it may specify, to
any committee of the Board or

to the Fund all or any of the functions, authorities or duties conferred upon the Board by or under this Act and where any delegation is so made the delegated function, power, authority or duty may be performed or, as the case may be exercised by the delegate subject to the terms, conditions and restrictions specified in writing.

(3) The Board may revoke a delegation made by it under this section.

(4) No delegation made under this section shall prevent the Board from itself performing or exercising the function, power, authority or duty delegated.

(5) In the event of any

dispute between the Board and the Fund on or in relation to any matter arising from any delegation or purported delegation made under this Act, the dispute shall be referred to the Minister whose decision shall be final and binding on the parties.

Temporary
members

56.-(1) Where any member appointed under subsection (1)(d), (e), (f) and (g) of section 52 is by reason of illness, infirmity or absent from the United Republic, unable to attend any meeting of the Board, the Minister may appoint a temporary member in his place and such temporary member shall cease to hold office on the resumption of

office of the substantive member.

(2) When attending meetings of the Board in place of a member, the temporary member appointed under subsection (1) shall for all purposes be deemed to be a member of the Board.

(3) A temporary member shall cease to be a temporary member when the substantive member in respect of whom he is a temporary member ceases to be a member of the Board.

Tenure
of office

57. Every member of the Board, shall hold office for a term not exceeding three years and shall be eligible for reappointment.

Resignation
and revocation
of
appointment

58.-(1) Any member of the Board, may at any time resign his office by a written notice addressed to the Chairman, and in the case of appointment of the Chairman by a written notice addressed to the Minister.

(2) The Minister may at any time revoke the appointment of a member of the Board if he thinks it is expedient so to do without assigning any reason.

Vacation
of
office

59. A member of the Board shall be deemed to have vacated his office -

- (a) upon his death; or
- (b) upon his failure to attend three consecutive

meetings of the
Board without
reasonable
excuse.

Quorum and
conduct of
proceedings

60.-(1) The Chairman
and four other members shall
form a quorum for a meeting of
the Board.

(2) In the absence of the
Chairman the members
present shall elect one of their
member to be a temporary
Chairman of that meeting.

(3) At any meeting of the
Board a decision of the
majority of the members
present and voting shall be
deemed to be a decision of the
Board and in the event of an
equality of votes the Chairman
of the meeting shall have a

casting vote in addition to his deliberative vote.

Chairman
of the Board
to have a
casting
vote

61. Where on any question to be determined there is an equality of votes, the Chairman shall have a casting vote in addition to his deliberative vote.

Minister's
powers to
give
directions

62. The Minister may give to the Board directions of a general or specific nature as to the performance by the Board of any of its functions under this Act in relation to any matter appearing to the Minister to affect the national interest, and the Board shall give effect to every such direction.

Authentica-
tion of
the seal

63. The seal of the Board shall not be affixed to any deed, document and other instrument except in the presence of the Chairman and the Director General, or either the Chairman or the Director General and one other member of the Board as the Board may appoint in that behalf.

Reserve
Account

64.-(1) The Board shall establish, maintain and manage a Reserve Account into which shall be paid -

- (a) all portion of the income from the investments;
- (b) other moneys authorized to be paid into the Reserve Account

by any provision
of this Act;

(c) fines and
penalties which
may be levied
under this Act.

(2) The payment into and
out of the Reserve Account
shall be determined by the
Board.

Board may
establish
a committee

65. Notwithstanding any
provisions of the Act, the Board
may appoint any person or
establish any committee in
respect of any matter relating to
the management, investment
and administration of the Fund.

Powers to
grant
loans

66. The Board may grant loans and make advances to its officers and employees on such terms and conditions as the Board may determine.

Disqualifica-
tion from
membership
of the Board

67. The following persons shall be disqualified from being appointed as a member of the Board and shall cease to be such a member if -

- (a) such a person is of unsound mind or is otherwise incapable of performing his duties;
- (b) such person has been convicted of an offence and sentenced to imprisonment for

a term of not less
than one year;

(c) such person who
h a s b e e n
convicted of an
offence involving
f r a u d o r
dishonesty;

(d) such person is
d e c l a r e d
bankrupt

Disclosure
of interest

68.-(1) Every member
of the Board, or Committee,
having directly or indirectly by
himself, his spouse or children,
any interest in any matter under
discussions by the Board or
any committee of which he is a
member, shall disclose to the
Board or committee, as the
case may be, the fact of his

interest and the nature thereof as soon as practicable after the relevant fact has come to his knowledge.

(2) Any member of the Board or committee who fails to disclose his interest as provided under subsection (1) shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term not exceeding six months or to a fine not exceeding fifty thousand shillings or to both.

(3) Every declaration under this section shall be recorded in the minutes of the Board or committee, and after any declaration made under subsection (1) the member of the Board or committee, as the case may be, shall-

- (a) not take part nor be present in decision of the Board or committee relating to the matter; and
- (b) be disregarded for the purposes of constituting a quorum of the Board, or committee for such deliberation or decision.

(4) No act or proceedings of the Board or committee shall be invalidated on the ground that any member of the Board or committee has contravened the provisions of this section.

PART VII

OFFENCES

Offence for failure to comply with conditions **69.-(1)** Any person being an employee of the Fund, a member or an officer who is subject to this Act who -

- (a) for the purpose of evading payment of any contribution by him or some other person knowingly makes any false statement or representation, or produces or furnishes or causes to be produced or furnished any document or

information
which he knows
to be false in a
material
particular;

- (b) for the purpose
of obtaining any
benefit or refund
for himself or
some other
person ,
knowingly makes
any false
statement or
representation, or
produces or
furnishes or
causes to be
produced or
furnished any
document or
information

which he knows
to be false in a
m a t e r i a l
particular;

- (c) misrepresents or
fails to disclose
any material fact;
- (d) fails to pay to the
Fund within such
period as may be
prescribed any
c o n t r i b u t i o n
which he is liable
to pay under this
Act;
- (e) obstructs or
assaults any
officer or servant
of the Board in
the discharge of
his duties as
such;

- (f) fails to comply with any regulations made under this Act as a result of which there is a loss to the Fund or as a result of which the accounts of individual members cannot be credited with their contributions;
- (g) fails without lawful excuse to produce documents required to be produced under this Act by him;

- (h) obtains the consent of employees required under this Act by duress or undue influence;
- (i) knowingly deducts from an employee's salary or allowance any sum in respect of a contribution to the Fund greater than the employee's contribution; or
- (j) fails without lawful excuse to comply with the terms, of and

conditions
provided under
this Act,

commits an offence and is liable upon conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

(2) The court before which any person is convicted of an offence under this Act may, without prejudice to any civil remedy, order such person to pay to the Fund the amount of any contributions, together with any interest or penalty thereon, certified to be due from such person to the Fund at the date of conviction; and such amount may be recovered in the same manner

as a fine and shall be paid into the Fund for the credit, where applicable, of the accounts of the members of the Fund concerned.

(3) Proceedings in respect of any offence under this Act may be commenced at any time within the period of three months from the date on which evidence in the opinion of the Director General of Pensions to justify a prosecution for the offence comes to his knowledge, or within a period of twelve months after the commission of the offence, whichever is the later.

(4) Notwithstanding anything to the contrary contained in any law respecting the jurisdiction of such

magistrate, in all cases or matters arising under this Act, offences under this Act shall be triable by a court other than a primary court.

Punishment

70. Where a person is convicted of an offence under this Act, he shall be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding four years or to both.

**Director
General to
institute
proceedings**

71. Any action for the recovery of contributions and all criminal proceedings may be instituted by the Director General or other officer of the Fund appointed by the Board in that behalf and where action is instituted in a magistrate's

court, any person authorized by this section may appear and conduct the case.

Liability of
members
Cap.16
Act No.7
of 1970

72.-(1) Without prejudice to the provisions section 284A of the Penal Code or section 3 of the Public Officers (Recovery of Debts) Act, 1970, no act or thing done, or omitted to be done by any trustee or by any officer, servant or agent of the Board shall, if done or omitted to be done in good faith in execution or purported execution of his duties as a trustee, officer, servant or agent, shall subject that person to any action, liability or demand.

(2) The provisions of subsection (1) shall apply in like manner in relation to liability of members of the Investment Panel.

PART VIII

TRANSITIONAL PERIOD AND MISCELLANEOUS PROVISIONS

Repeal of
Pensions
Ordinance
Cap.371

73.-(1) The Pensions Ordinance is hereby repealed.

(2) All persons who, immediately before the commencement date, were receiving pension, allowances, additional benefits or other retirement benefits granted under the provisions of the Pensions Ordinance which are similar to those set out under section 20(4) of this Act, shall continue to receive those benefits as if the Pensions Ordinance had not been repealed.

(3) All the employees who were immediately before the

commencement of this Act qualified under the pension scheme shall on attainment of retirement age be entitled to receive their pension for the service they rendered in the Service before the commencement date plus the remaining portion of the pension entitlement under this Act.

Continuance
of laws

74.-(1) Subject to the provisions of this Act, all written laws, orders, regulations and rules enacted before the commencement date shall, and until they are revoked or replaced, continue in force on and after the commencement date and be construed as if they have been made under this Act.

(2) Unless the context requires otherwise any reference in any written law to the Pensions Ordinance shall be construed as references to the Public Service Retirement Benefits Act, 1999.

Transfer of
powers,
rights,
liabilities
and duties

75. Subject to the provisions of this Act, all powers, rights, privileges, duties, liabilities or obligations which, immediately before the commencement date were those exercisable by persons in accordance with the provisions of the Pensions Ordinance shall as from that day devolve on the Pensions Fund.

Transfer of
property

76. Subject to the provisions of this Act and to any direction of the Minister, all property and assets other than land which immediately before the commencement date were vested in the Ministry of Finance, Pensions Department or in any person on behalf of the Pensions Department shall, from the commencement date, vest in the Board.

Existing
contracts

77. Subject to the provisions of this Act, all deeds, bonds, agreements, instruments and working arrangements subsisting immediately before the commencement date affecting any of the property transferred shall be of full force and effect

against or in favour of the Board and enforceable as fully and effectually as if instead of the Pensions Department the Board has been named therein or had been a party thereto.

Continuance
of criminal
and civil
proceedings

78.-(1) Subject to the provisions of this Act neither the repeal of the repealed Act nor anything contained in this Act shall affect any person's liability to be prosecuted or punished for offences committed under the repealed Act before the commencement of this Act or any proceedings brought or sentence imposed before that day in respect of that offence.

(2) Subject to the provisions of this Act, any

proceedings whether civil or criminal or cause of action pending or existing immediately before the commencement date by or against the Pensions Department or any person acting on behalf of the Pensions Department may be continued or instituted by or against the Board as it might have been by or against the Pensions Department or such person as if this Act had not been passed.

Continuance
of service
by officers
and employees

79.-(1) Every person who immediately before the commencement date was employed as an officer or employee of the Pensions Department shall on and after

that date be transferred to the employment of the Fund.

(2) Upon the establishment of the Board pursuant to section 32 the allocation of employees to the Fund shall be effected subject to prior arrangement made between the Treasury and the Fund.

Pending
disciplinary
proceedings

80. Where immediately before the commencement date -

- (a) any disciplinary proceedings have been initiated against any employee or officer or employee of the P e n s i o n s

Department and such proceedings are still pending before the former P e n s i o n s Department or in the course of being heard or investigated by the former P e n s i o n s Department or had been heard or investigated by the former P e n s i o n s Department and no order or decision had been rendered thereon; or

- be; and
- (ii) in the case
o f
paragraph
(b), deal
with
s u c h
employee
or officer
in such
manner as
it deems
appropri-
a t e ,
h a v i n g
regard to
t h e
offence
against
h i m ,
including
t h e

(b) any such employee or an officer has been interdicted or suspended,

the Board shall -

- (i) in the case
of
paragraph
(a), carry
on and
complete
the
hearing
investigati
on and
make an
order or
render a
decision,
as the
case may

institution
a n d
completi-
o n
discipli-
n a r y
procee-
dings and
t h e
making of
any order
o r t h e
rendering
o f a
decision
a s t h e
case may
be, as if
t h o s e
discipli-
n a r y
procee-

dings had
b e e n
commenc-
ed by the
Board to
which the
employee
o r a n
officer
would be
employed.

Payments
during
transition
period

81. Subject to the provisions of this Act or any other written law, an employee who at the commencement date has attained the age of fifty five but for the operation of section 17 has continued in Service, shall become a member of the Fund.

(2) A person who become a member of the Fund in pursuance to the provisions of subsection (1) shall on retirement from Service be granted benefits under the Pensions Ordinance for the period during which he was not a member of the Fund and shall be granted benefits under this Act in respect of the period during which he was a member of the Fund.

Option to
the payment
of lumpsum

82. Any person who at or during his retirement period and whose pension is from zero shillings to twenty thousand shillings per month shall be allowed to opt out for the lumpsum payment.

Employee's
payments to
be refunded
and paid out
of the Conso-
lidated Fund

83. Any employee or
member who dies within a
period of five years after the
commencement date regardless
of his contributions to the Fund-

(a) his contributions
shall be refunded
t o t h e
beneficiaries or
legal personal
representatives
by the Permanent
Secretary to the
Ministry of
Finance;

(b) his pension and
other benefits
shall be paid to
his beneficiaries
or legal personal
representatives
u n d e r t h e

P e n s i o n s

Ordinance as if
this Act had not
been enacted.

Employees
under the
Pensions
Ordinance
(Cap.371)
to continue
under the
same

84. Notwithstanding
anything to the contrary, any
person or category of persons
who was covered under the
Pensions Ordinance or any
other written laws and who is
not covered under this Act,
shall continue to enjoy all the
rights and benefits conferred
under that law as if this Act
had not been enacted.

Paymaster
General
to become
custodian
of the Fund

85.-(1) It is hereby declared that the Paymaster General shall be the custodian of the Fund until when the Board becomes in full operational and shall be responsible for all the payments made during the transition period.

Amendment of
section 3 of
the Income Tax
Act,
Act No.33
of 1973

86. The Income Tax Act, 1973 is amended by deleting paragraph (c) of subsection (2) of section 2 and by renumbering paragraphs (d) and (e) as paragraphs (c) and (d) respectively.

Amend-
ment of
section 6
of the
Tanzania
Intelli-
gence and
Security
Act, 1996
Act No.
15 of
1996

87. The Tanzania Intelligence and Security Act, 1996 is amended in Section 6 by deleting a fullstop which appear at the end of subsection (2) and by inserting thereat the following phrase "or as may be provided for by or under the Public Service Retirement Benefits Act, 1999.

SCHEDULE

(Under sections 8, 12, 13, 14, and 15)

BENEFITS:

- A. (Subsidiary benefits in respect of sickness, funeral, marriage, maternity).

The amount of the benefit payable to a member for the period of sickness shall not exceed the aggregate of 5 per centum of a member's monthly contribution towards the Scheme multiplied by six.

- B. (Withdrawal benefits in respect of emigration or withdrawal)

The amount of benefit shall be the

balance of the contribution by both a member and employer towards the Scheme at the date of payment after deduction of any subsidiary benefit drawn by a member.

Passed in the National Assembly on the 5th February, 1999.

G. F. MLAWA,
Clerk of the National Assembly