

THE PUBLIC SERVICE ACT, 2002

ARRANGEMENT OF SECTIONS

Section *Title*

PART I

PRELIMINARY PROVISIONS

1. Short title.
2. Date of commencement.
3. Interpretation.

PART II

ADMINISTRATION OF THE PUBLIC SERVICE

4. The Chief Secretary.
5. Other executives in the Service.
6. Duties of executives in relation to the Service.
7. The Public Service Scheme.
8. Administration and terms of service.

PART III

THE PUBLIC SERVICE COMMISSION

9. Establishment of the Commission.
- I 0. Functions of the Commission.
- I 1. Oaths of members.
12. Remuneration of members.
13. Protection of members.
14. The Secretary and staff of the Commission.
15. Departments of the Commission.
16. Annual report.
17. Communications of Commission privileged.
18. Prohibition of unauthorized disclosure of information.
19. Offence of attempt to influence the Commission.
20. Rules for exercise of the functions of the Commission.

PART IV

PROVISIONS RELATING TO FUNCTIONS OF THE PRESIDENT

- 21. Delegation of functions.
- 22. Advice not binding the President.
- 23. Power of dismissal.
- 24. Power of removal.
- 25. Appeals.

PART V

PROVISIONS RELATING TO RETIREMENT BENEFITS

- 26. Protection of pension rights.
- 27. Powers of the Chief Secretary in relation to pensions and other benefits.
- 28. Exemption from conditions.

PART VI

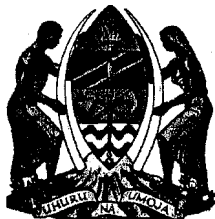
SPECIAL PROVISIONS

- 29. Functions of Commission in relation to teachers service.
- 30. Public servants in executive agencies and public institutions.
- 31. Public servants in the operational service.
- 32. Legal Proceedings.
- 33. Compensation for injuries and death.
- 34. Regulation.
- 35. Repeals.
- 36. Savings and transitional provisions.

—————
SCHEDULE
—————

Oaths/Affirmation of Chairman and Members.

THE UNITED REPUBLIC OF TANZANIA



No. 8 OF 2002

I ASSENT,

.....
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 -

"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; | Interpretation |

- 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 11

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) 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 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.

(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.-(I) 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 (1 0) 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;

11.4 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 *bonafide* 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 *bonafide 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 *bonafide* shall lie on the person alleging that it was so done.

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
Commissi-
on 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 Commis-
sion

(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 any 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 apart 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 2 1, 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-

(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.

Compensation for injuries and death

(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 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 thisday of.....2000

.....
President

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

.....
Clerk Of the National Assembly