

**THE POLICE FORCE AND PRISONS SERVICE COMMISSION
ACT, 1990**

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THE UNITED REPUBLIC OF TANZANIA



No. 8 OF 1990

I ASSENT,

President

5th June 1990

An Act to establish the Police and Prisons Service Commission, to define its functions and to provide for other matters relating to the Police Force and the Prisons Service

ENACTED by the Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY

1. This Act may be cited as the Police Force and Prisons Service Commission Act, 1990 and shall come into operation on the same date as the Civil Service Commission Act, 1989 comes into operation.

Short title
and com-
mence-
ment

2. In this Act, unless the context otherwise requires—
“Assistant Commissioner” means Assistant Commissioner of Police and Prisons respectively;

Interpre-
tation

“Chairman” means the Chairman and includes the vice-chairman or any person acting in that capacity;

“Commission” means the Police Force and Prisons Service Commission established under Section 4 of this Act;

“member” in relation to the Commission, means a member of the Commission and includes the Chairman and the Vice-Chairman of the Commission;

"Minister" means the Minister for the time being responsible for Home Affairs;

"Principal Secretary" means the Principal Secretary for Home Affairs;

"Police or Prisons officer" means an officer in the service of the Police Force or the Prisons Service;

"the Service" means service in the Police Force and prisons Service;

Applica-
tion

3.—(1) This Act shall apply in relation to the service in the Police Force and in the Prisons Service.

(2) The power of appointment, promotions, confirmation and termination of appointment of police and prisons officers above the rank of Assistant Commissioner is vested in the President of the United Republic.

(3) The power of appointments, promotions, confirmation and terminations of appointments for Police and Prisons Officers in the rank of Assistant Inspector up to and including that of the Assistant Commissioner is vested in the Commission.

(4) The power of appointment, promotion and termination of Police and Prison Officers below the rank of Assistant Inspector is vested in the Inspector-General of Police and the Principal Commissioner of Prisons respectively.

PART II

THE POLICE FORCE AND PRISONS SERVICE COMMISSION

Establish-
ment of
the Com-
mission

4.—(1) There is hereby established a Commission to be known as the Police Force and Prisons Service Commission.

(2) The Commission shall consist of—

- (a) the Minister, who shall be the Chairman;
- (b) the Deputy Minister, who shall be the Vice-Chairman
- (c) the Principal Secretary, who shall be Secretary;
- (d) the Inspector-General of Police;
- (e) the Principal Commissioner of Prisons
- (f) the Commissioner of Police, Zanzibar;
- (g) the Commissioner of Police in charge of Criminal Investigation Department;
- (h) the Commissioner of Police, in charge of administration and finance.
- (i) Commissioner of Prisons, in-charge of Administration and Finance;
- (j) Commissioner of Prisons, in-charge of Legal and Prisons Affairs;
- (q) two other members appointed by the Minister.

5. The functions of the Commission shall be—

Function
of the
Commis-
sion

- (a) to advise the President on the exercise of such of the functions conferred on the President by section 36 of the Constitution, and in respect of the filling of such vacancies in the Police Force and Prisons Service, as the President may require;
- (b) to exercise such of the functions conferred on the President by section 36 of the Constitution as may be delegated to the Commission under this Act;
- (c) to assist the President in relation to such matters relating to the Police Force and Prisons service as the President may require;
- (d) to exercise such other functions as may be conferred on the Commission by or under any other written law;
- (e) to consider on probation, and either confirm them in the service or extend probationary term, any of the officers so to afford an opportunity to improve in any respect in which his performance or conduct is found to be unsatisfactory;
- (f) to receive and act on appeals from the decisions of other delegates and disciplinary authorities"

6.—(1) This section shall apply in relation to appointments, promotions and confirmation in the Police Force and in the Prisons Service.

Appoint-
ment,
Promo-
tion and
Confirma-
tion

(2) The power of appointment, promotion, confirmation of appointment of Police and Prisons Officers of and above the rank of Senior Assistant Commissioner is vested in the President of the United Republic of Tanzania.

(3) The power of appointment, promotion, confirmations of appointments for Police and Prisons Officers in the rank of Assistant Inspector up to that of the Assistant Commissioner is vested in the Commission.

(4) The power of appointment, promotion and confirmation of Police and Prisons Officers below the rank of Assistant Inspector (Non-Commissioned Officers) is vested in the Inspector-General of Police and Principal Commissioner of Prisons respectively.

7.—(1) This section shall apply in relation to matters of discipline in the Police Force and Prisons.

Discipli-
nary Au-
thority
and pro-
cedure

(2) The final disciplinary authority in respect of officers above the rank of Assistant Commissioner is vested in the president.

(3) The final disciplinary authority in respect of officers of the rank of Assistant Inspector to the rank of Assistant Commissioner is vested in the Commission.

(4) The Commission may delegate some of its disciplinary powers to the Inspector General of Police, the Principal Commissioner of Prisons and the Principal Secretary.

(5) The final disciplinary authority in respect of Police and Prison Officers below the rank of Assistant Inspector is vested in the Inspector General of Police and the Principal Commissioner of Prisons respectively.

(6) No disciplinary proceedings shall be exercised against a Police or a Prisons Officer unless—

- (a) a disciplinary charge is preferred against him;
- (b) an inquiry is held into the charges;
- (c) he is afforded adequate opportunity to answer the charge.

Dismissal
and Re-
moval

8.—(1) The power to dismiss and to terminate the appointment of Police and Prisons officer shall be exercised in accordance with the provisions of this section.

(2) The power to dismiss a Police and Prisons officer shall not be exercised unless—

- (a) a disciplinary charge is preferred against him;
- (b) he is afforded an adequate opportunity to answer the charge, and
- (c) an inquiry is held into the charge.

Appeals

9.—(1) Where the Commission, in exercise of its disciplinary jurisdiction in relation to any Police or Prisons Officer of and above the rank of Assistant Commissioner, reduces his rank other than reversion from a rank to which he had been promoted or appointed on trial, or reduces his salary, removes or dismisses him in exercise of powers delegated to it in relation to him, that officer may appeal to the President against the decision of the Commission, and the President may confirm, vary or rescind the decision of the Commission.

(2) Where a delegate, other than the Commission, in the exercise of his or its delegated power in relation to any Police or Prisons Officer of below the rank of Assistant Commissioner, reduces his rank, other than reversion from a rank to which he had been promoted or appointed on trial, or reduces his salary, removes or dismisses him, such Police or Prisons Officer may appeal to the Commission against the decision of the delegate, and the Commission may confirm, vary or rescind the decision of that delegate.

(3) The President may, by regulations, provide for appeals in cases other than those provided for in this section.

(4) Where the President or the Commission varies or rescinds any decision removing or dismissing any Police or Prisons Officer from service, and substitute any other decision of removing or dismissing that Police or Prisons Officer the variation or rescission shall have effect

from the date of the original decision, and such Police or Prisons Officer shall, unless he shall sooner have ceased to be a Police or Prison Officer for any other cause, be deemed to have remained a Police or Prisons Officer notwithstanding the original decision.

PART III

PROVISIONS RELATING TO MEMBERSHIP OF COMMISSION AND PROCEEDINGS OF THE COMMISSION

10.—(1) Subject to the provisions of this section, the office of a member shall become vacant—

Tenure of office

(a) at the expiration of three years from the date of his appointment in respect of nominated members; and

(b) if circumstances arise which if he were not a member would cause him to be disqualified from appointment to that office.

(2) A nominated member may at any time resign his office by giving notice in writing to the Chairman, and the member as the case may be, shall cease to hold office from the date of receipt of the notice by the Chairman.

(3) A nominated member may be removed from the Commission for inability to discharge the functions of the same, whether arising from infirmity of body or mind (or any other cause) or for misbehaviour; but shall not be removed from the Commission for any other reason or in any manner.

11.—(1) If the Chairman is for any reason unable to discharge the functions of the office, then until the Chairman resumes, those functions shall be performed by the Vice Chairman.

Vice-Chairman to act in the absence of Chairman

(2) The quorum at any meeting of the Commission shall constitute half of the members of the Commission including the Chairman or the Vice Chairman.

12. Subject to the provisions of subsection 2 of section 12 and its rules of procedure, the Commission may, notwithstanding any vacancy in its membership or the absence of any member, deliberate on any issue, pass any decision of the Commission by a majority of the members present.

Vacancy

13.—(1) The members of the Commission shall, on first appointment take an oath in the form set out in the First Schedule to this Act.

Oaths of members

(2) Where any person required to take an oath under this section has no religious belief or the taking of an oath is contrary to his religious belief, he may make or subscribe a solemn affirmation in the form of

the oath appointed, substituting the words "solemnly and sincerely declare and affirm" for the word "swear" and omitting the words "so help me God".

(3) Every oath or affirmation taken by a member of the Commission shall be administered by a Judge of the High Court, and every oath or affirmation taken by a member or the staff of the Commission shall be administered by the Chairman of the Commission.

Com-
muni-
cations
of
Commis-
sion
privileged

14. 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 Minister or to any public officer, or which may have taken place between the Commission or any member or officer of the Commission and the Minister or any public officer, or between any members or officers of the Commission in the exercise, or in connection with the exercise of, the functions of the Commission, shall be privileged in that, unless the Minister consents in writing in that behalf, its production of disclosure in any legal proceedings may not be compelled.

Prohibi-
tion of un-
au-
thorised
disclosure
of infor-
mation

15.—(1) Neither a member nor any office of the Commission nor any other person shall, without the written permission of the Minister, 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 his duties under this Act in relation to any matters referred to the Commission under this Act; and any person who knowingly acts in contravention of any of the provisions of this section is guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding twenty months or to both that fine and that imprisonment.

(2) Any person who knows of any information which to his knowledge has been disclosed in contravention of the provisions of this section and who publishes or communicates it to any other person for purposes other than any prosecution under this Act or the exercise of his official functions, is guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding twenty months or to both that fine and that imprisonment.

Penalty
for at-
tempting
to influ-
ence the
Commis-
sion

16.—(1) Without prejudice to the provision of any other written law, every person who, otherwise than in the course of his duty, directly or indirectly by himself 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 ten thousand shillings or to imprisonment for a term not exceeding two years or to both that fine and that imprisonment.

(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 of assistance at the request of the Commission.

17. A prosecution in respect of any offence under this Part shall not be instituted except with the consent of the Director of Public Prosecutions.

Protection, of member

18. Every member and staff 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 bonafide execution of his duties as is by law given to the acts done or words spoken by him in the exercise of his duties of the Commission.

Prosecutions

PART IV

SPECIAL PROVISIONS

19.—(1) Any pensionable Police Officer may, after working for twenty five years consecutively in the Police Force or Prisons Service, retire from such service.

Pension Police and Prison Officers

(2) Subject to subsection (1) of this section, any Police Prison Officer may opt to retire in accordance with the provisions of section 10 of the Pension Ordinance.

Cap. 371

20. Every non-pensionable Police or Prison Officer shall, upon completion of contract on discharge be eligible to receive a gratuity to be prescribed by the Minister.

Gratuity Police and Prison Officers

21.—(1) Any Police or Prison Officer who sustains any injury or dies in the course of his duty shall be compensated.

Compensation Police and Prison Officers

(2) Subject to subsection (1) of this section the Minister shall, by Regulations, prescribe the terms and rates of compensation to be paid.

PART V

GENERAL

Power to
make
Regula-
tions

22.—(1) The Minister may make Regulations for the better carrying out of the objects of this Act.

(2) Without prejudice to the Generality of provisions of subsection (1), the Minister may make Regulations—

- (a) for any matter which by this Act may be provided for by regulations;
- (b) for the administration of the Police Force and Prisons Service in respect of terms and conditions of Service for Police and Prison Service.

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

- (a) prescribe mode of disciplinary proceedings, penalties and awards;
- (b) impose duties on delegates in the Police Force and Prison Service;
- (c) require persons to attend before the Commission to answer questions relating to the exercise of its functions;
- (d) make different provisions in respect of the Police Force and the Prisons Service.

(4) All Regulations made under this Act shall be published in the *Gazette*.

Savings

23. Notwithstanding the enactment of this Act, all subsidiary legislations, and all other administrative orders, directions or instructions made, given or issued under or in pursuance of the provisions of the Civil Service Act, 1962, which are in force on the commencement of this Act, shall be deemed to have been made, given or issued under or in pursuance of the provisions of this Act and shall remain in force until revoked or rescinded by subsidiary legislations, administrative orders, directions or instructions made under this Act.

FIRST SCHEDULEOATHS OF OFFICER OF THE COMMISSION

I,being called upon to exercise the functions of the office of
.....of the Police Force and Prison Service, do

Swear

that I will

.....

solemnly and sincerely declare and affirm not directly or indirectly, reveal to any unauthorized person or otherwise than in course of duty the contents or any part of the contents of any documents, communications or information of any kind which may come to my knowledge in the course of my duties as an officer of the Commission or under the provision of the Police Force and Prison Service Commission Act, 1990.

SO HELP ME GOD

SWORN/
DECLARED THIS DAY OF.....19.....

Before me
Chairman, Police Force and Prison Service
Commission

Passed in the National Assembly on the fifth day of April, 1990.

