

Tanzania

Judicial Service Act, 2005

Act 2 of 2005

Legislation as at 22 April 2005

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Judicial Service Act, 2005 (Act 2 of 2005)

Contents

Part 1 – Preliminary provisions	1
1. Short title and commencements	1
2. Application	1
3. Interpretation	1
Part II – Administration of the Judiciary	2
4. The Judiciary and Office of Chief Justice	2
5. Duties of the Chief Justice in relation to administration of the Judiciary	2
6. Supervisory powers of the Chief Justice	2
Part III – The Judicial Service Commission	3
7. Composition of the Judicial Service Commission	3
8. Secretary and staff	3
9. Oaths	3
10. Vacancy in membership	3
11. Procedure	4
12. Protection of members	4
13. Communication of Commission to be privileged	4
14. Offence to influence or attempt to influence Commission	4
15. Offence of false information to the Commission	4
16. Interpretation of “Commission” in sections 14 and 15	4
17. Unauthorized disclosure of information prohibited	4
18. Prosecutions	5
Part IV – Provisions relating to the functions of the President	5
19. Delegation of functions	5
20. Advice	5
21. Regulations	5
Part V – Provisions relating to the functions of the Commission	6
22. Functions of the Commission	6
23. Delegation of functions	6
24. Powers of dismissal and removal	7
Part VI – Committees	7
(a) – Judges Ethics Committee	7
25. Establishment of Committees	7
26. Establishment and composition of the committee	7
27. Functions of the Judges Ethics Committee	8

28. Complaints before the Judges Ethics Committee	8
29. Who may lodge a complaint	8
30. Form and content of a complaint	9
31. Procedure of handling complaints by the Chief Justice	9
32. Handling of a complaint by the Judges Ethics Committee	9
33. Procedure where a Judge does not admit	9
34. Proceedings of the Committee	10
(b) – Judicial Officers Ethics Committee	10
35. Establishment and composition of the Judicial Officers Ethics Committee	10
36. Functions of the Judicial Officers Ethics Committee	10
37. Complaints before Judicial Officers Ethics Committee	10
38. Procedure	11
(c) – Regional Judicial Committee	11
39. Establishment of Regional Judicial Committees	11
(d) – District Judicial Committee	12
40. Establishment of the District Judicial Committee	12
41. Reporting	13
Part VII – Final provisions	13
42. Regulations	13
43. Legal proceedings	13
44. Repeal and Savings	13
Part VIII – Consequential provisions	14
45. Amendment of the Civil Procedure Code	14
46. Amendment of the Criminal Procedure	14
First Schedule (Made under section 23(5))	14
Second Schedule (Made under section 9)	15
Third Schedule (Made under section 9)	15
Fourth Schedule (Made under section 27(3))	16

Tanzania

Judicial Service Act, 2005

Act 2 of 2005

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Assented to on 6 April 2005

Commenced on 1 July 2005 by Judicial Service (Date of Commencement) Notice, 2005

[This is the version of this document from 22 April 2005.]

[Repealed by Judiciary Administration Act (Act 4 of 2011) on 1 March 2012]

An Act to repeal the Judicial Service Act, 1962; to enact the Judicial Service Act, 2005, to provide for the administration, discipline of Judges, Judicial Officers and Magistrates in the Judiciary and for related matters.

ENACTED by Parliament of the United Republic of Tanzania

Part 1 – Preliminary provisions

1. Short title and commencements

- (1) This Act may be cited as the Judicial Service Act, 2005.
- (2) This Act shall come into operation on the date which the Minister may, by notice published in the *Gazette* appoint.

2. Application

This Act shall apply to persons holding the office of a Chief Justice, a Justice of Appeal, Principal Judge, a Judge, Judicial Officer and a Magistrate.

3. Interpretation

In this Act, unless the context otherwise requires—

“**Act**” means the Judicial Service Act, 2005;

“**Code of Judicial Ethics**” means the Code of Judicial Ethics established from time to time for Judges, Judicial Officers and Magistrates;

“**Commission**” means the Judicial Service Commission established under Article 112 of the Constitution;

“**Chief Justice**” means the Chief Justice appointed pursuant to Article 118(2) of the Constitution;

“**Committee**” means any Committee established under Part VI of this Act;

“**complaint**” in relation to a matter referred to the Commission or the Committee, means any act, omission or conduct referred in section 31 of the Act;

“**Constitution**” means the Constitution of the United Republic of Tanzania, 1977;

“**Judge**” means a Judge of the High Court appointed in terms of Article 109(7) of the Constitution;

“**Judge In-charge**” means the Judge In-charge of a High Court Zone or division of the High Court;

"judicial officer" means the Registrar of the Court of Appeal, Deputy Registrar of the Court of Appeal, Registrar of the High Court, Deputy Registrar of the High Court and District Registrar, Director of District Courts to Court of Appeal, Director of Primary Courts. Private Secretary to the Chief Justice and Senior Resident Magistrates holding certain posts in the headquarters of the Judiciary;

"Justice of Appeal" means a Justice of Appeal appointed pursuant to Article 118(1) of the Constitution;

"Magistrate" means a Primary Court Magistrate, a District Magistrate or a Resident Magistrate;

[Cap 1]

"Minister" means the Minister responsible for legal affairs;

"law officer" has a meaning ascribed to it under the Interpretation of Laws;

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

"Principal Judge" means the Judge of the High Court designated as **"Jaji Kiongozi in Kiswahili"** appointed under Article 109 of the Constitution;

"public servant" has the meaning ascribed to it under section 3 of the Public Service Act, 2002.

[Act No 8 of 2002]

Part II – Administration of the Judiciary

4. The Judiciary and Office of Chief Justice

- (1) The Court of Appeal of the United Republic of Tanzania and the High Court of the United Republic of Tanzania established by Articles 108(1) and 117(1) of the Constitution respectively and courts subordinate thereto, collectively referred to as the "Judiciary", shall be headed by the Chief Justice.
- (2) The Chief Justice shall, in addition to functions stipulated under Parts III and V of Chapter Five of the Constitution or any other written law, perform functions and exercise powers stipulated under this Act.

5. Duties of the Chief Justice in relation to administration of the Judiciary

The duties of the Chief Justice in relation to administration of the Judiciary shall include:

- (a) carrying out the general administration of the judiciary;
- (b) carrying out administration of the Court of Appeal;
- (c) convening meetings of the Commission;
- (d) recommending to the President on the need to re-engage a person who held the office of a Judge or a Justice of Appeal; and
- (e) to giving directions to the Principal Judge in relation to the carrying out of the administration of the High Court and courts subordinate thereto.

6. Supervisory powers of the Chief Justice

- (1) The Chief Justice shall, for the purpose of achieving better and effective performance of the functions of the offices of a Judge and a Justice of Appeal, supervise the disposal of cases.
- (2) In the exercise of powers of supervision, the Chief Justice may:
 - (a) call for any Judge to submit returns of the disposition of cases within a specified period;
 - (b) receive and investigate any complaint relating to the disposal of any case;

- (c) take such measures as may be necessary to address any matter which is the subject of a complaint; or
- (e) recommended that any matter, which is a subject of complaint, be referred to the Judicial Service Commission.

[Please note: numbering as in the original.]

Part III – The Judicial Service Commission

7. Composition of the Judicial Service Commission

- (1) There shall continue in existence, the Judicial Service Commission with its composition as established under the Constitution.
- (2) Members of the Commission appointed under Article 112(2)(c) and (e) of the Constitution shall hold office for three years but shall be eligible for re-appointment for one further term.
- (3) No member of the Commission shall be represented in a meeting by proxy and no member shall delegate the performance of any function or the exercise of duty ordinarily performed by him or exercised by him by virtue of being member of the Commission to any person.
- (4) The conduct of meetings and the procedure for making decision by the Judicial Service Commission shall be as provided for in the First Schedule to this Act.

8. Secretary and staff

- (1) There shall be a Secretary to the Commission who shall be appointed by the President and other members of staff of the Commission, as the Commission shall determine.
- (2) The Secretary of the Commission shall be responsible for securing and facilitating the implementation of all the decisions of the Commission.

9. Oaths

- (1) The members of the Commission and the Secretary shall, on first appointment, take an oath in the form set out in the Second Schedule to this Act.
- (2) The Chairman of the Commission may require any member of staff of Commission to take, on first appointment, an oath in the form set out in the Third Schedule to this Act.
- (3) 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 and 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".
- (4) Every oath or affirmation taken by a member of the Commission shall be administered by the President and every oath or affirmation taken by a member of staff of the Commission shall be administered by the Chairman of the Commission.

10. Vacancy in membership

- (1) Subject to its rules of procedure, the decisions and actions of the Commission shall not be invalid by the only reason of vacancy in its membership or the absence of any member.
- (2) Notwithstanding the provisions of subsection (1), any decision of the Commission shall require the concurrence of a majority of all the members thereof.

11. Procedure

Subject to the provisions of this Act and to any regulation made by the President, the Commission shall regulate its own procedure.

12. Protection of members

Every member of the Commission shall, 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, have like protection and privileges as is by law given to the acts done or words spoken by a Judge of the High Court in the exercise of his judicial office.

13. Communication of Commission to be privileged

No person shall in any legal proceedings be permitted or compelled to produce or disclose any communication, written or oral, which has taken place—

- (a) between the Commission, or any member or officer of the Commission and the President or a delegate, or the Public Service Commission, Police Force and Prisons Service Commission or any member of either such Commission; or
- (b) between any member or officer of the Commission and the Chairman thereof; or
- (c) between any member or officers of the Commission, in exercise of, or in connection with the exercise of, the functions of the Commission, unless the Chairman of the Commission consents in writing to such production or disclosure.

14. Offence to influence or attempt to influence Commission

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 on conviction shall be liable to a fine of not less than one hundred thousand shillings but not exceeding two hundred thousand shillings or to imprisonment for two years.

Provided that, nothing in this section shall prohibit 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.

15. Offence of false information to the Commission

Without prejudice to the provisions of any other law, any person who in connection with the exercise by the Commission of its functions or duties willfully 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 particular material, shall be guilty of an offence and on conviction shall be liable to a fine of not less than one hundred thousand shillings but not exceeding five hundred thousand shillings or to imprisonment for a term of two years or to both.

16. Interpretation of “Commission” in sections 14 and 15

For the purposes of sections 14 and 15, the term “Commission” shall include the Commission, any member of the Commission, Secretary, any Committee of the Commission, any officer of the Commission or any person or body of persons appointed to assist the Commission in the exercise of its functions or duties.

17. Unauthorized disclosure of information prohibited

- (1) No member of the Commission, nor any officer of the Commission, or any other person, shall, without the written permission of the Chairman of the Commission, publish or disclose to

any person otherwise than in exercise of his official functions the contents of any document, communication or information whatsoever which has come to his notice in the course of his duties in relation to the Commission: and any person who knowingly acts in contravention of the provisions of this subsection, shall be guilty of an offence, and on conviction shall be liable to a fine of not less than fifty thousand shillings but not exceeding one hundred thousand shillings or to imprisonment for a term of twelve months or to both.

- (2) Any person who knows of any information which to his knowledge has been disclosed in contravention of the provisions of subsection (1) of this section and who publishes or communicates it to any other person otherwise than for the purpose of any prosecution under this Act or in the course of his official duty, shall be guilty of an offence and on conviction shall be liable to a fine of not less than fifty thousand shillings but not exceeding one hundred thousand shillings or to imprisonment for a term of twelve months or to both.

18. Prosecutions

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

Part IV – Provisions relating to the functions of the President

19. Delegation of functions

- (1) The President may, by regulations, delegate the exercise of any of the functions conferred on him by Article 113 of the Constitution, or any function of establishing or abolishing any judicial office, to the Commission, a Judge or a judicial officer.
- (2) The President may, by regulations, authorize the Commission or any person to whom he has delegated the exercise of his functions under this section to deputize a Judge or a judicial officer to exercise on his behalf such other functions the exercise of which has been delegated to the Commission or such first mentioned person as may be specified therein.
- (3) In any regulations made for purposes of this section, the President shall specify the offices to which each delegation or authorisation relates.
- (4) The President may exercise his functions notwithstanding any delegation or authorization under this section.

20. Advice

The President may refer to the Commission for its advice any matter relating to the exercise of the functions conferred on the President by Article 113 of the Constitution or any function of establishing or abolishing any judicial office and the Commission shall advise the President on any such matter so referred to it:

provided that, nothing in this section shall preclude the President from seeking advice in respect of any such matter from any other person.

21. Regulations

- (1) The President may make regulations—
- (a) for any matter which, by this Act, may be regulated by the President;
- (b) regulating the performance of the functions conferred on him by Article 113 of the Constitution and by this Act, and of any function in relation to establishing or abolishing any judicial office, and the exercise of such functions by any delegate.

- (2) Without prejudice to the generality of the preceding provisions of this section, regulations may impose duties on any person, Judge, judicial officer, Commission or a public servant.
- (3) The President may delegate any of the powers conferred on him under this section to the Commission or the Chief Justice.

Part V – Provisions relating to the functions of the Commission

22. Functions of the Commission

The functions of the Commission shall be to:

- (a) advise the President in respect of—
 - (i) appointment of a Principal Judge or of Judges;
 - (ii) appointment of the Registrar of the Court of Appeal and the Registrar of the High Court;
 - (iii) inability of a Justice of Appeal or a Judge to perform functions of the office of a Justice of Appeal, a Principal Judge or a Judge;
 - (iv) misconduct of a Justice of Appeal or a Judge inconsistent with the ethics of office of a Justice of Appeal a Principal Judge or a Judge, Registrar of Court of Appeal and the Registrar of the High Court or with the law concerning the ethics of public leaders;
- (b) scrutinize a complaint against a Justice of Appeal, a Principal Judge, a Judge, a judicial officer or a Magistrate;
- (c) take administrative measures against a Justice of Appeal, a Principal Judge or a Judge other than measures referred to under Article 110A(3) of the Constitution;
- (d) appoint, promote and discipline any judicial officer other than the Registrar of the Court of Appeal or the Registrar of the High Court;
- (e) recruit, promote and take any disciplinary or administrative measure against any Magistrate.

23. Delegation of functions

- (1) Subject to the provisions of this Act, the Commission may, by regulations, delegate the exercise of any function conferred on it by Article 113 of the Constitution other than the power of removal in the public interest referred to in section 24 of this Act to the Committees established under this Act.
- (2) Without prejudice to the provisions of subsection (1), the Commission may delegate its functions as follows:
 - (a) investigation and inquiry of complaints against Justices of Appeal and Judges to the Judges Ethics Committee established under section 26 of this Act;
 - (b) investigation and inquiry into discipline relating to judicial officers to the Judicial Officers Ethics Committee established under section 35 of this Act;
 - (c) investigation and inquiry into discipline relating to Resident and District Magistrates to the Regional Judicial Committees established under section 39 of this Act;
 - (d) investigation and inquiry into discipline relating to the Primary Courts Magistrates to the District Judicial Committees established under section 40 of this Act;
 - (e) interdiction of Resident, District and Primary Court Magistrates to the Judge in-charge of the Zone or Division of the High Court, pending the continuation and completion of disciplinary proceedings;

- (f) reprimanding or warning a Judge for a matter which is minor, where the Judge admits in writing to the Principal Judge;
 - (g) directing Ethical, Regional and District Judicial Committees to commence investigation or enquiry, to the Judge in-charge of a Zone or Division of the High Court.
- (3) In any regulations made for the purpose of this section, the Commission shall specify the officers to which each delegation applies.
- (4) The Commission may exercise any of such functions aforesaid notwithstanding the delegation of the exercise thereof to some other person.
- (5) In conducting business, the Commission shall be guided by the procedure stipulated in the First Schedule to this Act.

24. Powers of dismissal and removal

- (1) The power to remove judicial officers from office and to terminate appointments of judicial officers shall be exercised in accordance with this section.
- (2) A judicial officer shall not be dismissed unless—
- (a) a disciplinary charge has been made and proved on a balance of probability against such officer on any or all of the following grounds—
 - (i) misconduct incompatible with the holding of judicial office;
 - (ii) gross negligence in the discharge of judicial duties;
 - (iii) breach of the Code of Judicial Ethics;
 - (iv) bad reputation incompatible with the holding of judicial office;
 - (b) such officer has had an opportunity to answer a charge under paragraph (a); and
 - (c) an inquiry has been held into the charge.

Part VI – Committees

(a) – Judges Ethics Committee

25. Establishment of Committees

There are hereby established Committees which shall be responsible for making investigations and inquiries against Justices of Appeal, the Principal Judge, Judges, Judicial Officers and Magistrates.

26. Establishment and composition of the committee

- (1) There is hereby established the Judges Ethics Committee.
- (2) The Committee shall be composed of the following members:
- (a) A Justice of Appeal appointed by the Chief Justice who shall be the Chairman;
 - (b) three Justices of Appeal appointed by the Chief Justice;
 - (c) three Judges of the High Court appointed by the Chief Justice.
- (3) The Registrar of the Court of Appeal shall be the Secretary of the Committee.
- (4) Members of the Committee shall hold office for three years but shall be eligible for re-appointment for one further term.

- (5) The Committee shall not delegate the performance of any function or the exercise of any power to any person.
- (6) A Justice of Appeal, the Principal Judge or a Judge against whom a complaint has been served shall not participate in the sitting of the Committee which determines that complaint.

27. Functions of the Judges Ethics Committee

- (1) The functions of the Committee shall be to:
 - (a) receive complaints;
 - (b) serve a Justice of Appeal, the Principal Judge or a Judge with a complaint;
 - (c) forward a complaint to the Commission;
 - (d) hear the complaint;
 - (e) warn a Justice of Appeal, the Principal Judge or a Judge in respect of any complaint which does not warrant reference to the Commission; and
 - (f) take any other measure as it may deem necessary in the circumstances.
- (2) A complaint against a Justice of Appeal, the Principal Judge or a Judge which the Committee considers to be grave shall be submitted to the Commission for consideration.
- (3) In conducting business, the Committee shall be guided by the procedure stipulated in the Fourth Schedule to this Act.

28. Complaints before the Judges Ethics Committee

A complaint against a Justice of Appeal or a Judge may be raised by:

- (a) the Committee on its own motion;
- (b) any one of the complainants stipulated in section 29.

29. Who may lodge a complaint

- (1) Any complaint against a Justice of Appeal, the Principal Judge or a Judge may be lodged with the Commission or the Committee by:
 - (a) a Justice of Appeal;
 - (b) the Principal Judge;
 - (c) Judicial Officer;
 - (d) a Magistrate;
 - (e) a law officer;
 - (f) a Government agency;
 - (g) an advocate;
 - (h) a person who has an interest in the matter; or
 - (i) in any other case, a person who can produce adequate evidence on the complaint.
- (2) A complaint shall be sent to the Secretary of the Commission, or the Committee, as the case may be.

30. Form and content of a complaint

- (1) A complaint shall be made in writing and shall be signed by the complainant.
- (2) A complaint shall contain adequate information disclosing an act or omission complained about and circumstances upon which that act or omission was committed.
- (3) Without prejudice to subsection (1), a complaint may be made regarding any of the following matters:
 - (a) handling of cases;
 - (b) allegation of corruption;
 - (c) behaviour inconsistent with the Code of Judicial Ethics; or
 - (d) inability to perform the functions of a Justice of Appeal, the Principal Judge or a Judge.
- (4) A complaint shall not be rejected only for the reason that it is defective in form, instead, the Chairman of the Commission or the Committee shall cause such complaint to be investigated.

31. Procedure of handling complaints by the Chief Justice

The Chief Justice may, where he considers it appropriate upon receipt of a complaint:

- (a) remit it to the Chairman of the Committee to be dealt with by the Committee or,
- (b) serve the Justice of Appeal, the Principal Judge, or Judge concerned with the complaint and require him to respond within a period not exceeding twenty one days;
- (c) in a matter which is minor and does not warrant consideration and determination by the Commission or to which the Judge concerned admits fault, take such steps as may be necessary to address the complaint.

32. Handling of a complaint by the Judges Ethics Committee

The Judges Ethics Committee may, upon receipt of a complaint from the complainant or directions from the Chief Justice or remittance from the Commission:

- (a) where appropriate, serve the Justice of Appeal, the Principal Judge or Judge concerned with the complaint and ask him to respond within a period not exceeding twenty one days;
- (b) where the Justice of Appeal, the Principal Judge or Judge admits the complaint, take any such steps such as reprimanding or warning; or such acts within a specified time as shall appear necessary to address the complaint; or
- (c) where he considers it desirable cause investigation to be made on the inquiry;
- (d) where the complaint appears to be grave to warrant inquiry, the Committee shall inquire into the matter.

33. Procedure where a Judge does not admit

Where a matter is placed before the Committee and the Judge concerned does not admit the complaint and the Committee considers the complaint to be of a grave nature, the Committee shall refer the matter to the Commission.

Procedure of handling complaints by the Chief Justice handling of a complaint by the Judges Ethics Committee Procedure where a Judge does not admit

34. Proceedings of the Committee

The Committee, upon receipt of a complaint from the Chief Justice or, as the case may be, the Commission, shall deal with it in accordance with the provisions of section 32 of this Act.

(b) – Judicial Officers Ethics Committee**35. Establishment and composition of the Judicial Officers Ethics Committee**

- (1) There is hereby established the Judicial Officers Ethics Committee.
- (2) The Judicial Officers Ethics Committee shall be composed of the following members:
 - (a) the Principal Judge who shall be the Chairman;
 - (b) two Judges of the High Court appointed by the Chief Justice.
- (3) The Registrar of the High Court shall be the Secretary of the Committee.
- (4) Members of the Committee shall hold office for three years but shall be eligible for re-appointment for one further term.
- (5) The Committee shall not delegate the performance of function or the exercise of any power to any person.
- (6) The Registrar against whom a complaint has been served shall not qualify to act as a Secretary to the Committee which determines that complaint.

36. Functions of the Judicial Officers Ethics Committee

- (1) The functions of the Judicial Officers Ethics Committee shall be to.
 - (a) receive complaints against judicial officers;
 - (b) serve a judicial officer with a complaint;
 - (c) forward a complaint to the Commission;
 - (d) inquire into the complaint;
 - (e) warn a judicial officer for any complaint which does not warrant reference to the Commission; and
 - (f) take any other measure as it may deem necessary in the circumstances.
- (2) A complaint against a judicial officer which the Committee considers to be grave shall be submitted to the Commission for consideration.
- (3) In conducting business, the Judicial Officers Ethics Committee shall be guided by the procedure stipulated in the Fourth Schedule to this Act.

37. Complaints before Judicial Officers Ethics Committee

A complaint against a judicial officer may be raised by:

- (a) the Committee on its own motion; or
- (b) any one of the complainants stipulated in section 29(1); or
- (c) may be remitted to it by the Commission.

38. Procedure

The provisions of sections 30, 31, 32, 33 and 34 relating to the complaints procedure shall *mutatis mutandis* apply to complaints against judicial officers.

(c) – Regional Judicial Committee

39. Establishment of Regional Judicial Committees

- (1) There shall be established in each Region, the Regional Judicial Committee which shall be composed of—
 - (a) the Regional Commissioner, who shall be the Chairman;
 - (b) the resident Magistrate in charge of a Region;
 - (c) the Regional Administrative Secretary;
 - (d) three other members, one of them being a Minister of religion, appointed by the Regional Commissioner from among prominent persons in the region, and two other persons who in his opinion, are of proven high integrity, knowledgeable and have the ability necessary to usefully participate in the effective discharge of the functions of the Committee; and
 - (e) a judicial officer appointed by the Judge incharge.
- (2) The Secretary of the Regional Judicial Committee shall—
 - (a) in a Region where there is established an office of the Attorney General, be the State Attorney in charge;
 - (b) in a region where there is no office of the Attorney-General be the Regional Administrative Secretary.
- (3) Where the Secretary of the Regional Judicial Committee is the Regional Administrative Secretary, he shall establish a system of close consultation, co-ordination and co-operation with the State Attorney incharge of the Zone in which that region is situated.
- (4) Every Regional Judicial Committee shall—
 - (a) receive and investigate complaints submitted by members of the public concerning District or Resident Magistrates in the region and submit reports to the Commission;
 - (b) carry out inquiries into the conduct of a District or Resident Magistrate in consequence of a direction so to do given by the Judge in charge, and report back to him or take other appropriate action according to law; and
 - (c) perform such other functions as the Minister may in writing under his hand to the Chairman, direct
- (5) The quorum at any meeting of the Regional judicial Committee shall be the Chairman and three other members.
- (6) A person complaining against the District or Resident Magistrate shall file the complaint with the Secretary to the Regional Judicial Committee.
- (7) The Secretary to the Regional Judicial Committee who is not a State Attorney in charge shall, after receiving a complaint under subsection (6), submit that complaint to the State Attorney in charge of the zone in which, that region is situated.
- (8) A State Attorney in charge shall, after receiving a complaint under subsections (6) or (7), forward that complaint to the Judge in charge of the zone in which that region is situated, who after

studying the matter, shall send it to the Regional Judicial Committee with directions for inquiry or take any other action as shall appear appropriate and just in the circumstances of the case.

- (9) The complaint against the Resident Magistrate in charge which is submitted to the Judge in charge shall be forwarded to the Judicial Officers Ethics Committee for further action.
- (10) Where the Chief Justice or the Principal Judge receives any complaint against any Magistrate, and he considers that the public interest requires that Magistrate to cease forthwith to exercise the powers and functions of his office, he may direct the Judge in charge to suspend that Magistrate from the exercise of those powers and functions provided that inquiry or investigation to his complaint or proceedings for his dismissal are being taken or about to be taken.
- (11) the Judge in charge may, on his own motion or on recommendation of the Regional Judicial Committee, suspend a Magistrate pending the continuation and completion of disciplinary proceedings against him in the Regional Judicial Committee.
- (12) At the end of the inquiry, investigation or disciplinary proceedings against any Magistrate, the Regional Judicial Committee shall submit a report thereof to the Judge in charge who shall further submit it to the Commission.

(d) – District Judicial Committee

40. Establishment of the District Judicial Commitee

- (1) There shall be established, in each district, the District Judicial Committee which shall be composed of—
 - (a) the District Commissioner, who shall be the Chairman;
 - (b) the District Magistrate or, the Resident Magistrate in charge of the district;
 - (c) the District Administrative Secretary who shall be the Secretary;
 - (d) three other members, one of them being a Minister of religion appointed by the District Commissioner from among prominent persons who in his opinion, are of proven high integrity, knowledgeable and have the ability necessary to usefully participate in the effective discharge of the functions of the District Judicial Committee and
 - (e) a judicial officer, appointed by the Judge in charge.
- (2) The quorum at any meeting of the District Judicial Committee shall be the Chairman and three other members.
- (3) Every District Judicial Committee shall—
 - (a) receive and investigate complaints submitted by members of the public concerning Primary Court Magistrates in the district and submit reports to the Commission;
 - (b) carry out inquiries into the conduct of the Primary Court Magistrate in consequence of a direction so to do given by the Judge in charge, and report back to him;
 - (c) perform such other functions as the Minister may direct.
- (4) The Judge in-charge may suspend a Magistrate pending the continuation and completion of the disciplinary proceedings against him in the District Judicial Committee.
- (5) At the completion of the disciplinary proceedings against any Magistrate, the District Judicial Committee shall submit a report in that respect to the Judge in charge who shall further submit it to the Commission.

41. Reporting

The Commission shall prepare a report of its annual activities and submit to the Minister who shall lay it to the National Assembly.

Part VII – Final provisions**42. Regulations**

- (1) The Chief Justice may make regulation for the administration of the judiciary.
- (2) Without prejudice to the generality of the foregoing provisions of this section, regulations may—
 - (a) define disciplinary punishments and awards;
 - (b) impose duties on any person, Commission, Judge, judicial officer or public servant;
 - (c) require persons to attend before the Commission to answer questions relating to the exercise of its functions by the Commission;
 - (d) make different provisions for different classes of judicial officers.
 - (e) require persons to attend before the Commission to answer questions relating to the exercise of its functions by the Commission;
 - (f) prescribe the Code of Judicial Ethics;
 - (g) make different provisions for different classes of judicial officers.
- (3) Nothing in this section shall restrict powers of the Chief Justice to make administrative instructions or orders in relation to persons in the service of the Judiciary.
- (4) Regulations made under this Act shall be published in the *Gazette*.

43. Legal proceedings

- (1) No proceedings shall be brought in any court on the ground only that the provisions of this Act or any regulations made under this Act, have not been complied with.
- (2) The question whether—
 - (a) the President or the Commission has validly performed any function conferred on him or it by Article 113 of the Constitution or by this Act, or in relation to the establishment of Judicial offices; or
 - (b) any delegate has validly performed any such function the exercise of which has been delegated or deputed to him, shall not be inquired into in any court:

Provided that, where a person has been dismissed, the provisions of this subsection shall not apply in relation to such dismissal unless, prior thereto, there has been a compliance with the provisions of subsection (2) of section 25 of this Act.

44. Repeal and Savings

- (1) The Judicial Service Act, 1962 is hereby repealed.
- (2) Notwithstanding the repeal of the Judicial Service Act—
 - (a) all proceedings commenced under the repealed Act and pending before any Commission or any Committee or Board immediately before the commencement of this Act shall be continued and concluded as if this Act has not been enacted;

- (b) all orders, notices, regulations, rules, directions, appointments and other acts lawfully made, issued or done under any of the provisions of the Act and made, issued or done before the commencement of this Act, shall be deemed to have been made, issued or done under the corresponding provision of this Act and shall continue to have effect accordingly.

[Cap. 508]

Part VIII – Consequential provisions

45. Amendment of the Civil Procedure Code

Section 28 of the Civil Procedure Code Act is repealed and replaced with the following:

“28. Delivery of decision

After the case has been heard, the court shall deliver a decision in open court as soon as possible, but in any case it shall not exceed ninety days of which due notice shall be given to the parties or their advocates, if any.”

[Act. No.49 of 1966]

46. Amendment of the Criminal Procedure

Section 311 of the Criminal Procedure Act, 1985 is amended by repealing subsection (1) and substituting for it the following:

“311.

- (1) The Decision of every trial of any criminal case or matter shall be delivered in an open court immediately or as soon as possible after termination of trial, but in any case not exceeding ninety days, of which notice shall be given to the parties or their advocates, if any, but where the decision is in writing at the time of pronouncement, the Judge or Magistrate may, unless objection to that course is taken by either the prosecution or the defence, explain the substance of the decision in an open court *in lieu* of reading such decision in full.”

[Act. No. 9 of 1985]

First Schedule (Made under section 23(5))

Meetings and Proceedings of the Judicial Service Commission

1. Meetings of Commission

- (1) The Commission shall ordinarily meet for the transaction of its business at the time and at the places determined by it, but shall meet at least once every three months.
- (2) The Chief Justice may, at any time upon a written request by a majority of the members in office, call a special meeting of the Commission.
- (3) The Chief Justice shall preside at every meeting of the Commission and in the absence of the Chief Justice the members present shall appoint one of their number to preside over the meeting.
- (4) The Chief Justice may invite any person who is not a member to participate in the deliberations at any meeting of the Commission, but any person so invited shall not be entitled to vote.

2. Quorum

The quorum at any meeting of the Commission shall be the majority of members in office.

3 Decisions of the Commission

- (1) Questions proposed at a meeting of the Commission shall be decided by a majority of the votes of the members present and voting and in the event of an equality of votes the person presiding shall have a second or casting vote in addition to his original or deliberative vote.
- (2) Notwithstanding the provisions of subparagraph (1), a decision may be made by the Commission without a meeting by circulation of the relevant papers among the members, by the expression in writing of the majority of the members.

4 Minutes of meetings

- (1) The Secretary shall record and keep minutes of all business conducted or transacted at its meetings, and the minutes of each meeting of the Commission shall be read and confirmed, or amended and confirmed, at the next meeting whose minutes they purport to be.
- (2) Any minutes purporting to be signed by the person presiding at a meeting of the Commission shall, in the absence of proof of error, be deemed to be a correct record of the meeting whose minutes they purport to be.

5. Vacancies, not to invalidate proceedings

The validity of any act or proceedings of the Commission shall not be affected by any vacancy among its members or by any defect in the appointment of any of them.

6. Orders, directions, etc.

All orders, directions, notices or other instruments made or issued on behalf of the Commission shall be signed by—

- (a) the Chief Justice; or
- (b) the Secretary or any other member of the Commission authorized in writing in that behalf by the Chief Justice.

7. Commission may regulate its own proceedings

Subject to the provisions of this Schedule, the Commission may regulate its own proceedings.

Second Schedule (Made under section 9)**Oath of a Member**

[Editorial note: The form has not been reproduced]

Third Schedule (Made under section 9)**Oath of Officer of the Commission**

[Editorial note: The form has not been reproduced]

Fourth Schedule (Made under section 27(3))

Meetings and proceedings of the ethics Committee and judicial officers Committee

1. Meetings of the Committee

- (1) The Committee shall ordinarily meet for the transaction of its business at the time and at the places determined by it, but shall meet at least once every three months.
- (2) The Chairman, may, at any time upon a written request by a majority of the members in office, call a special meeting of the Committee.
- (3) The Chairman, shall preside at every meeting of the Committee and in the absence of the Chairman members present shall appoint one of their number to preside over the meeting.
- (4) The Committee may invite any person who is not a member to participate in the deliberations at any meeting of the Committee, but any person so invited shall not be entitled to vote.

2. Quorum

The quorum at any meeting of the Committee shall be half of the members in office.

3. Decisions of the Committee

- (1) Questions proposed at a meeting of the Committee shall be decided by a majority of the votes of the members present and voting and in the event of an equality of votes the person presiding shall have a second or casting vote in addition to his original or deliberative vote.
- (2) Notwithstanding the provisions of subparagraph (1), a decision may be made by the Committee without a meeting by circulation of the relevant papers among the members, by the expression in writing of the majority of the members.

4 Vacancies, not to invalidate proceedings

- (1) The Committee shall cause to be recorded and kept minutes of all business conducted or transacted at its meetings, and the minutes of each meeting of the Committee shall be read and confirmed, or amended and confirmed, at the next meeting whose minutes they purport to be.
- (2) Any minutes purporting to be signed by the person presiding at a meeting of the Committee shall, in the absence of proof of error, be deemed to be a correct record of the meeting whose minutes they purport to be.

5. Minutes of meetings

The validity of any act or proceedings of the Committee shall not be affected by any vacancy among its members or by any defect in the appointment of any of them.

6. Orders, directions, etc.

All orders, directions, notices or other documents made or issued on behalf of the Committee shall be signed by—

- (a) the Chairman; or
- (b) the Secretary; and
- (c) any other member authorized in writing in that behalf by the Chairman.

7. Committee may regulate its own proceedings

Subject to the provisions of this Schedule, the Committee may regulate its own proceedings.