

Tanzania

Public Service Act Chapter 298

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Tanzania

Public Service Act

Chapter 298

Commenced on 1 July 2002

[This is the version of this document at 30 November 2019.]

[Note: This legislation has been thoroughly revised and consolidated under the supervision of the Attorney General's Office, in compliance with the Laws Revision Act No. 7 of 1994, the Revised Laws and Annual Revision Act (Chapter 356 (R.L.)), and the Interpretation of Laws and General Clauses Act No. 30 of 1972. This version is up-to-date as at 31st July 2002.]

[G.N. No. 278 of 2002; Acts Nos. 8 of 2002; 25 of 2002; 19 of 2004; 18 of 2007; 3 of 2009; 2 of 2010; 4 of 2011; 2 of 2013; 24 of 2015; 25 of 2015; 13 of 2016; 1 of 2018; 2 of 2018; 13 of 2019]

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.

Part I – Preliminary provisions

1. Short title

This Act may be cited as the Public Service Act.

2. Omitted

Omitted.

3. Interpretation

In this Act, unless the context otherwise requires—

"**appointing authority**" means any person or authority exercising powers of making appointment to any public service office;

[Act No. 19 of 2004 sch.]

"**Chairman**" means the chairman of the Commission and includes a person acting in that office;

[Act No. 13 of 2016 s. 22]

"**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;

[Cap. 2]

"**Council**" has the meaning ascribed to it by the Local Government (District Authorities) Act or the Local Government (Urban Authorities) Act;

[Caps. 287; 288]

"**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;

"**employer**" means a person or organization, in public service, with whom a public servant entered into a contract of service and who is responsible for the payment of salaries of such a public servant;

"**judicial office**" means an office to which Article 113 of the Constitution applies;

[Cap. 2]

"**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 or the Local Government (Urban Authorities) Act;

[Caps. 287; 288]

"**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 recognized 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;

[Cap. 115]

"**parliamentary officer**" has the meaning ascribed to it by the Parliamentary Services Commission Act;

[Cap. 115]

"**Permanent Secretary**" means the officer appointed as Permanent Secretary under section 5 and includes 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;

"**Recruitment Secretariat**" means the Public Service Recruitment Secretariat established under section 29;

"**the Service**" means the public service of the United Republic of Tanzania.

Part II – Administration of the public service

4. Chief Secretary

- (1) There shall be the Chief Secretary appointment by the President who shall be the chief executive officer of the Service.
- (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 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; and
 - (d) be a disciplinary authority in respect of public servants appointed by the President.
 - (e) notwithstanding any other written law to the contrary, be the highest authority in matters relating to labour mobility in the Service.
- (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.

[Act No. 13 of 2019 s. 69]

5. Other executives in Service

- (1) Except where the President determine 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 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 local government, the Minister responsible for Local Government shall be the authority in respect of appointment, promotion and discipline of local government Authorities;
 - (b) deputy Permanent Secretaries and Ambassadors;
 - (c) Regional and District Commissioners.
- (2) For the purposes of subsection (1), 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.

[Acts Nos. 18 of 2007 s. 2; 3 of 2009 s. 23; Cap. 4 s. 8]

6. Duties of executives in relation to Service

- (1) Every Permanent Secretary, Head of extraministerial department, Chief Court Administrator, Regional Administrative Secretary and Local Government Authority shall—
 - (a) pursue—
 - (i) results oriented management; and
 - (ii) open Performance Review and Appraisal System;
 - (b) be the authority in respect of the appointment, confirmation, promotion and discipline of public servants other than those appointed by the President;
 - (c) oversee and ensure career development of employees in their respective organisation.
- (2) Every Permanent Secretary shall, after consultation with the Chief Secretary, sign an annual performance contract with the respective Minister.
- (3) Every Permanent Secretary shall facilitate and oversee career development of cadres of employees under their respective Ministry.
- (4) Every head of department or division shall be the disciplinary authority in respect of employees in the operational service under his department or division.
- (5) Omitted
- (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 or the Minister, as the case may be, shall be the local government authority concerned.
- (7) The Authority for appointment, confirmation, promotion and discipline of non judicial officers employed in the Judicial Service shall be Commission.

[Acts Nos. 25 of 2002 sch.; 19 of 2004 sch.; 18 of 2007 s. 3; 4 of 2011 s. 69; 2 of 2013 s. 10; 24 of 2015 s. 20; 25 of 2015 s. 24(a); Cap. 4 s. 8]

6A. Promotion and filling of vacant posts

- (1) Where a vacant post occurs in the Service, such post shall be filled by a suitable employee in the public service and in the absence of such employee, consideration shall be given to a suitable person outside the Service.
- (2) Without prejudice to subsection (1), for purposes of filling any vacant post in respect of entry point of any scheme of service, the post shall be advertised and interview be conducted to suitable candidate, unless the Chief Secretary directs otherwise.
- (3) Every promotion in the Service shall be made by considering—
 - (a) performance and efficiency to perform and execute the duties by an employee;
 - (b) career development and succession plan;
 - (c) seniority amongst the employees;
 - (d) the scheme of service.

[Acts Nos. 18 of 2007 s. 3; 4 of 2011 s. 69]

7. Public Service Scheme

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

- (2) For the purpose of this section, service schemes shall be formulated by the Minister responsible for each service in consultation with the Minister.
- (3) For the purpose of this section, "Service Schemes" include—
 - (a) Public Service Scheme;
 - (b) Civil Service Scheme;
 - (c) Local Government Service Scheme;
 - (d) Teachers Service Scheme;
 - (e) Health Service Scheme; and
 - (f) Judicial Service Scheme.

[Act No. 18 of 2007 s. 4]

8. Administration and terms of Service

- (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 subsection (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) co-ordinate 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) co-ordinate and ensure proper upkeep of personnel information for all public servants;
 - (d) rationalize and harmonize salaries, allowances and fringe benefits in the Service;
 - (e) be a change agent in relation to the image, mission, ethics, conduct and role of the Service;
 - (f) carry out job evaluation and regrading and determine remunerations of public servants;
 - (g) facilitate and approve schemes of service in the Service;
 - (h) be the authority in respect of transfer of employees in the Service; and
 - (i) issue various circulars in respect of any matter under this Act.

- (4) Omitted.
- (5) Notwithstanding any provision of this section, every public servant shall be required to accept and assume duties at any place where he has been posted by the employer.
- (6) The Permanent Secretary (Establishment) may delegate to executive officers specified under section 6(1) powers to transfer employees in the Service stipulated under paragraph (h) of subsection (3).

[Acts Nos. 18 of 2007 s. 5; 2 of 2010 s. 38; 24 of 2015 s. 21; 13 of 2016 s. 23; Cap. 4 s. 8]

8A. Approval of salary and incentives

- (1) Notwithstanding the provision of any other written law to the contrary, salaries, allowances, incentives and fringe benefits in the Government and public institutions shall be approved by the Permanent Secretary, President's Office (Establishment).
- (2) Subsection (1) shall not apply to—
 - (a) the National Assembly;
 - (b) the Judiciary;
 - (c) the Tanzania People's Defence Force;
 - (d) the Police Force, Tanzania Immigration Service Department and prisons service;
 - (e) the National Service;
 - (f) the Fire and Rescue Service;
 - (g) the Tanzania Intelligence and Security Service.

[Act No. 13 of 2016 s. 24; Cap. 4 s. 8]

Part III – The Public Service Commission

9. Establishment of Commission

- (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.
- (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—
 - (a) the civil service;
 - (b) the local government service;
 - (c) the health service;
 - (d) the teachers service;
 - (e) the executive agencies and the public institutions service; and
 - (f) 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 where—
 - (a) his cessation was caused by circumstances provided under paragraphs (b) and (c) of subsection (8) of section 9;
 - (b) he has been removed from office by the President under subsection (10) of section 9.
- [Cap. 4 s. 8]*
- (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) if he 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 any time 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.

[Act No. 18 of 2007 s. 6]

10. Functions of Commission

- (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 guidelines and monitor compliance in the Service;
 - (d) to receive and act on appeals from the decisions of other delegates and disciplinary authorities;
 - (e) to exercise any other functions which may be conferred upon it under Part VI of this Act;
 - (f) to facilitate, monitor and evaluate performance by officials in the Service to secure results oriented management;
 - (g) 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;
 - (h) to ensure that service schemes are formulated and implemented effectively;
 - (i) 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;
 - (j) 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.

[Act No. 18 of 2007 s. 7]

11. Oath of members

- (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.
- (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. Remuneration of members

The members shall be paid such allowances and other benefits out of funds appropriated by Parliament in that behalf as may be determined by the Chief Secretary.

[Act No. 18 of 2007 s. 8]

13. Protection of members

- (1) No act or thing done or omitted to be done, by any member of the Commission, shall, if done or omitted *bona fide* in the execution or purported execution of his duties as a member, subject any such member to any action, liability or demand of any kind, subject to subsection (2).
- (2) Where in any proceeding a question arises respecting the *bona fide* of any act done in the purported execution or pursuance of the functions of the Commission, the burden of proving that the act in question was done *bona fide* shall lie on the person alleging that it was so done.

14. Secretary and staff of Commission

- (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, subject to subsection (3), attend meetings of the Commission but shall not vote at such meetings.
- (3) The Secretary shall not attend the Commission's meetings deliberating on disciplinary referrals of employees of the Commission.
- (4) The Commission may appoint such number of public servants to be deputies or assistants to the Secretary.
- (5) 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), establishes.
- (6) The offices of the Commission shall be public service offices and their holders shall be public servants.

[Act No. 2 of 2013 s. 11]

15. Departments of Commission

- (1) There shall be the following Departments of the Commission, namely—
 - (a) the Civil Service Department;
 - (b) the Local Government Service Department; and
 - (c) 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.

[Acts Nos. 18 of 2007 s. 9; 25 of 2015 s. 24(b)]

16. Annual report

- (1) The Commission shall, in 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. Communications of Commission privileged

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.

18. Prohibition of unauthorised disclosure of information

- (1) No member, officer of the Commission or any other person shall, without the written permission of the President, publish or disclose to any unauthorised 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.
- (2) Any person who knows of any information which to his knowledge has been disclosed in contravention 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 official functions, commits offence.

[Cap. 4 s. 8]

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

[Cap. 47]

19. Offence of attempt to influence Commission

- (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 commits 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.
- (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.

[Cap. 4 s. 8]

20. Rules for exercise of functions of Commission

- (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 functions and duties;
 - (b) the time, place and manner, when, in which and how the Commission shall exercise its functions and duties;
 - (c) 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; and
 - (d) 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.

[Act No. 13 of 2016 s. 25]

Part IV – Provisions relating to the functions of the President

21. Delegation of functions

- (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 Article 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. Advice not binding President

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.

23. Powers of dismissal

- (1) The power to dismiss public servants shall be exercised in accordance with the provisions of this section.
- (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 35.
- (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.

24. Powers of removal

- (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—
- (a) the compulsory retirement of any person under the provisions of the Public Service Social Security Fund Act;
[Cap. 371]
 - (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 rate.
- (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.

25. Appeals

- (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 an Independent Department, Regional Administrative Secretary or a local government authority exercises disciplinary authority as stipulated under 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;
 - (c) a public servant or the disciplinary authority is aggrieved with the decision in (a) and (b) that public servant or disciplinary authority shall appeal to the President, whose decision shall be final;
 - (d) 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 having 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 21, provide for appeals in cases other than those provided for in section 23.

[Act No. 18 of 2007 s. 10; Cap. 4 s. 8]

Part V – Provisions relating to retirement benefits

25A. Age of retirement of public servant

- (1) A public servant may retire from the Service—
- (a) in the case of voluntary retirement, upon attaining the age of fifty five years; and

- (b) in the case of compulsory retirement, upon attaining the age of sixty years.
- (2) Notwithstanding subsection (1), a professor or a senior lecturer of a public university or a medical specialist of a public hospital may retire from the Service—
 - (a) in the case of voluntary retirement, upon attaining the age of sixty years; and
 - (b) in the case of compulsory retirement, upon attaining the age of sixty five years.
- (3) For the purposes of this section, the term:
 - “professor” includes an associate professor;
 - “medical specialist” includes any specialist above the medical doctor; and
 - “public university” has the meaning ascribed to it under the Universities Act.

[Cap. 346]

[Act No. 1 of 2018 s. 13]

26. Matters relating to retirement benefits

- (1) All matters relating to retirement benefits for public servants shall be governed by the Public Service Social Security Fund Act, 2018.
- (2) In addition to benefits granted pursuant to the Public Service Social Security Fund Act, the Chief Secretary, the Attorney General, the Director-General of Intelligence, Clerk of the National Assembly, the Controller and Auditor-General, the Deputy Attorney General, the Director of Public Prosecutions and the Director-General of Prevention and Combating of Corruption Bureau shall be granted by the appropriate authority benefits set out in the Second Schedule to this Act.
- (3) Any benefits to which this section applies, not being benefits which are charged upon some other public fund, shall constitute a charge on the Consolidate Fund.

[Acts Nos. 2 of 2018 s. 115; 13 of 2019 s. 70; Cap. 371]

27. Exemption from application of certain conditions

Notwithstanding any other condition to the contrary, the Chief Secretary shall have power to exempt a public servant from any condition required for grant of pension or other terminal benefit.

[Acts Nos. 2 of 2018 s. 116; 13 of 2019 s. 71]

28. Exemption from conditions

Any exemption from application of any condition required for grant of pension or other terminal benefits to any public servant shall be granted in accordance with the provisions of section 46 of the public service Social Security Fund Act.

[Act No. 2 of 2018 s. 117]

Part VI – Special provisions

(a) The Public Service Recruitment Secretariat

29. Establishment and functions of Secretariat

- (1) There shall be established by the Minister a Secretariat to be known as the Public Service Recruitment Secretariat which shall be composed of—
 - (a) a Chairman who shall be appointed by the President; and
 - (b) such number of persons, not less than five and not more than seven, who shall be amongst retired public servants appointed by the Minister.
- (2) The members shall elect a Vice-Chairman from amongst their number.
- (3) There shall be a Secretary of the Secretariat to be appointed by the President.
- (4) Tenure of office for members of the Secretariat shall be three years.
- (5) The Secretariat shall be responsible for facilitating recruitment of employees to the Service.
- (6) For purposes of section (4), the Secretariat shall have representative in every regional headquarter.
- (7) In relation to subsection (4), the function of the Secretariat shall be to—
 - (a) search for various professionals with special skills and prepare a database of such professionals for ease of recruitment;
 - (b) register graduates and professionals for purposes of ease of reference and recruitment;
 - (c) advertise vacant posts occurring in the Service;
 - (d) engage appropriate experts for purposes of conducting interviews;
 - (e) advise employers on various matters relating to recruitment; and
 - (f) do any other act or thing which may be or directed by the Minister.
- (8) The Secretariat shall make rules of procedures for conduct of its business.

[Acts Nos. 18 of 2007 s. 11; 2 of 2010 s. 39]

29A. Delegation of functions and powers of Secretary

- (1) The Secretary may, by notice published in the *Gazette*, delegate to any chief executive officer or Council the functions and powers of the Secretariat to conduct recruitment process in the Service.
- (2) The functions and powers delegated to the Council under subsection (1) shall be exercisable pursuant to the Regulations made under this Act.
- (3) For purposes of this section—
 - (a) "chief executive officer" includes the Permanent Secretary or Executive Director of a public institution or of such other employing authority; and
 - (b) "Council" has the meaning ascribed to it under the Local Government (District Authorities) Act or the Local Government (Urban Authorities) Act.

[Caps. 287; 288]

[Act No. 2 of 2013 s. 13]

30. Repealed

Repealed by Act No. 25 of 2015 s. 24(d)

(b) Executive agencies and public institutions service

31. Public servants in executive agencies and public institutions

- (1) Servants in the executive agencies and Government institutions shall be governed by provisions of the laws establishing the respective executive agency or institution.
- (2) Without prejudice to subsection(1), public servants referred to under this section shall also be governed by the provisions of this Act.

[Act No. 18 of 2007 ss. 11(b), 12]

(c) Operational Service

32. Public servants in Operational Service

Public servants in the Operational Service shall, apart from being governed by this Act, continue to be governed by the Employment and Labour Relations Act. [To be amended]

[Cap. 366; Act No. 18 of 2007 s. 11(b)]

32A. Remedies under labour laws

A public servant shall, prior to seeking remedies provided for in labour laws, exhaust all remedies as provided for under this Act.

[Act No. 13 of 2016 s. 26]

33. Legal proceedings

- (1) No proceedings shall be brought in any court on the ground only that the provisions of this Act, other than the provisions of subsections (2) and (4) of section 21, Part IV or any regulations made under this Act, have not been complied with, save that nothing in this section shall apply to any criminal proceedings for an offence against any of the provisions of this Act.
- (2) The question whether—
 - (a) the President validly performed any function conferred on the President under 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.

[Act No. 18 of 2007 s. 11(b)]

34. Compensation for occupational disease or death

- (1) A public servant who suffers occupational disease or dies in the course of employment shall be compensated in accordance with the Workers Compensation Act.
- (2) For purposes of this section, "occupational disease" shall have the meaning ascribed to it under the Workers Compensation Act.

[Cap. 263; Acts Nos. 18 of 2007 s. 11(b); 13 of 2016 s. 27]

34A. Overriding effect

Where there is an inconsistency between the provisions of this Act and any other law governing executive agencies, public institutions or such other public service offices, the provisions of this Act shall prevail.

[Act No. 24 of 2015 s. 22]

35. Regulations

- (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.
- (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) prescribing manners and conditions of labour mobility within the Service.
- (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.

[Acts Nos. 18 of 2007 ss. 11(b), 13; 13 of 2016 s. 28]

35A. Minister may issue guidelines, codes of good practice, etc.

- (1) The Minister may, for the purpose of providing guidance to public servants, issue guidelines and codes of good practice.
- (2) Guidelines and codes of good practice made under subsection (1) shall be published in the *Gazette*.
- (3) Any person interpreting or applying this Act shall be required to observe and take into account guidelines and codes of good practice and a public servant departing away from the guidelines or codes of good practice shall be required to provide the grounds as to why the departure was necessary.

[Act No. 18 of 2007 s. 14]

36. Repeal of various Acts

[Repeals the Civil Service Act, the Fire and Rescue Services Act, the Local Government Service Act and the Teachers' Service Commission Act.]

[Acts Nos. 16 of 1989; 3 of 1985; 10 of 1982; 1 of 1989]

37. Savings and transitional provisions

- (1) Notwithstanding the repeal of the Acts specified in section 36—
 - (a) subsidiary legislation made under the Acts repealed by this Act 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.

[Cap. 4 s. 8]

First Schedule (Made under section 11(1))

Oath of Chairman / member

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/member, and that I will not directly or indirectly reveal any matters related to such functions to any unauthorised person or otherwise than in the course of duty.

SO HELP ME GOD

Sworn/Declared before me this _____ day of _____ 20_____

President

Second Schedule (Made under section 26)

Public servants specified under section 26 shall be granted the following benefits:

- (a) a diplomatic passport for him and his spouse;
- (b) one motor vehicle given once, of a value not exceeding such amount as the President may from time to time determine;
- (c) total sum of money granted once as a lump sum which shall be sufficient to remunerate one driver for a period of four years;
- (d) total sum of money sufficient to purchase fifty litres of fuel per week granted once as a lump sum which shall cover a period of four years;
- (e) total sum of money being maintenance allowance for a motor vehicle to be granted once as a lump sum at a rate equal to forty percent of fuel allowance; and
- (f) use of VIP lounge.

[Act No. 2 of 2018 s. 118(b)]