

SUBSIDIARY LEGISLATION

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THE PUBLIC SERVICE REGULATIONS, 2003

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LOCAL GOVERNMENT AUTHORITIES

THE PUBLIC SERVICE ACT, 2002

(No. 8 OF 2002)

REGULATIONS

Made under section 34 (1)

THE PUBLIC SERVICE REGULATIONS, 2003

PART I

PRELIMINARY PROVISIONS

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

Citation
and
Comme-
ncement

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

Applica-
tion.

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

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

Interpre-
tation

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

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

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

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

"Appointment" includes:-

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

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- "Appointing authority" means a body or organ or a person empowered by the Act to make appointments of Public Servants in the Service;
- "Approved Establishment" means the establishment of posts in the Public Service which there is provision in the approved budget for their establishment;
- "Authorised public servant" means a public servant who is authorised in writing by his organisation either generally or specifically to act on matters of any specified kind or to perform any duty or any responsibility.
- "Chairman" when used in relation to the Commission, means the Chairman of the Commission and includes a person acting in that office; when used in relation to the Committee, means the Chairman of that Committee; and when used in relation to the Board, means the Chairman of the Board;
- "Chief Executive Officer of the Service" means the Chief Secretary;
- "Chief Executive Officer" means the Permanent Secretary, Head of Independent Department, Regional Administrative Secretary, Director of Local Government Authority, Clerk of the National Assembly, Director of Immigration Service, Commissioner of Fire and Rescue Service, Deputy Permanent Secretary and Ambassador;
- "Code of Ethics and Conduct" means the Code of Ethics and Conduct for the Public Service, and shall include the Professional Codes of Ethics and Conduct and the Public Service Leadership Code of Ethics and Conduct;
- "Commission" means the Public Service Commission established under Section 9 of the Act;
- "Committee" when used in relation to an inquiry, means an inquiry committee in the disciplinary proceedings and when used in relation to teachers, means the Regional and District Committees for teachers;
- "Criminal Offence" means an offence chargeable in the Criminal Court as defined under the Criminal Procedures Act, 1985;
- "Department" means an identified entity within the organisational structure for management purposes;
- "Dependant" means a member of the family of a public servant who is wholly or partially dependant upon the earnings of the public servant.
- "Director of a Local Government Authority" means the Chief Executive Officer of a Local Government Authority and shall include the Director of a Local Government Authority Commission.
- "Disciplinary Authority" means any person or authority vested with powers under part V of these Regulations to take disciplinary measures against any public servant and includes any person to whom those powers have been delegated;

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

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

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

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

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

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

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

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

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

"Medical Board" means a Board established under sub- regulation (1) of Regulation 30 of these Regulations;

"Medical Practitioner" means any person professing to practise medicine or surgery, or holding himself out as ready and willing to give medical or surgical treatment to patients for gain;

"Member" means in relation to a Commission, a member of the Commission and includes the Chairman, and in relation to a Committee, a member of the Committee and includes a Chairman of a Committee, and in relation to a Board means a member of a Board and includes a Chairman of a Board;

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"Minister" means the Minister for the time being responsible for the Public Service;

"Operational Service" means the cadre of supporting staff not employed in the executive or officer grade;

"Promotion" means the appointment of a public servant to a higher grade with an immediate or potential increase in salary;

"Public Service" means the system or organisation entrusted with the responsibility of overseeing the provision or directly providing the general public with what they need from their government or any other institution on behalf of the government as permissible by laws; and include the service in the civil service; the teachers service; the local government service; the health service; the immigration and the fire and rescue service, the executive agencies and the public institutions service and the operational service;

"Public Service Office" shall have the meaning ascribed to it by the Act;

"Public Service Post" means a post in the public service;

"Public Service Regulations" means a legal document or instrument spelling out the rules, procedures, and restrictions or sanctions aimed at controlling the actions of public servants in their day to day conduct of public business.

"Public Servant" means a person holding or acting in the public service office;

"Removal in Public interest" means termination of appointment other than on disciplinary grounds for the purpose of facilitating improvement in the organisation of the department to which one belongs by which greater efficiency or economy may be effective.

"Secondment" means a temporary transfer to another employment or to another position in the public organisation having different terminal benefits scheme.

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

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

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

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

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

"United Republic" means the United Republic of Tanzania;

PART II

APPOINTMENTS CONFIRMATION OF APPOINTMENTS AND PROMOTIONS

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

Powers of appointment and confirmation.

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

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

Powers of the President to make appointment

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

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

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

Powers of Other Appointing Authorities

- (a) Permanent Secretary in respect of each Ministry in consultation with respective Minister;
- (b) Head of Independent Department in respect of such Department;
- (c) Regional Administrative Secretary in respect of each region;

Public Service Regulations

G.N. No. 168 (contd.)

- (d) Director of Immigration Services in respect of public servants in the immigration service;
- (e) Commissioner of Fire and Rescue Services in respect of Public Servants in the Fire and Rescue service below the rank of Assistant Inspector;
- (f) Minister responsible for Local Government after consultation with the local government authority concerned in respect of Directors of Local Government Authorities other than Directors of City or Commission;
- (g) Director of a Local Government Authority in respect of the Local Government Authority concerned

- (h) Head of Teachers Service Department in respect of teachers.

Notifica-
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is the
President

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

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

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

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

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

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

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

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

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

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

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

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

Notification of vacancies which appointing authority is the Chief Executive.

Public Service Regulations

G.N. No. 168 (contd.)

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

Adverti-
sement

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

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

Selection
of candi-
dates

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

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

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

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

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

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

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

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

Transportation and subsistence allowance on first appointment.

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

Probationary appointments.

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

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

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

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

Public Service Regulations

G.N. No. 168 (contd.)

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

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

- (a) he has previously served in that office or in a similar office on non-pensionable terms; or
- (b) The reduction of the probationary period is necessary for administrative reasons.

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

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

Promo-
tion on
Merit

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

Promo-
tion on
trial

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

(2) Where a notice is given to a public servant under sub regulation (1) of this Regulation, the immediate supervisor shall:-

(a) If the public servant has made any representations in writing pursuant to the notice, forward such representations together with his own report upon the public servant's conduct, ability, diligence, aptitude and any other relevant factor to the appointing authority.

(b) If the public servant fails to make any representation, report such failure to the appointing authority and also furnish the appointing authority with a report on the public servant's conduct, ability, diligence, aptitude and any other relevant factor.

(3) After considering the report and representations, if any, forwarded under sub-regulation (2) of this Regulation, the appointing authority may direct that: -

(a) The public servant's promotion not be interfered with; or

(b) A decision in the matter be deferred for such further period as the appointing authority may direct so as to allow the public servant further opportunity to prove his suitability for the post to which he was promoted.

(c) The public servant's promotion be withdrawn; or

(4) Where no notice has been given under sub-regulation (1) of this Regulation within the period of six months (exclusive of any period of leave) the public servant shall be deemed to have completed his trial period satisfactorily and he shall be served with a letter of confirmation within one month after expiration of the trial period.

(5) Subject to the provision of sub-regulation (4) of this Regulation, where a public servant is not confirmed within the prescribed period, he shall have the right to enquire on his confirmation status.

(6) Where a public servant who is a presidential appointee fails to complete his trial period successfully he shall be referred to the bar in his scheme of service.

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

Certain persons not to be appointed.

(2) Offences involving moral turpitude shall include:-

- (a) An Act or behaviour that gravely violates the moral sentiment or accepted moral standard of the community; or ~~al~~ **immorality**; or
- (b) The immorally culpable quality held to be inherent in some criminal offences as distinguished from others.

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

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

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

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

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

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

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

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

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

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

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

Terms of Service further engagement on contract.

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

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

- (a) a non-citizen who is engaged for some projects or on expatriate requirements;
- (b) a citizen from outside the Public Service who is engaged to the Service under expatriate or consultancy requirements;
- (c) a retired public servant who has been re-engaged in the Service;
- (d) a citizen who is first appointed to the Public Service after he has attained the age of forty years.

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

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

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

Remun-
erations

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

Special
proce-
dures.

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

PART III

PERFORMANCE APPRAISAL

Perform-
ance
appraisal
and eval-
uation sys-
tem.

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

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

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

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

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

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

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

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

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

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

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

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

Performance
Contracts

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

Performance
Contract
s of
Chief
Executi-
ves.

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

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

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

Performance
Contracts of
other
Public
Servants.

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

Performance
Appraisal of
Chief
Executive
Officers.

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

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

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

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

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

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

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

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

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

Performance appraisal of other public servants.

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

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

Performance appraisal report

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

PART IV

TERMINATION OF APPOINTMENT (OTHER THAN ON DISCIPLINARY GROUNDS)

Removal
in public
interest.

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

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

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

Retire-
ment on
medical
grounds

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

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

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

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

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

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

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

Termination by age of retirement

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

Act No. 2 of 1999

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

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

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

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

Termination of appointment of non-pensionable public servants.

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

Termination upon contesting constitutional leadership or elective political post.

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

PART V

DISCIPLINE

A: General

Disciplinary authorities and powers.

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

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

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

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

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

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

Preliminary investigations.

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

Suspect may be relieved of his duties administratively. Interdiction.

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

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

Interdiction

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

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

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

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

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

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

Suspension of a public servant convicted of a criminal offence.

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

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

Loss of privileges on dismissal.

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

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

B. DISCIPLINARY PROCEEDINGS

Types of disciplinary proceedings.

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

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

Cases where formal proceedings applicable.

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

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

Cases where summary proceedings applicable.

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

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

Commencement of formal proceedings.

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

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

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

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

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

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

Inquiry
into dis-
ciplinary
charge.

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

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

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

Inquiry
Commit-
tee.

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

(a) in the Senior Grade and above;

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

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

(3) The Inquiry Committee appointed under the provisions of this Regulation shall consist of not more than four and not less than two members.

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

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

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

Procedure on inquiry in formal proceedings.

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

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

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

- (a) to cross-examine any witness examined by the committee conducting the inquiry or by the disciplinary authority or his representative;
- (b) to examine and be provided with copies of any document produced as evidence against him;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Proce-
dure on
summary
proceed-
ings.

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

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

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

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

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

(6) The disciplinary authority may, at any time before imposing punishment, institute formal proceedings against the accused public servant if he is of the opinion that, the representations adduced by the accused public servant discloses facts which add to the gravity of the

offence or offences or which show that the accused public servant has or may have committed other disciplinary offences warranting formal proceedings.

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

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

Rules where disciplinary offence amounts to criminal offence

- (a) if no disciplinary proceedings under these Regulations have been commenced in respect of the disciplinary offence, but proceedings for the criminal offence in these Regulations referred to as "criminal proceedings" are instituted against the accused public servant in any court of law, no disciplinary proceedings shall be commenced until after the conclusion of the criminal proceedings;
- (b) if disciplinary proceedings have been commenced and during the pendency of such proceedings, criminal proceedings for the criminal offence are instituted, the disciplinary proceedings shall be stayed and no further step shall be taken in respect of that disciplinary proceedings until after the conclusion of the criminal proceedings;

- (d) where criminal proceedings have been commenced and concluded against the accused public servant and the public servant is convicted of the criminal offence, the disciplinary authority may suspend the public servant from the exercise of the powers and functions of his office pending consideration of the case under the provisions of these Regulations;

- (e) where the public servant has been convicted of a criminal offence, he shall be deemed to have been found guilty under the provisions of these Regulations of a disciplinary offence based upon the same charge or charges or the same facts which formed the grounds of the criminal charge or charges of which he was convicted, and the disciplinary authority shall, without instituting or continuing any disciplinary proceedings, proceed to punish the public servant of the disciplinary offence;

- (f) no public servant shall be punished under this sub-regulation until after he has been served with a notice specifying; the disciplinary offence which he is deemed to have been found guilty, the punishment which the disciplinary authority proposes to impose and the time within which such public servant may make such plea in mitigation as he may consider fit without the disciplinary authority having taken into consideration any plea made by the public servant within the time specified in the notice.

- (g) where the accused public servant has been convicted of a criminal offence which in the opinion of the disciplinary authority, may warrant his dismissal from service, formal

disciplinary proceedings may be instituted against that public servant or where such proceedings were instituted prior to the commencement of the criminal proceedings, they may be continued and the accused public servant may, subject to the provisions of paragraph (h) of this sub-regulation be tried on such formal disciplinary proceedings in accordance with the provisions of Regulations 44, 45, 46, 47 and 48 of these Regulations.

- (h) where a notice under paragraph (f) of this sub-regulation is given to the public servant, the disciplinary authority shall not be bound to impose the same punishment as specified in the notice but may impose any lesser punishment;
- (i) if any formal disciplinary proceedings under paragraph (g) of this sub-regulation, proves that the accused public servant has been convicted of the criminal offence, such a proof shall be conclusive evidence of the fact that he has committed the disciplinary offence based on the same facts;
- (j) where a public servant has been convicted of a criminal offence and prior to the commencement of the criminal proceedings he was found guilty by the disciplinary authority of a disciplinary offence based on the facts upon which the subsequent criminal charge or charges was based, it shall be lawful for the disciplinary authority, upon the conclusion of the criminal proceedings, to substitute for the disciplinary punishment imposed upon the accused public servant in respect of the disciplinary offence, any other disciplinary punishment which in the opinion of the disciplinary authority is warranted in view of the conviction of the public servant of the criminal offence or in view of any evidence adduced at the criminal proceedings.

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

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

Rules
where
Criminal
Proce-
dings have
been
commen-
ced and
concluded

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

(3) Nothing in the provisions of paragraph (f) of Regulation 50 of these Regulations shall be construed as precluding the disciplinary authority from instituting disciplinary proceedings against the public servant convicted of a criminal offence independent of his conviction of such criminal offence. Provided that where a disciplinary authority institutes disciplinary proceedings against a public servant independent of his conviction of a criminal offence in the event of an appeal or further appeal against such conviction, the provisions of paragraph (a) (b) and (c) of Regulation 50 of these Regulations, shall apply.

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

Punish-
ments.

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

Loss occa-
sioned
by a pub-
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be reco-
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these
Regula-
tions

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

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

Provided that where such proceedings are instituted, the punishment specified in the First Schedule to these Regulations shall not be awarded, save to the extent of the difference between the actual amount of the loss incurred by the Government or, as the case may be, the actual value of the property or the actual cost of repairing such property, and the amount to be authorised to be recovered under the Specified Officers (Recovery of Debts) Act, 1970.

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

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

(4) Notwithstanding the provisions of sub-regulation (3) of this Regulation, where disciplinary proceedings are instituted or a public servant is punished under these Regulations after his conviction under

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the provisions of the Penal Code, it shall be lawful for the disciplinary authority to order that an amount equal to the difference between the actual amount of the loss or the value of the property or the cost of repair and: -

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

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

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

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

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

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

he may withhold that increment.

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

(3) Where an increment is restored under sub-regulation (2) of this Regulation, any further increments which may be granted to the pub-

lic servant concerned shall, subject to any other proceedings which may be taken under this part, take effect from such public servant's normal incremental date.

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

Suspension of increments

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

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

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

Reprimand and warning

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

Absent without leave.

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

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

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

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

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PART VI
APPEALS

Appeals

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

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

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

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

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

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

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

Time for
Appeal

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

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

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

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

Appeals
Proce-
dure

Public Service Regulations

G.N. No. 168 (contd.)

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

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

Entitlement to a copy of decision

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

Decision of the appellate authority

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

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

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

PART VII

CODE OF ETHICS AND CONDUCT FOR THE PUBLIC SERVICE

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

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

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

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

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

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

PART VIII

PUBLIC SERVICE COMMISSION

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

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

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

Tenure
of office
and con-
ditions
of service

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

Vacation
of office

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

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

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

Appoint-
ment of
Secretary
and other
staff

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

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

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

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

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

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

Oath of Chairman and members of the Commission

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

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

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

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

Delegation of powers and functions

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

(b) deciding on appeals

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

Decision of the Commission

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

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

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

The quorum at the Commission's meetings

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

The Commission may co-opt members

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

Records of the Commission's meetings

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

Correspondence

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

Communications of Commission to be privileged

79. No person shall, in any legal proceedings, be permitted or compelled to produce or disclose any communication, written or oral, which has taken place between the Commission or any member or a staff and the Government or the President or the Chief Secretary or any officer of the Government, or between any member or a staff of the Commission and the Chairman or in connection with the exercise of the functions of the Commission, unless the Chief Secretary consents in writing to such production or disclosure.

Protection of members

80. Every member of the Commission shall have such and the like protection and privilege in case of any action or suit brought against him for any act done or omitted to be done in the bona fide execution of his duties.

81. (1) The Commission may require any person to attend and give information before it, concerning any matter which it is required to consider in exercise of its functions under these Regulations and may require the production of any official documents relating to any such matter by any person attending before it.

Commission may require attendance

(2) A person who without lawful cause, refuses or fails to attend before the Commission upon being summoned, or refuses to answer questions after he has been ordered to appear before the Commission, commits an offence and is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year or both such fine and imprisonment.

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

Offence to influence or attempt to influence the Commission

83. Any person who in connection with the exercise by the Commission of its functions or duties, wilfully gives to the Commission any information which he knows to be false or does not believe to be true, or which he knows to be false by reason of the omission of any material particulars, shall be guilty of an offence, and on conviction, shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.

Offence of false information to the Commission

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

Interpretation of "Commission" in regulation 82 and 83

PART IX
RETIREMENT BENEFITS

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

Protection of pensions rights and other terminal benefits

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

- (a) the Public Service Pensions Fund for all public servants other than those employed in the Local Government Authorities;
- (b) the Local Authority Provident Fund, for all public servants employed in the Local Government Authorities;
- (c) the National Social Security Fund for public servants in the Operational Service;
- (d) the Government Employees Provident Fund.

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

Terminal Benefits where a public servant is transferred

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

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

Benefits payable to public servants engaged on permanent and pensionable terms

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

Benefits payable to Public servants engaged on contract terms

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

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

Duty to keep records

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

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

PART X
MISCELLANEOUS

A General

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

Role of Minister in the Public Service

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

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

Communication from Ministry and to Heads of Independent Department

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

Powers of the Chief Secretary

Public Service Regulations

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

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

Communica-
tion from the
Local
Govern-
ment
Authority

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

Communica-
tion with a
Foreign
Govern-
ment and
Agency

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

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

Communica-
tion with the
Attorney
General's
Chambers

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

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

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

Annual
leave

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

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

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

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

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

Maternity
leave

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

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

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Leave
without
pay

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

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

Sick
leave
and con-
valescent
leave

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

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

Sabbati-
cal leave

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

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

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

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

Leave
pending
retire-
ment

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

Training
and staff
develo-
pment

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

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

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

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

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

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

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

Provision of housing

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

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

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

Medical services

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

Public Service Regulations

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Employers duty to protect the health of public servants

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

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

Transfers

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

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

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

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

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

Workers' Councils and the Joint Staff Council

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

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

The application of Standing Orders and Circulars

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

Compensation for injuries or death

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

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

Procedures for compensation for injuries or death

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

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

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

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

Public Service Regulations

G.N. No. 168 (contd.)

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

The authority for compensation in case of injuries or death

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

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

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

B. TEACHERS' SERVICE

Composition of the regional teachers committee

113. The Regional Teachers Committee established under paragraph (b) of sub-section (2) of Section 29 of the Act, shall consist of the Chairman, Secretary and three other members appointed by the Commission.

Composition of the district teachers committee

114. The District Teachers Committee shall consist of a Chairman, Secretary and three other members appointed by the Commission.

Qualification for membership of the Regional and District Committees

115. A person may qualify to be appointed a member of the Regional or District Committee if he is a resident and working in a respective Region or District. The composition shall be in a combination of both men and women having experience in Education, Management, Administration and Law.

Provided that the Commission may appoint any person with any other acceptable qualifications to be a member where there is no person possessing any of the qualifications required under this Regulation or where a member with such qualifications fails to perform his duties properly.

116. A member of the Regional or District Committee shall serve for such period as shall be determined by the Commission.

Tenure of office of members of the Regional and District Committees

117. A member of the Regional or District Committee, shall cease to hold the office if;

Cessation of membership of Regional or District Committee

- (a) he fails to perform satisfactorily his duties due to inability whether arising from infirmity of body or mind or any other cause;
- (b) he retires from the Public Service or is transferred from that Region or District;
- (c) the period of his membership, as shall be fixed by the Commission, has expired;
- (d) circumstance arises causing the member to be disqualified from holding or being reappointed to hold the office of a member;
- (e) he resigns from office by giving notice in writing to the Executive Secretary to the Commission.

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

Delegation of powers of the Commission

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

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

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

Supervision and administration of welfare of teachers

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

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

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

Functions of the Regional and District Teachers committees

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

- (a) keep and maintain an up to date register of all teachers under their jurisdiction who are registered in Part I and Part II of the register of teachers;
- (b) keep and maintain an up to date seniority list for all teachers under their jurisdiction;
- (c) ensure that teachers registered in Part I or Part II of the Register of teachers fill and sign the agreement forms before they report to their respective stations after they have been certified fit for appointment;
- (d) may recommend to the Regional Committee for approval of reappointment of teachers formerly dismissed from the service post, provided that such a teacher shall have stayed out of the service post for a period not less than twelve months from the date of receipt of the letter of dismissal;

- (e) shall maintain records in open and confidential files and send service particulars to another region in the event of the teacher's transfer;
- (f) shall uphold and maintain the Professional Code of Conduct and exercise its disciplinary powers to that end.

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

Disciplinary powers of the Regional and District committees

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

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

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

Procedure for disciplinary proceedings conducted by the committees

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

Quorum at the committee meetings

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

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

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

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

Decisions
of the
commi-
tee on
discipli-
nary
matters

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

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

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

Appeals
for
teachers

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

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

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

C. LOCAL GOVERNMENT SERVICE

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

Establishment of employment boards of Local Government Authorities

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

Appointments of public servants in the Local Government Authorities

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

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

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

(4) The Board shall consist of:-

- (a) a Chairman who shall be appointed by the Local Government Authority from amongst people who are ordinary resident in the area of jurisdiction of that Local Government Authority, knowledgeable in personnel management or public administration or law;
- (b) one member to be appointed by the Local Government Authority from amongst its members who shall in any case not be the Chairman of the Local Government Authority;

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- (c) the District Administrative Secretary or his representative;
- (d) an expert from the relevant Regional Secretariat responsible for Local Government matters;
- (e) a representative from the Public Service Commission.

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

Oath of
Chairman
and
members
of the
employ-
ment
board

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

Tenure
of office
for mem-
bers of
the
Board

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

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

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

Meetings
of the
Board

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

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

Public Service Regulations

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132. Three members shall form a quorum for any meeting of the Board. **Quorum at the meeting of the Board**
133. The Board may invite any person who is not a member to participate in the deliberations of the Board, but such person shall not have the right to vote. **Co-option of members**
- 134.- (1) There shall preside at any meeting of the Board:- **Procedures of the Board**
- (a) the chairman;
- (b) in the absence of the chairman, members present shall nominate one amongst them to preside.
- (2) At any meeting of the Board a decision of the majority of members present shall be deemed to be a decision of the Board.
- (3) In the event of equality of votes the chairman shall have a casting vote in addition to his vote as a member.
- (4) The Board shall have powers to regulate its own proceedings.
135. (1) All decisions of the Board shall be made at a properly convened meeting. **Decisions of the Board**
- (2) Minutes of each meeting shall be kept and be confirmed by the Board at the next meeting and signed by the chairman and secretary of the meeting.
136. Subject to the provisions of Regulation 130 of these Regulations, the Board may act notwithstanding any vacancies in the membership thereof and no act or proceedings of the Board shall be invalid by reason only of some existence of a vacancy in the Board or defect in the appointment of a person who propounds to be a member thereof. **Vacancies not to invalidate proceedings of the board**
137. All orders, directions, notices, decisions or other documents made or issued by the Board shall be signed by:- **Signing of documents**

Public Service Regulations

G.N. No. 168 (contd.)

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

Functions
of the
Board

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

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

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

Expenses
of the
Board

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

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

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

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

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

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

Inter-views

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

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

Selection of candidates

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

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

Employment in the Local Government Authorities

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

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

Letters of appointment for public servants in the Local Government Authorities

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

Probationary period for public servants in the Local Government Authorities

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

Terms of service

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

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

Terms of service for non-citizens employed in the Local Government Authorities

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

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

Disciplinary proceedings for public servants in the Local Government Authorities.

D. HEALTH SERVICE

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

Public servants in the Health Service

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

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

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

Effects of professional registration

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

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

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

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

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

E. SCOPE OF THE REGULATIONS

Scope of
the Regu-
lations

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

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

FIRST SCHEDULE

PART A

Offences Warranting Formal Proceedings(Regulation 42)

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

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PART B

Offences Warranting Summary Proceedings

(Regulation 43)

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

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

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

SECOND SCHEDULE

CHARGE

(Regulation 44 (3))

PART A

An example of a charge

(Example where the charge is "absent from duty without leave")

STATEMENT OF OFFENCE

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

PARTICULARS OF OFFENCE

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

Date:

.....
Signature of Disciplinary Authority

PART B

NOTICE

An example of Notice
(Regulation 44 (5))

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

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

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

Date
Signature of the disciplinary authority

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

Date
Signature of the accused public servant

THIRD SCHEDULE

(Regulation 65 (1))

CODE OF ETHICS AND CONDUCT FOR THE
PUBLIC SERVICE

I. Ethical Conduct and Behaviour:

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

- 1. Respect all Human Rights and be courteous;

Public Service Regulations

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

II. Respect Human Rights and being courteous:

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

III. Discipline and Diligence

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

Public Service Regulations

G.N. No. 168 (contd.)

- (i) Obey the law. Decisions should not be biased because of religion, ethnicity, sex, personal interests or any relationship; **Discipline**
- (ii) Obey and effect lawful directives;
- (iii) Carry out assigned duties efficiently. Where a public servant considers that he/she is being asked to act improperly he/she shall report the matter to his/her superiors in accordance with the laid down procedures;
- (iv) Be ready to work at any duty station;
- (v) Refrain from any conduct which might impair one's work performance;
- (vi) Keep punctuality with respect to hours of arrival at work, at all official appointments or engagements and not absent oneself from duty without proper authorization or reasonable cause;
- (vii) Avoid the use of rude and abusive language.
- (viii) Finish assigned duties within required time and standards.

2. An employee will maintain personal hygiene, dress in respectable attire in accordance with the acceptable norms of the office as stipulated in staff circulars. **Attire**

3. While out of office, an employee will conduct his/her personal life in such a manner that it does not affect his/her services or bring the Public Service into disrepute. He/she is therefore required to refrain from becoming drunk, using narcotic drugs and any other unacceptable behaviour. **Private life**

A Public Servant shall not disclose confidential or official information which has been communicated to or has been availed while discharging official duties without due permission. An employee shall continue to maintaining secrecy and confidentiality of official information even after one has left the Public Service. **Secrecy and Confidentiality**

5. (i) A Public Servant shall not use any official document or photocopy such as letter or any other document or information obtained in the course of discharging his/her duties for personal ends; **Disclosure of Information**
- (ii) Public Servant shall not communicate with the media on issues related to work or official policy without due permission;
- (iii) Official information will be released to the media by officials who have been authorized to do so according to the laid down procedures.

IV Team Work

Public Servants will strive to promote teamwork by offering help to co-employees whenever the need so arises. Team work will be achieved by public servants observing the following:- **Team Work**

- (i) Giving instructions which are clear and undistorted;
- (ii) Giving due weight and consideration to official views submitted by fellow employees and subordinates;
- (iii) Ensuring that subordinates clearly understand the scope of their work and encourage them to enhance their competence and skills;
- (iv) Giving credit to an employee with outstanding performance and not seeking personal credit at the employee's expense.
- (v) Avoid malicious actions or words intended to ridicule either subordinates or superiors.
- (vi) Reporting on his/her subordinates to be done fairly and without any fear.

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V. Pursuing of Excellence in Service

Excellence in Service

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

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

VI. Exercise Responsibility and Good Stewardship

Exercising Responsibilities

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

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

Public property

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

VII. Transparency and Accountability

Transparency and Accountability

1. A public Servant will adhere to and practice meritocratic principles in appointments, promotions and while delivering any service, he/she will be accountable both for actions and inactions through normal tiers of authority.
2. i) A Public Servant shall conduct meetings for the purpose of promoting efficiency and shall not use meetings as a way of avoiding being responsible for the
 2. (i) A Public Servant shall conduct meetings for the purpose of promoting efficiency and shall not use meetings as a way of avoiding being responsible for the decision he/she is supposed to have made on her/his own;
 - (ii) A Public Servant shall not engage in unofficial activities or projects during official hours or conduct such activities or projects within the office premises or by using public property; and
 - (iii) A Public Servant shall be ready to declare his/her property or that of his/her spouse when required to do so.

Loyalty to the Government

3. A Public Servant shall be Loyal to the duly constituted Government of the day and will therefore implement policies and decisions given by the Minister or any other Government leader.

VIII. Discharge Duties with Integrity

1. A Public Servant shall not fear to abide to Laws, Regulations and Procedures when discharging his/her duties. Adherence to laws
2. A Public Servant shall not solicit, force or accept bribes from a person whom he/she is serving, has already served or will be serving either by doing so in person or by using another person. Corruption
3. (i) A Public Servant or any member of his/her family shall not receive presents in form of money, entertainments or any service from a person that may be regarded as geared towards compromising his/her integrity. Gifts
(ii) A Public Servant may accept or give nominal gifts such as pens, calendar and diaries in small amount.
(iii) A Public Servant will return to the donor any other gift or handle them over to the government, in which case a receipt will be issued.
4. A Public Servant shall perform his/her duties honestly and impartially to avoid circumstances that may lead to conflict of interest. If conflict of interest arises he/she shall inform his/her superiors who will decide upon the best course of action to resolve it. Conflict of interest
5. A Public Servant shall not borrow to the extent of not being able to repay the debts as this will discredit the public service as well as affect his/her ability to make unbiased decisions. Pecuniary Embarrassment

IX Political Neutrality

1. A Public Servant can participate in politics provided that when so doing he/she observes the following limitations:- Political Participation
 - (i) Shall not conduct or engage oneself with political activities during official hours or at work premises.
 - (ii) Shall not take part in political activity, which will compromise or be seen to compromise his/her loyalty to the Government.
 - iii) Shall not provide services with bias due to his/her political affiliation.
 - (iv) Shall not pass information or documents availed through his/her position in the service to his/her political party.
2. Although public servants have a right to communicate with their political representatives they:- Political Influence
 - (i) Shall not use such influence to intervene on matters affecting him/her, which are in dispute between the government, and him/her.
 - (ii) Shall not use such influence for furthering personal ends, which are not part of the Government policy.

X. Conclusion:

The Code of Ethics and Conduct has been issued pursuant to the Public Service Act. A breach of the Code will be dealt with under the Public Service Act, National Security Act, Prevention of Corruption Act or any other relevant law.

On its part the government has the obligations to provide the following things:-

- Establish meritocratic principles and procedures to be used in appointments, promotions and in all other service delivery activities.
- Establish a system which specifies the authority, responsibilities and expected actions of each public servant which can then be assessed after a specific time.
- Effect an appraisal system which will enable a public employee to participate in assessing his/her performance.
- Ensure that safe working conditions prevail which will enable the public employee to discharge his/her duties without undue risk of fear; and
- Remunerate public servants on the basis of skills, responsibilities and working conditions.

For efficient, effective and courteous delivery of services to the public, all Public Servants must observe this Code.

FOURTH SCHEDULE

Regulation 65 (2)

PART A

LAWS GOVERNING PROFESSIONAL CODES OF ETHICS
AND CONDUCT

1. Nurses and Midwives Registration Act, 1997
2. The Health Laboratory Technologist Registration Act, 1997
3. Pharmacy Act, 2002
4. Medical Practitioners and Dentists Chapter 409 of the Laws
5. Opticians Act, 1966

PART B

Teachers Code of Professional Conduct

Every teacher shall recognize that he has certain responsibilities to the child under his care;
the community in which he lives;
the profession;
the employer;
the state.

1. *To the Child:*

A teacher agrees that his chief responsibility is towards the child under his care, and that he has at all times duty to guide each child in his full mental and physical development, both as an individual and as a member of the community.

2. *To the Community:*

A teacher must therefore fully understand the community in which he works. he must explain to them their duty to obey all lawful authority and he should by his own personal conduct set them an example in these matters.

3. *To the Profession:*

A teacher recognises that teaching is vocation and more than mere gainful employment. He therefore undertakes to conduct himself according to the following rules:

- (a) To follow at all times the highest standard of professional conduct;
- (b) To work conscientiously and with diligence and regularity;
- (c) To set a good example in his conduct and his person at all time to the children under his care;
- (d) To try continually to improve his standard of work and ability;
- (e) To abuse no right or privilege contained in his conditions of service.

4. *To the Employer:*

A teacher agrees to serve his employer faithfully and in accordance with the terms of his employment.

5. *To the State:*

A teacher must fully understand and be prepared to fulfil his obligation to the state. A teacher accepts the code set out above as the code of professional conduct for teachers and shall adhere to its provisions.

FIFTH SCHEDULE

(Regulation 72 (1))

OATH OF CHAIRMAN/MEMBERS OF THE COMMISSION

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

SO HELP ME GOD

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

.....
President

Public Service Regulations

G.N. No. 168 (contd.)

SIXTH SCHEDULE

(Regulation 72 (2))

OATH OF STAFF OF THE COMMISSION

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

SO HELP ME GOD

SWORN/AFFIRMED this day of 200.....

Before me

CHAIRMAN
(PUBLIC SERVICE COMMISSION)

SEVENTH SCHEDULE
(Regulation 72 (3))

OATH OF STAFF OF THE COMMISSION

I, being called upon to exercise the functions of the office of of the Public Service Commission, do solemnly and sincerely declare and swear /affirm that I will not directly or indirectly, reveal to any unauthorised person or otherwise than in the course of duty the contents or any part of the documents communications or information of any kind which may come to my knowledge in the course of my duties as a public servant of the Commission or under the provisions of the Public Service Act, 2002.

SO HELP ME GOD

SWORN/AFFIRMED this day of 200.....

Before me

CHAIRMAN
(PUBLIC SERVICE COMMISSION)

EIGHTH SCHEDULE

(Regulation 127)

OATH OF CHAIRMAN AND MEMBERS OF THE EMPLOYMENT BOARDS OF THE LOCAL GOVERNMENT AUTHORITY

I, being called upon to exercise the functions of Chairperson/Member of the (name of the Authority concerned) Employment Board do swear/affirm/declare that I will faithfully serve, and I will not directly or indirectly reveal to any authorized person or otherwise in the cause of my duty of the contents or any part of the contents of any document communication or information whatsoever, which may come to my knowledge in the course of my duties as Chairperson/member of the Board,

SO HELP ME GOD

Sworn/affirmed/Declared this
By the said Deponent
This Day of

Before me:

Name:
Designation:
Address:
Signature:

COMMISSIONER FOR AOTHS

Dar es Salaam,
14 June, 2003

MARY M. NAGU (MP.),
Minister of State, President's Office,
Public Service Management

GOVERNMENT NOTICE NO. 169 published on 20/6/2003

THE PUBLIC SERVICE SCHEME

ARRANGEMENT OF CLAUSES

PART I

PRELIMINARY PROVISIONS

<i>No. of Clause</i>	<i>Subject</i>
1.	Citation
2.	Application
3.	Interpretation

PART II

ADMINISTRATION OF THE SERVICE

4. Powers of the President in relation to Public Service
5. Role of the Minister in the Public Service
6. The Administrative Powers of the Chief Secretary
7. The Disciplinary powers of the Chief Secretary
8. Administrative powers of the Chief Executive Officers in relation to the Service.
9. Administrative Powers of a District Administrative Secretary.
10. Administrative Powers of the Head of Department, Division or Unit
11. Administrative Powers of the Heads of Sections
12. Duties of the Chief Executive Officer in relation to the Service.
13. Other duties of the Permanent Secretary (Establishments)
14. Composition of the Commission.

PART III

THE COMMISSION

15. Services under the Commission
16. Tenure of Office and Conditions of Service
17. Cessation of membership

18. Secretary and other staff
19. Oath of Members, Secretary and Staff
20. Delegation of powers and functions
21. Departments of the Commission
22. Decisions of the Commission
23. Correspondence
24. Communications of Commission to be privileged
25. Commission may require attendance
26. Influence or attempt to influence the Commission
27. False information to the Commission
28. Powers of the Commission in relation to the Service.

PART IV

THE SERVICE

29. Terms and Conditions of the Service
30. Appointments in the Public Service
31. Qualifications for appointment and promotion
32. Persons not to be appointed in the Service
33. Approved Establishment
34. The appointing Authorities' Responsibility
35. Appointment principles.
36. Notification of Vacancies
37. Complaints regarding appointments or recruitments.
38. Constitution and Abolition of posts
39. Public servants accountability
40. Relationship between Public servants and their supervisors.
41. Relationship between political leaders and executives.
42. Relationship between the Commission and the President.
43. Relationships between Ministries, Independent Departments, Regions, Local Government Authorities and other Public Organisations.
44. Communications within the Public Service
45. Termination of appointments.
46. Preliminary investigations.
47. Discipline of public servants
48. Appeals
49. Political involvement of public servants
50. Political neutrality and Impartiality of public servants
51. Political influence

Public Service Scheme

G.N. No. 169 (contd.)

52. Public servants' integrity
53. Confidentiality
54. Intervention of Political Leaders
55. The Public Service Working Documents.
56. Age of retirement
57. Grievances handling mechanism
58. Performance appraisal system
59. Performance contracts
60. Transfers
61. Leave
62. Compensation for injuries or death
63. Employers duty to protect the health of public servants
64. Public servants' representation
65. Duty to keep records.

This Service Scheme is made pursuant to section 7 of the Public Service Act, 2002 (No. 8 of 2002) and each of the Clauses therein shall be construed as complimentary to the Act and to the Public Service Regulations, 2003.

THE PUBLIC SERVICE SCHEME, 2003

PART I

PRELIMINARY PROVISION

1. This Scheme may be cited as the Public Service Scheme, 2003 and shall come into operation on the 20th day of June, 2003.

Citation

2. This scheme shall apply to and in respect of all public servants employed and working in:-

Applica-
tion

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

3. In this scheme, unless the context requires otherwise:-

Interpre-
tation

"Act", means the Public Service Act

"Appellate Authority" Means a body or organ or a person empowered by the Act to decide upon Public servants' appeals;

No. 8 of
2002

"Appointments" means recruitment of Persons in the Public Service and shall include first appointments or appointments on promotion.

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

- "Approved Establishments" means the establishment of posts in the Public Service which there is provision in the approved budget for their establishment.
- "Chairman" means the Chairman of the Commission and includes any person acting in the office of the Chairman;
- "Chief Secretary" means a Public Servant appointed by the President under Section 4 of the Act to assist the President on the Administration of the Public Service;
- "Chief Executive officer of the Service" means the Chief Secretary;
- "Chief Executive Officers" means the Permanent Secretaries, Deputy Permanent Secretaries Heads of Independent Departments, Regional Administrative Secretaries, Directors of Local Government Authorities, Clerk of the National Assembly, Director of Immigration Services, Commissioner of Fire and Rescue Services, and Ambassadors.
- "Code of Ethics and Conducts" means the Code of Ethics and Conducts applicable to Public servants.
- "Commission" means the Public Service Commission established the by Act.
- "Constitution" means the Constitution of the United Republic of Tanzania, 1977;
- "Criminal Offence" means an offence chargeable in the criminal court as defined under the Criminal Procedures Act, 1985;
- "Department" or "Division" or "Unit" means an identified entity within the organisational structure for management purposes;
- "Dependent" means a member of the family of a public servant who is wholly or partially dependant upon his earnings.
- "Director of a Local Government Authority" means a chief executive officer of the local government authority and shall include the Director of the Local Government Authority of the City Council or Commission;
- "Disciplinary Authority" means any person vested with powers by the Act to take disciplinary measures against any Public Servant and includes any person to whom those powers have been delegated;
- "Disciplinary Offence" means an offence which is specified in the Act as warranting disciplinary proceedings;
- "Employing Authority" means the authority under which a public servant works and shall also be known as the employer;

- "Employee" for the purpose of those Regulations, means any person termed by the Act as a public servant.
- "Employer" means a person or organisation, in the public service, with whom a public servant entered into a contract of service and who is responsible for the payment of salaries of such a public servant.
- "Independent Department" means a Department of the Government which is not under the direct control of the Ministry;
- "Local Government Authority " means the Local Government Authority as defined in the Act;
- "Member" means in relation to a Commission, a member of the Commission and includes the Chairman, and in relation to a Committee, a member of the Committee and includes a Chairman of a Committee, and in relation to a Board means a member of a Board and includes a Chairman of a Board;
- "Minister" means the Minister for the time being responsible for the Public Service;
- "Operational Service" means the cadre of supporting staff or employed in the executive or office grade;
- "Promotion" means the appointment of a public servant to a higher grade with an immediate or potential increase in salary;
- "Public Service" means the system or organisation entrusted with the responsibility or overseeing the provision or directly providing the general public with what they need directly from their government or any other institution on behalf of the government as permissible by laws; and include the Service in the Civil Service; the teachers service; the local government service; the health service; the immigration and the fire and rescue service, the executive agencies and the public institutions service and the operational service;
- "Public Service post" means a post in the Public Service;
- "Public Servant" means a person holding or acting in the Public Service office;
- "Public Service Scheme" means a Government Administrative legal document stipulating a formal or official order or way of doing things for the purpose of enabling Public Servants to serve the Public in an orderly and accountable manner.
- "Scheme of Service" means a carrier path development which enables a hard working and ambitious Public Servant to work his way up from the lowest to the highest levels of the Service.

"Service" means the Public Service of the United Republic of Tanzania.

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

PART II

ADMINISTRATION OF THE SERVICE

Powers of the President in relation to Public Service

4.—(1) All executive functions of the Government of the United Republic of Tanzania are vested in the President by virtue of Article 35 of the Constitution.

(2) The executive functions shall be performed through the Public Service by public servants on behalf of the President.

(3) All Authorities in the Public Service vested with powers under the Act, shall exercise those powers on behalf of the President and shall act with obedience abiding to the directives issued in that respect.

(4) The President shall make appointments of the Chief Secretary, other Chief Executive Officers, Members and Secretary of the Public Service Commission and any other public servants to be known by such titles as may, from time to time, be determined.

Role of the Minister in the Public Service

5.—(1) The Minister shall be a leader and overseer in the implementation of this Scheme and policies governing the Public Service.

(2) Ministers for each Ministry within the Public Service shall ensure effective implementation of this Scheme, their respective sectoral policies and service schemes governing the service.

The Administrative Powers of the Chief Secretary

6.—(1) The Chief Secretary shall be the Head and the Chief Executive Officer of the Service and shall provide leadership, direction and image to the Service.

(2) The Chief Secretary shall have powers of administration of the Service and the ordering of terms and conditions of service of Public servants.

The Disciplinary Powers of the Chief Secretary

7.—(1) The Chief Secretary shall be the highest ranking disciplinary authority in the Service and may in that capacity, in relation to any servant, exercise all or any of the powers delegated to a disciplinary authority.

(2) Notwithstanding the provisions of sub-clause (1) of this clause, the Chief Secretary shall be a disciplinary authority in respect of public servants appointed by the President.

(3) The exercise of powers of the President as the appellate authority, shall be facilitated by the Chief Secretary.

(4) The Chief Secretary shall through the Permanent Secretary (Establishments), facilitate the exercise of powers of the President to make appointments, and he shall confirm to the Service all public servants appointed by the President.

8.—(1) Every Chief Executive Officer shall be the overall in charge of the administration of all public servants under his jurisdiction.

(2) In case of the Region, the Regional Administrative Secretary shall be the overall in charge of the Administration of public servants in the Region.

(3) In case of a Local Government Authority, the Director of a Local Government Authorities shall be the in-charge of the administration of public servants in the Local Government Authority concerned.

9.—(1) The District Administrative Secretary shall be in-charge of the Administration of public servants in the District Commissioner's office including the office of the Divisional Secretary.

(2) The District Administrative Secretary shall assist public servants and other authorities within the District in the proper interpretation of the Public Service Laws, Regulations, Orders, Directives and Instructions.

10.—(1) The Head of Department, Division or Unit shall be the Disciplinary Authority in respect of public servants in the operational service, agreement or contract, temporary month-to-month and daily paid.

(2) When exercising his disciplinary powers the Head of Department, Division or Unit shall observe the procedures governing the services mentioned in sub-clause (1) of this clause.

11. The Head of Section shall have powers of supervision of public servants under him and shall give directives and ensure proper performance of the Public Service activities in his respective section.

Administrative Powers of the Chief Executive Officers in relation to the Service

Administrative powers of a District Administrative Secretary

Administrative powers of the Head of Department, Division, or Unit

Administrative powers of The Head of Section

Public Service Scheme

G.N. No. 169 (contd.)

Duties of the Chief Executive Officer in relation to the Service

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

Other duties of the Permanent Secretary (Establishments)

13.-(1) In addition to his duties as a Chief Executive Officer, the Permanent Secretary (Establishments) shall be the principal assistant to the Chief Secretary in relation to the administration of the Service and shall have duty to:-

- (a) notify the Chief Secretary of vacancies in the public service offices in respect of which the President is the appointing authority;
- (b) Formulate, promulgate, monitor, evaluate, review and interpret administrative and personnel policies;
- (c) Prescribe the Code of Conduct for the public servants;
- (d) Constitute and abolish public service offices except the office of the Permanent Secretary and Deputy Permanent Secretary;
- (e) Coordinate recruitment and appointments of persons from outside the United Republic of Tanzania;
- (f) Conduct investigations and studies concerning development and improvement of the efficiency of public servants and shall take appropriate steps to ensure the attainment of efficiency in the Public Service;
- (g) Carry out a review of annual personal emoluments to ensure that personal emoluments expenditure conforms to budget ceiling;
- (h) coordinate and ensure proper upkeep of personnel information for all public servants;
- (i) be a change agent in relation to the image, mission, ethics, conduct and role of the Service;
- (j) carry out job evaluation and re-grading and determine remunerations of public servants;
- (k) facilitate labour mobility of employees among employers;
- (l) issue the professional qualification standards for appointments in the Public Service.

(2) In performing the duties mentioned under clause 11 and 12 of this Service Scheme, Chief Executive Officers shall observe and adhere to the procedures governing the Public Service which shall be provided for in the Regulations, Standing Orders, Policies, Circulars, and other Directives.

PART III
THE COMMISSION

14. The Commission shall consist of members appointed in pursuant to section 9 (1), (2), (5) and (6) of the Act.

Composi-
tion of
the
Commi-
ssion

15. The Commission shall cater for public servants in the following services:-

Services
under the
Commis-
sion

- (a) the civil service;
- (b) the local government service;(c) the teachers service;
- (d) the health service;
- (e) the immigration and fire and rescue services;
- (f) the executive agencies and the public institutions services;
- (g) the operational service.

16. A period of holding office for members of the Commission including the Chairman shall not exceed three years and they shall be eligible for re-appointment for a further term or terms none of which shall exceed three years.

Tenure
of Office
and
Condi-
tions of
Service

17. The Chairman or any Member of the Commission shall cease to hold office on the following grounds: -

Cessa-
tion of
member-
ship

- (a) death;
- (b) resignation;
- (c) abolition of office;
- (d) removal from office by the President for disability to perform the functions of his office due to illness or misbehaviour;
- (e) contesting constitutional leadership or elective political post.

Public Service Scheme

G.N. No. 169 (contd.)

Secretary
and other
staff

18. - (1) The Secretary of the Commission shall be appointed by the President.

(2) The appointment of the Secretary of the Commission shall be facilitated in accordance with the provisions of section 8 (2) (a) of the Act and as shall be provided for in the Public Service Regulations.

(3) The Secretary of the Commission shall be the Chief Executive Officer, the Accounting Officer and the Appointing Authority of the staff of the Commission.

(4) The Secretary to the Commission shall appoint confirm and promote the staff of the Commission after consultation with the Permanent Secretary (Establishments).

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

Oath of
members,
Secretary
and
Staff.

19. Members, Secretary and Staff of the Commission shall take Oath on first appointment. Oath of members and Secretary shall be administered by the President and Oath of Staff shall be administered by the Chairman of the Commission.

Delegati
on of
powers
and
functions

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

- (a) tendering of advice to the President on matters of appointment, termination of appointment and disciplinary action.
- (b) deciding on appeals.

Departm
ents of
the
Commis
sion

21. (1) The Commission shall have the following Departments:-

- (a) the civil service department;
- (b) the teachers service department;
- (c) the local government service department;
- (d) the fire and rescue service and immigration service department;
- (e) the health service department.

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

(3) The departments of the Public Service Commission shall be responsible for facilitation of the functions of the Commission.

(4) The teachers service department of the Commission shall be the authority for appointments, confirmation of appointments, promotions, registration and discipline of all teachers in the Service.

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

Decisions of the Commission

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

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

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

23.- (1) All correspondence for the Commission shall be addressed to the Secretary and all correspondence from the Commission shall be signed by the Secretary or on behalf of the Secretary.

Correspondence

(2) Without prejudice to the provisions of sub-clause (1) of this clause, where circumstances necessitate correspondence may be addressed to and signed by the Chairman.

Public Service Scheme

G.N. No. 169 (contd.)

(3) The Secretary shall sign the records of the meetings of the Commission and the reports on the activities of the Commission in all matters.

(4) The Chairman shall sign the records of the meetings of the Commission and the reports on the activities of the Commission.

Communica-
tions of
Commis-
sion to
be privi-
leged

24. No person shall, in any legal proceedings, be permitted or compelled to produce or disclose any communication, written or oral, which has taken place between the Commission, or any member or a staff and the Government or the President, or between any member or staff of the Commission and the Chairman, or in connection with the exercise of the functions of the Commission, unless the Chief Secretary consents in writing to such production or disclosure.

Commis-
sion
may
require
atten-
dance

25.- (1) Any person may be required to attend and give information before the Commission concerning any matter which the Commission is required to consider in exercise of its functions under this Service Scheme and the Commission may require the production of any official documents relating to any such matter by any person attending before it.

(2) A person who without lawful cause refuses or fails to abide with the requirements of the provisions of sub-clause (1) of this clause, commits an offence and is liable to a fine not exceeding five hundred thousand Shillings or to imprisonment for a term not exceeding one year or both such fine and imprisonment.

Influence
or
attempt
to influ-
ence the
Commis-
sion

26.- (1) It shall be an offence to influence or attempt to influence any decision of the Commission by any person in whatsoever manner otherwise than in the cause of his duty.

(2) Any person who commits an offence under sub-clause (1) of this clause shall be liable on conviction for a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or both for such fine and imprisonment.

(3) The Secretary of the Commission shall take action against any person who is suspected to have violated the provisions of this clause. Provided that where the action to be taken involves prosecution, he shall seek the consent of the Director of Public Prosecutions.

(4) The provisions of this clause shall not be construed as prohibiting any person from giving a certificate or testimonial to any applicant or candidate for any office or from supplying any information or assistance at the request of the Commission.

27. Any person who wilfully gives to the Commission any information which he knows to be false or does not believe to be true, or which he knows to be false by reasons of the omission of any material particulars, shall be guilty of an offence, and on conviction, shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment not exceeding two years or to both such fine and imprisonment.

False information to the Commission

28.- (1) Subject to section 10 of the Act, the Commission shall have power:-

Powers of the Commission in relation to the Service

- (a) to advise the President through the Public Service Department in respect of the exercise of his powers of appointment as the President may require;
- (b) to issue guidance, to monitor implementation of the guidance and to facilitate merit based recruitment in the Public Service. In the guidance, the Commission shall set out guidelines and criteria to be adhered to by appointing authorities to ensure that all appointments are merit based;
- (c) to monitor the professional qualification standards issued by the Permanent Secretary (Establishments);
- (d) to facilitate appointments in the service by advertising vacancies after being notified by the appointing authorities, conducting interviews and advising appointing authorities on the suitable candidates to be appointed;
- (e) to ensure the accountability of all executives in the Service and shall call upon any of them to account for his performance if the Commission receives complaints or has evidence indicating mis-management or non performance;
- (f) to take measures in relation to any executive who fails to take action concerning public servants under him in accordance with the requirements of the Law by reporting him to the Chief Secretary;

(2) While exercising its powers under sub-clause (1) of this clause the Commission shall involve the appointing authority concerned.

Public Service Scheme

G.N. No. 169 (contd.)

(3) Where appropriate, the Commission shall handle appeals from the decision of all disciplinary authorities in the Service other than the decision of the Chief Secretary and President the decision made in respect of any appeal shall be binding upon both the authority and the Public Servant concerned and shall be appealable to the President.

(4) Any employing authority in the Service may be called upon by the Commission to provide information required for carrying out the functions of the Commission. Failure by the employing authority to comply with the requirements of this sub-clause shall be reported to the Chief Secretary who shall take appropriate action.

PART IV
THE SERVICE

Terms
and con-
ditions
of the
service

29.- (1) The terms and conditions of the Service shall be:-

- (a) Permanent and Pensionable;
- (b) Agreement or Contract;
- (c) Temporary month to month;
- (d) Operational Service;
- (e) Daily paid.

(2) The terms and conditions of the Service provided for under sub-clause (1) of this clause may be modified by any special terms contained in the agreements, contracts or letters of appointment of individual public servants.

Appoint-
ments in
the
Public
Service

30. Appointments in the Public Service shall be governed by the Constitution, the Act, the Public Service Regulations, the Public Service Recruitments Code of Practice, the Public Service Code of Ethics and Conduct, Public Service Professional Codes of Ethics and Conduct and Administrative Instructions or Orders.

Qualifi-
cations
for
appoint-
ment and
promot-
ion

31. No person shall be appointed or promoted to the Service unless he meets the following necessary requirements:-

- (a) academic qualification determined by a certain level of education required in the post concerned as indicated in the relevant Scheme of Service;

- (b) professional competency determined by the skill level of that profession;
- (c) age qualification determined by the date of birth shown either in a birth certificate or any other document relevant and legally acceptable;
- (d) good character and integrity by his appearance, interaction with other people, the manner he conducts himself, the manner he expresses himself and his track record;
- (e) experience determined by length of time he has served in the same post or equivalent post;
- (f) Citizenship determined by birth certificate or registration certificate.

32.- (1) Any person who has been convicted of a criminal offence involving moral turpitude or who has been dismissed from the Public Service previously, shall not be appointed in the Service, without prior sanction of the Chief Secretary.

Persons not to be appointed in the service

(2) Offences involving moral turpitude shall include:-

- (a) an act or behaviour that gravely violates the moral sentiment or accepted moral standard of the Community.
- (b) the immorally culpable quality held to be inherent in some criminal offences as distinguished from others.

(3) Any person who has been removed or retired in public interest or retired by retrenchment or redundancy from the Service shall not be appointed in the Public Service without prior sanction of the Chief Secretary.

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

(4) Any person of unsound mind shall not be appointed in the Public Service.

33.- (1) No appointment may be made in the Public Service, whether temporarily or otherwise, for which no provision has been made in the estimates.

Approved Establishment

Public Service Scheme

G.N. No. 169 (contd.)

(2) No increase in the number of posts may be made above the authorised establishment without prior approval of the Permanent Secretary (Establishments).

The
Appoi-
nting
Authori-
ties'
Respon-
sibility

34. The ultimate responsibility for appointments shall rest to the appointing authorities.

Appoint-
ment
Princi-
ples

35.-(1) All appointments in the Public Service' shall be governed by the overriding principles of selection based on merit, the well informed choice of individuals who through their abilities, experience and qualities match the need of the vacant post concerned.

(2) The principles of selection for appointments of public servants shall be provided for in the Public Service Recruitments Code of Practice.

(3) The appointment procedures shall be subject to the principles of proportionality and shall be appropriate for the nature of the post, the size and weight of responsibility.

(4) Appointments in the Public Service shall be free from religious beliefs or political partiality and shall be based on:-

- (a) merit, fairness and open competition;
- (b) the prescribed qualifications.

Notifica-
tion of
vacan-
cies.

36. (1) All appointing authorities in the Public Service shall be obliged to notify the Commission on vacancies within their respective organisations.

(2) Notification of vacancies shall specify the necessary requirements for the vacant posts and shall follow the procedures which shall be provided for in the public Service Regulations and Administrative or Instructions or Orders.

37. (1) Where a candidate is dissatisfied with the way appointment procedure is conducted to any post which he is interested and which he was a candidate, he shall complain to the appointing authority concerned and if not satisfied with the decision of the appointing authority he shall appeal to the Commission and there after to the Chief Secretary.

Complaints regarding appointments or recruitments

(2) The recruitment competition proves shall be fully documented and the document shall be kept for a period of not less than twelve months from the date when such recruitment process ended.

38-(1) The powers of constituting and abolishing posts or upgrading and downgrading posts other than the post of the Chief Secretary, the Permanent Secretary and Deputy Permanent Secretary, shall be exercise by the Permanent Secretary (Establishments).

Constitution and abolition of posts

(2) For the purpose of the provisions of Sub-Clause (1) of this clause, the words "upgrading" and "downgrading" of post shall mean change in the Salary Scale or entry point.

(3) The powers under sub-clause (1) of this clause may be exercised by the Permanent Secretary (Establishments) either after being directed by the Chief Secretary or on his own motion or after the application from the Chief Executives.

(4) The Permanent Secretary (Establishments) may constitute or abolish or upgrade or downgrade any post on his own motion only where there is a policy or administrative or establishment necessity. Under these circumstances, he shall consult the Chief Secretary.

(5) In case of the application from any chief executive for constitution of any public service posts, the application shall be made to the Permanent Secretary (Establishments) stating-

- (a) the title of the proposed post;
- (b) the salary or the salary scale to be attached to the proposed post;
- (c) whether or not the proposed post is to be a pensionable post;
- (d) the reason why the constitution of the proposed post is considered desirable;

Public Service Scheme

G.N. No. 169 (contd.)

- (e) the qualifications of any holder of the proposed post and the duties which such holder will be required to perform;
- (f) where the post is to be created and filled during a financial year, whether or not funds are available to meet the expenses involved until the expiry of the financial year;
- (g) such other matters as the Permanent Secretary (Establishments) may direct.

(b) In case of the application for the abolition of any public service post, the application made to the Permanent Secretary (Establishments) shall state:-

- (a) the reason why it is considered that the post should be abolished; and
- (b) such other matters as the Permanent Secretary (Establishments) may direct.

Public
servants
account-
ability

39.- (1) The accountability in the Public Service shall be hierarchical and public servants shall be accountable according to arrangements from lower to higher ranks and shall be based on the hierarchy of authority and responsibility.

(2) In the higher rank there shall be the Permanent Secretaries, Heads of Independent Departments, Regional Administrative Secretaries and Directors of Local Government Authorities who are the chief executives according to section 5 (1) (a) of the Act.

(3) Below the chief executives there shall be the Heads of Divisions or Departments followed by Section Heads then by the supporting administrative professional and technical staff comprising senior, middle and junior level public servants.

(4) Every Chief Executive officer shall be accountable for the functioning of his Institution.

(5) Every Divisional or Departmental and Section Head shall be accountable for the functioning of his area of responsibility and every public servant in charge of any specific area such as a supervisor, a schedule officer and an auxiliary officer shall be accountable for the efficient performance in his area of responsibility.

(6) The most senior public servant is accountable for the actions of all public servants below him.

(7) Notwithstanding the provisions of sub-clause (1) of this clause every public servant shall be accountable for his own performance and actions provided that no pressure, undue influence or interference is exerted upon him by his senior or any public leader.

(8) Without prejudice to the provisions of sub-clause (2) to (4), (5), (6) and (7) of this clause, every public servant working in the Local Government Authority, shall be accountable to his respective Local Government Authority in the discharge of his functions in the following manner:-

- (a) In case of the Director of a Local Government Authority, he shall be accountable for the proper discharge of his functions and responsibilities and those of public servants under him.
- (b) In case of other public servants, their accountability to the Local Government Authority shall be co-ordinated through the Director of the Local Government Authority concerned and shall at all times and in such a manner as may be directed by a Local Government Authority, deliver an account of the functioning of their responsibilities to the Local Government Authority Concerned.

40. (1) All Public servants shall be loyal to the President of the United Republic of Tanzania and shall perform their duties with regard to the requirements of the Constitution, Laws, Regulations, Orders, Directives and Instructions.

(2) Public servants shall regard themselves as servants under the same Service and shall strive to serve loyally and to comply with lawful instructions of their supervisors.

(3) Relationship in the Public Service shall observe that every public servant is entitled to recognition and respect for his dignity regardless of hierarchy in the Service.

(4) Every Public Servant shall respect and co-operate with his fellow public servant at work place and elsewhere within the Public Service in order to achieve the objectives of the Public Service.

Relationship
between
Public
servants
and their
supervi-
sors

Public Service Scheme

G.N. No. 169 (contd.)

(5) Subject to the laid down procedures a civil servant shall have the right to claim and enquire on any issue pertaining his service and his employer or supervisor shall grant the right claimed or avail him with the appropriate or necessary information enquired.

Relationship
between
political
leaders
and
execu-
tives

41. -(1) The relationship between a political leader and a public servant while performing their duties and functions, shall be governed by the Constitution and the relevant laws conferring powers on them.

(2) Matters of administration in every Ministry, Independent Department, Region, District and a local Government Authority shall be under the powers of the executive officer in charge and matters of leadership shall be under the powers of the political leader.

(3) In performing their executive duties and functions, public servants shall not be interfered with except through the appropriate supervisors.

Relation-
ship
between
the
Commi-
sion and
the
President

42.- (1) The Public Service Commission shall perform its functions under the President and shall account for all its functions to the President.

(2) All members of the Commission including the Chairman shall be loyal to the President of the United Republic of Tanzania and shall perform their duties in conformity with the requirements of the Constitution, the Public Service Act, Public Service Regulations, Directives and Instructions of the President or any other person acting on behalf of the President.

Relation-
ship
between
Minist-
ries,
Indepe-
ndent
Depart-
ments,
Regions,
Local
Govern-
ment
Authori-
ties and
other
Public
Organisa-
tions.

43.- (1) The Commission shall be independent and shall not be under the direct control of any Ministry but shall keep good working relationship and co-operation with Ministries, Independent Departments, Regions, Local Government Authorities and other Public Organisations.

(2) Ministries, Independent Departments, Regions, Local Government Authorities and other Public Organisations shall also keep good working relationship and co-operation with the Commission for smooth operations of their activities.

(3) Ministries, Independent Departments, Regions, Local Government Authorities and other Public Organisations shall not interfere with the functioning of the Commission except through the President where necessary.

(4) Ministries, Independent Departments, Regions, Local Government Authorities and other Public Organisations shall respond without any delay where the Commission requires any information crucial for the performance of its functions.

44. Communications within the Public Service shall be in accordance with the procedures to be provided for in the Public Service Regulations, Administrative Directives or Instructions or Orders.

Communica-
tions
within
the
Public
Service

(2) Notification of vacancies shall specify the necessary requirements for the vacant posts and shall follow the procedures which shall be provided for in the Public Service Regulations and Administrative Directives or Instructions or Orders.

45. (1) Termination of appointments of Public servants shall include:-

Termina-
tion of
appoint-
ments

- (a) removal or retirement on public interest;
- (b) retirement on medical grounds;
- (c) retirement on abolition of office or re-organisation of department;
- (d) termination by age of retirement;
- (e) termination upon contesting constitutional leadership or elective political post;
- (f) retrenchment or redundancy by reason of:-
 - (i) abolition of office or post;
 - (ii) re-organisation of office;
 - (iii) dissolution of the organisation;
 - (iv) employers incapability to remunerate a public servant.
- (g) termination on disciplinary ground.

(2) Procedures for termination of appointments mentioned in sub-clause (1) of this clause shall be provided for in the Public Service Regulations.

(3) Suggestions for removal or retirement in public interest shall be made by the Chief Executive himself in accordance with the procedures to be provided for in the Public Service Regulations and shall only be made where the Chief Executive is of the opinion that grounds for such a suggestion do not warrant disciplinary actions.

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

Prelimi-
nary
investi-
gations.

G.N. No. 169 (contd.)

Discipline of public servants

47.-(1) Every public servant shall conduct himself with integrity, impartiality and honesty. He shall give honest and impartial advice to the President or, as the case may be, to the Minister, to the Chief Executive or to the Head of his Department or to his Supervisor without fear or favour and shall make all information relevant for decision available to them.

(2) A public servant shall not deceive or knowingly mislead the President, Minister, his Head of Department, his Supervisor or any member of the Public.

(3) Every Public Servant shall not conduct himself in a way which: -

- (a) is illegal;
- (b) is improper;
- (c) is unethical;
- (d) is in breach of Constitutional Convention or a Professional Code of Ethics and Conduct;
- (e) is inconsistent with the Public Service Code of Ethics and Conduct and the Public Service Leadership Code of Ethics and Conduct;
- (f) involves possible maladministration.

(4) Public servants shall conduct themselves in accordance with the provisions of:-

- (a) the Public Service Codes of Ethics and Conduct;
- (b) the Public Service Leadership Code of Ethics and Conduct;
- (c) various Professional Codes of Ethics and Conduct;
- (d) the public service Regulations, the Administrative Directives or Instructions and Orders.

(5) Any public servant who contravenes the provisions of sub-clause (1) (2), (3) and (4) of this clause shall commit a disciplinary offence and shall be subject to disciplinary proceedings which shall be conducted in accordance with the procedures to be provided for in the Public Service Regulations.

(6) Every Public Servant who is aware of any breaches or who has been required by any other public servant, whether senior or junior, to act in a way which raises a fundamental issue of conscience for that public servant, may report that breach to his supervisor or his employer as the case may be.

48.- (1) The Appellate Authorities of public servants and the procedures for appeals shall be as provided for in the Public Service Regulations.

Appeals

(2) Both the employers or the disciplinary authority and a civil servant shall have the right to appeal if aggrieved with any decision.

49.- (1) A public servant has the right of being a member of any political party and can vote both for his political party and in general elections except where he is prohibited by any Law, Regulations or Administrative Directives or Instructions or Orders.

Political involvement of public servants

(2) Notwithstanding the provisions of sub-clause (1) of this clause, a public servant shall obediently implement the policies of the ruling party and shall observe the following limitations -

- (a) shall not conduct or engage himself with political activities during official hours or at work place;
- (b) shall not be employed or hold office in any political party;
- (c) shall not identify himself by dressing in his political party's uniform or wear his political party's medal or badge during official hours or at his work place;
- (d) shall not utter any words which may embarrass the Government due to his political affiliation;
- (e) shall not actively participate in the affairs of political parties such as holding a political party's office or speaking or addressing on political platforms.

50. A public servant shall be neutral and impartial while delivering service to the public without any bias due to his political affiliation and shall observe the following limitations-

Political neutrality and impartiality of public servants

- (a) shall not take part in political activities which can compromise or be seen to compromise his loyalty to government activities;
- (b) shall not pass information or documents availed through his position in the service to his political party.

Public Service Scheme

G.N. No. 169 (contd.)

Political
influence

51. A public servant has the right to communicate with his political representatives provided he observes the following limitations:- J

- (a) shall not use such influence to intervene on matters affecting him, which are in dispute between the Government and him;
- (b) shall not use such influence for furthering personal ends or interests which are not part of the Government Policy.

Public
servants
integrity

52. Every public servant shall serve with high standard of wisdom and integrity.

Confide-
ntiality

53. A public servant shall not without authority disclose official information which has been communicated confidentially within the administration or received confidentially from other public servants.

Interven-
tion of
political
leaders

54. (1) A public servant shall not seek any political leaders intervention when pursuing matters of his service unless he proves that he has exhausted the executive administrative ladder.

(2) Where a public servant pursues any matter concerning his service, he shall do so by starting from his immediate supervisor before going to the higher level of the Public Service Administration, provided that he shall not be bound to start from his immediate supervisor where he thinks that justice shall not be done.

(3) Where in any way, a public servant seeks any political leaders intervention, a political leader whose intervention has been sought, shall before intervening, communicate the matter to the Chief Executive of that public servant.

The
Public
Service
Working
Docu-
ments

55. -(1) The necessary Public Service Working Documents shall include:-

- (a) the Constitution of the United Republic of Tanzania;
- (b) the Public Service Act;
- (c) the Public Service Retirement Benefits Act, No.2 of 1999;
- (d) the Political Leaders Retirement Benefits Act, No.3 of 1999;
- (e) the Local Authorities Provident Fund Act, No.6 of 2000;

- (f) the Employment Ordinance Cap 366;
- (g) the Security of Employment Act No. 62 of 1964;
- (h) the Executive Agencies Act, No 30 of 1997;
- (i) the Regional Administration Act, No.19 of 1997;
- (j) the Public Service Regulations;
- (k) the Public Service Code of Ethics and Conduct;
- (l) various Professional Codes of Ethics and Conduct;
- (m) Standing Orders for the Public Service;
- (n) the Public Service Recruitment Code of Practice;
- (o) the Public Service Disciplinary Code of Practice;
- (p) the Public Service Arbitration and Reconciliation Code of Practice;
- (q) the Public Service Retrenchment and Redundancy Code of Practice;
- (r) the Public Service Management and Employment Policy;
- (s) any other Laws and documents relevant for reference in relation to specific matters;

(2) Every employer shall ensure the availability and accessibility of all necessary Public Service working documents for public servants under him.

(3) Every Public Servant shall make sure that he has all necessary public Service working documents, he understands them and make use of them.

(4) Every public servant shall make correct interpretation and reference of the working documents in order to reach proper decisions.

(5) Where a public servant fails to interpret or wants to confirm the interpretation of a provision of any law or any document, he shall seek assistance of any government legal expert available in the area.

(6) A public servant shall behave as a public servant and not as a public master and shall show normal courtesy.

(7) A public servant shall display an attitude of responsibility to public property.

Public Service Scheme

G.N. No. 169 (contd.)

Age of retirement

56. (1) Age of retirement for Public servants shall be as provided for by the Retirement Benefits, laws applicable for the time being.

(2) Where there is ambiguity on the date of birth of a public servant and where there is argument between the employer and a public servant as to the accurate date of birth, the date on record disclosed by a public servant during his first employment, shall be recognised as the accurate date of birth of such a public servant.

(3) Where only the year and not the actual date of birth of a public servant has been recorded, his date of birth shall be deemed to be the first day of July of that year.

(4) Where only the month of birth has been recorded, the date of birth shall be deemed to be the 16th day of that month and the 15th in the case of February.

Grievances handling mechanism

57. It shall be the role of every supervisor and every chief executive to establish a grievances handling mechanism and he shall receive, solve or seek solutions for the grievances of public servants under his jurisdiction.

Performance appraisal system

58. There shall be operated an open appraisal system by every organisation within the Public Service in accordance with the procedures as shall be provided for in the Public Service Regulations.

Performance contracts

59. Every public servant shall sign a performance contract with his supervisor in accordance with the procedures as shall be provided for in the Public Service Regulations.

Transfers

60.-(1) Where necessary and where it is in the public interest, transfers of public servants shall be conducted within the Service for the purpose of improving efficiency of the service.

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

Leave

61.- (1) Every public servant shall be entitled to annual leave which shall be granted by the employer or supervisor once a year in accordance with the public servant's leave cycle.

(2) Non-grant of a public servant's annual leave by-the employer, shall entitle such a public servant a one month salary payment in lieu thereof.

(3) There shall be other leave available for the public servant in accordance with the provisions of the Public Service Regulations.

62. Where a public servant sustains injuries or dies in the course of his employment, he shall be entitled to compensation which shall be paid in accordance with the procedures to be provided for in the Public Service Regulations.

Compensation for injuries or death

63.-(1) Every employer shall take all reasonable precautions to ensure occupational safety standards in order to avoid unnecessary cause of health hazards and shall facilitate annual medical check up for public servants within this jurisdiction.

Employers duty to protect the health of public servant

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

64. The representation of public servants in the discussions with the employers on matters of the employment welfare in general, shall be through the workers' councils and the Joint Staff Council.

Public servants' representation

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

Duty to keep records

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

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

Dar es Salaam,
14th June, 2003

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