

CHAPTER 241

THE POLICE FORCE AND PRISONS SERVICE COMMISSION ACT

An Act to establish the Police and Prisons Service Commission, to define its functions and to provide for related matters.

[1st July, 1990] 1

[G.N. No. 177 of 1990]

Act No. 8 of 1990

PART I

PRELIMINARY PROVISIONS (ss 1-3)

[PCh241s1]1. Short title

This Act may be cited as the Police Force and Prisons Service Commission Act.

[PCh241s2]2. Interpretation

In this Act, unless the context otherwise requires—

"Assistant Commissioner" means Assistant Commissioner of Police and Prisons respectively;

"Chairman" means the Chairman and includes the Vice-Chairman or any person acting in that capacity;

"Commission" means the Police Force and Prisons Service Commission established under section 4 of this Act;

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

"Minister" means the Minister responsible for home affairs;

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

"Permanent Secretary" means the Permanent Secretary for home affairs;

"service" means service in the in the Police Force and Prisons Service.

[PCh241s3]3. Application

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

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

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

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

PART II

THE POLICE FORCE AND PRISONS SERVICE COMMISSION (ss 4-9)

[PCh241s4]4. Establishment of the Commission

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

(2) The Commission shall consist of–

- (a) the Minister, who shall be the Chairman;
- (b) the Deputy Minister, who shall be the Vice-Chairman;
- (c) the Permanent Secretary, who shall be the Secretary;
- (d) the Inspector-General of Police;
- (e) the Permanent Commissioner of Prisons;
- (f) the Commissioner of Police, Zanzibar;
- (g) the Commissioner of Police in charge of the Criminal Investigation

Department;

- (h) the Commissioner of Police, in charge of administration and finance;
- (i) Commissioner of Prisons, in charge of administration and finance;
- (j) Commissioner of Prisons, in charge of legal and prisons affairs;
- (q) two other members appointed by the Minister.

[PCh241s5]5. Functions of the Commission

The functions of the Commission shall be–

- (a) to advise the President on the exercise of such of the functions conferred on the President by Article 36 of the Constitution *, and in respect of the filling of such vacancies in the Police Force and Prisons Service, as the President may require;

(b) to exercise such of the functions conferred on the President by Article 36 of the Constitution as may be delegated to the Commission under this Act;

(c) to assist the President in relation to such matters relating to the as the President may require;

(d) to exercise such other functions as may be conferred on the Commission by or under any other written law;

(e) to consider on probation, and either confirm them in the service or extend the probationary term of, any of the officers so as to afford them an opportunity to improve in any respect in which their performance or conduct is found to be unsatisfactory;

(f) to receive and act on appeals from the decisions of other delegates and disciplinary authorities.

[PCh241s6]6. Appointment, promotion and confirmation

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

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

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

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

[PCh241s7]7. Disciplinary authority and procedure

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

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

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

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

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

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

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

[PCh241s8]8. Dismissal and removal

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

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

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

[PCh241s9]9. Appeals

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

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

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

(4) Where the President or the Commission varies or rescinds any decision, removing or dismissing any Police or Prisons Officer from service, and substitutes any other decision of removing or dismissing that Police or Prisons Officer, the variation or rescission shall have effect from the date of the original decision, and such Police or Prisons Officer shall, unless he shall sooner have ceased to be a Police or Prisons Officer for any other cause, be deemed to have remained a Police or Prisons Officer notwithstanding the original decision.

PART III

PROVISIONS RELATING TO MEMBERSHIP OF COMMISSION AND PROCEEDINGS OF THE COMMISSION (ss 10-18)

[PCh241s10]10. Tenure of office

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

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

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

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

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

[PCh241s11]11. Vice-Chairman to act in the absence of Chairman

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

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

[PCh241s12]12. Vacancy

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

[PCh241s13]13. Oaths of members

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

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

and sincerely declare and affirm" for the word "swear" and omitting the words "so help me God".

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

[PCh241s14]14. Communications of Commission privileged

Every report, statement or other communication, written or oral, which the Commission may in the exercise of its functions under this Act make to the Minister or to any public officer, or which may have taken place between the Commission or any member or officer of the Commission and the Minister or any public officer, or between members or officers of the Commission in the exercise, or in connection with the exercise of the functions of the Commission, shall be privileged in that, unless the Minister consents in writing in that behalf, its production or disclosure in any legal proceedings may not be compelled.

[PCh241s15]15. Prohibition of unauthorised disclosure of information

(1) Neither a member nor any officer of the Commission nor any other person shall, without the written permission of the Minister, publish or disclose to any unauthorised person disclosure or otherwise than in the course of duty, the contents of any document, communication or information of any kind which has come to his knowledge in the course of the performance of his duties under this Act in relation to any matters referred to the Commission under this Act; and any person who knowingly acts in

contravention of any of the provisions of this section commits an offence and is liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding twenty months or to both such fine and imprisonment.

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

[PCh241s16]16. Penalty for attempting to influence the Commission

(1) Without prejudice to the provision of any other written law, every person who, otherwise than in the course of his duty, directly or indirectly by himself or by any other person in any manner influences or attempts to influence any decision of the Commission commits an offence and is liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(2) Nothing in subsection (1) shall be construed as prohibiting any person from giving a certificate or testimonial to any applicant or candidate for any office or from supplying any information of assistance at the request of the Commission.

[PCh241s17]17. Prosecutions

Every member and staff of the Commission shall have such and the like protection and privilege in case of any action or suit brought against him for any act done or omitted

to be done in the bona fide execution of his duties as is by law given to the acts done or words spoken by him in the exercise of his duties of the Commission.

[PCh241s18]18. Protection of members

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

PART IV

SPECIAL PROVISIONS (ss 19-21)

[PCh241s19]19. Pension of Police and Prisons Officers

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

(2) Subject to subsection (1) of this section, any Police or Prisons Officer may opt to retire in accordance with the provisions of section 10 of the Public Service Pensions Act *.

[PCh241s20]20. Gratuity of Police and Prisons Officers

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

[PCh241s21]21. Compensation of Police and Prisons Officers

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

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

PART V

GENERAL PROVISIONS (ss 22-23)

[PCh241s22]22. Regulations

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

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

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

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

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

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

[PCh241s23]23. Savings

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

SCHEDULE

OATHS OF OFFICER OF THE COMMISSION

(Section 13(1))

I, being called upon to exercise the functions of the office of of the Police Force and Prisons Service, do swear solemnly and sincerely declare and affirm that I will not directly or indirectly, reveal to any unauthorised person or otherwise than in course of duty the contents or any part of the contents of any documents, communications or information of any kind which may come to my knowledge in the course of my duties as an officer of the Commission or under the provision of the Police Force and Prisons Service Commission Act.

SO HELP ME GOD

SWORN/

DECLARED THIS DAY OF 20

Before me

Chairman, Police Force and Prisons Service Commission