

CHAPTER 391

THE COMMISSION FOR HUMAN RIGHTS AND GOOD GOVERNANCE ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 391

THE COMMISSION FOR HUMAN RIGHTS AND GOOD GOVERNANCE ACT

An Act to make provisions in pursuance of article 131 of the Constitution in relation to the functions, powers, privileges and other matters of the Commission for Human Rights and Good Governance and related matters.

[9th May, 2001]

[G.N. No. 67 of 2001]

Acts Nos.

7 of 2001

16 of 2001

PART I

PRELIMINARY PROVISIONS (ss 1-4)

[PCh391s1]1. Short title

This Act may be cited as the Commission for Human Rights and Good Governance Act.

[PCh391s2]2. Construction

This Act shall be read together with the Constitution.

[PCh391s3]3. Application

This Act shall apply to Mainland Tanzania as well as to Tanzania Zanzibar.

[PCh391s4]4. Interpretation

In this Act, unless the context requires otherwise—

"Appointments Committee" means the committee established by Article 129(4) of the Constitution;

"appropriate Authority" includes any person or authority, whether corporate or otherwise, to whom or to which a recommendation is made by the Commission under the provisions of section 28;

"Chairman" means the Chairman of the Commission or, where appropriate, a Commissioner performing the functions of the Chairman;

"Commission" means Commission established by Article 129 of the Constitution;

"Commissioner" and "Assistant Commissioner" means a Chairman or other members of the Commission appointed in pursuance of Article 129 of the Constitution;

"Constitution" means the Constitution of the United Republic of Tanzania *;

"enquiry" means an enquiry carried out by the Commission in pursuance of the provisions of this Act;

"Government" includes the Government of the United Republic, the Revolutionary Government of Zanzibar, or a local government discharging the power or authority of or on behalf of a local government authority;

"High Court" means the High Court of the United Republic or the High Court of Zanzibar;

"member" means a Commissioner or Assistant Commissioner;

"Minister" means the Minister for the time being responsible for human rights;

"public officer" or "public office" means every officer or department vested with or performing duties of a public nature, and includes an officer or department under the control of a local government authority, the Community or a public corporation or other authority by whatever name called.

PART II

THE COMMISSION (ss 5-12)

[PCh391s5]5. Act to regulate the Commission

The composition, functions, powers, privileges and other matters in relation to the Commission for Human Rights and Good Governance established by Article 129 of the Constitution * shall be regulated by the provisions of this Act.

[PCh391s6]6. Functions of the Commission

(1) The Commission shall carry out the following functions—

(a) to promote within the country the protection and the preservation of human rights and of duties to the society in accordance with the Constitution and the laws of the land;

(b) to receive allegations and complaints in the violation of human rights generally;

(c) to conduct enquiries into matters involving the violation of human rights and the contravention of the principles of administrative justice;

(d) to conduct research into human rights, administrative justice and good governance issues and to educate the public about such issues;

(e) when necessary, to institute proceedings in court designed to terminate activities involving the violation of human rights or redress the right or rights so violated, or the contravention of the principles of administrative justice;

(f) to investigate the conduct of any person to whom or any institution to which the provisions of this section apply in the ordinary course of the exercise of the functions of his office or discharge of functions in excess of authority;

(g) to investigate or inquire into complaints concerning practices or actions by persons holding office in the service of the government, public authorities or other public bodies, including private institutions and private individuals where those complaints allege abuse of power, injustice, unfair treatment of any person, whether complainant or not, in the exercise of their official duties;

(h) to visit prisons and places of detention or related facilities with a view to assessing and inspecting conditions of the persons held in such places and making recommendations to redress the existing problems in accordance with the provisions of this Act;

(i) to take steps to secure the remedying, correction, reversal or cessation of instances referred to paragraphs (e), (f), (g) or (h) through fair, proper and effective means, including the institution of legal proceedings;

(j) to provide advice to the government and to other public organs and private sector institutions on specific issues relating to human rights and administrative justice;

(k) to make recommendations relating to any existing or proposed legislation, regulations, or administrative provisions to ensure compliance with human rights norms and standards and with the principles of good governance;

(l) to promote ratification of or accession to treaties or conventions on human rights, harmonization of national legislation and monitor and assess compliance, within the United Republic, by the government and other persons, with human rights standards provided for in treaties or conventions or under customary international law to which the United Republic has obligations;

(m) under the auspices of the government, to cooperate with agencies of the United Nations, the OAU, the Commonwealth and other bilateral, multilateral or regional and national institutions of other countries which are competent in the areas of protection and promotion of human rights and administrative justice;

(n) to take such measures as may be appropriate for the promotion and development of mediation and reconciliation amongst the various persons and institutions who come or are brought before the Commission;

(o) to perform such other functions as may be provided for by any other written law.

(2) Without prejudice to provisions of subsection (1), the Commission shall, generally in relation to members of the public, use Commission's good office to promote, protect and where necessary to provide assistance to persons whose human rights have or are in imminent danger of being violated.

[PCh391s7]7. Composition

(1) The Commission shall consist of—

(a) a Chairman, who shall be a person qualified for appointment as Judge of the High Court or a Judge of the Court of Appeal;

(b) a Vice-Chairman who shall be appointed on the basis of the principle that where the Chairman hails from one part of the United Republic then the Vice-Chairman shall be a person who hails from the other part of the Union;

(c) not more than five other Commissioners appointed from amongst persons who have knowledge, experience and a considerable degree of involvement in matters relating to human rights, law, government, politics or social affairs;

(d) Assistant Commissioners.

(2) The President shall, acting upon recommendations of the Appointments Committee, appoint the Commissioners and Assistant Commissioners.

(3) A person shall be qualified for appointment as a Commissioner or Assistant Commissioner who is of the highest reputation and is known for his high morality, integrity, impartiality and competence in matters of human rights and good governance.

(4) The Minister shall make regulations providing for the procedure to be followed by the Appointment Committee and involvement of the civil society in scouting the candidates for appointment to be the Commissioners and Assistant Commissioners.

[PCh391s8]8. Tenure and conditions of service Act No. 16 of 2001 s. 3

(1) A Commissioner shall hold office for a period of three years, and shall be eligible for reappointment for no more than a second term not exceeding three years.

(2) There shall be paid to the Commissioners such salaries or remuneration as shall be determined by the President, and those salaries shall be charged on the consolidated fund.

(3) A Commissioner may resign his office upon giving one month's notice in writing to the President.

(4) The office of a Commissioner shall become vacant—

- (a) upon the Commissioner's resignation or removal from office;
- (b) if the Commissioner is declared bankrupt;
- (c) upon the Commissioner's retirement or death.

[PCh391s9]9. Members to relinquish certain offices

(1) In addition to any office held in any political party which in accordance with Article 129(6) of the Constitution a person appointed a Commissioner is required to vacate, on appointment as a Commissioner a person holding any of the following offices shall forthwith vacate that office, that is to say—

- (a) the office of member of Parliament;
- (b) the office of member of the Zanzibar House of Representatives;
- (c) the office of Speaker of the National Assembly;
- (d) the office of Speaker of the Zanzibar House of Representative;
- (e) the office of Judge or other judicial office;
- (f) any office in the Public Service;
- (g) the office of member of an Electoral Commission;
- (h) the office of member of a local government authority and any office in the service of any local government authority;
- (i) any other public office.

(2) Where a person has been appointed a Commissioner and has in accordance with subsection (1) vacated any of the offices specified in it, other than an office the holder of which is required by any written law to be elected by any body of persons, that person may, upon his ceasing to be a Commissioner, be reappointed to that office by the appropriate appointing

authority and, where that person is so reappointed, his service in that office subsequent to the reappointment shall, and notwithstanding the provisions of any written law or of any contract of service affecting that person to the contrary, be deemed to be continuous with his service in that office prior to his appointment as a Commissioner.

(3) Where a person is reappointed to any office in accordance with subsection (2) and his service in that office subsequent to that reappointment is deemed to be continuous with his service in it prior to his having vacated it under subsection (1)–

(a) the period between his having vacated the office and his reappointment to it shall not be taken into account for the purposes of computing the amount of any pension gratuity or other retirement benefit payable to him upon his retirement from that office;

(b) the period during which he actually served as a Commissioner shall be taken into account for the purposes of computing the length of service in that office for determining whether that person is eligible for any pension, gratuity or other retirement benefit as if that person had not vacated the office during that period.

(4) In this section–

"appropriate appointing authority" in relation to any office means that person or authority having the power to make appointments to that office;

"civil service office" and "judicial officer" have the meaning ascribed to those terms in the Public Service Act * and the Judicial Service Act *, respectively.

(1) Subject to this Act, a Commissioner may be removed from office only for inability to perform the functions of his office, due to illness or to any other reason, or for misbehaviour inconsistent with the ethics of office or any law concerning ethics of public leaders.

(2) Where the question of the removal of a Commissioner arises and the President is satisfied that the matter be investigated—

(a) he shall appoint a special tribunal consisting of a chairman and not less than two other members, the Chairman and at least half of the other members of the tribunal being persons who are Judges of the High Court or of the Court of Appeal of Tanzania;

(b) the special tribunal shall investigate the matter and within 90 days from the date on which the special tribunal was formed, make a report to the President on the whole matter and advise on whether or not the Commissioner concerned should be removed from office in accordance with the provisions of this section;

(c) if the special tribunal advises the President that the Commissioner concerned be removed from office on any of the grounds stipulated in subsection (1), then the President shall remove that Commissioner from office.

(3) Where the question of removing a Commissioner from office has been referred to the special tribunal pursuant to this section, the President may suspend the Commissioner concerned from duty, and he may at any time rescind the suspension and in any case such suspension shall lapse if the special tribunal advises the President not to remove the Commissioner concerned.

(1) There shall be the Executive Secretary of the Commission who shall be appointed by the President after consultation with the Commission from among persons holding or who have held senior position in the service of the Government.

(2) A person may not be appointed Executive Secretary of the Commission unless he holds a degree in law from a university whose awards in law are recognised by the Government and has had experience in public administration or management since graduation, practised law or been engaged in teaching or research in law, for a period of not less than five years.

(3) The Executive Secretary shall be the chief executive of the Commission and, subject to the general direction and control of the Commission, shall—

(a) be responsible for the carrying out of the policy decisions of the Commission and the day to day administration and management of the affairs of the Commission;

(b) be responsible for arranging the business for and the recording and keeping of the minutes of all decisions and proceedings of the Commission at its meetings; and

(c) perform any other function assigned to him by the Commission or by or under any written law.

(4) The Secretary shall, unless in any particular case the Commission otherwise directs in writing, attend all meetings of the Commission but shall have no vote on any matter falling to be decided by the Commission at any such meeting.

(5) There shall be such other officers and staff of the Commission as may be appointed by the Commission under this section.

(6) The Commission shall, acting in consultation with the Civil Service Department, be responsible for the appointment, control and discipline of its officers and employees and may, in accordance with the provisions of the Public Service Act * terminate appointments.

(7) Public officers may, at the request of the Commission, be seconded to the service of the Commission.

[PCh391s12]12. Oaths

(1) Every Commissioner and the Secretary of the Commission shall, before entering upon the duties of his office, take and subscribe the oath of allegiance and the oath for the due discharge of the functions of his office set out in the Schedule to this Act, which oaths shall be administered by the President.

(2) Every person appointed to an office under the Commission shall, before entering upon the duties of his office, take and subscribe the oath of secrecy set out in the Schedule to this Act, which oath shall be administered by a Commissioner.

PART III

STATUS, POWERS AND COMPETENCE OF COMMISSION (ss 13-21)

[PCh391s13]13. Commission a public department Act No. 16 of 2001 s. 4

(1) Subject to the provisions of the Constitution and of this Act, the provisions of any law relating to public departments shall apply to the Commission, and the office of the Commission

and any office established under the Commission shall be public offices in the service of the United Republic.

(2) For the purposes of the better performance of its functions, the Commission may, where it considers it necessary or appropriate, establish branch offices away from its headquarters in such geographical areas as it may deem necessary and may establish divisions or departments and assign to them particular responsibilities in respect of the functions of the Commission.

(3) There shall be an Assistant Commissioner or a person appointed by the Commission at every branch office to be its representative.

(4) An assistant Commissioner or a representative of the Commission shall—

- (a) receive complaints from the public;
- (b) make such on-the-spot investigation as may be necessary; and
- (c) discharge any other duties relating to the functions of the Commission as may be assigned to him by the Commission.

[PCh391s14]14. Independence of the Commission

(1) Except as provided by the Constitution, the Commission shall be an independent department and the Commissioners shall not, in the performance of their functions, be subject to the direction or control of any person or authority.

(2) The Government, public authorities and other bodies shall provide such assistance and co-operation as may be required to ensure the effectiveness of the provisions of subsection (1).

[PCh391s15]15. Powers of the Commission

(1) The Commission shall have power to investigate any human rights abuses or maladministration—

- (a) on its own initiative; or
- (b) on receipt of a complaint or allegation under this Act by—
 - (i) an aggrieved person acting in such person's own interest;
 - (ii) an association acting in the interests of its members; or
 - (iii) a person acting in the interest of a group or class of persons.

(2) After conducting an investigation under this Act, the Commission shall have power to—

- (a) where appropriate, promote negotiation and compromise between the parties concerned; or
- (b) causing the complaint and the findings of the Commission to be reported to the appropriate authority or person having control over the person in respect of whose act or conduct an investigation has been carried out by the Commissioner; or

(c) recommending to the relevant person or authority such measures, or requiring that authority to take such measures, as will provide an effective settlement, remedy or redress.

(3) Notwithstanding the provisions of subsection 2 of this section, for the purposes of performing its functions under the Constitution and this Act, the Commission may bring an action before any court and may seek any remedy which may be available from that court.

[PCh391s16]16. Limitations and restrictions on investigations

(1) The provisions of article 46 of the Constitution of the United Republic of Tanzania and article 36 of the Constitution of Zanzibar shall bind the Commission, and the Commission shall have no power to investigate or institute any proceedings against the President or the President of Zanzibar.

(2) The Commission shall not investigate—

- (a) a matter which is pending before a court or other judicial tribunal;
- (b) a matter involving the relations or dealings between the Government and the Government of any foreign State or an international organisation;
- (c) a matter relating to the prerogative of mercy;
- (d) a matter on which the President directs otherwise in accordance with the provisions of the Constitution.

(3) Where the President is minded to direct that the Commission shall not carry out an investigation in accordance with the provisions of the Constitution or this Act, he shall so direct

in writing and furnish the Commission with the reasons for such direction and the Commission shall within 30 days of the decision inform the complainant, if any, of the decision and the reasons for it.

(4) Any such direction shall be made in accordance with the provisions of article 130 of the Constitution if the President considers that there is a real and substantial risk that an investigation would prejudice matters of national defence or security.

(5) Nothing in this section shall be construed as precluding any person from otherwise seeking redress in the High Court under the provisions of article 30 (3) of the Constitution.

[PCh391s17]17. Status of proceedings, decisions and witnesses

(1) The decisions of the Commission shall have the status of a recommendation to the appropriate authority or person having control over the person in respect of whose act or conduct an investigation has been carried out.

(2) The proceedings of the Commission and its decisions and any information, document or thing produced by any person in relation to an inquiry under this Act shall be privileged in the same manner as the proceedings and other matters before a court.

(3) No inquiry, proceeding or process of the Commission shall be invalid on the grounds only of any error or irregularity of form and, except on the ground of lack of jurisdiction, no inquiry, proceeding, process or report of the Commission shall be liable to be challenged, reviewed, quashed or called in question in any court.

(4) No proceeding shall lie against the Commissioners, officers and employees of the Commission and other persons authorised by the Commission for anything done or omitted to be done in the exercise of their functions under this Act unless it is shown that the act or omission was done or omitted in bad faith.

(5) No Commissioner or any other person referred to in subsection (4) shall be called to give evidence in any court or in any other proceedings of a judicial nature in respect of the proceedings in any inquiry or anything coming to his knowledge in the exercise of his functions under this Act.

(6) Nothing in subsection (4) or (5) shall apply in the case of any proceedings for an offence under the National Security Act *, for an offence contrary to sections 102, 103, 106, 108 or 109 of the Penal Code in relation to an inquiry, or for an offence contrary to section 37 of this Act.

(7) A witness before the Commission shall be entitled to the same privileges as a witness before the High Court.

[PCh391s18]18. Proceedings in public

Subject to section 19, proceedings during an inquiry before the Commission shall be conducted in public.

[PCh391s19]19. Secrecy and confidentiality Act No. 16 of 2001 s. 5

(1) The Commission may, on its own initiative or on an application, take appropriate measures and make any order it considers necessary to ensure the confidentiality of an inquiry or

any part of it if, having considered all available alternative measures, the Commission is satisfied that—

(a) there is a real and substantial risk that—

(i) the disclosure would prejudice the national security or sovereignty of the State, its defence or international relations;

(ii) a confidential source of information in relation to the inquiry or to the enforcement of the criminal law would be identified or compromised; or

(iii) the fairness of the inquiry is such that the need to prevent disclosure outweighs the interests of having the inquiry or that part of the inquiry conducted in public;

(b) there is a likelihood that the life, liberty or physical safety of a person or the interests of vulnerable persons, including children will be endangered.

(2) The Commission may prohibit or restrict the publication of any evidence given before it or the identity of any person if it considers that the reasons for ordering such a prohibition or restriction outweigh the public interest in the publication of that evidence or identity.

(3) Every member of the Commission and every person employed by the Commission shall take reasonable precautions to avoid disclosing any matter the disclosure of which is prohibited or restricted by the Commission under subsection (1) or subsection (2).

[PCh391s20]20. Procedure for hearings

(1) The Commission shall have power to determine its own procedure for the conduct of hearings of matters brought before it but may otherwise be guided by such procedures as may be prescribed by regulations made under this Act.

(2) In conducting an inquiry, the Commission shall observe the rules of natural justice but shall not be bound by any legal or technical rules of evidence applicable to proceedings before the courts; and all proceedings shall be conducted informally and expeditiously.

(3) In proceedings under this Act, a decision of the majority of the members present at a meeting, if the members present constitute a quorum, shall be the decision of the Commission; and in the event of any equality of votes on any matter, the member presiding shall have a casting vote in addition to his deliberative vote.

[PCh391s21]21. Meetings and decisions of the Commission Act No. 16 of 2001 s. 6

(1) The meetings of the Commission shall be presided over by the Chairman or in his absence by the Vice-Chairman, and in the absence of both, the Commissioners present shall appoint one of their number to preside over the meeting.

(2) The quorum for a meeting of the Commission shall be formed by the presence of more than half of the members of the Commission other than Assistant Commissioners, and where the meeting is not constituted for lack of required number of Commissioners, an Assistant Commissioner may be invited to attend for purpose of a quorum.

(3) A meeting of the Commission for the purpose of conducting an inquiry shall comprise a Commissioner and not less than two senior officers of the Commission as may be appointed by

the Commission on the basis of their knowledge, experience and competence to deal with a given subject matter of an enquiry.

(4) A meeting of the Commission for the purpose of conducting an enquiry shall be duly constituted if it comprises an Assistant Commissioner and two senior officers.

PART IV

COMPLAINTS AND INVESTIGATIONS (ss 22-28)

[PCh391s22]22. Manner of bringing complaints Act No. 16 of 2001 s. 7

(1) All complaints to the Commission may be made orally or in writing and shall be recorded in such form as may be prescribed by the Commission.

(2) Subject to any relevant law where a letter written by—

(a) a person in custody; or

(b) a patient in a hospital,

is addressed to the Commission, it shall be immediately forwarded unaltered to the Commission by the person to whom it is entrusted.

(3) A complaint under this Act may be made by any individual or a body of persons whether corporate or unincorporated

(4) The Commission shall deal with every complaint brought before it unless the Commission is satisfied that—

(a) the complaint relates to a decision, recommendation, act or omission of which the complainant has had knowledge for more than 24 months before the complaint is received by the Commission; or

(b) the alleged victim of the act or acts complained of ought to exhaust grievance or other procedures prescribed by law otherwise reasonably available;

(c) the complaint is frivolous, vexatious or made in bad faith; or

(d) the complaint is not within the jurisdiction of the Commission.

(5) The Commission may deal with any complaint which it would otherwise reject for the reason that the complainant has had knowledge for more than 24 months before the complaint is received by the Commission if–

(a) for the purposes of ensuring that ends of justice are met, it is otherwise worth to deal with the complaint than rejecting it; or

(b) a complaint is of a constitutional importance; or

(c) considering the nature of the complaint and circumstances surrounding the complainant,

the Commission is satisfied that it should deal with such complaint.

(1) A complainant, an interested party and any other person whose conduct or act is likely to be the subject of adverse comment by the Commission may be represented by an advocate or by any other person suitable to represent him.

(2) Where a person by whom a complaint might have been made under this Act has died or is, for any sufficient reason, unable to act for himself, the complaint may be made by his personal representative or by a member of his family or other person suitable to represent him.

[PCh391s24]24. Notice of complaint and opportunity to be heard

After a complaint has been received by the Commission, the Commission shall notify the person against whom the complaint is made and, at the discretion of the Commission, any other interested party and shall give sufficient opportunity to all parties to whom notice has been given to appear, in person or through a representative, at the inquiry and to present evidence and make representations.

[PCh391s25]25. Special powers of investigation

The Commission shall for the purposes of performing its functions under the Act, have power—

(a) to issue summons or other orders requiring the attendance of any person before it and the production of any document, record or anything relevant to an investigation or inquiry which may be in the possession or control of that person;

(b) to examine, on oath or affirmation, any person in respect of any matter under investigation;

(c) to require any person to provide any information within his knowledge relevant to an investigation or enquiry;

(d) to make interim orders to preserve, pending determination of the matters at issue the existing state of affairs between the parties to the proceedings or the rights of the parties;

(e) subject to any other law, to enter upon, and inspect, any premises relevant to an investigation and to seize any relevant document, record or anything; and

(f) to cause, any person contemptuous of its proceedings or orders to be prosecuted before a competent court.

[PCh391s26]26. Procedure in respect of investigation

(1) Where the Commission decides to conduct an investigation under this Act, it shall give the authority or person concerned and to any other person who is alleged in the complaint to have taken or authorised the act or omission complained of, an opportunity to comment on any allegations contained in the complaint and the representative of the authority or person concerned shall submit his comments within such time as the Commission may specify.

(2) Without prejudice to the generality of the provisions of this section, the Commission may obtain information from such persons and in such manner, and make such inquiries as it considers necessary.

[PCh391s27]27. Evidence at investigations

(1) Subject to this section, the Commission may require any person who, in its opinion, is able to give any information relating to a matter being investigated by the Commission—

- (a) to furnish the information to it;
- (b) to produce any document, paper or thing that in its opinion relates to the matter being investigated and which may be in the possession or control of that person.

(2) The Commission may summon before it and examine on oath or affirmation—

- (a) a person required to give information or produce anything under subsection (1) of this section;
- (b) a complainant;
- (c) any other person who the Commission considers will be able to give information required under subsection (1) of this section.

(3) Any person summoned by and appearing before the Commission as a witness is entitled to be paid by way of reimbursement of his or her expenses, such allowances as are payable to a witness appearing before the High Court in criminal proceedings.

(4) Any person invited by the Commission to attend any meeting of the Commission may be paid such allowances as the Commission may consider reasonable.

(1) Where after making an investigation under this Act, the Commission is of the view that the decision, recommendation, act or omission that was the subject matter of the investigation—

(a) amounts to a breach of any of the fundamental rights and freedoms provided in the Constitution or in any international instrument to which the United Republic is a party;

(b) appears to have been contrary to law; or

(c) was unreasonable, unjust, oppressive, discriminatory or was in accordance with a rule of law or a provision of any Act or a practice that is unreasonable, unjust, oppressive, or discriminatory; or

(d) was based wholly or partly on a mistake of law or fact; or

(e) was based on irrelevant grounds or made for an improper purpose; or

(f) was made in the exercise of discretionary power and reasons should have been given for the decision the Commission shall report its decision, recommendation and the reasons for it to the appropriate authority concerned.

(2) The appropriate authority shall, within such time not exceeding three months from the date of recommendation as the Commission prescribes, make a report to the Commission with details of any action taken by such authority to redress the impugned fundamental rights or acts of maladministration.

(3) If within the prescribed time after the report is made no action is taken which seems to the Commission to be adequate and appropriate, the Commission, may after considering the

comments, if any, made by or on behalf of the department, authority or person against whom the complaint was made either, bring an action before any court or recommend to any competent authority to bring an action and seek such remedy as may be appropriate for the enforcement of the recommendations of the Commission.

(4) The provisions of this section shall not be construed as precluding the Commission from resolving any complaint or rectifying any act or omission emanating from a violation of any fundamental right or acts of maladministration in any other manner including mediation, conciliation or negotiation.

PART V

FINANCES, AUDIT AND REPORTS (ss 29-35)

[PCh391s29]29. Resources of the Commission

The funds of the Commission shall consist of moneys—

- (a) appropriated by Parliament for the purposes of the Commission;
- (b) accruing to the Commission from any other source; or
- (c) which are donations or grants from sources within or outside the United Republic.

[PCh391s30]30. Accountability

(1) The Commission shall be responsible to the National Assembly in accounting for all its revenue and expenditure.

(2) The Commission shall—

- (a) keep full and proper records of all its revenue and expenditure and of all the assets, liabilities and financial transactions;
- (b) satisfy itself that all reasonable management measures have been taken to ensure that resources which are necessary for achieving its objectives are as far as possible, obtained, safeguarded and utilised in the most economic, efficient and effective manner;
- (c) prepare appropriation accounts in accordance with the Public Finance Act *; and
- (d) prepare annual accounts in accordance with generally accepted accounting practice, covering all its transactions.

[PCh391s31]31. Estimates of revenue and expenditure

(1) The Commission shall, in respect of its first financial year under this Act and for each subsequent financial year, prepare and submit to the Minister estimates of its revenue and expenditure and the Minister shall examine those estimates and table them before the National Assembly.

(2) In preparing its estimates under subsection (1), the Commission shall have regard to the advice of the Minister and the Minister responsible for Finance.

[PCh391s32]32. Audit

(1) The accounts of the Commission shall be audited, once in every financial year, by the Controller and Auditor-General.

(2) Upon the completion of his examination of the accounts, the Controller and Auditor-General shall certify those accounts and submit his report to the Commission.

[PCh391s33]33. Annual reports

(1) The Commission shall, within six months after the end of each financial year, prepare and submit to the National Assembly through the responsible Minister an annual report in respect of that year containing—

(a) a copy of the audited accounts of the Commission together with the auditor's report on those accounts;

(b) a report on the operations of the Commission during that financial year; and

(c) such other information as the Minister may require,

and the Minister shall cause the report to be laid, for debate, before the National Assembly within three months, or at the next meeting of the Assembly, after he has received it.

(2) The Commission shall also submit a copy of the annual report to the President and to the President of Zanzibar.

[PCh391s34]34. Special reports

The Commission may at any time, if it appears to the Commission to be desirable, submit to the Minister a special report, on any matter incidental to the performance of its functions.

[PCh391s35]35. Other reports

The Commission may, in the public interest or in the interest of any person or authority make and submit reports relating–

- (a) generally to the exercise of its functions;
- (b) to any matter to which the attention of the President, the President of Zanzibar, the Minister, the National Assembly or any other person or authority should be drawn; or
- (c) to any particular case investigated by the Commission, whether or not the matters in the report have been the subject of a report to the National Assembly.

PART VI

MISCELLANEOUS PROVISIONS (ss 36-40)

[PCh391s36]36. Procedure, etc., of the Commission

Subject to this Act and any subsidiary legislation made thereunder, the Commission may regulate its own practice, procedure and the matters relating to its meetings, inquiries and investigations.

[PCh391s37]37. Offences and penalties

(1) A person 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 if that person, in connection with the exercise of any function by the Commission under this Act–

(a) hinders, obstructs, molests, interferes with or exerts undue influence on, a member of the Commission, an employee of the Commission or a person performing any functions of the Commission;

(b) without lawful excuse or justification, refuses or fails to attend before the Commission upon being summoned or to take an oath or to make an affirmation at the request of the Commission, or refuses to answer any questions after he has been ordered to appear before the Commission;

(c) gives false or misleading information or evidence to the Commission on any matter, knowing such information or evidence to be false or not knowing or believing it to be true; or

(d) intimidate or victimises a person who gives information, evidence or assistance to the Commission;

(e) without lawful excuse or authority refuses or neglects to comply with any recommendation made under subsection (3) of section 28 of this Act.

(2) For the purposes of subsection (1) (e) where an offence is committed by—

(a) a body corporate, every director, chief executive or other officer of the body who is responsible for implementation of the recommendation shall be guilty of the offence;

(b) a partnership, every partner responsible for implementation of the recommendation shall be guilty of the offence; and

(c) a public authority, the officer or officers charged with the responsibility of acting on a recommendation and making a report on such recommendation shall be guilty of the offence.

[PCh391s38]38. Regulations

The Minister may make regulations for the better carrying into effect of the provisions of this Act.

[PCh391s39]39. Repeal of Act No. 25 of 1966

[Repeals the Permanent Commission of Enquiry Act.]

[PCh391s40]40. Transitional

Notwithstanding the repeal of the Permanent Commission of Enquiry Act *, 1966, any complaint, investigation or inquiry pending before that Commission immediately before the commencement of this Act shall be proceeded with under the provisions of this Act.

SCHEDULE

OATH OF MEMBER

(Section 12 (1) and (2))

I,, having been appointed a Commissioner/Assistant Commissioner/Executive Secretary in the Commission for Human Rights and Good Governance, do swear/affirm that I will freely and without fear or favour,

affection or ill-will, discharge the functions of a Commissioner/Assistant Commissioner/Executive Secretary and that I will not directly or indirectly reveal any matters relating to such functions to any unauthorised person or otherwise than in the course of duty.

SO HELP ME GOD

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

.....

President

OATH OF OFFICER OF THE COMMISSION

I, , being called upon to exercise the functions of an officer of the Commission for Human Rights and Good Governance, do swear/affirm that I will not, directly or indirectly, reveal to any unauthorised person or otherwise than in the course of duty the contents of any documents, communication or information whatsoever which may come to my knowledge in the course of my duties as an officer of the Commission or under the provisions of the Commission for Human Rights and Good Governance Act.

SO HELP ME GOD

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

.....
Commissioner

JEDWALI

(Fungu la 12(1) na (2))

KIAPO CHA MJUMBE

Mimi naapa/nathibitisha kwamba nitatekeleza majukumu ya Mjumbe wa Tume ya Haki za Binadamu na Utawala Bora kwa uhuru bila woga, upendeleo, huba au hila, na kwamba sitatoa siri zozote nitakazozifahamu wakati nikitekeleza majukumu yangu bila kibali cha Tume isipokuwa katika kutekeleza majukumu ya Tume.

MUNGU NISAIDIE

Kiapo/tamko limetolewa mbele yangu leo tarehe mwezi 20.....

.....
Rais

KIAPO CHA WATUMISHI WA TUME

Mimi naapa/nathibitisha kwamba sitatoa siri zozote moja kwa moja au kwa namna nyingine kwa mtu yeyote ambaye haruhusiwi isipokuwa katika utekelezaji wa majukumu yangu nyaraka, mawasiliano au taarifa zozote nitakazozifahamu wakati nikitekeleza majukumu yangu kama mtumishi wa Tume au kwa mujibu wa masharti ya Sheria ya Haki za Binadamu na Utawala Bora.

MUNGU NISAIIDIE

Kiapo/tamko limetolewa mbele yangu leo tarehe mwezi 20.....

.....

Kamishna