

CHAPTER 397

THE REGIONS AND DISTRICTS (ESTABLISHMENT PROCEDURE) ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

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THE REGIONS AND DISTRICTS (ESTABLISHMENT PROCEDURE) ACT

An Act to provide for the procedure to divide the United Republic into administrative Regions and Districts and for connected purposes.

[5th August, 1994]

[DPG]

Act No. 12 of 1994

[PCh397s1]1. Short title

This Act may be cited as the Regions and Districts (Establishment Procedure) Act.

[PCh397s2]2. Application

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

[PCh397s3]3. Applicable procedure in establishment of Regions, Districts, etc.

The procedure laid down in this Act shall apply in all cases where the President—

- (a) on his own volition; or
- (b) upon the recommendation of—
 - (i) the President of Zanzibar, in relation to areas in Tanzania Zanzibar;
 - (ii) the Prime Minister, in relation to areas in Tanzania Mainland;

(iii) any District or Regional authority through the Prime Minister, in relation to Mainland Tanzania and the President of Zanzibar, in relation to Zanzibar, intends to divide any area of the United Republic into a Region or a District or to vary their boundaries.

[PCh397s4]4. Notice of intention to establish Regions, Districts, etc.

(1) The President shall give or cause to be given a notice of intention to divide any area into a Region or a District or to vary the boundaries of Regions or Districts.

(2) The notice given under subsection (1) of this section shall indicate the general direction of the boundaries, reasons for the proposed division or variation and such other matters as the President may deem necessary and shall call upon all interested or affected authorities and persons to lodge with him in writing any objections or other representations in such manner and within such period as may be prescribed in the notice.

(3) Where any objection or other representation has been lodged pursuant to subsection (2) of this section, the President shall cause to be delivered to the authority or persons lodging the objection or representation an acknowledgement of receipt of the objection or representation.

[PCh397s5]5. Notice of intention to establish Region, District, etc., to be published

A notice of intention given under section 4 of this Act shall be published in the Government Gazette, and in at least one national news paper and if available, in one newspaper circulating in the area to be affected by the proposed division or variation of boundary.

[PCh397s6]6. Regions, Districts, etc., to be established by Proclamation

(1) Where the President upon the expiration of a Notice given under section 4 to which no objection or other representation has been lodged, has considered any objections or other representations made, he may, by proclamation published in the Gazette, establish the proposed Region or District or vary the boundaries of such Region or District.

(2) The Proclamation made under subsection (1) shall set out the name and the boundaries of the Region or District so established or the particulars of the boundaries of the Region or District so varied.

[PCh397s7]7. Proclamation to be laid before the National Assembly

As soon as possible after a Proclamation has been made under section 6 the President shall cause a copy of the Proclamation together with a copy of the notice given under section 4 of this Act to be laid before the National Assembly.

[PCh397s8]8. Existing Regions and Districts to continue

Notwithstanding the provisions of any law to the contrary, every Proclamation of a region or district made under Article 2(2) of the Constitution * of the United Republic prior to this Act, shall with effect from the date of coming into operation of this Act, be deemed to be a Proclamation of Regions and Districts made under this Act, and shall continue in force until it is amended, revoked or replaced by a Proclamation made in accordance with this Act.

[PCh398]CHAPTER 398

THE PUBLIC LEADERSHIP CODE OF ETHICS ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

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CHAPTER 398

THE PUBLIC LEADERSHIP CODE OF ETHICS ACT

An Act to establish a code of ethics for certain public leaders, to provide for the organisation of the Ethics Secretariat and for related matters with or incidental to them.

[1st July, 1995]

[s. 2]

Acts Nos.

13 of 1995

5 of 2001

PART I

PRELIMINARY PROVISIONS (ss 1-4)

[PCh398s1]1. Short title

This Act may be cited as the Public Leadership Code of Ethics Act.

[PCh398s2]2. Omitted

[Omitted: Commencement date.]

[PCh398s3]3. Application

This Act shall apply to Tanzania Zanzibar as well as to Mainland Tanzania in respect of public officers holding offices under the Union Government.

[PCh398s4]4. Interpretation Act No. 5 of 2001 s. 2

(1) In this Act, unless the context requires otherwise—

"Code" means the Code of Ethics for Public Leaders established by this Act;

"Commissioner" means the Ethics Commissioner appointed under section 19;

"Government" means the Union Government or the Revolutionary Government of Zanzibar;

"Minister" means the Minister responsible for public leadership code of ethics;

"public leader" means any person holding any of the following public offices, namely—

- (i) President of the United Republic;

- (ii) Vice-President of the United Republic;
- (iii) President of Zanzibar;
- (iv) Prime Minister;
- (v) Chief Minister of Zanzibar;
- (vi) Speaker and Deputy Speaker;
- (vii) Chief Justice of the United Republic;
- (viii) Minister, Deputy Minister and Regional Commissioner;
- (ix) Attorney-General;
- (x) Judge and Magistrate;
- (xi) Member of Parliament;
- (xii) Ambassador or High Commissioner representing Tanzania abroad;
- (xiii) Chief Secretary, and District Commissioner; Regional Administrative Secretary, Permanent Secretary, Deputy Permanent Secretary;
- (xiv) Controller and Auditor-General;
- (xv) Clerk of the National Assembly;
- (xvi) Chief of Defence Forces;
- (xvii) Inspector-General of Police and the Regional Police Commander;

(xviii) Chief of National Service;

(xix) Principal Commissioner of Prisons;

(xx) Director-General of Intelligence;

(xxi) Director-General of Prevention of Corruption Bureau;

(xxii) Mayor, Chairman, Member or chief executive officer of a local government;

(xxiii) Governor, Deputy Governor, Chairman, Managing Director, General Manager or Director-General of a body corporate in which the Government has a controlling interest;

(xxiv) Chairman and Members of all commissions appointed on full-time basis;

(xxv) public officers in charge of independent Government departments;

(xxvi) Commissioners for tax at the Tanzania Revenue Authority;

(xxvii) Commissioners and Directors in the Government Ministries;

"Tribunal" means the Ethics Tribunal appointed under section 26.

(2) Notwithstanding subsection (1), the President may, by notice published in the Gazette, change, vary or amend the list of public leaders specified under subsection (1).

(3) Where any changes or variations occur in respect of any title of public leader specified under section (1), the new titles shall be deemed to be the proper title under this Act.

PART II

THE BASIC ELEMENTS OF CODE OF ETHICS (ss 5-7)

[PCh398s5]5. President to work for promotion of integrity in public office, etc.

(1) It shall be the duty of the President, subject to this Act, to work towards the evolution of ethical standards designed to provide a basis for enhancing public confidence in the integrity of public leaders and in the decision-making process in the Government and in the public sector in general.

(2) In discharging the duty imposed on him by this section, the President shall be guided, subject to this Act, by the need to evolve, and to foster, sound rules and ethical standards in the public service by–

(a) providing that a public leader shall not put himself in a position where his personal interest conflicts with his responsibility as such leader;

(b) encouraging experienced and competent persons to seek and accept public office, and facilitating interchange between the private and the public sector;

(c) establishing clear rules of ethics in respect of conflict of interest for, and post-employment practices applicable to, elected and appointed public leaders;

(d) minimising the possibility of conflicts arising between the private interests and public duties of public leaders and providing for the resolution of such conflicts in the public interest should they arise.

[PCh398s6]6. Principles to be invoked by Code

The Code of Ethics for public leaders shall seek as far as possible to institute and invoke the following principles in respect of the conduct of public leaders, namely–

(a) in relation to ethical standards, that public leaders shall while in office act with honesty, compassion, sobriety, continence, and temperance, and uphold the highest possible ethical standards so that public confidence and trust in the integrity, objectivity and impartiality of Government are conserved and enhanced;

(b) in relation to public scrutiny, that public leaders shall have an obligation–

(i) to perform their official duties and arrange their private affairs in a manner that would bear the closest public scrutiny, an obligation that is not fully discharged by simply acting lawfully;

(ii) in relation to all public leaders whether in elective or appointive offices, there is to be established a procedure for declaration of all property or assets owned by, or liabilities owed to him, his spouse or unmarried minor children, without prejudice to the right of wives and husbands of public leaders to own property independently of their spouses;

(c) in relation to decision making, that public leaders shall, in fulfilling their official duties and responsibilities make decisions in accordance with law, in the public interest and with regard to the merits of each case;

(d) in relation to private interests, that public leaders shall not have private interests, other than those permitted by the Code that would be affected particularly or significantly by government actions in which they participate;

(e) in relation to public interest, that on appointment or election to office, and thereafter, public leaders shall so arrange their affairs as will prevent real, potential or apparent conflicts of interest from arising, but if such a conflict does arise between the private interests of a public leader and his official duties and responsibilities, the conflict shall be resolved in favour of the public interest;

(f) in relation to gifts and benefits, that public leaders shall not solicit or accept transfers of economic benefit other than incidental gifts, customary hospitality or other benefits of nominal value, unless the transfer is pursuant to an enforceable contract or property right of the public leader;

(g) in relation to preferential treatment, that public leaders shall not step out of their official roles to assist private entities or persons in their dealing with the government where this would result in preferential treatment to any person;

(h) in relation to inside information, that public leaders shall not knowingly take advantage of, or benefit from, information which is obtained in the course of their official duties and responsibilities and that is not generally available to the public;

(i) in relation to government property that public leaders shall not directly or indirectly use, or allow the use of, government property of any kind, including property leased to the government, for purposes of according economic benefit to the leader;

(j) in relation to post-employment, that public leaders shall not act, after they leave public office, in such a manner as to bring the service to ridicule or take improper advantage of their previous office, so that possibilities may be minimised of–

(i) allowing prospects of outside employment to create a real, potential or apparent conflict of interest for public leaders while in public office;

(ii) obtaining preferential treatment or privileged access to government after leaving public office;

(iii) taking personal advantage of information obtained in the course of official duties and responsibilities until it becomes generally available to the public; and

(iv) using public office to unfair advantage in obtaining opportunities for outside employment.

[PCh398s7]7. Declaration of standards as to ethics

(1) The President may, from time to time, by Notice published in the Gazette, declare requirements and rules regarding ethical standards that are to be complied with by public leaders.

(2) A Notice under this section shall not come into operation until it is approved by resolution of the National Assembly.

PART III

CODE OF ETHICS APPLICABLE TO ALL PUBLIC LEADERS (ss 8-15)

[PCh398s8]8. Relationship between this Part and purpose of the Constitution Act No. 5 of 2001 s. 3

The provisions of this Part shall constitute part of the code of ethics for public leaders according to the Constitution *, and breach of the code shall result in any of the following actions, namely—

- (a) warning and caution;
- (b) demotion;
- (c) suspension;
- (d) dismissal;
- (e) advising the leader to resign from the office to which the breach relates;
- (f) imposition of other penalties provided for under the rules of discipline related to the office of the leader; and
- (g) initiating action for the leader to be dealt with under the appropriate law.

[PCh398s9]9. Declaration of assets and liabilities Act No. 5 of 2001 s. 4

(1) Every public leader shall, except where the Constitution * or any other written law provides otherwise—

- (a) within three months after the commencement of this Act; or
- (b) within thirty days after taking office;
- (c) at the end of each year; and
- (d) at the end of his term of office,

submit to the Commissioner a written declaration, in a prescribed form, of all property or assets owned by, or liabilities owed to him, his spouse or unmarried minor children, subject to subsection (2) and subsection (5).

(2) Where the declaration of assets is made by the Commissioner under this section, the declaration shall be submitted to the President.

(3) A public leader shall not be required to declare as his property, and property shall not be deemed to be declarable by a public leader if—

- (a) it is not matrimonial property;
- (b) it is not jointly owned with the public leader's spouse or spouses;
- (c) there is no allegation that a public leader appears to have suddenly and inexplicably come into possession of extraordinary riches in relation to his observable sources of income.

(4) Any property or asset acquired by a public leader after the initial declaration required by paragraph (a) or (b) of subsection (1) and which is not attributable to income, gift, or loan

approved in the Code shall be deemed to have been acquired in breach of the Code unless the contrary is proved.

(5) Any public leader who has previously made a declaration of assets under this section shall, during the subsequent declaration be required to declare as to the increase or decrease of assets as the case may be.

(6) The public leader shall, in making the declaration of assets under this section—

(a) state the monetary value of the declared assets and the source or the manner in which he has acquired the assets;

(b) state or disclose his debts if any and any other liabilities

[PCh398s10]10. Non-declarable assets

(1) Assets and interests for private use of public leaders and their families, and assets that are not of a commercial character shall not normally be subject to public declaration or divestment.

(2) Non-declarable assets referred to in subsection (1) shall include—

(a) residences, recreational property and farms used or intended for use by public leaders or their families;

(b) household goods and personal effects for private use;

(c) works of art, antiques and collectibles;

- (d) motor vehicles and other personal means of transportation;
- (e) gains or advantage derived through labour on land owned or occupied by a public leader;
- (f) registered retirement savings plans that are not self-administered, annuities and life insurance policies;
- (g) money saved by a previous employer, client or partnership; and
- (h) personal loans receivable from the members of the public leader's immediate family and small personal loans receivable from other persons where the public leader has loaned the moneys receivable.

[PCh398s11]11. Declarable assets

(1) A public leader shall make a declaration of assets that are not non-declarable assets in order for him to be able to deal with them without giving rise to a conflict of interest.

(2) Declarable assets shall include—

- (a) cash and deposits in a bank or other financial institution;
- (b) Treasury Bills and other similar investments in securities of fixed value issued or guaranteed by the Government or agencies of the Government;
- (c) interest on money deposited in a bank, building society or other financial institution;

(d) dividends or other profits from stocks or shares held by a public leader in any company or other body corporate;

(e) interests in businesses that do not contract with the Government, and do not own or control publicly traded securities, other than incidentally, and whose stocks and shares are not traded publicly;

(f) farms under commercial operation;

(g) real property which is not an exempt asset;

(h) assets that are beneficially owned, which are not non-declarable assets and which are administered at arm's length.

[PCh398s12]12. Public leader not to acquire dishonestly any pecuniary advantage Act No. 5 of 2001 s. 5

(1) A public leader shall be considered to have breached the Code if he knowingly acquires any significant pecuniary advantage, or assists in the acquisition of any pecuniary advantage by another person, by—

(a) improperly using or benefiting from information which is obtained in the course of his official duties and which is not generally available to the public;

(b) disclosing any official information to unauthorised persons;

(c) exerting any improper influence in the appointment, promotion, disciplining or removal of a public officer;

(d) directly or indirectly converting Government property for personal or any other unauthorised use for the purposes of reaping private economic benefit;

(e) soliciting or accepting transfers of economic benefit, other than—

(i) benefits of nominal value, including customary hospitality and traditional or token gifts;

(ii) gifts from close family members or from public leaders elsewhere; or

(iii) transfers pursuant to an enforceable property right of the public leader or pursuant to a contract for which full value is given.

(2) The public leader shall, where he receives a gift of the value exceeding fifty thousand shillings—

(a) declare the received gift and its value; and

(b) submit the declaration of the gift to the accounting officer of the office concerned, who shall in writing direct as to the use or disposal of the gift.

[PCh398s13]13. Public leader to disclose pecuniary interest to forum

(1) A public leader shall not speak in the Cabinet, National Assembly, in a local government council or a committee thereof, or in or at any other official forum or part of it, on any matter in which he has a direct pecuniary interest unless he has disclosed the nature of that interest to the Cabinet, the Assembly, the council, Committee or such other forum or part of it.

(2) For the purposes of this section the separately owned assets of the spouse or minor children of a public leader shall be deemed to constitute an interest for disclosure by him.

[PCh398s14]14. Declaration of interest in Government contract

(1) Where a public leader has an interest in a contract that is made, or is proposed to be made, by the Government, and has not made a sufficient declaration under subsection (4) in relation to the contract, the public leader shall as soon as practicable make a declaration of his interest in relation to the contract, specifying the nature and extent of his interest.

(2) Where—

(a) immediately before the commencement of this Act, a public leader has an interest in a contract that has been made by the Government; and

(b) the contract is not completely performed by all parties within thirty days after the commencement of this Act,

the public leader shall, within thirty days after the commencement of this Act, declare the interest in accordance with this section.

(3) The interest of the spouse or spouses or of the children of a public leader in relation to the Government contract shall be deemed to be the interest of the public leader.

(4) A declaration for the purposes of this section shall be made to the Commissioner in writing.

(5) A declaration by a public leader that—

- (a) states that he has an interest in a specified body corporate or firm;
- (b) specifies the nature and extent of the interest;
- (c) where the interest is a shareholding or partnership, specifies the proportion of the ownership of the company or firm represented by the shareholding or partnership; and

(d) states that he is to be regarded as interested in any contract which may, after the date of the notice, be made with the Government by that body corporate or firm,

shall be a sufficient declaration of interest in relation to any contract so made unless, at the time the question of confirming or entering into any contract is first taken into consideration by the Government, the extent of his interest in the body corporate or firm is greater than is stated in the declaration.

(6) For the purposes of this section, a public leader has an interest in a contract if—

- (a) he will derive any material benefit, whether direct or indirect, from the contract; or
- (b) one party to the contract is a firm or body corporate and he has a material interest, whether direct or indirect, in the firm or body corporate.

(7) For the purposes of paragraph (b) of subsection (6), a public leader shall not be considered to have a material interest in a body corporate by reason only that—

- (a) he holds debentures of the body corporate; or
- (b) he holds shares in the body corporate with a total market value of less than the annual emoluments from office of the public leader.

[PCh398s15]15. Failure to make declaration, or making of false declaration under section 9

A public leader who is subject to section 9 shall be considered to have breached the Code if—

(a) he fails, without reasonable cause, to make a declaration required by that section;

or

(b) he knowingly makes a declaration under section 9 that is false or misleading in a material particular.

PART IV

SUPPLEMENTARY PROVISIONS APPLICABLE TO MINISTERS AND REGIONAL COMMISSIONERS (ss 16-17)

[PCh398s16]16. Relationship between this Part and the Constitution

The provisions of this Part shall, in so far as they apply to Ministers, Deputy Ministers, and Regional Commissioners, constitute part of the Code of Ethics for Ministers for the purpose of Articles 53 and 57 of the Constitution *.

[PCh398s17]17. Collective responsibility of Ministers

(1) A Minister shall not do anything that is inconsistent with the principle of the collective responsibility of Ministers for the policy of the Government and the conduct of its affairs and, in particular, shall not—

(a) publicly contradict or disassociate himself from any policy adopted by the Cabinet;

(b) issue public statements criticising another person holding Ministerial office; or

(c) make unauthorised disclosures of Cabinet discussions, decisions or documents.

(2) A Regional Commissioner shall in the performance of the duties of his office be bound by the provisions of subsection (1).

PART V

ADMINISTRATION AND ENFORCEMENT (ss 18-26)

[PCh398s18]18. Ethics Secretariat Cap. 2; Act No. 5 of 2001 ss. 7 and 8

(1) The Ethics Secretariat, which is established by section 132 of the Constitution of the United Republic, shall be an extra-ministerial department of Government under the Office of the President.

(2) The Secretariat shall, subject to the Constitution and to this Act, have the duty to receive—

(a) declarations which are required to be made by public leaders under the Constitution or any other law;

(b) allegations and notifications of breach of the Code from members of the public;
and

(c) inquiries into any alleged or suspected breach of the Code by all public leaders who are subject to this Act.

(3) The Secretariat shall, in performing its duties under this section, have the power to receive and entertain all allegations in respect of any public leader, whether oral or written from the members of public without inquiring as to the names and addresses of the person who has made the allegation.

(4) The Secretariat shall, in addition to the duties conferred on it under subsection (2) and (3) have power to initiate and to conduct any investigation in respect of breach of ethics prescribed under this Act.

(5) Notwithstanding subsection (4), the Commissioner shall, where the Secretariat intends to conduct investigation in respect of Bank Accounts, by order in writing Supported by warrant issued by a Magistrate upon showing cause to the Magistrate as to why the Order should be issued, authorise any officer of the Secretariat to investigate any bank account of a public leader.

(6) Any Order made by the Commissioner under subsection (1) shall be sufficient authority for the disclosure or production by any person of all or any information accounts, documents or articles as may be required by the officer of the Secretariat so authorized.

(7) The President shall provide for the staffing of the Secretariat, and for the taking by them of the oath of secrecy in respect of matters handled by them.

[s. 19]

[PCh398s19]19. Ethics Commissioner Act No. 5 of 2001 ss. 7 and 9

(1) There shall be established in the Ethics Secretariat the office of Ethics Commissioner, the holder of which shall be the head and chief executive of the department.

(2) The Commissioner shall be appointed from amongst persons of a high proved or provable integrity, who are holding or have held or are eligible for appointment to hold—

- (a) the office of Permanent Secretary;
- (b) the office of Judge of the High Court;
- (c) any other high public office in the Service.

(3) The Commissioner shall be appointed by the President and—

- (a) shall hold office for a term of five years;
- (b) is eligible for reappointment for another one term; and
- (c) may be removed from office for good cause.

[s. 20]

[PCh398s20]20. Register of declarations of interest, and of assets registered Act No. 5 of 2001 ss. 6 and 10

(1) On receiving a declaration of interest under section 14 or a declaration of assets and income under section 9, the Commissioner shall cause the particulars of the declaration to be entered in a register.

(2) The register shall be kept in such form as the Minister approves and shall be made available for inspection by members of the public at all reasonable times.

(3) The Minister may by regulations published in the Gazette, prescribe the manner in which members of the public shall inspect the register under this section.

[s. 21]

[PCh398s21]21. Declarations deemed to be statutory declarations Act No. 5 of 2001 s. 6

A declaration made for the purposes of sections 9 or 14 shall be deemed to be a statutory declaration.

[s. 22]

[PCh398s22]22. Complaints of breaches of Part III Act No. 5 of 2001 ss. 7 and 11

(1) An allegation that a public leader has breached Part III may be made to the Commissioner by any person in writing signed by the complainant and giving the complainant's name, address and particulars of the breach or breaches alleged:

Provided that the Commissioner shall not refuse any allegation submitted to him for the reason only of lack of signature, names or address of the Complainant.

(2) Upon receipt of a complaint or allegation against any public leader in relation to compliance with the Code, the Commissioner shall cause thorough preliminary investigation to be carried out by or on behalf of the Secretariat into the allegation or complaints, and if he is

satisfied that the investigation discloses a prima facie case for which a public leader may be justly required to give a public explanation of his conduct or property, he shall—

(a) if the allegations or complaints relate to the President, submit them to the President and to the Speaker who shall submit the allegation to the Standing Committee of the National Assembly;

(b) if the allegations or complaints relate to any other public leader, notify the President and the Speaker and proceed as in subsection (4).

(3) Where the allegation received by the Commissioner under this section relates to the Commissioner, the Commissioner shall immediately submit the allegation to the President.

(4) Where a public leader considers that a statement made in the press or through the other public media alleges, directly or by implication, that he has breached Part III he may report the particulars of the breach or breaches alleged, in writing, to the Commissioner and request that the matter be referred to a tribunal.

(5) The Commissioner shall notify the President and the Speaker of the allegation and shall, after consultation with the Attorney General and with the Chief Justice, appoint a tribunal in accordance with section 26 to investigate the allegation.

(6) The Tribunal shall within forty-five days of its appointment report its findings to the Commissioner, who shall submit a copy each to the President, to the Speaker, and to the disciplinary authority of the public leader, as well as to the public leader concerned.

(7) The Speaker shall, not later than seven days after the first sitting of the National Assembly next after receiving the report, cause a copy of the report to be laid before the National Assembly.

(8) The Commissioner shall each year compile a report on the affairs and business of the Secretariat, including cases dealt with by the Tribunal and submit it to the President who shall lay it before the National Assembly.

[s. 23]

[PCh398s23]23. Complaints of breaches of Part IV Act No. 5 of 2001 s. 7

(1) An allegation that a person holding office of Minister or Regional Commissioner has breached Part IV may be made to the President by any person in writing signed by the complainant and giving the complainant's name and address.

(2) The President shall give a copy of the allegation to the Minister or Regional Commissioner concerned, who shall proceed to furnish an explanation of his conduct to the President, but within not more than thirty days.

[s. 24]

[PCh398s24]24. Procuring information and attendance of witnesses Act No. 5 of 2001 s. 7

(1) Subject to the provisions of this Act, the Tribunal may require any person who, in its opinion, is able to give any information relating to any matter relevant to any enquiry being conducted by it to furnish it with any such information and to produce any document, papers or things which may be in the possession or under the control of that person and may, by order

under the hand of the Chairman or Vice-Chairman, require any such person to attend before the Committee at a time and place specified in such order and be examined on oath or to produce any such document, paper or thing.

(2) Where the Tribunal orders any person to be examined on oath, any member may administer such oath.

(3) Any order made under this section shall be served on the person to whom it is directed by a person holding office under the Tribunal or a police officer in the manner prescribed for the service of a summons on a witness in civil proceedings before a court of law.

(4) If a person to whom an order under this section is directed does not attend at the time and place mentioned therein, the Committee may, upon being satisfied that the order was duly served or that the person to whom the order is directed wilfully avoids service, issue a warrant under the hand of the Chairman or Vice-Chairman to apprehend such person and to bring him before the Tribunal at a time and place specified in the warrant; and every warrant issued under this section shall be executed by a police officer.

(5) Where a person is arrested in pursuance of a warrant issued under this section and is not brought before the Tribunal within twenty-four hours of his arrest or earlier released by order of the Tribunal on his undertaking to attend at a time and place specified by it, he shall forthwith be taken before a resident magistrate and such resident magistrate shall—

(a) if such person enters into a suitable recognisance of his appearance before the Tribunal, release him from custody; or

(b) order such person to be detained in custody until such time as he can be brought before the Tribunal.

(6) When any person is required by the Tribunal to attend before it for the purposes of this section, such person shall be entitled to the same fee, allowance and expenses as if he were a witness before a court of law and, for the purposes of this subsection, the Chairman or the Vice-Chairman shall have the powers of a court to fix or disallow the amount of any such fee, allowance or expenses.

(7) For the avoidance of doubts it is hereby declared that this section shall apply whether or not the person concerned is a public officer in respect of whose conduct the Tribunal has jurisdiction to enquire and whether or not such documents, papers or things are in the custody or under the control of any Government Ministry, Division, or Department, or the Party or a parastatal organisation.

[s. 25]

[PCh398s25]25. Rights of witnesses Act No. 5 of 2001 s. 7

Subject to this Act, every person who gives or is required to give information by, or ordered to attend to give evidence or to produce any document, paper or thing before the Commissioner or the Tribunal, shall be entitled in respect of such information, evidence, document, papers or things to the same right and privileges as witnesses have in the High Court.

[s. 26]

[PCh398s26]26. Tribunal Act No. 5 of 2001 s. 7

(1) A Tribunal for the purposes of this Act shall consist of three persons appointed by the President, one of them being appointed from amongst persons who hold or have held the office of Judge of Appeal or of Judge of the High Court, while the other two shall be appointed upon advice by the Commissioner.

(2) Where a Tribunal has been constituted under subsection (3) of section 22 the Commissioner may commission it to investigate further allegations received by him under this section whether against the public leader concerned or another public leader.

(3) The President shall appoint one Member of the Tribunal as Chairman.

(4) If a member of a Tribunal becomes unwilling to act or dies, the President may appoint another member in his place.

(5) A Tribunal shall conduct its inquiry in public, save that it may exclude representatives of the press or any or all other persons if it considers it necessary so to do for the preservation of order, for the due conduct of the inquiry or for any other reason.

(6) A Tribunal may engage the services of such technical advisors or other experts as it considers necessary for the proper conduct of the inquiry.

(7) A Tribunal may request assistance from other investigative organs, including the Police, the Anti-Corruption Bureau, the Permanent Commission of Inquiry and those organs shall be empowered to provide information to the Tribunal and to conduct investigations on behalf of the Ethics Secretariat.

(8) In its report, the Tribunal may make such recommendations as to administrative actions, criminal prosecutions or other further actions to be taken as it thinks fit.

(9) If the Tribunal considers that an allegation was malicious, frivolous or vexatious, or that the particulars accompanying it are insufficient to allow a proper investigation to proceed, it shall say so in its report.

(10) Sections 3, 4, 13, 14, 21 and 22 of the Commissions of Inquiry Act * shall apply to a Tribunal as if—

- (a) the Tribunal were a Commission appointed under the Act; and
- (b) a reference to a Commissioner were a reference to a member of the Tribunal.

[s. 27]

PART VI

MISCELLANEOUS PROVISIONS (ss 27-32)

[PCh398s27]27. Offences and penalties Act No. 5 of 2001 ss. 7 and 12

(1) Any person who without lawful justification makes an allegation against a public leader under sections 22 or 23 knowing it to be false, commits an offence and shall on conviction, be liable to a fine of not less than two hundred thousand shillings and not more than one million shillings or to imprisonment for a term not exceeding two years.

(2) Any person being a public leader who knowingly makes false declaration of his assets or gives any false information in respect of his assets, commits an offence and shall on

conviction, be liable to a fine of not less than one million shillings and not more than five million shillings or to imprisonment for a term not exceeding one year.

(3) Notwithstanding subsection (2) the Commissioner—

(a) may, where a public leader is suspected of having submitted a false declaration of his assets, require the public leader to confirm or amend the declaration; and

(b) shall, where after the confirmation or amendment, if any, under paragraph (a), the declaration is still false, refer the matter to the Tribunal.

[s. 28]

[PCh398s28]28. Payment of fees, remuneration or expenses Act No. 5 of 2001 s. 7

Any fees, remuneration or expenses payable in respect of a Tribunal or for the purposes of the Secretariat shall be paid out of moneys appropriated by Parliament for that purpose.

[s. 29]

[PCh398s29]29. Act not to derogate from other laws Act No. 5 of 2001 s. 7

Nothing in this Act shall have the effect of limiting or derogating from the Prevention of Corruption Act *, the Penal Code * or any other written law, and the conclusion of proceedings under this Act shall not prevent the institution of criminal or other proceedings under any other law in respect of the public leader concerned.

[s. 30]

[PCh398s30]30. Act not to prevent public leader from resigning Act No. 5 of 2001 s. 7

Nothing in this Act shall have the effect of limiting the right of a Minister or any other public leader to resign as Minister or as holder of such other office of public leader.

[s. 31]

[PCh398s31]31. Regulations Act No. 5 of 2001 ss. 7 and 13

(1) The President may after consultation with the Minister responsible for Local Government make regulations for or with respect to any matter that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without restricting the generality of subsection (1), the regulations may prescribe–

- (a) fees for the inspection of the register referred to in section 20;
- (b) procedure for summoning witnesses;
- (c) procedure for use by public leaders to divest themselves of property not permissible under this Act.
- (d) the manner in which this Act shall apply to public leaders who are members of the local government authorities; and
- (e) the forms to be filled by public leader for the purpose of declaration of assets under this Act.

[s. 32]

[PCh398s32]32. Transitional provisions Act No. 5 of 2001 s. 7

The President may within twelve months from the commencement of this Act make such transitional temporary and consequential provisions as he deems necessary or desirable for the more effectual application of the provisions of this Act and the Code.

[s. 33]