

THE CIVIL SERVICE COMMISSION ACT,
1986.

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ACT NO. 14 OF 1986.

I ASSENT

Idris Abdul Wakil

IDRIS ABDUL WAKIL
PRESIDENT OF ZANZIBAR
AND
CHAIRMAN OF THE REVOLUTIONARY
COUNCIL.

18th November1986

AN ACT TO PRESCRIBE THE CIVIL SERVICE
COMMISSION, TO PROVIDE FOR ITS FUNCTIONS
AND OTHER MATTERS CONNECTED THEREWITH AND
INCIDENTAL THERETO.

ENACTED BY THE HOUSE OF REPRESENTATIVES OF
ZANZIBAR.

PART I
PRELIMINARY

Short title
and
commencement.

1. This Act may be cited as the Civil
Service Commission Act, 1986, and shall come
into operation immediately upon being assented
by the President.

Interpretation.

2. In this Act, unless the context
otherwise requires:

"Appropriate Service Commission" means -

(1) in the case of a civil service office or
a civil servant or of a person who
immediately before he ceased to be in the
service, of Zanzibar Government, was a
civil servant, or the widow, child,
dependant, or personal representative
of any such person, the "Civil Service
Commission";

(2) "Civil Servant" means a person holding
or acting in a Civil Service Office;

"Civil Service Office" means -

- (a) a paid civil office in the service of the Revolutionary Government, but shall not include:
- (i) the office of the President, Minister, Deputy Minister, Speaker of the House of Representatives or Deputy Speaker, the member of the House of Representatives, the Attorney-General or other political appointees;
 - (ii) the office of a member of a Commission established by the Constitution or this Act;
 - (iii) the office of a judge or judicial officer;
 - (iv) the office of the member of the Special Department;
- (b) any office declared by law to be a civil service office;
- "Delegate" means a Commission or a person to whom functions have been delegated under the provisions of this Act, and includes a person deputed by any such delegate, in accordance with the said provisions to exercise functions delegated to it or him by the President;
- "Commission" means a Commission established by this Act;
- "Minister" means the Minister for the time being responsible for civil servants.

PART II

COMMISSION, ITS FUNCTIONS AND POWERS

(a) THE COMMISSION

Civil Service Commission. 3.(1) There shall be a Civil Service Commission which shall consist of a Chairman, a Deputy Chairman and five other members appointed by the President.

(2) A person shall not be qualified for appointment as a member of the Civil Service Commission if he is -

- (i) a Minister, Member of the Revolutionary Council, Deputy Minister, or Member of the House of Representatives;
- (ii) a regional or area Commissioner;
- (iii) a paid officer or a servant of Chama cha Mapinduzi or its Mass Organisations;
- (iv) a judge or judicial officer, or civil servant.

(3) A member of the Civil Service Commission shall not, within a period of three years commencing with the day on which he last held or acted as a member, be eligible for appointment to or to act in the office of a judge, a judicial officer or a civil service office unless the President, by writing under his hand so directs.

(4) Subject to the provisions of this section, the office of a member of the Civil Service Commission shall become vacant -

- (i) at the expiration of three years from the date of his appointment; or
- (ii) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) A member of the Civil Service Commission may be removed from office by the President for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and such member, shall not be removed from office except in accordance with the provisions of the Constitution.

Staff.

4.(1) There shall be such offices on the Civil Service Commission as the Commission shall, with the approval of the President, establish.

(2) The Offices and the staff of the Commission shall be Civil Service Offices.

Oaths.

5.(1) The member of the Commission shall upon his appointment and before the assumption of his office take an oath in the form set out in the First Schedule to this Act.

(2) The Chairman of the Commission may require any member of the staff of the Commission to take upon his appointment and before the assumption of his office an oath in the form set out in the Second Schedule to this Act.

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

Vacancy etc.

6. Subject to its rules of procedure, the Commission may act notwithstanding any vacancy in its membership or the absence of any member:

Provided that any decision of the Commission shall require the concurrence of a majority of all members present thereof.

Procedure.

7. Subject to the provisions of this Act, and any regulations made by the President, a Commission may regulate its own procedure.

(b) FUNCTIONS

Functions of the Commission.

8. The functions of the Civil Service Commission shall be -

- (a) to advise the President on the exercise of such of the functions conferred on the President by section 51 of the Constitution, and in respect of such offices, as the President may require;
- (b) to exercise, in its deliberative judgment, the functions conferred on the Commission by section 17 of this Act;

- (c) to assist the President in relation to such other matters relating to the Civil Service as the President may require;
- (d) to exercise such other functions as may be conferred on the Commission by law;
- (e) to act as an appointing authority to all persons and civil servants other than those appointed by the President or by the Civil Service Department.

(C) PRIVILEGES AND PROTECTION OF COMMISSION AND MEMBERS

Protection of members.

9. Every member of the Commission shall have such and the like protection and privileges 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.

Communications of Commission to be privileged.

10. No person shall in any legal proceedings be permitted or compelled to produce or disclose any communication, written or oral, which has taken place between the Commission or any member, or officer thereof, and the President, or Head of Civil Service or a delegate, or the Judicial Service Commission, or the other Commission established by this Act, or any member of any such Commission, or any person holding office in the service of the Government, or between any member or officer of the Commission and the Chairman thereof, or between any members or officers of Commission, in exercise of, the functions of the Commission unless the President shall consent in writing to such production or disclosure.

Offence to influence or attempt to influence Commission.

11. Without prejudice to the provisions of any other law, every person who, otherwise than in the course of his duty, directly or indirectly by himself or by any other person in the matter whatsoever influences or attempts to influence any decision of the Commission shall be guilty of an

offence and on conviction shall be liable to a fine of not less than five thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment:

Provided that nothing in this section shall prohibit any person from giving a certificate or testimonial to any applicant or candidate for any office or from supplying any information or assistance at the request of the Commission.

Offence of false information to the Commission.

12. Without prejudice to the provisions of any other law, any person who in connection with the exercise by the Commission of its functions or duties wilfully gives to the Commission any information which he knows to be false by reason of omission of any material particular, shall be guilty of an offence and on conviction shall be liable to a fine of not less than five thousand shillings but not exceeding ten thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Interpretation of "Commission" in sections 12 and 13.

13. For the purpose of sections 12 and 13, the term "Commission" shall include the Commission, any member of the Commission, any officer of the Commission or any person or body of persons appointed to assist the Commission in the exercise of its functions or duties.

Unauthorised disclosure of information prohibited.

14.(1) No member of the Commission, nor any officer of the Commission, nor any other person shall, without the written permission of the Minister, publish or disclose to any person otherwise than in exercise of his official functions the contents of any document, communication or information whatsoever which has come to his notice in the course of his duties in relation to the Commission. Any person who knowingly acts in contravention of the provisions of this section shall be guilty of an offence and on conviction shall be liable to a fine of not less than two thousand shillings but not exceeding five thousand shillings or to imprisonment for a term not exceeding twelve 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 subsection (1) of this section, and who publishes or communicates it to any other person otherwise than for the purpose of his official duty, shall be guilty of an offence and on conviction shall be liable to a fine of not less than two thousand shillings but not exceeding five thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Prosecutions. 15. A prosecution in respect of any offence under this Part of this Act shall not be instituted except with the consent of the Attorney-General.

Advice. 16. For the avoidance of doubt it is hereby declared that the confirmation on the Civil Service Commission or the duty of giving advice to the President in respect of the exercise of any of the functions of the President, shall not preclude the President from seeking advice in respect thereto from any other person.

Power of dismissal and removal. 17.(1) The power to dismiss and to terminate the appointment of Civil Servants shall be exercised in accordance with the provisions of this section.

(2) The power to dismiss a civil servant shall not be exercised unless -

- (i) a disciplinary charge has been made against such servant or officer; and
- (ii) the servant or officer has had an opportunity to answer such charge; and
- (iii) an inquiry has been held into the charge in accordance with regulations made under subsection (1) of section 22.

(3) The President may remove a civil servant from the service of the Government if he considers it in the public interest.

(4) Nothing in this section shall be construed as restricting -

- (i) the compulsory retirement of any person under the Pensions Decree or any other relevant laws;
- (ii) the termination (otherwise than by dismissal) of the service of any civil servant, other than the substantive holder of the pensionable office, in accordance with the terms of his employment, or the dismissal of any person from any office or the person from any office on the personal or domestic staff of the President or of any person holding an office the emoluments of which are payable at an hourly or daily rate.

(5) Nothing in subsection (1), (2) or (3) shall apply in relation to any person holding the office of the Controller and Auditor-General.

(6) In this section, "pensionable office" means an office which is pensionable office for the purpose of any law relating to Pensions; "substantive holder" in relation to a pensionable office means a person who has been confirmed in such office, other than a person who is serving therein for a specified term under a contract.

Appeals.

18.(1) Wherever the Civil Service Commission exercise any power of reduction in rank other than a reduction from a rank to which a person has been appointed on trial, or reduction in present salary, removal or dismissal, delegated to the Commission in relation to a civil servant, such civil servant may appeal against the decision of the Commission to the President or any other body which may be established for the purpose and in accordance with the laws or regulations made.

(2) Wherever a delegate other than the Civil Service Commission exercises any power of reduction in rank other than a reduction from a rank to which

a person has been appointed on trial or reduction in present salary, removal or dismissal, in relation to a civil servant, such civil servant may appeal against the decision of such delegate to the Civil Service Commission, and the Commission may confirm, vary or rescind the decision of such delegate.

(3) Where the Minister or the Civil Service Commission varies or rescinds any decision removing or dismissing any person from the service of the Government, and does not substitute any other decision removing or dismissing such person, the variation or rescission shall have effect from the date of original decision, and such person shall, unless he shall have ceased to be a civil servant for any other cause, be deemed to have remained a civil servant notwithstanding the original decision.

PART III

PROVISION RELATING TO RETIRING BENEFITS

Protection
of pension
rights.

19.(1) The law applicable to any benefits to which this section applies shall, in relation to any person who has been granted or is eligible for the grant of such benefits, be that in force at the relevant date or any later law that is not less favourable to that person.

(2) In this section "the relevant date" means -

- (i) in relation to benefits granted before the twelfth day of January, 1964, the date on which those benefits were granted;
- (ii) in relation to benefits granted or which may be granted on or after the twelfth day of January, 1964 to or in respect of a person who was a public officer before that date, the eleventh day of January, 1964; and

(iii) in relation to any benefits granted to or in respect of any person who becomes a public officer on or after the twelfth day of January 1964, the date on which he becomes a public officer;

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case, the law for which he opts shall, for the purposes of this Section, be deemed to be more favourable to him than the other law or laws.

(4) Any benefits to which this section applies not being benefits that are charged upon some other public fund shall be a charge on the consolidated fund.

(5) The benefits to which this section applies or any benefits payable under any law providing for the grant of any pension, compensation, gratuities or other like allowances to persons in respect of their service as public officers or to the widows, children, dependants or personal representatives of such person in respect of such service.

(6) References to the law applicable to any benefits to which this section applies include without prejudice to their generality references to any law regulating, for the purpose of determining whether any person is eligible for the grant of such benefits on his retirement from the public service, the circumstances in which he is required or permitted to retire.

Power of Commission in relation to pensions, etc.

20.(1) Where under any law any person or authority has a discretion -

- (i) to decide whether or not any benefits to which this section applies shall be granted; or
- (ii) to withhold, reduce in amount or suspend any such benefits that have been granted,

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those benefits shall be granted and may not be withheld, reduced in amount or suspended unless the Civil Service Commission concurs in the refusal to grant the benefits, or, as the case may be, in the decision to withhold them, reduce them in amount or suspend them.

(2) Where the amount of benefits to which this section applies that may be granted to any person is not fixed by law, the amount of the benefits to be granted to him shall be eligible unless the Civil Service Commission concurs in his being granted benefits of a smaller amount.

(3) The Civil Service Commission shall not concur under subsection (1) or (2) of this section in any action taken on the ground that any person who holds or has held the office of Controller and Auditor General has been guilty of misbehaviour unless he has been removed from that office by reason of such misbehaviour.

(4) This section applies to any benefits payable under any law providing for the grant of pensions, compensation, gratuities or other like allowances to persons in respect of their service as public officers or to the widows, children, dependants or personal representatives of such persons in respect of such service.

PART IV

GENERAL

Administration
and terms and
conditions
of service.

21.(1) Subject to the provisions of any written law and to the instructions of the President, the administration of the Civil Service, and the ordering of the terms and conditions of service of civil servants, shall be vested in the Secretary to the Revolutionary Council.

(2) The functions of the Secretary to the Revolutionary Council who is also the Head of the Civil Service in relation to the Civil Service and the terms and conditions of civil servants may be

exercised by Director of Civil Service as well as other civil servants authorized by him.

Regulations. 22.(1) The Minister shall make regulations providing for, and for the conduct of, disciplinary proceedings according to the General Orders.

(2) The President may make regulations -

- (i) for any matter which, by this Act, may be provided for by regulations;
- (ii) regulating the performance of the functions conferred on him under the provisions of the Constitution and this Act and the exercise of such functions by any delegate;
- (iii) for the administration of the Civil Service, and the discipline and the ordering of the terms and conditions of service of civil servants.

(3) Regulations under this Act shall be published in the Official Gazette.

(4) Nothing in this section shall restrict any power to make administrative instructions or orders in relation to persons in the service of the Government.

FIRST SCHEDULE

OATH OF MEMBER

(Under Section 5(1))

I,
having been appointed as Chairman/Member of the
.....Service Commission, do swear/
solemnly and sincerely declare and affirm that I will
freely and without fear or favour, affection or ill-
will, discharge the functions of Chairman/Member of
the Commission, 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.....19..

Before me
PRESIDENT OF ZANZIBAR.

SECOND SCHEDULE

OATH OF OFFICE OF THE COMMISSION

(Under Section 5(2)).

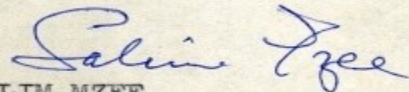
I,
being called upon to exercise the functions of an officer of the Civil Service Commission, do swear/solemnly and sincerely declare and affirm that I will not, directly or indirectly, reveal to any unauthorised person or otherwise than in the course of duty the contents or any part of the contents 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 Civil Service Commission Act.

SO HELP ME GOD.

Sworn/Declared before me this day of.....
19.....

Before me
CHAIRMAN OF THE CIVIL
SERVICE COMMISSION.

Passed in the House of Representatives
on the 1st day of October, 1986.



SALIM MZEE
ACTING CLERK TO THE HOUSE
OF REPRESENTATIVES.