

THE UNITED REPUBLIC OF TANZANIA



No. 13 OF 1995

I ASSENT,
[Signature]
President
13-7-95

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

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

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| 1. This Act may be cited as the Public Leadership Code of Ethics Act, 1995. | Short title |
| 2. This Act shall come into operation on the first day of July, 1995. | Commencement |
| 3. This Act shall apply to Tanzania Zanzibar as well as to Mainland Tanzania in respect of public officers holding offices under the Union Government. | Application |
| 4. In this Act, unless the context requires otherwise —
"Code" means the Code of Ethics for Public Leaders established by or under this Act;
"Commissioner" means the Ethics Commissioner appointed under section 20; | Interpretation |

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

"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, Principal Secretary, Regional Development Director and District Commissioner;"
- (xiv) Controller and Auditor-General;
- (xv) Clerk the National Assembly;
- (xvi) Chief of Defence Forces;
- (xvii) Inspector-General of Police;
- (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 officers of a local government authority;
- (xxiii) 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;

"Tribunal" means the Ethics Tribunal appointed under section 27.

PART II

THE BASIC ELEMENTS OF CODE OF ETHICS

President to work for promotion of integrity in public office, etc.

5.--(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 Leader's 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) minimizing 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.

6. 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:-

Principles
to be in-
voked by
code

- (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 owned to him, his spouse or unmarried minor children, without prejudice to the right of wives and husbands of public leaders to own properly 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 insider 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 minimized 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 advantages in obtaining opportunities for outside employment.

7.--(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.

Declara-
tion of
standards
as to
ethics

PART III

CODE OF ETHICS APPLICABLE To ALL PUBLIC LEADERS

8. The provisions of this Part shall constitute part of the Code public leaders for the provisions of the Constitution, a breach of which results in the Vacation of the office of the public leader concerned.

Relation-
ship bet-
ween this
for Part
and pur-
poses of
the Con-
stitution

9.--(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 prescribed form" of all property or assets owned by, or liabilities owed to, him, his spouse or unmarried minor children, subject to subsection (2).

Declara-
tion of as-
sets
liabilities

(2) 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 inexplicable come into possession of extraordinary riches in relation to his observable sources of income.

(3) 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.

10.--(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 divestment.

Non-dec-
larable as-
sets

(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;
- (c) works of art, antiques and collectibles;
- (d) "motor vehicles and other personal means of transportation for private use";
- (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) person 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 money receivable.

Declarable assets

11.-(1) A public leader shall make it 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 included —

- "(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) interest in business 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 it non-declarable asset-,
- (h) assets that are beneficially owned, which are not non-declarable assets and which are administered at arm s length.

Public leader not to acquire dishonestly any pecuniary advantage

12. 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.

13.--(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 an interest 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.

Public leader to disclose pecuniary interest to forum

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

14.--(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.

Declaration of interest Government contract

(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 share holding or partnership, specifies the proportion of the ownership of the company or firm represented by the share holding 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.

Failure to make declaration. or making of false declaration under section 9

15. 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 MINISTERS AND REGIONAL COMMISSIONERS

Relationship between this Part constitution

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

Collective responsibility of Ministers

17.-(I) 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 unauthorized 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

18.-(1) This section applies to a public leader who is holding elective office and for the purposes of this section such public officer is referred to as "an officer";

Annual
declara-
tion of as-
sets,
liabilities
and in-
come

(2) An Officer shall, except where the Constitution provides otherwise-

- (a) within thirty days after his appointment; and
- (b) within thirty days after each anniversary of his appointment to the office concerned,

submit to the President or other statutory authority an annual declaration of assets, liabilities and income in accordance with this section.

(3) An annual declaration shall fairly state-

- (a) the value of the assets (other than personal and household effects) And liabilities of the Officer as at the declaration date; and
- (b) the total income of the Officer, together with his income from each source, for the twelve months preceding the declarative date.

(4) For the purposes of this section-

- (a) an Officer appointed to an office before the commencement of this Act shall be deemed of this Act shall be deemed to have been appointed on the commencement of this Act; and
- (b) where an Officer is elected to another office to which this section applies without ceasing to be an Officer, a reference to his election to an office shall be read as a reference to his first appointment to an office to which this section applies.

(5) In this section "declaration date" means the date of the Officer's election or its anniversary, as the case may be.

19.--(I) 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.

The
Ethics
Sec-
retariat

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

(3) 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.

The
Ethics
Commis-
sioner

20.-(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 Principal 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, shall hold office for a period of not less nor more than five years and may be removed from office only lot- good cause involving dishonestly.

Registra-
tion of de-
clarations
of interest
and of as-
sets regis-
ter

21.-(1) On receiving a declaration or interest under section 14 or a declaration of assets and income under section 9 or 18, 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 President approves and shall be made available for inspection by members of the public at all reasonable times.

Declara-
tions
deemed to
be statut-
ory decla-
rations

22. A declaration made for the purposes of sections 9, 14 or 18 shall be deemed to be a statutory declaration.

Com-
plaints of
breaches
of Part III

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

(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 in to 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;
- (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 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.

(4) 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 27 to investigate the allegation.

(5) 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 well as to the public leader concerned.

(6) 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.

(7) 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.

24.-(I) 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.

Com-
plaints of
breaches
of Part IV

25. (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.

Procuring
informa-
tion and
the atten-
dance of
witnesses

(2) Where the Tribunal orders any person to be examined on oath, my 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 prescribe for the services 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 willfully 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. Every warrant issued under this section shall be executed by police officer.

(5) Where a person is arrested in pursuance of it 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 recognizance of his appearance before the Tribunal, release him from custody; or
- (b) order such person to be detained in custody until such time as tic 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 fees, 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 my 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 arc in the custody or under the control of any Government Ministry, Division, or Department, or the Party or a parastatal organization.

26. 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.

Rights of
witnesses

27.-(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 upon advice by the Commissioner.

The
Tribunal

(2) Where a Tribunal has been constituted under subsection (3) of section 23 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 2, 2A, 10A, 1013, 16A and 16B of the Commissions of Inquiry Ordinance 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.

