

THE UNITED REPUBLIC OF TANZANIA



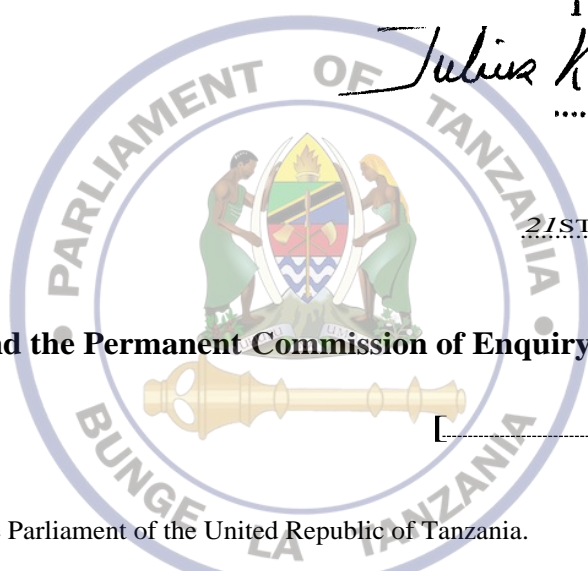
No. 13 OF 1980

I ASSENT,

Julius N. Nyerere
.....
President

21ST MAY, 1980

An Act to amend the Permanent Commission of Enquiry Act, 1966



ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Permanent Commission of Enquiry (Amendment) Act, 1980, and shall be read as one with the Permanent Commission of Enquiry Act, 1966 (in this Act referred to as "the principal Act").

Short title and construction

2. Section 2 of the principal Act is repealed and replaced by the following-

Repeal and replacement of section 2

"Interpretation

2. In this Act, unless the context requires otherwise-
"appropriate authority"__

(a) in relation to, a Ministry or independent department of the Government of the United Republic k r of the Revolutionary Government of Zanzibar, means the Principal Secretary responsible, in accordance with the appropriate regulations of the Civil Service, for that Ministry or department, and includes the Prin.

cial judge of the High Court of the United Republic, the Chief Justice of the High Court of Zanzibar, the Speaker of the National Assembly, the Speaker of the House of Representatives of Zanzibar, the Controller and Auditor-General in the Government of the United Republic and the Controller and Auditor-General in the Revolutionary Government -of Zanzibar-,

(b) in relation to the Party, means the Chief Executive Secretary of the Party;

(c) in relation to a local authority, means the Chairman Or Mayor of that authority;

(d) in relation to a public -organization, means the governing body of that organization;

(e) in relation to a Village Council, means the Chairman of that Council;

(f) in relation to an appropriate authority as defined in the preceding paragraph, means a Minister, Deputy Minister or Regional Commissioner or, in any other case not provided for in the preceding paragraphs, means the President;

"the Commission" means the Permanent Commission Of Enquiry established by section 75 of the Constitution of the United Republic of Tanzania, 1977, and referred to in section 63 of the Constitution of Zanzibar, 1979; "Commissioner" means a member of the Commission, and includes the Chairman;

"department" means the office of the President of the United Republic, the office of Head of the Revolutionary Government of Zanzibar, a Ministry or independent department of the Government of the United Republic or of the Revolutionary Government of Zanzibar, the Party or a local authority;

"enquiry" means an enquiry by the Commission under Chapter Six of the Constitution of the United Republic of Tanzania, 1977;

"public organization" means a parastatal organization, a body corporate owned by a parastatal organization or any company or other body a majority of whose share capital is owned by the Government or by a parastatal organization."

Repeal and replacement of section 3

3. Section 3 of the principal Act is repealed and replaced by the following--

"Application 3. This Act shall extend to Zanzibar as well as to Mainland Tanzania."

Repeal and replacement of section 4

4. Section 4 of the principal Act is repealed and replaced by the following-

"Additional list of offices which a person appointed commissioner is required to vacate

4.-(1) in addition to the offices of Minister and Deputy Minister and any office in the Party which, in accordance with section 76 (2) of the Constitution of the United Republic of Tanzania, 1977, a person appointed a Commissioner is required to vacate, a person appointed a Commissioner shall forthwith vacate, the following offices: -

- (a) the office of Speaker of the National Assembly;
- (b) the office of Speaker of the House of Representatives of Zanzibar;
- (c) the office of judge, of a judicial officer and of Chairman of an Area People's Court in Zanzibar;
- (d) a Civil Service office;
- (e) the office of member of the Electoral Commission,
- (f) the office of member of a local authority and any office in the service of a local authority;
- (g) the office of a member of a public organization and any office in the service of a public organization,

and each of those offices is hereby prescribed for the purposes of section 76 (2) of the Constitution of the United Republic of Tanzania, 1977.

(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 occupier 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 if the appointing authority so directs, 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 the appointing authority has directed that his service in that office subsequent to that reappointment should be 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 aisle 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 allowance 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 the person or authority having the power to make appointments to that office;

Cap. 509 "civil service office" and "judicial officer" have the meaning ascribed to those terms in section 2 of the Civil Service Act, 1962, and the Judicial Service Act, 1962, respectively."
Cap. 508

Repeal and replacement of section 6 **5.** Section 6 of the principal Act is repealed and replaced by the following--

"Staff of the Commission **6.** The provisions of the law for the time being in force relating to the constitution of offices in the Civil Service shall apply to the constitution of offices under the Commission and the Principal Secretary to, the Ministry of Manpower Development in the case of persons holding office in the service of the United Republic, and after consultation with the Revolutionary Government of Zanzibar in the case of persons in its service. may second persons to offices under the Commission."

Amendment of section 7 **6.** Section 7 of the principal Act is amended in subsections (1) and (2), by deleting the words "Second Schedule" where they occur in those subsections and substituting for them in each subsection the words "First Schedule"

Amendment of section 8 **7.** Section 8 of the principal Act is amended by deleting the clause "Subject to subsection (5) of section 67 of the Constitution", and substituting for it the clause "Subject to section 68A of the Constitution of the United Republic of Tanzania, 1977, and to section 71 of the Constitution of Zanzibar, 1979."

Amendment of section 11 **8.** Section 11 of the principal Act is amended by deleting subsection (1), (2) and (3) of that section, and substituting for the following subsection-

"11.-(1) Subject to the provisions of this Act, the Commission may require any person who, in its opinion, is able to give any information relating to, any matter relevant to any inquiry before it to furnish the Commission with that information and to produce any documents, papers or things which may be in the possession or under the control of that person and may, by order under the hand of a Commissioner, require that person to attend before the Commission at the time and place specified in the order and to be examined on oath or to produce the document, paper or thing.

(2) An order given under this section shall be in the form prescribed in the Second Schedule to this Act, and shall be served on the person to whom it is directed by a person holding office under the Commission or a police officer in the manner prescribed for the service of a summons or a witness in civil proceedings before a court.

(3) Where the Commission orders any person to be examined on oath, any Commissioner may administer that oath, which shall be in the form prescribed in the Third Schedule to this Act."

9. Section 14 of principal Act is repealed and replaced by the following-

Repeal and replacement of section

14.-(I) Where the President, or the Head of the Revolutionary Government of Zanzibar, certifies that the giving of any information, the answering of any question or the production of any document, paper or thing-

- (a) might prejudice the security, defence or international relations of Tanzania, including relations with the government of any other country or with any international organization, or the investigation or detection of offences; or
- (b) might involve the disclosure of the deliberations of the Cabinet or of the Revolutionary Council of Zanzibar; or
- (c) might involve the disclosure of proceedings of the Cabinet or of the Revolutionary Council of Zanzibar, or of any committee of the Cabinet or of the Revolutionary Council of Zanzibar, which relates to matters of a secret or confidential nature, and would be injurious to the public interest.

the Commission shall not require the information or answer to be given or, as the case may be, the document, paper or thing to be produced.

(2) No person bound by the provisions of any written law, other than the National Security Act, 1970, the Judicial Service Act, 1962, the Civil Service Act, 1962, any law for the time being in force in Zanzibar relating to the Judicial and Civil Services or by the Official Secrets Decree, of Zanzibar, who maintains secrecy in relation to, or not to, disclose, any matter, shall be required to supply any information to or answer any question put by the Commission in relation to that matter, or to produce to the Commission any document, paper or thing relating to it, if compliance with that requirement would be in breach of the obligations of secrecy or non-disclosure.

(3) Notwithstanding subsection (2), if an enquiry is made as a consequence of the complaint of any person and the complainant consents in writing to the disclosure, any person

Acts, 1970
No. 3
Cap. 508
Cap. 509
Cap. 18

bound in the manner referred to in subsection (2) may be required by the Commission to supply information, to answer any question or to produce any document, paper or thing relating only to the complaint, and it shall be the duty of the person so bound to secrecy to comply with that requirement.

(4) Except as provided by the preceding provisions of this section and notwithstanding the provisions of any other written law-

- (a) no person may refuse to disclose, any information to, answer any question by, or produce any document, paper or other thing to, the Commission on account of any judicial, official or state privilege or any privilege relating to information as to the Commission of an offence;
- (b) the disclosure to the Commission of any matter in relation to which any person has taken an oath of secrecy shall be deemed to be a disclosure by that person in the course of his duties, for an authorized purpose, and with the authority of the person empowered to authorize the disclosure;
- (c) no person shall be liable to prosecution for an offence contrary to the National Security Act, 1970, the Judicial Service Act, the Civil Service Act, any law for the time being in force in Zanzibar relating to the Judicial and Civil Services or the Official Secrets Decree of Zanzibar or any other written law, other than sections 102, 103, 106, 108 or 109 of the Penal Code, or sections 91, 92, 95, 97 or 98 of the Penal Decree, of Zanzibar, or section 19 of this Act, by reason of his compliance with any requirement of the commission under sections 10, 11, 13 or 14 of this Act."

Acts, 1970
Cap. 508
Cap. 509
Cap. 18

Cap. 16
Cap. 13

Amendment
of section 15

10. Section 15 of the principal Act is amended-

- (a) in subsection (1) —
 - (i) by inserting immediately after the word "President", the words "or to the Head of the Revolutionary Government";
 - (ii) by deleting the words "scheduled organization".
- (b) in subsection (2)-
 - (i) by deleting the comma which occurs immediately after the word "President".
 - (ii) by inserting immediately after the word "President" the words "or the Head of the Revolutionary Government of Zanzibar".

Amendment
of section 16

11. Section 16 of the Principal Act is amended-

- (a) by deleting the comma which occurs immediately after the word "President";

(b) by inserting immediately after the word President the words "or the Head of the Revolutionary Government of Zanzibar."

12. Section 24 of the principal Act is repealed and replaced by the following- Repeal and replacement

"Persons subject to the jurisdiction of the Commission 24. The Commission shall, in the performance of its functions, have and exercise jurisdiction, in respect of all members and persons in the service of the Government of the United Republic and of the Revolutionary Government of Zanzibar, leaders and persons in the service of the Party, members and persons in the service of all commissions, corporate bodies, institutions, local authorities and public organizations established by or under the Government of the United Republic or the Revolutionary Government of Zanzibar."

13. The principal Act is amended by deleting the expression "scheduled organization" wherever it occurs in the Act and substituting for it the expression "public organization" General amendments

14. The First Schedule to the principal Act is repealed. Replacement of First Schedule

15. The Second Schedule to the principal Act is amended by deleting the heading "Second Schedule 11" and substituting for it the heading "First Schedule" Amendment of the Second Schedule

16. The principal Act is amended by adding, immediately after the First Schedule, the following Schedules- Edition of Second and Third Schedule

SECOND SCHEDULE-(Section 11 (2))

THE UNITED REPUBLIC OF TANZANIA

The Permanent Commission of Enquiry Act, 1966 (Section 11 (1))

ORDER TO APPEAR BEFORE THE COMMISSION

To: _____

WHEREAS it appears to the Permanent Commission of Enquiry that you _____ are able to give information and/or to produce documents, papers or other things connected with the matter of _____ which is for the time being the subject of enquiry by the Commission:

You _____ are now hereby commanded to appear before the Commission at _____ 19_____ the _____ day of _____ on at _____ in the forenoon to give evidence and/or to produce the following documents, papers or things, namely:

1.
2.
3.
4.
5.

You are hereby cautioned that failure to appear as commanded is an offence punishable under law.

Given under my hand at
this day of 19

.....
Chairman/Commissioner

THIRD SCHEDULE- (Section 11 (3))

THE UNITED REPUBLIC OF TANZANIA

The Permanent Commission of Enquiry Act, 1966

(Section 11 (1))

OATH OF WITNESS

I,
having been required to give evidence before the Permanent Commission of Enquiry,
do hereby:

If a Christian, say: "Swear that I shall do my best to tell the truth. So help me god."

If a Muslim, say: "Solemnly affirm that I shall do my best to tell the truth Wallahi,
Billahi, Ta Allah."

If a Hindu, say: "Solemnly affirm that I shall do my best to tell the truth."

Others, say: "Solemnly affirm that I shall do my best to tell the truth."

Passed in the National Assembly on the fifteenth day of April, 1980.

.....
Clerk of the National Assembly