

THE UNITED REPUBLIC OF TANZANIA

ACT SUPPLEMENT

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OFFICE OF THE ATTORNEY GENERAL (DISCHARGE OF
DUTIES) ACT, 2005

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CODE OF ETHICS AND PROFESSIONAL CONDUCT FOR
LAW OFFICERS, STATE ATTORNEYS AND LEGAL OFFICERS
IN THE PUBLIC SERVICE



No. 4 OF 2005

I ASSENT,

BENJAMIN WILLIAM MKAPA,
*President*6th April, 2005

An Act to provide for the discharge of duties and the exercise of powers of the Attorney General, and to provide for the relationship of the Office of the Attorney General with other public offices and officers performing legal functions in the Government and local government authorities and to provide for related matters.

[.....]

ENACTED by Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY PROVISIONS

1.-(1) This Act may be cited as the Office of the Attorney General (Discharge of Duties) Act, 2005.

Short
title and
commence-
ment

(2) This Act shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint.

- Applica-
tion** 2. This Act shall apply to persons who perform or discharge legal functions in the Office of the Attorney General and other offices in the public service who, by virtue or nature of their job description are required to seek or consult for legal advice from the Office of the Attorney General.
- Interpreta-
tion** 3. In this Act, unless the context requires otherwise—
- “Act” means the Office of the Attorney General (Discharge of Duties) Act, 2005;
- “Administrator General” for the purpose of this Act means the person discharging the functions stipulated under subsection (2) of section 8 and includes an officer discharging those functions on his behalf;
- “Attorney General” has the meaning ascribed to it under Article 59 of the Constitution, and shall include, the Deputy Attorney General, Law Officers and State Attorneys when discharging the duties or exercising the powers of the Attorney-General;
- “Code of Ethics” means the Code of Ethics for Law Officers, State Attorneys and Legal Officers in the public service;
- “Constitution” means the Constitution of the United Republic of Tanzania, 1977;
- “Court” means a court of law and includes a tribunal;
- “Deputy Attorney General” has the meaning ascribed to it under Article 59A of the Constitution;
- “investigative organs” as used in this Act, means the Police Force, Prevention of Corruption Bureau, Tanzania Revenue Authority, Immigration Department and other Government agencies charged with the functions of detecting crimes;
- “Law Officer” has the meaning ascribed to it under the Interpretation of Laws Act;
- “legal officer” means a holder of a duly recognized degree in law employed in the public service, other than the Office of the Attorney General and includes a solicitor;
- “Minister” means the Minister responsible for legal affairs;
- “Office of the Attorney General” in relation to the functions of the Attorney General, means the Office established by Article 59(1) of the Constitution;
- “public service” for the purpose of the discharge of the duties of the Office of the Attorney General, means the service in the Ministry of the Government, Government Departments and Government Agencies;
- “State Attorney” means a person appointed as such under sections 24 or 25 of this Act; as such pursuant to the provisions of this Act and includes, a Parliamentary Draftsman.

Cap. 1

PART II

OFFICE OF THE ATTORNEY GENERAL

4. The administration of the Office of the Attorney General, the discharge of duties, the exercise of the powers and the relationship of the Office of the Attorney General with other officers discharging legal duties in the public service shall be governed by this Act.

Administra-
tion of the
Office

5.-(1) The Attorney General shall be the head of the Office of the Attorney General.

Attorney
General
and his
functions

(2) The Attorney General shall, by virtue of his office, be the head of the bar and shall take precedence in court in all matters whenever he appears.

(3) The provisions of subsection (2) shall apply in relation to the Deputy Attorney General, Law Officers and State Attorneys appearing in court on behalf of the Attorney General.

6. In the discharge of the functions under sub-article (3) of Article 59 of the Constitution, the Attorney General shall have and exercise the following powers:

Powers
of the
Attorney
General

- (a) to appear at any stage of any proceedings, appeal, execution or any incidental proceedings before any court or tribunal in which by law the Attorney General's right of audience is excluded;
- (b) where a case in relation to any of the issues referred to in paragraph (a) is pending before a primary court, the Attorney General, a Law Officer or a State Attorney may file a certificate in the court requiring it to transfer the matter to the District Court with competent jurisdiction for further directions;
- (c) to require any officer in the public service to furnish any information in relation to any matter which is the subject of legal advice;
- (d) to summon any officer in the public service to explain any matter which is the subject of litigation by or against the Government;

- (e) to issue directions to any officer performing legal functions in any Ministry of the Government, Government Departments or Government Agencies.

Deputy
Attorney
General
and his
functions

7.—(1) The Deputy Attorney General shall carry out any function, discharge any duty and exercise any power as may be directed by the Attorney General and shall:

- (a) be the administrative head of the Office of the Attorney General;
- (b) take up and conduct litigation on behalf of the Attorney General and for that purpose, to direct Law Officers and State Attorneys who conduct litigation on that behalf;
- (c) carry out the general supervisory role of legislative drafting of Bills and other legislative instruments;
- (d) carry out the general supervision of Law Officers and State Attorneys;
- (e) administer legal functions performed by Law Officers and State Attorneys in the Office of the Attorney General; and
- (f) be responsible for the discipline of Law Officers and State Attorneys in the Office of the Attorney General.

(2) In performing the duties stipulated under this Act, the Deputy Attorney General shall uphold the division of duties and functions performed by officers in the Office of the Attorney General independent of others and those reserved to the Attorney General.

Duties
of the
Office
of the
Attorney
General

8.—(1) Without prejudice to the general provisions of Articles 59, 59B of the constitution and any other provisions of this Act, the duties of the Office of the Attorney General shall be as follows to:

- (a) perform the functions of public prosecutions in accordance with the Constitution and any other written law;
- (b) control all criminal prosecutions in the country;
- (c) draft legislative proposals into Bills for enactment by Parliament;
- (d) advise the Government on any matter of a civil nature including contracts, international agreements and treaties;
- (e) advise the Government on all matters relating to the Constitution and human rights;

- (f) represent the Government in courts of law and tribunals in any suit or matter to which the Government is a party or has interest;
- (g) advice Government Ministries, Government Department and other Government institution and organisation on legislative process;
- (h) draft all legislative instruments and resolutions for ratification by the National Assembly;
- (i) to advise and find meaning out of Parliamentary enactments;
- (j) perform any function as may be necessary for effective discharge of the duties and the exercise of the powers of the Attorney General.

(2) In addition to the functions stipulated under subsection (1) of this Act, the Attorney General shall perform the functions of –

- (a) the Administrator General as stipulated under the Administrator General Ordinance, the Probate and Administration Ordinance and the Trustees Incorporation Ordinance; Cap. 27
Cap. 445
Cap. 375
- (b) the Registrar General as stipulated under the Births and Deaths Ordinance, Law of Marriage Act, 1971 and the Adoption Ordinance; Cap. 108
Act No. 5 of 1971
Cap. 335
- (c) the Official Receiver as stipulated under the Bankruptcy Ordinance and the Companies Act, 2002; and Cap. 25
Cap. 212
Act No. 12 of 2002
- (d) the Public Trustee as stipulated under the Public Trustee Ordinance. Cap. 31

9. There shall be employed or appointed in the Office of the Attorney General, Ministries of the Government, Government Departments and Agencies, such officers of the titles explanatory of their functions and duties as prescribed by this Act or any other written law.

Appointment or employment of officers

PART III

FUNCTIONS OF THE OFFICE OF THE ATTORNEY GENERAL

(a) *Special Provisions in Relation to the Director of Public Prosecutions*

10.-(1) In addition to the functions stipulated under Article 59B of the Constitution, the Criminal Procedure Act, 1985 or any other written

Functions and powers of the Director of Public prosecutions Act No. 9 of 1985

law, the Director of Public Prosecutions shall perform the following functions:

- (a) to supervise:
 - (i) officers in the Directorate of Public Prosecutions in the discharge of prosecution duties;
 - (ii) other officers or persons who conduct prosecutions on behalf of the Director of Public Prosecutions by delegated authority or by specific appointment;
- (b) to coordinate investigation duties conducted by the investigative organs;
- (c) subject to the provisions of section 7(1)(e) to enforce discipline of officers conducting prosecutions under the directions of the Director of Public Prosecutions; and
- (d) to do any thing or matter incidental to the conduct of prosecution.

(2) In the performance of the functions stipulated in this section, the Director of Public Prosecutions shall have the power to:

Act No. 9
of 1985

- (a) delegate to any Law Officer, State Attorney, officer employed in the service or any other person the powers to prosecute stipulated in the Constitution, the Criminal Procedure Act, 1985 or any other written law;
- (b) call any file from any organ charged with the duty to investigate crime;
- (c) appoint prosecutors in accordance with any other written law;
- (d) give directions to any officer to whom powers of the Director of Public Prosecutions have been delegated; and
- (e) direct investigative organs on any matter of a general or specific nature relating to investigation of crime.

(3) The Director of Public Prosecutions shall represent the Government in criminal appeals filed in the High Court and Court of Appeal.

Relation-
ship of the
Director
of Public
Prosecu-
tions and
Attorney
General

11.-(1) The Director of Public Prosecutions shall have regard to directions of a general or specific nature as may be given by the Attorney General or the Deputy Attorney General in relation to implementation of Government policy or supervision of officers within the Directorate of Public Prosecutions.

(2) Nothing in this section shall be construed as abrogating or in any way limiting the powers of the Director of Public Prosecutions in relation to the control of public prosecutions.

(b) Provisions in Relation to Other Matters of Legal Nature

12.—(1) The Attorney General shall, through the Chief Parliamentary Draftsman, define drafting instructions and exercise exclusive mandate on drafting legislative proposals into Government Bills.

Drafting
and
publica-
tion of
Bills

(2) Where drafting instructions are received, the Chief Parliamentary Draftsman shall draft legislative proposals for approval by the Cabinet.

(3) Where the Cabinet approves the draft legislative proposals, the Chief Parliamentary Draftsman shall cause the Bill to be published in the *Gazette*.

(4) The term “drafting instructions” as used in this section means, directives given by the Cabinet for drafting legislative proposals into a Bill or by an authority delegated by Parliament through an enactment to make a subsidiary legislation.

13. The Attorney General shall supervise the Administrator General in the performance of the functions stipulated under subsection (2) of section 8 of this Act.

Supervision
of the
Attorney
General
of this
Functions
under
section 8

14. In addition to the functions stipulated under the provisions of sections 12 and 13 of this Act, the Attorney General shall perform the following functions:

Discharge
of duties
of civil
nature
and
constitu-
tional
nature

- (a) advising the Government on civil, commercial and international matters;
- (b) negotiating agreements on behalf of the Government;
- (c) advising the Government on Constitutional and human rights matters;
- (d) representing the Government in Courts and tribunals;
- (e) controlling delivery of advice on matters of law to the Government, Government Departments, and Agencies; and

- (f) coordinating reporting obligations to international human rights treaty bodies to which Tanzania is a member or on any matter which member states are required to report.

PART IV

THE ATTORNEY GENERAL AND OTHER LEGAL OFFICERS IN THE PUBLIC SERVICE

Provision
regarding
legal
officers and
officers in
Govern-
ment

15.—(1) There shall continue in existence in Ministries, Government Departments and Agencies, legal officers who by virtue of their qualifications, job description and duties, perform legal functions.

(2) The Attorney General shall have the power to issue directions either general or specific to any legal officer referred to in subsection (1) with regard to the manner of performing the legal functions within their respective places of employment.

Functions
to be
performed
by
persons
qualified
in law

16.— (1) The functions which are, by the Constitution, this Act or by any other written law, required to be performed by or on behalf of the Attorney General, may be performed by a Law Officer or legal officer employed in the public service authorized by the Attorney General to perform the functions stipulated under subsection (2) of section 8.

(2) The Deputy Attorney General may, after consultation with administrative head of any Ministry, Government Department or Agency, advise the Attorney General to:

- (a) appoint any person from within such Ministry, Government Department or Agency who possesses the requisite qualifications in law, to be a State Attorney; or
- (b) place in the Ministry, Government Department or Agency a Law Officer or a State Attorney who is ordinarily employed in the Office of the Attorney General.

(3) A person shall not become a Law Officer or a State Attorney only for the reason that his job description includes performing legal functions unless that person has been appointed or placed as such in accordance with subsection (2).

(4) For the avoidance of doubt, nothing in this Act shall entitle any officer who is not qualified in law to perform legal functions in the public service.

17.—(1) Notwithstanding the provisions of any written law to the contrary, the Attorney General shall have the right of audience in proceedings of any suit inquiry on administrative body which the Attorney General considers—

Audience
by Attorney
General in
matters of
public
interest,
etc.

- (a) to be of public interest or involves public property; or
- (b) to involve the legislative, the judiciary or an independent department or agency of the Government.

(2) In the exercise of the powers vested in the Attorney General with regards to the provisions of subsection (1), the Attorney General shall:

- (a) notify any court, tribunal or any other administrative body of the intention to be joined to the suit, inquiry or administrative proceedings; and
 - (b) satisfy the court, tribunal or any other administrative body of the public interest or public property involved,
- and comply with any direction of the court, tribunal or any such other administrative body on the nature of pleadings or measures to be taken for purposes of giving effect to the effective discharge of the duties of the Office of the Attorney General.

(3) Where a suit, inquiry or any other proceedings is pending before the court, tribunal or any other administrative body to which the Law Officer or the State Attorney do not have a right of audience, it shall be sufficient for such Law Officer or State Attorney to file a certificate of the intention of the Attorney General to be joined and the court, tribunal or any such administrative body shall immediately forward the record of the proceedings to the nearest court, tribunal or administrative body for purposes of enabling such Law Officer or State Attorney to appear.

PART V

LEGAL FUNCTIONS OF THE LOCAL GOVERNMENT AUTHORITIES

18.—(1) There shall continue in existence in the Ministry responsible for local government authorities, an office of a Law Officer who shall be responsible for the coordination of offices of all solicitors of the local government authorities.

Appoint-
ment of a
Law
Officer
for local
govern-
ment
authorities

(2) Where there is a need for appointing a Law Officer to head or to perform the functions referred to in subsection (1), the Deputy Attorney General may, after consultation with the Permanent Secretary of the Ministry responsible for local government authority, advise the Attorney General to appoint such officer.

(3) Where, in pursuant to the provisions of subsection (2), the Attorney General is satisfied by the need for appointment of a Law Officer, he shall appoint a Law Officer from among the Law Officers or solicitors employed within the Ministry responsible for local government authorities or from the Office of the Attorney General.

(4) A Law Officer appointed pursuant to the provisions of subsection (3) shall bear a title of any description that depicts the nature of the functions performed and the position held, provided however, that such title is commensurate to the structure of office acceptable by the Public Service Management Office.

(5) In the coordination of legal functions of the local government authorities, the Attorney General may issue any directive of a general or specific nature concerning professional matters and the Law Officer shall cause such directive to be implemented.

(6) The Law Officer appointed in accordance with this section shall have the right of audience in any matter before the court in which a local government authority is a party.

PART VI

CONTROL OF THE PERFORMANCE OF FUNCTIONS AND THE DISCHARGE OF DUTIES OF THE ATTORNEY GENERAL

Reserve
of matters
to the
Attorney
General.

19. No Law Officer, State Attorney or legal officer shall render advice in any matter stipulated under this section without approval of the Attorney General, namely—

- (a) interpretation of the Constitution;
- (b) any matter relating to international agreements and treaties;
- (c) any matter which the law reserves to the Attorney General.

Procedure
of
sourcing
consultancy

20.-(1) The engagement of consultants by any Ministry, Government Department or Agency for rendering legal services shall be made after obtaining written approval of the Attorney General in respect of issues that require consultancy.

(2) For the purpose of observing standards, maintaining quality or capacity building, the Attorney General may-

- (a) direct a Law Officer, State Attorney or any legal officer to whom the provisions of this Act apply participate in the work of the consultant;

- (b) prescribe the terms and conditions for a Law Officer, State Attorney or any legal officer who participates in such consultancy.

21.—(1) The Attorney General shall exercise powers, issue directives or practice notes to any officer to whom this Act applies for the purpose of maintaining standards and uniformity.

Power to
issue
directives
and
practice
notes

(2) The directives or practice notes issued pursuant to the provisions of subsection (1) shall be in such form and manner as the Attorney General may determine.

(3) Notwithstanding the provisions of this section, all matters regarding administration or discipline in respect of:

- (a) legal officers referred to under this Act shall be under the administrative control of their respective employers;
- (b) Law Officers, State Attorneys and City, Municipal, District or town solicitors to the Ministry responsible for local government to whom this Act apply, shall be controlled by the Permanent Secretary of that Ministry; and
- (c) legal officers shall be under the supervision and control of the Permanent Secretary or the Head of Department or Agency to which they are employed.

22.—(1) Any Minister, Permanent Secretary, head of Department or Agency may refer or seek the opinion of the Attorney General on any legal matter.

Reference
of matter
for
opinion
of the
Attorney
General

(2) When the opinion of the Attorney General is requested in relation to any matter reserved to the Attorney General, the Minister or the Permanent Secretary or the head of the Department or Agency shall state clearly the matter and issues involved together with any opinion that may have been given from within such Ministry, Government Department or Agency.

23.—(1) The opinion of the Attorney General given pursuant to the provisions of subsection (2) of this section shall remain the legal position of the Government on the matter unless it is otherwise revised by a court of competent jurisdiction or otherwise recalled by the Attorney General at the instance of the Attorney General.

Opinion
of the
Attorney
General to
be a
position
of the
Govern-
ment

(2) The Attorney General or the Deputy Attorney General may at the instance of the Attorney General recall any opinion given by a Law Officer, a State Attorney or any officer in the public service which is made in the name of the Attorney General.

(3) An officer who makes a decision in disregard of the opinion of the Attorney General:

Act No. 7
of 1970

(a) on a matter that sustains loss to the Government, shall be surcharged or otherwise made to make good of the loss sustained in addition to other appropriate disciplinary measures that may be taken against such officer;

G.N. No.
168
of 2003

(b) in any other case, shall be a breach of discipline and may be dealt with according to the Public Service Regulations, 2003.

PART VII

RECRUITMENT AND CODE OF ETHICS FOR LEGAL OFFICERS

Qualifica-
tions for
employ-
ment and
appoint-
ment of
law
Officers
and State
Attorneys

24.-(1) Subject to the procedure determined by the Public Service Management, the Deputy Attorney General shall employ legally qualified officer in law to be a Law Officer or a State Attorney.

(2) A person shall be qualified for appointment as a Law Officer or a State Attorney who possesses a minimum of a first degree in law or the equivalent qualification from an institution of higher learning accredited or recognized as such by the competent authority.

(3) Where a person takes up employment as a Law Officer or a State Attorney, the Attorney General shall, by an instrument under his hand, appoint that person to be a Law Officer or State Attorney, and in the same or subsequent instruments direct on the nature of functions the officer will discharge.

(4) The Deputy Attorney General shall cause to be published in the *Gazette*, the names of all persons appointed to be Law Officers and State Attorneys.

Appoint-
ment of
Officers in
Govern-
ment to be
State
Attorney

25.-(1) The Attorney General may upon the advice of the Deputy Attorney General, appoint any legal officer in any Ministry, Government Department or Agency who possesses requisite qualifications in law to perform the functions of a Law Officer or a State Attorney.

(2) A person appointed to be a Law Officer or a State Attorney pursuant to the provisions of subsection (1) shall perform functions and discharge duties on behalf of the Attorney General and shall closely observe directives and practice notes issued from time to time

26.—(1) There shall be a Register into which shall be entered and kept particulars of Law Officers and State Attorneys and other legal officers in the public service.

Register
of Law
Officers
and State
Attorneys

(2) The Deputy Attorney General shall keep and maintain the Register of the Law Officers, State Attorneys and other legal officers in public service who perform the functions in accordance with this Act.

(3) The Register shall contain names, qualifications titles and occupation of each of such officers.

27.—(1) There shall be a Code of Ethics for Law Officers, State Attorneys and all other legal officers in the Ministry, Government Departments and Agency.

Code of
Ethics

(2) The provisions of the Schedule to this Act shall constitute a Code of Ethics for Law Officers, State Attorneys and other Legal Officers in the public service.

(3) The Deputy Attorney General shall under the superintendence of the Attorney General enforce the Code of Ethics and for that purpose, control the discipline of Law Officers, State Attorneys to whom this Act apply.

(4) Notwithstanding the Public Service Regulations, 2003, the Attorney General may make rules for enforcement of the Code of Ethics with regards to professional discipline of the Law Officers, State Attorney and other legal officers to whom the Code of Ethics apply.

G.N.
No. 168
of 2003

(5) Each Permanent Secretary and every head of the Department or Agency shall liase with the Deputy Attorney General in the administration of the Code of Ethics in respect of legal officers employed in their respective offices.

(6) The Attorney General may from time to time amend the provisions of the Schedule to this Act.

28.—(1) It shall be a professional misconduct for any Law Officer, State Attorney or other legal officer to whom the Code of Ethics applies to breach the Code of Ethics.

Sanctions
for
breach of
the Code
of Ethics

(2) Any person who breaches the Code of Ethics shall be liable to disciplinary action and the Deputy Attorney General may impose any punishment prescribed under the Public Service Regulations, 2003 including dismissal from the service.

GN
No. 168
of 2003

(3) A person who is dismissed from the service by reason of breaching the Code of Ethics thereby rendering himself liable for disciplinary action shall be stripped off by the Attorney General of the status of a Law Officer or a State Attorney as the case may be.

(4) Where the breach of the Code of Ethics is made by a legal officer employed outside the Office of the Attorney General, the Deputy Attorney General may recommend to the Permanent Secretary or the head of the Department or Agency concerned that appropriate disciplinary action to be taken against such officer and the provisions of subsection (3) shall accordingly apply to that legal officer.

Regula-
tions

29. The Minister may make regulations for the better carrying out of the provisions of this Act.

PART VIII

CONSEQUENTIAL AMENDMENTS

Amend-
ment of
the Advo-
cates
Ordinance
Cap. 341

30. The Advocates Ordinance is amended by deleting paragraph (c) of subsection (2) of section 3 and substituting for it the following:

Act No. 7
of 1982

(c) any person who is a holder of law degree and who is a solicitor in any District Council or Township Authority established under the Local Government (District Authorities) Act, 1982 and in any city or urban authority established under the Local Government (Urban Authorities) Act, 1982.

Act No. 8
of 1982

Amend-
ment of
the Local
Govern-
ment
(District)
Authorities
Act, No.
7 of
1982

31. The Local Government (District) Authorities Act, 1982 is hereby amended:

(a) in section 3, by inserting in the appropriate alphabetical arrangement the following definition:

““solicitor” means any person duly qualified in law employed by a local government authority to discharge legal functions and includes an advocate engaged to represent a local government authority in court or tribunal;”

(b) by deleting the word “LOCAL” appearing in a heading to Part VIII and substituting for it the word “LEGAL”;

- (c) by adding immediately after section 192 the following new section;

"Appearance in Court"

192A.-(1) Save as is otherwise expressly provided, appearance by or on behalf of a district or township authority in any civil case or matter in a court in which a local government authority is a party, shall be made by a solicitor authorised by a local government authority.

(2) The Director of Public Prosecution may under his hand and subject to such conditions, as may be specified, delegate to any solicitor the power to prosecute as stipulated in any written law.

(3) Notwithstanding the provisions of subsection (1), where a local government authority has not employed or engaged a solicitor or where, with respect to any proceedings in court to which a local government authority is a party, that local government authority may be represented by any Law officer, a State Attorney or a legal officer duly authorised in that behalf by the local government authority."

32. The Local Government (Urban) Authorities Act, 1982 is amended:

- (a) in section 3 by inserting in the appropriate alphabetical order the following definition:

" "solicitor" means any person qualified in law employed by a local government authority to discharge legal functions and includes an advocate engaged to represent a local government authority in court or tribunal;"

- (b) by adding immediately after section 107 the following new section:

"Appearance in Court"

107A.-(1) Save as is otherwise expressly provided, appearance by or on behalf of an urban authority in any civil case or matter in which an urban authority is a party, shall be made by a solicitor authorised in that behalf by a local Government Authority.

(2) The Director of Public Prosecutions may delegate to any solicitor powers to prosecute stipulated in the

Amendment of the Local Government (Urban) Authorities Act, 1982

Act No. 8 of 1982

Constitution, the Criminal Procedure Act, 1985 or any other written law.

(3) Notwithstanding the provisions of subsection (1), where a local government authority has not employed or engaged a solicitor or where, with respect to any proceedings in court to which a local government authority is a party, that local government authority may be represented by any Law Officer, a State Attorney or a legal officer authorised in that behalf by the local government authority."

Amend-
ment of
the
Magis-
trates
Court
Act 1984
Act No.
2 of
1984

33. The Magistrates' Courts Act, 1984 is hereby amended in section 18(1) by adding the following paragraph immediately below paragraph (d):

"(e) in all proceedings in which the Attorney General's right of audience is excluded.

SCHEDULE

(Made under section 27)

CODE OF ETHICS AND PROFESSIONAL CONDUCT FOR LAW OFFICERS, STATE ATTORNEYS AND LEGAL OFFICERS IN THE PUBLIC SERVICE

PREAMBLE

WHEREAS integrity, probity and uprightness is prized quality in almost every sphere of life;

AND WHEREAS, there is a need for persons practising law or performing legal functions as State Attorneys in the Public Service to make a commitment to the society to adhere to and attain high ethical standards of conduct;

AND WHEREAS, it is desirable that the standards of conduct which a State Attorney should observe to be prescribed and published;

NOW THEREFORE, the Code of Ethics and Professional Conduct for Law Officers, State Attorneys and Legal Officers in the Public Service provides thus:

DEFINITION

1. In this Code of Ethics, unless the context requires otherwise –

"public service" shall mean and include the Ministry of Government, Government Department or Agency and local government authorities; and

"State Attorney" has the meaning ascribed to it under section 3 of this Act.

APPLICATION

2.-(1) This Code of Ethics shall apply to all Law Officers, State Attorneys and Legal Officers.

(2) This Code of Ethics shall be supplementary to the Public Service Regulations, 2003 and the Rules of Professional Conduct and Etiquette of the Tanganyika Law Society.

INTEGRITY

3.-(1) Every Law Officer, a State Attorney and a Legal Officer shall perform his functions and discharge duties with integrity.

(2) Every Law Officer, a State Attorney and a Legal Officer shall respect and comply with the laws of the land and shall conduct himself both in private and official capacities in a manner that promotes public confidence, the integrity of the Public Service, Office of the Attorney General and the legal profession.

(3) Every Law Officer, a State Attorney and Legal Officer shall not allow outside interest to compromise or in any way jeopardize the integrity of the legal professional, independence or competence.

(4) Every Law Officer, a State Attorney and Legal Officer shall at all times observe a standard of conduct that reflects credit on the legal profession and the public service and administration of justice generally.

(5) Every Law Officer, State Attorney and Legal Officer shall desist from conduct capable of drawing an impression of being involved in corruption.

HONESTY

4. Every Law Officer, a State Attorney and a Legal Officer shall be honest and candid when discharging official duties.

COMPETENCE

5.-(1) Every Law Officer, a State Attorney and a Legal Officer has a duty to the Government and the public to perform functions and discharge duties in a competent manner.

(2) Every Law Officer, a State Attorney and a Legal Officer is obliged and expected to handle matters without undue delay, risk or unnecessary expense to the Government.

QUALITY OF SERVICE

6. A State Attorney has a duty to serve the Government and the public in a conscientious, diligent and efficient manner in order to provide quality service.

CONFIDENTIALITY

7. Every Law Officer, a State Attorney and a Legal Officer has a duty to hold in strict confidence all information concerning the business and affairs of the Government and the public generally where the information is acquired by virtue of office and except where the disclosure is expressly or impliedly authorized by the Attorney General, or required by law.

JUSTICE AND THE ADMINISTRATION OF JUSTICE

8. Every Law Officer, a State Attorney and a Legal Officer has:

- (a) a duty to encourage public respect for justice and to uphold and try to improve the administration of justice;
- (b) a duty to treat the court with candour, courtesy and respect and shall not attempt to influence court decisions by use of deceptive or reprehensible methods;
- (c) a duty to deal with other lawyers fairly, courteously and in good faith; and
- (d) a duty to uphold the integrity and reputation of the legal profession and promoting principles of fairness, justice and honesty.

APPROPRIATE PRESENTATION AND ATTIRE

9. Every Law Officer, a State Attorney and a Legal Officer shall at all time in and outside the place of work appear in smart, proper and decent dress and behave in a manner befitting both the public service and the legal profession.

WHEN DISCHARGING SPECIFIC DUTIES

10.—(1) When conducting prosecution, a State Attorney shall:

- (a) act fairly and dispassionately;
- (b) seek justice by leading a firm, fair and credible evidence; and
- (c) not compromise personal interest to interest of the Republic.

(2) When drafting legislative proposals, a Parliamentary Draftsman shall:

- (a) fairly and closely interpret Government decisions;
- (b) advise and influence on the prudential, logical and intelligible manner of presenting Government Policies, into Bills or subsidiary legislation; and
- (c) not compromise personal interest to interest of the client.

(3) When dealing in matters of probate and registration of births and deaths, the Probate Officer, shall:

- (a) ensure that the best interest of the testator and survivors are fairly met;
- (b) when issuing birth and death certificates, have regard to the public interest to promote peace and security by controlling immigrants; and
- (c) not compromise personal interest to interest of the Government.

(4) When conducting a case the Law Officer and a State Attorney shall:

- (a) interpret provisions of the law and decisions of the courts in good faith;
- (b) ensure that the best interests of the government or complainant are fairly met; and
- (c) not compromise personal interest to interests of the client.

Passed in the National Assembly on the 9th February, 2005.

DAMIAN S. FOKA,
Clerk of the National Assembly