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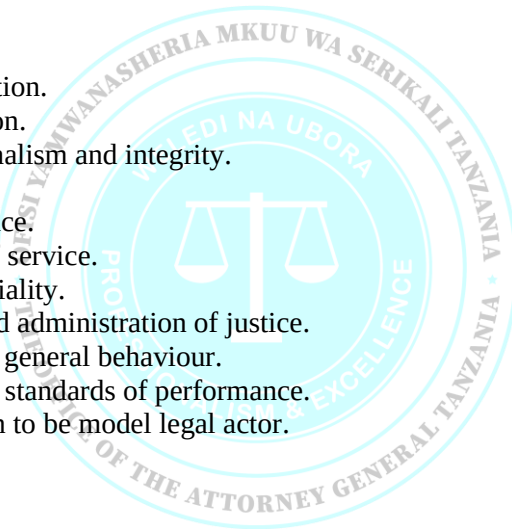
THE OFFICE OF THE ATTORNEY GENERAL (DISCHARGE OF
DUTIES) ACT,
(CAP.268)

CODE

(Made under section 27(1))

THE CODE OF ETHICS AND PROFESSIONAL CONDUCT FOR LAW
OFFICERS AND STATE ATTORNEYS, 2019

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Preamble

WHEREAS, there is a need for every person practising law or performing legal functions as a Law Officer or State Attorney in the public service to make a commitment to the general public to pursue the Vision, Mission and Values of the legal sector to which every Law Officer and State Attorney belong;

AND WHEREAS professionalism, integrity, honesty, probity and uprightness are prized qualities in almost every sphere of life and that these qualities are equally needed in the pursuit of the Vision, Mission and Values of the legal sector;

AND WHEREAS, there is also a need for every person practising law or performing legal functions as a Law Officer or State Attorney to make a commitment to the society to adhere to and attain high ethical standards of conduct;

AND WHEREAS, it is desirable and required by section 27(1) of the Office of the Attorney General (Discharge of Duties) Act, that the standards of conduct which a Law Officer and State Attorney should observe to be promulgated;

NOW THEREFORE, this Code of Ethics and Professional Conduct for Law Officers and State Attorneys in the Public Service is hereby promulgated as follows:

Citation

1. This Code shall be cited as the Code of Ethics and Professional Conduct for Law Officers and State Attorneys, 2019.

Interpretation

2. In this Code, unless the context otherwise requires:
“Code” means the Code of Ethics and Professional Conduct for Law Officers and State Attorneys, 2019;
“competence” means the abilities, attitudes, knowledge, and skills that enable a Law Officer or State Attorney to understand

- and act reasonably and effectively in a job or a wide variety of situations;
- “Constitution” means the Constitution of the United Republic of Tanzania, 1977;
- “integrity” means doing the right thing in a reliable way or otherwise acting with honesty;
- Cap.1 “Law Officer” has the meaning ascribed to it under the Interpretation of Laws Act;
- “model legal actor” means a Law Officer or State Attorney whose exemplary work attitude, behaviour, values, example or success can be emulated by others in the practice of litigation;
- “public service” shall mean and include service in a Government Ministry, local government authority, independent department, agency, public corporation, parastatal organizations or any other Government organization;
- “quality” means conformity to legal standards while doing the right thing at the right time so as to meet or exceed the expectations of those in need of various legal services;
- Cap.268 “State Attorney” has the meaning ascribed to it under the Office of the Attorney General (Discharge of Duties) Act.
- Application 3.-(1) This Code shall apply to every Law Officer and State Attorney in the public service.
- (2) This Code shall be supplementary to other public service instruments including the Public Service Act and Public Service Regulations, 2003, the Public Service Disciplinary Code of Good Practice, Standing Orders for the Public Service 2009 and other public service instruments that may be issued from time to time.
- Cap.298
G.N.No.
53 of 2007
- Professionalism and integrity 4.-(1) Every Law Officer and State Attorney shall perform his functions and discharge duties with professionalism and integrity.
- (2) For purposes of this Code, professionalism shall include the following conducts-
- (a) a pride in work;
 - (b) dedication to serving clients before self;
 - (c) a sincere desire to help;
 - (d) dedication to serving the public interest;
 - (e) improving the law and the profession;
 - (f) devotion to honesty, integrity, and good character;
 - (g) passion for excellence and commitment to quality;
 - (h) continuous maintenance of competence in a specialised body of knowledge and skills, which are freely shared with other professionals; and
 - (i) independence imbued in self-regulation and discipline.
- (3) Every Law Officer and State Attorney shall respect

and comply with all laws and shall conduct himself both in private and official capacities in a manner that promotes public confidence, the integrity of the public service and the legal profession.

(4) Every Law Officer and State Attorney shall not allow external influences or personal interest to compromise or in any way jeopardize the integrity of the legal profession, independence or competence.

(5) Every Law Officer and State Attorney 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.

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

Honesty

5.-(1) Every Law Officer and State Attorney shall be honest and candid when discharging official duties.

(2) For purposes of this Code, honesty shall include the following conducts-

- (a) acting sincerely and truthfully;
- (b) showing courage in doing what a Law Officer or State Attorney believes to be right;
- (c) ensuring the Law Officer or State Attorney's decisions are not influenced by improper considerations of personal gain;
- (d) not knowingly making false, misleading or inaccurate oral or written statements in any professional context;
- (e) not soliciting or accepting offers of any gift, gratuity or hospitality that could compromise impartiality; and
- (f) not using the Law Officer or State Attorney's position to inappropriately coerce any person or to settle personal grievances.

Competence

6. Every Law Officer and State Attorney has a duty to the Government and the public in general to-

- (a) perform functions and discharge duties in a competent manner; and
- (b) handle matters without undue delay, risk or unnecessary expense to the Government.

Quality of service

7. Every Law Officer and 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

8.-(1) Every Law Officer and State Attorney 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.

(2) Notwithstanding the foregoing, information referred to under this Code may be disclosed where the disclosure is expressly or impliedly authorized by the relevant accounting officer or employer or otherwise required by law.

Justice and
administration
of justice

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

Dress and
general
behavior

10.-(1) Every Law Officer and State Attorney shall at all times, 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.

(2) For purposes of this Code, every Law Officer or State Attorney shall, while performing his official duties, appear in the following dresses-

- (a) black, blue or grey colors for trousers, skirts or coats; and
- (b) white or light blue shirts or blouses.

Minimum
standards of
performance

11.-(1) When handling prosecutorial issues, every Law Officer and State Attorney shall-

- (a) act timely, fairly and dispassionately;
- (b) seek justice by leading firm, fair and credible evidence;
- (c) not use criminal law or procedure processes to settle a civil, tortuous or administrative dispute;
- (d) where, in nature, a matter is both a civil justice issue and criminal justice issue, allow first the civil justice processes to be concluded before, where justifiable, embarking on criminal justice processes;
- (e) not allow personal interest to compromise interests of the Republic;
- (f) make adequate preparations on the case before trial; and
- (g) always bear in mind the available diversion measures and options so as to reduce time and cost in handling criminal matters.

(2) Subject to subregulation (1), where a Law Officer is incharge in prosecutorial matter in Region or District shall ensure that those discharging prosecutorial functions or duties adhere to the standard of performance and report any deviance immediately for action.

(3) When drafting legislative proposals, a Parliamentary Draftsman shall-

- (a) fairly and closely interpret Government drafting instructions;
- (b) advise and influence on the prudential, logical and intelligible manner of translating Government Policies into Bills or subsidiary legislation;
- (c) not allow personal interest to compromise interests of the Republic; and
- (d) comply with laws and guidelines on drafting, including the Constitution of the United Republic, the Interpretation of Laws Act, the Laws Revision Act and Presidential Circulars.

(4) When dealing with matters of probate and registration of births and deaths, a Law Officer or State Attorney, shall-

- (a) ensure that the best interest of the testator and survivors are fairly met;
- (b) have regard to the public interest to promote peace and national security by contributing to agreed measures in controlling illegal immigrants; and
- (c) not allow personal interest to compromise interests of the Republic.

(5) When handling litigation or Alternative Dispute Resolution processes a Law Officer or State Attorney shall-

- (a) interpret provisions of the law and decisions of the courts in good faith;
- (b) deal with claims promptly and not causing unnecessary delay in the handling of claims and related legal processes and thus at all times be mindful of making an early assessment of:
 - (i) the Government's prospects of success in the proceedings that may be brought against the Government; and
 - (ii) the Government's potential liability in claims against the Government.
- (c) ensure that the best interests of the Government and other parties involved are justly and fairly met;
- (d) not allow personal interest to compromise interests of the Republic; and
- (e) make adequate preparations on the case before trial or other alternative procedures.

- (6) When conducting law reform or law development activities, a Law Officer or State Attorney shall-
- (a) always make sure that the law develops in an orderly and systematic manner;
 - (b) always guard against provisions that are likely to contradict the Constitution;
 - (c) ensure that the opinions of stakeholders are obtained and taken into account in the course of reforming or developing the law; and
 - (d) not allow personal interest to compromise interests of the Republic.

Obligation to
be model
legal actor

12.-(1) Consistently with the Vision and Mission of the legal sector to spearhead a legal system that supports national development, and for the maintenance of proper professional standards and etiquettes in the provision of legal services, every Law Officer and State Attorney performing litigation functions shall behave as a model legal actor in the provision of legal services.

(2) The obligation to be a model legal actor requires that a Law Officer and State Attorney shall not only act honestly and fairly in handling legal service issues but also by-

- (a) settling legitimate claims without need for litigation, including recommending making partial settlements of claims or interim payments, where it is clear that liability is professionally assessed at least to be as much as the amount to be paid;
- (b) acting consistently in the handling of claims and litigation;
- (c) endeavouring to avoid, prevent and limit the scope of legal proceedings wherever possible, including by giving consideration in all cases to alternative dispute resolution before initiating legal proceedings and by participating in alternative dispute resolution processes where appropriate;
- (d) where it is not possible to avoid litigation, keeping the costs of litigation to a minimum, including by:

- (i) not requiring the other party to prove a matter which the Government or the agency knows to be true;
 - (ii) not contesting liability if the Government or the agency knows that the dispute is mainly about quantum;
 - (iii) monitoring the progress of the litigation and using methods that are considered appropriate to resolve the litigation, including settlement offers, payments into court or alternative dispute resolution; and
 - (iv) ensuring that arrangements are made so that a person participating in any settlement negotiations on behalf of the Government or a Government entity can enter into a settlement of the claim or legal proceedings in the course of the negotiations;
 - (e) not taking advantage of a claimant who lacks the resources to litigate a legitimate claim;
 - (f) not relying on technical defences unless the Government's or the agency's interests would be prejudiced by the failure to comply with a particular requirement;
 - (g) not undertaking and pursuing appeals unless the Government or the agency believes that it has reasonable prospects for success or the appeal is otherwise justified in the public interest, and
 - (h) taking measures and advising the authority to offer an apology where the Government or the agency is aware that it or its lawyers or any other officer has acted wrongfully or improperly.
- (3) Ensuring compliance with the obligation to act as a model legal actor shall be primarily the responsibility of the accounting officer who has responsibility for the issues being addressed.
- (4) The duty of a Law Officer or State Attorney to be a model legal actor shall not preclude-
- (a) all legitimate steps being taken to pursue claims by the Government and its entities and testing or defending claims against them;
 - (b) pursuing litigation or other procedures in order to

- clarify a significant point of law even if the other party wishes to settle the dispute;
- (c) commencement of an appeal or other remedy in the public interest where it is necessary to avoid prejudice to the interests of the Government or its entity pending the receipt or proper consideration of legal advice, provided that a decision whether to continue the appeal or pursue other remedies is made as soon as practicable; and
 - (d) the Government from enforcing orders for costs or seeking to recover its costs.

Dodoma,
.....,2019

AUGUSTINE P. MAHIGA
*Minister of Constitutional
and Legal Affairs*

