

TANGANYIKA



No. 52 OF 1962

I ASSENT,
[Signature]
Governor-General

18 TH JULY, 1962

An Act to make provision for the Establishment of a Joint Staff Council for the Civil Service, to provide a procedure for the Settlement of Disputes between the Government and certain Civil Servants and for other matters concerning the relationship between the Government and the Civil Service

ENACTED by the Parliament of Tanganyika.

[.....]

PART I

PRELIMINARY

1. This Act may be cited as the Civil Service (Negotiating Machinery) Act, 1962, and shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint.

Short title and commencement

2.(1) In this Act, unless the context otherwise requires-
"award" means an award made by the Minister under section 13;

Interpretation

"Board" means a Board of Inquiry constituted in accordance with section 19;

"civil servant" means a person who is in, the service or employment of the Government, but does not include a person who is a member of the military forces of Tanganyika, the Police Force or the Prisons Service or the holder of an office to which appointments are made by the Judicial Service Commission;

"Council" means the Joint Staff Council established under section 3;

"dispute" means any matter relating to the terms and conditions of service of junior civil servants which has been considered by the Council without agreement having been reached thereon and which has been reported to the Minister under section 8;

"junior civil servant" means any civil servant who holds or acts in any office-

- (a) the annual basic salary appropriate to which is less than seven hundred and two pounds; or
- (b) the salary appropriate to which is incremental, where the maximum annual basic salary which may be obtained by the holder of the office is less than seven hundred and two pounds;

"member" in relation to the Council, includes the Chairman and the Vice-Chairman of the Council and, in, relation to a Board, includes the Chairman of the Board;

"Minister" means such Minister as is nominated by the Prime Minister to be the Minister for the purposes of this Act;

"Permanent Secretary" means such Permanent Secretary as is nominated by the Prime Minister to be the Permanent Secretary for the purposes of this Act;

"prescribe" means prescribe by regulations;

"senior civil servant" means any civil servant other than a junior civil servant;

"strike" means the cessation of work by a body of persons employed acting in combination, or a concerted refusal under a common understanding of any number of persons employed to continue to work for an employer, done as a means of compelling their employer or any person or body of persons employed, or to aid other employees in compelling their employer or any person or body of persons employed, to accept or not to accept terms or conditions of or affecting employment;

"trade union" means such registered trade union as is nominated by the Minister to be the trade union for the purposes of this Act.

(2) The nomination of the Minister, the Permanent Secretary and the trade union shall be notified in the *Gazette*.

PART II

THE JOINT STAFF COUNCIL

Establish-
ment of
Joint Staff
Council

3.-(1) There shall be established for the purposes of this Act a Joint Staff Council which shall consist of a Chairman, a Vice-Chairman and such number of other members, being not less than ten and not more than twenty, as the Minister may prescribe.

(2) The members of the Council shall be appointed by the Minister from persons who have been nominated by the Permanent Secretary or the trade union, as the case may be, and who are either civil servants or officers of the trade union:

Provided that the Chairman of the Council shall be one of the persons nominated by the Permanent Secretary and the Vice-Chairman shall be one of the persons nominated by the trade union.

(3) Subject to the provisions of this Act, the Minister may prescribe the number of members of the Council who shall be appointed from persons nominated by the Permanent Secretary and the number of such members who shall be appointed from persons nominated by the trade union, and may by regulations provide for the terms of office of members of the Council, the filling of vacancies on, the Council, the procedure to be adopted by the Council at meetings thereof (including, but without prejudice to the generality of the foregoing, the number of members required to make up a quorum), the procedure for the reporting of disputes and for such other matters as seem to him necessary, expedient or desirable in relation to the Council or to the carrying out of its functions.

4. The objects of the Council shall be, within the limits of its functions, to secure the greatest measure of co-operation between the Government, in its capacity as an employer, and junior civil servants, to provide machinery for dealing with the grievances of junior civil servants and to enable consultation to take place in matters affecting the efficiency and well-being of the Civil Service.

5. The functions of the Council shall be-

- (a) to negotiate on matters relating to the terms and conditions of service of junior civil servants or any class, grade or group thereof;
- (b) to discuss and submit advice to the Government on any matter on which the Government seeks the advice of the Council;
- (c) to discuss and make recommendations to the Government on any matter concerning the interests, well-being and efficiency of junior civil servants; and
- (d) generally to assist in the furtherance of good relations between the Government and junior civil servants:

Functions
of the
council

Provided that nothing in this section shall empower the Council to consider, offer advice on or make recommendations relating to any matter concerning the appointment or non-appointment, disciplinary control or removal from office of any individual civil servant.

6.-(1) The Council shall meet at least twice in every year.

Meetings
of Council

(2) Subject to the provisions of this Act and to any regulations made under subsection (3) of section 3, the Council may regulate its own procedure.

PART III

DISPUTE PROCEDURE

7.-(1) Where agreement is reached within the Council on any matter relating to the terms and conditions of service of junior civil servants or any class, grade or group thereof, such agreement shall be recorded in writing and shall be signed by the Chairman and the Vice-Chairman of the Council.

Agreements
reached in
council

(2) Any agreement recorded and signed in accordance with subsection (1) shall be binding upon the Government and those junior civil servants to whom the agreement relates for a period of twelve months from the date of signing of the agreement, and no application to vary the agreement or matter which involves the variation of the agreement shall, save with the prior written permission of the Minister, be placed upon the agenda of or discussed within the Council until the expiration of such period of twelve months.

(3) Every agreement recorded and signed in accordance with subsection (1) shall be reported to the Minister who may, if he considers it desirable, cause the agreement to be published in such manner as he may think fit.

Report to
Minister
where no
agreement
in Council

8. Where the Council is unable to reach agreement on any matter relating to the terms and conditions of service of junior civil servants or any class, grade or group thereof, either the Chairman or the Vice-Chairman of the Council may, in accordance with any procedure laid down by regulations made under subsection (3) of section 3, report the matter on which no agreement has been reached to the Minister, and on such report being made a dispute shall exist as to such matter.

Powers of
Minister

9. Where a report is made to him under section 8, the Minister may either-

- (a) if he is of opinion that further efforts should be made to settle the dispute by negotiation within the Council, refer the dispute back to the Council; or
- (b) refer the dispute to a Board.

Reference
back to
Council

10. Where, under paragraph (a) of section 8, the Minister refers a dispute back to the Council, the Council shall again consider the matters in dispute and endeavour to reach agreement thereon and the provisions of section 7 shall apply to any agreement reached in the Council after such reference back.

Reference
to Board

11. Where, under paragraph (b) of section 8, the Minister refers a dispute to a Board, the Board shall consider the causes and circumstances of the dispute and shall report thereon to the Minister.

Time for
reference
and report

12.-(1) Reference under section 9 of a dispute back to the Council or to a Board shall be made by the Minister within twenty-one days from the date on which the report was made to him under section 8 unless, in the opinion of the Minister, the special circumstances of the case make it necessary or desirable to postpone such reference for such further period or periods as the Minister may in writing allow.

(2) In any proceedings under, or for an offence against, this Act, a certificate purporting to be under the hand of the Minister that he has or has not referred a dispute back to the Council or to a Board on or by a date specified therein, or that he has or has not postponed the period for such reference and, where he has postponed such period, specifying the further period within which such reference shall be made, shall be admissible in evidence without further proof and shall be conclusive evidence of the facts stated therein.

(3) A Board to which a dispute is referred under section 9 shall submit its report to the Minister without delay and, where practicable, within twenty-one days from the date of reference.

Power of
Minister
when report
submitted

13.-(1) Where the report of a Board as to the causes and circumstances of a dispute is submitted to the Minister, the Minister may, after considering the report, make an award on the dispute.

(2) Any award made by the Minister under this section may be expressed to have retrospective effect and shall be made within twenty-one days from the date on which the report of the Board was submitted to the Minister unless, in the opinion of the Minister, the special circumstance of the case make it necessary or desirable to postpone the making of the award for such further period or periods as the Minister may in writing allow.

(3) In any proceedings under, or for an offence against, this Act, a certificate purporting to be under the hand of the Minister that he has or has not made, an award on or by a date specified therein, or that he has or has not postponed the period for making an award and, where he has postponed such period, specifying the further period within which the award shall be made, shall be admissible in evidence without further proof and shall be conclusive evidence of the facts stated therein.

14. Every award made by the Minister under section 13 shall be published in the *Gazette* and shall not take effect until the date of such publication:

Publication of award

Provided that where an award is expressed to have retrospective effect it shall on the date of its publication in the *Gazette* have effect from the date specified in the award.

15. Every award made by the Minister under section 13 shall, together with the report of the Board which relates to the dispute on which the award was made, be laid before the National Assembly.

Awards to be laid before national Assembly

16. Every award made by the Minister under section 13 shall be binding upon the Government and those junior civil servants to whom the award relates for a period of twelve months from the date of its publication in the *Gazette* and no application to vary the award or matter which involves the variation of the award shall, save with the prior written permission of the Minister, be placed upon the agenda of or discussed within the Council until the expiration of such period of twelve months.

Awards to be binding

PARTIV

STRIKES

17.-(1) No junior civil servant shall take part in a strike unless the conditions specified in subsection (2) and which are applicable to the occasion have been fulfilled.

Conditions to be fulfilled before strike take place

(2) The conditions to be fulfilled for the purposes of subsection (1) are as follows: ~

- (a) a report has been made to the Minister under section 8; and
- (b) twenty-one days, or if a further period or periods has been allowed by the Minister under subsection (1) of section 12, twenty-one days and such further period or periods, have elapsed since the date of the report to the Minister; and
- (c) either-
 - (i) during the period referred to in paragraph (b) the dispute has not-
 - (a) been settled; nor
 - (b) been referred back to the Council; nor
 - (e) been referred to a Board; or
 - (ii) the dispute has been referred to a Board and-
 - (a) the report of the Board has been received by the Minister; and

- (b) twenty-one days, or if a further period or periods has been allowed by the Minister under subsection (2) of section 13, twenty-one days and such further period or periods, have elapsed since the receipt by the minister of such report; and
- (c) during such period no award has been made by the Minister under section 13.

(3) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

18. No prosecution for a contravention of section 17 shall be instituted save by, or with the consent of, the Director of Public Prosecutions.

PART V

CONSTITUTION AND PROCEDURE OF BOARDS

Constitution
of Board

19.-(1) A Board of Inquiry shall consist either of a single member appointed by the Minister or of a Chairman and one or more other members all of whom shall be appointed by the Minister.

(2) A Board, other than a Board consisting of a single member, may act notwithstanding any vacancy in the membership thereof but where such vacancy occurs the Minister may appoint another person to fill the vacancy.

Procedure
of Board

20. Save as is otherwise provided in this Act or in regulations made thereunder, a Board may regulate its own procedure.

Evidence

21.-(1) A Board, for the purpose of making its report on any dispute referred to it under this Act, shall be entitled to elicit all such information as in the circumstances may be considered necessary without being bound by the rules of evidence in civil or criminal proceedings and may by order require any person-

- (a) to furnish, in writing or otherwise, such particulars in relation to any matter as may be required; and
- (b) to attend before the Board and give evidence on oath or otherwise; and
- (c) to produce any documents:

Provided that if any witness refuses to furnish any particulars or to answer any question or produce any document on the ground that it will tend to incriminate him or on any other lawful ground, he shall not be required to furnish such particulars or to answer such question or to produce such document, nor shall he be liable to any penalty for refusing so to do.

(2) Any person who, without such lawful excuse as aforesaid, fails to obey any order given under subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred shillings.

Appearance
by advocate

22. Save with the permission of the Board, no advocate or other legal practitioner shall appear for any person in any proceedings before a Board.

23. The proceedings of a Board shall be held in camera.

Proceedings
to be
private

PART VI

MISCELLANEOUS

24. The Arbitration Ordinance shall not apply to any proceedings, agreement or award under this Act.

cap. 15 not
to apply

25.-(1) No senior civil servant shall be or become a member of any trade union or any body or association affiliated to a trade union.

Prohibition
against
serious civil
servants
joining
trade unions
cap. 381

(2) In this section "trade union" has the meaning ascribed to it in section 2 of the Trade Unions Ordinance.

26. Members of a Board shall be paid out of moneys provided by Parliament such remuneration, expenses and allowances as the Minister may from time to time determine.

Expenses


27.-(1) The Minister may make regulations-

- (a) for prescribing anything that is to be or may be prescribed under this Act;
- (b) for establishing the procedure to be followed in any proceedings before a Board under this Act; and
- (c) generally for the better carrying into effect of the purposes of this Act.

Regulations
and
directions

(2) Without prejudice to the provisions of paragraph (b) of subsection (1), the Minister may give directions, not inconsistent with any regulations made under that paragraph, relating to the scope, method and conduct of any specific proceedings before a Board.

Passed in the National Assembly on the twenty-eighth day of June, 1962.


Clerk of the National Assembly