

**THE COMMITTEE FOR THE ENFORCEMENT OF THE
LEADERSHIP CODE ACT, 1973**

ARRANGEMENT OF SECTIONS

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THE UNITED REPUBLIC OF TANZANIA



No. 6 OF 1973

I ASSENT,

Julius K. Nyerere
President

30TH APRIL, 1974

An Act to establish a committee for investigation into cases of breaches or suspected breaches of the Leadership Code by public officers

[4TH MAY, 1973]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Committee for the Enforcement Short title of the Leadership Code Act, 1973.

2. In this Act, unless the context otherwise requires-
"the Committee" means the Committee for the Enforcement of the Leadership Code established by section 3;

Interpre-
tation

"the leadership code" means—

(a) in the case of a member of the National Assembly, the conditions referred to in paragraphs (h), (i), (j), (k) and (l) of subsection (2) of, section 27 of the Interim Constitution of Tanzania, 1965 the breach of any of which would disqualify a person from election as a constituency member;

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(b) in the case of a member of a local authority the conditions referred to in paragraphs (i), (j), (k), (l) and (m) of subsection (1) of section 48 of the Elections Act, 1970 The breach of any of which would disqualify a person from election as a member of a local authority;

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(c) in the case of any person in the employment of the Government of the United Republic, the conditions of leadership set out in the Second Schedule to the Civil Service Regulations, 1970;

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- (d) in the case of any other public officer, such conditions of leadership as may be prescribed by the President or other authority having powers so to do in relation to the office held by the public officer, and where no such conditions are prescribed and until such conditions are prescribed in relation to such office, the conditions of leadership applicable to the members of local authorities and referred to, in paragraph (b) shall be deemed, *mutatis mutandis*, to be the conditions of leadership prescribed in relation to such office;

"member" means a member of the Committee, and includes the chairman and the vice-chairman of the Committee;

"parastatal organization" means—

- (a) any public corporation;
- (b) any trade union registered under the Trade Unions Ordinance and includes any body of persons, whether corporate or unincorporate, which is an organ of or is affiliated to such trade union;
- (c) any company registered under the Companies Ordinance if not less than fifty per centum of its share capital is owned by the Party, the Government or a parastatal organization; and references in this paragraph to a parastatal organization include references to any such company;

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"the Party" means the Tanganyika African National Union or any body of persons, whether corporate or unincorporate, which is an organ of or is affiliated to the Tanganyika African National Union;

"public officer" means—

- (a) a member of the National Executive Committee of the Party;
- (b) a member of the National Assembly;
- (c) a member of a local authority;
- (d) a person in the employment of the Party, the Government of the United Republic, a local authority or a parastatal organization and includes any person, whether or not so employed, who holds or acts in any office or appointment in the service of the Party, the United Republic or a local authority or a parastatal organization:

Provided that no person employed as aforesaid shall, for the purposes of this Act, be deemed to be a public officer—

- (i) if he is not a citizen of the United Republic; or
- (ii) if he is a citizen of the United Republic, he is in receipt of an annual salary of not more than such amount as may be specified in the leadership code applicable to him;
- (e) any person who in the opinion of the Committee, is a leader of an Ujamaa Village.

3. (1) There is hereby established a Committee for the Enforcement -
of the Leadership Code.

Establish
ment of the
Committee

(2) The Committee shall consist of-

(a) a chairman, appointed by the President;

(b) not less than two and not more than three other members,
appointed by the President.

(3) The President may designate any member of the Committee
appointed by him under paragraph (b) of subsection (2) to be the vice-
chairman.

4.-(1) The Committee shall have power to enquire into any alleged
or suspected breach of the leadership code by any public officer.

Jurisdiction
of the
Committee

(2) Every enquiry shall be, conducted in private.

(3) The Committee may hear or obtain information from such
persons, and may carry out such investigations, as it thinks fit. It shall
not be necessary for the Committee to hold any hearing, and no person
shall be entitled as of right to be heard by the Committee:

Provided that if at any time during the course of the enquiry it appears
to the Committee that there are sufficient grounds for it to make
any report or recommendation that may adversely affect any public
officer, it shall inform such public officer and shall give such officer
an opportunity of being heard; and no comment that is adverse to any
public officer shall be contained in a report made by the Committee
pursuant to the requirements of this Act unless such public officer has
been given an opportunity of being heard.

(4) Subject to subsections 6 and 7, the Committee may hear and obtain
information whether or not the same be evidence within the meaning
of the law for the time being regulating the admissibility of evidence in
courts of law.

(5) The quorum necessary for a meeting of the Committee for the
purposes of conducting an enquiry shall be the chairman or the vice-
chairman and at least one other member.

(6) Subject to the provisions of subsection (5) and any directions which
the President may give in that behalf, the Committee shall regulate its
own procedure.

(7) The President may appoint any person to act as a secretary to
the Committee and may employ such other officers of the Committee
as he may deem necessary.

(8) The secretary and other officers of the Committee shall be deemed
to be civil servants for the purposes of the Civil Service Act, 1962.

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5. (1) Subject to the provisions of this Act, the Committee 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 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 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.

(2) Where the Committee orders any person, to be examined on oath, any member may administer such oath.

(3) An order made under this section shall be served on the person to whom it is directed by a person holding office under the Committee or a police officer in the manner prescribed for the service 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 wilfully avoids service, issue a warrant under the hand of the chairman or vice-chairman to apprehend such person, and to bring him before the Committee at a time and place specified in the warrant. Every warrant issued under this section shall be executed by a police officer.

(5) Where a person is arrested in pursuance of a warrant issued under this section and is not brought before the Committee within twenty-four hours of his arrest or earlier released by order of the Committee 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 for his appearance before the Committee, release him from custody; or
- (b) order such person to be detained in custody until such time as he can be brought before the Committee.

(6) When any person is required by the Committee 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 any 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 Committee has jurisdiction to enquire and whether or not such documents, papers or things are in the custody or under the control of any Government Ministry, Division, or Department, or the Party or a parastatal organization.

6. (1) Subject to section 7 of this Act, every person required to give any information by, or ordered to attend to give evidence or to produce any document, paper or thing before, the Committee shall be entitled in respect of such information, evidence, document, papers or things to the same rights and privileges as witnesses have in a court of law.

privileges of witnesses

(2) Except on the trial of any person for an, offence contrary to sections 102, 103, 106, 108 or 109 of the Penal Code (which relate to perjury and similar offences) or in proceedings under any written law or under the constitution of the party for the removal from office or party membership of the public officer for the breach of the leadership code or for a declaration by a court of law that by reason of such breach the public officer has ceased to be qualified to hold such office, or in further proceedings before the Committee or in any proceedings before an organ of the Party where such organ is considering the desirability of the public officer whose conduct was being enquired into by the Committee continuing as a member of the Party, no statement made or answer given to the Committee by that or any other person in the course of an enquiry shall be admissible in evidence against any person in any court or in any other proceedings, and no evidence in respect of proceedings before the Committee shall be given against any person.

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7. -(1) Where the President certifies that the giving of any information, the answering of any question or the production of any document, paper or thing—

State privilege and enactments relating to secrecy

- (a) might prejudice the security, defence or international relations of Tanzania (including Tanzania's 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
- (c) might involve the disclosure of proceedings of the Cabinet, or of any committee of the Cabinet, relating to matters of a secret or confidential nature, and would be injurious to the public interest,

the Committee 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) Save as provided by the foregoing provisions of this section but notwithstanding the provisions of any other 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 Committee 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 Committee of any matter in relation to which any person has taken an oath of secrecy shall be deemed to be a disclosure by such person in the course of his duties, for an authorized purpose, and with the authority of the person, empowered to authorize the disclosure;

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(c) no person shall be liable to prosecution for an offence contrary to the National Security Act, 1970, the Judicial Service Act, 1962, the Civil Service Act 1962 or any other written law, other than sections 102, 103, 106, 108 or 109 of the Penal Code or section, 12 of the Act by reason of his compliance with any requirement of the Committee under section 4, section 5, section 6 or this section.

Report
by the
Committee

8. (1) Where upon the completion of an enquiry into an alleged or suspected breach of the leadership code the majority of the members of the Committee are of the opinion that a breach of the leadership code has occurred the chairman or the vice-chairman presiding during the enquiry shall submit to the President a detailed report stating-

- (a) the name of the public officer whose conduct was the subject of enquiry;
- (b) the condition of the leadership code believed to have been contravened;
- (c) the circumstances of the contravention;
- (d) a brief resume of the evidence received by the Committee in the course of the enquiry.

(2) Where the members of the Committee are not unanimously agreed on any report to the President, the report shall contain a statement of any matter which is the subject of disagreement by the member or members in disagreement.

(3) Where at any meeting of the Committee only the chairman or vice-chairman and one other member are present, the decision of the chairman or, as the case may be, the vice-chairman, shall, for the purposes of this section, be deemed to be the decision of the majority.

Reports to
be treated
as confiden-
tial

9. Save as may be directed by the President, the Committee shall not disclose the contents of any report made to the President.

Action on
reports

10. (1) On the receipt of a report the President may take or cause to be taken against the public officer in respect of whom such report is made such action as may be taken under or in accordance with the provisions of any written law or the constitution of the Party, and the President may consult the National Executive Committee of the Party before taking or causing to be taken any such action:

Provided that the President shall not direct the institution of any proceeding before a court requiring any member of the National Assembly or a local authority to vacate his seat by reason of such member having contravened the Leadership Code, without first referring the matter to the National Executive Committee of the Party.

(2) Notwithstanding the proviso to subsection (2) where proceedings are instituted in a court of law for the removal of a member of the National Assembly or a local authority for any breach of the leadership code, the court shall presume that the proviso to subsection (1) has been complied with and shall not entertain any evidence to the contrary.

(3) For the avoidance of doubts it is hereby declared that failure by the Committee to inquire into or to make an adverse report upon any breach or suspected breach of the leadership code by any public officer shall be no bar for the institution or continuance of any proceeding under any other written law against such public officer for such breach or suspected breach of the leadership code.

11. No enquiry, proceeding or process of the Committee shall be invalid or inoperative by reason only of any error or irregularity of form, and no enquiry, proceeding, process or report of the Committee shall be liable to be challenged, reviewed, quashed or called in question in any court.

Proceedings
not to be
questioned

12.-(1) Subject to subsection (3) of this section-

- (a) no proceedings, civil or criminal, shall lie against any member or any person holding office under the Committee, or any police officer employed to serve or execute the orders or warrants of the Committee, for anything he may do or report or say in the course of the exercise or intended exercise of his functions under this Act, unless it is shown that he acted in bad faith;
- (b) no member or any such person as aforesaid shall be called to give evidence in any court or any other proceedings of a judicial nature in respect of the proceedings in any enquiry or anything coming to his knowledge in the exercise of his functions under this Act.

Proceedings
privileged

(2) Anything said, any information supplied, or any document, paper or thing produced by any person in the course of an enquiry shall be privileged in the same manner as if the enquiry were a proceedings, in court, and a report of the Committee shall be privileged in the same manner as if it were the record and judgment of proceedings in court.

(3) Nothing in subsection (1) or subsection (2) shall apply in the case of any proceedings for an offence against the National Security Act, 1970, or an offence contrary to sections 102, 103, 106, 108 or 109 of the Penal Code in relation to an enquiry under this Act or an offence contrary to section 13 of this Act.

Offences

13.-(1) Any person who —

- (a) without lawful justification or excuse, disobeys any order of the Committee for his attendance or for the production of any document, paper or thing;
- (b) without lawful justification or excuse, refuses to be examined before or to answer any, questions relating to an enquiry put to him by the Committee;
- (c) wilfully presents to the Committee any false, untrue, fabricated or falsified document or makes any false statement to the Committee with intent to deceive the Committee, or misleads or attempts to mislead the Committee;
- (d) publishes any false or scandalous libel on the Committee;
- (e) creates or joins in any disturbance which interrupts or is likely to interrupt the proceedings of the Committee;
- (f) without lawful justification or excuse, wilfully obstructs, hinders or resists the Committee or any other person acting in the exercise of the powers conferred by this Act,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(2) No member nor any person holding office under the Committee, nor any other person, shall publish or disclose to any person otherwise than in the exercise of his official functions the contents of any document, communication or information whatsoever which has come to his notice in the course of his duties in relation to the Committee. Any person who knowingly acts in contravention of the provisions of this subsection shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

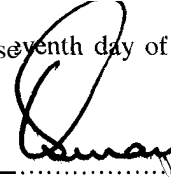
(3) Any person who knows of any information which to his knowledge has been disclosed in contravention of the provisions of subsection (2) of this section and who publishes it or communicates it to any other person otherwise than for the purpose of any prosecution under this Act or proceedings referred to in subsection (2) of section 6, or in the course of his official duty, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(4) Any proceedings at an enquiry at which a person gives evidence on oath or produces any document, paper or thing in accordance with an order of the Committee shall be deemed to be judicial proceedings for the purposes of sections 102, 103, 106, 108 and 109 of the Penal Code.

(5) No prosecution in respect of an offence contrary to subsection (2) or (3) of this section shall be instituted except with the consent of the Attorney-General

14. Any member, any person holding office under the Committee or any, police officer may arrest without warrant any person who commits in his presence any offence contrary to paragraph (e) or (f) of subsection (1) of section 13.

Passed in the National Assembly on the twenty-seventh day of April, 1973.



Clerk of the National Assembly