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THE UNITED REPUBLIC OF TANZANIA



No. 19 OF 1997

I ASSENT,
Benjamin W. Mkapa,
President
12 June, '97.

An Act to make provision for restructuring Regional Administration for the purposes of strengthening and promoting the local government system.

[.....]

ENACTED by the Parliament of the United Republic of Tanzania

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Regional Administration Act, 1997, and shall be deemed to have come into operation on the 28th day of June, 1996.

Short title and commencement

2. This Act shall apply in respect of the exercise of the executive functions of Government in every area of Mainland Tanzania.

Application

3.—(1) Except as is provided in subsection (2), all words and expressions used in this Act in relation to the local government system shall have the same meaning as is ascribed to them in the Act.

Interpretation

(2) In this Act, unless the context requires otherwise—

"this Act" includes any subsidiary legislation made and in force under this Act;

"appropriate authority" when used in relation to any act, appointment, dismissal, licence, permit, matter or other thing, means the person, committee or other body of persons permitted, required or in any other way made responsible by this Act for doing the act, making the appointment or issuing the dismissal, licence or permit or doing that other matter or thing.

"area" when used in relation to any local government authority, means the area in which the local government authority is established or empowered by or under the Act or this Act to exercise jurisdiction in accordance with the Act in question;

"the Act" means the Local Government (District Authorities) Act, 1982, or

the Local Government (Urban Authorities) Act, 1982, as the case may be;

"Consultative Committee" means the Regional Consultative Committee established by section 9;

"Constitution" means the Constitution of the United Republic;

"Chief Executive Officer" means the Chief executive officer of a local government authority appointed pursuant to provisions of the Local Government Service Act, 1982, and when used in relation to—

- (a) any district authority, a District Executive Director or a Township Executive Director;
- (b) any urban authority, a City Director, Municipal Director or a Town Director;

"district authority" means a district council, a township authority or a village council;

"District Commissioner" means the public officer appointed or deemed to have been appointed under section 15 of this Act;

"effective date" in relation to any area of the United Republic or to any local government authority, means the date on which the Act comes into operation in relation to that area or, as the case may be, on which the local government authority is established;

"the former Act" means the Decentralisation of Government Administration (Interim Provisions) Act, 1972;

"local government authority" means any district authority or, as the case may be, urban authority;

"Minister" means in relation to matters relating to local government authorities, the Minister for the time being responsible for local government;

"public officer has the meaning ascribed to it by the Civil Service Act, 1989;

"Regional Commissioner" means the public officer appointed or deemed to have been appointed and carrying on functions in accordance with section 4;

"urban authority" means a town council, a municipal council or a city council.

PART II

GOVERNMENT ADMINISTRATION AT REGIONAL LEVEL

Office of Regional Commissioner

4.-(1) There shall continue to be established under the Constitution in respect of each region the office of the Regional Commissioner.

(2) Subject to the Constitution, every Regional Commissioner shall be a public officer and shall be appointed by the President in accordance with the provisions of the Constitution.

(3) If during any period the office of Regional Commissioner is vacant or a Regional Commissioner is, owing to absence or inability to act from illness or any other cause, unable to exercise the powers or perform the duties of his office, those powers shall be had and may be exercised and the duties shall be discharged by the person appointed to act in that behalf for that region for that period or, if no such appointment is made, by the Minister responsible for regional administration.

(4) Notwithstanding the enactment of this Act, every Regional Commissioner appointed or holding office immediately before the commencement of this Act shall, unless his appointment is sooner terminated, continue to hold that office in accordance with the terms of the instrument of his appointment and shall, while so remaining in office, be deemed to have been appointed under this section.

5.-(1) The Regional Commissioner shall be the principal representative of the Government within the area of the region for which he is appointed and for that purpose all the executive functions of Government in relation to that region shall be exercised by or through the Regional Commissioner.

Functions
of Regional
Commissioner

(2) In furtherance of the objects and provisions of subsection (1), the Regional Commissioner shall be responsible for securing the maintenance of law and order in the region, determining the specific direction of efforts in implementing the general policies of the Government in the region and for the exercise and discharge of such other functions and duties as are conferred or imposed upon him by or under this Act or any other written law.

(3) For the purposes of this section, it shall be the duty of the Regional Commissioner to facilitate and assist local government authorities in the region to undertake and discharge their responsibilities by providing and securing the enabling environment for successful performance by them of their duties and functions.

6.-(1) The President may, by writing under his hand and the public seal, delegate any of his functions and duties under any written law to any Regional Commissioner.

Functions
delegated
by the
President

(2) Notwithstanding subsection (1), the President may at any time require any Regional Commissioner to discharge any task or exercise any function relating to the discharge of the executive functions of the Government.

(3) Where any function is delegated to any Regional Commissioner pursuant to subsection (1) or where a Regional Commissioner is required to discharge any task or exercise any function pursuant to subsection (2), the functions shall be exercised and the task shall be performed as if it were a function or duty conferred or imposed upon the Regional Commissioner by this Act.

Law and
order
powers of
the Regio-
nal Commis-
sioner

7.-(1) For the purposes of the effective and better exercise of his functions and duties under this Act, a Regional Commissioner shall have power to cause to be arrested any person who in his presence commits or to his knowledge has committed, any offence for which a person may be arrested and tried.

(2) Notwithstanding subsection (1), where a Regional Commissioner has reason to believe that any person is likely to commit a breach of the peace or disturb the public tranquillity, or to do any act that may probably occasion a breach of the peace or disturb the public tranquillity, and that that breach cannot be prevented in any way other than detaining that person in custody, he may order a police officer verbally or in writing to arrest that person.

(3) A person arrested under the powers conferred by this section shall, as soon as is practicable, and in any case within not more than forty-eight hours after he is taken into custody, be taken before a magistrate empowered to deal with the case by the law for the time being in force in relation to the institution and prosecution of criminal proceedings.

(4) If a person arrested by or pursuant to an order of a Regional Commissioner under powers conferred by this section is not brought before a magistrate within forty-eight hours after he was taken into custody, he shall, upon the expiration of that period, be restored to freedom and shall not

again be arrested by or under an order of that Regional Commissioner pursuant to this section for the same cause.

(5) Where a Regional Commissioner orders the arrest of any person under the powers conferred by this section he shall, at the time of ordering the arrest or as soon as possible after giving the order, record in writing his reasons for arresting or ordering the arrest of the person concerned; and shall deliver a copy of his recorded reasons, or cause a copy to be delivered, to the magistrate at the time the person is brought before the magistrate or, if that person has been released before he is brought before the magistrate, as soon as practicable after the release; and for the avoidance of doubt a magistrate shall have power to order the release and restoration to freedom of any person brought before him pursuant to this section without the

reasons of the arrest being therewith furnished to him in writing by or on behalf of the Regional Commissioner.

(6) Notwithstanding subsection (5), the production of a copy of recorded reasons for an arrest under this section shall not authorize a magistrate to dispense with any provision requiring information to be given on oath.

(7) A Magistrate before whom a person is brought under this section may, in his discretion, detain that person in custody until the completion of the inquiry prescribed under section 79 of the Criminal Procedure Act without prejudice to the power of the court to grant bail.

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(8) Every Regional Commissioner and every police officer or other person carrying out the orders of Regional Commissioner under this section shall execute the order of a

magistrate given under this section regarding the release and restoration to freedom of a person arrested in accordance with this section, and failure or neglect to execute the order shall constitute an offence of contempt of court and shall be dealt with in accordance with section 114 of the Penal Code.

(9) Where a Regional Commissioner exercises the powers conferred on him by this section in abuse of the authority of his office, then he, as well as any other person involved in procuring the Regional Commissioner to exercise the power in abuse of authority, is guilty of an offence and may be proceeded against in accordance with section 96 of the Penal Code.

8.—(1) There is hereby established, in respect of every region, a Regional Consultative Committee.

(2) The Regional Consultative Committee shall consist of—

The Regional Consultative Committee

(a) the Regional Commissioner for the region, who shall be the Chairman;

(b) the District Commissioners of all district in the region;

(c) the Chairmen of all district councils and all urban authorities in the region;

(d) the Chief executive officers of all urban authorities, district authorities and township authorities in the region;

- (e) Members of Parliament representing constituencies in the region;
- (f) Members of Parliament referred to in section 66 (1)(b) of the Constitution hailing from the region;

(3) The Regional Administrative Secretary shall be the Secretary of the Regional Consultative Committee.

(4) The Committee shall meet twice in ordinary session in each financial year, but may at any time, hold an extraordinary session.

(5) The Committee may coopt as members such number of persons as it may deem necessary for the efficient execution of any task undertaken by it.

Functions
of Regional
Consultative
Committee

9. The functions of the Regional Consultative Committee shall be—

- (a) to consider and provide advice to local government authorities regarding their development plans;
- (b) to provide advice to any interested party on economic and development affairs in the region;
- (c) to consider reports and advise the Government on national development projects, programmes and activities affecting or relating to the region;

- (d) to consider reports and advise on the activities of parastatals and of co-operative societies and other non-governmental organisations operating in the region;
- (e) to monitor and ensure the coordination of the overall economic development in the region;
- (f) to discharge any other functions which the Minister may direct in respect of all or any consultative committee.

10.—(1) There is hereby established in respect of every region in Mainland Tanzania a Secretariat for that region which shall be a department of the Government.

The Regional
Secretariat

(2) There shall be established within the Regional Secretariat such number of offices as may be appropriate; but such number shall at any time be kept as small and consist of such type of personnel as the President shall determine.

(3) No department and no staff, functional, line or other officer, shall be established or appointed for or posted to a Regional Secretariat unless the establishment of that office or the appointment of that or other officer is in the opinion of the

Minister necessary for the facilitation of the work of the Government generally, and in particular, facilitating the promotion, development, fostering and upholding of local government and the realisation of the goals and targets of local government authorities in relation to national development.

Functions
of the Sec-
retariat

11. It shall be the duty of the Regional Secretariat to assist the Regional Commissioner in the exercise of his functions and for that purpose, and subject to his general or specific directions, may perform such functions in the region as are conferred on the Government by or under any written law or which may be specified by the Minister by notice published in the *Gazette*.

The Regional
Administra-
tive
Secretary

12.—(1) There is hereby established in each region in Mainland Tanzania the post of Regional Administrative Secretary, in this Act referred to as "the Secretary", and the holder of which shall be appointed by the President.

(2) Notwithstanding the enactment of this Act, every person appointed as Regional Development Director shall, with effect from the effective date and until his appointment is revoked hold office as the Secretary for his region in accordance with the terms of the instrument of his appointment, subject to this Act,

and shall while so remaining in office be deemed to have been appointed under this section.

(3) The Secretary shall be the head of the Regional Secretariat, shall be the Principal adviser to the Regional Commissioner in the exercise of his functions in relation to the implementation of decisions of Government and recommendations of the Consultative Committee and generally, in relation to the region and its inhabitants.

PART III

GOVERNMENT ADMINISTRATION AT DISTRICT LEVEL

13.—(1) There is hereby established in respect of each district in Mainland Tanzania the office of District Commissioner.

(2) Subject to the Constitution, every District Commissioner shall be a public officer and shall be appointed by the President.

(3) Subject to this Act and to any other written law, the District Commissioner shall, in the exercise of his functions under this Act be subject to the directions, guidance or instructions of the Regional Commissioner of the region in which the district for which he is appointed is situated.

(4) If during any period the office of District Commissioner is vacant or the District Commissioner is, owing to absence or inability to act from illness or any other cause, unable to

Office
and appoint-
ment of
District
Commissioner

exercise the powers or perform the duties of his office, those powers shall be had and may be exercised and the duties shall be discharged by the District Commissioner appointed by the Regional Commissioner to act in that behalf for that district for that period.

(5) Notwithstanding the enactment of this Act, every District Commissioner appointed or holding office immediately before its commencement shall, unless his appointment is sooner terminated, continue to hold that office in accordance with the terms of the instrument of his appointment and shall, while so remaining in office be deemed to have been appointed under this section.

Functions
of the
District
Commissioner

14.—(1) The District Commissioner shall, subject to subsection (3) be the principal representative of the Government within the area of the district for which he is appointed, and for that purpose all the executive functions of Government in relation to that district shall be exercised by or through the District Commissioner.

(2) In furtherance of the objects and provisions of subsection (1), the District Commissioner shall be responsible for securing the maintenance of law and order in the district,

determining the specific direction of efforts in implementing the general policies of Government in the district, and shall exercise and discharge such other functions and duties as are conferred or imposed upon him by or under this Act or any other written law.

(3) For the purposes of this section, it shall be the duty of the District Commissioner to facilitate and assist local government authorities in the district to undertake and discharge their responsibilities by—

- (a) providing and securing the enabling environment for successful performance by local government authorities of their duties and functions;
- (b) ensuring compliance by all persons and authorities with appropriate Government decisions, guidelines and regulations in relation to the promotion of the local government system;
- (c) doing all such acts and things as shall facilitate or secure the effective, efficient and lawful execution by the authorities of their statutory or incidental functions.

15.—(1) For the purpose of the effective and better exercise of his functions and duties under this Act, a District Commissioner shall have power to order or cause to be arrested any person who in his presence commits, or to his knowledge has committed, any offence for which a person may be arrested and tried.

(2) Notwithstanding subsection (1), where a District Commissioner has reason to believe that any person is likely to commit a breach of the peace or disturb the public tranquillity, or to do any act that may probably occasion a breach of the peace or disturb the public tranquillity and that that breach cannot be prevented in any way other than by detaining that person in custody, he may order a police officer verbally or in writing to arrest that person.

Law and
order
powers
of District
Commissioner

(3) A person arrested under the powers conferred by this section shall, as soon as practicable, and in any case within not more than forty-eight hours, after he is taken into custody, be taken before a magistrate empowered to deal with the case by the law for the time being in force in relation to the institution and prosecution of criminal proceedings.

(4) If a person arrested pursuant to an order of a District Commissioner under powers conferred by this section is not brought before a magistrate within forty-eight hours after he was taken into custody, he shall, upon the expiration of that period, be restored to freedom and shall not again be arrested under an order of that District Commissioner pursuant to this section for the same cause.

(5) Where a District Commissioner orders the arrest of any person under the powers conferred by this section, he shall, at the time of making the

arrest or as soon as possible after giving the order, record in writing his reasons for arresting or ordering the arrest of the person concerned; and shall deliver a copy of his recorded reasons, or cause a copy to be delivered, to the magistrate at the time the person is brought before the magistrate or, if that person has been released before he is brought before the magistrate as soon as is practicable after the release, and for the avoidance of doubt a magistrate shall have power to order the release and restoration to freedom of any person brought before him pursuant to this section without the reasons of the arrest being therewith furnished to him in writing by or on behalf of the District Commissioner.

(6) Notwithstanding subsection (5), the production of a copy of recorded reasons for an arrest under this section shall not authorise a magistrate to dispense with any provision requiring information to be given on oath.

(7) A magistrate before whom a person is brought under this section may, in his discretion, detain that person in custody until the inquiry prescribed under the Criminal Procedure Code, without prejudice to the power of the court to grant bail.

(8) Every District Commissioner and every police officer or other person carrying out the order of a District Commissioner under this section shall execute the order of a magistrate given under this section respecting the release and restoration to freedom of a person arrested in accordance with this section, and failure or neglect to execute the order shall constitute an offence of contempt of court and shall be dealt with in accordance with section 114 of the Penal Code.

(9) Where a District Commissioner exercises the power conferred on him by this section in abuse of the authority of his office, then he, as well as any other person involved in procuring the District Commissioner to exercise the power in abuse of authority, is guilty of an offence and may be proceeded against in accordance with section 96 of the Penal Code.

The District Administrative Secretary

16.—(1) There shall be appointed for or posted to every district in Mainland Tanzania in accordance with the provisions of the Civil Service Act, 1989, a public officer designated as District Administrative Secretary.

(2) For the avoidance of doubt, the District Administrative Secretary shall be the principal adviser to the District Commissioner in the exercise of his functions in relation to the implementation of decisions of Government and of local government authorities and, generally, in relation to the district and its inhabitants.

(3) Save as is provided for by this Part, there shall not be established any other department of the Government at the district level, and all activities of the Government at that level shall be conducted by the District Commissioner with the assistance of the District Administrative Secretary and other officers and staff of his office.

PART IV

GOVERNMENT ADMINISTRATION AT DIVISIONAL LEVEL

17.—(1) There shall be appointed by the Minister for each division in district a public officer designated as a Divisional Secretary who shall perform such functions as are or may be conferred on him by or under this Act, the Act or any other written law.

Divisional
Secretary

(2) Every Divisional Secretary shall, in performing his duties and functions assist the District Commissioner to ensure the maintenance of law and order, in the division and may, for that purpose, order the arrest of any person committing an offence against the laws of the district authority.

(3) Upon the commencement of this Act, every Divisional Secretary appointed or holding office immediate before the commencement shall, unless his appointment is sooner terminated, continue to hold that office in relation to the division with respect of to which he was appointed and shall, while so holding office, be deemed to have been appointed under this Act.

PART V

MISCELLANEOUS PROVISIONS

18.—(1) A Regional Commissioner and a District Commissioner shall not enter upon the duties of his office, unless he has taken and subscribed the Oath of Allegiance and the oath for due execution of the duties of his office, prescribed under the Official Oaths Ordinance.

Oaths by
officers
of Govern-
ment

Cap. 506

(2) The provisions of the Official Oaths Ordinance regarding the taking and subscribing of oaths prior to entering upon the duties of offices shall apply *mutatis mutandis*, to all persons appointed to hold the post of Regional Administrative Secretary.

Allocation of funds

19.—(1) Parliament may, in an appropriate Act, provide for allocation of funds to every regional secretariat to enable it to meet the estimated expenditure; save that in relation to the 1996/97 financial year, the Minister for Finance may, in exercise of powers conferred upon him by the Appropriation Act for that financial year, reallocate funds to those local government authorities from allocation made to other ministries, departments and regions.

(2) Where any of the funds referred to in subsection (1) relate to the expenditure of a local government authority, the funds shall be transferred to the local government authority concerned as soon as may be practicable after the allocation of the funds from the Government has been made.

Administra- tion of funds

20.—(1) Funds allocated to a regional secretariat under section 19 shall be administered by the Secretary.

(2) Every Secretariat shall be responsible for the proper administration of funds allocated to the regional secretariat and shall be the accounting officer in relation to those funds.

Regulations

21.—(1) The Minister may make regulations for the better carrying out of the purposes and provisions of this Act, and without prejudice to the generality of that power, may make regulations—

- (a) regulating the quorum, proceedings, meetings of, and other matters in relation to, Regional Consultative Committees;
- (b) providing for any matter or thing which is required to or may be provided for or prescribed under this Act.

(2) Regulations made under this section shall be published in the *Gazette*.

22.—(1) The Decentralisation of Government Administration (Interim Provisions) Act, 1972, is hereby repealed.

Repeals

Act No.

25 of 1972

(2) The Regions and Regional Commissioners Act, 1962, is hereby repealed.

(3) The Area Commissioners Act, 1962, is hereby repealed.

(4) The provisions of sections 12, 13, 14 and 15 of the Interpretation of Laws and General Clauses Act, 1972, shall apply in relation to the repeal of the laws specified in this section as if those provisions were enacted in this Act.

FIRST SCHEDULE - (Section 5)

Laws Imposing Statutory Functions on
Regional Commissioner

- (i) Section 61(4) of the Constitution.
- (ii) The Local Government Finances Act, 1982.
- (iii) The Local Government (Urban Authorities) Act, 1982.
- (iv) Section 24(2) of the Motor Vehicles (Registration), Acquisition and Dispositions) Act, 1972.

- (v) The National Service Act, 1964.
- (vi) The Pharmaceuticals and Poisons Act, 1978.
- (vii) The Business Licensing Act, 1972.
- (viii) The Intoxicating Liquors Act, 1968.
- (ix) The Transport Licensing Act, 1973.
- (x) The Prisons Act, 1967.
- (xi) The National Defence Act, 1966.
- (xii) The Witchcraft Ordinance.
- (xiii) The Townships (Removal of Undesirable Persons) Ordinance.

SECOND SCHEDULE—(Section 14)

Laws Imposing Statutory Functions on
District Commissioner

- (i) The Law of Marriage Act, 1971.
- (ii) The Local Government (District Authorities) Act, 1982.

Passed in the National Assembly on the 15th April, 1997.


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Clerk of the National Assembly